

Section 13. Behavioral Interventions and Discipline

A. Behavioral Interventions

1. Behavioral interventions shall be used with students with disabilities to promote and strengthen desirable behaviors and reduce identified inappropriate behaviors.
2. The District will establish and maintain a committee to develop, implement, and monitor procedures on the use of behavioral interventions for children with disabilities. The committee shall review the State Board of Education's guidelines on the use of behavioral interventions and use them as a non-binding reference. This policy and the behavioral intervention procedures shall be furnished to the parent(s)/guardian(s) of all students with individual education plans within 15 days after their adoption or amendment by, or presentation to, the Board or at the time an individual education plan is first implemented for a student; all students shall be informed annually of the existence of this Policy and the procedures. At the annual individualized education plan review, a copy of this Policy shall be given to the parent(s)/guardian(s). A copy of the procedures shall be available upon request of the parent(s)/guardian(s).
3. A behavioral intervention plan (BIP) shall be based on a functional behavior assessment (FBA) and shall include positive behavioral intervention strategies, and supports to address the inappropriate behavior. FBA is an assessment process for gathering information regarding a student's target behavior(s), its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions.

B. Use of Isolated Time Out and Physical Restraint as Behavioral Interventions

The District retains the power to use reasonable force as needed to maintain safety of students, school personnel, or other persons or for the defense of property. The District acknowledges that there may be instances in which a student with disabilities requires the use of isolated time out and/or physical restraint as behavioral interventions to ensure the safety of the student or others.

1. Circumstances Under Which Isolated Time Out Or Physical Restraint May Be Applied

Isolated time out and physical restraint, as defined herein, are permitted only as behavioral interventions as a means of maintaining a safe and orderly environment for learning and only to the extent that their use is necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used to administer discipline to (i.e., punish) individual students. Both isolated time out and physical restraint are considered restrictive interventions and should only be used in emergency situations or when less restrictive interventions have been attempted and failed.

Isolated time out and physical restraint will only be used as behavioral interventions with a student with disabilities in an emergency situation or pursuant to a behavioral intervention plan (BIP) that is part of his/her IEP. Any BIP that includes the use of isolated

time out and physical restraint must be developed by the student's IEP team, including the student's parent(s), at a duly convened IEP meeting and in accordance with the needs of the student.

This Policy does not apply to the restriction of a student's movement when that restriction is for a purpose other than the maintenance of a safe and orderly environment, such as the appropriate use of a safety belt in motor vehicles.

2. Definitions

For purposes of this Policy, the terms isolated time out and physical restraint are defined as follows:

- (a) Isolated time out means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted.
- (b) Physical restraint means holding a student or otherwise restricting his or her movements. Physical restraint includes only the use of specific planned techniques and does not include momentary periods of physical restriction by direct person-to-person contact without the aid of material or mechanical devices, accomplished with limited force and designed to:
 - (i) prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or
 - (ii) remove a disruptive student who is unwilling to leave the area voluntarily.

3. Procedures For Using Isolated Time Out And Physical Restraint

Staff shall observe the following procedure in cases of isolated time out or physical restraint:

- (a) Isolated time out:
 - (i) The staff person responsible for supervising the student during isolated time out must be able to see the student at all times.
 - (ii) The staff person who is responsible for supervising the student shall remain within two feet of any enclosure used for isolated time out.
- (b) Physical restraint:
 - (i) Physical restraint may only be employed by staff when
 - the student poses a physical risk to himself, herself, or others;
 - there is no medical contraindication to its use; and
 - the staff applying the restraint have been trained in its safe application, consistent with 23 Ill. Admin. Code §1.285.
 - (ii) Staff shall not subject students to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger

unless a student also demonstrates a means of or intent to carry out the threat.

- (iii) Except as otherwise permitted by law, staff shall not employ mechanical or chemical restraints (i.e., the use of any device other than personal physical force to restrict the limbs, head, or body).
- (iv) For purposes of maintaining discipline, staff shall not use medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure.
- (v) Staff shall take into consideration the safety and security of the student whenever physical restraint is employed. Staff use of physical restraint shall not rely upon pain as an intentional method of controlling the student.
- (vi) In determining whether a student who is being physically restrained should be removed from the area where such restraint was initiated, the supervising staff person shall consider the potential for injury to the student, the student's need for privacy, and the educational and emotional well-being of other students in the vicinity.
- (vii) If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, staff shall permit the student to have his or her hands free of restraint for brief periods, unless the supervising personnel determine that such freedom appears likely to result in harm to the student or others.

(c) Time limits:

- (i) Staff shall not keep a student in isolated time out for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.
- (ii) Staff shall release the student from physical restraint immediately upon the determination by the staff person administering the restraint that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.

(d) Documentation:

Staff shall prepare a written record of each episode of isolated time out or physical restraint which includes:

- (i) the student's name;
- (ii) the date of the incident;
- (iii) the beginning and ending times of the incident;
- (iv) a description of any relevant events leading up to the incident;

- (v) a description of any interventions used prior to the implementation of isolated time out or physical restraint;
- (vi) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;
- (vii) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint technique(s) used and any other interaction between the student and staff;
- (viii) a description of any injuries, whether to staff, student or others, or property damage;
- (ix) a description of any planned approach to dealing with the student behavior in the future;
- (x) a list of the staff persons who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint; and
- (xi) the date on which parental notification took place.

The record described in this subsection (d) shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.

The Superintendent is authorized to develop, in conjunction with the District's Parent-Teacher Advisory Committee, appropriate school personnel and others, additional procedures to be followed by staff in cases of isolated time out or physical restraint, consistent with this Section and 23 Ill. Admin. Code §1.285.

4. Responsible School Official

The Building Principal will be informed of all incidents in which isolated time out or physical restraint are utilized, and will maintain the documentation and provide parent notification required under 23 Ill. Admin. Code §1.285.

5. Process for Evaluating Injuries

In any case where a serious injury results from the use of isolated time out or physical restraint, the Building Principal must be informed as soon as possible, but in no event later than the beginning of the school day after such injury occurs which is identified by the student, his or her parent/guardian, a staff member or any other individual as serious. The Superintendent or his/her designee shall investigate the injury with the assistance of the school nurse, and shall review the circumstances surrounding the injury.

6. Consideration Of Alternative Strategies

In the event that an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period, a certified staff person knowledgeable about the use of time out or trained in the use of physical restraint, shall consider the appropriateness of continuing the procedure in use and the need for alternative strategies. Alternative strategies to be considered include, but are

not limited to, assessment by a mental health crisis team, assistance from police or transportation by ambulance.

7. Annual Review

On an annual basis, the Building Principal and Director of Special Education shall review the use of isolated time out and physical restraint in his/her building. This review shall include:

- (a) a review of the number of incidents involving the use of isolated time out or physical restraint;
- (b) the location and duration of each incident;
- (c) the identity of the staff member(s) and student(s) who were involved in each incident;
- (d) any injuries or property damage that occurred in each incident; and
- (e) the timeliness of parental notification and administrative review after each incident.

C. Discipline of Students with Disabilities

1. Harlem School District #122 shall comply with the provisions of the Individuals With Disabilities Education Act (IDEA), the Illinois School Code and their respective rules and regulations, when disciplining students with disabilities. No special education student will be expelled if the student's particular act of gross disobedience or misconduct is a manifestation of his/her disability. Any special education student whose gross disobedience or misconduct is not a manifestation of his/her disability may be expelled pursuant to the expulsion procedures, except that such disabled student shall continue to receive educational services as provided in the IDEA, the Illinois School Code and their respective rules and regulations, during such period of expulsion.

2. A special education student may be suspended for periods of no more than 10 consecutive school days each in response to separate incidents of gross disobedience or misconduct, regardless of whether the student's gross disobedience or misconduct is a manifestation of his/her disability, as long as the repeated removals do not constitute a pattern that amounts to a change in placement (considering factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another) and provided that such student receives educational services to the extent required by the IDEA, the Illinois School Code and their respective rules and regulations, during such removals.

3. Any special education student may be temporarily excluded from school by court order or by order of a duly appointed State of Illinois due process hearing officer changing the student's placement to an appropriate interim alternative educational setting for up to 45 school days, if Harlem School District #122 demonstrates that maintaining the student in his/her current placement is substantially likely to result in injury to the student or others.

4. A special education student who has carried a weapon to school or to a school function, or who knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function, or who has inflicted serious bodily injury upon another person while at school or a school function may be removed from his/her

current placement. Such a student shall be placed in an appropriate interim alternative educational setting for no more than forty-five (45) school days, in accordance with the IDEA, the Illinois School Code and their respective rules and regulations. The length of time a student with a disability is placed in an interim alternative educational setting must be the same amount of time that a student without a disability would be subject to discipline.

5. Upon the occurrence of any act that may subject the student either to expulsion or suspension resulting in more than ten (10) cumulative days during any one school year, the District will convene an IEP meeting to review the student's behavioral intervention plan or, if a behavioral intervention plan has not been developed, to develop one.

D. Disciplining Children Not Yet Eligible Under IDEA

1. Any child who has not been determined to be eligible for special education and related services under the IDEA and who engages in behavior that violates Harlem School District #122's code of conduct shall be disciplined in accordance with the District's discipline policy for nondisabled students, unless Harlem School District #122 had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

2. Harlem School District #122 will be deemed as having knowledge that a child may be eligible for special education and related services prior to the behavior that precipitated the disciplinary action if:

- a. The parent(s)/guardian(s) of the child expressed concern in writing (or orally if the parent(s)/guardian(s) does not know how to write or has a disability that prevents a written statement) to District administrative or supervisory personnel that the child is in need of special education and related services;
- b. The parent(s)/guardian(s) of the child requested an evaluation of the child; or
- c. The child's teacher or other District personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the Director of Special Education or other District supervisory personnel.

3. Harlem School District #122 will not be deemed to have knowledge as provided in section 2 above if:

- a. The parent(s)/guardian(s) of the child has not allowed an evaluation of the child;
- b. The parent(s)/guardian(s) of the child has refused special education and related services; or
- c. The child was evaluated and determined to not be a child with a disability under the IDEA.

4. If, following the District's decision to discipline a child whom the District did not have knowledge that he or she may be eligible for special education and related services, the child's parent(s)/guardian(s) request a full and individual evaluation, the evaluation shall be conducted in an expedited manner. Until the completion of the evaluation and eligibility determination, the child shall remain in the educational setting determined by Harlem School

District #122, which may include suspension or expulsion without educational services, unless otherwise agreed upon between the District and parent(s)/guardian(s).

E. Referral to and Action by Law Enforcement and Judicial Authorities

Harlem School District #122 is not prohibited from reporting a crime committed by a child with a disability to appropriate authorities. Harlem School District #122 will provide the authorities with information and/or records of the student's disability in such instances, subject to the requirements of federal and State law.

LEGAL REF.: Individuals With Disabilities Education Improvement Act of 2004, 20 U.S.C. §1412, 1413, and 1415.

Gun-Free Schools Act, 20 U.S.C. §3351 et seq.

34 C.F.R. §§ 300.101, 300.530-300.536.

105 ILCS 5/10-22.6, 5/14-8.05, 5/24-24.

23 Ill.Admin.Code §1.280, §1.285, and §226.400.

Honig v. Doe, 108 S.Ct. 592 (1988).

ADMIN. PROC.: 7:230-AP (Misconduct by Students with Disabilities)

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