

MISCELLANEOUS

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9:1 Authorization to Stock and Administer Epinephrine Auto-Injector and Albuterol

9:2 Student Behavioral Intervention and Restraint

9:1 AUTHORIZATION TO STOCK AND ADMINISTER EPINEPHRINE AUTO-INJECTOR AND ALBUTEROL

Per Act 851 of 2019, school districts shall authorize a school nurse or district employee who holds a certificate from a licensed physician to administer in good faith an epinephrine auto-injector or albuterol to a student in the following situations who they professionally believe is having an anaphylactic reaction or is perceived in respiratory distress. This policy also provides authorization for the school nurse to stock epinephrine auto-injectors or albuterol to be maintained at the school in a locked, secure location.

Certification for a district employee to administer epinephrine auto-injectors or albuterol will be obtained from a licensed physician under the Insect Sting and Other Allergic Reactions Emergency Treatment Act, § 20-13-401 et seq., which authorizes a school nurse or district employee who is trained in the administration of epinephrine to possess and administer epinephrine.

Legal Reference: Act 851 of 2019

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9.2 STUDENT BEHAVIORAL INTERVENTION AND RESTRAINT

Definitions

"Aversive behavioral intervention" means a physical or sensory intervention program that is intended to modify behavior through the use of a substance or stimulus that the intervention implementer knows will cause physical trauma, emotional trauma, or both, to a student, even when the substance or stimulus appears to be pleasant or neutral to others.

Examples of aversive behavioral interventions include, but are not limited to:

- Hitting;
- Pinching;
- Slapping;
- Using a water spray;
- Using noxious fumes;
- Requiring extreme physical exercise;
- Using loud auditory stimulus;
- Withholding meals; and
- Denying reasonable access to toileting facilities.

"Behavioral intervention" means the implementation of a service, support, or strategy to teach and increase appropriate behavior or substantially decrease or eliminate behavior that is dangerous, inappropriate, or otherwise impedes the learning of a student.

"Behavior Intervention Plan" (BIP) means a written plan that:

- Is developed by a problem-solving and intervention team and delineates emotional, social, or behavioral goals for a student and the steps that the school, student, parent of the student, and others will take to positively support the progress of the student towards the student's emotional, social, or behavioral goals;
- Is comprised of practical and specific strategies to increase or reduce a defined behavior or one (1) or more patterns of behavior exhibited by a student; and
- Includes the following at a minimum:
 - A definition or description of the desired target behavior or outcome in specific measurable terms;
 - A plan for preventing and eliminating inappropriate student behavior by changing a condition that is triggering, motivating, underlying, or supporting that behavior as determined through a FBA;
 - A plan for teaching a student to demonstrate appropriate social, emotional, or behavioral self-management, or a new method to address or meet the student's needs;
 - A description of how a specific incentive or consequence will be used as needed to decrease or eliminate inappropriate student behavior and increase appropriate behavior;
 - A plan for managing a crisis situation;
 - A system to collect, analyze, and evaluate data about the student;

- The school personnel, resources, and training needed before implementation of the BIP; and
- The timeline for implementing different facets of an intervention, including without limitation when the intervention will be formally reviewed.

"Chemical restraint" means the use of a drug or medication to control the behavior of a student or restrict the free movement of the student; however, chemical restraint does not include the use of medication that is prescribed by a licensed physician, or other qualified health professional acting within the scope of the individual's professional authority under state law, for the standard treatment of a medical or psychiatric condition of a student and is administered as prescribed by the licensed physician or other qualified health professional acting within the scope of the individual's professional authority under state law.

"Crisis" means a situation in which a student engages in a behavior that threatens the health and safety of the student or others and includes without limitation a situation in which the student becomes aggressive or violent at school and is unable to regain self-control without posing a danger of injury to himself or herself or others.

"Crisis intervention" means the implementation of a service, support, or strategy to immediately stabilize a crisis and prevent the crisis from reoccurring after the crisis ends.

"Dangerous behavior" means the behavior of a student that presents an imminent danger of serious physical harm to the student or others; however, dangerous behavior does not include the following:

- Disrespect;
- Noncompliance;
- Insubordination; or
- Destruction of property that does not create an imminent danger.

"De-escalation" means the use of a behavior management technique that helps a student increase the student's control over the student's emotions and behavior and results in a reduction of a present or potential level of danger that in turn reduces the level of imminent danger of serious physical harm to the student or others.

"Emergency" means a serious and unexpected situation that requires immediate action and which may be dangerous.

"Functional Behavior Assessment" (FBA) means a problem analysis step that:

- Occurs within the context of data-based problem-solving and involves:
 - The review of existing records and other sources of information;
 - Diagnostic or historical interviews;
 - Structured academic or behavioral observations; and
- Is performed with the goal of determining why a specific problem or situation is occurring in order to directly link a strategic intervention to an assessment and solve or resolve the specific problem or situation.

"Imminent danger" means an existing dangerous situation that could reasonably be expected to immediately cause death or serious physical harm.

"Mechanical restraint" means the use of a device or equipment to restrict the free movement of a student; however, mechanical restraint does not include a device that is used by trained school personnel or a student for a specific and approved therapeutic purpose or safety purpose for which the device was designed or prescribed or a vehicle safety restraint that is appropriately used in the manner for which it was designed during the transport of a student in a moving vehicle.

"Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back of a student for the purpose of redirecting or inducing the student to move to a safe location.

"Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arm, leg, or head freely; however, physical restraint does not include a physical escort.

"Positive behavioral support" means the application of behavior analysis that:

- Is used to achieve socially important behavior change;
- Occurs at the:
 - Prevention level for all students in a school;
 - Strategic intervention level for a student who is not responding, from a social-emotional and behavioral perspective, to the prevention level; and
 - Intensive service or crisis-management level for a student who needs multifaceted or comprehensive behavioral or mental health services; and
- Involves a planned and collaborative school-wide approach that is implemented with a goal:
 - Of establishing a positive and supportive school environment that:
 - Teaches and reinforces prosocial behavior in a student;
 - Holds a student positively accountable for meeting an established behavioral expectation; and
 - Maintains a level of consistency throughout the implementation process; and
 - That is accomplished by using positive behavioral programs, strategies, or approaches.

"Prone restraint" means restraining a student in a face-down position on the floor or another surface and applying physical pressure to the body of the student to keep the student in the prone position.

"Serious physical harm" means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"Supine restraint" means the restraint of a student in a face-up position on the student's back on the floor or another surface and with physical pressure applied to the body of the student to keep the student in the supine position.

Positive Behavioral Supports

The District shall implement positive behavioral supports to be used at the:

1. Prevention level for each student in a school;
2. Strategic intervention level for a student who is not responding, from a social, emotional, or behavioral perspective, to the prevention level; and
3. Intensive service or crisis-management level for a student who needs multifaceted or comprehensive behavioral or mental health services.

The District's positive behavioral support shall include:

- a. The teaching and reinforcing of interpersonal, social, problem solving, conflict resolution, and coping skills to a student;
- b. Holding a student positively accountable for meeting an established behavioral expectation;
- c. Maintaining a high level of consistency through the implementation of the positive behavioral support process; and
- d. The following interrelated activities:
 - Providing a school-wide approach to the discipline and safety of each student rather than an approach to only the behavior problem of a single student;
 - Focusing on preventing the development and occurrence of problem behavior;
 - Regularly reviewing behavior data to adapt the District's procedures to meet the needs of every student; and
 - Providing a multitiered approach to academic and behavioral services and support to meet the academic and behavioral achievement needs of each student.

The following principles shall form the basis of the District's positive behavioral support system and conflict resolution or de-escalation approach:

1. A student has the right to be treated with dignity;
2. A student should receive necessary academic, social, emotional, and behavioral support that is provided in a safe and least-restrictive environment possible;
3. Positive and appropriate academic, social, emotional, or behavioral intervention should be provided routinely to each student who needs the intervention or support;
4. Behavioral intervention should emphasize prevention as part of the District's system of positive behavioral support; and
5. Each student who exhibits an ongoing behavior that interferes with the student's learning or the learning of others, and who is nonresponsive to effectively implemented classroom or administrative intervention, should receive additional intensive behavioral intervention that is based on a FBA and data-based problem solving.

Physical Restraint

Except in the case of a clearly unavoidable emergency situation in which a trained member of school personnel is not immediately available due to the unforeseeable nature of the

emergency situation, the physical restraint of a student shall only be used by a member of school personnel who is appropriately trained to administer physical restraint.

When using physical restraint on a student, school personnel shall:

- use the least restrictive technique necessary to end imminent danger or serious physical harm to a student and others;
- Use the safest method available and appropriate to the situation;
- Consider the health and safety of a student, including without limitation whether the student has an existing medical condition that makes the use of physical restraint inadvisable;
- Not restrict the ability of a student to communicate unless the use of a less restrictive technique will not prevent imminent danger of serious physical harm to the student or others;
- Use only the amount of force that is reasonably necessary to protect a student or others from imminent danger of serious physical harm to the student or others;
- Not verbally abuse, ridicule, humiliate, taunt, or engage in any other similar action towards the student; and
- continuously and visually observe and monitor the student while the student is under physical restraint.

Physical restraint of a student shall only be used for a limited period of time and shall not be used:

- When imminent danger or serious physical harm to the student or others dissipates;
- If a medical condition occurs that puts the student at risk of harm;
- Unless the behavior of the student poses an imminent danger of serious physical harm to the student or others;
- After the threat of imminent danger of serious physical harm to the student or others dissipates; or
- In the following manner:
 - To punish or discipline the student;
 - To coerce the student;
 - To force the student to comply;
 - To retaliate against the student;
 - To replace the use of an appropriate educational or behavioral support;
 - As a routine safety measure;
 - As a planned behavioral intervention in response to behavior of the student that does not pose an imminent danger of serious physical harm to the student or others;
 - As a convenience for school personnel; or
 - To prevent property damage unless the act of damaging property committed by the student poses an imminent danger or serious physical harm to the student and others.

Even in an emergency, supine restraint shall not be used on a student except by a staff person who has been certified by a crisis intervention training program and the certified staff person determines that supine restraint is required to provide safety for the student and others.

At no time shall school personnel use the following on a student:

- Mechanical restraint;
- Chemical restraint;
- Aversive behavioral interventions that compromise health and safety;
- Physical restraint that is life-threatening or medically contraindicated; or
- Prone restraint or other restraint that restricts the breathing of a student.

Following the first incident of physical restraint used on a student, an FBA shall be conducted unless a previous FBA was conducted for the same behavior that was at issue when the physical restraint was used.

The use of physical restraint on a student as a planned behavioral intervention shall not be included in a student's IEP, 504 Plan, BIP, individual safety plan, or other individual planning document but may be considered as a crisis intervention if appropriate for the student. A student's IEP team or 504 Plan team shall consider whether an FBA should be performed; if a BIP should be developed for the student or if a student's existing BIP should be revised; and if additional behavioral goals and interventions should be included in the student's existing IEP or 504 Plan.

Parents may submit complaints regarding an incident involving the use of physical restraint on their student. A complaint shall be referred for review to the appropriate school personnel:

- The student's IEP team; or
- The student's 504 Plan team.

A complaint by a parent shall be handled by the appropriate District staff in the same manner as a debrief following the use of physical restraint on a student.

Use of a physical restraint technique that is abusive shall be reported to the Child Abuse Hotline and law enforcement.

Reports and Debriefing

After the occurrence of an incident involving physical restraint of a student, the building principal, or the principal's designee, shall be notified of the incident as soon as possible but by no later than the end of the school day when the incident occurred.

The student's parent shall be notified of the incident of the use of physical restraint via verbal or electronic communication as soon as possible but by no later than the end of the school day when the incident occurred. In the event the student's parent is unable to be notified via verbal or electronic communication within twenty-four (24) hours after the incident occurred, then the parent shall be mailed written notification of the incident within forty-eight (48) hours after the incident occurred.

school personnel involved in the incident shall document the incident in a written report, which is to be completed within twenty-four (24) hours after the incident occurred. The written report of the incident shall:

1. Include all information contained in the Division of Elementary and Secondary Education (DESE) Physical Restraint or Seclusion Incident Record and Debriefing Report;
2. Be maintained in the student's education record; and
3. Be provided to the student's parent within one (1) school day of the completion of the report.

A debriefing meeting shall be held within two (2) school days after the incident occurred. The following school personnel shall be present at the debriefing meeting:

- a. A member of school personnel who was present during the incident;
- b. A member of school personnel who was in the proximity of the student on whom physical restraint was used immediately before and during the time of the incident;
- c. A school administrator; and
- d. Any other member of school personnel determined to be appropriate by the District.

The purpose of the debriefing meeting shall be to:

- Determine whether the procedures used during the incident were necessary;
- Evaluate the use of any behavioral supports and de-escalation techniques by school personnel before and during the incident;
- Evaluate the school district's positive behavioral supports system and prevention techniques in order to minimize future use of physical restraint; and
- If a trained member of school personnel was not immediately available due to the unforeseeable nature of the emergency situation when the incident occurred:
 - Reevaluate the training needs of school personnel;
 - Reevaluate the physical restraint policy and practices; and
 - Develop a plan to prevent a future incident.

At a debriefing meeting, school personnel shall:

1. Consider relevant information in the student's education record, including without limitation:
 - a. The concerns of the student's parent;
 - b. The student's social and medical history;
 - c. The student's FBA, if one exists; and
 - d. The student's BIP, if one exists;
2. Consider relevant information from the teachers, parents, and other District professionals;
3. Discuss whether positive behavior supports were appropriately implemented;
4. Discuss the duration and frequency of the use of physical restraint on the student;
5. Discuss appropriate action that may be taken to prevent and reduce the need for physical restraint;
6. Consider whether additional intervention and support is necessary for the student;
7. Consider whether additional intervention and support is necessary for school personnel; and
8. Consider how and when to debrief a person who was not present at the debriefing meeting, including without limitation:
 - a. The student; and

- b. Other school personnel or students who witnessed the incident.

DESE's Physical Restraint or Seclusion Incident Record and Debriefing Report, or an alternative report that includes the same information, shall be completed during the debriefing meeting. A copy of the report shall be:

- Submitted to the building principal;³
- Mailed to the student's parent within two (2) days of the date on which the debriefing meeting was held; and
- Maintained as part of the student's education record along with other documents consulted during the debriefing meeting.

Legal Reference: A.C.A. § 6-18-2301 et seq.

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