

532 USE OF PEACE OFFICERS AND CRISIS TEAMS TO REMOVE STUDENTS WITH IEPs FROM SCHOOL GROUNDS

[Note: Minnesota Laws 2009, Chapter 96, makes a number of changes to the laws and rules governing the use of “conditional procedures” with respect to special education students. Specifically, Chapter 96 repeals, EFFECTIVE AUGUST 2, 2011, Minn. Stat. §§ 121A.66, 121A.67, Subd. 1, as well as Minn. Rules 3525.0210, Subparts 5, 6, 9, 13, 17, 29, 30, 46, 47, and 3525.2900, Subp. 5. These laws and rules will be replaced, effective August 1, 2011, with a “restrictive procedures law which generally addresses the restraint of special education students.” When these changes become effective, certain aspects of this Policy 532 will need to be revised. Also note that the new restrictive procedures law contains a significant staff training component, found at Minn. Stat. § 125A.0942, Subds. 1, 2, and 5. Staff who intend to use restrictive procedures must be trained in the areas specified in Subd. 5 to use the new procedures when they become effective.]

I. PURPOSE

The purpose of this policy is to describe the appropriate use of peace officers and crisis teams to remove, if necessary, a student with an individualized education program (IEP) from school grounds.

II. GENERAL STATEMENT OF POLICY

The Carver-Scott Educational Cooperative is committed to promoting learning environments that are safe for all members of the school community. It further believes that students are the first priority and that they should be reasonably protected from physical or emotional harm at all school locations and during all school activities.

All students, including those with IEPs, are subject to the terms of the Carver-Scott Educational Cooperative’s discipline policy. Building level administrators have the leadership responsibility to maintain a safe, secure, and orderly educational environment within which learning can occur. Corrective action to discipline a student and/or modify a student’s behavior will be taken by staff when a student’s behavior violates the district’s discipline policy.

If a student with an IEP engages in conduct which, in the judgment of school personnel, endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, that student may be removed from school grounds in accordance with this policy.

III. DEFINITIONS

For purposes of this policy, the following terms have the meaning given them in this section:

- A. “Student with an IEP” or “the student” means a student who is eligible to receive special education and related services pursuant to the terms of an IEP or an individual interagency intervention plan (IIIP).

- B. “Peace officer” means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the Board of Peace Officer Standards and Training, charged with the prevention and detection of crime and the enforcement of general criminal laws of the state and who has the full power of arrest. The term “peace officer” includes a person who serves as a sheriff, a deputy sheriff, a police officer, or a state patrol trooper.
- C. “Police liaison officer” is a peace officer who, pursuant to an agreement between the Carver-Scott Educational Cooperative and a political subdivision or law enforcement agency, is assigned to a school building for all or a portion of the school day to provide law enforcement assistance and support to the building administration and to promote school safety, security, and positive relationships with students.
- D. “Crisis team” means a group of persons, which may include teachers and non-teaching school personnel, selected by the building administrator in each school building who have received crisis intervention training and are responsible for becoming actively involved with resolving crises. The building administrator or designee shall serve as the leader of the crisis team.
- E. The phrase “remove the student from school grounds” is the act of securing the person of a student with an IEP and escorting that student from the school building or school activity at which the student with an IEP is located.
- F. “Emergency” means a situation in which immediate intervention is necessary to protect a student or other individual from physical injury, emotional abuse due to verbal and nonverbal gestures, or to prevent severe property damage.
- G. All other terms and phrases used in this policy shall be defined in accordance with applicable state and federal law or ordinary and customary usage.

IV. REMOVAL OF STUDENTS WITH IEPs FROM SCHOOL GROUNDS

A. Removal By Crisis Team

If the behavior of a student with an IEP escalates to the point where the student’s behavior endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, the school building’s crisis team may be summoned. The crisis team may attempt to de-escalate the student’s behavior by means including, but not limited to, those described in the student’s IEP and/or behavior intervention plan. When such measures fail, or when the crisis team determines that the student’s behavior continues to endanger or may endanger the health, safety, or property of the student, other students, staff members, or school property, the crisis team may remove the student from school grounds.

If the student's behavior cannot be safely managed, school personnel may immediately request assistance from the police liaison officer or a peace officer.

B. Removal By Police Liaison Officer or Peace Officer

If a student with an IEP engages in conduct which endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, the school building's crisis team, building administrator, or the building administrator's designee, may request that the police liaison officer or a peace officer remove the student from school grounds.

If a student with an IEP is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or school staff person during the school day twice in a 30-day period, the student's IEP team must meet to determine if the student's IEP is adequate or if additional evaluation is needed.

Whether or not a student with an IEP engages in conduct which endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, Carver-Scott Educational Cooperative personnel may report a crime committed by a student with an IEP to appropriate authorities. If the Carver-Scott Educational Cooperative reports a crime committed by a student with an IEP, school personnel shall transmit copies of the special education and disciplinary records of the student for consideration by appropriate authorities to whom it reports the crime, to the extent that the transmission is permitted by the Family Education Rights and Privacy Act (FERPA), the Minnesota Government Data Practices Act, and school district's policy, Protection and Privacy of Pupil Records.

The fact that a student with an IEP is covered by special education law does not prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with an IEP.

C. Reasonable Force Permitted

In removing a student with an IEP from school grounds, a building administrator, other crisis team members, or the police liaison officer or other agents of the Carver-Scott Educational Cooperative, whether or not members of a crisis team, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

In removing a student with an IEP from school grounds, police liaison officers and Carver-Scott Educational Cooperative personnel are further prohibited from engaging in the following conduct:

1. Requiring the student to assume and maintain a specified physical position, activity, or posture that induces physical pain as an aversive procedure;
2. Presenting intense sounds, lights, or other sensory stimuli as an aversive stimulus;
3. Using noxious smell, taste, substance, or spray as an aversive stimulus;
4. Denying or restricting the student's access to equipment and devices such as hearing aids and communication boards that facilitate the student's functioning except temporarily when the student is perceived to be destroying or damaging equipment or devices;
5. Using faradic skin shock;
6. Restricting, totally or partially, the student's auditory or visual sense, except that study carrels may be used as an academic intervention;
7. Withholding regularly scheduled meals or water; and/or
8. Denying the student access to toilet facilities.

D. Parental Notification

The building administrator or designee shall make reasonable efforts to notify the student's parent or guardian of the student's removal from school grounds as soon as possible following the removal.

E. Continued Removals; Review of IEP

Continued and repeated use of the removal process described herein must be reviewed in the development of the individual student's IEP or IIP.

F. Effect of Policy in an Emergency; Use of Conditional Procedures

A student with an IEP may be removed in accordance with this policy regardless of whether the student's conduct would create an emergency.

If the Carver-Scott Educational Cooperative seeks to remove a student with an IEP from school grounds under this policy due to behaviors that constitute an emergency and the student's IEP, IIP, or behavior intervention plan authorizes the use of one or more conditional procedures, the crisis team may employ those conditional procedures, in addition to any reasonable force that may be necessary, to facilitate the student's removal from school grounds. If the crisis team initiates use of conditional procedures in an emergency, the student's IEP team shall meet

as soon as possible, but no later than five (5) school days after emergency procedures have commenced.

Legal References: Minn. Stat. § 13.01, *et seq.* (Minnesota Government Data Practices Act)
Minn. Stat. §§ 121A.40-121A.56 (Minnesota Pupil Fair Dismissal Act)
Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)
Minn. Stat. § 121A.61 (Discipline and Removal of Students from Class)
Minn. Stat. § 121A.67 (Aversive and Deprivation Procedures)
Minn. Stat. § 609.06 (Authorized Use of Force)
Minn. Stat. § 609.379 (Permitted Actions)
20 U.S.C. § 1232g *et seq.* (Family Educational Rights and Privacy (FERPA))
20 U.S.C. § 1415(k)(6) (Individuals with Disabilities Education Improvement Act of 2004 (IDEA))
34 C.F.R. § 300.535 (IDEA Regulation Regarding Involvement of Law Enforcement)
Minn. Rule 3525.0210, Subp. 17 (Definition of “Emergency”)
Minn. Rule 3525.2900, Subp. 5 (The IEP and Regulated Interventions)

Cross References: MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 507 (Corporal Punishment)
MSBA/MASA Model Policy 525 (Violence Prevention)
MSBA/MASA Model Policy 806 (Crisis Management Policy)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)

Board Approved 2/17/09
Revision 11/16/10