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Q & A: Use of Conditional Procedures

The Minnesota Department of Education (MDE) Division of Compliance and Assistance has developed this document to provide technical assistance to districts that have raised questions about the use of conditional procedures.

Question: What is a conditional procedure?

Answer: A conditional procedure is a type of regulated intervention that meets the definition of aversive and deprivation procedures.

An aversive procedure is the planned application of an aversive stimulus that is contingent upon the occurrence of a behavior identified for reduction or elimination in the child's Individualized Education Program (IEP) or used in an emergency situation.

A deprivation procedure is the planned delay or withdrawal of goods, services, or activities that the pupil would otherwise receive contingent upon the occurrence of a behavior identified for reduction or elimination on the IEP or used in an emergency situation.

The use of manual restraint, mechanical or locked restraints, time out procedures for seclusion, and the temporary delay or withdrawal of regularly schedule meals or water (not to exceed 30 minutes) are types of conditional procedures.

Question 2: When may and how must a school district utilize conditional procedures?

Answer: School districts may only use conditional procedures in two situations:

- a. when the procedures are included as part of the child's IEP or,
- b. in an emergency situation.

In order to utilize a conditional procedure, the IEP team must:

- (a) identify the frequency and severity of the target behaviors for which the conditional procedure is being considered;

- (b) identify at least two positive interventions implemented and the effectiveness of each; and,
- (c) design and implement regulated interventions based on Present Levels of Performance (PLEP), needs, goals and objectives, and document in the IEP.

In addition, an IEP team must conduct a functional behavioral assessment of the child prior to the school district using any conditional procedure on the child. The IEP team must also document its ruling out of other treatable causes for the child's behavior, including medical or health conditions.

Question 3: What constitutes an "emergency situation" in which a school district may use conditional procedures on a child?

Answer: An emergency situation is one in which immediate intervention is necessary to protect the child or other individual from physical injury, emotional abuse (due to verbal and nonverbal threats and gestures), or to prevent severe property damage. In these situations, the emergency intervention used must be the least intrusive intervention possible to reasonably react to the situation.

Question 4: How many conditional procedures may a district use without a behavior plan in place before calling an IEP meeting?

Answer: If a conditional procedure is used as an emergency intervention twice in one month, the IEP team must meet to determine whether the child's IEP is adequate and if additional evaluation is needed. If necessary, the team must meet to amend the IEP. The IEP team must meet as soon as possible and no later than five school days following the start of the emergency procedures.

School districts may use the conditional procedure in emergencies until the IEP team meets, provided that the school district deems the emergency measures necessary to protect the child or others from harm.

Note that school district administration and parents must be notified immediately when a regulated procedure is used in an emergency situation.

Authority: Minn. R. 3525.0210, Subp. 5, 9, 13, 17; Minn. R. 3525.2900, Subp. 5(A), (C); Minn R. 3525.2710, Subp. 4(F).