

121A.67 AVERSIVE AND DEPRIVATION PROCEDURES.

Subdivision 1. **Rules.** The commissioner, after consultation with interested parent organizations and advocacy groups, the Minnesota Administrators for Special Education, the Minnesota Association of School Administrators, Education Minnesota, the Minnesota School Boards Association, the Minnesota Police Officers Association, a representative of a bargaining unit that represents paraprofessionals, the Elementary School Principals Association, and the Secondary School Principals Association, must amend rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

(1) promote the use of positive behavioral interventions and supports and must not encourage or require the use of aversive or deprivation procedures;

(2) require that planned application of aversive and deprivation procedures only be instituted after completing a functional behavior assessment and developing a behavior intervention plan that is included in or maintained with the individual education plan;

(3) require educational personnel to notify a parent or guardian of a pupil with an individual education plan on the same day aversive or deprivation procedures are used in an emergency or in writing within two school days if district personnel are unable to provide same-day notice;

(4) establish health and safety standards for the use of locked time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, adequate space, a locking mechanism that disengages automatically when not continuously engaged by school personnel, and full compliance with state and local fire and building codes, including state rules on time-out rooms;

(5) contain a list of prohibited procedures;

(6) consolidate and clarify provisions related to behavior intervention plans;

(7) require school districts to register with the commissioner any room used for locked time-out, which the commissioner must monitor by making announced and unannounced on-site visits;

(8) place a student in locked time-out only if the intervention is:

(i) part of the comprehensive behavior intervention plan that is included in or maintained with the student's individual education plan, and the plan uses positive behavioral interventions and supports, and data support its continued use; or

(ii) used in an emergency for the duration of the emergency only; and

(9) require a providing school district or cooperative to establish an oversight committee composed of at least one member with training in behavioral analysis and other appropriate education personnel to annually review aggregate data regarding the use of aversive and deprivation procedures.

[See Note.]

Subd. 2. **Removal by peace officer.** If a pupil who has an individual education plan is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a

30-day period, the pupil's individual education program team must meet to determine if the pupil's individual education plan is adequate or if additional evaluation is needed.

History: 1988 c 554 s 2; 1990 c 495 s 2; 1998 c 397 art 9 s 19,26; 1998 c 398 art 5 s 55; 1Sp2005 c 5 art 3 s 4

NOTE: Subdivision 1 is repealed by Laws 2009, chapter 96, article 3, section 22, effective August 1, 2011.