142H.13 BEHAVIOR GUIDANCE.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Behavior guidance" means an ongoing process where a program staff person offers constructive, positive, and developmentally appropriate guidance to a child to help manage the child's behavior in a socially acceptable manner.

(c) "Persistent unacceptable behavior" means when a child:

(1) exhibits behaviors that present a serious safety risk for the child or others and the program is not able to reduce or eliminate the safety concern; or

(2) significantly disrupts the learning environment and requires an increased amount of staff guidance and time to address the child's behavior. Significantly disruptive behavior may include physical aggression, verbal threats, or repetitive behaviors that have been addressed through standard behavior guidance techniques without improvement.

(d) "Redirection" means a positive guidance technique where a program staff person intervenes and guides a child away from potential problems toward constructive activity or talks with a child to help the child calm down and self-regulate.

(e) "Separation" means a form of behavior guidance that involves interruption of unacceptable behavior by the removal of a child from a situation with the intention of allowing the child an opportunity to pause and gain self-control. During a separation a child is isolated from participating in activities with other children. Separation of children must be done pursuant to subdivision 7.

Subd. 2. **Behavior guidance policies and procedures.** The applicant must develop written behavior guidance policies and procedures approved by the commissioner. The license holder must ensure that the policies and procedures are carried out. The policies and procedures must include:

(1) methods of promoting positive behavior as specified under subdivision 3;

(2) prohibited actions as specified under subdivision 4;

(3) addressing persistent unacceptable behavior as specified under subdivision 6; and

(4) separation from the group as specified in subdivision 7.

Subd. 3. **Methods of promoting positive behavior.** A license holder must promote positive behavior by:

(1) ensuring that each child is provided with a positive model of acceptable behavior;

(2) tailoring methods of promoting positive behavior to the developmental level of the children the center is licensed to serve;

(3) ensuring redirection is used, as appropriate in addressing the behavior of a child, to guide a child away from potential problems and toward constructive activity or to talk with a child to help them calm down and self-regulate;

(4) teaching children how to use acceptable alternatives to problem behavior to reduce conflict;

(5) protecting the safety and well-being of children, employees, and volunteers; and

(6) providing immediate and directly related consequences for the unacceptable behavior of a child.

Subd. 4. **Prohibited actions.** A license holder must prohibit the following actions by or at the direction of employees or volunteers:

(1) subjecting a child to corporal or physical punishment, including but not limited to rough handling, shoving, hair pulling, ear pulling, shaking, slapping, kicking, biting, pinching, spitting, hitting, or spanking;

(2) subjecting a child to name calling, ostracism, shaming, derogatory remarks about the child or the child's family, cultural or racial slurs, yelling, or profane language that threatens, humiliates, or frightens the child;

(3) forcing a child to maintain an uncomfortable position or to continuously repeat physical movements;

(4) utilizing group punishments for the behavior of an individual child;

(5) separation of a child from the group except as provided in subdivision 7;

(6) punishment for not resting, napping, or sleeping; toileting accidents; failing to eat all or part of meals or snacks; or failing to complete an activity;

(7) denial of food or drink or forcing food or drink upon a child;

(8) denial of light, warmth, clothing, or medical care as a punishment for unacceptable behavior;

(9) the use of physical restraint other than to physically hold a child when containment is necessary to protect the child or others from harm;

(10) the use of mechanical restraints, including tying a child up, or any device or equipment intended to restrict or prevent movement as a means of discipline or for reasons unrelated to the child's care, safety, or planned activity;

(11) the use of prone or contraindicated restraints as prohibited in section 245A.211;

(12) the use of any substance given to a child to subdue or restrict movement or behavior;

(13) discipline and punishment must not be delegated to another child; and

(14) punishing or shaming a child for the actions of a parent, including but not limited to failure to pay fees, failure to provide appropriate clothing, failure to provide materials for an activity, or any conflict between the license holder or staff and the parent.

Subd. 5. **Additional provisions.** (a) When providing services to a child with a developmental disability or related condition, the license holder must follow section 142B.63.

(b) A program that cares for a child with a developmental disability or related condition must comply with the individual child care program plan requirements under section 142H.15.

Subd. 6. **Persistent unacceptable behavior.** (a) A program staff person who observes persistent unacceptable behavior must document the behavior of the child and staff response to the behavior, including:

(1) information on where the child was, what activity the child was doing, and the employees or volunteers present when the incident occurred; and

(2) staff actions, including the positive guidance techniques that were tried.

(b) When persistent unacceptable behavior as defined in subdivision 1, paragraph (c), occurs, a behavior plan must be developed to address the behavior documented in paragraph (a) in consultation with the child's parent, the program staff, and other professionals involved in the care and treatment of the child, as appropriate. The behavior plan must include but is not limited to the following:

(1) a description of the specific behavior;

(2) the planned behavior management method to be used in response to the behavior pursuant to subdivision 3 or any other previously approved methods; and

(3) an area to document the effectiveness of the plan and progress of the child.

(c) The plan must be signed and dated by the child's parent, the director, and other professionals involved in the care and treatment of the child, as applicable, and kept in the child's record.

(d) The plan and the child's progress must be reviewed at least twice each calendar year, or more frequently as needed, and changes must be made based on the child's needs and the input of the child's parent, program staff, or other individuals involved in the provision of care and treatment of the child. Documentation of the review must be kept in the child's record. If the child's parent and the program staff agree that the behavior plan is no longer needed, the license holder must document the date the behavior plan is no longer in effect.

(e) The license holder must ensure that all staff who work directly with the child are trained on the behavior plan prior to working with the child or when a new behavior plan is developed. Documentation of staff training must be maintained on file.

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Subd. 7. **Separation time from the group.** No child may be separated from the group unless the license holder has tried less intrusive methods of guiding the child's behavior that have been ineffective and the behavior of the child threatens the well-being of the child or other children in the center. Separation from the group must meet the following requirements:

(1) the separation time must be limited to the amount of time necessary for the child to gain self-control and rejoin the group;

(2) the duration of separation of the child must be documented, including the beginning and end time of the separation;

(3) infants and toddlers must not be separated from the group as a means of behavior guidance. Positive behavior guidance techniques such as redirection may be used with toddlers; and

(4) the child must be supervised as defined under section 142H.01, subdivision 38, while separated.

History: *2026 c 127 art 12 s 13*