

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

April 4, 2011

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: Policy 7:275- Orders to Forego Life-Sustaining Treatment

This policy is new to Millburn. It goes over the expectations for our multidisciplinary team to meet whenever a parent has written orders for their child forgoing life-sustaining treatment for their child. The team would then create and implement specific interventions.

We can use this as our first reading and place this on the consent agenda for next time.

Students

Orders to Forgo Life-Sustaining Treatment ¹

Written orders from parent(s)/guardian(s) to forgo life-sustaining treatment for their child or ward must be signed by the child's physician and given to the Superintendent. This policy shall be interpreted in accordance with the Illinois Health Care Surrogate Act (755 ILCS 40/1 et seq.). ²

Whenever an order to forgo life-sustaining treatment is received, the Superintendent shall convene a multi-disciplinary team that includes the child's parent(s)/guardian(s) and physician, as well as school personnel designated by the Superintendent. ³ The team shall determine specific interventions to be used by school staff members in the event the child suffers a life-threatening episode at school or a school event. The District personnel shall convey orders to forgo life-sustaining treatment to the appropriate emergency or healthcare provider.

LEGAL REF.: 755 ILCS 40/1 et seq.
Cruzan v. Director, Missouri Department of Health, 497 U.S. 261 (1990).
In re: C.A., a minor, 603 N.E.2d 1171 (Ill.App.1, 1992).

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled in that there is no statute or binding decision resolving competing interests and providing direction to schools for handling "do not resuscitate" orders.

² The Health Care Surrogate Act grants parents the authority to decide whether to forgo life-sustaining treatment on behalf of their minor child in certain situations (755 ILCS 40/20). The child must suffer a "qualifying condition," which means the existence of a terminal condition, permanent unconsciousness, or incurable or irreversible condition. These terms are defined in the Act.

The Act does not address the obligation of school staff members to comply with orders to forgo life-sustaining treatment, including "do not resuscitate" orders. Rather, the Act is silent regarding directives on life-sustaining care outside a health care facility or performed by a non-health care provider. The law does, however, indicate who should be the ultimate decision maker – the parent(s)/guardian(s). School officials should use the Act, after consulting the school board's attorney, as a guideline.

³ Implementing orders to forgo life-sustaining care implicates the laws prohibiting discrimination on the basis of a disability (IDEA, 20 U.S.C. §1401; section 504, 29 U.S.C. §794; ADA, 42 U.S.C. §12101). A school agreeing to abide by such an order does so because of the disability's severity; a less severely disabled or non-disabled student would be treated differently. The U.S. Dept. of Education's Office of Civil Rights approved a policy that provided for a multi-disciplinary team to develop individually designed interventions. School staff members must use these interventions that might require honoring an order to forgo life-sustaining care (21 IDELR 83, 3-31-94). This sample policy balances the interests of the parents with the district's obligation under federal law by using such a team.