

Reference JKAA

PROCEDURES FOR THE USE OF CHILD RESTRAINT AND SECLUSION

The Nashua School District hereby establishes the following procedures to describe how and in what circumstances restraint or seclusion is used in this District. The procedures are adopted for the purpose of meeting the District's obligations under state law governing the use of restraints and seclusion. The procedures shall be interpreted in a manner consistent with state law and regulations.

Risks of Restraint

Staff will understand that all physical restraints involve some risk. This may include injury, including in rare instances, death to the person being restrained and/or to staff. Restraint-related positional-asphyxiation or other physical injuries can occur. For this reason, it is essential that staff is trained in appropriate techniques that minimize the possibilities of risk.

There is also the risk of psychological impact in using restraints. An individual's past experience with abuse or the fear involved with being restrained may cause unanticipated responses. Staff should be aware that for some students the use of physical restraint might have the unintended consequence of acting to positively reinforce their behavior.

In addition, staff should be conscious of individual perceptions, experiences and cultural orientation and recognize that for some students any touching may be unwelcome and misinterpreted despite good intentions. In these situations, touching the student may evoke an extreme and intense response and make the use of restraint more dangerous for both student and staff.

Training

The District shall ensure that all appropriate personnel, as determined by the Superintendent or designee, are trained in the use of physical restraint procedures. Efforts will be made to apply physical restraint only by individuals who have received training in the district approved program and have remained current in its use.

The District will notify all new personnel working in programs where the use of restraint and seclusion is anticipated of the Child Restraint and Seclusion Policy (JKAA) and Procedures (JKAA-R) and the requirement they participate in the approved training program within a reasonable period. Selected staff in each school building will receive ongoing training to maintain the requirements of the training program chosen by the District.

Selected staff members assigned to provide training must be certified instructors in the training program selected by the District. A list of all certified instructors and trained personnel will be maintained in each schools' administrative office, the Nashua School District - Office of the Superintendent, and in the office of the Director of Special Education.

Prevention Strategies

It is expected that school staff will implement positive and constructive methods to de-escalate potentially dangerous situations. When the district anticipates that a student is likely to behave in a way that may require physical restraint, staff will conduct a functional behavior assessment and develop a positive behavior plan including a plan for teaching replacement behaviors. When appropriate, a team of knowledgeable people will include behavioral goals and objectives in a

student's Individual Education Plan, 504 Accommodation Plan or other Behavior Intervention Plan. Staff must implement all strategies identified in any formal plan such as an Individualized Education Plan (IEP), 504 Accommodation Plan or any other Behavior Intervention Plan.

Whether the student is eligible for special education or not, the school can still develop a specific behavior support plan in conjunction with the parent/guardians.

Processing the Incident

Immediately after the student has restored emotional and behavioral control, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the restraint. This should be verified by the school nurse or other health professional.

The individuals involved with the incident shall complete a written report as soon after the incident as possible.

The staff member involved with the physical restraint will have the opportunity to meet with his/her supervisor at an appropriate time after the incident. The purpose of this meeting is to have staff process the incident, review what might have been done to prevent the restraint and look at any more efficient ways to manage a restraint should it occur in the future.

The student, with assistance from staff, will process the event at the earliest appropriate time.

Informed Decision Making

When the use of physical restraint is included in a student's written plan, the District will provide the parent/guardian with a copy of the Child Restraint and Seclusion Policy (JKAA) and Procedures (JKAA-R).

Additionally, the parent/guardian will be asked to share relevant information with school personnel. This information should include, but not be limited to, medical, health and/or psychological considerations, past experiences, patterns of behavior that may signal an imminent situation and/or de-escalation techniques that have proven to be successful. Whenever staff becomes aware of a medical condition, it is their responsibility to work with the parent/guardian to identify viable modifications/alternatives.

To the extent possible, the District will collaborate with the parent/guardian to identify appropriate and effective techniques for supporting student behavior. Ultimately, it is the responsibility of the District to provide for the safety of all students. The general welfare and safety of both the student and others must be considered at all times. In dangerous situations where the student can cause serious, probable and imminent bodily harm to himself/herself or others, restraint may be used.

I. Definitions.

Restraint. Any bodily physical restriction, mechanical devices, or any device that immobilizes a person or restricts the freedom of movement of the torso, head, arms, or legs. It includes mechanical restraints, physical restraints, and medication restraint used to control behavior in an emergency or any involuntary medication.

Restraint shall not include the following:

(1) A brief touching or holding to calm, comfort, encourage, or guide a child, so long as there is no limitation on the child's freedom of movement.

(2) The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a child to stand, if necessary, and then walk to a safe location, so long as the child is in an upright position and moving toward a safe location.

(3) Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages and supportive body bands, or other physical holding when necessary for routine medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.

(4) The use of seat belts, safety belts, or similar passenger restraints during transportation of a child in a motor vehicle.

(5) The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child.

The five interventions listed immediately above are not considered "restraint" under these procedures, are not barred or restricted by these procedures, and are not subject to the training or notification requirements that otherwise apply to permissible restraints addressed herein.

Actor. Participant; one who takes part.

Medication Restraint. When a child is given medication involuntarily for the purpose of immediate control of the child's behavior.

Mechanical Restraint. When a physical device or devices are used to restrict the movement of a child or the movement or normal function of a portion of his or her body.

Physical restraint. When a manual method is used to restrict a child's freedom of movement or normal access to his or her body.

Dangerous Restraint Techniques.

a. Any technique that:

- (1) Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;
- (2) Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back or abdomen of a child;
- (3) Obstructs the circulation of blood;
- (4) Involves pushing on or into the child's mouth, nose, eyes, or any part of the face or involves covering the face, or body with anything, including soft objects such as pillows, blankets, or wash clothes, or
- (5) Endangers a child's life or significantly exacerbates a child's medical condition.

- b. Intentional infliction of pain, including the use of pain inducement to obtain compliance.
- c. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near the child for the purpose of controlling or modifying the behavior of or punishing the child.
- d. Any technique that subjects the child to ridicule, humiliation, or emotional trauma.

Seclusion. The involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, lock, or other mechanical device or barrier.

Seclusion does not include:

- (1) the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area a child is able to leave which is supervised by an adult;
- (2) Circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place.

II. Use of Restraint

- 1. Restraint as defined in these procedures shall be used only to ensure the immediate physical safety of persons when there is a substantial and imminent risk of serious bodily harm to himself/herself or others.
- 2. Restraint as defined in these procedures shall be used by trained personnel and with extreme caution. It should be used after all other interventions have failed or appear unlikely to succeed based on the student's past history.
- 3. Use of restraint as defined in these procedures shall be limited to physical restraint. School officials shall not use or threaten to use any dangerous restraint techniques, any inappropriate aversive behavioral interventions, any medication restraints, or any mechanical restraints except as permitted for transporting students.

III. Use of Seclusion

- 1. Seclusion may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or to others, and may only continue until that danger has dissipated.
- 2. Seclusion shall be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.
- 3. Each use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.

IV. *Prohibited Use of Restraint or Seclusion*

1. School officials shall not use or threaten to use restraint or seclusion as punishment or discipline for the behavior of child.
2. School officials shall not use or threaten to use medication restraint.
3. School officials shall not use or threaten to use mechanical restraint, except its use is permitted in the transportation of children, as outlined under these procedures.
4. School officials shall not use or threaten to use dangerous restraint techniques, as defined in these procedures.
5. Seclusion shall be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.
6. Seclusion shall not be used in a manner that that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

V. *Authorization and Monitoring of Extended Restraint & Length of Restraint*

When restraint may permissibly be used on a child, school officials must comply with the following procedures:

1. Restraint shall not be imposed for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm;
2. Children in restraint shall be continuously and directly observed by personnel trained in the safe use of restraint;
3. No period of restraint shall exceed 15 minutes. If restraint is to exceed this time, approval of the Principal or supervisory employee designated by the Principal to provide such approval is required.
4. No period of restraint shall exceed 30 minutes unless a face-to-face assessment of the mental, emotional and physical well-being of the child is conducted by the Principal or supervisory employee designated by the Principal who is trained to conduct such assessments. The assessment must include a determination of whether the restraint is being conducted safely and for a proper purpose. These assessments must be repeated at least every 30 minutes during the period of restraint and documented in writing pursuant to the notification requirements set forth below.

VI. *Restriction of Use of Mechanical Restraints during Transport of Children.*

1. Mechanical restraints during the transportation of children are prohibited unless the child's circumstances dictate the use of such methods. In any event when a child is transported using mechanical restraints, the Principal shall document in writing the

reasons for the use of mechanical restraint. This documentation shall be treated as notification of restraint as discussed in paragraph VI, below.

2. Whenever a child is transported to a location outside a school, the Principal shall ensure that all reasonable measures consistent with public safety are taken to transport and/or escort the child. Such measures should:
 - a. Prevent physical and psychological trauma,
 - b. Respect the child's privacy, and
 - c. Represent the least restrictive means necessary for the safety of the child.

VII. Room Conditions for a Seclusion Area

When permitted by this chapter, seclusion may only be imposed in rooms which:

- (a) Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.
- (b) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.
- (c) Are equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which they are located.
- (d) Are free of any object that poses a danger to the children being placed in the rooms.
- (e) Have doors which are either not equipped with locks, or are equipped with devices that automatically disengage the lock in case of an emergency. For the purposes of this subparagraph, an "emergency" includes, but is not limited to:
 - (1) The need to provide direct and immediate medical attention to a child;
 - (2) Fire;
 - (3) The need to remove a child to a safe location during a building lockdown; or
 - (4) Other critical situations that may require immediate removal of a child from seclusion to a safe location.
- (f) Are equipped with unbreakable observation windows or equivalent devices to allow the safe, direct, and uninterrupted observation of every part of the room.

VIII. Notice and Record Keeping Requirements

1. Unless prohibited by a court order, a school official shall verbally notify the parent or guardian and guardian ad litem of a restraint or seclusion no later than the time of the return of the child to the parent or guardian on that same day, or the end of the business day, whichever is earlier. Notice shall be made in a manner calculated to provide actual notice of the incident at the earliest practicable time.

2. A school employee who uses restraint or seclusion shall submit a written report to the building principal or the principal's designee within 5 business days after that intervention. If the school employee is not available to submit such a report, the employee's supervisor shall submit such a report within the same time frame. If the principal uses restraint or seclusion, he/or she shall submit a written report to the Superintendent, or his/her designee, within 5 business days. Any report addressed in this section shall contain the following information:
 - a. The date, time and duration of the restraint or seclusion;
 - b. A description of the actions of the child before, during, and after the occurrence; a description of any other relevant events preceding the use of restraint or seclusion, including the justification for initiating the restraint or seclusion;
 - c. The names of the persons involved in the occurrence;
 - d. A description of the actions of the school employees involved before, during, and after the occurrence;
 - e. A description of any interventions used prior to the restraint or seclusion;
 - f. A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary;
 - g. A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of restraint or seclusion;
 - h. A description of any property damage associated with the occurrence;
 - i. A description of actions taken to address the emotional needs of the child during and following the incident;
 - j. A description of future actions to be taken to control the child's problem behaviors;
 - k. The name and position of the employee completing the notification; and
 - l. The anticipated date of the final report.
3. Unless prohibited by court order, the Principal or other designee shall, within 2 business days of receipt of the written report described above, send or transmit by first class mail or electronic transmission to the child's parent or guardian and guardian ad litem the information contained in that written report. Within the same time frame, the Principal shall also forward any such report to the Superintendent for retention in that office.
4. Each written report referenced in this section shall be retained by the school and shall be made available for periodic, regular review consistent with any rules that may be adopted by the state board of education for that purpose.
5. All school employees have a duty to report a violation of the restraint and seclusion law when that person has reason to believe that the action of another constituted a violation of the restraint and seclusion law and constituted misconduct or suspected misconduct, pursuant to Ed 510.01 (Duty to Report). Any suspected violation or misconduct shall be reported to the school administrator. The Nashua School District will review each report and determine whether there was a violation of the restraint and seclusion law. In situations where there is documentation that no violation occurred, the school district must document this decision, including the evidence that was relied on, and must maintain the documentation and provide it to the New Hampshire Department of Education during its review of records.

IX. Serious Injury or Death during Incidents of Restraint or Seclusion.

1. In cases involving serious injury or death to a child subject due to restraint or seclusion, the superintendent, superintendent's designee, acting superintendent's designee, or school administrator must, in addition to the notification requirements above, verbally notify the Commissioner of the New Hampshire Department of Education, the Attorney General, and the New Hampshire Disability Rights Center as soon as possible. A "written report" must be provided to the above entities within five (5) business days and must include the information contained within the incident report that is required to be filled out after each incident of restraint or seclusion.
2. "Serious injury" means any harm to the body which requires hospitalization or results in the fracture of any bone, non-superficial lacerations, injury to any internal organ, second or third-degree burns, or any severe, permanent, or protracted loss of or impairment to the health or function of any part of the body.

X. Team Meeting Requirements

1. After the first incident of restraint or seclusion in a school year for students identified under special education or Section 504, the District shall hold an IEP or 504 meeting to review the student's IEP or 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion.
2. Parents may request a 504 or IEP team meeting after any restraint or seclusion incident and that request must be granted "if there have been multiple instances of restraint or seclusion since the last review."

XI. Notice and Records of Intentional Physical Contact

1. If a school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, a school representative shall make reasonable efforts to promptly notify the child's parent or guardian.
2. Such notification shall be no later than the time of the child's return to the parent or guardian on that same day, or the end of the business day, whichever is earlier. Notification shall be made in a manner to give the parent or guardian actual notice of the incident at the earliest practicable time.
3. Within 5 business days of the incident of "intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior," the school shall prepare a written description of the incident. This description shall include:
 - a) Date and time of the incident;
 - b) Brief description of the actions of the child before, during and after the occurrence;
 - c) Names of the persons involved in the occurrence;
 - d) Brief description of the actions of the school employees involved before, during and after the occurrence; and
 - e) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during or after the incident.

4. If an incident of intentional physical contact amounts to a physical restraint as set forth earlier in these procedures, the school shall meet the notification and record requirements that apply to physical restraint, rather than the requirements that apply to incidents of “intentional physical contact.”
5. The notification and record-keeping duties for an incident of intentional physical contact do not apply in the following circumstances:
 - a) When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location -- unless the child is actively combative, assaultive, or self-injurious while being escorted, and then these requirements do apply.
 - b) When actions are taken such as separating children from each other, or inducing a child to stand, or otherwise physically preparing a child to be escorted.
 - c) When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child’s attention – except that blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to the requirement.

XII. Department of Education Review

1. A parent may file a complaint with the New Hampshire Department of Education regarding the improper use of restraint or seclusion. Resolution of any such complaint should occur within 30 days, with extensions only for good cause.
2. Investigation of any such complaint shall include appropriate remedial measures to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of state standards on restraint and seclusion.

XIII. Civil or Criminal Liability

Nothing in the District’s Child Restraint and Seclusion Policy or Procedures should be understood in any way to undercut the protections from civil and criminal liability provided to school officials for the use of force against a minor, consistent with state law found at RSA 627:1, 4, and 6.

Annual Review Process

The District shall establish a Committee to conduct an annual review of all individual and program-wide data associated with this policy. The Committee shall review at a minimum, the following components related to the use of restraint. These include an analysis of the following components:

1. incident reports;
2. procedures used during restraint, including the proper administration of specific district/facility approved restraint techniques;
3. preventative measures or alternatives tried, techniques or accommodations used to avoid or eliminate the need of the future use of restraint;
4. documentation and follow up of procedural adjustments made to eliminate the need for future use of restraint;
5. injuries incurred during a restraint;
6. notification procedures;

7. staff training needs;
8. specific patterns related to staff or student incidents; and environmental considerations, including physical space, student seating arrangements, and noise levels.

Upon review of the data, the Committee shall identify any issues and/or practices that require further attention and provide written recommendations to the Superintendent of Schools. Further, the Committee can recommend review of the training program to ensure the most current knowledge and techniques are reflected in the district/facility's program.

The Nashua Board of Education will annually review its written policy and procedures regarding the use of restraint.

The Superintendent or designee shall ensure that all relevant personnel are aware of the District Child Restraint and Seclusion Policy and Procedure.

Principals will annually identify staff members who serve as school-wide resources to assist in ensuring proper administration of physical restraint. Each school will maintain and distribute an up to date list of trained staff to all relevant educational personnel.

Legal Reference: RSA 126-U:1 to 13 (2014); RSA 627:1, 4, 6.

Board Approved: 11/30/2015
05/30/2017

[Replaces POPPS JKA-R]

EVENT REPORT FORM

Physical Restraint

Seclusion

Student Name: _____
School/Program: _____

Date of Event: _____
Grade: _____

Student has: IEP 504 Plan Behavior Plan

Beginning Time of Restraint/Seclusion: _____ End Time of Restraint/Seclusion: _____
Location of Event: _____

Person Completing Report Form: _____ Title: _____

Staff Involved in Event:

Name: _____ Title: _____
Name: _____ Title: _____
Name: _____ Title: _____

Others Involved/Observers:

Name: _____ Title: _____
Name: _____ Title: _____
Name: _____ Title: _____

1. Description of the activity that the student engaged in immediately preceding the restraint/seclusion.

2. Description of the student's behavior(s) that prompted the restraint/seclusion, including the justification for initiating the restraint/seclusion.

3. Description of each restraint/seclusion used, including the restraint hold(s) used and the reason that the hold was necessary.

4. Description of the student's behavior before, during and after the restraint/seclusion.

5. Description of the actions of the school staff before, during and after the restraint/seclusion.

6. Description of the interventions utilized prior to the restraint/seclusion and the student's response(s).

7. Description of any injuries to the student, staff or others. Description of any medical care administered to the student or others. Attach any injury reports that were necessitated by the restraint/seclusion.

8. Description of any property damage associated with the event.

9. Description of the actions taken to address the emotional needs of the student during and following the event.

10. Description of any future actions to be taken with respect to the student's behaviors.

Signature of Person Completing Report Form: _____ **Report Date:** _____

Date Final Report Sent to Parents: _____ **Method of Transmittal:** _____

EVENT REPORT FORM

Intentional Physical Contact

Student Name: _____ Date of Event: _____
School/Program: _____
Grade: _____

Student has: IEP 504 Plan Behavior Plan

Beginning Time of Event: _____ Location of Event: _____

Person Completing Report Form: _____ Title: _____

Staff Involved in Event:

Name: _____ Title: _____
Name: _____ Title: _____
Name: _____ Title: _____

1. Description of the student's behavior before, during and after the event.

2. Description of the actions of the school staff before, during and after the event.

3. Description of any injuries to the student, staff or others. Description of any medical care administered to the student or others.

Signature of Person Completing Report Form: _____ **Report Date:** _____

Date Report Form Sent to Parent: _____ **Method of Transmittal:** _____