School Administrative Unit # 77
Monroe School District
School Board Policy

JKAA

FIRST READING: 04/13/2011	ADOPTED: 05/21/2012	REVISED: 11/20/2023

Use of Restraints and Seclusion

A. **Policy Statement.** This policy is designed to help ensure the safety and dignity of all students by limiting and regulating the use of restraint and seclusion only as crisis or emergency responses. Restraint and seclusion of students is prohibited in the District except as described below.

B. **Definitions.** For the purposes of this policy,

1. "**Restraint**" means 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 restraint, physical restraint, and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are school or facility staff members, contractors, or otherwise under the control or direction of a school or facility.

   a. **"Medication restraint"** occurs when a child is given medication involuntarily for the purpose of immediate control of the child's behavior.

   b. "**Mechanical restraint**" occurs 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.

   c. **"Physical restraint"** occurs when a manual method is used to restrict a child's freedom of movement or normal access to his or her body.

   d. **"Prone restraint"** is a prohibited physical restraint technique which occurs when a child is intentionally placed face-down on the floor or another surface, and the child's physical movement is limited to keep the child in a prone position. For the purpose of this definition, physical restraint that involves the temporary controlling of an individual in a prone position while transitioning to an alternative, safer form of restraint is not considered to be a prohibited form of physical restraint.

   e. **Exceptions to definition of restraint.** The term "restraint" DOES NOT, however, include:

      i. Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.

      ii. 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.

      iii. Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical, and other similar 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.

iv. The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.

v. 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.

2. **"Dangerous Restraint Technique"** are prohibited forms of restraint and/or behavior techniques that include:

   a. Prone restraint, or any other physical restraint or containment technique that:

      i. Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;

      ii. Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;

      iii. Obstructs the circulation of blood;

      iv. 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 washcloths; or

      v. Endangers a child's life or significantly exacerbates a child's medical condition.

   b. The 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 a child for the purpose of controlling or modifying the behavior of or punishing the child.

   d. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.

   e. Other forms of physical and medical restraint shall be administered in such a way so as to prevent or minimize physical harm. During the administration of restraint, the physical status of the child, including skin temperature, color, and respiration, shall be continuously monitored. The child shall be released from restraint immediately if they demonstrate signs of one or more of the following: difficulty breathing; choking; vomiting; bleeding; fainting; unconsciousness; discoloration; swelling at points of restraint; cold extremities, or similar manifestations.

3. **"Seclusion"** means: the involuntary confinement of a child alone in any room or area from which the child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier, or from which the child reasonably believes they are not free to leave; or, the involuntary confinement of a child to a room or area, separate from their peers, with one or more adults who are using their physical presence to prevent egress.

   The term "seclusion" DOES NOT, however, include: 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 which a child is able to leave; circumstances in which there is no physical barrier, and the child is physically able to leave; or involuntary confinement of a child to a room or area with an adult who is actively engaging in a therapeutic intervention. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.

C. **Training Required.** Under RSA 126-U:5, II, the restraint may only be used/implemented by trained school staff, while 126-U:5-a, II applies the same limitation to the use of seclusion. The Superintendent shall ensure that:

1. each school building has staff who have been appropriately trained in the proper and safe implementation of seclusion or restraint techniques;

2. each school building has staff who have been appropriately trained and are authorized to assess the mental, emotional, and physical well-being of a student relative to a period of restraint that exceeds 30 minutes in conditions described in Section F.3, below; and

3. all employees, designated volunteers and other persons who are required to have criminal history background checks under Board policy GBCD receive *general training* in the requirements and prohibitions of this policy, as well as basic de-escalation procedures. *Personnel who have only received such general training are not authorized to use restraint or seclusion upon any student.*

D. **Procedures for Managing the Behavior of Students.** General procedures for managing student behavior are found in Board policies, District Code of Conduct, and student handbooks. Behavior of individual students may be addressed in applicable individualized educational plans, 504 plans, behavior intervention plans, or other such individualized documents. The Superintendent is authorized to establish additional procedures for managing student behavior and to implement this Policy as needed. Such procedures shall be consistent with all Board policies and all applicable laws or regulations. The Superintendent is further authorized to establish any other procedures necessary to implement this policy and/or any other legal requirements.

E. **Provisions Governing the Circumstances in Which – and Conditions by Which Forms of Restraint May and May Not Be Used.**

1. **Authorized Use of Restraint.**

a. General.

i. Restraint may only be used by trained personnel using extreme caution when *all other interventions have failed or have been deemed inappropriate.*

ii. The determination of whether the use of restraint is justified in a specific instance must be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to property will create a substantial risk of serious bodily harm to the child or others.

iii. Restraint may only be used to ensure the immediate physical safety of any person when there is a substantial and imminent risk of serious bodily harm to the student or others.

iv. Restraint shall never be used either explicitly or implicitly as punishment for the behavior of a child.

v. Restraint will not be imposed for longer than is necessary to protect the student or others from the substantial and imminent risk of serious bodily harm.

vi. Restraint will be *discontinued immediately* if a child demonstrates signs of one or more of the following: difficulty breathing; choking; vomiting; bleeding; fainting; unconsciousness; discoloration; swelling at points of restraint; cold extremities, or similar manifestations.

b. Restraint Periods Exceeding 15 Minutes. Pursuant to RSA 126-U:11, no period of restraint of a student may exceed 15 minutes without the approval of a supervisory employee designated by the Superintendent or Principal to provide such approval.

However, no period of restraint of a student may exceed 30 minutes unless an assessment of the mental, emotional, and physical well-being of the student is conducted by an employee trained and authorized to make such assessments.

Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by as part of the Written Notification required in Section G.1.c, below.

2. **Prohibition of Certain Forms of Restraint.** The use of any dangerous restraint technique as defined in Section A, above, is prohibited. Additionally, medical and mechanical restraints are prohibited except that limited mechanical restraint may be used in transportation as described in and subject to the conditions set forth in paragraph 3, of this Section.

3. **Limited Use of Mechanical Restraints During Transportation**. Pursuant to RSA 126-U6, the use of Mechanical Restraints is generally prohibited. However, RSA 126-U:12 allows the use of mechanical restraint during transportation when case-specific circumstances dictate that such methods are necessary.

Whenever a student is transported to a location outside the school, the Superintendent or designee will ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the student in a manner which:

a. Prevents physical and psychological trauma;

b. Respects the privacy of the child; and

c. Represents the least restrictive means necessary for the safety of the child.

Whenever a student is transported using mechanical restraints, the Superintendent or designee will document in writing the reasons for the use of the mechanical restraints as described in Section G.3 below.

4. **Reporting and Notification**. Any occurrence or incident or occurrence in which restraint is used shall be followed by reports and notification as described in Section G, below.

F. **Use of Seclusion.**

1. **Circumstances in Which - and Conditions by Which - Seclusion May and May Not Be Used.**

a. Seclusion may only be used by personnel trained in the proper use of seclusion as provided in Section C, above.

b. Seclusion may only be used when a student's behavior poses a substantial and imminent risk of physical harm to the student or others and may only continue until that danger has dissipated.

c. Seclusion shall only be used 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.

d. Seclusion will not be used explicitly or implicitly as a form of punishment or discipline for the behavior of a student.

e. Seclusion shall not be used in a manner that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

2. **Conditions of Seclusion.** When seclusion is permitted under this policy,

   a. it may only be imposed in rooms which:

      i. Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.

      ii. Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.

      iii. 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.

      iv. Are free of any object that poses a danger to the children being placed in the rooms.

      v. 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:

         A. The need to provide direct and immediate medical attention to a child;

         B. Fire;

         C. The need to remove a child to a safe location during a building lockdown; or

         D. Other critical situations that may require immediate removal of a child from seclusion to a safe location.

   b. Each use of seclusion shall be directly and continuously visually and auditorily monitored by a person trained in the safe use of seclusion (e.g., in person, window with accommodation for sound, video with audio feed).

3. **Required Use of Co-Regulators.** When seclusion is used, the Principal, or when they are not immediately available, their designee or the then supervising employee, shall designate a co-regulator to monitor the child and develop a plan to help the child manage their state of regulation and their return to a less restrictive setting. The co-regulator shall check the child at regular intervals not to exceed 30 minutes between any one interval. The co-regulator shall be selected and designated in the following order of preference:

   a. A trusted adult selected by the child.

   b. A clinician or counselor trained in trauma informed practices.

   c. A staff member known to have a positive relationship with the child.

   d. A staff member who was **NOT** involved in the incident that led to seclusion.

4. **Reporting and notification**. Any occurrence or incident in which seclusion is used shall be documented and followed with reports and notification as described in Section G, below. Multiple incidents of seclusion/restraint may be present within a single occurrence, and should be individually described within the reports and notifications.

G. **Reporting, Notification and Record Keeping Requirements.**

1. **Restraint and Seclusion.** Whenever restraint or seclusion has been used on a child, the following shall apply:

   a. Immediate verbal report to Principal, designee or then current supervising employee: Immediately after the occurrence of seclusion or restraint and any threat to safety is no longer imminent, the employee who uses seclusion or restraint shall provide verbal notice to the Principal, principal's designee or other supervising employee on duty.

   b. Initial Notification to Parent/Guardian: Upon receipt of a report of the use of seclusion or restraint, and unless prohibited by court order, the Principal, principal's designee or other supervising employee who received the immediate verbal report described in Paragraph G.1.a, s/he shall make reasonable efforts to contact the child's parent or guardian as soon as is practicable, but in *no later than the time of the return of the child to the parent/guardian or the end of the business day, whichever is earlier.* The form of notice shall be in the manner calculated to give the parent/guardian actual notice of the incident at the earliest possible time.

   c. Written Notification to Superintendent: Within five business days of the use of seclusion or restraint, the employee who used seclusion or restraint on a child, with the assistance of the Principal or other employee who received the immediate verbal report (or if the employee is not available, the Principal or other recipient of the immediate report) will submit written notification on the form provided by the New Hampshire Departments of Education and Health and Human Services (the "DOE/DHHS form") to the Superintendent. In the absence of the availability of the DOE/DHHS form, the submission shall nonetheless be in writing and include all of the information required under RSA 126-U:7, II. The DOE/DHHS form or other writing used will be referred to as the Written Notification. If the use of restraint on a child exceeded 30 minutes, the Written Notification shall also include information pertaining to the assessments described in Section E.1.b, above.

   d. Written Information to Parent/Guardian*:* Unless prohibited by court order, within 2 business days of receipt of the Written Notification, the Superintendent/designee shall send by USPS first class mail, or transmit by electronic means, to the child's parent/guardian all of the information included in the Written Notification or the Written Notification itself.

   e. Final Investigation and Report: The Superintendent or Superintendent's designee shall review and investigate each incident of seclusion or restraint for a determination as to whether the use complied with this policy, RSA 126-U and Ed 1201-1203. After the completion of a reasonable review/investigation, the Superintendent or designee, shall follow the Written Notification with a Final Report of the incident. The Final Report should include findings and conclusions, the documentary and other physical evidence (or summary of oral evidence), and a description of actions taken in response to those findings and conclusions.

2. **Additional Reporting Required for Injury or Death of a Child Subject to Restraint or Seclusion**. In cases involving serious injury or death to a child subject to restraint or seclusion

in a school, the Principal/Superintendent designee shall, in addition to the reports and notifications described above, and in accordance with the provisions of RSA 126-U:7, notify the Commissioner of the Department of Education, the New Hampshire Attorney General, general, and the New Hampshire Disability Rights Center using the contact information provided by the Department of Education. Such notice shall include the Official/Written Notification required in Section G.c, above.

3. **Additional Documentation Regarding Use of Mechanical Restraint.** Whenever a child is transported using mechanical restraints, the person(s) completing the Official Report Form/written notification described in G.1.c, above, shall include the reasons for the use of mechanical restraints. Such documentation shall be treated and retained as a notification of restraint under RSA 126-U:7.

4. **Documentation for Other Intentional Physical Contact Between Employee and Student.** The following shall apply whenever there is an instance where a school employee or designated volunteer has intentional physical contact with a student in response to a student's aggressive misconduct or disruptive behavior.

    a. Notice to parents*:* the Principal, designee or other supervising employee will make reasonable efforts to promptly notify the student's parent or guardian. Such *notification shall be made no later than the time of the return of the child to the parent/guardian or the end of the business day, whichever is earlier.* The form of notice shall be in the manner calculated to give the parent/guardian actual notice of the incident at the earliest possible time.

    b. Physical Contact Written Description*:* Unless the incident is subject to the notice and reporting requirements of Section G.1 above, the Principal shall prepare a written description of the incident ("Physical Contact Written Description") of the incident within five (5) business days of the occurrence/incident. The Physical Contact Written Description will include:

        i. The date and time of the incident.

        ii. A brief description of the actions of the child before, during, and after the occurrence.

        iii. The names of the persons involved in the occurrence.

        iv. A brief description of the actions of the facility or school employees involved before, during, and after the occurrence.

        v. A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the incident.

5. **Circumstances when Reporting/Notification is not Required**. The notification, reporting and record keeping requirements included in this Section G are not required 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. If, however, the child is actively combative, assaultive, or causes self-injury while being escorted, then the notification requirements described above are applicable.

    b. When actions are taken such as separating children from each other, 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. However, 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 notification and reporting requirements described above.

6. **Retention of Records**. All reports, notifications and other records created pursuant to this Section, or Sections H, I or J, shall be retained [the term of the student's enrollment plus three years, unless:

   a. the student is or was a student with an individualized educational program, in which case, the records shall be retained and destroyed in accordance with paragraph B.1 of Board policy EHB; or

   b. a longer period is required pursuant to instruction by the Department of Education or the Department of Health and Human Services.

H. **Mandatory Reporting of Violations by Others.** Any school employee who has reason to believe that the action of another may constitute a violation of this policy, or the provisions of RSA 126-U, must report the suspected violation to the Principal or Superintendent in accordance with the reporting procedures of Board policy GBEAB. The conduct giving rise to the suspected violation may well likely require reporting under Board policies JLF – Reporting Child Abuse or Neglect.

I. **Complaints of Violation of RSA 126-U**. Any individual may file a complaint with the Superintendent's office alleging a violation of this policy or RSA 126-U. The complainant should be encouraged to file the complaint in writing with the information listed in paragraph 1 below, but if declined, the Superintendent/designee should promptly prepare a written summary of the complaint with such information as could be obtained from the complainant. The complaint should be made as soon as possible after the incident. (Note that under Ed 1203.02, complaints to the New Hampshire Department of Education made more than twelve months after an incident will be dismissed by the Department.)

1. **Complaint Contents.** The written complaint or complaint summary should include:

   a. The complainant's name, unless the complaint refuses;

   b. The date or approximate date of the alleged incident;

   c. The location of the alleged incident;

   d. The name of the child or children subject to the alleged restraint or seclusion, if known;

   e. The name of the school personnel alleged to have restrained or secluded the child, if known;

   f. A description of the alleged restraint or seclusion;

   g. The date of complaint.

2. **Investigation and Resolution of Complaint.** The complaint or grievance will be investigated by the Superintendent, or another person designated by the Superintendent. The Complainant should be contacted no later than 5 business days (excluding school year vacations) following the date of the complaint.

   In most cases, investigation of the complaint should be completed within 20 days following receipt of the complaint. If the Superintendent is not personally conducting the investigation,

however, the extension of time must first be approved by the Superintendent. When extra time is required, the reasons for the extension should be included in the final investigative report.

A written investigative report of the findings and conclusions (whether the complaint is founded or unfounded) should be completed within five days of completion of the investigation. In addition to findings and conclusions, the investigative report must include the documentation of the evidence (or summary of oral evidence) relied upon.

The Superintendent will contact the complainant within 5 days after the report is completed to discuss the completion of the investigation. The amount of information provided is dependent on the nature of the complainant and the legal privacy of the concerned parties. If the complainant is the parent or guardian of the child concerned, the Superintendent may allow the parent/guardian access to the written report in the same manner as any other student record. The Superintendent shall take such actions as are appropriate in light of the investigative report, including, without limitation, any mandatory or discretionary reports to outside agencies, employee discipline, ordering further investigation, training, etc..

Any further review of the original complaint or investigative report will be in accordance with other established processes, e.g., grievance processes within applicable collective bargaining agreements, Board policies relating to complaints such as found in KEB.

The written complaint/complaint summary, the investigative report, evidence and other documents concerning the complaint shall be retained in accordance with Ed 1202.02€.

J. **Review of IEP or 504 Plan Following the Use of Restraint or Seclusion.** Pursuant to RSA 126-U:14, upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 701, and its implementing regulations, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion.

If there have been multiple instances of restraint or seclusion of a child with a disability since the last IEP/504 plan review, an additional review shall occur at the request of the parent or guardian of the child.

K. **Prohibition Against Retaliation or Harassment.** No person shall subject any individual to harassment or retaliation for filing, in good faith, a report under this policy, RSA 126-U, or Department of Education Rules Ed 1200. **Dissemination of Policy.** A copy of this policy shall be provided to the parent, guardian, or legal representative of each full or part-time student upon enrollment, and annually thereafter printed in each student handbook. Additionally, the policy will be included on each school's website and/or the online School Board Policy Manual available to the general public.

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