

## SAD #46

### **POLICY** Use of Physical restraint and Seclusion Code: JKAA

The SAD #46 School Board has adopted this policy and the accompanying procedures to implement the standards for use of physical restraint and seclusion with students, as required by state law and regulations, and to support a safe school environment. Physical restraint and seclusion, as defined by this policy, may only be used as an emergency intervention when the behavior of a student presents an imminent risk of serious physical injury to the student or others, and less intrusive interventions have failed or been deemed inappropriate.

State law and MDOE Rule Chapter 33 do not restrict or limit the protections available to school officials under 20-A M.R.S.A. § 4009, but those protections do not relieve school officials from complying with this policy/procedure.

The Superintendent has overall responsibility for implementing this policy and the accompanying procedure, but may delegate specific responsibilities as they deems appropriate.

#### **1. Definitions**

The following definitions apply to this policy and the accompanying procedure:

- A.
  - 1. **Physical restraint:** A personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, or head freely.
  - 2. **Physical restraint does not include any of the following:**
    - a. Physical escort: A temporary, voluntary touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location.
    - b. Physical prompt: A teaching technique that involves voluntary physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency.
    - c. Protective Physical Interventions: Brief Physical contact with a student in response to potentially harmful student action that serves to deflect, block, or redirect the student's actions or disengage from a student's inappropriate grip, but from which the student could freely move away.
    - d. The use of adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement than would be possible without the use of such devices or supports.
    - e. The use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

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- B. 1. **Seclusion:** The involuntary isolation or confinement of a student alone in a room or clearly defined area from which the student does not feel free to go or is physically denied exit.

#### **2. Seclusion does not include:**

- 1. A timeout, An intervention where a student requests, or complies with an adult request for, a break.

- C. 1. **Serious Physical injury:** Any impairment of the physical condition of a person, whether self-inflicted or inflicted on someone else, that is beyond the care of routine first aid, and if the injury had occurred, would require a medical practitioner to evaluate and/or treat the victim.

- 2. **Voluntary:** Voluntary means that a student cooperates with a request. Independent of staff using physical force for the purpose overcoming a student's resistance.

## **2. Procedures for Implementing Physical Restraint and Seclusion**

The requirements for implementing physical restraint and seclusion, as well as incident notices, documentation and reporting are included in the accompanying procedure, JKAA-R.

## **3. Annual Notice of Policy/Procedure**

**SAD #46** shall provide annual notice to parents/legal guardians of this policy/procedure by means determined by the Superintendent/designee.

## **4. Training Requirements**

- A. All school staff and contracted providers shall receive an annual overview of this policy/procedure.
- B. **SAD #46** will ensure that there are a sufficient number of administrators/designees, special education and other staff who maintain certification in a restraint and seclusion training program approved by the Maine Department of Education. A list of certified staff shall be updated annually and maintained in the Superintendent's Office, in each school office and in the school unit's Comprehensive Emergency Management Plan.

## **5. Parent/Legal Guardian Complaint Procedure**

A parent/legal guardian who has a complaint concerning the implementation of this policy/procedure must submit it in writing to the Superintendent as soon as possible. The Superintendent/designee shall investigate the complaint and provide written findings to the parent/legal guardian within twenty (20) business days of receiving the complaint, if practicable.

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A parent/legal guardian who is dissatisfied with the result of the local complaint process may file a complaint with the Maine Department of Education. The Department of Education will review the results of the local complaint process and may initiate its own investigation at its sole discretion. The Department shall issue a written report with specific findings to the parent/legal guardian and the school unit within 60 calendar days of receiving the complaint.

Legal References: 20-A M.R.S.A. §§ 4014, 4502(5)(M); 4009  
Me. DOE Reg., ch. 33

Cross References: JKAA-R – Procedures on Physical Restraint and Seclusion  
JK – Student Discipline  
KLG/KLG-R – Relations with Law Enforcement **OR**  
KLGA/KLGA-R – Relations with School Resource Officers  
EBCA – Comprehensive Emergency Management Plan

Date Adopted: 3/2/22

Date Revised: 12/6/23

NOTE: The policy and procedure are intended to be used together, because they both contain important components of 20-A M.R.S.A § 4014, and Maine DOE Rule ch. 33.

These procedures are established for the purpose of meeting the obligations of **SAD #46** under state law/regulations and Board Policy JKAA governing the use of physical restraint and seclusion. These procedures shall be interpreted in a manner consistent with state law and regulations.

## **1. Physical Restraint**

To the extent possible, physical restraint will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated a physical restraint in an emergency, trained staff must be summoned to the scene to assume control of the situation if the emergency continues.

This procedure does not preclude law enforcement personnel from implementing physical restraints consistent with their professional responsibilities.

### **A. Permitted Uses of Physical Restraint**

1. Physical restraint may be used only when the behavior of a student presents an imminent risk of serious physical injury to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate. The physical restraint must end immediately upon the cessation of the imminent risk of serious physical injury to the student or another person, and should involve the least amount of force necessary to protect the student or other person.

“Serious physical injury” is a physical injury that a reasonable person would consider to be serious for the victim if it were to occur.

2. Prescribed medications, harnesses, seat belts and other assistive or protective devices may be used as permitted by law and described in Policy JKAA.
3. Parents/legal guardians may be requested to provide assistance with their child at any time.

### **B. Prohibited Forms and Uses of Physical Restraint**

1. Physical restraint used for punitive purposes; as a therapeutic or educational intervention; for staff convenience; or to control challenging behavior.

2. Physical restraint used solely to prevent property destruction or disruption of the environment in the absence of a risk of serious physical injury.
3. Physical restraint that is life threatening, restricts breathing or restricts blood flow to the brain, including prone restraint.
4. Physical restraint that relies on pain for control, including but not limited to joint hyperextension, excessive force, unsupported take-downs (e.g., tackles), the use of any physical structure (e.g., wall, railing or post), punching and hitting.
5. Physical restraint that is contraindicated based on the child's disability, health care needs, or medical or psychiatric condition if documented in:
  - A health care directive or medical management plan;
  - A school-approved behavior plan;
  - An IEP or an Individual Family Service Plan (IFSP); or
  - A school-approved 504 or ADA plan.
6. Aversive procedures, and mechanical and chemical restraints.
  - a. Aversive procedures are defined as the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include but are not limited to infliction of bodily pain (e.g., hitting, pinching, slapping); water spray; noxious fumes; extreme physical exercise; costumes or signs.
  - b. Mechanical restraints are defined as any restraint that uses a device to restrict a student's freedom of movement. Such restraints do not include adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement, or the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.
  - c. Chemical restraints are defined as the use of drug or medication that is not prescribed as the standard treatment of a student's medical or psychiatric condition by a licensed physician or other qualified health professional acting under the scope of the professional's authority under state law that is used on a student to control behavior or restrict freedom of movement.

**C. Monitoring Students in Physical Restraint**

1. At least two adults must be present at all times when physical restraint is used except when, for safety reasons, waiting for a second adult to arrive is precluded by the particular circumstances.
2. The student must be continuously monitored until they no longer present a risk of injury or harm to the student or others.
3. If an injury occurs, applicable school policies and procedures should be followed.

**D. Termination of Physical Restraint**

1. The staff involved in the use of physical restraint must continually assess for signs that the student in physical restraint is no longer presenting an imminent risk of serious physical injury to themselves or others, and the physical restraint must be discontinued immediately after it is determined that the imminent risk of serious physical harm has ended.
  - a. The time a student is in physical restraint must be monitored and recorded.
  - b. If physical restraint continues for more than ten (10) minutes, an administrator/designee shall determine whether continued physical restraint is warranted, and shall continue to monitor the status of the physical restraint every ten (10) minutes until the restraint is terminated.
  - c. If attempts to release the student from physical restraint have been unsuccessful and the student continues to present behaviors that create an imminent risk of serious physical injury to the student or to others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.

**2. Seclusion**

To the extent possible, seclusion will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated seclusion in an emergency, trained staff must be summoned to the scene as soon as possible.

A “timeout” where a student requests, or complies with an adult request, for a break is not considered seclusion under this procedure. Seclusion also does not include any situation where others are present in the room or clearly defined area with the student (including but not limited to classrooms, offices and other school locations).

**A. Permitted Uses and Location of Seclusion**

1. Seclusion may be used only as an emergency intervention when the behavior of a student presents an imminent risk of serious bodily injury to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate. The seclusion must end immediately upon the cessation of the imminent risk of serious physical injury to the student or another person.

“Serious physical injury” is any impairment of the physical condition of a person, whether self-inflicted or inflicted on someone else, that is beyond the care of routine first aid, and if the injury were to occur, would require a medical practitioner to evaluate and/or treat the victim.

2. Seclusion may be achieved in any part of a school building with adequate light, heat, ventilation and of normal room height.
  - a. Seclusion may not take place in a locked room.
    - b. If a specific room is designated as a seclusion room, it must be a minimum of sixty (60) square feet; have adequate light, heat and ventilation; be of normal room height; contain an unbreakable observation window in a wall or door; and must be free of hazardous material and objects which the student could use to self-inflict bodily injury.
3. Parents/legal guardians may be requested to provide assistance with their child at any time.

#### **B. Prohibited Uses of Seclusion**

1. Seclusion used for punitive purposes; as a therapeutic or educational intervention; for staff convenience; or to control challenging behavior.
2. Seclusion used solely to prevent property destruction or disruption of the environment in the absence of an imminent risk of serious physical injury.
3. Seclusion that is life threatening.
4. Seclusion that is contraindicated based on the child’s disability, health care needs, or medical or psychiatric condition if documented in:
  - A health care directive or medical management plan;
  - A school-approved behavior plan;
  - An IEP or IFSP; or
  - A school-approved 504 or ADA plan.

**C. Monitoring Students in Seclusion**

1. At least one adult must be physically present at all times to continuously monitor a student in seclusion. The adult, while not present in the room or defined area, must be situated so that the student is visible at all times.
2. The student must be continuously monitored until they no longer presents an imminent risk of serious physical injury to the student or to others.
3. If an injury occurs, applicable school policies and procedures should be followed.

**D. Termination of Seclusion**

1. The staff involved in the seclusion must continually assess for signs that the student is no longer presenting an imminent risk of serious physical injury to the student or others, and the seclusion must be discontinued as soon as the imminent risk ceases.
  - a. The time a student is in seclusion must be monitored and recorded.
  - b. If seclusion continues for more than ten (10) minutes, an administrator/designee shall determine whether continued seclusion is warranted, and shall continue to monitor the status of the seclusion every ten (10) minutes until the seclusion is terminated.
  - c. If attempts to release a student from seclusion have been unsuccessful and the student continues to present behaviors that create an imminent risk of serious physical injury to the student or to others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.

**4. Notification and Reports of Physical Restraint and Seclusion Incidents**

For the purposes of this procedure, an “incident” consists of all actions between the time a student begins to create an imminent risk of serious physical injury and the time the student ceases to pose that imminent risk and returns to their regular programming.

**A. Notice Requirements**

After each incident of physical restraint or seclusion:



1. A staff member involved in the incident shall make an oral notification to the administrator/designee as soon as possible, but no later than the end of the school day.
2. An administrator/designee shall notify the parent/legal guardian about the physical restraint or seclusion (and any related first aid provided) as soon as practical, but within the school day in which the incident occurred. The administrator/designee must utilize all available phone numbers or other available contact information to reach the parent/legal guardian. If the parent/legal guardian is unavailable, the administrator/designee must leave a message (if the parent/legal guardian has a phone and message capability) to contact the school as soon as possible. The parent/legal guardian must be informed that written documentation will be provided within seven (7) calendar days.
3. If the physical restraint or seclusion incident occurred outside the school day, the notifications must be made as soon as possible and in accordance with the school unit's usual emergency notification procedures.
4. If serious bodily injury or death of a student occurs during the implementation of physical restraint or seclusion, the **SAD #46** emergency notification procedures shall be followed and an administrator/designee shall notify the Maine Department of Education within twenty-four (24) hours or the next business day.

**B. Incident Reports**

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator/designee as soon as practical, and in all cases within two (2) school days of the incident. The parent/legal guardian must be provided a copy of the incident report within seven (7) calendar days of the incident.

The incident report must include the following elements:

1. Student name;
2. Age, gender and grade;
3. Does the student have an Individualized Education or 504 Plan;
4. Location of the incident;
5. Date of the incident;
6. Date of report;

7. Person completing the report;
8. Beginning and ending time of each physical restraint and/or seclusion;
9. Incident start and end time;
10. Total time of incident;
10. Description of prior events and circumstances;
11. Total number of uses of seclusion within the incident period;
  - i. Beginning and ending time of each use of seclusion within the incident period;
  - ii. A detailed description of each use of seclusion within the incident period;
12. Total number of uses of Physical Restraint within the incident period;
  - i. Beginning and ending time of each use of physical restraint within the incident period;
  - ii. A detailed description of each use of physical restraint within the incident period;
13. Less restrictive interventions tried prior to the use of physical restraint and/or seclusion and, if none were used, the reasons why;
14. The student behavior justifying the use of physical restraint or seclusion;
15. A detailed description of the physical restraint or seclusion used;
16. The staff person(s) involved, their role in the physical restraint or seclusion, and whether each person is certified in an approved training program;
17. Description of the incident, including the resolution and process of returning the student to his/her program, if appropriate;
18. Whether the student has an IEP, 504 Plan, behavior plan, IHP (individual health plan) or any other plan.
19. If a student and/or staff sustained bodily injury, the date and time of nurse or other response personnel notification, and any treatment administered;
20. The date, time and method of parent/legal guardian notification;
21. The date and time of administrator/designee notification.
22. Date and time of staff debriefing.

Copies of the incident reports shall be maintained in the student's file and in the school office.

**5. School Unit Response Following the Use of Physical Restraint or Seclusion**

- A. Following each incident of physical restraint or seclusion, an administrator/designee shall take these steps within two (2) school days (unless serious bodily injury requiring emergency medical treatment occurred, in which case these steps must take place as soon as possible, but no later than the next school day):
1. Review the incident with all staff persons involved to discuss: (a) whether the use of physical restraint or seclusion complied with state and school board requirements and (b) how to prevent or reduce the need for physical restraint and/or seclusion in the future.
  2. Meet with the student who was physically restrained or secluded to discuss: (a) what triggered the student's escalation and (b) what the student and staff can do to reduce the need for physical restraint and/or seclusion in the future.
- B. Following the meetings, staff must develop and implement a written plan for response and de-escalation for the student. If a plan already exists, staff must review it and make revisions, if appropriate. For the purposes of this procedure, "de-escalation" is the use of behavior management techniques intended to cause a situation involving problem behavior of a student to become more controlled, calm and less dangerous, thus reducing the risk of injury or harm.

**6. Procedure for Students after every Third Incident**

The school unit will make reasonable, documented efforts to encourage parent/legal guardian participation in the meetings required in this section, and to schedule meetings at times convenient for parents/legal guardians to attend.

**A. Special Education/504 Students**

1. After every third incident of physical restraint and/or seclusion in one school year, the student's IEP or 504 Team shall meet within ten (10) school days of the third incident to discuss the incident and consider the need to conduct an FBA (functional behavioral assessment) and/or develop a BIP (behavior intervention plan), or amend an existing one.
2. Schools are not required to hold more than one meeting within any 30-school-day period to address restraints and seclusion, notwithstanding the "after every third incident" standard noted above.

**B. All Other Students**

1. After every third incident of physical restraint and/or seclusion in one school year, A team consisting of the parent/legal guardian, administrator/designee, a teacher for the student, a staff member involved in the incident (if not the administrator/designee or teacher already invited), and other appropriate staff shall meet within ten (10) school days to discuss the incidents.
2. Schools are not required to hold more than one meeting within any 30-school-day period to address restraints and seclusion, notwithstanding the “after every third incident” standard noted above.
2. The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is made, the need to conduct an FBA (functional behavioral assessment) and/or develop a BIP (behavior intervention plan).

**7. Cumulative Reporting Requirements**

**A. Reports Within the School Unit**

1. Each building administrator must report the following data on a quarterly and annual basis:

seclusion      Total number of incidents that include the use of physical restraint or

- a. Aggregate number of uses of physical restraint;
- b. Aggregate number of students placed in physical restraint;
- c. Aggregate number of uses of seclusion;
- d. Aggregate number of students placed in seclusion;
- e. Aggregate number of students with disabilities having IEPs or  
504/ADA plans who are placed in physical restraint;
- f. Aggregate number of students with disabilities having IEPs or  
504/ADA plans who are placed in seclusion;
- g. Aggregate number of serious physical injuries to students  
related to the use of physical restraints;

- h. Aggregate number of serious physical injuries to students related to the use of seclusion;
  - i. Aggregate number of serious physical injuries to staff related to the use of physical restraints; and
  - j. Aggregate number of serious physical injuries to staff related to the use of seclusion.
- 2. The Superintendent shall review the cumulative reports received as set forth in this section and identify those areas that can be addressed to reduce future use of physical restraint and seclusion. These cumulative reports may be requested by the Department of Education at any time.

**B. Reports to Maine Department of Education**

- 1. The Superintendent shall submit an annual report to the Maine Department of Education on an annual basis that includes the information in Section 7.A.1 above.

Legal Reference: 20-A M.R.S.A. §§ 4014, 4502(5)(M); 4009  
Me. DOE Rule., ch. 33

Cross Reference: JKAA – Use of Physical Restraint and Seclusion  
JK – Student Discipline  
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