

JKAA-R – PROCEDURES ON USE OF CHILD RESTRAINT AND SECLUSION

The Wilton Lyndeborough Cooperative 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.

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.

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

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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 which a child is able to leave;
- (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.

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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 others.
2. Restraint as defined in these procedures shall only be used by trained personnel and with extreme caution. It should be used only 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 only 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 only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably

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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.

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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

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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.

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

1. In cases involving serious injury or death to a child subject to restraint or seclusion, the school district shall, in addition to the notification requirements above, notify the commissioner of the department of education, the attorney general, and the state's federally designated protection and advocacy agency for individuals with disabilities. Such notice shall include a copy of the written report referenced in Section VIII above.

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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

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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 Policy or Procedures on the Use of Child Restraint 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.

See policy JKAA

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