

Policy/Procedure Executive Summary

October 18, 2021

The following policy and procedure will be presented for a second reading.

Physical Restraint and Seclusion Policy – JKAA

Maine has adopted a new law on restraint and seclusion that goes into effect on October 18, 2021. The law makes major changes to the definition of restraint and seclusion and includes significant new limitations on when those interventions can be used.

Updated Definitions & Language:

- **Physical Restraint** - A personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, or head freely.
- **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 leave or is physically denied exit.
- **Physical Escort/Prompts** – The word voluntary has been added to the definition of physical escorts/prompts.

Removed from Policy:

- **SROs** - Restraints used by law enforcement officers or school resource officers employed by the Sanford Police Department in the course of their professional duties has been removed. The new law appears to have removed the Chapter 33 exception for school resource officers – although guidance on this one is needed from the Maine DOE. The law could now be interpreted as applicable to school resource officers when acting as such. The law clearly does not apply to police officers but guidance is needed on the SRO issue.

Physical Restraint and Seclusion Procedure – JKAA-R

Updated Definitions & Language:

- **Permitted Uses of Physical Restraint** - 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.

Recommendation

To adopt Policy – JKAA and Procedure JKAA-R

Use of Physical Restraint and Seclusion

The Sanford School Committee 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 the student presents an **imminent** risk of **serious physical** injury or harm to the student or others.

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

I. DEFINITIONS

The following definitions apply to this policy and procedure:

Physical Restraint: ~~An intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily.~~ **A personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, or head freely.**

A.

Physical restraint does not include any of the following:

- ~~1. 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.** ~~inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted.~~~~
2. 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.
3. Physical contact: When the purpose of the intervention is to comfort a student and the student voluntarily accepts the contact.
- ~~4. A brief period of physical contact necessary to break up a fight.~~
5. The use of seat belts, safety belts or similar passenger restraints, when used as intended during the transportation of a child in a motor vehicle.
6. The use of a medically prescribed harness, when used as intended; the use of protective equipment or devices that are part of a treatment plan prescribed by a licensed health care provider; or prescribed assistive devices when used as prescribed and supervised by qualified and trained individuals.
- ~~7. Restraints used by law enforcement officers or school resource officers employed by the Sanford Police Department in the course of their professional duties are not subject to this policy/procedure or MDOE Rule Chapter 33.~~
8. MDOE Rule Chapter 33 does 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.

- B. 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 to or** is physically prevented from leaving, ~~with no other person in the room or area with the student~~ **denied exit.**

Seclusion does not include:

1. Timeout: An intervention where the student requests, or complies with an adult request for, a break.

II. 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.

III. ANNUAL NOTICE OF POLICY/PROCEDURE

The Sanford School Department shall provide annual notice to parents/legal guardians of this policy/procedure by means determined by the Superintendent/designee.

IV. TRAINING REQUIREMENTS

A. All school staff and contracted providers shall receive an annual overview of this policy/procedure.

B. The Sanford School Department 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 district's Emergency Management Plan.

V. 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/school principal as soon as possible. The Superintendent/school principal shall investigate the complaint and provide written findings to the parent/legal guardian within twenty (20) business days, if practicable.

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 department within 60 calendar days of receiving the complaint.

Legal reference: 20-A MRSA §§ 4014, 4502(5) (M); 4009
ME DOE Rule, Chapter 33

Cross-reference: Relations with School Resource Officers and Law Enforcement Authorities –
KLGA
School Resource Officer/Law Enforcement Administrative Procedure –
KLGA-R
EBCA – Comprehensive Emergency Management Plan

JKAA-R – Procedures of Physical Restraint and Seclusion
JK – Student Discipline

Adoption date: May 3, 2004, May 20, 2013

Revised: February 7, 2011; November 19, 2012, April 29, 2013, **October 4, 2021**

Procedures on Physical Restraint and Seclusion

These procedures are established for the purpose of meeting the obligations of the Sanford School Department under state law/regulations and School Committee policy JKAA governing the use of physical restraint and seclusion. These procedures shall be interpreted in a manner consistent with state law and regulations.

I. 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 in carrying out 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. Physical restraint may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after less intrusive interventions have failed or been deemed inappropriate.~~
- ~~3. Physical restraint may be used to move a student only if the need for movement outweighs the risk involved in such movement.~~
2. Prescribed medications, harnesses, seat belts and other assistive or protective devices may be used as permitted by Rule Chapter 33 law and described in Policy JKAA.
3. Parents/legal guardians may be requested to provide assistance 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 to solely to prevent property destruction or disruption of the environment in the absence of a risk of serious physical injury or harm.
3. Physical restraint that restricts the free movement of a student’s diaphragm or chest, or that restricts the airway so as to interrupt normal breathing or speech (restraint-related asphyxia) 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** ~~item worn by or placed on the student to limit behavior or movement and which cannot be removed by the student.~~ Prescribed assistive devices are not considered mechanical restraints when used as prescribed and their use is supervised by qualified and trained individuals in accordance with professional standards.
 - c. Chemical restraints are defined as the use **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.** ~~including those administered PRN (as needed, given involuntarily to control student behavior. Prescribed medications are not considered chemical restraints when administered by a health care provider in accordance with a student's health care plan.~~

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 he/she no longer presents a risk of injury ~~or harm~~ to him/herself 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 is no longer presenting **an imminent risk of serious physical injury** ~~a risk of injury or harm to him/herself or others, and the emergency intervention must be discontinued as soon as possible.~~ **physical restraint must be discontinued immediately after it is determined that the imminent risk of serious physical injury ~~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 a student from physical restraint have been unsuccessful and the student continues to present behaviors that create an **imminent** risk of **serious physical** injury ~~or harm~~ to him/herself or others, then staff may request additional assistance from other school staff, parents/legal guardians, medical providers, or other appropriate persons or organizations.

II. 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 defined area with the student (including but not limited to classrooms, offices, and other school locations).

A. Permitted uses and Location of Seclusion

Seclusion may be used only as an emergency intervention when the behavior of a student presents an **imminent** risk of **serious bodily** injury ~~or harm~~ 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 a physical injury that a reasonable person would consider to be serious for the victim if it were to occur.**

1. 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 heat, light and ventilation; be of normal room height; contain an unbreakable observation window in a wall or door; and must be free of hazardous materials or objects which the student could use to self-inflict bodily injury.
2. Parents/**legal guardians** may be requested to provide assistance **with their child** at any time.

B. Prohibited Uses of Seclusion

1. Seclusion 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 or harm**.
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 he/she no longer presents an **imminent risk of serious physical injury or harm** to him/herself or 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 or harm** to him/herself or others, and the emergency intervention must be discontinued as soon **as the imminent risk ceases** ~~as possible~~.
 - a. The time the 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 or harm** to him/herself or others, then staff may request additional assistance from other school staff, parents/legal guardians, medical providers, or other appropriate persons or organizations.

III. 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 a risk of harm and the time the student ceases to pose a risk of harm and returns to his/her 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 Sanford School Department’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 Sanford School Department 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 on 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, grade;
3. Location of the incident;
4. Date of the incident;
5. Date of report;
6. Person completing the report;
7. Beginning and ending time of each physical restraint and/or seclusion;
8. Total time of incident;

9. Description of prior events and circumstances;
10. Less restrictive interventions tried prior to the use of physical restraint and/or seclusion and, if none were used, the reasons why;
11. The student behavior justifying the use of physical restraint or seclusion;
12. A detailed description of the physical restraint or seclusion used;
13. The staff person(s) involved, their role in the physical restraint or seclusion, and whether each person is certified in an approved training program.
14. Description of the incident, including the resolution and process of returning the student to his/her program, if appropriate;
15. Whether the student has an IEP, 504 plan, behavior plan, IHP (Individual Health Plan) or any other plan;
16. If a student and/or staff member sustained bodily injury, the date and time of nurse or other response personnel notification and any treatment administered;
17. The date, time and method of parent/legal guardian notification;
18. The date and time of administrator/designee notification; and
19. Date and time of staff debriefing.

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

IV. 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 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.

V. PROCEDURE FOR STUDENTS WITH THREE INCIDENTS IN A SCHOOL YEAR

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 the 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.

B. All Other Students

1. 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. 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).

VI. CUMULATIVE REPORTING REQUIREMENTS**A. Reports Within the School Unit**

1. Each building administrator must report the following data on a quarterly and annual basis:
 - 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 serious bodily injuries to students related to the use of physical restraints and seclusions; and
 - f. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.
2. The Superintendent shall review the cumulative reports and identify any areas that could be addressed to reduce the future use of physical restraint and seclusion.

B. Reports to the Maine Department of Education

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

Legal reference: 20-A M.R.S.A. §§ 4014, 4502(5)(M); 4009
ME DOE Rule, Chapter 33

Cross-reference: JKAA – use of Physical Restraint and Seclusion
JK – Student Discipline

Adoption date: May 3, 2004, May 20, 2013

Revised: February 7, 2011; November 19, 2012, April 29, 2013, October 4, 2021