

**FIDDLEHEAD SCHOOL  
BOARD OF DIRECTORS**

**ADOPTED: 8-2013  
REVIEWED: 2-22-2016**

Effective Date: July 17, 2013

## **USE OF PHYSICAL RESTRAINT AND SECLUSION POLICY**

The Fiddlehead School 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 injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

### **Definitions**

**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.

**Physical restraint does not include any of the following:**

1. Physical escort-a temporary touching or holding for the purpose of 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 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. Momentarily deflecting the movement of a student when the student's movements would be destructive, harmful or dangerous to the student or others.
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. A brief period of physical contact necessary to break up a fight.
8. Restraints used by law enforcement officers (or, school resource officers employed by a police department) in the course of their professional duties are not subject to this policy/procedure or DOE Rule Chapter 33.
9. DOE Rule Chapter 33 does not restrict or limit the protections available to school officials under 20-AM.R.S.A. § 4009, but those protections do not relieve school officials from complying with this policy/procedure.

**Seclusion:** The involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving, with no other person in the room or area with the student. Seclusion does not include the following:

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

### **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.

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

The Fiddlehead School shall provide annual notice to parents/legal guardians of the policy/procedure by means determined by the executive director (or designee).

### **Training Requirements**

All school staff and contracted providers shall receive an annual overview of this policy/procedure. The Fiddlehead School 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 executive director's office.

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

A parent/legal guardian who has a complaint concerning the implementation of this policy/procedure must submit the complaint in writing to the executive director as soon as possible. The executive director (or 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.

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 within 60 calendar days of receiving the complaint.

### **MDOE Rule Chapter 33**

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.

#### **Legal References:**

- 20-A M.R.S.A. § 4502(5) (M)
- State of Maine, 05 071 Rule Chapters for the Department of Education, Chapter 33 (April 2013)

#### **Cross References:**

- JKAA-R – Procedures on Physical Restraint and Seclusion
- JKAA-F – Incident Report Form
- JK – Student Discipline

Policy revision adopted by the Fiddlehead School Board of Directors: February 22, 2016

Policy No: JKAA-R

Effective Date: July 17, 2013

### **Physical Restraint and Seclusion - Administrative Procedures**

These procedures are established for the purpose of meeting the obligations of the Fiddlehead School under state laws, regulations and the policy governing the use of physical restraint and seclusion. These procedures shall be interpreted in a manner consistent with state law and regulations.

At no time shall Fiddlehead School or any of its covered entities seek written permission from a parent/legal guardian to provide restraint and seclusion to a student.

## I. DEFINITIONS

For purposes of these procedures, the terms “physical restraint” and “seclusion” shall have the meanings defined in this document. Definitions for other important terms in this procedure include:

**Emergency:** A sudden, urgent occurrence, usually unexpected, but sometimes anticipated, that requires immediate action.

**Risk of injury or harm:** A situation in which a student has the means to cause physical harm or injury to him/herself or others and such injury or harm is likely to occur, such that a reasonable and prudent person would take steps to protect the student and others against the risk of such injury or harm.

**Dangerous behavior:** Behavior that presents a risk of injury or harm to a student or others.

**Serious bodily injury:** Any bodily injury that involves: (1) A substantial risk of death; (2) Extreme physical pain; (3) Protracted and obvious disfigurement; or (4) Protracted loss or impairment of the function of a bodily member, organ or mental faculty.

## II. 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

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 other less intrusive interventions have failed or been deemed inappropriate. Physical restraint may be used to move a student only if the need for movement outweighs the risks involved in such movement. Prescribed medications, harnesses, and other assistive or protective devices may be used as permitted by Rule chapter 33. Parent/legal guardians may be requested to provide assistance at any time.

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

The following forms of physical restraint **are prohibited**:

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 prevent property destruction or disruption of the environment in the absence of a risk of 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).
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. 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 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 of medication, 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**

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. The student must be continuously monitored until he/she no longer presents a risk of injury or harm to him/herself or others. If an injury occurs, applicable school policies and procedures should be followed.

### **D. Termination of Physical Restraint**

The staff involved in the use of physical restraint must continually assess for signs that the student is no longer presenting a risk of injury or harm to him/herself or others, and the emergency intervention must be discontinued as soon as possible.

The time a student is in physical restraint must be monitored and recorded. 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.

If attempts to release a student from physical restraint have been unsuccessful and the student continues to present behaviors that create a risk of 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. 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 a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

Seclusion may be achieved in any part of a school building with adequate light, heat, ventilation and of normal room height.

Seclusion may not take place in a locked room.

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.

Parents/legal guardians may be requested to provide assistance at any time.

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

The following forms of seclusion are prohibited:

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 imminent risk of injury.

## **C. Monitoring Students in Seclusion**

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. The student must be continuously monitored until he/she no longer presents a risk of injury or harm to him/herself or others. If an injury occurs to the student, staff or others, applicable school policies and procedures should be followed.

## **D. Termination of Seclusion**

The staff involved in the seclusion must continually assess for signs that the student is no longer presenting a risk of injury or harm to him/herself or others, and the emergency intervention must be discontinued as soon as possible.

The time a student is in seclusion must be monitored and recorded.

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 restraint is terminated.

If attempts to release a student from seclusion have been unsuccessful and the student continues to present behaviors that create a risk of injury or harm to him/herself or others, then staff may request additional assistance from other sources such as school staff, parents/legal guardians, medical providers, emergency responders, or other appropriate persons or organizations.

## **E. 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.

## **F. 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 notification must be made as soon as possible and in accordance with Fiddlehead School'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 Fiddlehead School 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.

## **G. 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. 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 in IEP, 504 plan, behavior plan, IHP (individual health plan) or any other plan
16. If a student and/or staff sustained bodily injury, the date and time of nurse or other response personnel notification and any treatment administered, if any
17. The date, time and method of parent/legal guardian notification
18. The date and time of administrator/designee notification
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.

## **H. School Response Following the Use of Physical Restraint or Seclusion**

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.
3. 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.

## **I. Multiple Incidents of Physical Restraint/Seclusion**

The school 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.

1. **Special Education/504 Students after Third Incident.** After the third incident of physical restraint and/or seclusion in one school year of a student who has been found eligible for special education or has a Section 504 plan, 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 a Functional Behavioral Assessment (FBA) and/or develop a Behavior Intervention Plan (BIP) or amend an existing one.
2. **For all other students after Third Incident.** For students not described in the above paragraph, a team shall meet within ten (10) school days of the third incident in a school year to discuss the incidents. The team shall consist of the parent/guardian, an administrator or designee, a teacher for the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members. The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is to be made, the need to conduct a Functional Behavioral Assessment and/or a Behavior Intervention Plan.

Nothing in this section is meant to prevent the completion of an FBA or BIP for any student who might benefit from these measures but who has had fewer than three restraints or seclusions.

## **J. Cumulative Reporting Requirements**

1. Reporting within the School
  - a. The executive director (or designee) must report the following data on a quarterly and annual basis:
    1. Aggregate number of uses of physical restraint
    2. Aggregate number of students placed in physical restraint
    3. Aggregate number of uses of seclusion
    4. Aggregate number of students placed in seclusion
    5. Aggregate number of serious bodily injuries to students related to the use of physical restraints and seclusions; and
    6. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.
  - b. The executive director (or designee) shall review the cumulative reports and identify any areas that could be addressed to reduce the future use of physical restraint and seclusion.



2. Reporting Data to the Maine Department of Education

The executive director (or designee) shall submit annually a report of the incidence of physical restraint and seclusion to the Maine Department of Education that includes the information in Section J.1. above.

Revisions adopted by Executive Director: February 22, 2016