

USE OF RESTRAINT, SECLUSION, AND PHYSICAL CONTACT**Definitions:** (RSA 126-U:1, IV)

1. "Restraint" means bodily physical restriction, mechanical devices, or any device that immobilizes a person or restricts the freedom of movement of the torso, head, arms, or legs. It includes mechanical restraint, physical restraint, and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are District staff members, contractors, or otherwise under the control or direction of the District.

"Restraint" shall not include:

- (a) Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.
 - (b) 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.
 - (c) Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical, and other similar medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.
 - (d) The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.
 - (e) The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child.
2. "Medication restraint" occurs when a child is given medication involuntarily for the purpose of immediate control of the child's behavior.
 3. "Mechanical restraint" occurs when a physical device or devices are used to restrict the movement of a child or the movement or normal function of a portion of his or her body.
 4. "Physical restraint" occurs when a manual method is used to restrict a child's freedom of movement or normal access to his or her body.
 5. "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.
 6. "Child" means a person who has not reached the age of 18 years and who is not under adult criminal prosecution or sentence of actual imprisonment resulting therefrom, either

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due to having reached the age of 17 years or due to the completion of proceedings for transfer to the adult criminal justice system under RSA 169-B:24, RSA 169-B:25, or RSA 169-B:26. Child also includes a person in actual attendance at a school who is less than 22 years of age and who has not received a high school diploma.

7. "Seclusion" means 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, a lock, or other mechanical device or barrier. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include 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. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.
8. "Intentional physical contact" means contact by a school employee with a child, in response to a child's aggression, misconduct, or disruptive behavior, and includes, but is not limited to blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child.

Intentional physical contact does not include:

- a. Escorting a child 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.
- b. Actions such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
- c. Incidental or minor contact, such as for the purpose of gaining a misbehaving child's attention.

Procedures for Managing The Behavior of Students: (RSA 126-U:2)

The Superintendent or his/her designee is authorized to establish procedures for managing student behavior. Such procedures shall be consistent with this policy and all applicable laws and regulations.

Circumstances in Which Restraint May Be Used: (RSA 126-U:2)

Restraint 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 the child or others. The determination of whether the use of restraint is justified may be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to

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property will create a substantial risk of serious bodily harm to the child or others. Restraint shall never be used explicitly or implicitly as punishment for the behavior of a child.

Restraint shall only be used by trained personnel using extreme caution when all other interventions have failed or have been deemed inappropriate. Persons implementing a restraint shall use extreme caution, and shall use the least amount of physical strength necessary to protect the student. The use of physical intervention should not exceed that necessary to avoid injury. The degree of physical restriction employed must be in proportion to the circumstances of the incident and the potential consequences. School administration may elect to contact the local law enforcement agency for support if necessary.

A restraint of a student will be conducted in a manner consistent with the techniques prescribed in the District approved training program. The purpose of the restraint is to assist the student to regain emotional stability. It should last only as long as is necessary to accomplish this. To the extent possible, it will be conducted in such a way as to preserve the confidentiality and dignity of all involved.

Restraint should be carried out by trained persons authorized by the Superintendent or designee, Special Education Administrator, Principal, or his/her designee. Untrained staff is limited to physically intervening by using the minimal amount of physical contact with the student to protect the student and ensure the safety of others until trained staff is available. Untrained staff should request assistance from trained staff as soon as possible. Intentional physical contact that does not constitute a restraint may require parental notification, as set forth in this policy.

Authorization and Monitoring of Extended Restraint: (RSA 126-U:11)

1. Restraint shall not be imposed for longer than is necessary to protect the student or others from the substantial and imminent risk of serious bodily harm.
2. Students in restraint shall be continuously and directly observed by district personnel trained in the safe use of restraint.
3. No period of restraint of a student may exceed 15 minutes without the approval of a supervisory employee designated by the Principal or designee to provide such approval.
4. No period of restraint of a student may exceed 30 minutes unless a face-to-face assessment of the mental, emotional, and physical well-being of the student is conducted by a supervisory employee designated by the Principal or designee who is trained to conduct such assessments. The assessment shall also include a determination of whether the restraint is being conducted safely and for a purpose authorized by this chapter. Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by the facility or school as part of the written notification required in RSA 126-U:7, II.

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(continued)****Prohibition of Dangerous Restraint Techniques** (RSA 126-U:4, RSA 126-U:6)

Use of the following restraint and behavior control techniques is prohibited:

1. The use of medication restraint is strictly prohibited. Mechanical restraint shall not be used except as otherwise permitted in the transportation of children pursuant to RSA 126-U:12 and this policy.
2. Any physical restraint or containment technique that:
 - (a) Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;
 - (b) Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;
 - (c) Obstructs the circulation of blood;
 - (d) Involves pushing on or into the child's mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths; or
 - (e) Endangers a child's life or significantly exacerbates a child's medical condition.
3. The intentional infliction of pain, including the use of pain inducement to obtain compliance.
4. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child.
5. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.

Limitation on the Use of Seclusion: (RSA 126-U:5-a)

Seclusion may not be used as a form of punishment or discipline. It 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.

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.

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

Conditions of Seclusion: (RSA 126-U:5-b)

Seclusion may only be imposed in rooms which:

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- 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 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.

Each use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.

Reporting Requirements and Parental Notification: (RSA 126-U:7)

Parents/guardians are asked to notify their child's principal if a court has appointed a guardian ad litem to represent their child's interests.

Unless prohibited by court order, the building principal shall make reasonable efforts to verbally notify the child's parent or guardian and guardian ad litem whenever seclusion or restraint has been used on a child. Such notification shall be made as soon as practicable and in no event later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in the manner calculated to give the parent/guardian actual notice of the incident at the earliest practicable time.

The building principal or designee will, within 5 business days after the occurrence, submit a written notification/report to the Superintendent or designee. The notification shall contain all the requirements and information as mandated by RSA 126-U:7, II. The Superintendent may develop a reporting form or other documents necessary to satisfy these reporting requirements:

- (a) The date, time, and duration of the use of restraint.
- (b) A description of the actions of the student before, during, and after the occurrence.
- (c) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of seclusion or restraint.
- (d) The names of the persons involved in the occurrence.
- (e) A description of the actions of the school employees involved before, during and after the occurrence.

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- (f) A description of any interventions used prior to the use of the seclusion or restraint.
- (g) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary.
- (h) 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 seclusion or restraint.
- (i) A description of any property damage associated with the occurrence.
- (j) A description of actions taken to address the emotional needs of the child during and following the incident.
- (k) A description of future actions to be taken to control the child's problem behaviors.
- (l) The name and position of the employee completing the notification.
- (m) The anticipated date of the final report.

Unless prohibited by court order, the Principal or designee shall, within 2 business days of receipt of the notification required in the above paragraph, send by first class mail to the child's parent or guardian and guardian ad litem the information contained in the notification/report. Each notification/report prepared under this section shall be retained by the school for review in accordance with rules adopted under RSA 541-A by the State Board of Education and the Department of Health and Human Services.

If an incident is determined not to involve a physical restraint or seclusion, the incident should be reviewed to determine whether it constitutes physical contact as described in this policy.

In cases involving serious injury or death to a child subject to restraint or seclusion, the Principal shall, in addition to the notification required above, notify the commissioner of the department of education, the attorney general, and the Disabilities Rights Center. Such notice shall include the written notification required in RSA 126-U:7, II (described above).

Upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act, and its implementing regulations, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion. A parent or guardian of a child with a disability may request such a review at any time following an instance of restraint or seclusion and such request shall be granted if there have been multiple instances of restraint or seclusion since the last review.

Transportation: (RSA 126-U:12)

The school district will not use mechanical restraints during the transportation of children unless case-specific circumstances dictate that such methods are necessary.

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

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1. Prevents physical and psychological trauma;
2. Respects the privacy of the child; and
3. Represents the least restrictive means necessary for the safety of the child.

Whenever a student is transported using mechanical restraints, the Superintendent or designee will document in writing the reasons for the use of the mechanical restraints. Such documentation shall be treated as a notification of restraint under RSA 126-U:7.

School Review Following Use of restraint or Seclusion (RSA 126-U:14)

Pursuant to RSA 126-U:14, the school shall review the individualized education program (IEP) or section 504 plan of a child with a disability following the first use of restraint or seclusion on the child, or upon request of the child's parent or guardian, and make adjustments to the IEP or 504 plan as indicated to reduce the future use of restraint or seclusion.

Physical Contact: (RSA 126-U:7, IV-VI)

Whenever a school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, the Principal or his/her designee shall make reasonable efforts to promptly notify the child's parent or guardian. Such notification shall be made no later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

In any case requiring notification, the school shall, within 5 business days of the occurrence, prepare a written description of the incident. Such description shall include at least the following information:

- a. The date and time of the incident;
- b. A brief description of the actions of the child before, during, and after the occurrence;
- c. The names of the persons involved in the occurrence;
- d. A brief description of the actions of the facility or school employees involved before, during, and after the occurrence;
- 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.

The above notification requirements shall not apply when:

- d. 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. However, if the child is actively combative, assaultive, or self-injurious while being escorted, the notice requirements shall apply.
- e. Actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.

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- f. The contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child’s attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical contact with a disruptive or assaultive child shall be subject to the above notification requirements.
- g. An incident constitutes a restraint and is subject to the restraint notification requirements.

Duty to Report Violation of RSA 126-U

A school employee has a duty to report a violation of RSA 126-U when that person has reason to believe that the action of another constituted a violation of RSA 126-U and misconduct or suspected misconduct, pursuant to Ed 510.

Legal Reference:

RSA 126-U, Limiting the Use of Child Restraint Practices
Ed 1202.01(d) and (e) Restraint and Seclusion Written Policies Required
Ed 510.01 Duty to Report

Proposed: 12/06/10
Adopted: 01/03/11
Proposed: 11/17/14
Adopted: 12/15/14
Proposed: 10/02/17
Adopted: 11/20/17

NHSBA Review: 04/04/14