
MAKING COMMUNITY CONNECTIONS CHARTER SCHOOL POLICY

USE OF PHYSICAL RESTRAINT, SECLUSION, AND INTENTIONAL PHYSICAL CONTACT JKAA

INTRODUCTION

MC2 sets forth this policy for managing the behavior of students. This policy describes how and under what circumstances restraint and seclusion may be used and shall be provided to the parent, guardian, or legal representative of each student as mandated by NH RSA 126-U:2. In accordance with RSA 126-U:6, the use of restraint shall be limited to physical restraint, to the extent permitted by law and this policy. Schools are prohibited from using medication restraint, and shall not use mechanical restraint except as otherwise permitted in the transportation of student's pursuant to RSA 126-U:12.

Parents or guardians should notify their child's school leader if a court has appointed a guardian ad litem to represent their child's interests.

I. DEFINITIONS

1. **Physical restraint** occurs when a manual method is used to restrict a student's freedom of movement or normal access to his or her body.
2. **Prevention Strategies** are positive and constructive methods to deescalate potentially dangerous situations.
3. **Substantial risk** is the serious, imminent threat of bodily harm where there is the ability to enact such harm. Substantial risk shall exist only if all other less restrictive alternatives to diffuse the situation have been exhausted and have failed, or the level of risk prohibits exhausting other means.
4. **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. For the purposes of this policy restraint includes mechanical restraint for transportation purposes only and physical restraint to control behavior in an emergency. It is limited to actions taken by persons who are school staff members, contractors, or otherwise under the control or direction of the charter school.
5. **Trained Staff** are those individuals who successfully complete and stay current in a training program that results in acquisition of skills in preventing restraints and seclusion, evaluating risk of harm in an individual situation, use of approved techniques and monitoring the effect of the restraint and seclusion.
6. **Parent** shall mean the student's parent, legal guardian, surrogate parent, or the student if he/she is over the age of 18.
7. **Mechanical Restraint** occurs when a physical device or devices are used to restrain

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the movement of a student or the movement or normal function of a portion of his or her body.

8. **Student** means a person who has not reached the age of 18 years and who is not under adult criminal prosecution or sentence of actual incarceration resulting therefrom, either 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. Student 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.

9. **Seclusion** means the involuntary placement of a student 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. Seclusion shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the student 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 a physical barrier between the student and any other person or the student 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.

10. **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.

II. RESTRAINT

Physical 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 student 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 student to inflict damage to property will create a substantial risk of serious bodily harm to the student or others. Restraint shall be used only by ~~trained~~ staff using extreme caution when all other interventions have failed or have been deemed inappropriate, or the level of immediate risk prohibits exhausting other means. Restraint shall never be used explicitly or implicitly as punishment for the behavior of a student.

Persons implementing a restraint must use extreme caution, and shall use the least amount of physical strength necessary to protect the student. Restraint shall not be imposed for longer than is necessary to protect the student or others from the substantial and imminent risk

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of serious bodily harm. Students in restraint shall be the subject of continuous direct observation by personnel trained in the safe use of restraint. 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 physical restraint of a student will be conducted in a manner consistent with the techniques prescribed in the MC² approved training program. No period of restraint of a student may exceed 15 minutes without the approval of the school leader or his/her designee. No period of restraint may exceed 30 minutes unless a face-to-face assessment of the mental, emotional, and physical well-being of the student is conducted by the school leader or his/her designee. The assessment shall also include a determination of whether the restraint is being conducted safely and for a purpose authorized by state law and this policy. 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 as part of the written notification required by RSA 126-U:7, II and Section XI of this policy. To the extent possible, it will be conducted in such a way as to preserve the confidentiality and dignity of all involved.

Physical restraint should be carried out by trained staff authorized by the CEO, School Leader, 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. The use of physical contact, other than restraint, may also require separate parental notification, as described in Section IX of this policy.

For students with educational disabilities, all crisis or emergency intervention procedures shall be included in the student's IEP and shall comply with Ed 1113.04 and RSA 126-U:5.

III. EVENTS NOT CONSIDERED RESTRAINTS

1. Brief touching or holding a student to calm, comfort, encourage, or guide a student, so long as limitation of freedom of movement of the student does not occur.
2. The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing the student to stand, if necessary, and then walk to a safe location, so long as the student 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 physical examinations and tests or for orthopedic, surgical, and other similar medical treatment purposes, or when used to provide support for the

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achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a student to participate in activities without the risk of physical harm.

4. The use of seat belts, safety belts, or similar passenger restraints during the transportation of a student in a motor vehicle.

5. The use of force by a person to defend himself or herself or a third person from what they reasonably believe to be the imminent use of unlawful force by a student, when he or she uses a degree of such force which he or she reasonably believes to be necessary for

such purpose and he or she does not immobilize a student or restrict the freedom of movement of the student's torso, head, arms, or legs.

IV. LIMITATIONS ON THE USE OF RESTRAINT

MC² employees and contractors are prohibited from using or threatening to use any of the following restraint and behavior control techniques:

- Any physical restraint or containment technique that:
 - Obstructs a student's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;
 - Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a student;
 - Obstructs the circulation of blood;
 - Involves pushing on or into a student'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
 - Endangers a student's life or significantly exacerbates a student's medical condition.
- The intentional infliction of pain, including the use of pain inducement to obtain compliance.
- The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a student for the purpose of controlling or modifying the behavior of or punishing the student.
- Any technique that unnecessarily subjects the student to ridicule, humiliation, or emotional trauma.

V. SECLUSION

Seclusion shall not be used as a form of punishment or discipline. Seclusion may only be used when a student's behavior poses a substantial and imminent risk of physical harm to

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the student or to others, and may only continue until that danger has dissipated.

Seclusion shall only be used by trained staff 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 the particular student.

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

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

Rooms used for seclusion must meet the minimum requirements set forth in RSA 126-U:5-b, including having doors that are either not equipped with locks, or are equipped with devices that automatically disengage the lock in case of an emergency.

VI. TRAINING

1. MC² may identify personnel to be trained in the use of prevention strategies and physical restraint and seclusion procedures. Efforts will be made to use physical restraint and seclusion only as a last resort.
2. MC² will notify all new personnel working in programs where the use of restraint is “anticipated” of the Policy and Procedures for the Use of Physical Restraint, Seclusion and Intentional Physical Contact.
3. Staff will follow the guidelines relative to the prohibition of dangerous restraint techniques and the authorization and monitoring of extended restraints in accordance with RSA 126-U:11.

VII. TRANSPORTATION

1. MC² shall not use mechanical restraints during the transportation of students unless case-specific circumstances dictate that such methods are necessary.
2. Whenever a student is transported to a location outside a school or facility, the School Leader or his/her designee shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the student in a manner which:
 - (a) Prevents physical and psychological trauma;

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- (b) Respects the privacy of the student; and
- (c)) Represents the least restrictive means necessary for the safety of the student.

3. Whenever a student is transported using mechanical restraints, the School Leader or his/her designee shall document in writing the reasons for the use of mechanical restraints. Such documentation shall be treated as a notification of restraint under RSA 126-U:7 and Section XI of this policy.

VIII. INTENTIONAL PHYSICAL CONTACT

Whenever an MC² employee or contractor has intentional physical contact with a student, which is in response to a student's aggression, misconduct, or disruptive behavior, the school leader or his/her designee shall make reasonable efforts to promptly notify the student's parent or guardian. Such notification shall be made no later than the time of the return of the student to the parent or guardian, or at the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to provide the parent or guardian with actual notice of the incident at the earliest practicable time.

If notification is required, the school leader or his/her designee shall, within 5 business days of the occurrence, prepare a written description of the incident. The written description must contain, at a minimum, the information set forth in RSA 126-U:7, V. (see attached notification form)

The notification and record-keeping requirements set forth herein shall not apply when:

- The student 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 above notice and record-keeping requirements shall apply.
- When actions are taken such as separating students from each other, inducing a student to stand, or otherwise physically preparing a student to be escorted.
- When the contact with the student is incidental or minor, such as for the purpose of gaining a misbehaving student'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 notice and record-keeping requirements.
- The incident constitutes a restraint and is subject to the documentation and record-keeping requirements set forth in Section XI of this policy.

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IX. INFORMED DECISION MAKING

If MC² administrators anticipate that the use of restraint or seclusion will be necessary for a student, a written plan for that student shall be developed. When the use of physical restraint is included in a student's written plan, MC² will provide the parent/guardian with a copy of the Policy and Procedures for the Use of Physical Restraint, Seclusion and Intentional Physical Contact. The parent/guardian will also be asked to share relevant information with school personnel. This information should include, but not be limited to, medical, health and/or psychological considerations, past experiences, patterns of behavior that may signal an imminent situation and/or de-escalation techniques that have proven to be successful. Whenever staff becomes aware of a medical condition, it is their responsibility to work with the parent/guardian to identify viable modifications/alternatives. To the extent possible, administrators will collaborate with the parent to identify appropriate and effective techniques for supporting student behavior. Ultimately, it is the responsibility of MC² to provide for the safety of all students. The general welfare and safety of both the student and others must be considered at all times. In dangerous situations where the student can cause serious, probable and imminent bodily harm to himself/herself or others, restraint or seclusion may be used.

X. DOCUMENTATION AND REPORTING REQUIREMENTS

- 1) All restraints and seclusion must be documented.
- 2) Appropriate personnel will use the following protocol after each incident:
 - a. Unless prohibited by court order, in the event restraint or seclusion is used on a student, the school leader or designee will make reasonable efforts to verbally notify the student's parents/guardian and guardian ad litem (if applicable) of the occurrence. Such notification shall be made as soon as practicable and in no event later than the time of the return of the student 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/guardian actual notice of the incident at the earliest practicable time.
 - b. The trained staff who used seclusion or restraint, or if the trained staff is unavailable, the trained staff member's supervisor, shall, within 5 business days after the occurrence, submit a written notification/report to the CEO or his or her designee. The notification shall contain all the requirements and information as mandated by RSA 126-U:7, II.
 - c. Unless prohibited by court order, the CEO or designee shall, within 2

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business days of receipt of the notification, send by first class mail or electronic mail to the student's parent or guardian and guardian ad litem (if applicable), the information contained in the notification.

d. Each notification shall be retained by the school for review in accordance with the rules adopted under RSA 541-A.

e. In cases involving serious injury or death to a student subject to restraint or seclusion, the CEO or his/her designee shall also notify the Commissioner of the Department of Education, the Attorney General, and the Disabilities Rights Center. The notification shall include the written notification required in Section XI(2)(b) of this policy.

f. If restraint is used for 30 minutes or more, the notification must also include documentation of the assessment required by Section III of this policy.

g. When restraint or seclusion has been used for the first time upon a student with a disability under the IDEA or Section 504, the student's IEP or Section 504 Team shall meet to review the student's IEP 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 student 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.

XI. ANNUAL REVIEW PROCESS

The CEO or his/her designee is authorized to develop written procedures and forms regarding the implementation of this policy. The procedures and forms shall be consistent with this policy and all applicable laws and regulations.

The Board of Trustees and CEO shall review and update the Policy and Procedures for the Use of Physical Restraint, Seclusion and Physical Contact based on governmental requirements and licensing standards.

Legal References:

RSA 126-U

Ed 1113.04-1113.05, Behavioral Interventions and Emergency Intervention Procedures

Appendix Reference:

Date Adopted: July 17, 2017

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Written Description of Intentional Physical Contact
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A. Identifying Information:

1. Campus: _____
2. Name of Student _____
3. Age: _____
4. Grade level: _____
5. Gender: M / F
6. Date of Contact: _____
Date of this report: _____ Time of physical contact: _____
Location of physical contact on Campus _____
7. Staff involved in the occurrence of physical contact:

Name: _____
Title: _____

Name: _____
Title: _____
8. Name and position of the employee completing the notification:
Name: _____
Title: _____
9. Other Observers (if any):

Name: _____
Title: _____

Name: _____
Title: _____
10. Parent who was informed of this occurrence:

Name: _____
Address: _____
Called by: _____
Title: _____
Date and Time Called: _____
Telephone: (____) _____

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Physical Restraint/Seclusion Incident Report
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A. Identifying Information:

1. Campus: _____
2. Name of Student _____
3. Age: _____
4. Grade level: _____
5. Gender: M / F
6. Date of Restraint/Seclusion: _____
Date of this report: _____ Time of Restraint/Seclusion: _____
Location of Restraint/Seclusion: _____
Duration of the use of restraint/seclusion _____:

This student **does/does not** have an individualized education plan.
(circle one) This student **does/does not** have a 504 plan. (circle one)

The IEP or 504 Team will convene if the student is identified either under IDEA or Section 504 of the Rehabilitation Act and this is the first incident of restraint or seclusion, or in the event that the parent(s) or guardians request to meet.

1. Staff administering restraint:

Name: _____

Title: _____

Trained to administer restraints: Yes No

Name of training provider/vendor/instructor: _____

2. Staff monitoring restraint/seclusion:

Name: _____

Title: _____

Trained to monitor restraints: Yes No

3. Name and position of the employee completing the notification:

Name: _____

Title: _____

Name of training provider/vendor/instructor: _____

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4. Other Observers (if any):

Name: _____

Title: _____

Name: _____

Title: _____

5. Administrator who was verbally informed following the restraint/seclusion:

Name: _____

Title: _____

Reported by: _____

Title: _____

Date and Time Notified: _____

6. Parent who was informed of this restraint/seclusion:

Name: _____

Address: _____

Called by: _____

Title: _____

Telephone: (____) _____

Date and Time Called: _____

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7. Description of any property damage associated with the occurrence:
8. Description of actions taken to address the emotional needs of the child during and following the Restraint/Seclusion incident:
9. Further action to be taken: (Attach separate page if necessary.) The school will take the following action (*check as many as apply*):
- Review incident with student to address behavior that precipitated the restraint/seclusion.
 - Review incident with staff to discuss whether proper Restraint/Seclusion procedures were followed.
 - Consider whether follow-up is necessary for students who witnessed the incident.
 - Contact with parents, responsible school district, other state agency (*describe below*)
 - Meet to discuss possible changes/future actions to student's programming to control the child's behaviors. (*describe*): _____

 - Contact with other professionals or agencies (*describe*):

10. Description Of Physical Restraint/Seclusion:
Justification for initiating physical Restraint/Seclusion(*check all that apply*):
- Non-physical interventions were not effective
 - To protect student from imminent, serious, physical harm
 - To protect other student/staff from imminent, serious, physical harm
- To implement necessary Restraint/Seclusion in accordance with the student's IEP or other written plan (*describe pertinent provisions of IEP or other plan*):

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11. Parent/Guardian Notification (required for all Restraint/Seclusion incidents):

Parent verbally informed of physical Restraint/Seclusion as documented on page 2 of this report.

This written report of Restraint/Seclusion sent to parent/guardian on _____ (date)
at the following address: _____.

Parent/guardian was offered opportunity to discuss the administration of physical Restraint/Seclusion with teacher/administrator. Results of discussion (*Attach separate page if necessary*):

12. This report was filed with the following school administrator:

_____ On: _____
(Name)

_____ On: _____
(Signature of person preparing report)

- cc: School Leader _____
(Date Received by School Leader)
- CEO _____
(Date Received by CEO)

In accordance with RSA 126-U:10: For cases involving serious injury or death to a child subject to restraint in a school, copies to:

- Commissioner of the Department of Education
- State Attorney General
- Disabilities Rights Center