

RESTRAINT AND SECLUSION OF STUDENTS

Purpose: To provide guidelines for staff when administering restraint for prek-12 students.

Universal Outline

This regulation is consistent with guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document. This regulation includes definitions, criteria for use, restrictions for use, training requirements. It also addresses distinctions, including, distinctions in emotional and physical development between the general and special education student population and elementary students and secondary school students. The regulation identifies and prohibits any method of restraint that is determined to pose a significant danger to the student. This regulation does not require nor prohibit staff from utilizing physical restraint in school. However, when restraint is used, it must be done so in accordance with this regulation. While Virginia law allows the use of seclusion, KGCS does not authorize the use of seclusion of any students at any time. Staff shall also implement the use of positive behavioral interventions and supports to prevent and reduce restraint. Some examples of positive behavioral interventions and supports, include but are not limited to: implementing behavior intervention plans, use of token economies, recognizing positive behavior, and encouraging schools to implement a positive behavior support program.

Definitions

School Personnel – individual(s) employed by the school division on a full time or part-time basis, or as independent contractors, or subcontractors as instructional, administrative, and support personnel and includes individuals serving as a student teacher or intern under the supervision of appropriate school personnel.

Student – any student, with or without a disability, enrolled in a public or secondary school including those on home-based instruction operated by the school division, in pre-school programs receiving services from the school division personnel, and attending school on a part-time basis.

Physical Restraint – a personal restriction that immobilizes or reduces the ability of a student to move freely. Physical restraint does not include: briefly holding a student to calm or comfort, holding a student's hand or arm to escort the student safely from one area to another, or the use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control.

Seclusion – the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. If the room or space is not locked, seclusion does not include: time-out to temporarily remove a student from the learning activity, but in which the student is not confined, in school suspension, detention, student-requested breaks in a different location or separate room, removal of a student for a short

period of time from the room or separate room to provide the student with an opportunity to regain self-control, so long as the student is in a setting from which the student is not physically prevented from leaving, removal of a student for disruptive behavior from a classroom by a teacher, and confinement of a student alone in a room or area from which the student is physically prevented from leaving during investigation and questioning of the student by school personnel regarding the student's knowledge of or participation in events constituting a violation of the Code of Student Conduct, such as physical altercation, or an incident involving drugs or weapons. KGCS does not authorize the use of seclusion of any students at any time.

When Restraint Should be Considered

School personnel must first determine whether the action constitutes restraint, as outlined in this regulation. If the action does not meet the definition, or if the action falls under any of the "does not include" portions of this regulation, then school personnel may act within their reasonable discretion. If the action falls within the definition of restraint, it may be used, but only under specific circumstances and subject to additional requirements as outlined in this regulation. Additionally, restraint may only be used when other interventions are or would be in the reasonable judgement or the school personnel implementing the physical restraint in an emergency situation, ineffective and only to:

1. Prevent a student from inflicting serious physical harm or injury to self or others;
2. Quell a disturbance or remove a student from the scene of a disturbance in which such student's behavior or damage to property threatens serious physical harm or injury to persons;
3. Defend self or others from serious physical harm or injury;
4. Obtain possession of controlled substance or paraphernalia that are upon the person of the student or within the student's control; or
5. Obtain possession of weapons or other dangerous objects that are upon the person of the student or within the student's control.

Physical restraint shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situations has dissipated. School personnel are not required to attempt a less restrictive intervention prior to using physical restraint when in the reasonable judgment of the school personnel in an emergency situation a less restrictive intervention would be ineffective. Additionally, unless a student's damage to property creates an imminent risk of serious physical harm or injury to the student or others, the damage of property does not itself indicate an imminent risk of serious physical harm or injury and shall not be the justification for the restraint of a student. The student's age, physical, and emotional development should be considered when engaging in any level of restraint. There also shall be continuous visual monitoring of physical restraint to ensure the appropriateness of such use and the safety of the student being physically restrained, other students, school personnel, and others. The exception is for emergency situations in which securing visual monitoring before implementing the physical restraint would, in the reasonable judgment of the school employee implementing the physical restraint, result in serious physical harm or injury to persons.

This regulation does not restrict the following:

1. Initial authority of teachers to remove students from a classroom;
2. The authority or duties of school resource officers, except as governed by a Memorandum of Understanding between the local law enforcement and the School Board;
3. The authority of the Virginia Department of Juvenile Justice with regards to students in its custody at any of its sites or in any of its programs; and
4. The civil immunity afforded teachers employed by local school boards for any acts or omissions resulting from the supervision, care or discipline of students when such acts or omissions are within such teacher's scope or employment and are taken in good faith in the course of supervision, care, or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct.

Prohibited Actions

Mechanical Restraints – the use of any material, device, or equipment to restrict a student's freedom of movement, but does not include medical restraint which are restraints that are implemented by trained school personnel or used by a student that have been prescribed by an appropriate medical or related service professional and are used with parental consent and for the specific and approved purpose for which such devices were designed such as: adaptive devices or mechanical supports to achieve proper body position, vehicle restraint, to include seat belts, when used as intended during the transport of a student in a moving vehicle, and high chairs and feeding stations used for age and/or developmentally appropriate students.

Pharmacological Restraints – a drug or medication used on a student to control behavior or restrict freedom of movement that is not prescribed by a licensed physician or other qualified health professional under the scope of the professional's authority for the standard treatment of a student's medical psychiatric condition and administered as prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority.

Aversive Stimuli – interventions that are intended to induce pain or discomfort to a student for the purposes of punishing the student or eliminating or reducing maladaptive behaviors. Examples include: noxious odors or tastes, water and other mists/sprays, verbal and mental abuse, and corporal punishment.

Corporal Punishment – the infliction of or causing the infliction of physical pain on a student as means of discipline.

Additional prohibited actions: Restraint in any manner that restricts a student's breathing or harms the student, punishment or discipline, a means of coercion or retaliation, a convenience, to prevent property damage, or in any manner other than noted in this regulation, seclusion rooms or freestanding units, and restraint when medically or psychologically contraindicated as stated in documentation by the IEP team, 504 team,

school professionals, or by a licensed physician, psychologist or other qualified health professional under the scope of the professional's authority.

Reporting Requirements/Timelines

On the day of the incident:

1. The school personnel involved shall report the incident and the use of any related first aid to the school principal or the principal's designee as soon as possible by the end of the day in which the incident occurred. This report may be oral, but supplying in written format is recommended to document compliance.
2. The school principal or the principal's designee or other school personnel shall make a reasonable effort to ensure that direct contact is made with the parent, either in person or through telephone conversation, or other means of communication authorized by the parents, such as email, to notify the parent of the incident and any related first aid used on the day the incident occurred.
3. When the student has been physically restrained after the regular school day, the notifications required shall be made as soon as practicable in compliance with the school division's school crisis emergency management and medical emergency response plan.
4. No later than two (2) school days after the incident:
 - a. The school personnel involved in the incident or other school personnel, as may be designated by the principal, shall complete and provide to the principal's designee, a written incident report, which must include detailed and specific information of the incident to include, but not be limited to:
 - Student name, age, gender, grade, and ethnicity;
 - Location of the incident;
 - Date, time, and total duration of incident, including documentation of the beginning and ending time of each application of physical restraint or seclusion;
 - Date of report;
 - Name of person completing the report;
 - School personnel involved in the incident, their roles in the use of physical restraint or seclusion, and documentation of their completion of the division's training program;
 - Description of the incident, including the resolution and process of return of the student to the student's educational setting, if appropriate;
 - Detailed description of the physical restraint or seclusion method used;
 - Student behavior that justified the use of physical restraint or seclusion;
 - Description of prior events and circumstances prompting the student's behavior, to the extent known;
 - Less restrictive interventions attempted prior to the use of physical restraint or seclusion, and an explanation if no such interventions were employed;
 - Whether the student has an IEP, a Section 504 plan, a BIP, or other plan;

- If a student, school personnel, or any other individual sustained bodily injury, the date and time of nurse or emergency response personnel notification and the treatment administered, if any;
 - Date, time, and method of parental notification of the incident, as required by this section; and
 - Date, time, and method of school personnel debriefing.
5. Following an incident of physical restraint or seclusion, the school division shall ensure that, within two school days, the principal or the principal's designee reviews the incident with all school personnel who implemented the use of physical restraint or seclusion to discuss:
 - a. Whether the use of restraint or seclusion was implemented in compliance with this chapter and local policies; and
 - b. How to prevent or reduce the future need for physical restraint or seclusion.
 6. As appropriate, depending on the student's age and developmental level, following each incident of physical restraint or seclusion the school division shall ensure that, as soon as practicable, but no later than two school days or upon the student's return to school, the principal or the principal's designee shall review the incident with the student involved to discuss:
 - a. Details of the incident in an effort to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents; and
 - b. Alternative positive behaviors or coping skills the student may utilize to prevent or reduce behaviors that may result in the application of physical restraint.
 7. The principal or the principal's designee shall regularly review the use of physical restraint or seclusion to ensure compliance with school division policy and procedures.
 8. Within seven (7) calendar days, school personnel must provide a copy of the incident report to the parents.
 9. When there is a second incident in the same school year with the same student:
 - a. For a student with a disability under IDEA or Section 504, the team should meet within 10 school days to discuss the incident. The team should also consider the need for an:
 - i. FBA;
 - ii. A new or revised BIP that addresses the underlying causes or purposes of the behaviors and de-escalation strategies, conflict prevention, and positive behavioral interventions;
 - iii. Any new or revised behavioral goals; and
 - iv. Any additional evaluation or re-evaluations.
 - b. For a student who has not been identified as a student with a disability, a referral to

evaluation for special education must occur within 10 school days. The school based team shall be comprised of a parent, principal or principal's designee, a teacher of the student, school personnel involved in the incident (if not duplicative of the teacher or administrator who were invited, and other appropriate personnel deemed appropriate, such as, psychologist, school counselor, etc. The team will discuss the need for an FBA, a new or revised BIP that addresses the underlying causes or purposes of the behaviors and de-escalation strategies, conflict prevention and positive behavioral interventions, and a referral for an evaluation. The principal or the principal's designee shall regularly review the use of physical restraint to ensure compliance with board policy and division procedures.

- c. When there are multiple incidents within the same classroom or by the same individual, the principal or principal's designee shall take appropriate steps to address the frequency of use.

Specifically For Students with IEPs or 504 Plans

In the initial development and subsequent review and revision of a student's IEP or Section 504 plan, the student's IEP or Section 504 team shall consider whether the student displays behaviors that are likely to result in the use of physical restraint. Additionally, the team should consider the need for an FBA, BIP, behavior goals, or any subsequent evaluations or reevaluations.

Training

1. All school personnel shall receive initial evidence-based training that focuses on skills related to positive behavior supports, conflict prevention, de-escalation, and crisis response.
2. All school personnel shall receive initial evidence-based training regarding the regulations, policies, and procedures governing restraint.
3. At least one administrator in every school building and personnel assigned to work with any student whose IEP or Section 504 team determines that the student is likely to be physically restrained shall have advanced evidence based training in the use of physical restraint.

Annual Reporting Requirements

1. Principals or their designees are to annually submit to the division's superintendent a report on the use of physical restraint used in their school based on the individual incident reports completed and submitted by staff involved in each respective incident.
2. The superintendent is to annually report the frequency of incidents to the Superintendent of Public Instruction on forms provided by the Department of Education. These forms must be made available to the public.

Adopted: January 11, 2021

Legal Refs.: Code of Virginia, 1950, as amended, §§ 22.1-78, 22.1-279.1, 22.1-279.1:1
8 VAC 20-750-5 et seq.

Cross Ref: VSBA Policy JM (Restraint and Seclusion of Students)