

# PELHAM SCHOOL DISTRICT POLICY JKAA – USE OF RESTRAINTS AND SECLUSION

*Category: Priority*

The Pelham School District hereby establishes the following procedures to describe how and in what circumstances restraint is used in this District. This Policy and Procedures are adopted for the purpose of meeting the District’s obligations under state law governing the use of restraints and seclusion. The Policy and Procedures shall be interpreted in a manner consistent with state law and regulations. This policy applies during the school day, as well as to all school -sponsored events, functions, and extracurricular activities, whether on or off school grounds, including transportation to school-sponsored events.

## I. Definitions

- A. Restraint: 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 restraints, physical restraints, and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are school or facility staff members, contractors or otherwise under the control or direction of a school or facility.

Restraint does not include the following:

1. 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.
2. 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.
3. Physical devices, including but not limited to orthopedically prescribed appliances, and supportive body bands or other physical holding when necessary for routine physical examinations and tests, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling, or to permit a child to participate in activities without the risk of physical harm;
4. The use of seat belts, safety belts, or similar passenger restraints during transportation of a child in a motor vehicle.
5. 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 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.

The five interventions, listed in 1 through 5 immediately above, are not considered “restraint” under this Policy, are not prohibited by this Policy, and are not subject to

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the training or notification requirements that otherwise apply to permissible restraints addressed herein.

Type of Restraint:

1. Medication Restraint: When a child is given medication involuntarily for the purpose of immediate control of the child's behavior.
2. Mechanical Restraint: 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.
3. Physical Restraint: When a manual method is used to restrict a child's freedom of movement or normal access to his or her body.

Prohibited Restraint Techniques:

1. 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.
  2. Intentional infliction of pain, including the use of pain inducement to obtain compliance.
  3. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near the child for the purpose of controlling or modifying the behavior of or punishing the child.
  4. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.
- B. Seclusion: 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

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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.

- C. **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 of the health or function of any part of the body.
- D. **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:

1. 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.
2. Actions such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
3. Incidental or minor contact, such as for the purpose of gaining a misbehaving child's attention.

### **II. Use of Restraint**

- A. Restraint as defined in this Policy 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 under this section may be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to property will create a substantial risk of serious bodily harm to the child or others.
- B. Restraint should be carried out by trained persons authorized by the Superintendent, special education administrator, or principal, when all other interventions have failed or have been deemed inappropriate. Untrained staff is limited to physically intervening using the minimal amount of physical contact with the student to protect the student and to ensure the safety of others until trained staff is available. Untrained staff should request assistance from trained staff as soon as possible. The

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use of intentional physical contact may require a separate report and notification to the student's parent/guardian, as set forth in Section VII of this policy.

- C. Use of restraint as defined in this Policy shall be limited to physical restraint and to the use of mechanical restraint when necessary to safely transport a student. School officials shall not use or threaten to use any dangerous restraint techniques, any inappropriate aversive behavioral interventions, or any medication restraints.
- D. For students with 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. Authorization and Monitoring of Extended Restraint & Length of Restraint

When restraint is necessary, school officials must comply with the following procedures:

- A. Restraint shall not be imposed for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm;
- B. Children in restraint shall be continuously and directly observed by personnel trained in the safe use of the restraint;
- C. No period of restraint shall exceed 15 minutes. If restraint is to exceed this time, approval of the Principal or supervisory employee designated by the Principal to provide such approval is required.
- D. No period of restraint shall exceed 30 minutes unless a face-to-face assessment of the mental, emotional and physical well-being of the child is conducted by the Principal or supervisory employee designated by the Principal who is trained to conduct such assessments. The assessment must include a determination of whether the restraint is being conducted safely and for a proper purpose. These assessments must be repeated at least every 30 minutes during the period of restraint and documented in writing pursuant to the notification requirements set forth in Section VII, below.

IV. Prohibited Use of Restraints

- A. School officials shall not use or threaten to use medication restraint.
- B. School officials shall not use or threaten to use mechanical restraint, except its use is permitted in the transportation of children, as set forth in State law and this Policy.

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C. School officials shall not use or threaten to use dangerous restraint techniques, as defined in this Policy.

V. Restriction of Use of Mechanical Restraints during Transport of Children

A. Mechanical restraints during the transportation of children are prohibited unless the child's specific circumstances dictate that the uses of such methods are necessary. In any event where a child is transported using mechanical restraints, the Principal shall document in writing the reasons for the use of mechanical restraint. This documentation shall be treated as notification of restraint as discussed in paragraph VII, below.

B. Whenever a child is transported to a location outside a school, the Principal shall ensure that all reasonable measures consistent with public safety are taken to transport and/or escort the child. Such measures should:

1. Prevent physical and psychological trauma,
2. Respect the child's privacy, and
3. Represent the least restrictive means necessary for the safety of the child.

VI. Seclusion

Limitation on the Use of Seclusion:

A. Seclusion as defined in this Policy 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.

B. Seclusion shall only be used by trained personnel authorized by the Superintendent, special education administrator, or principal; 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.

C. 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 - When permitted by the Pelham School District, 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 the 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.
- 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 auditorily monitored by a person trained in the safe use of seclusion.

For the purpose of this subparagraph, an ‘emergency’ includes, but is not limited to:

- A. The need to provide direct and immediate medical attention to a child;
- B. Fire;
- C. The need to remove a child to a safe location during a building lockdown; or
- D. Other critical situations that may require immediate removal of a child from seclusion to a safe location.

**VII. Reporting Responsibilities, Parental/Guardian Notification and Record Keeping Requirements**

- A. Unless prohibited by a court order, the school shall make reasonable efforts to verbally notify the child’s parent or guardian and guardian ad litem, if a guardian ad litem has been appointed, whenever seclusion or restraint has been used on a child. At the same time, the Principal shall notify the Superintendent. 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 a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

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- B. A school employee who uses restraint or seclusion shall verbally inform the building Principal or Principal's designee as soon as possible and shall submit a written report to the building Principal or the Principal's designee within 5 business days after the incident involving restraint or seclusion. If the school employee is not available to submit such a report, the employee's supervisor shall submit such a report within the same time frame. If the Principal uses restraint or seclusion, he/or she shall submit a written report to the Superintendent, or his/her designee, within 5 business days. Any report required by this section shall contain the following information:
1. The date, time, and duration of the use of restraint or seclusion;
  2. A description of the actions of the child before, during, and after the occurrence;
  3. A description of any other relevant events preceding the use of restraint or seclusion, including the justification for initiating the restraint or seclusion;
  4. The names of the persons involved in the occurrence;
  5. A description of the actions of the facility or school employees involved before, during, and after the occurrence;
  6. A description of any interventions used prior to the restraint or seclusion;
  7. A description of the restraint or seclusion used, including any hold used and the reason the hold was necessary;
  8. 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 restraint or seclusion;
  9. A description of any property damage associated with the occurrence;
  10. A description of actions taken to address the emotional needs of the child during and following the restraint or seclusion;
  11. A description of future actions to be taken to control the child's problem behaviors;
  12. The name and position of the employee completing the notification; and
  13. The anticipated date of the final report.
- C. Unless prohibited by court order, the Principal or the Principal's designee shall, within 2 business days of receipt of the written report described above, send or transmit by first class mail or electronic transmission to the child's parent or guardian and guardian ad litem the information contained in that written report. [Within the same time frame, the Principal shall also forward any such report to the Superintendent for retention in that office.]
- D. Each written report referenced in this section shall be retained by the school and shall be made available for periodic, regular review consistent with any rules that may be adopted by the State Board of Education for that purpose.

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- E. In cases involving serious injury or death to a child subject to restraint or seclusion in a school, the school shall, in addition to the above notification requirements, 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.
- F. Upon information that restrain or seclusion has been used for the first time upon a child with a disability under the IDEA or Section 504, the IEP or Section 504 Team shall review the child’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 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.
- G.. Intentional Physical Contact: Whenever a Pelham School District employee has intentional physical contact with a child, which is in response to a child’s aggression, misconduct, or disruptive behavior, a representative of the school or facility 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.

- H. In any case requiring notification, the Pelham School District shall within 5 business days of the occurrence, prepare a written description of the incident. Such description shall include at least the following information:
  - 1. The date and time of the incident
  - 2. A brief description of the actions of the child before, during and after the occurrence.
  - 3. The names of the persons involved in the occurrence.
  - 4. A brief description of the actions of the facility or school employees involved before, during and after the occurrence.
  - 5. A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during or after the incident.
- I. The notification and record-keeping requirements set forth above, shall not apply in the following circumstances:
  - 1. When 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 notification and record-keeping requirements shall apply.



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2. When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
3. When 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 notice and record-keeping requirements.
4. When an incident is subject to the notice and record-keeping requirements set forth in paragraphs 1-4 of this section.

VIII. Civil or Criminal Liability

Nothing in the District's Policy or Procedures on the Use of Child Restraint, Seclusion and Intentional Physical Contact should be understood in any way to undercut the protections from civil and criminal liability provided to school officials for the use of force against a minor, consistent with federal and state law including but not limited to RSA 627:1, 4, and 6.

IX. Policy Dissemination and Training

The Superintendent 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.

Each building Principal shall distribute to staff on an annual basis a copy of the School Board's Policy on Use of Child Restraints, Seclusion and Physical Contact, and these Procedures. The Superintendent or his/her designee shall make arrangements so that appropriate staff is trained in the use of restraints and seclusion. A copy of this Policy and Procedures will be provided to parents and/or guardians annually in the Student Handbook and/or be posted on the bulletin board of each school in the District.

X. Reporting Obligations

School employees have a duty to report any violations of RSA 126-U to the Division of Child Youth Services (DCYF) 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. Ed 1202.01(e).

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**District Policy History:**

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**Legal References:**

References: RSA 126-U (2010); Ed 1113.04 to .07 (2008); RSA 627:1, 4,