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TO: Board of Education

FROM: Tracy Grit

DATE: September 12, 2022

SUBJ: Agenda Items – Policy for Review

Attached you will find proposed Policy Code for review for your consideration:

- Policy 4302-R – Rules for Use of Seclusion and Restraint in Schools

RULES FOR USE OF SECLUSION AND RESTRAINT IN SCHOOLS Policy 4302-R

Policy 4302-R was approved and updated on July 18, 2022, based upon the school board associations' **Strongly Recommended** policy update. After consulting our legal counsel for Exceptional Children, we discovered the policy derived from letters from the Office of Civil Rights, not from existing case law. Our Exceptional Children's legal counsel recommended rescinding the new policy and reinstating the policy to its June 5, 2017 status.

We will need a motion first to waive the 30-day policy first read

We will also need a motion to remove the existing policy 4302 and reinstate the June 5, 2017, version.

Both policies, July 18, 2022, and June 15, 2017, are included for your review.

Old Policy-Approved 6/15/17

RULES FOR USE OF SECLUSION AND RESTRAINT IN SCHOOLS

Regulation Code: **4302-R**

The following rules will govern the use of seclusion and restraint by school personnel. As used in this regulation, "school personnel" means employees of the board and any persons working on school grounds or at a school function (1) under a contract or written agreement with the school system to provide educational or related services to students or (2) for another agency providing educational or related services to students.

A. PHYSICAL RESTRAINT

Physical restraint means the use of physical force to restrict the free movement of all or a part of a student's body.

Physical restraint will be considered to be a reasonable use of force when used in the following circumstances:

1. as reasonably needed to obtain possession of weapons or other dangerous objects on the person or within the control of a student;

2. as reasonably needed to maintain order or to prevent or break up a fight;

3. as reasonably needed for self-defense;

4. as reasonably needed to ensure the safety of any student, employee, volunteer, or other person present;

5. as reasonably needed to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior;

6. as reasonably needed to escort a student safely from one area to another;

7. if used as provided for in an IEP, Section 504 plan, or behavior intervention plan; or

8. as reasonably needed to prevent imminent destruction to school or another person's property.

Except as set forth above, physical restraint of students will not be considered a reasonable use of force, and its use is prohibited. In addition, physical restraint will not be considered a reasonable use of force when used solely as a disciplinary consequence.

B. MECHANICAL RESTRAINT

Mechanical restraint means the use of any device or material attached or adjacent to a

student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

Mechanical restraint of a student by school personnel is permissible only in the following circumstances:

1. when properly used as an assistive technology device included in the student's IEP, Section 504 plan, or behavior intervention plan, or as otherwise prescribed by a medical or related service provider;

2. when using seat belts or other safety restraints to secure a student during transportation;

3. as reasonably needed to obtain possession of weapons or other dangerous objects on the person or within the control of a student;

4. as reasonably needed for self-defense;

5. as reasonably needed to ensure the safety of any student, employee, volunteer, or other person.

Except as set forth above, mechanical restraint, including the tying, taping, or strapping down of a student, will not be considered to be a reasonable use of force, and its use is prohibited.

C. SECLUSION

Seclusion means the confinement of a student alone in an enclosed space from which the student is (a) physically prevented from leaving by locking hardware or other means or (b) incapable of leaving due to physical or intellectual capacity.

Seclusion of a student by school personnel may be used in the following circumstances:

1. as reasonably needed to respond to a person in control of a weapon or other dangerous object;

2. as reasonably needed to maintain order or prevent or break up a fight;

3. as reasonably needed for self-defense;

4. as reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property; or

5. when used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and

a. the student is monitored by an adult in close proximity who is able to see and hear the student at all times while the student is in seclusion;

b. the student is released from seclusion upon cessation of the behaviors that led to the seclusion, or as otherwise specified in the student's IEP, Section 504 plan, or behavior intervention plan;

c. the confining space has been approved for such use by the local education agency;

d. the space is appropriately lighted, ventilated, and heated or cooled; and

e. the space is free from objects that unreasonably expose the student or others to harm.

Except as set forth above, the use of seclusion is not considered to be reasonable force, and its use is prohibited. In addition, seclusion will not be considered a reasonable use of force when used solely as a disciplinary consequence.

D. ISOLATION

Isolation means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

Isolation is permitted as a behavior management technique provided that:

1. the isolation space is appropriately lighted, ventilated, and heated or cooled;

2. the duration of the isolation is reasonable in light of the purpose for the isolation;

3. the student is reasonably monitored while in isolation; and

4. the isolation space is free from objects that unreasonably expose the student or others to harm.

E. TIME-OUT

Time-out means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting. Teachers are authorized to use time-out to regulate behavior within their classrooms.

F. AVERSIVE PROCEDURES

Aversive procedure means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability that causes or reasonably may be

expected to cause one or more of the following:

1. significant physical harm, such as tissue damage, physical illness, or death;

2. serious and foreseeable long-term psychological impairment;

3. obvious repulsion on the part of observers who cannot reconcile such extreme procedures with acceptable standard practice, for example:

   a. electric shock applied to the body;

   b. extremely loud auditory stimuli;

   c. forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin;

   d. placement in a tub of cold water or shower;

   e. slapping, pinching, hitting, or pulling hair;

   f. blindfolding or other forms of visual blocking;

   g. unreasonable withholding of meals;

   h. eating one's own vomit; or

   i. denial of reasonable access to toileting facilities.

The use of aversive procedures is prohibited.

G. NOTICE, REPORTING, AND DOCUMENTATION

1. School personnel shall promptly notify the principal or designee of any of the following:

   a. any use of aversive procedures;

   b. any prohibited use of mechanical restraint;

   c. any use of physical restraint resulting in observable physical injury to a student;

   d. any prohibited use of seclusion; or

   e. any seclusion exceeding 10 minutes or the amount of time specified in a student's behavior intervention plan.

2. Notice to Parents

When a principal or designee has personal or actual knowledge of any of the events listed in subsection G.1, above, he or she shall promptly notify the student's parent or guardian and shall provide the name of the school employee whom the parent or guardian may contact regarding the incident. Such notice shall be provided by the end of the workday during which the incident occurred when reasonably possible, but no later than the end of the following workday. Such notice also shall be provided in addition to the written incident report required in subsection G.3, below.

3. Written Report to Parents

Within a reasonable period of time not to exceed 30 days after any incident involving the use of physical restraint, mechanical restraint, seclusion, isolation, or aversive procedures, the principal or designee shall provide the parent or guardian with a written incident report. This report must include the following:

a. the date, time of day, location, duration, and description of the incident and interventions;

b. the events or events that led up to the incident;

c. the nature and extent of any injury to the student; and

d. the name of a school employee the parent or guardian can contact regarding the incident.

4. Reporting to State Board

The board will maintain a record of incidents reported under the procedure described in subsection G.3, above, and will provide this information annually to the State Board of Education.

5. Non-Retaliation for Reporting

Any employee making a report alleging a prohibited use of physical or mechanical restraint, seclusion, or aversive procedure will not be discharged, threatened, or retaliated against through compensation, terms, conditions, location, or privileges of employment unless the employee knew or should have known that the report was false.

Adopted: October 2, 2006
Updated: May 9, 2009
Updated: October 5, 2009

Updated: June 5, 2017

New policy-updates were approved 7/18/22

RULES FOR USE OF SECLUSION AND RESTRAINT IN SCHOOLS

Regulation Code: **4302-R**

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Seclusion and restraint will not be used on students with disabilities (1) for behavior(s) that would not result in seclusion or restraint for students without identified disabilities, unless the use is authorized by the student's IEP or Section 504 Plan for an educational or safety-related purpose, or (2) based on assumptions or stereotypes about disabilities or students with disabilities generally.

A. PHYSICAL RESTRAINT

Physical restraint means the use of physical force to restrict the free movement of all or a part of a student's body.

Physical restraint will be considered to be a reasonable use of force when used in the following circumstances:

1. as reasonably needed to obtain possession of weapons or other dangerous objects on the person or within the control of a student;

2. as reasonably needed to maintain order or to prevent or break up a fight;

3. as reasonably needed for self-defense;

4. as reasonably needed to ensure the safety of any student, employee, volunteer, or other person present;

5. as reasonably needed to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior;

6. as reasonably needed to escort a student safely from one area to another;

7. if used as provided for in an IEP, Section 504 plan, or behavior intervention plan; or

8. as reasonably needed to prevent imminent destruction to school or another person's property.

Except as set forth above, physical restraint of students will not be considered a reasonable use of force, and its use is prohibited. In addition, physical restraint will not be considered

a reasonable use of force when used solely as a disciplinary consequence.

Prone restraint is a form of physical restraint in which a person is held in a face-down position on the floor or other surface. Prone restraint does not include placement in a face-down position as part of a necessary medical intervention. The use of prone restraint is prohibited.

B. MECHANICAL RESTRAINT

Mechanical restraint means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

Mechanical restraint of a student by school personnel is permissible only in the following circumstances:

1. when properly used as an assistive technology device included in the student's IEP, Section 504 plan, or behavior intervention plan, or as otherwise prescribed by a medical or related service provider;

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4. as reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property; or

5. when used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and

    a. the student is monitored by an adult in close proximity who is able to see and hear the student at all times while the student is in seclusion;

    b. the student is released from seclusion upon cessation of the behaviors that led to the seclusion, or as otherwise specified in the student's IEP, Section 504 plan, or behavior intervention plan;

    c. the confining space has been approved for such use by the ~~local education agency~~ school system;

    d. the space is appropriately lighted, ventilated, and heated or cooled; and

    e. the space is free from objects that unreasonably expose the student or others to harm.

Except as set forth above, the use of seclusion is not considered to be reasonable force, and its use is prohibited. In addition, seclusion will not be considered a reasonable use of force when used solely as a disciplinary consequence.

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Isolation is permitted as a behavior management technique provided that:

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1. significant physical harm, such as tissue damage, physical illness, or death;

2. serious and foreseeable long-term psychological impairment; or

3. obvious repulsion on the part of observers who cannot reconcile such extreme procedures with acceptable standard practice, for example:

    a. electric shock applied to the body;

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    d. placement in a tub of cold water or shower;

    e. slapping, pinching, hitting, or pulling hair;

    f. blindfolding or other forms of visual blocking;

    g. unreasonable withholding of meals;

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2. Notice to Parents

When a principal or designee has personal or actual knowledge of any of the ~~events~~ incidents listed in subsection G.1, above, he or she shall promptly notify the student's parent or guardian and shall provide the name of the school employee whom the parent or guardian may contact regarding the incident. Such notice shall be provided by the end of the workday during which the incident occurred when reasonably possible, but no later than the end of the following workday. Such notice also shall be provided in addition to the written incident report required in subsection G.3, below.

3. Written Report to Parents

Within a reasonable period of time not to exceed 30 days after any ~~incident involving the use of physical restraint, mechanical restraint, seclusion, isolation, or aversive procedures~~ incident listed in subsection G.1 of this regulation occurs, the principal or designee shall provide the parent or guardian with a written incident report. This report must include the following:

a. the date, time of day, location, duration, and description of the incident and interventions;

b. the events or events that led up to the incident;

c. the nature and extent of any injury to the student; and

d. the name of a school employee the parent or guardian can contact regarding the incident.

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The board will maintain a record of incidents reported under the procedure described in subsection G.3, above, and will provide this information annually to the State Board of Education.

5. Non-Retaliation for Reporting

   Any employee making a report alleging a prohibited use of physical or mechanical restraint, seclusion, or aversive procedure will not be discharged, threatened, or retaliated against through compensation, terms, conditions, location, or privileges of employment unless the employee knew or should have known that the report was false.

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