

Board File: JKA

USE OF PHYSICAL INTERVENTION AND RESTRAINT

To maintain a safe learning environment, district employees may, within the scope of their employment and consistent with state law, use physical intervention, restraint, and seclusion with students in accordance with this policy and accompanying regulation. Such actions shall not be considered child abuse or corporal punishment¹ if performed in good faith and in compliance with this policy and accompanying regulation.

When addressing student behaviors in furtherance of a safe learning environment, accommodations or safeguards outlined in a student’s IEP, Section 504 Plan, or Behavior Intervention Plan and accommodations for multilingual learners shall be provided and/or followed as appropriate to the circumstances consistent with the accompanying regulation.

Physical Intervention

No corporal punishment shall be administered to any student by any district employee or volunteer.

There are times within the scope of their employment, when it becomes necessary for staff to use reasonable and appropriate physical intervention with a student that does not constitute restraint as defined by this policy, to accomplish the following:

1. To quell a disturbance threatening physical injury to the student or others.
2. To obtain possession of weapons or other dangerous objects upon or within the control of the student.
3. For the purpose of self-defense.
4. For protection of persons against physical injury, or to prevent the destruction of property which could lead to physical injury to the student or others.

A student shall not be physically restrained for one minute or longer, or secluded, unless the circumstances precipitating the restraint or seclusion meet the criteria of an “emergency” as defined by state law and this policy and the provisions regarding restraint and seclusion contained in the policy and accompanying regulation are followed.

Parent

For purposes of determining who receives notice of restraints and seclusions for District students,

¹ For purposes of implementation of this policy, “corporal punishment” is defined consistent with Colorado state law. Colorado law provides that “corporal punishment” means the “willful infliction of, or willfully causing the infliction of, physical pain on a child,” but does not include “an amount of force that is reasonable and necessary to quell a disturbance that threatens physical injury to persons or damage to property, necessary for purposes of self-defense, or used to obtain possession of a weapon or other dangerous object within the control of a child” or “physical pain or discomfort caused by athletic competition or other similar physical activity in which a child is voluntarily engaged.” See C.R.S. § 22-1-140 (2)(b).

Parent is defined by State Board of Education regulation and this policy as follows:

1. A biological or adoptive parent of a child;
2. A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;
3. A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
4. An individual acting in the place of a biological parent or adoptive parent (including a grandparent, step-parent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;
5. An educational surrogate parent who has been assigned in accordance with State Board of Education regulations.

Emergency

Emergency is defined by state law and this policy as serious, probable, imminent threat of bodily injury to self or others with the present ability to effect such bodily injury. Emergency includes situations in which the student creates such a threat by abusing or destroying property. However, if property damage might be involved, restraint or seclusion may only be used when the destruction of property could possibly result in bodily harm to the individual or another person.

Restraint

Restraint is defined by state law and this policy as any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, and chemicals.

Physical Restraint

Physical restraint means the use of bodily, physical force to involuntarily limit an individual's freedom of movement for one (1) minute or more. "Physical restraint" does not include:

- a. the use of protective or adaptive devices for providing physical support, or the prevention of injury, or voluntary or life-saving medical procedures;
- b. a physical intervention with or holding of a student in a position other than a prone position for less than one (1) minute by a staff member for the protection of the student or others, including:
 - i. the minimal block of a student to prevent the student's unsafe contact with others or with unsafe circumstances;
 - ii. brief holding of a student by one adult for the purpose of calming or comforting the student;
 - iii. minimal physical contact for the purpose of safely escorting a student from one area to another; or
 - iv. minimal physical contact for the purpose of assisting the student in completing a task or response.

Seclusion

Seclusion is defined by state law and this policy as the placement of a student alone in a room from which egress is involuntarily prevented. Unlike physical restraints, there is no minimum time limit associated with the definition of seclusion. Rather, if a student is placed alone in a room from which egress is involuntarily prevented for any amount of time, the duties and notification requirements associated with seclusion apply. Seclusion does not include time-out, as described in State Board of Education rules and this policy's accompanying regulation.

Rooms within a school building will not be designated solely for the purpose of seclusion. In the event a student is secluded consistent with this policy, the space where the child is secluded must have adequate lighting, ventilation, and size, and to the extent possible under specific circumstances, the space should be free of injurious items.

Basis for the Use of Restraint and Seclusion

District employees shall not use restraint or seclusion as a form of discipline or as a threat to control or to gain compliance from a student. District employees are also prohibited from restraining a student by use of chemical restraint, as such term is defined by applicable State Board of Education rules and this policy's accompanying regulation. District employees shall not use mechanical restraints or prone restraints, as such terms are defined by applicable State Board of Education rules and this policy's accompanying regulation, except under the limited conditions set forth in State Board of Education rules.

Restraint and seclusion shall be administered only in an emergency and with extreme caution and only by district employees trained in accordance with applicable State Board of Education rules. Restraint and seclusion shall only be used after the failure of less restrictive alternatives or a determination that such alternatives would be inappropriate or ineffective under the circumstances. All restraint and seclusion shall be administered in conformity with both the general requirements and the particular requirements for specific restraints set forth in State Board of Education rules and this policy's accompanying regulation. When it is determined by trained district staff that the restraint or seclusion is no longer necessary to protect the student or others (i.e., the emergency no longer exists), the restraint shall be removed or the seclusion concluded.

In any involvement by law enforcement officers as a result of a student's school-related conduct, law enforcement officers will not be subject to supervision or direction by the School District.

Exceptions

The restraint provisions in this policy and accompanying regulation shall not apply to:

1. Peace officers as defined by C.R.S. 16-2.5-101 et seq. who are acting within the scope of their employment or in accordance with C.R.S. 16-3-109; and
2. When the district is engaged in transporting a student, school employees shall exercise control of students in a reasonable manner appropriate to the circumstances to ensure the safety of students and staff being transported. Employees involved in transporting students shall be trained on appropriate measures for intervening in situations where students are engaging in conduct which affects the safety of the student or others being transported on a district vehicle.

Reporting Restraints and Seclusion

If any type of restraint or seclusion is used by any school employee or volunteer, such employee or volunteer shall provide verbal or written notice to school administration as soon as possible on the day of the incident. School administration shall notify Parent(s) as to the use of restraint on the same day the restraint or seclusion occurs in accordance with this policy's accompanying regulation.

Within one school day of the incident, the school employee or volunteer shall submit via email a written report to school administration containing the information required by State Board of Education rule, as set forth in this policy's accompanying regulation.

Parent(s) shall receive notice of restraints and seclusions in accordance with this policy's accompanying regulation.

Central Database

A central database shall be maintained that captures relevant information on seclusions and restraints, including information from reports and debriefs of incidents.

Filing a Complaint

Parent(s) may file a complaint regarding the use of restraint or seclusion with the Colorado Department of Education by mail, hand-delivery, or other secure method to the IDEA State Complaints Officer, Exceptional Student Leadership Unit, Dispute Resolution Office, 1560 Broadway, Suite 1175, Denver, Colorado, 80202.

A complaint may also be submitted to the district in accordance with district policies AC and KE.

Adopted: September 7, 1982

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LEGAL REFS.:

C.R.S. 18-1-703 (use of physical force by those supervising minors)

C.R.S. 18-1-901(3)(e) (definition of a deadly weapon)

C.R.S. 18-6-401(1) (definition of child abuse)

C.R.S. 19-1-103 (1) (definition of abuse and neglect)

C.R.S. 22-1-140 (definition of corporal punishment and prohibition of its imposition)

C.R.S. 22-2-107 (1)(a) and (1)(c) (State board – power)

C.R.S. 22-32-109.1(2)(a) (adoption and enforcement of discipline code)

C.R.S. 22-32-109.1(2)(a)(I)(L) (safe school plan must include a conduct and discipline code that includes information concerning district policies for the use of restraint and seclusion and information concerning the process for filing a complaint regarding the same)

C.R.S. 22-32-109.1(2) (policy required as part of safe schools plan)

C.R.S. 22-32-109.1(9) (immunity provisions in safe schools law)
C.R.S. 26-20-101 et seq. (Protection of Individuals from Restraint and Seclusion Act)
C.R.S. 26-20-108 (Protection of Individuals from Restraint and Seclusion Act Rules)
C.R.S. 26-20-111 (use of restraints in public schools – certain restraints prohibited)
C.R.S. 22-32-147 (use of restraint on students)
1 CCR 301-45 (State Board of Education rules for the Administration of the Protection of Persons from Restraint Act)

CROSS REFS.:

AC and AC-R-1 (relating to Nondiscrimination/Equal Opportunity)
ADD, Safe Schools
JIC and sub-codes (all relate to student conduct)
JK and sub-codes (all relate to student discipline)
JKA-R, Use of Physical Intervention and Restraint
JKA-E, Student Restraint Incident Report Form
KE, Concerns and Complaints