



POLICY TITLE: USE OF PHYSICAL RESTRAINT AND SECLUSION BY EDUCATION STAFF IN THE A. R. GOULD SCHOOL		PAGE <u>1</u> OF <u>11</u>
POLICY NUMBER: 19.2.2		
CHAPTER: 19: PROGRAMS AND SERVICES		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
EFFECTIVE DATE: March 1, 2021	LATEST REVISION:	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Section 1403 and Department of Education Rule, Chapter 33.

II. APPLICABILITY

A.R. Gould School at Long Creek Youth Development Center

III. POLICY

It is the policy of the Department of Corrections that the A.R. Gould School implement the standards and procedures for the use of physical restraint and seclusion with respect to juvenile residents who are students in the A. R. Gould School as required by Department of Education rule in order to support a safe school environment.

IV. DEFINITIONS

For the purposes of this policy, the following definitions apply in the context of the use of physical restraint and seclusion by education staff in the A. R. Gould School.

1. Aversive procedure - the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include, but are not limited to: infliction of bodily pain (e.g. hitting, pinching, slapping), water spray, noxious fumes, extreme physical exercise, costumes, or signs.
2. Behavior Intervention Plan (BIP) - a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, and by strengthening replacement skills.

3. Chemical restraint - the use of medication, including those administered PRN (as needed), given involuntarily to control student behavior.
4. Functional Behavioral Assessment (FBA) - a school-based process that includes the parent and, as appropriate, the student, to determine why a student engages in challenging behaviors and how the behavior relates to the student's environment.
5. Mechanical restraint - any item worn by or placed on the student to limit behavior or movement and which cannot be removed by the student.
6. Physical restraint - an intervention that restricts a student's freedom of movement or normal access to his or her body and includes physically moving a student who has not moved voluntarily.
7. Seclusion - the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving.
8. Student – a juvenile resident who is enrolled in the A. R. Gould School at the Long Creek Youth Development Center and is physically present in the school area for educational programming purposes.
9. Superintendent – the Superintendent of the Long Creek Youth Development Center (the A.R. Gould School is not under the auspices of a superintendent of schools).

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VI. ATTACHMENTS

None

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VII. PROCEDURES

Procedure A: General

1. The A.R. Gould School is an accredited diploma-granting high school and alternative academic program for juvenile residents housed at the Long Creek Youth Development Center.
2. This policy meets the requirements set out in Maine Department of Education (MDOE) Rule, [Ch. 33, Rule Governing Physical Restraint and Seclusion](#).
3. The Superintendent has overall responsibility for implementing this policy but may delegate specific responsibilities.
4. This policy and MDOE Rule Chapter 33 only apply to the use of physical restraint or seclusion by the A. R. Gould School education staff during the conduct of the educational program.
5. Security or other non-education staff responsible for the custody, care, or treatment of juvenile residents are not subject to this policy or MDOE Rule Chapter 33, including, but not limited to, when:
 - a. force is being used as set out Department Policy (JF) 9.18, Use of Force, General Guidelines;
 - b. restraints are being used as set out in Department Policy (JF) 9.15, Use of Mechanical Restraints; or
 - c. observation status is being used as set out in Department Policy (JF) 10.1, Observation Status.
6. Education staff and other facility staff shall not seek permission, written or verbal, from a parent or guardian to use physical restraint and/or seclusion with respect to any student.
7. In the event of an injury to a student, staff, or others leading to or resulting from the use of physical restraint or seclusion, applicable Department policies shall be followed to ensure that facility health care staff respond immediately.
8. The use of time out by any staff, as set out in Department Policy (JF) 15.5, Use of Time Out for Behavior Control, is not subject to this policy or MDOE Rule Chapter 33.

Procedure B: Use of Seclusion by Education Staff in the A. R. Gould School

1. Seclusion:
 - a. may be used only as an emergency intervention by education staff when the behavior of a student presents a risk of injury or harm to the student or

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- others, and only after other less intrusive interventions have failed or been deemed inappropriate;
- b. shall be implemented by education staff certified in a state-approved training program to the extent possible. If due to the nature of the emergency, untrained education staff have intervened and initiated seclusion, trained education staff shall be summoned to the scene and assume control of the situation as rapidly as possible; and
 - c. may take place in any part of the school area with adequate light, heat, ventilation and of normal room height.
2. Seclusion shall not be used by education staff:
 - a. for punitive purposes, staff convenience, or to control challenging behavior;
 - b. to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm;
 - c. as a therapeutic or educational intervention; or
 - d. by secluding a student in a locked room.
 3. When education staff determines to put a student in seclusion based on an approved reason for use of seclusion, the education staff shall:
 - a. activate his or her personal alarm system (PAS);
 - b. clear the area of any persons who are not involved in the seclusion;
 - c. ensure that at least one education staff is physically present to continuously monitor the student, who shall be visible at all times, until security staff respond (the monitoring shall include a continual assessment for signs that the student is no longer presenting a risk of injury or harm to self or others);
 - d. notify the Principal, or designee, as set out below; and
 - e. complete an incident report as set out below.
 4. The Central Control Officer shall immediately ensure that sufficient and appropriate security staff respond to the scene as soon as possible and shall also notify the Juvenile Facility Operations Supervisor (JFOS) of the situation.
 5. If security staff is delayed in responding, or if for any other reason the seclusion continues for more than ten (10) minutes, the Principal, or designee, shall determine whether continued seclusion by education staff is necessary and shall make an additional determination every ten (10) minutes until the seclusion is ended.
 6. Once security staff respond, the resident shall be removed from the school area, at which time the seclusion by education staff shall be deemed to have ended and this policy no longer applies.

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7. The Juvenile Facility Operations Supervisor (JFOS) shall determine what additional action(s) to take consistent with applicable Department policies.

Procedure C: Use of Physical Restraint by Education Staff in the A. R. Gould School

1. Education staff shall not use or be involved in the use of aversive procedures, mechanical restraints, or chemical restraints under any circumstances.
2. Prescribed assistive devices are not considered mechanical restraints when used as prescribed under supervision by qualified and trained individuals in accordance with professional standards and when so used are not prohibited by this policy.
3. Prescribed protective equipment or devices are not considered mechanical restraints when used as part of a treatment plan as prescribed by a licensed health care provider and when so used are not prohibited by this policy.
4. Prescribed medications are not considered chemical restraints when administered by a licensed health care provider consistent with a health care plan and when so administered are not prohibited by this policy.
5. Physical restraint does not include any of the following and does not fall under any of the requirements of this policy or the Maine Department of Education (MDOE) rule:
 - a. Escort - a temporary touching or holding for the purpose of inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted;
 - b. Physical prompt - a teaching technique that involves physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency;
 - c. Physical contact - when the purpose of the intervention is to comfort a student and the student voluntarily accepts the contact;
 - d. Momentarily deflecting the movement of a student when the student's movements would be destructive, harmful, or dangerous to the student or others;
 - e. The use of seat belts, safety belts, or similar passenger restraints, when used as intended during the transportation of a student in a motor vehicle;
 - f. The use of a medically prescribed harness, when used as intended; or
 - g. A brief period of physical contact necessary to break up a fight.
6. Physical restraint:
 - a. may be used by education staff only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or

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- others, and only after other less intrusive interventions have failed or been deemed inappropriate;
- b. shall be implemented by education staff certified in a state-approved training program to the extent possible. If due to the nature of the emergency, untrained education staff have intervened and initiated a physical restraint and if the need for physical restraint continues, trained education staff shall be summoned to the scene and assume control of the situation as rapidly as possible; and
 - c. may be used to move a student only if the need for movement outweighs the risks involved in such movement.
7. Physical restraint shall not be used by education staff:
- a. for punitive purposes, staff convenience, or to control challenging behavior;
 - b. to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm;
 - c. as a therapeutic or educational intervention; or
 - d. in a manner that:
 - 1) restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of a student; or
 - 2) that relies on pain for control, including but not limited to, joint hyperextension, excessive force, unsupported take-down (e.g. tackle), the use of any physical structure (e.g. wall, railing, or post), punching, and hitting.
8. When education staff determines to put a student in physical restraint based on an approved reason while in the A. R. Gould School, the education staff shall:
- a. activate his or her personal alarm system (PAS);
 - b. clear the area of any persons who are not involved in the restraint;
 - c. ensure at least two education staff are present to continuously monitor the student, who shall be visible at all times, until security staff respond (the monitoring shall include a continual assessment for signs that the student is no longer presenting a risk of injury or harm to self or others), except when, for safety reasons, waiting for a second education staff is precluded;
 - d. notify the Principal, or designee, as set out below; and
 - e. complete an incident report as set out below.
9. The Central Control Officer shall immediately ensure that sufficient and appropriate security staff respond to the scene as soon as possible and shall also notify the Juvenile Facility Operations Supervisor (JFOS) of the situation.

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10. If security staff is delayed in responding, or if for any other reason the physical restraint continues for more than ten (10) minutes, the Principal, or designee, shall determine whether continued restraint by education staff is necessary and shall make an additional determination every ten (10) minutes until the restraint is ended.
11. Once security staff respond, the resident shall be removed from the school area, at which time the physical restraint by education staff shall be deemed to have ended and this policy no longer applies.
12. The Juvenile Facility Operations Supervisor (JFOS) shall determine what additional action(s) to take consistent with applicable Department policies.

Procedure D: Notification of Incident

1. After each use of seclusion or physical restraint of a student, the education staff using the seclusion or physical restraint shall verbally report the use to the Principal, or designee, as soon as possible, and not later than the end of the school day of its occurrence, unless the staff suffers an injury preventing the report, in which case other appropriate facility staff shall report the incident.
2. The Principal, or designee, shall notify the Superintendent, or designee, as soon as possible, and not later than the end of the school day of its occurrence.
3. The Principal, or designee, shall notify the parent and/or guardian that physical restraint or seclusion and any related health care treatment occurred as soon as practical but within the school day in which the incident occurred, utilizing all available phone numbers and other appropriate means. If the parent and/or guardian is unavailable, a phone message shall be left for the parent and/or guardian to contact the facility as soon as possible. If a parent and/or guardian does not have access to a phone, the Principal, or designee, shall use whatever contact information is available for emergencies. The parent and/or guardian shall be informed that written documentation will be provided to them within seven (7) calendar days.
4. If serious bodily injury to or death of a student occurs during the implementation of restraint or seclusion, the Principal, or designee, shall follow applicable Department policies and also notify the Maine Department of Education (MDOE) within twenty-four (24) hours or the next business day.

Procedure E: Documentation of Use of Seclusion or Physical Restraint by Education Staff

1. The education staff using the seclusion or physical restraint shall document the use of seclusion or physical restraint in a seclusion or physical restraint incident report. The incident report shall be completed and provided to the Principal, or designee, as soon as practicable after the incident, and not later within two

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school days, unless the staff suffers an injury preventing the report. At a minimum, the incident report shall include:

- a. student name;
 - b. age, gender, grade;
 - c. location of the incident;
 - d. date of incident;
 - e. date of report;
 - f. person completing the report;
 - g. beginning and ending time of the physical restraint and seclusion;
 - h. total time of the incident (from the time the student began to create a risk of harm to the time the security staff removed the resident from the school area);
 - i. description of prior events and circumstances;
 - j. less restrictive interventions tried prior to the use of physical restraint or seclusion. If none used, explain why;
 - k. the student behavior that justified the use of physical restraint or seclusion;
 - l. a detailed description of the physical restraint or seclusion used;
 - m. the education staff involved, their role in the use of physical restraint or seclusion and their certification, if any, in an approved training program;
 - n. description of the incident, including the resolution and process of return to the program, if appropriate;
 - o. whether the student has an: 1) Individualized Education Plan (IEP); 2) 504 plan; 3) behavior plan; 4) Individual Health. Plan (IHP); or, 5) another plan; and
 - p. if a student or education staff sustained bodily injury, the date and time of facility health care staff notification.
2. If force was used by any staff, the education staff involved in or witnessing the use of force shall also complete an incident report pursuant to Department Policy (JF) 9.18.3 Use of Force Reporting and Review by the end of the work day.
 3. If facility health care staff was notified, that staff shall document the treatment administered as required by the applicable Department policy.
 4. The Principal, or designee, shall document the date, time, and method of parent or guardian notification and the date and time of education staff and student debriefing.
 5. A copy of the incident report, any facility health care staff documentation, and the above documentation by the Principal, or designee, with confidential information

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(e.g., name of any student who a threat of harm was directed to, injury suffered by or treatment provided to staff, etc.) redacted, shall be provided within seven (7) calendar days of the incident to the parent and/or guardian.

Procedure F: Education Staff and Student Debriefing

1. Following each incident of physical restraint or seclusion by education staff, the Principal, or designee, shall ensure that, within two school days, the Principal, or designee, conducts a debriefing and reviews the incident:
 - a. with all education staff who implemented the use of physical restraint or seclusion to discuss:
 - 1) whether the use of restraint or seclusion was implemented in compliance with the Maine Department of Education (MDOE) rule and this policy; and
 - 2) how to prevent or reduce the future need for physical restraint and/or seclusion; and
 - b. with the student who was restrained or secluded to discuss:
 - 1) what triggered the student’s escalation; and
 - 2) what the student and education staff can do to reduce the future need for restraint or seclusion.
2. When physical restraint or seclusion has resulted in serious bodily injury to a student or staff member requiring emergency medical treatment, the debriefing shall take place as soon as possible but no later than the next school day.
3. Following the debriefing, education staff shall develop and implement a written plan for response and de-escalation for the student, or, if a plan already exists, education staff shall review and, if appropriate, revise it.

Procedure G: Multiple Incidents of Use of Physical Restraint and/or Seclusion by Education Staff with respect to the Same Student

1. After the third incident of physical restraint and/or seclusion in a school year of a student who has been found eligible for special education or has a Section 504 plan, the student’s IEP or 504 team shall meet within ten (10) school days of the third incident to discuss the incident and consider the need to conduct a functional behavioral assessment (FBA) and/or develop a behavior intervention plan (BIP) or amend an existing one.
2. For other students, the Principal, or designee, shall arrange for a team to meet within ten (10) school days of the third incident in a school year to discuss the incidents.

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- a. The team shall consist of the parent or guardian; the Principal, or designee; a teacher for the student; an education staff member involved in the third incident; and other appropriate facility staff.
 - b. The Principal, or designee shall make reasonable, documented efforts to encourage parent or guardian participation in the meeting and to schedule it at times convenient for the parent or guardian to attend.
 - c. The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is to be made, the need to conduct a functional behavioral assessment (FBA), and/or develop a behavior intervention plan (BIP).
3. Nothing in this procedure prevents the completion of an FBA or BIP for any student who might benefit from these measures but who has had fewer than three incidents of physical restraint and/or seclusion.

Procedure H: Parents and Guardians Annual Notification and Complaint Procedure

1. The Principal, or designee, shall annually inform the parents and guardians of residents enrolled at the A. R. Gould School of this policy and how a complaint may be filed.
2. Parents and guardians shall be informed that a parent or guardian who has a complaint regarding the use of physical restraint or seclusion on their child by education staff shall submit it in writing to the Principal, or designee.
3. The Principal, or designee, shall investigate any complaint and provide written findings to the parent or guardian within thirty (30) calendar days, if possible, and, where appropriate, shall determine to take corrective action.
4. Parents and guardians shall be informed that a parent and/or guardian who is dissatisfied with the result of the facility complaint process may file a complaint with the Maine Department of Education (MDOE).
5. The MDOE will review the results of the facility complaint process and may initiate its own investigation of the complaint. The MDOE will issue a written report with specific findings to the parent or guardian and the Principal, or designee, within sixty (60) calendar days of receiving the complaint. If a violation is found, the MDOE will develop a corrective action by which the facility will achieve compliance.

Procedure I: Training Requirements

1. The Principal, or designee, in conjunction with the facility Staff Development Coordinator staff, shall ensure that:

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- a. all education staff and Juvenile Facility Operations Supervisors receive an annual overview of the MDOE Rule, Ch. 33, Rule Governing Physical Restraint and Seclusion and this policy;
- b. as many education staff, to include both administrators and teachers, and both general and special education staff, maintain certification in the Maine Department of Education (MDOE) approved restraint and seclusion training program as is possible; and
- c. a list of certified staff is updated annually and maintained in the Training Office, the Principal's Office, and the school's Emergency Management Plan.

Procedure J: Cumulative Data Reporting

1. The Principal, or designee, shall report in writing to the Superintendent, or designee, on a quarterly and annual basis:
 - a. aggregate number of uses of physical restraint by education staff;
 - b. aggregate number of students placed in physical restraint;
 - c. aggregate number of uses of seclusion by education staff;
 - d. aggregate number of students placed in seclusion;
 - e. aggregate number of serious bodily injuries to students related to the use of physical restraint and/or seclusion; and
 - f. aggregate number of serious bodily injuries to staff related to physical restraint and /or seclusion.

2. The Superintendent, or designee, shall review the cumulative reports received and identify those areas that can be addressed to reduce the future use of physical restraint and seclusion. These cumulative reports may be requested by the Maine Department of Education (MDOE) at any time.

3. The Principal, or designee, shall submit to the MDOE an annual report that includes:
 - a. aggregate number of uses of physical restraint by education staff;
 - b. aggregate number of students placed in physical restraint;
 - c. aggregate number of uses of seclusion by education staff;
 - d. aggregate number of students placed in seclusion;
 - e. aggregate number of serious bodily injuries to students related to the use of physical restraint and/or seclusion; and
 - f. number of serious bodily injuries to staff related to physical restraint and /or seclusion.

VIII. PROFESSIONAL STANDARDS

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