

Guidance on Considering the Use of Physical Restraints in New Hampshire School Settings

**New Hampshire Department of Education
Bureau of Special Education
105 Pleasant Street
Concord, NH 03301**

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Crisis Prevention Task Force

The following individuals participated in the development of this guiding document:

Tobi Chassie	Director of Student Services, Pittsfield Elementary School
Barbara Cohen	Consultant, Bureau of Special Education, NHDOE
Bonnie Dunham	Parent Information Center
Claudia Ferber	National Alliance for the Mentally Ill, NH
Scott Johnson	Attorney, NHEDLAW
Carol Kosnitsky	Sp. Ed. Technical Assistant Consultant, College for Lifelong Learning
Eric Mann	Co-Director, NH Center for Effective Behavior Interventions and Supports
Jan Martin	School Psychologist, Nashua School District
Colleen Micavich	Attorney, Disabilities Rights Center
Mike Russo	Director, Dover High School Alternative Program
Steve Sacks	Attorney, National Education Association-NH
Frank Sgambati	Institute on Disability
Terry Stafford	Support Staff, Bureau of Special Education, NHDOE
Patty Willis	Special Education Director, SAU #53

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The committee would also like to thank the following individuals and agencies for reviewing the draft document and providing valuable feedback:

Nancy Brogden	Special Education Director, Plainfield School District
Sarah Browning	Attorney, NH Department of Education
Terry Brune	Consultant, Bureau of Special Education, NHDOE
Raina Chick	Special Education Technical Assistant Consultant, College for Lifelong Learning
Theodore Comstock	Executive Director, NH School Boards Association
Gordon Graham	Attorney, Soule, Leslie, Kidder, Sayward and Loughman
Ed McCaul	Special Education Technical Assistant Consultant, College for Lifelong Learning
Sandra Plocharczyk	Director, Special Education Support Center, NH School Administrators Association

In addition, a number of people from Dover School District, Exeter School District, SAU 53 and NEA-NH reviewed the draft and provided written feedback

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Introduction

Everyone wants our schools to be safe and positive environments. Besides each family's aspirations for their children, state and federal legislation has continually moved schools toward the practice of creating positive school climates that encourage social, emotional and academic growth.

In 2002, the New Hampshire Department of Education's Bureau of Special Education, in partnership with the Department of Health and Human Services, introduced the Positive Behavior Intervention and Supports (PBIS) initiative. This research based approach to systematically looking at school climate and behavior is currently in over 70 New Hampshire schools. PBIS, along with other similar initiatives developed in local school districts, will provide a powerful means for schools to create safe and positive environments.

Consistently implementing positive behavioral supports has been shown to reduce the incidence and intensity of behaviors that may necessitate physical intervention and restraint. The adoption of guidelines and policy founded in evidence-based practices will not only increase environmental predictability for students, but will provide an essential systemic support for school staff and families, thus promoting and enhancing positive school climate. **However, it is recommended that all schools, including those implementing preventative supports, be proactive in their approach to physical interventions and restraint by developing effective policies and by training staff in the evidence-based practices of crisis prevention, de-escalation, and effective systems of response.**

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Many individuals may be involved in developing recommendations to school boards on the use of physical restraints in school settings. Ultimately, local school boards have the statutory responsibility to establish a wide range of policy. This document has been developed to assist both public and private school boards in developing policies that ensure the physical safety of students and staff under the very specific circumstances when a student is at substantial risk of harming self or others. For purposes of consistency, the term districts/facilities will be used throughout this document to represent both public and private entities.

The impetus to develop this document stems from two sources of data. First, information obtained from Special Education Monitoring and Program Approval reports indicated some public schools and/or private facilities were engaging in physical intervention strategies that were inconsistent with "best practices" related to the prevention, amelioration and de-escalation of potentially dangerous behaviors and/or use of physical intervention to prevent a student from causing harm to self or others.

Second, the Bureau surveyed all public and approved special education private schools to identify current practices and areas in need of improvement/support. Survey results pertaining to the use of physical restraint were as follows:

- 16 of the 38 surveys returned indicated that schools/facilities did not have a written policy regarding the use of physical restraints.
- Survey respondents overwhelmingly requested the Bureau of Special Education provide model policies and procedures to the field.
- Survey respondents requested the Bureau of Special Education provide regional training opportunities for staff.

The use of physical intervention in school settings may cause strong reactions from some individuals. Therefore it is that essential that practices be grounded in a set of beliefs and be consistent with all applicable statutory requirements and evidence-based best practices. Taken together, these three sources call upon schools to (a) promote a positive and respectful school climate for all children and staff; (b) use preventative and positive strategies even for children with the most harmful behaviors; and (c) resort to more restrictive practices, such as physical restraint only in extraordinary circumstances and when positive approaches have not succeeded.

Section 1

Legal Considerations in the Use of Physical Restraint in School Settings

A. Introduction

In 1999, the Hartford Courant published a series of articles that revealed hundreds of restraint-related deaths of children and adults throughout the country primarily in residential settings, triggering increased legislation and regulation on the federal level. The evidence showed that most of these tragedies were unnecessary and preventable.

Some examples of recent deaths include the following:

In 1995, a nine-year-old New Hampshire boy died while being restrained in a school for autistic students in Massachusetts.

A 12 year old boy died from asphyxiation at a residential school while being restrained face down with his arms crossed over his chest.

An 11 year old boy died at a Connecticut psychiatric hospital when he was restrained by two aides who sat and laid on his back.

B. New Hampshire Law

By contrast, New Hampshire has minimal state law on the subject. New Hampshire's criminal statutes provide that teachers will not be held criminally liable for using necessary force toward a student in certain situations. RSA 627:6. New Hampshire state regulations provide, however, that misconduct or unprofessional conduct that would potentially place a student in physical or emotional jeopardy is grounds for the suspension or revocation of an educator's certification. Ed 511.02. All students are entitled to a safe and healthy educational environment. School employees who have supervisory responsibility over students have a legal obligation to supervise students with due care and to take reasonable steps to protect them from injury. Marquay v. Eno, 139 NH 708 (1995); State v. Drake, 139 NH 662 (1995).

New Hampshire's state special education regulations prohibit public and private schools from using aversive or deprivational measures that subject a child to humiliation, unsupervised confinement, abuse or neglect, or a denial of basic necessities. Ed 1119.02, (e); Ed 1133.07, (c).

C. Federal Law

The Federal law in this area is not well defined. However, two United States Supreme Court cases provide guidance on the constitutional parameters of the use of restraints. In Youngberg v. Romeo, 457 US 307 (1982), the Court ruled that an individual at a state mental institution has a liberty interest to be free from undue restraint and that the state has an obligation to provide training to individuals who restrain patients. The Court's ruling not only protects individuals from unnecessary restraint, but also helps ensure the safety of the individual being restrained. At least one Federal Court has applied *Youngberg's* requirements to the use of restraints in public schools. Heidemann v. Rother, 84 F.3d, 1021 (1996).

Federal laws, including the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973 must also be considered when thinking about the legal parameters of restraints. For example, IDEIA 2004 directs, in Section 614(d)(3)(B)(i) the IEP Team to “in the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior”.

When a child with a disability engages in conduct that permits a change of that child’s placement, the IDEA also requires schools to perform functional behavioral assessments (FBA) and develop behavior intervention plans (BIP) to address the student’s behavior. 34 CFR §300.520. The school shall convene an IEP meeting to develop an assessment plan. If the child already has a (BIP), the IDEA requires the IEP team to meet to review the plan and its implementation, and make whatever modifications are necessary to address the student’s behavior. 34 CFR §300.520. If restraints are considered as a behavioral intervention for a student who risks harming him/her self or others, then the IEP team should consider whether a protocol for restraints should become part of the student’s BIP or IEP or both. 20 USC §1415; 34 CFR §300.346, §300.347. If the student does not have an IEP or a BIP, restraints can still be necessary under extreme circumstances. [Note: IDEIA 2004 revises some of the discipline protections available to children with disabilities, but further clarification will not be available until the regulations are finalized.]

D. Legal Guidelines

Cases interpreting the requirements of these federal statutes and other federal civil rights statutes have established some general principals that should be followed:

- Physical restraints should only be used when a student’s behavior poses a serious and imminent risk of self- injury or harm to others.
- Physical restraints should only be used as a last resort after all other positive and reasonable, less restrictive techniques have failed.
- Parents should be consulted about the use of restraints as it applies to their child.
- Parents should be informed about the use of restraint as soon as possible.
- Physical restraints should never be used as a punishment.
- Whenever possible, trained staff should perform physical restraints.
- The use of force in the restraint must be proportionate to the danger presented to the student or others and last only as long as necessary to resolve the risk of harm presented by the student.
- For students with IEPs or 504 plans, the IEP or 504 team should determine whether the use of physical restraints should be included and defined in a child’s IEP or 504 plan.

Section 2

Guidelines for Developing a Policy on the Use of Restraint

A. Introduction

This section identifies several issues that districts may consider in the development of new or review of existing policies and procedures on the use of physical restraint. The exploration of these issues is intended to promote local level discussions that can assist in the formulation for subsequent policy/procedure development.

A model policy and procedures is included in a subsequent section of this document. It is not intended that districts adopt the sample model as written; rather districts may use this model for guidance as they embark upon the discourse needed to ensure a thorough understanding of this complex issue.

A review of the literature finds consensus on several circumstances that render physical restraint as unacceptable. These include when:

1. a known medical or psychological condition contraindicates its use;
2. it is used as a means of punishment;
3. an adult is seeking student compliance to follow a school rule or staff directive;
4. escorting the student to a different location can be done safely;
5. the situation could be deescalated by removing others from the setting;
6. the student is engaged in aggressive verbal comments that do not lead to physical aggression. **A verbal threat does not constitute a physical danger unless a student also demonstrates a means of or intent to carry out the threat.**
7. the student is destroying property that does not pose a substantial risk of harm to self or others;

There is also consensus, when necessary, restraints should be provided:

- a. with controlled, unemotional and reassuring statements that concisely give reasons for the restraint and describe the necessary behavior for ending the restraint;
- b. with the purpose of assisting the student to regain emotional stability;
- c. for the time necessary to accomplish its purpose;
- d. with the least amount of force to protect student and staff;
- e. with the least amount of disturbance to the other students;
- f. with the presence of another adult whenever possible;
- g. with as much privacy as possible;
- h. with the least amount of embarrassment to the student; and
- i. with staff able to monitor the child's physical well-being throughout the incident.

Many policies regarding the use of restraint provide time limitations for certain procedures. The draft policy and procedures do not include such limitations. The rationale behind this decision is based on the tendency of the "maximum" becomes the "minimum". The committee believes all restraints should last **only as long as is essential to protect the student and/or others.**

B. Definitions

Defining the parameters for the use of physical restraint is critical. In other words, what form of restraint will be permitted and under what condition(s) will it be used.

The term “**restraint**” evokes different emotions and images for people. Each district will want to define what it means by its use. The term may include physical, mechanical and/or chemical restraint. While some districts will not allow the use of any restraint, others may consider its use under certain limited conditions.

Physical restraint refers to the restriction of a child’s movement against his or her will. Districts will need to consider whether physical escort, touching to provide instructional assistance and other forms of physical contact will be specifically excluded from the definition of physical restraint.

The conditions under which physical restraint may be used will need to be articulated. The committee reviewed several policies and found some language common to all. In almost all cases, the term “**substantial risk**” was used. **Substantial risk** is “the intent and means to cause physical harm to self or others”. It is important to emphasize the presence of both the intent *and* the means to cause harm in order to meet the standard of “substantial risk”.

Other policies included “damage to property” in their definitions of “substantial risk”. When considering damage to property, the nature of the destruction is crucial. Destruction of property will typically require a response from the supervising adult, yet many acts of property destruction do not result in physical harm to self or others. Examples of this might include ripping up schoolwork or writing graffiti on a wall. A variety of alternative responses can be used to de-escalate or remedy these situations. Other examples of destruction to property may be serious in nature and the act itself can result in causing physical harm to self or others. Examples may include breaking glass or throwing a heavy item in the direction of others. In examples such as these, it is not the destruction of property; rather the potential danger that meets the standard of substantial risk.

During the review of this draft document, several readers raised the question about the relationship between “running” or “flight from school” and the use of physical restraint. As with destruction of property, districts/facilities will want to consider the specifics of a given situation in order to consider whether a physical restraint should be considered. Variables such as location and the age of the student will inevitably enter into how individual situations may be handled. For example, an elementary student running toward oncoming traffic will cause a different response than a high school student leaving school grounds while cutting a class.

Exploring the range of scenarios that staff may encounter can help to ensure confidence in knowing when a physical restraint may be required and when its use would be inappropriate. Each district will want to consider the range of scenarios as it develops its policy and procedures.

C. Risks of Restraint

Every district should enter into the development of policy/procedures based on a thorough understanding of the risks involved in the use of physical restraint. By doing so,

districts will be able to ensure that all parties have the knowledge, understanding and skills necessary to minimize the risks involved. Understanding both the physical and psychological risks involved is of paramount importance. Additionally, staff must understand the range of special factors (page 15-16) that may influence decisions about the use of restraint.

1. Medical Issues: Some medical conditions may render **all** methods of restraint unsafe or potentially lethal for an individual child. When a medical condition is known, it is the responsibility of school personnel to seek out medical advice as to the appropriateness of the use of any restraint. Conditions that increase risk during physical restraint include obesity, breathing problems such as asthma, heart conditions, and current use of alcohol/drugs. Other pre-existing conditions may include arthritis, cerebral palsy, and limited range of motion, to name a few. The team must establish regular and direct communication with parents to ensure relevant medical information is shared.

2. Restraint Related Positional Asphyxiation: This occurs when a person being restrained is placed in a position in which s/he cannot breathe properly and is not able to take in enough oxygen. The lack of oxygen can lead to a disturbance in the rhythm of the heart and can result in death. Training programs utilize different restraint techniques. Some allow face down holds, cross- chest holds and others do not. Considering which techniques are acceptable will influence the type of training a district/facility may choose.

D. Training

It is important that districts/facilities establish a process for identifying which personnel should be trained in the use of physical restraints. This may vary from setting to setting. Most public schools will rarely find a need for use and may train a small number of people who can serve as a school-wide resource when an incident occurs. Highly specialized programs and facilities may use this intervention more frequently and need to train all staff. All designated staff should be trained, provided opportunities for rehearsal and receive updated training. It is suggested that training include:

1. appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, and the use of alternatives to restraint;
2. methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
3. the simulated experience of administering and receiving a variety of physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;
4. instruction regarding the effects of physical restraint on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
5. instruction regarding documentation and reporting requirements, and investigation of injuries; and
6. demonstration by participants of proficiency in administering physical restraint.

Many organizations offer training programs that include all of these components. Differences exist between programs such as the specific techniques used, hours of required training and retraining, documentation procedures and costs. Guidelines for selecting a training program are found in Section 3. A list of training programs is found in Appendix B.

Districts will need to consider the availability and cost of training. The size and needs of the district/facility can guide the district in determining who needs to be trained. As mentioned above, many districts will have few needs for the use of restraints and may be effectively served by a “trained” team of people who can be available on an as need basis. When the possible use of restraints is identified for a particular student, it is important that the staff involved with that student be trained.

It is suggested that districts consider using the “train the trainer” approach to training. This approach allows the district/facility to identify one or more individuals who are trained and certified to instruct others in a given program. While the costs for this training can be costly, this up front cost will build capacity to deal with future training needs in a cost effective manner. By investing in the training of a trainer, the district/facility will always be in a position to address the needs of new students and staff turnover. In addition, the trainer can provide on-going consultation to teams about prevention and de-escalation strategies.

Most training programs provide trainees with a certificate that documents completion of required training. Because trainees may not use the training on a regular basis, regularly scheduled opportunities to “practice” are encouraged. Many programs provide annual ~~re-~~retraining to maintain skills. In addition to assuring designated staff will always be prepared, the re-training makes sure staff have current information about “best practices” and research on techniques.

It is critical that **all** staff be informed of the district/facility’s policy and procedures on the use of restraint. While efforts should be made to use physical restraint only by individuals who have received training, staff may find themselves in a situation where there is substantial risk of a student causing harm to self or others. Annual notification about this policy will ensure all staff understands their responsibility to ensure the safety of all children and knows who to contact for assistance in an emergency situation.

Additionally, school-wide training and participation in initiatives such as PBIS may provide staff with knowledge and skills that can reduce inappropriate student behaviors that may result in the need for physical restraint. Preventative strategies such as PBIS offer a research-based approach to problematic student behavior before it reaches a level where restraint may be warranted.

E. Prevention Strategies

The use of positive proactive behavioral interventions is crucial to the prevention of unnecessary restraints. These may include but are not limited to:

1. Use of verbal and nonverbal techniques that assist the de-escalation of behavior and that reduce the tension of an agitated student;
2. Helping the student safely communicate her/his needs;
3. Hierarchy of planned responses to the behaviors of concern;
4. Implementation of a structured and consistent behavior management system;
5. Physical structuring of the environment, such as seating away from certain stimuli, room to move, etc.);
6. Escorts away from the setting; and
7. Removal of others from the setting.

School personnel should continually examine their practices; stay current with new research as it relates to positive behavior interventions.

F. Processing the Incident

The use of restraint may cause stress and possible trauma for those involved in an incident. It is suggested a protocol for processing the incident with the student, others who have observed the incident and all staff involved in the incident be established.

Processing an incident provides an opportunity for the student(s) and staff members to discuss their thoughts, feelings and physical reactions to having been involved in the restraint. Non-judgmental and confidential communication sets the stage for this processing to take place.

It is suggested the process include an opportunity for the student and staff members involved to separately:

1. Review what happened prior to, during and after the incident;
2. Identify the behavioral expectation or rule;
3. Look for patterns of behavior that led to the incident;
4. Investigate possible options for more appropriate behavior;
5. Determine what is needed for behavior change to occur (include identifying changes in the environment, staff and student behavior); and
6. Develop a plan to address the situation should a similar precipitating event occur in the future.

Typically, processing of an incident is done separately with the involved student and staff. The student should meet with someone they trust and who is familiar with the student's communication style. The staff should meet with a direct supervisor. This process allows both parties to prepare to return to the educational setting feeling in control and aware of their responsibility for the event. This individual meeting with the student or staff can assist them to identify or review coping strategies to manage stress resulting from the restraint, ensure the individual is emotionally and physically able to return to the educational setting and provide an opportunity to determine if further assistance is needed.

Connecting the student and staff member involved in the restraint prior to returning to class can assist in a smooth transition. This intervention/approach, as with all others, should be assessed for its effectiveness in reducing the frequency, intensity and duration of future behaviors.

If appropriate, team meetings to plan a FBA, develop/revise a behavior intervention plan or discuss needed changes in the IEP and/or placement may be scheduled.

G. Informed Decision Making

Districts should provide a copy of the policy and procedures for the use of physical restraint to a parent/guardian in instances where the use of physical restraint is mentioned in a student's behavior plan. Given that restraints are only to be used in emergency situations, the need for restraint as part of a student's plan should be minimal.

Districts should also collaborate with parents to ensure that relevant information is shared with school personnel. This information may include, but not be limited to, medical, health and/or psychological considerations, past experiences, patterns of behavior that may signal an imminent situation and/or de-escalation techniques that have proven to be successful.

H. Documentation

The purpose of documenting all incidents involving the use of physical restraint is to provide information that may result in fewer incidents in the future, and provide a consistent way to communicate with families.

Data that might be included in the documentation includes:

1. the name of the student and all staff involved in and witnessing the restraint the date, time and location of the incident;
2. the duration of the restraint, including beginning and ending times;
3. a description of the emotional and environmental factors that may have affected the student (i.e., hungry, tired, meds, etc.);
4. a description of the antecedents and behaviors that lead up to the restraint;
5. the student's behavior before/after the restraint;
6. a description of any interventions that were utilized prior to the restraint as well as the student's response to the de-escalation procedures;
7. a description of any injuries to student[s], staff or of property damage;
8. a description of the processing that occurred with the student after the event and the outcome/plan generated from that processing;
9. a description of any planned approach to dealing with the student's behavior in the future; and
10. the name and signature of the person completing the report.

In addition to designing a consistent format for an incident report, it should be determined where this information will be stored and who will have access to the information. Will incident reports be maintained in each student's confidential file? Will aggregated information from incident reports be maintained and by whom?

Because involvement in a restraint can be stressful, it is important the reporter provide clear, succinct and objective information after an incident has occurred. It is also important to document the incident in a timely fashion so as to remember the incident without memory being influenced by subsequent processing. One approach is to write this report prior to processing the incident in order to preserve one's memory. Another approach is to process the incident before writing anything, to make sure that everyone's emotions are dealt with. Training and assistance in completing these tasks is advised.

In addition to specific incident reports, Boards may want to consider a way to verify staff engaging in appropriate processing activities. Providing staff a confidential opportunity to discuss the aspects of what happened, what strategies were effective, what strategies were not effective, implications for future practice, as well as his or her emotional responses can result in increased effectiveness of the staff and may decrease the need for restraints in the future.

I. Reporting Requirements

Districts will need to consider what protocol will be used for reporting restraint incidents to the appropriate administrative personnel. Some issues to consider are:

1. Whether staff will verbally notify administration of any restraint and if so, who will be designated to receive reports?
2. How will the parents be notified that a restraint has occurred?
3. What written documentation will be generated for each restraint?
4. How will the parent receive the written documentation?
5. Where will the incident report be maintained? Will a copy be placed in the student's confidential file?

J. Annual Review Process

It is also suggested that the policy, procedures and restraint related data be reviewed annually. In doing so, districts/facilities can obtain valuable information about the extent to which the policy and procedures are being adhered to, what implications there might be for possible revisions, future training and/or program development. The review of this data can be accomplished in many ways. One option is to form an ad hoc committee that includes representatives from the Board, staff and parents. Another option can be for an administrative team to review data. Some issues to consider are:

1. Who will be on the Committee?
2. How will the Committee document their findings?
3. Who will be responsible for reviewing the Committee's findings and implementing any necessary changes?
4. What documentation/information will the Committee consider?

Based on what is included in an incident report form, the district will have readily available information to analyze including:

- a. number of incidents by student, staff, program etc.;
- b. scope of prevention and de-escalation strategies used;
- c. number and nature of injuries incurred during restraints;
- d. staff training needs;
- e. specific patterns related to staff or student incidents; and
- f. environmental considerations, including physical space needs, noise levels, and seating arrangements

Districts/facilities may want to consider aligning the work of the Review Committee with other school entities such as Crisis/Emergency Managements teams. This may be accomplished by having a member of one of these teams as part of the Review Committee.

Section 3

Special Factors to Consider Regarding Physical Restraint

The following is a list of considerations that may influence how, when or if physical restraints are used:

1. Psychological Issues: It is important that school personnel are aware of any psychological issues that may directly lead to a child's behaviorally acting out, or influence the strategies that could be used to effectively prevent or manage the child's crisis. Some questions for school personnel to consider include: (1) what are the underlying psychological issues the child is experiencing? (2) What prescriptive interventions would be recommended? (3) What are the implications of any strategies that may be used with the child? The school should perform any necessary assessments, such as functional behavior assessments, and collaborate with community providers that may be involved with the individual student.

2. Personal History: Some children who act out may come from a current or prior environment that includes physical, emotional and/or sexual abuse. It is important that essential school personnel be made aware of such history, so that they can consider it when developing an appropriate response to the child's behavior(s). Information may be discovered through a functional behavioral assessment/analysis, or other formal and informal assessments, including observations and information from the child's parents/caregivers and teachers. As part of this information gathering process, the school/facility should solicit input from qualified professionals regarding the positive and negative implications of traditional behavior management strategies, and recommendations for positive behavioral intervention and crisis prevention. For example, caution must be taken with a child with a history of being restrained by an adult while being physically or sexually abused. Consideration should be given to the form of restraint used and the gender of who conducts a restraint.

3. Disability: Students with disabilities may have a range of medical, behavioral and communication issues that need to be identified when considering effective behavioral interventions. Some students with minimal verbal communication abilities may use certain behaviors to express a range of needs. Other students may not understand or misinterpret verbal and/or non-verbal language directed toward them. When a pattern of behavior can be predicted, it is essential that proper assessments are conducted so that the "function" of the behavior can be identified. Once the "function" has been identified, the team of individuals working with the student can match the appropriate intervention(s) that will address the target behavior. Any behavioral plan developed must be included in the student's IEP or 504 plan and be followed by all staff.

4. Cultural Issues: New Hampshire is becoming a more culturally diverse state and with that comes the need for school personnel to be aware of not only language barriers, but also cultural issues that may affect how a student and family perceive physical contact.

5. Family Involvement: Strong and respectful relationships can assist the school in gaining the confidence of families while dealing with complex and potentially emotional

situations. Families should be encouraged to share relevant information on their child's personal, medical, and psychological history that may have bearing on the child's behavior and/or strategies they have found to be effective. In addition, families can provide information about those "hot buttons" that could be avoided with timely information. It is important for school personnel to appreciate the stress families may experience when approached by the district/facility about an incident and/or a proposal for the possible use of physical restraint. Who contacts the family and how the message is shared may influence how a family member responds.

When a student exhibits a pattern of behavior that might precipitate the use of physical restraint, the district/facility will typically convene a meeting to review this information with the family. Providing a copy of the Policy and Procedures and an opportunity to discuss what is involved can greatly assist a family in understanding the need to ensure the safety of their child, as well as that of other children and/or staff.

For students who have an IEP or a 504 plan, regularly scheduled meetings can provide opportunities for the family and school to discuss behavioral strategies. While the parent must provide informed consent for any supports provided in the IEP, a well written district/facility policy can ensure the district will be able to protect all children and staff, should the need arise, even if a parent disagrees with the use of physical restraint.

If a student is involved in a physical restraint, it is critical the family be notified as soon as possible. This can be done verbally prior to the end of the school day, as this will prepare the parent should there be any residual effects when the student returns home. This can provide the school and family an opportunity to discuss ways the parent can support the student and reinforce any plans that were developed as a result of the in-school processing session. Written documentation as appropriate, and in keeping with school policy, should follow as quickly as possible. Providing the parent with the name and contact information of appropriate school staff will give parents an opportunity to obtain more information, clarification and/or to give input.

6. Communication: Some students with minimum verbal communication abilities may use behaviors to express a range of needs. In such situations, it is critical that the team conduct a functional behavioral assessment. By identifying the function of the behavior, the team can develop an appropriate behavior plan. Both expressive and receptive communication needs of the student should be considered.

Section 3

Selecting a Training Program

Considering which training program to adopt for a district can be difficult. The following is a list of critical attributes and indicators to consider in selecting a training program. This listing of "Critical Attributes" and "What should this look like?" was developed in Texas to assist school districts in the implementation of Texas state statutes and Commissioner of Education Rules governing the use of physical restraint in schools. This information was outlined in a document entitled, "**A Guide for Educators to Evaluate How the *Nonviolent Crisis Intervention*[®] Training Program Aligns with the Critical Attributes for Physical Restraint Training in Texas,**" prepared by the Crisis Prevention Institute, Inc. There are other training programs on physical restraint listed in Appendix

Critical Attributes	What should this look like?
<p>Program Philosophy</p> <ul style="list-style-type: none"> • All students treated with dignity and respect • Positive behavior interventions taught • Health and safety of students and self are emphasized 	<ul style="list-style-type: none"> • Written statements appear in training materials and are modeled in training procedures
<p>Program Organization</p> <ul style="list-style-type: none"> • Policies for certification and re-certification • Provides technical support and assistance • Maintains ongoing system for monitoring restraint use and effectiveness 	<ul style="list-style-type: none"> • Documentation of trainer's status • Requirements to be certified and re-certified • Trainers demonstrate knowledge of program content and physical techniques • Trainers limited to teaching only techniques included in the program • Program staff available to assist trainers • Training support materials are available • Includes a process to investigate complaints or injuries • Requires review of models and techniques
<p>Program Curriculum and Materials</p> <ul style="list-style-type: none"> • Techniques to prevent or de-escalate emergency situations taught • Alternatives to restraint included • Restraints used only in emergency situations • Variety of instruction strategies included • Staff and students debrief after crisis 	<ul style="list-style-type: none"> • De-escalation techniques are written in training materials and modeled in training procedures • Intervention strategies other than physical restraint taught • Emergency situation defined in training materials and discussed • Program uses role-play, simulation and demonstration of techniques and strategies • Written statements appear in training materials and are modeled in training procedures

<p>Physical Restraint Training</p> <ul style="list-style-type: none"> • Reasonable force used only in clearly defined emergency situations • Includes monitoring student’s well-being • Stresses safety of all school staff • Consideration of physical size of student when determining restraint technique • Stresses documentation of physical incidents 	<ul style="list-style-type: none"> • Program teaches discontinuation of restraint when emergency no longer exists • Does not deprive individual of basic human needs • Prohibits restraints that place a student face down on floor or put pressure on back, head or neck • Encourages restraints in a standing position • Prohibits restraints that obstruct airways, or breathing • Prohibits restraints that obstruct staff’s view of student’s face • Prohibits restraints that restrict student’s ability to communicate • Techniques for monitoring well-being appear in written training materials and are modeled in training procedures • Written statements appear in training material and are modeled in training procedures • Different techniques are recommended for different sized students • Provides sample procedures for documentation
<p>Additional Program Considerations:</p> <ul style="list-style-type: none"> • Includes procedures for students with special needs • Discusses cultural diversity and differences • Provides time for staff to practice techniques • Trains staff to monitor respiration, circulation and well-being of student during and after physical intervention • Instructs staff on appropriate interventions for fights • Instructs staff on appropriate interventions for self-injurious behaviors 	

Section IV

Model Policy and Procedures for the Use of Physical Restraint

The following section is a sample policy and procedures that address the use of physical restraints. It is the result of the collaborative work of the Crisis Task Force Committee.

A. Introduction

The _____ School District/Educational Facility authorizes staff members to use physical restraints in limited situations. Physical restraint may be used only under the following conditions:

1. Physical action of a student creates a substantial risk of harm to self or others;
2. All other positive interventions have failed, or the level of immediate risk prohibits exhausting other means; and
3. Staff is trained in the _____ program.

Physical restraint is appropriate only when a student is displaying physical behavior that presents substantial risk to the student or others, and considered when, in the opinion of the supervising adult, the threat is imminent. Persons implementing a restraint will use extreme caution and the least amount of physical strength necessary to protect the student. The use of physical intervention should not exceed that necessary to avoid injury. The degree of physical restriction employed must be in proportion to the circumstances of the incident and the potential consequences.

A physical restraint of a student should be conducted in a manner consistent with the techniques prescribed in the District approved training program. The purpose of the restraint should be to assist the student to regain emotional stability. It should last only as long as is necessary to accomplish this. To the extent possible, it should be conducted in such a way as to preserve the confidentiality and dignity of all involved.

Restraint should be carried out by trained persons authorized by the Superintendent, Special Education Administrator, Principal, Director or his/her designee. Untrained staff is limited to physically intervening by using the minimal amount of physical contact with the student to protect the student and ensure the safety of others until trained staff is available. Untrained staff should request assistance from trained staff as soon as possible.

B. Definitions

1. **Physical restraint** occurs whenever a staff member physically restricts a child's movement against his or her will. Physical restraint is a temporary measure to be used only when necessary to facilitate care, welfare, safety, and security for all.
2. **Substantial risk** is the serious, imminent threat of bodily harm where there is the ability to enact such harm. Substantial risk shall exist only if all other less restrictive alternatives to diffuse the situation have been exhausted and have failed, or the level of risk prohibits exhausting other means.
3. **Trained Staff** are those individuals who successfully complete and stay current in a training program that results in acquisition of skills in preventing restraints, evaluating risk of harm in an individual situation, use of approved techniques and monitoring the effect of the restraint.
4. **District/facility** shall mean the _____ District.
5. **Parent** shall mean the student's parent, legal guardian, surrogate parent or student over the age of 18.

C. Risks of Restraint

Staff will understand that all physical restraints involve some risk. This may include injury, including in rare instances, death to the person being restrained and/or to staff. Restraint related positional asphyxiation or other physical injuries can occur. For this reason, it is essential that staff is trained in appropriate techniques that minimize the possibilities of risk.

There is also the risk of psychological impact in using restraints. An individual's past experience with abuse or the fear involved with being restrained may cause unanticipated responses. Staff should be aware that for some students the use of physical restraint might have the unintended consequence of acting as a positive reinforcer for their behavior.

In addition, staff should be conscious of individual perceptions, experiences and cultural orientation and recognize that for some students any touching may be unwelcome and misinterpreted despite good intentions. In these situations, touching the student may evoke an extreme and intense response and make the use of restraint more dangerous for both student and staff.

D. Training

The District shall ensure all appropriate personnel are trained in the use of physical restraint procedures. Efforts will be made to apply physical restraint only by individuals who have received training in the district approved program and have remained current in its use.

The District will notify all new personnel working in programs where the use of restraint is "anticipated" of the Use of Physical Restraint Policy and Procedures and the requirement they participate in the approved training program within a reasonable period. Staff will receive on-going training to maintain the requirements of the training program chosen by the District.

Staff members assigned to provide training must be a certified instructor in the training program selected by the District.

E. Prevention Strategies

It is expected that school staff will implement positive and constructive methods to de-escalate potentially dangerous situations. When the district anticipates that a student is likely to behave in a way that may require physical restraint, staff will conduct a functional behavior assessment and develop a positive behavior plan including a plan for teaching replacement behaviors. When appropriate, a team of knowledgeable people will include behavioral goals and objectives in a student's Individual Education Plan, 504 Accommodation Plan or other Behavior Intervention Plan. Staff must implement all strategies identified in any formal plan such as an Individualized Education Plan (IEP), 504 Accommodation Plan or any other Behavior Intervention Plan.

Whether the student is eligible for special education or not, the school can still develop a specific behavior support plan in conjunction with the parent/guardians.

F. Processing the Incident

Immediately after the student has restored emotional and behavioral control, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the restraint. This should be verified by the school nurse or other health professional.

The individuals involved with the incident shall complete a written report as soon after the incident as possible.

The staff member involved with the physical restraint will have the opportunity to meet with his/her supervisor after the incident. The purpose is to have staff process the incident, look at what could have been done to prevent the restraint and look at any more efficient ways to manage a restraint should it occur in the future. The supervisor will provide support to the staff member and determine when the staff member shall return to his or her duties.

The student, with assistance from staff, will process the event at the earliest appropriate time.

G. Informed Decision Making

When the use of physical restraint is included in a student's written plan, the District will provide the parent/guardian with a copy of the Policy and Procedures for the Use of Physical Restraint.

Additionally, the parent/guardian will be asked to share relevant information with school personnel. This information should include, but not be limited to, medical, health and/or psychological considerations, past experiences, patterns of behavior that may signal an imminent situation and/or de-escalation techniques that have proven to be successful. Whenever staff becomes aware of a medical condition, it is their responsibility to work with the parent/guardian to identify viable modifications/alternatives.

To the extent possible, the District will collaborate with the parent/guardian to identify appropriate and effective techniques for supporting student behavior. Ultimately, it is the responsibility of the District to provide for the safety of all students. The general welfare and safety of both the student and others must be considered at all times. In dangerous situations where the student can cause serious, probable and imminent bodily harm to himself/herself or others, restraint may be used.

H. Documentation

All restraints must be documented. A form to be used for documentation has been provided in the Appendix. The form is entitled "Incident Report".

I. Reporting Requirements

Appropriate personnel will use the following protocol after each incident:

1. Verbally notify Principal as soon as possible;

2. School principal or designee will verbally notify the parent/guardians as soon as possible but no later than the end of the school day that the restraint occurs. The Principal or designee will update the parent/guardian on the student's current emotional state and discuss strategies to assist the parent/guardian in dealing with any residual effects of the incident;
3. Complete the Incident Report – Form #1 within one school day to the school principal or designee;
4. Send copy of the written report to the parent/guardian within 24 hours following the use restraint;
5. Place a copy of report in the student's confidential file.

Further, it is expected that each staff member involved in an incident will engage in a processing session(s). Components to be included in this session are outlined in **APPENDIX A - Staff Processing of Restraint – Form #2**. The staff member's supervisor or designee shall complete and file the form.

K. Annual Review Process

The District shall establish a Committee to conduct an annual review of all individual and program-wide data associated with this policy. The Committee shall review at a minimum, the following components related to the use of restraint. These include an analysis of the following components:

1. incident reports;
2. procedures used during restraint, including the proper administration of specific district/facility approved restraint techniques;
3. preventative measures or alternatives tried, techniques or accommodations used to avoid or eliminate the need of the future use of restraint;
4. documentation and follow up of procedural adjustments made to eliminate the need for future use of restraint;
5. injuries incurred during a restraint;
6. notification procedures;
7. staff training needs;
8. specific patterns related to staff or student incidents; and
9. environmental considerations, including physical space, student seating arrangements, and noise levels.

Upon review of the data, the Committee shall identify any issues and/or practices that require further attention and provide written recommendations to the Superintendent of Schools. Further, the Committee can recommend review of the training program to ensure the most current knowledge and techniques are reflected in the district/facility's program.

The _____ School Board will annually review its written policy and procedures regarding the use of restraint.

The Superintendent or designee shall ensure that all relevant personnel are aware of the District Use of Physical Restraint Policy and Procedures.

Principals will annually identify staff members who serve as school-wide resources to assist in ensuring proper administration of physical restraint. Each school will maintain and distribute an up to date list of trained staff to all relevant educational personnel.

Appendix A

SAMPLE FORMS AND GUIDELINES FOR PROCESSING A RESTRAINT

Following are two sample forms.

Form #1 – Incident Report can be used to document an incident that led to the use of restraint and generate proactive responses to reduce or eliminate similar incidences in the future.

Form #2 – Staff Processing Report can be used to document that staff involved in an incident have engaged in a processing process that explores perceptions about what happened prior to, during and after the incident.

It is important to recognize that these samples are a minimum standard to be used as a starting point for discussion within a district or agency developing a policy on the use of restraint. Every district/facility is guided by the community of learners it serves, and therefore there are many possibilities that cannot all be addressed in these sample forms and guidelines.

It may be helpful to refer back to Section 2 - Processing Incidents (page 13) to help develop a rationale/philosophy for reporting, which has legal implications for data driven decision making and for annual review purposes.

The staff member submitting documentation should be factual, objective, and concise and use direct quotes from both staff and students.

To this end there needs to be an investment in training and practice in both report writing and processing skills to achieve reliable data.

Incident Report – Form #1

Student: _____ **Date of Incident:** _____

School/Program: _____ **Grade:** _____

Person Completing Report: _____ **Job Title:** _____

Signature of Person Completing Report: _____ **Report Date:** _____

Staff Involved in Restraint:

Job Title: _____

Job Title: _____

Job Title: _____

Beginning Time of Restraint: _____

Ending Time of Restraint: _____

Description of incident that necessitated restraint:

Location:

Others involved/witnesses:

Possible motivators:

- Obtain peer attention
- Obtain adult attention
- Obtain items /activities
- Avoid peer(s)
- Avoid adult(s)
- Avoid task or activity
- Get/avoid self-regulation (sensory issue)
- Don't know
- Other _____

Describe student's behavior before, during and after the restraint.

Describe interventions utilized prior to restraint. Describe student's response to de-escalating actions:

Describe any injuries to student[s], staff or property damage. Reference or attach any injury reports that were necessitated by the restraint. Have the school nurse or other health care professional examine student and staff.

Describe processing that occurred with the student after the event and the outcome/plan generated from that processing. (This may occur at a later time, depending on the incident.)

Follow-up actions:

- Student behavior plan amended to address potential future incidents: ___NO___YES (check and explain below)
- Potential Environmental Change _____
- Change in staff behavior: _____
- Change in student behavior: _____
- Other: _____
- Need to complete FBA: _____
- Need to refer to IEP/504/Support Team for Decision making: _____

Date of processing reviews: Staff: _____
Student: _____

Notifications:

_____Administrator	Date:
_____Parents	Date:
_____Police	Date:
_____Special Education Case Manager/Dept.	Date:
_____Other _____	Date:

Staff Processing of Restraint Incident – Form #2

All staff involved in a crisis incident should be part of a processing session. This should occur after the incident report has already been written and as soon as possible after the event occurred. The focus of processing is to increase the effectiveness of staff response and to decrease the need for future restraint.

The following are important elements of the processing and should be checked off as discussed:

- Staff discussed what lead up to the incident. *(Check each area discussed).*
 - Each staff member described the incident from his/her own perspective without interruption from others. (Not everyone will perceive or remember the incident in the same way.)
 - Staff discussed the triggers that initiated the escalation of behavior, including student, staff and environmental triggers.

- Staff talked about their own feelings and reactions regarding: *(Check each area discussed).*
 - What aspects of the restraint process went well? What were the strengths in deescalating the incident?
 - Was there anything staff could have done differently that might have decreased or eliminated the need for restraint?
 - How did staff feel about how the restraint situation was handled and how it turned out?
 - Was the restraint necessary to maintain the safety of staff and student(s)? Were there other options?
 - What was the staff attitude prior, during, and after the restraint? How did it escalate or de-escalate the student?
 - Was the appropriate number of staff involved in the restraint? Too many? Too few? How did it impact the restraint in terms of intensity and duration?

- Staff discussed what to do next. *(Check each area discussed).*
 - Was the event processed with the student?
 - What was the result?

 - Overall, what were the issues that must be addressed by student/staff?
 - What resources will staff need to assist in working more effectively with the student in the future? What are the training needs?

A staff processing session is a time to review the facts, to acknowledge staff feelings regarding the crisis, and to give and receive support and encouragement from others.

Appendix B

RESOURCES

NH Center for Effective Behavioral Intervention and Supports (CEBIS)

The New Hampshire Center for Effective Behavioral Intervention and Supports (CEBIS) is committed to the utilization of positive behavioral supports to promote school climate that is positive, proactive, consistent and predictable. The principles of proactive, positive supports in the school setting should employ a model of primary, secondary and tertiary supports to actively prevent or reduce the likelihood of behaviors that could necessitate the use of physical intervention or restraint. A system that employs positive behavioral supports will incorporate the use of behavioral data to guide the decision making process throughout all tiers of support.

Primary Prevention Support - These supports include the implementation of school-wide systems that provide clarification of a common set of behavioral expectations that apply to all members of the school community, as well as the systematic school-wide defining, teaching, practicing and recognition of pro-social behaviors.

Secondary Prevention Supports - Positive support strategies also incorporate systems that effectively and efficiently individualize supports for students for whom primary supports are not adequate and who are at-risk for developing emotional or behavioral disorders.

In cases where students are displaying repetitive problem behavior within the school setting, a functional behavioral assessment can assist in the identification of the events and circumstances that reliably predict the occurrence or non-occurrence of behaviors. Identifying these predictors leads to function-based behavior support planning that is well-calculated for success, and uses teaching and other evidence-based strategies, to reduce problem behavior and increase pro-social behavior.

Tertiary Prevention Supports - In cases where behavior predictability is unreliable or when necessary supports or environmental interventions are unclear or unfeasible, the use of positive supports requires the engagement of a comprehensive and collaborative teaming approach that utilizes available resources, within and outside the context of school, to provide child and family support. This collaborative “system of care” team, under the auspices of a trained facilitator, will develop and implement a plan that is family and student centered, is strengths-based, and is well-calculated to address the effective support of the child and family in all relevant domains of life.

For More information on PBIS, contact:

SERESC

29 Commerce Drive

Bedford, NH 03110-6835

603-206-6800

TRAINING PROGRAMS
ON PREVENTION AND PHYSICAL RESTRAINT
(This is not an exhaustive list or an endorsement of any particular program.)

Nonviolent Crisis Intervention[®]
Crisis Prevention Institute, INC. (CPI)
3315-K North 124th Street
Brookfield, WI 53005
800-558-8976
www.crisisprevention.com

The Mandt System
David Mandt & Associates
PO Box 831790
Richardson, TX 75083-1790
972-495-0755
Fax: 972-530-2292
www.mandtsystem.com

Therapeutic Crisis Intervention (TCI)
Residential Child Care Project
Family Life Development Center
College of Human Ecology
Cornell University
Ithaca, NY 14853
607-245-5210
Therapeutic Options, Inc.
Fax: 607-255-4837

100 Delaplane Avenue
Newark, Delaware 19711
302-753-7115
www.therops.com

Strategies of Limiting Violent Episodes
Independent Services Network
117 Market Street
P.O. Box 1111
Manchester, NH 03105
603-644-3544
SOLVE@isnnh.com

MOAB[®] Training International
(Management of Aggressive Behavior)
PO Box 460
Kulpville, PA 19443
215-723-2533
Fax: 215-723-2565
e-mail: infor@moabtraining.com
www.moabtraining.com

The following documents were reviewed and helped form the basis of this document:

- Arizona Department of Education - Physical Restraint Policies
- Arizona Mental Health Regulations - Physical Restraint Policies
- British Columbia School District No. 78 (Fraser-Cascade) - Physical Restraint Policies
- Crisis Prevention Institute (CPI) – Risks of Restraint; How to Document any Incident: A Guide for Those Who Work in Education.
- Colorado Department of Education - Physical Restraint Policies
- Concord School District, Concord, New Hampshire - Physical Restraint Policies
- Council for Children with Behavior Disorders – Draft Position Statement on the Use of Physical Restraint
- Massachusetts Association of School Committees - Physical Restraint Policies
- Isle of Wight Council: Directorate of Education and Community Development – Physical Restraint Policies
- Preventing Physical Restraints in School: A Guide for Parents, Educators & Professionals, Scott F. Johnson, Education Law Resources Center, 2004.