

**[NOTE: Local school boards are required to adopt a policy and procedure to implement 20-A MRSA § 4014 and MDOE Rule Chapter 33. Because the sample policy and procedure closely follow the language in the law and in the revised Rule Chapter 33, any modification of these samples should be made only with the advice of legal counsel.]**

## **USE OF PHYSICAL RESTRAINT AND SECLUSION**

The **[School unit name]** Board has adopted this policy and the accompanying procedures to implement the standards for use of physical restraint and seclusion with students, as required by state law and regulations, and to support a safe school environment. Physical restraint and seclusion, as defined by this policy, may only be used as an emergency intervention when the behavior of a student presents an imminent risk of serious physical injury to the student or others, and less intrusive interventions have failed or been deemed inappropriate.

State law and MDOE Rule Chapter 33 do not restrict or limit the protections available to school officials under 20-A MRSA§ 4009, but those protections do not relieve school officials from complying with this policy/procedure.

The Superintendent has overall responsibility for implementing this policy and the accompanying procedure, but may delegate specific responsibilities as they deem appropriate.

### **I. DEFINITIONS**

**[NOTE: These definitions are contained in state law and should not be changed.]**

The following definitions apply to this policy and the accompanying procedure:

- A.
  - i. **Physical restraint:** A personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, or head freely.
  - ii. **Physical restraint does not include any of the following:**
    - a. Physical escort: A temporary, ~~voluntary~~ touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location.

- b. Physical prompt: A teaching technique that involves voluntary 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. Protective physical interventions: Brief physical contact with a student in response to potentially harmful student action that serves to deflect, block, or redirect the student's actions or disengage from a student's inappropriate grip, but from which the student could freely move away.
- d. The use of adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement than would be possible without the use of such devices or supports.
- e. The use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

B.

- i. **Seclusion:** The involuntary isolation or confinement of a student alone in a room or clearly defined area from which the student does not feel free to go or is physically denied exit.
- ii. **Seclusion does not include:** A timeout, an intervention where a student requests, or complies with an adult request for, a break.

II. PROCEDURES FOR IMPLEMENTING PHYSICAL RESTRAINT AND SECLUSION

The requirements for implementing physical restraint and seclusion, as well as incident notices, documentation and reporting are included in the accompanying procedure, JKAA-R.

III. ANNUAL NOTICE OF POLICY/PROCEDURE

[School unit name] shall provide annual notice to parents/legal guardians of this policy/procedure by means determined by the Superintendent/designee.

**[NOTE: Local boards should consider how best to provide notice to parents/legal guardians. For parents, suggestions include providing the policy/procedure in the first-day packet or inclusion in student handbooks. Information can also be provided on the school unit's website, but we do not recommend that the website be the sole method of disseminating information to families.]**

#### IV. TRAINING REQUIREMENTS

All school staff and contracted providers shall receive an annual overview of this policy/procedure.

**[School unit name]** will ensure that there are a sufficient number of administrators/designees, special education and other staff who maintain certification in a restraint and seclusion training program approved by the Maine Department of Education. A list of certified staff shall be updated annually and maintained in the Superintendent's Office, in each school office and in the school unit's Comprehensive Health and Safety and Emergency Management Plan.

**[NOTE: Local boards should ensure that this information is included in the school unit's comprehensive emergency management plan and in any specific safety/emergency plans for individual schools.]**

#### V. PARENT/LEGAL GUARDIAN COMPLAINT PROCEDURE

A parent/legal guardian who has a complaint concerning the implementation of this policy/procedure must submit it in writing to the Superintendent **[or insert other appropriate administrator]** as soon as possible. The Superintendent/designee shall investigate the complaint and provide written findings to the parent/legal guardian within twenty (20) business days of receiving the complaint, if practicable.

**[NOTE: Chapter 33 does not contain a specific time limit for local school units to respond to parental complaints. A time limit has been inserted for discussion purposes, but local boards should discuss what makes sense for their school unit. For ease of administration, it may make sense to make the deadline consistent with other complaint procedures, such as the employee and student discrimination/harassment complaint procedures.]**

A parent/legal guardian who is dissatisfied with the result of the local complaint process may file a complaint with the Maine Department of Education. The Department of Education will review the results of the local complaint process and may initiate its own investigation at its sole discretion. The Department shall issue a written report with specific findings to the parent/legal guardian and the school unit within 60 calendar days of receiving the complaint.

Legal References: 20-A MRSA §§ 4014, 4502(5)(M); 4009  
Me. Dept. of Educ. Rule Ch. 33

Cross References: JKAA-R — Procedures on Physical Restraint and Seclusion  
JK — Student Discipline

KLG/KLG-R — Relations with Law Enforcement OR  
KLGA/KLGA-R — Relations with School Resource Officers  
EBCA — Comprehensive Health and Safety and Emergency  
Management Plan

**PLEASE NOTE** MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.