

**OFFICE OF CHIEF SCHOOL PERFORMANCE OFFICER**  
**Summary of State Board of Education Agenda Items**  
**June 18-19, 2015**

**OFFICE OF SAFE AND ORDERLY SCHOOLS**

05. Approval to begin the Administrative Procedures Act process: To establish State Board Policy 4013 – Restraint and Seclusion [Goal 4 – MDE Strategic Plan]

Mississippi Department of Education (MDE) staff from offices across the Department have met and discussed establishing the restraint and seclusion policy. The group reviewed the policies from other state departments of education and the United States Department of Education recommendations for restraint and seclusion to draft State Board Policy 4013 – Restraint and Seclusion. MDE staff met with the Mississippi ACLU, Special Education Advisory Council, Parents for Public Education, Mississippi School Boards Association, and MDE Special Education staff to develop the Restraint and Seclusion Policy for the State Board of Education to consider approval.

This item references Goal 4 of the *Mississippi Department of Education 2016-2020 Strategic Plan*.

Recommendation: Approval

Back-up material attached

## **4013 Restraint and Seclusion Policy**

### **Introduction**

The Mississippi Department of Education and the State Board of Education supports a positive approach to behavior that uses proactive strategies to create a safe school climate that promotes dignity, creates authentic student engagement, and improves student achievement for all students. When teachers and administrators implement evidence-based positive behavior supports with fidelity, a safe and orderly school environment is created that is conducive to learning and students are able to achieve without the constant interruptions that occur when teachers are required to address discipline in the classroom.

However, at times, some students exhibit behaviors which place themselves and others in imminent danger. Schools must implement proactive strategies and interventions to reduce the likelihood of these situations, and they must have clearly identified responses to address such situations when they occur. Additionally, schools should have policies in place that address the responses needed to ensure the safety of all students and staff.

### **Restraint and Seclusion Policy**

A Restraint and Seclusion Policy is defined through written local school board-approved policies and procedures that define appropriate means of restraint and seclusion to provide for a safe and orderly education. These policies and procedures should apply to all students in the local school district and must not focus on one or more subgroups of students.

In accordance with Miss. Code Ann. §§ 37-9-69 and 37-11-57, it is recognized that staff may intercede in situations wherein students are displaying physically violent behavior or is deemed to be a danger to themselves or others. State Board policy positively prohibits the use of excessive force, or cruel and unusual punishment regarding student management. Under no circumstances shall restraint or seclusion be utilized as a punitive measure.

This policy in no way shall inhibit the right of staff to reasonable self-defense in accordance with the provisions of the 5<sup>th</sup> and 14<sup>th</sup> amendments to the Constitution of the United States nor negate the obligation of the district to provide a safe work environment.

### **Definitions**

1. Physical Restraint is defined as “the use of physical force, without the use of any device or material that restricts the free movement of all or a portion of a student’s body.” Physical restraint does not include briefly holding a student’s hand or arm to calm them or escort them to another area. A physical restraint shall be removed as soon as the student is calm.
2. Physical escort is the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out and able to respond to such physical prompt, to move to a safe location.

3. Mechanical restraint is defined as “any device that attaches to a student’s body that restricts movement and cannot be removed by the student.” Examples include: straps, tie downs, boards, and harnesses. Handcuffs are also considered mechanical restraints, but may be used by certified school resource officers, as defined in Miss. Code Ann. §§ 37-7-321 and 37-7-323. The use of mechanical restraints is prohibited in Mississippi Public Schools.

Devices not considered mechanical restraints include: adaptive equipment, protective devices, or assistive technology devices documented in a student’s individualized education plan (IEP), Section 504 plan, behavior intervention plan, or otherwise prescribed for the student by a medical or related service provider, seatbelts, and other safety equipment when used to secure students during transportation.

4. Chemical restraint is defined as “the administration of medication for the purpose of restraint.” Chemical restraint does not apply to medication prescribed by and administered in accordance with the directions of a licensed physician. The use of chemical restraint is prohibited in Mississippi Public Schools.
5. Seclusion is defined as “the confinement of a student in an enclosure from which the student’s egress is restricted.” Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques is physically present in the same unlocked room as the student, in-school suspension, detention, or alternative school.
6. Individualized Education Plan (IEP) means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with State Board Policy 7219 §§ 300.320-300.324.
7. Section 504 Plan is defined as an individualized plan of accommodations and modifications to provide a free appropriate public education to a student who has a disability that substantially limits a major life activity. A 504 plan spells out the modifications and accommodations that will be needed for a student to have the opportunity to perform at the same level as their peers.
8. Behavior Intervention Plan (BIP) is a plan of action for managing a student’s behavior. The BIP includes a set of strategies and supports intended to increase the occurrence of behaviors that school personnel encourage and to decrease behaviors that school personnel want to lessen or eliminate.

## **General Procedures**

1. Physical restraint is considered to be an emergency response after all other verbal de-escalation measures have failed in effectiveness based on the following criteria:
  - a. The student or other person is engaged in actions that would constitute a danger to themselves or others;

- b. The student or other person is engaged in actions that would constitute potential or actual destruction of property;
  - c. To remove a non-compliant student or person from the scene of an incident;
  - d. The restraint should be removed as soon as the student is no longer a danger to themselves or others.
2. When using physical restraint for students who are a danger to themselves or others, staff should take precautions necessary to ensure the safety of the student and the staff members engaged in restraining the student. Physical restraints that restrict the flow of air are prohibited in all situations. When deemed it is necessary to restrain a student who is a danger to themselves or others, the following procedures should be used:
  - a. Restraint should be conducted by staff who are trained in the restraint procedures adopted by the school district;
  - b. Staff should carefully observe the student throughout the restraint to observe the student's physical and emotional status;
  - c. Restraint shall be immediately terminated if the student appears to be, or claims to be, in severe stress;
  - d. The restraint should be removed as soon as the student is no longer a danger to himself/herself or others;
  - e. As soon as possible after the restraint is removed, the staff should discuss the incident leading up to the restraint and discuss alternative behaviors that could have been utilized;
  - f. When the student is able, he/she should be returned to the instructional activity, or to a less restrictive environment;
  - g. Parents must be notified within one school day of the incident.
3. School districts that permit restraint and seclusion must ensure that staff members are trained in the use of restraint. This training should be provided as a part of a program which addresses a full continuum of positive behavioral intervention strategies, crisis intervention, and de-escalation techniques.

Absent a clear and present danger to health or safety, physical restraint may only be practiced by staff trained in the physical restraint approach adopted by the local school district. The Mississippi Department of Education does not endorse a particular training program. The local school district shall select programs that are founded on evidence based techniques that focus on:

- a. Certification for school personnel and recertification as required by the training program;
- b. Preventing the need for restraint;
- c. Training in first aid;
- d. Identification of antecedent behaviors;
- e. Use of positive behavior supports, de-escalation, and conflict management;
- f. Keeping staff and students safe during required restraints.

Local school district administrators should monitor the use of physical restraint to ensure fidelity of implementation. Additional and follow-up training should be provided on an ongoing basis and any situations in which procedures are not followed should be immediately addressed.

4. Behavioral intervention must be consistent with the child's right to be treated as an individual. Schools should implement an evidence-based system of positive behavioral intervention and support. Elements of the system of support should include universal screening to identify potential students, teaching school-wide expected behaviors and social skills, and a system to monitor the effectiveness of the interventions and supports.
5. Behavioral strategies, in conjunction with the school-wide system of behavioral interventions should be used to help identify the causes of dangerous behavior and could reduce the need for restraint or seclusion. Information on a student through interviews, observation, and records help identify the causes of the dangerous behavior and should guide the development of a behavioral plan for the student. A complete plan should include:
  - a. Addressing the characteristics of the setting and the event;
  - b. If possible, removing the antecedents that triggered the event;
  - c. Adding antecedents that promote appropriate behavior;
  - d. Teaching appropriate behaviors to replace the dangerous behaviors.
6. The use of seclusion occurs in a specially designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion shall cease once the student regains control of his or her behavior.

Only school personnel trained on the use of restraint and seclusion should be used to observe and monitor these students. Staff engaged in monitoring students should have knowledge of effective restraint and seclusion procedures, emergency procedures, and knowledge as to how to effectively debrief students after the use of restraint or seclusion.

7. The room used for seclusion must not contain any objects or fixtures with which a student could be harmed. Additionally, the room must provide adequate lighting and ventilation.
8. The room used for seclusion may not be locked and staff must be present to monitor the student's safety and to know when the student has regained control of their behavior.
9. School personnel may use seclusion to address a student's behavior:
  - a. If the student's behavior unreasonably interferes with the student's learning or the learning of others;
  - b. If the student's behavior constitutes an emergency and seclusion is necessary to protect a student or other person from imminent, serious physical harm after other

- less intrusive, nonphysical interventions have failed or been determined inappropriate;
- c. After less restrictive or alternative approaches have failed or have been determined to be inappropriate.
10. Each time a student is placed in restraint or seclusion, the incident must be documented in the student's educational record. The documentation must be available to the parent or guardian, and the parent or guardian must be notified verbally or in writing by the next school day, unless the student's behavior plan, IEP, or Section 504 Plan requires some other arrangement. This documentation should be provided using an incident report that is completed for each student in each instance in which the student is restrained or placed in seclusion. This report must include the following:
- a. Date;
  - b. Student's name, age and grade level;
  - c. Ethnicity, sex, and non-disabled/disabled status;
  - d. Location of restraint;
  - e. Precipitating behavior/antecedent;
  - f. De-escalation efforts tried;
  - g. Type of restraint used;
  - h. The student's behavior and physical status during the restraint/seclusion;
  - i. Total time spent in restraint or seclusion. The student shall not be kept in seclusion for more than 20 minutes. If additional time is needed, school personnel must reassess the student and document why the extra time is needed, or after this time, if the physical behavior is still manifested, the student should be assessed for transport to a medical facility for evaluation by a physician and the parent notified;
  - j. Injuries to student or staff;
  - k. Staff participating in the restraint/seclusion;
  - l. Staff signatures;
  - m. Name of school employee that the parent can contact; and
  - n. Date and time parent was contacted.

After an incident of restraint or seclusion, all school personnel involved in the incident and appropriate administrative staff shall participate in a debriefing session for the purpose of planning to prevent or at least reduce the reoccurrence of the event. The debriefing session shall occur no later than five school days following the imposition of physical restraint or seclusion.

11. If restraint or seclusion is used for a student who is not identified as a student with a disability, the student shall immediately be referred to the school's intervention team. The team shall determine if the student shows a pattern of behavior that would indicate the need for an intervention plan.
12. If restraint or seclusion is used for a student with a disability, and the student's IEP, Section 504 Plan, or behavior intervention plan does not include the use of restraint or

seclusion, the IEP or 504 team shall meet, within 10 school days of the incident to consider:

- a. The need for a functional behavioral assessment;
- b. Developing appropriate behavioral interventions;
- c. Implementing a behavioral intervention plan.

### **Administrative Procedures**

1. Local school districts that utilize physical restraint and seclusion for all students must develop written policies and procedures that govern its use. The written policies and procedures must be designed to ensure the safety of all students, school personnel, and visitors and include the following provisions:
  - a. Staff and faculty training on the use of physical restraint;
  - b. Parental notification when physical restraint is used to restrain their student not to exceed one school day from the use of the restraint;
  - c. Documentation of the use of physical restraint or seclusion by staff or faculty participating in or supervising the restraint or seclusion event;
  - d. Procedures for the periodic review of the use of restraint and seclusion policies;
  - e. Procedures by which a parent may submit a complaint regarding the physical restraint or seclusion of their child;
  - f. Procedures for reporting the use of restraint or seclusion to the local board of education.
2. The policies and procedures should be reviewed with all staff on an annual basis.
3. Teachers and other district personnel should be trained on how to collect and analyze student data to determine the effectiveness of these procedures in increasing appropriate behavior.
4. All parents should receive, at least annually, written information about the policies and procedures for restraint and seclusion issued by the local school district or school. The written policies are to be included in each local education agencies code of conduct, student handbook, or other appropriate school publication.
5. A review of the use of a restraint and seclusion process must be conducted to determine if a revision of behavioral strategies in place to address dangerous behavior or if positive behavioral strategies are not in place when:
  - a. There is repeated use for an individual student;
  - b. Multiple uses within the same classroom;
  - c. Used multiple times by the same individual
6. School districts should not only establish and disseminate policies and procedures on the use of seclusion and restrain, but also should periodically review and update them as

appropriate. The school district or school should maintain records of its review of seclusion and restraint data and any resulting decisions or actions regarding the use of seclusion and restraint.

7. In any situation in which a student is a danger to themselves or others, and it becomes necessary to contact law enforcement or emergency medical personnel, nothing in this policy guidance should be construed to interfere with the duties of law enforcement or emergency medical personnel.

Source: Miss. Code Ann. §§ 37-9-69; 37-11-57; 37-7-321; 37-7-323 (Proposed Adoption 6/2015)