

Public comments
Recommended Changes to MS State Board of Education
Policy 4013 Restraint and Seclusion Policy

Note: State Board Policy 4013 should prohibit the use of seclusion in all public Mississippi schools just like our neighboring states of Alabama and Georgia. Since the outcome of prohibiting seclusion in Mississippi is unlikely, the term is used in these comments.

Note: The use of physical restraints or seclusion would not be documented in an IEP or BIP. These interventions are used in emergency situations in which the student is a danger to himself or others, and it would not be possible to determine if restraint would be required when the IEP or BIP were developed. Inclusion of the use of restraint or seclusion in a student's IEP or BIP implies that it is a planned intervention, and restraint and seclusion are interventions which is used in an emergency situation and cannot be anticipated.

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, increases instructional time 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.

Unfortunately, students sometimes 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. Schools should have policies in place that address the responses needed to ensure the safety of all students and staff.

In some schools, seclusion and restraint have been used as a response to situations in which students' behavior poses an imminent danger to themselves or others. Throughout the country, some students have been also placed in seclusion rooms or restrained as a means of discipline or as a punitive measure to obtain compliance. Both students and staff have been injured in secluding and restraining students and, in some cases, students have died in seclusion rooms or during the process of being restrained.

Purpose

The purpose of this policy is to create a statewide policy that applies to all learning environments that receive public funding, or over which the Mississippi Department of Education has regulatory authority regarding the use of positive behavior intervention and supports, and the limited use of restraint and seclusion. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion. The use of a non-aversive effective behavioral system such as Positive Behavioral Intervention and Supports (PBIS) shall be used to create a learning environment that promotes the use of evidence-based behavioral interventions, thus enhancing academic and social behavioral outcomes for all students. Restraint or seclusion shall not occur, except when there is an immediate risk of physical harm to the student or others, and shall occur only in a manner that protects the safety of all children and adults at school. Every use of restraint or seclusion shall be documented and reported in accordance with the requirements set forth in this policy.

Definitions

Aversive behavioral interventions means a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

Aversive procedure means 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.

Aversive technique means physical, emotional or mental distress as a method of redirecting or controlling behavior.

Behavioral intervention means the implementation of strategies to address behavior that is dangerous or inappropriate, or otherwise impedes the learning of the students.

Behavioral Intervention Plan means a plan that details strategies and supports to address behaviors that impede learning, or are ongoing, and do not readily respond to general intervention or classroom management techniques, by teaching pro-social skills and other positive replacement behaviors. The plan may include positive strategies, program or curricular modifications, and supplementary aids and supports required to address problem behaviors.

Chemical restraint means a drug or medication used on a student to control violent behavior or restrict freedom of movement that is not:

- A. Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under state law, for the standard treatment of a student's medical or psychiatric condition; and
- B. Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law.

Dangerous behavior means behavior that presents an imminent danger of physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.

De-escalation means the use of behavior management techniques intended to:

- A. Mitigate and defuse dangerous behavior of a student; or
- B. Reduce the imminent danger of physical harm to self or others.

De-escalation techniques are strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs.

Emergency situation means spontaneous unpredictable events posing an imminent threat of serious bodily injury.

Functional Behavioral Assessment (FBA) is a school-based, collaborative process that includes the parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and how the behavior relates to the child's environment.

- A. The term includes direct assessments, indirect assessments and data analysis designed to assist the team to identify and define the problem behavior in concrete terms,
- B. Contextual factors (including affective and cognitive factors) are identified that contribute to the behavior, and a hypothesis is formulated regarding the general conditions under which a behavior usually occurs and the probable consequences that maintain the behavior.
- C. Formal documentation of the assessment by appropriately qualified individuals becomes part of the child's educational record.

Mechanical restraints include devices or materials attached to or adjacent to a student's body that is intended to restrict the normal freedom of movement and which cannot be easily removed by the student.

Examples of mechanical restraints include:

- A. Straightjackets,
- B. Straps,
- C. Handcuffs except when used by law enforcement personnel.

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 (with minimal resistance) and able to respond to such physical prompt, to move to a safe location.

Physical prompt is 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.

Physical restraint refers to direct physical contact from an adult that prevents or significantly restricts a student's movement to prevent an imminent and substantial risk of bodily harm to the student or others.

Physical restraint that restricts the flow of air to the student's lungs refers to any method (facedown (prone), face-up (supine), or choke hold) of physical restraint in which physical pressure is applied to the student's body that restricts the flow of air into the student's lungs.

Positive Behavior Interventions and Supports (PBIS) is a proactive approach to establishing the behavioral supports and social culture needed for all students in a school to achieve social, emotional and academic success. Attention is focused on creating and sustaining primary (school-wide), secondary (classroom), and tertiary (individual) systems of support that improve lifestyle results (personal, health, social, family, work, recreation) for all youth by making targeted misbehavior less effective, efficient, and relevant, and desired behavior more functional.

Positive Behavior Support Plan means the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.

Seclusion means involuntary placement of a student in a safe location (room, enclosure or space) from which the student is isolated from others and prevented from leaving, but remains under constant and direct adult visual observation. Seclusion is a safety intervention that provides an opportunity for the student to regain self-control.

Serious bodily injury is any bodily injury that involves—

- A. A substantial risk of death;
- B. Extreme physical pain;
- C. Protracted and obvious disfigurement; or
- D. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Time-out means a behavior management technique that is part of an approved positive program based on a comprehensive functional assessment and may involve the short term or temporary separation of the student from the group, in a non-locked setting, for the purpose of calming. Time-out is not seclusion.

Time-out is appropriately used when:

- A. The non-locking setting used for time-out is appropriately lighted, ventilated, and heated or cooled.
- B. The duration of the time-out is reasonable in light of the purpose of the time-out and the age of the child;
- C. The student is reasonably monitored by an attending adult who is in reasonable physical proximity of the student and has sight of the student while in time-out.
- D. The time-out space is free of objects that unreasonably expose the student or others to harm.

Written report means printed paper filings and electronic filings that can be printed.

General Procedures

Positive Behavior Intervention and Supports

1. Schools shall implement an evidence-based school wide system or framework of positive behavioral interventions and supports (PBIS). The system or framework must include a plan for addressing all critical elements of PBIS at each tier (primary/school-wide, secondary/classroom, and tertiary/individual) to ensure fidelity of implementation and success. The PBIS system or framework must also include proactive strategies for defining, teaching and supporting appropriate student behaviors to create positive school environments.

A. Every student deserves to be treated with dignity, be free from abuse, and treated as a unique individual with individual needs, strengths, and circumstances.

B. Education environments shall be structured to greatly reduce, and in most cases eliminate, the need to use restraint or seclusion. Positive Behavior Intervention and Supports (PBIS) create structure to the environment using a non-aversive effective behavioral system. It is a decision making framework that guides selection, integration, and implementation of evidence-based academic and behavioral practices for improving important academic and behavior outcomes for all students.

C. The PBIS prevention-oriented framework or approach applies to all students, all staff, and all settings. Research supports the conclusion that PBIS, when integrated with effective academic instruction, provides the support students need to become actively engaged in their own learning and academic success.

D. Components of a system of Positive Behavior Intervention and Supports include:

1. Trained school staff to identify conditions such as:
 - a. Where, under what conditions, with whom and why specific inappropriate behavior may occur.

b. Preventative assessments should include:

- i. A review of existing data,
- ii. Interviews with parents, family members and students and
- iii. Examination of previous and existing behavioral intervention plans.

c. With the analysis of these data schools shall develop and implement preventative behavioral interventions and teach appropriate behavior.

- i. Modify the environmental factors that escalate the inappropriate behavior.
- ii. Support the attainment of appropriate behavior.
- iii. Use verbal de-escalation to defuse potentially violent dangerous behavior.

2. Schools must establish a system that will support students' efforts to manage their own behavior; implement instructing techniques in how to self-manage behavior, decrease the development of new problem behaviors; prevent worsening of existing problem behaviors; redesign learning/teaching environments to eliminate triggers and maintainers of problem behaviors. The system should include family involvement as an integral part of the system.

Behavioral Intervention and Strategies

1. 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.

2. 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.

Restraints

The use of physical restraints is prohibited except in those situations in which students are in imminent danger to themselves or others and when the student is not responsive to less intensive de-escalation techniques.

State Board policy positively prohibits the use of excessive force, or cruel and unusual punishment regarding student management.

The use of mechanical restraints, chemical restraints, aversive behavioral interventions, aversive procedures, aversive techniques and any physical restraints that restrict the flow of air to the student's lungs are expressly prohibited in Mississippi Public Schools.

Restraints will be immediately terminated when the student is no longer a danger to himself/herself or others or when the student is observed to exhibit signs of severe distress or injury, including but not limited to respiratory distress.

Staff must be trained in the use of the adopted restraint techniques and all instances of restraint should be monitored.

Physical restraint

Only physical restraints that are included in the school district's written policy should be utilized.

When using physical restraint for students who are an imminent danger to themselves or others, staff should take precautions necessary to ensure the safety of the student and the staff engaged in restraining the student.

Restraint should be implemented in a safe and humane manner without any intent to harm or create undue discomfort for the student.

Physical restraints, as defined in this policy, do not include: mechanical restraint, chemical restraint, providing limited physical contact and/or redirection to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing guidance to a location, or providing comfort, preventing self-injurious behavior, limited physical contact as reasonably needed to prevent imminent destruction to school or another person's property, momentarily deflecting the movement of a student when the student's movement would be destructive, harmful or dangerous to the student or to others or a brief period of physical contact necessary to break up a fight

Restraint should never be used:

- A. When the student is responsive to less intensive interventions and de-escalation techniques such as verbal commands and directives.
- B. As a form of discipline or punishment, as a means to obtain compliance, or as a replacement for less restrictive alternatives.
- C. When students cannot be safely restrained due to the size of the student or staff or for any other reason.
- D. When the use of the intervention would be contraindicated due to the student's psychiatric, medical, or physical conditions as described in the student's educational records.
- E. For the convenience of staff.
- F. As a substitute for an educational program.
- G. As a substitute for inadequate staffing or training.

When deemed it is necessary to restrain a student who is a danger to themselves or others, the following procedures should be used:

- A. Less restrictive interventions should first be used to de-escalate the behavior and the student should only be restrained when these less intensive interventions prove unsuccessful.
- B. Restraint should be conducted by staff who are trained in the restraint procedures adopted by the school district;
- C. Staff must carefully observe the student throughout the restraint to observe the student's physical and emotional status;
- D. Restraint will be immediately terminated if the student appears to be, or claims to be, in severe stress;
- E. The restraint will be removed as soon as the student is no longer a danger to himself/herself or others;
- F. As soon as possible after the restraint is removed, the staff will discuss the incident leading up to the restraint and discuss alternative behaviors that could have been utilized;

- G. When the student is able, he/she will be returned to the instructional activity, or to a less restrictive environment;
- H. Parents must be notified within one school day of the incident.
- I. 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.
- J. If necessary, the student may be referred to an on-site mental health counselor, if available.

Mechanical Restraints

Mechanical Restraints are not:

Adaptive or protective devices recommended by a physician or therapist are not considered to be mechanical restraints and are allowed when used as recommended by a physician or therapist to promote normative body positioning and physical functioning. For example, a prone stander or adaptive chair with an attached lap tray would not be a mechanical restraint if used to promote normative body functioning or physical functioning in a student with a physical disability if the equipment was recommended by a physician or therapist and used as prescribed. However, if the same equipment was used to restrict the student's movement for the purpose of controlling behavior, it would be considered mechanical restraint and would not be permitted in schools and educational programs.

In rare instances, it may be necessary to use adaptive or protective devices to prevent self-injurious behavior. The use of these devices must be recommended by a physician or therapist and used as described. They should not be used to control behavior or limit movement except in those situations in which the student is demonstrating self-injurious behaviors. Students who experience these types of self-injurious behaviors should receive a functional behavior assessment, and a behavior intervention plan should be developed to address the behaviors.

Seatbelts and other safety equipment such as safety harnesses are not considered to be mechanical restraints and are permitted when used as recommended to secure students during transportation. If these types of protective devices are utilized, staff should receive training in the proper use of the equipment including rapid removal in an emergency situation.

Note: State Board Policy 4013 should prohibit the use of seclusion in all public Mississippi schools just like our neighboring states of Alabama and Georgia. Since the outcome of prohibiting seclusion in Mississippi is unlikely, the term is used in these comments.

Seclusion

The use of seclusion is prohibited except in those situations in which students are in imminent danger to themselves or others and when the student is not responsive to less intensive de-escalation techniques.

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.

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.

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.

Seclusion is a safety intervention that provides an opportunity for the student to regain self-control.

Seclusion does not include

- A. Situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student,
- B. Time-out
- C. In-school suspension
- D. Detention, or
- E. A student-requested break in a different location in the room or in a separate room.

Documentation, Reporting and Debriefing Meeting

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.

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. The name, age, gender and grade of the student;
- B. The date, time, and duration of the 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;
- C. Any injuries, death or hospitalization to student or staff resulting from the use of restraint or seclusion;
- D. The precipitating event[s] leading up to the restraint or seclusion;
- E. A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded;
- F. The type of restraint or seclusion used;
- G. The reason for the restraint or seclusion;
- H. The location where the restraint or seclusion occurred;
- I. A description of techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;
- J. A description of the student's behavior during physical restraint or seclusion;
- K. A description as to how the student's behavior posed an imminent danger of physical harm to self or others;
- L. A description of all the interventions used prior to the application of the restraint or seclusion;
- M. A description of the effectiveness of physical restraint or seclusion in de-escalating the situation;
- N. Whether the student has a behavioral intervention plan;

- O. A description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint or seclusion of the student; and
- P. The date notification was provided to the student's parents.
- Q. The name of school employee that the parent can contact

A debriefing session shall be held after the imposition of physical restraint or seclusion upon a student. The debriefing session shall occur as soon as practicable, but not later than five (5) school days following the restraint or seclusion, unless delayed by written mutual agreement of the parent.

The following persons shall participate in the debriefing session:

- A. The implementer of the physical restraint or seclusion;
- B. At least two (2) of any other school personnel who were in the proximity of the student immediately before or during the physical restraint or seclusion;
- C. The parent;
- D. The student, if the parent requests; and
- E. Appropriate supervisory and administrative school personnel.

The debriefing session shall include:

- A. Identification of the events leading up to the seclusion or physical restraint;
- B. Consideration of relevant information in the student's records and information from teachers, parents, other school district professionals, and the student;
- C. Planning for the prevention and reduction of the need for seclusion or physical restraint, with consideration of recommended appropriate positive behavioral supports and interventions to assist school personnel.
- D. Consideration of whether positive behavioral supports and interventions were implemented with fidelity; and

All documentation utilized in the debriefing session shall become part of the student's education record.

If restraint or seclusion is used for a student, 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 or a revision if the student already has a behavior intervention plan.

The intervention team must consider:

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

Staff Training

School districts that permit restraint and seclusion must ensure that all staff members who could potentially use restraint and seclusion are trained with a nationally recognized evidence-based curriculum. 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.

Physical restraint will only be practiced by staff trained in the physical restraint approach adopted by the local school district. The Mississippi Department of Education requires that districts use one of several nationally recognized evidence-based training programs. Approved programs include Crisis Prevention Institute (CPI), Professional Crisis management Association (PCMA), Safety Care and Behavioral Safety Training MindSet Consulting Services, L.L.C.

In addition to adopting an evidence-based curriculum from the MDE approved list, the following requirements must be met by districts:

- a. Certification for school personnel and recertification must be implemented with fidelity to the training program attendance certificates and alternate certification criteria cannot be substituted for this requirement;
- b. Preventing the need for restraint;
- c. Training in first aid and in cardio-pulmonary resuscitation (CPR) if staff are not readily available who are trained in CPR;
- 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;
- g. Information regarding state policy pertaining to the use of physical restraint.

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

Schools must maintain written or electronic documentation on trainings provided to staff and a list of participants in each training provided. Records of such training must be submitted to MDE at least annually and to any member of the public upon request.

Administrative Procedures

Policy and Procedures

Local school districts

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 and seclusion;
- B. Parental notification when physical restraint and seclusion is used to restrain or seclude their student not to exceed one school day from the use of the restraint; The school administrator must immediately notify parents when their child is injured or if death occurs in a restraint or in seclusion and/or is removed from the school setting by law enforcement or medical personnel.
- 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; which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take corrective action. The district will respond to the parent's complaint in writing within thirty (30) days of the filing of a complaint regarding an incident of restraint or seclusion.
- F. Procedures for reporting the use of any prohibited use of seclusion and chemical, mechanical, or physical restraint to the local board of education and the Mississippi Department of Education.
- G. Procedures requiring immediate notification to the Mississippi Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion

2. School administrators must monitor the staff's adherence to these procedures and must immediately address any situations in which the procedures are not being followed.
3. Policies and procedures must be reviewed at least annually and changes should be made as needed.
4. The policies and procedures should be reviewed with all staff on an annual basis.
5. 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.
6. 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.
7. 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
8. The school district or school will maintain records of its review of seclusion and restraint data and any resulting decisions or actions regarding the use of seclusion and restraint.
9. The school administrator must report the use of restraint or seclusion to the superintendent of the school district whenever:
 - A. There is death, injury or hospitalization to staff or student as a result of a restraint or seclusion; or
 - B. An individual employee or contracted service provider has engaged in the use of physical restraint or seclusion three (3) separate times on one (1) or more students; or
 - C. Physical restraint has been used for more than twenty (20) minutes; or
 - D. Any student has been restrained or secluded three (3) or more times per school year; or
 - E. A student has been restrained or secluded more than once in a school day; or
 - F. A student is restrained or secluded who is not on a behavioral intervention plan; or
 - G. Restraint or seclusion has been used in violation of these rules, including the use of any prohibited form of restraint.

Reports to the Superintendent shall be made within three school days of the incident that requires reporting and shall include all the information required of a written record of each use of restraint or seclusion.

10. The Superintendent of a school district must report the following information to the Mississippi Department of Education:
 - A. There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion;
 - B. Physical restraint or seclusion has been used in violation of this policy, including the use of any prohibited restraint or seclusion and
 - C. The report shall include all the information required of a written record of each use of restraint or seclusion.

11. The Superintendent of the School District must also report the following data annually related to incidents of physical restraint and seclusion to the Mississippi Department of Education:

- A. Aggregate number of uses of physical restraint;
- B. Aggregate number of students placed in physical restraint;
- C. Aggregate number of uses of seclusion;
- D. Aggregate number of students placed in seclusion;
- E. Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;
- F. Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and
- G. Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student.

12. Each school district shall make its records concerning restraint and seclusion available to staff from the Mississippi Department of Education upon request.

Law Enforcement or Emergency Medical Personnel

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.

Mississippi Department of Education

Periodic review of this policy shall be the responsibility of the Mississippi Department of Education.

The State Superintendent of the Department of Education shall review reports and identify those schools in need of additional training and, when those reports reflect an over-use of these interventions, shall direct the school to work with the department to develop a corrective action plan.

The Mississippi Department of Education must report to the public by school district the following data annually related to incidents of physical restraint and seclusion:

- A. Aggregate number of uses of physical restraint;
- B. Aggregate number of students placed in physical restraint;
- C. Aggregate number of uses of seclusion;
- D. Aggregate number of students placed in seclusion;
- E. Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;
- F. Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and
- G. Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student.

Non-Compliance

If a school or school district fails to comply with provisions of Policy 4013 Seclusion and Restraint for ALL Students, the state board of education may at its discretion withhold all or part of the state-contributed funds allotted to school district or program.

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 5th and 14th 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;~~

~~l. 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)~~