

## **SPECIAL SERVICES**

### **Intervention and Prevention Services**

#### **Physical Restraint and Seclusion**

This is a new Policy.

#### **I. PURPOSE**

Fairfax County Public Schools (FCPS) is committed to fostering a responsive, caring, and inclusive culture where all feel valued, supported, and hopeful. FCPS also believes that students have a right to attend a safe, welcoming school and belong to a community that values and promotes learning alongside social and emotional skill development through a positive behavior approach.

FCPS uses a Multi-Tiered System of Supports (MTSS), a data-driven, solution-seeking framework, to support enhanced outcomes for all students. MTSS relies on a continuum of evidence-based practices matched to students' individualized and dynamic needs. Positive behavioral interventions and supports (PBIS) is a component of MTSS that focuses on social behavior. PBIS includes a proactive approach to supporting students' social, emotional, and behavioral needs via universal support provided to all students such as clear expectations that are defined, taught, and reinforced. PBIS also includes the provision of targeted and intensive support for some students who require additional support beyond the universal level for success. Focused supports provided at the targeted and intensive levels may include supports such as Check-In Check-Out, small group or individual counseling, and explicit social skills instruction.

If there is a need to manage student behaviors that place the student or others at imminent risk of serious physical injury, there must be a balance between practices that ensure the learning environment is safe and procedures that safeguard the rights and protections of students and staff. As such, staff shall utilize the least restrictive intervention to support students through a multi-tiered system of support, trauma informed care approach using evidenced-based de-escalation techniques. FCPS requires the use of a positive behavioral approach such that students are supported and safe without the use of hands on interventions to the greatest extent possible.

The purpose of this policy is to establish procedures regarding physical restraint and seclusion, in rare cases where there is imminent risk of serious physical harm to self or others, to ensure the safety of all students and staff.

FCPS' goal is to prohibit the use of seclusion across the division. Given implementation of MTSS and additional supports and resources to enhance staff capacity should there be imminent risk of serious physical harm to self or others, FCPS intends to have division-wide prohibition of seclusion on or before January 1, 2023.

## II. SUMMARY OF CHANGES

This is a new policy.

## III. RESPONSIBILITIES

- A. It is the responsibility of the school to provide a safe environment in which students can learn that ensures that children are treated with respect and dignity, are free from abuse, and that safeguards the rights and protections of students. It is also the responsibility of the school to provide a safe environment for all staff that is conducive to teaching and other support functions needed to foster student success.
- B. Fairfax County Public Schools shall ensure use of positive behavioral interventions and support strategies to reduce and prevent the need for the use of physical restraint.
- C. Fairfax County Public Schools will comply with all requirements 8VAC20-750, *Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia*, as outlined by the Virginia Board of Education.

## IV. DEFINITIONS

- A. Positive Behavioral Interventions and Support:

Positive behavioral interventions and support (PBIS) shall include building healthy relationships among all individuals, in order to facilitate a safe and supportive school environment that provides emotional, psychological, and physical safety needed to teach new positive behaviors. This includes the appropriate use of effective alternatives to physical restraint and seclusion. At all times, positive behavioral interventions and supports must be consistent with the students right to be treated with dignity and to be free from abuse. Interventions used vary by tier and students' individualized needs. Examples of PBIS are school-wide expectations, Check-In-Check-Out, individual small group counseling, mentoring, restorative justice, and conflict resolution. This list is illustrative, not exhaustive.

- B. Restraint:

A restraint means mechanical restraint, physical restraint, or pharmacological restraint.

- C. Physical restraint:

A personal restriction that immobilizes or reduces the ability of a student to move freely.

Physical restraint does not include:

1. Briefly holding a student to calm or comfort the student
2. Holding a student's hand or arm to escort the student safely from one area to another
3. The use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control

D. Pharmacological restraint:

A drug or medication used on a student to control behavior or restrict freedom of movement that is not (i) prescribed by a licensed physician or other qualified health professional under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition and (ii) administered as prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority.

E. Mechanical restraint:

The use of any material, device, or equipment to restrict a student's freedom of movement. The term "mechanical restraint" does not include the devices implemented by trained school personnel or used by a student that have been prescribed by an appropriate medical or related service professional and are used with parental consent and for the specific and approved purposes for which such devices were designed, such as:

1. Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports.
2. Vehicle restraints, including seat belts, when used as intended during the transport of a student in a moving vehicle.
3. Restraints for medical immobilization.
4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.
5. Highchairs and feeding stations used for age or developmentally appropriate students.

F. Prone restraint:

Prone restraint is a restraint that places the individual's body in a prone (face down) position.

G. Supine restraint:

Supine restraint is a restraint that places the individual's body in a supine (face up) position.

H. Seclusion:

The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Provided that no such room or space is locked, seclusion does not represent:

1. Time-out
2. In-school suspension
3. Detention
4. Student-requested breaks in a different location in the room or in a separate room
5. Removal of a student for a short period of time from the room or a separate area of the room to provide the student with an opportunity to regain self-control so long as the student is in a setting from which the student is not physically prevented from leaving
6. Removal of a student for disruptive behavior from a classroom by a teacher
7. Confinement of a student alone in a room or area from which a student is physically prevented from leaving during the investigation and questioning of the student by school personnel regarding the student's knowledge of or participation in events constituting a violation of the code of student conduct such as a physical altercation, or an incident involving drugs or weapons.

I. Parent:

Per the Code of Virginia, a parent is:

1. A biological or adoptive parent of a child.
2. A foster parent, even if the biological or adoptive parent's rights have not been terminated, but subject to subsection B.
3. A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child (but not the Commonwealth if the child is a ward of the Commonwealth).
4. An individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare.
5. If no party qualified under subdivisions 1 through 4 can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with 8VAC20-81-220.

J. Serious Physical Harm:

Serious physical harm means bodily injury that involves 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. For this policy, serious physical harm is synonymous to serious bodily injury.

K. Imminent Risk:

An imminent threat exists when the person/situation appears to pose a clear and immediate threat of serious violence toward others that requires containment and action to protect identified or identifiable target(s); and may also exhibit other concerning behavior that require intervention. For this policy, imminent risk is synonymous to imminent threat.

L. Aversive Stimuli:

Aversive stimuli means interventions that are intended to induce pain or discomfort to a student for the purposes of punishing the student or eliminating or reducing maladaptive behaviors, such as:

1. Noxious odors and tastes;
2. Water and other mists or sprays;
3. Blasts of air;
4. Corporal punishment as defined in § 22.1-279.1 of the Code of Virginia;
5. Verbal and mental abuse;
6. Forced exercise when:
  - a. The student's behavior is related to the student's disability;
  - b. The exercise would have a harmful effect on the student's health; or
  - c. The student's disability prevents participation in such activities.
7. Deprivation of necessities, including:
  - a. Food and liquid at a time it is customarily served;
  - b. Medication; or
  - c. Use of the restroom.

M. School Day:

School day means any day, including a partial day, that students are in attendance at school for instructional purposes. The term has the same meaning for all students in school, including students with and without disabilities.

N. Day:

Day means calendar day unless otherwise designated as business day or school day.

O. Time-out:

Time-out means a behavioral intervention in which the student is temporarily removed from the learning activity but in which the student is not confined.

**V. PROHIBITIONS**

The following actions are prohibited in Fairfax County Public Schools.

1. Use of seclusion, except as provided in Sections VI and VII of this Policy Use of mechanical restraints
2. Use of pharmacological restraints
3. Use of aversive stimuli
4. Use of restraint or seclusion in any manner that restricts a student's breathing or harms the student, including prone and supine restraints
5. Use of physical restraint as: (a) punishment or discipline; (b) a means of coercion or retaliation; (c) a convenience; (d) to prevent property damage, or (e) in any manner other than as provided in, as described in Section IV of this policy
6. Use of corporal punishment
7. Use of seclusion rooms or freestanding units not meeting the standards set forth in these regulations
8. Use of restraint when medically or psychologically contraindicated as stated in documentation provided to FCPS by the Individual Education Program (IEP) team, 504 team, school professionals, or by a licensed physician, psychologist, or other qualified health professional under the scope of the professional's authority

Nothing in this section shall be construed to prohibit physical restraint or seclusion under the conditions outlined in the *Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia*.

## VI. USE OF PHYSICAL RESTRAINT AND SECLUSION

A. School personnel may implement physical restraint or seclusion only when other interventions are, or would be, in the reasonable judgment of the particular school personnel implementing physical restraint or seclusion in an emergency situation, ineffective and only to:

1. Prevent a student from inflicting serious physical harm or injury to self or others.
2. Quell a disturbance or remove a student from the scene of a disturbance in which such student's behavior or damage to property threatens serious physical harm or injury to persons.

Unless a student's damage to property creates an imminent risk of serious physical harm or injury to the student or others, the damage of property does not itself indicate an imminent risk of serious physical harm or injury and shall not be the justification for the restraint or seclusion of a student.

3. Defend self or others from serious physical harm or injury.
4. Obtain possession of controlled substances or paraphernalia which are upon the person of the student or within the student's control.
5. Obtain possession of weapons or other dangerous objects that are upon the person of the student or within the student's control.

- B. Physical restraint and seclusion shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situation has dissipated. If imminent risk of serious physical harm continues, school personnel implementing physical restraints will adhere to maximum duration outlined in the advanced, evidence-based training program. In instances with continued imminent risk of serious physical harm during seclusion, school personnel will adhere to requirements outlined in VII.C. of this Policy.
- C. School personnel are not required to attempt to implement a less restrictive intervention prior to using physical restraint or seclusion when, in the reasonable judgment of the school personnel in an emergency situation, a less restrictive intervention would be ineffective (e.g., circumstances where if a less restrictive intervention was not immediately effective it could result in death or other serious physical injury such as running into a street with moving cars).
- D. School divisions electing to use physical restraint and seclusion shall comply with the requirements of 8VAC20-750.
- E. Per the Memorandum of Understanding (MOU) between FCPS and the Fairfax County Police Department (FCPD), school resource officers (SRO) shall not be involved in the physical restraint or seclusion of a student initiated by school staff unless there is imminent danger of serious physical harm to self or others.

## **VII. SECLUSION; STANDARDS FOR USE**

- A. The following structural and physical standards for rooms designated by FCPS at Burke School and Key and Kilmer Center to be used for seclusion will meet the following:
  - 1. Any seclusion room or area shall be free of any objects or physical features that may cause injury to the student.
  - 2. Any seclusion room or area shall be of sufficient dimensions, and shall have sufficient lighting, heating, cooling, and ventilation to comport with the dignity and safety of the student at all times, including during fire and other emergencies.
  - 3. Windows in the seclusion room shall be constructed to minimize breakage and otherwise prevent the occupant from harming himself.
  - 4. All space in the seclusion room shall be visible through the door, either directly or by mirrors.
- B. Continuous visual monitoring of any instance of seclusion shall occur through observation by school personnel through a window, viewing panel, or half-door. These provisions shall include exceptions for emergency situations in which securing visual monitoring before implementing the physical restraint or seclusion would, in the reasonable judgment of the school personnel implementing the physical restraint or seclusion, result in serious physical harm or injury to persons.

- C. Seclusion shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situation has dissipated. If imminent risk continues to exist after 10 minutes for elementary students, 15 minutes for middle school students, and 20 minutes for high school students, the parent will be contacted to collaborate on next steps.

## **VIII. NOTIFICATION AND REPORTING**

- A. When any student has been physically restrained or secluded during the school day:
  - 1. The staff member involved shall report the incident and the use of any related first aid to the school principal or designee as soon as possible and no later than by the end of the school day in which the incident occurred; and
  - 2. The school principal or his designee, or other school personnel shall ensure that direct contact is made with the parent, either in person or through telephone conversation, or other means of communication authorized by the parent, such as text, voice mail, or e-mail, to notify the parent of the incident and any related first aid on the day the incident occurred. The emergency contact numbers in the student information system (SIS) will be used to assist in locating parents to support same day notification if needed.
- B. When any student has been physically restrained or secluded before or after the regular school day, the notifications required by Subsection A shall be implemented.
- C. As soon as practicable, but no later than the day of the incident in which physical restraint or seclusion has been implemented, the school employee involved in the incident or other school personnel, as may be designated by the principal, shall complete and provide to the principal or designee a written incident report.
- D. After an incident of physical restraint or seclusion, the principal or designee shall provide the parent with a copy of the incident report the day of the incident.

The written incident report shall contain the following information:

- 1. Student name, age, gender, grade, and ethnicity, and special education status as applicable.
- 2. Location of the incident.
- 3. Date, time, and total duration of incident, including documentation of the beginning and ending time of each application of physical restraint or seclusion.
- 4. Date of report.
- 5. Name of person completing the report.
- 6. The school personnel involved in the incident, their roles in the use of physical restraint or seclusion, and their completion of the division's training program.
- 7. Description of the incident, including the antecedent, resolution, and process of return of the student to his educational setting, if appropriate.



8. A detailed description of the physical restraint or seclusion method used.
  9. The student's behavior that justified the use of physical restraint or seclusion.
  10. Description of prior events and circumstances prompting the student's behavior, to the extent known.
  11. Less restrictive interventions attempted prior to the use of physical restraint or seclusion and an explanation if no such interventions were employed.
  12. Whether the student has an IEP, a Section 504 plan, a behavior intervention plan (BIP), or other plan.
  13. If a student, staff member, or any other individual sustained bodily injury, the date and time of nurse or response personnel notification and the treatment administered, if any.
  14. Date, time, and method of parental notification of the incident, as required by this section; and
  15. Date, time, and method of staff debriefing.
- E. Following an incident of physical restraint or seclusion the school will ensure that, within two (2) school days, the principal or designee reviews the incident with all staff persons who implemented the use of physical restraint or seclusion to discuss:
1. Whether the use of restraint or seclusion was implemented in compliance with this chapter and local policies; and
  2. How to prevent or reduce the future need for physical restraint or seclusion.
- F. As appropriate depending on the student's age and developmental level, following each incident of physical restraint or seclusion, the school will ensure that, as soon as practicable, but no later than two (2) school days or upon the student's return to school, the principal or designee shall review the incident with the student(s) involved to discuss:
1. Details of the incident in an effort to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents;
  2. Alternative positive behaviors or coping skills the student may utilize to prevent or reduce behaviors that may result in the application of physical restraint or seclusion; and
  3. Impact of restraint or seclusion on the student to provide support and/or identify the need for and facilitate the provision of additional social-emotional supports (e.g., meeting with school counselor, social worker, case manager if applicable) as appropriate.
- G. Following a restraint or seclusion, the student will conference with trusted school personnel to be conducted as soon as possible, but no later than the following school day, dependent on access to the student. The student should choose the trusted adult; however, if that is not possible due to age or developmental level, school staff may choose among team members and/or consult with parent or guardian regarding the most suitable staff person for conferencing. The staff who conferences with the student may consult with clinical staff or other support staff to

explore further resources as needed. The conference with the trusted school personnel may occur during the debrief with the principal or designee.

- H. Following an incident of restraint or seclusion, the school staff will provide the student's parent with additional resources and offer them the opportunity to participate in a follow-up conference. This will be coordinated through an administrator, teacher, counselor, or clinician.
- I. Following restraint or seclusion, staff may access support from the Employee Assistance Program (EAP).
- J. The principal or designee shall regularly, at least quarterly, review the use of physical restraint or seclusion to ensure compliance with school division policy and procedures, and, when there are multiple incidents within the same classroom or by the same individual, the principal or designee shall take appropriate steps to address the frequency of use.
- K. The Department of Special Services (DSS) and other central office departments shall regularly, at least quarterly, review the use of physical restraint or seclusion to ensure compliance with school division policy and procedures, and, when there are multiple incidents within the same classroom or by the same individual, the director of Intervention and Prevention Services or designee shall take appropriate steps to address the frequency of use.

## **IX. INTERVENTION AND PREVENTION**

- A. In the initial development and subsequent review and revision of a student's IEP or Section 504 plan, the student's IEP or Section 504 team shall consider whether the student displays behaviors that are likely to result in the use of physical restraint or seclusion. If the IEP or Section 504 team determines that a future use is likely, the team shall consider, among other things, the need for: (i) a Functional Behavioral Assessment (FBA); (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; (iii) any new or revised behavioral goals; and (iv) any additional evaluations or reevaluations.

Within ten (10) school days following the first school day in a single school year on which an incident of physical restraint or seclusion has occurred, the student's IEP or 504 team shall meet to discuss the incident and to consider, among other things, the need for: (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; (iii) any new or revised behavioral goals; and (iv) any additional evaluations or reevaluations.

- B. For students not described in Subsection A, within ten (10) school days of the first school day in a single school year on which an incident of physical restraint or seclusion has occurred, a team consisting of the parent, the principal or designee, a teacher of the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members, such as a school psychologist, school counselor, or school resource officer, as determined by the school division, shall meet to discuss the incident and to consider, among other

things, the need for: (i) an FBA; (ii) a new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; and (iii) a referral for evaluation.

- C. Nothing in this section shall be construed to (i) excuse the team or its individual members from the obligation to refer the student for evaluation if the team or members have reason to suspect that the student may be a student with a disability; or (ii) prohibit the completion of an FBA or BIP for any student, with or without a disability, who might benefit from these measures but whose behavior has resulted in fewer than two incidents of physical restraint or seclusion in a single school year.

## **X. TRAINING**

FCPS will:

- A. Ensure that all school personnel receive evidenced-based training that focuses on skills related to positive behavior support, conflict prevention, de-escalation, and crisis response including follow-up support and social-emotional strategy support for students, staff, and families.
- B. Ensure that all school personnel receive evidenced-based, initial training regarding positive behavior support, conflict prevention, de-escalation, crisis response, including follow-up support and social-emotional strategy support for students, staff, and families, and the regulations, policies, and procedures governing the use of physical restraint and seclusion, including the appropriate use of effective alternatives to physical restraint and seclusion.
- C. Provide evidenced-based, advanced training in the use of physical restraint and seclusion for at least one administrator in every school building, and for personnel assigned to work with any student whose IEP or Section 504 team determines the student is likely to be physically restrained or secluded. Advanced training will focus on (i) appropriate use of effective alternatives to physical restraint and seclusion and (ii) the proper use of restraint and seclusion.
- D. Ensure that any initial or advanced training is evidence-based.
- E. Teachers and other personnel will be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.
- F. Periodic reviews of training programs will be conducted to ensure programs reflect changes in state policy.

## **XI. ANNUAL REPORTING AND REVIEW**

- A. The principal or designee shall submit to the Division Superintendent, through the Assistant Superintendent of Special Services, a report on the use of physical restraint and seclusion in the school based on the individual incident reports completed and submitted to the principal or designee by school personnel.

- B. The Division Superintendent shall report on the use of physical restraint and seclusion to the School Board at least once a year prior to the annual submission to the Superintendent of Public Instruction.
- C. The Division Superintendent shall annually report the frequency of such incidents to the Superintendent of Public Instruction on forms that shall be provided by the Department of Education and shall make such information available to the public.
- D. Consistent with § 22.1-253.13:7. D, a current copy of FCPS policies and procedures regarding restraint and seclusion shall be posted on the school division's website and shall be available to employees and to the public. Printed copies of such policies and procedures are available at the School Board Office as needed to citizens who do not have online access.
- E. The School Board will review this policy at least annually and update it as needed considering the distinctions in emotional and physical development between elementary and secondary students and between students with and without disabilities and shall give due consideration to practices that encourage parent involvement and collaboration with regard to these matters.

Legal reference: Code of Virginia, Section 22.1-279.1, Corporal Punishment  
Code of Virginia, 8VAC20-750-80, Prevention; multiple uses of restraint or seclusion

See also the current versions of: Regulation 2601, Student Rights and Responsibilities Booklet  
Regulation 2606, Teacher Removal of Students from Classes  
Regulation 2610, Rules of Conduct and Disciplinary Procedures  
Policy 4410, Education Employee Obligations and Rights