

AN ACT

ENTITLED, An Act to require school districts to adopt a policy limiting the use of restraint and seclusion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 13-32 be amended by adding a NEW SECTION to read:

The school board of each school district shall adopt or revise a school district policy for school district employees on the use of restraint and seclusion. The policy shall contain the following provisions:

- (1) A procedure for notifying the parent or guardian of the student, unless the student is emancipated, of an incident requiring the use of restraint or seclusion;
- (2) A prohibition on the use of prone restraint, defined as physical pressure applied to any part of the student's body to keep the student in a face down position on the floor or other surface, except when the use is necessary and reasonable in manner and moderate in degree; and
- (3) A prohibition on the use of involuntary confinement of a student locked alone in a room, unless there is a clear and present danger.

An Act to require school districts to adopt a policy limiting the use of restraint and seclusion.

I certify that the attached Act  
originated in the

SENATE as Bill No. 46

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 46

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State

**I. Policy Rationale and Philosophy:**

Reasonable efforts should be made to prevent the use of restraint and the use of seclusion. A non-aversive effective behavioral system should 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.

The District believes that the school environment should be one in which the care, safety, security and welfare of all students and staff members are priorities. Efforts to promote positive interactions and solutions to potential conflict should be extensive. In the event that an individual's behavior presents a threat of imminent harm to self or others the use of approved physical intervention or seclusion strategies to maintain a safe environment may be used as a last resort.

**II. Definitions:**

a. Physical Restraint:

- i. The use of physical contact that immobilizes or reduces the ability of a student to move their arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint.
- ii. Physical restraint does not include brief, but necessary physical contact for the following or similar purposes:
  1. To break up a fight;
  2. To knock a weapon away from a student's possession;
  3. To calm or comfort;
  4. To assist a student in completing a task/response if the student does not resist the contact;
  5. To prevent an impulsive behavior that threatens the student's immediate safety (i.e. running in front of a car).

b. Seclusion:

The involuntary isolation of a student in a room, enclosure or space from which the student is prevented from leaving. It does not include a timeout.

- c. Time Out:  
A behavioral intervention in which a student, for a limited or specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior.

### **III. Requirements for the use of Physical Restraint:**

Physical restraint may be used only when there is an immediate risk of physical harm to the student or others and no other safe and effective intervention is possible. If physical restraint is applied the staff member must:

- a. implement in a manner that is age and developmentally appropriate;
- b. ensure safety of other students and protect the dignity and respect of the student involved. Combine use with other approaches (non-physical interventions are always preferred) that will diminish the need for physical intervention in the future;
- c. use the least amount of force necessary, for the least amount of time necessary;
- d. be appropriately-trained;
- e. continually observe the student in restraint for indications of physical or mental distress;
- f. contact appropriate emergency entities according to district crisis policy if at any point the staff assesses that the intervention is insufficient to maintain safety of all involved;
- g. remove the student from physical restraint immediately when the immediate risk of physical harm to self or others has dissipated; following the use of physical restraint, the individual should be assessed for injury or psychological distress and monitored as needed following the incident.

### **IV. Prohibited Practices for Use of Restraints:**

Staff members are not to use any physical restraints for which they have not been trained by the district. Staff members are not to use any unauthorized physical restraints. This includes but is not limited to:

- a. Prone restraint, which is physical pressure applied to any part of the student's body to keep the student in a face down position on the floor or other surface, except when the use is necessary and reasonable in manner and moderate in degree;
- b. Any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that involves the use of pinning down a student by placing knees to the torso, head, and or neck of the student;
- c. Using any method that is capable of causing loss of consciousness or harm to the neck or restricting respiration in any way;
- d. Uses pressure point, pain compliance, or joint manipulation techniques;

- e. Corporal punishment;
- f. Dragging or lifting of the student by the hair or ear or by any type of mechanical restraint;
- g. Deprivation of basic needs;
- h. Chemical restraint;
- i. Mechanical restraint (that does not include devices used by trained school personnel, or by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed);
- j. Using other students or untrained staff to assist with the hold or restraint;
- k. Securing a student to another student or fixed object;
- l. Aversive behavioral interventions; or
- m. Seclusion in a locked room or area.

**V. Requirement for Use of Seclusion:**

Given a threat of immediate risk of physical harm to the student or others, the following principles must always be applied:

- a. A room or area used for seclusion must:
  - i. provide for adequate space, lighting, ventilation, clear visibility and the safety of the student; and
  - ii. not be locked.
- b. Staff must:
  - i. implement in a manner that is age and developmentally appropriate;
  - ii. ensure safety of other students and protect the dignity and respect of the student involved;
  - iii. the least amount of time necessary;
  - iv. be appropriately-trained;
- c. staff must continually observe the student for the duration of the seclusion;
- d. if at any point the staff assesses that the intervention is insufficient to maintain safety of all involved, emergency personnel will be contacted;
- e. seclusion ceases when the immediate risk of physical harm to self or others has dissipated;
- f. upon each use of seclusion, the student shall be assessed for injury or psychological distress and monitored as needed following the incident.

**VI. Prohibited for Use of Seclusion:**

- a. Use of seclusion in any environment that does not meet the above criteria.
- b. Deprivation of basic needs;
- c. Seclusion shall not be used;
  - i. As a form of discipline/punishment
  - ii. As a means to coerce, retaliate or in a manner that endangers a student;

- iii. For the convenience of staff;
- iv. As a substitute for an educational program;
- v. As a substitute for less restrictive alternatives;
- vi. As a substitute for inadequate staff; and/or
- vii. As a substitute for positive behavior supports or another crisis prevention.

**VII. Reporting and De-Briefing Requirements after the use of Physical Restraint or Seclusion:**

- a. The staff member(s) using physical restraint or seclusion shall complete all district required reports and document staff's observations of the student.
  - i. As soon as possible under the circumstances the staff member(s) using physical restraint or seclusion shall inform the appropriate school administrator/designee of the use of physical restraint or seclusion.
  - ii. The District's Incident Report shall be completed upon occurrences of physical restraint or seclusion.
  - iii. Completion of the form and submission of the Incident Report to the appropriate administrator/designee should be done the same day the staff member(s) used physical restraint or seclusion.
  - iv. An administrator/designee shall attempt to contact the parent/guardian during the same day of incident.
  - v. A copy of the Incident Report should be made available to parent/guardian by the administrator/designee within 24 hours after receipt of the Incident Report.
- b. The administration/designee may conduct a formal debriefing with all involved staff and parents and, if appropriate, the student;
  - i. Debrief utilizing the Districts Debriefing Form.
  - ii. evaluate the trigger for the incident, staff response, and methods to address the students behavioral needs;
  - iii. During the debrief, if the behavior is noted as a pattern of dangerous behavior that leads to the use of restraint and/or seclusion, a Functional Behavior Assessment, and/or a Behavior Intervention Plan may be considered.

**VII. Training and professional development:**

- a. The district will ensure that an appropriate number of personnel in each building are trained in crisis management and de-escalation techniques.
- b. The school district will maintain written or electronic documentation on training provided and lists of participants in each training.

**VIII. District Monitoring:**

- a. The administrator/designee shall monitor the implementation of this policy.
- b. This policy shall be accessible on the district's website.

**IX. Complaint:**

- a. A parent/guardian who feels that a school employee violated this policy

may file a complaint pursuant to Policy KL: Complaint Against School Employee.

- b. If the student is a student with a disability, the parent/guardian of the student with a disability may file a complaint with the South Dakota Department of Education, Office of Special Education instead of filing a complaint pursuant to Policy KL: Complaint Against School Employee.

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Associated School Boards of South Dakota

Date Adopted:

**Policy Reference**

**Description**

KL

COMPLAINT AGAINST SCHOOL EMPLOYEE

Associated School Boards of South Dakota	NEPN Code: JGB-E(1)
Sample Exhibit	

**RESTRAINT AND SECLUSION  
INCIDENT REPORT FORM**

Student Name \_\_\_\_\_ Date of incident \_\_\_\_\_

Does this student have a disability?    ---    Yes    ---    No

If yes, what is the disability? \_\_\_\_\_

Student ethnicity: \_\_\_\_\_ Gender: \_\_\_\_\_ Age: \_\_\_\_\_

Teacher/class/grade \_\_\_\_\_

Staff person(s) initiating restraint; others present/involved:

Staff person(s) initiating seclusion; others present/involved:

Describe the behavior that led to restraint/seclusion, including time, location, activity, others present, other contributing factors:

Procedures used to attempt to de-escalate the student prior to using restraint/seclusion:

Describe the restraint/seclusion:

Duration of time of restraint/seclusion

\_\_\_\_\_  
Staff member submitting report

Submitted to Administration/Designee At \_\_\_\_\_ Time \_\_\_\_\_ Date \_\_\_\_\_



Associated School Boards of South Dakota	NEPN Code: JGB-E(2)
Sample Exhibit	

**RESTRAINT AND SECLUSION  
DEBRIEFING FORM**

Student: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Date of Debriefing: \_\_\_\_\_

Present:

Name	Position	Signature	Has the staff completed restraint training?

1. Give a brief description of the circumstances (antecedents) leading up to this incident.
2. Give a summary of the incident. Including Intervention used and outcomes.
3. From information gained, what changes (if any) should be made?
4. Has a support plan been initiated?                      Yes      No  
    If yes, who was contacted?
5. If applicable, how will the support plan affect any of the following:
  - Behavior intervention plan (BIP)
  - 504 plan
  - Individualized Education plan(IEP)
  - Does the team need to reconvene?
6. If yes, name Is this a repeated instance of restraint or seclusion, if so, a Functional Behavioral Assessment (FBA) may be considered. Has an FBA been initiated? \_Yes \_No completed? \_Yes \_No

Additional comments (if any)

JGB

### Seclusion and Restraint

1) The Huron School will notify the parent or guardian of the student, unless the student is emancipated, of an incident requiring the use of restraint or seclusion. This will be done within the school day if school is still in session that day.

(2) No employee of the Huron School District will use the method of prone restraint, defined as physical pressure applied to any part of the student's body to keep the student in a face down position on the floor or other surface, except when that use is necessary and reasonable in manner and moderate in degree.

(3) No student will be placed in involuntary confinement in a locked room alone unless there is a clear and present danger.