



## The Birches Academy of Academics and Art Child Restraint and Seclusion Policy

The Birches Academy of Academics and Art authorizes only trained school personnel using extreme caution to use restraint to ensure the immediate physical safety of persons when there is a substantial and imminent risk of serious bodily harm to the child or others and when prevention strategies and interventions have failed or have been deemed inappropriate.

The determination of whether the use of restraint is justified may be made with consideration of all relevant circumstances, including whether continued acts of violence by a child to inflict damage to property will create a substantial risk of serious bodily harm to the child or others. Restraint may never be used explicitly or implicitly as punishment for the behavior of a child.

The practice of seclusion should be avoided though may be used if a child's behavior poses a substantial or imminent risk of physical harm to himself/herself or others, and must only be used by trained professionals as a last resort. Seclusion may not be used if its use subjects a student to ridicule, humiliation or physical or emotional harm. Seclusion may never be used as punishment or discipline. When permitted by 126-U: 5-a, seclusion may only be imposed only with continued visual and auditory monitoring by a person trained in the safe use of seclusion and in rooms which:

- Are of a size that is appropriate for the chronological and developmental age, size and behavior of the child placed
- Have a ceiling height that is compatible with that of other rooms
- Are equipped with heating, cooling, ventilation and lighting systems that are comparable to other rooms
- Free of objects that pose danger to a child placed in the room
- Have doors that are not equipped with locks or equipped with devices that automatically disengage in case of an emergency, i.e. fire, need to provide immediate medical attention, need to remove the child to a safe location during lockdown or other critical situations that necessitate the removal of the child from seclusion to a safe location
- Are equipped with unbreakable observation windows or equivalent devices to allow safe, direct and uninterrupted observation of every part of the room

### **Definitions**

***Restraint*** is bodily physical restriction or any device that immobilizes a person or restricts the freedom of movement of the torso, head, arms or legs. It includes mechanical restraint, physical restraint and medication restraint used to control behavior in an emergency or any involuntary medication. It is limited to actions taken by persons who are school or facility staff members, contractors or otherwise under the control or direction of a school or facility.

***Seclusion*** is the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock or other mechanical device or barrier. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.

***Substantial Risk*** is the serious, imminent threat of bodily harm where there is the ability to enact such harm. Substantial risk shall exist only if all other less restrictive alternatives such as positive



*and constructive methods to de-escalate potentially dangerous situations have been exhausted and have failed, or the level of risk prohibits exhausting other means.*

**Trained Staff** are those individuals who successfully complete and stay current in a training program that results in acquisition of skills in preventing restraints, evaluating risk of harm in an individual situation, use of approved techniques and monitoring the effect of the restraint.

### **Restraint is not:**

- Brief touching or holding to calm, comfort, encourage or guide a child, so long as limitation of freedom of the child's movement does not occur.
- Temporarily holding a student's hand, wrist, arm, shoulder or back for the purpose of inducing the child to stand, if necessary, and then walk to a safe location so long as the child is in an upright position and moving toward a safe location.
- Physical devices, such as orthopedically prescribed appliances, surgical dressings and bandages, and supportive body bands, or other physical holding when necessary for routine physical examinations and tests or for orthopedic, surgical and other similar medical treatment purposes, or when used to provide support for the achievement of functional body position or proper balance or to protect a person from falling out of bed, or to permit a child to participate in activities without the risk of physical harm.
- The use of seat belts, safety belts or similar passenger restraints during transportation of a child in a motor vehicle.
- The use of force by a person to defend himself/herself or a third person from what is believed to be the imminent use of unlawful force by a child and the degree of force is necessary for the purpose yet does not immobilize or restrict the freedom of movement torso, head, arms or legs of any child.
- IEPs or protocols for specific students who need therapies that include holding or touching must be explicit and the trained staff member who uses the protocol as defined shall make certain that the Dean of School is aware of its use and that any use be documented with the safekeeping of an accurate record.
- Physical devices or other physical holding when necessary used to provide support for the achievement of functional body position or proper balance or to protect a person from falling, or to permit a child to participate in activities without the risk of physical harm.

### **Seclusion is not:**

- Seclusion does not include voluntary separation from others on the child's part as long as the child is able to leave. For example, if a student chooses to give himself/herself a time to cool down in an area away from other kids, but where the student can leave voluntarily, that is not seclusion for the purposes of this law.
- Seclusion does not include circumstances where a student is separated from other students but there is no physical barrier between the child and others.



## **Training**

The Birches Academy of Academics and Art shall have a minimum of one individual available during school hours trained in the use of prevention strategies, physical restraint procedures and seclusion guidelines.

All staff will follow the guidelines and are prohibited from the use of restraint techniques or seclusion other than those identified and trained in accordance with RSA 126-U and Amended RSA 126-U.

## **Transportation**

The Dean of School shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a student to a location outside of the school and the procedure shall:

- Prevent physical and psychological trauma
- Respect the privacy of the student
- Reassure the least restrictive means necessary for the safety of the student.

## **Decision Making in the Use of Child Restraint or Seclusion**

If the Dean of School anticipates that the use of physical restraint may be necessary for a student, a written plan for that student shall be prepared and a copy of the policy and procedures provided to the parent or guardian.

The Dean of School requests notification and a share of relevant information from a parent or guardian if a child has a medical or psychological condition, past experiences or patterns of behavior that may necessitate the use of restraint and/or de-escalation techniques that have proven to be successful in the control of a child's behavior.

The Birches Academy shall have a written policy and procedure for managing the behavior of children. Such policy shall describe how and under what circumstances seclusion or restraint is used and shall be provided to the parent, guardian, or legal representative of each child at such facility or school.

## **Processing the Incident Report and Notice to Parents**

A staff member not involved with the incident shall verify that the student has restored emotional and behavioral control with unremarkable concerns or effects.

The individual(s) involved with the incident shall complete a written report no later than the end of the school day. A copy of the incident report will be placed in the student's file and shall remain confidential though available upon request to the parent or guardian.

Unless prohibited by court order, the Dean of School or designee shall make reasonable efforts to verbally notify the child's parent or guardian and guardian ad litem whenever seclusion or restraint has been used on a child. Such notification shall be made as soon as possible and in no event later



than the time of return of the child to the parent or guardian or at the end of the business day, whichever is earlier.

Pursuant to SB 396 adopted by the NH Legislature and effective as of September 30, 2014, the use of restraints and seclusion on children in schools must be reported within five days of the incident by the employee or the supervisor of the employee responsible for its use. The written notification shall include:

- Date, time and duration of seclusion or restraint
- Description of the child before, during and after the occurrence
- Description of any relevant events preceding the use of seclusion or restraint including justification for initiating the use of restraint
- Name(s) of persons involved in the occurrence
- Description of the action of the facility or the school employee involved before, during and after the occurrence
- Description of any interventions used prior to the use of seclusion or restraint
- Description of the seclusion or restraint used, including any hold used and the reason the hold was necessary
- Description of any injuries sustained by and any medical care administered to the child, employees, or others before, during and after the use of seclusion or restraint
- Description of any property damage associated with the occurrence
- Description of actions taken to address the emotional needs of the child during and following the incident
- Description of future actions to be taken to control the child's problem behaviors
- Name and position of the employee completing the notification
- Anticipated date of the final report.

Unless prohibited by court order, the Dean of School or designee shall within two business days of receipt of the notification, send or transmit by first class mail or electronic transmission to the child's parent, guardian, or guardian ad litem the information contained in the notification. Each notification prepared under this section shall be retained by the school for review in accordance with rules adopted under RSA 541-A by the State Board of Education and the Department of Health and Human Services.

### **Legal References**

*Amended RSA 126-U Limiting the Use of Child Restraint Practices in Schools and Treatment Facilities New Hampshire SB. 396 Child Restraint and Seclusion in Schools passed 8-01-2014 effective 09-30-2014*