



NH Department of Health & Human Services
Division for Children, Youth & Families

DCYF Standard Operating Procedure

1150.7 SCREENING RSA 126-U COMPLAINTS

Policy Directive: **22-43**

Effective Date: **July 2022**

Implements Policy: **1150**

Approved:

Joseph E. Ribsam, Jr., DCYF Director

This SOP defines screening for RSA 126-U complaints.

Procedure

The following information is to support the implementation of the above referenced policy. This document shall not preclude staff from using their professional judgement based on individual circumstances, consistent with the requirements of the policy.

- I. Central Intake staff will consider, for the purpose of this SOP, any oral or written complaint whereas the reporter indicates a concern RSA 126-U regarding the improper use of restraint or seclusion occurring at:
 - A. The state's secure facility for the commitment or detention of children pursuant to RSA 169-B;
 - B. Child care agencies regulated by RSA 170-E (Child Day Care, Residential Care, and Child-Placing Agencies); and
 - C. Any foster home or residential treatment setting used for the placement of children at any stage of proceedings under RSA 169-B, RSA 169-C, or RSA 169-D or following disposition under those chapters.
- II. Central Intake staff will ensure a complaint is complete according to the provisions of He-C 901.09 (c), by ensuring the complaint includes:
 - A. The date or approximate date of the alleged incident;
 - B. The location of the alleged incident;
 - C. The name of the child(ren) subject to the alleged restraint or seclusion, if known;
 - D. The name of the agency/facility employee or foster family home individual alleged to have restrained or secluded the child(ren), if known;
 - E. A description of the alleged restraint or seclusion;
 - F. The date of complaint; and
 - G. The name of complainant if the complainant is willing to disclose their name.

1. A complainant may request to keep their identity confidential throughout the complaint process and their identity will not be disclosed except as necessary to resolve the complaint or as required by law.
- III. Central Intake staff will screen each alleged situation of restraint or seclusion to determine if the restraint or seclusion was conducted in a manner contrary to what is allowed in RSA 126-U. These violations include:
- A. Restraints utilizing dangerous restraint techniques according to RSA 126-U:4, such as:
 1. Obstructing a child's respiratory airway or impairing breathing or respiratory capacity or restricts the movement required for normal breathing;
 2. Placing pressure or weight on, or causing the compression of the chest, lungs, sternum, diaphragm, back, or abdomen;
 3. Obstructing the circulation of blood;
 4. Involving pushing on or into the mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths;
 5. Endangering a child's life or significantly exacerbating a child's medical condition;
 6. Intentionally causing pain, including the use of pain to obtain compliance;
 7. Including the intentional release of noxious, toxic, caustic, or otherwise unpleasant substances for the purpose of controlling or modifying the behavior of or punishing the child; or
 8. Including any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma;
 - B. Restraints used in non-emergency situations or explicitly or implicitly as punishment contrary to RSA 126-U:5;
 - C. Use of seclusion in violation of RSA 126-U:5-a, such as:
 1. Used as a form of punishment;
 2. Implemented by untrained staff and not the least restrictive intervention tried considering the history of the child; or
 3. That subjects the child to the risk of ridicule, humiliation, or emotional or physical harm;
 - D. Use of seclusion in violation of RSA 126-U:5-b such as seclusion in a room:

1. Inappropriate for the chronological and developmental age, size, and behavior of the child placed in it;
 2. Having a ceiling height that is not comparable to the ceiling height of the other rooms in the building in which it is located;
 3. Not equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located;
 4. Where there are objects that poses a danger to the child being placed in the room; or
 5. Have doors that are not equipped with devices that automatically disengage the lock in case of an emergency;
- E. Restraints or seclusions resulting in injury or death according to RSA 126-U:10;
- F. Extended restraints not properly authorized according to RSA 126-U:11, such as:
1. Restraint for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm;
 2. Restraint not continuously and directly observed by personnel trained in the safe use of restraint;
 3. Restraint exceeding 15 minutes without the approval of the director of a facility or a supervisory employee designated by the director to provide such approval; or
 4. Restraints exceeding 30 minutes, and subsequent 30-minute intervals, without a face-to-face assessment of the mental, emotional, and physical well-being of the child and a determination the restraint is being conducted safely, by the facility director or by a supervisory employee designated by the director who is trained to conduct such assessments; and
- G. Use of mechanical restraints during the transport of a child in violation of RSA 126-U:12, such as:
1. Use of mechanical restraints during the transportation of the child was unnecessary due to case-specific circumstances;
 2. Reasonable and appropriate measures consistent with public safety were not made when transporting or escorting the child to a location outside the facility, resulting in:
 - (a) Physical and psychological trauma;
 - (b) Violating the privacy of the child; and

(c) Was not the least restrictive means necessary for the safety of the child.

- IV. Complaints meeting the criteria in sections I, II, and III will be screened-in and referred to the Special Investigations Unit via the DCYF electronic information system for further investigation for the improper use of restraint or seclusion.
- V. Complaints that do not meet the criteria in any section I, II, or III will be screened out and the licensing or responsible agency for the facility/foster home will be notified.

Frequently Asked Questions

Q1. What happens if there is alleged abuse or neglect and a complaint of a RSA 126-U violation?

- A Complaints of a RSA 126-U violation also meeting abuse/neglect screen-in criteria will be sent to the Special Investigations as both a report of abuse/neglect and as an investigation for the improper use of restraint or seclusion.
- A Reports for abuse/neglect will also be screened for violations of RSA 126-U when the reporter requests it.

Glossary and Document Specific Definitions

A - B C - D E - F G - I J - L M - N O - Q R - S T - V W - Z

Document Change Log

PD	Modification Made	Approved	Date
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