

**North Gibson School Corporation
Seclusion and Restraint Complaint Procedure**

July 2021

1. Introduction

The purpose of the North Gibson School Corporation’s *Seclusion and Restraint Complaint Procedure* (“Complaint Procedure”) is to ensure that the North Gibson School Corporation responds in a timely fashion to all Complaints regarding the use of Seclusion, Physical Restraint, Shortened School Day, Homebound Instruction, and Calls to Parents or Guardians to Come to the School Because of a Student's Behavior.

This *Seclusion and Restraint Complaint Procedure* is not intended to interfere with the rights of a student, parent or guardian, or other individual to pursue a Complaint with the agencies listed below.

United States Department of Justice
Civil Rights Division- Educational Opportunities Section
(202) 514-4092
education@usdoj.gov
<https://civilrights.justice.gov/report/>

United States Department of Education
Office for Civil Rights, Chicago Office
John C. Kluczynski Federal Building
230 S. Dearborn Street
37th Floor
Chicago, IL 60604
312-730-1560
312-730-1576 (fax)
OCR.Chicago@ed.gov

Indiana Civil Rights Commission
100 N. Senate Avenue, Room N300
Indianapolis, IN 46204
317-232-2600 (local)
800-628-6580 (toll free)
<https://secure.in.gov/apps/icrc/discrimination>

2. Definition of Terms

- A. **“School Corporation”** refers to the North Gibson School Corporation located in Gibson County, Indiana.
- B. **“Board”** refers to the Board of School Trustees of the North Gibson School Corporation.

- C. **"Administrators"** refers to all principals, assistant principals, and School Corporation-level supervisors who oversee or evaluate the performance of principals or assistant principals.
- D. **"Homebound Instruction"** refers to instruction outside of the school classroom setting in a student's home or another location (*e.g.*, medical placement or a public library).
- E. **"Calls to Parents or Guardians to Come to School Because of Student's Behavior"** refers to contacts by Administrators or staff to parents of students who are not on a shortened school day to come to the school because of the student's behavior unless the student has been assigned an Out-of-School Suspension ("OSS") or Expulsion.
- F. **"Physical Restraint"** refers to physical contact between School Corporation staff and a student in which the student unwillingly participates and that involves the use of a manual hold to restrict freedom of movement of all or a part of the student's body or to restrict normal access to the student's body. The term includes holding or grabbing a student to escort, compel, or coerce the student to move to another location within the school. It does not include a temporary touching of the hand, wrist, arm, shoulder, or back without applying pressure or force for the purpose of guiding or directing a student. An action need not be a CPI-trained technique to meet the definition of "Physical Restraint."
- G. **"Seclusion"** refers to the involuntary confinement of a student alone in a room or area. It includes the use of any room or area in which a student is involuntarily confined alone regardless of its name (including "time out," "green," "break," or "reset" rooms or a "quiet area" or "think about it spot"). It does not refer to any location where the school authorizes a student to go voluntarily to engage in calming or de-escalating behavior.
- H. **"Shortened School Day"** refers to any day that a student receives in-school educational services for less time than age/grade-level peers within the same school and/or school program.
- I. **"Student with a Disability" or "Students with Disabilities"** refers to a student(s) who has or would qualify to receive accommodations, reasonable modifications of policy, or disability-related services or supports under the Individuals with Disabilities Education Act ("IDEA"), the Americans with Disabilities Act ("ADA"), or Section 504 of the Rehabilitation Act of 1975 ("Section 504").
- J. **"Policy Violation"** means improper use of Seclusion, Physical Restraint, Shortened School Days, Homebound Instruction, and/or Calls to Parents or Guardians of Students to Come to School Because of the Student's Behavior. This includes a violation of Board Policy 5630.01 – Use of Restraint and Seclusion with Students.
- K. **"Complaint"** means a verbal or written report from students, parents/guardians, or any other individual who believes a student has been subjected to a Policy Violation or retaliation.

- L. **“Complainant”** means the student, parent or guardian, or other individual who files a Complaint.
- M. **“Respondent”** means the individual(s) alleged to have engaged in the Policy Violation(s) and/or retaliation.

3. Retaliation

Any act of retaliation against a person, or family member of a person, who makes a report, files a Complaint, participates as a witness, or in any other way solicits, encourages, or participates in this Complaint Procedure is prohibited. Specifically, the Board will not engage in or tolerate discrimination/retaliation, including: coercion, harassment, intimidation, or threatening or interfering with any individual who questions, makes a charge, testifies, assists, participates in, or declines to participate in the application of this Complaint Procedure to a Policy Violation as defined in Paragraph 2-P. In addition, the Board will not engage in or tolerate discrimination/retaliation against any individual who aids or encourages any person to participate in this Complaint Procedure.

4. Policy Violations

The School Corporation will investigate all alleged Policy Violations and/or retaliation claims as defined in this Grievance Procedure and/or in Board Policy 5630.01 – Use of Seclusion and Restraint with Students. In those cases where a Policy Violation is substantiated, the School Corporation will take immediate steps to end the violation, prevent its recurrence, and remedy its effects.

School Corporation employees, volunteers, contractors, or others subject to supervision by the Board must report Policy Violations and refer all Complaints to the Intervention Coordinator, Assistant Superintendent, or Director of Special Education (listed below). School Corporation employees, volunteers, contractors, or others subject to supervision by the Board who are found to have committed Policy Violation(s) and/or acts of retaliation or who have failed to report Policy Violation(s) and/or acts of retaliation about which they have knowledge, will be subject to appropriate disciplinary action, up to and including termination of employment, and/or will be required to complete additional training.

5. Intervention Coordinator

The following individual serves as the “Intervention Coordinator” for the School Corporation.
Jeanette Lobeck
Intervention Coordinator
North Gibson School Corporation
1104 N. Embree Street
Princeton, IN 47670
jlobeck@wcs.k12.in.us
(812) 385-4851

Alleged Policy Violations may also be reported to the following individuals, who will then

immediately forward the Complaint to the Intervention Coordinator:

Dr. Eric Goggins
Assistant Superintendent
North Gibson School Corporation
1104 N. Embree Street
Princeton, IN 47670
(812) 385-4851
egoggins@ngsc.k12.in.us

Brian Harris
Director of Special Education
Gibson County Special Education Cooperative
3321 W 800 S
Fort Branch, IN 47648
(812) 753-4230
brian.harris@sgibson.k12.in.us

The names, titles, and contact information for the Intervention Coordinator, Assistant Superintendent, and Director of Special Education for the Gibson County Special Education Cooperative also will be available on the School Corporation's website.

The Intervention Coordinator, Assistant Superintendent, and Director of Special Education for the Gibson County Special Education Cooperative also will be available during regular school/work hours to discuss concerns related to Policy Violations and to assist students, parents, and other individuals who seek support to file a Complaint pursuant to this Grievance Procedure.

The Intervention Coordinator, Assistant Superintendent, and Director of Special Education for the Gibson County Special Education Cooperative are assigned to accept Complaints of alleged Policy Violations directly from any student, parent, or any other person, or to receive Complaints that are initially filed with a school building administrator. Upon receipt of a Complaint either directly through the filing of the Complaint or through a school building or district-level administrator, the Intervention Coordinator or designee will begin a formal investigation of the allegations contained in the Complaint. Following the investigation of a Complaint, the Intervention Coordinator will prepare recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. If the Superintendent is alleged to have committed the Policy Violation(s) and/or retaliation, the Intervention Coordinator shall submit the recommendations to the Board President. See below for further details about this process.

6. **Reports and Complaints of Policy Violations**

Students, parents/guardians, or any other individuals who believe a student has been subjected to a Policy Violation(s) and/or retaliation are encouraged to report the violation(s) to the Intervention Coordinator, the Assistant Superintendent, or the Director of Special Education. Students, parents/guardians, and other individuals are encouraged to promptly report Policy

Violation(s) to the Intervention Coordinator, Assistant Superintendent, or Director of Special Education so that the School Corporation may address the conduct in a timely manner.

7. **Complaint Investigation Procedure**

Any student, parent/guardian, or other individual who believes a student has been subjected to a Policy Violation and/or retaliation may file a Complaint, either orally or in writing, with the Intervention Coordinator, Assistant Superintendent, or Superintendent.

All Complaints of alleged Policy Violation(s) and/or retaliation should include the following information to the extent it is known:

- a. The identity of the student who allegedly experienced a Policy Violation.
- b. The identity of the individual(s) believed to have engaged in or be engaging in the Policy Violation(s) or retaliation (also known as the "Respondent");
- c. A detailed description of the facts upon which the Complaint is based;
- d. A list of potential witnesses; and
- e. The resolution sought by the Complainant.

If the Complainant is unwilling or unable, including due to disability or Limited-English proficiency, to provide a written statement including the information set forth above, the Intervention Coordinator shall ask for such details in an oral interview, with a translator present, if necessary. Thereafter, the Intervention Coordinator will prepare a written summary of the oral interview and the Complainant will be asked to verify the accuracy of the reported Complaint by signing the document. The School Corporation will provide any assistance needed by the Complainant to understand and verify the written Complaint and sign the document. The District will provide an interpreter or a translated version of the document in the event that the Complainant has Limited English proficiency.

Upon receiving a formal Complaint, the Intervention Coordinator will consider whether any action should be taken in the investigatory phase to protect the Complainant from further Policy Violation(s) and/or retaliation. Such actions may include, but are not limited to, a change of building, class assignment, and/ or class schedule for the Complainant and/or the Respondent. In making such a determination, the Intervention Coordinator should consult the Complainant to assess his/her agreement to any action deemed appropriate. If the Complainant is unwilling to consent any change that is deemed appropriate by the Intervention Coordinator, the Intervention Coordinator may still take whatever actions s/he deems appropriate in consultation with the Superintendent and/or Board Attorney, and consistent with all other legal obligations.

Within two (2) business days of receiving the Complaint, the Intervention Coordinator or a designee will initiate an investigation to determine whether the Complainant has been subjected to the alleged Policy Violation(s) and/or retaliation.

Contemporaneously, the Intervention Coordinator or a designee will inform the Respondent that a Complaint has been received. The Respondent will be informed about the nature of the allegations, and a copy of this *Seclusion and Restraint Complaint Procedure* shall be provided to the Respondent. The Respondent also must be informed of the opportunity to submit a written response to the Complaint to the Intervention Coordinator within five (5) business days.

Although certain cases may require additional time, the Intervention Coordinator or a designee will attempt to complete an investigation into the allegations of harassment or retaliation within thirty (30) calendar days of receiving the formal Complaint.

The investigation will include:

- a. interview(s) with the Complainant;
- b. interview(s) with the Respondent;
- c. interviews with any other witness(es) who may be expected to have any information relevant to the allegations; and
- d. consideration of all documentation, physical locations, or other information, presented by the Complainant, Respondent, or any other witness(es) that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Intervention Coordinator or designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation. The Report will provide recommendations based on the evidence, the definition of Policy Violations and unlawful retaliation, and State and Federal law necessary to support the conclusion of whether the Complainant has been subjected to Policy Violation(s) and/or retaliation. If the Superintendent is alleged to have committed the Policy Violation(s) and/or retaliation, the Intervention Coordinator shall submit the recommendations to the Board President. The Intervention Coordinator's recommendations must be based upon the totality of the circumstances. In determining if the alleged Policy Violation(s) and/or retaliation occurred, a preponderance of the evidence standard (i.e., it is more likely than not that Policy Violation(s) and/or retaliation occurred) will be used. The Intervention Coordinator may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the Intervention Coordinator's report and recommendations, the Superintendent (or Board President) must either: (1) issue a decision regarding whether alleged Policy Violation(s) and/or retaliation has been substantiated; or (2) request further investigation. If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) business days.

At the conclusion of the additional investigation, the Superintendent must issue a written decision. A copy of the Superintendent's decision will be delivered simultaneously to both the Complainant and the Respondent. A Complainant or Respondent who is dissatisfied with the decision of the Superintendent may appeal the Superintendent's decision to the Board by filing a

signed written request to the President of the Board within five (5) business days of their receipt of the Superintendent's final decision.

The Board shall meet with the parties within twenty (20) business days of the receipt of a written request to appeal. At this meeting, the parties have the right to present evidence, including testimony and/or exhibits, to the Board in support of their position. A copy of the Board's disposition of the appeal shall be sent simultaneously to each concerned party within ten (10) business days of this meeting. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a Complaint of alleged Policy Violation(s) and/or retaliation regardless of whether the student and/or parent or another individual pursues the Complaint. The Board also reserves the right to have the Complaint investigation conducted by an external person in accordance with this Complaint Procedure. The Complainant and the Respondent may be represented by an attorney, at their own cost, at any of the above-described meetings/hearings.

8. **Privacy/Confidentiality**

The Corporation will employ all reasonable efforts to protect the privacy of the Complainant(s), the Respondent(s), and the witnesses to the extent possible, consistent with the Corporation's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law.

All Complainants proceeding through the investigation process should be advised that their identities may be disclosed to the Respondent(s).

During the course of a formal investigation, the Intervention Coordinator or their designee will instruct all individuals who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a formal investigation will be instructed not to disclose any information that they provide or learn during the course of the investigation. Students and parents may disclose information about their own, or their child's, educational record or experience.

9. **Remediation**

In cases where the Complaint investigation results in a finding that an alleged Policy Violation(s) and/or retaliation is substantiated, in addition to stopping the Policy Violation and/or retaliation, the Intervention Coordinator must take action to remedy the effects. Remedial action may include but is not limited to providing a contact person to monitor the student, placing the student in a different class or building, providing tutoring or other academic supports to the student, allowing the student to retake tests or assignments, and/or providing counseling for the student.

10. **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against Policy Violation(s) and/or retaliation

by taking appropriate action reasonably calculated to stop Policy Violations and/or retaliation, prevent its recurrence, and remedy its effects.

While observing the principles of due process, Policy Violation(s) and/or retaliation may result in disciplinary action up to and including the discharge of an employee. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s), if any. Any discipline of Students with Disabilities will be in accordance with the Individuals with Disabilities Education Act ("IDEA") and the Federal and State regulations implementing the IDEA.

All sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end the Policy Violation(s) and/or retaliation, prevent its recurrence, and remedy its effects. Prior sanctions imposed on the Respondent(s) for similar past conduct shall be considered in determining the appropriateness of the sanction(s) imposed for the present conduct.

11. Retention of Public Records, Student Records, and Investigatory Records and Materials

The School Corporation will maintain all information, documents, electronically stored information ("ESI"), and electronic media created and received as part of an investigation, including but not limited to Complaints, responses, witness statements, documentary evidence, audio, video and/or digital recordings, handwritten and contemporaneous notes, e-mails related to the investigation and allegations, printouts, letters, determinations, and summaries in accordance with the School Corporation's records retention policy and schedule. The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

12. Notice

Notice of this Complaint Procedure and the identity of the Intervention Coordinator will be posted throughout the Corporation, published on the Corporation's website, and included in handbooks, letters to parents, incident reports, and all other documents regarding Seclusion and Physical Restraint of students.