

Board Policy Considerations: Policy JKA does not currently establish policy for the use of restraint or seclusion in District schools. Arizona Revised Statute (“A.R.S.”) 15-105 authorizes the use of restraint or seclusion techniques in schools under limited circumstances and allows school districts to establish policies and procedures for such use with the overall student population. More importantly, A.R.S. 15-105(d) mandates that school districts establish reporting and documentation procedures to be followed when a restraint or seclusion technique is used on a student.

A.R.S. 15-105 became effective in 2015 while the District was in the process of negotiating potential language for a District policy on restraint and seclusion with the OCR to resolve a complaint filed against the District. The District notified the OCR about A.R.S. § 15-105 and sought permission to use the definitions of “restraint” and “seclusion” identified in ARS 15-105 as part of a proposed revision to Policy JKA to resolve the OCR complaint. In February 2017, OCR agreed to use the A.R.S. § 15-105 definitions of “restraint” and “seclusion” to resolve the OCR complaint and approved the proposed revisions to Policy JKR. OCR has also requested that the District provide it with evidence of a plan for training employees on the revised Policy JKA no later than March 13, 2017.

The proposed revisions to Policy JKA meet the minimum requirements of federal and state law and, therefore, are appropriate for adoption by the Governing Board in its entirety. In addition, the District should also implement acceptable practices and procedures for use of restraint and/or seclusion techniques which may be accomplished by implementation of a JKA regulation, such as that attached, if and when the revisions to Policy JKA are approved.

The Governing Board has authority under Policy BG to implement the proposed changes to Policy JKA immediately in order to comply with Arizona law. The adoption of policy is a non-delegable duty of the Governing Board which can be done at any time without undergoing the default process outlined in Policy BG. In fact, Policy BG expressly states: “The Board may take action after hearing the Superintendent’s recommendations or, in its discretion, at any time.” Given this, it is recommended that the Governing Board take immediate action and adopt the revisions to Policy JKA at the March 7, 2017 meeting in order to comply with Arizona law and the requests of the OCR.