

OPPORTUNITY TRAINING CENTER USE OF PHYSICAL RESTRAINT AND SECLUSION ADMINISTRATIVE PROCEDURE

Section 1. Policy and Purpose

These procedures are established for the purpose of meeting the obligations of the Opportunity Training Center under state law/regulations governing the use of physical restraint and seclusion. These procedures shall be interpreted in a manner consistent with state law and regulations. Physical restraint and seclusion may only be used as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others.

Section 2. Definitions

Definitions for important terms in this procedure/policy include:

1. **Aversive procedure** means the use of a substance or stimulus, intended to modify behavior, which the person administering it knows or should know is likely to cause physical and/or emotional trauma to a student, even when the substance or stimulus appears to be pleasant or neutral to others. Such substances and stimuli include but are not limited to: infliction of bodily pain, (e.g. hitting, pinching, slapping), water spray, noxious fumes, extreme physical exercise, costumes, or signs.
2. **Behavior Intervention Plan (BIP)** is a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, and by strengthening replacement skills.
3. **Chemical Restraint** is the use of medication, including those administered PRN (as needed), given involuntarily to control student behavior.
4. **Covered Entity** means an entity that owns, operates or controls a school or educational program that receives public funds from the Maine Department of Education including, but not limited to: supported private schools, special purpose private schools, Career and Technical Education schools, public pre-kindergarten, and Child Development Services (CDS).
5. **De-escalation** is the use of behavior management techniques intended to cause a situation involving problem behavior of a student to become more controlled, calm and less dangerous, thus reducing the risk for injury or harm.
6. **Dangerous Behavior** is behavior that presents a risk of injury or harm to a student or others.
7. **Emergency** is a sudden, urgent occurrence, usually unexpected, but sometimes anticipated, that requires immediate action.
8. **Functional Behavioral Assessment (FBA)** is a school-based process that includes the parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and

how the behavior relates to the child's environment. The term includes direct assessments, indirect assessments and data analysis designed to assist the team to identify and define the problem behavior in concrete terms, identifying the contextual factors (including affective and cognitive factors) that contribute to the behavior, and formulate a hypothesis regarding the

general conditions under which a behavior usually occurs and the probable consequences that maintain the behavior. Formal documentation of the assessment by appropriately qualified individuals becomes part of the child's educational record.

9. **Risk of injury or harm** describes a situation in which a student has the means to cause physical harm or injury to him/herself or others and such injury or harm is likely to occur, such that a reasonable and prudent person would take steps instantly to protect the student and others against the risk of such injury or harm.
10. **Individualized Education Plan (IEP)** is a term used under special education law to reference the written document that states goals, objectives and services for students receiving special education.
11. **Individual Health Plan (IHP)** is a plan of action for a student with special health care needs, actual and potential. It is an adaptation of the nursing care plans commonly used in health care institutions.
12. **Mechanical Restraint** is any item worn by or placed on the student to limit behavior or movement and which cannot be removed by the student.
13. **Parent** means a parent, as defined in Title 20-A MRSA, section 1, subsection 20, with legal custody of a minor child, except that the "parent" of a child with disabilities means a parent as defined in the federal Individual with Disabilities Education Act, 20 United States Code, Section 1401 (23).
14. **Physical escort** is a temporary touching or holding for the purpose of inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted.
15. **Physical prompt** is a teaching technique that involves physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency.
16. **Physical restraint** is an intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily. Physical restraint does not include:
 - A. Physical escort: A temporary touching or holding inducing a student to walk to another location, including assisting the student to the student's feet in order to be escorted;
 - B. Physical prompt: A teaching technique that involves physical contact with the student and that enables the student to learn or model the physical movement necessary for the development of the desired competency;

- C. Physical contact: When the purpose of the intervention is to comfort a student and the student voluntarily accepts the contact;
 - D. Momentarily deflecting the movement of a student when the student's movements would be destructive, harmful or dangerous to the student or others;
 - E. The use of seat belts, safety belts or similar passenger restraints, when used as intended, during the transportation of a child in a motor vehicle; or
 - F. The use of a medically prescribed harness, when used as intended; or
 - G. A brief period of physical contact necessary to break up a fight.
- 17. **Positive alternatives** are a set of instructional and environmental supports to teach students pro-social alternatives to problem behaviors with high rates of positive feedback.
 - 18. **School Day** is a day in which a school or program is in operation as an instructional day and/or a teacher in-service day.
 - 19. **Seclusion** is the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.
 - 20. **Serious bodily injury** is any bodily injury that involves: (A) A substantial risk of death; (B) Extreme physical pain; (C) Protracted and obvious disfigurement; or (D) Protracted loss or impairment of the function of a bodily member, organ or mental faculty.
 - 21. **Student** is a child or adult aged 3 to 20 enrolled in a school or a program owned, operated or controlled by a covered entity as defined in this section.
 - 22. **Timeout** is an intervention where a student requests, or complies with an adult request for, a break, and is not covered by this rule. Timeout is not seclusion.

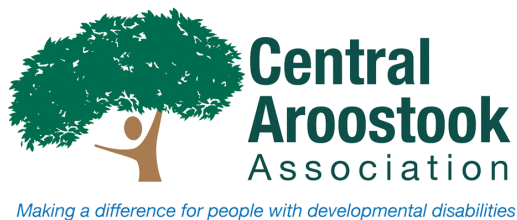
Section 3. Application of Rule

1. Actions covered

This rule applies to actions of a covered entity and its employees, contractors and agents during the conduct of the covered entity's educational program.

2. Contracts with non-covered entities

The Department of Education and any covered entity that places or funds the placement of a student in an educational program owned, operated or controlled by an entity other than a covered entity must include in the contract with that other entity a requirement that the entity and



its employees, contractors and agents comply with the rule while the student is engaged in the educational program.

3. **Relationship to Statutory Protection**

Nothing in this rule may be construed to restrict or limit the protections afforded under 20-A MRSA SS4009. The application of those protections to a person does not in any way relieve that person from the requirements and restrictions of this rule.

Section 4. Local Policy; Notice to Parents

1. **Local Policy Required**

All covered entities shall have local policies, consistent with this rule, regarding the use of physical restraint and seclusion. Covered entities must also have a procedure available by which parents may submit a complaint regarding the use of physical restraint or seclusion on their child, based upon which the covered entity shall investigate the circumstances surrounding the incident complained of, make written findings and, where appropriate, determine to take corrective action.

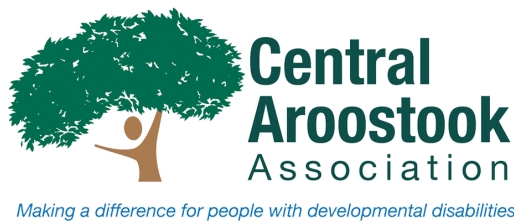
Covered entities shall revise existing policies or develop policies consistent with this rule within 90 calendar days of the effective date of this rule.

2. **Annual notification of rule and local policies**

The Opportunity Training Center shall provide annual notice to parents/legal guardians of this policy/procedure by means determined by the Executive Director/designee. The policy/procedure will go home in the first-day packet and be included in the student handbooks.

The covered entity shall provide overview and awareness information to all staff, including contracted providers, regarding the content of this rule and any local policies or procedures related to the use of physical restraint and seclusion.

Section 5. Seclusion



To the extent possible, seclusion will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated seclusion in an emergency, trained staff must be summoned to the scene as soon as possible.

A “timeout” where a student requests, or complies with an adult request for, a break is not considered seclusion under this procedure. Seclusion also does not include any situation where others are present in the room or defined area with the student (including but not limited to classrooms, offices and other school locations).

1. Permitted Uses Seclusion

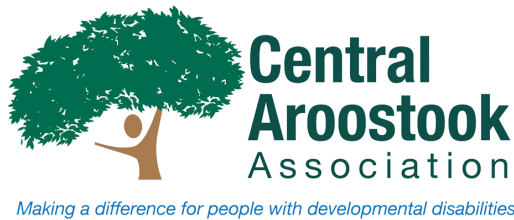
- A. Seclusion may be used only as an emergency intervention when the behavior of a student presents risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.
- B. Seclusion must be implemented by staff certified in a state-approved training program to the extent possible. If, due to the nature of the emergency, untrained staff have intervened and initiated a seclusion, trained personnel must be summoned to the scene and assume control of the situation as rapidly as possible.

2. Prohibited Uses of Seclusion

- A. Seclusion used for punitive purposes, staff convenience or to control challenging behavior.
- B. Seclusion may not be used to prevent property destruction or disruption of the environment in the absence of risk of injury.
- C. Seclusion may not be used as a therapeutic or educational intervention.
- D. Seclusion may not take place in a locked room.

3. Monitoring Students in Seclusion

- A. At least one adult must be physically present to continuously monitor a student in seclusion. The adult, while not present in the room or defined area, must be situated so that the student is visible at all times. Students must be continuously monitored until he/she no longer presents a risk of injury or harm to self or others.



- B. In the event of an injury to the student or staff, the applicable school policies and procedures should be followed.

4. Termination of Seclusion

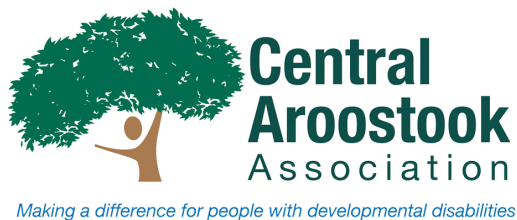
- A. The staff involved in the use of seclusion must continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the seclusion must be discontinued as soon as possible.
- B. The time must be recorded consistent with the requirements of the documentation section of this rule and local policy.
- C. The covered entity may request assistance from parents at any time during the incident.
- D. If attempts to release a student from seclusion have been unsuccessful and the student continues to present behaviors that create a risk of injury or harm to self or others, then the covered entity may request additional assistance from outside sources such as caregivers, case managers, crisis intervention teams, local EMS, or other community resources.
- E. If seclusion continues for more than ten (10) minutes, an administrator/designee shall determine whether continued seclusion is warranted, and shall continue to monitor the status of the seclusion every ten (10) minutes until the seclusion is terminated.

5. Location of Seclusion

Seclusion can be achieved in any part of a school building with adequate light, heat, ventilation and of normal room height. If a specific room is designated as a seclusion room, it must be a minimum of sixty (60) square feet; have adequate light, heat and ventilation; be of normal room height; contain an unbreakable observation window in a wall or door; and must be free of hazardous material and objects which the student could use to self-inflict bodily injury.

Section 6. Physical Restraint

To the extent possible, physical restraint will be implemented by staff certified in a training program approved by the Maine Department of Education. If untrained staff have intervened and initiated a physical restraint in an



emergency, trained staff must be summoned to the scene to assume control of the situation if the emergency continues.

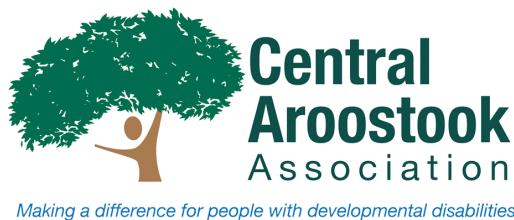
This procedure does not preclude law enforcement personnel from implementing physical restraints in carrying out their professional responsibilities.

1. Permitted Uses of Physical Restraint

- A. Physical restraint may be used only as an emergency intervention when the behavior of a student presents risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.
- B. Physical restraint must be implemented by staff certified in a state-approved training program to the extent possible. If, due to the nature of the emergency, untrained staff have intervened and initiated a physical restraint and if the need for physical restraint continues, trained personnel must be summoned to the scene and must assume control of the situation as rapidly as possible.
- C. Physical restraint may be used to move a student only if the need for movement outweighs the risks involved in such movement.
- D. Protective equipment or devices that are part of a treatment plan as prescribed by a licensed health care provider are not prohibited by this rule.

2. Prohibited Forms and Uses of Physical Restraint

- A. Physical restraint may not be used for punitive purposes, staff convenience or to control challenging behavior.
- B. Physical restraint may not be used to prevent property destruction or disruption of the environment in the absence of risk of injury.
- C. No physical restraint may be used that restricts the free movement of the diaphragm or chest, or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of the student.



- D. No physical restraint may be used that relies on pain for control, including but not limited to joint hyperextension, excessive force, unsupported take-downs (e.g., tackles), the use of any physical structure (e.g., wall, railing or post), punching and hitting.
- E. Physical restraint may not be used as a therapeutic or educational intervention.
- F. Aversive procedures and mechanical and chemical restraints may not be used under any circumstances.
- G. Prescribed assistive devices are not considered mechanical restraints when used as prescribed. Their use must be qualified and trained individuals in accordance with professional standards.
- H. Prescribed medications are not considered chemical restraints when administered by a health care provider consistent with a student's health care plan are permitted.

3. Monitoring Students in Physical Restraint

- A. At least two adults must be present at all times when physical restraint is used except when, for safety reasons, waiting for a second adult to arrive is precluded by the particular circumstances.
- B. The student must be continuously monitored until the student no longer presents an imminent risk of injury or harm to self or others.
- C. In the event of an injury, local policy must be followed.

4. Termination of Physical Restraint

- A. The staff involved in the use of physical restraint must continually assess for signs that the student is no longer presenting a risk of injury or harm to him/herself or others, and the emergency intervention must be discontinued as soon as possible.
- B. Time must be recorded consistent with the requirement of the documentation section of this rule and local policy.

- C. The covered entity may request assistance from parents at any time during the incident.
- D. If attempts to release a student from physical restraint have been unsuccessful and the student continues to present behaviors that create a risk of injury or harm to him/herself or others, then staff may request additional assistance from other school staff, parents, medical providers, or other appropriate persons or organizations.
- E. If physical restraint continues for more than ten (10) minutes, an administrator/designee shall determine whether continued physical restraint is warranted, and shall continue to monitor the status of the physical restraint every ten (10) minutes until the restraint is terminated.

5. Exclusions

Those restraints used by law enforcement officers or school resource officers employed by a police department in the course of their professional duties are not subject to this rule.

Section 7. Notification of Incident

For the purposes of this procedure, an “incident” consists of all actions between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his/her regular programming.

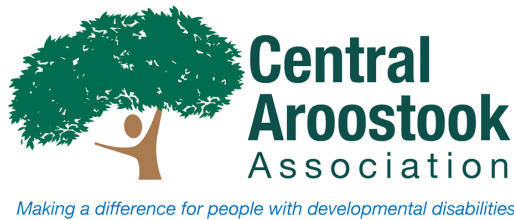
1. Reporting to an Administrator or Designee, others

After each incident of physical restraint or seclusion, a staff member involved shall:

- A. Report to the administrator or designee by oral notification as soon as possible after each incident, but in no event later than the end of the school day of its occurrence, and
- B. A staff member involved in the incident shall also make an oral notification to the sending school district within 24 hours, or by the end of the next business day.

2. Notification to Parents

- A. An administrator/designee shall notify the parent/legal guardian about the physical restraint or seclusion (and any related first aid provided) as soon as practical, but within the school day in which the incident occurred. The administrator/designee must utilize all available phone



numbers or other available contact information to reach the parent/legal guardian. If the parent/legal guardian is unavailable, the administrator/designee must leave a message (if the parent/legal guardian has a phone and message capability) to contact the school as soon as possible. The parent/legal guardian must be informed that written documentation will be provided within seven (7) calendar days.

- B. If the physical restraint or seclusion incident occurred outside the school day, the notifications must be made as soon as possible and in accordance with the Opportunity Training Center's usual emergency notification procedures.

3. Reporting of Serious Bodily Injury or Death

If serious bodily injury or death of a student occurs during the implementation of physical restraint or seclusion, the Opportunity Training Center emergency notification procedures shall be followed and an administrator/designee shall notify the Maine Department of Education within twenty-four (24) hours or the next business day.

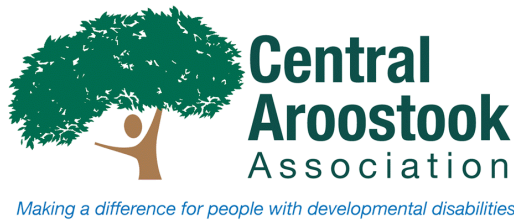
Section 8. Documentation; Incident Report

1. Incident Report

Each use of physical restraint or seclusion must be documented in an incident report. The incident report must be completed and provided to an administrator/designee as soon as practical, and in all cases within two (2) school days of the incident. The parent/legal guardian and the sending school district must be provided a copy of the incident report within seven (7) calendar days of the incident.

The incident report must include the following elements:

- A. Student name;
- B. Age, gender and grade;
- C. Location of the incident;
- D. Date of the incident;
- E. Date of report;

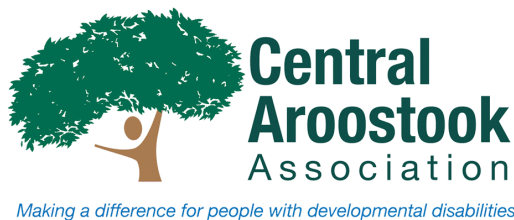


- F. Person completing the report;
- G. Beginning and ending time of each physical restraint and/or seclusion;
- H. Total time of incident;
- I. Description of prior events and circumstances;
- J. Less restrictive interventions tried prior to the use of physical restraint and/or seclusion and, if none were used, the reasons why;
- K. The student behavior justifying the use of physical restraint or seclusion;
- L. A detailed description of the physical restraint or seclusion used;
- M. The staff person(s) involved, their role in the physical restraint or seclusion, and whether each person is certified in an approved training program;
- N. Description of the incident, including the resolution and process of returning the student to his/her program, if appropriate;
- O. Whether the student has an IEP, 504 Plan, behavior plan, IHP (individual health plan) or any other plan.
- P. If a student and/or staff sustained bodily injury, the date and time of nurse or other response personnel notification and any treatment administered;
- Q. The date, time and method of parent/legal guardian notification;
- R. Date and time of staff debriefing.

2. Incident Report Provided to Parents, others

A copy of the incident report must be provided, within 7 calendar days of the incident to: The parent and the sending district; the entity responsible for the student's education.

3. Duration of Incident



For purposes of this Section and Section 9, an “incident” consists of all action between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his or her regular programming.

Section 9. Response to the Use of Physical Restraint or Seclusion

1. Debriefing

- A. Following each incident of physical restraint or seclusion, an administrator/designee shall take these steps within two (2) school days (unless serious bodily injury requiring emergency medical treatment occurred, in which case these steps must take place as soon as possible, but no later than the next school day):
 1. Review the incident with all staff persons involved to discuss: (a) whether the use of physical restraint or seclusion complied with the rule and local policy and (b) how to prevent or reduce the need for physical restraint and/or seclusion in the future.
 2. Meet with the student who was physically restrained or secluded to discuss: (a) what triggered the student’s escalation and (b) what the student and staff can do to reduce the need for physical restraint and/or seclusion in the future.
- B. When physical restraint or seclusion has resulted in serious bodily injury to a student or staff member requiring emergency medical treatment, the debriefing must take place as soon as possible but no later than the next school day.
- C. Following the meetings, staff must develop and implement a written plan for response and de-escalation for the student. If a plan already exists, staff must review it and make revisions, if appropriate.

2. Multiple Incidents of Physical Restraint and Seclusion

After the third incident of physical restraint and/or seclusion in one school year, the student’s IEP or 504 Team shall meet within ten (10) school days of the third incident to discuss the incident and consider the need to conduct an FBA (functional behavioral assessment) and/or develop a BIP (behavior intervention plan), or amend an existing one.

3. Parent Participation

The covered entity shall make reasonable, documented efforts to encourage parent/legal Guardian participation in the meetings required in this section, and to schedule meetings at times convenient for parents/legal guardians to attend.

A covered entity may not seek written permission from a parent to provide restraint and seclusion to a student.

4. Duration of Incident

For purposes of this Section, the time period described in Section 8 (3) constitutes a single incident.

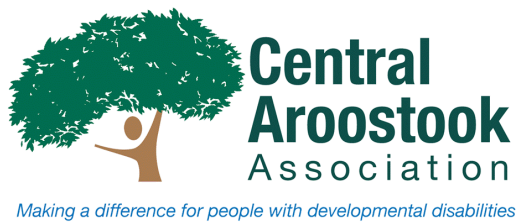
Section 10. Cumulative Reporting Requirements

1. Reports within the School Unit

The building administrator must compile a report of the following data on a quarterly and annual basis:

- a. Aggregate number of uses of physical restraint;
- b. Aggregate number of students placed in physical restraint;
- c. Aggregate number of uses of seclusion;
- d. Aggregate number of students placed in seclusion;
- e. Aggregate number of serious bodily injuries to students related to the use of physical restraints and seclusions; and
- f. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion.

The Program Director shall review the cumulative reports and identify any areas that could be addressed to reduce the future use of physical restraint and seclusion. These cumulative reports may be requested by the Department of Education at any time.



2. Reports to Maine Department of Education

The Program Director shall submit an annual report to the Maine Department of Education the incidence of physical restraint and seclusion that must include:

- a. Aggregate number of uses of physical restraint;
- b. Aggregate number of students placed in physical restraint;
- c. Aggregate number of uses of seclusion;
- d. Aggregate number of students placed in seclusion;
- e. Aggregate number of serious bodily injuries to students related to the use of physical restraints and seclusions; and
- f. Aggregate number of serious bodily injuries to staff related to physical restraint and seclusion

Section 11. Complaint Process

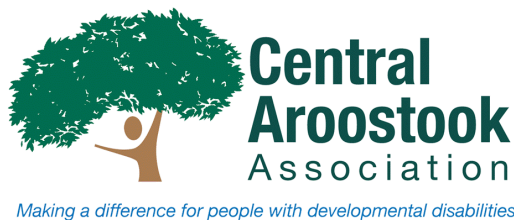
1. Local Complaint Process

Parent complaints related to restraint and seclusion must be submitted to the covered entity in accordance with local policy and procedure.

2. Department of Education Complaint Process

Any parent/legal guardian who is dissatisfied with the result of the local complaint process may file a complaint with the Department of Education, which complaint is not considered an appeal of that local process. The Department shall review the results of the local complaint process and may initiate its own investigation of the complaint, and shall issue to the complaining parent and the covered entity a written report with specific findings within 60 days of receiving the complaint. If a violation is found, the Department shall develop a corrective action plan by which the entity will achieve compliance.

Section 12. Staff Training; Approved Programs



The Department of Education shall maintain a directory of approved training programs on its website at <http://maine.gov/education>. The list of approved training programs may include regional training programs and regional ‘train the trainer’ model programs. These training programs must require participants to demonstrate competency to achieve certification, and must include instruction in at least the following core components:

1. The use of non-physical interventions for responding to potentially dangerous behaviors, including de-escalation and the use of positive alternatives;
2. Identification of dangerous behaviors that may indicate the need for physical restraint or seclusion and methods for evaluating the risk of harm to determine whether such interventions are warranted;
3. Instruction and simulated experience in administering safe physical restraint techniques across a range of increasingly restrictive interventions, including the safe movement of a student, and in recognizing and avoiding positions involving a high risk or restraint-related positional asphyxia (restricting a student’s ability to breathe);
4. The effects of physical restraint and seclusion on a student, including monitoring physical and psychological signs of distress and when to obtain medical assistance in compliance with the covered entity’s procedures for emergency interventions;
5. The risks and realities of physical restraint and seclusion; and
6. A review of the process of student and staff debriefing.

Each covered entity shall ensure that a sufficient number of administrators or designees, maintain certification in an approved training program. A list of staff with the required approved training must be made available, along with other school-wide emergency procedures and must be updated at least annually.

Section 13. Department of Education Non-Regulatory Guidance

The Department shall annually ensure that teachers and administrators throughout the State are provided with consistent and accurate information regarding the requirements of this rule.

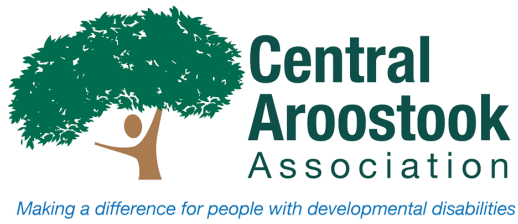
Adopted July 2012

Amended & Approved May 2013

Amended & Approved August 2014

Amended & Approved November 2014

Amended & Approved July 2017



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