

**ALLIANCE
AGAINST**

**SECLUSION
&
RESTRAINT**

LAWS & POLICIES

USE OF RESTRAINT AND SECLUSION IN
NORTH AMERICA

DEVELOPED BY THE ALLIANCE AGAINST
SECLUSION & RESTRAINT



**LAWS AND POLICIES FOR THE USE
OF RESTRAINT AND SECLUSION IN
SCHOOLS IN NORTH AMERICA**

The Alliance Against Seclusion and Restraint

Laws and policies for the use of restraint and seclusion in schools in North America

This document was compiled by volunteers from the Alliance Against Seclusion and Restraint in the Fall of 2021. Laws and policies are constantly reviewed and updated across North America. Please visit your state or province website to ensure you have the latest information.

Version 1.0
June 1, 2022

Table of Contents

Alabama	6
Alaska	12
Arizona	16
Arkansas	21
California	58
Colorado	78
Connecticut	93
Delaware	103
District of Columbia	114
Florida	117

<u>Georgia</u>	126
<u>Hawaii</u>	131
<u>Idaho</u>	134
<u>Illinois</u>	138
<u>Indiana</u>	154
<u>Iowa</u>	168
<u>Kansas</u>	186
<u>Kentucky</u>	191
<u>Louisiana</u>	200
<u>Maine</u>	208
<u>Maryland</u>	216
<u>Massachusetts</u>	238

<u>Michigan</u>	252
<u>Minnesota</u>	274
<u>Mississippi</u>	285
<u>Missouri</u>	302
<u>Montana</u>	306
<u>Nebraska</u>	317
<u>Nevada</u>	318
<u>New Hampshire</u>	332
<u>New Jersey</u>	350
<u>New Mexico</u>	352
<u>New York</u>	357
<u>North Carolina</u>	375

<u>North Dakota</u>	381
<u>Ohio</u>	383
<u>Oklahoma</u>	401
<u>Oregon</u>	408
<u>Pennsylvania</u>	429
<u>Rhode Island</u>	440
<u>South Carolina</u>	458
<u>South Dakota</u>	478
<u>Tennessee</u>	479
<u>Texas</u>	487
<u>Utah</u>	494
<u>Vermont</u>	499

<u>Virginia</u>	514
<u>Washington</u>	521
<u>West Virginia</u>	525
<u>Wisconsin</u>	563
<u>Wyoming</u>	575
<u>Canada</u>	588
<u>New Brunswick</u>	591

Alabama (AL)

Links

<http://www.alabamaadministrativecode.state.al.us/docs/ed/290-3-1.pdf>

Law Text

Chapter 290-3-1 Education Supp. 9/30/21 3-1-4 (f)
Seclusion and Restraint for ALL Students.

1. Definitions.

(i) Chemical Restraint - Any medication that is used to control violent physical behavior or restrict the student's freedom of movement that is not a prescribed treatment for the student's medical or psychiatric condition. Use of chemical restraint is prohibited in Alabama public schools and educational programs.

(ii) Mechanical Restraint - The use of any device or material attached to or adjacent to a student's body that is intended to restrict the normal freedom of movement and which cannot be easily removed by the student. The term does not include an adaptive or protective device recommended by a physician or therapist when used as recommended by the physician or therapist to promote normative body positioning and physical functioning, and/or to prevent self injurious behavior. The term also does not include seatbelts and other safety equipment when used to secure students during transportation. Use of mechanical restraint is prohibited in Alabama public schools and educational programs.

(iii) Physical Restraint - Direct physical contact from an adult that prevents or significantly restricts a student's movement. The term physical restraint does not include mechanical restraint or chemical restraint. Additionally, physical restraint does not include: providing limited physical contact and/or redirection to promote student safety or prevent self-injurious behavior, providing physical guidance or

prompting when teaching a skill, redirecting attention, providing guidance to a location, providing comfort, or providing limited physical contact as reasonably needed to prevent imminent destruction to school or another person's property.

(iv) Physical Restraint that restricts the flow of air to the student's lungs- Any method (face-down, face-up, or on your side) of physical restraint in which physical pressure is applied to the student's body that restricts the flow of air into the student's lungs. Use of this type of restraint is prohibited in Alabama public schools and educational programs.

(v) Seclusion - a procedure that isolates and confines the student in a separate, locked area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion does not include Education situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1)(vi) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room.

Use of seclusion is prohibited in Alabama public schools and educational programs.

(vi) Time-out - A behavioral intervention in which the student is temporarily removed from the learning activity. Time-out is appropriately used when:

(I) The non-locking setting used for time-out is appropriately lighted, ventilated, and heated or cooled.

(II) The duration of the time-out is reasonable in light of the purpose of the time-out and the age of the child; however, each time-out should not exceed 45 minutes.

(III) The student is reasonably monitored by an attending adult who is in reasonable physical proximity of the student and has sight of the student while in time-out.

(IV) The time-out space is free of objects that unreasonably expose the student or others to harm.

2. Requirements.

(i) The use of seclusion is prohibited in Alabama public schools and educational programs.

(ii) The use of any method of physical restraint that restricts the flow of air to a student's lungs is prohibited in Alabama public schools and educational programs.

(iii) The use of mechanical restraint is prohibited in Alabama public schools and educational programs.

(iv) The use of chemical restraint is prohibited in Alabama public schools and educational programs.

(v) The use of physical restraint is prohibited in Alabama public schools and educational programs except in those situations in which the student is an immediate danger to himself or others and the student is not responsive to less intensive behavioral interventions including verbal directives or other de-escalation techniques. Notwithstanding the foregoing, physical restraint is prohibited in Alabama public schools and educational programs when used as a form of discipline or punishment.

(vi) All physical restraint must be immediately terminated when the student is no longer an immediate danger to himself or others or if the student is observed to be in severe distress.

(vii) Schools and programs that use physical restraint in accordance with paragraph (2.)(v-xiv) of this rule must develop and implement written policies to govern the use of

physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint.

The written policies must include the following provisions:

(I) Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,

(II) Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint,

(III) The use of physical restraint to be documented and a debriefing session held by staff or faculty participating in or supervising the restraint for each student in each instance in which the student is restrained,

(IV) Procedures for the periodic review of the use of restraint and the documentation described in paragraph (2.)(vii)(III),

(V) Procedures for reporting the use of restraint and the documentation described in paragraph (2.)(vii)(III) and any prohibited use of seclusion and chemical, mechanical, or physical restraint to the local board of education annually,

(VI) The documentation described in paragraph (2.)(vii)(III) (monthly summary reports) and any prohibited use of seclusion and chemical, mechanical, or physical restraint is to be submitted to the Alabama Department of Education annually, and

(VII) The written policies described in paragraph (2.)(vii)(I and II) are to be included in each local education agencies' code of conduct and/or the student handbook.

(viii) Schools and programs that use physical restraints in accordance with paragraph (2.)(v-xiv) of this rule, must ensure that staff and faculty are trained in the use of physical restraint. This training shall be provided as a part of a program which addresses prevention and de-escalation techniques as well as positive behavioral intervention strategies. Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to the Alabama Department of Education or any member of the public upon request.

(ix) Nothing in this rule shall be construed to interfere with a school system, school or program, or school or program employee's authority to utilize time-out as defined in paragraph (1.)(vi) of this rule or any other classroom management technique or approach, including a student's removal from the classroom, that is not specifically addressed in this rule.

(x) Nothing in this rule modifies the rights of school personnel to use reasonable force as permitted under the Code of Ala. 1975, §16-1-14 or modifies the rules and procedures governing discipline under the Code of Ala. 1975, §16-28-12.

(xi) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking reasonable action to diffuse or break up a student fight or altercation.

(xii) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking reasonable action to obtain possession of a weapon or other dangerous objects on a student or within the control of a student.

(xiii) Nothing in this rule shall be construed to eliminate or restrict the ability of an employee of a school system, school or program to use his or her discretion in the use of physical restraint to protect students or others from imminent harm or bodily injury. Nothing in this rule shall be construed to create a criminal offense or a private cause of action against any local board of education or program or its agents or employees.

(xiv) In some instances in which a student is an immediate danger to himself or herself or others, the school or program must determine when it becomes necessary to seek assistance from law enforcement and/or emergency medical personnel. Nothing in these rules shall be construed to interfere with the duties of law enforcement or emergency medical personnel. Parents must be promptly informed when students are removed from the school or program setting by emergency medical or law enforcement personnel.

[Return to Table of Contents](#)

Alaska (AK)

Links

<https://casetext.com/regulation/alaska-administrative-code/title-4-education-and-early-development/chapter-06-government-of-schools/article-1-general-administration/section-4-aac-06175-reporting-restraint-and-seclusion-incidents>

<https://casetext.com/regulation/alaska-administrative-code/title-4-education-and-early-development/chapter-06-government-of-schools/article-1-general-administration/section-4-aac-06177-crisis-intervention-training-programs>

Law Text

Register 213, April 2015 EDUCATION AND EARLY DEV.

1 4 AAC 06. is amended by adding new sections to Article 1 to read: 4 AAC 06.175.

Reporting restraint and seclusion incidents.

Annually, not later than June 30, a governing body shall provide a report to the department that includes all data required under AS 14.33.125(f). The governing body shall file the required report electronically in a format prescribed by the department, unless the governing body determines that the district does not have the capability of filing the report electronically in that format. (Eff. 3/26/2015, Register 213)

Authority: AS 14.07.020 AS 14.07.060 AS 14.33.125 4 AAC 06.177.

Crisis intervention training programs.

(a) The department will maintain a list of approved crisis intervention training programs. An approved program must

- (1) include training in all areas required under AS 14.33.127(a);
- (2) have a clear record of success in the prevention and safe use of physical restraint and seclusion;
- (3) have undergone a peer-review process or have otherwise been the subject of scholarly research; and
- (4) adequately address AS 14.33.127(a)(1) - (3).

(b) In determining whether a crisis intervention training program meets the requirement under (a)(4) of this section, the department will consider whether the program

- (1) cautions against the use of mechanical or chemical restraint except as authorized by licensed and qualified medical personnel;
- (2) limits the use of restraint and seclusion to situations where the student's behavior poses imminent danger of serious physical harm to self or others;

Register 213, April 2015 EDUCATION AND EARLY DEV.

- (3) requires discontinuation of restraint and seclusion as soon as the risk of serious harm dissipates;
- (4) includes policies restricting the use of restraint and seclusion for all students, regardless of whether a student has a disability;

- (5) emphasizes students' rights to be treated with dignity and be free from abuse;
- (6) forbids the use of restraint or seclusion as a punishment or disciplinary technique;
- (7) forbids the use of restraint or seclusion that restricts a student's breathing or otherwise harms the student;
- (8) requires that the repeated use of restraint and seclusion by one individual or in a particular classroom will trigger an automatic review;
- (9) requires the use of behavioral strategies that address the underlying cause or purpose of dangerous behavior;
- (10) requires that instances of restraint and seclusion be visually monitored to ensure the appropriateness of the intervention and the safety of the student and school staff;
- (11) requires notification of a student's parent or legal guardian regarding the governing body's restraint and seclusion policy and applicable federal, state, and local laws, and also requires that a student's parent or legal guardian be notified as soon as possible following each instance in which restraint or seclusion was used with the student; and
- (12) provides for the regular review of the governing body's restraint and seclusion policies and requires written documentation. (c) Annually, the department will review the list of crisis intervention training programs approved under (a) of this section. The department will review whether currently approved Register 213,

April 2015 EDUCATION AND EARLY DEV.

programs continue to meet the requirements under (a) of this section and the availability of other training programs that warrant approval by the department. (Eff. 3/26/2015, Register 213)

Authority: AS 14.07.020 AS 14.33.125 AS 14.33.127 AS 14.07.060

[Return to Table of Contents](#)

Arizona (AZ)

Links

Arizona Statute: §15-105

<https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/15/00105.htm>

Law Text

1. Definition of seclusion/isolation

- a) “Seclusion” means the involuntary confinement of a pupil alone in a room from which egress is prevented
- b) Seclusion does not include the use of a voluntary behavior management technique, including a timeout location, as part of a pupil's education plan, individual safety plan, behavioral plan or individualized education program that involves the pupil's separation from a larger group for purposes of calming.

2. Definition of restraint (physical, and mechanical)

- a) "Restraint" means any method or device that immobilizes or reduces the ability of a pupil to move the pupil's torso, arms, legs or head freely, including physical force or mechanical devices.
- b) Restraint” does not mean:

- i. Methods or devices implemented by trained school personnel or used by a pupil for the specific and approved therapeutic or safety purposes for which the method or device is designed and, if applicable, prescribed.
- ii. The temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a pupil to comply with a reasonable request or to go to a safe location.
- iii. The brief holding of a pupil by one adult for the purpose of calming or comforting the pupil.
- iv. Physical force used to take a weapon away from a pupil or to separate and remove a pupil from another person when the pupil is engaged in a physical assault on another person.

3. Circumstances where restraints, including seclusions, can be used

A school may permit the use of restraint or seclusion techniques on any student only if both of the following apply:

- a) The pupil's behavior presents an imminent danger of bodily harm to the pupil or others, and
- b) less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm.

4. Duties related to the use of restraint

If a restraint or seclusion technique is used on a pupil:

- a) School personnel shall maintain continuous visual observation and monitoring of the pupil while the restraint or seclusion technique is in use.

- b) The restraint or seclusion technique shall end when the pupil's behavior no longer presents an imminent danger to the pupil or others.
- c) The restraint or seclusion technique shall be used only by school personnel who are trained in the safe and effective use of restraint and seclusion techniques unless an emergency situation does not allow sufficient time to summon trained personnel.
- d) The restraint technique employed may not impede the pupil's ability to breathe.
- e) The restraint technique may not be out of proportion to the pupil's age or physical condition.

5. Requirements for seclusion room

While standards for seclusion rooms in regular schools are not specified, the following are required for seclusion rooms in residential shelter care facilities for children under NM Admin Code 7.8.3.81:

- a) The room must have no less than 80 square feet of floor area.
- b) The door must be of substantial construction either one and three-quarter inches, bonded solid core or metal able to withstand unusual stress.
- c) The door must be at least 32 inches wide, preferably 36 inches.
- d) The door must swing outward to prevent children from barricading themselves in the room.
- e) The door must have a fixed wired glass vision panel not to exceed 1,296 square inches, and mounted in steel or other approved metal frame.

f) A dual lock system that is simple to operate must be on the door. It must have a quickly-operated throw bolt and key lock.

g) The floor must be of substantial construction with a smooth surface so that it presents no danger in terms of materials that peel, splinter, or cause burns.

6. Training requirements for staff

Not specified.

7. Documentation/Reporting requirements to administration and parents

Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a pupil. The procedures shall include the following requirements:

a) School personnel shall provide the pupil's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident.

b) Within a reasonable time following the incident, school personnel shall provide the pupil's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use.

c) If a school district or charter school summons law enforcement instead of using a restraint or seclusion technique on a pupil, the school shall comply with the reporting, documentation and review procedures established above. Notwithstanding this section, school resource officers are authorized to respond

to situations that present the imminent danger of bodily harm according to protocols established by their law enforcement agency.

8. Review of the use of restraint

Schools shall review strategies used to address a pupil's dangerous behavior if there has been repeated use of restraint or seclusion techniques for the pupil during a school year. The review shall include a review of the incidents in which restraint or seclusion technique were used and an analysis of how future incidents may be avoided, including whether the pupil requires a functional behavioral assessment.

9. Student Reintegration

Policies regarding restraint and seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

10. Application of Crisis Intervention Plans

Schools may establish policies and procedures for the use of restraint or seclusion techniques in a school safety or crisis intervention plan if the plan is not specific to any individual pupil.

[Return to Table of Contents](#)

Arkansas (AR)

Links

<https://www.arkleg.state.ar.us/Acts/FTPDocument?path=%2FACTS%2F2021R%2FPublic%2F&file=1084.pdf&ddBienniumSession=2021%2F2021R>

Law Text

HB 1610: APPROVED: 4/30/21 ACT 1084

Stricken language would be deleted from and underlined language would be added to present law.

Act 1084 of the Regular Session

State of Arkansas As Engrossed: H3/29/21

93rd General Assembly A Bill 3 Regular Session, 2021 HOUSE BILL 1610 4

By: Representative Gazaway

For An Act To Be Entitled AN ACT CONCERNING THE USE OF STUDENT RESTRAINTS IN PUBLIC SCHOOLS OR EDUCATIONAL SETTINGS; AND FOR OTHER PURPOSES.

Subtitle CONCERNING THE USE OF STUDENT RESTRAINTS IN PUBLIC SCHOOLS OR EDUCATIONAL SETTINGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an additional subchapter to read as follows:

Subchapter 22 — Student Restraints in Public Schools or Educational Settings 6-18-2201. Legislative findings.

The General Assembly finds that:

- (1) It is the responsibility of each school district in Arkansas to ensure the safety of all students and school personnel;
- (2) It is the responsibility of each school district in Arkansas to ensure that every student in Arkansas is safe and protected from being unnecessarily or inappropriately restrained;
- (3) Safe, effective, evidence-based strategies should be the basis for protocols in public schools and educational settings to support every student who displays challenging behavior in a public school or educational setting;
- (4) Providing school personnel with training that is focused on As Engrossed: H3/29/21 HB1610 2 03-29-2021 evidence-based positive behavior support, de-escalation techniques, and physical restraint prevention can reduce the incidence of injury, trauma, and death;
- (5) The effective implementation of school-wide positive behavioral support is linked to greater academic achievement, significantly fewer disciplinary problems, increased instruction time, and the perception of a safer teaching environment by school personnel;
- (6) Positive behavioral support involves school-wide approaches that result in:
 - (A) Positive classroom and school climates;

(B) Prosocial student and school personnel interactions;

(C) Teaching a student academic, social, emotional, behavioral engagement, and achievement skills; and

(D) Reinforcing the academic, social, emotional, behavioral engagement, and achievement skills of a student;

(7) The use of effective positive behavioral support in public schools and educational settings can prevent an emergency situation that requires the use of physical restraint on a student; and

(8) Every effort should be made to:

(A) Prevent the need for secluding a student or using a physical restraint on a student;

(B) Ensure that behavioral intervention is consistent with the right of a student to be free from abuse and treated with dignity;

(C) Avoid the use of physical restraint on a student to the greatest extent possible without endangering the safety of other students and school personnel;

(D) Avoid the use of a physical restraint on a student except in a situation where the behavior of the student poses an imminent danger of serious physical harm to the student or others;

(E) Discontinue the use of a physical restraint on a student as soon as the imminent danger of serious physical harm to the student or others dissipates; and

(F) Refrain from using chemical restraint or mechanical restraint in a public school or educational setting. Applicability — Relation to other laws. As Engrossed: H3/29/21 HB1610 3 03-29-2021 11:25:41

(a) This subchapter applies to any school-aged and enrolled student regardless of whether the student has an identified disability.

(b)(i) This subchapter does not supersede federal or state law.

(2) A school district shall follow all relevant federal and state law, including without limitation the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 et seq., when a student with a disability is restrained or secluded or whenever restraining or secluding a student with a disability is contemplated.

(c) Each school district shall:

(1) Adopt policies and procedures that are consistent with the provisions of this subchapter;

(2) Review the Department of Education Special Education and Related Services Guidelines, § 20.00 Time-Out Seclusion Room; and

(3) Provide its school personnel with the training, tools, and support needed to ensure the safety of all students and school personnel. 19 6-18-2203.

Definitions. As used in this subchapter:

(1)(A) "Aversive behavioral intervention" means a physical or sensory intervention program that is intended to modify behavior through the use of a substance or stimulus that the intervention implementer knows will cause

physical trauma, emotional trauma, or both, to a student, even when the substance or stimulus appears to be pleasant or neutral to others.

(B) "Aversive behavioral intervention" includes without limitation the following:

(i) Hitting;

(ii) Pinching;

(iii) Slapping;

(iv) Using a water spray;

(v) Using noxious fumes;

(vi) Requiring extreme physical exercise;

(vii) Using loud auditory stimulus;

(viii) Withholding meals; and

(ix) Denying reasonable access to toileting As Engrossed: H3/29/21
HB1610 4 03-29-2021 facilities;

(2) "Behavioral intervention" means the implementation of a service, support, or strategy to teach and increase appropriate behavior or substantially decrease or eliminate behavior that is dangerous, inappropriate, or otherwise impedes the learning of a student;

(3) "Behavior Intervention Plan" means a written plan that:

(A) Is developed by a problem-solving and intervention team and delineates emotional, social, or behavioral goals for a student and the steps that the school, student, parent of the student, and others will take to positively support the progress of the student towards his or her emotional, social, or behavioral goals;

(B) Is comprised of practical and specific strategies to increase or reduce a defined behavior or one (1) or more patterns of behavior exhibited by a student; and

(C) Includes the following:

(i) A definition or description of the desired target behavior or outcome in specific measurable terms;

(ii) A plan for preventing and eliminating inappropriate student behavior by changing a condition that is triggering, motivating, underlying, or supporting that behavior as determined through a Functional Behavior Assessment;

(iii) A plan for teaching a student to demonstrate appropriate social, emotional, or behavioral self-management, or a new method to address or meet his or her needs;

(iv) A description of how a specific incentive or consequence will be used as needed to decrease or eliminate inappropriate student behavior and increase appropriate behavior;

(v) A plan for managing a crisis situation;

(vi) A system to collect, analyze, and evaluate data about the student;

(vii) The school personnel, resources, and training needed before implementation of the Behavior Intervention Plan; and

(viii) The timeline for implementing different facets of an intervention, including without limitation when the intervention will be formally reviewed;

(4)(A) "Chemical restraint" means the use of a drug or As Engrossed: H3/29/21 HB1610 5 03-29-2021 medication to control the behavior of a student or restrict the free movement of the student.

(B) "Chemical restraint" does not include the use of medication that is:

(i) Prescribed by a licensed physician, or other qualified health professional acting within the scope of his or her professional authority under state law, for the standard treatment of a medical or psychiatric condition of a student; and

(ii) Administered as prescribed by the licensed physician or other qualified health professional acting within the scope of his or her professional authority under state law;

(5) "Consequence" means an event that occurs immediately after a behavior, behavioral response, or a planned action in response to an inappropriate student behavior and with the purpose of motivating the student to demonstrate an appropriate behavior the next time;

(6) "Crisis" means a situation in which a student engages in a behavior that threatens the health and safety of the student or others and includes without limitation a situation in which the student becomes aggressive or violent at school and is unable to regain self-control without posing a danger of injury to himself or herself or others;

(7) "Crisis intervention" means the implementation of a service, support, or strategy to:

(A) Immediately stabilize a crisis; and

(B) Prevent the crisis from reoccurring after the crisis ends;

(8) "Crisis Intervention Training Program" means a program that:

(A) Provides training using effective evidence-based practices in:

(i) The prevention of the use of physical restraint on a student;

(ii) Keeping school personnel and students safe when using physical restraint on a student in accordance with the law;

(iii) The use of data-based decision-making, evidence-based positive behavioral intervention and support, safe physical escort, conflict prevention, behavioral antecedents, a Functional Behavior Assessment, challenging behavior de-escalation, and conflict management; and As Engrossed: H3/29/21 HB1610 6 03-29-2021 11:25:41

(iv) First aid, including without limitation recognizing the signs of medical distress and administering cardiopulmonary resuscitation; and

(B) Requires certification, including without limitation periodic renewal of certification in the practices and skills necessary for school personnel to properly implement the Crisis Intervention Training Program;

(9)(A) "Dangerous behavior" means the behavior of a student that presents an imminent danger of serious physical harm to the student or others.

(B) "Dangerous behavior" does not include the following types of inappropriate behavior:

(i) Disrespect;

(ii) Noncompliance;

(iii) Insubordination; or

(iv) Destruction of property that does not create an imminent danger;

(10) "Day" means a calendar day unless otherwise indicated as a school day;

(11) "De-escalation" means the use of a behavior management technique that helps a student increase his or her control over his or her emotions and behavior and results in a reduction of a present or potential level of danger that in turn reduces the level of imminent danger of serious physical harm to the student or others;

(12) "Emergency" means a serious and unexpected situation that requires immediate action and which may be dangerous;

(13) "Functional Behavior Assessment" means a problem analysis step that:

(A) Occurs within the context of data-based problem solving and involves:

(i) The review of existing records and other sources of information;

(ii) Diagnostic or historical interviews;

(iii) Structured academic or behavioral observations; and

(iv) Authentic, criterion-referenced, or norm-referenced tests;
and

(B) Is performed with the goal of determining why a specific problem or situation is occurring in order to directly link a strategic intervention to an assessment and solve or resolve the specific problem or situation;

(14) "Imminent danger" means an existing dangerous situation that could reasonably be expected to immediately cause death or serious physical harm;

(15) "Incident" means an event or occurrence;

(16) "Individualized Education Program" means a written plan for a student with a disability that is developed, reviewed, and revised in accordance with federal and state laws and regulations;

(17)(A) "Mechanical restraint" means the use of a device or equipment to restrict the free movement of a student. "Mechanical restraint" does not include a:

(i) Device that is used by trained school personnel or a student for a specific and approved therapeutic purpose or safety purpose for which the device was designed or prescribed; or

(ii) Vehicle safety restraint that is appropriately used in the manner for which it was designed during the transport of a student in a moving vehicle;

(18)(A) "Member of school personnel" means a person who works with a student in an elementary or secondary public school, public charter school, school district, education service cooperative, and includes without limitation a:

- (i) School or school district administrator;
- (ii) Teacher;
- (iii) Coach for a school athletics program;
- (iv) School counselor;
- (v) School social worker;
- (vi) School psychologist;
- (vii) School nurse; and 33
- (viii) Paraprofessional.

(B) "Member of School personnel" does not include a person who is:

(i) A volunteer at a school district; or As Engrossed: H3/29/21
HB1610 8 03-29-2021 11:25:41 TNL210

(ii) Not an employee of a school district;

(19) "Parent" means one

(1) of the following:

(A) The biological, foster, or adoptive parent of a student;

(B) The guardian of a student who is:

(i) Not acting in his or her official capacity as an employee or other representative of the state; and

(ii) Authorized to act as the parent of the student or to make educational decisions for the student;

(C) A person who:

(i) Lives with a student and is acting in the place of a biological or adoptive parent of the student, including without limitation a grandparent or stepparent, or other relative of the student; or

(ii) Is legally responsible for the welfare of the student; or

(D) A surrogate parent of a student who has been appointed in accordance with 30 C.F.R. § 300.519; 19

(20) "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back of a student for the purpose of redirecting or inducing the student to move to a safe location;

(21)(A) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arm, leg, or head freely.

(B) "Physical restraint" does not include a physical escort;

(22) "Positive behavioral support" means the application of behavior analysis that:

(A) Is used to achieve socially important behavior change;

(B) Occurs at the:

(i) Prevention level for all students in a school;

(ii) Strategic intervention level for a student who is not responding, from a social-emotional and behavioral perspective, to the prevention level; and

(iii) Intensive service or crisis-management level for a student who needs multifaceted or comprehensive behavioral or mental health services; and

(C) Involves a planned and collaborative school-wide approach that is implemented with a goal:

(i) Of establishing a positive and supportive school environment that:

(a) Teaches and reinforces prosocial behavior in a student;

(b) Holds a student positively accountable for meeting an established behavioral expectation; and

(c) Maintains a level of consistency throughout the implementation process; and

(ii) That is accomplished by using positive behavioral programs, strategies, or approaches;

(23) "Prone restraint" means restraining a student in a face down position on the floor or another surface and applying physical pressure to the body of the student to keep the student in the prone position;

(24) "Punishment" means an action that:

(A) May follow an inappropriate behavior of a student;

(B) Is taken with the goal of decreasing, stopping, or eliminating the future reoccurrence of the inappropriate behavior of the student; and

(C) Is not taken with the goal of replacing the inappropriate behavior of the student with future appropriate behavior by the student;

(25) "School day" means any day, including without limitation a partial day, that a student is in attendance at school for instructional purposes;

(26) "Serious physical harm" means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty;

(27) "Student" means a person who is legally enrolled in a school district in Arkansas and receives services in Arkansas under § 619 or 34 Part C of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 35 et seq.;

(28) "Student with a disability" means a student who is: As Engrossed: H3/29/21 HB1610 10 03-29-2021 11:25:41 TNL210

(A) Evaluated in accordance with 34. C.F.R. §§ 300.304 — 300.311 and section 6 of Special Education and Related Services: Procedural Requirements and Program Standards (ADE 2000) of the Division of Elementary and Secondary Education as having one (1) or more of the following:

(i) A cognitive or developmental disability;

(ii) A hearing impairment, including without limitation deafness;

- (iii) A speech or language impairment;
- (iv) A visual impairment, including without limitation blindness;
- (v) Serious emotional disturbance;
- (vi) Orthopedic impairment;
- (vii) Autism;
- (viii) Traumatic brain injury;
- (ix) A health impairment;
- (x) A specific learning disability; or
- (xi) Deaf-blindness; and

(B) By reason of his or her evaluation in accordance with 19 34. C.F.R. §§ 300.304 — 300.311 and § 6 of the Special Education and Related Services: Procedural Requirements and Program Standards (ADE 2000) from the Division of Elementary and Secondary Education is in need of special education and related services; and

(29) "Supine restraint" means the restraint of a student in a face-up position on his or her back on the floor or another surface and with physical pressure applied to the body of the student to keep the student in the supine position.

6-18-2204. Prevention.

(a) School districts shall implement positive behavioral supports that shall be used at the:

- (1) Prevention level for each student in a school;
- (2) Strategic intervention level for a student who is not responding, from a social, emotional, or behavioral perspective, to the prevention level; and
- (3) Intensive service or crisis-management level for a student who needs multifaceted or comprehensive behavioral or mental health services. As Engrossed: H3/29/21 HB1610 11 03-29-2021 11:25:41 TNL210

(b) Positive behavioral support implemented by a school district shall include:

- (1) The teaching and reinforcing of interpersonal, social, problem solving, conflict resolution, and coping skills to a student;
- (2) Holding a student positively accountable for meeting an established behavioral expectation;
- (3) Maintaining a high level of consistency through the implementation process; and
- (4) The following interrelated activities:
 - (A) Providing a school-wide approach to the discipline and safety of each student rather than an approach to only the behavior problem of a student;
 - (B) Focusing on preventing the development and occurrence of problem behavior;
 - (C) Regularly reviewing behavior data to adapt the procedures of a school to meet the needs of every student; and

(D) Providing a multitiered approach to academic and behavioral services and support to meet the academic and behavioral achievement needs of each student.

(c) A positive behavioral support system and conflict resolution or de-escalation approach implemented by a school district shall be based on the following principles:

- (1) A school should promote the right of a student to be treated with dignity;
- (2) A student should receive necessary academic, social, emotional, and behavioral support that is provided in a safe and least restrictive environment possible;
- (3) Positive and appropriate academic, social, emotional, or behavioral intervention, as well as mental health support, should be provided routinely to each student who needs the intervention or support;
- (4) School personnel should be trained to provide routinely positive and appropriate academic, social, emotional, or behavioral intervention, as well as mental health support, to each student who needs the intervention or support;
- (5) Behavioral intervention should emphasize prevention and should be a part of a school's system of positive behavioral support; As Engrossed: H3/29/21 HB1610
12 03-29-2021 11:25:41 TNL210
- (6) A school should have the school personnel necessary to effectively provide positive support to a student;
- (7) A school should appropriately train its school personnel to be able to address the needs of each student;
- (8) All relevant school personnel, as determined by each public 6 school district, should receive training in:

(A) The use of positive behavior support for student behavior and in preventive techniques for teaching and motivating prosocial student behavior; and

(B) Conflict de-escalation and resolution techniques, and these techniques should be employed by all school personnel to prevent, defuse, evaluate, and debrief a crisis and conflict situation; and

(g) Each student who exhibits an ongoing behavior that interferes with his or her learning or the learning of others, and who is nonresponsive to effectively implemented classroom or administrative intervention, should receive additional intensive behavioral intervention that is based on a Functional Behavior Assessment and data-based problem solving.

(d)(1) A school shall establish a problem-solving and intervention team for each student who exhibits social, emotional, or behavioral difficulty that may escalate, if not addressed, to potentially dangerous behavior.

(2) A problem-solving and intervention team shall include a team member who is an academic and behavioral assessment and intervention professional.

(3) A problem-solving and intervention team shall:

(A) Work with the teachers of a student to complete:

(i) A Functional Behavior Assessment of the student; and

(ii) An assessment of any problematic situations involving the student; and

(B) Consider the need for a Behavior Intervention Plan with the goal of preventing or resolving the social, emotional, or behavioral difficulty of

the student and developing a response that will de-escalate and stabilize a potential emergency situation that approaches the danger level.

(4) If a student is suspected of having a disability that As Engrossed: H3/29/21 HB1610 13 03-29-2021 11:25:41 TNL210 relates to behavioral concerns, the school shall follow school district, state, and federal special education procedures.

6-18-2205. Physical restraint.

5 (a)(1) Physical restraint of a student shall be used only by a member of school personnel who is appropriately trained to administer physical restraint except in the case of a clearly unavoidable emergency situation in which a trained member of school personnel is not immediately available due to the unforeseeable nature of the emergency situation.

(2) If an incident occurs in which a trained member of school personnel is not immediately available due to the unforeseeable nature of the emergency situation, a school district shall:

(A) Reevaluate the training needs of school personnel in the school district;

(B) Reevaluate the physical restraint policy and practices of the school district; and

(C) Develop a plan to prevent a future incident.

(3) School personnel who administer physical restraint may be trained:

(A) By a person who is certified by a training program that meets the criteria specified in § 6-18-2209; and

(B) In-state guidelines and the policies and procedures of the school district concerning the physical restraint of a student.

(b)(i) School personnel shall use the least restrictive technique necessary to end imminent danger or serious physical harm to a student and others.

(2) The ability of a student to communicate shall not be restricted unless the use of a less restrictive technique by school personnel will not prevent imminent danger of serious physical harm to the student or others.

(c) When using a crisis intervention procedure or technique, school personnel shall consider the health and safety of a student, including without limitation whether the student has an existing medical condition that makes the use of physical restraint inadvisable.

(d) Supine restraint shall not be used unless:

(1) The school personnel administering the supine restraint has As Engrossed: H3/29/21 HB1610 14 03-29-2021 11:25:41 TNL210 been trained by a person who is certified by a training program that meets the criteria specified in § 6-18-2209; and

(2) A person who is certified by a training program that meets the criteria specified in § 6-18-2209 determines that supine restraint is required to provide safety for the student and others.

(e) If physical restraint is used on a student, the student shall be continuously and visually observed and monitored while he or she is under physical restraint.

(f) When using physical restraint on a student, school personnel shall:

(i) Use the safest method available and appropriate to the situation;

(2) Use the amount of force that is reasonably necessary to protect a student or others from imminent danger of serious physical harm to the student or others; and

(3) Not verbally abuse, ridicule, humiliate, taunt, or engage in any other similar action towards the student.

(g) Physical restraint of a student shall:

(1) Be used for a limited period of time; and

(2) Not be used:

(A) When imminent danger or serious physical harm to the student or others dissipates or a medical condition occurs that puts the student at risk of harm;

(B) Unless the behavior of the student poses an imminent danger of serious physical harm to the student or others;

(C) After the threat of imminent danger of serious physical harm to the student or others dissipates; or

(D) In the following manner:

(i) To punish or discipline the student;

(ii) To coerce the student;

(iii) To force the student to comply;

(iv) To retaliate against the student;

(v) To replace the use of an appropriate educational or behavioral support;

(vi) As a routine safety measure;

(vii) As a planned behavioral intervention in As Engrossed: H3/29/21 HB1610 15 03-29-2021 11:25:41 TNL210 response to behavior of the student that does not pose an imminent danger of serious physical harm to the student or others;

(viii) As a convenience for school personnel; or

(ix) To prevent property damage unless the act of damaging property committed by the student poses an imminent danger or serious physical harm to the student and others.

(h) School personnel shall not use the following on a student:

(1) Mechanical restraint;

(2) Chemical restraint;

(3) Aversive behavioral interventions that compromise health and safety;

(4) Physical restraint that is:

(A) Life-threatening; or

(B) Medically contraindicated unless the behavior of the student poses an imminent danger of serious physical harm to the student or others; or

(5) Prone restraint or other restraint that restricts the breathing of a student.

(i)(1) The use of physical restraint on a student as a planned behavioral intervention shall not be included in a student's Individualized Education Program, 504 Plan, Behavior Intervention Plan, individual safety plan, or other individual planning document.

(2) However, if appropriate, physical restraint of a student may be considered as a crisis intervention for the student.

(j) A Functional Behavior Assessment shall be conducted following the first incident of physical restraint used on a student unless a previous Functional Behavior Assessment was conducted for the same behavior that was at issue when the physical restraint was used.

(k) The use of a technique that is abusive shall be reported to the Child Abuse Hotline and law enforcement.

6-18-2206. Responsibilities of school districts.

A school district shall develop policies and procedures:

(1) To ensure that school personnel are aware of how to access state and local policies and procedures regarding the use of physical restraint on a student; As Engrossed: H3/29/21 HB1610 16 03-29-2021 11:25:41 TNL210

(2) To ensure that parents are notified of how to access state and local policies and procedures regarding the use of physical restraint on a student;

(3) To ensure the safety of all school personnel, visitors, and students, including without limitation students with complex and intensive behavioral needs;

(4) To require appropriate school personnel to be trained in accordance with the provisions of this subchapter;

(5)(A) That shall be implemented during and after an incident involving the use of physical restraint on a student.

(B) The policies and procedures under this section shall include without limitation a requirement:

(i) That a parent of student shall be notified in writing of an incident involving the use of physical restraint on the student;

(ii) To document an incident involving the use of physical restraint on a student; and

(iii) To conduct a debriefing as provided under § 6- 18-2207 when an incident involving the use of physical restraint on a student occurs;

(6)(A) For the acceptance and disposition of a complaint from a parent of a student regarding an incident involving the use of physical restraint on the student.

(B)(i) A complaint received by a school district concerning the use of physical restraint on a student shall be referred to the appropriate school personnel and the student's Individualized Education Program team or the student's 504 Plan team for review.

(ii) If a student has an Individualized Education Program or a 504 Plan, the student's Individualized Education Program team or 504 Plan team shall consider whether:

(a) A Functional Behavior Assessment should be performed;

(b) A Behavior Intervention Plan should be developed or revised; and

(c) Additional behavioral goals and interventions should be included in the student's existing Individualized As Engrossed: H3/29/21 HB1610 17 03-29-2021 11:25:41 TNL210 Education Program or 504 Plan; and

(7) To require the regular review of data on incidents involving the use of physical restraint on a student and the adjustment of procedures, as needed, concerning the use of physical restraint on a student.

6-18-2207. Documentation – Notification – Debriefing.

After the occurrence of an incident involving physical restraint of a student, school personnel involved in the incident shall:

(1)(A) Document the incident in a written report within twenty four (24) hours after the incident occurred.

(B) A written report of the incident shall:

(i) Include all information contained in the Physical Restraint or Seclusion Incident Record and Debriefing Report provided by the Division of Elementary and Secondary Education; and

(ii) Be maintained in the education record of the student on whom physical restraint was used.

(C) A copy of the report shall be provided to the parent of the student on whom physical restraint was used within one (1) school day of the completion of the report;

(2) Notify the:

(A) Principal of the school or another designated building administrator of the incident as soon as possible but no later than the end of the school day on which the incident occurred;

(B)(i) Parent of the student on whom physical restraint was used via verbal or electronic communication as soon as possible but no later than the end of the school day on which the incident occurred.

(ii) If the parent of the student on whom physical restraint was used cannot be notified via verbal or electronic communication within twenty-four (24) hours after the incident occurred, the parent shall be mailed written notification of the incident within forty-eight (48) hours after the incident occurred; and

(3)(A) Hold a debriefing meeting within two (2) school days after the incident occurred.

(B) The following school personnel shall be present at a debriefing meeting:

(i) A member of school personnel who was present As Engrossed: H3/29/21 HB1610 18 03-29-2021 11:25:41 TNL210 during the incident;

(ii) A member of school personnel who was in the proximity of the student on whom physical restraint was used immediately before and during the time of the incident;

(iii) A school administrator; and

(iv) Any other member of school personnel determined to be appropriate by the school district.

(C) The purpose of the debriefing meeting shall be to:

(i) Determine whether the procedures used during the incident were necessary;

(ii) Evaluate the use of any behavioral supports and de-escalation techniques by school personnel before and during the incident; and

(iii) Evaluate the school district's positive behavioral supports system and prevention techniques in order to minimize future use of physical restraint.

(D) At a debriefing meeting, school personnel shall:

(i) Consider relevant information in the education record of the student on whom physical restraint was used, including without limitation the concerns of the parent of the student and the student's social and medical history, Functional Behavior Assessment, and Behavior Intervention Plan;

(ii) Consider relevant information from the teachers, parents, and other professionals employed with the school district;

(iii) Discuss whether positive behavior supports were appropriately implemented;

(iv) Discuss the duration and frequency of the use of physical restraint on the student;

(v) Discuss appropriate action that may be taken to prevent and reduce the need for physical restraint;

(vi) Consider whether additional intervention and support is necessary for the student on whom physical restraint was used;

(vii) Consider whether additional intervention and support is necessary for school personnel; and

(viii) Consider how and when to debrief a person who was not present at the debriefing meeting, including without limitation the As Engrossed: H3/29/21 HB1610 19 03-29-2021 11:25:41 TNL210 student on whom physical restraint was used, the parent of the student on whom physical restraint was used, and any other school personnel or students who witnessed the incident.

(E)(i) The Physical Restraint or Seclusion Incident Record and Debriefing Report provided by the division or an alternative report that includes the same information in the Physical Restraint or Seclusion Incident Record and Debriefing Report shall be completed during the debriefing meeting and filed with a designated administrator of the school district.

(ii) A copy of the report completed under subdivision

(3)(E)(i) of this section shall be mailed to the parent of the student on whom physical restraint was used within two (2) days of the date on which the debriefing meeting was held.

(F) All documentation used during the debriefing meeting shall be maintained as part of the education record of the student on whom physical restraint was used.

17 6-18-2208. Training — School personnel.

(a) A school district may conduct the following training for school personnel:

(i) Training on the use of an array of positive behavior interventions, strategies, and supports to increase appropriate student behavior and decrease inappropriate or dangerous student behavior;

(2)(A) Annual training on responding to a student in behavioral crisis and preventing a behavioral crisis.

(B) The training described under subdivision (a)(2)(A) of this section may be delivered using a web-based application and may include training on:

(i) The appropriate procedures that may be used to prevent the need for physical restraint and crisis intervention, including without limitation positive behavior management and support strategies;

(ii) The proper use of positive reinforcement;

(iii) The continuum of alternative behavioral interventions;

(iv) Crisis prevention techniques; and

(v) De-escalation strategies for problematic behavior, including without limitation verbal de-escalation and relationship building; and

(3)(A) Training for school personnel who are selected to participate in a core team that is designated to respond to crisis and emergency situations that may require the physical restraint of a student.

(B) The core team may receive training annually in the following areas:

(i) Appropriate procedures for preventing the need for physical restraint or crisis intervention that includes the de-escalation of problematic behavior, relationship building skills, and the use of alternatives to physical restraint;

(ii) Describing and identifying dangerous behaviors on the part of a student that may indicate the need for physical restraint or crisis intervention;

(iii) The methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint or crisis intervention is safe and warranted;

(iv) Simulated experience of administering and receiving physical restraint and crisis intervention;

(v) Instruction regarding the effect of using physical restraint on a student, including without limitation instruction on monitoring physical signs of distress and obtaining medical assistance;

(vi) Instruction on documentation and reporting requirements and the investigation of injuries; and

(vii) Demonstration by participants of proficiency in administering physical restraint and crisis intervention.

(b) A school district shall notify all school personnel of each member of school personnel who has been trained in the use of physical restraint procedures.

29 30 6-18-2209. Crisis Intervention Training Program — Criteria.

A program used by a school district to train school personnel on the use of physical restraint on a student shall:

(i) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint;

(2) Provide evidence-based skills training relating to positive support, conflict prevention, de-escalation, and crisis response techniques, As Engrossed: H3/29/21 HB1610 21 03-29-2021 11:25:41 TNL210 including without limitation:

(A) Guidelines on understanding when there is an imminent danger of serious physical harm to a student or others;

(B) Guidelines on when to intervene when there is an imminent danger of serious physical harm to a student or others;

(C) An emphasis on safety and the respect for the rights and dignity of each person involved in an incident that involves the use of physical restraint on a student;

(D) An emphasis on using the least restrictive form of intervention and taking incremental steps in an intervention;

(E) The provision of updates on information concerning alternatives to the use of restrictive interventions;

(F) Strategies for the safe implementation of restrictive interventions;

(G) The use of emergency safety interventions that include without limitation continuous assessment and monitoring of the physical well being of a student and the safe use of physical restraint throughout the duration of a restrictive intervention;

(H) Prohibited procedures;

(I) Debriefing strategies, including without limitation the importance and purpose of debriefing; and

(J) Documentation of methods and procedures concerning the use of physical restraint on a student;

(3) Be competency-based and include measurable learning objectives, measurable testing using written documentation of behavior and observation of behavior on the objectives of the testing, and measurable methods to determine passing or failing the program;

(4) Require recertification at least biennially; and

(5) Be consistent with the philosophies, practices, and techniques for physical restraint provided under this subchapter.

APPROVED: 4/30/21

REGULATIONS

005.18.020-20.01. General.

20.01.1 The time-out seclusion room is an extension of such techniques as turning a chair away from a group or placing a student in a corner or in the hallway.

20.01.2 Time-out is only effective if the classroom environment from which the student is removed is more reinforcing than the isolation area in which he is placed.

005.18.020-20.02. Definition.

20.02.1 Time-out

As used in these regulations, time-out is defined as the removal of the opportunity to engage in reinforced behavior.

005.18.020-20.03. Restrictions on the use of a time-out seclusion room.

20.03.1 Time-out seclusion should be used only for behaviors that are destructive to property, aggressive toward others or severely disruptive to the class environment. General noncompliance, self-stimulation, academic refusal, etc., can be responded to with less stringent and restrictive techniques.

20.03.2 The time-out seclusion room should be used only as a last resort if and when less restrictive means of controlling behavior have proven ineffective.

20.03.3 The necessity of using physical force to place a student in a time-out seclusion room is inappropriate beyond that reasonably managed by the classroom teacher.

20.03.3.1 Involuntary time-out must not be used with such students and, in general, time-out is not an appropriate intervention for classroom use with any students older than 12 unless they have made a contractual agreement for its use.

20.03.3.2 It is important that teachers realistically evaluate their ability to physically remove a student to the time-out room.

20.03.3.3 If there is a reasonable doubt concerning the capability of the teacher to physically remove the resistant student, the teacher should not begin to attempt the time-out procedure. In such a case, an alternative strategy should be implemented.

20.03.4 Time-out seclusion rooms must meet structural guidelines and provide for continuous monitoring, visually and auditorily, of the student's behavior by an adult. (Refer to § 20.04.9 of this part for structural guidelines.)

005.18.020-20.04. Guidelines for appropriate use of a time-out seclusion room.

20.04.1 The teacher or behavioral specialist should have documentation that milder forms of time-out or other reduction techniques have proven ineffective in suppressing the inappropriate behavior.

20.04.2 The use of seclusion time-out and the behaviors which will result in its use must be explicitly stated in the student's IEP. Parent consent for the use of a time-out seclusion procedure should be documented.

20.04.3 Time-out must be paired with a behavioral plan to provide positive reinforcement for appropriate behaviors. This must also be included in the student's IEP.

20.04.4 Written procedures must be developed and followed for each student whose IEP includes the use of time-out.

20.04.5 The following guidelines should be adhered to for effective use of the timeout seclusion room.

20.04.5.1 Avoid lengthy verbal explanations. Behaviors resulting in time-out should be clearly explained prior to implementing the time-out program. Explanations provided during use of time-out should be brief, but should adequately inform the student of his/her misbehavior, such as, "Because you _____, you must go to time-out for _____ minutes." All other verbal interaction should be avoided.

20.04.5.2 To maximize opportunities to exercise self-control, students should be given the opportunity to take their own time-out after receiving instructions from the teacher. However, if students refuse to take their own time-out, or if they fail to respond to the teacher's instructions within a reasonable time interval (5 to 10 seconds), the teacher should physically remove them to the time-out area. (Refer to § 20.03.3 of these regulations regarding physically removing the child to the time-out area.)

20.04.5.3 For high intensity behavior (e.g., kicking, screaming), the student should immediately be escorted to the time-out room.

20.04.6 Time Spent In Time-Out Seclusion Room

20.04.6.1 Length of time spent in the time-out seclusion room must be documented and kept within the specified time limits

A. Preschool -no more than 5 minutes for each exclusion.

B. Lower elementary -no more than 15 minutes for each exclusion.

C. Middle/upper elementary -no more than 20 minutes for each exclusion.

20.04.6.2 At the end of the prescribed time, the student should be offered the opportunity to rejoin the class. If the student chooses to stay in time-out, the door must be left open at this time. When a student consistently chooses to stay in the time-out seclusion room beyond the prescribed time limit, the use of this procedure must be reviewed. The time-out room may be providing more reinforcement than the environment from which the student was removed.

20.04.6.3 Should there be a need for a time-out period to extend past the prescribed time limits, the appropriateness of continuing the time-out procedure should be evaluated immediately by knowledgeable professionals (i.e., principal, counselor, special education staff).

20.04.6.4 Careful consideration must be taken in extending the prescribed length of the time-out seclusion. The effectiveness of the time-out procedure is the result of its consistent use, rather than the length of stay in the timeout seclusion room.

20.04.7 Records Must Be Kept Of Each Occasion When Time-Out Seclusion Is Used.
The Records Should Include

20.04.7.1 The student's name;

20.04.7.2 The behavior for which time-out is being used, as specified in the IEP; and

20.04.7.3 The time of day the student was placed in and released from time-out.

20.04.8 When the use of time-out seclusion is included in a student's IEP, it is recommended that the use of time-out to address specific student behaviors be reviewed by a knowledgeable professional(s) twice monthly.

20.04.8.1 The use of the time-out seclusion procedure shall be altered or discontinued as a behavioral management technique if data do not support its effectiveness.

20.04.8.2 The continued and/or frequent need for this type of behavioral intervention could indicate that behavioral objectives, management techniques or other factors affecting the learning environment are not appropriately matched with the student's needs and behaviors.

20.04.9 If A Time-Out Room Is To Be Employed, The Time-Out Room Should

20.04.9.1 Be at least 4' X 4' and no larger than 6' X 6' in size;

20.04.9.2 Be properly lighted (preferably recessed lighting, with switches outside the room). Lighting should remain on at all times;

20.04.9.3 Be properly ventilated;

20.04.9.4 Be free of objects and fixtures;

20.04.9.5 Provide the means by which an adult can continuously monitor, visually and auditorily, the student's behavior;

20.04.9.6 The door should be such that it cannot be locked; and

20.04.9.7 Meet state and county fire and safety codes.

20.04.10 In addition, it is necessary that all personnel involved in designing and implementing behavioral management procedures, including the use of timeout

seclusion, be adequately trained and supervised. It is imperative that these persons have attained levels of skill and competency so that their qualifications correspond to their responsibilities

[Return to Table of Contents](#)

California (CA)

Links

<https://law.justia.com/codes/california/2020/code-edc/title-2/division-4/part-27/chapter-6/article-5-2/>

Law Text

EDUCATION CODE - EDC

TITLE 2. ELEMENTARY AND SECONDARY EDUCATION [33000 - 65001] (Title 2 enacted by Stats. 1976, Ch. 1010.)

DIVISION 4. INSTRUCTION AND SERVICES [46000 - 65001] (Division 4 enacted by Stats. 1976, Ch. 1010.)

PART 27. PUPILS [48000 - 49703] (Part 27 enacted by Stats. 1976, Ch. 1010.)

CHAPTER 6. Pupil Rights and Responsibilities [48900 - 49051] (Chapter 6 enacted by Stats. 1976, Ch. 1010.)

ARTICLE 5.2. Restraint and Seclusion [49005 - 49006.4] (Article 5.2 added by Stats. 2018, Ch. 998, Sec. 1.)

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ARTICLE 5.2. Restraint and Seclusion [49005 - 49006.4] (Article 5.2 added by Stats. 2018, Ch. 998, Sec. 1.)

49005.

The Legislature finds and declares all of the following:

- (a) While it is appropriate to intervene in an emergency to prevent a pupil from imminent risk of serious physical self-harm or harm of others, restraint and seclusion are dangerous interventions, with certain known practices posing a great risk to child health and safety.
- (b) United States Department of Education guidelines specify that the use of restraint and seclusion must be consistent with the child's right to be treated with dignity and to be free from abuse.
- (c) Restraint and seclusion should only be used as a safety measure of last resort, and should never be used as punishment or discipline or for staff convenience.
- (d) Restraint and seclusion may cause serious injury or long lasting trauma and death, even when done safely and correctly.
- (e) There is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques.
- (f) Pupils with disabilities and pupils of color, especially African American boys, are disproportionately subject to restraint and seclusion.

(g) Well-established California law already regulates restraint techniques in a number of settings, including general acute care hospitals, acute psychiatric hospitals, psychiatric health facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers. These minimal protections should be provided to all pupils in schools.

(h) It is the intent of the Legislature to ensure that schools foster learning in a safe and healthy environment and provide adequate safeguards to prevent harm, and even death, to children in school.

(i) This article is intended to be read to be consistent with, and does not change any requirements, limitations, or protections in, existing law pertaining to pupils with exceptional needs.

(j) It is the intent of the Legislature to prohibit dangerous practices. Restraint and seclusion, as described in this article, do not further a child's education. At the same time, the Legislature recognizes that if an emergency situation arises, the ability of education personnel to act in that emergency to safeguard a pupil or others from imminent physical harm should not be restricted.

(Amended by Stats. 2019, Ch. 497, Sec. 62. (AB 991) Effective January 1, 2020.)

49005.

The Legislature finds and declares all of the following:

(a) While it is appropriate to intervene in an emergency to prevent a pupil from imminent risk of serious physical self-harm or harm of others, restraint and seclusion are dangerous interventions, with certain known practices posing a great risk to child health and safety.

(b) United States Department of Education guidelines specify that the use of restraint and seclusion must be consistent with the child's right to be treated with dignity and to be free from abuse.

(c) Restraint and seclusion should only be used as a safety measure of last resort, and should never be used as punishment or discipline or for staff convenience.

(d) Restraint and seclusion may cause serious injury or long lasting trauma and death, even when done safely and correctly.

(e) There is no evidence that restraint or seclusion is effective in reducing the problem behaviors that frequently precipitate the use of those techniques.

(f) Pupils with disabilities and pupils of color, especially African American boys, are disproportionately subject to restraint and seclusion.

(g) Well-established California law already regulates restraint techniques in a number of settings, including general acute care hospitals, acute psychiatric hospitals, psychiatric health facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers. These minimal protections should be provided to all pupils in schools.

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(i) This article is intended to be read to be consistent with, and does not change any requirements, limitations, or protections in, existing law pertaining to pupils with exceptional needs.

(j) It is the intent of the Legislature to prohibit dangerous practices. Restraint and seclusion, as described in this article, do not further a child's education. At the same time, the Legislature recognizes that if an emergency situation arises, the ability of education personnel to act in that emergency to safeguard a pupil or others from imminent physical harm should not be restricted.

(Amended by Stats. 2019, Ch. 497, Sec. 62. (AB 991) Effective January 1, 2020.)

49005.1.

The following definitions apply to this article:

(a) “Behavioral restraint” means “mechanical restraint” or “physical restraint,” as defined in this section, used as an intervention when a pupil presents an immediate danger to self or to others. “Behavioral restraint” does not include postural restraints or devices used to improve a pupil’s mobility and independent functioning rather than to restrict movement.

(b) “Educational provider” means a person who provides educational or related services, support, or other assistance to a pupil enrolled in an educational program provided by a local educational agency or a nonpublic school or agency.

(c) “Local educational agency” means a school district, county office of education, charter school, the California Schools for the Deaf, and the California School for the Blind.

(d) (1) “Mechanical restraint” means the use of a device or equipment to restrict a pupil’s freedom of movement.

(2) (A) “Mechanical restraint” does not include the use of devices by peace officers or security personnel for detention or for public safety purposes.

(B) “Mechanical restraint” does not include the use of devices by trained school personnel, or by a pupil, prescribed by an appropriate medical or related services professional, if the device is used for the specific and approved purpose for which the device or equipment was prescribed, which shall include, but not be limited to, all of the following:

(i) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports.

(ii) Vehicle safety restraints when used as intended during the transport of a pupil in a moving vehicle.

(iii) Restraints for medical immobilization.

(iv) Orthopedically prescribed devices that permit a pupil to participate in activities without risk of harm.

(e) “Nonpublic school or agency” means any nonpublic school or nonpublic agency, including both in-state and out-of-state nonpublic schools and nonpublic agencies.

(f) (1) “Physical restraint” means a personal restriction that immobilizes or reduces the ability of a pupil to move the pupil’s torso, arms, legs, or head freely. “Physical restraint” does not include a physical escort, which means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a pupil who is acting out to walk to a safe location.

(2) “Physical restraint” does not include the use of force by peace officers or security personnel for detention or for public safety purposes.

(g) “Prone restraint” means the application of a behavioral restraint on a pupil in a facedown position.

(h) “Pupil” means a pupil enrolled in preschool, kindergarten, or any of grades 1 to 12, inclusive, and receiving educational services from an educational provider.

(i) “Seclusion” means the involuntary confinement of a pupil alone in a room or area from which the pupil is physically prevented from leaving. “Seclusion” does not include a timeout, which is a behavior management technique that is part of an approved program, that involves the monitored separation of the pupil in a nonlocked setting, and is implemented for the purpose of calming.

(Amended by Stats. 2019, Ch. 497, Sec. 63. (AB 991) Effective January 1, 2020.)

49005.2.

A pupil has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug administered to the pupil in order to control the pupil's behavior or to restrict the pupil's freedom of movement, if that drug is not a standard treatment for the pupil's medical or psychiatric condition.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

49005.4.

An educational provider may use seclusion or a behavioral restraint only to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

49005.6.

An educational provider shall avoid, whenever possible, the use of seclusion or behavioral restraint techniques.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

49005.8.

(a) An educational provider shall not do any of the following:

(i) Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.

(2) Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(3) Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back.

(4) Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.

(5) Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back.

(6) Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.

(b) An educational provider shall keep constant, direct observation of a pupil who is in seclusion, which may be through observation of the pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. The observation required pursuant to this subdivision shall not be through indirect means, including through a security camera or a closed-circuit television.

(c) An educational provider shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.

(d) If prone restraint techniques are used, a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

49006.

(a) A local educational agency that meets the definition of a “local educational agency” specified in Section 300.28 of Title 34 of the Code of Federal Regulations shall collect and, no later than three months after the end of a school year, report to the department annually on the use of behavioral restraints and seclusion for pupils enrolled in or served by the local educational agency for all or part of the prior school year.

(b) The report required pursuant to subdivision (a) shall include all of the following information, disaggregated by race or ethnicity, and gender:

(1) The number of pupils subjected to mechanical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(2) The number of pupils subjected to physical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(3) The number of pupils subjected to seclusion, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(4) The number of times mechanical restraint was used on pupils, with separate counts for the number of times mechanical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to

Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(5) The number of times physical restraint was used on pupils, with separate counts for the number of times physical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(6) The number of times seclusion was used on pupils, with separate counts for the number of times seclusion was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(c) Notwithstanding any other law, the data collected and reported pursuant to this section shall be available as a public record pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(d) No later than three months after the report is due to the department pursuant to subdivision (a), the department shall post the data from the report annually on its Internet Web site.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

49006.2.

Notwithstanding Section 49006, the data collection and reporting requirements contained in this article shall be conducted in compliance with the requirements of the Civil Rights Data Collection of the United States Department of Education's Office for Civil Rights imposed pursuant to Sections 100.6(b) and 104.61 of Title 34 of the Code of

Federal Regulations, and shall not be construed to impose a new program or higher level of service on local educational agencies or nonpublic schools or agencies.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

49006.4.

(a) This article applies with regard to all pupils, including individuals with exceptional needs. For an individual with exceptional needs, if a behavioral restraint or seclusion is used, the procedures for followup contained in subdivisions (e), (f), (g), and (h) of Section 56521.1 also apply.

(b) For purposes of this section, “individual with exceptional needs” has the same meaning specified in Section 56026.

(Amended by Stats. 2019, Ch. 497, Sec. 64. (AB 991) Effective January 1, 2020.)

EDUCATION CODE – EDC

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CHAPTER 6. Pupil Rights and Responsibilities [48900 – 49051] (Chapter 6 enacted by Stats. 1976, Ch. 1010.)

ARTICLE 5.2. Restraint and Seclusion [49005 – 49006.4] (Article 5.2 added by Stats. 2018, Ch. 998, Sec. 1.)

49005.4.

An educational provider may use seclusion or a behavioral restraint only to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

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49005.6.

An educational provider shall avoid, whenever possible, the use of seclusion or behavioral restraint techniques.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

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49005.8.

(a) An educational provider shall not do any of the following:

- (1) Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.
- (2) Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
- (3) Use a physical restraint technique that obstructs a pupil's respiratory airway or impairs the pupil's breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil's back or places his or her body weight against the pupil's torso or back.
- (4) Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a pupil's face.

(5) Place a pupil in a facedown position with the pupil's hands held or restrained behind the pupil's back.

(6) Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.

(b) An educational provider shall keep constant, direct observation of a pupil who is in seclusion, which may be through observation of the pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. The observation required pursuant to this subdivision shall not be through indirect means, including through a security camera or a closed-circuit television.

(c) An educational provider shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.

(d) If prone restraint techniques are used, a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint. Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil.

(Added by Stats. 2018, Ch. 998, Sec. 1. (AB 2657) Effective January 1, 2019.)

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ARTICLE 5.2. Restraint and Seclusion [49005 - 49006.4] (Article 5.2 added by Stats. 2018, Ch. 998, Sec. 1.)

49006.

(a) A local educational agency that meets the definition of a “local educational agency” specified in Section 300.28 of Title 34 of the Code of Federal Regulations shall collect and, no later than three months after the end of a school year, report to the department annually on the use of behavioral restraints and seclusion for pupils enrolled in or served by the local educational agency for all or part of the prior school year.

(b) The report required pursuant to subdivision (a) shall include all of the following information, disaggregated by race or ethnicity, and gender:

(1) The number of pupils subjected to mechanical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(2) The number of pupils subjected to physical restraint, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(3) The number of pupils subjected to seclusion, with separate counts for pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a

plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(4) The number of times mechanical restraint was used on pupils, with separate counts for the number of times mechanical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(5) The number of times physical restraint was used on pupils, with separate counts for the number of times physical restraint was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(6) The number of times seclusion was used on pupils, with separate counts for the number of times seclusion was used on pupils with a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program.

(c) Notwithstanding any other law, the data collected and reported pursuant to this section shall be available as a public record pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(d) No later than three months after the report is due to the department pursuant to subdivision (a), the department shall post the data from the report annually on its Internet Web site.

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49006.2.

Notwithstanding Section 49006, the data collection and reporting requirements contained in this article shall be conducted in compliance with the requirements of the Civil Rights Data Collection of the United States Department of Education's Office for Civil Rights imposed pursuant to Sections 100.6(b) and 104.61 of Title 34 of the Code of Federal Regulations, and shall not be construed to impose a new program or higher level of service on local educational agencies or nonpublic schools or agencies.

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49006.4.

(a) This article applies with regard to all pupils, including individuals with exceptional needs. For an individual with exceptional needs, if a behavioral restraint or seclusion is used, the procedures for followup contained in subdivisions (e), (f), (g), and (h) of Section 56521.1 also apply.

(b) For purposes of this section, “individual with exceptional needs” has the same meaning specified in Section 56026.

(Amended by Stats. 2019, Ch. 497, Sec. 64. (AB 991) Effective January 1, 2020.)

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[Return to Table of Contents](#)

Colorado (CO)

Links

Colorado State Board of Education, Rules for the Administration of the Protection of Persons from Restraint Act, 1 CCR 301-45:

<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=3335&fileName=1%20CCR%20301-45>

2016 Colorado Revised Statutes Title 26 §2620-R-1.00-2.07(9) -- Human Services Code Article 20 -- Protection of Persons from Restraint:

<https://www.cde.state.co.us/spedlaw/1ccr301-45sbeapproved-o>

Law Text

1. Restraint

2.00(8) “Restraint” means any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, chemicals, and seclusion.

2.00(8)(a) “Chemical Restraint” means administering medication to a student (including medications prescribed by his or her physician) on an as needed basis for the sole purpose of involuntarily limiting the student’s freedom of movement

“Chemical Restraint” does not include:

2.00(8)(a)(i) Prescription medication that is regularly administered to the student for medical reasons other than to restrain the student's freedom of movement (e.g., Asthma-cort, medications used to treat mood disorders or ADHD, Glucagon); or

2.00(8)(a)(ii) The administration of medication for voluntary or life-saving medical procedures (e.g., EpiPens, Diastat).

2.00(8)(b) "Mechanical Restraint" means a physical device used to involuntarily restrict the movement of a student or the movement or normal function of his or her body.

"Mechanical Restraint" does not include:

2.00(8)(b)(i) Devices recommended by a physician, occupational therapist, or physical therapist and agreed to by a student's IEP Team or Section 504 Team and used in accordance with the student's Individualized Education Program (IEP) or Section 504 Plan;

2.00(8)(b)(ii) Protective devices such as helmets, mitts, and similar devices used to prevent self-injury and in accordance with a student's IEP or Section 504 Plan;

2.00(8)(b)(iii) Adaptive devices to facilitate instruction or therapy and used as recommended by an occupational therapist or physical therapist, and consistent with a student's IEP or Section 504 Plan; or

2.00(8)(b)(iv) Positioning or securing devices used to allow treatment of a student's medical needs.

2.00(8)(c) "Physical Restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement.

“Physical Restraint” does not include:

2.00(8)(c)(i) Holding of a student in a position other than a prone position for less than five minutes by a staff person for the protection of the student or others

2.00(8)(c)(ii) Brief holding of a student by one adult for the purpose of calming or comforting the student, not to include holding a student in a prone position

2.00(8)(c)(iii) Minimal physical contact for the purpose of safely escorting a student from one area to another; or

2.00(8)(c)(iv) Minimal physical contact for the purpose of assisting the student in completing a task or response.

2.00(8)(d) “Prone Position” means a face-down position.

2.00(8)(e) “Prone Restraint” means a restraint in which the individual who is being restrained is secured in a prone position.

2. Seclusion

2.00(9) “Seclusion” means the placement of a student alone in a room from which egress is involuntarily prevented.

“Seclusion” does not mean:

2.00(9)(a) Placement of a student in residential services in his or her room for the night; or

2.00(9)(b) “Time-out” which is the removal of a student from potentially rewarding people or situations. A Time-out is not used primarily to confine the

student, but to limit accessibility to reinforcement. In a Time-out, the individual is not physically prevented from leaving the designated Time-out area. Such a Time-out requires effective monitoring by staff.

3. Basis for the Use of Restraint

2.01(1) Restraints shall only be used:

2.01(1)(a) In an emergency and with extreme caution; and

2.01(1)(b) After

2.01(1)(b)(i) The failure of less restrictive alternatives (such as Positive Behavior Supports, constructive and non-physical de-escalation, and re-structuring the environment); or

2.01(1)(b)(ii) A determination that such alternatives would be inappropriate or ineffective under the circumstances.

2.01(2) Restraints must never be used as a punitive form of discipline or as a threat to control or gain compliance of a student's behavior.

2.01(3) School personnel shall:

2.01(3)(a) Use restraints only for the period of time necessary and using no more force than is necessary; and

2.01(3)(b) Prioritize the prevention of harm to the student.

4. Duties Related to the Use of Restraint

2.02(1) General Requirements

2.02(1)(a) When restraints, including seclusion, are used, the public education program shall ensure that:

2.02(1)(a)(i) No restraint is administered in such a way that the student is inhibited or impeded from breathing or communicating

2.02(1)(a)(ii) No restraint is administered in such a way that places excess pressure on the student's chest, back, or causes positional asphyxia

2.02(1)(a)(iii) Restraints are administered only by staff who have received training, in accordance with Section 2.03 of these Rules

2.02(1)(a)(iv) Opportunities to have the restraint removed are provided to the student who indicates that (s)he is willing to cease the violent or dangerous behavior

2.02(1)(a)(v) When it is determined by trained staff that the restraint is no longer necessary to protect the student or others (i.e., the emergency no longer exists), the restraint must be removed. In the case of seclusion, staff must reintegrate the student or clearly communicate to the student that (s)he is free to leave the area used to seclude the student; and

2.02(1)(a)(vi) Student is reasonably monitored to ensure the student's physical safety.

2.02(2) Proper administration of specific restraints.

2.02(2)(a) "Chemical Restraints" shall not be used by public education agencies.

2.02(2)(b) "Mechanical Restraints" shall not be used by public education agencies, except:

2.02(2)(b)(i) When mechanical restraints are used on a student who is openly displaying a deadly weapon, as defined in Section 2.00(3).

2.02(2)(b)(ii) When used by armed security officers who: Have received documented training in defensive tactics utilizing handcuffing procedures and restraint tactics utilizing prone holds; and Have made a referral to a law enforcement agency.

2.02(2)(c) "Physical restraint"

2.02(2)(c)(i) A person administering the physical restraint must use only the amount of force necessary to stop the dangerous or violent actions of the student.

2.02(2)(c)(ii) A restrained student must be continuously monitored to ensure that the breathing of the student in such physical restraint is not compromised.

2.02(2)(c)(iii) A student shall be released from physical restraint within fifteen minutes after the initiation of the restraint, except when precluded for safety reasons.

2.02(2)(d) "Prone restraint" shall not be used by public education agencies except:

2.02(2)(d)(i) When prone restraints are used on a student who is openly displaying a deadly weapon, as defined in Section 2.00(3).

2.02(2)(d)(ii) When used by armed security officers who:

n Have received documented training in defensive tactics utilizing handcuffing procedures and restraint tactics utilizing prone holds; and

n Have made a referral to a law enforcement agency.

2.02(2)(e) “Seclusion”

2.02(2)(e)(i) Relief periods from seclusion shall be provided for reasonable access to toilet facilities; and

2.02(2)(e)(ii) Any space in which a student is secluded must have adequate lighting, ventilation, and size. To the extent possible under the specific circumstances, the space should be free of injurious items.

5. Staff Training

2.03 All public educational programs shall ensure that staff utilizing restraint in schools or facilities are trained. Training shall include:

2.03(1) a continuum of prevention techniques

2.03(2) environmental management

2.03(3) a continuum of de-escalation techniques

2.03(4) nationally recognized physical management and restraint practices, including, but not limited to, techniques that allow restraint in an upright or sitting position and information about the dangers created by prone restraint

2.03(5) methods to explain the use of restraint to the student who is to be restrained and to the individual's family

2.03(6) appropriate documentation and notification procedures; and

2.03(7) retraining at a frequency of at least every two years.

6. Documentation and Notification Requirements

2.04(1) If there is a reasonable probability that restraint might be used with a particular student, appropriate school staff must notify, in writing, the parents and, if appropriate, the student of the restraint procedures (including types of restraints) that might be used; specific circumstances in which restraint might be used; and staff involved. For students with disabilities, if the parents request a meeting with school personnel to discuss the notification, school personnel must ensure that the meeting is convened. This notification may occur at the meeting where the student's Behavior Plan or IEP is developed/reviewed.

2.04(2) If restraints are used by any school employee or volunteer, a written report must be submitted within one (1) school day to school administration.

2.04(3) The school principal or designee shall verbally notify the parents as soon as possible but no later than the end of the school day that the restraint was used.

2.04(4) A written report based on the findings of the staff review referenced in Section 2.05(1)(a) of these Rules, must be emailed, faxed, or mailed to the parent within five (5) calendar days of the use of restraint. The written report of the use of restraint must include:

2.04(4)(a) The antecedent to the student's behavior if known

2.04(4)(b) A description of the incident

2.04(4)(c) Efforts made to deescalate the situation

2.04(4)(d) Alternatives that were attempted

2.04(4)(e) The type and duration of the restraint used

2.04(4)(f) Injuries that occurred, if any; and

2.04(4)(g) The staff present and staff involved in administering the restraint.

2.04(5) A copy of the written report on the use of restraint shall be placed in the student's confidential file.

7. Review of the Use of Restraint

2.05(1) Each public education agency shall ensure that a review process is established and conducted for each incident of restraint used. The purpose of this review shall be to ascertain that appropriate procedures were followed and to minimize future use of restraint. The review shall include, but is not limited to:

2.05(1)(a) Staff review of the incident;

2.05(1)(b) Follow up communication with the student and his/her family

2.05(1)(c) Review of the documentation to ensure use of alternative strategies;
and

2.05(1)(d) Recommendations for adjustment of procedures, if appropriate. If requested by the public education agency or the parent(s) of the student, the public education agency shall convene a meeting to review the incident. For students with IEPs or Section 504 Plans, such a review may occur through the IEP or Section 504 process.

2.05(2) Each public education agency shall ensure that a general review process is established, conducted and documented in writing at least annually. The purpose of the general review is to ascertain that the public education agency is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. The review shall include but is not limited to:

2.05(2)(a) Analysis of incident reports, including all reports prepared pursuant to 2.04(2) and 2.04(4); including but not limited to procedures used during the restraint, preventative or alternative techniques tried, documentation, and follow up

2.05(2)(b) Training needs of staff

2.05(2)(c) Staff to student ratio; and

2.05(2)(d) Environmental considerations, including physical space, student seating arrangements, and noise levels.

8. Exceptions

2.06(1) The provisions in these Rules shall not apply to Peace Officers, as defined in Section 16-2.5-101, C.R.S. et seq. who are acting within the scope of their employment or in accordance with Section 16-3-109, C.R.S.

2.06(2) The provisions in these Rules shall not apply to any public education agency while engaged in transporting a student from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

9. Complaint Procedures and Regulations

2.07(1) A student or a parent or legal guardian may file a complaint about the use of restraint or seclusion used by an employee or volunteer of a school or charter school of school district or Board of Cooperative Services or any institute charter school by using the procedures established under this section 2.07.

2.07(2) Required Content of the Complaint: The Complaint must contain the following information:

2.07(2)(a) A statement that the employee or volunteer has violated a requirement regarding the use of restraints and an identification of the portion of the statute, rule, or regulation alleged to have been violated, if known by the complainant

2.07(2)(b) The background information and facts on which the Complaint is based that identify persons, actions and/or omissions

2.07(2)(c) The name and the residential address of the child against whom the alleged violation occurred

2.07(2)(d) The name of the school that the child was attending when the alleged violation occurred

2.07(2)(e) A proposed resolution of the problem to the extent known and available to the complainant at the time the Complaint is filed

2.07(2)(f) The Complaint must allege that the violation(s) set forth in the Complaint occurred not more than one (1) year prior to the date that the Complaint is filed with the CDE

2.07(2)(g) The signature and contact information (minimally, address and telephone number) for the complainant; and

2.07(2)(h) Written verification in a cover letter accompanying the Complaint that a complete copy of the Complaint and any attachments have also been mailed, hand-delivered, or delivered by other secure method to the public education agency (i.e. a school district, BOCES, or the Charter School Institute) serving the child.

2.07(3) The Complaint, including any attachments, must be mailed, hand-delivered, or delivered by other secure method to the IDEA State Complaints:

IDEA Part B State Complaints Officer

Colorado Department of Education

Exceptional Student Leadership Unit, Dispute Resolution Office

1560 Broadway, Suite 1175 Denver, Colorado 80202

Additionally, as noted in paragraph 2.07(2)(h) above, a complete copy of the Complaint, including any attachments, must also be mailed, hand-delivered, or delivered by other secure method to the public education agency (i.e. a school district, BOCES or the Charter School Institute) serving the child.

2.07(4) Complaints involving children with disabilities

2.07(4)(a) If the State Complaints Officer determines that the Complaint alleges a violation of the IDEA or its implementing regulations in 34 CFR Part 300, then the Complaint shall be processed through CDE's IDEA dispute resolution process. In these cases, the State Complaints Officer shall also have the authority to investigate and process a Complaint alleging improper use of seclusion and restraints in accordance with the timelines and procedures outlined in these rules.

2.07(4)(b) If the State Complaints Officer determines that the Complaint does not meet the criteria under section 2.07(4)(a), he or she shall refer the Complaint to the Restraint Complaints Officer (RCO) within five (5) calendar days of receiving the Complaint and shall notify the complainant in writing of this referral.

2.07(4)(c) Nothing in this subsection shall require the complainant to submit an additional Complaint directly to the RCO.

2.07(5) The Complaint shall be considered properly filed with the Department when it is received in CDE's Dispute Resolution Office and satisfies paragraph 2.07(2) above. A Complaint, once filed, will not be accepted for investigation if the CDE does not have jurisdiction (i.e., authority) to investigate; or if the Complaint does not set forth sufficient grounds on which to grant relief.

2.07(6) Within ten calendar (10) days of receipt of the Complaint, the RCO shall decide to accept or reject the Complaint for investigation and notify the complainant in writing. If the Complaint was sent via mail, the RCO's decision shall be postmarked by the 10th day. If the Complaint is accepted, the RCO shall:

2.07(6)(a) Notify the complainant of receipt and acceptance of the Complaint

2.07(6)(b) Notify, by certified or overnight mail, the public education agency of each and every allegation contained in the Complaint together with a complete copy of the Complaint; and

2.07(6)(c) Initiate an investigation concerning the allegations contained in the Complaint.

2.07(7) Complaint Timelines:

2.07(7)(a) Response: Within fifteen (15) calendar days of receiving the RCO's notification of the Complaint, the public education agency may file a Response to the Complaint allegations and provide information which it deems necessary or useful for the RCO to consider in conducting a thorough investigation. If the public education agency fails to timely respond to an allegation, the RCO may, in his/her sole discretion, deem the allegation admitted. The Response is due by 5:00 p.m. on the date due. The public education agency shall provide any written Response to the RCO and also a complete copy of the Response, including any attachments, to the complainant unless doing so would violate relevant laws regarding confidentiality. The public education agency shall provide the RCO with a legible copy of the written tracking receipt which verifies that a complete copy of the Response, including any attachments, was sent by certified or overnight mail to the complainant.

2.07(7)(b) Reply: Within ten (10) calendar days of delivery of the response, the complainant may file a written Reply to the Response, including any attachments, in support of his/her position. The complainant shall provide any written Reply to the RCO at the address identified in paragraph 2.07(3), above, and also provide the RCO by 5:00 p.m. on the date due with written verification

that a complete copy of the Reply, including any attachments, was also mailed or hand-delivered to the public education agency. The Response and Reply must be delivered by 5:00 p.m. on the date due to the office of the RCO and not merely postmarked by the due date. If the Response or Reply is untimely, the RCO may, within his or her sole discretion, refuse to consider the late document.

2.07(7)(c) **Timeline Extensions:** If the RCO finds that exceptional circumstances exist with respect to a particular Complaint, the RCO may, in his or her sole discretion, extend for a reasonable period of time, any of the timelines set forth in these Complaint procedures. Any request and extension of a timeline must occur prior to expiration of the timeline and shall be documented in a written order issued by the RCO prior to the expiration of the timeline and mailed to the parties. The RCO does not have authority to extend the regulatory statute of limitations of one (1) year described in Section 2.07(2)(f) above.

2.07(7)(d) If one or more due dates in the process fall on a weekend or a state holiday, the due date shall be the next calendar day following a weekend or state holiday if the due date is on a weekend or state holiday.

2.07(8) Complaint Investigations:

2.07(8)(a) The Complaint investigation may include, but is not limited to: an onsite investigation; request(s) that the complainant or public education agency provide additional information; and request(s) to review records in the possession of either party.

2.07(8)(b) Any time after a Complaint is filed and before the Complaint is resolved, the RCO may recommend a public education agency to undertake immediate action in an extraordinary situation when it is imperative to do so in order to protect the rights, health or safety of any student.

2.07(8)(c) The CDE, through the RCO, shall have sixty (60) calendar days from the date of receipt of the properly filed Complaint, to resolve the Complaint. The parties may mutually agree to extend the sixty (60) calendar day time limit in

order to engage in voluntary mediation. Any extension of the Decision due date will be set by the RCO to a date certain as per section 2.07(7)(c), above.

2.07(9) Complaint Resolution:

2.07(9)(a) The RCO shall issue a written decision which details the findings of fact and conclusions of law unless the issues have been previously resolved. Based upon a finding that a public education agency has failed substantially to comply with state laws and regulations for the use of restraint, the RCO will, as part of the resolution of the Complaint, make recommendations to the public education agency of remedial actions that may be taken in order to come into compliance with applicable law and regulations, (e.g., technical assistance and training activities).

2.07(9)(b) The RCO shall have no authority to require corrective action by the public education agency, including but not limited to compensatory education for the child who is the subject of the complaint, monetary reimbursement or attorney fees.

2.07(9)(c) The decision of the RCO shall be final.

[Return to Table of Contents](#)

Connecticut (CT)

Links

https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-236b

Law Text

Sec. 10-236b. Physical restraint and seclusion of students by school employees.

(a) For purposes of this section:

(1) “Life-threatening physical restraint” means any physical restraint or hold of a person that (A) restricts the flow of air into a person's lungs, whether by chest compression or any other means, or (B) immobilizes or reduces the free movement of a person's arms, legs or head while the person is in the prone position;

(2) “Psychopharmacologic agent” means any medication that affects the central nervous system, influencing thinking, emotion or behavior;

(3) “Physical restraint” means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head, including, but not limited to, carrying or forcibly moving a person from one location to another. The term does not include: (A) Briefly holding a person in order to calm or comfort the person; (B) restraint involving the minimum contact necessary to safely escort a person from one area to another; (C) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; (D) helmets or other protective gear used to protect a person from injuries due to a fall; (E) helmets, mitts and similar devices used to prevent self-injury when the device is (i) part

of a documented treatment plan or individualized education program pursuant to section 10-76d, or (ii) prescribed or recommended by a medical professional, as defined in section 38a-976, and is the least restrictive means available to prevent such self-injury; or (F) an exclusionary time out;

(4) "School employee" has the same meaning as provided in subsection (b) of section 10-2210;

(5) "Seclusion" means the involuntary confinement of a student in a room from which the student is physically prevented from leaving. "Seclusion" does not include an exclusionary time out;

(6) "Student" means a child (A) enrolled in grades kindergarten to twelve, inclusive, in a public school under the jurisdiction of a local or regional board of education, (B) receiving special education and related services in an institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d, (C) enrolled in a program or school administered by a regional education service center established pursuant to section 10-66a, or (D) receiving special education and related services from an approved private special education program, but shall not include any child receiving educational services from (i) Unified School District #2, established pursuant to section 17a-37, or (ii) the Department of Mental Health and Addiction Services; and

(7) "Exclusionary time out" means a temporary, continuously monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior.

(b) No school employee shall use a physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.

(c) No school employee shall use a life-threatening physical restraint on a student. This section shall not be construed as limiting any defense to criminal prosecution for the

use of deadly physical force that may be available under sections 53a-18 to 53a-22, inclusive.

(d) (1) No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative. (2) No student shall be placed in seclusion unless (A) such student is monitored by a school employee during the period of such student's seclusion pursuant to subsection (m) of this section, and (B) the area in which such student is secluded is equipped with a window or other fixture allowing such student a clear line of sight beyond the area of seclusion. (3) Seclusion shall not be utilized as a planned intervention in a student's behavioral intervention plan, individualized education program or plan pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time.

(e) No school employee may use a psychopharmacologic agent on a student without that student's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the student or to others, or (2) as an integral part of the student's established medical or behavioral support or educational plan, as developed consistent with section 17a-543 or, if no such plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

(f) If any instance of physical restraint or seclusion of a student otherwise permissible under subsection (b) or (d) of this section exceeds fifteen minutes, (1) an administrator, as defined in section 10-144e, or such administrator's designee, (2) a school health or mental health personnel, as defined in subsection (a) of section 10-212b, or (3) a board certified behavioral analyst, who has received training in the use of physical restraint and seclusion pursuant to subsection (o) of this section, shall determine whether continued physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.

(g) In the event that physical restraint or seclusion is used on a student four or more times within twenty school days:

(1) An administrator, one or more of such student's teachers, a parent or guardian of such student and, if any, a mental health professional, as defined in section 10-76t, shall convene for the purpose of (A) conducting or revising a behavioral assessment of the student, (B) creating or revising any applicable behavioral intervention plan, and (C) determining whether such student may require special education pursuant to section 10-76ff; or

(2) If such student is a child requiring special education, as described in subparagraph (A) of subdivision (5) of section 10-76a, or a child being evaluated for eligibility for special education pursuant to section 10-76d and awaiting a determination, such student's planning and placement team shall convene for the purpose of (A) conducting or revising a behavioral assessment of the student, and (B) creating or revising any applicable behavioral intervention plan, including, but not limited to, such student's individualized education plan.

(h) Each local or regional board of education shall notify a parent or guardian of a student who is placed in physical restraint or seclusion not later than twenty-four hours after the student was placed in physical restraint or seclusion and shall make a reasonable effort to provide such notification immediately after such physical restraint or seclusion is initiated.

(i) No school employee shall use a physical restraint on a student or place a student in seclusion unless such school employee has received training on the proper means for performing such physical restraint or seclusion pursuant to subsection (o) of this section.

(j) (1) On and after July 1, 2016, each local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program, shall (A) record each instance of the use of physical restraint or seclusion on a student, (B) specify whether the use of seclusion was in accordance with an individualized

education program, (C) specify the nature of the emergency that necessitated the use of such physical restraint or seclusion, and (D) include such information in an annual compilation on its use of such restraint and seclusion on students. Each local or regional board of education and such institutions or facilities operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program shall provide such annual compilation to the Department of Education for the purposes of the pilot program established pursuant to subdivision (2) of this subsection to examine incidents of physical restraint and seclusion in schools and to the State Board of Education for the purposes of subsection (k) of this section. Local or regional boards of education and such institutions and facilities that provide special education for children shall not be required to report instances of in-school suspensions, as defined in subsection (c) of section 10-233a.

(2) The Department of Education shall establish a pilot program for the school year commencing July 1, 2015. Such pilot program shall be implemented in various districts, including, but not limited to, an alliance district, a regional school district and a regional education service center. Under the pilot program, the Department of Education shall examine incidents of physical restraint and seclusion in schools and shall compile and analyze data regarding such incidents to enable the department to better understand and respond to incidents of physical restraint and seclusion on students in the state.

(k) The State Board of Education shall review the annual compilation of each local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program, and shall produce an annual summary report specifying (1) the frequency of use of physical restraint or seclusion on students, (2) whether any student subjected to such restraint or seclusion was a special education student, and (3) if any such student was a special education student, whether the use of such seclusion was in accordance with an individualized education program or whether the use of such seclusion was an emergency intervention to prevent immediate or imminent injury to the student or to others. Such report shall be submitted not later than January 15, 2017, and annually thereafter, to the joint standing committees of the General Assembly having cognizance of matters relating to children and education for inclusion in the annual report card prepared pursuant to section 2-53m.

(l) Any use of physical restraint or seclusion on a student shall be documented in the student's educational record. The documentation shall include (1) the nature of the emergency and what other steps, including attempts at verbal deescalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise, and (2) a detailed description of the nature of the restraint or seclusion, the duration of such restraint or seclusion and the effect of such restraint or seclusion on the student's established educational plan.

(m) Any student who is physically restrained shall be continually monitored by a school employee. Any student who is involuntarily placed in seclusion shall be frequently monitored by a school employee. Each student so restrained or in seclusion shall be regularly evaluated by a school employee for indications of physical distress. The school employee conducting the evaluation shall enter each evaluation in the student's educational record. For purposes of this subsection, "monitor" means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.

(n) If the use of such restraint or seclusion results in physical injury to the student, the local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d that provides special education for children, including any approved private special education program, shall report the incident to the State Board of Education, which shall include such incident in the report required pursuant to subsection (k) of this section. The State Board of Education shall report any incidence of serious injury or death to the nonprofit entity designated by the Governor in accordance with section 46a-10b to serve as the Connecticut protection and advocacy system, as required by the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 USC 15041, et seq., as amended from time to time, and any regulations promulgated thereunder, and as required by the Protection and Advocacy for Individuals with Mental Illness Act, 42 USC 10801 et seq., as amended from time to time, and any regulations promulgated thereunder, and, if appropriate, to the Child Advocate of the Office of the Child Advocate.

(o) (1) Each local or regional board of education shall provide training regarding the physical restraint and seclusion of students to the members of the crisis intervention team for each school in the district, identified pursuant to subdivision (2) of this

subsection. A local or regional board of education may provide such training to any teacher, as defined in section 10-144d, administrator, as defined in section 10-144e, school paraprofessional or other school employee, as defined in section 10-222d, designated by the school principal and who has direct contact with students. Such training shall be provided during the school year commencing July 1, 2017, and each school year thereafter, and shall include, but not be limited to:

(A) An overview of the relevant laws and regulations regarding the use of physical restraint and seclusion on students and the proper uses of physical restraint and seclusion. For the school year commencing July 1, 2017, and annually thereafter, such overview shall be provided by the Department of Education, in a manner and form as prescribed by the Commissioner of Education;

(B) The creation of a plan by which each local and regional board of education shall provide training regarding the prevention of incidents requiring physical restraint or seclusion of students. Such plan shall be implemented not later than July 1, 2018. The Department of Education may, within available appropriations, provide ongoing monitoring and support to local or regional boards of education regarding the formulation and implementation of the plan; and

(C) The creation of a plan by which each local or regional board of education shall provide training regarding the proper means of physical restraint or seclusion of a student, including, but not limited to, (i) various types of physical restraint and seclusion; (ii) the differences between life-threatening physical restraint and other varying levels of physical restraint; (iii) the differences between permissible physical restraint and pain compliance techniques; and (iv) monitoring methods to prevent harm to a student who is physically restrained or in seclusion. Such plan shall be implemented not later than July 1, 2018;

(2) For the school year commencing July 1, 2017, and each school year thereafter, each local and regional board of education shall require each school in the district to identify a crisis intervention team consisting of any teacher, as defined in section 10-144d, administrator, as defined in section 10-144e, school

paraprofessional or other school employee, as defined in section 10-222d, designated by the school principal and who has direct contact with students. Such teams shall respond to any incident in which the use of physical restraint or seclusion may be necessary as an emergency intervention to prevent immediate or imminent injury to a student or to others. Each member of the crisis intervention team shall be recertified in the use of physical restraint and seclusion pursuant to subparagraph (C) of subdivision (1) of this subsection or chapter 814e on an annual basis. Each local and regional board of education shall maintain a list of the members of the crisis intervention team for each school.

(p) Each local or regional board of education shall develop policies and procedures that establish monitoring and internal reporting of the use of physical restraint and seclusion on students and shall make such policies and procedures available on such local or regional board of education's Internet web site and in such local or regional board of education's procedures manual.

(q) Nothing in this section shall be construed as limiting the justified use of physical force by a local, state or federal law enforcement official while in the performance of such official's duties.

(r) The State Board of Education shall adopt or revise regulations, in accordance with the provisions of chapter 54, concerning the use of physical restraint and seclusion pursuant to this section. Not later than sixty days after the adoption or revision of such regulations, each local or regional board of education shall update any applicable policies and procedures regarding the physical restraint and seclusion of students and shall make such updated policies and procedures available in a manner consistent with the provisions of subsection (p) of this section.

(s) Not later than January 1, 2019, each local or regional board of education shall establish a policy regarding the use of an exclusionary time out. Such policy shall include, but need not be limited to, a requirement that (1) exclusionary time outs are not to be used as a form of discipline, (2) at least one school employee remain with the student, or be immediately available to the student such that the student and school employee are able to communicate verbally, throughout the exclusionary time out, (3) the space used for an exclusionary time out is clean, safe, sanitary and appropriate for

the purpose of calming such student or deescalating such student's behavior, (4) the exclusionary time out period terminate as soon as possible, and (5) if such student is a child requiring special education, as defined in section 10-76a, or a child being evaluated for special education, pursuant to section 10-76d, and awaiting a determination, and the interventions or strategies are unsuccessful in addressing such student's problematic behavior, such student's planning and placement team shall convene as soon as is practicable to determine alternative interventions or strategies.

(P.A. 15-141, S. 1; P.A. 17-96, S. 6; 17-220, S. 5; P.A. 18-51, S. 4.)

History: P.A. 15-141 effective July 1, 2015; P.A. 17-96 amended Subsec. (n) to replace reference to director of Office of Protection and Advocacy for Persons with Disabilities with reference to Connecticut protection and advocacy system, effective July 1, 2017; P.A. 17-220 amended Subsec. (o) by replacing “school district” with “board of education”, deleting references to school professionals, paraprofessional staff members and administrators, and adding provisions re members of crisis intervention team for each school district and providing training to teacher, administrator, school paraprofessional or other school employee, replacing “phased in over a period of three years beginning with the school year commencing July 1, 2015” with “provided during the school year commencing July 1, 2017, and each school year thereafter” in Subdiv. (1), adding “and the proper uses of physical restraint and seclusion” and adding reference to school year commencing July 1, 2017, and annually thereafter in Subdiv. (1)(A), replacing “or” with “and” re creation of plan to provide training, deleting “and professional development”, and replacing “July 1, 2017” with “July 1, 2018” in Subdiv. (1)(B), deleting “and professional development” and replacing “July 1, 2017” with “July 1, 2018” in Subdiv. (1)(C), replacing “Not later than July 1, 2015” with “For the school year commencing July 1, 2017”, replacing “or” with “and” re requirements to identify crisis intervention team, adding reference to teacher, administrator, school paraprofessional or other school employee re crisis intervention team, and adding provision re list of members of crisis intervention team in Subdiv. (2), and made technical and conforming changes, effective July 1, 2017; P.A. 18-51 amended Subsec. (a) by redefining “physical restraint” in Subdiv. (3), making a technical change in Subdiv. (4), redefining “seclusion” in Subdiv. (5), and adding Subdiv. (7) re definition of “exclusionary time out”, amended Subsec. (d) by designating existing provisions re placement of student in seclusion as new Subdivs. (1) and (2), amending new Subdiv. (2) by redesignating existing Subdivs. (1) and (2) as Subparas. (A) and (B) and adding Subdiv. (3) re seclusion shall not be utilized

as planned intervention, and adding Subsec. (s) re exclusionary time out policies, effective July 1, 2018.

[Return to Table of Contents](#)

Delaware (DE)

Links

<https://regulations.delaware.gov/AdminCode/title14/600/610.shtml>

Law Text

610 Limitations on Use of Seclusion and Restraint

1.0 Purpose and Authority

1.1 The purpose of these regulations is to establish standards and procedures for the use of physical restraint, chemical restraint, mechanical restraint, and seclusion to provide safety for all individuals. The regulations set forth permitted and prohibited uses of restraint and seclusion, required training for public school, private program, or alternative program personnel, required documentation and reporting of incidents of restraint and seclusion, required notification to parents, and waiver procedures for individual students.

1.2 These regulations are promulgated in accordance with 14 Del.C. §4112F.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Alternative program” means a program established pursuant to 14 **Del.C.** Ch. 16.

“Chemical restraint” means a drug or medication used on a student to control behavior or restrict freedom of movement that is either not medically prescribed for the standard treatment of a student’s medical or psychiatric condition or not administered as prescribed. (Authority: 14 **Del.C.** §4112F(a)(1)).

“Mechanical restraint” means the application of any device or object that restricts a student’s freedom of movement or normal access to a portion of the body that the student cannot easily remove. “Mechanical restraint” does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including the following:

- Restraints for medical immobilization;
- Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical supports;
- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
- Instruction and use of restraints as part of a criminal justice or other course; or
- Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

(Authority: 14 **Del.C.** §4112F(a)(2))

“Parent” means:

- A biological or adoptive parent of a child;
- A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives and for whom a Relative Caregiver’s School Authorization executed in compliance with 14 **Del.C.** §202(f)(1) is on file;

- An individual who is otherwise legally responsible for the child's welfare; or
- A surrogate parent who has been appointed in accordance with 14 **DE Admin. Code** 926,19.0 or Section 639(a)(5) of the Act.

The biological or adoptive parent, when attempting to act as the parent under these regulations, and when more than one party is qualified under this definition to act as a parent, must be presumed to be the parent for purposes of this definition unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this definition.

(Authority: 20 U.S.C. 1401(23); 14 **Del.C.** §3110)

“Physical restraint” means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head.

“Physical restraint” does not include physical contact that:

- Helps a student respond or complete a task;
- Is needed to administer an authorized health-related service or procedure; or
- Is needed to physically escort a student when the student does not resist or the student’s resistance is minimal.

(Authority: 14 **Del.C.** §4112F(a)(3))

“Principal” means the building principal, or the equivalent of the building principal, of any public school or charter school, or the building principal's designee.

“Private program” means a non-public school or program contracted by a school district or charter school.

“Public school personnel” means an employee or contractor of a public school district or charter school. “Public school personnel” does not include the following:

- A law enforcement officer as defined in § 9200(b) of Title 11; unless the law enforcement officer meets the definition of a School Resource Officer/SRO; or
- An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.(Authority: 14 **Del.C.** §4112F(a)(4))

"School Resource Officer (SRO)" means a contractor, subcontractor or employee of a public school district or charter school who is a sworn law enforcement officer as defined in 11 **Del.C.** §9200.

“Seclusion” means the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a “timeout” procedure during which a staff member remains accessible to the student shall not be considered “seclusion.” (Authority: 14 **Del.C.** §4112F(a)(5))

“Student” means any individual enrolled in a Delaware public school or charter school, an alternative program pursuant to 14 **Del.C.** Ch. 16, or a private program pursuant to Title 14 **Del.C.** Chapter 31, Section 3124.

“Timeout” means a behavior management technique in which, to provide a student with the opportunity to reflect or regain self-control, a student is separated from others for a limited period in a setting that is not locked and the exit is not physically blocked by furniture, closed door held shut from outside, or other inanimate object. (Authority: 14 **Del.C.** §4112F(a)(6))

"Written report" means printed paper filings and electronic filings that can be printed.

22 DE Reg. 55 (07/01/18)**3.0 Use of Restraints**

3.1 Public school personnel, private program personnel, and alternative program personnel are prohibited from imposing on any student:

3.1.1 Chemical restraint; and

3.1.2 Subject to waiver authorized by 14 Del.C. §4112F(c)(4) and Section 8.o, mechanical restraint and seclusion.

3.2 Such personnel may impose physical restraint only in conformity with all of the following standards:

3.2.1 The student's behavior presents a significant and imminent risk of bodily harm to self or others;

3.2.2 The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication;

3.2.3 The physical restraint does not interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck;

3.2.4 The physical restraint does not recklessly exacerbate a medical or physical condition of the student;

3.2.5 Less restrictive interventions have been ineffective in stopping the imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance posing imminent risk of bodily harm, including, without limitation, intervening in a student initiated physical assault or altercation;

3.2.6 For a student with a disability as defined in Chapter 31 of Title 14 or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual student;

3.2.7 Personnel use only the amount of force necessary to protect the student or others from the threatened harm;

3.2.8 The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student's behavior no longer presents an imminent risk of bodily harm to the student or others;

3.2.9 The physical restraint is within the scope of force authorized by §468 of Title 11.

(Authority: 14 Del.C. §4112F(b))

4.0 Training of Personnel

4.1 Except as provided in 14 Del.C. §702(c), a student may be physically restrained only by public school personnel, private program personnel, or alternative program personnel who have completed training in physical restraint procedures.

4.1.1 Such personnel shall receive annual training in the use of crisis prevention and intervention techniques consistent with nationally-recognized training programs, which shall meet the following minimum requirements:

4.1.1.1 The training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies and supports;

4.1.1.2 The training shall be designed to meet the needs of such personnel consistent with their duties and the potential need for emergency safety interventions; and

4.1.2 Each public school, private program, and alternative program shall maintain written or electronic documentation of each training provided, which shall include a list of all personnel who participated in the training.

4.2 Any public school personnel responsible for reporting the physical restraint of a student to the Department shall complete training on the reporting process approved by the Department and any additional training that the Department may prescribe from time to time.

4.2.1 The approved training shall be provided using a web-based platform through the Department's Professional Development Management System (PDMS) or similar system. The training will be provided on an annual basis and made available throughout each school year.

4.2.2 Such personnel responsible for reporting the physical restraint of a student shall complete the approved training at least once every three (3) years and during any year in which reporting procedures were changed from the previous year as indicated by the Department.

5.0 Parental Notification of Use of Physical Restraint

5.1 Except as provided in Section 5.1.1, if a student is physically restrained, a reasonable attempt shall be made to notify the parent on the same day, but in no event later than twenty-four hours after, the physical restraint is used. Such notification shall be made in person, by phone or by voicemail, or by e-mail. The school shall maintain written documentation of successful and unsuccessful attempts to notify the parent.

5.1.1 Where physical restraint is included in the student's IEP or Section 504 Plan, the IEP Team or Section 504 Team, including the parent, shall determine a timeframe and manner of notification of each incident of physical restraint.

5.2 The parent shall be provided a copy of a final written report no later than the date on which such report is filed with the Department. The written report shall contain, at a minimum, the information required under Section 6.o.

6.0 Uniform Data Collection

6.1 When an incident of physical restraint of a student by school personnel occurs:

6.1.1 As soon as practicable thereafter, a reasonable attempt shall be made to interview the student regarding the incident; and

6.1.2 The school principal must provide a written report, in a uniform format as determined by the Department, of the restraint to the Department within seventy-two (72) hours of the restraint, or within seventy-two (72) hours of the time in which the student's district or charter school of residence receives notice of the restraint from the contracted private program or alternative program, whichever the case may be; and

6.1.3 The written report shall include, at a minimum:

6.1.3.1 Details of the restraint incident, including, but not limited to, the student behavior and description of events leading to the use of physical restraint; de-escalation techniques utilized by school personnel prior to the

restraint; a description of the student's behavior during the restraint; a summary of witness interviews, if applicable; any injury caused to the student, staff member(s), or other student(s); and any related treatment deemed necessary as a result of the restraint.

6.1.3.2 Demographic information on affected students to include age, race, ethnicity, and disability category;

6.1.3.3 A description of the interview conducted with the student, if applicable; and

6.1.3.4 If applicable, a description of changes to any or all of the following that resulted from the restraint incident:

6.1.3.4.1 For a student with a disability as defined in Chapter 31 of Title 14 or 34 C.F.R. Part 104, the student's IEP, behavioral support, crisis intervention plan, accommodation plan, or any other planning document for the individual student;

6.1.3.4.2 School/LEA policy or procedure; or

6.1.3.4.3 Additional staff training.

7.0 Annual Reporting Requirement

The Department shall issue an annual report on the use of physical restraint, which shall include rates of usage by school and by subcategories identified pursuant to Section 6.0, identify trends, and analyze significant results. The report shall be posted on the Department's website.

8.0 Waiver

8.1 Any public school, private program, or alternative program applicant for a waiver of the prohibition on the use of mechanical restraints or seclusion for an individual student must deliver the request in writing, in a uniform format developed by the Department, to the Secretary or Secretary's designee setting forth the grounds for the request.

8.1.1 The request shall be based on compelling justification supported by documentation, including, but not limited to, educational records, reporting of incidents, and the student's functional behavioral assessment and behavioral

intervention plan, including implementation data, and medical documentation, if applicable.

8.1.2 The request shall contain a description of the conditions and safeguards that the applicant will utilize in connection with the waiver, including, but not limited to:

8.1.2.1 A detailed description of the proposed continual visual staff monitoring of student;

8.1.2.2 A requirement that the parent be notified of each use of mechanical restraint or seclusion which conforms to the procedure set forth in Section 5.0 for reporting physical restraint except that the provisions of 5.1.1 shall not apply herein; and

8.1.2.3 A detailed description of the physical space within which the seclusion(s) will occur, or of the type of mechanical restraint(s) to be utilized, whichever is applicable.

8.1.3 The request shall include a written authorization signed by the parent agreeing to the issuance of a waiver on the prohibition of the use of mechanical restraints or seclusion for that student and a signed written consent for release of information to the Department and the waiver review committee.

8.1.4 All privileged documentation shall be maintained confidentially by the Department and the waiver review committee to the extent permitted by law.

8.2 All requests shall be considered by a waiver review committee appointed by the Secretary. A decision by the waiver review committee shall be rendered no later than (60) sixty calendar days of receipt of the waiver request.

8.3 The committee shall make a written recommendation to the Secretary, which shall include:

8.3.1 A summary of the compelling justification based on the documentation submitted in support of the waiver requested;

8.3.2 Recommendations to include any specific conditions and safeguards, and a brief statement of the reasons therefore;

8.3.3 A requirement that, where a waiver is issued, there be continual visual monitoring, parental notice of each use of mechanical restraint or seclusion, and

collection of data to include the number of times the student was subject to mechanical restraint or seclusion, the duration of each mechanical restraint or seclusion, and any other data as required by the Department;

8.3.4 A statement as to the duration of the waiver, not to exceed a period of one calendar year.

8.4 The Secretary shall consider the entire record of the case and the committee's recommendations in reaching a final decision. The Secretary's decision shall be issued in writing and mailed to the applicant and the parent by certified mail no later than ten (10) calendar days from receipt of the recommendation of the waiver review committee.

8.5 The Secretary's decision shall be final.

18 DE Reg. 130 (08/01/14)

9.0 School Resource Officer (SRO) Training

9.1 A SRO shall annually receive the following awareness level training from the school district or charter school in which they are assigned:

9.1.1 Training which is consistent with that which is required of other public school personnel within their school district or charter school for disability awareness and behaviors that may manifest as a result of disabilities;

9.1.2 Best practices for de-escalation techniques utilized in the school setting;

9.1.3 Current information on the intervention decisions and techniques used by school personnel within the school setting;

9.1.4 Such other training as is necessary to protect the health and well-being of students with disabilities, including students with Individualized Education Programs (IEP) who enroll after the beginning of the school year, which shall include basic awareness training specific to IEPs, functional behavior assessments and Behavior Support Plans;

9.1.5 A SRO shall participate in the annual SRO training provided by the Delaware State Police or equivalent training provided by the police agency employing the SRO.

9.2 The training outline in this regulation shall include reference to how it relates to the duties and responsibilities of a SRO as outlined in the Memorandum of Agreement between the school district or charter school and the police agency employing the SRO as required under Regulation 601.

9.3 Prior to the start of each school year, or as soon as practical, but no later than 30 calendar days after the first student day of school, a representative of each school building shall meet with the SRO assigned to that school in order to be familiarized with behaviors related to disabilities that may occur in the school and typical responsive actions that may be taken by school personnel in that school.

9.4 Nothing within this regulation or contained within 14 **Del.C.** §4112F shall be interpreted as creating any additional restrictions on the sworn authority of law enforcement officers or their ability to carry out their required sworn duty.

18 DE Reg. 130 (08/01/14)

22 DE Reg. 55 (07/01/18)

[Return to Table of Contents](#)

District of Columbia (DC)

Links

<http://www.elaws.us/subscriber/signin?returnurl=http://dcrules.elaws.us/dcmr/5-a2816/>

Law Text

Section 5-A2816. PHYSICAL AND CHEMICAL RESTRAINTS

2816.1 The use of physical restraints is prohibited in all nonpublic special education schools and programs except in emergency circumstances, which are defined as circumstances that meet the following criteria:

(a) The use of the restraint is included in the student's IEP to address specific behaviors under defined circumstances, and the use by appropriate staff is therefore consistent with the student's IEP; or

(b) The intervention is necessary to protect the student or other person from imminent, serious physical harm; and other less intrusive, nonphysical interventions have failed or been determined inappropriate.

2816.2 Any physical restraint shall be applied only by nonpublic special education school or program personnel who are trained and certified in the appropriate use of specific, authorized techniques. Copies of those certifications shall be maintained on file at the nonpublic special education school or program.

2816.3 The use of physical restraints shall be limited to the use of reasonable force and to the shortest time period necessary to protect the student or other person from imminent, serious physical harm. The restraint must end as soon as the student or other person is no longer in imminent danger. Nonpublic special education school or program personnel shall provide the student with an explanation of the behavior that

resulted in the restraint and instructions on the behavior required to be released from the restraint. A member of the staff shall personally observe the student during the entire duration of the use of the restraint in order to assess the need for continued restraint.

2816.4 Physical restraint is prohibited as a means of punishment or as a response to property destruction, disruption of school order, a student's refusal to comply with a nonpublic special education school or program rule or staff directive, or language that does not constitute a threat of imminent, serious physical harm.

2816.5 No physical restraint shall be administered if the student has a medical or psychological condition contraindicative to restraint. No physical restraint shall be administered in such a way that the student's breathing or speaking is restricted. During the restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. The restraint shall be released immediately upon a determination by a staff member that the student or other person is no longer at risk of causing imminent, serious physical harm. A staff member shall continuously assess the student to determine if medical attention is required.

2816.6 If the student uses sign language or an augmentative mode of primary communication, the student shall be permitted to have the student's hands free of restraint for brief periods, unless the staff member determines that such freedom appears likely to result in harm to self or others. The restraint must end as soon as the student is no longer at risk of causing imminent, serious physical harm.

2816.7 The use of restraint practices with a student whom the nonpublic special education school or program knows has been sexually or physically abused is prohibited.

2816.8 A nonpublic special education school or program shall only use a chemical restraint on a District of Columbia student to the extent the chemical restraint is determined to be medically necessary. Any usage of a chemical restraint must be ordered by a physician, determined to be medically necessary, and administered in conformance with the student's medical treatment plan.

Authority

Set forth in sections 3(b)(8) and (11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code §§ 38-2602(b)(8) and (11)) (2010 Supp.); sections 101 et seq. of the Placement of Students with Disabilities in Nonpublic Schools Amendment Act of 2006, effective March 14, 2007 (D.C. Law 16-269; D.C. Official Code § 38-2561.01 et seq.) (2010 Supp.); and Mayor's Order 2007-149 (June 28, 2007), and Article II of An Act to provide for compulsory school attendance, and for other purposes, approved February 4, 1925 (43 Stat. 805; D.C. Official Code §§ 38-202 et seq.) (2001 and 2010 Supp.).

Source

Final Rulemaking published at 57 DCR 9444, 9455 (October 8, 2010).

Editor Note

5 DCMR A § 2816 was originally published in chapter 28 (Certification of Approval for Nonpublic Special Education Schools and Programs Serving Students with Disabilities Funded by the District of Columbia and Special Education Rates. The title to chapter 28 was amended to "Nonpublic Special Education Schools and Programs Serving Students with Disabilities Funded by the District of Columbia and Special Education Rates" by Notice of Final Rulemaking published at 58 DCR 5442 (July 1, 2011).

[Return to Table of Contents](#)

Florida (FL)

Links

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=1000-1099/1003/1003.html

Law Text

1003.573 Seclusion and restraint of students with disabilities in public schools.—

(i) DEFINITIONS.—As used in this section, the term:

(a) “Crisis intervention plan” means an individualized action plan for school personnel to implement when a student exhibits dangerous behavior that may lead to imminent risk of serious injury.

(b) “Imminent risk of serious injury” means the threat posed by dangerous behavior that may cause serious physical harm to self or others.

(c) “Restraint” means the use of a mechanical or physical restraint.

1. “Mechanical restraint” means the use of a device that restricts a student’s freedom of movement. The term does not include the use of devices prescribed or recommended by physical or behavioral health professionals when used for indicated purposes.

2. “Physical restraint” means the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff

member to restrict the movement of all or part of a student's body. The term does not include briefly holding a student in order to calm or comfort the student or physically escorting a student to a safe location.

(d) "Positive behavior interventions and supports" means the use of behavioral interventions to prevent dangerous behaviors that may cause serious physical harm to the student or others.

(e) "Seclusion" means the involuntary confinement of a student in a room or area alone and preventing the student from leaving the room or area. The term does not include time-out used as a behavior management technique intended to calm a student.

(f) "Student" means a child with an individual education plan enrolled in grades kindergarten through 12 in a school, as defined in s. 1003.01(2), or the Florida School for the Deaf and Blind. The term does not include students in prekindergarten, students who reside in residential care facilities under s. 1003.58, or students participating in a Department of Juvenile Justice education program under s. 1003.52.

(2) SECLUSION.—Each school district shall prohibit school personnel from using seclusion.

(3) RESTRAINT.—

(a) Authorized school personnel may use restraint only when all positive behavior interventions and supports have been exhausted. Restraint may be used only when there is an imminent risk of serious injury and shall be discontinued as soon as the threat posed by the dangerous behavior has dissipated. Techniques or devices such as straightjackets, zip ties, handcuffs, or tie downs may not be used in ways that may obstruct or restrict breathing or blood flow or that place a student in a facedown position with the student's hands restrained behind the student's back. Restraint techniques may not be used to inflict pain to induce compliance.

(b) Notwithstanding the authority provided in s. 1003.32, restraint shall be used only to protect the safety of students, school personnel, or others and may not be used for student discipline or to correct student noncompliance.

(c) The degree of force applied during physical restraint must be only that degree of force necessary to protect the student or others from imminent risk of serious injury.

(4) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

(a) Each school district shall adopt positive behavior interventions and supports and identify all school personnel authorized to use the interventions and supports. Each school district shall develop policies and procedures consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained and the frequency of occurrences of such restraint.
3. Monitoring and reporting of data collected.
4. Training programs and procedures relating to restraint as described in subsection (3).
5. The district's plan for selecting personnel to be trained pursuant to this subsection.
6. The district's plan for reducing the use of restraint, particularly in settings in which it occurs frequently or with students who are restrained repeatedly. The plan must include a goal for reducing the use of restraint

and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

- a. Additional training in positive behavior interventions and supports.
- b. Parental involvement.
- c. Data review.
- d. Updates of students' functional behavioral analysis and positive behavior intervention plans.
- e. Additional student evaluations.
- f. Debriefing with staff.
- g. Use of schoolwide positive behavior support.
- h. Changes to the school environment.
- i. Analysis of data to determine trends.
- j. Ongoing reduction of the use of restraint.

(b) Any revisions a school district makes to its policies and procedures pursuant to this section must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services within 90 days after the revision.

(c) At the beginning of each school year, each school district shall publicly post its policies and procedures on positive behavior interventions and supports as adopted by the school district.

(5) TRAINING.—Each school district shall provide training to all school personnel authorized to use positive behavior interventions and supports pursuant to school district policy. Training shall be provided annually and must include:

- (a) The use of positive behavior interventions and supports.
- (b) Risk assessment procedures to identify when restraint may be used.
- (c) Examples of when positive behavior interventions and support techniques have failed to reduce the imminent risk of serious injury.
- (d) Examples of safe and appropriate restraint techniques and how to use these techniques with multiple staff members working as a team.
- (e) Instruction in the district’s documentation and reporting requirements.
- (f) Procedures to identify and deal with possible medical emergencies arising during the use of restraint.
- (g) Cardiopulmonary resuscitation.

Each school district shall publish the procedures for the training required under this subsection in the district’s special policies and procedures manual.

(6) CRISIS INTERVENTION PLAN.—

- (a) Upon the second time a student is restrained during a semester, the school shall develop a crisis intervention plan for the student. The crisis intervention plan shall be developed by a team comprised of the student’s parent or guardian, school personnel, and applicable physical and behavioral health professionals.

(b) The crisis intervention plan must include:

1. Specific positive behavior interventions and supports to use in response to dangerous behaviors that create a threat of imminent risk of serious injury.
2. Known physical and behavioral health concerns that will limit the use of restraint for the student.
3. A timetable for the review and, if necessary, revision of the crisis intervention plan.

(c) The school must provide a copy of the crisis intervention plan to the student's parent or guardian.

(7) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained.
2. The age, grade, ethnicity, and disability of the student restrained.
3. The date and time of the event and the duration of the restraint.
4. The location at which the restraint occurred.

5. A description of the type of restraint used in terms established by the department.
6. The name of the person using or assisting in the restraint of the student and the date the person was last trained in the use of positive behavior interventions and supports.
7. The name of any nonstudent who was present to witness the restraint.
8. A description of the incident, including all of the following:
 - a. The context in which the restraint occurred.
 - b. The student's behavior leading up to and precipitating the decision to use restraint, including an indication as to why there was an imminent risk of serious injury to the student or others.
 - c. The positive behavior interventions and supports used to prevent and de-escalate the behavior.
 - d. What occurred with the student immediately after the termination of the restraint.
 - e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint, documented according to district policies.
 - f. Evidence of steps taken to notify the student's parent or guardian.
 - g. The date the crisis intervention plan was last reviewed and whether changes were recommended.

(c) A school shall notify the parent or guardian of a student each time restraint is used. Such notification must be in writing and provided before the end of the school day on which the restraint occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was restrained. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(8) MONITORING.—

(a) The use of restraint on students shall be monitored at the classroom, building, district, and state levels.

(b) Any documentation prepared by a school pursuant to subsection (7) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of restraint and disaggregate the data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint used. This information shall be updated monthly, deidentified, and made available to the public through the department's website no later than October 1, 2021.

(d) The department shall establish standards for documenting, reporting, and monitoring the incident reports related to the use of restraint. These standards shall be provided to school districts.

History.—s. 4, ch. 2010-224; s. 23, ch. 2011-175; s. 1, ch. 2021-140.

[Return to Table of Contents](#)

Georgia (GA)

Links

<https://www.gadoe.org/External-Affairs-and-Policy/Policy/Documents/Guidance%20Seclusion%20and%20Restraint.pdf>

Law Text

Definition of seclusion/isolation

Seclusion refers to a procedure that isolates and confines the student in a separate area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion may also be referred to as monitored seclusion, seclusion timeout, or isolated timeout. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1)(g) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room.

Circumstances where seclusion can be used

State Board Rule 160-5-1-.35 SECLUSION AND RESTRAINT FOR ALL STUDENTS prohibits the use of seclusion in all public Georgia schools and educational programs.

Schools and programs that have utilized seclusion in the past must identify other responses to those situations in which students are an imminent danger to themselves or others. These responses should be clearly specified in the School Safety Plan and should be based on a continuum of safe interventions.

Requirements for seclusion room

N/A

Definition of Restraint

Physical restraint - direct physical contact from an adult that prevents or significantly restricts a student's movement. The term physical restraint does not include prone restraint, mechanical restraint, or chemical restraint. Additionally, physical restraint does not include: providing limited physical contact and/or redirection to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing guidance to a location, or providing comfort.

Circumstances where restraint can be used

The use of physical restraints is prohibited except in those situations in which students are an imminent danger to themselves or others and when the student is not responsive to less intensive de-escalation techniques. Only physical restraints that are included in the school or educational program's adopted approach should be utilized. Staff must be trained in the use of the adopted restraint techniques and all instances of restraint should be monitored. Restraints should be immediately terminated when the student is no longer a danger to himself/herself or others or when the student is observed to exhibit signs of severe distress or injury, including but not limited to respiratory distress.

Training requirements for staff

Schools and programs that use physical restraint in accordance with Rule 160-5-1-.35 SECLUSION AND RESTRAINT FOR ALL STUDENTS, must ensure that staff and faculty are trained in the use of physical restraint. This training shall be provided as a part of a program which addresses a full continuum of positive behavioral intervention strategies, crisis intervention, and de-escalation techniques.

Staff should be trained in the physical restraint approach that is adopted or developed by the school district, school, and/or educational program. GaDOE does not endorse a particular training program. When adopting or developing training programs, school

and program administrators should select programs that are founded on evidence-based techniques and strategies that focus on:

Preventing the need for restraint;

Keeping staff and students safe during required restraints;

Identification of antecedent behaviors;

Use of positive behavior supports, crisis prevention, de-escalation, and conflict management;

Training in first aid;

Training in cardio-pulmonary resuscitation (CPR) if staff are not readily available who are trained in CPR;

Information regarding state regulations pertaining to the use of physical restraint; and

Certification for school personnel and re-certification as required by the training program.

Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to GaDOE or any member of the public upon request.

Should staff employ physical restraint techniques which are not included in the adopted or developed training program or in the written policies?

In order to promote student and staff safety, staff should only use those techniques in the adopted training program.

Do staff members have to be certified in the adopted training program?

Yes, if the local school system adopts a program, the staff should complete the required training components in order to receive certification in the adopted training program from a certified trainer. Most training programs have a clearly defined schedule for re-certifying staff following initial certification. This schedule should be strictly adhered to.

Documentation/Reporting requirements

The use of physical restraint must be documented by staff or faculty participating in or supervising the restraint for each student in each instance in which the student is restrained. This documentation should be provided using an incident report that is completed for each student in each instance in which the student is restrained.. Schools and programs are encouraged to develop a standard incident report form. This report should include the following:

Date;

Student's Name;

Location of Restraint;

Precipitating Behavior/Antecedent;

Observations of Student's Behavior and Physical Status during the restraint;

Injuries to the Student or Staff;

Total Time Spent in Restraint or Seclusion;

Staff Participating in the Restraint, and

Staff Signatures.

Completed incident reports should be reviewed by school or program administrators and other staff, as appropriate, on a weekly basis. Monthly summary reports should be maintained to document the use of physical restraint. This monthly summary report should be signed by the school or program administrator and maintained on file in the school.

Parental notification requirements

Upon entry into a school or program that uses restraint, a student's parents should be notified in writing that restraint may be used but are only used in situations in which the student is in immediate danger to himself/herself or others. The notice should inform parents that they will be notified in writing each time their child has been restrained.

The student's parents or guardians should be notified each time the student is restrained. This notification should occur in writing and should include a copy of the incident report that is used to document the use restraint or seclusion. Parents and school staff may mutually agree that notification may be provided via e-mail or handwritten communication. Parental notification must be provided within a reasonable amount of time not to exceed one school day from the use of restraint.

Staff should immediately notify parents when their child is injured in a restrained and/or is removed from the school setting by law enforcement or medical personnel.

Regardless of the method used, documentation of the parent notification should be maintained.

[Return to Table of Contents](#)

Hawaii (HI)

Links

<https://law.justia.com/codes/hawaii/2017/title-18/chapter-302a/section-302a-1141.3/>

<https://law.justia.com/codes/hawaii/2017/title-18/chapter-302a/section-302a-1141.4/>

Law Text

Hawaii Revised Statute §302A-1141.3 and §302A-1141.4 is to prohibit the use of seclusion and reduce and prevent the use of restraint in public schools. It is to ensure the safety of all students and personnel in public schools and promote a positive school culture and climate. This law applies to all students.

Purpose The purpose of this law is to protect students from (1) physical and mental abuse; (2) aversive behavioral interventions that compromise health and safety; and (3) any restraint imposed solely for purposes of discipline or convenience. It prohibits the use of seclusion, mechanical restraints, and chemical restraints for all students.

This law prohibits schools from using seclusion, mechanical restraints or chemical restraints as disciplinary measures to control students' behaviors. Its purpose is to protect your child from:

- Physical and mental abuse,
- Use of aversive behavioral interventions that compromise health and safety, and
- Any restraint that is solely used for discipline or convenience.

“Seclusion” is defined as the confinement of a student alone in a room or structure from which the student is physically prevented from leaving. “Seclusion” should not be confused with “timeout” which is a behavior management technique that is part of a student’s behavior program and involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming the student.

A “**mechanical restraint**” is the use of a device that restricts a student’s freedom of movement or the ability to communicate in his/her primary language or mode of communication. Mechanical Restraint is not meant to include assistive technologies or orthopedic supports prescribed by a medical professional to allow a student with a disability access to the curriculum or participation in educational activities.

A “**chemical restraint**” is the use of a drug or medication to control a student’s behavior or to restrict freedom of movement that has not been prescribed by a licensed physician or another qualified health professional for the treatment of a student’s medical or psychiatric condition

A “**physical restraint**” is the use of physical force that restricts the student’s ability to move his/her arms, legs, or head freely. A “physical restraint” is not a teaching procedure or behavioral intervention. It should not be administered as punishment to address dangerous or non-emergency behaviors such as noncompliance, disrespect, disobedience, misuse or destruction of property, or disruption. The purpose of a “physical restraint” is to manage dangerous behaviors to prevent a student from causing substantial property damage, self-harm or injury to others in the environment.

School staff may only use physical restraint on a student when it is immediately required to ensure the safety of the student or others. A physical restraint is only imposed after all attempts of less restrictive/intrusive interventions have failed or been determined inappropriate for this individual; and the student poses imminent risk of physical harm to self or others or in the event of substantial property damage.

Should your child be physically restrained, you can expect the following actions from the school:

- The school will call or electronically notify you immediately.
- The school will send to you a written parent notification within 24 hours of the incident.

The school will be able to share with you what interventions have been tried, and how your child has responded to those interventions. You have the right to meet with the school to discuss additional, less intrusive interventions that may be available to

support the specific needs of your child. Always discuss any concerns you have with the school principal.

[Return to Table of Contents](#)

Idaho (ID)

Links

<https://legislature.idaho.gov/statutesrules/idstat/title16/t16ch24/sect16-2425/>

<http://www.sde.idaho.gov/sped/sped-manual/>

Law Text

Conditions on Use of Certain Forms of Discipline Corporal Punishment LAWS No relevant laws found. REGULATIONS No relevant regulations found.

Restraint and Seclusion LAWS No relevant laws found. REGULATIONS No relevant regulations found.

Multi-tiered Frameworks and Systems of Support LAWS No relevant laws found. REGULATIONS No relevant regulations found. Prevention LAWS No relevant laws found.

REGULATIONS 08.02.03.160. Safe environment and discipline. Each school district will have a comprehensive districtwide policy and procedure encompassing the following: School Climate Discipline Violence Prevention.

Trauma-informed Practices LAWS No relevant laws found.

Mental Health Literacy Training LAWS No relevant laws found. REGULATIONS No relevant regulations found.

No state law on seclusion and restraint uses in public schools despite a legislative issue since 2010 however Idaho does have laws on seclusion, restraint and corporal punishment for children in mental health treatment facilities.

Idaho Special Education Manual

Corporal punishment Corporal punishment is defined as physical punishment “that is inflicted upon the body.”¹² In the school setting, corporal punishment typically refers to the use of physical force by a school official to punish a student for school-related misconduct.¹³ The U.S. Supreme Court has upheld the use of reasonable corporal punishment in public schools, ¹⁴ and Idaho law does not prohibit its use.¹⁵ In the event a school district allows corporal punishment, the following guidelines derived from the U.S. Supreme Court case of *Ingraham v. Wright*¹⁶ should be followed:

1. A teacher is not allowed to inflict corporal punishment based on anger;
2. The punishment must be reasonable;
3. The punishment must be related to the age, sex, size, and physical condition of the student;
4. The punishment must not leave permanent effects; and
5. The punishment must not be performed to enforce an unreasonable rule.

Other minimum procedures regarding corporal punishment should also be followed, including:

1. Students should be informed beforehand that specific misbehavior may result in corporal punishment;
2. Students should receive rudimentary due process prior to corporal punishment being inflicted;

3. Corporal punishment should only occur in the presence of a second school official; and
4. The parent, upon request, should be provided with a written explanation of the reason for the punishment and the names of the school officials involved.¹⁷

If a district allows corporal punishment, a specific policy must be in place that, at a minimum, has the provisions outlined in this section. Any teacher or administrator implementing corporal punishment should not deviate from the policy. It is also important to recognize that corporal punishment may not be used when disciplinary infractions are related to a student's disability.¹⁸ Although the definition of corporal punishment is intended to be broad, it does not include physical pain or discomfort not involving disciplinary action, such as:

1. Training for or participation in athletic competition or recreational activity voluntarily engaged in by the student;
2. Physical exertion shared by all students in a teacher-directed class activity such as physical education exercises, field trips, or vocational education projects; and
3. Physical restraint or the use of aversive techniques as part of a behavioral management program in a special education student's individualized education program (IEP) or Section 504 plan.

Corporal punishment does not include the use of reasonable force by school personnel to protect themselves and others.

Footnotes

13- *Ingraham v. Wright*, 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977).

14- *Id.*

15- Idaho Code § 18-917(3). Cases dealing with corporal punishment involving Idaho school districts include *P.B. v. Koch*, 96 F.3d 1298 (9th Cir. 1996) (a high school principal's conduct in hitting a student in the mouth, grabbing and squeezing a student's neck, punching a student in the chest, and throwing a student headfirst into lockers was unreasonable corporal punishment); and *State v. Stears*, Fifth Judicial District, Minidoka County, Case No. CR 93- 00158D (1993) (although the discipline by the principal of pushing a student was performed in an unusual manner, it was consistent with the guidelines of the U.S. Supreme Court, and the principal was not guilty of committing criminal battery).

16- *Ingraham v. Wright*, 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977).

17- *Id.* 18 OCR Letter of Finding: EHLR DEC. 37:352 (OCR 1985); *Fee v. Herndon*, 900 F.2d 804 (1990).

Time-out

A frequently used disciplinary technique is the use of “time-out.” The U.S. Department of Education has defined “time-out” as a “behavior management technique that is part of an approved program, involves the monitoring separation of the student in a non-locked setting, and is implemented for the purpose of calming.”²² While a time-out may result in a temporary exclusion from class, due process does not typically apply, as the use of time-out is a means by which a teacher can manage his or her classroom; requiring a hearing prior to placing the student in timeout would undermine such management.²³

Footnotes

22- U.S. Department of Education, *Restraint and Seclusion: Resource Document*, Washington, D.C., 2012.

23- *Couture v. Board of Educ. of Albuquerque Public Schools*, 535 F.3d 1243 910th Cir. 2008).

[Return to Table of Contents](#)

Illinois (IL)

Links

<https://www.ilga.gov/commission/jcar/admincode/023/023000010Bo2850R.html>

Law Text

Definition of Seclusion/Isolation

Seclusion Section 1 (ilga.gov)

Isolated Time Out or Time Out

- "Isolated time out" means the involuntary confinement of a student alone in a time out room or other enclosure outside the classroom without a supervising adult in the time out room or enclosure. Isolated time out is allowed only under limited circumstances. If all other requirements under this Section are met, isolated time out may be used only when the adult in the time out room or enclosure is in imminent danger of serious physical harm because the student is unable to cease actively engaging in extreme physical aggression.
- "Time out" means a behavior management technique for the purpose of calming or de-escalation that involves the involuntary monitored separation of a student from classmates with an adult trained under subsection (i) for part of the school day, only for a brief time, in a non-locked setting.
- "Isolated time out" or "time out" does not include a student-initiated or student-requested break, a student-initiated or teacher-initiated sensory break, including a sensory room containing sensory tools to assist a student to calm and de-escalate, an in-school suspension or detention, or any other

appropriate disciplinary measure, including a student's brief removal to the hallway or similar environment.

Definition of Restraint (Physical, Mechanical and Chemical) Section 1 (ilga.gov)

Physical

"Physical restraint" means holding a student or otherwise restricting a student's movements. "Physical restraint" as permitted pursuant to this Section includes only the use of specific, planned techniques.

The requirements set forth in subsections (d) through (i) of this Section shall not apply to the actions described in this subsection (c) because, pursuant to Section 10-20.33 of the School Code [105 ILCS 5], "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to:

- Prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property.
- Or remove a disruptive student who is unwilling to leave the area voluntarily.

Mechanical Section 1 (ilga.gov)

"Mechanical restraint" means the use of any device or equipment to limit a student's movement or hold a student immobile. Mechanical restraint is prohibited. "Mechanical restraint" does not include any restraint used to:

- Treat a student's medical needs.
- Protect a student known to be at risk of injury resulting from lack of coordination or frequent loss of consciousness.

- Position a student with physical disabilities in a manner specified in the student's individualized education program, federal Section 504 plan, or other plan of care.
- Provide a supplementary aid or service or an accommodation, including, but not limited to, assistive technology that provides proprioceptive input or aids in self-regulation; or
- Promote student safety in vehicles used to transport students.

Chemical Section 1 (ilga.gov)

"Chemical restraint"

Means the use of medication to control a student's behavior or restrict a student's freedom of movement. Chemical restraint is prohibited. "Chemical restraint" does not include medication that is legally prescribed and administered as part of a student's regular medical regimen to manage behavioral symptoms and treat medical symptoms.

Circumstances where Seclusion can be used

Section 1.285 Requirements for the Use of Isolated Time Out, Time Out, and Physical Restraint.

Isolated time out, time out, and physical restraint, as defined in this Section, shall be used only when the student's behavior presents an imminent danger of serious physical harm to the student or others and other less restrictive and intrusive measures have been tried and proven ineffective in stopping the imminent danger of serious physical harm. Isolated time out, time out, or physical restraint shall not be used as discipline or punishment, convenience for staff, retaliation, a substitute for appropriate educational or behavioral support, a routine safety matter, or to prevent property damage in the absence of imminent danger of serious physical harm to the student or others.

Requirements for Seclusion Room Section 1 (ilga.gov)

Any enclosure used for isolated time out or time out shall:

For a Time Out:

An adult trained under subsection (i) who is responsible for supervising the student must remain in the same room as the student at all times during the time out.

- Meet all of the health/life safety requirements of 23 Ill. Adm. Code 180.
- Have the same ceiling height as the surrounding room or rooms and be large enough to accommodate not only the student being placed in isolated time out or time out but also, if applicable, any other individual who is required to accompany that student under this section.
- Be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls.
- Be designed to permit continuous visual monitoring of and communication with the student
- If fitted with a door, be fitted with either a steel door or a wooden door of solid-core construction. If the door includes a viewing panel, the panel shall be unbreakable. The door shall not be fitted with a locking mechanism or be physically blocked by furniture or any other inanimate object at any time during the isolated time out or time out.

Time Limits

A student shall be released from isolated time out or time out immediately upon determination by the staff member that the student is no longer an imminent danger of serious physical harm to the student or others. No less than once every 15 minutes, an adult trained under subsection (i) must assess whether the student has ceased presenting the specific behavior for which the time out was imposed.

For An Isolated Time Out:

For an isolated time out, an adult who is responsible for supervising the student must remain within two feet of the enclosure. The supervising staff member must always be able to see, hear, and communicate with the student. The door shall not be locked or held to block egress. A student in isolated time out shall not be supervised using cameras, audio recording, or any other electronic monitoring device.

A student placed in isolated time out or time out must have reasonable access to food, water, medication, and toileting facilities. Except in circumstances in which there is a risk of self-injury or injury to staff or others, a student in isolated time out or time out shall not have his or her clothing removed, including, but not limited to, shoes, shoelaces, boots, or belts.

The use of Physical Restraint shall be subject to the following requirements and limitations.

Section 1 (ilga.gov)

· Pursuant to Section 10-20.33 of the School Code, physical restraint may only be employed when:

- o the student poses a physical risk to himself, herself, or others,
- o there is no medical contraindication to its use, and
- o the staff applying the restraint have been trained in its safe application

· Physical restraint must end immediately when:

- o the threat of imminent danger of serious physical harm ends; or
- o the student indicates that he or she cannot breathe or staff supervising the student recognizes that the student may be in respiratory distress.

- The staff involved in physically restraining a student must periodically halt the restraint to evaluate if the imminent danger of serious physical harm continues to exist. If the imminent danger of serious physical harm continues to exist, staff may continue to use the physical restraint and the continued use may not be considered a separate instance of physical restraint.

- A physical restraint shall not impair a student's ability to breathe or communicate normally, obstruct a student's airway, or interfere with a student's ability to speak. If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, the student shall be permitted to have his or her hands free of restraint for brief periods, unless the supervising adult determines that this freedom appears likely to result in harm to the student or others.

- "Prone physical restraint" means a physical restraint in which a student is held face down on the floor or other surface and physical pressure is applied to the student's body to keep the student in the prone position. Prone physical restraint is prohibited except in special education nonpublic facilities under Section 14-7.02 of the School Code when all of the following conditions are met:
 - o The student's Behavior Intervention Plan specifically allows for prone restraint of the student

 - o The Behavior Intervention Plan was put into place before January 1, 2021

 - o The student's Behavior Intervention Plan has been approved by the IEP team

 - o The school staff member or staff members applying the use of prone restraint on a student have been trained in its safe application under this Section

 - o The special education nonpublic facility must be able to document and demonstrate to the IEP team that the use of other de-escalation techniques provided for in the student's Behavior Intervention Plan were ineffective; and

 - o The use of prone restraint occurs in the 2021-2022 school year.

o "Supine physical restraint" means a physical restraint in which a student is held face up on the floor or other surface and physical pressure is applied to the student's body to keep the student in the supine position. Supine physical restraint is prohibited, unless all of the following criteria are met:

§ Before using a supine physical restraint, the school district or other entity serving the student shall review and determine if there are any known medical or psychological limitations that contraindicate the use of a supine physical restraint.

§ The school district or other entity serving the student deems the situation an emergency, defined as a situation in which immediate intervention is needed to protect a student or other individual from imminent danger of serious physical harm to himself, herself, or others and less restrictive and intrusive interventions have been tried and proven ineffective in stopping the imminent danger.

§ Supine physical restraint is used in a manner that does not restrict or impair a student's ability to breathe or communicate normally, obstruct a student's airway, or interfere with a student's primary mode of communication.

§ Supine physical restraint is used only by personnel who have completed required training under subsection (i).

§ Supine physical restraint is used only if those interventions are the least restrictive and intrusive interventions to address the emergency and stop the imminent danger of serious physical harm to the student or others. During each incident, one school staff person trained in identifying the signs of distress must be assigned to observe and monitor the student during the entire incident. That staff person may not be involved in the physical holding of the student. The number of staff involved in physically restraining the student may not exceed the number necessary to safely hold the student. Staff involved in the restraint must use the least amount of force and the fewest points of contact necessary

and must afford the student maximum freedom of movement while maintaining safety.

o The supine physical restraint ends immediately when the threat of imminent danger of serious physical harm ends, but in no event shall supine physical restraint last longer than 30 minutes. If after 30 minutes the emergency has not resolved, or if an additional emergency arises the same school day that meets the standards of this subsection (d), a school administrator, in consultation with a psychologist, social worker, nurse, or behavior specialist, may authorize the continuation of the restraint or an additional supine physical restraint. No restraint may be continued, nor may additional restraints be applied, unless continuation is authorized by a school administrator.

o If the student is restrained in a supine physical restraint in at least 2 separate instances within a 30-school day period, the school personnel who initiated, monitored, and supervised the incidents shall initiate a Restraint Review, which is a review of the effectiveness of the procedures used. If the personnel involved in the restraints do not include a psychologist, social worker, nurse, or behavior specialist, at least one of those staff members shall be included in the Restraint Review. The Restraint Review must include, but is not limited to:

§ Conducting or reviewing a functional behavioral analysis, reviewing data, considering the development of additional or revised positive behavioral interventions and supports, considering actions to reduce the use of restrictive procedures, or, if applicable, modifying the student's individualized educational program, federal Section 504 plan, behavior intervention plan, or other plan of care, as appropriate; and

§ Reviewing any known medical or psychological limitations that contraindicate the use of a restrictive procedure, considering whether to prohibit that restrictive procedure, and, if applicable, documenting any prohibitions in the student's individualized education program, federal Section 504 plan, behavior intervention plan, or other plan of care.

- Students shall not be subjected to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger unless a student also demonstrates a means of or intent to immediately carry out the threat.
- Except as permitted by the administrative rules of another State agency operating or licensing a facility in which elementary or secondary educational services are provided (e.g., the Illinois Department of Corrections, the Illinois Department of Juvenile Justice, or the Illinois Department of Human Services), mechanical restraint or chemical restraint, as defined in subsection (d)(12) or (d)(13), shall not be employed.
- Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as means of physical restraint for purposes of maintaining discipline.
- Any application of physical restraint shall take into consideration the safety and security of the student. Physical restraint shall not rely upon pain as an intentional method of control.
- In determining whether a student who is being physically restrained should be removed from the area where the restraint was initiated, the supervising adult shall consider the potential for injury to the student, the student's need for privacy, and the educational and emotional well-being of other students in the vicinity.

Time Limits

A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing serious physical harm to the student or others.

Training Requirements for Staff Section 1 (ilga.gov)

Any adult who is supervising a student in isolated time out or time out, or who is involved in a physical restraint, shall receive at least 8 hours of developmentally

appropriate training annually. Except for training on physical restraint, online training may be utilized for all training areas under this subsection (i)(1).

Training is required in the following areas:

- Crisis de-escalation;
- Restorative practices;
- Identifying signs of distress during physical restraint and time out;
- Trauma-informed practices; and
- Behavior management practices.

All adults trained under this subsection (i) must be provided a copy of the district's policies on isolated time out, time out, and physical restraint.

Isolated time out, time out, or physical restraint, as defined in this Section, shall be applied only by individuals who have received annual systematic training on less restrictive and intrusive strategies and techniques to reduce the use of isolated time out, time out, and physical restraint based on best practices and how to safely use time out and physical restraint when those alternative strategies and techniques have been tried and proven ineffective. This training must include all the elements described in this subsection (i) and must result in the receipt of a certificate of completion or other written evidence of participation. No individual may use isolated time out, time out, or physical restraint before receiving the required training and certificate. An individual who applies isolated time out, time out, or physical restraint shall use only techniques in which he or she has received prior annual training, as indicated by written evidence of participation.

The training required under this subsection (i) with respect to isolated time out, time out, or physical restraint may be provided either by the employer or by an external entity.

- All persons or entities who provide training must be trained and certified in the:
 - Effective use of less restrictive and intrusive alternatives to prevent imminent danger of serious physical harm to the student or others; and
 - Safe application of isolated time out, time out, and physical restraint when less restrictive and intrusive alternatives have been tried and proven ineffective.
- The training shall include, but need not be limited to:
 - The dangers associated with the use of isolated time out, time out, and physical restraint and the need to use interventions that are less restrictive and intrusive to reduce the risk of harm to students;
 - Appropriate procedures for preventing the need for isolated time out, time out, or physical restraint, including the de-escalation of problematic behavior, relationship-building, and the use of alternatives to restraint;
 - Recognizing and responding appropriately to the antecedent of a student's behavior;
 - Recognizing contraindications and other conditions and events that increase risk of death;
 - Description and identification of dangerous behaviors on the part of students that may indicate the need for isolated time out, time out, or physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

- The simulated experience of administering and receiving a variety of isolated time out, time out, and physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;
- Instruction regarding the effects of isolated time out, time out, and physical restraint on the person in restraint, isolated time out, or time out, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
- Demonstration by participants of proficiency in administering isolated time out, time out, and physical restraint.

An individual may provide training to others in a particular method of time out and physical restraint only if he or she has received written evidence of completing training in those techniques that meet the requirements of this subsection (i) within the preceding one-year period.

Documentation/Reporting/Complaint Requirements and Procedures Section 1 (ilga.gov)

Any use of isolated time out, time out, or physical restraint permitted by a board's policy shall be implemented in accordance with written procedures that include:

- The circumstances under which isolated time out, time out, or physical restraint will be applied;
- A written procedure to be followed by staff in cases of isolated time out, time out, or physical restraint;

- Designation of a school official who will be informed of incidents and maintain the documentation required under this Section when isolated time out, time out, or physical restraint is used;

- The process the district or other entity serving public school students will use to evaluate any incident that results in an injury to the affected student; and

- A description of the district's or other entity's annual review of the use of isolated time out, time out, or physical restraint, which, at a minimum, shall include:
 - o The number of incidents involving the use of these interventions;

 - o The location and duration of each incident;

 - o Identification of the staff members who were involved;

 - o Any injuries or property damage that occurred; and

 - o The timeliness of parental or guardian notification, timelines of agency notification, and administrative review.

Complaint Procedures

- Any parent or guardian, individual, organization, or advocate may file a signed, written complaint with the State Superintendent alleging that a local school district or other entity serving the student has violated this Section. The complaint shall include all of the following:
 - o The facts on which the complaint is based;

 - o The signature and contact information for the complainant;

- o If known, the names and addresses of the students involved and the name of the school of attendance;

 - o A description of the nature of the problem, including any facts relating to the problem; and

 - o A proposed resolution of the problem to the extent known.
- The State Superintendent shall only consider a complaint if it alleges a violation occurring not more than one year prior to the date in which the complaint is received.

 - After receiving a complaint that meets the requirements of this subsection (k), the State Superintendent shall:
 - o Carry out an independent on-site investigation, if deemed necessary by the State Superintendent;

 - o Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; and

 - o Require that the public entity that is the subject of the complaint submit a written response to the complaint. The public entity shall submit its response and all other documentation to the State Superintendent and the parent, individual, or organization filing the complaint no later than the date indicated in the written correspondence received under this subsection (k).

 - The State Superintendent must issue a written decision to the complainant that addresses each allegation in the complaint and that contains all of the following:
 - o Findings of fact and conclusion;

 - o The reasons for the State Board of Education's final decision; and

o orders for any action, including technical assistance.

· The complaint procedure under this subsection (k) does not limit, diminish, or otherwise deny the federal and State rights and procedural safeguards afforded to students.

(Source: Amended at 45 Ill.

New Law Mandates Dramatic Reductions in Use of Seclusion and Physical Restraint
<https://www.equipforequality.org/news-item/new-law-mandates-dramatic-reductions-use-of-seclusion-and-physical-restraint-in-illinois-schools>

In the new law, prone (face down) physical restraint, one of the most dangerous and potentially deadly forms of restraint, is only allowed in narrow circumstances for one more school year (2021-2022), then it is banned.

Equip for Equality drafted several key provisions in the bill, including a new mandate that ISBE establish goals and benchmarks for schools over a three-year period. Schools are required to develop and implement plans to meet those goals and benchmarks. Regular progress reports must be submitted to ISBE. If schools fail to do so, ISBE is now legally required to sanction those schools.

The law establishes a higher standard for use of all forms of seclusion and physical restraint with a very narrow exception for seclusion. It immediately prohibits the use of mechanical and chemical restraints.

To ensure schools comply with the new documentation and reporting requirements regarding these practices, ISBE will review, audit and monitor their usage and establish progressive sanctions for schools that fail to comply.

Another proposal from Equip for Equality that was incorporated into the law requires timely notification to parents and guardians of all incidents involving restraint and seclusion. Parents must also be given the option to meet with school personnel to

discuss the events and how the student may be better supported in the future to further the goal of using less restrictive, intrusive and traumatic interventions.

Last updated August 13, 2021

[Return to Table of Contents](#)

Indiana (IN)

Links

https://safesupportivelearning.ed.gov/discipline-compendium?state=Indiana&sub_category=Restraint%20and%20Seclusion

<https://www.law.cornell.edu/regulations/indiana/513-IAC-1-2>

Law Text

Definition of Seclusion/Isolation Indiana School Discipline Laws & Regulations by Category | National Center on Safe Supportive Learning Environments (NCSSLE) (ed.gov)

C 20-20-40-9. "Seclusion".

As used in this chapter, "seclusion" means the confinement of a student alone in a room or area from which the student physically is prevented from leaving. The term does not include a supervised time-out or scheduled break, as described in a student's individualized education program, in which an adult is continuously present in the room with the student.

IC 20-20-40-10. "Time-out".

As used in this chapter, "time-out" means a behavior reduction procedure in which access to reinforcement is withdrawn for a certain period of time. Time-out occurs when the ability of a student to receive normal reinforcement in the school environment is restricted.

SAMPLE TIME-OUT PROCEDURES

Effective time-out procedures include multiple levels, with each level becoming more restrictive and exclusionary. It is important to note that for disruptive behavior requiring more restrictive interventions, once the behavior begins to de-escalate, transition to less restrictive forms of time-out may make the return to regular classroom activities easier for the student. Students need to be taught the procedures for taking a time-out at either level. The following is a potential time-out plan that schools may consider adopting.

Level I.

- A. Planned Ignoring: Ignore the student as long as possible if he or she is out of place or seat, noncompliant but not otherwise disruptive.
- B. Be (or have aide/ associate) available to counsel, provide one-to-one tutoring, or negotiate if the student is involved in a dispute.
- C. Modify/change student's assignment to get him or her re-involved with learning. Select a task that will provide immediate success.
- D. Separate student from others (i.e., creative seat assignment).
- E. Send student out of room- on an errand or for a walk to "cool off".
- F. Offer a "time-in" situation with a support person outside the classroom.
- G. Quietly praise other students for ignoring inappropriate student behavior. H. When possible, talk to disruptive student out of classroom away from other students so that he or she can save face.

Level II. Level II time-out is more restrictive than the first-level interventions. It is the exclusion of a child from positive reinforcing activities of the classroom without removing him or her from the room.

A. Move student to different part of the classroom (i.e., closer to teacher, further away from audience).

B. Avoid lengthy explanations to student. Simply say: "Because you _____, you go to time out for ____ minutes." Avoid other interaction.

C. Allow student to take their own time-out.

D. Keep time-out period brief. (Time-out periods longer than 15 minutes rarely serve their intended purpose- temporary withholding of positive reinforcement. For time out periods longer than 30 minutes, a supervisory staff person shall be consulted about the appropriateness of continuing the time-out procedure.) In-school suspension or other out of class but in school interventions shall be considered.

Microsoft Word - Seclusion_ Restraint Guidelines FINAL.docx (myips.org)

Definition of restraint (Physical, Chemical and Mechanical)

Physical

IC 20-20-40-5. "Physical restraint".

1. As used in this chapter, "physical restraint" means physical contact between a school employee and a student:

1.1.in which the student unwillingly participates; and

1.2.that involves the use of a manual hold to restrict freedom of movement of all or part of a student's body or to restrict normal access to the student's body.

2. The term does not include:

2.1. briefly holding a student without undue force in order to calm or comfort the student, or to prevent unsafe behavior, such as running into traffic or engaging in a physical altercation;

2.2. physical escort; or

2.3. physical contact intended to gently assist or prompt a student in performing a task or to guide or assist a student from one (i) area to another.

Chemical

IC 20-20-40-2. "Chemical restraint".

"Chemical restraint" means the administration of a drug or medication to manage a student's behavior or restrict a student's freedom of movement that is not a standard treatment and dosage for the student's medical or psychiatric condition.

Mechanical

IC 20-20-40-4. "Mechanical restraint".

1. As used in this chapter, "mechanical restraint" means the use of:

1.1. a mechanical device;

1.2. a material; or

1.3. equipment; attached or adjacent to a student's body that the student cannot remove and that restricts the freedom of movement of all or part of the student's body or restricts normal access to the student's body.

2. The term does not include:

- 2.1. mechanical devices;
- 2.2. a material; or
- 2.3. equipment; used as prescribed by a doctor.

Circumstances where seclusion can be used

513 IAC 1-2-11. Seclusion and restraint plan.

1. No later than July 1, 2014, each Indiana school corporation, charter school, and accredited nonpublic school must adopt a seclusion and restraint plan. At a minimum, each seclusion and restraint plan shall include the following:

1.1. A statement on how:

1.1.1. Students will be treated with dignity and respect; and

1.1.2. Appropriate student behavior will be promoted and taught.

1.2. A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict de-escalation to eliminate or minimize the need for use of any of the following:

1.2.1. Seclusion.

1.2.2. Chemical restraint.

1.2.3. Mechanical restraint.

1.2.4. Physical restraint.

1.3. A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or IEP, if applicable.

1.4. Definitions for restraint and seclusion, as defined in this article.

1.5. A statement ensuring that if a procedure listed in subdivision (2) is used, the procedure will be used:

1.5.1. As a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and

1.5.2. In a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.

1.6. An indication that restraint or seclusion may be used only for a short time period or until the imminent risk of injury has passed.

1.7. A documentation and recording requirement governing incidents in which procedures listed in subdivision (2) are used, including:

1.7.1. How every incident will be documented and debriefed;

1.7.2. How responsibilities will be assigned to designated employees for evaluation and oversight; and

1.7.3. Designation of a school employee to be the keeper of such documents.

1.8. A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in subdivision

- 1.9. A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in subdivision
 - 1.10. Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict de-escalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others. Consideration must be given to available school resources and the time commitments of school employees.
2. The department shall accept reports from the public regarding school restraint and seclusion plans, which reports shall be limited to:
 - 2.1. lack of compliance between a school's seclusion and restraint plan and the requirements of IC 20-20-40 and the requirements of subsection (a);
 - 2.2. the availability of a school's plan as described in section 8 of this rule; and
 - 2.3. the reporting of incidents of seclusion or restraint, including the reporting of the use of seclusion or restraint by a school's resource officer.
 3. The department shall provide the commission with a summary of the reports received.
 4. The summary report must comply with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99).
 5. The commission, after reviewing the summary from the department, may instruct the department to require a school to provide a written explanation regarding a report.

6. Upon request, each school shall provide the department with a written explanation and response to any questions posed by the department. The school shall provide the explanation in a manner prescribed by the department.
7. After review of the explanation by the school and any supporting documentation, the department shall provide a summary of the department's findings.
8. Based on the department's findings, the commission may make nonbinding recommendations to the department or to the school related to professional development for the school related to the use of seclusion or restraint, this article, or IC 20-20-40.

Use of Seclusion

USE OF SECLUSION (only for those IPS buildings with specifically designed rooms for this practice. Current Schools: Eleanor Skillen 34, James Whitcomb Riley 43, Brookside 54, Wendell Phillips 63 and ROOTS)

1. Seclusion shall only be used when a student is displaying behavior that presents imminent risk to the student or others (including other students, school staff, or school visitors), and the threat could be diminished if the student was in a safe environment away from other students and staff.
2. Seclusion shall only be employed as a last resort after other less restrictive interventions are ineffective.
3. Seclusion shall only be used for a short period of time and shall be discontinued as soon as imminent risk of injury to the student or others has dissipated.
4. Seclusion shall only be employed by staff members who have received training in the safe use of seclusion procedures.

5. Seclusion must be used only when the student can safely be transported to the seclusion environment by trained staff members using appropriate techniques based on crisis intervention training.
6. Time-out procedures do not constitute seclusion and are permitted in school.
7. Every instance in which seclusion is used shall be carefully and continuously visually monitored to ensure the safety of the student, other students, and staff

Use of Mechanical Restraint, Use of Physical Restraint

513 IAC 1-2-2. Commission's principles.

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Any behavioral intervention must be consistent with the student's rights to be treated with dignity and to be free from abuse.
3. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
4. Physical restraint or seclusion should not be used except in situations where the student's behavior poses imminent risk of injury to self or others and other interventions are ineffective and should be discontinued as soon as imminent risk of injury to self or others has dissipated.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-2; filed Aug 5, 2014, 1:32 p.m.:20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.:20201230-IR-513200367RFA).

513 IAC 1-2-3. Use of behavior intervention and support.

Sec. 3. A school shall use prevention, positive behavior intervention and support, and conflict de-escalation strategies to eliminate or minimize the need for the use of any of the following:

1. Seclusion.
2. Chemical restraint.
3. Mechanical restraint.
4. Physical restraint.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-3; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.: 20201230-IR-513200367RFA).

513 IAC 1-2-4. Prevention.

1. Every effort shall be made to prevent the need for the use of restraint or for the use of seclusion on a student.
2. Seclusion or physical restraint shall not be used except when used as a last resort in situations where:
 - 2.1. The student's behavior poses imminent risk of injury to self or others; and
 - 2.2. Other less restrictive interventions are ineffective.
3. Any use of seclusion or restraint:
 - 3.1. May only be used for a short period of time; and

3.2. Shall be discontinued as soon as the imminent risk of injury to self or others has dissipated.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-4; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; readopted filed Nov 30, 2020, 12:07 p.m.: 20201230-IR-513200367RFA)

513 IAC 1-2-5. Mechanical and chemical restraints prohibited.

1. Except as provided in subsection (d), the use of mechanical restraints to restrict a student's freedom of movement is prohibited.
2. The use of any drug, medication, or other chemical to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health care professional) is prohibited.
3. Schools shall never give a student any drug or medication that is not a standard treatment or dosage, or both, for the student's medical or psychiatric condition unless otherwise prescribed by a physician.
4. While transporting a student on a moving vehicle, a bus harness or other safety equipment may be required and is permissible for safety purposes. However, the use of any bus harness or safety equipment, as described in 513 IAC 1-1-10, that is used to restrain a student during transportation must be documented.

(Commission on Seclusion and Restraint in Schools; 513 IAC1-2-5; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA).

513 IAC 1-2-6. Training.

WHEN SECLUSION PROCEDURES SHALL NOT BE EMPLOYED

1. When the imminent risk of injury to the student or others has dissipated.

2. When known medical, emotional or physical condition of the student would make the seclusion procedures dangerous for that student (e.g., students expressing suicidal thoughts or with a history of self-harm or severe trauma, students with heart or circulatory conditions, asthma, and/or other medical conditions).

3. Seclusion shall never be used unless a staff member can continuously monitor the student for visual or auditory signs of physiological distress, and can communicate with the student.
 - 3.1. Students shall be permitted to use the restroom upon request, and be escorted to and from the restroom.

 - 3.2. Students shall be provided with water on request.

4. Seclusion shall never be used as a punishment, or to force compliance with staff directives.

Microsoft Word - Seclusion_ Restraint Guidelines FINAL.docx (myips.org)

Requirements for Seclusion Rooms

All seclusion environments shall be inspected by Facilities Management staff and shall:

1. Be of reasonable size to accommodate the student and at least one adult.

2. Be of reasonable size to permit students to lie or sit down.

3. Have adequate ventilation including heat and air conditioning as appropriate.

4. Have adequate lighting.
5. Be free of any potential or predictable safety hazards such as electrical outlets, equipment, and breakable glass.
6. Permit direct continuous visual and auditory monitoring of the student.
7. Not be locked, except with a latching device that staff must continuously activate or monitor to prevent a door from opening is permitted.
8. Shall comply with all applicable health, fire and safety requirements.
9. Be constructed of materials or objects that cannot be used by students to harm themselves or others, and be designed so that students cannot climb up the walls

Microsoft Word - Seclusion_ Restraint Guidelines FINAL.docx (myips.org)

Training Requirements for Staff

513 IAC 1-2-6. Training.

1. Staff shall be trained according to the school's adopted plan on the appropriate use of effective alternatives to physical seclusion and restraint, such as positive behavioral interventions and supports, and, only for cases involving imminent risk of injury, on the safe use of physical seclusion and restraint.
2. Each school shall identify appropriate school staff to be trained on the safe use of effective alternatives to physical seclusion and restraint. Recurrent training of staff should be done in accordance with the school's plan.
3. Each school shall choose a training protocol that includes the following:

- 3.1. Positive supports and behavioral interventions techniques.
 - 3.2. Conflict de-escalation techniques.
 - 3.3. The safe use of seclusion and restraint.
 - 3.4. Steps to avoid the use of seclusion or restraint.
 - 3.5. Debriefing practices and procedures.
4. Training programs shall differentiate for levels of school personnel and training needs.
 5. Each school must maintain documentation that includes the following information:
 - 5.1. The name and position of each person who has completed training.
 - 5.2. Who provided the training.
 - 5.3. When the training was completed.
 - 5.4. What protocols and techniques were included in the training.
 6. Training may be provided by any person who is trained in the current best practices of the protocols listed in subsection (c)

[Return to Table of Contents](#)

Iowa (IA)

Links

<https://educateiowa.gov/pk-12/learner-supports/timeout-seclusion-restraint>

Law Text

CHAPTER 103 CORPORAL PUNISHMENT, PHYSICAL RESTRAINT, SECLUSION, AND OTHER PHYSICAL CONTACT WITH STUDENTS

281—103.1(256B,280) Purpose and objectives. The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, prone restraint, and mechanical restraint are prohibited; explain the parameters and protocols for the use of physical restraint and seclusion; and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors; increase meaningful instructional time for all students; ensure that seclusion and physical restraint are used only in specified circumstances and are subject to assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or may be used.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.2(256B,280) Definitions. For the purposes of this chapter:

“Bodily injury” means physical pain, illness, or any impairment of physical condition.

“Corporal punishment” means the intentional physical punishment of a student.

“Corporal punishment” includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

“Debriefings” are meetings to collaboratively examine and determine what caused an incident or incidents resulting in the use of physical restraints or seclusion, how the incident or the use of physical restraints or seclusion or both could have been avoided and how future incidents could be avoided, and to plan for and implement positive and preventative supports. The debriefing process is intended to improve future outcomes by reducing the likelihood of future problem behavior and the subsequent use of physical restraint or seclusion.

“Mechanical restraint” means the use of a device as a means of restricting a student’s freedom of movement. “Mechanical restraint” does not mean a device used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a device was designed and, if applicable, prescribed, including restraints for medical immobilization, adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports, and vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

“Parent” means an individual included in the definition of “parent” in rule 281—41.30(256B,34CFR300), and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

“Physical restraint” means a personal restriction that immobilizes or reduces the ability of a child to move the child’s arms, legs, body, or head freely. “Physical restraint” does not mean a technique used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a technique was designed and, if applicable, prescribed. “Physical restraint” does not include

instructional strategies, such as physically guiding a student during an educational task, hand-shaking, hugging, or other nondisciplinary physical contact.

“Prone restraint” means any restraint in which the child is held face down on the floor.

“Reasonable and necessary force” is that force, and no more, which a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain, and that does not exceed the degree or duration required to accomplish the purposes set forth in rule 281—103.5(256B,280).

“School” includes public school districts, accredited nonpublic schools, and area education agencies. “Seclusion” means the involuntary confinement of a child in a seclusion room or area from which the child is prevented or prohibited from leaving; however, preventing a child from leaving a classroom or school building shall not be considered seclusion. “Seclusion” does not include instances when a school employee is present within the room and providing services to the child, such as crisis intervention or instruction.

“Seclusion room” means a room, area, or enclosure, whether within or outside the classroom, used for seclusion.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.3(256B,280) Ban on corporal punishment and prone and mechanical restraints. An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student or use prone restraints or mechanical restraints upon a student.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.4(256B,280) Activities that are not considered corporal punishment. Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;
2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
3. Actions consistent with and included in an individualized education program (IEP) developed under the Individuals with Disabilities Education Act, as reauthorized, Iowa Code chapter 256B, and 281—Chapter 41; a behavior intervention plan (BIP); an individual health plan (IHP); or a safety plan. However, under no circumstance shall an IEP, BIP, IHP, or safety plan violate the provisions of this chapter;
4. Reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility;
5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of a school employing or utilizing the services of the employee.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.5(256B,280) Use of reasonable and necessary force.

103.5(1) Notwithstanding the ban on corporal punishment in rule 281—103.3(256B,280), no employee subject to these rules is prohibited from:

- a. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the following:

- (1) To quell a disturbance or prevent an act that threatens physical harm to any person.
- (2) To obtain possession of a weapon or other dangerous object within a student's control.
- (3) For the purposes of self-defense or defense of others as provided for in Iowa Code section 704.3.
- (4) To remove a disruptive student from class or any area of the school's premises or from school-sponsored activities off school premises.
- (5) To prevent a student from the self-infliction of harm.
- (6) To protect the safety of others.
- (7) To protect property as provided for in Iowa Code section 704.4 or 704.5.

b. Using incidental, minor, or reasonable physical contact to maintain order and control.

103.5(2) An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.6(256B,280) Reasonable force.

103.6(1) In determining the reasonableness of the physical force used by a school employee, the following factors shall be applied:

a. The size and physical, mental, and psychological condition of the student;

- b.* The nature of the student's behavior or misconduct resulting in the use of physical force;
- c.* The instrumentality used in applying the physical force;
- d.* The extent and nature of resulting injury to the student, if any, including mental and psychological injury;
- e.* The motivation of the school employee using the physical force.

103.6(2) Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

103.7(1) Physical restraint or seclusion is reasonable and necessary only:

- a.* To prevent or terminate an imminent threat of bodily injury to the student or others; or
- b.* To prevent serious damage to property of significant monetary value or significant nonmonetary value or importance; or
- c.* When the student's actions seriously disrupt the learning environment or when physical restraint or seclusion is necessary to ensure the safety of the student and others; and
- d.* When less restrictive alternatives to seclusion or physical restraint would not be effective, would not be feasible under the circumstances, or have failed in preventing or terminating the imminent threat or behavior; and

e. When the physical restraint or seclusion complies with all the rules of this chapter.

103.7(2) If seclusion or physical restraint is utilized, the following provisions shall apply:

a. The seclusion or physical restraint must be imposed by an employee who:

- (1) Is trained in accordance with rule 281—103.8(256B,280); or
- (2) Is otherwise available and a trained employee is not immediately available due to the unforeseeable nature of the occurrence.

b. A school must attempt to notify the student's parent using the school's emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.

c. The seclusion or physical restraint must only be used for as long as is necessary, based on research and evidence, to allow the student to regain control of the student's behavior to the point that the threat or behavior necessitating the use of the seclusion or physical restraint has ended, or when a medical condition occurs that puts the student at risk of harm.

Unless otherwise provided for in the student's written, approved IEP, BIP, IHP, or safety plan, if the seclusion or physical restraint continues for more than 15 minutes:

- (1) The student shall be provided with any necessary breaks to attend to personal and bodily needs, unless doing so would endanger the child or others.
- (2) An employee shall obtain approval from an administrator or administrator's designee to continue the seclusion or physical restraint beyond 15 minutes. After the initial approval, an employee must obtain additional approval every 30 minutes thereafter for the continuation of the seclusion or physical restraint. Approval must be documented in accordance with rule 281—103.8(256B,280).

- (3) The student’s parent and the school may agree to more frequent notifications than is required by this subrule.
- (4) Schools and employees must document and explain in writing, as required by subrule 103.8(2), the reasons why it was not possible for them to obtain approval, notify parents, or take action under paragraphs 103.7(2)“b” and “c” within the prescribed time limits.
- (5) Schools and employees who initiate and then end the use of nonapproved restraints must document and explain in writing the reasons why they had no other option but to use this type of behavioral intervention. This subparagraph is not intended to excuse or condone the use of nonapproved restraints.
- a.* The area of seclusion shall be a designated seclusion room that complies with the seclusion room requirements of rule 281—103.9(256B,280), unless the nature of the occurrence makes the use of the designated seclusion room impossible, clearly impractical, or clearly contrary to the safety of the student, others, or both; in that event, the school must document and explain in writing the reasons why a designated seclusion room was not used.
- b.* An employee must continually visually monitor the student for the duration of the seclusion or physical restraint.
- c.* An employee shall not use any physical restraint that obstructs the airway of the student.
- d.* If an employee restrains a student who uses sign language or an augmentative mode of communication as the student’s primary mode of communication, the student shall be permitted to have the student’s hands free of physical restraint, unless doing so is not feasible in view of the threat posed.
- e.* Seclusion or physical restraint shall not be used:
- As punishment or discipline;

- To force compliance or to retaliate;
- As a substitute for appropriate educational or behavioral support;
- To prevent property damage except as described in paragraph 103.7(1) “b”;
- As a routine school safety measure; or
- As a convenience to staff.

103.7(3) An employee must document the use of the seclusion or physical restraint in accordance with rule 281—103.8(256B,280).

103.7(4) Nothing in this rule shall be construed as limiting or eliminating any immunity conferred by Iowa Code section 280.21, rule 281—103.11(256B,280), or any other provision of law.

103.7(5) An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any required corrective action.

103.7(6) If a child’s IEP, BIP, IHP, or safety plan includes either or both physical restraint or seclusion measures, those measures must be individualized to the child; described with specificity in the child’s IEP, BIP, IHP, or safety plan; and be reasonably calculated to enable the child to make progress appropriate in light of the child’s circumstances.

103.7(7) These rules must be complied with whether or not a parent consents to the use of physical restraint or seclusion for the child.

103.7(8) If any alleged violation of this chapter is also an allegation of “abuse” as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 shall be applicable.

103.7(9) Schools must provide a copy of this chapter and any school-adopted or school-used related policies, procedures and training materials to any individual who is not an employee but whose duties could require the individual to participate in or be present when physical restraints are or seclusion is being used. Schools must invite these individuals to participate in training offered to employees pursuant to this chapter.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.8(256B,280) Training, documentation, debriefing, and reporting requirements.

103.8(1) *Training.* An employee must receive training prior to using any form of physical restraint or seclusion. Training shall cover the following topics:

- a. The rules of this chapter;
- b. The school’s specific policies and procedures regarding the rules of this chapter;
- c. Student and staff debriefing requirements;
- d. Positive behavior interventions and supports, and evidence-based approaches to student discipline and classroom management;
- e. Research-based alternatives to physical restraint and seclusion;
- f. Crisis prevention, crisis intervention, and crisis de-escalation techniques;
- g. Duties and responsibilities of school resource officers and other responders, and the techniques, strategies and procedures used by responders; and

h. Safe and effective use of physical restraint and seclusion.

103.8(2) Documentation and reporting. Schools must maintain documentation for each occurrence of physical restraint and seclusion. Documentation must contain at least the following information:

- a. The name of the student;
- b. The names and job titles of employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints, including the administrator or individual who approved continuation of the seclusion or physical restraint pursuant to subparagraph 103.7(2)“c”(2);
- c. The date of the occurrence;
- d. The beginning and ending times of the occurrence;
- e. The date the employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints last completed training required by subrule 103.8(1);
- f. A description of the actions of the student before, during, and after the seclusion or physical restraint;
- g. A description of the actions of the employee(s) involved before, during, and after the seclusion or physical restraint, including the use of a nonapproved restraint (subparagraph 103.7(2)“c”(5)) or the use of other than a designated seclusion room (paragraph 103.7(2)“d”);
- h. Documentation of approvals for continuation of the seclusion or physical restraint period generated in accordance with subrule 103.7(2), including why it was not possible to obtain approval;

- i. A description of the less restrictive means attempted as alternatives to seclusion or physical restraint;
- j. A description of any injuries, whether to the student or others, and any property damage;
- k. A description of future approaches to address the student's behavior, including any consequences or disciplinary actions that may be imposed on the student; and
- l. The time and manner by which the school notified the student's parent of the use of physical restraint or seclusion, including why it was not possible to attempt to give notice within the time specified by paragraph 103.7(2)"b."

Schools must provide the student's parent with a written copy of the report by the end of the third school day following the occurrence. The report shall be accompanied by a letter inviting the parent to participate in a debriefing meeting, if necessary under subrule 103.8(3), to be held within five school days of the day the report and letter are mailed to or provided to the parent. The letter must include the date, time and place of the meeting and the names and titles of employees and other individuals who will attend the meeting. The parent may elect to receive the report and the letter via electronic mail or facsimile or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the letter and report to the parent by first-class mail, postage prepaid, postmarked by end of the third school day after the occurrence.

103.8(3) Debriefing.

- a. Schools must hold a debriefing meeting as soon as practicable whenever required by paragraph 103.8(3)"f," but within five school days of the day the report and letter are mailed or provided to the parent, unless a parent who wants to participate personally or through a representative asks for an extension of time, or the parent and school agree to an alternate date and time. The student may attend the meeting with the parent's consent. The parent may elect to be accompanied by other individuals or representatives. The meeting must include employees who administered the physical

restraint or seclusion, an administrator or employee who was not involved in the occurrence, the individual or administrator who approved continuation of the physical restraint or seclusion, other relevant personnel designated by the school (such as principal, counselor, classroom teacher, special education teacher), and, if indicated by the student's behavior in the instances prompting the debriefing, an expert in behavioral health, mental health, or another appropriate discipline. The meeting, and the debriefing report that is to be provided to the parent after the meeting, must include the following information and subjects:

- (1) The date and location of the meeting, and the names and titles of the participants;
 - (2) The documentation and report completed in compliance with subrule 103.8(2);
 - (3) A review of the student's BIP, IHP, safety plan, and IEP as applicable;
 - (4) Identification of patterns of behavior and proportionate response, if any, in the student and the employees involved;
 - (5) Determination of possible alternative responses to the incident/less restrictive means, if any;
 - (6) Identification of additional resources that could facilitate those alternative responses in the future;
 - (7) Planning for follow-up actions, such as behavior assessments, revisions of school intervention plans, medical consultations, and reintroduction plans.
- a.* Schools must complete the debriefing report and provide a copy of the report to the parent of the student within three school days of the debriefing meeting. The parent may elect to receive the report via electronic mail, or facsimile, or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the

school must mail the debriefing report to the parent by first-class mail, postage prepaid, postmarked no later than three school days after the debriefing meeting.

b. If the debriefing session results in a recommendation that a child might be eligible for a BIP, IHP, safety plan, or IEP, the public agencies shall promptly determine the child's eligibility in accordance with the procedures required for determining eligibility, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

c. Any recommended change to a student's BIP, IHP, safety plan, or IEP, or a student's educational placement, shall be made in accordance with the procedures required for amending said plan or changing said placement, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

d. Nothing in this subrule shall be construed to require employers to include information about employees that would be legally protected personnel information, including employee disciplinary information under Iowa Code chapters 279 and 284, or to allow discussion of that personnel information, in debriefing meetings.

e. For purposes of this subrule, a debriefing session is required:

- (1) Upon the first instance of seclusion or physical restraint during a school year;
- (2) Whenever any personal injury occurs as a part of the use of seclusion or physical restraint;
- (3) Whenever a reasonable educator would determine a debriefing session is necessary;
- (4) Whenever suggested by a student's IEP team (if any);
- (5) Whenever agreed by the parent and the school officials.

However, in any case a debriefing session shall occur after seven instances of seclusion or physical restraint. Nothing in this paragraph shall be construed to prevent a school from offering more debriefing meetings.

103.8(4) *Confidentiality*. Schools must comply with the requirements of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), Iowa Code chapter 22, “Examination of Public Records (Open Records),” and other applicable federal and state laws, when taking action pursuant to this rule.

103.8(5) *Reporting to department*. Schools shall report to the Iowa department of education, in a manner prescribed by the department, an annual count of all instances of seclusion or restraint, an annual count of the number of students who were subjected to seclusion or restraint, and any other data required for the department to implement the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Public Law 114-95.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.9(256B,280) Seclusion room requirements. Schools must meet the following standards for the structural and physical requirements for rooms used for seclusion:

103.9(1) The room must meet and comply with all applicable building, fire, safety, and health codes and standards and with the other requirements of this rule.

103.9(2) The dimensions of the room shall be of adequate width, length, and height to allow the student to move about and recline safely and comfortably, considering the age, size, and physical and mental condition of the student being secluded. The interior of the room must be no less than 56 square feet, and the distance between opposing walls must be no less than 7 feet across.

103.9(3) The room must not be isolated from school employees or the facility.

103.9(4) Any wall that is part of the room must be part of the structural integrity of the room (not free-standing cells or portable units attached to the existing wall or floor).

103.9(5) The room must provide a means of continuous visual and auditory monitoring of the student.

103.9(6) The room must be adequately lighted with switches to control lighting located outside the room.

103.9(7) The room must be adequately ventilated with switches to control fans or other ventilation devices located outside the room.

103.9(8) The room must maintain a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

103.9(9) The room must be clean and free of objects and fixtures that could be potentially dangerous to a student, including protruding, exposed, or sharp objects, exposed pipes, electrical wiring, or other objects in the room that could be used by students to harm themselves or to climb up a wall.

103.9(10) The room must contain no free-standing furniture.

103.9(11) The room must be constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student. Interior finish of the seclusion room shall comply with the state and local building and fire codes and standards.

103.9(12) Doors must open outward. The door shall not be fitted with a lock unless it releases automatically when not physically held in the locked position by personnel on the outside of the door and permits the door to be opened from the inside. Doors, when fully open, shall not reduce the required corridor width by more than seven inches. Doors in any position shall not reduce the required width by more than one-half.

103.9(13) The room must be able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

103.9(14) Windows, if any, must be transparent and made of unbreakable or shatterproof glass or plastic.

103.9(15) By July 1, 2021, schools must consult with appropriate state and local building, fire, safety, and health officials to ensure the room complies with all applicable codes and standards (for example, heating, ventilation, lighting, accessibility, dimensions, access, entry and exit, fire suppression, etc.), and maintain documentation of such consultation and compliance and approval.

103.9(16) Assuming approval pursuant to subrule 103.9(15), a school may continue to use a room that otherwise complies with this rule but for subrule 103.9(2) for a period of five years from January 20, 2021, or whenever the portion of the school containing the room is renovated or remodeled, whichever occurs first.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.10(256B,280) Department responsibilities. The department shall develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with these rules.

The director of the department shall consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this subsection.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

281—103.11(256B,280) Other provisions.

103.11(1) To prevail in a civil action alleging a violation of Iowa Code section 280.21 or this chapter, the party bringing the action shall prove the violation by clear and convincing evidence. Any school employee determined in a civil action to have been wrongfully accused under Iowa Code section 280.21 or this chapter shall be awarded reasonable monetary damages, in light of the circumstances involved, against the party bringing the action.

103.11(2) A school employee's employer and the board of educational examiners shall not engage in reprisal or retaliation against a school employee who, in the reasonable course of the employee's employment responsibilities, comes into physical contact with a student in accordance with Iowa Code section 280.21 or this chapter.

[ARC 5332C, IAB 12/16/20, effective 1/20/21]

These rules are intended to implement Iowa Code section 280.21.

[Filed 10/12/90, Notice 9/5/90—published 10/31/90, effective 12/5/90] [Filed 9/13/91, Notice 5/29/91—published 10/2/91, effective 11/6/91] [Filed 9/11/08, Notice 6/18/08—published 10/8/08, effective 11/12/08]

[Filed ARC 9378B (Notice ARC 9146B, IAB 10/6/10), IAB 2/23/11, effective 3/30/11] [Filed ARC 5332C (Notice ARC 5146C, IAB 8/26/20), IAB 12/16/20, effective 1/20/21]

- 1 Effective date of 281—103.2(280), last 2 sentences, delayed until adjournment of the 1991 Session of the General Assembly by the Administrative Rules Review Committee at its November 13, 1990, meeting. The agency rescinded the last sentence, effective 11/6/91, IAB 10/2/91.

[Return to Table of Contents](#)

Kansas (KS)

Links

http://www.kslegislature.org/li/b2015_16/measures/documents/hb2170_oo_0000.pdf

Law Text

Session of 2015

HOUSE BILL No. 2170 By Committee on Children and Seniors

AN ACT concerning schools and school districts; relating to seclusion and restraint of pupils. Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the freedom from unsafe restraint and seclusion act.

Sec. 2. As used in sections 1 through 6, and amendments thereto, the following terms shall have the meanings specified herein:

(a) "Altercation" means a fight involving a student. Any student possessing a weapon in such a manner as to pose an imminent risk of harm qualifies as an altercation.

(b) "Children with disabilities" has the meaning specified in K.S.A. 72-962, and amendments thereto.

(c) "Department" means state department of education.

(d) "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others. Violent action that destroys substantial property may fall within this standard only if the property destruction also poses an immediate and impending threat of causing substantial physical injury to self or others.

(e) "Individualized education program" and "IEP" have the meaning specified in K.S.A. 72-962, and amendments thereto.

(f) "Mechanical restraint" means any device or object used to limit a person's movement, except that a protective or stabilizing device either ordered by a person appropriately licensed to issue the order for the device or required by law shall not be considered to be a mechanical restraint. This term does not include any device used by a law enforcement officer, campus police officer or school security officer in carrying out law enforcement duties.

(g) "Physical restraint" means bodily force used to substantially limit a person's movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint.

(h) "School employees" means teachers, paraprofessionals, providers of related services, administrators and support staff.

(i) "Seclusion room" means a room or other confined area in which a child with a disability is placed in isolation from other persons for a limited time and from which the student is prevented from having egress.

Sec. 3. (a) No child with a disability shall be subjected to unreasonable, unsafe or unwarranted use of physical restraint or seclusion rooms. A child shall never be physically restrained or placed in a seclusion room for purposes of discipline or punishment, or for the convenience of a school employee. A child shall not be subjected to any form of mechanical restraint.

(b) A child with a disability shall be placed in a seclusion room or physically restrained only if the behavior of the student presents an imminent risk of harm. However, if the child is involved in an altercation, then physical restraint may still be used even if the imminent risk of harm standard is not met.

(c) A child with a disability shall not be placed in a seclusion room if the child is known to have any medical condition that a licensed health care provider has indicated, in a written statement that is provided to the school and that is on file with the school, precludes this action.

(d) A child with a disability shall not be physically restrained or placed in a seclusion room except by a school employee who has had training in the appropriate use of these techniques. Such training shall be from training programs approved by the department to ensure that school employees are trained in the proper and safe use of seclusion rooms and physical restraint. This training requirement shall not apply if the child is involved in an altercation.

(e) While a child with a disability is in a seclusion room, the school employee who is supervising the student shall be able to see and hear the student at all times.

(f) No more than one child with a disability shall be placed in a seclusion room at anytime.

(g) Any seclusion room equipped with a locking door shall ensure that the lock automatically disengages when the teacher or attendant viewing the child walks away from the seclusion room or in cases of emergency, such as fire or severe weather.

(h) If a school has a seclusion room, it will be a safe place with proportional and similar characteristics as other rooms where students frequent. It shall be free of any condition that could be a danger to the student, well ventilated and sufficiently lighted.

Sec. 4. (a) When any child with a disability is placed in a seclusion room or is subjected to physical restraint, the school employee who used the seclusion room or physical restraint, or an employee who witnessed its use, shall document the use of the seclusion room or the physical restraint. This documentation shall be completed no later than the school day following the day on which the seclusion room or physical restraint is used. A copy of the documentation will be provided to the parent or legal guardian of the child when the documentation is completed.

(b) Each public school district shall submit information and data on the use of seclusion and restraint as required by the department. At a minimum, the department shall collect sufficient information and data to ensure the patrons, policymakers and the public can gain a clear picture of the depth and breadth of the use of seclusion and restraint in Kansas schools. The purpose of the information and data collected is to provide detailed information so that policymakers can identify trends and opportunities in order to help reduce the use of seclusion and restraint in public schools.

(c) The department shall compile the reports from the schools and provide the results to the public, the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter, and publish the school policy, as set forth in this act, to ensure uniformity and compliance with this act. A copy of the school policy shall be issued to each public school. In issuing these reports, the department will ensure that as much information and data as possible is provided on the use of seclusion and restraint in order to allow patrons, policymakers and the public to be able to compare the data on the use and incidences between school districts and individual schools. In compiling the aggregate data, individual student confidentiality shall be reasonably protected in accordance with the student data privacy act.

Sec. 5. (a) The state board of education shall promulgate rules and regulations as necessary to implement the provisions of this act including rules and regulations regarding: (1) A process for an individual or an organization to submit a complaint to the commissioner of education alleging that a public school is violating or has violated a provision of sections 1 through 6, and amendments thereto, or K.A.R. 91-42-1.

(2) A process for investigating a complaint submitted under subsection (a).

(3) A process for ensuring that complainants and schools are treated equally in the complaint process.

(4) The minimum standards for use of seclusion and restraint.

(5) A process for completion of a written report of findings of facts and conclusions.

(6) A process for determining sanctions if a district fails to comply with identified corrective actions.

(b) The decision of the commissioner of education on a complaint shall be final.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

[Return to Table of Contents](#)

Kentucky (KY)

Links

[704 EDUCATION AND WORKFORCE DEVELOPMENT CABINET – KEN Chapter: \704\007.160 \(ky.gov\)](#)

[Physical Restraint Seclusion FAQ.pdf \(ky.gov\)](#)

Law Text

Definition of Seclusion/Isolation

Seclusion

"Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions.

"Timeout" means a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Definition of Restraint (Physical, Mechanical and Chemical)

Physical:

"Physical Restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the student's torso, arms, legs, or head freely, but does not include:

- (a) Temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location;
- (b) A behavioral intervention, such as proximity control or verbal soothing, used as a response to calm and comfort an upset student;
- (c) Less restrictive physical contact or redirection to promote student safety; or
- (d) Physical guidance or prompting when teaching a skill or redirecting the student's attention

Mechanical:

"Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement, but does not include:

- (a) A device implemented by trained school personnel or utilized by a student that has been prescribed by an appropriate medical or related services professional that is used for the specific and approved purposes for which the device was designed;
- (b) An adaptive device or mechanical support used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of the device or mechanical support;
- (c) A vehicle safety restraint if used as intended during the transport of a student in a moving vehicle;
- (d) Restraint for medical immobilization; or
- (e) An orthopedically prescribed device that permits a student to participate in activities without risk of harm.

Chemical:

“Chemical restraint” means the use of medication to control behavior or restrict a student’s freedom of movement that includes over-the-counter medications used for purposes not specified on the label but does not include medication prescribed by a licensed medical professional and supervised by qualified and trained individuals in accordance with professional standards.

Circumstances where Seclusion can be used

Seclusion may only be implemented in a public school or educational program if:

- (a) The student’s behavior poses an imminent danger of physical harm to self or others;
- (b) The student is visually monitored for the duration of the seclusion;
- (c) Less restrictive interventions have been ineffective in stopping the imminent danger of physical harm to self or others; and
- (d) School personnel implementing the seclusion are appropriately trained to use seclusion.

Seclusion shall not be used in a public school or educational program:

- (a) As punishment or discipline;
- (b) To force compliance or to retaliate;
- (c) As a substitute for appropriate educational or behavioral support;

(d) To prevent property damage in the absence of imminent danger of physical harm to self or others; (e) As a routine school safety measure;

(f) As a convenience for staff; or

(g) As a substitute for timeout.

Requirements for Seclusion Room

The requirements for the room used for seclusion will follow these requirements from the regulation:

a) be free of objects and fixtures with which a student could inflict physical harm to self or others;

b) provide school personnel a view of the student at all times;

c) provide adequate lighting and ventilation;

d) be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;

e) have an unlocked and unobstructed door; and

f) have at least an annual fire and safety inspection.

Size, location, and occupancy certification should be defined in report from local Fire Marshal Inspection.

Time Limits

The use of seclusion to protect the student or others from imminent danger of physical harm shall end as soon as the student's behavior no longer poses an imminent danger of physical harm to self or others.

The use of Physical Restraint shall be subject to the following requirements and limitations.

Physical restraint may only be implemented in a public school or educational program if:

- (a) The student's behavior poses an imminent danger of physical harm to self or others and as permitted under KRS 503.050, 503.070, and 503.110;
- (b) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication, unless the student uses sign language or an augmentative mode of communication as the student's primary mode of communication and the implementer determines that freedom of the student's hands for brief periods during the restraint appears likely to result in physical harm to self or others;
- (c) The student's physical and psychological well-being is monitored for the duration of the physical restraint;
- (d) Less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others, except in the case of a clearly unavoidable emergency situation posing imminent danger of physical harm to self or others; and
- (e) School personnel implementing the physical restraint are appropriately trained as required by Section 6(3) of this administrative regulation, except to the extent necessary to prevent physical harm to self or others in clearly unavoidable emergency circumstances where other school personnel intervene and summon trained school personnel as soon as possible.

(4) When implementing a physical restraint, school personnel shall use only the amount of force reasonably believed to be necessary to protect the student or others from imminent danger of physical harm.

(5) The use of physical restraint shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of physical harm to self or others; or

(b) A medical condition occurs putting the student at risk of harm.

Training Requirements for Staff

(1)(a) All school personnel shall be trained in state administrative regulations and school district policies and procedures regarding physical restraint and seclusion.

(b) All school personnel shall be trained annually to use an array of positive behavioral supports and interventions to:

1. Increase appropriate student behaviors;
2. Decrease inappropriate or dangerous student behaviors; and
3. Respond to dangerous behavior.

(c) This training may be delivered utilizing web-based applications.

(d) This training shall include:

1. Appropriate procedures for preventing the need for physical restraint and seclusion, including positive behavioral supports and interventions;

2. State administrative regulations and school district policies and procedures regarding physical restraint and seclusion;
3. Proper use of positive reinforcement;
4. The continuum of use for alternative behavioral interventions;
5. Crisis prevention;
6. De-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation, and relationship building; and
7. Proper use of seclusion as established in Section 4 of this administrative regulation, including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary.

(2) All school personnel shall receive annual written or electronic communication from the district identifying core team members in the school setting who have been trained to implement physical restraint.

(3) A core team of selected school personnel shall be designated to respond to dangerous behavior and to implement physical restraint of students. The core team, except school resource officers and other sworn law enforcement officers, shall receive additional yearly training in the following areas:

(a) Appropriate procedures for preventing the use of physical restraint except as permitted by this administrative regulation;

(b) A description and identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint is safe and warranted;

- (c) Simulated experience of administering and receiving physical restraint, and instruction regarding the effect on the person physically restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (d) Instruction regarding documentation and notification requirements and investigation of injuries;
- and (e) Demonstration by core team members of proficiency in the prevention and use of physical restraint.

Documentation/Reporting/Complaint Requirements and Procedures

The following data shall be reported by the district in the student information system related to incidents of physical restraint and seclusion:

- (1) Aggregate number of uses of physical restraint;

- (2) Aggregate number of students placed in physical restraint;

- (3) Aggregate number of uses of seclusion;

- (4) Aggregate number of students placed in seclusion;

- (5) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to students related to physical restraint and seclusion;

- (6) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty to school personnel related to physical restraint and seclusion; and

- (7) Aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student. (39 Ky.R. 678; 1207; 1400; eff. 2-1-2013; Crt eff.12-9-2019.)

Each local school district shall establish policies and procedures that:

- (a) Ensure school personnel are aware of and parents are notified how to access the policies and procedures regarding physical restraint and seclusion;

- (b) Are designed to ensure the safety of all students, school personnel, and visitors;

- (c) Require school personnel to be trained in accordance with the requirements outlined in Section 6 of this administrative regulation;

- (d) Outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parents, documentation of the event in the student information system, and a process for the parent or emancipated youth to request a debriefing session;

- (e) Require notification, within twenty four (24) hours, to the Kentucky Department of Education and local law enforcement in the event of death, substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty resulting from the use of physical restraint or seclusion;

- (f) Outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take corrective action; and

- (g) Outline a procedure to regularly review data on physical restraint and seclusion usage and revise policies as needed.

[Return to Table of Contents](#)

Louisiana (LA)

Links

<http://www.legis.la.gov/legis/law.aspx?d=762879>

Law Text

RS 17:416.21

§416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint

A. As used in this Section:

(1) "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(2)(a) "Mechanical restraint" means the application of any device or object used to limit a person's movement.

(b) Mechanical restraint does not include:

(i) A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider.

(ii) Any device used by a duly licensed law enforcement officer in the execution of his official duties.

(3)(a) "Physical restraint" means bodily force used to limit a person's movement.

(b) Physical restraint does not include:

(i) Consensual, solicited, or unintentional contact.

(ii) Momentary blocking of a student's action if the student's action is likely to result in harm to the student or any other person.

(iii) Holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted.

(iv) Minimal physical contact for the purpose of safely escorting a student from one area to another.

(v) Minimal physical contact for the purpose of assisting the student in completing a task or response.

(4) "Positive behavior interventions and support" means a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate and culture.

(5) "School employee" means a teacher, paraprofessional, administrator, support staff member, or a provider of related services.

(6) "Seclusion" means a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.

(7) "Seclusion room" means a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited

time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving.

(8) "Written guidelines and procedures" means the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

B.(1) Seclusion shall be used only:

(a) For behaviors that involve an imminent risk of harm.

(b) As a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

(2) Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.

(3)(a) A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.

(b) A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.

(c) Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

(4) A seclusion room shall:

(a) Be free of any object that poses a danger to the student placed in the room.

(b) Have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age.

(c) Have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

C.(1) Physical restraint shall be used only:

(a) When a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others.

(b) To the degree necessary to stop dangerous behavior.

(c) In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

(2) No student shall be subjected to any form of mechanical restraint.

(3) No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

(4) A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

D. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

E. No student shall be subjected to unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.

F. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

G. A student who has been placed in seclusion or has been physically restrained shall be monitored continuously. Such monitoring shall be documented at least every fifteen minutes and adjustments made accordingly, based upon observations of the student's behavior.

H. A student shall be removed from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

I.(1) The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The student's parent or other legal guardian shall also be notified in writing, within twenty-four hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

(2) The director or supervisor of special education shall be notified any time a student is placed in seclusion or is physically restrained.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Program team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.

L. Repealed by Acts 2016, No.522, §2, eff. June 13, 2016.

M.(1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2)(a) These guidelines and procedures shall be provided to the state Department of Education, all school employees and every parent of a student with an exceptionality. The guidelines and procedures shall also be posted at each school and on each school system's website.

(b) The provisions of Subparagraph (a) of this Paragraph shall not be applicable to the parent of a student who has been deemed to be gifted or talented unless the student has been identified as also having a disability.

N.(1) The State Board of Elementary and Secondary Education shall adopt rules establishing guidelines and procedures for public school systems to follow regarding the reporting of incidents of seclusion and physical restraint, including specific data elements to be included in such reporting.

(2) The governing authority of each public elementary and secondary school, in accordance with state board policy, shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education.

(3)(a) The state Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

(b)(i) Based upon the data collected, the state Department of Education shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

(aa) The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

(bb) The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

(cc) A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph (2) of this Subsection.

(ii) The state Department of Education shall post the annual report on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

Acts 2011, No. 328, §1, eff. June 29, 2011; Acts 2013, No. 1, §1; Acts 2016, No. 522, §§1, 2, eff. June 13, 2016; Acts 2017, No. 97, §1.

[Return to Table of Contents](#)

Maine (ME)

Links

<https://www.maine.gov/doe/schools/safeschools/restraint>

Law Text

**The new Sec.1. 20-A MRSA §4014 "Use of seclusion and restraint" statute is in effect, and should be implemented to the extent that is possible, absent the amendments to the rule that will need to go through the APA process.

The current Chapter 33 Rule Governing Physical Restraint and Seclusion remains in effect to the extent that it is not in conflict with the new statute.

SAU's should examine their restraint and seclusion policies and practice to ensure they are in alignment with the statute.

The DOE will not be allowed to provide guidance related to the statute, or update the Chapter 33 Rule and existing resources, until the completion of the APA process.

Restraint and Seclusion Information (not updated to be in alignment with statute Sec.1. 20-A MRSA §4014: "Use of seclusion and physical restraint)

Existing guidance and resources cannot be updated to be in alignment with statute §4014 until the completion of the APA process. The statute should be implemented to the extent that is possible, and the current Chapter 33 Rule Governing Physical Restraint and Seclusion remains in effect to the extent that it is not in conflict with the new statute.

Chapter 33: Rule Governing Physical Restraint and Seclusion establishes standards and procedures for the use of physical restraint and seclusion. 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. The rule sets forth permitted and prohibited uses of restraint and seclusion, required notification and documentation of incidents of restraint or seclusion, aggregate reporting of incidents to administrators and to the Maine DOE, notification to parents, response to multiple incidents of restraint or seclusion of a student, local and state complaint processes and Maine DOE approval of training programs.

Training Programs

Under Chapter 33, each covered entity shall ensure that a sufficient number of administrators or designees, general and special education staff, maintain certification in an approved training program.

Building Communities of Care

CALM Crisis Intervention Training

CPI Nonviolent Crisis Intervention

Handle With Care

The Mandt System

Non-abusive Psychological and Physical Intervention (NAPPI)

Professional Crisis Management Association

Physical & Psychological Management Training

QBS Safety-Care Behavioral Safety Training

Right Response

Safe Crisis Management

Therapeutic Crisis Intervention System

Ukeru

For training programs seeking approval from the Maine DOE

STATE OF MAINE CONTINUED

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-ONE

H.P. 1007 - L.D. 1373

An Act To Keep All Maine Students Safe by Restricting the Use of Seclusion and Restraint in Schools

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §4014 is enacted to read:

P.O. Box P.O. 875 Solomons, Maryland 20688
www.endseclusion.org | info@endseclusion.org

§4014. Use of seclusion and physical restraint

1. Definitions.

As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Chemical restraint" means a drug or medication that is not prescribed as the standard treatment of a student's medical or psychiatric condition by a licensed physician or other qualified health professional acting under the scope of the professional's authority under state law that is used on a student to control behavior or restrict freedom of movement.

B. "Covered entity" means an entity that owns, operates or controls a school or educational program that receives public funds from the department, including, but not limited to, public schools, public regional programs, public charter schools, private schools, private schools approved for tuition purposes, special purpose private schools, career and technical education programs, public prekindergarten programs and providers of services pursuant to the provisions of the federal Individuals with Disabilities Education Act, Parts B and C, 20 United States Code, Section 1401 et seq. (2015).

C. "Mechanical restraint" means the use of a device to restrict a student's freedom of movement.

D. "Physical escort" means the temporary, voluntary touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location.

E. "Physical prompt" means a teaching technique that involves voluntary physical contact with a student that enables the student to learn or model the physical movement necessary for the development of a desired competency.

F. "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the arms, legs or head freely. "Physical restraint" does not include a physical escort, mechanical restraint, physical prompt or chemical restraint.

G. "Seclusion" means the involuntary isolation or confinement of a student alone in a room or clearly defined area from which the student does not feel free to go or is physically denied exit. "Seclusion" does not include a timeout.

H. "Timeout" means an intervention where a student requests or complies with an adult request for a break. Timeout is not seclusion.

I. "Unlawful restraint or seclusion" means:

(1) Mechanical restraint;

(2) Chemical restraint;

(3) Physical restraint or physical escort that is life-threatening, restricts breathing or restricts blood flow to the brain, including prone restraint; or

(4) Physical restraint or seclusion that is contraindicated based on Title 34-B, section 3003 or section 15002 or the student's disability or health care needs or medical or psychiatric condition as documented in:

(a) A health care directive or medical management plan;

(b) A behavior intervention plan;

(c) An individual education plan or an individual family service plan as defined in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015); or

(d) A plan developed pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 794 (2015) or the federal Americans with Disabilities Act of 1990, Title II, 42 United States Code, Section 12131 et seq. (2009).

"Unlawful restraint or seclusion" does not include a physical escort except as provided in subparagraph (3), a physical prompt, the use of adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement than would be possible without the use of such devices or supports or the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

2. Prohibition on unlawful restraint and seclusion; restriction on use of physical restraint and seclusion.

A covered entity that receives state or federal assistance may not subject a student to unlawful restraint or seclusion. A covered entity may use physical restraint or seclusion only if:

A. The student's behavior poses an imminent danger of serious physical injury to the student or another person;

B. Less restrictive interventions would be ineffective in stopping imminent danger of serious physical injury to the student or another person;

C. The physical restraint or seclusion ends immediately upon the cessation of imminent danger of serious physical injury to the student or another person; and

D. The least amount of force necessary is used to protect the student or another person from imminent danger of serious physical injury.

3. Report on data regarding the use of physical restraint and seclusion.

Each covered entity shall submit to the department an annual report on incidents of physical restraint and seclusion of students of that covered entity that includes:

A. The aggregate number of uses of physical restraint;

- B. The aggregate number of uses of seclusion;
- C. The aggregate number of students placed in physical restraint;
- D. The aggregate number of students placed in seclusion;
- E. The aggregate number of students with disabilities and an individualized education program under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015) or a plan pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. placed in physical restraint;
- F. The aggregate number of students with disabilities and an individualized education program under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015) or a plan pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. placed in seclusion;
- G. The aggregate number of serious physical injuries to students related to physical restraint;
- H. The aggregate number of serious physical injuries to students related to seclusion;
- I. The aggregate number of serious physical injuries to staff related to physical restraint; and
- J. The aggregate number of serious physical injuries to staff related to seclusion.

4. Technical assistance.

The department shall, using existing resources, provide technical assistance to covered entities by developing, implementing and providing technical assistance to support evidence-based programs that reduce the likelihood of physical restraint or seclusion, and support students in reducing behavior that can result in physical restraint or seclusion, such as developmentally appropriate, positive behavior interventions,

functional behavioral interventions, mental health supports, restorative justice programs, trauma-informed care and crisis and de-escalation interventions.

5. Rules.

The department shall adopt or amend rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[Return to Table of Contents](#)

Maryland (MD)

Links

<http://mdrules.elaws.us/comar/13a>

Law Text

7-1101. Definitions.

(a) In general.—In this subtitle the following terms have the meanings indicated.

(b) Behavior intervention plan.—"Behavior intervention plan" means a proactive plan designed to address problem behavior exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.

(c) Nonpublic school.—"Nonpublic school" means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities.

(d) Physical restraint. -

(1) "Physical restraint" means the use of physical force, without the use of any device or material, to restrict the free movement of all or a portion of a student's body.

(2) "Physical restraint" does not include:

(i) Briefly holding a student in order to calm or comfort the student;

(ii) Holding a student's hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area when other methods such as counseling have been unsuccessful; or

(iv) Breaking up a fight in the school building or on school grounds.

(e) Public agency.-"Public agency" means the Department, a local school system, the Maryland School for the Deaf, or the Maryland School for the Blind.

(f) Seclusion.-"Seclusion" means the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving.

7-1102. Reports and guidance.

Beginning with the 2018-2019 school year, on or before December 1 each year:

(1) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the number of physical restraint and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement.

(2) Each public agency and nonpublic school shall submit to the Department a report for the prior school year on the professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions.

(3) Each public agency and nonpublic school shall:

(i) Personally observe and review seclusion rooms;

(ii) Review training plans for the use of seclusion; and

(iii) Report to the Department regarding findings made under items (i) and (ii) of this paragraph.

(4) The Department shall:

(i) Provide guidance to public agencies and nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion; and

(ii) Report to the General Assembly, in accordance with § 2-1257 of the State Government Article, regarding findings and recommendations reported to the Department under this section.

7-1103. Development of policies and procedures.

Each public agency and nonpublic school shall develop policies and procedures in compliance with this subtitle and the regulations adopted by the Department.

7-1104. Consultation concerning training requirements.

The State Superintendent shall consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board under Title 6, Subtitle 7 of this article with respect to the training requirements for teachers and administrators to ensure that sufficient training is available regarding evidence-based positive behavioral interventions, strategies, and supports consistent with professionally accepted practices and standards for persons entering the field of education.

8-405. Meetings to discuss and evaluate educational program; extended year services.

(f) Written consent from parent for proposed enrollment of child in alternative programs or restraint or seclusion of child. -

(1) Except as provided in paragraph (2) of this subsection, an individualized education program team shall obtain written consent from a parent if the team proposes to:

(i) Enroll the child in an alternative education program that does not issue or provide credits toward a Maryland high school diploma;

(ii) Identify the child for the alternative education assessment aligned with the State's alternative curriculum; or

(iii) Include restraint or seclusion in the individualized education program to address the child's behavior as described in COMAR 13A.08.04.05.

REGULATIONS

13A.08.04.01. Scope.

This chapter applies to student behavior interventions by public agencies and nonpublic schools.

13A.08.04.02. Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Behavior intervention plan" means a proactive, data-based, structured plan that is developed as a result of a functional behavioral assessment which is consistently applied by trained staff to reduce or eliminate a students challenging behaviors and to support the development of appropriate behaviors and responses.

(2) "Business day" has the meaning stated in COMAR 13A.08.03.

(2-1) Communicate.

(a) "Communicate" means to convey information verbally or nonverbally.

(b) "Communicate" includes, but is not limited to:

(i) Speech;

(ii) Gestures;

(iii) Symbols; and

(iv) American Sign Language.

(3) "Department" means the Maryland State Department of Education.

(4) "Exclusion" means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

(5) Functional Behavior Assessment.

(a) "Functional behavior assessment" means the systematic process of gathering information to guide the development of an effective and efficient behavior intervention plan for the problem behavior.

(b) "Functional behavior assessment" includes the:

(i) Identification of the functions of the problem behavior for the student;

(ii) Description of the problem behavior exhibited in the educational setting; and

(iii) Identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence, and maintenance of the behavior over time.

(6) "IEP" means an individual education program as defined and developed in accordance with COMAR 13A.05.01.

(7) "IEP team" has the meaning stated in COMAR 13A.05.01.

(8) Mechanical Restraint.

(a) "Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement.

(b) "Mechanical restraint" does not include devices implemented by trained school personnel, or used by a student, that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, including:

(i) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;

(ii) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

(iii) Restraints for medical immobilization; or

(iv) Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

(9) "Nonpublic school" means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities in accordance with COMAR 13A.09.10.

(10) "Parent" has the meaning stated in COMAR 13A.05.01.

(11) Physical Restraint.

(a) "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the students torso, arms, legs, or head freely.

(b) "Physical restraint" does not include:

(i) Briefly holding a student to calm or comfort the student;

(ii) A physical escort, which is the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purposes of inducing a student who is acting out to walk to a safe location;

(iii) Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or

(iv) Intervening in a fight in accordance with Education Article § 7-307, Annotated Code of Maryland.

(12) "Positive behavior interventions, strategies, and supports" means the school-wide and individual application of data-driven, trauma-informed actions, instruction, and assistance to promote positive social and emotional growth while preventing or reducing challenging behaviors in an effort to encourage educational and social emotional success.

(13) Protective or Stabilizing Device.

(a) "Protective or stabilizing device" means any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body for the purpose of enhancing functional skills, preventing self-injurious behavior, or ensuring safe positioning of a person.

(b) "Protective or stabilizing device" includes:

(i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;

(ii) Seat belts; or

(iii) Other safety equipment to secure students during transportation in accordance with the public agency or nonpublic school transportation plan.

(14) "Public agency" has the meaning stated in COMAR 13A.05.01.

(15) "Restraint" means the use of a physical or mechanical restraint.

(16) "School personnel" means an individual employed by a public agency or nonpublic school as defined in this chapter.

(17) Seclusion.

(a) "Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

(b) "Seclusion" does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

(18) "Student with a disability" has the meaning stated in COMAR 13A.05.01.

(19) "Trauma-informed intervention" means an approach that is informed by the recognition of the impact that trauma, including violence, abuse, neglect, disaster, terrorism, and war, may have on a student's physical and emotional health and ability to function effectively in an educational setting.

13A.08.04.03. Student behavior Interventions.

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

(1) After less restrictive or alternative approaches have been considered, and:

(a) Attempted; or

(b) Determined to be inappropriate;

(2) In a humane, safe, and effective manner;

(3) Without intent to harm or create undue discomfort; and

(4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

- (1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article § 7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or
- (2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

13A.08.04.04. Use of exclusion.

A. School personnel may use exclusion to address a student's behavior:

- (1) If the student's behavior unreasonably interferes with the student's learning or the learning of others;
- (2) If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
- (3) If exclusion is requested by the student; or
- (4) If supported by the student's behavior intervention plan.

B. A setting used for exclusion shall:

- (1) Provide school personnel with the ability to see the student at all times;
- (2) Provide adequate lighting, ventilation, and furnishings; and

(3) Be unlocked and free of barriers to prevent egress.

C. School personnel shall monitor a student placed in exclusion and provide a student in exclusion with:

(1) An explanation of the behavior that resulted in the removal; and

(2) Instructions on the behavior required to return to the learning environment.

D. School personnel shall ensure that each period of exclusion:

(1) Is appropriate to the developmental level of the student and the severity of the behavior; and

(2) Does not exceed 30 minutes.

E. Parents and school personnel may at any time request a meeting to address the use of exclusion and to:

(1) Conduct a functional behavioral assessment; and

(2) Develop, review, or revise a student's behavioral intervention plan.

F. School personnel shall consider the need to initiate a referral to a pupil services or IEP team if a nondisabled student has experienced excessive exclusion, to determine if the student has a disability that may require the provision of special education and related services, in accordance with COMAR 13A.05.01.

G. School personnel shall ensure the implementation of appropriate procedures, in accordance with COMAR 13A.08.03, if a student with a disability has experienced an excessive period of exclusion that may result in a change of placement.

13A.08.04.05. General requirements for the use of restraint or seclusion.

A. Use of Restraint.

(1) Physical Restraint.

(a) Except as provided in § A(1)(b) of this regulation, the use of physical restraint is prohibited in public agencies and nonpublic schools until there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(b) Once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used consistent with § A(1)(a) of this regulation, physical restraint may be included in a students behavioral intervention plan or IEP to address the students behavior in an emergency situation, provided that school personnel:

(i) Review available data to identify any contraindications to the use of physical restraint based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(ii) Identify the less intrusive, nonphysical interventions that will be used to respond to the students behavior until physical restraint is used in an emergency situation; and

(iii) Obtain written consent from the parent, consistent with Education Article, § 8-405, Annotated Code of Maryland.

(c) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

(d) In applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm.

(e) Physical restraint:

(i) Shall be removed as soon as the student is calm; and

(ii) May not exceed 30 minutes.

(f) In applying physical restraint, school personnel may not:

(i) Place a student in a face down position;

(ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or

(iii) Straddle a student's torso.

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in public agencies and nonpublic schools unless a public agency or nonpublic school is certified by and meets the requirements of the Joint Commission for the Accreditation of Health Care Organizations.

(b) Regulation .04 of this chapter does not prohibit school personnel from using a protective or stabilizing device:

(i) As prescribed by a health professional; or

(ii) For a student with a disability, in accordance with the student's IEP or behavior intervention plan.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel involved in the restraint shall debrief and document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;

(iii) The behavior that prompted the use of a restraint;

(iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and

(v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under § A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

- (ii) The length of time in restraint;
- (iii) The student's behavior and reaction during the restraint; and
- (iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in § A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

B. Use of Seclusion.

(1) Except as provided in § B(2) of this regulation, the use of seclusion is prohibited in public agencies and nonpublic schools until there is an emergency situation and seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(2) Once seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with § B(1) of this regulation, seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

- (a) Review available data to identify any contraindications to the use of seclusion based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(b) Identify the less intrusive, nonphysical interventions that will be used to respond to the students behavior until seclusion is used in an emergency situation; and

(c) Obtain written consent from the parent, consistent with Education Article, § 8-405, Annotated Code of Maryland.

(3) Seclusion Room.

(a) At a minimum, a room used for seclusion shall:

(i) Be free of objects and fixtures with which a student could self-inflict bodily harm;

(ii) Provide school personnel an adequate view of the student from all angles; and

(iii) Provide adequate lighting and ventilation.

(b) The door of a seclusion room shall not be fitted with a lock unless it releases automatically when not physically held in the locked position by school personnel on the outside of the door.

(4) School personnel shall:

(a) Remain in close proximity to the door of a seclusion room at all times;

(b) Actively observe a student placed in seclusion at all times; and

(c) Provide a student placed in seclusion with:

(i) An explanation of the behavior that resulted in the removal; and

(ii) Instructions on the behavior required to return to the learning environment.

(5) Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

(6) A seclusion event:

(a) Shall be appropriate to the student's developmental level and severity of the behavior;

(b) May not restrict the student's ability to communicate distress; and

(c) May not exceed 30 minutes.

(7) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel involved in the seclusion event shall debrief and document:

(i) Other less intrusive interventions that have failed or been determined inappropriate;

(ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;

(iii) The behavior that prompted the use of seclusion; and

(iv) The names and signatures of the staff members implementing and monitoring the seclusion.

(b) The documentation under § B(7) of this regulation shall include a description of the seclusion event, including:

(i) Justification for initiating the use of seclusion;

(ii) The length of time in seclusion;

(iii) The student's behavior and reaction during the seclusion; and

(iv) The name and signature of the administrator informed of the use of seclusion.

(8) The documentation described in § B(7) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(9) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

C. Referral to a Pupil Services or IEP Team.

(1) If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.

(2) If restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan does not include the use of restraint or seclusion, the IEP team shall meet, in accordance with COMAR 13A.08.03, within 10 business days of the incident to consider:

(a) The need for a functional behavioral assessment;

(b) Developing appropriate behavioral interventions; and

(c) Implementing a behavioral intervention plan.

(3) If restraint or seclusion is used for a student with a disability, and the IEP or behavior intervention plan includes the use of restraint or seclusion, the student's IEP or behavior intervention plan shall specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or behavior intervention plan, in accordance with COMAR 13A.05.01 and 13A.08.03.

(4) When an IEP team meets to review or revise a student's IEP or behavior intervention plan, as specified in § C(3) of this regulation, the IEP team shall consider:

(a) Existing health, physical, psychological, and psychosocial information, including any contraindications to the use of restraint or seclusion based on medical history or past trauma;

(b) Information provided by the parent;

(c) Observations by teachers and related service providers;

(d) The student's current placement; and

(e) The frequency and duration of restraints or seclusion events that occurred since the IEP team last met.

(5) The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when an IEP team proposes or refuses to initiate or change the student's IEP or behavior intervention plan that includes the use of restraint or seclusion.

(6) Parental Consent.

(a) The IEP team shall obtain the written consent of the parent if the team proposes to include restraint or seclusion in the behavior intervention plan or IEP to address the students behavior.

(b) If the parent does not provide written consent, the IEP team shall send the parent written notice within 5 business days of the IEP team meeting that states:

(i) The parent has the right to either consent or refuse to consent to the use of restraint or seclusion; and

(ii) If the parent does not provide written consent or a written refusal within 15 business days of the IEP team meeting, the IEP team may implement the proposed use of restraint or seclusion.

(c) If the parent provides written refusal, the IEP team may use the dispute resolution options listed in Education Article, § 8-413, Annotated Code of Maryland, to resolve the matter.

13A.08.04.06. Administrative procedures.

A. Each public agency and nonpublic school shall develop policies and procedures to address:

(1) A continuum of positive behavioral interventions, strategies, and supports for use by school personnel before exclusion, restraint, or seclusion;

(2) The prevention of self-injurious behaviors;

(3) Methods for identifying and defusing potentially dangerous behavior;

(4) The use and documentation of exclusion consistent with Regulation .04 of this chapter;

(5) The use of restraint consistent with Regulation .05A of this chapter; and

(6) The use of seclusion consistent with Regulation .05B of this chapter.

B. Each public agency and nonpublic school shall annually review policies and procedures and provide them to school personnel and parents as described in COMAR 13A.08.01.

C. Professional Development.

(1) Each public agency and nonpublic school shall provide professional development to school personnel designated by a school administrator to use restraint or seclusion on this chapter and the appropriate implementation of policies and procedures developed in accordance with § A of this regulation.

(2) At the beginning of each school year, each public agency and nonpublic school shall identify school personnel authorized to serve as a school-wide resource to assist in ensuring proper administration of exclusion, restraint, and seclusion.

(3) The school personnel described in § C(1) and § C(2) of this regulation shall receive training in current professionally accepted practices and standards regarding:

(a) Positive behavior interventions strategies and supports, including methods for identifying and defusing potentially dangerous behavior;

(b) Trauma-informed intervention;

(c) Functional behavior assessment and behavior intervention planning;

(d) Exclusion;

- (e) Restraint and alternatives to restraint;
- (f) Seclusion;
- (g) Symptoms of physical distress and positional asphyxia;
- (h) First aid and cardiopulmonary resuscitation (CPR); and
- (i) Individualized behavior interventions based on student characteristics, including disability, medical history, and past trauma.

(4) The professional development described in § C(3) of this regulation shall include a written examination and physical demonstration of proficiency in the described skills and competencies.

D. Monitoring and Compliance.

- (1) Each public agency and nonpublic school shall develop policies and procedures on:
 - (a) Monitoring the use of exclusion, restraint, and seclusion; and
 - (b) Receiving and investigating complaints regarding exclusion, restraint, and seclusion practices.
- (2) The Department may monitor and request any information regarding any matter related to exclusion, restraint, or seclusion implemented by a public agency or nonpublic school. The Department shall provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request.

[Return to Table of Contents](#)

Massachusetts (MA)

Links

Massachusetts Department of Elementary and Secondary Education

<https://www.doe.mass.edu/lawsregs/603cmr46.html?section=all>

Law Text

603 CMR 46.00 Prevention of Physical Restraint and Requirements If Used

46.01: Scope, Purpose and Construction

(1) Scope. 603 CMR 46.00 governs the use of physical restraint on students in publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, virtual schools, collaborative education programs, and the school day of special education schools approved under 603 CMR 28.09: Approval of Public or Private Day and Residential Special Education School Programs, as provided in 603 CMR 18.05(5)(h). Educational programs in facilities operated by the Department of Youth Services, the Department of Mental Health, the Department of Public Health, or County Houses of Correction shall be governed by the restraint, seclusion, and time-out requirements of such agencies.

(2) Purpose. The purpose of 603 CMR 46.00 is to ensure that every student participating in a Massachusetts public education program is free from the use of physical restraint that is inconsistent with 603 CMR 46.00. Physical restraint shall be used only in emergency situations of last resort, after other lawful and less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

(a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from assault or imminent, serious, physical harm; and

(b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

(3) Construction. Nothing in 603 CMR 46.00 shall be construed to limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special education services. Nothing in 603 CMR 46.00 precludes any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

Mechanical restraint shall mean the use of any physical device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional, and are used for the specific and approved positioning or protective purposes for which such devices were designed. Examples of such devices include: adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

Medication restraint shall mean the administration of medication for the purpose of temporarily controlling behavior. Medication prescribed by a licensed physician and authorized by the parent for administration in the school setting is not medication restraint.

Physical escort shall mean a temporary touching or holding, without the use of force, of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is agitated to walk to a safe location.

Physical restraint shall mean direct physical contact that prevents or significantly restricts a student's freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.

Prone restraint shall mean a physical restraint in which a student is placed face down on the floor or another surface, and physical pressure is applied to the student's body to keep the student in the face-down position.

Seclusion shall mean the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a time-out as defined in 603 CMR 46.02.

Time-out shall mean a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.

46.03: Use of Restraint

(1) Prohibition.

(a) Mechanical restraint, medication restraint, and seclusion shall be prohibited in public education programs.

(b) Prone restraint shall be prohibited in public education programs except on an individual student basis, and only under the following circumstances:

The student has a documented history of repeatedly causing serious self-injuries and/or injuries to other students or staff;

All other forms of physical restraints have failed to ensure the safety of the student and/or the safety of others;

There are no medical contraindications as documented by a licensed physician;

There is psychological or behavioral justification for the use of prone restraint and there are no psychological or behavioral contraindications, as documented by a licensed mental health professional;

The program has obtained consent to use prone restraint in an emergency as set out in 603 CMR 46.03(1)(b), and such use has been approved in writing by the principal; and,

The program has documented 603 CMR 46.03(1)(b) 1 through 5 in advance of the use of prone restraint and maintains the documentation.

(c) Physical restraint, including prone restraint where permitted, shall be considered an emergency procedure of last resort and shall be prohibited in public education programs except when a student's behavior poses a threat of assault, or imminent, serious, physical harm to self or others and the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions, or such interventions are deemed to be inappropriate under the circumstances.

(d) All physical restraints, including prone restraint where permitted, shall be administered in compliance with 603 CMR 46.05.

(2) Physical restraint shall not be used:

(a) As a means of discipline or punishment;

(b) When the student cannot be safely restrained because it is medically contraindicated for reasons including, but not limited to, asthma, seizures, a cardiac condition, obesity, bronchitis, communication-related disabilities, or risk of vomiting;

(c) As a response to property destruction, disruption of school order, a student's refusal to comply with a public education program rule or staff directive, or verbal threats when those actions do not constitute a threat of assault, or imminent, serious, physical harm; or

(d) As a standard response for any individual student. No written individual behavior plan or individualized education program (IEP) may include use of physical restraint as a standard response to any behavior. Physical restraint is an emergency procedure of last resort.

(3) Limitations on use of restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

(4) Referral to law enforcement or other state agencies. Nothing in 603 CMR 46.00 prohibits:

(a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;

(b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or

(c) The exercise of an individual's responsibilities as a mandated reporter pursuant to M.G.L. c. 119, § 51A. 603 CMR 46.00 shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

46.04: Policy and Procedures; Training

(i) Procedures. Public education programs shall develop and implement written restraint prevention and behavior support policy and procedures consistent with 603 CMR 46.00 regarding appropriate responses to student behavior that may require immediate intervention. Such policy and procedures shall be annually reviewed and provided to program staff and made available to parents of enrolled students. Such policy and procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including individual crisis planning and de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) Methods for engaging parents in discussions about restraint prevention and the use of restraint solely as an emergency procedure;

(c) A description and explanation of the program's alternatives to physical restraint and method of physical restraint in emergency situations;

(d) A statement prohibiting: medication restraint, mechanical restraint, prone restraint unless permitted pursuant to 603 CMR 46.03(1)(b), seclusion, and the use of physical restraint in a manner inconsistent with 603 CMR 46.00;

(e) A description of the program's training requirements, reporting requirements, and follow-up procedures;

(f) A procedure for receiving and investigating complaints regarding restraint practices;

(g) A procedure for conducting periodic review of data and documentation on the use of physical restraints as described in 603 CMR 46.06(5) and (6);

(h) A procedure for implementing the reporting requirements as described in 603 CMR 46.06;

(i) A procedure for making reasonable efforts to orally notify a parent of the use of restraint on a student within 24 hours of the restraint, and for sending written notification to the parent within three school working days following the use of restraint to an email address provided by the parent for the purpose of communicating about the student, or by regular mail to the parent postmarked within three school working days of the restraint; and,

(j) If the program uses time-out as a behavioral support strategy, a procedure for the use of time-out that includes a process for obtaining principal approval of time-out for more than 30 minutes based on the individual student's continuing agitation.

(2) Required training for all staff. Each principal or director shall determine a time and method to provide all program staff with training regarding the program's restraint prevention and behavior support policy and requirements when restraint is used. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

(a) The role of the student, family, and staff in preventing restraint;

(b) The program's restraint prevention and behavior support policy and procedures, including use of time-out as a behavior support strategy distinct from seclusion;

(c) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors and other alternatives to restraint in emergency circumstances;

(d) When behavior presents an emergency that requires physical restraint, the types of permitted physical restraints and related safety considerations, including information regarding the increased risk of injury to a student when any restraint is used, in particular a restraint of extended duration;

(e) Administering physical restraint in accordance with medical or psychological limitations, known or suspected trauma history, and/or behavioral intervention plans applicable to an individual student; and

(f) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.

(3) In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal of each public education program or his or her designee shall identify program staff who are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department recommends that such training be competency-based and be at least sixteen (16) hours in length with at least one refresher training occurring annually thereafter.

(4) Content of in-depth training. In-depth training in the proper administration of physical restraint shall include, but not be limited to:

(a) Appropriate procedures for preventing the use of physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;

(b) A description and identification of specific dangerous behaviors on the part of students that may lead to the use of physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;

(c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including

instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints;

(e) Demonstration by participants of proficiency in administering physical restraint; and,

(f) Instruction regarding the impact of physical restraint on the student and family, recognizing the act of restraint has impact, including but not limited to psychological, physiological, and social-emotional effects.

46.05: Proper Administration of Physical Restraint

(1) Trained personnel. Only public education program personnel who have received training pursuant to 603 CMR 46.04(2) or 603 CMR 46.04(3) shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained in 603 CMR 46.00 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

(2) Use of force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.

(3) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor restraints, including prone restraints otherwise permitted under 603 CMR 46.03(1)(b), shall be prohibited unless the staff members administering the restraint have received in-depth training according to the requirements of 603 CMR 46.04(3) and, in the judgment of the trained staff members, such method is required to provide safety for the student or others present.

(4) Duration of restraint. All physical restraint must be terminated as soon as the student is no longer an immediate danger to himself or others, or the student indicates that he or she cannot breathe, or if the student is observed to be in severe distress, such as having difficulty breathing, or sustained or prolonged crying or coughing.

(5) Safety requirements. Additional requirements for the use of physical restraint:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin temperature and color, and respiration.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student expresses or demonstrates significant physical distress including, but not limited to, difficulty breathing, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) If a student is restrained for a period longer than 20 minutes, program staff shall obtain the approval of the principal. The approval shall be based upon the student's continued agitation during the restraint justifying the need for continued restraint.

(d) Program staff shall review and consider any known medical or psychological limitations, known or suspected trauma history, and/or behavioral intervention plans regarding the use of physical restraint on an individual student.

(e) After the release of a student from a restraint, the public education program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

46.06: Reporting Requirements

(1) Circumstances under which a physical restraint must be reported. Program staff shall report the use of any physical restraint as specified in 603 CMR 46.06(2).

(2) Informing the principal. The program staff member who administered the restraint shall verbally inform the principal of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal for review of the use of the restraint. If the principal has administered the restraint, the principal shall prepare the report and submit it to an individual or team designated by the superintendent or board of trustees for review. The principal shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the parent or the Department upon request.

(3) Informing parents. The principal shall make reasonable efforts to verbally inform the student's parent of the restraint within 24 hours of the event, and shall notify the parent by written report sent either within three school working days of the restraint to an email address provided by the parent for communications about the student, or by regular mail postmarked no later than three school working days of the restraint. If the program customarily provides a parent of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent in that language. The principal shall provide the student and the parent an opportunity to comment orally and in writing on the use of the restraint and on information in the written report.

(4) Contents of report. The written report required by 603 CMR 46.06(2) and (3) shall include:

(a) The name of the student; the names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the principal or designee who was verbally informed following the restraint; and, as applicable, the name of the principal or designee who approved continuation of the restraint beyond 20 minutes pursuant to 603 CMR 46.05(5)(c).

(b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to prevent escalation of behavior, including the specific de-escalation strategies used; alternatives to restraint that were attempted; and the justification for initiating physical restraint.

(c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.

(d) Information regarding any further action(s) that the school has taken or may take, including any consequences that may be imposed on the student.

(e) Information regarding opportunities for the student's parents to discuss with school officials the administration of the restraint, any consequences that may be imposed on the student, and any other related matter.

(5) Individual student review. The principal shall conduct a weekly review of restraint data to identify students who have been restrained multiple times during the week. If such students are identified, the principal shall convene one or more review teams as the principal deems appropriate to assess each student's progress and needs. The assessment shall include at least the following:

(a) review and discussion of the written reports submitted in accordance with 603 CMR 46.06 and any comments provided by the student and parent about such reports and the use of the restraints;

(b) an analysis of the circumstances leading up to each restraint, including factors such as time of day, day of the week, antecedent events, and individuals involved;

(c) consideration of factors that may have contributed to escalation of behaviors, consideration of alternatives to restraint, including de-escalation techniques and possible interventions, and such other strategies and decisions as appropriate, with the goal of reducing or eliminating the use of restraint in the future;

(d) agreement on a written plan of action by the program.

If the principal directly participated in the restraint, a duly qualified individual designated by the superintendent or board of trustees shall lead the review team's discussion. The principal shall ensure that a record of each individual student review is maintained and made available for review by the Department or the parent, upon request.

(6) Administrative review. The principal shall conduct a monthly review of school-wide restraint data. This review shall consider patterns of use of restraints by similarities in the time of day, day of the week, or individuals involved; the number and duration of physical restraints school-wide and for individual students; the duration of restraints; and the number and type of injuries, if any, resulting from the use of restraint. The principal shall determine whether it is necessary or appropriate to modify the school's restraint prevention and management policy, conduct additional staff training on restraint reduction/prevention strategies, such as training on positive behavioral interventions and supports, or take such other action as necessary or appropriate to reduce or eliminate restraints.

(7) Report all restraint-related injuries to the Department. When a physical restraint has resulted in an injury to a student or program staff member, the program shall send a copy of the written report required by 603 CMR 46.06(4) to the Department postmarked no later than three school working days of the administration of the restraint. The program shall also send the Department a copy of the record of physical restraints maintained by the principal pursuant to 603 CMR 46.06(2) for the 30-day period prior to the date of the reported restraint. The Department shall determine if additional action by the program is warranted and, if so, shall notify the program of any required actions within 30 calendar days of receipt of the required written report(s).

(8) Report all physical restraints to the Department. Every program shall collect and annually report data to the Department regarding the use of physical restraints. Such data shall be reported in a manner and form directed by the Department.

[Return to Table of Contents](#)

Michigan (MI)

Links

Michigan Department of Education

https://www.michigan.gov/documents/mde/PolicyForSeclusion-Restraint_564940_7.pdf

Law Text

Training

Training Framework

1. In accordance with department guidelines, a school district, intermediate school district, or public school academy shall implement a comprehensive training framework that includes: a. awareness training for all school personnel who have regular contact with pupils, and b. comprehensive training for key identified personnel as described in section B: Training Components for Key Identified Personnel below.
2. The school district, intermediate school district, or public school academy must ensure that substitute teachers are informed of and understand the procedures regarding use of emergency seclusion and emergency physical restraint. This requirement may be satisfied using online training and an online acknowledgment of understanding developed or approved by the department and completed by the substitute teacher.

Training Components for Key Identified Personnel

1. A school district, intermediate school district, or public school academy shall identify sufficient key personnel to ensure that trained personnel are generally

available for an emergency situation. Before using emergency seclusion or emergency physical restraint with pupils, key identified personnel who may have to respond to an emergency situation shall be trained in all of the following (a) to (p) and should be trained in (q) through (t):

- a. proactive practices and strategies that ensure the dignity of pupils;
- b. de-escalation techniques;
- c. techniques to identify pupil behaviors that may trigger emergency situations;
- d. related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion or restraint is used;
- e. instruction in the use of emergency seclusion and emergency physical restraint;
- f. identification of events and environmental factors that may trigger emergency situations;
- g. instruction on the state policy on the use of seclusion and restraint;
- h. description and identification of dangerous behaviors;
- i. methods for evaluating the risk of harm to determine whether the use of emergency seclusion or emergency physical restraint is warranted;
- j. types of seclusion;
- k. types of restraint;

- l. the risk of using seclusion or restraint in consideration of a pupil's known and unknown or mental health conditions or psychological limitations;
- m. the effects of seclusion and restraint on all pupils.
- n. how to monitor for and identify physical signs of distress and the implications for pupils generally and for pupils with particular physical or mental health conditions or psychological limitations;
- o. how to obtain appropriate medical assistance;
- p. cardiopulmonary resuscitation and first aid;
- q. conflict resolution;
- r. mediation;
- s. social skills training; and
- t. positive behavioral intervention and support strategies.

Emergency Seclusion

Seclusion is intended for the purposes of emergency situations only, in which a pupil's behavior poses imminent risk to the safety of the individual pupil or to the safety of others. An emergency situation requires an immediate intervention. Emergency seclusion may not be used in place of appropriate less restrictive interventions.

Definition of Seclusion 1. "Seclusion" means the confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving. Seclusion does not include the general confinement of pupils if that confinement is an integral part of an emergency lockdown drill required under section 19(5) of the fire prevention code,

1941 PA 207, MCL 29.19, or of another emergency security procedure that is necessary to protect the safety of pupils.

Definition of Emergency Seclusion

“Emergency seclusion” is defined in MCL 380.1307h(e) as “a last resort emergency safety intervention involving seclusion that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others.”

To qualify as emergency seclusion, there must be continuous observation by school personnel of the pupil in seclusion, and the room or area used for confinement must comply with state and local fire and building codes; must not be locked; must not prevent the pupil from exiting the area if school personnel become incapacitated or leave that area; and must provide for adequate space, lighting, ventilation, viewing, and the safety and dignity of the pupil and others, in accordance with department guidelines.

Limitations in Use

Emergency seclusion is not permitted:

- a. for the confinement of preschool children or of pupils who are severely self-injurious or suicidal;
- b. if the seclusion is used:
 - i. for the convenience of school personnel;
 - ii. as a substitute for an educational program;
 - iii. as a form of discipline or punishment;

iv. as a substitute for less restrictive alternatives;

v. as a substitute for adequate staffing; or

vi. as a substitute for school personnel training in positive behavioral intervention and support;

c. as prohibited under MCL 380.1307b; or

d. when contraindicated based on (as documented in a record or records made available to the school) a pupil's:

i. disability;

ii. health care needs; or

iii. medical or psychiatric condition.

General Procedures for Emergency Seclusion

Emergency seclusion shall be performed in a manner that, based on research and evidence, is:

a. safe;

b. appropriate; and

c. proportionate to and sensitive to the student's:

i. severity of behavior;

- ii. chronological and developmental age;
- iii. physical size;
- iv. gender;
- v. physical condition;
- vi. medical condition;
- vii. psychiatric condition; and
- viii. personal history, including any history of physical or sexual abuse or other trauma.

School personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.

Time and Duration—Emergency seclusion should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his/her behavior to the point that the emergency situation necessitating the use of emergency seclusion is ended and generally no longer than:

- a. 15 minutes for an elementary school pupil or
- b. 20 minutes for a middle school or high school pupil.

If an emergency seclusion lasts longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil, all of the following are required:

- a. additional support (which may include a change of staff, introducing a nurse or specialist, or additional key identified personnel); and
- b. documentation to explain the extension beyond the time limit.

School Personnel Requirements-While using emergency seclusion, school personnel must do all of the following:

- a. involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil;
- b. continually observe the pupil in emergency seclusion for indications of physical distress and seek medical assistance if there is a concern;
- c. document observations; and
- d. ensure that at all times during the use of emergency seclusion there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.

5. Documentation and Reporting- Each use of seclusion and the reason for each use shall be:

- a. documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately; and
- b. documented in a written report for each use of seclusion (including multiple uses within a given day) with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.

Debrief- After any use of seclusion, school personnel must make reasonable efforts to debrief and consult with the parent or guardian, or with the parent or guardian and the pupil, as appropriate, regarding the determination of future actions. The debriefing and consultation shall be done in accordance with department guidelines and documented on forms developed by the department.

Reoccurring Behavior- If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel are encouraged to do all of the following:

- a. conduct a functional behavioral assessment;
- b. develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of seclusion;
- c. develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least:
 - i. the parent or guardian;
 - ii. the pupil (if appropriate);
 - iii. the individuals responsible for implementation of the positive behavioral intervention and support plan; and
 - iv. individuals knowledgeable in positive behavioral intervention and support.

Emergency Intervention Plan- If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion, school personnel should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency

intervention plan should be developed in partnership with the parent or guardian by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion.

The emergency intervention plan should be developed and implemented by taking the following documented steps:

- a. describe in detail the emergency intervention procedures;
- b. describe in detail the legal limits on the use of emergency seclusion, including examples of legally permissible and prohibited use;
- c. make inquiry to the pupil's medical personnel, with parental consent, regarding any known medical or health contraindications for the use of emergency seclusion;
- d. conduct a peer review by knowledgeable school personnel; and
- e. provide the parent or guardian with all of the following, in writing and orally:
 - i. a detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation;
 - ii. an explanation of what constitutes an emergency situation as defined in MCL 380.1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition;
 - iii. a detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion;

- iv. a detailed explanation of the legal limits on the use of emergency seclusion, including examples of legally permissible and prohibited use;
- v. a description of possible discomforts or risks; and
- vi. answers to any questions.

A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency seclusion could be used. Emergency seclusion must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency seclusion or emergency physical restraint.

Data Collection

The school district, public school academy, or intermediate school district shall collect and report data regarding the use of seclusion. The data should:

- a. be analyzed to determine the efficacy of the school's school wide system of behavioral support;
- b. be analyzed in the context of attendance, suspension, expulsion, and dropout data;
- c. be analyzed for the purposes of continuous improvement of training and technical assistance toward the elimination of seclusion;
- d. be analyzed on a schedule determined by the MDE; and
- e. be electronically reported to the MDE.

f. include a list of appropriately-trained key identified personnel and their levels of education; training; and knowledge. This request for information that is currently reported to the Center for Education Performance and Information (CEPI) satisfies this requirement.

Prohibited Practices

The following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:

- a. Corporal punishment, as defined in MCL 380.1312.
- b. The deprivation of basic needs.
- c. Child abuse.
- d. Seclusion, other than emergency seclusion.
- e. The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort. A noxious substance or stimulus is prohibited whether it is generally acknowledged or is specific to the pupil.
- f. Mechanical restraint.
- g. Chemical restraint.
- h. Any restraint that negatively impacts breathing.
- i. Any restraint that inhibits breathing, including floor restraints, facedown position, or any position in which an individual is bent over in such a way that it is difficult to breathe.

ii. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.

i. Prone restraint.

j. Physical restraint, other than emergency physical restraint.

k. Any other type of restraint.

Emergency Physical Restraint

Physical restraint is intended for the purposes of emergency situations only, in which a pupil's behavior poses imminent risk to the safety of the individual pupil or to the safety of others. An emergency situation requires an immediate intervention. Emergency physical restraint may not be used in place of appropriate less restrictive interventions.

1. **Definition of Restraint:** Restraint means an action that prevents or significantly restricts a pupil's movement.

Physical restraint means restraint involving direct physical contact.

Chemical restraint means the administration of medication for the purpose of restraint.

Mechanical restraint means the use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint.

2. Restraint does not include:

a. the brief holding of a pupil in order to calm or comfort;

b. the minimum contact necessary to physically escort a pupil from one area to another;

c. the minimum contact necessary to assist a pupil in completing a task or response if the pupil does not resist or resistance is minimal in intensity or duration; or

d. the holding of a pupil for a brief time in order to prevent an impulsive behavior that threatens the pupil's immediate safety, such as running in front of a car.

3. Restraint does not include:

a. the administration of medication prescribed by and administered in accordance with the directions of a physician;

b. an adaptive or protective device recommended by a physician or therapist when it is used as recommended; or

c. safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation.

4. Restraint does not include necessary actions taken:

a. to break up a fight;

b. to stop a physical assault, as defined in MCL 380.1310(b); or

c. to take a weapon from a pupil.

Restraint does not include actions that are an integral part of a sporting event, such as a referee pulling football players off of a pile or a similar action.

Definition of Emergency Physical Restraint –“Emergency physical restraint" is defined in MCL 380.1307h(d) as "a last resort emergency safety intervention involving physical restraint that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others.”

Limitations in Use:

Emergency physical restraint is not permitted:

- a. if the physical restraint is used:
 - i. for the convenience of school personnel;
 - ii. as a substitute for an educational program;
 - iii. as a form of discipline/punishment;
 - iv. as a substitute for less restrictive alternatives;
 - v. as a substitute for adequate staffing; or
 - vi. as a substitute for school personnel training in positive behavioral intervention and support;
- b. as prohibited under MCL 380.1307b; or
- c. when contraindicated based on (as documented in a record or records made available to the school) a pupil’s:
 - i. disability;

- ii. health care needs; or
- iii. medical or psychiatric condition.

General Procedures for Emergency Restraint

1. Emergency physical restraint shall be performed in a manner that, based on research and evidence, is:
 - a. safe;
 - b. appropriate; and
 - c. proportionate to and sensitive to the pupil's:
 - i. severity of behavior;
 - ii. chronological and developmental age;
 - iii. physical size;
 - iv. gender;
 - v. physical condition;
 - vi. medical condition;
 - vii. psychiatric condition; and
 - viii. personal history, including any history of physical or sexual abuse or other trauma.

School personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.

Time and Duration

Emergency physical restraint should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency physical restraint is ended and generally no longer than 10 minutes. If an emergency physical restraint lasts longer than 10 minutes, all of the following are required:

- a. additional support (which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel); and
- b. documentation to explain the extension beyond the time limit.

School Personnel Requirements

While using emergency physical restraint, school personnel must do all of the following:

- a. involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil;
- b. continually observe the pupil in emergency physical restraint for indications of physical distress and seek medical assistance if there is a concern;

c. document observations;

d. ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency physical restraint does not interfere with the pupil's ability to communicate using the pupil's primary mode of communication; and

e. ensure that at all times during the use of emergency physical restraint there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.

Documentation and Reporting

Each use of restraint and the reason for each use shall be:

a. documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately; and

b. documented in a written report for each use of restraint, including multiple uses within a given day, with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.

Debrief

After any use of restraint, school personnel must make reasonable efforts to debrief and consult with the parent or guardian, or with the parent or guardian and the pupil, as appropriate, regarding the determination of future actions. The debriefing and consultation shall be done in accordance with department guidelines and documented on forms developed by the department.

Reoccurring Behavior

If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency physical restraint, school personnel are encouraged to do all of the following:

- a. conduct a functional behavioral assessment;
- b. develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of restraint;
- c. develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least:
 - i. the parent or guardian;
 - ii. the pupil (if appropriate);
 - iii. the individuals responsible for implementation of the positive behavioral intervention and support plan; and
 - iv. individuals knowledgeable in positive behavioral intervention and support.

Emergency Intervention Plan

If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency physical restraint, school personnel should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan should be developed in partnership with the parent or guardian by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of restraint.

The emergency intervention plan should be developed and implemented by taking all of the following documented steps:

- a. describe in detail the emergency intervention procedures;
- b. describe in detail the legal limits on the use of emergency physical restraint, including examples of legally permissible and prohibited use;
- c. make inquiry to the pupil's medical personnel, with parental consent, regarding any known medical or health contraindications for the use of emergency physical restraint;
- d. conduct a peer review by knowledgeable school personnel; and
- e. provide the parent or guardian with all of the following, in writing and orally:
 - i. a detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation;
 - ii. an explanation of what constitutes an emergency situation as defined in MCL 380.1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition;
 - iii. a detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency physical restraint;
 - iv. a detailed explanation of the legal limits on the use of emergency physical restraint, including examples of legally permissible and prohibited use;
 - v. a description of possible discomforts or risks; and

vi. answers to any questions.

A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency physical restraint could be used.

Emergency physical restraint must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency physical restraint.

Data Collection

The school district, public school academy, or intermediate school district shall collect and report data regarding the use of restraint. The data should:

- a. be analyzed to determine the efficacy of the school's school-wide system of behavioral support;
- b. be analyzed in the context of attendance, suspension, expulsion, and dropout data;
- c. be analyzed for the purposes of continuous improvement of training and technical assistance toward the elimination of restraint;
- d. be analyzed on a schedule determined by the MDE; and
- e. be reported to the MDE. f. include a list of appropriately-trained key identified personnel and their levels of education; training; and knowledge. This request for information that is currently reported to the Center for Education Performance and Information (CEPI) satisfies this requirement.

Prohibited Practices

The following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:

- a. Corporal punishment, as defined in MCL 380.1312.
- b. The deprivation of basic needs.
- c. Child abuse.
- d. Seclusion, other than emergency seclusion.
- e. The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort. A noxious substance or stimulus is prohibited whether it is generally acknowledged or is specific to the pupil.
- f. Mechanical restraint.
- g. Chemical restraint.
- h. Any restraint that negatively impacts breathing.
 - i. Any restraint that inhibits breathing, including floor restraints, facedown position, or any position in which an individual is bent over in such a way that it is difficult to breathe.
 - ii. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.
- i. Prone restraint.

j. Physical restraint, other than emergency physical restraint.

k. Any other type of restraint.

[Return to Table of Contents](#)

Minnesota (MN)

Links

MN Department of Public Instruction

<https://education.mn.gov/MDE/dse/sped/restr/index.htm>

Law Text

“Restrictive procedures” means the use of physical holding or seclusion of children with disabilities in an emergency in Minnesota schools. **“Emergency”** means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Restrictive procedures must not be used to punish or otherwise discipline a child. [Minnesota Statutes, section 125A.0941](#) and section [125A.0942](#), govern the use of restrictive procedures.

[Minnesota Statutes, section 125A.0941](#) and section [125A.0942](#)

125A.0941 DEFINITIONS.

(a) The following terms have the meanings given them.

(b) "Emergency" means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as: a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table; a child who does not respond to a staff person's request unless failing to respond would result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists.

(c) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement, where body contact is the only source of physical restraint,

and where immobilization is used to effectively gain control of a child in order to protect a child or other individual from physical injury. The term physical holding does not mean physical contact that:

- (1) helps a child respond or complete a task;
- (2) assists a child without restricting the child's movement;
- (3) is needed to administer an authorized health-related service or procedure;
or
- (4) is needed to physically escort a child when the child does not resist or the child's resistance is minimal.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately, including the key components under section [122A.627](#).

(e) "Prone restraint" means placing a child in a face down position.

(f) "Restrictive procedures" means the use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a child.

(g) "Seclusion" means confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.

History:

2009 c 96 art 3 s 10; 2012 c 146 s 1; 2013 c 116 art 5 s 3; 1Sp2017 c 5 art 4 s 2

125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES.

Subdivision 1. Restrictive procedures plan.

(a) Schools that intend to use restrictive procedures shall maintain and make publicly accessible in an electronic format on a school or district website or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities that at least:

- (1) lists the restrictive procedures the school intends to use;
- (2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services;
- (3) describes how the school will provide training on de-escalation techniques, consistent with section 122A.187, subdivision 4;
- (4) describes how the school will monitor and review the use of restrictive procedures, including:
 - (i) conducting post-use debriefings, consistent with subdivision 3, paragraph (a), clause (5); and
 - (ii) convening an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and

(5) includes a written description and documentation of the training staff completed under subdivision 5.

(b) Schools annually must publicly identify oversight committee members who must at least include:

(1) a mental health professional, school psychologist, or school social worker;

(2) an expert in positive behavior strategies;

(3) a special education administrator; and

(4) a general education administrator.

Subd. 2. Restrictive procedures.

(a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed education professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5.

(b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (f).

(c) The district must hold a meeting of the individualized education program team, conduct or review a functional behavioral analysis, review data, consider developing additional or revised positive behavioral interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the individualized education program or behavior intervention plan as appropriate. The district must hold the

meeting: within ten calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days or a pattern of use emerges and the child's individualized education program or behavior intervention plan does not provide for using restrictive procedures in an emergency; or at the request of a parent or the district after restrictive procedures are used. The district must review use of restrictive procedures at a child's annual individualized education program meeting when the child's individualized education program provides for using restrictive procedures in an emergency.

(d) If the individualized education program team under paragraph (c) determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on ten or more school days during the same school year, the team, as appropriate, either must consult with other professionals working with the child; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the child.

(e) At the individualized education program meeting under paragraph (c), the team must review any known medical or psychological limitations, including any medical information the parent provides voluntarily, that contraindicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the individualized education program or behavior intervention plan.

(f) An individualized education program team may plan for using restrictive procedures and may include these procedures in a child's individualized education program or behavior intervention plan; however, the restrictive procedures may be used only in response to behavior that constitutes an emergency, consistent with this section. The individualized education program or behavior intervention plan shall indicate how the parent wants to be notified when a restrictive procedure is used.

Subd. 3. Physical holding or seclusion.

(a) Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

- (1) physical holding or seclusion is the least intrusive intervention that effectively responds to the emergency;
- (2) physical holding or seclusion is not used to discipline a noncompliant child;
- (3) physical holding or seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;
- (4) staff directly observes the child while physical holding or seclusion is being used;
- (5) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes, the following information:
 - (i) a description of the incident that led to the physical holding or seclusion;
 - (ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;
 - (iii) the time the physical holding or seclusion began and the time the child was released; and
 - (iv) a brief record of the child's behavioral and physical status;
- (6) the room used for seclusion must:
 - (i) be at least six feet by five feet;
 - (ii) be well lit, well ventilated, adequately heated, and clean;

(iii) have a window that allows staff to directly observe a child in seclusion;

(iv) have tamper proof fixtures, electrical switches located immediately outside the door, and secure ceilings;

(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and

(vi) not contain objects that a child may use to injure the child or others; and

(7) before using a room for seclusion, a school must:

(i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and

(ii) register the room with the commissioner, who may view that room.

(b) By February 1, 2015, and annually thereafter, stakeholders may, as necessary, recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures and the commissioner must submit to the legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of seclusion. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of seclusion; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school

boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. Beginning with the 2016–2017 school year, in a form and manner determined by the commissioner, districts must report data quarterly to the department by January 15, April 15, July 15, and October 15 about individual students who have been secluded. By July 15 each year, districts must report summary data on their use of restrictive procedures to the department for the prior school year, July 1 through June 30, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582.

Subd. 4. Prohibitions.

The following actions or procedures are prohibited:

- (1) engaging in conduct prohibited under section 121A.58;
- (2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;
- (3) totally or partially restricting a child's senses as punishment;
- (4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;
- (5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;
- (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under chapter 260E;

- (7) withholding regularly scheduled meals or water;
- (8) denying access to bathroom facilities;
- (9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso; and
- (10) prone restraint.

Subd. 5. Training for staff.

(a) To meet the requirements of subdivision 1, staff who use restrictive procedures, including paraprofessionals, shall complete training in the following skills and knowledge areas:

- (1) positive behavioral interventions;
- (2) communicative intent of behaviors;
- (3) relationship building;
- (4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;
- (5) de-escalation methods;
- (6) standards for using restrictive procedures only in an emergency;
- (7) obtaining emergency medical assistance;

- (8) the physiological and psychological impact of physical holding and seclusion;
- (9) monitoring and responding to a child's physical signs of distress when physical holding is being used;
- (10) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used;
- (11) district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and
- (12) schoolwide programs on positive behavior strategies.

(b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The commissioner also must develop and maintain a list of experts to help individualized education program teams reduce the use of restrictive procedures. The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings.

Subd. 6. Behavior supports; reasonable force.

(a) School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports.

(b) Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379. For the 2014-2015 school year and later, districts must collect and submit to the commissioner summary data, consistent with subdivision 3, paragraph (b), on district use of reasonable force that is consistent with the definition of physical holding or seclusion for a child with a disability under this section.

History:

2009 c 96 art 3 s 11; 1Sp2011 c 11 art 3 s 2,12; 2012 c 146 s 2,3; 2013 c 116 art 5 s 4; 2014 c 312 art 17 s 1; 1Sp2015 c 3 art 5 s 15; 2016 c 189 art 29 s 7,8; 2018 c 182 art 1 s 33; 1Sp2020 c 2 art 8 s 17

[Return to Table of Contents](#)

Mississippi (MS)

Links

https://safesupportivelearning.ed.gov/discipline-compendium?state=Mississippi&sub_category=Restraint%20and%20Seclusion

Law Text

OFFICE OF STATE SUPERINTENDENT

Rule 38.13 Restraint and Seclusion

1. Introduction

The Mississippi Department of Education and the State Board of Education supports a positive approach to behavior that uses proactive strategies to create a safe school climate that promotes dignity, creates authentic student engagement, and improves student achievement for all students. When teachers and administrators implement evidence-based positive behavior supports with fidelity, a safe and orderly school environment is created that is conducive to learning and students are able to achieve without the constant interruptions that occur when teachers are required to address discipline in the classroom.

The most effective response to school violence, as indicated by research, is to establish a school culture that emphasizes prevention, early identification, teaching, reinforcement of appropriate behavior and continuous data based problem solving. One primary method is to structure the environment using a non-aversive effective behavioral system such as PBIS. Effective positive behavioral systems are comprehensive, in that they are comprised of a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavioral outcomes for all students. The PBIS prevention-oriented framework or approach applies to all

students, all staff, and all settings. When integrated with effective academic instruction, such systems can help provide the supports children need to become actively engaged in their own learning and academic success. Schools successfully implementing comprehensive behavioral systems create school-wide environments that reinforce appropriate behaviors while reducing instances of dangerous behaviors that may lead to the need to use restraint or seclusion. In schools implementing comprehensive behavioral systems, trained school staff use preventive assessments to identify where, under what conditions, with whom, and why specific inappropriate behavior may occur, as well as implement de-escalation techniques to defuse potentially violent dangerous behavior. Preventive assessments should include (1) a review of existing records; (2) interviews with parents, family members, and students; and (3) examination of previous and existing behavioral intervention plans. Using these data from such assessments helps schools identify the conditions when inappropriate behavior is likely to occur and the factors that lead to the occurrence of these behaviors; and develop and implement preventive behavioral interventions that teach appropriate behavior and modify the environmental factors that escalate the inappropriate behavior. The use of comprehensive behavioral systems significantly decreases the likelihood that restraint or seclusion would be used, supports the attainment of more appropriate behavior, and, when implemented as described, can help to improve academic achievement and behavior. In order to reduce the use of aversive techniques in response to student behavior, restraint and seclusion, school wide behavior systems should include a comprehensive behavior management system that includes: (a) socially valued and measurable outcomes, (b) empirically validated and practical practices (c) systems that efficiently and effectively support the implementation of these practices, and (d) continuous collection and use of data for decision making.

However, at times, some students exhibit behaviors which place themselves and others in imminent danger. Schools must implement proactive strategies and interventions to reduce the likelihood of these situations, and they must have clearly identified responses to address such situations when they occur. Additionally, schools should shall have policies in place that address the responses needed to ensure the safety of all students and staff

2. Restraint and Seclusion Policy

A Restraint and Seclusion Policy is defined through written local school board-approved policies and procedures that define appropriate means of restraint and seclusion to provide for a safe and orderly education. These policies and procedures should shall apply to all students in the local school district and must not focus on one or more subgroups of students.

In accordance with Miss. Code Ann. §§ 37-9-69 and 37-11-57, it is recognized that staff may intercede in situations wherein students are displaying physically violent behavior or is are deemed to be a danger to themselves or others. State Board policy positively prohibits the use of excessive force, or cruel and unusual punishment regarding student management. Under no circumstances shall Restraint and/or seclusion shall not be utilized as a punitive measure.

This policy in no way shall inhibit the right of staff to reasonable self-defense in accordance with the provisions of the 5th and 14th amendments to the Constitution of the United States nor negate the obligation of the district to provide a safe work environment.

3. Definitions

a. Aversive behavioral interventions means is defined as a physical or sensory intervention program intended to modify behavior that the implementer knows would cause physical trauma, emotional trauma, or both, to a student even when the substance or stimulus appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

b. Aversive procedure means is defined as 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.

c. Aversive technique means is defined as physical, emotional or mental distress as a method of redirecting or controlling behavior.

d. Behavioral intervention means is defined as the implementation of strategies to address behavior that is dangerous or inappropriate, or otherwise impedes the learning of the students.

e. Behavior Intervention Plan (BIP) is defined as a plan of action for managing a student's behavior. The BIP includes a set of strategies and supports intended to increase the occurrence of behaviors that school personnel encourage and to decrease behaviors that school personnel want to lessen or eliminate. The BIP must include:

- i. Observable and measurable description of the problem behavior;
- ii. Identified purpose of the problem behavior as a result of the FBA;
- iii. General strategy or combination of strategies for changing the problem behavior;
- iv. Written description of when, where, and how often the strategy will be implemented;

And

- v. Consistent system of monitoring and evaluating the effectiveness of the plan.

f. Chemical restraint is defined as "the administration of medication for the purpose of restraint." Chemical restraint does not apply to medication prescribed by and administered in accordance with the directions of a licensed physician. The use of chemical restraint is prohibited in Mississippi Public Schools.

g. Dangerous behavior means is defined as behavior that presents an imminent danger of physical harm to self or others but does not include inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.

h. De-escalation techniques are defined as strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs.

i. Emergency situation means is defined as spontaneous unpredictable events posing an imminent threat of serious bodily injury.

j. Functional Behavioral Assessment (FBA) is defined as a school-based, collaborative 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.

i. 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.

ii. Contextual factors (including affective and cognitive factors) are identified that contribute to the behavior, and a hypothesis is formulated regarding the general conditions under which a behavior usually occurs and the probable consequences that maintain the behavior.

iii. Formal documentation of the assessment by appropriately qualified individuals become part of the child's educational record.

iv. The FBA must include all of the following:

a. Clear description of the problematic behavior;

- b. Identification of the antecedent events, times, and situations that predict when the problem behavior will and will not occur;
- c. Identification of the consequences of the problem behavior;
- d. Development of hypotheses and summary statements that describes the problem behavior and its functions; and
- e. Collection of data from a variety of sources: interviews, direct observation data

Etc.

k. Imminent danger is defined as a danger which is impending, close at hand, threatening, or about to happen.

l. Individualized Education Plan (IEP) means is defined as a written statement for a child with a disability that is developed, reviewed, and revised in accordance with State Board

Policy 7219 §§ 300.320-300.324.

m. Mechanical restraint is defined as "any device that attaches to a student's body that restricts movement and cannot be removed by the student." Examples include: straps, tie downs, boards, and harnesses. Handcuffs are also considered mechanical restraints, but may only be used by certified school resource officers, as defined in Miss. Code Ann. §§ 37-7-321 and 37-7-323. The use of mechanical restraints is prohibited in Mississippi Public Schools, except as provided in §§ 37-7-321 and 37-7-323.

Devices not considered mechanical restraints include: adaptive equipment, protective devices, or assistive technology devices documented in a student's individualized education plan (IEP), Section 504 plan, behavior intervention plan, or otherwise

prescribed for the student by a medical or related service provider, seatbelts, and other safety equipment when used to secure students during transportation.

n. Physical escort is defined as the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out (with minimal resistance) and able to respond to such physical prompt, to move to a safe location.

o. Physical prompt is defined as a teaching technique that involves physical contact with the student and that enable the student to learn or model the physical movement necessary for the development of the desired competency.

p. Physical Restraint is defined as "the use of physical force, without the use of any device or material that restricts the free movement of all or a portion of a student's body."

Physical restraint does not include briefly holding a student's hand or arm to calm them or escort them to another area. A physical restraint shall be removed as soon as the student is calm. The term physical restraint does not include:

i. Physical restraint that restrains the flow of air to the student's lungs.

ii. Prone restraint in which a student is placed face down on the floor or other surface and physical pressure is applied to the student's body to keep the student in the prone position.

q. Positive Behavior Interventions and Supports (PBIS) is defined as a proactive approach to establishing the behavioral supports and social culture needed for all students in a school to achieve social, emotional and academic success. Attention is focused on creating and sustaining primary (school-wide), secondary (classroom), and tertiary (individual) systems of support that improve lifestyle results (personal, health, social., family, work., recreation) for all youth by making targeted misbehavior less effective, efficient, and relevant, and desired behavior more functional.

r. Positive Behavior Support Plan is defined as the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.

s. Seclusion is defined as "the confinement of a student in an enclosure from which the student's egress is restricted." Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques is physically present in the same in-school suspension, detention, or alternative school.

t. Section 504 Plan is defined as an individualized plan of accommodations and modifications to provide a free appropriate public education to a student who has a disability that substantially limits a major life activity. A 504 plan spells out the modifications and accommodations that will be needed for a student to have the opportunity to perform at the same level as their peers.

u. Written report is defined as a printed paper filings and electronic filings that can be printed.

4. General Procedures

Restraint

a. Physical restraint is considered to be an emergency response after all other verbal de-escalation measures have failed in effectiveness based on the following criteria:

i. The student or other person is engaged in actions that would constitute a danger to themselves or others;

ii. The student or other person is engaged in actions that would constitute potential or actual destruction of property;

iii. To remove a non-compliant student or person from the scene of an incident;

iv. The restraint should be removed as soon as the student is no longer a danger to themselves or others.

b. When using physical restraint for students who are a danger to themselves or others, staff should take precautions necessary to ensure the safety of the student and the staff members engaged in restraining the student. Physical restraints that restrict the flow of air are prohibited in all situations. When deemed it is necessary to restrain a student who is a danger to themselves or others, the following procedures should shall be used:

i. Restraint should shall be conducted by staff who are trained in the restraint procedures adopted by the school district;

ii. Staff shall carefully observe the student throughout the restraint to observe the student's physical and emotional status;

iii. Restraint should shall be immediately terminated if the student appears to be, or claims to be, in severe stress;

iv. The restraint should shall be removed as soon as the student is no longer a danger to himself/herself or others;

v. Within two school days after the restraint incident occurs, the staff should conduct a debriefing of the circumstances leading to the restraint and discuss any alternative behaviors that could have been utilized; incident leading up to the restraint and discuss alternative behaviors that could have been utilized;

vi. When the student is able, he/she should be returned to the instructional activity, or to a less restrictive environment;

vii. Parents must be notified within-one on the same school day of the incident. At the time the parent is notified, the school shall schedule a debriefing with the parent to discuss the incident.

viii. The school shall report the restraint and/or seclusion incident to the local school district and the Mississippi Department of Education.

c. School districts that permit restraint and seclusion must ensure that staff members are trained in the use of restraint. This training should shall be provided as a part of a program which addresses a full continuum of positive behavioral intervention strategies, crisis intervention, and de-escalation techniques.

Absent a clear and present an imminent danger to health or safety, physical restraint may shall only be practiced by staff trained in the physical restraint approach adopted by the local school district. The Mississippi Department of Education does not endorse a particular training program. The local school district shall select programs which are approved by the MDE and those that are founded on evidence:based techniques that which focus on:

- i. Certification for school personnel and recertification as required by the training program;
- ii. Preventing the need for restraint;
- iii. Training in first aid;
- iv. Identification of antecedent behaviors;
- v. Use of positive behavior supports, de-escalation, and conflict management;
- vi. Keeping staff and students safe during required restraints.

Local school district administrators should shall monitor the use of physical restraint to ensure fidelity of implementation. Additional and follow-up training should be provided on an ongoing basis and any situations in which procedures are not followed should be immediately addressed.

d. The use of mechanical restraints is prohibited in Mississippi Public Schools, except by law enforcement. For a complete definition refer to number 3 letter "m" under Definitions.

e. The use of chemical restraints is prohibited in Mississippi Public Schools. For a complete definition refer to numbers letter "f" under Definitions.

Behavioral Interventions

a. Behavioral intervention must be consistent with the child's right to be treated as an individual. Schools should implement an evidence-based system of positive behavioral intervention strategies and support. Elements of the system of support should include universal screening to identify potential students, teaching school-wide expected behaviors and social skills, and a system to monitor the effectiveness of the interventions and supports.

b. Behavioral strategies, in conjunction with the school-wide system of positive behavioral interventions should be used to help identify the causes of dangerous behavior and could reduce the need for restraint or seclusion. Information on a student through interviews, observation, and records help identify the causes of the dangerous behavior and should guide the development of a behavioral plan for the student. A complete plan should include:

- i. Addressing the characteristics of the setting and the event;
- ii. If possible, removing the antecedents that triggered the event;
- iii. Adding antecedents that promote appropriate behavior;
- iv. Teaching appropriate behaviors to replace the dangerous behaviors.

Seclusion

a. The use of seclusion occurs in a specially designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. The room or space used for seclusion may not be locked and staff shall be present to monitor the student. Seclusion shall cease once the student regains control of his or her behavior.

Only school personnel trained on the use of restraint and seclusion should be used to observe and monitor these students. Staff engaged in monitoring students should have knowledge of effective restraint and seclusion procedures, emergency procedures, and knowledge as to how to effectively debrief students after the use of restraint or seclusion.

b. The room or space used for seclusion must—should shall not contain any objects or fixtures with which a student could reasonably be harmed. Additionally, the room must shall provide adequate lighting and ventilation. The room used for seclusion may not be locked and staff must be present to monitor the student's safety and to know when the student has regained control of their behavior.

c. School personnel may use seclusion to address a student's behavior: learning of others; If the student's behavior constitutes an emergency and seclusion is necessary to protect a student or other person from imminent, serious physical harm after other inappropriate;

determined to be inappropriate.

i. If the student's behavior constitutes an emergency and seclusion is necessary to protect a student or other person from imminent, serious physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate,.

ii. After less restrictive or alternative approaches have failed or have been determined to be inappropriate.

d. Each time a student is placed in restraint or seclusion, the incident must be documented in the student's educational record. The documentation must shall be available to the parent or guardian, and the parent or guardian must be notified verbally or in writing by on the next school day. of the restraint or seclusion, unless the student's behavior plan, IEP, or Section 504 Plan requires some other arrangement. This documentation should be provided using an incident report that is completed for each student in each instance in which the student is restrained or placed in seclusion. This report must include the following:

- i. Date of incident and date submitted in MSIS;
- ii. Student's name, age and grade level;
- iii. Ethnicity, sex, and non-disabled/disabled status;
- iv. Location of restraint;
- v. Precipitating behavior/antecedent;
- vi. De-escalation efforts tried;
- vii. Type of restraint used;
- viii. The student's behavior and physical status during the restraint/seclusion;
- ix. Total time spent in restraint or seclusion. The student shall not be kept in seclusion for more than 20 minutes. If additional time is needed, school personnel must reassess the student and document why the extra time is needed, or after this time, if the physical behavior is still manifested, the student should be assessed for transport to a medical facility for evaluation by a physician and the parent notified;
- x. Injuries to student or staff;

- xi. Staff participating in the restraint/seclusion;
- xii. Staff signatures;
- xiii. Name of school employee that the parent can contact; and xiv. Date and time parent was contacted.

After an incident of restraint and/or seclusion, all school personnel involved in the incident and appropriate administrative staff shall participate in a debriefing session for the purpose of planning to prevent or at least reduce the reoccurrence of the event. The debriefing session shall occur no later than five two school days following the imposition of physical restraint or seclusion.

e. If restraint and/or seclusion is used for on a student who is not identified as a student with a disability with a disability, the student shall immediately be referred to the school's intervention team within 10 days of the incident. The team shall determine if the student shows a pattern of behavior that would indicate the need for an intervention plan.

m. If restraint or seclusion is used for a student with a disability, and the student's IEP, seclusion, the IEP or 504 team shall meet, within 10 school days of the incident to consider:

- i. The need for a functional behavioral assessment;
- ii. Developing appropriate behavioral interventions;
- iii Implementing a behavioral intervention plan.

5. Administrative Procedures

- a. Local school districts that utilize physical restraint and seclusion for all students must develop written policies and procedures that govern its use the use of restraint and/or seclusion. The written policies and procedures must be designed to ensure the safety of all students, school personnel, and visitors and include the following provisions:
 - i. Staff and faculty training on the use of physical restraint;
 - ii. Parental notification when physical restraint is used to restrain their student not to exceed one school day from the use of the restraint;
 - iii. Documentation of the use of physical restraint or seclusion by staff or faculty participating in or supervising the restraint or seclusion event;
 - iv. Procedures for the periodic review of the use of restraint and seclusion policies;
 - v. Procedures by which a parent may submit a complaint regarding the physical restraint or seclusion of their child;
 - vi. Procedures for reporting the use of restraint or seclusion to the local board of education and to the Mississippi Department of Education.
- b. The policies and procedures should shall be reviewed with all staff on an annual basis.
- c. Teachers and other district personnel should be trained on how to collect and analyze student data to determine the effectiveness of these procedures in increasing appropriate behavior.
- d. All parents should receive, at least annually, written information about the policies and procedures for restraint and seclusion issued by the local school district or school.

The written policies are to be included in each local education agencies code of conduct, student handbook, or other appropriate school publication.

e. A review of the use of a restraint and seclusion process must shall be conducted by the school to determine if a revision of behavioral strategies are in place to address dangerous behavior or if positive behavioral strategies were are not in place when: at the time of the restraint or seclusion.

iii. Used multiple times by the same individual

f. School districts should not only establish and disseminate policies and procedures on the use of seclusion and restraint, but also should periodically review and update them as appropriate. The school district or school should shall maintain records of its review of seclusion and restraint data and any resulting decisions or actions regarding the use of seclusion and restraint.

g. In any situation in which a student is a danger to themselves or others, and it becomes necessary to contact law enforcement or emergency medical personnel, nothing in this policy guidance should shall be construed to interfere with the duties of law enforcement or emergency medical personnel.

h. The school district shall report the restraint and/or seclusion incident to the local school district and the Mississippi Department of Education.

6. Parental Notification

a. All parents shall receive, at least annually, written information about the policies for restraint and seclusion issued by the local school district or school.

b. All parents shall be notified when physical restraint is used to restrain their student not to exceed one school day from the use of the restraint before the close of school on the day the restraint was used.

Source: Miss. Code Ann. § 37-1-3, 37-9-69, 37-11-57, 37-7-321, 37-7-323

(Adopted 6/2044 2/2016)

[Return to Table of Contents](#)

Missouri (MO)

Links

<https://house.mo.gov/billtracking/bills201/hlrbillspdf/4155H.05P.pdf>

Law Text

SECOND REGULAR SESSION

HOUSE BILL NO. 1568

100TH GENERAL ASSEMBLY

AN ACT To repeal section 160.263, RSMo, and to enact in lieu thereof one new section relating to school district policies on restrictive behavioral interventions.

Be it enacted by the General Assembly of the state of Missouri, as follows: Section A. Section 160.263, RSMo, is repealed and one new section enacted in lieu 2 thereof, to be known as section 160.263, to read as follows: 160.263. As used in this section, the following terms mean: (1) "Restraint", the use of physical force, with or without the use of any physical device or material, to restrict the free movement of all or a portion of a student's body. "Restraint" shall not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight, or using an assistive or protective device prescribed by an appropriately trained professional or professional team;

(2) "Seclusion", the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. "Seclusion" shall not include a student-requested or adult-accompanied break from the classroom; in-school suspension, detention, or other appropriate disciplinary measure; or the provisions of

a Behavior Intervention Plan (BIP) of a current Individualized Education Program (IEP), a Section 504 Plan, or an intervention plan developed in accordance with the principles of positive behavior intervention and support.

2. The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

(1) By July 1, 2011, the local board of education of each school district shall adopt a written policy that comprehensively addresses the use of restrictive behavioral interventions as a form of discipline or behavior management technique. The policy shall be consistent with professionally accepted practices and standards of student discipline, behavior management, health and safety, including the safe schools act. The policy shall include but not be limited to:

[(1)] (a) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district, consistent with the provisions of this section;

[(2)] (b) Description of circumstances under which a restrictive behavioral intervention is allowed and prohibited, consistent with the provisions of this section, and any unique application requirements for specific groups of students such as differences based on age, disability, or environment in which the educational services are provided;

[(3)] (c) Specific implementation requirements associated with a restrictive behavioral intervention such as time limits, facility specifications, training requirements or supervision requirements; and

[(4)] (d) Documentation, notice and permission requirements associated with use of a restrictive behavioral intervention.

(2) By July 1, 2021, each written policy adopted under this subsection shall be updated to include a prohibition on the use of seclusion or restraint for any purpose other than to promote the health and safety of students, teachers, and staff members.

[3.] 4. Before July 1, 2021, each school district shall ensure that the policy adopted under subsection 3 of this section requires the following:

(1) Each time seclusion or restraint is used for a student, every individual other than a student who was involved or witnessed such use, including any law enforcement personnel working with the school district, shall complete a report on the details of the use of seclusion or restraint for the student. The report shall state the reason for the use of seclusion or restraint and describe the methods of seclusion or restraint used. A copy of each incident report shall be given to the department of elementary and secondary education within thirty days of the incident;

(2) The school district shall notify the parents or legal guardians of the use of seclusion or restraint for their child within twenty-four hours of such use. The notification shall include a description of the incident. Each notification shall include language informing the parents or legal guardians of their right to request a meeting to review the incident with the staff involved and the school administrator. The notification shall be accompanied by a plain-language description of the school district's complaint procedures, including contact information for designated staff members in the complaint process, and language stating the right of the parents or legal guardians to file a child complaint with the department of elementary and secondary education under subdivision (4) of this subsection. If applicable to the student, the notification shall also contain the relevant provisions of the Individuals with Disabilities Education Act (IDEA) or the relevant provisions of Section 504 due process rights and procedures;

(3) The school district shall allow the parents or legal guardians to review the report or reports required under subdivision (1) of this subsection regarding their child; and

(4) The parents or legal guardians may file a child complaint with the department of elementary and secondary education regarding any use of seclusion or restraint for their child.

5. The department of elementary and secondary education shall, in cooperation with appropriate associations, organizations, agencies, and individuals with specialized expertise in behavior management, develop a model policy that satisfies the requirements of subsection 2 of this section as it existed on August 28, 2009, by July 1, 2010, and shall update such model policy to include the requirements of subdivision (2) of subsection 3 and subsection 4 of this section by July 1, 2021.

6. The department of elementary and secondary education shall develop recommendations for data collection and reporting regarding the use of seclusion or restraint in Missouri school districts and charter schools to present to the state board of education. Once approved by the state board of education, the provisions of these recommendations shall be addressed in the annual recommended budget presented to the legislature and in updates of the Missouri school improvement program.

[Return to Table of Contents](#)

Montana (MT)

Links

Rule: 10.16.3346 Rule Title: AVERSIVE TREATMENT PROCEDURES

<https://rules.mt.gov/gateway/RuleNo.asp?RN=10.16.3346>

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

https://leg.mt.gov/bills/mca/title_0200/chapter_0040/part_0030/section_0020/0200-0040-0030-0020.html

45-3-107. Use of force by parent, guardian, or teacher.

https://leg.mt.gov/bills/mca/title_0450/chapter_0030/part_0010/section_0070/0450-0030-0010-0070.html#:~:text=Guardian%2C%20Or%20Teacher-,45%2D3%2D107.,ward%2C%20apprentice%2C%20or%20pupil.

Law Text

Rule: 10.16.3346 Rule Title: AVERSIVE TREATMENT PROCEDURES

(1) Positive behavioral interventions based on the results of a functional behavioral assessment shall serve as the foundation for any program utilizing aversive procedures to address the behavioral needs of students. Aversive treatment procedures may be appropriate for an individual student who exhibits behaviors which pose a risk of physical harm to the student or others, or a risk of significant damage to property, or significantly disruptive or dangerous behaviors which cannot be modified solely

through the use of positive behavioral interventions. Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.

(2) Aversive treatment procedures are defined as:

(a) physical restraint, other than as provided in 20-4-302, MCA, when the IEP team has determined that the frequency, intensity or duration of the restraint warrants an aversive treatment procedure; and

(b) isolation time-out which results in the removal of a student to an isolation room under the following conditions:

(i) the student is alone in the isolation room during the period of isolation;

(ii) the student is prevented from exiting the isolation room during the period of isolation;

(iii) the door to the isolation room remains closed during the period of isolation; and

(iv) the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.

(3) Any student in isolation time-out must be under the direct constant visual observation of a designated staff person throughout the entire period of isolation.

(4) The following procedures are prohibited:

(a) any procedure solely intended to cause physical pain;

(b) isolation in a locked room or mechanical restraint, except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law;

(c) the withholding of a meal for a period of greater than one hour from its scheduled starting time;

(d) aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation; and

(e) mechanical restraint that physically restricts a student's movement through the use upon the student of any mechanical or restrictive device which is not intended for medical reasons.

(5) Exclusion time-out is not considered an aversive treatment procedure. Exclusion time-out is defined as any removal of a student from a regularly scheduled activity for disciplinary purposes that does not result in placing the student in an isolation room under all of the conditions described in (2)(b).

(6) IEPs may include the use of aversive treatment procedures only when:

(a) subsequent to a functional behavioral assessment, a series of no less than two written positive behavioral intervention strategies, which were designed to target the behavior to be changed, were previously implemented;

(b) the IEP team includes a person trained and knowledgeable about best practices in the application of positive behavioral interventions, aversive treatment procedures and nonaversive alternatives for de-escalation of behaviors; and

(c) a written behavioral intervention plan using aversive treatment procedures is developed and incorporated as a part of the IEP.

(7) A behavioral intervention plan using aversive treatment procedures must be in writing and shall:

- (a) include a statement describing no less than two positive behavioral intervention strategies previously attempted and the results of these interventions, as described in (6)(a);
- (b) describe the target behavior(s) that will be consequented with the use of the aversive treatment procedure(s);
- (c) include short-term objective(s) with measurable criteria stating the expected change in the target behavior(s);
- (d) provide a written description of the aversive treatment procedure(s);
- (e) specify a time limit for the use of the aversive treatment procedure for any one instance;
- (f) include data collection procedures for recording each application of the aversive treatment(s);
- (g) state when the IEP team will meet to review the ongoing use, modification or termination of the aversive procedure;
- (h) designate an individual responsible for ongoing review and analysis of the data on the target behavior;
- (i) state how the student's parents will be regularly informed of the progress toward the short-term objectives in the IEP at a frequency no less than is required in 34 CFR 300.347; and
- (j) state whether any standard school disciplinary measures are waived.

(8) When an aversive treatment plan is incorporated in the IEP, the parents must be informed that their consent to the IEP includes consent for the aversive treatment plan. Failure to obtain consent is subject to due process proceedings under ARM 10.16.3507 through 10.16.3523.

(9) Parents must be informed as soon as possible, but no more than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

History: 20-7-402, MCA; IMP, 20-7-403, 20-7-414, MCA; NEW, 1977 MAR p. 277, Eff. 8/26/77, ARM Pub. 11/26/77; AMD & TRANS, 2000 MAR p. 1048, Eff. 7/1/00; AMD, 2001 MAR p. 396, Eff. 3/9/01; AMD, 2010 MAR p. 1076, Eff. 4/30/10; AMD, 2015 MAR p. 2257, Eff. 12/25/15.

20-4-302. Discipline and punishment of pupils - definition of corporal punishment - penalty - defense.

(4)(a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

(i) quell a disturbance;

(ii) provide self-protection;

(iii) protect the pupil or others from physical injury;

(iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;

(v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

(vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary. [...]

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

45-3-107. Use of force by parent, guardian, or teacher.

A parent or an authorized agent of a parent or a guardian, master, or teacher is justified in the use of force that is reasonable and necessary to restrain or correct the person's child, ward, apprentice, or pupil.

REGULATIONS

10.16.3346. Aversive treatment procedures.

(1) Positive behavioral interventions based on the results of a functional behavioral assessment shall serve as the foundation for any program utilizing aversive procedures to address the behavioral needs of students. Aversive treatment procedures may be appropriate for an individual student who exhibits behaviors which pose a risk of physical harm to the student or others, or a risk of significant damage to property, or significantly disruptive or dangerous behaviors which cannot be modified solely through the use of positive behavioral interventions. Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be

approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.

(2) Aversive treatment procedures are defined as:

(a) physical restraint, other than as provided in 20-4-302, MCA, when the IEP team has determined that the frequency, intensity or duration of the restraint warrants an aversive treatment procedure; and

(b) isolation time-out which results in the removal of a student to an isolation room under the following conditions:

(i) the student is alone in the isolation room during the period of isolation;

(ii) the student is prevented from exiting the isolation room during the period of isolation;

(iii) the door to the isolation room remains closed during the period of isolation; and

(iv) the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.

(3) Any student in isolation timeout must be under the direct constant visual observation of a designated staff person throughout the entire period of isolation.

(4) The following procedures are prohibited:

(a) any procedure solely intended to cause physical pain;

(b) isolation in a locked room or mechanical restraint, except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law;

(c) the withholding of a meal for a period of greater than one hour from its scheduled starting time;

(d) aversive mists, noxious odors, and unpleasant tastes applied by spray or other means to cause an aversive physical sensation; and

(e) mechanical restraint that physically restricts a student's movement through the use upon the student of any mechanical or restrictive device which is not intended for medical reasons.

(5) Exclusion time-out is not considered an aversive treatment procedure. Exclusion time-out is defined as any removal of a student from a regularly scheduled activity for disciplinary purposes that does not result in placing the student in an isolation room under all of the conditions described in (2)(b).

(6) IEPs may include the use of aversive treatment procedures only when:

(a) subsequent to a functional behavioral assessment, a series of no less than two written positive behavioral intervention strategies, which were designed to target the behavior to be changed, were previously implemented;

(b) the IEP team includes a person trained and knowledgeable about best practices in the application of positive behavioral interventions, aversive treatment procedures and nonaversive alternatives for deescalation of behaviors; and

(c) a written behavioral intervention plan using aversive treatment procedures is developed and incorporated as a part of the IEP.

(7) A behavioral intervention plan using aversive treatment procedures must be in writing and shall:

- (a) include a statement describing no less than two positive behavioral intervention strategies previously attempted and the results of these interventions, as described in (6)(a);
- (b) describe the target behavior(s) that will be consequented with the use of the aversive treatment procedure(s);
- (c) include short-term objective(s) with measurable criteria stating the expected change in the target behavior(s);
- (d) provide a written description of the aversive treatment procedure(s);
- (e) specify a time limit for the use of the aversive treatment procedure for any one instance;
- (f) include data collection procedures for recording each application of the aversive treatment(s);
- (g) state when the IEP team will meet to review the ongoing use, modification or termination of the aversive procedure;
- (h) designate an individual responsible for ongoing review and analysis of the data on the target behavior;
- (i) state how the student's parents will be regularly informed of the progress toward the short-term objectives in the IEP at a frequency no less than is required in 34 CFR 300.347; and
- (j) state whether any standard school disciplinary measures are waived.

(8) When an aversive treatment plan is incorporated in the IEP, the parents must be informed that their consent to the IEP includes consent for the aversive treatment plan. Failure to obtain consent is subject to due process proceedings under ARM 10.16.3507 through 10.16.3523. (9) Parents must be informed as soon as possible, but no more than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

(9) Parents must be informed as soon as possible, but no more than 24 hours after the procedure is used, in writing, or orally if in writing is not possible, in their native language each time an aversive procedure is implemented on their child.

[Return to Table of Contents](#)

Nebraska (NE)

Links

<https://www.education.ne.gov/nderule/accreditation-of-schools/>

Law Text

011.01E

Each school system has a seclusion and restraints policy approved by the school board or local governing body.

[Return to Table of Contents](#)

Nevada (NV)

Links

<https://www.leg.state.nv.us/nrs/nrs-388.html#NRS388Sec471>

Law Text

NRS 388.471 Definitions.

As used in NRS 388.471 to 388.515, inclusive, unless the context otherwise requires, the words and terms defined in NRS 388.473 to 388.495, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1999, 3236; A 2009, 918) — (Substituted in revision for NRS 388.521)

NRS 388.473 “Aversive intervention” defined.

“Aversive intervention” means any of the following actions if the action is used to punish a pupil with a disability or to eliminate, reduce or discourage maladaptive behavior of a pupil with a disability:

1. The use of noxious odors and tastes;
2. The use of water and other mists or sprays;
3. The use of blasts of air;
4. The use of corporal punishment;

5. The use of verbal and mental abuse;
6. The use of electric shock;
7. The administration of chemical restraint to a person;
8. The placement of a person alone in a room where release from the room is prohibited by a mechanism, including, without limitation, a lock, device or object positioned to hold the door closed or otherwise prevent the person from leaving the room;
9. Requiring a person to perform exercise under forced conditions if the:
 - (a) Person is required to perform the exercise because he or she exhibited a behavior that is related to his or her disability;
 - (b) Exercise is harmful to the health of the person because of his or her disability; or
 - (c) Nature of the person's disability prevents him or her from engaging in the exercise; or
10. The deprivation of necessities needed to sustain the health of a person, regardless of the length of the deprivation, including, without limitation, the denial or unreasonable delay in the provision of:
 - (a) Food or liquid at a time when it is customarily served; or
 - (b) Medication.

(Added to NRS by 1999, 3237) — (Substituted in revision for NRS 388.5215)

NRS 388.476 “Chemical restraint” defined.

“Chemical restraint” means the administration of drugs for the specific and exclusive purpose of controlling an acute or episodic aggressive behavior when alternative intervention techniques have failed to limit or control the behavior. The term does not include the administration of drugs on a regular basis, as prescribed by a physician, to treat the symptoms of mental, physical, emotional or behavioral disorders and for assisting a person in gaining self-control over his or her impulses.

(Added to NRS by 1999, 3237) — (Substituted in revision for NRS 388.522)

NRS 388.478 “Corporal punishment” defined.

“Corporal punishment” means the intentional infliction of physical pain, including, without limitation, hitting, pinching or striking.

(Added to NRS by 1999, 3237) — (Substituted in revision for NRS 388.522)

NRS 388.485 “Electric shock” defined.

“Electric shock” means the application of electric current to a person’s skin or body. The term does not include electroconvulsive therapy.

(Added to NRS by 1999, 3237) — (Substituted in revision for NRS 388.523)

NRS 388.487 “Emergency” defined.

“Emergency” means a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of severe property damage.

(Added to NRS by 1999, 3237) — (Substituted in revision for NRS 388.5235)

NRS 388.491 “Mechanical restraint” defined.

“Mechanical restraint” means the use of devices, including, without limitation, mittens, straps and restraint chairs to limit a person’s movement or hold a person immobile.

(Added to NRS by 1999, 3238) — (Substituted in revision for NRS 388.525)

NRS 388.494 “Physical restraint” defined.

“Physical restraint” means the use of physical contact to limit a person’s movement or hold a person immobile.

(Added to NRS by 1999, 3238) — (Substituted in revision for NRS 388.525)

NRS 388.495 “Verbal and mental abuse” defined.

“Verbal and mental abuse” means actions or utterances that are intended to cause and actually cause severe emotional distress to a person.

(Added to NRS by 1999, 3238) — (Substituted in revision for NRS 388.526)

NRS 388.497 Aversive intervention prohibited.

A person employed by the board of trustees of a school district or any other person shall not use any aversive intervention on a pupil with a disability.

(Added to NRS by 1999, 3238) — (Substituted in revision for NRS 388.5265)

NRS 388.499 Physical restraint and mechanical restraint prohibited; exceptions.

A person employed by the board of trustees of a school district or any other person shall not:

1. Except as otherwise provided in NRS 388.501, use physical restraint on a pupil with a disability.
2. Except as otherwise provided in NRS 388.503, use mechanical restraint on a pupil with a disability.

(Added to NRS by 1999, 3238) — (Substituted in revision for NRS 388.527)

NRS 388.501 Conditions under which physical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to the pupil or to others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if the pupil's resistance is minimal in intensity and duration;

(b) Escort or carry the pupil to safety if the pupil is in danger in his or her present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.513.

4. If a pupil with a disability has three reports of the use of physical restraint in his or her record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his or her record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

(Added to NRS by 1999, 3238; A 2009, 918) — (Substituted in revision for NRS 388.5275)

NRS 388.503 Conditions under which mechanical restraint may be used; report required; requirements if pupil has three or five reports of use of restraint in 1 school year.

1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint from the pupil's treating physician or advanced practice registered nurse is included in the pupil's individualized education program before the application of the mechanical restraint;

(c) The physician or advanced practice registered nurse who signed the order required pursuant to paragraph (b) or the attending physician or attending advanced practice registered nurse examines the pupil as soon as practicable after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his or her body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician or advanced practice registered nurse who signed the order;

(f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop injury to himself or herself without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f),

the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or herself.

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself or herself because he or she lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district or its designee, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees or its designee determines that a denial of the pupil's rights has occurred, the board of trustees or its designee shall submit a report to the Department in accordance with NRS 388.513.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his or her record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his or her record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.

(Added to NRS by 1999, 3238; A 2009, 919; 2017, 1741) — (Substituted in revision for NRS 388.528)

NRS 388.505 Mandatory education and training for staff.

1. The Department shall develop a model program of education for use by the school districts to train the members of the staff of the schools within the school districts who are identified in the individualized education programs of pupils with disabilities to provide services to those pupils. The model program of education must provide instruction in positive behavioral interventions and positive behavioral supports that:

(a) Includes positive methods to modify the environment of pupils with disabilities to promote adaptive behavior and reduce the occurrence of inappropriate behavior;

(b) Includes methods to teach skills to pupils with disabilities so that the pupils can replace inappropriate behavior with adaptive behavior;

(c) Includes methods to enhance the independence and quality of life for pupils with disabilities;

(d) Includes the use of the least intrusive methods to respond to and reinforce the behavior of pupils with disabilities; and

(e) Offers a process for designing interventions based upon the pupil that are focused on promoting appropriate changes in behavior as well as enhancing the overall quality of life for the pupil.

2. The board of trustees of each school district shall provide for appropriate training for the members of the staff of the schools within the school district who are authorized to carry out and monitor physical restraint and mechanical restraint to ensure that those members of the staff are qualified to carry out the procedures in accordance with NRS 388.471 to 388.515, inclusive.

(Added to NRS by 1999, 3239) — (Substituted in revision for NRS 388.5285)

NRS 388.506 Disciplinary action against person for intentional violation.

In addition to any penalty prescribed by specific statute, a person who intentionally uses aversive intervention on a pupil with a disability or intentionally violates NRS 388.499 is subject to disciplinary action pursuant to NRS 391.330 or 391.750, or both.

(Added to NRS by 1999, 3240) — (Substituted in revision for NRS 388.529)

NRS 388.508 Report of violation; corrective plan required; appointment of administrator to oversee school under certain circumstances.

1. A school where a violation of NRS 388.471 to 388.515, inclusive, occurs shall report the violation to the board of trustees of the school district not later than 24 hours after the violation occurred, or as soon thereafter as the violation is discovered.

2. The board of trustees of the school district where the violation occurred shall develop, in cooperation with the superintendent of schools of the school district, a corrective plan to ensure that within 30 calendar days after the violation occurred, appropriate action is taken by the school and the board of trustees to prevent future violations.

3. The superintendent of schools of the school district shall submit the plan to the Department. The Department shall review the plan to ensure that it complies with applicable federal law and the statutes and regulations of this state. The Department may require appropriate revision of the plan to ensure compliance.

4. If the school where the violation occurred does not meet the requirements of the plan to the satisfaction of the Department, the Department may appoint a licensed administrator to oversee the school to ensure that the school meets the requirements of the plan. An administrator serves at the pleasure of the Superintendent of Public Instruction and is entitled to receive such compensation as may be set by the superintendent. A school district that contains a school for which an administrator is appointed pursuant to this subsection shall reimburse the Department for any expenses incurred by the Department pursuant to this subsection.

(Added to NRS by 1999, 3240) — (Substituted in revision for NRS 388.5295)

NRS 388.511 Retaliation for reporting violation prohibited.

An officer, administrator or employee of a public school shall not retaliate against any person for having:

1. Reported a violation of NRS 388.471 to 388.515, inclusive; or
2. Provided information regarding a violation of NRS 388.471 to 388.515, inclusive,

Ê by a public school or a member of the staff of the public school.

(Added to NRS by 1999, 3241) — (Substituted in revision for NRS 388.531)

NRS 388.513 Reporting of denial of rights; investigation and resolution of disputes by Department.

1. A denial of rights of a pupil with a disability pursuant to NRS 388.471 to 388.515, inclusive, must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district or its designee.

2. If the board of trustees of a school district or its designee receives notice of a denial of rights pursuant to subsection 1, the board of trustees or its designee shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.

3. The Department:

(a) Shall receive reports made pursuant to subsection 2;

(b) May investigate apparent violations of the rights of pupils with disabilities; and

(c) May act to resolve disputes relating to apparent violations.

(Added to NRS by 1999, 3241; A 2009, 921) — (Substituted in revision for NRS 388.5315)

NRS 388.515 Annual report by school districts on use of restraint and violations; compilation of reports by Department; submission of compilation to Legislature.

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.471 to 388.515, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

(Added to NRS by 2009, 918) — (Substituted in revision for NRS 388.5317)

[Return to Table of Contents](#)

New Hampshire (NH)

Links

<https://law.justia.com/codes/new-hampshire/2014/title-x/chapter-126-u>

Law Text

TITLE X

PUBLIC HEALTH

CHAPTER 126-U

LIMITING THE USE OF CHILD RESTRAINT PRACTICES IN SCHOOLS AND
TREATMENT FACILITIES

Section 126-U:1

126-U:1 Definitions. –

In this chapter:

I. "Child" means a person who has not reached the age of 18 years and who is not under adult criminal prosecution or sentence of actual incarceration resulting therefrom, either due to having reached the age of 17 years or due to the completion of proceedings for transfer to the adult criminal justice system under RSA 169-B:24, RSA 169-B:25, or RSA 169-B:26. "Child" also includes a person in actual attendance at a school who is less than 22 years of age and who has not received a high school diploma.

II. "Director" refers to the program director, school principal, or other official highest in rank and with authority over the activities of a school or facility.

III. "Facility" includes any of the following when used for the placement, custody, or treatment of children:

(a) The youth services center maintained by the department of health and human services, or any other setting established for the commitment or detention of children pursuant to RSA 169-B, RSA 169-C, or RSA 169-D.

(b) Child care agencies regulated by RSA 170-E.

(c) Any foster home, group home, crisis home, or shelter care 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.

(d) Any hospital, building, or other place, whether public or private, which is part of the state services systems established under RSA 135-C:3 and RSA 171-A:4, including but not limited to:

(1) The Anna Philbrook center.

(2) The acute psychiatric services building.

(3) Any designated receiving facility.

(4) A community mental health center as defined in RSA 135-C:7, or any of its subdivisions or contractors.

(5) An area agency as defined in RSA 171-A:2, or any of its subdivisions or contractors.

(e) Any residence, treatment center, or other place used for the voluntary or involuntary custody, treatment or care of children with developmental, intellectual, or other disabilities under RSA 171-A or 171-B.

(f) Community living facilities for persons with developmental disabilities or mental illness as authorized by RSA 126-A:19, when used for the placement of children.

IV. "Restraint" means bodily physical restriction, mechanical devices, 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.

(a) "Medication restraint" occurs when a child is given medication involuntarily for the purpose of immediate control of the child's behavior.

(b) "Mechanical restraint" occurs when a physical device or devices are used to restrict the movement of a child or the movement or normal function of a portion of his or her body.

(c) "Physical restraint" occurs when a manual method is used to restrict a child's freedom of movement or normal access to his or her body.

(d) Restraint shall not include:

(1) Brief touching or holding to calm, comfort, encourage, or guide a child, so long as limitation of freedom of movement of the child does not occur.

(2) The temporary holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a 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.

(3) 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.

(4) The use of seat belts, safety belts, or similar passenger restraints during the transportation of a child in a motor vehicle.

(5) The use of force by a person to defend himself or herself or a third person from what the actor reasonably believes to be the imminent use of unlawful force by a child, when the actor uses a degree of such force which he or she reasonably believes to be necessary for such purpose and the actor does not immobilize a child or restrict the freedom of movement of the torso, head, arms, or legs of any child.

V. "School" means:

(a) A school operated by a school district.

(b) A chartered public school governed by RSA 194-B.

(c) A public academy as defined in RSA 194:23, II.

(d) A nonpublic school subject to the approval authority of the state board of education under RSA 186:11, XXIX.

(e) A private or public provider of any component of a child's individualized education program under RSA 186-C.

V-a. "Seclusion" means 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. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place. 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.

VI. "Serious injury" means any harm to the body which requires hospitalization or results in the fracture of any bone, non-superficial lacerations, injury to any internal organ, second- or third-degree burns, or any severe, permanent, or protracted loss of or impairment to the health or function of any part of the body.

Source. 2010, 375:2. 2014, 324:1-3, eff. Sept. 30, 2014.

Section 126-U:1-a

126-U:1-a Limitations of Child Restraint Practices. – The department of education and the department of labor shall work cooperatively to develop consistent definitions and applications of this chapter in order to inform school administrators and employees across the state of best practices regarding restraints in schools. The department of education may utilize grant funds that are available through the department's office of student wellness for trauma-responsive training, consultation on de-escalating violent situations, and proper uses of restraint.

Source. 2020, 38:15, eff. Sept. 27, 2020.

Section 126-U:2

126-U:2 Written Policies Required. – Each facility and school shall have a written policy and procedures 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.

Source. 2010, 375:2. 2014, 324:4, eff. Sept. 30, 2014.

Section 126-U:3

126-U:3 Post Admission Planning in Facilities. –

I. As soon as possible after admission to a facility, the treatment staff of the facility, the child, and the child's parent or guardian shall develop a plan to:

- (a) Identify the child's history of physical, sexual, or emotional trauma, if any.
- (b) Identify effective responses to potential behavior or situations which will avoid the use of seclusion and restraint.
- (c) Identify health conditions which may make the child vulnerable to injury while at the facility.

II. The plan described in this section is not required if the child is expected to be at the facility for fewer than 72 hours and, after conducting a reasonable inquiry, the staff of the facility is not informed of any history of the use of seclusion or restraint of the child.

Source. 2010, 375:2. 2014, 324:4, eff. Sept. 30, 2014.

Section 126-U:4

126-U:4 Prohibition of Dangerous Restraint Techniques. –

No school or facility shall use or threaten to use any of the following restraint and behavior control techniques:

I. Any physical restraint or containment technique that:

(a) Obstructs a child's respiratory airway or impairs the child's breathing or respiratory capacity or restricts the movement required for normal breathing;

(b) Places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child;

(c) Obstructs the circulation of blood;

(d) Involves pushing on or into the child's 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; or

(e) Endangers a child's life or significantly exacerbates a child's medical condition.

II. The intentional infliction of pain, including the use of pain inducement to obtain compliance.

III. The intentional release of noxious, toxic, caustic, or otherwise unpleasant substances near a child for the purpose of controlling or modifying the behavior of or punishing the child.

IV. Any technique that unnecessarily subjects the child to ridicule, humiliation, or emotional trauma.

Source. 2010, 375:2, eff. Sept. 1, 2010.

Section 126-U:5

126-U:5 Limitation of the Use of Restraint to Emergencies Only. –

I. Restraint shall only be used in a school or facility 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. The determination of whether the use of restraint is justified under this section 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 shall be used only by trained personnel using extreme caution when all other interventions have failed or have been deemed inappropriate.

II. Restraint shall never be used explicitly or implicitly as punishment for the behavior of a child.

Source. 2010, 375:2. 2014, 324:5, eff. Sept. 30, 2014.

Section 126-U:5-a

126-U:5-a Limitation on the Use of Seclusion. –

I. Seclusion may not be used as a form of punishment or discipline. It may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or to others, and may only continue until that danger has dissipated.

II. Seclusion shall only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.

III. Seclusion shall not be used in a manner that that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.

Source. 2014, 324:6, eff. Sept. 30, 2014

Section 126-U:5-b

126-U:5-b Conditions of Seclusion. –

I. When permitted by this chapter, seclusion may only be imposed in rooms which:

(a) Are of a size which is appropriate for the chronological and developmental age, size, and behavior of the children placed in them.

(b) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which they are located.

(c) Are 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 they are located.

(d) Are free of any object that poses a danger to the children being placed in the rooms.

(e) Have doors which are either not equipped with locks, or are equipped with devices that automatically disengage the lock in case of an emergency. For the purposes of this subparagraph, an "emergency" includes, but is not limited to:

(1) The need to provide direct and immediate medical attention to a child;

(2) Fire;

(3) The need to remove a child to a safe location during a building lockdown; or

(4) Other critical situations that may require immediate removal of a child from seclusion to a safe location.

(f) Are equipped with unbreakable observation windows or equivalent devices to allow the safe, direct, and uninterrupted observation of every part of the room.

II. Each use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.

Source. 2014, 324:6, eff. Sept. 30, 2014.

Section 126-U:5-c

126-U:5-c Room Confinement at the Youth Development Center. – Notwithstanding any other provision of this chapter, the youth development center may confine children in their rooms when such confinement is part of a routine practice applicable to substantial portions of the population at the center and not imposed as a consequence in response to the behavior of one or more children. Such confinement is not subject to the notice and reporting requirements of RSA 126-U:7.

Source. 2014, 324:6, eff. Sept. 30, 2014.

Section 126-U:6

126-U:6 Schools Limited to Physical Restraint. – Use of restraint in schools shall be limited to physical restraint as permitted by this chapter. Schools shall not use medication restraint and shall not use mechanical restraint except as otherwise permitted in the transportation of children pursuant to RSA 126-U:12.

Source. 2010, 375:2, eff. Sept. 1, 2010.

Section 126-U:7

126-U:7 Notice and Record-Keeping Requirements. –

I. Unless prohibited by court order, the facility or school 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 the child. Such notification shall be made as soon as practicable and in no event later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

II. A facility employee or school employee who uses seclusion or restraint, or if the facility employee or school employee is unavailable, a supervisor of such employee, shall, within 5 business days after the occurrence, submit a written notification containing the following information to the director or his or her designee:

- (a) The date, time, and duration of the use of seclusion or restraint.
- (b) A description of the actions of the child before, during, and after the occurrence.
- (c) A description of any other relevant events preceding the use of seclusion or restraint, including the justification for initiating the use of restraint.
- (d) The names of the persons involved in the occurrence.
- (e) A description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (f) A description of any interventions used prior to the use of the seclusion or restraint.
- (g) A description of the seclusion or restraint used, including any hold used and the reason the hold was necessary.

(h) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the use of seclusion or restraint.

(i) A description of any property damage associated with the occurrence.

(j) A description of actions taken to address the emotional needs of the child during and following the incident.

(k) A description of future actions to be taken to control the child's problem behaviors.

(l) The name and position of the employee completing the notification.

(m) The anticipated date of the final report.

III. Unless prohibited by court order, the director or his or her designee shall, within 2 business days of receipt of the notification required in paragraph II, send or transmit by first class mail or electronic transmission to the child's parent or guardian and the guardian ad litem the information contained in the notification. Each notification prepared under this section shall be retained by the school or facility 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.

IV. Whenever a facility or school employee has intentional physical contact with a child which is in response to a child's aggression, misconduct, or disruptive behavior, a representative of the school or facility shall make reasonable efforts to promptly notify the child's parent or guardian. Such notification shall be made no later than the time of the return of the child to the parent or guardian or the end of the business day, whichever is earlier. Notification shall be made in a manner calculated to give the parent or guardian actual notice of the incident at the earliest practicable time.

V. In any case requiring notification under paragraph IV, the school or facility shall, within 5 business days of the occurrence, prepare a written description of the incident. Such description shall include at least the following information:

- (a) The date and time of the incident.
- (b) A brief description of the actions of the child before, during, and after the occurrence.
- (c) The names of the persons involved in the occurrence.
- (d) A brief description of the actions of the facility or school employees involved before, during, and after the occurrence.
- (e) A description of any injuries sustained by, and any medical care administered to, the child, employees, or others before, during, or after the incident.

VI. The notification and record-keeping requirements of paragraphs IV and V shall not apply in the following circumstances:

- (a) When a child is escorted from an area by way of holding of the hand, wrist, arm, shoulder, or back to induce the child to walk to a safe location. However, if the child is actively combative, assaultive, or self-injurious while being escorted, the requirements of paragraphs IV and V shall apply.
- (b) When actions are taken such as separating children from each other, inducing a child to stand, or otherwise physically preparing a child to be escorted.
- (c) When the contact with the child is incidental or minor, such as for the purpose of gaining a misbehaving child's attention. However, blocking of a blow, forcible release from a grasp, or other significant and intentional physical

contact with a disruptive or assaultive child shall be subject to the requirements.

(d) When an incident is subject to the requirements of paragraphs I-III.

Source. 2010, 375:2. 2014, 324:8, eff. Sept. 30, 2014.

Section 126-U:7-a

126-U:7-a Notice and Record-Keeping Requirements for Foster Family Homes. – Notwithstanding RSA 126-U:7, foster family homes, as defined in RSA 170-E:25, shall keep records and provide notice of incidents involving seclusion or restraint, according to rules adopted pursuant to RSA 541-A by the commissioner of the department of human services. The rules shall provide for timely notice to parents or guardians, which may be provided through the department. In cases involving serious injury or death to a child subject to seclusion or restraint in a foster home, the rules shall provide for timely notification to the commissioner of the department of health and human services, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities.

Source. 2014, 324:7, eff. Sept. 30, 2014.

Section 126-U:8

126-U:8 Review of Restraint Records by Department of Education. –

I. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

- (a) Periodic, regular review by the department of education of records maintained by schools relative to the use of seclusion and restraint.
- (b) A process for the department of education's receipt of complaints and its conduct of investigations of improper use of seclusion and restraint in schools. The process shall provide for:

- (1) Investigation of complaints regarding any violation of this chapter, regardless of whether injury results.
- (2) Investigation by persons not affiliated with the school district which is the subject of the complaint.
- (3) Resolution of complaints and completion of investigations within 30 days, with provision for limited extensions for good cause.
- (4) Protection of children before and after completion of the investigation.
- (5) Appropriate remedial measures to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of this chapter.

II. Beginning November 1, 2010, and each November 1 thereafter, the state board of education shall provide an annual report to the chairpersons of the education committees of the senate and house of representatives regarding the use of seclusion and restraint in schools. The annual report shall be prepared from the periodic, regular review of such records, and shall include the number and location of reported incidents and the status of any outstanding investigations.

Source. 2010, 375:2. 2014, 324:8, eff. Sept. 30, 2014.

Section 126-U:9

126-U:9 Review of Restraint Records by Department of Health and Human Services.

I. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to:

- (a) Periodic, regular review by the department of health and human services of records maintained by facilities regarding the use of seclusion and restraint.

(b) A process for the department's receipt of complaints and its conduct of investigations of reports of improper use of seclusion and restraint in facilities, which may be through the department of health and human services, office of the ombudsman, or otherwise. The process shall provide for:

- (1) Investigation of complaints regarding any violation of this chapter, regardless of whether injury results.
- (2) Investigation by persons not affiliated with the facility which is the subject of the complaint.
- (3) Resolution of complaints and completion of investigations within 30 days, with provision for limited extensions for good cause.
- (4) Protection of children before and after completion of the investigation.
- (5) Appropriate remedial measures to address physical and other injuries, protect against retaliation, and reduce the incidence of violations of this chapter.

II. Beginning November 1, 2010, and each November 1 thereafter, the commissioner of the department of health and human services shall provide an annual report to the committees of the house of representatives and the senate with jurisdiction over health and human services and over children and family law, regarding the use of seclusion and restraint in facilities. The annual report shall be based on the periodic, regular review of such records and shall include the number and location of reported incidents and the status of any outstanding investigations.

Source. 2010, 375:2. 2014, 324:8, eff. Sept. 30, 2014.

Section 126-U:10

126-U:10 Injury or Death During Incidents of Restraint or Seclusion. –

I. In cases involving serious injury or death to a child subject to restraint or seclusion in a facility, the facility shall, in addition to the provisions of RSA 126-U:7, notify the commissioner of the department of health and human services, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the notification required in RSA 126-U:7, II. The department of health and human services shall annually notify facilities of their responsibilities under this section and provide contact information for the persons to be notified.

II. In cases involving serious injury or death to a child subject to restraint or seclusion in a school, the school shall, in addition to the provisions of RSA 126-U:7, notify the commissioner of the department of education, the attorney general, and the state's federally-designated protection and advocacy agency for individuals with disabilities. Such notice shall include the written notification required in RSA 126-U:7, II. The department of education shall annually notify schools of their responsibilities under this section and provide contact information for the persons to be notified.

Source. 2010, 375:2. 2014, 324:8, eff. Sept. 30, 2014.

Section 126-U:11

126-U:11 Authorization and Monitoring of Extended Restraint. –

In a school or facility:

I. Restraint shall not be imposed for longer than is necessary to protect the child or others from the substantial and imminent risk of serious bodily harm.

II. Children in restraint shall be the subject of continuous direct observation by personnel trained in the safe use of restraint.

III. No period of restraint of a child may exceed 15 minutes without the approval of the director or a supervisory employee designated by the director to provide such approval.

IV. No period of restraint of a child may exceed 30 minutes unless a face-to-face assessment of the mental, emotional, and physical well-being of the child is conducted by the facility or school director or by a supervisory employee designated by the director who is trained to conduct such assessments. The assessment shall also include a determination of whether the restraint is being conducted safely and for a purpose authorized by this chapter. Such assessments shall be repeated at least every 30 minutes during the period of restraint. Each such assessment shall be documented in writing and such records shall be retained by the facility or school as part of the written notification required in RSA 126-U:7, II.

Source. 2010, 375:2, eff. Sept. 1, 2010.

Section 126-U:12

126-U:12 Restriction of the Use of Mechanical Restraint During the Transport of Children. –

I. A school or facility shall not use mechanical restraints during the transportation of children unless case-specific circumstances dictate that such methods are necessary.

II. Whenever a child is transported to a location outside a school or facility, the director shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort the child in a manner which:

- (a) Prevents physical and psychological trauma;
- (b) Respects the privacy of the child; and
- (c) Represents the least restrictive means necessary for the safety of the child.

III. Whenever a child is transported using mechanical restraints, the director shall document in writing the reasons for the use of mechanical restraints. Such documentation shall be treated as a notification of restraint under RSA 126-U:7.

Source. 2010, 375:2, eff. Sept. 1, 2010.

Section 126-U:13

126-U:13 Restriction of the Use of Mechanical Restraint in Courtrooms. – At any hearing under RSA 169-B, RSA 169-C, or RSA 169-D, the judge may subject a child to mechanical restraint in the courtroom only when the judge finds the restraint to be reasonably necessary to maintain order, prevent the child's escape, or provide for the safety of the courtroom. Whenever practical, the judge shall provide the child and the child's attorney an opportunity to be heard to contest the use of mechanical restraint before the judge orders its use. If mechanical restraint is ordered, the judge shall make written findings of fact in support of the order.

Source. 2010, 375:2, eff. Sept. 1, 2010.

Section 126-U:14

126-U:14 School Review Following the Use of Restraint or Seclusion. – Upon information that restraint or seclusion has been used for the first time upon a child with a disability as defined in RSA 186-C:2, I or a child who is receiving services under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 701, and its implementing regulations, the school shall review the individual educational program and/or Section 504 plan and make such adjustments as are indicated to eliminate or reduce the future use of restraint or seclusion. A parent or guardian of a child with a disability may request such a review at any time following an instance of restraint or seclusion and such request shall be granted if there have been multiple instances of restraint or seclusion since the last review.

Source. 2014, 324:9, eff. Sept. 30, 2014.

[Return to Table of Contents](#)

New Jersey (NJ)

Links

2020 New Jersey Revised Statutes

Title 18A - Education

Section 18A:46-13.5 - Use of physical restraint on students with disabilities.

Universal Citation:

[NJ Rev Stat § 18A:46-13.5 \(2020\)](#)

Law Text

18A:46-13.5 Use of physical restraint on students with disabilities.

2. a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes physical restraint on students with disabilities shall ensure that:

(1) physical restraint is used only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

(2) a student is not restrained in the prone position, unless the student's primary care physician authorizes, in writing, the use of this restraint technique;

(3) staff members who are involved in the restraint of a student receive training in safe techniques for physical restraint from an entity determined by the board of education to be qualified to provide such training, and that the training is updated at least annually;

(4) the parent or guardian of a student is immediately notified when physical restraint is used on that student, which notification may be by telephone or electronic communication. A full written report of the incident of physical restraint shall be provided to the parent or guardian within 48 hours of the occurrence of the incident;

(5) each incident in which a physical restraint is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(6) each incident in which physical restraint is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of physical restraints through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan team.

L.2017, c.291, s.2.

[Return to Table of Contents](#)

New Mexico (NM)

Links

New Mexico Statutes, Section 22-5-4.12 (NM Stat §22-5-4.12 (2017)):

<https://law.justia.com/codes/new-mexico/2017/chapter-22/article-5/section-22-5-4.12/>

Law Text

1. Definition of seclusion/isolation

a) "Seclusion" means the involuntary confinement of a student alone in a room from which egress is prevented.

b) "Seclusion" does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student's education plan, individual safety plan, behavioral plan or individualized education program that involves the student's separation from a larger group for purposes of calming.

2. Definition of restraint (physical, and mechanical)

a) "Restraint" when not otherwise modified means mechanical or physical restraint.

b) Mechanical Restraint

i. "Mechanical restraint" means the use of any device or material attached or adjacent to the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

ii. "Mechanical restraint" does not include mechanical supports or protective devices.

c) Physical Restraint

i. "Physical restraint" means the use of physical force without the use of any device or material that restricts the free movement of all or a portion of a student's body.

ii. "Physical restraint" does not include physical escort.

3. Circumstances where restraints, including seclusions, can be used

A school may permit the use of restraint or seclusion techniques on any student only if both of the following apply:

a) the student's behavior presents an imminent danger of serious physical harm to the student or others; and

b) less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm.

4. Duties related to the use of restraint

If a restraint or seclusion technique is used on a student:

a) School employees shall maintain continuous visual observation and monitoring of the student while the restraint or seclusion technique is in use

b) the restraint or seclusion technique shall end when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others

- c) the restraint or seclusion technique shall be used only by school employees who are trained in the safe and effective use of restraint and seclusion techniques unless an emergency situation does not allow sufficient time to summon those trained school employees
- d) the restraint technique employed shall not impede the student's ability to breathe or speak; and
- e) the restraint technique shall not be out of proportion to the student's age or physical condition.

5. Requirements for seclusion room

While standards for seclusion rooms in regular schools are not specified, the following are required for seclusion rooms in residential shelter care facilities for children under NM Admin Code 7.8.3.81:

- a) The room must have no less than 80 square feet of floor area.
- b) The door must be of substantial construction either one and three-quarter inches, bonded solid core or metal able to withstand unusual stress.
- c) The door must be at least 32 inches wide, preferably 36 inches.
- d) The door must swing outward to prevent children from barricading themselves in the room.
- e) The door must have a fixed wired glass vision panel not to exceed 1,296 square inches, and mounted in steel or other approved metal frame.
- f) A dual lock system that is simple to operate must be on the door. It must have a quickly-operated throw bolt and key lock.

- g) The floor must be of substantial construction with a smooth surface so that it presents no danger in terms of materials that peel, splinter, or cause burns.

6. Training requirements for staff

Not specified.

7. Documentation/Reporting requirements to administration and parents

Schools shall establish reporting and documentation procedures to be followed when a restraint or seclusion technique has been used on a student. The procedures shall include the following provisions:

- a) a school employee shall provide the student's parent or guardian with written or oral notice on the same day that the incident occurred, unless circumstances prevent same-day notification. If the notice is not provided on the same day of the incident, notice shall be given within twenty-four hours after the incident;
- b) within a reasonable time following the incident, a school employee shall provide the student's parent or guardian with written documentation that includes information about any persons, locations or activities that may have triggered the behavior, if known, and specific information about the behavior and its precursors, the type of restraint or seclusion technique used and the duration of its use; and
- c) If a school summons law enforcement instead of using a restraint or seclusion technique on a student, the school shall comply with the reporting, documentation and review procedures established above.

8. Review of the use of restraint

a) Schools shall review strategies used to address a student's dangerous behavior if use of restraint or seclusion techniques for an individual student has occurred two or more times during any thirty-calendar-day period. The review shall include:

- i) a review of the incidents in which restraint or seclusion techniques were used and an analysis of how future incidents may be avoided, including whether the student requires a functional behavioral assessment; and
- ii) a meeting of the student's individualized education program team, behavioral intervention plan team or student assistance team within two weeks of each use of restraint or seclusion after the second use within a thirty-calendar-day period to provide recommendations for avoiding future incidents requiring the use of restraint or seclusion.

9. Student Reintegration

Policies regarding restraint and seclusion shall consider school district support and strategies for school employees to successfully reintegrate a student who has been restrained or secluded back into the school or classroom environment.

10. School Safety Plans

Schools shall establish policies and procedures for the use of restraint or seclusion techniques in a school safety plan; provided that:

- a) the school safety plan shall not be specific to any individual student; and
- b) any school safety plan shall be drafted by a planning team that includes at least one special education expert.

[Return to Table of Contents](#)

New York (NY)

Links

<https://www.schoolhealthny.com/site/default.aspx?PageType=3&ModuleInstanceID=220&ViewID=7b97f7ed-8e5e-4120-848f-a8b4987d588f&RenderLoc=0&FlexDataID=4120&PageID=131>

Law Text

Each district and approved private school, special act school district and State-operated school is required to establish a school district code of conduct and discipline that meets the requirements of Title 8 of the New York Code of Rules and Regulations (8 NYCRR) 1§100.2(l). Each school's code of conduct and discipline and behavioral interventions must be developed consistent with NYSED regulations that promote the use of positive behavioral supports and interventions and prohibit or limit the use of certain types of behavioral interventions for students. NYSED regulations:

Prohibit the use of corporal punishment [8 NYCRR §§19.5];

19.5 Prohibition of corporal punishment and aversive interventions.

(a) Prohibition of corporal punishment.

(1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school, an approved preschool program, an approved private school, an approved out-of-state day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.

(2) As used in this section, *corporal punishment* means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph (3) of this subdivision.

(3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:

(i) to protect oneself from physical injury;

(ii) to protect another pupil or teacher or any person from physical injury;

(iii) to protect the property of the school, school district or others; or

(iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) Prohibition of the use of aversive interventions.

(1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.

(2) As used in this section, *aversive intervention* means: an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:

- (i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;
- (ii) any form of noxious, painful or intrusive spray, inhalant or tastes;
- (iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
- (iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or
- (v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

8 CRR-NY 19.5

Current through November 30, 2020

Prohibit the use of aversive interventions, with limited exceptions [8 NYCRR §§19.5 and 200.22];

Authorize the limited use of unlocked time out rooms where a student is observed by staff at all times when a student needs an area to safely deescalate, regain control and prepare to meet expectations to return to his or her education program [8 NYCRR §200.22(c)]; and

Authorize the use of reasonable physical force, including the use of physical restraints only in emergency situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed [8 NYCRR §19.5 and 200.22(d)].

200.22 Program standards for behavioral interventions.

Behavioral interventions for students with disabilities shall be provided in accordance with this section and those other applicable provisions of this Part and/or Part 201 that are not inconsistent with this section.

(a) Assessment of student behaviors. For purposes of this section, an assessment of student behaviors shall mean a functional behavioral assessment (FBA), as such term is defined in section 200.1(r) of this Part.

(1) A FBA shall be conducted as required in section 200.4 of this Part and section 201.3 of this Title.

(2) The FBA shall, as appropriate, be based on multiple sources of data including, but not limited to, information obtained from direct observation of the student, information from the student, the student's teacher(s) and/or related service provider(s), a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA shall not be based solely on the student's history of presenting problem behaviors.

3) The FBA shall provide a baseline of the student's problem behaviors with regard to frequency, duration, intensity and/or latency across activities, settings, people and times of the day and include the information required in section 200.1(r) of this Part in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses antecedent behaviors, reinforcing consequences of the behavior, recommendations for teaching alternative skills or behaviors and an assessment of student preferences for reinforcement.

(b) Behavioral intervention plan.

(1) The CSE or CPSE shall consider the development of a behavioral intervention plan, as such term is defined in section 200.1(mmm) of this Part, for a student with a disability when:

(i) the student exhibits persistent behaviors that impede his or her learning or that of others, despite consistently implemented general school-wide or classroom-wide interventions;

(ii) the student's behavior places the student or others at risk of harm or injury;

(iii) the CSE or CPSE is considering more restrictive programs or placements as a result of the student's behavior; and/or

(iv) as required pursuant to section 201.3 of this Title.

(2) In accordance with the requirements in section 200.4 of this Part, in the case of a student whose behavior impedes his or her learning or that of others, the CSE or CPSE shall consider strategies, including positive behavioral interventions and supports and other strategies to address that behavior. If a particular device or service, including an intervention, accommodation or other program modification is needed to address the student's behavior that impedes his or her learning or that of others, the IEP shall so indicate. A student's need for a behavioral intervention plan shall be documented on the IEP and such plan shall be reviewed at least annually by the CSE or CPSE.

(3) Except as provided in subdivision (e) of this section, a behavioral intervention plan shall not include the use of aversive interventions.

(4) The behavioral intervention plan shall identify:

(i) the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline shall, to the extent practicable, include data taken across activities, settings, people and times of the day. The baseline data shall be used as a standard to establish performance criteria and against which to evaluate intervention effectiveness;

(ii) the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behavior(s); and

(iii) a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.

(5) Progress monitoring. The implementation of a student's behavioral intervention plan shall include regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals, as specified in the behavioral intervention plan and on the student's IEP. The results of the progress monitoring shall be documented and reported to the student's parents and to the CSE or CPSE and shall be considered in any determination to revise a student's behavioral intervention plan or IEP.

(c) Use of time out rooms. A time out room is an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program. Time out rooms are to be used in conjunction with a behavioral intervention plan in which a student is removed to a supervised area in order to facilitate self-control or to remove a student from a potentially dangerous situation and as provided in paragraph (3) of this subdivision.

(1) Each school which uses a time out room as part of its behavior management approach shall ensure that the school's policy and procedures on the use of the time out room are developed and implemented consistent with this subdivision,

including the physical and monitoring requirements, parental rights and IEP requirements for students with disabilities. The school's policy and procedures shall minimally include:

- (i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised;
- (ii) factors which may precipitate the use of the time out room;
- (iii) time limitations for the use of the time out room;
- (iv) staff training on the policies and procedures related to the use of time out room;
- (v) data collection to monitor the effectiveness of the use of time out rooms; and
- (vi) information to be provided to parents.

(2) A student's IEP shall specify when a behavioral intervention plan includes the use of a time out room for a student with a disability, including the maximum amount of time a student will need to be in a time out room as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs.

(3) Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.

(4) The school district shall inform the student's parents prior to the initiation of a behavioral intervention plan that will incorporate the use of a time out room for a student and shall give the parent the opportunity to see the physical space

that will be used as a time out room and provide the parent with a copy of the school's policy on the use of time out rooms.

(5) The physical space used as a time out room shall provide a means for continuous visual and auditory monitoring of the student. The room shall be of adequate width, length and height to allow the student to move about and recline comfortably. Wall and floor coverings should be designed to prevent injury to the student and there shall be adequate lighting and ventilation. The temperature of the room shall be within the normal comfort range and consistent with the rest of the building. The room shall be clean and free of objects and fixtures that could be potentially dangerous to a student and shall meet all local fire and safety codes.

(6) The time out room shall be unlocked and the door must be able to be opened from the inside. The use of locked rooms or spaces for purposes of time out is prohibited.

(7) Staff shall continuously monitor the student in a time out room. The staff must be able to see and hear the student at all times.

(8) The school shall establish and implement procedures to document the use of the time out room, including information to monitor the effectiveness of the use of the time out room to decrease specified behaviors.

(9) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to use of time out rooms conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provisions of this section shall not apply.

(d) Emergency Interventions.

(1) For purposes of this subdivision, emergency means a situation in which immediate intervention involving the use of reasonable physical force pursuant to section 19.5(a)(3) of this Title is necessary.

(2) Use of emergency interventions.

(i) Emergency interventions shall be used only in situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed.

(ii) Emergency interventions shall not be used as a punishment or as a substitute for systematic behavioral interventions that are designed to change, replace, modify or eliminate a targeted behavior.

(3) Staff training. Staff who may be called upon to implement emergency interventions shall be provided with appropriate training in safe and effective restraint procedures in accordance with section 100.2(l)(1)(i)(g) of this Title and section 200.15(h)(1) of this Part as applicable.

(4) Documentation. The school must maintain documentation on the use of emergency interventions for each student, which shall include the name and date of birth of the student; the setting and the location of the incident; the name of the staff or other persons involved; a description of the incident and the emergency intervention used, including duration; a statement as to whether the student has a current behavioral intervention plan; and details of any injuries sustained by the student or others, including staff, as a result of the incident. The parent of the student shall be notified and documentation of emergency interventions shall be reviewed by school supervisory personnel and, as necessary, the school nurse or other medical personnel.

(5) Applicability. For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to emergency interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(e) Child-specific exception to use aversive interventions to reduce or modify student behaviors. A child-specific exception to the prohibition of the use of aversive interventions set forth in section 19.5 of this Title may be granted for a schoolage student, in accordance with the procedures outlined in this subdivision, only during the 2006-2007, 2007-2008 and 2008-2009 school years; provided that a student whose IEP includes the use of aversive interventions as of June 30, 2009 may be granted a child-specific exception in each subsequent school year, unless the IEP is revised to no longer include such exception. No child-specific exception shall be granted for a preschool student.

(1) Aversive interventions shall be considered only for students who are displaying self-injurious and/or aggressive behaviors that threaten the physical well being of the student or that of others, and only to address such behaviors.

(2) No child-specific exception shall be granted for interventions used as a consequence for behavior which are intended to induce pain or discomfort that include ice applications, hitting, slapping, pinching, deep muscle squeezes, use of an automated aversive conditioning device, the combined simultaneous use of physical or mechanical restraints and the application of an aversive intervention; withholding of sleep, shelter, bedding, bathroom facilities, denial or unreasonable delays in providing regular meals to the student that would result in a student not receiving adequate nutrition; the placement of a child unsupervised or unobserved in a room from which the student cannot exit without assistance or actions similar to these interventions at the discretion of the Commissioner.

(3) Whenever a CSE is considering whether a child-specific exception is warranted, the school district shall submit an application to the commissioner in a form prescribed by the commissioner requesting a review of student specific information by an independent panel of experts.

(4) The commissioner shall refer the application to an independent panel of experts appointed by the commissioner or commissioner's designee for a recommendation to the CSE as to whether a child-specific exception is warranted. The panel shall be comprised of three professionals with appropriate clinical and behavioral expertise to make such determinations.

(5) The panel shall review the written application; the student's IEP; the student's diagnosis(es); the student's functional behavioral assessment; any proposed, current and/or prior behavioral intervention plans for the student, including documentation of the implementation and progress monitoring of the effectiveness of such plans; and other relevant individual evaluations and medical information that allow for an assessment of the student's cognitive and adaptive abilities and general health status, including any information provided by the student's parent.

(6) The panel's recommendation to the CSE that a child-specific exception is warranted shall be based on the professional judgment of the panel that: 209
200.22

(i) the student is displaying self-injurious or aggressive behaviors that threaten the physical well being of the student or that of others and a full range of evidence-based positive behavioral interventions have been consistently employed over an appropriate period of time and have failed to result in sufficient improvement of a student's behavior; or

(ii) the student's self-injurious or aggressive behaviors are of such severity as to pose significant health and safety concerns that warrant the use of aversive interventions to effect rapid suppression of the behavior and a range of nonaversive prevention strategies have been employed and have failed to provide a sufficient level of safety.

(7) The panel shall notify the school district and the commissioner of its recommendation as to whether a child-specific exception is warranted and the reasons therefor. For students whose current IEP does not include a child-specific exception, the panel shall provide such notice within 15 business days of receipt of an application.

(8) The CSE shall determine, based on its consideration of the recommendation of the panel, whether the student's IEP shall include a child-specific exception allowing the use of aversive interventions. The determination to provide a child-specific exception shall be made by the CSE and not by a subcommittee.

The CSE shall request the participation of the school physician member in such determination. The school district shall notify and provide a copy of the student's IEP to the commissioner when a child-specific exception has been included in the student's IEP.

(9) Any IEP providing for a child-specific exception allowing the use of aversive interventions shall identify the specific:

(i) self-injurious and/or aggressive targeted behavior(s);

(ii) aversive intervention(s) to be used to address the behavior(s); and

(iii) aversive conditioning device(s) and/or mechanical restraint device(s) where the aversive intervention(s) includes the use of such device(s).

(10) Nothing in this section shall authorize the use of aversive interventions without the informed written consent of the student's parent.

(11) Any such child-specific exception shall be in effect only during the time period the IEP providing such exception is in effect. If the continued use of an aversive intervention for a student is being considered for subsequent IEP(s), the CSE shall submit an annual application to the commissioner for each such IEP(s). If the student's IEP is amended or a subsequent IEP is adopted to no longer include a child-specific exception, the school district need not notify the panel but shall submit a revised copy of the student's IEP to the commissioner.

(12) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to the use of aversive interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(13) Coordination with licensing agencies. Nothing in this section shall authorize a school or agency to provide aversive interventions that are otherwise prohibited by the State agency licensing such program.

(f) Program standards for the use of aversive interventions.

(1) Applicability.

(i) The requirements in this subdivision shall apply to any public school, BOCES, charter school, approved private school, State-operated or State-supported school in this State and an approved out-of-State day or residential school that proposes to use aversive interventions subject to the approval of the Department.

(ii) For an education program operated pursuant to section 112 of the Education Law and Part 116 of this Title, if a provision of this section relating to the use of aversive interventions conflicts with the rules of the respective State agency operating such program, the rules of such State agency shall prevail and the conflicting provision of this section shall not apply.

(2) General requirements. Any program that employs the use of aversive interventions to modify an individual student's behavior as authorized pursuant to subdivision (e) of this section shall comply with the following standards:

(i) The program shall provide for the humane and dignified treatment of the student. The program shall promote respect for the student's personal dignity and right to privacy and shall not employ the use of threats of harm, ridicule or humiliation, nor implement behavioral interventions in a manner that shows a lack of respect for basic human needs and rights.

(ii) Aversive intervention procedures may be used only if such interventions are recommended by the CSE consistent with the student's IEP and behavioral intervention plan as determined by the CSE.

(iii) Aversive intervention procedures shall not be the sole or primary intervention used with a student and shall be used in conjunction with other related services, as determined by the CSE, such as verbal or 211 200.22 other counseling services, speech and language therapy and/or functional communication training.

(iv) Aversive interventions shall be combined with reinforcement procedures, as individually determined based on an assessment of the student's reinforcement preferences.

(v) Aversive interventions shall be implemented consistent with peer reviewed research based practices and shall include individualized procedures for generalization and maintenance of behaviors and for the fading of the use of such aversive interventions.

(vi) The use of aversive interventions shall be limited to those self injurious or aggressive behaviors identified for such interventions on the student's IEP.

(vii) Whenever possible, the use of aversive interventions shall apply the lowest intensity for the shortest duration and period of time that is effective to treat the problem behavior and employ strategies that increase the effectiveness of mild levels of aversive interventions. In the event the aversive intervention fails to result in a suppression or reduction of the behavior over time, alternative procedures shall be considered that do not include increasing the magnitude of the aversive intervention.

(viii) The use of any aversive conditioning device used to administer an electrical shock or other noxious stimuli to a student to modify undesirable behavioral characteristics shall be limited to devices tested

for safety and efficacy and approved for such use by the United States Food and Drug Administration where such approval is required by Federal regulation. The magnitude, frequency and duration of any administration of aversive stimulus from such a device must have been shown to be safe and effective in clinical peer-reviewed studies. The use of automated aversive conditioning devices is prohibited.

(ix) No program may combine the simultaneous use on a student of a physical or mechanical restraint device with another aversive intervention.

(3) Human Rights Committee.

(i) Each school that uses aversive interventions with students shall establish a Human Rights Committee to monitor the school's behavior intervention program for any student being considered for or receiving aversive interventions to ensure the protection of legal and human rights of individuals.

(ii) Each Human Rights Committee shall be comprised of individuals not employed by the school or agency, which shall include at least one licensed psychologist with appropriate credentials in applied behavior analysis; one licensed physician, physician's assistant or nurse practitioner; one registered dietician or nutritionist; one attorney, law student or paralegal; and one parent or parent advocate and may include not more than two additional individuals selected by the school or agency. In addition, when the purpose of the Human Rights Committee meeting includes a review of an individual New York State student's program, a representative of the school district or agency placing the student in the program and a representative of the department shall be invited to participate.

(iii) The Human Rights Committee shall meet at least quarterly to review, monitor and investigate the implementation of students' behavioral intervention plans that include aversive interventions. A written report

on the findings and recommendations of the Human Rights Committee regarding an individual student shall be provided to the CSE of the student and to the agency that placed the student in the program.

(4) Supervision and training requirements. Aversive interventions shall be administered by appropriately licensed professionals or certified special education teachers in accordance with Part 80 of this Title and sections 200.6 and 200.7 of this Part or under the direct supervision and direct observation of such staff. Training shall be provided on a regular, but at least annual basis, which shall include, but not be limited to, training on:

(i) safe and therapeutic emergency physical restraint interventions;

(ii) data collection of the frequency, duration and latency of behaviors;

(iii) identification of antecedent behaviors and reinforcing consequences of the behavior;

(iv) approaches to teach alternative skills or behaviors including functional communication training;

(v) assessment of student preferences for reinforcement,

(vi) assessing and responding to the collateral effects of the use of aversive interventions including, but not limited to, effects on a student's health, increases in aggression, increases in escape behaviors and/or emotional reactions;

(vii) privacy rights of students; and

(viii) documentation and reporting of incidents, including emergency restraints and injuries.

(5) Parent consent. Aversive interventions shall be provided only with the informed written consent of the parent and no parent shall be required by the program to remove the student from the program if he or she refuses consent for an aversive intervention. A parent shall be given a copy of the school's policies and procedures on the use of aversive interventions.

(6) Quality assurance reviews. The program providing aversive interventions shall conduct periodic reviews of all incident reports relating to such interventions to ensure that practices are clinically sound, supported by proper documentation and consistent with these program standards and the school's policies and procedures as approved by the department.

(7) Progress monitoring.

(i) The program shall provide for ongoing monitoring of student progress, including the collection and review of data and information. Such information shall include reports on the assessment of and strategies used to address any indirect or collateral effects the use of aversive interventions may be having on the student, including, but not limited to, increases in aggressive or escape behaviors, health-related effects and/or emotional reactions. The program shall submit quarterly written progress reports on the implementation of the student's behavioral intervention program to the CSE and to the agency that placed the student in the program.

(ii) A school district that places a student in a program that uses aversive interventions with such student shall be responsible to ensure that the student's IEP and behavioral intervention plan are being implemented. The CSE shall convene at least every six months, or more frequently as needed, to review the student's educational program and placement for any student for whom the CSE has recommended the use of aversive interventions. Such review shall include the review of written progress monitoring and incident reports, documentation from observations of and, as appropriate, interviews with the student in the program and the concerns of the student's parent. A representative of the school district shall observe the student at least every six months and, as appropriate,

interview the student in the program and communicate regularly with the student's parent and shall report the results thereof to the CSE.

(8) Policies and procedures. Each school that proposes to use aversive interventions pursuant to a child-specific exception shall submit its policies and procedures consistent with this subdivision to the department for approval prior to the use of such interventions. Only those schools with policies and procedures approved by the department on or before June 30, 2007 shall be authorized to use such interventions

[Return to Table of Contents](#)

North Carolina (NC)

Links

<https://adanc.org/wp-content/uploads/2018/08/Seclusion-and-Restraint-in-NC-Schools-Self-Advocacy-Packet.pdf>

Law Text

Definition of seclusion/isolation

Seclusion means confining a student alone in an enclosed space in which the student is prevented from leaving. For example:

A student is locked in a room

A student is put in a room and a teacher holds the door shut

A student is put in a room and a teacher blocks the doorway

A student who uses a wheelchair is put in a room and cannot leave the room because he cannot push his own wheelchair out

A student is put in a room and does not understand that she can leave

Is seclusion different from isolation?

Yes. If the student is prevented from leaving an enclosed space, it is seclusion. If the student is not prevented from leaving the space, it is isolation.

Circumstances where seclusion can be used

Staff may use seclusion:

When reasonably necessary to prevent injury to themselves or others

As written in the student's IEP, 504 plan, or Behavior Intervention Plan

Staff may not use seclusion solely as a disciplinary measure or punishment.

Staff must release the student when the behaviors that led to seclusion have ended, or as otherwise written in the student's IEP or 504 plan.

Requirements for seclusion room

It must be appropriately lighted, ventilated, and heated or cooled

It cannot contain any objects that unreasonably expose the student or others to harm (such as metal objects, sharp edges, ropes, toilets, heavy doors, household cleaners).

The space must be approved by the school system for use as a seclusion space.

The student must be monitored by an adult who is able to see and hear the student at all times.

Can the seclusion space be locked?

Yes, but the lock may only engage when a key, knob, handle or button is held in position by a person. If the lock is electric, it must automatically disengage when the fire alarm is activated.

How long can my student be placed in seclusion?

There is no set limit on the length of time a student can be placed in seclusion. School staff must release the student when the behaviors that led to seclusion have ended, or as otherwise written in the student's IEP or 504 plan.

Definition of Restraint

Using physical force to keep a student from moving all or part of his/her body freely. Physical restraint is regulated by North Carolina law. Schools use different phrases for physical restraint:

Physical hold

Therapeutic hold

Child control

Circumstances where restraint can be used

Obtain possession of a weapon or dangerous object

Maintain order, or stop or prevent a fight

Prevent injury to themselves, or others

Escort a student safely from one place to another

Prevent property destruction

Staff may also use physical restraint as written in the student's IEP, 504 plan, or Behavior Intervention Plan

North Carolina does not limit the use of certain restraint techniques. This means staff are allowed to use “prone restraint,” a dangerous technique in which a student is held in a face-down position.

There is no set limit on the length of time a student can be placed in restraint. School staff must release the student when the behaviors that led to the restraint have ended.

Training requirements for staff

Must school staff be certified in safe restraint techniques?

No. The school system must offer training in de-escalation and proper restraint techniques to staff. Staff are not required to be certified before using physical restraint. You can ask whether your student’s teacher is certified.

Documentation/Reporting requirements

Documentation on Restraint: By law, the school is only required to notify parents of a prohibited use of mechanical restraint, or a physical restraint that results in observable physical injury to the student.

In these cases, school staff must notify you of the incident by the end of the following work day. Within 30 days, the school must give you a written incident report that includes:

The date, time, nature and duration of the restraint;

The events leading up to the incident, including other interventions staff tried;

A full description of any injuries to the student; and

The name of a school employee you may contact with questions.

Although notice is only required in the situations listed above, it is best practice for the school to provide you with a report every time restraint is used on your student.

Documentation of the Use of Seclusion

Parental notification requirements

Will the school notify me when they use seclusion on my student?

By law, the school is only required to notify parents of a prohibited use of seclusion (meaning seclusion used for discipline or punishment), seclusion that lasts longer than 10 minutes, or seclusion that lasts longer than the time allowed in the student's IEP or behavior intervention plan.

In these cases, school staff must notify you of the incident by the end of the following work day. Within 30 days, the school must give you a written incident report that includes:

The date, time, nature and duration of the seclusion;

The events leading up to the incident, including other interventions staff tried;

A full description of any injuries to the student; and

The name of a school employee you may contact with questions.

Although notice is only required in the situations listed above, it is best practice for the school to provide you with a report every time seclusion is used on your student.

Can I demand that the school not use seclusion on my student?

No. The law does not require school staff to have parental consent to use seclusion.

By law, the school is only required to notify parents of a prohibited use of mechanical re-straint, or a physical restraint that results in observable physical injury to the student.

In these cases, school staff must notify you of the incident by the end of the following work day. Within 30 days, the school must give you a written incident report that includes:

The date, time, nature and duration of the restraint;

The events leading up to the incident, including other interventions staff tried;

A full description of any injuries to the student; and

The name of a school employee you may contact with questions.

Although notice is only required in the situations listed above, it is best practice for the school to provide you with a report every time restraint is used on your student.

Additional information:

SROs may use seclusion or restraint in carrying out their law enforcement duties. The law specifically exempts law enforcement officers from its restrictions.

Most SROs have some basic, general training about people with disabilities. Most SROs do not receive in-depth training about specific disabilities. The school does not train the SRO on your student's individual needs and characteristics.

[Return to Table of Contents](#)

North Dakota (ND)

Links

CHAPTER 15.1-19 STUDENTS AND SAFETY

15.1-19-02. Corporal punishment - Prohibition - Consistent policies.

<https://www.legis.nd.gov/cencode/t15-1c19.pdf>

Law Text

Restraint and Seclusion:

No relevant laws found.

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.
2. This section does not prohibit a school district employee from using the degree of force necessary:
 - a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
 - b. To quell a verbal disturbance;
 - c. For self-defense;

d. For the preservation of order; or

e. To obtain possession of a weapon or other dangerous object within the control of a student.

3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment. A school board may not expand through policy the definition of corporal punishment beyond that provided by this subsection

4. a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.

b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

[Return to Table of Contents](#)

Ohio (OH)

Links

Rule 3301-35-15 | Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

[Ohio Administrative Code 3301](#)

[Chapter 3301-35 | Standards for Kindergarten through Twelfth Grade](#)

Law Text

(A) Notwithstanding rule 3301-35-01 of the Administrative Code, the following definitions apply for purposes of this rule:

(1) "Aversive behavioral interventions" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as application of noxious, painful and/or intrusive stimuli, including any form of noxious, painful or intrusive spray, inhalant or taste or other sensory stimuli such as climate control, lighting and sound.

(2) "Behavior Intervention Plan" means a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, by strengthening replacement skills, teaching new skills and by providing positive behavior intervention and supports and services to address behavior.

(3) "Chemical restraint" means a drug or medication used to control a students behavior or restrict freedom of movement. Chemical restraint is prohibited by school districts in accordance with paragraph (D) of this rule. Chemical restraint, as used under this rule, does not apply to a drug or medication that is:

(a) Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professionals authority under Ohio law, for the standard treatment of a students medical or psychiatric condition; and

(b) Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professionals authority under Ohio law.

(4) "De-escalation techniques" means interventions that are used to prevent violent and aggressive behaviors and reduce the intensity of threatening, violent and disruptive incidents.

(5) "Functional Behavior Assessment" is a school-based process for students with disabilities and students without disabilities 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 childs environment. Consent from the parent and, as appropriate, the child, is to be obtained at the initial functional behavior assessment.

(6) "Mechanical restraint" means any method of restricting a students freedom of movement, physical activity, or normal use of the students body by using an appliance or device manufactured for this purpose; but does not mean a device used by trained student personnel, or used by a student, for the specific and approved therapeutic or safety purpose for which the device was designed and, if applicable, prescribed, including:

(a) Restraints for medical immobilization;

(b) Adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(c) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

(7) "Parent" means:

(a) A biological or adoptive parent;

(b) A guardian generally authorized to act as the child's parent, or authorized to make decisions for the child (but not the state if the child is a ward of the state);

(c) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;

(d) A surrogate parent who has been appointed in accordance with paragraph (E) of rule [3301-51-05](#) of the Administrative Code; or

(e) Any person identified in a judicial decree or order as the parent of a child or the person with authority to make educational decisions on behalf of a child.

(8) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, waist, hip, or back for the purpose of inducing a student to move to a safe location.

(9) "Physical restraint" means the use of physical contact in a way that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint. Physical restraint does not include brief physical contact for the following or similar purposes:

(a) To break up a fight;

(b) To knock a weapon away from a student's possession;

(c) To calm or comfort;

(d) To assist a student in completing a task/response if the student does not resist the contact; or

(e) To prevent imminent risk of injury to the student or others.

(10) "Positive behavior intervention and supports" has the same meaning as in section [3319.46](#) of the Revised Code.

(11) "Positive Behavior Intervention and Supports leadership team" means the assigned team at the district and building level that plans, coaches and monitors positive behavior intervention and supports implementation in the district and building. Positive behavior intervention and supports leadership teams may include, but are not limited to, school administrators, teacher representatives across grade levels and programs, staff able to provide behavioral expertise, and other representatives identified by the district or school such as bus drivers, food service staff, custodial staff, and paraprofessionals.

(12) "Prone restraint" means physical or mechanical restraint while the individual is in the face-down position.

(13) "School district" means a local, exempted village, city, joint vocational or cooperative education school district as defined in Chapter 3311. of the Revised Code; an educational service center that operates a school or educational program; a community school as defined in Chapter 3314. of the Revised Code; a science, technology, engineering, and mathematics school as defined in Chapter 3326. of the Revised Code; or a college-preparatory boarding school as defined in Chapter 3328. of the Revised Code. For purposes of this rule, the term does not include schools operated in facilities under the jurisdiction of the department of rehabilitation and corrections or the department of youth services.

(14) "Seclusion" means the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.

(15) "Student" means an individual enrolled in a school district.

(16) "Student personnel" means teacher, principal, counselor, social worker, school resource officer, teachers aide, psychologist, bus driver, related services providers, nursing staff, or other school district staff who interact directly with students.

(17) "Timeout" means a behavior intervention in which a student, for a limited and specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior. In a timeout, the student is not physically restrained or prevented from leaving the area by physical barriers.

(B) Positive behavior intervention and supports framework.

Each school district shall implement positive behavior intervention and supports on a system-wide basis in accordance with section [3319.46](#) of the Revised Code and this rule.

(i) The requirements for a districts implementation of a positive behavior intervention and supports framework are as follows:

(a) Includes a decision-making framework that guides selection, integration, and implementation of evidence-based academic and behavior practices for improving academic and behavior outcomes for all students.

(b) Includes the following integrated elements:

(i) Data-based decision making (to select, monitor, and evaluate outcomes, practices, and systems);

(ii) Evidence-based practices along a multi-tiered continuum of supports;

(iii) Systems that enable accurate and sustainable implementation of practices; and

(iv) Progress monitoring for fidelity and target outcomes.

(2) Standards for a school districts implementation of positive behavior intervention and supports framework include:

(a) Student personnel to receive professional development in accordance with paragraph (C) of this rule;

(b) Explicit instruction of school-wide behavior expectations;

(c) Consistent systems of acknowledging and correcting behaviors;

(d) Teaching environments designed to eliminate behavior triggers; and

(e) Family and community involvement.

(C) Professional development for the implementation of positive behavior intervention and supports.

The following are requirements for professional development to be received by student personnel to implement positive behavior intervention and supports on a system-wide basis:

(1) Occurs at least every three years;

(2) Provided by a building or district positive behavior intervention and supports leadership team or an appropriate state, regional, or national source in collaboration with the building or district positive behavior intervention and supports leadership team;

(3) The trained positive behavior intervention and supports leadership team will provide professional development to the school or district in accordance with a district developed positive behavior intervention and supports training plan. It is the district's responsibility to retain records of completion of the professional development; and

(4) The professional development under this rule will include the following topics:

(a) An overview of positive behavior intervention and supports;

(b) The process for teaching behavioral expectations;

(c) Data collection;

(d) Implementation of positive behavior intervention and supports with fidelity;

(e) Consistent systems of feedback to students for acknowledgment of appropriate behavior and corrections for behavior errors; and

(f) Consistency in discipline and discipline referrals.

(5) For the purpose of satisfying the professional development requirements of this rule, the district may accept any professional development or continuing education provided in accordance with division (B) of section [3319.237](#) of the Revised Code, as long as the professional development or continuing education meets the professional development requirements of paragraph (C)(4) of this rule.

(6) Districts and schools are to ensure that they have continuous training structures in place to provide ongoing coaching and implementation with fidelity.

(7) The listed requirements may be appropriately modified for the intended audience.

(D) General rules for restraint and seclusion.

(i) The following practices are prohibited by student personnel under any circumstance:

(a) Prone restraint;

(b) Any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that:

(i) Involves the use of pinning down a student by placing knees to the torso, head, or neck of the student;

(ii) Uses pressure point, pain compliance, or joint manipulation techniques; or

(iii) Otherwise involves techniques that are used to unnecessarily cause pain.

(c) Corporal punishment as defined in section [3319.41](#) of the Revised Code;

(d) Child endangerment, as defined in section [2919.22](#) of the Revised Code;

(e) Deprivation of basic needs;

(f) Seclusion or restraint of preschool children in violation of paragraph (D) of rule [3301-37-10](#) of the Administrative Code and this rule;

(g) Chemical restraint;

(h) Mechanical restraint;

(i) Aversive behavioral interventions; and

(j) Seclusion in a locked room or area.

(2) A school district may only use physical restraint or seclusion if staff:

(a) Are appropriately trained to protect the care, welfare, dignity, and safety of the student;

(b) Continually observe the student in restraint and seclusion for indications of physical or mental distress and seek immediate medical assistance if there is a concern;

(c) Use communication strategies and research-based de-escalation techniques in an effort to help the student regain control;

(d) Remove the student from physical restraint or seclusion immediately when the immediate risk of physical harm to self or others has dissipated;

(e) Conduct a de-briefing including all involved staff to evaluate the trigger for the incident, staff response, and methods to address the students behavioral needs; and

(f) Complete all mandatory reports and document staffs observations of the student.

(E) Physical restraint.

(1) Prone restraint, including any physical restraint that obstructs the airway of the student, or any physical restraint that impacts a students primary mode of communication, is prohibited. A statement to this effect is to be included in the school districts policy. Student personnel may use physical restraint only as a last resort and in accordance with local policy and the requirements of this rule.

(2) Physical restraint may be used only:

(a) If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective method of intervention is available;

(b) If the physical restraint does not obstruct the student's ability to breathe;

(c) If the physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication; and

(d) By student personnel who are trained in safe restraint techniques, except in the case of rare and unavoidable emergency situations when trained personnel are not immediately available.

(3) Physical restraint may not be used for punishment or discipline or as a substitute for other less restrictive means of assisting a student in regaining control.

(F) Seclusion

(1) Seclusion may be used only:

(a) If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective method of intervention is available;

(b) As a last resort to provide an opportunity for the student to regain control of his or her actions;

(c) For the minimum amount of time necessary for the purpose of protecting the student and others from physical harm;

(d) In a room or area that:

(i) Is not locked;

(ii) Does not prevent the student from exiting the area should staff become incapacitated or leave the area; and

(iii) Provides adequate space, lighting, ventilation, and the ability to observe the student; and

(e) If under constant supervision by staff who are trained to be able to detect indications of physical or mental distress that require removal and/or immediate medical assistance and who document their observations of the student.

(2) Seclusion may not be used:

(a) For punishment or discipline;

(b) For the convenience of staff;

(c) As a substitute for an educational program;

(d) As a substitute for inadequate staffing;

(e) As a substitute for staff training in positive behavior intervention and supports framework and crisis management;

(f) As a means to coerce, retaliate, or in a manner that endangers a student; or

(g) As a substitute for other less restrictive means of assisting a student in regaining control, such that it is reflective of the cognitive, social and emotional level of the student.

(G) Multiple incidents of restraint and seclusion.

(1) After the third incident of physical restraint or seclusion in a school year of a student who has been found eligible for special education services or has a 504 plan, the requirements are as follows:

(a) The students individualized education program or 504 team will meet within ten school days of the third incident;

(b) The individualized education program or 504 team will consider the need to conduct or develop a functional behavior assessment or behavior intervention plan, or amend an existing functional behavior assessment or behavior intervention plan.

(2) For students not described in paragraph (G)(1) of this rule, a team, consisting of the parent, an administrator or designee, a teacher of the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members will meet within ten school days of the third incident to discuss the need to conduct or review a functional behavior assessment and/or develop a behavior intervention plan.

(3) Nothing in this section is meant to prevent the completion of a functional behavior assessment or behavior intervention plan for any student who might benefit from these measures, but has fewer than three incidents of restraint or seclusion.

(4) Nothing in this rule is meant to prevent a school district from conducting any evaluations or other obligations they feel appropriate under the Individuals with Disabilities Education Act.

(H) Training and professional development for the use of crisis management and de-escalation techniques which includes the use of restraint and seclusion.

(1) A school district shall ensure that an appropriate number of personnel in each building are trained annually in evidence-based crisis management and de-escalation

techniques, as well as the safe use of physical restraint and seclusion. The minimum training requirements are as follows:

- (a) Proactive measures to prevent the use of seclusion or restraint;
 - (b) Crisis management;
 - (c) Documentation and communication about the restraint or seclusion with appropriate parties;
 - (d) The safe use of restraint and seclusion;
 - (e) Instruction and accommodation for age and body size diversity;
 - (f) Directions for monitoring signs of distress during and following physical control;
 - (g) Debriefing practices and procedures;
 - (h) Face-to-face training;
 - (i) Allow for a simulated experience of administering and receiving physical restraint; and
 - (j) Ensure that participants will demonstrate proficiency in items described in paragraphs (H)(1)(a) to (H)(1)(i) of this rule.
- (2) The school district shall maintain written or electronic documentation that includes the following:
- (a) The name, position, and building assignment of each person who has completed training;

(b) The name, position, and credentials of each person who has provided the training;

(c) When the training was completed; and

(d) What protocols, techniques, and materials were included in training.

(3) As part of the training under this rule, student personnel are to be trained to perform the following functions:

(a) Identify conditions such as: where, under what conditions, with whom and why specific inappropriate behavior may occur; and

(b) Use preventative assessments that include at least the following:

(i) A review of existing data;

(ii) Input from parents, family members, and students; and

(iii) Examination of previous and existing behavior intervention plans.

(I) Policies and procedures.

A school district shall develop written policies and procedures for the implementation of positive behavior intervention and supports and the use of seclusion and restraint that are consistent with section [3319.46](#) of the Revised Code and this rule. A district's complaint procedures shall include:

(1) A written procedure for a parent to present written complaints to the superintendent of the school district to initiate a complaint investigation by the school district regarding an incident of restraint or seclusion. Additionally, the procedure will inform the parent of additional options for complaints to include other public agencies such as law enforcement, the county department of job and family services, or the

office of professional conduct within the Ohio department of education, as defined in paragraph (L) of this rule;

(2) Annually, a school district will provide a review regarding the content of this rule and any local policies or procedures related to the use of positive behavior intervention and supports, physical restraint and seclusion;

(3) An annual notice which informs parents of the districts policies or procedures related to the requirements of positive behavior intervention and supports, physical restraint and seclusion, including the local complaint process; and

(4) Within thirty days of the filing of a complaint regarding an incident of restraint and seclusion, its the districts responsibility to make reasonable efforts to have an in-person follow up meeting with the parent.

(5) Districts are to ensure there is a support plan in place for substitute teachers if they need assistance with positive behavior intervention and supports or crisis management and de-escalation, which includes restraint and seclusion.

(J) Monitoring.

A school district shall establish a procedure to monitor the implementation of this rule and the districts policy on positive behavior intervention and supports and restraint and seclusion. Each school district shall make its records concerning positive behavior intervention and supports and restraint and seclusion available to staff from the Ohio department of education upon request.

(K) Reporting.

(1) Any incident of seclusion or restraint shall be immediately reported to building administration and the parent and also be documented in a written report that is issued to the parent immediately or within twenty-four hours. This written report is thereafter maintained by the school district, including the county board of developmental disabilities or the educational service center in the event the district delegates this responsibility.

(2) A school district shall annually report information regarding its use of restraint and seclusion to the Ohio department of education in the form and manner as prescribed by the department. Failure to report may subject the school district to a corrective action plan and/or a potential reduction in funding. A school district that chooses to educate its student through a county board of developmental disabilities or to an educational service center reports as follows:

(a) Report all information on the use of restraint and seclusion by the county board of developmental disabilities or educational service center to the department; or

(b) Authorize the county board of developmental disabilities or the educational service center to report information on the use of restraint and seclusion directly.

(L) Complaint process.

A parent may choose to file a complaint with the Ohio department of education, office of integrated student supports, in accordance with the complaint procedures available and as outlined below. The term "school district" as used in this rule means those entities listed in paragraph (A)(13) of this rule.

(1) The parent forwards a copy of the complaint to the school district serving the child at the same time the party files the complaint with the Ohio department of education.

(2) A sufficient complaint includes the following:

(a) A statement that a school district has violated a requirement of paragraphs (G) to (K) of this rule;

(b) The facts on which the statement is based; and

(c) The signature and contact information for the parent.

(3) Timeline of the complaint:

(a) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received.

(b) The Ohio department of education, office of integrated student supports has a time limit of ninety days after the complaint is filed to:

(i) Provide the school district with the opportunity to respond to the parent, including, at the discretion of the school district, a proposal to resolve the complaint;

(ii) Give the parent the opportunity to submit additional information, either orally or in writing, about the allegations of the complaint;

(iii) Review all relevant information and make an independent determination as to whether the school district is violating a requirement;

(iv) Carry out an independent investigation, whether on-site or off-site, if the Ohio department of education determines that an investigation is needed;

(v) Issue a written decision to the complainant that addresses each allegation in the complaint and contains findings of fact and conclusions and the reasons for the Ohio department of education's final decision.

(4) This rule does not limit the ability of a parent of a student with a disability to file a complaint under any other provision of law.

Last updated June 24, 2021 at 8:34 AM

Supplemental Information

Authorized By: [3301.07](#), [3319.03](#), [3319.46](#), [3326.11](#), [3328.24](#)

Amplifies: [3301.07](#), [3319.03](#), [3319.46](#), [3326.11](#), [3328.24](#)

Five Year Review Date: 6/24/2026

Prior Effective Dates: 8/1/2013, 6/22/2015

[Return to Table of Contents](#)

Oklahoma (OK)

Links

[OAC](#)

Law Text

210:15-13-9. Guidelines for minimizing seclusion and restraint of students

(a) Definitions.

The following terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

(1) "**Behavior Intervention Plan (BIP)**" means a plan that is based on the results of a functional behavioral assessment (FBA) and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior.

(2) "**Chemical restraint**" means a drug or medication used on a student to control behavior or restrict freedom of movement, when such substance is not administered as prescribed to the student by a licensed physician or other qualified health professional acting under the scope of their professional authority.

(3) "**Corporal punishment**" means, as defined in 70 O.S. § 13-116, the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(4) "**Functional Behavioral Assessment (FBA)**" means a process that uses direct and indirect data collection to determine why a student engages in behaviors that impede learning, and how the student's behavior relates to the environment. The FBA includes, but is not limited to: the identification of the problem behavior, the definition of the behavior in concrete terms, the identification of the contextual factors that contribute to the behavior, and the formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it.

(5) "**Mechanical restraint**" means the use of any device or equipment to restrict a student's freedom of movement. This term does not include motor vehicle safety restraints or devices utilized by a student, or appropriately trained school personnel, which are used as prescribed by a medical or related services professional for specific approved purposes such as: mechanical supports used to achieve proper body position or allow greater freedom of mobility, restraints for medical immobilization, or orthopedically prescribed devices.

(6) "**Physical escort**" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of directing a student to move to a safe location if they are in distress or acting out.

(7) "**Physical restraint**" means a personal restriction that immobilizes or reduces the ability of a student to move their torso, arms, legs, or head freely. Physical restraint does not include an appropriately applied temporary physical escort.

(8) "**Prone restraint**" means a prohibited type of physical restraint that positions a student face down on their stomach, potentially restricting the student's ability to breathe freely.

(9) "**Seclusion**" means the involuntary confinement of a student alone in a room or area which the student is physically prevented from leaving. Seclusion does not include short-term monitored separation in a monitored and non-locked timeout setting.

(10) "**Seclusion room**" means a room or other confined area in which a student is involuntarily placed in isolation from other persons and which the student is physically prevented from leaving.

(11) "**Timeout**" means a technique that is part of an approved behavior management program and involves the monitored separation of the student in a non-locked setting for the purpose of calming.

(b) Student seclusion.

Seclusion should never be used for the purposes of discipline, punishment, forcing compliance, or as a convenience to staff. Seclusion may only be used under emergency circumstances as outlined below.

(1) **Circumstances under which seclusion of a student is authorized.** A student may be placed in seclusion only if:

(A) The student's actions pose an imminent danger of serious physical harm to the student or other individuals, and not merely a threat to property;

(B) Positive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student are currently being implemented, but have not effectively de-escalated the threat of danger or harm;

(C) School personnel are present who have completed appropriate training that addresses conflict de-escalation, the crisis cycle and associated interventions, appropriate use of seclusion rooms, and possible effects of seclusion; and

(D) The seclusion only lasts as long as necessary to resolve the threat of danger or harm.

(2) **Conditions required during an authorized use of seclusion.** If a student is placed in seclusion during an emergency situation that meets the criteria of (b)(1) above, the

following precautions must be exercised throughout the time the student is in seclusion:

- (A) The student must be continuously monitored visually and aurally by an appropriately trained school employee;
- (B) The student must be allowed to go to the restroom upon request;
- (C) The student must be permitted to drink water upon request; and
- (D) Immediate action must be taken if the student displays any signs of medical distress.

(3) **Requirements for seclusion rooms.** A room or area where a student is placed in seclusion must meet the following criteria:

- (A) Continuous visual and aural monitoring of a secluded student is possible;
- (B) There must be adequate space for the student to sit or lie down;
- (C) There must be adequate lighting;
- (D) The room must be equipped with heating, cooling, and ventilation systems comparable to such systems in the rest of the building where the seclusion room or area is located;
- (E) The room or area used for seclusion must be free of any objects that pose a potential risk of harm to a student with disabilities or a student in distress; and
- (F) If equipped with a door that locks, the lock must automatically disengage in case of an emergency such as a fire or severe weather.

(c) Student restraint.

Chemical restraint and/or mechanical restraint of a student is prohibited in Oklahoma public schools. Physical restraint of a student should never be used for the purposes of discipline, punishment, forcing compliance, or as a convenience to staff. In cases where a student has a history of dangerous behavior for which physical restraint was used or considered, the school should have a plan in place for teaching and supporting more appropriate behavior and determining positive methods to prevent behavioral escalations that have previously resulted in the use or consideration of restraint. Physical restraint may only be used under emergency circumstances as outlined below.

(1) Circumstances under which physical restraint of a student is authorized. A student may be physically restrained only if:

(A) The student's actions pose an imminent danger of serious physical harm to the student or other individuals, and not merely a threat to property;

(B) Positive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student are currently being implemented, but have not effectively de-escalated the threat of danger or harm;

(C) The physical restraint is applied by school personnel who have completed appropriate training that addresses conflict de-escalation, the crisis cycle and associated interventions, CPR and First Aid (including certifications), possible effects of physical restraint, and monitoring the wellbeing of a restrained student; and

(D) The physical restraint lasts only as long as necessary to resolve the threat of danger or harm.

(2) Conditions required during an authorized use of physical restraint. If a student is placed in physical restraint during an emergency situation that meets the criteria of

(c)(1) above, the following precautions must be exercised throughout the time the student is restrained:

(A) Under no circumstances may a student be restrained using a prone (facedown) restraint, any restraint that prevents the student from breathing or speaking, or any maneuver that places pressure or weight on the chest, sternum, lungs, diaphragm, neck, throat, or back;

(B) The degree of restriction of the student's freedom of movement may not exceed what is necessary to protect the student or other individuals from the threat of serious physical harm; and

(C) The restraint of the student is continuously witnessed by at least one school employee who is not involved in the physical restraint.

(d) Corporal punishment of students with disabilities not authorized.

For all students, the State Department of Education strongly encourages Oklahoma schools to implement disciplinary policies and practices that use evidence based, developmentally appropriate methods informed by an awareness that many students have endured Adverse Childhood Experiences (ACEs) and related trauma. As applied to students with disabilities entitled to special education services under the *Individuals with Disabilities Education Act* (IDEA), the use of corporal punishment by employees or agents of an Oklahoma public school is prohibited beginning in the 2020-2021 school year.

(e) Incident reporting.

Each incident of seclusion, restraint, or corporal punishment of a student with disabilities shall be reported immediately to a school site administrator and documented using the statewide online IEP reporting system. A copy of the documentation shall be placed in the student's file and provided to the student's parent(s) or guardian(s). For each incident of seclusion, restraint, or corporal punishment of a student, the student's parent(s) or guardian(s) shall be notified as soon as possible, and must be notified no later than the school day following the incident or

within twenty-four (24) hours of the incident, whichever is first. An IEP meeting may be needed to review or implement a Behavior Intervention Plan (BIP) for the student.

(f) End-of-year reporting.

At the end of each school year, and no later than June 30th, each school district or charter school shall report to the State Department of Education (OSDE) Office of Special Education Services information regarding all incidents of seclusion, restraint, or corporal punishment of a student with disabilities within the district during the school year that just closed. The end-of-year summary report shall include the total number of each type of incident, as well as the number and type of incidents associated with each student to whom seclusion, physical restraint, or corporal punishment was applied. This information will be used to identify districts in need of additional support, training, and guidance in the areas of conflict de-escalation, crisis intervention, Functional Behavior Assessments, the possible effects of seclusion and restraint, and effective behavior intervention planning.

(Adopted by Oklahoma Register, Volume 37, Issue 24, September 1, 2020, eff. 9/11/2020)

[Return to Table of Contents](#)

Oregon (OR)

Links

<https://olis.oregonlegislature.gov/liz/2019R1/Downloads/MeasureDocument/SB963/Enrolled>

Law Text

80th OREGON LEGISLATIVE ASSEMBLY--2019 Regular Session Senate Bill 963

AN ACT Relating to safe classrooms; amending ORS 161.205, 339.250, 339.285, 339.288, 339.291, 339.294, 339.297 and 339.300; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1.

ORS 339.285 is amended to read: 339.285. As used in ORS 339.285 to 339.303:

[(1)(a) “Physical restraint” means the restriction of a student’s movement by one or more persons holding the student or applying physical pressure upon the student.]

[(b)(A) “Physical restraint” does not include the touching or holding of a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity.]

[(B) “Physical restraint” does not include prone restraint as defined in ORS 339.288.]

[(2)] (1) “Public education program” means a program in this state that:

(a) Is for students in early childhood education, elementary school or secondary school;

(b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(2)(a) “Restraint” means the restriction of a student’s actions or movements by holding the student or using pressure or other means.

(b) “Restraint” does not include:

(A) Holding a student’s hand or arm to escort the student safely and without the use of force from one area to another;

(B) Assisting a student to complete a task if the student does not resist the physical contact; or

(C) Providing reasonable intervention with the minimal exertion of force necessary if the intervention does not include a restraint prohibited under ORS 339.288 and the intervention is necessary to:

(i) Break up a physical fight

(ii) Interrupt a student’s impulsive behavior that threatens the student’s immediate safety, including running in front of a vehicle or climbing on unsafe structures or objects; or

(iii) Effectively protect oneself or another from an assault, injury or sexual contact with the minimum physical contact necessary for protection.

(3)(a) “Seclusion” means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving.

(b) “Seclusion” does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(4) “Serious bodily injury” means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

SECTION 2.

ORS 339.288 is amended to read: 339.288.

[(1) The use of a mechanical restraint, chemical restraint or prone restraint on a student in a public education program in this state is prohibited.]

[(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in ORS 339.291.]

(1) The use of the following types of restraint on a student in a public education program is prohibited:

(a) Chemical restraint.

(b) Mechanical restraint.

(c) Prone restraint.

(d) Supine restraint.

(e) Any restraint that involves the intentional and nonincidental use of a solid object, including a wall or the floor, to impede a student's movement, unless the restraint is necessary to prevent an imminent life-threatening injury or to gain control of a weapon.

(f) Any restraint that places, or creates a risk of placing, pressure on a student's neck or throat.

(g) Any restraint that places, or creates a risk of placing, pressure on a student's mouth, unless the restraint is necessary for the purpose of extracting a body part from a bite.

(h) Any restraint that impedes, or creates a risk of impeding, breathing.

(i) Any restraint that involves the intentional placement of the hands, feet, elbow, knee or any object on a student's neck, throat, genitals or other intimate parts.

(j) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on the stomach or back by a knee, foot or elbow bone.

(k) Any action designed for the primary purpose of inflicting pain.

[(3)] (2) As used in this section:

(a) “Chemical restraint” means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:

(A) Prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice for standard treatment of the student’s medical or psychiatric condition; and

(B) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice.

(b)(A) “Mechanical restraint” means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student.

(B) “Mechanical restraint” does not include:

(i) A protective or stabilizing device ordered by a licensed physician; or

(ii) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.

(c) “Prone restraint” means a restraint in which a student is held face down on the floor.

(d) “Supine restraint” means a restraint in which a student is held face up on the floor.

SECTION 3.

ORS 339.291 is amended to read: 339.291.

[(1)(a) Physical restraint or seclusion may be used on a student in a public education program only if:]

[(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and]

[(B) Less restrictive interventions would not be effective.]

[(b)] (1) [Physical] Restraint or seclusion may not be used for discipline, punishment, retaliation or convenience of personnel, contractors or volunteers of [the] a public education program.

(2)(a) Restraint may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and substantial physical or bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

(b) Seclusion may be used on a student in a public education program only under the following circumstances:

(A) The student's behavior imposes a reasonable risk of imminent and serious bodily injury to the student or others; and

(B) Less restrictive interventions would not be effective.

[(2)] (3) If [physical] restraint or seclusion is used on a student, the [physical] restraint or seclusion must be:

(a) Used only for as long as the student's behavior poses a reasonable [threat of imminent, serious bodily injury to the student or others] risk as described in subsection (2) of this section;

(b) Imposed by personnel of the public education program who are:

(A) Trained to use [physical] restraint or seclusion through programs described in ORS 339.300; or

(B) Otherwise available in the case of an emergency circumstance when personnel described in subparagraph (A) of this paragraph are not immediately available due to the unforeseeable nature of the emergency circumstance; and

(c) Continuously monitored by personnel of the public education program for the duration of the [physical] restraint or seclusion.

[(3)] (4) In addition to the requirements described in subsection [(2)] (3) of this section, if [physical] restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and

(c) Every 15 minutes after the first 30 minutes of the [physical] restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the [physical] restraint or seclusion, including providing documentation for the reason the [physical] restraint or seclusion must be continued.

SECTION 4.

ORS 339.294 is amended to read: 339.294.

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of [physical] restraint or seclusion.

(2) Following an incident involving the use of [physical] restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred.

(b) Written documentation of the incident within 24 hours of the incident that provides:

(A) A description of the [physical] restraint or seclusion, including:

(i) The date of the [physical] restraint or seclusion;

(ii) The times when the [physical] restraint or seclusion began and ended; and

(iii) The location of the [physical] restraint or seclusion.

(B) A description of the student's activity that prompted the use of [physical] restraint or seclusion.

(C) The efforts used to de-escalate the situation and the alternatives to [physical] restraint or seclusion that were attempted.

(D) The names of the personnel of the public education program who administered the [physical] restraint or seclusion.

(E) A description of the training status of the personnel of the public education program who administered the [physical] restraint or seclusion, including any information that may need to be provided to the parent or guardian under subsection (3) of this section.

(c) Timely notification of a debriefing meeting to be held as provided by subsection (4) of this section and the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the [physical] restraint or seclusion had not received training as provided by ORS 339.300, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the [physical] restraint or seclusion was administered by a person without training.

(4)(a) A debriefing meeting related to the use of [physical] restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(b) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving [physical] restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and

revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of [physical] restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of [physical] restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of [physical] restraint or seclusion.

SECTION 5.

ORS 339.297 is amended to read: 339.297.

(1) Each entity that has jurisdiction over a public education program must prepare and submit to the [Superintendent of Public Instruction] Department of Education an annual report detailing the use of [physical] restraint and seclusion for the preceding school year, including, at a minimum:

(a) The total number of incidents involving [physical] restraint.

(b) The total number of incidents involving seclusion.

(c) The total number of seclusions in a locked room.

(d) The total number of rooms available for use by the public education program for seclusion of a student and a description of the dimensions and design of the rooms.

(e) The total number of students placed in [physical] restraint.

(f) The total number of students placed in seclusion.

(g) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of [physical] restraint or seclusion.

(h) The number of students who were placed in [physical] restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of [physical] restraint and seclusion for each student.

(i) The number of incidents in which the personnel of the public education program administering [physical] restraint or seclusion were not trained as provided by ORS 339.300. (j) The demographic characteristics of all students upon whom [physical] restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2)(a) Each entity that has jurisdiction over a public education program shall make its annual report about [physical] restraint and seclusion available to:

(A) The public at the entity's main office and the website of the entity;

(B) The board or governing body overseeing the entity;

(C) If the entity is an education service district, the component school districts of the education service district; and

(D) If the entity is a public charter school, the sponsor of the public charter school.

(b) Parents and guardians of students in a public education program shall be advised at least once each school year about how to access the report.

(3) A public education provider that does not comply with the requirement to submit a report to the Department of Education under subsection (1) of this section or to make the report available as described in subsection (2) of this section is considered nonstandard under ORS 327.103. SECTION 6. ORS 339.300 is amended to read: 339.300. The Department of Education shall approve training programs in [physical] restraint and seclusion that:

(1) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of [physical] restraint or seclusion;

(2) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(3) Are consistent with the philosophies, practices and techniques for [physical] restraint and seclusion that are established by rule or policy of the Department of Human Services. SECTION 7. ORS 161.205 is amended to read: 161.205. The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1)(a) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person may use reasonable physical force upon such minor or incompetent person when and to the extent the person reasonably believes it necessary to maintain discipline or to promote the welfare of the minor or incompetent person.

(b) Personnel of a public education program, as that term is defined in ORS 339.285, may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS [339.291] 339.285 to 339.303.

(2) An authorized official of a jail, prison or correctional facility may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline or as is authorized by law.

(3) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under the direction of the person, may use physical force when and to the extent that the person reasonably believes it necessary to maintain order, but the person may use deadly physical force only when the person reasonably believes it necessary to prevent death or serious physical injury.

(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use physical force upon that person to the extent that the person reasonably believes it necessary to thwart the result.

(5) A person may use physical force upon another person in self-defense or in defending a third person, in defending property, in making an arrest or in preventing an escape, as hereafter prescribed in chapter 743, Oregon Laws 1971.

SECTION 8.

ORS 339.250 is amended to read: 339.250.

(1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Each district school board shall adopt written policies for the discipline, suspension or expulsion of any refractory student. The policies:

(a) May allow discipline, suspension or expulsion for conduct that includes, but is not limited to:

- (A) Willful disobedience;
- (B) Open defiance of the authority of a school employee;
- (C) Possession or distribution of tobacco, alcohol, drugs or other controlled substances;
- (D) Use or display of profane or obscene language;
- (E) Willful damage or injury to school property;
- (F) Use of threats, intimidation, harassment or coercion against a student or a school employee;
- (G) Assault of a school employee or another student; or
- (H) Intentional attempts, by word or conduct, to place a school employee or another student in fear of imminent serious physical injury.

(b) Must require consideration of the age of a student and the past pattern of behavior of a student prior to imposing the suspension or expulsion of a student.

(c) Must limit the use of expulsion to the following circumstances:

- (A) For conduct that poses a threat to the health or safety of students or school employees;
- (B) When other strategies to change student conduct have been ineffective, except that expulsion may not be used to address truancy; or
- (C) When the expulsion is required by law.

(d) In addition to any limitations imposed by paragraph (c) of this subsection, for a student who is in fifth grade or lower, must limit the use of out-of-school suspension or of expulsion to the following circumstances:

(A) For nonaccidental conduct causing serious physical harm to a student or school employee;

(B) When a school administrator determines, based upon the administrator's observation or upon a report from a school employee, that the student's conduct poses a direct threat to the health or safety of students or school employees; or

(C) When the suspension or expulsion is required by law.

(e) When an out-of-school suspension is imposed as provided under paragraph (d) of this subsection, must require the school district to take steps to prevent the recurrence of the behavior that led to the out-of-school suspension and return the student to a classroom setting so that the disruption of the student's academic instruction is minimized.

(f) Must be limited so that:

(A) The duration of an expulsion may not be more than one calendar year.

(B) The duration of a suspension may not be more than 10 school days.

(g) Notwithstanding ORS 336.010, may require a student to attend school during nonschool hours as an alternative to suspension if the total number of hours does not exceed the equivalent of 10 school days.

(3) Pursuant to the policies adopted as provided by subsection (2) of this section, each school district shall develop a student handbook, code of conduct or other document that:

- (a) Defines and helps create a learning environment that students respect;
 - (b) Defines acceptable norms of behavior for students and the types of behavior that are subject to discipline;
 - (c) Establishes procedures to address behavior or circumstances that pose a threat to the safety of students or employees of the school;
 - (d) Establishes a system of consequences that are designed to correct student misconduct and promote behavior within acceptable norms; and
 - (e) Makes the system of consequences known to the school community through the dissemination of information to students, parents, legal guardians and school district employees.
- (4) Each district school board shall adopt written policies on managing students who threaten violence or harm in public schools. The policies adopted by a district school board under this section shall include all of the following:
- (a) Staff reporting methods.
 - (b) Provisions that allow an administrator to consider and implement any of the following options:
 - (A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.
 - (B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal, counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring that a school obtain an evaluation of a student by a licensed mental health professional before allowing the student to return to the classroom setting. A student who is removed from the classroom setting for an evaluation may not be removed for more than 10 school days unless the administrator is able to show good cause that an evaluation could not be completed in that time period. The policy must describe the circumstances under which the district school board may enter into contracts with licensed mental health professionals to perform any evaluations required under this subparagraph.

(c) The requirement that an administrator provide to the parent or legal guardian of the student notification that describes the student's behavior and the school's response.

(d) A provision for the allocation of any funds necessary for the school district to implement the policies described in this subsection.

(5) In establishing and enforcing discipline, suspension and expulsion policies, a district school board shall ensure that the policy is designed to:

(a) Protect students and school employees from harm;

(b) Provide opportunities for students to learn from their mistakes;

(c) Foster positive learning communities;

(d) Keep students in school and attending class;

(e) Impose disciplinary sanctions without bias against students from a protected class, as defined in ORS 339.351;

(f) Implement a graduated set of age-appropriate responses to misconduct that are fair, nondiscriminatory and proportionate in relation to each student's individual conduct;

(g) Employ a range of strategies for prevention, intervention and discipline that take into account a student's developmental capacities and that are proportionate to the degree and severity of the student's misbehavior;

(h) Propose, prior to a student's expulsion or leaving school, alternative programs of instruction or instruction combined with counseling for the student that are appropriate and accessible to the student in the following circumstances:

(A) Following a second or subsequent occurrence within any three-year period of a severe disciplinary problem with the student; or

(B) When a parent or legal guardian applies for the student's exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 (2);

(i) To the extent practicable, use approaches that are shown through research to be effective in reducing student misbehavior and promoting safe and productive social behavior; and

(j) Ensure that school conduct and discipline codes comply with all state and federal laws concerning the education of students with disabilities.

(6) Except for policies adopted under subsection (7) of this section, any policies adopted under this section must provide for the dissemination of information about alternative programs of instruction or instruction combined with counseling, as described in subsection (5)(h) of this section, in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, unless the information has changed because of the availability of new programs.

(7) Each district school board shall adopt a written policy involving firearms, as defined in 18 U.S.C. 921. The policy shall:

(a) Require expulsion from school for a period of not less than one year of any student who is determined to have:

(A) Brought a firearm to a school, to school property under the jurisdiction of the school district or to an activity under the jurisdiction of the school district;

(B) Possessed, concealed or used a firearm in a school, on school property under the jurisdiction of the school district or at an activity under the jurisdiction of the school district; or

(C) Brought to or possessed, concealed or used a firearm at an interscholastic activity administered by a voluntary organization.

(b) Allow exceptions:

(A) For courses, programs and activities approved by the school district that are conducted on school property, including, but not limited to, hunter safety courses, Reserve Officer Training Corps programs, firearm-related sports or firearm-related vocational courses; and

(B) Identified by and adopted by the State Board of Education by rule.

(c) Allow a superintendent of a school district to:

(A) Modify the expulsion requirement for a student on a case-by-case basis.

(B) Propose alternative programs of instruction or instruction combined with counseling for a student that are appropriate and accessible to the

student. If alternative programs are appropriate for a student, the superintendent shall ensure that information about programs of instruction or instruction combined with counseling is provided in writing to the student and the parent, legal guardian or person in parental relationship with the student at least once every six months, or at any time the information changes because of the availability of new programs.

(d) Require a referral to the appropriate law enforcement agency of any student who is expelled under this subsection.

(e) Require an annual reporting to the Department of Education of the name of each school that had an expulsion under this subsection and the number of students expelled from each school.

(8) Each district school board shall adopt and disseminate written policies for the use of physical force upon a student. The policies must allow an individual who is a teacher, administrator, school employee or school volunteer to use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS [339.291] 339.285 to 339.303.

(9)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection:

(A) “Corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(B) “Corporal punishment” does not include:

(i) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(ii) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

(10) For purposes of this section, calculations of the number of school days that a student is removed from a classroom setting shall be as follows:

(a) As a half day if the student is out of school for half, or less than half, of the scheduled school day; and

(b) As a full day if the student is out of school for more than half of the scheduled school day. SECTION 9.

This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.

[Return to Table of Contents](#)

Pennsylvania (PA)

Links

Pennsylvania Special Education Regulations, Chapters 14 and 17

<https://www.education.pa.gov/Policy-Funding/BECS/PACode/Pages/UseofRestrains.aspx>

§ 14.133. Positive behavior support.

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/d/ata/o22/chapter14/s14.133.html&d=reduce>

§ 711.46. Positive behavior support.

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/d/ata/o22/chapter711/s711.46.html&d=reduce>

§ 10.25. Notification to parents/guardians.

<http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/d/ata/o22/chapter10/s10.25.html&d=reduce>

Law Text

§ 14.133. Positive behavior support.

(a) Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students and eligible young children shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's or eligible young child's opportunity for learning and self-fulfillment. Behavior support programs and plans must be based on a functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student or eligible young child shall be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques, in accord with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324 and 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.

Behavior support—The development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive behavior support plans—A plan for students with disabilities and eligible young children who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment, and become part of the individual eligible young child's or student's IEP. These plans must include methods that utilize positive reinforcement and other positive techniques to

shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints—

(i) The application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body.

(ii) The term does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.

(iii) The term does not include hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's or eligible young child's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this

meeting, the IEP team shall consider whether the student or eligible young child needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.

(2) The use of restraints may only be included in a student's or eligible young child's IEP when the following conditions apply:

(i) The restraint is utilized with specific component elements of positive behavior support.

(ii) The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.

(iii) Staff are authorized to use the procedure and have received the staff training required.

(iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.

(3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor.

(4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.

(5) School entities shall maintain and report data on the use of restraints as prescribed by the Secretary. The report shall be reviewed during cyclical compliance monitoring conducted by the Department.

(d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be

employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints shall prevent a student from injuring himself or others or promote normative body positioning and physical functioning.

(e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:

- (1) Corporal punishment.
- (2) Punishment for a manifestation of a student's disability.
- (3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit.
- (4) Noxious substances.
- (5) Deprivation of basic human rights, such as withholding meals, water or fresh air.
- (6) Suspensions constituting a pattern under § 14.143(a) (relating to disciplinary placement).
- (7) Treatment of a demeaning nature.
- (8) Electric shock.

(f) School entities have the primary responsibility for ensuring that positive behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures as provided in subsection (c).

(g) In accordance with their plans, agencies may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.

(h) Subsequent to a referral to law enforcement, for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan shall be required.

Authority

The provisions of this § 14.133 amended under sections 1372 and 2603-B of the Public School Code of 1949 (24 P. S. § § 13-1372 and 26-2603-B).

Source

The provisions of this § 14.133 adopted June 8, 2001, effective June 9, 2001, 31 Pa.B. 3021; amended June 27, 2008, effective July 1, 2008, 38 Pa. Code 3575. Immediately preceding text appears at serial pages (334877) to (334878).

Cross References

This section cited in 22 Pa. code § 10.23 (relating to response and handling of a student with a disability); 22 Pa. Code Appendix A (relating to model memorandum of understanding); 55 Pa. Code § 3270.4 (relating to definitions); 55 Pa. Code § 3280.4 (relating to definitions); and 55 Pa. Code § 3290.4 (relating to definitions).

§ 711.46. Positive behavior support.

(a) Positive rather than negative measures shall form the basis of positive behavior support programs to ensure that all students shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints. Behavior support programs must include research based practices and techniques to develop and maintain skills that will enhance an individual student's opportunity for learning and self-fulfillment. Behavior support programs and plans shall be based on a

functional assessment of behavior and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student must be the least intrusive necessary. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including deescalation techniques in accordance with subsection (c)(2).

(b) Notwithstanding the requirements incorporated by reference in 34 CFR 300.34, 300.324, 300.530 (relating to related services; development, review, and revision of IEP; and authority of school personnel), with regard to a child's behavior, the following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Aversive techniques—Deliberate activities designed to establish a negative association with a specific behavior.

Positive behavior support plan—A plan for students with disabilities who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the IEP team, be based on a functional behavior assessment and become part of the student's IEP. These plans include methods that utilize positive reinforcement and other positive techniques to shape a student's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints—

(i) The application of physical force, with or without the use of a device, for the purpose of restraining the free movement of a student's body. The term does not include briefly holding, without force, a student to calm or comfort him, guiding a student to an appropriate activity, or holding a student's hand to safely escort him from one area to another.

(ii) Excluded from this definition are hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents and specified in the IEP.

Devices used for physical or occupational therapy, seatbelts in wheel chairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition, and governed by subsection (d).

(c) Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

(1) The use of restraints to control the aggressive behavior of an individual student shall cause the charter school or cyber charter school to notify the parent of the use of restraint and shall cause a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan or a change of placement to address the inappropriate behavior.

(2) The use of restraints may only be included in a student's IEP when:

(i) Utilized with specific component elements of positive behavior support.

(ii) Used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.

(iii) Staff are authorized to use the procedure and have received the staff training required.

(iv) There is a plan in place for eliminating the use of restraint through the application of positive behavior support.

(3) The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student is held face down on the floor.

(4) The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program or employed as punishment.

(5) Charter schools and cyber charter schools shall maintain and report data on the use of restraints as prescribed by the Secretary. The report will be reviewed during cyclical compliance monitoring conducted by the Department.

(d) Mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents. Mechanical restraints must prevent a student from injuring himself or others or promote normative body positioning and physical functioning.

(e) The following aversive techniques of handling behavior are considered inappropriate and may not be used by charter schools or cyber charter schools in educational programs:

(1) Corporal punishment.

(2) Punishment for a manifestation of a student's disability.

(3) Locked rooms, locked boxes or other locked structures or spaces from which the student cannot readily exit.

(4) Noxious substances.

(5) Deprivation of basic human rights, such as withholding meals, water or fresh air.

(6) Suspensions constituting a pattern.

(7) Treatment of a demeaning nature.

(8) Electric shock.

(f) Charter schools and cyber charter schools have the primary responsibility for ensuring that behavior support programs are in accordance with this chapter, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of behavior support techniques and obtaining parental consent prior to the use of restrictive or intrusive procedures or restraints.

(g) Charter schools and cyber charter schools may convene a review, including the use of human rights committees, to oversee the use of restrictive or intrusive procedures or restraints.

(h) Subsequent to a referral to law enforcement, for a student with a disability who has a positive behavior support plan, an updated functional behavior assessment and positive behavior support plan shall be required.

Authority

The provisions of this § 711.46 adopted under sections 1732-A(c)(2) and 1749-A(b)(8) of the Charter School Law (24 P. S. 17-1732-A(c)(2) and 17-1749-A(b)(8)).

Source

The provisions of this § 711.46 adopted June 27, 2008, effective July 1, 2008, 38 Pa.B. 3593.

Cross References

This section cited in 22 Pa. Code § 10.2 (relating to definitions); 22 Pa. Code § 10.23 (relating to response and handling of a student with a disability); and 22 Pa. Code Appendix A (relating to model memorandum of understanding).

§ 10.25. Notification to parents/guardians.

(a) A school entity shall immediately notify, as soon as practicable, the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P.S. § 13-1303-A(b)(4.1) and (4.2)). In making the notification, the school entity shall inform the parent or guardian as to whether the local police department having jurisdiction over property of the school entity has been, or may be, notified of the incident.

(b) A school entity shall document attempts made to reach the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act.

[Return to Table of Contents](#)

Rhode Island (RI)

Links

<https://rules.sos.ri.gov/regulations/part/200-20-30-2>

Law Text

1.0 Preamble

The Rhode Island Department of Education recognizes the right to effective structural strategies to be the basic educational right of each child. Furthermore, the Rhode Island Department of Education believes that positive behavioral support and educational strategies should be used, as they relate to behavioral intervention, to respect each child's dignity and personal privacy. Intervention techniques must focus not only on eliminating a certain undesirable behavior, but also upon a determination of the purpose of that behavior, and the provision/instruction of a more appropriate behavior. Behavior intervention plans must be individually designed to meet the needs of the student, including students served in general education, special education, and students protected by Section 504 of the Rehabilitation Act of 1973. These behavioral interventions must not be confused with a physical restraint/crisis intervention. Physical restraint/crisis intervention are not part of a behavioral intervention plan designed to alter a child's behavior but rather are utilized as one method of preventing harm or injury. Once the use of physical restraint/crisis intervention has been employed on a student, school personnel shall determine if the student requires a behavioral intervention plan as part of the student's education program, and if one already exists, whether that plan needs to be modified or adjusted.

2.0 Authority, Scope, Purpose and Construction

2.1 Authority. These regulations are promulgated by the Rhode Island Board of Regents for Elementary and Secondary Education pursuant to R.I.G.L. 16-60-4.

2.2 Scope. These regulations govern the use of physical restraint and crisis intervention on all students in publicly funded elementary and secondary education programs, including all Rhode Island public school districts and regional public school districts, all Rhode Island State Operated Schools, all Public Charter Schools, educational programs operated by the Department for Children Youth and Families, Educational Collaborative Programs, and Local Educational Agencies operating a public education program; all of which shall hereafter be referred to as public education programs.

2.3 Purpose. The purpose of these regulations is to ensure that every student participating in a Rhode Island public education program be free from the unreasonable use of physical restraint and crisis intervention. Physical intervention, the use of manual or mechanical restraint or escort involving physical contact should only be used as a crisis intervention for the purpose of preventing harm or injury. The crisis intervention must not include procedures that intentionally cause pain, injury, trauma or humiliation. A physical restraint crisis intervention should not be used for the purpose of changing behavior in situations where no protection from harm or injury is needed. Only the least intrusive physical interaction needed to adequately protect the child or others shall be used and shall be terminated as soon as the need for protection has abated. ¹

2.4 Construction. Nothing in these regulations shall be construed to limit the protection offered publicly funded students under other state or federal laws nor do these regulations preclude any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from imminent, serious, physical harm.

3.0 Definitions.

3.1 Antecedent- A preceding circumstance, event, object or phenomenon which may trigger a particular behavior or chain of behaviors.

3.2 Aversive Interventions/Strategies- The specific strategies include but are not limited to the following:

- (a) Noxious, painful, intrusive stimuli or activities that result in pain;

- (b) Any form of noxious, painful or intrusive spray or inhalant;
- (c) Electric shock;
- (d) Water spray to the face;
- (e) Pinches and deep muscle squeezes;
- (f) Shouting, screaming or using a loud, sharp, harsh voice to frighten or threaten or the use of obscene language;
- (g) Withholding adequate sleep;
- (h) Withholding adequate shelter or bedding;
- (i) Withholding bathroom facilities;
- (j) Withholding meals, essential nutrition or hydration;
- (k) Removal of an individual's personal property as punishment;
- (l) Unobserved time-out or room/area solely used for time out;
- (m) Facial or auditory screening devices; and
- (n) Use of chemical restraints instead of positive programs or medical treatments. (RI 40.1-26-4.1)

3.3 Behavioral Analysis- A functional analysis with the addition of operationally defining a target behaviors and the grouping of behaviors for an intervention plan.

3.4 Behavior Intervention Plan: A plan, developed by a team, that delineates emotional, social and/or behavioral goals for a student and the steps that the school, student, parent and/or others will take to positively support the student's progress toward those goals. A Behavior Intervention Plan is comprised of practical and specific strategies to increase or reduce defined behaviors or a pattern of behavior exhibited by a student. A Behavior Intervention Plan includes the following:

1. Definition of the behavior in specific, measurable terms.
2. A plan for prevention of the behavior by changing some of the who, what, when, and where information from the Functional Behavioral Assessment (FBA).
3. A plan to teach the student new ways to meet his or her needs. 2
4. A description of how to react to the student's behavior in a way that will reinforce appropriate behavior.
5. A plan for how to manage a crisis situation.
6. A data collection, analysis and evaluation system.
7. Timelines for review.

3.5 Behavioral Momentum- The speed or force of behavior in a behavior chain, often beginning with an antecedent.

3.6 Corporal Punishment- is defined as the infliction of bodily pain as a penalty for disapproved behavior. Corporal punishment as defined shall not be used in public education programs.

3.7 De-Escalation- The withdrawal or presentation of stimulus to a situation which causes it to become more controlled, calm and less dangerous.

3.8 Environmental Engineering- The arrangement or manipulation of the physical environment and stimuli in order to facilitate more appropriate behavioral responses.

3.9 Escalation- The withdrawal or presentation of new stimulus to a situation which causes it to become more out of control and potentially dangerous.

3.10 Forceful Physical Guidance- An inappropriate response to a child's perceived misbehavior that consists of an adult/supervisory person physically forcing to engage in the desired behavior or to comply with a directive.

3.11 Functional Behavioral Analysis- The evaluation of behavioral assessment information that occurs at specific points in time. The analysis provides the information necessary to develop a behavior intervention plan.

3.12 Functional Behavioral Assessment- is an ongoing process for gathering information that can be used to hypothesize about the function of student behavior. The components of the process are as follows:

1. Define/describe behavior
2. Gather information
3. Identify when, where and under what circumstances does the behavior occur
4. Identify the consequences that maintain the behavior
5. Develop a theory as to the functional intent of the behavior

3.13 IDEA- Individuals with Disabilities Education Act 20, USCA 1400, 34 CFR Part 300

3.14 IEP- Individual Education Program - A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with §300.341-§300.350 of 34 CFR 300.341-350 and RI Regulations Governing The Education Of Children With Disabilities 300.341-300.350.

3.15 Instructional Physical Guidance- a teaching technique that involves physical contact between the adult/supervisory person and the child. This enables the child to learn or model the physical movement necessary for the development of the desired competency. Example: Hand over hand guidance in instructing a child in writing technique.

3.16 Mechanical Restraint- means the use of devices such as mittens, straps, or restraint chairs to limit a person's movement or hold a person immobile as an intervention precipitated by the person's behavior. Mechanical restraint applies to uses intended to prevent injury with persons who engage in behaviors such as head-banging, gouging, or other self-injurious actions that result in tissue damage and medical problems. Mechanical restraint does not apply to restraint used to treat a person's medical needs or to position a person with physical disabilities.

3.17 Misting- The release of noxious, toxic or otherwise unpleasant sprays, mists or substances in proximity to the child's face.

3.18 Negative Practice Overcorrection- Having a child repeat an activity/task with an arbitrarily selected frequency. Example: Writing a classroom rule on the chalkboard 100 times.

3.19 Parental Consent- Parental consent means that (a) the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication; (b) the parent understands and agrees in writing to the carrying out of the activity for which his/her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and (c) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

3.20 Physical Restraint/Crisis Intervention.

(a) Manual Restraint- The use of physical intervention intended to hold a person immobile or limit a person’s movement by using body contact as the only source of physical restraint.

(b) Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of “time out” procedures during which a staff member remains accessible to the student shall not be considered “seclusion restraint.” The use of seclusion restraint is prohibited in public education programs.

(c) Chemical Restraint: The administration of medication for the purpose of restraint. The use of medication restraint is prohibited in public education programs.

3.21 Positive Behavioral Supports- a set of practices used to organize teaching and learning environments and experiences for students which facilitate the student’s successful self-awareness, self-management, engagement with others and with the learning process.

3.22 Redirection encompasses a number of techniques which serve to: (1) Divert the student from an unwanted task or a problematic behavior. (2) Return the student to a more desirable task or more appropriate behavior. Redirection occurs without the coercion of negative consequences. Among these techniques are: Proximity, Cueing, Regrouping, Restructuring, Diversions, Hurdle Help.

3.23 Satiation- The repetition of a task/activity/behavior to the point that a person is unable to perform the task even one more time.

3.24 Seclusion- placing a child alone in a locked room without supervision. Such action is strictly prohibited in Rhode Island.

3.25 Section 504 of The Rehabilitation Act of 1973.

A Civil Rights law prohibiting discrimination against individuals with disabilities from federally assisted programs or activities.

3.26 Self Management- The monitoring, regulation, care, guidance and treatment of one's own behavior.

3.27 Timeout- A Punishment (Type II) procedure in which access to reinforcement is withdrawn for a certain period of time.

(a) Isolation “from the group” – Reinforcement is withdrawn and the student remains in a separate room or booth for a certain period of time. The small room or booth may or may not have a door.

3.28 Zero Tolerance- (as defined by state policy) the purpose is to provide a school environment that is conducive to learning. The underlying belief of this policy is that all children have the right to be educated in a safe and nurturing environment. Therefore, each school system shall adopt a policy of zero tolerance for weapons, violence and illegal drugs in schools. Any student found to be in possession of a weapon, or involved in an aggravated assault as defined herein, will immediately be suspended in accordance with applicable due process provisions. During this suspension, the school district will take the necessary steps in determining any additional action to be taken, which may include long-term suspension. Zero tolerance policies cannot supercede other Federal and State Regulations, such as the Individuals with Disabilities Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and R.I. Special Education Regulations.

4.0 Procedures and Training.

4.1 Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require the use of physical restraint/crisis intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

(a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;

(b) A school policy regarding intervention that provides a description and explanation of the school's or program's method of physical restraint/crisis intervention, a description of the school's or program's training requirements, reporting requirements and follow-up procedures, and a procedure for receiving and investigating complaints regarding restraint practices.

4.2 Required Training For All Staff. Each public education program shall designate personnel to determine a time and methods to provide all staff with training regarding the school's physical restraint/crisis intervention policies. Such training shall occur at least annually not later than within the first month of each school year. For employees hired after the school year begins, this training shall take place within the first month of their employment. Training shall include information on the following:

(a) The program's restraint policy;

(b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;

(c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;

(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and

(e) Identification of program staff who have received advanced training pursuant to Regulation 4.3 in the use of physical restraint/crisis intervention.

4.3 Advanced Staff Training on the Use of Physical Restraint/Crisis Intervention.

At the start of each school year, every public education program shall identify staff that are authorized to serve as a school-wide based resource to assist other staff in ensuring proper administration of physical restraint and crisis interventions. These staff members shall participate in advanced training in the use of physical restraint/crisis intervention beyond the basic training offered to all staff and the public education program shall document the extent of such training.

4.4 Content of Advanced Training. The advanced training required by Regulation 4.3 in the proper administration of physical restraint/crisis intervention shall include, but not be limited to:

- (a) Appropriate procedures for preventing the need for physical restraint/crisis intervention, including the de-escalation of problematic behavior, relationship building and the use of alternatives to such restraints;
- (b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint/ crisis intervention and methods for evaluating the risk of harm in individual situations in order to determine whether the use of physical restraint and crisis interventions are warranted;
- (c) The simulated experience of administering and receiving physical restraint/crisis intervention, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
- (e) Demonstration by participants of proficiency in administering physical restraint/crisis intervention.

5.0 Determining When Physical Restraint/Crisis Intervention May Be Used.

5.1 Use of Restraint/Intervention. Physical restraint/crisis intervention may be used only in the following circumstances:

- (a) Non-physical interventions would not be effective; and
- (b) The student's behavior poses a threat of imminent, serious, physical harm to self and/or others; and
- (c) If a behavioral intervention plan has been developed for the student, those various positive reinforcement techniques have been implemented appropriately and the child has failed to respond to those reinforcement techniques.

6.0 Limitations and Prohibitions.

6.1 Limitations on the Use of Restraints. Physical restraint/crisis intervention in a public education program shall be limited to the use of such reasonable force as necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.

6.2 Prohibitions. Physical restraint/crisis intervention are prohibited in the following circumstances:

- (a) As a means of punishment;
- (b) As an intervention designed to, or likely to cause physical pain;
- (c) As in any intervention which denies adequate sleep, food, water, shelter, bedding or access to bathroom facilities;

(d) As in any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, physical pain, or which can be expected to cause excessive emotional trauma;

(e) As in a restrictive intervention which employs a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment may be used by trained personnel as a limited emergency intervention when a documented part of a previously agreed upon written behavioral intervention plan;

(f) As in seclusion, unless under constant surveillance and observation when documented as part of a previously agreed upon written behavioral intervention plan;

(g) As in any intervention that precludes adequate supervision of the child;

(h) Any intervention which deprives the individual of one or more of his or her senses

7.0 Proper Administration of Physical Restraint/Crisis Intervention.

7.1 Trained Personnel. Only personnel who have had training pursuant to Regulation 4.1 may administer physical restraint/crisis intervention with students. Whenever possible, the administration of a physical restraint/crisis intervention shall be witnessed by at least one adult who does not participate in the restraint. The training requirement contained in Regulation 4.1 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons, or themselves from imminent, serious physical harm.

7.2 Use of Force. A person administering a physical restraint/crisis intervention shall use only the amount of force necessary to protect the student or others from physical injury or harm and shall discontinue the physical restraint/crisis intervention as soon as possible.

7.3 Safety Requirements. Additional requirements for the use of physical restraint/crisis intervention are:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint/crisis intervention, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint/crisis intervention on an individual student.

(d) Following the release of a student from a restraint, the Public Education Program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student, as appropriate, to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

8.0 Reporting Requirements.

8.1 Informing School Administration. The staff member who administered the physical restraint/crisis intervention shall inform the administration of any public education program of the use of a physical restraint/crisis intervention as soon as possible, and by a written report not later than the next working day. The

administration shall maintain an ongoing written record of all reported instances of physical restraint/crisis intervention.

8.2 Informing Parents. The school administration shall have procedures to inform the student's parent(s) or guardian(s) of the use of a restraint as soon as possible, and not later than two (2) school days after each incident. Written documentation of this notification shall be maintained by the public education program.

8.3 Contents of Report. The written report required by Regulation 8.1 shall include:

- (a) The names and job titles of the staff who administered the restraint, and observers, if any, the date of the restraint, the time the restraint began and ended, and the name of the administrator who was verbally informed following the restraint;
- (b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint/crisis intervention, the behavior that prompted the restraint, the efforts made to deescalate the situation, alternatives to restraint that were attempted, and the justification for initiating physical restraint/crisis intervention;
- (c) A description of the administration of the restraint including the holds used and reasons such holds were necessary, the student's behavior and reactions during the restraint, how the restraint ended, and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided;
- (d) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student, and a behavioral intervention plan was developed or modified as a result of the restraint;

(e) Information regarding opportunities for the student' parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

8.4 Report to the R.I. Department of Education.

Each public educational program shall provide the R.I. Department of Education a record of every incident of the use of a physical restraint/crisis intervention on an annual basis.

9.0 Emergency Situations.

These regulations shall not create a barrier to maintaining a safe school environment. While these regulations govern the use of physical restraint/crisis interventions, they do not limit the ability of school personnel or their agents from using reasonable force to protect students, other persons or themselves from imminent, serious physical harm.

10.0 Behavioral Intervention Plans.

Once the use of physical restraint/crisis intervention has been employed on a student, school personnel shall determine if the student requires a behavioral intervention plan as part of the student's education program, and if one already exists, whether that plan needs to be modified or adjusted.

APPENDIX A

Continuum of Behavioral Interventions (It is important to note that strategies and interventions may be positive or negative based on the response of the child.)

Proactive Planning Strategies:

Room Arrangement

Appropriate and Motivating Curriculum

High Rates of Positive Responses from Teachers

Structured Daily Schedules

Staff Training – including but not limited to:

Factual information regarding numbers, frequency, duration,
antecedents

Behavior Disorders – Understanding behavior

functional assessment

behavioral plans

behavioral contracting

Emotional Disorders – DSM IV

Legal Issues

Discipline Codes

Zero Tolerance

Conflict Management

Peer Mediation

Crisis Intervention

- comfort zone
- verbal & non-verbal communication
- fight/flight/fright
- Restraint Training
- Token Economy
- Avoid Power/Control Issues
- Medications, Logs, Side Effects, Communication
- Surface Management
- Reality Therapy

Environmental Engineering

Instructional Pacing

Home Notes

Precision Commands

Data Collection

Parent Conference

Special Equipment

Supervision

Rule Out Physiological/Medical Factors

[Return to Table of Contents](#)

South Carolina (SC)

Links

https://safesupportivelearning.ed.gov/discipline-compendium?state=South%20Carolina&sub_category=Restraint%20and%20Seclusion

<https://ed.sc.gov/districts-schools/special-education-services/state-regulations/policies-and-guidance/scde-guidelines-on-the-use-of-seclusion-and-restraint/>

Law Text

Category: Conditions on Use of Certain Forms of Discipline

Subcategory: Restraint and Seclusion

State: South Carolina

South Carolina

No relevant laws or regulations found.

Guidelines on the Use of Seclusion and Restraint
South Carolina Department of Education (SCDE)

Introduction

This document provides guidelines for the development of policies and procedures regarding the practices of seclusion and restraint. These practices often arise during the management of student behavior in emergency and crisis situations, and apply to all students, including students with disabilities. This document aligns with the Restraint and Seclusion: Resource Document established by the U.S. Department of

Education in May of 2012. The Restraint and Seclusion: Resource Document is available for download at <http://www2.ed.gov/policy/seclusion/index.html>

School-wide Positive Behavioral Interventions and Supports (SWPBIS)

The local educational agency (LEA) should focus on preventing the need for more intense practices including seclusion and restraint. A SWPBIS process provides supports that include proactive strategies for defining, teaching, and supporting appropriate student behaviors to create positive school environments. A continuum of positive behavioral support for all students within a school is implemented in areas including the classroom and non-classroom settings (such as buses, hallways, restrooms, offices, etc.). A SWPBIS process is a scientific, research-based process that includes data-based decision making.

A SWPBIS process focuses on prevention of inappropriate behavior by teaching and reinforcing desirable behavior. This creates a social culture to achieve social and academic gains while minimizing problem behavior for all students. A SWPBIS process is a decision making framework that guides selection, integration, and implementation of scientifically-based academic and behavioral practices for improving academic and behavior outcomes for all students. A SWPBIS process defines practices that all students experience in all parts of the school and at all times of day.

With an emphasis on prevention and data-based decision making, school personnel use the process of SWPBIS to prevent behavior problems, carefully analyze problems that occur, and find additional ways to prevent these issues in the future. A SWPBIS process helps eliminate many incidents that otherwise might escalate to the point of using more extreme interventions and supports, including seclusion and restraint.

Directives for the Use of Seclusion

Seclusion is one component of an array of practices known as time out from positive reinforcement, or more commonly referred to simply as time out. For the purposes of

these guidelines, seclusion is defined as the involuntary confinement of a student alone in a room or area where the student is prevented from leaving. Because seclusion includes involuntary confinement, it often requires some degree of physical force and/or restraint. For that reason the two issues of seclusion and restraint are often addressed with similar requirements and concerns.

The dangers in the use of seclusion are an increasing concern to parents and educators, both locally and nationally. Many of these concerns stem from the abuse of seclusion within school settings across the country, including instances where students have died or been injured both physically and emotionally during seclusion. Further, the use of seclusion may violate constitutional rights of students, as well as basic human rights. Due to these concerns and the potential abuse of seclusion practices (and the resulting potential for litigation), the SCDE strongly discourages LEAs from placing students in seclusion under any circumstances.

It is important to note that not every removal of a student involves seclusion. Whenever a student is involuntarily confined alone in a room or area where the student is prevented from leaving, this situation is considered to be seclusion, regardless of a different name given to the area. If the student is not alone, it is not seclusion, and if the student is not prevented from leaving, it is not seclusion. For example, instances where the student voluntarily removes him or herself to a private area for the purpose of calming down or de-escalating would not be considered seclusion because the student is not involuntarily confined and not prevented from leaving an area. Two types of time out that these guidelines do not cover include inclusionary time out and exclusionary time out. Inclusionary time out involves situations where the student remains in the classroom; therefore, the student maintains the ability to see and hear classroom instruction (e.g. the student is sent away from his or her desk and to the back of the room). Exclusionary time out occurs when a student is sent to an environment where the student is no longer able to access what is happening in the classroom; however, the student maintains access to students and/or staff. Examples of exclusionary time out include: sending the student to another classroom;

- sending the student to the principal's office;
- sending the student to in-school-suspension; or
- sending the student to detention.

Seclusion time out, sometimes called isolation time out, is the most restrictive form of time out, and there is little evidence supporting its effectiveness in behavior management of students (Ryan, Sanders & Katsiyannis, 2007). The LEAs have other important tools they can utilize when managing difficult student behavior, including the use of positive behavior interventions. As previously noted, positive behavioral interventions and supports have demonstrated efficacy in reducing or eliminating many types of disruptive behaviors school wide, and warrant further investigation regarding their potential for reducing the use of seclusionary procedures in schools (Amos, 2004).

Since South Carolina law does not currently ban the use of seclusion in the public schools, it is the purpose of these guidelines not only to strongly discourage the practice, but to restrict its use to extraordinary circumstances. If LEAs abide by the following guidelines, the perceived need to use seclusion in school settings should greatly diminish. The guidelines are as follows:

Seclusion should only be used for the management of behavior when the student poses a threat of imminent, serious, physical harm to self and/or others, and the student has the ability to cause such harm.

Seclusion should never be used as punishment, to force compliance, or as a substitute for appropriate educational support.

Seclusion should only be used to control behavior when less restrictive measures have not effectively de-escalated the risk of injury.

Seclusion should never be used as a response to property destruction.

Seclusion should never be used as a response to verbal threats and profanity that do not rise to the level of physical harm unless that student demonstrates a means of carrying out the threats.

Use of a locked door on a seclusion room is prohibited.

Seclusion should last only as long as necessary to resolve the actual risk of harm.

While in seclusion, the student must be observed by staff both visually and audibly during all times.

Students must be permitted to go to the restroom and drink water if requested during seclusion.

School personnel must be prepared to act immediately should the student exhibit any signs of medical distress.

For seclusion to be used only in emergency situations and as a last resort, it is essential that proper positive behavioral interventions and de-escalation techniques are utilized beforehand and incidents of seclusion are documented. Therefore, all staff who may implement seclusion must be familiar with positive behavioral interventions and must complete annual conflict de-escalation training. A list of those who have completed training, including a description of the content of that training, must be on file. Each incident of seclusion must be carefully documented. Documentation must include:

- actions attempted prior to seclusion to manage or de-escalate the situation;
- location of the seclusion;
- a clear description of the safety concerns posed to self and/or others;
- names and position titles of personnel involved with the incident;
- the student's behavior before, during, and after seclusion;
- date and time the administrator was notified;
- date and time the student's parent(s) were notified, and by whom;
- name and position of person completing the documentation; and
- amount of time the student was held in seclusion.

Documentation must be kept in the student's educational file and notice sent home to the student's parents by the end of the next school day. An administrator must attempt to contact the student's parent(s) by the parents' preferred method of communication

on the day the seclusion occurs. If the administrator is unable to reach the parents, documentation of efforts to reach them must be recorded.

The SCDE further recommends that a staff de-briefing occur the day of the seclusion event, but no later than 24 hours or one school day after every seclusion incident. This de-briefing should include the following:

- All participants involved in the seclusion procedure, an administrator, and at least one other staff member who has expertise in the use of behavioral techniques and who was not involved in the seclusion procedure;
- A focus on antecedent conditions that preceded the behavior of concern, alternate interventions that were used and a discussion concerning why the interventions were unsuccessful in de-escalating the behavior, how this situation could have been handled in such a way to prevent the need for the use of seclusion, and how a similar event could be avoided in the future; and
- A summary of the staff de-briefing must be placed in the administrator's files. Upon request, parents must have access to and an opportunity to review this report.

In an effort to improve its practices, each LEA should devise a system to review and analyze documentation of seclusion incidents quarterly. This information will facilitate the identification of students who are repeatedly being placed in seclusion and schools that are overly using seclusion practices.¹

As previously noted, seclusion should be used only in emergency situations; therefore, seclusion should not be listed as an intervention on a Student Assistance Team (SAT) plan, an accommodations plan developed in accordance with Section 504 of the Rehabilitation Act of 1973 (504 plan), an individualized educational program (IEP), or a behavioral intervention plan (BIP). Note that situations where a student voluntarily uses a cool-off area should be treated differently and documented on a student's SAT plan, 504 plan, IEP, or BIP. Repeated use of seclusion with a student may indicate that current supports, educational methodologies, and/or other interventions may be

inadequate and should be reviewed and possibly modified. If seclusion is used with a general education student, school staff need to meet and discuss whether the student needs additional supports as might be determined in a Response to Intervention (RTI) tiered supports system, further evaluation is necessary for consideration of eligibility as a student with a disability under either Section 504 or the Individuals with Disabilities Education Act (IDEA) or the student requires a BIP or 504 plan. If seclusion is used with a student with a disability there may be a need to review the student's IEP and/or BIP.

If, despite the SCDE's strong disapproval of the practice, the LEA continues to use seclusion, the LEA must inform all parents about the procedures for using seclusion and when it may be used. An LEA may use a separate document, the school's code of conduct, handbook, or other sources of policy to provide this information. The document must include information about the parents' right to address and resolve concerns regarding the use of seclusion with his or her child.

Facility Requirements When Seclusion is Used

If an LEA specifically condones the use of seclusion rooms, the following requirements must be met.

1. All seclusion environments must be inspected at least annually, not only by LEA fire or safety inspectors, but for programmatic implementation of detailed state regulations, with violations affecting school accreditation.
2. The construction of or renovation to any seclusion environment requires review and approval of the plans, specifications and construction before the room can be occupied and used for its intended purpose.
3. Where required by state licensing and regulatory provisions, such plans and specifications must be prepared by a duly registered architect and/or engineer. Changes to a building's means of egress system design, interior finishes or occupancy classification must involve a Registered Architect. Changes to any of a building's fire protection systems design must involve a Registered Engineer.

4. All seclusion environments must comply with and be maintained in accordance with the applicable building codes under which it was constructed. Ceiling heights must be comparable to those of similar sized rooms, but in no case less than 7'-6".

Environments must be served with comparable heating, cooling and ventilation systems with comparable temperature setpoints as classrooms in the building.

5. Building life safety systems such as automatic fire detection and sprinkler systems must comply with code.

6. Seclusion environments constructed under previous guidance provided in the February 17, 2004 Joint Memorandum on Time Out Rooms may be maintained as constructed. Seclusion

environments constructed after the date of this document should be a minimum of 8 feet by 8 feet and be designed so that students cannot climb up the walls, including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing.

7. The seclusion environment must not contain anything that can be set on fire, torn, shredded or otherwise used for self-harm. The ceiling, floor and walls must be constructed with durable, vandal resistant materials that can be cleaned. Interior finishes, trim and decorative materials must meet the applicable building code requirements. The ceiling must be of a solid and moisture resistant material. All surfaces must be smooth without any projections or protrusions from the walls, ceiling or floor. Electrical outlets, switches, wiring, pipes, plumbing cleanouts or similar items must not be located within the seclusion environment. Required sprinkler heads, fire alarm components, lighting and heating and cooling vent must be vandal proof equipment and installation. For example, an institutional sprinkler may be used. It is specially designed for resistance to load bearing purposes and with components not readily converted for use as weapons.

8. Seclusion rooms must have an observation window constructed with tempered safety glass. If the window is to be located in a fire rated wall, the size and material of the glazing must meet the building code for the application and be tempered safety

glass. Consult with a registered design professional to ensure a code compliant glazing system is installed.

9. The adult responsible for supervising the student must be able to directly observe the student at all times and from any possible viewing angle or area of the seclusion room.

10. An occupant must be able to exit the room and egress out of the building during an emergency event in accordance with the building, fire and any other applicable codes. An emergency event may be a fire, but may also include a chemical spill, gas leak, bomb threat, or other hazard to building occupants. Any device or procedure used to prevent the student from exiting must be failsafe and automatically allow the student the ability to exit for self- preservation. Any door or door hardware must be specified and installed such that the door or door hardware cannot be wedged or held closed by any means other than an attendant applying pressure. Door hardware that is tied into and is automatically released when the fire alarm activates or there is a loss of power does not fully meet exiting requirements because there may be an emergency that does not activate the fire alarm.

11. If the LEA elects to create locked seclusion environments, such area is subject to reclassification per the requirements of the applicable building code as Group I-3 occupancy. An I-3 occupancy is characterized by persons who are generally incapable of self- preservation due to security measures not under the occupants' control. All building code requirements associated with such an occupancy must then be met.

Training Requirements for the Use of Seclusion

Please note that seclusion is not a recommended practice. There is no evidence that seclusion is effective as an intervention. The practice of seclusion may increase the likelihood of escalation of behavior, resulting in increased possibility of physical restraint.

If a school uses seclusion, staff must be trained as noted above in de-escalation and restraint skills. Also, staff must be knowledgeable in the practice known as time out from positive reinforcement. This practice assumes that the environment is desirable

and positive for the student. All safety issues must be addressed including appropriate locations for seclusion and the continuous presence of a supervising adult.

Directives for the Use of Physical Restraint

Injuries and deaths associated with the ongoing use of physical restraint in school settings have come to the attention of the public along with the concern that these procedures may violate basic human rights. As a result, there is increasing awareness of the abuse of these procedures in school settings by protection and advocacy organizations and parents. Due to these concerns and the potential abuse of restraint practices (and the resulting potential for litigation), the SCDE strongly discourages the use of physical restraint, except in emergency situations (to prevent immediate danger or possible injuries to the student or others in the environment when a student is in crisis).

For the purposes of these guidelines, physical restraint is defined as a personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely. It includes the holding of a student for any purpose other than providing safety and support. This does not include temporarily holding an individual to help him or her participate in education or daily living activities.

Very little research has been conducted on the prevalence, appropriate applications, or efficacy of physical restraint. Limited data is available concerning the use of physical restraint; how widely it is used or for what purposes; the extent or nature of student, teacher, or staff injuries during restraint; the type of physical restraints that are most commonly used, and the nature and extent of training received by educators and others who apply physical restraint.

Because the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Act 2004 (IDEA) require all educators to rely on evidence-based practices that are supported by scientific research, it is of great concern that there is almost no research about the intended purpose or outcome of physical restraint when used, let alone whether it achieves that purpose or is effective in achieving the desired outcomes.

Other effective behavioral and educational tools are available for LEAs to use when managing difficult student behavior, including the use of positive behavioral interventions and supports. Among these should be a variety of positive behavioral supports, including establishing and teaching behavioral expectations; recognizing and reinforcing positive behavior; providing mental health services and interventions; utilizing conflict de-escalation techniques; effective collaboration between families and schools; and relying on functional behavioral assessments (FBAs) and BIPs for any student whose behavior indicates a need for intervention.

Since state law does not currently ban the use of physical restraint in the public school environment, it is the purpose of these guidelines not only to strongly discourage the entire practice, but to restrict its use to instances where the student's behavior poses a threat of imminent, serious, physical harm to self and/or others. It is the expectation that if LEAs abide by the following guidelines, the need to utilize physical restraint in school settings should greatly diminish. When physical restraint is used, the following guidelines should be followed:

Physical restraints to control behavior should only be used when the student's actions pose a clear, present, and imminent physical danger to self and/or others and the student has the ability to cause such harm.

Physical restraints to control behavior should only be used when less restrictive measures have not effectively de-escalated the risk of injury.

The physical restraint utilized should last only as long as necessary to resolve the actual risk of danger or harm.

The degree of force applied may not exceed what is necessary to protect the student or other persons from bodily injury.

Prone restraints (with the student face down on his or her stomach) or supine restraints (with the student face up on the back) or any maneuver that places pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat are prohibited.

Physical restraint procedures should never be used as a punishment, to force compliance, or as a substitute for appropriate educational support.

Physical restraints should never be used for the purpose of managing student behavior, addressing non-compliance, or responding to students running away unless there is imminent risk of injury related to that flight.

Physical restraints should never be used as a response to property destruction.

Physical restraints should never be used as a response to a student using profanity or other verbal displays of disrespect for him or herself or others, unless the student demonstrates a means of or intent to carry out the threat.

How Many Personnel Should be Involved in a Physical Restraint Event?

Most restraint protocols describe two forms of restraint. The first is a one-person restraint, and is usually referred to by terms such as basket hold, child restraint, or children's control position. While these positions are, as described, one school personnel holding one student, it is always advisable to have at least one additional adult present to observe the event and be available to assist if needed. Additional personnel may help with managing other individuals in the vicinity, removing potentially dangerous objects, contacting others who may be needed, or other duties to support the safety of both students and personnel.

The second form of restraint is often called team restraint. This procedure involves at least two adults in direct contact with the individual, and one or two others close by to ensure safety and watch for issues and concerns. When physical restraint is used, it is important to manage the presence of others so as not to escalate the situation or create additional safety concerns by the presence of too many onlookers and bystanders.

For physical restraint to be used only in emergency situations and as a last resort, it is essential that proper behavioral interventions and de-escalation techniques are

utilized beforehand and incidents of physical restraint are documented. When physical restraint is used, the following guidelines must be followed:

Staff members who are involved must complete annual training in positive behavioral prevention techniques, de-escalation techniques, and approved physical restraint techniques from an externally-developed professional training program.

Documentation must be kept in the student's educational file and sent home to the student's parent(s) by the end of the school day.

An administrator must contact the student's parent(s) by the parents' preferred method of communication on the day the physical restraint occurs.

If the administrator is unable to reach the parent(s), documentation of efforts to reach them must be recorded.

Each incident of physical restraint must be carefully documented. Documentation must include the following information:

actions attempted prior to restraint to manage or de-escalate the situation;

location of the restraint;

a clear description of the safety concerns posed to self and/or others;

a description of the physical restraint techniques used;

names and position titles of the personnel involved with the incident;

information on what training personnel completed before implementing restraint;

the student's behavior before, during, and after restraint;

date and time the administrator was notified;

date and time the student's parent(s) were notified, and by whom;

name and position of person completing the documentation; and

amount of time the student was restrained.

The SCDE further recommends that a staff-debriefing occur the day of the incident, but no later than 24 hours or one school day after every incident of physical restraint. This de-briefing should include the following:

All participants involved in the restraint situation, an administrator, and at least one other staff member trained in positive behavioral supports, de-escalation, and approved physical restraint techniques, and who was not involved in the restraint procedure;

A focus on relevant conditions that preceded the behavior of concern, alternate interventions that were used and why they were unsuccessful in de-escalating the behavior, how this situation could have been handled in such a way to prevent the need for the use of restraint, and how a similar event could be avoided in the future; and

A summary of the staff de-briefing must be placed in the administration's files. Upon request, parents must have access to and an opportunity to review this report.

Each LEA should devise a system to review and analyze documentation of physical restraint incidents quarterly. This information will facilitate identification of students who are repeatedly being restrained and schools that are overly using restraint practices. ²Legislation is pending that may require federal and/or state reporting of seclusion and restraint practices.

Should the Use of Physical Restraint be Written into a Student's IEP or Other Individual Plan?

As previously noted, physical restraint should be used only in emergency situations. Many professionals recommend that restraint should not be listed as an intervention on a SAT report, or on a student's IEP, BIP, or 504 plan. To further explain this perspective, we quote from the National Council for Children with Behavioral Disorders (CCBD) position paper (CCBD, Restraint, July 2009 Page 15 of 21):

“Individualized Education Plans (IEPs), Personal Program Plans (PPPs), and Behavior Intervention Plans (BIPs) reflect plans for educational programming. Physical restraint is regarded as an emergency procedure that should be a part of an emergency or safety plan, not a part of routine programming. As a result, a persuasive argument can be made that physical restraint should not be included as normal intervention in students' IEPs, PPPs, or BIPs. Such inclusion might legitimize physical restraint as part of normal educational programming. Moreover, inclusion of restraint procedures in a student's IEP, PPP, or BIP may imply that it could be used routinely by educators and may often be interpreted by staff members (though wrongfully) that the parent or guardian has provided consent or support for its use by signing the IEP. Neither of these should be the case.”

Other professionals advocate for writing seclusion and/or physical restraint into an individual student's SAT report, IEP, BIP, or 504 plan. If the LEA chooses to write these practices into an individual student's plan, the following guidelines must be followed:

The use of physical restraint and seclusion complies with the minimum standards of these guidelines.

The student has a documented history showing a series of behaviors in the preceding 2 years that has created an imminent danger of serious bodily injury in school.

A comprehensive, data-driven functional behavior assessment has been conducted, and a behavioral intervention plan implemented, by a qualified team of professionals.

Repeated use of physical restraint with a student may indicate that current supports, educational methodologies, and/or other interventions may be inadequate and should be reviewed and possibly modified. If physical restraint is used with a general education student, school personnel need to meet and discuss whether the student needs additional supports as might be determined in a RTI tiered supports system, further evaluation for consideration of eligibility as a student with a disability, or whether the student requires a BIP or 504 plan.

An LEA must inform parents about its procedures for physical restraint and when it may be used. LEAs may use a separate document, the school's code of conduct, school handbook, or other sources of policy to provide this information. The document must include information about the parents' right to address and resolve concerns regarding the use of physical restraint on his or her child).

Escorting a Student

Escorting is defined as limited physical encouragement to help a student move from one location to another. The escort must not reach the level of physically forcing compliance. The student must be able to move or not move on their own volition; in these situations the student is willingly responding to the encouragement for movement. Examples of escort techniques include a hand on the back or a hand on the elbow. Gripping any part of the person's body is not considered escorting.

Please note that in some training practices, there are techniques referred to as escorting that are actually versions of physical restraint. These techniques are used when, for safety reasons only, it is necessary to move a student from one location to another. In these circumstances the student is moved, with or without their cooperation.

Mechanical Restraints

A mechanical restraint is defined as a device that restricts the movement or function of a child or portion of a child's body. Some examples of a mechanical restraint include, but are not limited to: ties, belts, handcuffs, straps, tape, or in certain instances adaptive equipment such as therapeutic chairs. The use of mechanical restraints in public school settings is prohibited.

Note that this does not prohibit the appropriate use of adaptive equipment. For example, adaptive seating products promote seating alternatives for students with a wide range of neuromuscular and orthopedic disabilities. Use of these chairs with orthopedically-challenged students is a form of therapeutic positioning that enables functional skills while encouraging comfortable engagement in classroom activities.

Adaptive products, such as Rifton chairs or therapeutically prescribed devices (e.g., weighted vests) must be used in accordance with the manufacturer's recommended usage. In no case, should a school official place a child in an adaptive seat in such a manner that constitutes a mechanical restraint. Positioning in an adaptive seat is not to be used to prevent mobility, or as a behavioral consequence. The lack of supervision or of engaging instructional activities, and inadequate staffing are not sufficient reasons to utilize an adaptive product. Note that some devices, e.g. helmets, are used as safety devices for individual students.

Chemical Restraints

Medication for safety or behavioral supports is a medical issue, and must be determined by medical personnel.

Training Requirements for the Use of De-escalation and Restraint

Staff must be trained in a nationally-recognized, externally-developed professional training program. The program should include the following:

Training conducted by a credentialed trainer;

An emphasis on prevention of behavior problems through a positive behavioral supports climate;

An emphasis on conflict prevention and conflict management skills;

An emphasis on de-escalation skills to enable staff members to respond to students in ways more likely to calm and not escalate the situation;

Training that includes personal safety skills for those working with students who present safety concerns;

Awareness training about the physical and emotional risks of escalation and restraint;

Assessment of skills learned by those trained to ensure appropriate skills are in place;

A process to review training on at least an annual basis, and more frequently as the needs of the students require;

A certificate or other credential documenting successful completion of the training; and

A prohibition on the use of prone restraints (with the student face down on his/her stomach) or supine restraints (with the student face up on the back) or any maneuver that places pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat.

Who Should be Trained?

Schools and LEAs are encouraged to provide de-escalation training for all staff members. In most settings a limited number of personnel require seclusion and physical restraint skills. It is recommended that the school and/or LEA determine which personnel need seclusion and restraint training based on students' needs. In making this determination it is important to train an adequate number of personnel who will be available in the event that seclusion and restraint are employed. Some schools ensure that they have a core team of staff that includes a general education teacher, a special education teacher, an administrator, and a support services staff member. In response to situations where individuals who have not been trained become involved in a seclusion or restraint situation, it is highly recommended that those individuals receive training within thirty days of the event.

The SCDE has provided train-the-trainer training support in de-escalation and restraint for safety purposes, utilizing one of the premier national training models. For information on training, contact the SCDE at 803-734-8224.

¹ . Federal legislation is pending that may require federal and/or state reporting of seclusion and restraint practices.

² . Federal legislation is pending that may require federal and/or state reporting of seclusion and restraint practices.

References

Amos, P.A. (2004). New considerations in the prevention of aversives, restraint, and seclusion: Incorporating the role of relationships into an ecological perspective. *Research & Practice for Persons with Severe Disabilities*, 29(4), 263-272.

Council for Children with Behavioral Disorders Position Papers, Available online at: <http://www.ccbd.net/advocacy/index.cfm?categoryID=668947C8-C09F-1D6F-F9375EDC805102B3>

CCBD'S POSITION SUMMARY ON The Use of Physical Restraint Procedures in School Settings Initially Approved by the Executive Committee on 5-17-09 Revised and Approved by the Executive Committee on 7-8-09

CCBD'S POSITION SUMMARY ON The Use of Seclusion in School Settings Initially Approved by the Executive Committee on 5-17-09 Revised and Approved by the Executive Committee on 7-8-09

CCBD's POSITION SUMMARY ON Physical Restraint & Seclusion Procedures in School Settings Initially Approved by the Executive Committee on 5-17-09 Revised and Approved by the Executive Committee on 7-8-09

Manual of Recommended Practice: Project REST – Restraint: Efficacy, Safety and Training Available online at www.frcdsn.org

Ryan, J.B., Sanders, S., Katsiyannis, A. & Yell, M. L. (2007). Using time out effectively in the classroom. *Teaching Exceptional Children*, 39(4), 60-67.

[Return to Table of Contents](#)

South Dakota (SD)

Links

https://safesupportivelearning.ed.gov/discipline-compendium?state=South%20Dakota&sub_category=Restraint%20and%20Seclusion

<https://statepolicies.nasbe.org/health/categories/physical-environment/corporal-punishment/south-dakota>

Law Text

Major Category: In-School Discipline

Sub Category: Restraint and Seclusion

No relevant laws or regulations found.

§ 13-32-2. Physical force authorized when reasonable and necessary-Attendance at school functions away from premises-Authority of bus drivers.

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

[Return to Table of Contents](#)

Tennessee (TN)

Links

https://www.tn.gov/content/dam/tn/education/special-education/ri_faq.pdf

https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=7c0700c7-5b8c-4588-b2c3-dbcba724c90a&nodeid=ABXAAKAANAAB&nodepath=%2FROOT%2FABX%2FABXAAK%2FABXAAKAAN%2FABXAAKAANAAB&level=4&haschildren=&populated=false&title=49-10-1301.+Short+title.&config=025054JABLOTjNmIvNiowYjIoLTRjZGETYWE5ZCozNGFhOWNhMjFlNDgKAFBvZENhdGFsb2cDFQ14bX2GfyBTaI9WcPX5&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A4X55-GR4o-R03j-N55j-00008-00&ecomp=g1_kkk&prid=9616fbc4-e636-46b2-a653-3252f21a1eca

<https://www.disabilityrightstn.org/documents/restraint-info-sheet-final-2015.pdf#:~:text=Restraint%20and%20Isolation%20in%20Tennessee%20Schools%20revised%20January.is%20opaying%20for%20the%20student%20to%20be%20there.>

[Tenn. Code Ann. § 49-10-1306](#)

Law Text

Definition of Seclusion/Isolation

Seclusion

“Seclusion” is the confinement of a child/youth alone in a room or an area

where the child/youth is physically prevented from leaving. This definition is not

limited to instances in which a child/youth is confined by a locked or closed door.

Seclusion does not include:

- a) The segregation of a child/youth for the purpose of managing biological contagion consistent with the Centers for Disease Control Guidelines;
- b) Confinement to a locked unit or ward where other children/youth are present. Seclusion is not solely confinement of a child/youth to an area, but separation of the child/youth from other persons; or
- c) Voluntary time-out involving the voluntary separation of an individual child/youth from others. The child/youth is allowed to end the separation at will.
- d) Locking youth in their rooms in a YDC setting for routine purposes. The only times that locking youth in their rooms is acceptable are described in Policy

Definition of Restraint (Physical, Mechanical and Chemical)

“Physical holding restraint” means the use of body contact by school personnel with a student to restrict freedom of movement or normal access to the student's body, except for:

- (A) The holding of a student by an adult in order to calm or comfort the student in the absence of an emergency;
- (B) Contact necessary to physically escort a student from one area to another in the absence of an emergency;
- (C) Assisting a student in completing a task or response if the student does not resist or if the resistance is of minimal intensity or duration;
- (D) Physically redirecting a student if the student does not resist or if the resistance is of minimal intensity or duration; or

(E) School personnel blocking a student's exit or elopement by physically placing themselves in front of the student;

“Mechanical restraint” means the application of a mechanical device, material or equipment attached or adjacent to the student's body, including ambulatory restraints, which the student cannot easily remove and that restrict freedom of movement or normal access to the student's body. Mechanical restraint does not include:

(A) The use of restraints for medical immobilization, adaptive support, or medical protection; or

(B) The use of a seat belt or other device, including, but not limited to, a belting system or harness, to secure a child with a disability during transit on a bus or vehicle operated by an LEA or a provider contracted to serve the LEA's transportation needs;

“Chemical restraint” means a medication that is prescribed to restrict a student's freedom of movement for the control of extreme violent physical behavior. Chemical restraints are medications used in addition to, or in replacement of, a student's regular drug regimen to control extreme violent physical behavior. The medications that comprise the student's regular medical regimen, including PRN medications, are not considered chemical restraints, even if their purpose is to treat ongoing behavioral symptoms;

Circumstances where Isolation/Seclusion can be used

For a student receiving special education services, as defined by § 49-10-102, isolation or a physical holding restraint may only be used in emergency situations.

Restraint and isolation may be used in an emergency situation only. An emergency situation is defined as a situation in which “a child's behavior poses a threat to the physical safety of the student or others nearby.” To determine if the situation meets these criteria, it must be a situation in which a student is at risk of serious harm to self or others. Restraint is not allowable to prevent damage to property, since this is not considered an emergency situation if a student’s safety is not at risk.

- Example of an emergency situation: Student is repeatedly punching a glass window with the intent to punch through the glass.
- Example of a non-emergency situation (this is a non-example): Student lifts the computer in an apparent effort to destroy the computer against the floor.

Requirements for Seclusion Room

The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.

Any enclosed area or structure used as an isolation room shall be:

- Unlocked and incapable of being locked;
- Free of any condition that could be a danger to the student;
- Well ventilated and temperature controlled;
- Sufficiently lighted for the comfort and well-being of the student;
- Where school personnel are in continuous direct visual contact with the student at all times;
- At least forty square feet (40 sq. ft.); and
- In compliance with all applicable state and local fire, health, and safety codes.

The use of Physical Restraint shall be subject to the following requirements and limitations.

Schools may use restraint or isolation ONLY in emergency situations. Emergency situation means there is a threat to the physical safety of the student or others. This is true even if restraint or isolation is written in a student's Individualized Education Program (IEP).

Restraint and isolation may be used in an emergency situation only. An emergency situation is defined as a situation in which "a child's behavior poses a threat to the physical safety of the student or others nearby." To determine if the situation meets these criteria, it must be a situation in which a student is at risk of serious harm to self

or others. Restraint is not allowable to prevent damage to property, since this is not considered an emergency situation if a student's safety is not at risk.

Example of an emergency situation: Student is repeatedly punching a glass window with the intent to punch through the glass.

Example of a non-emergency situation (this is a non-example): Student lifts the computer in an apparent effort to destroy the computer against the floor

Using restraint as coercion, convenience, forced compliance, or retaliation is unacceptable. This includes restraining a student by disabling equipment such as a motorized wheelchair, removing necessary mobility equipment such as a walker, or using physical supports as a restraint (e.g., a Rifton posture chair for the purpose of preventing movement). Restraint and isolation are only ever to be used in emergency situations.

If the student is running into traffic or an unsafe area—thus, creating an emergency situation—restraint may be appropriate. If the student is disruptively running within the building, or running somewhere with no immediate threat of danger, the student should not be restrained; instead, appropriate intervention should be implemented. The student's safety or risk of harm must be considered when determining the course of action.

Use of a seat belt or other device, including a belting system or harness, is allowable for the purpose of securing a child with a disability during transit on a bus operated by a school district or a provider contracted to serve the transportation needs of a local education agency. The safety of the child in transit, fellow passengers, the bus driver, and other motorists are of paramount concern.

Training Requirements for Staff

The Tennessee Special Education Behavioral Supports Act requires each district to train any staff who may restrain and/or isolate a student. The training, to the extent possible, should include:

- evidence-based techniques to prevent restraint/isolation
- techniques that maintain staff and student safety during a restraint
- conflict prevention
- de-escalation
- functional behavior assessment (FBA)
- information related to state statute, policies, and rules, and
- certification that requires regular renewal

The district will determine the training delivery and participants. Staff that commonly require this training include teachers, administrators, school counselors, school psychologists, paraprofessionals, bus assistants, and classroom assistants.

Documentation/Reporting/Complaint Requirements and Procedures

- Each school shall maintain all records of isolation and restraint.
- On a semiannual basis, using existing student-level data collection systems to the extent feasible, each school shall submit a report to the local education agency that includes:
 - The number of incidents involving the use of isolation and restraint since the previous semiannual report;
 - The number of instances in which the school personnel imposing an isolation or restraint were not trained and certified;
 - Any injuries, deaths, or property damage that occurred;
 - The time at which the student's parent or guardian was notified on the day the isolation or restraint was used; and
 - Demographic information to determine whether disproportionate use of these interventions exists.

- The local education agency shall use the information obtained from records of isolation and restraint in developing its behavior intervention training program.
- The local education agency shall submit information to the department of education each year on the use of isolation and restraint in the school district.
- Annually, this information shall be reported to the state advisory council for the education of students with disabilities established pursuant to § 49-10-105. This information must also be made readily available to the public. The council shall use this information to report annually to the state board of education with recommendations to reduce the use of isolation and restraint in public education programs. The state board of education shall use these recommendations as well as data, documentation and reports to establish policy or strategies or both to reduce or eliminate the use of isolation and restraint in schools.
- The state board of education, in consultation with the departments of education, mental health and substance abuse services, intellectual and developmental disabilities, and children's services, shall promulgate rules and regulations concerning the use of isolation or restraint with students who receive special education services so that isolation or restraint is not used when such procedures are unsafe, unreasonable or unwarranted. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Schools MUST tell the parent or guardian EVERY TIME restraint or isolation is used. This is true whether or not restraint or isolation is in a student's IEP. The school MUST record the facts of each use of isolation or restraint. Schools also MUST call an IEP meeting:

- If restraint or isolation is used when not in the IEP
- If restraint or isolation is used for a longer time than what the IEP says

Schools are NOT required to report or record the use of restraint in the following situations: 1) brief holding by an adult to calm or comfort; 2) the minimum physical contact needed to escort a student from one area to another; 3) assisting a student to complete a task if the student doesn't resist or resists minimally; 4) holding a student briefly to prevent an impulsive behavior that threatens the student's immediate safety.

[Return to Table of Contents](#)

Texas (TX)

Links

Texas Education Code (TEC), § 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out)

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=89&rl=1053](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=89&rl=1053)

Law Text

(a) Requirement to implement.

In addition to the requirements of 34 Code of Federal Regulations (CFR), §300.324(a)(2)(i), school districts and charter schools must implement the provisions of this section regarding the use of restraint and time-out. In accordance with the provisions of Texas Education Code (TEC), §37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), it is the policy of the state to treat with dignity and respect all students, including students with disabilities who receive special education services under TEC, Chapter 29, Subchapter A.

(b) Definitions.

(1) Emergency means a situation in which a student's behavior poses a threat of:

(A) imminent, serious physical harm to the student or others; or

(B) imminent, serious property destruction.

(2) Restraint means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body.

(3) Time-out means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(c) Use of restraint.

A school employee, volunteer, or independent contractor may use restraint only in an emergency as defined in subsection (b) of this section and with the following limitations.

(1) Restraint must be limited to the use of such reasonable force as is necessary to address the emergency.

(2) Restraint must be discontinued at the point at which the emergency no longer exists.

(3) Restraint must be implemented in such a way as to protect the health and safety of the student and others.

(4) Restraint must not deprive the student of basic human necessities.

(d) Training on use of restraint.

Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.

(1) A core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.

(2) Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.

(3) Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.

(4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

(e) Documentation and notification on use of restraint.

In a case in which restraint is used, school employees, volunteers, or independent contractors must implement the following documentation requirements.

(1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

(2) On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.

(3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

(4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the admission, review, and dismissal (ARD) committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).

(5) Written notification to the parent(s) and documentation to the student's special education eligibility folder must include the following:

(A) name of the student;

(B) name of the staff member(s) administering the restraint;

(C) date of the restraint and the time the restraint began and ended;

(D) location of the restraint;

(E) nature of the restraint;

(F) a description of the activity in which the student was engaged immediately preceding the use of restraint;

(G) the behavior that prompted the restraint;

(H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

(I) information documenting parent contact and notification.

(f) Clarification regarding restraint.

The provisions adopted under this section do not apply to the use of physical force or a mechanical device that does not significantly restrict the free movement of all or a portion of the student's body. Restraint that involves significant restriction as referenced in subsection (b)(2) of this section does not include:

(1) physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;

(2) limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;

(3) limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the individualized education program (IEP) as required by 34 CFR, §300.324(a)(2)(i) to promote student learning and reduce and/or prevent the need for ongoing intervention; or

(4) seat belts and other safety equipment used to secure students during transportation.

(g) Use of time-out.

A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations.

(1) Physical force or threat of physical force must not be used to place a student in time-out.

(2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.

(3) Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

(h) Training on use of time-out.

Training for school employees, volunteers, or independent contractors must be provided according to the following requirements.

(1) General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.

(2) Newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.

(3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

(4) All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

(i) Documentation on use of time-out.

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(j) Student safety.

Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

(k) Data reporting.

With the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency (TEA) in accordance with reporting standards specified by the TEA.

(l) Peace officers.

The provisions adopted under this section apply to a peace officer only if the peace officer is employed or commissioned by the school district or provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the school district and a local law enforcement agency, except that the data reporting requirements in subsection (k) of this section apply to the use of restraint by any peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity.

(m) The provisions adopted under this section do not apply to:

(1) juvenile probation, detention, or corrections personnel; or

(2) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

[Return to Table of Contents](#)

Utah (UT)

Links

Utah Administrative Code R277-609-5. Physical Restraint and Seclusionary Time Out:

<https://statepolicies.nasbe.org/health/categories/physical-environment/restraint-and-seclusion/utah>

These rules are authorized by: Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board

https://le.utah.gov/xcode/ArticleX/UC_AX_1800010118000101.pdf

and §53G-8-302(2)

<https://le.utah.gov/xcode/Title53G/Chapter8/53G-8-S302.html>

https://www2.washk12.org/sped/sped_html/SpEdRes/links/Time%20Out%20Checklist%20for%20Required%20Codes%20%201%2007.htm

Law Text

1. When May Restraints Be Used

A. A school employee may use reasonable and necessary physical restraint in self defense or when otherwise appropriate to the circumstances to:

- a) obtain possession of a weapon or other dangerous object in the possession or under the control of a student
- b) protect a student or another individual from physical injury
- c) remove from a situation a student who is violent; or
- d) protect property from being damaged, when physical safety is at risk

(§53G-8-302)

B. Nothing in this section prohibits a school employee from using less intrusive means, including a physical escort, to address circumstances described above.

(§53G-8-302)

C. Restraints may not be used as a means of discipline or punishment (R227-609-5(5))

2. When May Seclusions Be Used

A. Seclusionary timeout may only be used for maintaining safety (R227-609-5(10))

B. A public education employee may not use seclusionary time out as a means of discipline or punishment (R227-609-5(11))

3. Duties Related to the Use of Restraint

A. A physical restraint must be immediately terminated when:

- a.) a student is no longer an immediate danger to self or others; or
- b.) a student is in severe distress; and

B. the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA (local education agencies) policies, must be implemented. (R227-609-5(1))

C. A public education employee may not use physical restraint on a student for more than 30 minutes (R227-609-5(3))

4. Duties Related to the Use of Seclusion

A. If a public education employee uses seclusionary time out, the public education employee shall:

- a) Use the minimum time necessary to ensure safety
- b) Use release criteria as outlined in LEA policies
- c) Ensure that any doors remain unlocked
- d) maintain the student within line of sight of the public education employee
- e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and
- f) ensure that the enclosed area meets the fire and public safety requirements described in R392-200 and R710-4 (see below).

(R227-609-5(6))

B. A public education employee may not place a student in a seclusionary time out for more than 30 minutes (R227-609-5(8))

C. Seclusionary time out may only be used for maintaining safety (R227-609-5(10))

5. Reporting Requirements for Restraints

A. If a public education employee physically restrains a student for more than fifteen minutes, the school or the public education employee shall immediately notify:

- a) the student's parent or guardian; and
- b) school administration.

(R227-609-5(2))

6. Reporting Requirements for Seclusions

A. If a student is placed in seclusionary time out, the school or the public education employee shall immediately notify

- a) the student's parent or guardian; and
- b) school administration.

(R227-609-5(7))

7. Requirements for seclusion room

A. Under Utah health codes (R392-200-5.1.D.1.J and R392-200-6.A.1)

- a) Walls, floors, and ceilings shall be light colored, smooth, non-absorbent, easily cleanable, and shall be kept clean and maintained in good repair.
- b) Construction shall be of sound construction with floors, walls, and ceilings constructed of nonporous, cleanable material and shall be maintained in good condition

B. Under Utah fire marshal codes (R710-4)

- a) Time Out and Seclusion Rooms are allowed in occupancies fully protected by an automatic fire sprinkler system and fire alarm system.
- b) A vision panel shall be provided in the room door for observation purposes.
- c) Time Out and Seclusion Room doors may not be fitted with a lock. Unless it is a self-releasing latch that releases automatically if not physically held in the locked position by an individual on the outside of the door.
- d) Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

[Return to Table of Contents](#)

Vermont (VT)

Links

[https://legislature.vermont.gov/statutes/section/16/025/01167\](https://legislature.vermont.gov/statutes/section/16/025/01167)

<https://education.vermont.gov/sites/aoe/files/documents/edu-state-board-rules-series-4500.pdf>

Law Text

§ 1167. School resource officer; memorandum of understanding.

(a) Neither the State Board nor the Agency shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

REGULATIONS

22 000 036. Section 4500.1. Statement of purpose.

The purposes of these rules are to:

1. Create and maintain a positive and safe learning environment in schools;
2. Promote positive behavioral interventions and supports in schools; and
3. Ensure that students are not subjected to inappropriate use of restraint or seclusion.

22 000 036. Section 4500.2. Applicability.

These rules are applicable to all learning environments that receive public funding, or over which the Vermont Department of Education has regulatory authority.

22 000 036. Section 4500.3. Definitions.

For purposes of these rules, the following definitions apply:

2) Chemical Restraint means a drug, medication or chemical used on a student to control behavior or restrict movement that is not:

- a) Prescribed by a student's licensed physician for the standard treatment of a student's medical or psychiatric condition; and
- b) Administered as prescribed by the licensed physician. [...]

Mechanical Restraint means the use of any device or object that restricts a student's movement or limits a student's sensory or motor functions unless under the direction of a healthcare professional for medical or therapeutic purposes.

The term does not include devices implemented by trained school personnel, or utilized by a student for the specific and approved therapeutic and safety purposes for which such devices were designed including:

- a) Restraints for medical immobilization,
- b) Adaptive devices or mechanical supports used to achieve proper body position, balance or alignment;
- c) Vehicle safety restraints including a seat belt or harness used for balance or safety on a car or bus; or
- d) Seat belts in wheelchairs or on toilets. [...]

7) Physical Restraint means the use of physical force to prevent an imminent and substantial risk of bodily harm to the student or others. Physical restraint does not include:

- a) Momentary periods of physical restriction by direct person-to-person contact, accomplished with limited force and designed either
 - i) to prevent a student from completing an act that would result in potential physical harm to himself/herself or another person; or
 - ii) to remove a disruptive student who is unwilling to leave the area voluntarily
- b) The minimum contact necessary to physically escort a student from one place to another;
- c) Hand-over-hand assistance with feeding or task completion; or
- d) Techniques prescribed by a qualified medical professional for reason of safety or for therapeutic or medical treatment. [...]

9. Prone Physical Restraint means holding a student face down on his or her stomach using physical force for the purpose of controlling the student's movement. [...]

12. Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision. [...]

14. Supine Physical Restraint means holding a student on his or her back using physical force for the purpose of controlling the student's movement.

22 000 036. Section 4501. Prohibitions.

4501.1 School personnel and contract service providers are prohibited from imposing on a student any of the following as defined in rule 4500.3:

1. Mechanical restraint,
2. Chemical restraint,
3. Any physical restraint, escort or seclusion that restricts or limits breathing or communication, causes pain or is imposed without maintaining direct visual contact.

4501.2 Physical restraint or seclusion shall not be used:

1. For convenience of staff;
2. As a substitute for an educational program;
3. As a form of discipline or punishment;
4. As a substitute for inadequate staffing or training;
5. In response to a student's use of profanity or other verbal or gestural display of disrespect; or
6. In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.

4501.3 The restraints and seclusion prohibited by these Rules shall not be considered "reasonable and necessary force" as that term is used in 16 VSA §1161a(c).

4501.4 Schools may have policies and procedures for the use of physical restraint and seclusion in school-wide safety plans, provided such plans are consistent with these Rules.

22 000 036. Section 4502. Permissible use of restraint and seclusion.

4502.1 Permissible Use of Physical Restraint

1. Physical restraint, not otherwise prohibited by these Rules, may be used only:
2. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;
3. Within the limits set forth in 16 VSA § 1161 a;
4. Less restrictive interventions have failed or would be ineffective in stopping such imminent danger of physical injury or property damage;
5. In accordance with a school-wide safety plan that is consistent with these rules; and
6. In a manner that is safe, proportionate to and sensitive to the student's:
 1. Severity of behavior;
 2. Chronological and developmental age;
 3. Physical size;
 4. Gender;
 5. Ability to communicate;
 6. Cognitive ability; and
7. Known physical, medical, psychiatric condition, and personal history, including any history of physical, emotional or sexual abuse or trauma.

4502.1.1 Prone and supine physical restraints are more restrictive than other forms of physical restraint and may be used only when the student's size and severity of behavior require such a restraint because a less restrictive restraint has failed or would be ineffective to prevent harm to the student or others.

4502.2 Permissible Use of Seclusion

Seclusion, not otherwise prohibited by these rules, may be used only:

1. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;
2. When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury;
3. As a temporary intervention;
4. When physical restraint is contraindicated;
5. When there is no known developmental, medical, psychological or other contraindication to its use;
6. When the student is visually monitored at all times by an adult; and
7. In a space large enough to permit safe movement that is adequately lit, heated, ventilated, free of sharp or otherwise dangerous objects; and in compliance with all fire and safety codes.

4502.3 In rare circumstances where the use of physical restraint or seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, physical restraint and/or seclusion may be included in an individual safety plan only if all of the following conditions apply:

1. School personnel have reviewed and agreed to the safety plan;

2. The use of physical restraint and seclusion complies with these Rules;
3. The student has a documented history showing a series of behaviors in the preceding six (6) months that have created an imminent and substantial risk of physical injury to the student or others in the school;
4. A comprehensive, data-driven, functional behavioral assessment has been conducted;
5. A behavioral intervention plan, emphasizing positive behavioral interventions and supports, has been implemented;
6. The educational planning team, IEP team or Section 504 team has reviewed the student's program and placement to determine whether it is sufficient to meet the student's unique needs;
7. The criteria for use are clearly identified;
8. Any contraindications for use are identified;
9. Staff implementing the individual safety plan have received training from a state- recommended training program;
10. The parents are fully informed of the inherent risks of using restraint and seclusion;
11. The parents provide informed consent to the use of restraint and/or seclusion, which shall be revocable at any time; and
12. The ongoing need for an individual safety plan is reviewed and revised, as appropriate, and in any event at least annually.

4502.3.1 Any restraint or seclusion imposed as a result of an individual safety plan is subject to all the reporting, documentation and debriefing requirements set forth in 4503, 4504 and 4505 below.

4502.4 Physical restraint or seclusion shall only be imposed:

1. By school personnel or contract service providers who have been trained to provide the selected intervention unless, due to the unforeseeable nature of the danger of the circumstance, trained personnel are not immediately available;
2. When a restrained student is monitored face-to-face by school personnel or contract service providers; or
3. If personnel safety is significantly compromised by face-to-face monitoring, or the student is in seclusion, school personnel or a contract service provider are in direct visual contact with the student.

4502.5 Physical restraint or seclusion shall be terminated as soon as:

1. The student demonstrates that he/she is in unnecessary pain or significant physical distress indicating a possible need for emergency medical assistance or that his/her breathing or communication is compromised; or
2. The student's behavior no longer poses an imminent danger of physical injury to the student or others or danger to property; or
3. Less restrictive interventions would be effective in stopping such imminent danger of physical injury or property damage.

4502.6 Following termination of any physical restraint or seclusion, the student shall be evaluated and monitored for the remainder of the school day on which physical restraint or seclusion is imposed. The evaluation shall include a routine physical/medical assessment conducted by someone not involved in the restraint or seclusion, and documentation of any injury received by the student as a result of the restraint or seclusion.

22 000 036. Section 4503. Reporting the use of restraint and seclusion.

4503.1 To the School Administrator.

Any person who imposes a restraint or seclusion shall report its use to the school administrator as soon as possible, but in no event later than the end of the school day of its use.

4503.2 To Parents.

1. The school administrator shall make a documented attempt to provide verbal or electronic notice of any incident of restraint or seclusion to the student's parents (as defined in 4500.3(13)) as soon as practical but in no event later than the end of the school day of its use; and
2. Shall provide written notice to the parents within 24 hours of each use of restraint or seclusion that includes:
 1. The date and time of its use;
 2. A description of the restraint and other intervention used;
 3. The date and time when the debriefing session will occur; including notice that the parents have the opportunity to participate in the debriefing; and
 4. The name and telephone number of the contact person who can provide further information.

4503.3 To the Superintendent.

The school administrator shall report the use of restraint or seclusion to the superintendent of the Supervisory Union whenever:

1. There is death, injury or hospitalization to staff or student as a result of a restraint or seclusion; or
2. An individual employee or contracted service provider has engaged in the use of physical restraint or seclusion three (3) separate times on one (1) or more

students; or

3. Physical restraint has been used for more than fifteen (15) minutes; or
4. Any student has been restrained or secluded three (3) or more times per school year; or
5. A student has been restrained or secluded more than once in a school day; or
6. A student is restrained or secluded who is not on a behavioral intervention plan; or
7. Restraint or seclusion has been used in violation of these rules, including the use of any prohibited form of restraint.

Reports to the Superintendent shall be made within three school days of the incident that requires reporting and shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

4503.3.1 Learning environments other than public schools shall fulfill this reporting requirement by reporting to the Superintendent of the Supervisory Union that is the LEA or sending district for the student. If there is no sending district or LEA, this requirement shall be fulfilled by reporting to the Commissioner of the Department of Education in accordance with Rule 4503.4.

4503.4 To the Commissioner of the Department of Education.

The Superintendent of the supervisory union shall report the use of restraint or seclusion to the Commissioner of the Department of Education within three (3) school days of receipt of a report indicating any the following:

1. There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion; or

2. Physical restraint or seclusion has been used for more than thirty (30) minutes or
3. Physical restraint or seclusion has been used in violation of these rules, including the use of any prohibited restraint or seclusion.

The report shall include all the information set forth in Rule 4504 required of a written record of each use of restraint or seclusion.

22 000 036. Section 4504. Documentation.

Each school shall maintain written records of each use of restraint and seclusion. The records shall be maintained by the school administrator and shall include the following:

1. The name, age, gender and grade of the student;
2. The date, time and duration of the restraint or seclusion;
3. Any injuries, death or hospitalization to student or staff resulting from the use of restraint or seclusion;
4. The location where the restraint or seclusion occurred;
5. The precipitating event[s] leading up to the restraint or seclusion;
6. A list of school personnel who participated in the application, monitoring and supervision of the student while restrained or secluded;
7. The type of restraint or seclusion used;
8. The reason for the restraint or seclusion;
9. A description of all the interventions used prior to the application of the restraint or seclusion;

10. Whether the student has a behavioral intervention plan and/or individualized education plan, Section 504 plan or educational support plan; and
11. The date notification was provided to the student's parents.

22 000 036. Section 4505. Debriefing following use of restraint or seclusion.

Following each incident of restraint or seclusion, the school administrator shall implement follow-up procedures that include:

1. Within two (2) school days, a proper staff person reviewing the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior[s] that precipitated the use of restraint or seclusion;
2. Within two (2) school days, reviewing the incident with the staff person(s) who administered the restraint or seclusion to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion;
3. An opportunity for parents to participate in the review of an incident of restraint or seclusion within four (4) school days:
 1. Parents shall receive prior written (including e-mail) notice of the review meeting; and
 2. The meeting shall be convened at a mutually acceptable time and place; and
 3. Determining, in consultation with the parents, any specific follow up actions to be taken.

22 000 036. Section 4506. Annual notification.

Annually, at or before the beginning of the academic year, each school (defined in 4500.3(10)) shall inform all school personnel, and parents of students enrolled in the school of the policies pertaining to the use of physical restraint and seclusion and the intent to emphasize the use of positive behavioral interventions and supports and its intention to avoid the use of physical restraint or seclusion to address targeted student behavior.

22 000 036. Section 4507. Complaints and investigations.

4507.1 Filing a Complaint

1. A parent (as defined in 4500.3(13)) or school personnel may file a complaint regarding the use of restraint or seclusion at anytime in accordance with school district policy.
2. The complaint shall be in writing and shall be directed to the principal, director or administrator of the school in which the student participates.
3. If the person filing the complaint is unable to submit the complaint in writing, the recipient of the complaint shall complete the form based on a verbal complaint. In this case, the complainant shall be provided with a copy of the complaint.

4507.2 Investigation

All complaints shall be investigated by the school or district and written findings issued within thirty (30) days;

4507.3 Unresolved Complaints

Unresolved complaints shall be directed to the superintendent of the Supervisory Union where the student resides in accordance with the school board's established complaint process. A student on an individualized education plan (IEP) or Section 504

Plan may also use the dispute resolution options available under Rules 2365.1.4 – 2365.1.6, if appropriate.

22 000 036. Section 4508. Monitoring and corrective action.

The commissioner of the Department of Education shall review reports received pursuant to Rule 4503.4 and identify those schools in need of additional training and, when those reports reflect an over-use of these interventions, shall direct the school to work with the department to develop a corrective action plan.

22 000 036. Section 4509. State recommended training.

The Department of Education shall maintain a directory of recommended physical restraint training programs, which must include at least the following elements:

1. Appropriate procedures for preventing the need for physical restraint, including the de-escalation of dangerous behavior, relationship-building, and the use of alternatives to physical restraint;
2. Identification of dangerous behaviors that may indicate the need for physical restraint and methods for evaluating the risk of harm to determine if physical restraint is warranted;
3. Simulated experience in administering and in receiving a variety of physical restraint techniques, across a range of increasingly restrictive interventions;
4. Instruction regarding the effects of physical restraint on the person restrained, including monitoring physical signs of distress and how to obtain medical assistance;
5. Instruction regarding investigation of injuries and complaints.

A school may use a training program that is not on the state recommended list if it submits a plan to the Commissioner of Education demonstrating how that training program meets the purposes of these Rules and contains the elements listed above.

22 000 036. Section 4510. Effective date.

These Rules shall become effective on August 15, 2011, however schools shall have until September 30, 2011, to have trained staff available.

[Return to Table of Contents](#)

Virginia (VA)

Links

<http://vlas.org/special-programs/ask-advocating-for-special-kids/special-education/p-re-school-through-12th-grade/restraint-and-seclusion/>

<https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/section110/>

<https://www.crisisprevention.com/CPI/media/Media/Resources/alignments/2020-VA-Seclusion-and-Restraint-Restrictions-8-VAC-20-750.pdf>

<https://law.lis.virginia.gov/admincode/title12/agency35/chapter105/section840/>

Law Text

Definitions:

Restraint – A safety procedure in which a student is physically held, restricting his or her freedom of movement.

“Physical restraint” means a personal restriction that immobilizes or reduces the ability of a student to move freely. The term “physical restraint” does not include:

- (i) briefly holding a student to calm or comfort the student;
- (ii) holding a student’s hand or arm to escort the student safely from one area to another; or
- (iii) the use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control.

Seclusion – A safety procedure in which a student is isolated from others in an area from which he or she is physically prevented from leaving.

Circumstances where seclusion can be used

Seclusion should only be used **in emergency situations**, after other alternative and less intrusive procedures have been tried and failed. They are used in response to serious problem behavior when the student or others nearby are at risk of injury or harm.

These procedures are **not appropriate** for behaviors that do not place the student or others at risk of harm or injury. They should not be used as a regular behavioral intervention, treatment, or as punishment for being disruptive or noncompliant.

Circumstances where restraint can be used

Restraint should only be used **in emergency situations**, after other alternative and less intrusive procedures have been tried and failed. They are used in response to serious problem behavior when the student or others nearby are at risk of injury or harm.

These procedures are **not appropriate** for behaviors that do not place the student or others at risk of harm or injury. They should not be used as a regular behavioral intervention, treatment, or as punishment for being disruptive or noncompliant.

Note: B. The voluntary use of mechanical supports to achieve proper body position, balance, or alignment so as to allow greater freedom of movement or to improve normal body functioning in a way that would not be possible without the use of such a mechanical support, and the voluntary use of protective equipment **are not considered restraints**.

A. School personnel may implement physical restraint or seclusion only when other interventions are or would be, in the reasonable judgment of the particular school personnel implementing physical restraint or seclusion in an emergency situation, ineffective and only to:

1. Prevent a student from inflicting serious physical harm or injury to self or others;
2. Quell a disturbance or remove a student from the scene of a disturbance in which such student's behavior or damage to property threatens serious physical harm or injury to persons;
3. Defend self or others from serious physical harm or injury;
4. Obtain possession of controlled substances or paraphernalia that are upon the person of the student or within the student's control; or
5. Obtain possession of weapons or other dangerous objects that are upon the person of the student or within the student's control.

B. Physical restraint and seclusion shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situation has dissipated.

C. Nothing in this section shall be construed to require school personnel to attempt to implement a less restrictive intervention prior to using physical restraint or seclusion when, in the reasonable judgment of the school personnel in an emergency situation, a less restrictive intervention would be ineffective.

D. Unless a student's damage to property creates an imminent risk of serious physical harm or injury to the student or others, the damage of property does not itself indicate an imminent risk of serious physical harm or injury and shall not be the justification for the restraint or seclusion of a student.

Requirements for seclusion room

A. The seclusion room shall be at least six feet wide and six feet long with a minimum ceiling height of eight feet.

B. The seclusion room shall be free of all protrusions, sharp corners, hardware, fixtures or other devices which may cause injury to the individual.

C. Windows in the seclusion room shall be so constructed as to minimize breakage and otherwise prevent the individual from harming himself.

D. Light fixtures and other electrical receptacles in the seclusion room shall be recessed or so constructed as to prevent the individual from harming himself. Light controls shall be located outside the seclusion room.

E. Doors to the seclusion room shall be at least 32 inches wide, shall open outward and shall contain observation view panels of transparent wire glass or its approved equivalent, not exceeding 120 square inches but of sufficient size for someone outside the door to see into all corners of the room.

F. The seclusion room shall contain only a mattress with a washable mattress covering designed to avoid damage by tearing.

G. The seclusion room shall maintain temperatures appropriate for the season.

H. All space in the seclusion room shall be visible through the locked door, either directly or by mirrors.

Training requirements for staff

School employees should have training on the use of appropriate restraint and seclusion techniques as well as being aware of the school's policy and state laws regarding these procedures.

1. Providers shall meet with the individual or his authorized representative upon admission to the service to discuss and document in the individual's services record his preferred interventions in the event his behaviors or symptoms become a danger to himself or others and under what circumstances, if any, the intervention may include seclusion, restraint, or time out.

2. Providers shall document in the individual's services record all known contraindications to the use of seclusion, time out, or any form of physical or mechanical restraint, including medical contraindications and a history of trauma, and shall flag the record to alert and communicate this information to staff.
3. Providers shall not use seclusion, restraint, or time out as a punishment or reprisal or for the convenience of staff.
4. Providers shall not use seclusion or restraint solely because criminal charges are pending against the individual.
5. Providers shall not use a restraint that places the individual's body in a prone (face down) position.
6. Ensure that all school personnel receive training that focuses on skills related to positive behavior support, conflict prevention, de-escalation, and crisis response, including follow-up support and social-emotional strategy support for students, staff, and families;
7. Ensure that all school personnel receive initial training regarding the regulations, policies, and procedures governing the use of physical restraint and seclusion;
8. Provide advanced training in the use of physical restraint and seclusion for at least one administrator in every school building and for school personnel assigned to work with any student whose IEP or Section 504 team determines the student is likely to be physically restrained or secluded; and
9. Ensure that any initial or advanced training is evidence-based.

Documentation/Reporting requirements

When restraint and/or seclusion is absolutely necessary, a full incident report must be filed, documenting the time, date, circumstances, location, and all persons involved. It must also be noted why the extreme intervention was needed as well as an explanation why less intrusive interventions were deemed inappropriate or inadequate. The report must also list all persons who must be notified of the incident.

When a school system feels the child's behavior cannot be handled by less intrusive measures, a behavior assessment and plan should be done. Restraint and seclusion should always be considered as a last resort and only when there is the risk of harm to the student or others.

A. When any student has been physically restrained or secluded: 1. The school personnel involved shall report the incident and the use of any related first aid to the school principal or the principal's designee as soon as possible by the end of the school day in which the incident occurred; and

2. The school principal or the principal's designee, or other school personnel shall make a reasonable effort to ensure that direct contact is made with the student's parent, either in person or through telephone conversation, or other means of communication authorized by the parent, such as email, to notify the parent of the incident and any related first aid on the day the incident occurred.

B. As soon as practicable, but no later than two school days after an incident in which physical restraint or seclusion has been implemented, the school personnel involved in the incident or other school personnel, as may be designated by the principal, shall complete and provide to the principal or the principal's designee a written incident report. The school division shall provide the parent with a copy of the incident report within seven calendar days of the incident.

The written incident report shall contain information sufficient to inform the parent about the incident.

C. Following an incident of physical restraint or seclusion, the school division shall ensure that, within two school days, the principal or the principal's designee reviews the incident with all school personnel who implemented the use of physical restraint or seclusion to discuss:

1. Whether the use of restraint or seclusion was implemented in compliance with this chapter and local policies; and
2. How to prevent or reduce the future need for physical restraint or seclusion.

D. As appropriate, depending on the student's age and developmental level, following each incident of physical restraint or seclusion the school division shall ensure that, as soon as practicable, but no later than two school days or upon the student's return to school, the principal or the principal's designee shall review the incident with the student involved to discuss:

1. Details of the incident in an effort to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents; and
2. Alternative positive behaviors or coping skills the student may utilize to prevent or reduce behaviors that may result in the application of physical restraint or seclusion.

E. The principal or the principal's designee shall regularly review the use of physical restraint or seclusion to ensure compliance with school division policy and procedures. When there are multiple incidents within the same classroom or by the same individual, the principal or the principal's designee shall take appropriate steps to address the frequency of use.

Parental notification requirements

The school principal or the principal's designee, or other school personnel shall make a reasonable effort to ensure that direct contact is made with the student's parent, either in person or through telephone conversation, or other means of communication authorized by the parent, such as email, to notify the parent of the incident and any related first aid on the day the incident occurred.

[Return to Table of Contents](#)

Washington (WA)

Links

<https://app.leg.wa.gov/rcw/default.aspx?cite=28A.600.485>

<https://app.leg.wa.gov/RCW/dispo.aspx?cite=70.96B.010>

<https://app.leg.wa.gov/RCW/default.aspx?cite=28A.155.020>

<https://lawfilesexternal.leg.wa.gov/biennium/2013-14/Pdf/Bills/Session%20Laws/House/1688-S.SL.pdf?cite=2013%20c%20202%20%A7%202>

Law Text

RCW 28A.600.485

Restraint of students—Use of restraint or isolation specified in individualized education programs or plans developed under section 504 of the rehabilitation act of 1973—Procedures—Summary of incidents of isolation or restraint—Publishing to web site.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.

(b) "Restraint" means physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to safely participate in activities.

(c) "Restraint device" means a device used to assist in controlling a student, including but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. Restraint device does not mean a seat harness used to safely transport students. This section shall not be construed as encouraging the use of these devices.

(2) The provisions of this section apply to all students, including those who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973. The provisions of this section apply only to incidents of restraint or isolation that occur while a student is participating in school-sponsored instruction or activities.

(3)(a) An individualized education program or plan developed under section 504 of the rehabilitation act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student's individual needs require more specific advanced educational planning and the student's parent or guardian agrees. All other plans may refer to the district policy developed under subsection (3)(b) of this section. Nothing in this section is intended to limit the provision of a free appropriate public education under Part B of the federal individuals with disabilities education improvement act or section 504 of the federal rehabilitation act of 1973.

(b) Restraint or isolation of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm, as defined in *RCW 70.96B.010. Restraint or isolation must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated. Each school district shall adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances.

(4) Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include: (a) Reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response; and (b) reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

(5) Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information:

(a) The date and time of the incident;

(b) The name and job title of the individual who administered the restraint or isolation;

(c) A description of the activity that led to the restraint or isolation;

(d) The type of restraint or isolation used on the student, including the duration;

(e) Whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and

(f) Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

(6) The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district

customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language.

(7)(a) Beginning January 1, 2016, and by January 1st annually, each school district shall summarize the written reports received under subsection (5) of this section and submit the summaries to the office of the superintendent of public instruction. For each school, the school district shall include the number of individual incidents of restraint and isolation, the number of students involved in the incidents, the number of injuries to students and staff, and the types of restraint or isolation used.

(b) No later than ninety days after receipt, the office of the superintendent of public instruction shall publish to its web site the data received by the districts. The office of the superintendent of public instruction may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation. [2015 c 206 § 3; 2013 c 202 § 2.]

NOTES:

***Reviser's note:** RCW 70.96B.010 was repealed by 2016 sp.s. c 29 § 301, effective April 1, 2018.

Finding—2015 c 206: See note following RCW 28A.155.020.

Findings—2013 c 202: "The legislature finds that preserving a safe and beneficial learning environment for all students requires the establishment and enforcement of appropriate student discipline policies. The legislature further finds that although physical restraint and isolation of a student should be avoided, there may be circumstances where school district boards of directors have authorized these actions to preserve the safety of other students and school staff. Nevertheless, if an incident of student restraint or isolation occurs, school personnel should be held accountable for providing a thorough explanation of the circumstances." [2013 c 202 § 1.]

[Return to Table of Contents](#)

West Virginia (WV)

Links

<http://wvde.state.wv.us/healthyschools/Policy4373ExpectedBehaviorsinSafeandSupportiveSchools.htm>

<http://www.wvlegislature.gov/WVCODE/Code.cfm?chap=18a&art=5#05>

Law Text

Policy Number and Title: Policy 4373 – Expected Behavior in Safe and Supportive Schools

Section 3. Use of Physical Punishment Prohibited

West Virginia Code §18A-5-1(e) prohibits school employees from using corporal (bodily) punishment on any student. No physical punishment of any kind can be inflicted upon a student. This includes:

- hitting or striking a student on their physical person;
- requiring physical activity as a punishment (this does not apply to physical activity within the structure and context of extracurricular activities);
- use of noxious stimuli (e.g. pepper spray), denial of food or water or other negative physical actions to control behavior; and
- seclusion – a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior.

Section 4. Use of Restraint

Reasonable force may be used to restrain a student from hurting himself/herself or any other person or property. All students, including students with disabilities, must be treated with dignity and respect. Behavior interventions and support practices must be implemented in such a way as to protect the health and safety of the students and others. When the use of physical restraint is necessary, the following guidelines must be followed:

Definitions:

- **Restraint** - the use of physical force to significantly restrict the free movement of all or a portion of a student's body.
- **Emergency** - a situation in which a student's behavior poses a threat of imminent, serious physical harm to the student or others or serious property destruction.

A school employee and/or independent contractor may use restraint in an emergency as defined above with the following limitations:

- Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency. Procedures and maneuvers that restrict breathing (e.g. prone restraint), place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat, or may cause physical harm are prohibited.
- Restraint shall be discontinued at the point at which the emergency no longer exists.
- Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
- Restraint shall not deprive the student of basic human necessities.
- Appropriate (intended use) utilization of mechanical restraints such as seat belts or feeding tables when applied for their intended purpose is not prohibited; however, the application of mechanical restraint is prohibited as an intervention or consequence for inappropriate behavior.

School employees and/or independent contractors who, as determined by the principal, may need to use restraint shall be provided training according to the following requirements:

- A core team of personnel in each school must be trained annually in the use of a nationally recognized restraint process. The team must include an administrator or designee and any general or special education personnel likely to use restraint;
- Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 days following the use of restraint if the principal determines that there is a reasonable likelihood that the situation leading to the use of restraint will reoccur;
- Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint;
- All trained personnel shall also receive instruction in current professionally accepted practices and standards regarding behavior interventions and supports;

Comprehensive documentation and immediate notification on use of restraint is required. In a case in which restraint is used, school employees, volunteers and/or independent contractors shall implement the following documentation requirements:

Time Requirement	Documentation/Notification
Immediately following the use of restraint (within one hour)	The principal or designee must be provided verbal and written notification that restraint was used on a given student with a description of the restraint process used.
Same day	A good faith effort shall be made to verbally notify the parents/guardian regarding the use of restraint.
Within one school day	Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent/guardian.

Within one school day	Written documentation regarding the use of restraint must be placed in the student's official school record. The information must be available to determine the relationship of a student's behavior as it impacts the student's learning and/or the creation or revision of a behavior intervention plan
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Written notification to the parents/guardian and documentation to the student official school record shall include the following:

- Name of the student;
- Name of the staff member(s) administering the restraint;
- Date of the restraint and the time the restraint began and ended;
- Location of the restraint;
- Narrative that describes antecedents, triggers, problem behavior(s), rationale for application of the restraint and the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
- Documentation of all parental contact and notification efforts

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: Policy 4373 – Expected Behavior in Safe and Supportive Schools

Chapter 4

INAPPROPRIATE BEHAVIOR AND MEANINGFUL INTERVENTIONS AND CONSEQUENCES

Section 1. Addressing Inappropriate Behavior with Meaningful Interventions and Consequences

The purpose of these regulations is to provide schools with policy that creates and ensures an orderly and safe environment that is conducive to learning. This policy requires that all schools respond immediately and consistently to any behavior that disrupts the learning environment in a manner that effectively deters future incidents and affirms respect for individuals. Inappropriate behaviors include but are not limited to incidents of harassment, intimidation, bullying, substance abuse and/or violence. The intent is for students to learn and exhibit appropriate behavior. All interventions and consequences are in effect on all school property and at all school sanctioned events, including extracurricular activities. Each district, with support from the WVDE and RESAs, will implement proactive, preventative, and responsive programs, outline investigatory and reporting procedures, and delineate meaningful interventions and consequences in response to inappropriate behavior.

This policy classifies inappropriate student behavior in four levels. County policies may reclassify Level 2 and 3 inappropriate behaviors depending on the severity or repetition of the behaviors and provided this reclassification assures that the treatment of the inappropriate behavior is consistent with West Virginia Code.

County/school policies should identify appropriate and meaningful interventions and consequences that include, but are not limited to, examples provided in this policy. It is not a requirement that all schools offer every intervention and consequence listed in this policy. School administrators and staff are encouraged to exhaust all available school and community resources to provide appropriate school-based intervention strategies designed to keep students in school and engaged in instruction.

Out-of-school suspension strategies should be used sparingly and shall never deny a student access to instructional material and information necessary to maintain their academic progress. Out-of-school suspension is not a recommended consequence or intervention for Level 1 behaviors, however, the determination of interventions and consequences is at the discretion of the school administrator for levels 1, 2 and 3. West Virginia Code requires that the principal shall suspend a student who commits a behavior classified as Level 4 in this policy. Level 3 and 4 behaviors are to be referred

directly to the appropriate administrator because of the serious and/or unlawful nature of the misconduct.

In order to create consistency among all schools in the application of out-of-school suspension and expulsion as they relate to inter-scholastic extracurricular activities, any student suspended or expelled from school is also suspended from extracurricular activities for the duration of the out-of-school suspension or expulsion.

When administering interventions and consequences, it is required to determine if a student warrants protection under the IDEA, WVBE Policy 2419 and or Section 504.

Section 2. Inappropriate Behaviors: Codes, Definitions and Interventions and Consequences

Behaviors	Definitions – Level 1	Interventions and Consequences
LEVEL 1: Minimally Disruptive Behaviors – disrupt the educational process and the orderly operations of the school but do not pose direct danger to self or others.		
Cheating	A student will not plagiarize or copy the work of others or break rules to gain advantage in a competitive situation. Interventions for this inappropriate behavior may include academic sanctions in addition to other discipline.	<ul style="list-style-type: none"> • Administrator/student conference or reprimand • Administrator and teacher-parent/guardian conference • Academic sanctions may be used to deny credit for work resulting from cheating; however, previously earned grades/credits may not be reduced.
Deceit	A student will not deliberately conceal or misrepresent the truth, deceive another or cause another to be deceived by false or misleading information.	

Disruptive/ Disrespectful Conduct	A student will not exhibit behavior that violates classroom/school rules, results in distraction and obstruction of the educational process or that is discourteous, impolite, bad mannered and/or rude. Behavior is considered disruptive and/or disrespectful if a teacher is prevented from starting an activity or lesson, or has to stop instruction to address the disruption.	<ul style="list-style-type: none"> ● Counseling referrals and conference to support staff or agencies ● Daily/weekly progress reports ● Behavioral contracts ● Change in the student's class schedule ● School service assignment ● Confiscation of inappropriate item ● Revocation of privileges ● Restitution/restoration ● Detention (lunch, before and/or after school) ● Denial of participation in class and/or school activities ● Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1) ● Voluntary weekend detention (Superintendent's Interpretation of May 12, 2006) ● In-school suspension ● *West Virginia Code §18A-5-1 (d) prohibits the use of suspension
Failure to Serve Detention	A student will not fail to serve an assigned detention of which students and/or parents/guardian have been notified.	
Falsifying Identity	A student will not use another person's identification or give false identification to any school official with intent to deceive school personnel or falsely obtain money or property.	

Inappropriate Appearance	A student will not dress or groom in a manner that disrupts the educational process or is detrimental to the health, safety or welfare of others. A student will not dress in a manner that is distracting or indecent, to the extent that it interferes with the teaching and learning process, including wearing any apparel that displays or promotes behavior and/or items prohibited by this policy.	<p>solely for not attending class.</p> <ul style="list-style-type: none"> • While out-of-school suspension is not recommended for Level 1 Inappropriate Behavior, if used at the discretion of the school administrator, it should be limited to a maximum of three (3) days. • Law enforcement notification if warranted. Absent a real and immediate threat to school or public safety, incidents involving public order offenses shall be considered school discipline issues to be handled by school officials rather than criminal law issues warranting formal law enforcement intervention.
Inappropriate Display of Affection	Students will not engage in inappropriate displays of intimate affection, such as kissing or embracing.	
Inappropriate Language	A student will not orally, in writing, electronically, or with photographs or drawings, use profanity in general context (not directed toward any individual or group).	
Possession of Inappropriate Personal Property	A student will not possess personal property that is prohibited by school rules or that is disruptive to teaching and learning.	

<p>Skipping Class*</p>	<p>In accordance with WVBE Policy 4110 - Attendance, a student will not fail to report to the school's assigned class or activity without prior permission, knowledge or excuse by the school or by the parent/guardian.</p>	
<p>Tardiness*</p>	<p>A student will not fail to be in his/her place of instruction at the assigned time without a valid excuse.</p>	
<p>Vehicle Parking Violation</p>	<p>A student will not engage in improper parking of a motor vehicle on school property.</p>	

Behaviors	Definitions – Level 2	Interventions and Consequences
<p>LEVEL 2: Disruptive and Potentially Harmful Behaviors – disrupt the educational process and/or pose potential harm or danger to self and/or others. The behavior is committed willfully but not in a manner that is intended maliciously to cause harm or danger to self and/or others.</p>		

<p>Gang Related Activity</p>	<p>A student will not, by use of violence, force, coercion, threat of violence or gang activity, cause disruption or obstruction to the educational process. Gangs are defined as organized groups of students and/or adults who engage in activities that threaten the safety of the general populace, compromise the general community order, and/or interfere with the school district's educational mission. Gang activity includes:</p> <ul style="list-style-type: none"> • Wearing or displaying any clothing, jewelry, colors, or insignia that intentionally identifies the student as a member of a gang, or otherwise symbolizes support of a gang. • Using any word, phrase, written symbol or gesture that intentionally identifies a student as a member of gang, or otherwise symbolizes support of a gang. • Gathering of two or more persons for purposes of engaging in activities or discussions promoting gangs. • Recruiting student(s) for gangs. 	<ul style="list-style-type: none"> • Administrator/student conference or reprimand • Administrator and teacher-parent/guardian conference • Referral to support staff or agencies for counseling or other therapeutic services • Daily/weekly progress reports • Behavioral contracts • Change in the student's class schedule • School service assignment • Confiscation of inappropriate item • Revocation of privileges • Restitution/restoration • Before and/or after-school detention • Denial of participation in class and/or school activities • Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first exclusion, (West Virginia Code §18A-5-1)
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Habitual Violation of School Rules or Policies	A student will not persistently, as defined by the county, refuse to obey the reasonable and proper orders or directions of school employees, school rules or policies.	<ul style="list-style-type: none"> • Voluntary weekend detention (Superintendent’s Interpretation of May 12, 2006) • In-school suspension • Out-of-school suspension with a recommended maximum of five (5) days (See guidelines in Chapter 6, Section 2)West Virginia Code §18A-5-1 (d) prohibits the use of suspension solely for not attending class. • The principal and/or superintendent may recommend placement in an Alternative Education program as described in Section 5 of this chapter. • Expulsion • Law enforcement notification if warranted. Absent a real and immediate threat to school or public safety, incidents involving public order offenses shall be considered school discipline issues to be handled by school officials rather than
Insubordination	A student will not ignore or refuse to comply with directions or instructions given by school authorities. Refusing to open a book, complete an assignment, work with another student, work in a group, take a test or do any other class- or school-related activity not listed herein, refusing to leave a hallway when requested by a school staff member, or running away from school staff when told to stop, all constitute insubordination/unruly conduct.	
Leaving School Without Permission	A student will not leave the school building, campus of school activity for which the student is enrolled without permission from authorized school personnel.	
Physical Fight Without Injury	A student will not engage in a physical altercation using blows in an attempt to harm or overpower another person or persons.	

Possession of Imitation Weapon	A student will not possess any object fashioned to imitate or look like a weapon.	criminal law issues warranting formal law enforcement intervention.
Possession of Knife not meeting Dangerous Weapon Definition (West Virginia Code §61-7-2)	A student will not possess a knife or knife-like implement under 3½ inches in length. West Virginia Code §61-7-2 clarifies that a pocket knife with a blade 3½ inches or less in length, a hunting or fishing knife carried for sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined as a deadly weapon unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.	
Profane Language/ Obscene Gesture/ Indecent Act Toward... An Employee or A Student	A student will not direct profane language, obscene gestures or indecent acts towards a school employee or a fellow student. This inappropriate behavior includes but is not limited to, verbal, written, electronic and/or illustrative communications intended to offend and/or humiliate.	
Technology Misuse	A student will not violate the terms of WVBE Policy 2460, Safety and Acceptable Use of the Internet by Students and Educators.	

Behaviors	Definitions – Level 3	Interventions and Consequences
<p>LEVEL 3: Imminently Dangerous, Illegal and/or Aggressive Behaviors – are willfully committed and are known to be illegal and/or harmful to people and/or property. The principal shall address these inappropriate behaviors in accordance with W. Va. Code §18A-5-1a, subsections (b) through (h)</p>		
Battery Against a Student	A student will not unlawfully and intentionally injure another student.	Level 3 behaviors are criminal offenses and therefore warrant formal law enforcement intervention
Defacing School Property/ Vandalism	A student will not willfully cause defacement of or damage to property of the school or others. Actions such as writing in school textbooks or library books, writing on desks or walls, carving into woodwork, desks, or tables, and spray painting surfaces are acts of defacement. Examples of damage to school property include, but are not limited to, ruining bulletin boards, intentionally clogging the plumbing system, breaking light bulbs or fixtures, and damaging school equipment to the point where repair is necessary.	which may result in issuance of a criminal citation, ticket, or summons, filing a delinquency petition, referral to a probation officer or actual arrest. In collaboration with law enforcement, the school shall also implement intervention strategies and meaningful consequences that promote and support appropriate behavioral changes. These strategies include but are not limited to:
False Fire Alarm	A student will not knowingly and willingly set off a fire alarm without cause.	

Fraud/Forgery	A student will not deceive another or cause another to be deceived by false or misleading information or sign the name of another person in order to obtain anything of value or defraud authorities.	<ul style="list-style-type: none"> • Administrator/student conference or reprimand • Administrator and teacher-parent/guardian conference • Referral to support staff or agencies for counseling or other therapeutic services • Notification of appropriate Health and Human Resources • Daily/weekly progress reports • Behavioral contracts • Change in the student's class schedule • School service assignment • Confiscation of inappropriate item(s) • Revocation of privileges • Restitution/restoration • Before and/or after-school detention • Denial of participation in class and/or school activities • Immediate exclusion by teacher from the classroom with a recommended duration of one period/subject of the school day for the first
Gambling	A student will not engage in any game of chance or contest wherein money or other items of monetary value are awarded to the winner, except for those games and contests authorized as official school functions.	
Hazing	A student will not haze or conspire to engage in the hazing of another person. "Hazing" means to cause any action or situation which recklessly or intentionally endangers the mental or physical health or safety of another person or persons to destroy or remove public or private property for the purpose of initiation or admission into or affiliation with, or as a condition for continued membership in, any activity or organization, including both co-curricular and extra-curricular activities.	
Improper or Negligent Operation of a Motor Vehicle	A student will not intentionally or recklessly operate a motor vehicle, on the grounds of any educational facility, parking lot, or at any school-sponsored activity, so as to	

	endanger the safety, health or welfare of others.	<p>exclusion, (West Virginia Code §18A-5-1)</p> <ul style="list-style-type: none"> • Voluntary weekend detention (Superintendent's Interpretation of May 12, 2006) • In-school suspension • Out-of-school suspension for up to ten (10) days (See guidelines in Chapter 6, Section 2) • The principal and/or superintendent may recommend placement in an Alternative Education program as described in Section 5 of this chapter. • Expulsion
Larceny	A student will not, without permission, take another person's property or have another person's property in his or her possession. Property valued at \$1,000 or more will increase this behavior to a Level 4 because it is considered a felony in accordance with West Virginia Code §61-3-13.	
Sexual Misconduct	A student will not publicly and indecently expose themselves, display or transmit any drawing or photograph of a sexual nature, or commit an indecent act of a sexual nature on school property, on a school bus or at a school sponsored event.	
Threat of Injury/Assault Against... An Employee A Student	A student will not threaten (verbal or written) or attempt to injure another student, teacher, administrator or other school personnel. [This includes assault on a school employee defined in West Virginia Code §61-2-15].	
Trespassing	A student will not enter upon the premises of the county school system property, other than to the location to which the student is	

	assigned, without authorization from proper school authorities.	
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<p>Harassment/ Bullying/Intimidation</p>	<p>A student will not bully/intimidate/harass another student. According to West Virginia Code §18-2C-2, “harassment, intimidation or bullying” means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:</p> <ul style="list-style-type: none"> ● A reasonable person under the circumstances should know will have the effect of harming a student, damaging a student’s property, placing a student in reasonable fear of harm to his or her person, and/or placing a student in reasonable fear of damage to his or her property; ● Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or ● Disrupts or interferes with the orderly operation of the school. <p>An electronic act, communication, transmission or threat includes but is not limited to one which is</p>	<p>Upon receipt of a complaint of racial, sexual and/or religious/ethnic harassment or violence that has been substantiated through investigation, the appropriate school official shall take action appropriate to the status of the offender (student, staff or public guest). Such action for students may include all options listed above. Actions for staff may include but not be limited to, warning, suspension, termination, revocation of licensure, notification of law enforcement and/or human services. Actions for public guests may include but not be limited to removal from school property and school sponsored functions, notification of law enforcement and/or human services.</p>
<p>P.O. Box P.O. 875 Solomons, Maryland 20688 www.endseclusion.org info@endseclusion.org</p>		

	<p>administered via telephone, wireless phone, computer, pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.</p> <p>Acts of harassment, intimidation, or bullying that are reasonably perceived as being motivated by any actual or perceived differentiating characteristic, or by association with a person who has or is perceived to have one or more of these characteristics, shall be reported using the following list: race; color; religion; ancestry; national origin; gender; socioeconomic status; academic status; gender identity or expression; physical appearance; sexual orientation; mental/physical/developmental/sensory disability; or other characteristic.</p> <p>When harassment, intimidation or bullying are of a racial, sexual and/or religious/ethnic nature, the above definition applies to all cases regardless of whether they involve students, staff or the public. Detailed definitions related to inappropriate behavior of this nature are as follows:</p>	
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	<p><u>Sexual harassment</u> consists of sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:</p> <ul style="list-style-type: none">● submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or● submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or● creating an intimidating, hostile or offensive employment or educational environment.	
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	<p>Amorous relationships between county board employees and students are prohibited.</p> <p>Sexual harassment may include but is not limited to:</p> <ul style="list-style-type: none"> ● verbal harassment of a sexual nature or abuse; ● pressure for sexual activity; ● inappropriate or unwelcome patting, pinching or physical contact; ● sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats and/or promises concerning an individual's employment or educational status; ● behavior, verbal or written words or symbols directed at an individual because of gender; or ● the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate/culture or opportunities. <p><u>Racial harassment</u> consists of physical, verbal or written conduct</p>	
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	<p>relating to an individual's race when the conduct:</p> <ul style="list-style-type: none"> ● has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment; ● has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or ● otherwise adversely affects an individual's employment or academic opportunities. <p><u>Religious/ethnic harassment</u> consists of physical, verbal or written conduct which is related to an individual's religion or ethnic background when the conduct:</p> <ul style="list-style-type: none"> ● has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment; ● has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or ● otherwise adversely affects an individual's employment or academic opportunities. 	
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	<p><u>Sexual violence</u> is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas. Sexual violence may include, but is not limited to:</p> <ul style="list-style-type: none">● touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;● coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;● coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or● threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.● threatening or forcing exposure of intimate	
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	<p>apparel or body parts by removal of clothing.</p> <p><u>Racial violence</u> is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.</p> <p><u>Religious/ethnic</u> violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.</p>	
Imitation Drugs: Possession, Use, Distribution or Sale	A student will not possess, use, distribute or sell any substance that is expressly represented or implied to be a controlled substance or simulate the effect and/or the appearance (color, shape, size and markings) of a controlled substance.	The selection of appropriate interventions and consequences for substance abuse must be considered very carefully depending upon the severity of the behavior and potential safety concern for others in the school. The first action must
Inhalant Abuse	A student will not deliberately inhale or sniff common products found in homes, schools and communities with the purpose of “getting high”. The action may be referred to as huffing, sniffing, dusting and/or bagging.	
Possession/Use of Substance Containing Tobacco and/or Nicotine	A student will not unlawfully possess, use or be under the influence of any substance containing tobacco and/or nicotine or any paraphernalia intended for the manufacture, sale and/or use of tobacco/nicotine products in any	

	<p>building/area under the control of a county school system, including all activities or events sponsored by the county school district.</p> <p>- <u>Special considerations</u> according to West Virginia Code §16-9A-4.</p> <ul style="list-style-type: none"> • No person (student, staff member or public guest) shall at any time use or distribute any tobacco or nicotine containing product on school property or during school sponsored events. • Individuals supervising students off school grounds are prohibited from distributing or using tobacco or nicotine containing products in the presence of students. • An exception shall be made to allow possession/use of approved nicotine replacement product for tobacco cessation. WVBE Policy 2422.8 - Medication Administration must be followed in order for students to use such products on school property or at school sponsored events. 	<p>be to conference with the parent/guardian and appropriate law enforcement representatives in an effort to direct the student to appropriate addiction services. Referral to tobacco cessation services/treatment and substance abuse treatment services shall be a priority intervention strategy for these behaviors.</p>
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Behaviors	Definitions – Level 4
<p>LEVEL 4: Safe Schools Act Behaviors - are consistent with those addressed in West Virginia Code §18A-5-1a(a) and (b). The following Level 4 behavior definitions are aligned with West Virginia Code §§61-6-17, 61-6-24, and 18A-5-1, and in the Gun-Free Schools Act of 1994. These laws require that the principal, superintendent and county board address Level 4 behaviors in a specific manner as outlined in West Virginia Code §18A-5-1a and paraphrased in Chapter 3, Sections 4 and 5 of this manual.</p>	
<p>Battery Against a School Employee</p>	<p>A student will not commit a battery by unlawfully and intentionally making physical contact of an insulting or provoking nature with the person of a school employee as outlined in West Virginia Code §61-2-15(b).</p>
<p>Felony</p>	<p>A student will not commit an act or engage in conduct that would constitute a felony under the laws of this state if committed by an adult as outlined in West Virginia Code §18A-5-1a(b)(i). Such acts that would constitute a felony include, but are not limited to, arson (West Virginia Code §61-3-1), malicious wounding and unlawful wounding (West Virginia Code §61-2-9), bomb threat (West Virginia Code §61-6-17), sexual assault (West Virginia Code §61-8B-3), terrorist act or false information about a terrorist act, hoax terrorist act (West Virginia Code §61-6-24) and grand larceny (West Virginia Code §61-3-13).</p>
<p>Illegal Substance Related Behaviors</p>	<p>A student will not unlawfully possess, use, be under the influence of, distribute or sell any substance containing alcohol, over-the-counter drugs, prescription drugs, marijuana, narcotics, any other substance included in the Uniform Controlled Substances Act as described in West Virginia Code §60A-1-101, et seq. or any paraphernalia intended for the manufacture, sale and/or use of illegal substances in any building/area under the control of a county school system, including all activities or events sponsored by the</p>

	county school district. This includes violations of WVBE Policy 2422.8 – Medication Administration and instances of prescription drug abuse.
Possession and/or Use of Dangerous Weapon	<p>According to West Virginia Code §18A-5-1a(a), a student will not possess a firearm or deadly weapon as defined in West Virginia Code §61-7-2, on any school bus, on school property or at any school-sponsored function as defined in West Virginia Code §61-7-11a.</p> <p>As defined in West Virginia Code §61-7-2, a “dangerous weapon” means any device intended to cause injury or bodily harm, any device used in a threatening manner that could cause injury or bodily harm, or any device that is primarily used for self-protection. Dangerous weapons include, but are not limited to, blackjack, gravity knife, knife, knife-like implement, switchblade knife, nunchaku, metallic or false knuckles, pistol, or revolver. A dangerous weapon may also include the use of a legitimate tool, instrument, or equipment as a weapon including, but not limited to, pens, pencils, compasses, or combs, with the intent to harm another.</p>

Level 4 Behaviors are Used in the Identification and Classification of Persistently Dangerous Schools

As required by [20USC7912 Title IX, Part E, Section 9532](#) (No Child Left Behind), the following criteria is set forth to determine whether a school will be classified as a Persistently Dangerous School. Data indicating the number of substantiated inappropriate behaviors will be collected using the WVEIS in order to identify and classify a school as persistently dangerous. A West Virginia public school will be classified as a Persistently Dangerous School on or before August 1 of each year if the school has, for two consecutive years, substantiated Level 4 behaviors that exceed five percent (5%) of the total number of students enrolled in the school based on the school's second month enrollment:

- Battery on a school employee as defined in West Virginia Code §61-2-15.
- Commission of an act that would constitute a felony under the laws of the state on the premises of an educational facility, at a school sponsored function or on a school bus.
- Possession of a firearm or deadly weapon as defined in West Virginia Code §61-7-2 on the premises of an educational facility, at a school sponsored function or on a school bus.
- Sale of a narcotic drug as defined in West Virginia Code §60A-1-101 on the premises of an educational facility, at a school sponsored function or on a school bus.

County School System Requirements Related to Persistently Dangerous Schools:

- provide targeted technical assistance to any school that has, for two consecutive years, substantiated Level 4 behaviors that exceed 3% of the total number of students enrolled in the school, based on the school's second month enrollment;
- develop a corrective action plan for any school identified as persistently dangerous, submit it to the WVDE, and implement the plan in a timely manner; and
- conduct a timely notification process to inform parents of each student attending a school identified as persistently dangerous of this; provide the opportunity for students to transfer to a safe public school within the

county school district; and complete the transfer process for all students wishing to transfer.

WVDE Requirements Related to Persistently Dangerous Schools:

- provide targeted technical assistance to any school that has, for two consecutive years, substantiated Level 4 behaviors that exceed 3.75% of the total number of students enrolled in the school, based on the school's second month enrollment.

A student attending a school identified as persistently dangerous or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public school that the student attends, shall be allowed to attend an alternate safe public school within the county school district.

Section 3. Use of Physical Punishment Prohibited

West Virginia Code §18A-5-1(e) prohibits school employees from using corporal (bodily) punishment on any student. No physical punishment of any kind can be inflicted upon a student. This includes:

hitting or striking a student on their physical person;

requiring physical activity as a punishment (this does not apply to physical activity within the structure and context of extracurricular activities);

use of noxious stimuli (e.g. pepper spray), denial of food or water or other negative physical actions to control behavior; and

seclusion - a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior.

Section 4. Use of Restraint

Reasonable force may be used to restrain a student from hurting himself/herself or any other person or property. All students, including students with disabilities, must be treated with dignity and respect. Behavior interventions and support practices must be implemented in such a way as to protect the health and safety of the students and others. When the use of physical restraint is necessary, the following guidelines must be followed:

Definitions:

Restraint – the use of physical force to significantly restrict the free movement of all or a portion of a student’s body.

Emergency – a situation in which a student’s behavior poses a threat of imminent, serious physical harm to the student or others or serious property destruction

A school employee and/or independent contractor may use restraint in an emergency as defined above with the following limitations:

Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency. Procedures and maneuvers that restrict breathing (e.g. prone restraint), place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat, or may cause physical harm are prohibited.

Restraint shall be discontinued at the point at which the emergency no longer exists.

Restraint shall be implemented in such a way as to protect the health and safety of the student and others.

Restraint shall not deprive the student of basic human necessities.

Appropriate (intended use) utilization of mechanical restraints such as seat belts or feeding tables when applied for their intended purpose is not prohibited; however, the application of mechanical restraint is prohibited as an intervention or consequence for inappropriate behavior.

School employees and/or independent contractors who, as determined by the principal, may need to use restraint shall be provided training according to the following requirements:

A core team of personnel in each school must be trained annually in the use of a nationally recognized restraint process. The team must include an administrator or designee and any general or special education personnel likely to use restraint;

Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 days following the use of restraint if the principal determines that there is a reasonable likelihood that the situation leading to the use of restraint will reoccur;

Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint;

All trained personnel shall also receive instruction in current professionally accepted practices and standards regarding behavior interventions and supports;

Comprehensive documentation and immediate notification on use of restraint is required. In a case in which restraint is used, school employees, volunteers and/or independent contractors shall implement the following documentation requirements:

Time Requirement	Documentation/Notification
Immediately following the use of restraint (within one hour)	The principal or designee must be provided verbal and written notification that restraint was used on a given student with a description of the restraint process used.

Same day	A good faith effort shall be made to verbally notify the parents/guardian regarding the use of restraint.
Within one school day	Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent/guardian.
Within one school day	Written documentation regarding the use of restraint must be placed in the student's official school record. The information must be available to determine the relationship of a student's behavior as it impacts the student's learning and/or the creation or revision of a behavior intervention plan

Written notification to the parents/guardian and documentation to the student official school record shall include the following:

- Name of the student;
- Name of the staff member(s) administering the restraint;
- Date of the restraint and the time the restraint began and ended;
- Location of the restraint;
- Narrative that describes antecedents, triggers, problem behavior(s), rationale for application of the restraint and the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

Documentation of all parental contact and notification efforts.

Prevention Resource Officers (PRO): PRO Officers are certified police officers, working as fulltime officers who have been assigned to work fulltime within a public school during the school year. The PRO Officer's duties, salary and other conditions should be determined through an agreement with the county board of education and the PRO Officer's authorized police department. The principal is the PRO Officer's immediate supervisor while the officer is present in the school. There may be a time when, during the course a PRO Officer's duties, the officer's position as a law enforcement officer would take precedence.

Police Conducting an Investigation in the School: During a criminal investigation, if a student is to be questioned by the police, or by school officials in the presence of the police, the school administration should cooperate with the police and help to ensure that the privacy of the student is protected. The police officer is responsible to ensure that the student's constitutional rights are not violated. The police officer is responsible for determining if the student's parents or guardian, or lawyer should be contacted prior to questioning. West Virginia Code §49-5-2 specifies that statements made by a student under the age of fourteen, while being questioned by law enforcement officials, cannot be used in a court proceeding unless his or her lawyer is present; such statements made by students who are fourteen or fifteen years old cannot be used in a court proceeding unless their lawyer is present or a parent is present and the parent has been informed of the student's rights. The police officer shall determine when the use of restraints is necessary during such questioning to control an unruly student to prevent the student from harming him/herself or others.

Chapter 6

PROCEDURES FOR TAKING ACTION ON SUBSTANTIATED INAPPROPRIATE BEHAVIORS

Section 1. Interventions and Consequences of Inappropriate Behavior

It is the intent of the WVBE for schools to be pro-active and preventive in their approach to student behavior. It is also the Board's intent that inappropriate behavior be addressed with meaningful interventions and consequences that strive to improve future behavior. Therefore, it is the Board's belief that school administrators and staff shall exhaust all available school and community resources to provide appropriate school-based intervention strategies designed to keep students in school and engaged in instruction. Out-of-school suspension strategies should be used sparingly and shall never deny a student access to instructional material and information necessary to maintain academic progress. Out-of-school suspension is not a recommended optional consequence or intervention for Level 1 behaviors; however, the determination of interventions and consequences is at the discretion of the school

administrator for levels 1, 2 and 3. West Virginia Code requires that the principal shall suspend a student who commits a behavior classified as Level 4 in this policy.

In determining the appropriate intervention and/or consequence in response to a substantiated Level I, II, or III inappropriate behavior, the principal, superintendent and/or local board of education should consider:

- the surrounding circumstances,
- the nature of the behavior,
- past incidents or continuing patterns of behavior,
- the relationships between the parties involved and the context in which the alleged incidents occurred.

Section 2. Guidelines for Specific Responses to Inappropriate Behavior

Exclusion: According to West Virginia Code [§18A-5-1](#), a teacher or bus driver may exclude from a classroom or bus any student who displays one or more of the inappropriate behaviors outlined in Chapter 4, Section 2, Levels 1, 2, 3 or 4. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting.

Bus drivers must follow the guidelines outlined in WVBE Policy [4336 – West Virginia School Bus Transportation Policy and Procedures Manual](#). When the bus driver excludes a student from the school bus, the driver shall notify the student and the student’s principal. The principal/designee shall notify the student’s parent/guardian. All students shall be transported until the parent/guardian has been properly notified of the exclusion. The principal/designee shall notify the parent/guardian when their child may resume riding the bus. If the inappropriate behavior persists, the student may have his/her rights to transportation services suspended for the remainder of the year, to the extent feasible.

Suspension: The purpose of suspension is to protect the student body, school personnel and property, the educational environment, and the orderly process of the school. Suspension is considered a temporary solution to inappropriate behavior until the problem that caused the suspension is corrected. The length of a suspension should be short, usually one (1) to three (3) school days, but may extend to ten (10) school days.

Suspension typically takes one of two forms:

- **In-School Suspension:** Instances in which a student is temporarily removed from his/her classroom(s) for disciplinary purposes but remains under the direct supervision of school personnel and continues to receive instructional support. Direct supervision means school personnel are physically in the same location as students under their supervision. Settings may include other locations within the school building or removal to another school, such as an alternative school, provided the student remains in direct supervision of school personnel.
- **Out-of-School Suspension:** Instances in which a student is temporarily removed from his/her school for disciplinary purposes to another setting pursuant to [W. Va. Code §18A-5-1a](#) (e.g., home, community setting). This includes both removals in which no IEP services are provided because the removal is 10 days or less as well as removals in which the student continues to receive services according to his/her IEP. The student is not under direct supervision of school personnel as defined under in-school suspension.

A student is entitled to an informal hearing when faced with an out-of-school suspension of ten (10) days or less. At this hearing, the principal must explain why the student is being suspended, and the student must be given the opportunity to present reasons why s/he should not be suspended. However, a student whose conduct is detrimental to the safety of the school may be suspended immediately and a hearing held as soon as practical after the suspension. Other procedures the school must follow when dealing with out-of-school suspensions are outlined in West Virginia Code §§18A-5-1 and 18A-5-1a and include:

- Parent(s)/guardian(s) must be notified promptly in all cases of suspension.
- The county superintendent of schools or designee must be notified and preferably in writing of the time and conditions pertaining to the suspension.

A student that is suspended from school may not participate in any school-sponsored activities, and is not permitted on school grounds during the period of suspension.

A student may not be suspended from school solely for not attending class.

An out-of-school suspension of more than ten (ten) days requires a formal hearing before the county board of education. Procedures the school and county must follow when dealing with suspensions of more than ten (10) days are outlined in West Virginia Code §§18A-5-1 and 18A-5-1a and include:

- Parent(s)/guardian(s) must be informed in writing of the charges against their child, including a summary of the evidence upon which the charges are based.
- Upon the student's/parent/guardian's request, a formal hearing must be scheduled before the county board of education.
- Students are entitled to be represented or advised during the proceedings by a person or persons of their choosing, including legal counsel.
- Students are entitled to be given reasonable time to prepare for the hearing.

Expulsion: The county superintendent, upon recommendation by the principal, may recommend that a county board of education expel a student from school if the student's conduct is judged to be detrimental to the progress and general conduct of the school. In all cases involving expulsion, the student is entitled to formal due

process procedures if the county board of education agrees to act upon recommendations to expel a student from school. These procedures are outlined in West Virginia Code §18A-5-1 and §18A-5-1a.

West Virginia Code §18A-5-1 and §18A-5-1a requires mandatory out-of-school suspension by the principal and mandatory expulsion for a period of not less than twelve (12) consecutive months by the county board of education for: possession of a deadly weapon, battery of a school employee, or sale of a narcotic drug. Procedures that must be followed when dealing with an expulsion include:

- The student and parent(s)/guardian(s) must be given a written statement of the specific charges against the student.
- The county board of education must hold a hearing regarding the recommended expulsion.
- The student and parent(s)/guardian(s) must be given a written notice of the time and place of the board of education hearing at which the expulsion will be considered. This notice must be given far enough in advance for the student to have time to prepare an adequate defense against the charges.
- The student and parent(s)/guardian(s) have the right to be present at the board hearing and to defend against the charges.
- The student has the right to be represented by an attorney at the hearing at their own expense.
- The student has the right to present witnesses in their behalf, to hear the testimony of witnesses against them, and to question the witnesses against them.
- If the board of education decides that the charges against a student do not warrant his or her expulsion from school, the student may remain in school or return to school without being subjected to punishment or harassment.
- In all expulsion hearings, fact shall be found by a preponderance of the evidence.
- Expulsion by the board of education is final. However, if a student or parent/guardian believes that the student was not given procedural due process, they may appeal to the State Superintendent of Schools. If the State Superintendent finds that the board's decision to expel the student was properly made, then the expulsion will stand unless overturned by a court.

Section 4. Considerations for Students with Disabilities, Students not yet Determined Eligible for Special Education and Students with 504 Plans

When considering exclusion from the bus or suspension or expulsion from school or the bus for students with disabilities, students not yet determined eligible for special education (i.e. students currently engaged in the eligibility process beginning with a Student Assistance Team referral) or students with 504 plans, refer to WVBE Policy 2419 – Regulations for the Education of Students with Exceptionalities, Chapter 7 for specific guidelines related to protections which may be warranted for these students.

Section 5. Procedures for Reporting Action on Substantiated Incident

It is essential that schools accurately track incidents of inappropriate behavior in order to utilize data for school climate/culture improvement efforts and to create documentation to support actions taken to intervene in inappropriate behavior patterns. The WVEIS provides schools with the platform to report all incidents of inappropriate behavior at the classroom level and above. The primary value of this data rests at the school and county level and is necessary for development and monitoring of Policy 4373 implementation plans. Therefore, all inappropriate behaviors as described in Chapter 4, Section 2, Levels 1, 2, 3 and 4 shall be reported through:

- Teacher level documentation – shall include inappropriate behavior leading to interventions, consequences and/or referrals to the principal. ;
- Principal level WVEIS data entry – shall include all teacher level documentation as well as additional entry for administrative disciplinary actions. This data shall be entered into WVEIS by the principal and/or other authorized staff.
- Superintendent level WVEIS data entry – shall include county board actions resulting from expulsion hearings. This data shall be entered into WVEIS by the superintendent and/or other authorized staff.

Incidents of inappropriate behaviors reported into WVEIS in accordance with this policy will be used by the WVDE to comply with federal and state reporting requirements. In order to assure accuracy of data, all districts shall verify their data monthly.

Section 6. Appeals Procedures

If someone believes that a county board of education has violated the procedural rights set forth in this policy, they may avail themselves of the appeal procedures outlined in WVBE Policy 7211 - Appeals Procedure for Citizens. However, this policy does not address personal complaints against a school employee. The procedures set forth in Policy 7211 are not deemed to be a precondition to seeking relief in some other forum.

[Return to Table of Contents](#)

Wisconsin (WI)

Links

[Wisconsin Legislature: 2019 Wisconsin Act 118](#)

[Seclusion and Restraint Data in Wisconsin](#)

https://content.govdelivery.com/attachments/WIGOV/2020/03/01/file_attachments/1390044/sb527.pdf

Law Text

Definitions & Coverage

- What does “at school” mean?

The term “at school” refers to the day-to-day operations of a school and any school-related activities. This would include, for example, field trips, sporting events, after school clubs and the transport of students. The definition of “school” in § 118.305 applies to public schools including charter schools, and also applies to private schools participating in the Special Needs Scholarship Program.

- How does the law define the term “covered individual?”

Covered individuals include any person employed by the school district, independent contractors and their employees providing services for the benefit of the school district, and student teachers working under the supervision of a district employee. School board/governing body members and law enforcement officials are expressly excluded from the definition of covered individuals under § 118.305.

- How does the law define the term “incident?”

An incident is an occurrence of a covered individual or a law enforcement officer using seclusion or physical restraint on a student. It is considered one incident if, immediately following the use of seclusion or physical restraint on a student, the student’s behavior presents a clear, present, and imminent risk to the physical safety of the student or others and seclusion or physical restraint is immediately resumed.

- Does the law apply to public school 3K and 4K programs?

Yes, if the 3K or 4K program is operated by a school district, § 118.305 applies. This includes parental notification, debriefing, reporting, documentation, and staff training requirements.

- Does the law apply to private schools?

Yes, in some circumstances. The law applies to all private schools that participate in the Special Needs Scholarship Program. The law also applies to private schools where public school IEP teams place students. When an IEP team places a student at a private school, the public school districts remain responsible for the provision of a free, appropriate public education (FAPE) by ensuring IEPs are being implemented.

- Under what limited circumstances does the law permit school staff to use seclusion or physical restraint with a student?

The law permits the use of physical restraint or seclusion only in circumstances where a student’s behavior presents a clear, present, and imminent risk to the physical safety of the student or others, and physical restraint or seclusion is the least restrictive intervention feasible.

- Does the law allow the use of physical restraint or seclusion in the case of property damage?

No. Property damage alone, without the threat of an imminent risk to the physical safety of the student or others, is not a sufficient basis for the use of physical restraint or seclusion. Seclusion

- How does the law define the term “seclusion?”

Seclusion means the involuntary confinement of a student, apart from other students, in a room or area from which the student is physically prevented from leaving. Staff must maintain constant supervision of the student by either remaining with the student in the room or area, or by viewing the student through a window large enough to see all areas of the room or area. Seclusion may be used only as long as is necessary to resolve the risk to the physical safety of the student or others.

- What does “physically prevented from leaving” mean?

A student is being physically prevented from leaving when the student is not allowed to leave a secluded setting by physical means, i.e. blocking the doorway, holding the door closed, restraint, etc.

- Can doors of rooms or areas used for seclusion have locks?

No. No locks are allowed on doors of rooms or areas used for seclusion.

- May staff hold the door shut?

The law does not prohibit staff from holding the door of a seclusion room shut. However, it is very important for schools to determine whether it is a good, safe idea to do so for a particular student. The decision about holding a door shut will need to be determined on an individualized, case-by-case basis.

- Is it considered seclusion when all other students are cleared from a classroom while staff work with a student whose behavior is escalating?

No, provided staff do not physically prevent the student from leaving the classroom. This technique is sometimes used as a method of reducing the level of stimulation from the other students in order to assist a student whose behaviors are escalating to calm, regulate, and de-escalate. Nothing in the law prevents staff from using this technique on a limited basis if it is appropriate and effective with a particular student. Provided that staff are not physically preventing the student from leaving the classroom, it would not be seclusion to direct all other students out of the classroom. However, if staff isolate the student and physically prevent the student from exiting the classroom, the situation becomes an inappropriate use of seclusion. In addition to having doors that lock, classrooms generally contain a wide 2 variety of items that could cause injury. As such, it is never acceptable to seclude a student in a typical classroom.

- Is sending a student to the hallway or the principal's office considered seclusion?

No, unless the student is apart from other students and is physically prevented from leaving the area.

- If a student is placed in a small room to either work on school work or to take a break would this be considered seclusion?

No. If a student is not physically prevented from leaving a room or area, it is not considered seclusion.

- If a student is displaying unsafe behaviors, how can school staff provide adequate access to bathroom facilities, drinking water, necessary medications, and regularly scheduled meals?

The law specifies that students must have “adequate” access, not necessarily immediate access, to these things. If a student's behavior is dangerous, it may not be safe to take the student to the bathroom at that exact moment. However, staff should ensure the student is able to have access to these necessities as soon as safely possible. The duration of any seclusion or physical restraint should be very short, generally a few minutes at the most. By only using seclusion or physical restraint in crisis

situations and for very short periods of time, staff will be able to ensure students have adequate access.

Physical Restraint

- How does the law define “physical restraint?”

Physical restraint means a restriction that immobilizes or reduces the ability of a student to freely move his or her torso, arms, legs, or head. It may only be used when a student’s behavior presents a clear, present, and imminent risk to the physical safety of the student or others, and it is the least restrictive intervention feasible. Physical restraint cannot be used if there are any medical contraindications to its use. The degree of force used and the duration of the physical restraint may not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the student or others. The law forbids staff from using any physical restraint techniques or maneuvers that do not give adequate attention and care to protecting the student's head; cause chest compression by placing pressure or weight on the student’s chest, lungs, sternum, diaphragm, back, or abdomen; place pressure or weight on the student's neck or throat, on an artery, or on the back of the student's head or neck; that otherwise obstruct the student's circulation or breathing; or place the student in a prone (face down) position.

- Are mechanical restraints permitted under the law?

No. Wisconsin law expressly prohibits the use of mechanical restraints in schools. Use of supportive equipment to properly align a pupil's body, assist a pupil to maintain balance, or assist a pupil's mobility, under the direction and oversight of appropriate medical or therapeutic staff, is not considered mechanical restraint. Use of handcuffs by law enforcement in the process of taking an individual into custody is not considered mechanical restraint.

- Are chemical restraints permitted under the law?

No. Wisconsin law expressly prohibits the use of chemical restraints in schools.

- Are prone physical restraints permitted under the law?

No. The law specifically prohibits the use of prone (i.e., lying face down) restraints because they carry a high risk of restricting a student's breathing.

- What other types of physical restraint maneuvers are not permissible under the law?

Restraint maneuvers that restrict breathing must never be used because they can cause serious injury or death. A student's breathing can be restricted if loose clothing becomes entangled or tightened or if the student's face is covered by a staff member's body part (e.g., hand, arm, or torso) or through pressure to the abdomen or chest. Any restraint or seclusion technique should be consistent with known medical or other special needs of a student. School districts should be cognizant that certain restraint and seclusion techniques are more restrictive than others and use the least restrictive technique necessary to end the threat of imminent danger of serious physical harm. A student's ability to communicate (including for those students who use sign language or other forms of manual communication or assistive technology) also should not be restricted unless less restrictive techniques would not prevent imminent danger of serious physical harm to the student or others. Staff must always make minimizing both physical and emotional harm a top priority when restraint or seclusion is considered.

- Are bus harnesses or other vehicle safety restraints permitted under the law?

The use of vehicle safety restraints when used as intended during transportation of a student in a moving vehicle is not considered restraint and is allowed under the law. For a student with a disability, the use of any safety equipment during transportation must be documented in the student's IEP.

- Are weighted blankets, vests, etc. considered mechanical restraints?

Weighted equipment used properly for sensory support under the direction and oversight of appropriate medical or therapeutic staff is not considered a mechanical restraint. For example, school-based occupational therapists often design and oversee

the use of sensory items. Use of such sensory supports must be included in the IEP. More information about the use of this type of equipment may be found in the department's Occupational Therapy and Physical Therapy Resource and Planning Guide.

- May staff redirect students by touch?

Yes, touching or holding a student's hand, arm, shoulder or back to calm, comfort, or redirect the student is not considered physical restraint. Only when staff members immobilize or restrict the ability of a student to freely move is a maneuver considered physical restraint.

IEP Requirements

- If physical restraint or seclusion is utilized with a student with a disability, is the IEP team required to meet?

After the second incident of seclusion or physical restraint with a student with a disability within the same school year, the student's IEP team must reconvene as soon as practicable, but no later than 10 school days after the incident. The IEP team must review the IEP to ensure it contains 4 appropriate positive behavioral interventions and supports and other strategies to address the behavior of concern. These interventions and supports must be based on a functional behavioral assessment of the behavior of concern.

- Does this mean the IEP team must meet after the 2nd incident, and again after the 4th incident, and again after the 6th incident, etc.?

No. The requirement to reconvene the IEP team applies only after the second incident within the same school year. However, seclusion and physical restraint are extremely restrictive interventions and should rarely be utilized. Repeated incidents of physical restraint or seclusion are an indication that the IEP team should review the positive behavioral supports and other strategies contained within the IEP to determine their effectiveness and if necessary, make revisions.

- Are there circumstances that require an IEP to specifically describe the use of physical restraint or seclusion?

No. 2019 Act 118 repealed the section of the law including the requirement for IEPs to incorporate the use of the terms “seclusion” or “physical restraint” in a student’s IEP if the IEP team determines their use could reasonably be anticipated. As such, IEP teams are no longer required to determine whether the use of restraint or seclusion is anticipated, and the IEP is not required to contain these terms.

Debriefing Requirements

- Must school staff meet to “debrief” after each incident?

Yes. The law requires the principal or designee to meet with the school staff who participated in the incident to discuss the events, preceding, during, and following the use of seclusion or physical restraint. The department encourages principals or their designees to conduct the meeting with the staff prior to completing the written incident report to assist in gathering the necessary information. Documentation and Reporting Requirements

- Is there a specific required form for the written incident report?

The department does not require a specific incident report form, but examples are provided on our website. School districts should minimally ensure the form they choose to use includes the student’s name, the date, time and duration of the use of physical restraint or seclusion, a description of the incident including a description of the actions of the student before, during and after the incident, and the names and titles of the school staff and any law enforcement officers present at the time of the incident.

- Are schools required to provide parents a copy of the incident report?

Yes. Within three business days of the incident, the principal or designee must provide the report to the student’s parent by 1st class mail, electronic transmission, or hand delivery.

- Are schools required to report their data on seclusion and physical restraint to their school boards?

Yes. The law requires the principal or designee to report the data annually, by October 1, to the school board or governing body. This includes public schools including charter schools, private schools participating in the Special 5 Needs Scholarship Program, and private schools where LEA-placed students attend.

For each school, the principal or designee must submit a report to their governing body containing the following information:

- The number of incidents of seclusion in the school during the previous school year.
 - The total number of students who were involved in the incidents of seclusion.
 - The number of students with disabilities who were involved in the incidents of seclusion.
 - The number of incidents of physical restraint in the school during the previous school year.
 - The total number of students who were involved in the incidents of physical restraint.
 - The number of students with disabilities who were involved in the incidents of physical restraint.
- Must The information in the annual report be broken down by school?

Yes. The information in the annual report must be provided for each school under the school board or governing body's charge. The school district may decide to compile this information in one report as long as each school's data is included separately.

- Do governing bodies have to report their data on seclusion and physical restraint to DPI?

Yes. Annually by December 1, each governing body that receives a report must submit a report of the information described in question 30 above for each school under the governing body's charge. DPI collects this data via an online survey administered to all school district administrators in Wisconsin. More information about this data may be found here.

- Does restraint or seclusion by a police officer need to be documented and reported?

Yes. The law requires schools to document, notify parents, and report all incidents involving law enforcement officers. However, law enforcement officers are not covered individuals under the law, so other provisions about the use of seclusion and physical restraint do not apply to them. Law enforcement officers follow police training and protocols when responding to crisis situations. Training Requirements

- Who should be trained on the requirements of the seclusion and physical restraint law?

All staff members who are in contact with students should be aware of the law's requirements.

- Who should receive the training required by law regarding physical restraint?

The law requires at least one staff member in each school where restraint might be used to be trained. The law does not specify particular staff member roles as requiring training. Schools should carefully consider which staff members should receive training. Administrators, security/safety personnel, regular education staff, student services and special education staff should be considered. The district may wish to consider training several people within a school. In the rare event physical restraint is needed in a situation, it is helpful to have more than one trained person available to ensure safety for students and staff alike.

- What Topics are required to be covered by training regarding physical restraint?

Required training must include the following:

- Evidence-based instruction related to positive behavioral supports and interventions, safe physical escort, understanding antecedents, de-escalation, conflict prevention, and conflict management.
 - Evidence-based techniques, including debriefing, that have been shown to prevent or reduce the use of physical restraint.
 - An identification and description of dangerous behavior that may indicate the need for physical restraint and methods of evaluating risk of harm in order to determine whether physical restraint is warranted.
 - Instruction regarding the effects of physical restraint on the person restrained, in monitoring signs of physical distress, and in obtaining medical assistance.
 - Instruction in documenting and reporting incidents of physical restraint.
 - A requirement that the trainee demonstrate his or her ability to identify prohibited techniques in administering physical restraint.
- Does DPI certify or recommend training programs?

No. DPI has no authority to certify, review, or recommend providers of training. DPI strongly suggests all schools and districts to confirm with the vendor or provider that its program includes all required components prior to purchasing training.

- What kind of documentation should the school keep about staff training?

Training programs will provide documentation such as certificates of participation upon completion. The law does not require a particular format. Districts should maintain documentation of the dates of training, who participated, and when it “expires” or the provider requires refreshers.

[Return to Table of Contents](#)

Wyoming (WY)

Links

<https://www.wyoleg.gov/StateStatutes/StatutesConstitution>

Law Text

Conditions on Use of Certain Forms of Discipline Corporal Punishment LAWS § 21-4-308.

Punishment and disciplinary measures; denial of diploma or credit.

(b) Teachers, principals and superintendents in each district shall be immune from civil and criminal liability in the exercise of reasonable corporal discipline of a student as authorized by board policy.

Restraint and Seclusion LAWS § 21-2-202.

Duties of the state superintendent. (xxxii) By rule and regulation, establish requirements for school district policies and training regarding the use of seclusion and restraint in schools as required under W.S. 21-3-110(a)(xxxi). The state superintendent shall review the policy of each district for compliance with the requirements of W.S. 21-3-110(a)(xxxi) and rules and regulations promulgated pursuant to this paragraph. If the state superintendent determines that the policy is not in compliance under this paragraph the superintendent shall direct the board of trustees to revise the policy and shall, upon request, assist the board in the adoption of the policy. § 21-3-110.

Duties of boards of trustees. (xxxi) Not later than December 31, 2011, adopt a policy and training procedures regarding the use of seclusion and restraint in schools. In addition

to any requirements provided by rule and regulation of the state superintendent pursuant to W.S. 21-2-202(a)(xxxii), the policy shall require that the parent or legal guardian of the student shall be notified each time that seclusion or restraint is utilized for the student. The policy shall prohibit the use of locked seclusion. The policy shall not be limited to any specified group of students and shall apply any time that seclusion or restraint is used for any student. The district shall submit a copy of the policy to the state superintendent for review as provided in W.S. 21-2-202(a)(xxxii), after the initial adoption of the policy and any time thereafter that the policy is substantially revised.

As used in this paragraph: (A) "Restraint" means the use of physical force, with or without the use of any physical device or material, to restrict the free movement of all or a portion of a student's body. "Restraint" does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the

student is complying, intervening in a fight or using an assistive or protective device prescribed by an appropriately trained professional or professional team;

(B) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. "Seclusion" does not include a student requested break or in-school suspension, detention or other appropriate disciplinary measure.

REGULATIONS

Chapter 42. Section 1. Authority.

The Wyoming rules are authorized by Wyoming Statute 21-2-202(a)(xxxii) and W.S. 21-3-110(a)(xxxii).

Chapter 42. Section 2. Scope.

(a) The State Superintendent shall review the policy of each school district for compliance with the state statute governing Seclusion and Restraint in Schools and approve those policies only after determining that compliance has been achieved.

(b) To the extent that these rules governing Seclusion and Restraint in Schools overlap with other state or federal rules or regulations, compliance with the regulation or rule offering greater student protection shall be deemed compliance with this rule. To the extent that these rules governing Seclusion and Restraint in Schools exceed the requirements of other state or federal rules or regulations, school districts shall comply with the requirements of this rule. In the event of conflict with another state agency's rules or federal rules or regulations, school districts shall comply with this rule.

Chapter 42. Section 3. Definitions.

(a) "Administrative Review" is when an administrator or other appointed-personnel, who have received training in the use of physical restraint and seclusion, shall determine whether continued physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.

(b) "Appropriate Disciplinary Measures" includes classroom, school-wide, or district-wide plans for student conduct adopted pursuant to a school policy promulgated under the authority of W.S. 21-4-308 or other appropriate authority.

(c) "Appropriately Trained Professional" or "Professional Team" includes individuals who are appropriately licensed, trained, and knowledgeable regarding the acceptable use of assistive or protective devices consistent with recognized professional standards and manufacturers' instructions.

(d) "Assistive or Protective Device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child or protect a child from harm.

(e) "Aversive" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors.

(f) "Behavior Intervention" is a systematic implementation of procedures developed in conjunction with the parent intended to result in lasting positive changes in a student's behavior. Interventions may include positive strategies, program or curricular modifications, and aids and supports required to address the disruptive behaviors.

(g) "Debriefing Process" The debriefing session provides an opportunity to discuss the circumstances resulting in the use of physical restraint and/or seclusion. The district may conduct a review of the factors that precipitated the event, the de-escalation techniques used, the physical restraint technique(s) utilized, the outcome of the intervention, including any injuries to student(s) or staff that may have resulted from the incident, prior incidents of physical restraint or seclusion utilized with this student, and any other relevant factors that the district deems appropriate.

(h) "Escort" means guiding a student by touching the student's back, arm, or hand, or holding the student's arm or hand to escort the student safely from one area to another as long as the student is not refusing to comply with the escort. The term does not include the use of coercion or force to move a student from one location to another.

(i) "Evidence Based Training Program" includes programs that are externally developed and have a record of successful implementation in a variety of settings that, at a minimum, emphasize training in deescalation procedures, the specific techniques used in safe restraint ranging from the least to most restrictive and the specific techniques to encourage the safe reentry of the student into the educational environment.

(j) "Imminent Risk" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(k) "Isolating" means visually, auditorally, or physically separating a student from the learning environment, school activity, or peers.

(l) "Locked Seclusion" means a seclusion room with locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism

requiring constant human contact that upon release immediately permits the door to be opened from the inside.

(m) "Mechanical Restraints" include devices or equipment used to restrict the free movement of all or a portion of a student's body. The term does not include assistive or protective devices or equipment prescribed by an appropriately trained professional or professional team that are used for the specific and approved purposes for which the devices or equipment were designed and prescribed.

(n) "Prohibited Practices" means that certain activities or objects are prohibited from being used with students under any circumstances

(o) "Prone Restraints" include holding a student in any position that will:

(i) Obstruct a student's airway or impair the ability to breathe;

(ii) Obstruct a staff member's view of a student's face;

(iii) Restrict a student's ability to communicate distress;

(iv) Place pressure on a student's head, neck, or torso; or

(v) Straddle a student's torso

(p) "Restraint" means the use of physical force, with or without the use of any device or material, to restrict the free movement of all or a portion of a student's body. Restraint does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight, or using an assistive or protective device prescribed by an appropriately trained professional or professional team.

(q) "Seclusion" means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a

room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. The term does not include a student requested break or in-school suspension, detention, or other appropriate disciplinary measure.

(i) "Seclusion from the Learning Environment" means visually or auditorally isolating the student from the classroom or other school activity or away from peers in an area that obstructs the student's ability to participate in regular classroom or school activities.

(ii) "Isolation Room" means placing the student in an enclosed room built in compliance with all relevant health and safety codes.

(r) "Time-out" means providing the student with a brief opportunity to regain self-control in a setting that does not physically remove the student from peers or the learning environment and the student is now physically prevented from having the time-out area.

Chapter 42. Section 4. Policy requirements.

(a) Staff Training and Professional Development. School district policies shall, at a minimum, include the following staff training and professional development components:

(i) All staff shall receive training in evidence-based techniques shown to be effective in preventing physical restraint and seclusion, including evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, de-escalation, and conflict management.

(A) The minimum amount of training required for all staff shall be the number of hours recommended by the evidence-based training program selected by the school.

(B) Ongoing training for all staff shall be provided as recommended by the evidence-based training program selected by the school.

(ii) A ratio of classified and non-classified staff, as determined by the school considering school size and the location of specialized programs, shall receive training in evidence-based techniques in the safe use of physical restraint.

(A) The minimum amount of training for the ratio of staff shall be the number of hours necessary to obtain certification by the evidence-based training program selected by the school.

(B) Certification shall be maintained as prescribed by the evidence-based training program selected by the school.

(iii) Information regarding the school district's policy on the safe use of seclusion and restraint shall be incorporated into each school's annual professional development programming.

(b) Procedures. School policies shall, at a minimum, include the following procedural components:

(i) Restraint:

(A) Only trained, certified staff consistent with Section 7(a)(ii) above shall be permitted to use restraint as part of a planned behavior intervention unless a bona fide emergency constituting an imminent risk to the health or safety exists.

(B) Schools shall not use prohibited practices as part of student restraint at any time.

Prohibited practices include:

(I) Aversive interventions

(II) Locked seclusion

(III) Mechanical restraints

(IV) Prone restraints

(C) Restraint shall be used for the minimum amount of time necessary to permit the student to regain control and for staff to restore safety.

(D) School shall develop restraint duration guidelines including a release strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(E) Restraints exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the restraint may continue.

(F) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(G) Schools must document each restraint consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(ii) Seclusion:

(A) School staff shall be able to see and hear the student in seclusion at all times.

(B) Student placed in seclusion shall be permitted to access to normal meals and personal hygiene opportunities. Meals and bathroom breaks may be separate and supervised if needed to ensure safety.

(C) Schools shall document each occurrence of seclusion consistent with the Mandatory Documentation requirements specified in Section (c) below.

(D) Using timeout without seclusion is not regulated by these rules.

(E) Seclusion from the Learning Environment:

(I) Seclusion from the Learning Environment may be used as a planned behavior intervention strategy.

(II) School shall develop seclusion from the learning Environment duration guidelines.

(F) Isolation Room:

(I) An isolation room may be used in an emergency.

(II) Schools shall develop Isolation Room duration guidelines including a reentry strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(III) Isolation Room seclusion exceeding the durational limits set forth in school's guidelines shall require immediate administrative review to determine if and under what conditions the Isolation Room seclusion may continue.

(IV) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(V) Physical Space Requirements for Isolation Rooms:

(1.) The room shall provide a means of continuous visual and auditory monitoring of the student.

(2.) The room shall be adequately lighted with switches to control lighting located outside the room.

(3.) The room shall be adequately ventilated with switches to control fans or other ventilation devices located outside the room.

(4.) The room shall maintain a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

(5.) The room shall be clean and free of objects and fixtures that could be potentially dangerous to a student and must meet all fire and safety codes.

(6.) The room shall be constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student.

(7.) The room shall be able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

(8.) The dimensions of the room shall be adequate width, length, and height to allow the student to move about and recline comfortably.

(c) Mandatory Documentation. Schools shall complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(i) Incident Report: At a minimum, the incident report shall include:

(A) Antecedents, interventions, and other relevant factors;

(B) Description of the regulated intervention used;

(C) Time and duration of the seclusion;

(D) Student's response to the seclusion;

(E) Administrative Review, if necessary;

(F) Release or reentry factors;

(G) Injuries to the student, if any;

(H) Debriefing.

(ii) The district shall provide to the parents copies of all mandatory documentation according to the parent notification procedure developed by the school.

(d) Parent Notification. The school shall develop a parent notification procedure that includes, at a minimum, written notification within 24 hours, or other timeframe as

agreed upon by the school or parent, of using a regulated procedure. Notification shall be complete upon mailing, personal deliver, or electronic transmission of the notice.

Chapter 42. Section 5. Enforcement of policy.

(a) Schools shall specify a procedure for the lodging and investigation of complaints regarding misuse of the school district's policy on seclusion and restraint. Policies must include a process for notifying the Wyoming Department of Education when seclusion and restraint complaints are received. In order to support districts the WDE may review violations and policies and work with the school and district to create an improvement plan that includes:

- (i) Increase monitoring, evaluation, and on site review;
- (ii) Offer support, including training and capacity building, for schools to meet the varied and specialized learning needs of children with and without disabilities;
- (iii) The department shall review the plan to ensure that it complies with applicable federal law and the statutes and regulations of this state. The department may require appropriate revision of the plan to ensure compliance;
- (iv) If the school where the violation(s) occurred does not meet the requirements of the plan to the satisfaction of the department, the department will require onsite technical assistance with necessary district staff to assist in the development and monitoring of a compliant plan. The department will increase monitoring and evaluating of district progress plan.

Chapter 42. Section 6. Publication of policy.

Schools must include their seclusion and restraint policies within their district/school handbooks and handbooks shall be posted on the district website where they are accessible to both the Wyoming Department of Education and the public.

Chapter 42. Section 7. Data collection requirements.

Schools shall collect and report annually to the Wyoming Department of Education the number of students involved in the use of regulated intervention, the number of incidents of seclusion and restraint, and the type of regulated intervention utilized.

[Return to Table of Contents](#)

Canada

Links

<https://criminaldefencebc.com/criminal-charges/forcible-confinement/>

Law Text

Federal Forcible Confinement Law

(2) Every one who, without lawful authority, confines, imprisons or forcibly seizes another person is guilty of

(a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) an offence punishable on summary conviction.

(3) [Repealed, 2018, c. 29, s. 26]

R.S., 1985, c. C-46, s. 279 R.S., 1985, c. 27 (1st Supp.), s. 39 1995, c. 39, s. 147 1997, c. 18, s. 142 2008, c. 6, s. 30 2009, c. 22, s. 12 2013, c. 32, s. 12 2018, c. 29, s. 26 2019, c. 25, s. 103

Previous Version

From Georges Prat Law

"What is forcible confinement?"

Forcible confinement is the intentional forcible imprisonment or seizing of another person, for a significant period of time, without that person's consent and without lawful authority.

For an accused to be guilty of forcible confinement, the prosecutor must prove beyond reasonable doubt that they:

(1) "Intentionally... – The accused must have intended to forcibly confine the complainant (complainant = alleged victim). An accused "intends" to forcibly confine someone if they at least know there's a risk they're forcibly confining them;

(2) ...forcibly... – The accused must have applied force to the complainant, or the threat of force, when confining them. "Applying force" just means touching;

(3) ...imprisoned or seized another person... – The accused must have restrained the complainant to a specific place. However, the complainant didn't have to be restrained to the point that they couldn't have escape. Also, the complainant didn't have to be restrained physically. They could have been restrained psychologically;

(4) ...for a significant period of time... – The accused must have confined the complainant for more than a few moments;

(5) ...without that person's consent... – The complainant must not have consented to the accused confining them. The accused must also have known there was at least a risk the complainant didn't consent to the accused confining them;

(6) ...and without lawful authority." – Someone can legally forcibly confine another person if they have lawful authority to do so. An obvious example is an on-duty peace officer (i.e. police officer) who arrests someone they reasonably suspect of committing a crime.

The difference between "kidnapping" and "confining" is that kidnapping involves moving someone from one place to another.

What are some defences to forcible confinement?

Defences to forcible confinement include denials of certain elements (i.e. ingredients) of the offence, and defences that can justify the confinement. For example, the accused won't be guilty of forcible confinement if:

(1) The prosecutor can't prove the complainant hadn't consented to it;

(2) The accused honestly believed the complainant had consented to it;

(3) The accused didn't intend to confine the complainant; or

(4) The accused's act of confining the complainant was justified on grounds of self-defence, defence of another, or defence of property."

[Return to Table of Contents](#)

New Brunswick

Links

Achieving Inclusion (pages 145-165)

https://issuu.com/nbacl/docs/achieving_inclusion_-_english_web

Law Text

Ensuring Student and Staff Safety: Guidelines for Restraint and Seclusion Procedures in Schools

Department of Education and Early Childhood Development

October 2017

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Introduction

The Department of Education and Early Childhood Development (EECD) is committed to ensuring a safe and positive learning environment of all students and school personnel. The purpose of these guidelines is to ensure that all students and staff are safe in school, and that students who may have a behaviour crisis are free from inappropriate use of physical restraint or seclusion. They are applicable to all New Brunswick public schools.

School personnel have a responsibility to adopt and implement evidenced-based practices designed to teach prosocial behaviours for students' with behavioural challenges. Students engage in violent behaviour when they are lacking skills to meet and communicate their needs in more appropriate ways. Similar to academic learning, students can learn new social, communication, and adaptive skills when high quality instruction and evidence-based practices are implemented.

EECD supports Positive Behavioural Interventions and Supports (PBIS), and other evidence-based programs and services that motivate, teach and support positive behaviour to create a positive learning environment.

Goals and Principles

These guidelines are consistent with, and are to be applied within the framework of Policy 703 – Positive Learning and Working Environment and Policy 322 – Inclusive Education.

- Good citizenship and civility are modeled and reinforced throughout the school community. Every person is valued and treated with respect.
- School personnel and students in the public school system have the right to work and to learn in a safe, orderly, productive, respectful and harassment-free environment.
- Inclusive educational practices are supported and promoted. Students are responsible for their behaviour in accordance with their age and stage of development,

and to the extent to which their behaviour is voluntary. When disruptive behaviour is attributable to the student's exceptionality and he or she is unable to control this behaviour, appropriate interventions will be employed with the needs of the student in mind.

- Students have a sense of belonging and connection, feel they are supported by school personnel, and have a positive relationship with at least one adult in the school system.
- Parents, school personnel, district staff and the school community understand that social skills, self-discipline, empathy, compassion and ethics are learned throughout life. Each partner in education plays a role in transmitting these values through instruction and by example.

(Policy 703; Section 5.o)

To be prepared to respond to student behaviour that poses imminent danger of physical harm to self or others, the principal must:

- Ensure that a School Positive Learning and Working Environment plan, as per section 6.2 of Policy 703 – Positive Learning and Working Environment, is in place to effectively manage any behaviour crisis within the learning environment so that students are removed from the school only when all other options have been exhausted.
- Establish practices that create a welcoming and supportive learning environment and promote, recognize and reinforce appropriate student behaviour.
- Implement evidence-based practices designed to teach pro-social behaviours for students with behavioural challenges.
- Ensure time-out procedures are in compliance with Policy 703 – Positive Learning and Working Environment, and any specific guidelines issued by EECD.

- Ensure any removal from the common learning environment is temporary.
- Ensure any removal from the common learning environment is never used as a punishment. School protocols and personalized learning plans must have measures in place to guard against the effect of humiliating or intimidating the student.
- Follow guidelines and standards of practice about emergency physical intervention and supervised de-escalation, including requirements for documentation and reporting, as per relevant departmental policy.
- Ensure that emergency physical intervention and/or supervised de-escalation are only used as a last resort in an emergency situation, when doing so does not endanger the student, and where continuous monitoring is provided.

(Policy 322; Section 6.5)

What is Restraint?

Used in response to serious problem behaviour that places the student or others at risk of injury or harm, restraints are measures used to control an individual's physical activity to prevent injury or harm.

More specifically, physical restraint involves direct physical contact by one or more persons to prevent or significantly restrict another person's freedom of movement, physical activity, or normal access to their body.

For the purposes of these guidelines, physical restraint does not refer to:

- taking away a weapon (such as a knife or gun);
- breaking up a fight;

- physical guidance and prompts provided in the course of instruction of minimal intensity and duration, and/or in the context of interventions described in a Personalized Learning Plan – Individual Behaviour Support Plan (PLP-IBSP) based on a functional behaviour assessment;
- physically blocking a student from injuring himself or others;
- holding a student for a brief time in order to prevent an impulsive behaviour that threatens the student’s immediate safety (e.g., running in front of a car);
- guiding the physical movement of a student to ensure safety, such as holding a student’s hand or arm to cross a street.

Physical restraint is not an instructional tool for teaching appropriate behaviour in the classroom or school. Rather, it is a method to prevent students from harming themselves or others. It should only be used in emergency situations when an imminent (likely to happen within a matter of seconds) and significant threat to the physical safety of the student and/or others exists.

What are the circumstances when physical restraint might be used?

Physical restraint should only be used when a student is displaying physically violent behaviour that presents substantial, imminent risk of injury to the student or others.

The following conditions should be respected:

1. Less restrictive methods of de-escalating the situation have been attempted without success.
2. Physical restraint should last only as long as is necessary for the student to regain behavioural stability, and the risk of injury has ended, usually a matter of minutes.

3. The degree of physical restriction employed should be sensitive and proportionate to the severity of the behaviour, the chronological and developmental age, physical size and condition of the student, and the potential risk of injury to the student.

4. Physical restraint should only be used by school personnel who are qualified/credentialed in EECD approved certification in the use of physical restraint procedures. The credentialing should be deemed up-to-date by district standards. In clearly unavoidable emergency circumstances when fully trained school personnel are not immediately available, an untrained staff member or whose certification has expired may need to intervene to ensure student safety. The untrained staff member should request assistance from trained staff as soon as possible. Note: School personnel who have received training not associated with their employment with the school district (e.g., former law enforcement officers) should be trained in the EECD approved crisis intervention training and should not apply techniques or procedures acquired elsewhere.

“School personnel have the authority and responsibility for taking appropriate action, within the scope of their prescribed duties, whenever unacceptable behaviour occurs. The focus of intervention should be on assisting students who have been victimized as well as those who need assistance to address inappropriate behaviour.” (Policy 703, Appendix B)

5. Physical restraint of a student should be conducted in a manner consistent with the techniques prescribed in the provincially approved crisis intervention training programs.

6. In the event that frequent violent behaviour is experienced, a PLP-IBSP is required. When school personnel have observed the student engage in a pattern of violent behaviours that is dangerous to the point of causing injury to self or others, members of the Education Support Services Team will conduct a functional behaviour assessment and develop a PLP-IBSP including a plan for teaching replacement behaviours. The plan will be developed in collaboration with the parent or guardian. The intervention plan should be documented and the effect of intervention should be monitored and reported on a regular basis. The plan should be closely monitored to determine its effectiveness and altered if the data does not indicate progress. When

physical restraint and seclusion is frequently used as a response to violent behaviour, the ESS Team should consult with individuals with expertise in behavioural interventions such as: a child and youth team member, a psychologist, Education Support Teacher-Autism, or a teacher who is being supervised to obtain certification as a Board Certified Behaviour Analyst (BCBA), or is certified as a Board Certified Behaviour Analyst.

Functional Behaviour Assessment (FBA) is the ongoing process of gathering information that can be used to hypothesize about the relations between environmental events and student behaviour. The information is used to inform an intervention plans for the learner.

7. **Emergency Floor Procedure** is an advanced procedure taught by a CPI Applied Physical Training Certified Instructor that has the intent to ensure an individual's safety if he/she goes down to the floor him/herself and there is a threat to the safety of the individual or others when he/she is on the ground. A student is never taken down to the floor.

Emergency floor procedure should only be taught:

- by an NVC I Applied Physical Training Certified Instructor who monitors its use (i.e. reviews frequency of use of procedures, conducts observations and engages in discussions with team to ensure the procedure is carried out appropriately);
- when the staff members involved have already completed basic Nonviolent Crisis Intervention (NVC I) training and have demonstrated an increased skill level in carrying out NVC I techniques in the context of training and in real life situations, as assessed by the Applied Physical Training Certified Instructor;
- to the team where there is an identified need because the student repeatedly brings him/herself to the ground and poses a danger to self or others;

- when documented in the student's PLP-IBSP.

When should physical restraint procedures not be employed?

Physical restraint should not be used:

- as a response to verbal threats or verbally aggressive behaviour. This does not itself indicate a substantial risk of injury, and should not result in restraint;
- as a response to property damage unless the associated actions are creating a risk of injury to the student or others;
- when the known medical, physical or psychological condition of the student would make the restraint procedures dangerous for that student (e.g. students with heart or circulatory conditions, etc.). In these situations, alternative strategies should be planned in collaboration with the parent and in consultation with a medical specialist;
- as a punishment, or to force compliance with staff commands.

Other Restraint Procedures:

Mechanical restraints should not be used. Mechanical Restraint is the use of any device or object (e.g., tape, ropes, straps, weights, weighted blankets) to limit an individual's movement to prevent or manage out-of-control behaviour. For the purposes of these guidelines, the definition of mechanical restraint does not include:

- adaptive and medically prescribed devices whose purpose it is to compensate for orthopedic weaknesses, to protect from falling or to permit the student to participate in activities at school, when recommended by an occupational therapist, physiotherapist, or physician;
- personal protective equipment (e.g., protective clothing such as gloves, helmets, other garments or equipment) designed to protect the individual's body from injury.

However, in all cases, their use should be carefully considered with consultation from appropriate multidisciplinary professionals;

- vehicle restraints (e.g., seatbelts, safety harnesses) to ensure student safety during transportation.

Chemical Restraint, use of medications to control behaviour, should only be used when prescribed and monitored by a medical professional (i.e. a member of the College of Physicians & Surgeons of New Brunswick).

What is Seclusion?

Seclusion involves placing an individual alone in a room or area from which the individual is physically prevented from leaving.

Seclusion may involve the use of a Time-out Room (or other name), which is a room specifically designed for exclusionary time-out or seclusion or primarily used for those purposes.

What are the circumstances when seclusion might be used?

Seclusion should only be used if a student is engaging in intense violent behaviour that presents substantial risk to the student or others and the risk can be diminished by placing the student in a safe environment away from others.

The following conditions should be respected:

Exclusionary time-out is a procedure in which the student is removed from the setting for a period of time immediately following a challenging behaviour and the goal is to decrease in that behaviour in the future. This procedure should always be used in combination with other proactive and teaching strategies as part of a student's Personalized Learning Plan – Individual Behaviour Support Plan (PLP-IBSP) with signed parent consent.

1. Less restrictive methods of de-escalating a dangerous situation have been attempted without success.
2. Seclusion should be discontinued when the student no longer poses an immediate threat to others.
3. Seclusion should be used only when the student can safely be transported to the seclusion environment by trained staff members using appropriate techniques based on crisis intervention training.
4. Seclusion may not be used by staff members unless they have received specific Department of EECD approved crisis intervention training in physical restraint procedures.
5. In the event that frequent violent behaviour is experienced, a PLP-IBSP is required. When school personnel have observed the student engage in a pattern of violent behaviours that is dangerous to the point of causing injury to self or others, members of the Education Support Services Team will conduct a functional behaviour assessment and develop a PLP-IBSP including a plan for teaching replacement behaviours. The plan will be developed in collaboration with the parent or guardian. The intervention plan should be documented and the effect of intervention should be monitored and reported on a regular basis. The plan should be closely monitored to determine its effectiveness and altered if the data does not indicate progress. When physical restraint and seclusion is frequently used as a response to violent behaviour, the ESS Team should consult with individuals with expertise in behavioural interventions such as: a psychologist, Education Support Teacher – Autism, or a teacher who is being supervised to obtain certification as a Board Certified Behaviour Analyst (BCBA), or is certified as a Board Certified Behaviour Analyst.
6. The Superintendent or designate will ensure all seclusion environments, including Time-Out rooms, should meet the norms identified in the Planning Guidelines for Educational Facilities and be inspected annually for adherence to Fire Marshall standards and regulations. Seclusion environments:
 - o have adequate lighting and ventilation including heat as appropriate;

- o be free of any potential or predictable safety hazards such as sharp corners, light switches, exposed electrical outlets or wiring, equipment, and breakable glass;
 - o permit direct continuous visual and auditory monitoring of the student and with a means for the student to see the adult;
 - o not be locked;
 - o be part of school emergency evacuation procedure protocols.
- Students should be permitted to use the restroom upon request, and be escorted to and from the restroom.
 - Students should be provided water on request.

When should seclusion not be employed?

Seclusion should not be used:

- when substantial risk of injury no longer exists;
- when a known medical, physical or psychological condition of the student would make the seclusion procedures dangerous for that student (e.g., students expressing suicidal thoughts, students with heart or circulatory conditions, history of trauma, or other conditions). In these situations, alternative strategies should be planned in collaboration with the parent/guardian and in consultation with a medical or mental health specialist. These alternative strategies should be reflected in the PLP-IBSP.
- when the student engages in severe self-injurious behaviours;
- as a punishment, or to force compliance with staff commands.

- without parental/guardian consent.

Training

Crisis Intervention Training is training provided to selected staff members which addresses how to deal with aggressive, violent, or out of control behavioural crises. It includes specific techniques for physical restraint as well as prevention, and de-escalation. The curriculum should result in certification of the individuals who complete the training and be approved by EECD.

De-escalation means causing a situation to become more controlled, calm and less dangerous, thus lessening the risk for injury.

The curriculum currently approved by EECD is Nonviolent Crisis Intervention (NVCi) training. NVCi is a behaviour management system designed by the Crisis Prevention Institute (CPI) to aid staff members in maintaining the best possible care, welfare, safety, and security for disruptive, assaultive and out-of-control individuals during their most violent moments. This includes the recognition of escalating behaviours, preventative measures, appropriate de-escalation techniques, and NVCi physical intervention techniques.

Training in the use of physical restraint should include:

- Procedures for de-escalating problematic behaviors before they increase to a level or intensity necessitating physical intervention
- Information regarding the risks associated with manual physical restraint and procedures for assessing individual situations and students to determine if its use is appropriate and sufficiently safe
- The actual use of specific techniques that range from the least to most restrictive with ample opportunity for trainees to demonstrate proficiency in their use

- Techniques for implementing manual physical restraint with multiple staff members working as a team
- Techniques for assisting the student to re-enter the instructional environment and re-engage in learning
- Instruction in the district's documentation and reporting requirements
- Procedures to identify and deal with possible medical emergencies resulting from the use of manual physical restraint

The Superintendent, in collaboration with EECD, may select another curriculum and method of providing training related to physical restraint and seclusion that meets applicable provincial standards (Appendix A).

School Districts are responsible for providing refresher training on physical restraint techniques on a regular basis to all staff members who have successfully completed the initial training component. The school district should identify those personnel to be trained and maintain a record that includes the name and position of the person trained; the date of the most recent training; an indication of whether it was initial training or "refresher" training; and whether the individual successfully completed the training and achieved proficiency.

A core group of personnel in each school should be "certified" in crisis intervention techniques which will include the use of physical restraint.

Communicating, Documenting and Debriefing

Communicating

Immediately after the student has restored emotional and behavioural control following the use of physical restraint and/or seclusion, a staff member not involved with the incident should observe the student to ascertain if any injury has been sustained during the physical restraint or seclusion.

If appropriate and unless contraindicated in the student's PLP-IBSP, the student, with assistance from staff, will process the event at the earliest appropriate time.

Procedures and methods should be in place for instances of the use of physical restraint and seclusion to be reported to the administration at the school level (i.e., the principal or other administrator).

It is recommended that the Principal or designate verbally notify the parent/guardian as soon as possible each time physical restraint or seclusion is used. Notification by telephone should be provided before the end of the school day in which the restraint occurred. It is understood that phone contact may not always be feasible due to lack of availability of contact information and inability to reach the family. Reasonable efforts to reach the parent or legal guardian by telephone should be made and documented. If it was not possible to reach the family by telephone, written notification should be provided at the end of the school day. An alternate communication plan may be determined with the family as part of the PLP-IBSP.

Documenting

All use of physical restraint and seclusion should be documented in an incident report containing the elements listed below. It is recommended that all staff involved contribute to the completion of the incident report within one school day of the incident. Emergency interventions that result in injury must also be documented and reported in accordance with existing departmental and district policies and procedures.

A minimum of the following should be included in the incident report created after each instance of physical restraint or the use of seclusion:

- the student's name
- the date and time of the incident

- the duration of the physical restraint or seclusion
- interventions used immediately prior to the implementation of physical restraint or seclusion
- a brief description of the incident and/or student behaviour that resulted in implementation of physical restraint or seclusion
- restraint technique(s) used
- injuries (to students, staff, or others), and property damage if applicable
- whether the interventions were part of a PLP-IBSP
- a list of the school personnel who participated in the implementation, monitoring, and supervision of physical restraint or seclusion and whether they have up-to-date training related to physical restraint or seclusion
- the date and time of communication with the parent/guardian notifying him/her of the incident, and the summary of that communication
- additional follow-up required

The Principal will send a summary of the incident report to the parent/guardian within two school days following the use of physical restraint or seclusion unless another system has been established with the parent/guardian as part of the PLP-IBSP, and maintain a confidential copy of the report. (Appendix E)

Incident reports should be sent to a designated district administrator on a schedule determined by the school district.

Debriefing

It is strongly recommended that each staff member involved in an incident will engage in debriefing as determined in the provincially approved crisis intervention training model. Debriefing serves many purposes. For the purpose of these guidelines, the goal is to determine what could be done to prevent future instances for the need of physical restraint or seclusion for the student, and possible improvements in implementation of process and procedures.

Monitoring and Reporting

Monitoring of physical restraint and seclusion procedures should occur at multiple levels: school, district, and EECD.

School

The Principal and School-based Education Support Services (ESS) Team should be involved in monitoring the use of physical restraint and seclusion procedures for specific students, as well as the general use of these strategies within the school.

For specific students, the team should examine the circumstances of the event and what strategies may be appropriate to avoid the use of physical restraint or seclusion procedures.

Monitoring of physical restraint and seclusion procedures at the school-level should include an analysis of:

- the frequency, duration, and location of these procedures
- staff members involved
- the appropriate use of these procedures

- documentation

School administrators use this information to determine if programming changes should be considered for individual students and whether staff members require additional training and support.

District

The Superintendent or designate is responsible for planning and oversight of the use of physical restraint and seclusion procedures, and data collection and review in the district.

The Superintendent or designate will conduct an annual review of all data associated with these guidelines. The process shall include summary data taken from the incident reports. The purpose is to identify any issues and/or practices that require further attention.

References

Policy 322: Inclusive Education

Policy 703: Positive Learning and Working Environment

Response to Intervention for Behaviour: A PBIS Resource Guide for School Personnel (2015).

<https://portal.nbed.nb.ca/tr/lr/Education%20Support%20Teams%20Guidelines/Forms/AllItems.aspx?RootFolder=%2ftr%2flr%2fEducation%20Support%20Teams%20Guidelines%2fRTI%2ofor%20Behaviour%5fPBIS%20Resource%20Guide%2oand%2oand%2oAppendices&FolderCTID=%26View=%7b730F9CD3%2d3BC6%2d4184%2d9DBF%2dA66AA466F940%7d>

APSEA Autism in Education (2015). Current research on time-out. Retrieved August 20, 2015 from Atlantic Provinces Special Education Authority – Autism in Education Partnership,

http://aie.apsea.ca/images/info_papers/Current_Research_Regarding_Time-out.pdf
Association for Behavior Analysis International (2010). Statement on Restraint and Seclusion. Retrieved from: <http://www.abainternational.org/abai/policies-and-positions/restraint-and-seclusion,-2010.aspx>

Association of Professional Behavior Analysts (2009). The Use of Restraint and Seclusion as Interventions for Dangerous and Destructive Behaviors. Retrieved from: http://www.apbahome.net/Restraint_Seclusion%20.pdf

Council for Exceptional Children (2010). CEC's Policy on Physical Restraint and Seclusion Procedures in School Settings. Retrieved from: <http://www.cec.sped.org/~/media/Files/Policy/Restraint%20and%20Seclusion/policy%2000n%20or%20and%20s.pdf>

Florida Department of Education (2008). Technical Assistance Paper - Guidelines for the Use of Manual Physical Restraint in Special Education Programs. Retrieved from: <https://info.fldoe.org/docushare/dsweb/Get/Document-5016/k12-2008-67.pdf>

Michigan Department of Education (2006). Supporting Student Behavior; Standards for the Emergency Use of Seclusion and Restraint. Retrieved from: http://www.michigan.gov/documents/mde/Seclusion_and_Restraint_Standards_180715_7.pdf

Project REST (Restraint: Efficacy, Safety and Training) Manual of Recommended Practice developed by the Family Resource Center for Disabilities and Special Needs, South Carolina. Retrieved from: <http://www.frcdsn.org/Manual%20of%20Recommended%20Practice.pdf>

[Return to Table of Contents](#)

CREDITS

This publication would not have been possible without our volunteer team. A huge thanks to Teresa Olafson for leading the project and all the team members that contributed.