



STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: July 10, 2018
To: Chief School Administrators, Charter School and Renaissance School Project Leads
Route To: Directors of Special Education
From: John Worthington, Director
Office of Special Education Policy and Procedure

Restraint and Seclusion Guidance for Students with Disabilities

In January 2018, Public Law 2017, Chapter 291 was signed into law, establishing certain requirements for the use of restraint and seclusion with students with disabilities in school districts, educational services commissions (ESCs), and approved private schools for students with disabilities (APSSDs). The law sets forth criteria to which schools must adhere when employing the use of physical restraints and seclusion techniques on students with disabilities. Further, the law requires the New Jersey Department of Education (NJDOE) to establish guidelines for school districts, ESCs and APSSDs to ensure that a review process is in place to examine the use of physical restraints or seclusion techniques in certain circumstances.

In response to this law, the NJDOE's Office of Special Education Policy and Procedure met with stakeholders to elicit feedback on key provisions and elements that should be included in the guidance document. The Office of Special Education Policy and Procedure invited representatives from school districts, ESCs, APSSDs, attorneys representing parents and districts, and representatives from statewide advocacy groups. In addition to reflecting stakeholder input, the guidance incorporates the 15 principles set forth in the May 2012 document, [Restraint and Seclusion: Resource Document](#), published by the U.S. Department of Education (USDOE).

Definitions

The definitions listed below in Table 1 include language from P.L. 2017. C. 291, as well as information provided by the USDOE's Office for Civil Rights in the [Civil Rights Data Collection \(CRDC\) document](#).¹

Table 1: Definitions

Term	Definition
Physical Restraint	State law defines physical restraint as the use of a personal restriction that immobilizes or reduces the ability of a student to move all or a portion of his or her body.
Mechanical Restraint	State law does not define mechanical restraint. However, the USDOE has defined it as, "The use of any device or equipment to restrict a student's freedom of movement. This term 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 purposes for which such devices were designed, such as:

¹ Beginning with the 2009-10 school year, the USDOE's Office for Civil Rights revised the Civil Rights Data Collection (CRDC) to require the reporting of the total number of students subjected to restraint or seclusion by sub-groups, as well as the total number of instances restraint or seclusion occurred. The CRDC also defined key terms concerning restraint and seclusion.

	<ul style="list-style-type: none"> • 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.”²
Seclusion	State law defines seclusion as the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, but does not include a timeout.
Timeout	A behavior management technique that involves the monitored separation of a student in a non-locked setting, and is implemented for the purpose of calming.

Board Policies

Each district board of education should develop and adopt a written policy which address the requirements of P.L. 2017, C. 291. Parents should be informed annually about the district’s policies for restraint and seclusion, including if the district has chosen not to allow the use of restraint and seclusion for its students with disabilities. The NJDOE recommends gathering input from the district’s Special Education Parent Advisory Group (SEPAG) on the policies. In addition to the requirements set forth in the law, the NJDOE recommends including the additional definitions detailed above, information on procedural safeguards afforded students with disabilities by the Individuals with Disabilities Education Act (IDEA), a description of the district’s notification process, and a description of the district’s professional development plan.

Training for School Personnel

The NJDOE recommends that all staff working directly with students with disabilities be trained on, at least, an annual basis on the policies and procedures adopted by the local education agency (LEA) with respect to restraint and seclusion. The training should be identified in the LEA’s professional development plan and should be considered as a topic for ongoing professional learning communities (PLCs). All training should emphasize the use of appropriate de-escalation techniques and the use of Positive Behavior Supports (PBS) as mechanisms to avoid the need for the use of restraint and seclusion. As noted by the USDOE in Principle 10, “[t]eachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.”³

In addition to districtwide training and PLCs, LEAs should also consider additional training for all staff who will be responsible for implementing the Individual Education Programs (IEPs) which include behavior intervention plans for students with disabilities. This training should include a framework that emphasizes de-escalation techniques, identifying positive behavior supports, and behavioral strategies which support appropriate behavior in all school settings. Staff responsible for implementing the behavior intervention plans in student IEPs should be trained on the use of continuous monitoring techniques and the collection of data which can be used to inform decision-making regarding the continued use of restraint and seclusion.

Training for school administrators should include information on the effectiveness of schoolwide positive behavior programs, a tool for evaluating the effectiveness of the restraint and seclusion policies, and a tool for evaluating the effectiveness of the district trainings.

² *Restraint and Seclusion: Resource Document*, USDOE, May 2012

³ *Restraint and Seclusion: Resource Document*, USDOE, May 2012

Post-incident Notification

District procedures should include a mechanism for informing parents and appropriate staff following the use of any type of restraint or seclusion. As noted in the USDOE resource document, “[p]arents should be notified ‘*as soon as possible*’ following each instance in which restraint or seclusion is used with their child.”⁴ District policies should include a specific timeline for the notification. The NJDOE recommends that school districts develop a template that is utilized as part of the post-incident notification process. This template should include details regarding the nature of the behavior that precipitated the use of the restraint and/or seclusion, the staff involved, and recommendations for follow-up activities including, if appropriate, revisions to the student’s IEP or administration of a functional behavioral assessment.

The notification should be maintained in a manner consistent with state and federal regulations regarding the confidentiality of student records while also serving as a mechanism for gathering data which allows the IEP team to make informed decisions regarding the student’s needs.

Data-driven Decision-making

Each incident that requires the use of restraint and/or seclusion should be documented in a manner that supports informed data-driven decision-making by school staff including the IEP team. Data collected through this process should include, among other things, the location of the incident, persons involved, triggering events, prevention, redirection or de-escalation techniques utilized during the incident, a description of any injuries or physical damage that occurred, observational data or monitoring data taken during the incident, debriefing with staff, reflections on adherence to the IEP and district procedures, and specific follow-up that will take place including, if appropriate, an IEP team meeting.

Data should be reviewed on a continual basis to determine the effectiveness of the individual student’s behavior intervention plan (BIP) and the district procedures. Any reviews should be conducted across sub-groups and involve staff, child study team members and administration.

c: Members, State Board of Education
Lamont O. Repollet, Ed.D., Commissioner
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group

⁴ *Restraint and Seclusion: Resource Document*, USDOE, May 2012