

Emergency Use of Seclusion and Physical Restraint Frequently Asked Questions

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Michigan Department of Education



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Emergency Use of Seclusion and Physical Restraint Frequently Asked Questions

Introduction

Preface

MCL 380.1307a states: "the department shall develop a state policy regarding the use of seclusion and restraint in the public schools that includes all of the elements under sections 1307b to 1307h [MCL 380.1307b to 380.1307h], along with guidelines as the department considers appropriate. Not later than the beginning of the 2017–2018 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a local policy that is consistent with the state policy under this section. A person who fails to comply with this section or who fails to comply with any of the requirements of the state policy developed under this section is considered to have failed to comply with and to have violated this act [the revised school code]."

Purpose

The stated intent of the legislature in adding sections 1307 to 1307h (MCL 380.1307 to 380.1307h) is to ensure that local public schools, public school academies, intermediate school districts, and other public school entities adhere to a uniform policy regarding the use of seclusion and restraint. The purpose of this policy is to:

- Promote the care, safety, welfare, and security of the school community and the dignity of each pupil.
- Encourage the use of proactive, effective, evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instructional time for all pupils.
- Ensure that seclusion and physical restraint are used only as a last resort in an emergency situation and are subject to diligent assessment, monitoring, documentation, and reporting by trained personnel.
- Clearly define the terms "seclusion," "restraint," "emergency seclusion," and "emergency physical restraint" and clearly state the procedures for the use of emergency seclusion and emergency physical restraint.

On March 14, 2017, the SBE adopted the "Policy for the Emergency Use of Seclusion and Restraint." An update to correct a missing sentence was issued in

July 2017. This document further provides guidance on how school districts are to implement the law and policy.

MCL 380.1307b to 380.1307h prohibits the use of seclusion and restraint. Unless there is an emergency, the use of seclusion and restraint is not permitted.

General Guidance

Does following this guidance protect from liability?

The guidance below is the MDE's interpretation of the statute and does not preclude different interpretations. School staff should understand that following the guidance articulated in this document does not necessarily protect them from liability should an enforcement authority choose to interpret the law differently.

Why do we have a law and required policy on the emergency use of seclusion and physical restraint?

Pupils and adults have been emotionally harmed and severely injured or died from the use of seclusion and restraint. The law and required policy were written to address pupil behavior that has escalated to an emergency situation. The policy provides guidance to school personnel to address emergency situations in a manner that will protect the health, safety, and dignity of the pupils and adults.

Why does the policy begin with the discussion of positive behavioral interventions and supports (PBIS)?

It is intended to encourage the use of proactive, effective, evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instructional time for all pupils.

Is the policy about pupil discipline?

No. The policy is specific to responding to an emergency situation. Seclusion and restraint are not to be used as a disciplinary response (e.g. verbal reprimand, detention, suspension).

The "Policy for the Emergency Use of Seclusion and Restraint" is very specific to types of behavioral interventions used to manage individual pupil behavior in emergency situations only.

When must a school district, intermediate school district, or public school academy implement the law, which includes adopting a policy on the emergency use of seclusion and physical restraint?

Districts must adopt and implement a policy specific to the emergency use of seclusion and emergency physical restraint by the start of the 2017-2018 school year.

Must school districts develop their own policy on the use of emergency seclusion and emergency physical restraint?

No. Local school districts are permitted to develop, adopt, and implement their own local policy consistent with state policy or use the state policy for the emergency use of seclusion and restraint that was approved by the State Board of Education (SBE) on March 14, 2017 and updated in July 2017.

Does the MDE policy for the emergency use of seclusion and restraint apply to only students with disabilities?

No. This policy applies to ALL pupils who attend a public school, public school academy, intermediate school district, or public school entity.

In which settings does this policy apply?

Sections 1307, 1307a, and 1307b of the statute all use the phrase "in the public school." Statutory language does not expressly define "in the public school." In other sections of the Revised School Code the term "at school" is utilized and defined to mean "in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises." School personnel are advised to adhere to the definition of "at school" when applying this policy "in the public school."

Does this policy apply to preschool children?

With one exception, statutory language does not expressly include preschool and young adult pupils (ages 18-26). Michigan Codified Law (MCL) 388.1606 defines "pupil" in the State School Aid Act to include pupils at a "public school," which is defined by MCL 380.5 as a public elementary or secondary school. However, the language in the new statute specifically states that preschool pupils shall not be secluded, even in an emergency. It is advised that school districts adhere to statute in preschool situations.

Are residential facilities with an on-site school not run by a public school district required to follow the SBE standards?

No. Only a public school district, intermediate school district, or public school academy is required to adopt and implement a local policy that is consistent with the state policy under this section.

Are school personnel in residential facilities that contract with a local district or intermediate school district to run the education program required to follow SBE standards?

Yes. Any school operated by a public school district, intermediate school district, or public school academy is required to adopt and implement a local policy that is consistent with the state policy.

Are school personnel allowed to call for law enforcement to deal with pupils who refuse to cease disruptive behavior?

First responders (emergency medical services, the police, or others) may need to be called by school personnel. This should be part of a school's crisis management plan.

Are school resource officers (SROs) considered school personnel?

Law enforcement officers who are sworn, meet state training and licensing standards, and are acting in their capacity as law enforcement officers are not bound by MCL 380.1307b to 380.1307h. Law enforcement officers are bound by limits on police use of force. Other individuals designated as "school resource officers" who are not sworn law enforcement officers are bound by MCL 380.1307b to 380.1307h. Who fits within that category is a matter of state law and not school district discretion.

Is the emergency use of seclusion and physical restraint allowed to protect property?

No. The emergency use of seclusion and physical restraint is meant to protect pupils and staff. If the act of destructing property causes imminent risk to the safety of a pupil or staff member, emergency use of seclusion and physical restraint is permissible.

Must a district complete a functional behavior assessment (FBA) after each incident of emergency seclusion or emergency physical restraint?

No. However, 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 conduct a functional behavioral assessment, develop or revise a

positive behavioral intervention and support plan to facilitate the elimination of the use of seclusion and restraint, and develop an assessment and planning process conducted by a team knowledgeable about the pupil.

How does the emergency use of seclusion and physical restraint align and/or conflict with special education requirements, including a functional behavioral assessment (FBA), review of existing evaluation data (REED), behavior intervention plan (BIP), and individualized education program (IEP)?

The *Individuals with Disabilities Education Act* (IDEA) is a federal law that defines FBA, REED, BIP, and IEP. The policy on the Emergency Use of Seclusion and Restraint is specific to Michigan and for pupils with and without IEPs. For further guidance refer to the federal Office of Special Education Programs (OSEP), Questions and Answers on Discipline Procedures, June 2009. There is also a "Dear Colleague" letter on Restraint and Seclusion of Students with Disabilities (December 28, 2016) and a one page Fact Sheet from the U.S. Department of Education, Office for Civil Rights (see Resources).

Training

What are the two levels of training required?

Awareness training and comprehensive training are the two levels of training required.

Who is required to receive awareness training?

All school personnel who have regular contact with pupils or who regularly and continuously work under contract, are required to receive awareness training. This may include: teachers, paraprofessionals, administrators, support staff, bus drivers, security personnel, cafeteria staff, substitute teachers, public school employees providing services at a non-public school, school volunteers, school board members, coaches, and pre-service and intern teachers.

"Regularly and continuously" work under contract is defined in MCL 380.1230 of the Revised School Code as any individual who works at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

What must be included in awareness training?

Awareness training shall include:

- Purpose and spirit of the law, including duty to protect the wellbeing of pupils in our care.
- Expectations and responsibility of staff in responding to emergency situations.
- Risks and limits on emergency use of seclusion and physical restraint.
- Following definitions:
 - Emergency situation.
 - Emergency seclusion.
 - Emergency physical restraint.
 - Mechanical restraint.
 - Key identified personnel.
- Prohibited practices.
- Documentation and debriefing of each use of seclusion and restraint.
- Immediate reporting of use of seclusion and restraint to the parent of child.
- Reporting of use of seclusion and restraint to the MDE.
- Awareness of best practices to reduce the need for emergency use of seclusion and physical restraint must include positive behavioral interventions and supports (PBIS) and may include:
 - Proportionate response.
 - Prevention strategies.
 - De-escalation strategies.
 - Planning for alternative interventions or strategies
 - Patterns of behavior.
- [Positive Behavioral Interventions and Supports, OSEP Technical Assistance Center](https://www.pbis.org) (<https://www.pbis.org>).

Who is required to have comprehensive training?

Key identified personnel: those individuals who have received the mandatory training described in section 1307g(b)(i) to (xvi) before using emergency seclusion or emergency physical restraint with pupils as a response to an emergency situation.

What is required within the comprehensive training?

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:

- Proactive practices and strategies that ensure the dignity of pupils.

- De-escalation techniques; techniques to identify pupil behaviors that may trigger emergency situations.
- Related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion or restraint is used.
- Instruction in the use of emergency seclusion and emergency physical restraint.
- Identification of events and environmental factors that may trigger emergency situations.
- Instruction on the state policy on the use of seclusion and restraint.
- Description and identification of dangerous behaviors.
- Methods for evaluating the risk of harm to determine whether the use of emergency seclusion or emergency physical restraint is warranted.
- Types of seclusion.
- Types of restraint.
- The risk of using seclusion or restraint in consideration of a pupil's known and unknown or mental health conditions or psychological limitations.
- The effects of seclusion and restraint on all pupils.
- 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.
- How to obtain appropriate medical assistance.
- Cardiopulmonary resuscitation and first aid.

The following components are recommended but not required:

- Conflict resolution.
- Mediation.
- Social skills training.
- Positive behavioral intervention and support strategies.

How do the new comprehensive training requirements for key personnel interact with commercially available trainings?

Many commercially available trainings meet a subset of the requirement within the statute. If a district elects to use a commercially available training, school personnel should review the training requirements for key identified personnel, and compare them with the selected training, identify the gaps, and address gaps with additional training.

Must a school district contract with an outside vendor to provide training to key identified personnel?

No. The local educational agency (LEA) may utilize any trainer and/or materials they choose as long as the requirements listed in the state policy and statute are incorporated into the training.

Does the law require on-going certification, re-certification or periodic re-training of school personnel or key identified personnel for training?

No. There is no requirement for periodic re-training. However, the burden to ensure that all staff are trained is the responsibility of the school. New staff must be appropriately trained.

Likewise, for districts that contract with third party vendors for busing, custodial, substitute teaching, or other such services, the requirement to ensure that staff are trained applies to the district not the vendor. In other words, the districts must ensure that third party personnel are trained. Districts may want to consider amending their contracts with third party vendors to require that the vendors provide training for their staff or make similar arrangements to ensure that staff are trained.

After initial training, it is important to periodically update skills. The policy does not require a specific re-training timeline. However, many commercially provided trainings require specific recertification training to ensure efficacy.

Where can I find organizations that can provide cardiopulmonary resuscitation (CPR) and first aid training?

The MDE and the Department of Licensing and Regulatory Affairs has a list of approved CPR and first aid training.

- [CPR & First Aid - Approved Providers](http://www.michigan.gov/documents/mde/Approved_First_Aid_and_CPR_Providers_397544_7.pdf)
(http://www.michigan.gov/documents/mde/Approved_First_Aid_and_CPR_Providers_397544_7.pdf)
- [CPR and First Aid Training – Department of Licensing and Regulatory Affairs](http://www.michigan.gov/lara/0,4601,7-154-63294_5529_49572_49583-82382--,00.html)
(http://www.michigan.gov/lara/0,4601,7-154-63294_5529_49572_49583-82382--,00.html)

Districts may choose any providers and are not limited to the ones provided in this document.

Emergency Seclusion

If school personnel evacuate a room with the exception of one pupil and an employee of the school, is it considered seclusion?

If the pupil is not physically prevented from leaving the room, it is not considered seclusion.

When does separating a pupil from others constitute seclusion or emergency seclusion?

When a pupil is confined in a room and physically prevented from leaving, that constitutes seclusion. The only exception is when 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.

Can a seclusion room ever be locked?

No. The statute specifically prohibits a seclusion room from being locked. Further, the pupil may never be prevented from exiting the area should staff become incapacitated or leave the area.

Can an immediate release mechanism be used on a seclusion room door?

An immediate release mechanism, is not explicitly allowed or prohibited; however, the statute specifically prohibits a seclusion room from being locked. If a district elects to use an immediate release mechanism given they are not expressly prohibited, they must ensure use of such a mechanism does not prevent the pupil from exiting the area if school personnel become incapacitated or leave the area. The room must also meet all the other requirements for an emergency seclusion room, such as complying with state and federal fire codes.

Any use of seclusion using these devices is subject to the spirit of the statute which calls for reducing and eliminating its use. Further, it is worth reiterating that following this guidance does not protect from liability (see page 8). Whether an immediate release mechanism qualifies as a lock is an open question.

Are there time limits on the duration of emergency seclusion?

Yes. Emergency seclusion 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 seclusion is ended. This is generally no longer than 15 minutes for an elementary school pupil or 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:

- Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.
- Documentation to explain the extension beyond the time limit.

While using emergency seclusion, school personnel must do all of the following:

- Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.
- Continually observe the pupil in emergency seclusion for indications of physical distress, and seek medical assistance if there is a concern.
- Document observations.
- 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.

Can school personnel video record a pupil in seclusion as a means of documentation?

Yes, school personnel may elect to video record a pupil as documentation of the incident. However, all video recordings need to adhere to state and federal law, rules, and regulations regarding pupil privacy (e.g. FERPA).

Can an emergency seclusion be monitored via video observation?

Yes, if the video observation provides continuous monitoring in real time by a person present in order to ensure the safety and wellbeing of the pupil. The key is that the observation (video or in person) is being conducted in real time with documentation of observations. The reason for observing is to make sure the seclusion stops when there is no longer an emergency situation or to address any escalation to the extent that "...indications of physical distress" are apparent that may require medical assistance. A video observation cannot supplant a person's presence in the observation and analysis process but may be a visual aid to view the seclusion room more fully.

Emergency Physical Restraint

Does the policy prohibit prone restraints?

Yes. Statute and policy prohibit any prone restraints and any restraints that negatively impact breathing. (MCL 380.1307h(p))

Are there time limits on the duration of emergency physical restraint?

Yes. 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. This is generally no longer than 10 minutes. If an emergency physical restraint lasts longer than 10 minutes, all of the following are required:

- Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.
- Documentation to explain the extension beyond the time limit.

While using emergency physical restraint, school personnel must do all of the following:

- Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.
- Continually observe the pupil in emergency physical restraint for indications of physical distress and seek medical assistance if there is a concern.
- Document observations.
- 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.
- 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.

Sometimes it is necessary to hold a young child in a preschool or early childhood setting. Is that considered restraint?

If the hold prevents or significantly restricts the child's movement and no exception in the definition of "restraint" applies, then it is considered restraint and must be reported as such.

If staff find themselves involved in a prone restraint, what should they do?

Prone restraints are not permitted. If school personnel, in the course of an emergency response, find themselves in a prone restraint, they must take immediate steps to end the prone restraint.

Does the prohibition on mechanical restraint apply to restraints used for transportation (such as seat belts or wheelchair tie-downs), or those used to assist the pupil with body positioning and/or physical functioning?

The statute does not prohibit the use of an adaptive or protective device recommended by a physician or therapist when it is used as recommended, or when the safety equipment is used by the general pupil population as intended, such as a seat belt or safety harness. It is suggested that districts document the recommendation by the physician or therapist.

May a therapist employed by the district (e.g. occupational therapist, physical therapist) recommend use of an adaptive or protective device?

The statute does not explicitly define who a therapist is that may recommend use of an adaptive or protective device. A therapist employed by the school is not explicitly prohibited from recommending use of an adaptive or protective device. A parent may accept or reject the use, just as they have with other recommendations from physicians or therapists.

Can school personnel video record a pupil being restrained as a means of documentation?

Yes. If you video record a pupil as documentation of the incident, a school must follow state and federal law, rules, and regulations for pupil privacy (e.g. FERPA).

Documentation and Reporting

Does a school need to collect data regarding seclusion and restraint?

Yes. All uses of restraint and seclusion must be documented, not just emergency seclusion or emergency physical restraint.

Are districts required to use a Michigan Department of Education (MDE) form for documenting instances of seclusion and/or restraint?

No. The statute requires documentation of all instances of seclusion and restraint, but it does not require documentation on an MDE form. However, a copy of the written report shall be provided to the parent or guardian within the earlier of one school day (if school is in session the next day) or seven calendar days (if incident occurs the day prior to an extended break).

The MDE has a model form districts may elect to use or modify for documentation of seclusion and restraint.

What must be documented for each episode of seclusion or restraint?

Each use of seclusion or restraint and the reason for each use shall be documented in writing and reported immediately in writing or orally to the school building administration. This writing shall be subsequently updated to include when and how the pupil's parent or guardian was informed of the incident.

Using existing data collection and reporting systems, whenever possible, the documentation shall include:

- Date and start time of seclusion or restraint.
- Race, age, grade, gender, disability, identity of the school personnel initiating the use of the restraint or seclusion, key personnel who respond to each incident, and identity of the school or program where the use occurred.
- Summary of incident (e.g. antecedents, chronology of events, response to interventions, duration of seclusion/restraint).

If extended time is utilized during the crisis, provide an explanation for extension and additional support utilized (e.g. change of staff, introducing a nurse or specialist, or additional key identified personnel).

A written report for each use of seclusion or restraint, including multiple uses within a given day, shall be provided to the parent or guardian within the earlier of one school day or seven calendar days.

What should be included in the written report?

The written report should include:

- Date, time, location.
- Name/title of staff involved, including who initiated the seclusion and/or restraint and key identified personnel.
- Description of what was occurring in the environment prior to the behavior (antecedent/trigger).
- Description of pupil behavior requiring seclusion and/or restraint.
- Description of any intervention used prior to the use of seclusion and/or restraint.
- Summary of observations, including the duration of use and pupil response to intervention, and follow up with pupil.
- Whether or not anyone was injured during the intervention.
- Whether or not there was a known medical condition.
- Why seclusion and/or restraint was a necessary response.

Considering the exceptions to restraint listed in the statute, what actions should get reported as restraint?

Any action that prevents or significantly restricts a pupil's movement is restraint and should be reported unless an exception to the statutory definition applies. The definition of "restraint" lists a number of exceptions for situations where a pupil's movement is restricted for a purpose other than discipline or punishment, such as the brief holding of a pupil in order to calm or comfort.

The exception for "necessary actions taken to break up a fight, to stop a physical assault...or to take a weapon from a pupil" deserves special attention. Fights, physical assaults, and weapons involve active (as opposed to threatened) violence and consequently pose a heightened safety risk that may temporarily make complying with the state policy's requirements impossible. As a result, necessary actions to break up a fight, to stop a physical assault, or to take away a weapon are not considered "restraint" and are not subject to the policy's requirements (both procedural and reporting). However, this is a very narrow exception that ends once the fight has been broken up, the physical assault stopped, or the weapon taken away. At that point, any ongoing action that prevents or significantly restricts a pupil's movement will be considered restraint and will be subject to all of the policy's requirements. If an emergency situation continues to exist once the fight has been broken up, the physical assault stopped, or the weapon taken away, the restraint may be allowed to continue so long as the requirements for "emergency physical restraint" are satisfied.

What must be reported to the state regarding use of seclusion and restraint?

Districts will submit by Unique Identification Code (UIC) the number of seclusions and/or restraints by date. The Center for Educational Performance and Information is in the process of adding a seclusion and restraint field. This should become available in the spring of 2018. In the meantime, all incidences of seclusion and restraint must be maintained by the district and will be required to be uploaded into the Michigan School Data System by the end of the 2017-2018 school year. The state currently collects race, age, grade, gender, and disability information on each student within the MSDS. All other data required in the statute must be maintained at the local level. (e.g. the identity of the school personnel initiating the use of "any" seclusion and restraint and the school or program where the restraint or seclusion occurred. All information may be subject to a Freedom of Information Request.

Further clarification on the reporting of the data as required in the statute will be forthcoming from the MDE.

What must districts do with data specific to seclusion and restraint?

The data should be analyzed annually by the school and school district, public school academy, or intermediate school district as part of their school/district improvement process to determine the efficacy of the school's school-wide system of behavioral support impact on pupil attendance, suspension, expulsion, and dropout data, and for the purposes of continuous improvement of training and technical assistance toward the elimination of the use of seclusion and restraint.

Informing, Debriefing, and Consulting

Must a district use the MDE debriefing form for documenting the debrief and consultation?

Yes. The debriefing and consultation shall be documented on the MDE form or within their existing information systems in accordance with department guidelines. The debriefing form and consultation shall include:

- Date, location, and names/title of debriefing participants.
- Review of the written report, including the antecedent to the incident, the specific behavior that led to the seclusion and/or restraint, why seclusion and/or restraint was a necessary response, and the pupil's response to intervention(s).
- Review of behavior intervention plan and/or individualized education program, if applicable.
- Identification of patterns of behavior and proportionate response, if any.
- Determination of alternative responses by the pupil and staff to address problem situation, if any.
- Identifying and providing additional resources (short-term and long-term) to support use of alternative responses.
- Determination of next steps/follow-up action (e.g. conduct functional behavior assessment, create/revise behavior intervention plan and/or emergency intervention plan, medical consultation, reintroduction plan).

Districts are permitted to add an addendum to include additional information.

Which school personnel are qualified to describe to parents "in detail the legal limits on the use of emergency seclusion or emergency physical restraint, including examples of legally permissible and prohibited use?"

This question relates to one of the steps in developing and implementing an Emergency Intervention Plan (EIP) as referenced in MCL 380.1307e(a). This provision states that, "The EIP 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 emergency physical restraint, and an individual knowledgeable about the use of positive behavioral interventions and supports to eliminate the use of seclusion and restraint.”

School personnel responsible for development of the emergency intervention plan should provide parents with information regarding the:

- Purpose of the statute, including duty to protect the wellbeing of pupils in our care.
- Expectations and responsibility of staff in responding to emergency situations.
- Risks and limits on emergency use of seclusion and physical restraint.
- Key Definitions:
 - Emergency situation.
 - Emergency seclusion.
 - Emergency restraint.
 - Mechanical restraint.
 - Key identified personnel.
- Prohibited practices.
- Requirement to document and debrief each use of seclusion and restraint.
- Immediate reporting of each use of seclusion and restraint to the parent of the child.

See section 1307e in the statute for additional requirements.

What is debriefing and consultation?

The purpose of debriefing and consultation is to collaboratively problem solve with pupils, parents, and staff, in order to reduce the likelihood of future problem behavior and subsequent use of seclusion and/or restraint. The goal is to support pupil and staff in non-aversive/non-punitive reintroduction to the learning environment.

When must a debriefing and consultation take place with a parent/guardian?

After each use of seclusion and/or 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 event, and determination of future actions. Ideally this occurs within one to three school days of the incident.

Parents will be offered a copy of the documentation form or written report prior to debriefing and consultation. Debriefing shall be documented on the MDE form and include:

- Date, location, and names/title of debriefing participants.
- Review of behavior intervention plan (if applicable), antecedent to the incident, and why seclusion and/or restraint were a necessary response.
- Support pupil in identifying the specific behavior that led to the seclusion and/or restraint.
- Look for patterns of behavior and proportionate response.
- Determine alternative responses by the pupil and staff to address problem situation.
- Identify and provide resources (short-term and long-term) to support use of alternative responses.
- Determination of next steps/follow-up action (e.g. conduct functional behavior assessment, create/revise behavior intervention plan and/or emergency intervention plan, medical consultation).

Does a phone message constitute reporting to the parent?

All reasonable means should be utilized to contact the parent immediately. In some cases, a voicemail message, text or email may be the only means of contact. Be mindful of existing guidelines on privacy. It is recommended that districts maintain a log of these contacts.

How should a school respond when a parent or guardian is not reached or unwilling to meet for debriefing and consultation?

Districts must make a good faith effort to contact the parents. If parents are unreachable or unwilling to attend a debriefing, the district must demonstrate and document a good faith effort to contact the parent/guardian in lieu of debriefing and consulting with the parent/guardian.

Must school personnel verbally contact a parent after each incident of seclusion and/or restraint?

School personnel must attempt to contact the parents immediately after an incident. This contact can be made by phone or in person.

Does the written report have to be physically handed to the parent(s)/guardian(s) within the times indicated or can it be mailed within that timeframe? If in person, how do you give parent information within a day if they do not come in to receive it?

The school shall make a reasonable effort to provide parents the written report in person. When a parent/guardian is unable or unwilling to come to the school during office hours to pick up the written report or receive the report electronically, a school may elect to mail the written report to parents within the earlier of one school day or seven calendar days.

It is recommended that school districts document the method and date of delivery.

Emergency Intervention Plan (EIP)

Is it necessary to obtain informed parental consent for the emergency use of seclusion or physical restraint in an EIP?

The plan should be developed in partnership with a parent or guardian. However, informed parent consent is not required.

What must be included within an EIP?

The EIP must include the following:

- 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.
- An explanation of what constitutes an emergency situation as defined in section 1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition.
- A detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion and emergency physical restraint.
- A detailed explanation of the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.
- A description of possible discomforts or risks.
- Answers to any questions.

Who should be included in the development of an EIP?

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 emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint.

Must an EIP be developed for each pupil who has experienced an emergency seclusion or an emergency physical restraint?

No. However, 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 should develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil.

What is a peer review?

The role of a peer review is to evaluate the quality, effectiveness and least intrusiveness of the EIP. Individuals who conduct a peer review of a proposed EIP must have a legitimate educational interest in the pupil in that they provide a professional review of the plan and make recommendations to the EIP team regarding proposed interventions.

If a pupil has an EIP, is it necessary to write an incident report for each use of seclusion or restraint?

Yes.

Definitions

Chemical Restraint

Administration of medication for the purpose of restraint.

De-escalation Techniques

Evidence- and research-based strategically employed verbal or nonverbal interventions used to reduce the intensity of threatening behavior before, during, and after a crisis situation occurs.

Documentation

Documentation developed by the department that is uniform across the state.

Emergency Physical Restraint

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.

Note:

- Emergency physical restraint does not include physical restraint that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in PBIS.
- Emergency physical restraint does not include a practice prohibited under section 1307b.
 - Corporal punishment, as defined in section 1312.
 - The deprivation of basic needs.

- Child abuse.
- Seclusion, other than emergency seclusion.
- 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.
- Mechanical restraint.
- Chemical restraint.
- Any restraint that negatively impacts breathing.
- Prone restraint.
- Physical restraint, other than emergency physical restraint.
- Any other type of restraint.
- Emergency physical restraint does not include physical restraint when contraindicated (a technique that is not recommended for a particular individual) based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.

Emergency Seclusion

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.

Emergency seclusion does not include the confinement of preschool children or of pupils who are severely self-injurious or suicidal; seclusion that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support; or a practice prohibited under section 1307b.

Emergency seclusion does not include seclusion when contraindicated (a technique that is not recommended for a particular individual) based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.

Emergency Situation

A situation 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.

Functional Behavioral Assessment

An evidence- and research-based systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A functional behavioral assessment shall describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur, and identify the factors that are maintaining the behaviors over time.

Key Identified Personnel

Those individuals who have received the mandatory training described in section 1307g(b)(i) to (xvi) before using emergency seclusion or emergency physical restraint with pupils as a response to an emergency situation.

Mechanical Restraint

The use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint.

Physical Restraint

Restraint involving direct physical contact.

Positive Behavioral Intervention and Support

A framework to assist school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum of intensifying supports based on pupil need that unites examination of the function of the problem behavior and the teaching of alternative skill repertoires to enhance academic and social behavior outcomes for all pupils.

Positive Behavioral Intervention and Support Plan

A pupil-specific support plan composed of individualized, functional behavioral assessment-based intervention strategies, including, as appropriate to the pupil, guidance or instruction for the pupil to use new skills as a replacement for problem behaviors; some rearrangement of the antecedent environment so that problems can be prevented and desirable behaviors can be encouraged; and procedures for monitoring, evaluating, and modifying the plan as necessary.

Prone Restraint

The restraint of an individual facedown.

Regularly and Continuously Work Under Contract

As defined in section 380.1230 of the Revised School Code, regularly and continuously work under contract means to work at school on a more than intermittent or sporadic basis as an owner or employee of an entity that has a contract with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

Restraint

An action that prevents or significantly restricts a pupil's movement.

Note that restraint does not include:

- The brief holding of a pupil in order to calm or comfort, the minimum contact necessary to physically escort a pupil from one area to another.
- 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.
- 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.
- The administration of medication prescribed by and administered in accordance with the directions of a physician.
- An adaptive or protective device recommended by a physician or therapist when it is used as recommended.
- Safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation.
- Necessary actions taken to break up a fight, to stop a physical assault, as defined in section 1310, or to take a weapon from a pupil.
- 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.

Restraint that Negatively Impacts Breathing

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. 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.

School Personnel

Includes all individuals employed in a public school or assigned to regularly and continuously work under contract or under agreement in a public school, or public school personnel providing service at a nonpublic school.

Seclusion

The confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving. [Simply telling a pupil that he or she may not leave a particular room does not physically prevent him or her 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.

Resources

[Restraint and Seclusion: Resource Document](https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf), US Department of Education, May 2012 (<https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>).

[Fact Sheet: Restraint and Seclusion of Students with Disabilities](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf), US Department of Education, December 2016 (<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>).

[Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf), US Department of Education, December 28, 2016 (<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>).

[Positive Behavioral Interventions and Supports, OSEP Technical Assistance Center](https://www.pbis.org) (<https://www.pbis.org>).