

RESTRAINT AND SECLUSION RULES IN MAINE – 2013 REVISIONS

Maine's restraint and seclusion rules apply to all schools in Maine receiving public funding, to all employees, contractors and agents of Maine schools, and to all Maine students during any school activity. The key requirements of the rules, found in Chapter 33, are in this two-page summary.

Definition of Physical Restraint: An intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily. This is broad, but note the exceptions below!

- **Exception for Physical Escorts:** The temporary touching or holding of a student for the purpose of getting the student to move to another location, including getting the student to stand in order to be escorted.
- **Exception for Fights:** A physical restraint does not include a brief period of physical contact necessary to break up a fight.
- **Other Exceptions:** There are other exceptions for physical prompts, holding a student to comfort him or her, momentary deflections of bodily movements, and the use of seat belts and harnesses as intended.

Use of Physical Restraint: School officials can use physical restraint ONLY when there is a risk of physical injury or harm to that student or to others, and only if less restrictive interventions are deemed inappropriate.

- There is a risk of physical injury or harm when the student has the means to cause that harm, and a reasonable person would conclude that steps are needed to protect the student or others from that harm.
- Physical "injury or harm" does not mean serious injury or harm. Physical restraint can be justified to prevent any physical injury or harm at all, as long as a reasonable person would act to stop that injury or harm. The restraint should be at the lowest level that is likely to prevent the injury.
- Physical restraints cannot be used to protect property, or to punish, or for staff convenience, or to educate, or with the intention of causing pain. They can be used only to prevent the risk physical injury or harm.

Prohibited Types of Physical Restraint: Even when there is a risk of physical injury or harm, schools and school officials can NEVER use the following types of intervention.

- Physical restraint that restricts the free movement of the diaphragm, chest, or airway, thereby interrupting normal speech or breathing.
- Any "aversive procedure," including interventions likely to cause physical and/or emotional trauma, infliction of bodily pain, use of sprays, fumes, extreme exercise, costumes or signs.

School Resource Officers and Law Enforcement: Restraints used by school resource officers and law enforcement officers in the course of their duties are **NOT** covered by these rules.

Definition of Seclusion: Seclusion is the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. It is not a timeout. Instead:

- The student has to be in the room or clearly defined area alone for there to be a seclusion.
- The student has to be physically prevented from leaving for there to be a seclusion.
- When the seclusion is in a room, the door to that room cannot be locked.
- School staff must continuously monitor a student in seclusion.

Use of Seclusion: School officials can use seclusion ONLY when there is a risk of physical injury or harm to that student or to others, as discussed above.

Length of Physical Restraints and/or Seclusions: Physical restraints/seclusions must be continuously monitored by those involved in them and must be stopped when the student no longer presents a risk of physical injury. If a physical restraint/seclusion extends more than 10 minutes, an administrator or designee must determine whether continuing that intervention is warranted, and if the intervention continues, must make that determination every subsequent 10 minutes.

Staff Involved in Physical Restraints and/or Seclusions: There must be at least two staff for a physical restraint, unless for safety reasons you cannot wait for a second adult. There must be at least one staff in every seclusion. Physical restraint/seclusion must be implemented by staff certified in a state-approved training program unless untrained staff must intervene because of an emergency, and trained staff are summoned. There must be a “sufficient” number of persons trained in your school.

Reporting and Follow Up Duties for Physical Restraints and/or Seclusions: Schools must undertake the following actions for every incident of physical restraint or seclusion (an “incident” will include all actions from when a child first poses a risk, until the child calms down and returns to regular programming):

- By the **end of the school day** of the incident, notify the parents and notify the administrator or designee of the physical restraint or seclusion.
- Within **2 school days**, fill out an incident report on the proper school form, and provide that written report to the administrator or designee.
- Within **2 school days**, hold a debriefing meeting with involved staff to review the incident. This should occur the next school if there is serious bodily injury or death.
- Within **2 school days**, hold debriefing meeting with the student to review the incident.
- Within **7 calendar days**, provide the parents with the written incident report that staff prepared.
- **After the debriefing**, staff must develop and implement a written plan for response and de-escalation of the student in future incidents.

Team Meeting Duty: After the first three incidents of physical restraint or seclusion in the school year, the school must hold a team meeting within **10 school days** to discuss the incident. If the student is in special education or 504, the meeting must involve the student’s disability team. If the student is not in special education or 504, the team meeting must include the parent, a teacher, the person involved in the restraint, and an administrator or designee. The team that is meeting must:

- Review the student’s IEP or 504 plan if applicable, and in any event consider the need to conduct an FBA or/develop a BIP or amend an existing one.
- If the student is not in special education or 504, the team must consider whether referral to special education is warranted.

Local Complaint Process: Schools must maintain a local complaint process for parents to submit complaints about compliance with this rule. Parents unhappy with that process can file a complaint with the Maine Department of Education.

Notification and Training: Schools must provide annual overview and awareness information to all staff and providers regarding the new rules, and must provide an annual notice to parents about this rule, and about any local policies or procedures on physical restraint and seclusion, and about the local complaint process.