



Developing School Policies & Procedures for Physical Restraint and Seclusion in Nebraska Schools

**A Technical Assistance Document
Nebraska Department of Education**

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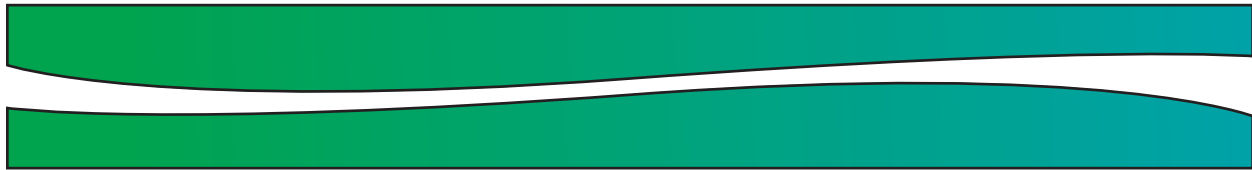


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Introduction

All across the United States both individual states and school districts are in the process of developing policies and procedures for the use of physical restraint and seclusion. This is in part the result of some students having been exposed to numerous instances of abusive and inappropriate use of these procedures resulting in deaths and injuries.



Purpose

The purpose of this document is to provide information and guidance for Nebraska School districts in creating new, or revising existing policies and procedures related to the use of physical restraint and seclusion in school settings. The goal is to create policies that are informed by national policy directions, research, good practice and appropriate professional standards.

Federal legislation on this topic is pending (Preventing Harmful Restraint and Seclusion in Schools Act, H.R. 4247, see Appendix A). This technical assistance document will address and attempt to fully comply with the practices described in the pending federal legislation, which represents current research and “best” practice. The bill has been endorsed by over 100 advocacy and professional organizations and has the broad general support of educators, parents and policy makers. School districts in Nebraska can demonstrate their commitment to “best practice” on this issue and maintain the safety of their students and staff by designing policies now to meet the standards as established in the federal bill. This may also preclude the need to make modifications in local district policies should this legislation take effect later.



Map of Contents

This document is intended to be primarily for school boards and administrators who are developing local school district policies. It includes three sections:

- **Section 1 - Developing Policies and Procedures.** This section provides introductory information in a “question and answer” format. The section describes recent problems which have triggered the pending federal legislation, explains why school district policies are needed, addresses when district policies should be in place and other related topics.

- **Section 2 - Components of Policies and Procedures.** This section addresses the potential content of these policies and procedures, and provides information about essential components of policies and why they should be included. A rationale and examples of some of these components are provided.
- **Section 3 - Examples of Potential Policies and Procedures.** This section provides two “example” policies and procedures related to physical restraint and seclusion. These examples are designed to contain the essential components of school policies in this area. Requirements of the pending draft federal legislation (H.R. 4247) are addressed and included. The examples may be adopted in whole or part, or adapted by local school districts as they develop policies of their own.
- **An Appendix** provides materials related to the development of physical restraint and seclusion policies and procedures, including:
 - **Appendix A** is a copy of *The Preventing Harmful Restraint and Seclusion in Schools Act*, H.R. 4247.
 - **Appendix B** contains links to many of the reports that provoked federal legislation, the actual bills proposed in Congress, some position papers which address the content of the bills, and the list of the organizations supporting this legislation.
 - **Appendix C** provides a copy of Secretary of Education Duncan’s letter to Chief State School Officers in July of 2009.
 - **Appendix D** is Nebraska Commissioner of Education, Breed’s letter to Nebraska school superintendents calling on districts to establish or revise their policies.
 - **Appendix E** is a set of questions and answers on how to understand and interpret the recommended policies and procedures on restraint and seclusion. Explanation is provided about the rationale for some components of the federal bill and answers to some of the common questions that may occur about the federal bill requirements, needed changes in practices, and other issues.
 - **Appendix F** is an extended set of definitions that may be useful in local policies or procedures, or as an aid to implementation. Some of these might be useful in school district policies, or can be used for reference.
 - **Appendix G** is a list of representative “Crisis Intervention” training programs.
 - **Appendix H** provides an example checklist, and samples of “Incident Report” forms to assist schools in developing similar forms.
 - **Appendix I** provides website links or references to several additional sample state and local district policies and procedures on physical restraint and seclusion. These include one “model policy” developed several years ago in New Hampshire, as well as some state and local district policies. However, it should be noted that many of these were developed before the current draft federal legislation and may

not be fully in accord with current policy directions
but are provided as examples of previous policies on
this topic.

- **Appendix J** provides brief descriptions and references to several Nebraska laws which might be pertinent or of interest in considering restraint and seclusion.
- **A Reference List** identifies references used throughout this document.

**What are
physical
restraint and
seclusion?**

Section 1

Developing School Policies & Procedures: Q & A



In the human services, there are three different types of restraint procedures. Although all three are defined below, the primary focus of this document is on physical restraint, and to a lesser degree mechanical restraint. Seclusion, that should be distinguished from “time out”, is also defined.

Physical restraint - Physical restraint is any method of one or more persons restricting another person’s freedom of movement, physical activity, or normal access to his/her body.

Mechanical restraint – Mechanical restraint occurs when a device or object is used to restrain a person’s physical activity or movement.

Chemical restraint – Chemical restraint is the use of medication to control behavior or restrict a person’s freedom of movement. Educators have typically not been involved in decisions to employ medications that manage behavior, and are prohibited by federal law (and by Rule 51 for students with disabilities) from requiring students to have medication prior to receiving educational services.

Seclusion - Seclusion occurs when a person is placed in a location where he or she is alone, and prevented physically from leaving that environment. It is the act of physically confining a person alone in a room or limited space, or with an adult who is there to prevent the person from leaving. Seclusion should be distinguished from other forms of time out that do not entail isolation and restricted egress (see definitions and discussion later in this document).



The direct impetus for developing policies and procedures came from a letter written by U.S. Secretary of Education, Arnie Duncan, calling on Chief State School Officers to insure that the districts in their states have policies in place (Duncan, 2009). As a result, Nebraska Department of Education Commissioner Roger Breed has also made a request of Nebraska's school superintendents and principals to develop or update local school district policies (Breed, 2009).

Both of these requests are an outgrowth of several reports identifying incidents of deaths and injuries of students and staff occurring in public and private schools across the U.S. related to the use of physical restraint and seclusion procedures (Council of Parent Attorneys and Advocates [COPAA], 2009; National Disability Rights Network, 2009; U.S. Government Accountability Office [GAO], 2009). At that time less than half of the states had policies in place on these topics (Ryan, Peterson, & Rozalski, 2007; Ryan, Robbins, Peterson, & Rozalski, 2009). These reports triggered a U.S. House of Representatives Committee on Education and Labor hearing held in May of 2009 where these deaths and injuries of students received national attention.

As a result of the reports and Congressional Hearing, in December of 2009 two similar bills were introduced in the U.S. Congress, one in the Senate (S. 2860) and one in the Congress (H.R.4247), which addressed these topics. After passing out of committee, the "Preventing Harmful Restraint and Seclusion in Schools Act" (House of Representatives bill HR 4247) was passed by the full U.S. House of Representatives on March 3, 2010. Action on the similar Senate bill is uncertain. Whether or when federal law on this topic will be in place is unknown but most experts believe that the content of these bills will at some point become federal law.

Given these events and the pending law, school districts should be developing and implementing policies and procedures related to these topics at this time.



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 violate basic human rights. Adults have restrained some students inappropriately, when it was not necessary, or when other less extreme measures might have been used, putting students at unnecessary risk of injury or even death. Students have also been inappropriately strapped, taped or tied to chairs or other objects as a response to their behavior. Students as well as school staff have been injured in these situations. The lack of adequate training and resources to appropriately deal with student behavior resulting in increased and unnecessary crisis situations has become

Why are policies on physical restraint and seclusion needed?

Why has the use of physical restraint in education become an issue?

What are the problems with the use of seclusion?

a concern. As mentioned already, at least three national reports and numerous mass media reports have documented these types of situations (COPAA, 2009; National Disability Rights Network, 2009; GAO, 2009). As a result there is increasing awareness of the abuse of these procedures in certain school settings. This has led to increasing concern by educators, parents and by protection and advocacy organizations about ending these abusive situations to stop the deaths and injuries associated with these procedures.

There is almost universal agreement now among parents, protection and advocacy organizations as well as education professionals that physical restraint procedures should only be used in emergencies; where there is immediate risk of injury to someone if physical restraint or seclusion were not employed. They also agree that these should only be used briefly until the student regains control of his/her behavior. Some schools may use these procedures in situations that do not meet that standard, or without training or awareness of the risks of these procedures. The purpose of policies and procedures is to insure that physical restraint and seclusion are only used when necessary, and in the safest possible manner.



Historically, a wide variety of injuries and deaths have also occurred while students are in seclusion environments including suicide, electrocution, and self-injury due to cutting, pounding, and head banging. The same reports mentioned earlier also documented these incidents in schools (COPAA, 2009; National Disability Rights Network, 2009; GAO, 2009). Students have been denied access to toilets, food, or water while in seclusion environments. Sometimes students have been secluded for extended periods of time, even continuously while they are in school for weeks on end, and without a clear plan for moving back to the classroom. Environments used for seclusion have lacked ventilation, heating or cooling, and adequate lighting. If seclusion is used, the environment needs to be as humane and as safe as is possible, and the student needs to be monitored continuously while in the seclusion environment. However, these elements are not in place in all schools.

As with physical restraint, there is nearly universal agreement that seclusion should only be used in emergency situations where there is immediate risk of injury to the student or others. The use of seclusion is simply to allow the student to restore behavioral self-control in a safe environment; it should not be a punishment or disciplinary measure. Most would also say that it should be used rarely, and only for very brief periods of time. This may be a change from the long standing practice in some schools, or from the common use of so called “time out rooms” in special education and other treatment programs which might meet the definition of seclusion. Note that the use of a range of

“time out from positive reinforcement” procedures continues to be acceptable in schools so long as they do not involve “seclusion” of a student left alone without the ability to leave the environment.



For the most part, Nebraska has not seen the abusive circumstances related to physical restraint or seclusion seen in other states. Nevertheless, it is important to avoid these problems in Nebraska by being proactive in establishing up-to-date policies, and to implement effective training as quickly as possible. Although Nebraska has not apparently had problems with the use of these procedures, as has been the case in other states, similar problems and controversy over these procedures could develop quickly here. Clear consistent policies along with appropriate staff training are one way to avoid having these problems arise.



No. Restraint or seclusion may be employed with any student and may be used by general education teachers and administrators as well as by special education staff. Specifically, any student who poses a danger to self or others could potentially be restrained or secluded whether that student has a disability or not. As a result, policies and training on these topics need to involve a wider array of educators than solely those in special education, and these procedures will require district and school wide policies and oversight that goes beyond special education policies. As a result, local school district policies on physical restraint and seclusion should not be embedded with other special education policies, but should be included in district wide policies which apply to all students and staff.



There is virtually no scientific evidence of the effectiveness of physical restraint or seclusion as a behavior modification strategy even though they have historically been used for this purpose (Ryan & Peterson, 2004). These are not strategies that change student behavior, but instead are strategies that assist in getting through a crisis situation. Seclusion should be viewed separately from “time out from reinforcement” which is a behavior change strategy with an evidence base, but which need not and should not result in seclusion (these are defined and discussed in more detail below). Given this lack of evidence, most experts now agree that these procedures should not be viewed as a part of any behavior change strategy, nor should they be used as a “consequence” or “disciplinary action” for students’ inappropriate behaviors. Instead they should be viewed as emergency procedures that may prevent injury when any student has a behavioral crisis.

Have there been problems with use of physical restraint or seclusion procedures in Nebraska schools?

Isn't this just an issue for special education programs and students?

Is there evidence that these procedures can be used to bring about behavior change in students?

How is it that these procedures have been used so inappropriately?



More students with significant behavioral issues including those with a variety of mental health needs are now in regular school environments than ever before, and other students without such diagnoses may be aggressive and violent as well. Due to their previous use in specialized settings such as hospitals, treatment centers and special education settings, there may have been a perception that these procedures are normal interventions for difficult student behaviors, resulting in their adoption as strategies for routine use in typical school settings. Lack of adequate training, and staffing may also have resulted in over use or abuse of restraint and seclusion procedures. Adequate training may not have been provided about their use, limitations and dangers. As a result, they may have become overused, or used inappropriately; increasing the chance that abuse or injury will result.



Does Nebraska have a statute or statewide policy on this topic?

No. At the present time, Nebraska does not have any statutes, regulations, or state policies regarding restraint or seclusion. Nebraska has legislation that prohibits corporal punishment in public schools (Nebraska Revised Stat. 79-295). Nebraska statutory law permits administrative and teaching personnel to take actions reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process (Neb. Rev. State. 78-258). This statute has been interpreted by the Nebraska Supreme Court to permit the use of physical contract short of corporal punishment to the degree necessary to preserve order and control the school environment. In addition, Nebraska has statute related to school discipline (Nebraska Student Discipline Act, Nebraska Rev. Stat. 79-267), but this statute does not address physical restraint or seclusion. Nebraska also has a Bullying Prevention statute (Neb. Rev. Stat. 79-2,137) that requires schools to have plans to prevent bullying and to develop resources on positive behavior support—also an element of the pending federal bill, H.R. 4247.

Although not addressed in statute, Nebraska has a Nebraska Rule 10 accreditation language (Rule 10, January 19, 2010, Section 011, p. 28) which establishes requirements for accredited school districts regarding school safety including a requirement that each school district have a safety and security committee in charge of developing a safety and security plan for each school. These plans are revised annually and address a wide variety of safety issues in schools. While this section does not currently address restraint or seclusion specifically, the use of these procedures are related to safety and could be interpreted as coming under the scope of Nebraska’s school safety policies. The existing school safety committees could assume oversight over “out of control behavior” as one of several possible emergency situations for which school-

wide safety planning may be required, and for which training, drills and procedures for the use of physical restraint and seclusion may be needed to achieve and maintain school safety.

Commissioner Breed has initiated a process of developing a statewide policy at the Nebraska Department of Education (NDE) for Nebraska schools (Breed, 2009). It is not clear at this time what type of policy will be developed within NDE related to restraint and seclusion. It is possible that it may be a part of Rule 10. However, it is clear that Nebraska schools are expected to develop and implement effective, appropriate policies and procedures related to physical restraint and seclusion.



For the purposes of this document, “policy and procedures” for a school district may include:

- Policies adopted by the board of a school district;
- Administrative procedures adopted and implemented by the administration of a school district including.
 - District-wide procedures
 - Procedures specific to one program such as special education

Having appropriate policies in place is a way of providing guidance to educators in their work, ensuring appropriate practices in schools, and increasing the safety of everyone in schools. Moreover they provide a measure of protection to the school system from liability related to these practices.



Usually school board policies and procedure are public information and are available on request at the district office. Some schools also post these policies and procedures on their district or school websites. Individual districts may have their own methods for disseminating their policies.

Many school districts use a “Student Handbook” as a way to inform students and parents about pertinent policies related to student behavior. As a result, when school policies or procedures are implemented, consideration should be given to also modify the student handbook to reflect these policies and to inform students and parents. These handbooks are distributed to all students and parents once per year.



What do you mean by policy?

How do parents and the community become aware of and informed about policies and procedures?

When do policies and procedures regarding Restraint and Seclusion need to be in place?



At this point, there is no deadline for having physical restraint and seclusion policies in place. However both the U.S. Secretary of Education and the Nebraska Commissioner have called for policies to be in place as soon as possible. Districts will want to be careful to implement policies which represent good practice, which address safety concerns, which are capable of being implemented effectively, and which meet state and local standards. As a result, it is important to create these policies and procedures with care and deliberation. School districts may wish to begin drafting or modifying existing policies on physical restraint now rather than rushing through creation of such policies following future federal mandates. Secretary Duncan and Commissioner Breed's letters have emphasized this approach.

Does every school district need to have a policy?



Most experts and policy makers would say "yes". Physical restraint and seclusion represent emergency and safety procedures which we hope will never be needed but which could be needed at any school. As with other safety issues (tornados, fire, intruders, etc.), schools will need to be prepared with safety measures and plans in case incidents arise and these procedures become necessary- not planning for safety in emergency situations would be irresponsible. Establishing policies and providing training regarding these procedures is both prudent and essential to addressing emergency situations and to making the response to those situations as safe as is possible.

Are private, parochial schools or other special service schools required to develop policies on these topics?



Pending federal legislation would require polices in all schools that receive federal funds. If Nebraska chooses to require policies on restraint and seclusion for schools within Rule 10, such policies and procedures could be required for any school to be accredited in Nebraska. There may be some schools for which these situations do not apply, and therefore policies may not be required for those schools. However, since a behavioral crisis could occur in any school, prudence and good practice would indicate that all schools should be prepared with emergency planning and policies for handling these situations. This would provide the safest possible outcome, and should occur whether or not they are required by a governmental agency.



There are two levels of oversight that may be needed, one at the district level and one at the individual school level. One administrator should be identified as having district wide responsibility for oversight regarding physical restraint and seclusion procedures. This person will be responsible to ensure that policies are in place and that staff and parents are informed about these policies. In addition, that individual will be responsible for ensuring that staff training occurs throughout the district in accordance with the policies. Finally, that person will be responsible for gathering district-wide data on the use of these procedures in order to provide district evaluation and oversight, as well as to meet any necessary state or federal reporting requirements as may be required in the near future.

Nebraska requires that each school district have a safety and security committee and a plan for each school in the district (under Rule 10) that is approved by the governing board of that district. Since restraint and seclusion are safety procedures, it would be appropriate if these procedures were included in the overall safety plans for the district and reviewed annually along with other safety plans by the district safety and security committee. That school safety security committee could be a good place to assign responsibility for review of policies, and training and implementation of these procedures.



Each building should also have an administrator having designated responsibility related to these topics. This could be the building principal or a designee. This person would be responsible for insuring that policies and procedures are in place at that site and are being followed by staff. This person would also be responsible for arranging for training related to prevention and conflict de-escalation for all staff and for arranging specialized training related to physical restraint and seclusion for the designated crisis team at that site. This person would also insure that recertification of appropriate staff members is up to date at that site, provide oversight, and supervise documentation and reporting of incidents when they do occur at that site.



Within a school district, who should take responsibility of this issue?

Within a specific school, who should have responsibility for this issue?

What documentation must be maintained for physical restraint and seclusion of students?



An incident report should be completed as soon as possible after each incident of physical restraint or seclusion. It should include as much information as possible about the student (age, disability status, history, etc.), the incident (what was said and done; antecedents which lead up to the situation, etc.), and who was involved. There should also be a place on the report for information about the debriefing and any recommendations to avoid the need for these procedures in the future. In addition to becoming part of the student's file, copies of these incident reports should also be provided to the building and district contact persons in order to provide information necessary for making reports to state and federal agencies. (See the Appendix H for some examples of incident reports.)

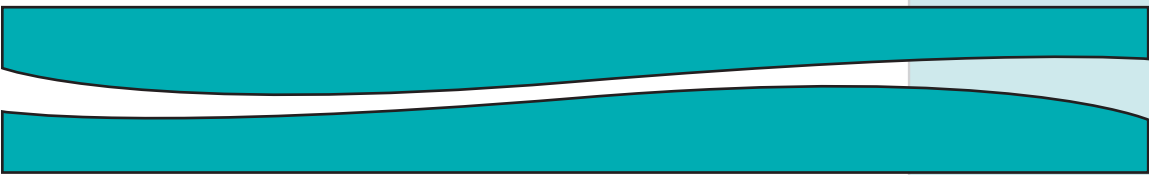


Will the U.S. Department of Education and/or the state require reporting of incidents where physical restraint and seclusion are used?

Given the problems and abuses which have occurred as described earlier, it appears likely that in the future there will be specific reporting requirements of each incident when physical restraint or seclusion are used in schools. This type of reporting requirement is already in place in several states.

Although any federally required reporting requirements are not specifically known at this time, it can be anticipated that there will be reporting requirements included in any federal policy that is approved. Currently HR 4247 has required reporting of all incidents of the use of physical restraint or seclusion to the state, which then provides data to the U.S. Department of Education. Data reporting requirements can be anticipated as being similar to the currently required reporting of school discipline data, which must be disaggregated by age/grade, gender, ethnic, and disability status (IDEA and Section 504). While the details of this type of reporting is not yet established in federal policy, plans should be put in place now to gather and record this type of data for each school district. The U.S. Office of Civil Rights (OCR) is already requiring this type of data in its survey of a sample of school districts across the United States.





Section 2

Components of District Policies & Procedures: Q & A



Policy and procedures on these topics should inform parents of the possibility of children being restrained or secluded and should specify the circumstances for which they would be used. Policies and procedures should also provide guidance to educators about the purpose, training, and specific expectations for how physical restraint and seclusion could be used.

There appear to be at least ten essential elements of policies and procedures that address restraint and seclusion in schools. These could be included in any sequence, but each should be addressed in school policies. These include:

- **Definitions.** Policy should define physical restraint and seclusion and distinguish it from instructional prompts, restraints in vehicles, or other supports needed for students with physical disabilities, etc. Other key terms should also be defined.
- **Rationale (Preamble).** This section should include a rationale for the policy and the values or philosophy on which the policy is based (i.e., need to maintain safe school environments; the goal of showing respect and caring for students; school behavior goals, etc.)
- **Focus on Prevention.** This section should explain how prevention of behavior problems will occur, how conflict should be de-escalated, and how specific behavior supports will be implemented to prevent the need for employing physical restraint or seclusion. (What behaviors are expected? How are appropriate behaviors taught and reinforced? How does this relate to the overall school social skills curriculum, code of conduct, etc.?)
- **Purpose of Employing Restraint and Seclusion.** The policy should explicitly state that these are emergency procedures to be used only when there is risk for injury to someone.
- **Staff Training Requirements.** The policy should indicate

What are the important components of policy and procedures on restraint and seclusion?

What should be included regarding definitions?

what types of training would be in place. (i.e., Is training in conflict de-escalation required for all school staff? What staff will be trained in physical intervention and seclusion? Do only trained personnel employ these procedures? Etc.)

- **Time Lines and Maintaining Safety for Use of Each Procedure.** Physical restraint and seclusion should occur only so long as there is danger of injury, usually a matter of minutes. Any other information about how these procedures will be safely employed should also be identified.
- **Documentation of Each Incident.** Policies and procedures should indicate that documentation is required, that procedures exist for handling documentation, and explain the format and filing of these documents. (i.e., What information will be included on incident report forms? Where will the files be sent? Who will maintain the files? Who has oversight and makes reports, etc.? See Appendix H.)
- **Debriefing.** The policy should include a debriefing about why the procedures were necessary and how they could be avoided in the future (i.e. functional assessment, other progress by the student, etc.)
- **Appropriate Reporting to Parents/Guardians.** Policies should indicate when and how parents or guardians would be informed about incidents where restraint and seclusion occur.
- **Supervision, Oversight and Review.** Who, by title, will be responsible for ensuring that accurate records are kept? How will oversight be provided? How will problems in use be monitored?

Each of these ten components of policy will be described in more detail in the sections that follow.



In order for a policy to have meaning, those that read the policy will need to be clear about the terms which are used in the policy. As a result, most policies include definitions of terms that will be used within the policy. There are a variety of definitions that could be included in policies related to physical restraint and seclusion. The definitions for both “physical restraint” and “seclusion” are obviously important. Commonly used definitions for these terms were included at the beginning of Section One of this document, and are also included in Appendix F.

However, there may be a variety of terms used in a policy on these topics that need definition. Any term mentioned in a policy that may not be familiar to school staff or parents should be

defined. A variety of examples of common terms used in various state and local policies are included in Appendix F.



A preamble is important to explain the rationale or reason for having a policy, the values on which the policy will be based, and how it may fit into the mission and values of the school district. The example that follows is abstracted from the Rhode Island State Department of Elementary and Secondary Education Physical Restraint Regulations:

★ **Preamble**

The Rhode Island Department of Education recognizes the right to effective instructional 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.

In addition to providing a substantive rationale for having a policy, and the underlying values on which it rests, the policy might also identify any legal basis for the policy based on federal or state law or regulation.



In order to minimize the need for any use of physical restraint or seclusion in school settings, a policy should identify the goal of prevention of behavior problems generally and the need for physical restraint and seclusion specifically. For example, as a part of its restraint and seclusion policy, Michigan (2006) includes the following

It is the policy of the SBE that each school district in Michigan implement a system of school-wide positive behavior support (PBS) strategies (Adopted September 12, 2006. See Appendix A). An effective school-wide system provides a full continuum of methods to support appropriate behavior, to promote safety, and to discourage violations of a school's Student Code of Conduct. The use of positive interventions support adaptive and pro-social

What is a rationale for a policy, and what should be included?

How can a focus on prevention be reflected in policy?

What should be included regarding the purpose of employing restraint and seclusion?

behavior and foster dignity and self-esteem in students. Implementation of a school-wide systematic approach will ensure that seclusion and restraint are used only as a last resort method.

PBS is an example of an effective, research-based system that addresses challenging behaviors in a collaborative, comprehensive, research-validated, and humane manner.

Michigan also has a special policy statements on “Positive Behavior Support” (Michigan, Sept 2006) and on “Integrating Mental Health in Schools” (Michigan, n.d.), both of which provide context for its prevention based statements regarding restraint and seclusion. Included is a statement that might summarize this context well as both preamble and prevention statement:

THE BOARD RESOLVES to promote students’ emotional well-being and mental health, thus improving their ability to perform to their full academic potential and become positively contributing youth and adults in their communities.



The purpose of physical restraint is to control the behavior of a student in an emergency situation to prevent immediate danger or possible injuries to that student or others in the environment. While preventing property damage is sometimes included as a purpose for physical restraint, most professionals do not include that as a legitimate purpose of these procedures. Destruction of or damage to property may be a reason to restrain a student only if substantial risk of personal injury would be caused as a result of the destructive act (for example, id throwing sharp or heavy objects when others are present). The example that follows is also taken from the Rhode Island State Department of Elementary and Secondary Education Physical Restraint Regulations as an illustration of a purpose statement:

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. ... [they] should only be used as a crisis intervention for the purpose of preventing harm or injury.

The purpose statement should identify what the policies and procedures are intended to accomplish, usually focusing on the safety of all in the school environment.



The content of training related to physical restraint and seclusion is critical. There may be two types of training which will be required related to physical restraint and seclusion- one type for all educators and another for a select group of educators who may be most likely to engage in physical restraint or seclusion procedures. These could be identified as the “first responders” to a behavioral crisis situation.

★ **Training for All School Staff Members Regarding Behavior Crises**

For all staff members in a school environment, it may be important to have basic training regarding what should happen when a student (or anyone) is in a behavioral crisis. This should include basic information and strategies regarding conflict de-escalation. It should include information about when and how to summon additional help in these situations and who has been trained within that school to engage in physical restraint or seclusion procedures. It should also emphasize the basic goal of preventing and avoiding the need for these procedures by creating a positive, welcoming and caring school environment and by teaching and reinforcing appropriate student behavior.

★ **Training for Selected Staff Members as “First Responders”**

For those educators who may actually respond to emergency situations and might be involved with conducting physical restraint with students, the Rhode Island Department of Education has identified the following five components of training:

- 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;
- 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;
- 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;
- Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and

What should be included related to staff training about restraint and seclusion?

- Demonstration by participants of proficiency in administering physical restraint/crisis intervention.

Training should also include basic first aid, Cardio Pulmonary Resuscitation (CPR) training, and use of a Pulse Oximeters and Automated Electronic Defibrillators (AED) now being made available in many schools.

★ **Choosing Crisis Response Training Programs**

Since the content of commercial vendor training programs is proprietary, it is difficult to compare their content. A comparison of some of these Crisis Intervention Training programs can be found in an article by Couvillon and colleagues which attempts some preliminary comparisons of these programs (Couvillon, Peterson, Ryan, Scheuermann, & Stegall, 2010).

Nevertheless, school officials should ask questions about the emphasis of the program's content, and the types of procedures the training addresses would be appropriate. The vendor should be able to describe how the training they provide for schools is different from that provided to other agencies, and in particular the program should distinguish between procedures appropriate for children from those for adults. Look for a vendor with a proven track record of providing training in schools and ask for references from schools where they have provided training. Be sure that specific training related to seclusion as well as restraint is provided. Ask if the training offers some form of certification and how recurrent training would be provided. A variety of additional topics that can be used in selecting a training program can be found in a New Hampshire Department of Education document. (Spring, 2005, Guidance on Considering the Use of Physical Restraints in New Hampshire School Settings, Section 3, selecting a training program, p. 17, available at <http://www.idanh.org/docs/nhdoePhysicalRestraintDocument%5B1%5D.pdf>).



Physical restraint and seclusion should occur only so long as there is danger of injury, usually a matter of a couple minutes. A restraint shall be released immediately upon a determination by the staff member observing or administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others. 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.

Restraint should be administered in such a way so as to prevent or minimize physical harm. No restraint should be administered in such a way that the student is prevented from breathing or speaking. During the administration of a

What are the important components of policy and procedures on timelines and maintaining safety for each incident?

restraint, a staff member should continuously monitor the physical status of the student, including skin color and respiration. If, at any time during a physical restraint/crisis intervention or seclusion, the student demonstrates significant medical distress (for example, difficulty breathing, speaking or loss of consciousness), the student shall be released from the restraint or seclusion immediately and school staff shall take steps to seek medical assistance. Program staff should review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint or seclusion on an individual student.

The adult responsible for supervising while a student is in seclusion must be able to observe and hear the student at all times. If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire alarm system is triggered (in accord with fire code). Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily (language from Illinois Administrative Policy, see link in Appendix I).



The following components of a good report of an incident of restraint are adapted from a New Hampshire guidance document (2005):

- The names and job titles of the staff who administered the restraint, 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;
- A description of the activity in which the restrained student, 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;
- 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, documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided;

What are the important components of policy and procedures on documentation of each incident?

What are the important components of policy and procedures on debriefing when incidents occur?

- 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 whether a behavioral intervention plan was developed or modified as a result of the restraint;
- Information regarding opportunities for the student’s parents or guardians to discuss with school officials the administration of the restraint and/or any other related matter.

A checklist of similar information and two examples of “Incident Report Forms” can be found in Appendix H.



The use of restraint may cause stress and possible trauma for those involved in an incident. It is suggested that a protocol for processing the incident with the student, others who have observed the incident and all staff involved in the incident be established, and that a de-briefing process be implemented within a day or two after the incident. Processing an incident provides an opportunity for the student(s) and staff members to discuss their thoughts, feelings and physical reactions to having been involved in the restraint. Non-judgmental and confidential communication sets the stage for this processing to take place. The process should include an opportunity for the student and staff members involved to separately:

- Allow all the chance to calm down
- Review what happened prior to, during and after the incident;
- Identify the behavioral expectation or rule;
- Look for patterns of behavior that led to the incident;
- Investigate possible options for more appropriate behavior;
- Determine what is needed for behavior change to occur (including identifying changes in the environment, functional assessment, staff and student behavior) to prevent the need for restraint in the future; and
- Develop a plan to address the situation should a similar precipitating event occur in the future.

Typically, emotional processing of an incident is done separately with the involved student and staff. The student should meet with someone they trust and who is familiar with the student’s communication style. The staff should meet with a direct supervisor. This process allows both parties to prepare to return to the educational setting feeling in control and aware of their responsibility for the event. This individual meeting with the student or staff can assist them to identify or review coping strategies to manage stress resulting from the restraint, ensure

the individual is emotionally and physically able to return to the educational setting and provide an opportunity to determine if further assistance is needed. (This material has been adapted from New Hampshire guidelines, see link in Appendix I.)

Connecting the student and staff member involved in the restraint prior to returning to class can assist in a smooth transition. This intervention/approach, as with all others, should be assessed for its effectiveness in reducing the frequency, intensity and duration of future behaviors.

If the student has a disability, team meetings to plan or update a Functional Behavioral Assessment (FBA), develop or revise a Behavior Intervention Plan (BIP) or discuss needed changes in the IEP and/or placement may be scheduled.



★ **General Advance Notification of Possible Use**

A district whose policies on the maintenance of discipline include the use of physical restraint or seclusion shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant.

★ **Specific Parent or Guardian Notification When Procedures are Employed**

A school shall make reasonable efforts to notify the parent via telephone on the same day a restraint or seclusion procedure is used on the child. Within 24 hours after any use of physical restraint or seclusion, the school district serving the student shall also send written notice of the incident to the student's parent(s) or guardian. Such notification shall include the student's name, the date and time of the incident, a description of the intervention used, a description of any injuries sustained and the name of a contact person with a telephone number to be called for further information (adapted from several state policies including Illinois Administrative Policy, 2010; Minnesota Department of Education; and from Connecticut guidelines; See links for these in Appendix I).



What are the important components of policy and procedures on appropriate reporting to parents?

What are the important components of policy and procedures related to supervision, oversight and review?

A policy should identify one individual with district-wide responsibility for oversight regarding the use of these procedures and to coordinate any data reporting requirements for the district. In addition, at least one individual (principal or designee) should be identified as having responsibility for these issues at the building level.

It is also suggested that the policy, procedures, and restraint and seclusion-related data be reviewed annually in order to reduce the need for restraint or seclusion in the future. In doing so, districts/facilities can obtain valuable information about the extent to which the policy and procedures are being adhered to, what implications there might be for possible revisions, whether behavioral programming for individual students is effective, and future training and/or program development needs. The review of this data can be accomplished in many ways. One option is to form an ad hoc committee that includes representatives from the Board, staff and parents. Another option can be for an administrative team to review data. Districts/facilities may want to consider aligning the work of the Review Committee with other school entities such as a Crisis or Emergency Management committee. In Nebraska a logical committee to have this oversight would be the school and/or district safety committee as required by Nebraska Rule 10 (Nebraska Department of Education, 2005). Some issues to consider are:

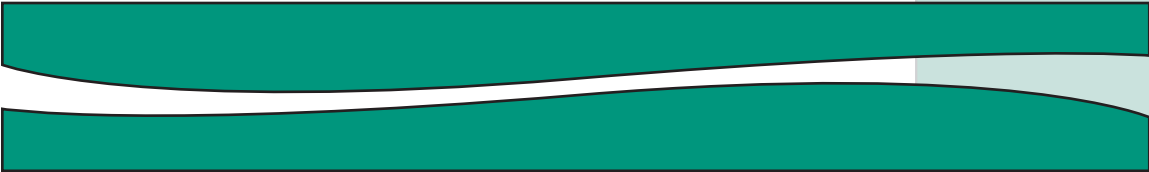
- If not the safety committee, who will be on the Committee?
- How will the Committee document their findings?
- Who will be responsible for reviewing the Committee's findings and implementing any necessary changes?
- What documentation/information will the Committee consider?

Based on what is included in an incident report form, the district will have readily available information to analyze including:

- number of incidents by student, staff, program, etc.
- specific patterns related to staff or student incidents
- scope of prevention and de-escalation strategies used
- number and nature of injuries incurred during restraints
- staff training needs
- environmental considerations, including physical space needs, noise levels and seating arrangements

(Adapted in part from New Hampshire documents; See link in Appendix I.)





Section 3

Examples of Potential Policies

In order to illustrate the range of possible policies and procedures that a school district might adopt, this section provides two examples of complete policies and procedures. These are intended to meet the requirements of the current bill (H.R. 4247) that has passed the U.S. House of Representatives even though this bill has not yet become a law. This will permit districts to be very close to compliance with the federal requirements if they do go into effect. Moreover, these sets of policies and procedures also represent current “best practice” and research finding on these topics.

It is intended that these are district wide policies, not merely policies related to special education students since the use of these policies is not specific to students in special education programs or with disabilities. As mentioned earlier, they may take the form of some combination of district school board approved policies and administratively approved policies and procedures. There could be additional special education procedures which might supplement these to provide guidance for special education staff, parents and students, but that should not be the primary source of policies.

Each district may choose to format its policies according to its own practices. In some cases this might be in outline format or in narrative format. The format of the policies attached here can be changed to suit local needs.

In addition to district wide policies, these examples both recommend that a statement about the use of physical restraint and seclusion be included in the student handbook that is distributed to parents and students each year. This will meet the necessary advance notification requirements about the potential use of these procedures in emergency situations for any student.



Sample #1 - Policy

This is a hypothetical policy which was developed to show a policy which is brief and in a more narrative format. It is adapted from the Amherst Regional Public Schools, 170 Chestnut Street Amherst, MA 01002 | (413) 362-1810. <http://www.arps.org/policy/JA>, and <http://www.arps.org/policy/JKAA>, but has been updated to address issues in the current federal draft legislation. It could be adopted in conjunction with more detailed administrative procedures such as in Sample #2.

***[Exampleville Public Schools]* Policy on Physical Restraint and Seclusion in our Schools**

Student Policies Goals

The [Exampleville School District] believes that the student is the focal point of all operations of a school system.

The Committee and staff will work together to establish an environment conducive to the best learning achievements for each student through meeting the following goals regarding students:

1. To have high expectations for individual student achievement to help each reach their fullest potential.
2. To individualize the learning program for all students in order to provide appropriately for each student according to his/her specific background, capabilities, learning styles, interests and aspirations.
3. To expect appropriate behavior by each student.
4. To protect and observe the legal rights of students.
5. To enhance the self-image of each student by helping her/him feel respected and worthy through a learning environment that provides encouragement through success.
6. To provide an environment of reality in which students can learn personal and civic responsibility for their actions through meaningful experiences as school citizens.
7. To deal with students in matters of discipline in a just and constructive manner.
8. To provide in every way possible for the safety, health and welfare of students.
9. To promote regular attendance in school.

Physical and Mechanical Restraint

Maintaining a school environment that is conducive to student learning requires that the environment be orderly and safe. Physical restraint of a student may sometimes be necessary

to protect the student or other individuals. Physical restraint is the use of bodily force to limit a student's freedom of movement. Students in the district are protected by law from the unreasonable use of physical restraint. Physical restraint will be used with extreme caution and only in emergency situations where there is a risk of injury to someone if physical restraint is not used, and only after other less intrusive alternatives have failed or been deemed inappropriate.

The two goals of the physical restraint policy are:

1. To ensure physical restraints are administered only when needed to protect a student and/or member of the school community from imminent, serious, physical harm, and
2. To prevent or minimize any harm to the student as a result of the use of physical restraint.

The School District's emphasis is on prevention and de-escalation, which reduces the risk of injury to both students and program staff. The emphasis is always on the care, safety, and welfare of our students and the primary technique used is verbal de-escalation.

Physical restraint may only be used when non-physical interventions would not be effective, and the student's behavior poses a threat of imminent, serious, physical harm to self and/or others. Since the use of physical restraint and seclusion are emergency procedures and not educational interventions or behavior change strategies, they will not be included in any individual student education or behavior plans.

Mechanical restraint entails the use of any device or object to limit an individual's body movement to prevent or manage out-of-control behavior. These do not include the use of devices prescribed by a licensed medical professional, vehicle restraints, or devices used by law enforcement officers. The use of mechanical restraints is not permitted.

A district administrator or his/her designee will provide all staff with guidelines and procedural information regarding physical restraint and will arrange for the appropriate training of staff using district and (if applicable) state approved prevention/conflict de-escalation training and crisis intervention training. The district and building administrators are responsible for maintaining appropriate incident reports of the use of these procedures, and for gathering and reporting data to the state or other outside agencies as may be required by state or federal law.

Each building will provide its staff with a list of the school's personnel who have been trained through the Crisis Intervention Program. Except in rare and unusual emergency circumstances, the only school personnel who should physically restrain children are those who have been trained through an approved Crisis Intervention Training Program. The only physical restraints to be used are those taught by the approved Crisis Intervention Training Program. Whenever possible, these trained staff members will be called upon to administer physical restraint in situations where a student's behavior poses a threat of imminent, serious, physical harm to self and/or others. However, nothing precludes any teacher or employee from using reasonable force to protect students, other persons, or themselves from assault or imminent, serious, physical harm. In addition, nothing in these regulations should interfere with or prohibit law enforcement, judicial authorities or mandated reporter responsibilities.

All student handbooks in our schools will contain this statement:
"As a part of the emergency procedures in place in our schools, any student who poses an imminent risk of injury to him/herself or to others may be physically restrained and/or

placed in seclusion by school staff in accord with School Board policies. These could occur along with other emergency actions such as calling the police. Significant violations of the law including assaults on students and staff will be reported to the police. As soon as possible after any such incident the parents or guardian will be informed when any of these actions have occurred..”





Sample #2 – Detailed Policies and Procedures

This hypothetical policy is a more detailed example of a policy on physical restraint and seclusion. It is intended to also encompass the components of policy discussed earlier. This policy has been based in part on the New Hampshire model policy (See Appendix I), but has been updated to address issues in the current federal legislation (H.R. 4247). It could also be used as the basis for District Procedures, if a shorter School Board Policy were in place to refer to these procedures.

***[Exampleville]* School District Policy and Procedures on Physical Restraint and Seclusion in our Schools**

I. Statements of Values and Belief

A. Social and emotional skills form a foundation for young people’s success not just in school, but also as healthy and caring adults, productive workers, and engaged citizens.

Positive student behavior in school is directly connected to increased motivation, efficient academic learning, high achievement, diminished disciplinary action, and increased graduation rates.

B. Students and school personnel have the right to work in a safe environment.

Implementation of a school-wide systematic approach to positive student behavior will improve overall school safety, will minimize the need for the use of restraint and seclusion, and will ensure that it is only used as a last resort in an emergency situation.

II. Purpose

The purpose of these policies is to insure that all students and staff are safe in school, and that students who may have a behavior crisis are free from inappropriate use of physical restraint or seclusion.

III. Authorized Use

A. The [Exampleville School District] supports school-wide programs and services that motivate, teach and support positive behavior to create a school climate that is highly conducive to learning.

1. Each school will establish practices that have the goal of making the school climate and environment welcoming and supportive of learning, and promote the recognition and reinforcement of appropriate student behavior.
2. It is expected that school staff will implement positive behavior supports and interventions, functional behavioral assessments and related behavior plans, and constructive methods to deescalate potentially dangerous situations.
3. When the district anticipates that a student is likely to behave in a way that may

be dangerous to the point of causing injury to someone, staff will conduct a functional behavior assessment and develop a positive behavior plan including a plan for teaching replacement behaviors.

- i. The plan will be developed in cooperation with the parent or guardian.
- ii. This will occur whether or not the student is eligible for special education.

B. *The [Exampleville School District] authorizes staff members to use physical restraints and seclusion in limited situations. They may only be used under the circumstances specified in these policies.*

IV. Definitions

- A. *Chemical Restraint. Use of medications to control behavior.*
- B. *Crisis Intervention Training. Training provided to selected staff members which addresses how to deal with aggressive, violent or out of control behavioral crises. It includes specific techniques for physical restraint and seclusion, the curriculum meets any state standards for such training and it results in certification of the individuals who complete the training.*
- C. *De-Escalation. Causing a situation to become more controlled, calm and less dangerous, thus lessening the risk for injury to someone.*
- D. *Functional Behavioral Assessment. Ongoing process of gathering information that can be used to hypothesize about the function of student behavior. The analysis provides the information necessary to develop a behavior intervention plan.*
- E. *Imminent. Likely to happen right away; within a matter of minutes.*
- F. *Mechanical restraint. Use of any device or object (e.g., tape, ropes, straps, weights, weighted blankets) to limit an individual's body movement to prevent or manage out-of-control behavior.*
 1. Medically prescribed devices whose purpose is to compensate for orthopedic weaknesses, to protect from falling or to permit the student to participate in activities at school are not considered to be mechanical restraints when recommended by an occupational or physical therapist, physician or nurse for purposes of this policy.
 2. Vehicle restraints, or other restraints used by sworn law enforcement officers are not considered to be mechanical restraints for purposes of this policy.
- G. *Physical restraint. Any method of one or more persons restricting another person's freedom of movement, physical activity, or normal access to his/her body. Physical restraint, for purposes of this policy, does not include:*
 1. Taking away a weapon (such as a knife or gun)
 2. Breaking up a fight
 3. Physical prompts provided in the course of instruction
- H. *Prevention and Conflict De-escalation Training. Training which is provided broadly to school staff on how to prevent, defuse and de-escalate potential behavioral crisis situations, which meets any state standards for such training.*
- I. *Prone physical restraint. The person is being held face down lying on their stomach on a horizontal surface such as the floor.*
- J. *Seclusion. Student is placed in a location where they are alone, and where they are physically prevented from leaving that environment.*
- K. *Supine physical restraint. A person is being held face up on their back on a horizontal*

surface such as the floor.

- L. Time out. Continuum of behavioral interventions to reduce inappropriate behavior by removing a student's access to positive reinforcement in the normal school setting.*
- M. Substantial risk. Situation where there is serious, imminent threat of bodily harm and where there is the immediate ability to enact such harm.*

Staff Trained in Crisis Intervention. Individuals who successfully complete and maintain certification in a training program that results in acquisition of skills to prevent physical restraints, evaluate risk of harm in an individual situation, use approved physical restraint techniques and monitor the effect of the restraint.

- O. Parent or guardian. The student's parent, legal guardian, surrogate parent or student over the age of 18.*

V. Informing Parents and Guardians Generally

- A. All student handbooks in our schools will contain this statement:*

As a part of the emergency procedures in place in our schools, any student who poses an imminent risk of injury to him/herself or others may be physically restrained and/or placed in seclusion by school staff in accordance with School Board policies. These could occur along with other emergency actions such as calling the police. Significant violations of the law including assaults on students and staff will be reported to the police. As soon as possible after any such incident the parents or guardian will be informed when any of these actions have occurred.

These policies will be available with other school board policies to all parents electronically via our website or as a hard copy on request.

VI. Conditions for Appropriate Use of Physical Restraint

- A. Physical restraint is appropriate only when a student is displaying physical behavior that presents substantial imminent risk of injury to the student or others.*
 - 1. The student is demonstrating the intent and the ability to cause injury within a matter of minutes.
- B. Physical restraint should only be employed as a last resort after other methods of de-escalating a dangerous situation have been attempted without success.*
- C. Physical restraint should only be employed by staff members who have received specific district approved crisis intervention training in the use of physical restraint procedures.*
 - 1. Other school personnel may employ physical restraint procedures only in rare and clearly unavoidable emergency circumstances when fully trained school personnel are not immediately available. Untrained staff should request assistance from trained staff as soon as possible.

2. A physical restraint of a student should be conducted in a manner consistent with the techniques prescribed in the District approved crisis intervention training program.
- D. *Physical restraint should last only as long as is necessary for the student to regain behavioral stability, and the risk of injury has ended, usually a matter of minutes.*
 - E. *The degree of physical restriction employed must be in proportion to the circumstances of the incident, the size and condition of the student, and the potential risks for injury to the student.*
 - F. *Mechanical or chemical restraints are not authorized in school.*
 - G. *Prone or Supine forms of physical restraint are not authorized and should be avoided.*
 - H. *For students with disabilities, the use of physical restraint should not be included in a student's IEP, or Behavior Intervention Plan.*

VII. When Physical Restraint Procedures Should Not Be Employed

- A. *Physical restraint is not appropriate without imminent risk of injury to someone.*
- B. *A verbal threat or verbally aggressive behavior does not itself indicate a substantial risk of injury, and should not result in restraint.*
- C. *Destruction or damage to property does not constitute a risk of imminent injury unless in so doing a risk of injury to the student or others is created.*
- D. *When known medical or physical condition of the student would make the restraint procedures dangerous for that student (e.g. students with heart or circulatory conditions, asthma, etc.) they should not be employed.*
- E. *Restraint should never be used as a punishment, or to force compliance with staff commands.*

VIII. Conditions for Appropriate Use of Seclusion

- A. *Seclusion is appropriate only when a student is displaying physical behavior that presents substantial imminent risk to the student or others, and the threat could be diminished if the student was in a safe environment away from other students and staff.*
- B. *Seclusion should only be employed as a last resort after other methods of de-escalating a dangerous situation have been attempted.*
- C. *Seclusion should only be used as long as necessary and should be discontinued when the student is no longer a threat to others.*

- D. *Seclusion should only be employed by staff members who have received specific district approved crisis intervention training in the use of seclusion procedures.*
- E. *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.*
- F. *For students with disabilities, the use of seclusion should not be included in a student's IEP, or Behavior Intervention plan.*
- G. *Time out procedures that do not constitute seclusion are permitted in school.*
- H. *All seclusion environments should be inspected annually by fire or safety inspectors and for adherence to regulations affecting school accreditation. Seclusion environments should:*
 - 1. *Be of reasonable size permitting students to lie or sit down.*
 - 2. *Have adequate ventilation including heat and air conditioning as appropriate.*
 - 3. *Have adequate lighting.*
 - 4. *Be free of any potential or predictable safety hazards such as electrical outlets, equipment, and breakable glass.*
 - 5. *Permit direct continuous visual and auditory monitoring of the student.*
 - 6. *Permit automatic release of any locking device if fire or other emergency in the school exists.*
 - 7. *If locked, should be automatically released after five minutes or with any building wide alarm (such as fire, tornado or code red alarm).*
 - 8. *Should meet current fire and safety codes.*

IX. When Seclusion Procedures Should Not Be Employed

- A. *When the substantial risk of injury no longer exists.*
- B. *When known medical or physical 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, asthma, or other conditions).*
- C. *Seclusion should 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.*
 - 1. *Students should be permitted to use the restroom upon request, and be escorted to and from the restroom.*
 - 2. *Students should be provided water on request.*
- D. *Seclusion should never be used as a punishment, or to force compliance with staff commands.*

X. Training

- A. *The District will provide all staff members with basic training about conflict de-escalation procedures, the dangers of restraint and seclusion, and procedures for contacting fully trained and certified staff when behavioral crises occur.*

1. This training will be recurrent and will be provided to new staff during orientation.
- B. *The District will determine a specific curriculum and method of providing training related to physical restraint or seclusion that will meet any applicable state standards.*
- C. *A core group of appropriate personnel will be trained and “certified” in each building in crisis intervention techniques which will include the use of physical restraint and seclusion procedures.*
1. Recurrent training to maintain “certification” will be provided on a regular basis at least annually to meet the requirements for the curriculum or program used.

XI. Reporting, Documentation and Debriefing Requirements

- A. *Immediately after the student has restored emotional and behavioral control following the use of physical restraint and/or seclusion, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the restraint or seclusion.*
- B. *The staff member involved with the physical restraint will have the opportunity to meet with his/her supervisor after the incident.*
- C. *The building administrator or designee will verbally notify the parent/guardians as soon as possible (no later than the end of the school day in which the restraint or seclusion occurs).*
1. The Principal or designee will update the parent/guardian on the student’s current physical and emotional state and
 2. Will discuss strategies to assist the parent/guardian in dealing with any residual effects of the incident.
- D. *The individuals involved with the incident shall complete a written report as soon as possible after the incident. All use of physical restraint or seclusion procedures must be documented on an “incident report”.*
1. All staff involved will contribute to the completion of an “Incident Report” (sample form attached) within one school day of the incident.
 2. The building administrator or designee will send a copy of the written report to the parent or guardian within two school days following the use of restraint or seclusion, and will place a copy of the report in the student’s confidential file.
 3. A copy of the incident report should also be sent to a designated district administrator
- E. *Further, it is expected that each staff member involved in an incident will engage in a de-briefing or processing session(s) in order to determine what could have been done to prevent the future need for use of physical restraint or seclusion for this student specifically and for other students in similar situations.*
1. Components to be included in this session are outlined in the Staff Processing of Restraint or Seclusion Form.

2. The supervisor will provide support to the staff member and determine when the staff member shall return to his or her duties.
3. The student, with assistance from staff, will process the event at the earliest appropriate time.
4. The staff member's supervisor or designee shall complete and file the form.

XII. Annual Review, Planning Process and Oversight

- A. *A district administrator (or designee) will be designated as the coordinator of data, planning and oversight of the use of physical restraint or seclusion procedures in the district*
- B. *The District shall establish a Committee or use a standing Safety Committee to conduct an annual review of all individual and program-wide data associated with this policy. The Committee shall review the following components related to the use of restraint:*
 1. incident reports;
 2. procedures used during restraint, including the proper administration of specific district/facility approved restraint techniques;
 3. preventative measures or alternatives tried, techniques or accommodations used to avoid or eliminate the need of the future use of restraint;
 4. documentation and follow up of procedural adjustments made to eliminate the need for future use of restraint;
 5. injuries incurred during a restraint;
 6. notification procedures;
 7. staff training needs;
 8. specific patterns related to staff or student incidents;
 9. environmental considerations, including physical space, student seating arrangements, and noise levels.
- C. *Upon review of the data, the Committee shall identify any issues and/or practices that require further attention and provide written recommendations to the Superintendent of Schools for changes in policies or practices.*
- D. *The Committee can recommend review of the training program to ensure the most current knowledge and techniques are reflected in the district training curriculum.*
- E. *A designated member of this committee will be responsible to submit necessary data on physical restraints and seclusion as requested by the Nebraska Department of Education or other agencies.*

XV. Incident Report Information

- A. *A minimum of the following will be included in the incident report created after each instance of physical restraint or the use of seclusion:*
 1. The student's name;
 2. The racial/ethnic status of the student;
 3. The date and time of the incident;
 4. The duration of any physical restraint or seclusion; or the beginning and ending times of the physical restraint and/or seclusion;
 5. A description of any relevant events leading up to the incident;

6. A description of any interventions used prior to the implementation of physical restraint or seclusion;
7. A description of the incident and/or student behavior that resulted in implementation of physical restraint or seclusion including a description of the danger of injury which resulted in the restraint or seclusion
8. A log of the student's behavior during physical restraint or seclusion, including a description of the restraint technique(s) used and any other interaction between the student and staff;
9. A description of any injuries (to students, staff, or others) or property damage;
10. A description of the planned approach to dealing with the student's behavior in the future;
11. A list of the school personnel who participated in the implementation, monitoring, and supervision of physical restraint or seclusion and whether they had training related to restraint or seclusion;
12. The date and time on which the parent or guardian was notified;
13. If the student has a disability (IDEA or Section 504), the type of disability.





Appendix

A. H.R. 4247

B. Internet Links and Resources

C. Duncan Letter

D. Breed Letter

**E. Understanding Restraint and Seclusion
Policies: Q & A**

**F. Additional Definitions for District
Policies**

**G. Representative Crisis Intervention
Training Programs**

**H. Incident Reporting for Restraint and
Seclusion**

a. Incident Report Form Checklist,

**b. Wisconsin DPI Sample Seclusion/
Restraint Report**

**I. Representative Sample of Previous State
and Local District Policies**

**J. Nebraska Laws Potentially Pertinent to
Restraint and Seclusion**



Appendix A

Note: The additional page numbers and the line numbers on this document are those on the original document, and have not been modified.

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 4247

OFFERED BY MR. GEORGE MILLER OF
CALIFORNIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Preventing Harmful
3 Restraint and Seclusion in Schools Act”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) Physical restraint and seclusion have re-
7 sulted in physical injury, psychological trauma, and
8 death to children in public and private schools. Na-
9 tional research shows students have been subjected
10 to physical restraint and seclusion in schools as a
11 means of discipline, to force compliance, or as a sub-
12 stitute for appropriate educational support.

13 (2) Behavioral interventions for children must
14 promote the right of all children to be treated with
15 dignity. All children have the right to be free from
16 physical or mental abuse, aversive behavioral inter-
17 ventions that compromise health and safety, and any

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1 physical restraint or seclusion imposed solely for
2 purposes of discipline or convenience.

3 (3) Safe, effective, evidence-based strategies are
4 available to support children who display challenging
5 behaviors in school settings. Staff training focused
6 on the dangers of physical restraint and seclusion as
7 well as training in evidence-based positive behavior
8 supports, de-escalation techniques, and physical re-
9 straint and seclusion prevention, can reduce the inci-
10 dence of injury, trauma, and death.

11 (4) School personnel have the right to work in
12 a safe environment and should be provided training
13 and support to prevent injury and trauma to them-
14 selves and others.

15 (5) Despite the widely recognized risks of phys-
16 ical restraint and seclusion, a substantial disparity
17 exists among many States and localities with regard
18 to the protection and oversight of the rights of child-
19 ren and school personnel to a safe learning environ-
20 ment.

21 (6) Children are subjected to physical restraint
22 and seclusion at higher rates than adults. Physical
23 restraint which restricts breathing or causes other
24 body trauma, as well as seclusion in the absence of

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1 continuous face-to-face monitoring, have resulted in
2 the deaths of children in schools.

3 (7) Children are protected from inappropriate
4 physical restraint and seclusion in other settings,
5 such as hospitals, health facilities, and non-medical
6 community-based facilities. Similar protections are
7 needed in schools, yet such protections must ac-
8 knowledge the differences of the school environment.

9 (8) Research confirms that physical restraint

10 and seclusion are not therapeutic, nor are these
11 practices effective means to calm or teach children,
12 and may have an opposite effect while simulta-
13neously decreasing a child’s ability to learn.

14 (9) The effective implementation of school-wide
15 positive behavior supports is linked to greater aca-
16 demic achievement, significantly fewer disciplinary
17 problems, increased instruction time, and staff per-
18 ception of a safer teaching environment.

19 **SEC. 3. PURPOSES.**

20 The purposes of this Act are to—

21 (1) prevent and reduce the use of physical re-
22straint and seclusion in schools;

23 (2) ensure the safety of all students and per-
24 sonnel in schools and promote a positive school cul-
25 ture and climate;

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1 (3) protect students from—
2 (A) physical or mental abuse;
3 (B) aversive behavioral interventions that
4 compromise health and safety; and

5 (C) any physical restraint or seclusion im-
6 posed solely for purposes of discipline or con-
7 venience;

8 (4) ensure that physical restraint and seclusion
9 are imposed in school only when a student’s behavior
10 poses an imminent danger of physical injury to the
11 student, school personnel, or others; and

12 (5) assist States, local educational agencies,
13 and schools in—

14 (A) establishing policies and procedures to
15 keep all students and school personnel safe, in-
16 cluding students with the most complex and in-
17 tensive behavioral needs;

18 (B) providing school personnel with the
19 necessary tools, training, and support to ensure
20 the safety of all students and all school per-
21 sonnel;
22 (C) collecting and analyzing data on phys-
23 ical restraint and seclusion in schools; and

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1 (D) identifying and implementing effective
2 evidence-based models to prevent and reduce
3 physical restraint and seclusion in schools.

4 SEC. 4. DEFINITIONS.

5 In this Act:

6 (1) CHEMICAL RESTRAINT.—The term “chem-
7 ical restraint” means a drug or medication used on
8 a student to control behavior or restrict freedom of
9 movement that is not—

10 (A) prescribed by a licensed physician for
11 the standard treatment of a student’s medical
12 or psychiatric condition; and

13 (B) administered as prescribed by the li-
14 censed physician.

15 (2) EDUCATIONAL SERVICE AGENCY.—The
16 term “educational service agency” has the meaning
17 given such term in section 9101(17) of the Elemen-
18 tary and Secondary Education Act of 1965 (20
19 U.S.C. 7801(17)).

20 (3) ELEMENTARY SCHOOL.—The term “elemen-
21 tary school” has the meaning given the term in sec-
22 tion 9101(18) of the Elementary and Secondary
23 Education Act of 1965 (20 U.S.C. 7801(18)).

24 (4) LOCAL EDUCATIONAL AGENCY.—The term
25 “local educational agency” has the meaning given

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1 the term in section 9101(26) of the Elementary and
2 Secondary Education Act of 1965 (20 U.S.C.
3 7801(26)).

4 (5) MECHANICAL RESTRAINT.—The term “me-
5 chanical restraint” has the meaning given the term
6 in section 595(d)(1) of the Public Health Service
7 Act (42 U.S.C. 290jj(d)(1)), except that the mean-
8 ing shall be applied by substituting “student’s” for
9 “resident’s”.

10 (6) PARENT.—The term “parent” has the
11 meaning given the term in section 9101(31) of the
12 Elementary and Secondary Education Act of 1965
13 (20 U.S.C. 7801(31)).

14 (7) PHYSICAL ESCORT.—The term “physical es-
15 cort” has the meaning given the term in section
16 595(d)(2) of the Public Health Service Act (42
17 U.S.C. 290jj(d)(2)), except that the meaning shall
18 be applied by substituting “student” for “resident”.

19 (8) PHYSICAL RESTRAINT.—The term “physical
20 restraint” has the meaning given the term in section
21 595(d)(3) of the Public Health Service Act (42
22 U.S.C. 290jj(d)(3)).

23 (9) POSITIVE BEHAVIOR SUPPORTS.—The term
24 “positive behavior supports” means a systematic ap-
25 proach to embed evidence-based practices and data-

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1 driven decisionmaking to improve school climate and
2 culture, including a range of systemic and individ-
3 ualized strategies to reinforce desired behaviors and
4 diminish reoccurrence of problem behaviors, in order
5 to achieve improved academic and social outcomes
6 and increase learning for all students, including
7 those with the most complex and intensive behav-

8 ioral needs.

9 (10) PROTECTION AND ADVOCACY SYSTEM.—

10 The term “protection and advocacy system” means
11 a protection and advocacy system established under
12 section 143 of the Developmental Disabilities Assist-
13 ance and Bill of Rights Act of 2000 (42 U.S.C.
14 15043).

15 (11) SCHOOL.—The term “school” means an
16 entity—

17 (A) that—

18 (i) is a public or private—

19 (I) day or residential elementary
20 school or secondary school; or

21 (II) early childhood, elementary
22 school, or secondary school program

23 that is under the jurisdiction of a

24 school, educational service agency, or

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1 other educational institution or pro-
2 gram; and

3 (ii) receives, or serves students who
4 receive, support in any form from any pro-
5 gram supported, in whole or in part, with
6 funds appropriated to the Department of
7 Education; or

8 (B) that is a school funded or operated by
9 the Department of the Interior.

10 (12) SCHOOL PERSONNEL.—The term “school
11 personnel” has the meaning—

12 (A) given the term in section 4151(10) of
13 the Elementary and Secondary Education Act
14 of 1965 (20 U.S.C. 7161(10)); and

15 (B) given the term “school resource offi-
16 cer” in section 4151(11) of the Elementary and

17 Secondary Education Act of 1965 (20 U.S.C.
18 7161(11)).

19 (13) SECONDARY SCHOOL.—The term sec-
20 ondary school has the meaning given such term in
21 section 9101(38) of the Elementary and Secondary
22 Education Act of 1965 (20 U.S.C. 7801(38)).

23 (14) SECLUSION.—The term “seclusion” has
24 the meaning given the term in section 595(d)(4) of

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1 the Public Health Service Act (42 U.S.C.
2 290jj(d)(4)).

3 (15) SECRETARY.—The term “Secretary”
4 means the Secretary of Education.

5 (16) STATE-APPROVED CRISIS INTERVENTION
6 TRAINING PROGRAM.—The term “State-approved
7 crisis intervention training program” means a train-
8 ing program approved by a State and the Secretary
9 that, at a minimum, provides—

10 (A) evidence-based techniques shown to be
11 effective in the prevention of physical restraint
12 and seclusion;

13 (B) evidence-based techniques shown to be
14 effective in keeping both school personnel and
15 students safe when imposing physical restraint
16 or seclusion;

17 (C) evidence-based skills training related to
18 positive behavior supports, safe physical escort,
19 conflict prevention, understanding antecedents,
20 de-escalation, and conflict management;

21 (D) first aid and cardiopulmonary resus-
22 citation;

23 (E) information describing State policies
24 and procedures that meet the minimum stand-

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1 ards established by regulations promulgated
2 pursuant to section 5(a); and

3 (F) certification for school personnel in the
4 techniques and skills described in subpara-
5 graphs (A) through (D), which shall be required
6 to be renewed on a periodic basis.

7 (17) STATE.—The term “State” has the mean8
ing given the term in section 9101 of the Elemen9
tary and Secondary Education Act of 1965 (20
10 U.S.C. 7801).

11 (18) STATE EDUCATIONAL AGENCY.—The term
12 “State educational agency” has the meaning given
13 such term in section 9101(41) of the Elementary
14 and Secondary Education Act of 1965 (20 U.S.C.
15 7801(41)).

16 (19) STUDENT.—The term “student” means a
17 student enrolled in a school defined in section 11,
18 except that in the case of a private school or private
19 program, such term means a student enrolled in
20 such school or program who receives support in any
21 form from any program supported, in whole or in
22 part, with funds appropriated to the Department of
23 Education.

24 (20) TIME OUT.—The term “time out” has the
25 meaning given the term in section 595(d)(5) of the

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1 Public Health Service Act (42 U.S.C. 290jj(d)(5)),
2 except that the meaning shall be applied by sub-
3 stituting “student” for “resident”.

4 **SEC. 5. MINIMUM STANDARDS; RULE OF CONSTRUCTION.**

5 (a) MINIMUM STANDARDS.—Not later than 180 days
6 after the date of the enactment of this Act, in order to

7 protect each student from physical or mental abuse, aver-
8 sive behavioral interventions that compromise student
9 health and safety, or any physical restraint or seclusion
10 imposed solely for purposes of discipline or convenience
11 or in a manner otherwise inconsistent with this Act, the
12 Secretary shall promulgate regulations establishing the
13 following minimum standards:

- 14 (1) School personnel shall be prohibited from
15 imposing on any student the following:
- 16 (A) Mechanical restraints.
 - 17 (B) Chemical restraints.
 - 18 (C) Physical restraint or physical escort
19 that restricts breathing.
 - 20 (D) Aversive behavioral interventions that
21 compromise health and safety.
- 22 (2) School personnel shall be prohibited from
23 imposing physical restraint or seclusion on a student
24 unless—

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- 1 (A) the student's behavior poses an immi-
2 nent danger of physical injury to the student,
3 school personnel, or others;
- 4 (B) less restrictive interventions would be
5 ineffective in stopping such imminent danger of
6 physical injury;
- 7 (C) such physical restraint or seclusion is
8 imposed by school personnel who—
- 9 (i) continuously monitor the student
10 face-to-face; or
 - 11 (ii) if school personnel safety is sig-
12 nificantly compromised by such face-to-face
13 monitoring, are in continuous direct visual
14 contact with the student;
- 15 (D) such physical restraint or seclusion is

16 imposed by—

17 (i) school personnel trained and cer-
18 tified by a State-approved crisis interven-
19 tion training program, as defined in sec-
20 tion 4(16)); or

21 (ii) other school personnel in the case
22 of a rare and clearly unavoidable emer-
23 gency circumstance when school personnel
24 trained and certified as described in clause
25 (i) are not immediately available due to the

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1 unforeseeable nature of the emergency cir-
2 cumstance; and

3 (E) such physical restraint or seclusion
4 end immediately upon the cessation of the con-
5 ditions described in subparagraphs (A) and (B).

6 (3) States and local educational agencies shall
7 ensure that a sufficient number of personnel are
8 trained and certified by a State-approved crisis
9 intervention training program (as defined in section
10 4(16)) to meet the needs of the specific student pop-
11 ulation in each school.

12 (4) The use of physical restraint or seclusion as
13 a planned intervention shall not be written into a
14 student's education plan, individual safety plan, be-
15 havioral plan, or individualized education program
16 (as defined in section 602 of the Individuals with
17 Disabilities Act (20 U.S.C. 1401)). Local edu-
18 cational agencies or schools may establish policies
19 and procedures for use of physical restraint or seclu-
20 sion in school safety or crisis plans, provided that
21 such school plans are not specific to any individual
22 student.

23 (5) Schools shall establish procedures to be fol-
24 lowed after each incident involving the imposition of

14

1 physical restraint or seclusion upon a student, in-
2 cluding—

3 (A) procedures to provide to the parent of
4 the student, with respect to each such inci-
5 dent—

6 (i) an immediate verbal or electronic
7 communication on the same day as each
8 such incident; and

9 (ii) within 24 hours of each such inci-
10 dent, written notification; and

11 (B) any other procedures the Secretary de-
12 termines appropriate.

13 (b) SECRETARY OF THE INTERIOR.—The Secretary
14 of the Interior shall ensure that schools operated or fund-
15 ed by the Department of the Interior comply with the reg-
16 ulations promulgated by the Secretary under subsection
17 (a).

18 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to authorize the Secretary to pro-
20 mulgate regulations prohibiting the use of—

21 (1) time out (as defined in section 4(20)); or

22 (2) devices implemented by a trained school
23 personnel, or utilized by a student, for the specific
24 and approved therapeutic or safety purposes for

15

1 which such devices were designed and, if applicable,
2 prescribed, including—

3 (A) restraints for medical immobilization;

4 (B) adaptive devices or mechanical sup-
5 ports used to achieve proper body position, bal-
6 ance, or alignment to allow greater freedom of
7 mobility than would be possible without the use
8 of such devices or mechanical supports; or

9 (C) vehicle safety restraints when used as
10 intended during the transport of a student in a
11 moving vehicle; or

12 (3) handcuffs by school resource officers (as
13 such term is defined in section 4151(11) of the Ele-
14 mentary and Secondary Education Act of 1965 (20
15 U.S.C. 7161(11))—

16 (A) in the—

17 (i) case when a student’s behavior
18 poses an imminent danger of physical in-
19 jury to the student, school personnel, or
20 others; or

21 (ii) lawful exercise of law enforcement
22 duties; and

23 (B) less restrictive interventions would be
24 ineffective.

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1 SEC. 6. STATE PLAN AND REPORT REQUIREMENTS AND EN-

2 FORCEMENT.

3 (a) STATE PLAN.—Not later than 2 years after the
4 Secretary promulgates regulations pursuant to section
5 5(a), and each year thereafter, each State educational
6 agency shall submit to the Secretary a State plan that pro-
7 vides—

8 (1) assurances to the Secretary that the State
9 has in effect—

10 (A) State policies and procedures that
11 meet the minimum standards, including the
12 standards with respect to State-approved crisis

13 intervention training programs, established by
14 regulations promulgated pursuant to section
15 5(a); and
16 (B) a State mechanism to effectively mon-
17 itor and enforce the minimum standards;
18 (2) a description of the State policies and pro-
19 cedures, including a description of the State-ap-
20 proved crisis intervention training programs in such
21 State; and
22 (3) a description of the State plans to ensure
23 school personnel and parents, including private
24 school personnel and parents, are aware of the State
25 policies and procedures.

26 (b) REPORTING.—

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1 (1) REPORTING REQUIREMENTS.—Not later
2 than 2 years after the date the Secretary promul-
3 gates regulations pursuant to section 5(a), and each
4 year thereafter, each State educational agency shall
5 (in compliance with the requirements of section 444
6 of the General Education Provisions Act (commonly
7 known as the “Family Educational Rights and Pri-
8 vacy Act of 1974”) (20 U.S.C. 1232g)) prepare and
9 submit to the Secretary, and make available to the
10 public, a report with respect to each local edu-
11 ational agency, and each school not under the juris-
12 diction of a local educational agency, located in the
13 same State as such State educational agency, that
14 includes the information described in paragraph (2).

15 (2) INFORMATION REQUIREMENTS.—

16 (A) GENERAL INFORMATION REQUIRE-
17 MENTS.—The report described in paragraph (1)
18 shall include information on—

19 (i) the total number of incidents in
20 the preceding full-academic year in which
21 physical restraint was imposed upon a stu-
22 dent; and

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23 (ii) the total number of incidents in
24 the preceding full-academic year in which
25 seclusion was imposed upon a student.

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1 (B) DISAGGREGATION.—

2 (i) GENERAL DISAGGREGATION RE-
3 QUIREMENTS.—The information described
4 in subparagraph (A) shall be disaggregated
5 by—

6 (I) the total number of incidents
7 in which physical restraint or seclu-
8 sion was imposed upon a student—

9 (aa) that resulted in injury;

10 (bb) that resulted in death;

11 and

12 (cc) in which the school per-
13 sonnel imposing physical re-
14 straint or seclusion were not
15 trained and certified as described
16 in section 5(a)(2)(D)(i); and

17 (II) the demographic characteris-
18 tics of all students upon whom phys-
19 ical restraint or seclusion was im-
20 posed, including—

21 (aa) the categories identified
22 in section 1111(h)(1)(C)(i) of the
23 Elementary and Secondary Edu-
24 cation Act of 1965 (20 U.S.C.
25 6311(h)(1)(C)(i));

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1 (bb) age; and

2 (cc) disability status (which
3 has the meaning given the term
4 ‘individual with a disability’ in
5 section 7(20) of the Rehabilita-
6 tion Act of 1973 (29 U.S.C.
7 705(20))).
8 (ii) UNDUPLICATED COUNT; EXCEP-
9 TION.—The disaggregation required under
10 clause (i) shall—
11 (I) be carried out in a manner to
12 ensure an unduplicated count of the—
13 (aa) total number of inci-
14 dents in the preceding full-aca-
15 demic year in which physical re-
16 straint was imposed upon a stu-
17 dent; and
18 (bb) total number of inci-
19 dents in the preceding full-aca-
20 demic year in which seclusion
21 was imposed upon a student; and
22 (II) not be required in a case in
23 which the number of students in a
24 category would reveal personally iden-

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1 tifiable information about an indi-
2 vidual student.
3 (c) ENFORCEMENT.—
4 (1) IN GENERAL.—
5 (A) USE OF REMEDIES.—If a State edu-
6 cational agency fails to comply with subsection
7 (a) or (b), the Secretary shall—
8 (i) withhold, in whole or in part, fur-
9 ther payments under an applicable pro-
10 gram (as such term is defined in section

11 400(c) of the General Education Provi-
12 sions Act (20 U.S.C. 1221)) in accordance
13 with section 455 of such Act (20 U.S.C.
14 1234d);
15 (ii) require a State educational agency
16 to submit, and implement, within 1 year of
17 such failure to comply, a corrective plan of
18 action, which may include redirection of
19 funds received under an applicable pro-
20 gram; or
21 (iii) issue a complaint to compel com-
22 pliance of the State educational agency
23 through a cease and desist order, in the
24 same manner the Secretary is authorized
25 to take such action under section 456 of

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21

1 the General Education Provisions Act (20
2 U.S.C. 1234e).
3 (B) CESSATION OF WITHHOLDING OF
4 FUNDS.—Whenever the Secretary determines
5 (whether by certification or other appropriate
6 evidence) that a State educational agency who
7 is subject to the withholding of payments under
8 subparagraph (A)(i) has cured the failure pro-
9 viding the basis for the withholding of pay-
10 ments, the Secretary shall cease the withholding
11 of payments with respect to the State edu-
12 ational agency under such subparagraph.

13 (2) RULE OF CONSTRUCTION.—Nothing in this
14 subsection shall be construed to limit the Secretary’s
15 authority under the General Education Provisions
16 Act (20 U.S.C. 1221 et seq.).

17 **SEC. 7. GRANT AUTHORITY.**

18 (a) IN GENERAL.—From the amount appropriated
19 under section 12, the Secretary may award grants to State
20 educational agencies to assist the agencies in—

21 (1) establishing, implementing, and enforcing
22 the policies and procedures to meet the minimum
23 standards established by regulations promulgated by
24 the Secretary pursuant to section 5(a);

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1 (2) improving State and local capacity to collect
2 and analyze data related to physical restraint and
3 seclusion; and

4 (3) improving school climate and culture by im-
5 plementing school-wide positive behavior support ap-
6 proaches.

7 (b) DURATION OF GRANT.—A grant under this sec-
8 tion shall be awarded to a State educational agency for
9 a 3-year period.

10 (c) APPLICATION.—Each State educational agency
11 desiring a grant under this section shall submit an appli-
12 cation to the Secretary at such time, in such manner, and
13 accompanied by such information as the Secretary may
14 require, including information on how the State edu-
15 cational agency will target resources to schools and local
16 educational agencies in need of assistance related to pre-
17 venting and reducing physical restraint and seclusion.

18 (d) AUTHORITY TO MAKE SUBGRANTS.—

19 (1) IN GENERAL.—A State educational agency
20 receiving a grant under this section may use such
21 grant funds to award subgrants, on a competitive
22 basis, to local educational agencies.

23 (2) APPLICATION.—A local educational agency
24 desiring to receive a subgrant under this section
25 shall submit an application to the applicable State

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1 educational agency at such time, in such manner,
2 and containing such information as the State edu-
3 cational agency may require.

4 (e) PRIVATE SCHOOL PARTICIPATION.—

5 (1) IN GENERAL.—A local educational agency
6 receiving subgrant funds under this section shall,
7 after timely and meaningful consultation with appro-
8 priate private school officials, ensure that private
9 school personnel can participate, on an equitable
10 basis, in activities supported by grant or subgrant
11 funds.

12 (2) PUBLIC CONTROL OF FUNDS.—The control
13 of funds provided under this section, and title to ma-
14 terials, equipment, and property purchased with
15 such funds, shall be in a public agency, and a public
16 agency shall administer such funds, materials, equip-
17 ment, and property.

18 (f) REQUIRED ACTIVITIES.—A State educational
19 agency receiving a grant, or a local educational agency re-
20 ceiving a subgrant, under this section shall use such grant
21 or subgrant funds to carry out the following:

22 (1) Researching, developing, implementing, and
23 evaluating strategies, policies, and procedures to pre-
24 vent and reduce physical restraint and seclusion in
25 schools, consistent with the minimum standards es-

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1 tablished by regulations promulgated by the Sec2
retary pursuant to section 5(a).

3 (2) Providing professional development, train-
4 ing, and certification for school personnel to meet
5 such standards.

6 (3) Carrying out the reporting requirements
7 under section 6(b) and analyzing the information in-
8 cluded in a report prepared under such section to
9 identify student, school personnel, and school needs
10 related to use of physical restraint and seclusion.

11 (g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addi-
12 tion to the required activities described in subsection (f),
13 a State educational agency receiving a grant, or a local
14 educational agency receiving a subgrant, under this sec-
15 tion may use such grant or subgrant funds for one or more
16 of the following:

- 17 (1) Developing and implementing high-quality
18 professional development and training programs to
19 implement evidence-based systematic approaches to
20 school-wide positive behavior supports, including im-
21 proving coaching, facilitation, and training capacity
22 for administrators, teachers, specialized instructional
23 support personnel, and other staff.
24 (2) Providing technical assistance to develop
25 and implement evidence-based systematic approaches

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1 to school-wide positive behavior supports, including
2 technical assistance for data-driven decision-making
3 related to behavioral supports and interventions in
4 the classroom.

5 (3) Researching, evaluating, and disseminating
6 high-quality evidence-based programs and activities
7 that implement school-wide positive behavior sup-
8 ports with fidelity.

9 (4) Supporting other local positive behavior
10 support implementation activities consistent with
11 this subsection.

12 (h) EVALUATION AND REPORT.—Each State edu-
13 cational agency receiving a grant under this section shall,
14 at the end of the 3-year grant period for such grant—

15 (1) evaluate the State’s progress toward the
16 prevention and reduction of physical restraint and
17 seclusion in the schools located in the State, con-
18 sistent with the minimum standards established by
19 regulations promulgated by the Secretary pursuant
20 to section 5(a); and

21 (2) submit to the Secretary a report on such
22 progress.
23 (i) DEPARTMENT OF THE INTERIOR.—From the
24 amount appropriated under section 12, the Secretary may
25 allocate funds to the Secretary of the Interior for activities

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1 under this section with respect to schools operated or
2 funded by the Department of the Interior, under such
3 terms as the Secretary of Education may prescribe.

4 **SEC. 8. NATIONAL ASSESSMENT.**

5 (a) NATIONAL ASSESSMENT.—The Secretary shall
6 carry out a national assessment to determine the effective-
7 ness of this Act, which shall include—

8 (1) analyzing data related to physical restraint
9 and seclusion incidents;

10 (2) analyzing the effectiveness of Federal,
11 State, and local efforts to prevent and reduce the
12 number of physical restraint and seclusion incidents
13 in schools;

14 (3) identifying the types of programs and serv-
15 ices that have demonstrated the greatest effective-
16 ness in preventing and reducing the number of phys-
17 ical restraint and seclusion incidents in schools; and

18 (4) identifying evidence-based personnel train-
19 ing models with demonstrated success in preventing
20 and reducing the number of physical restraint and
21 seclusion incidents in schools, including models that
22 emphasize positive behavior supports and de-esca-
23 lation techniques over physical intervention.

24 (b) REPORT.—The Secretary shall submit to the
25 Committee on Education and Labor of the House of Rep-

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1 representatives and the Committee on Health, Education,
2 Labor, and Pensions of the Senate—

3 1) an interim report that summarizes the pre-
4 liminary findings of the assessment described in sub-
5 section (a) not later than 3 years after the date of
6 enactment of this Act; and

7 (2) a final report of the findings of the assess-
8 ment not later than 5 years after the date of the en-
9 actment of this Act.

10 **SEC. 9. PROTECTION AND ADVOCACY SYSTEMS.**

11 Protection and Advocacy Systems shall have the au-
12 thority provided under section 143 of the Developmental
13 Disabilities Assistance and Bill of Rights Act of 2000 (42
14 U.S.C. 15043) to investigate, monitor, and enforce protec-
15 tions provided for students under this Act.

16 **SEC. 10. HEAD START PROGRAMS.**

17 (a) REGULATIONS.—The Secretary of Health and
18 Human Services, in consultation with the Secretary, shall
19 promulgate regulations with respect to Head Start agen-
20 cies administering Head Start programs under the Head
21 Start Act (42 U.S.C. 9801 et seq.) that establish require-
22 ments consistent with—

23 (1) the requirements established by regulations
24 promulgated pursuant to section 5(a); and

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1 (2) the reporting and enforcement requirements
2 described in subsections (b) and (c) of section 6.

3 (b) GRANT AUTHORITY.—From the amount appro-
4 priated under section 12, the Secretary may allocate funds
5 to the Secretary of Health and Human Services to assist
6 the Head Start agencies in establishing, implementing,
7 and enforcing policies and procedures to meet the require-
8 ments established by regulations promulgated pursuant to
9 subsection (a).

10 SEC. 11. LIMITATION OF AUTHORITY.

11 (a) IN GENERAL.—Nothing in this Act shall be con-
12 strued to restrict or limit, or allow the Secretary to restrict
13 or limit, any other rights or remedies otherwise available
14 to students or parents under Federal or State law or regu-
15 lation.

16 (b) APPLICABILITY.—

17 (1) PRIVATE SCHOOLS.—Nothing in this Act
18 shall be construed to affect any private school that
19 does not receive, or does not serve students who re-
20 ceive, support in any form from any program sup-
21 ported, in whole or in part, with funds appropriated
22 to the Department of Education.

23 (2) HOME SCHOOLS.—Nothing in this Act shall
24 be construed to—

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1 (A) affect a home school, whether or not a
2 home school is treated as a private school or
3 home school under State law; or

4 (B) consider parents who are schooling a
5 child at home as school personnel.

6 SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

7 There are authorized to be appropriated such sums
8 as may be necessary to carry out this Act for fiscal year
9 2011 and each of the 4 succeeding fiscal years.

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Appendix B

Internet Links and Resources

(Updated 2-18-2010)

- Bills currently before Congress:
 - H.R. 4247 as reported out of committee and passed by the U.S. House of Representatives, March 3, 2010. Preventing Harmful Restraint and Seclusion in Schools Act (same as Appendix A).
 - <http://www.govtrack.us/congress/billtext.xpd?bill=h111-4247>
 - S. 2860 Preventing Harmful Restraint and Seclusion in Schools Act
 - <http://www.govtrack.us/congress/bill.xpd?bill=s111-2860>
- Support and Opposition to the bills:
 - 100 organizations on record in support including the Council for Children with Behavior Disorders, and the Council for Exceptional Children
 - <http://edlabor.house.gov/blog/2010/01/supporters-of-the-preventing-h.shtml>
 - Two organizations oppose aspects of the original drafts of the bills: The American Association of School Administrators, and the Council of the Great City Schools
 - www.aasa.org/uploadedFiles/Policy_and_Advocacy/files/Ed%20Labor%20Cmte%20Letter%20020210.pdf
 - [Http://www.cgcs.org](http://www.cgcs.org)
- Secretary of Education Arne Duncan July 31, 2009 letter
 - Calls on states and schools to develop and clarify policies.
 - http://www.pbis.org/seclusion/restraint/arne_duncans_letter.aspx
- Reports about problems and abuses:
 - School is Not Supposed to Hurt, National Disability Rights Network, January, 2009
 - <http://www.napas.org/>
 - Seclusions and Restraints, U.S. Government Accounting Office Report, May, 2009

- <http://www.gao.gov/>
- o Unsafe in the Schoolhouse: Abuse of Children with Disabilities, May 10, 2009
- <http://www.copaa.net/>
- Recent Position Papers for Educators on Restraint and Seclusion:
 - o CCBD's Position Summary on the Use of Physical Restraint Procedures in School Settings
 - o CCBD's Position Summary on the Use of Seclusion in School Settings
- Both of these are available at: www.ccbd.net
 - o CEC's Position on Physical Restraint and Seclusion
 - www.cec.sped.org



Appendix C

Duncan Letter

Duncan, A. (2009, July 31). *Letter to chief state school officers regarding policies on physical restraint and seclusion*. Washington, DC: Secretary of Education, U.S. Department of Education.

July 31, 2009

Dear Chief State School Officers:

On May 19, the Education and Labor Committee in the U.S. House of Representatives held a hearing to examine the abusive and potentially deadly misapplication of seclusion and restraint techniques in schools. Related to this hearing was the testimony issued on the same day by the Government Accountability Office on “Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers.” The testimony is available on the Internet at the following Web address: <http://www.gao.gov/new.items/d09719t.pdf>.

I was deeply troubled by the testimony, as I am sure you would have been. As education leaders, our first responsibility should be to make sure that schools foster learning in a safe environment for all of our children and teachers. Therefore, I am encouraging each State to review its current policies and guidelines regarding the use of restraints and seclusion in schools to ensure every student is safe and protected, and if appropriate, develop or revise its policies and guidelines.

My home State of Illinois has what I believe to be one good approach, including both a strong focus upon Positive Behavior Intervention and Supports (PBIS) as well as State regulations that limit the use of seclusion and restraint under most circumstances (see <http://www.isbe.state.il.us/rules/archive/pdfs/oneark.pdf>). The State’s requirements, which I found to be extremely helpful as chief executive officer of the Chicago Public Schools, were described in testimony at the hearing. Illinois prohibits the use of seclusion or restraint for the purpose of punishment or exclusion, and allows trained staff to restrain students only in narrow circumstances. The State allows the use of isolated time out or physical restraint only in situations when it is absolutely necessary to preserve the safety of self or others; includes rules that must be followed when these techniques are used; and requires documentation of each incident to be provided to parents within 24 hours. Several other States have also adopted effective seclusion and/or restraint policies, but there are many jurisdictions that have not, leaving students and teachers vulnerable.

Approximately 8,000 schools across the country are already implementing PBIS, a systems approach to establishing the social culture needed for schools to achieve social and academic gains while minimizing problem behavior for all children. PBIS provides a framework for decision making that guides the implementation of evidence-based academic and behavioral practices throughout the entire school, frequently resulting in significant reductions in office disciplinary referrals, suspensions, and expulsions. While the successful implementation of PBIS typically results in improved social and academic outcomes, it will not eliminate all behavior

incidents in a school. However, PBIS is an important preventative approach that can increase the capacity of the school staff to support children with the most complex behavioral needs, thus reducing the instances that require intensive interventions.

The American Recovery and Reinvestment Act provides significant one-time resources that districts can use to implement a school-wide system of PBIS. Districts could, consistent with program requirements, use funds provided for the State Fiscal Stabilization Fund, Title I of the Elementary and Secondary Education Act, the Individuals with Disabilities Education Act, and State and local funds to provide professional development, develop data systems, and offer coaching to establish and sustain these programs. The Department's Office of Special Education Programs funds the Center on Positive Behavioral Interventions and Supports, with a Web site (<http://www.pbis.org/>) where additional information and technical assistance on PBIS can be obtained free of charge.

I urge each of you to develop or review and, if appropriate, revise your State policies and guidelines to ensure that every student in every school under your jurisdiction is safe and protected from being unnecessarily or inappropriately restrained or secluded. I also urge you to publicize these policies and guidelines so that administrators, teachers, and parents understand and consent to the limited circumstances under which these techniques may be used; ensure that parents are notified when these interventions do occur; and provide the resources needed to successfully implement the policies and hold school districts accountable for adhering to the guidelines.

I encourage you to have your revised policies and guidance in place prior to the start of the 2009-2010 school year to help ensure that no child is subjected to the abusive or potentially deadly use of seclusion or restraint in a school. I have asked Fran Walter of our Office of Elementary and Secondary Education to work with staff from our regional Comprehensive Centers to contact your office by August 15, to discuss the status of your State's efforts with regard to limiting the use of seclusion and restraint to protect our students. During this contact, we expect to discuss relevant State laws, regulations, policies, and guidance that affect the use of seclusion and restraint, and any plans for further development or revisions. We expect to post the results of these discussions on the Department's Web site to assist in the sharing of information that will help protect our students.

In the meantime, please feel free to contact Ms. Walter at (202) 205-9198 or at Fran.Walter@ed.gov with any information or questions about your State's efforts to limit the use of restraints and seclusion in schools.

Thank you for your cooperation on this important topic.

Sincerely,

/s/

Arne Duncan



Appendix D

Nebraska Commissioner Breed Memo

TO: Nebraska School Superintendents, Principals, Educational Service Units, Nonpublic School Administrators

FROM: Nebraska Commissioner of Education Roger Breed

DATE: Sept. 3, 2009

RE: Information about Seclusion and Restraint and the following attachments:

- Secretary of Education Arne Duncan’s letter on seclusion and restraints
- Revised H1N1 guidance
- H1N1 video, *Sneezing 101*, appropriate for students
- An H1N1 informational brochure appropriate for parents

Attached above is a letter from Secretary of Education Arne Duncan expressing great concern about the use of seclusion and restraints in our nation’s schools. Linked to the Secretary’s letter is a Report, issued by the Government Accountability Office (GAO) on “Seclusions and Restraints: Selected Causes of Death and Abuse at Public and Private Schools and Treatment Centers. I share Secretary Duncan’s concerns and recommend that you review the Secretary’s letter and the linked Report.

The GAO Report is grim reading. The Report includes findings of hundreds of cases of alleged abuse and death related to the use of seclusion and restraints on school children going back two decades. The Report also includes the details of 10 restraint and seclusion cases, including 8 cases in public schools, in which there was a criminal conviction, a finding of civil or administrative liability, or a large financial settlement. These cases are described in the Report as follows:

“The cases share the following common themes: they involve children with disabilities who were restrained and secluded, often in cases where they were not physically aggressive and their parents did not give consent; restraints that block air to the lungs can be deadly; teachers and staff in the cases were often not trained on the use of seclusions and restraints; and teachers and staff from at least 5 of the 10 cases continue to be employed as educators.”

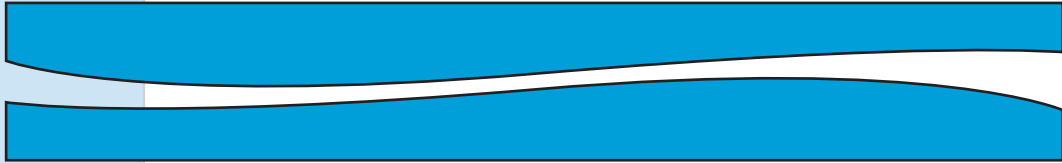
The use of seclusions and restraints in schools is, and will continue to be, an area of focus for the U.S. Department of Education. Secretary Duncan is encouraging states to have policies

and procedures in place regarding the use of seclusion and restraints in time for the 2009-2010 school year. The Secretary notes in his letter that ARRA provides significant one-time resources that can be used by school districts to establish preventative approaches to increase the capacity of school staff to support children with complex behavioral needs, thus reducing instances that require intensive intervention. The Secretary mentions, for example, Positive Behavior Intervention and Supports (PBIS), which is used in his home school district, the Chicago Public Schools.

I am aware that many Nebraska school districts have already implemented policies and provided training on the use of seclusion and restraints. Here at the Department, we have started work to develop guidelines and to identify training opportunities on the use of seclusion and restraints. However, the fact remains that Nebraska is one of only nineteen states lacking specific laws or regulations on this topic. In light of this fact, we see a need to add a provision to Rule 10 regarding the use of seclusion and restraints. As the rule development process proceeds, we will seek input from all of you.

In the meantime, I encourage you to re-examine your school policies and procedures with special attention to addressing the use of seclusion and restraints and to ensuring a safe and positive learning environment for our children and teachers. Policies and procedures regarding seclusion and restraint should cover such topics as: (1) the district's definitions of seclusion and restraint; (2) time limits for the use of seclusion and restraint; (3) documentation and evaluation; (4) notification to parents; and (5) staff training requirements.

If you have questions regarding guidance and training in this area, you may contact Gary Sherman in the Department's Office of Special Education at (402) 471-2471 or gary.sherman@nebraska.gov. For information or input regarding revisions to Rule 10, you may contact Freida Lange in the Department's Office of School Approval and Accreditation at (402) 471-2444 or freida.lange@nebraska.gov.



Appendix E

Understanding Physical Restraint & Seclusion Policies

The questions and answers that follow will address many common questions regarding the use of restraint and seclusion procedures in schools, and related policies. They are intended to provide information and expert opinion, and guidance about best practice, but are not legal interpretations. These materials may also be of assistance to educators who are interpreting and implementing district policies. The questions are roughly divided into sections based on the topics of the questions.

The questions and answers in this section have been adapted from materials published in 2010 by the Council of Administrators of Special Education (CASE Webinar; Peterson, 2010) as a part of a webinar with speaker Reece L. Peterson, Ph.D., entitled Restraint and Seclusion in Schools: Questions and Answers and are adapted reprinted with permission from the Council of Administrators of Special Education.



Is exclusionary time out considered seclusion if the student is physically prevented from leaving the time out area?

Yes. Any time a student is alone and physically prevented from leaving by a person or barrier such as a locked door is considered seclusion. It does not matter what the room is called, but rather has to do with the isolation and being prevented from leaving.



**Definitions
of Restraint
and
Seclusion**

Is it considered seclusion when a student is in a room with a staff member but is only psychologically prevented from leaving without physically blocking the door?

Probably yes, but this becomes a grey area. Intimidation to maintain a student in isolation would likely be viewed the same as seclusion.



Would the use of a buckled seat used in feeding a developmentally delayed young child be considered a mechanical restraint?

If this procedure is done at the recommendation of a physical therapist, occupational therapist, physician or nurse, and if the parents or guardians are aware of this use of devices, they would not be considered a mechanical restraint. It does not matter whether it is for trunk control or controlled feeding- as long as it is medically appropriate and not intended merely to control student behavior. The use of these types of mechanical devices should be discussed by the IEP team, and documentation regarding their use should be included in the student's file.



How would you suggest schools determine when the use of special seating devices for students who are cognitively low functioning cross the line and become inappropriate mechanical restraint?

These devices are okay so long as they address medical or functional needs of students, and are documented in the student's files, but would not be appropriate if their purpose was to manage behavior or merely to make care of the child more convenient for the staff.



If a student is in a seclusion room with staff standing at the door blocking the student from leaving the room is that seclusion? What happens when the student no longer poses an immediate threat to self or others?

Yes, this constitutes seclusion even though the student is not technically "alone". A person blocking a door or a locked door would constitute seclusion and should only be used when the student is a danger to himself or others. As soon as the student regains sufficient composure that he or she no longer are a threat to themselves or others, the door should be unblocked.

**Definitions
of Restraint
and
Seclusion**

Definitions of Restraint and Seclusion

The student could move to another appropriate location if additional time is needed to calm further before returning to class. Or, the student could stay in the seclusion room without the door blocked until ready to debrief and return to class.



Is the use of time out prohibited?

No, the use of time out from positive reinforcement is not prohibited, so long as it does not meet the definition of “seclusion”.



Can you employ time out if you use it with a door open as long as you don’t restrict exit?

The Bills in Congress and recommended state or local policies do not prohibit the use of inclusionary or exclusionary time out if these are procedures which remove the student temporarily from access to reinforcement in the instructional environment. They also do not restrict the use of “cool down” locations or other removal of students to another location so long as the student is not alone in the location and is not prevented from leaving.



Can the use of “time out” be included in an IEP and/or on a Behavior Intervention Plan?

Yes. Time out can be used in IEPs and Behavior Plans so long as the time out does not constitute “seclusion” as defined in draft federal legislation H.R. 4247. Time out, if used appropriately, can be an effective behavior change strategy and is unaffected by regulation of seclusion, as long as seclusionary time out is not employed. See Ryan, Sanders, Katsianis and Yell (2007) for a discussion of appropriate uses of time out in the classroom.



Are there guidelines for seclusion rooms if needed for emergency?

There are a variety of recommendations regarding various potential safety issues for seclusion rooms, but there is not any one universal guideline. Generally the room must be carefully examined for a variety of possible safety concerns, have room for the child to sit or lie down, have adequate ventilation, light, and permit continuous visual and auditory monitoring by an adult. Many policies may provide even more specific guidelines for safety.



Why are physical restraint and seclusion linked together?

These are often linked because they are both emergency procedures, both have resulted in numerous injuries or deaths, both have in the past often been done sequentially (restraint leads to seclusion), and they have similar procedures (for example incident reporting, debriefing, informing parents or guardians).



Shouldn't seclusion be outlawed all together?

The effectiveness of seclusion, even as a safety procedure has been questioned. As a result some have argued that it should be outlawed all together. However, others have argued that there are very rare circumstances where seclusion can be a valuable tool to diminish the length of physical restraint by assisting students to calm down more quickly.



Could you describe a scenario where seclusion is used appropriately including the behavior that warrants seclusion, staff interactions with the student while in seclusion, how staff would determine when to discontinue seclusion, and how to reintegrate the student?

If a student lost behavioral control and was assaulting other students or staff, both restraint and seclusion could be used. Restraint would occur to stop the immediate threat and to escort the student to a location where the student could have time to regain control. Staff should continuously monitor the student visually and orally while in seclusion and should discontinue the seclusion as soon as the student is no longer being assaultive. At that point the student is not longer barred from leaving, although the student may choose to stay in that room to calm down further, and if so monitoring should continue. This can often occur within a matter of minutes. Staff may make an independent judgment about when the student is ready to rejoin classmates or other activities. That may occur quickly, or may be very gradual, but would probably depend on the circumstances and the emotional state and readiness of the student to return to the normal situation.



Definitions of Restraint and Seclusion

Conditions for use of physical restraint or seclusion

Can physical restraint or seclusionary time out be employed for severe destruction of property or for severely disruptive behavior?

There is a growing consensus that these procedures should only be used when there is an imminent threat of injury to someone. Severe destruction of property does not meet this standard by itself and would not be a reason for undertaking these procedures. The same would be true for severely disruptive behavior, unless there was substantial, imminent threat of injury to someone. When possible, these situations should result in efforts to de-escalate the behavior and to remove others from the immediate environment.



Has there been a definition developed for imminent risk of injury? What are the criteria for determining “imminent danger”? Does this mean the child is verbally threatening, posturing, or actually physically acting out?

There is no universally agreed definition of “imminent danger” and therefore no criteria. However, generally this would imply that without intervention someone would be seriously injured within minutes. Generally, verbal threats, swearing, screaming or posturing would not meet this standard. Physical aggression could meet this standard if it was directed at someone (for example hitting, biting, kicking, etc.). This will always be a judgment call, but should focus on the immediate risk of injury.



What about students that are runners or who leave their assigned area? They are not a danger to anyone so how do we handle restraining them?

If a student is not a danger to themselves or others, then they should not be restrained. Only when there is a clear judgment that a student does not have ability to be aware of and avoid dangerous situations (like running into a busy street) would restraint be appropriate in this situation, and only on a case by case basis.

For students who have the functional skills and cognitive ability to avoid ordinary danger in the street or community, they should not be restrained if they run away. On the other hand, for students who do not have these skills, when there appears to be danger, they should be restrained. Involved staff, who know the student, should make the judgment about the student’s capabilities and current state of mind at the time.

Is “spitting” considered imminent danger that could trigger restraint or seclusion?

Spitting would not seem to create imminent risk of serious injury, and therefore would not be a cause for the use of physical restraint or seclusion.



Are Pre-K students ages 3-5 included under the proposed policies and procedure?

Yes. Preschool aged children are included under any policies and procedures, and would be covered under the federal bill passed in the House of Representatives. The bill includes Head Start programs specifically.



How will bill H.R. 4247 affect the use of handcuffs by school resource officers, in emergency situations? At our Middle and High Schools we have School Resource Officers. Do they need to receive training regarding restraints?

This Bill would probably not affect the use of handcuffs by sworn law enforcement officers. However security guards or other similar personnel hired by the school system may be affected. Guidance on this issue will probably be included in detailed regulations related to the Bills if they become law.



Should there be a core team to do restraints rather than all staff?

In a typical school building, both the current H.R. 4247 in Congress indicates and most experts believe it would be appropriate to have only a core of staff members trained in the use of “crisis intervention” which includes physical restraint procedures. It may, however, be appropriate to provide all staff with prevention and conflict de-escalation skills, as well as instruction on when and how to call on the core team. In specialized programs serving students with heightened risk of extreme behavior, it may be appropriate to have a larger percentage or even all staff trained in “crisis intervention” techniques.



**Conditions
for use of
physical
restraint or
seclusion**

**Training
for crisis
intervention**

Training for crisis intervention

Individual Educational Programs (IEPs) and Behavior Intervention Plans (BIPs)

What about a teacher who has received restraint training but is still uncomfortable using it?

There is no obligation to employ these procedures just because a person is trained to do so. On the other hand, in true emergency situations where life is threatened, most people would probably intervene and fall back on their emergency training.



Do crisis intervention training programs have data to show that their training leads to a decrease of the need for restraint?

Most of the commercial vendors (See list in Appendix G) provide a variety of prevention and conflict de-escalation components in their training. There is both some evidence from some of these programs, as well as some preliminary independent evidence that when teachers are trained on these topics, the need for the use of restraint or seclusion is diminished so long as adequate supervision, retraining and oversight are provided.



Would it be wise to avoid discussion of emergency procedures during IEP meetings?

H.R. 4247 does not forbid emergency planning generally, or for specific students. It does prohibit the inclusion of physical restraint or seclusion procedures from being included in IEPs or other individual plans. Emergency procedures do not generally belong in student IEPs since they do not meet the standards for interventions included in student IEPs specified in IDEA. Generally, building-wide emergency plans (similar to plans for tornados, or intruders) may be made for students whose behavior may become out-of-control, and these general plans may include the use of restraint or seclusion. However, there may be many other emergency procedures that could be included in these plans beyond restraint or seclusion.



There has been some direction from our state that seclusion and restraint cannot be in a behavior plan but could be included in the IEP in terms of accommodations or adaptations. What are your thoughts?

Restraint and Seclusion are emergency procedures, not accommodations or adaptations. They should not be included in student IEPs.



Individual Educational Programs (IEPs) and Behavior Intervention Plans (BIPs)

If the use of physical restraint and seclusion would not be documented in a student's IEP, then where would this crisis information be documented for a student? If we do not include these procedures in Behavior Intervention Plans--how do we inform a parent that this technique might be used on their child?

Since students with Behavior Intervention Plans are not the only student who ever might be restrained, schools should inform all parents that as a part of their emergency procedures any student who poses a danger to himself or others might be restrained. One good possibility for such an announcement would be the school's student handbook that is distributed to all parents. Behavior intervention plans should be proactive plans to change inappropriate behavior, not emergency plans. Schools can also establish individual student emergency plans, although the use of physical restraint and seclusion would not be permitted to be mentioned in these plans under H.R. 4247 since the prevailing belief of many is that such use may sanction dangerous practices, and provide tacit approval for widespread use of these procedures with students. This aspect of H.R. 4247 remains controversial.



How soon after the incident should debriefing occur? Should it include the student?

Most knowledgeable professionals agree that a de-briefing should occur soon (within a day or so) after an incident occurs to determine why the use of these procedures were necessary and to try to identify how changes could be made to reduce the likelihood that these procedures would be needed in the future for this student. All of those involved should be included, along with the parent or guardian and an administrator. The student should also be involved whenever possible based on the developmental level and their behavioral needs. The debriefing might be conducted in a group, with small groups or individually as may be appropriate to the situation.



Is there an evidence base for appropriate types of effective restraint and escort techniques?

There is no independent evidence base that focuses on effective restraint and escort techniques at this time. There is a growing base of evidence based on media reports that prone restraint is dangerous and can lead to injury or death of the person restrained. Most vendors of crisis intervention training provides training on certain restraint and escort techniques that the program believes are effective, and often there is a history of practice to support these techniques. Contact individual vendors

Debriefing

Policy Issues

for this type of information.



Will there be a provision to require states to include private schools in their rules and regulations regarding restraint and seclusion?

H.R. 4247 only addresses those schools that directly or indirectly receive federal funding. It is beyond our scope to determine how this will affect private schools and guidance would probably occur in federal regulations after passage of a law. Individual states also could go beyond the federal requirement and impose regulations on private schools. Of course individual school districts may also wish to be assured that private schools that serve their students on a contractual basis are in compliance with the districts standards regardless of whether that is required by law.



Will school districts be required to report information on an annual basis?

The Office of Civil Rights is already requesting that school districts provide data on the use of these procedures. If H.R. 4247 is passed and signed into law, all schools will be required to supply data to their State Education Agency (SEA), and the SEA will be required to develop a state plan. The state will then provide data to the U.S. Department of Education for an annual U.S. report on these topics.



Is inclusion of these procedures in Board of Education policies, and student handbooks, enough prior notice?

Yes, inclusion in these documents should provide enough notice for parents or guardians.



Would you recommend that school systems wait until federal guidelines become law before developing local board policies?

This is a difficult situation. Schools don't want to have to rush to create policies only to have to revise them when a new federal law takes effect. On the other hand Secretary of Education Arnie Duncan has called on states and districts to revise or create policies as soon as possible. Districts should begin to create the best practice policies and procedures as quickly as possible, adopting temporary "procedures" pending completion and implementation of formal local board policies if necessary.



What funding is going to accompany these mandates?

A grant mechanism is included in H.R. 4247, but whether there will be any appropriation for funding related to the current Bill in Congress is not known.



Given the current financial difficulties, how can school districts afford training programs?

Many schools already provide training related to these issues. It is not clear whether substantial additional training will be required for those schools. For those schools which do not currently provide training, training will be required if the school will employ restraint or seclusion procedures with students. Schools will need to budget for this training just as they do for other safety equipment and training.



When you indicate that there is little research showing the efficacy of seclusionary time out, are you only looking at research in schools? Isn't it true that there is quite a large body of research from other settings that demonstrate its effectiveness?

There is a wide body of research on time out procedures in a wide array of settings, which support the efficacy of "time out from positive reinforcement" in changing behaviors. However, within that literature, there is relatively little research on seclusionary time out procedures in any setting. There is almost no research showing the effectiveness of seclusion in school settings. Some thoughtful education experts advocate the elimination of the use of seclusion as a practice in normal school settings since it has not been shown to result in changed behavior and may not be necessary as a safety procedure.



Where can we find data to support positive behavior supports across school systems (general education and special education)?

There is a wide variety of research and other information about Positive Behavior Supports and Interventions in all of the educational literature. Another source is the website: www.pbis.org.



Funding

Research/ Data

Research/ Data

What is the research base for conducting Applied Behavior Analysis (ABA) or Functional Behavioral Assessment (FBA) as follow up in response to incidents where physical restraint or seclusion procedures have been employed? This often includes Positive Behavior Supports (PBS) as well as research and procedures for addressing Self Injurious Behavior (SIB) or Non-Suicidal Self-injury (NSSI).

There is a wide array of literature and discussion about the use of ABA with a variety of students with disabilities. Creating individual positive behavior support plans are often a part of these procedures, but should be distinguished from the related school-wide Positive Behavior Interventions and Supports (often identified as PBIS) which have been adopted by many schools, and which are specifically mentioned in H.R. 4247 and the Senate Bill.



What data or research exists regarding injuries to staff by students?

I am not aware of studies specifically involving injuries to staff by students during physical restraints, but the fact that these types of injuries do occur is widely understood, and not questioned. Those educators who work closely with students with behavior disorders do tend to experience injuries as a result of student behavior. The fact that both staff and students have been seriously injured makes an even stronger case for ensuring that staff training occurs and that appropriate procedures are employed only in emergency situations, where the risk of not intervening is equal to or greater than the risk of employing these procedures.



What other resource might be consulted to answer specific questions on these topics?

Two position documents, one on restraint and one on seclusion, published by the Council for Children with Behavioral Disorders (CCBD 2009a, 2009b) would provide an excellent detailed analysis of many of the issues touched on this question and answer section, as well as many more topics. A review by Ryan and Peterson (2004) addresses the research on the use of physical restraint in schools.





Appendix F

Additional Definitions for District Policies

The following definitions have been assembled from a variety of state policy documents, for potential use in local district policy documents.

Antecedent- A preceding circumstance, event, object or phenomenon which may trigger a particular behavior or chain of behaviors.

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 seclusion or time-out room;
- M. Facial or auditory screening devices; and
- N. Use of chemical restraints instead of positive programs or medical treatments.

Behavioral Analysis- A functional analysis with the addition of operationally defining target behaviors and the grouping of behaviors for an intervention plan.

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:

- A. Definition of the behavior in specific, measurable terms.
- B. A plan for prevention of the behavior by changing some of the who, what, when, and where information from the Functional Behavioral Assessment (FBA).
- C. A plan to teach the student new ways to meet his or her needs.
- D. A description of how to react to the student's behavior in a way that will reinforce appropriate behavior.
- E. A plan for how to manage a crisis situation.
- F. A data collection, analysis and evaluation system.
- G. Timelines for review.

Behavioral Crisis- The situation where a person is engaging in behaviors which threaten the health and safety of the individual or others. Often these are situations in school where a student becomes aggressive or violent and is apparently unable to regain self control without posing a danger of injury to someone.

Chemical restraint- Chemical restraint is when medication is used to control student behavior for the purpose of restraint. Medications administered under the supervision of a physician and with parent support are not considered chemical restraint.

Corporal Punishment- Infliction of bodily pain as a penalty for disapproved behavior. Corporal punishment as defined shall not be used in public education programs.

Damage to property- Destruction of property will typically require a response from the supervising adult in proportion to the nature of the damage. Many acts of property destruction do not result in physical harm to self or others.

De-Escalation- Providing or withdrawing a stimulus to a situation which causes it to become more controlled, calmer and less dangerous.

Emergency- A sudden, generally unexpected set of circumstances that requires immediate action.

Escalation- Withdrawal or presentation of new stimulus to a situation which causes it to become more out of control and potentially dangerous.

Exclusionary Time Out- A method of removing access to reinforcement by having the student move to another location outside of the classroom environment, but which does not entail isolation or prevention from leaving.

Functional Behavioral Analysis- Evaluation of behavioral assessment information that occurs at specific points in time.

Functional Behavioral Assessment- An ongoing process for gathering information that can be used to hypothesize about the function of student behavior. The analysis provides the information necessary to develop a behavior intervention plan. The components of the process are as follows:

- A. Define/describe behavior
- B. Gather information
- C. Identify when, where and under what circumstances the behaviors occur
- D. Identify the consequences that maintain the behavior
- E. Develop a theory as to the functional intent of the behavior

IDEA- Individuals with Disabilities Education Act 20, USCA 1400, 34 CFR Part 300

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 appropriate state regulations.

Imminent- Likely to happen right away; within a matter of moments.

Inclusionary Time Out- This is where a student remains in the learning environment and has visual and auditory access to the classroom, but is prevented from receiving the reinforcement that is occurring in that classroom.

Instructional Physical Prompt or 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. An example is "Hand over hand" guidance in instructing a child in writing technique.

Manual Restraint- Another term for physical 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.

Mechanical Restraint- Mechanical restraint entails the use of any device or object (e.g., tape,

ropes, straps, weights, weighted blankets) to limit an individual's body movement to prevent or manage out-of-control behavior. It 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. It is the use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.

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.

Physical Escort- Touching or holding a student with or without the use of force for the purpose of directing the student to a new location. This type of escort is generally considered a physical restraint.

Positive Behavioral Supports- A set of instructional and environmental supports to teach students pro-social alternatives to problem behavior and allow multiple opportunities to practice pro-social skills and receive high rates of positive feedback. The intensity of instructional and environmental supports should be matched to student need. Positive behavior supports facilitate the student's successful self-awareness, self-management, and engagement with others and with the learning process.

Prone restraint- Prone restraint occurs when a student is restrained in a face down position on the floor.

Redirection- Encompasses a number of techniques that 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.

Running or flight from school- To run away from or flee from school grounds.

School Day or Working Day- Any day or partial day that students are in attendance at the public education program for instructional purposes.

Seclusion or Seclusionary Time Out- Seclusion is when a student is placed in a location where they are alone, and where they are prevented physically from leaving that environment. It is physically confining a student alone in a room or limited space, or with an adult who prevents the student from leaving.

Section 504- A section of The Rehabilitation Act of 1973 and a Civil Rights law prohibiting discrimination against individuals with disabilities from federally assisted programs or activities.

Self Management- Monitoring, regulation, care, guidance and treatment of one's own behavior.

"Substantial risk" of injury- Behavior which has the intent and means to cause serious physical harm to self or others. Both the intent and the means to cause harm must be met in order to meet the standard of "substantial risk".

Supine restraint- Occurs when a student is restrained in a face up position on his or her back on the floor.

Timeout- This is a behavior reduction procedure in which access to reinforcement is withdrawn for a certain period of time. Time out is a shortened term for "time out from positive reinforcement". Time out occurs when the ability of a student to receive normal

reinforcement in the environment is restricted. Time out can be divided into three types, inclusionary (where the student remains in sight and sound of others in the classroom), exclusionary (where the student leaves the learning environment and goes to another location but is not isolated and prevented from leaving), and seclusionary (where the student is alone and prevented from leaving). Only the later type of time out constitutes “seclusion” and is addressed in this document.

Appendix G

Representative Crisis Intervention Training Programs*

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Program	Contact Information
CALM Training	Elmbank Mill, The Charier Menstrie, Clackmannanshire, Scotland, FK 11 7BU; International Telephone: 01259 763681; http://www.calmtraining.co.uk/index.htm
Darryl Freeman Training and Consultancy	72 Woburn Avenue, Farnborough, Hampshire GU14 7EQ International Telephone: 07973 341842 http://www.physical-intervention.com
Devereux Crisis Prevention Intervention	444 Devereux Drive, Villanova, PA 19085; http://www.devereux.org/site/PageServer?pagename=ictr_dctr
Dynamis Insight	No physical address provided, United Kingdom, International Telephone: 07814 980 348
Handle With Care Behavior Management System, Inc.	184 McKinstry Road, Gardiner, NY 12525; 845-255-4031; fax 845-256-0094; http://www.handlewithcare.com
JIREH Consulting and Training	P.O. Box 30655, Albuquerque, NM 87190; 800-656-3044 ext. code 62; http://www.jirehtraining.com/
Managing Aggressive Behavior (MAB)	University of Oklahoma National Resource Center for Youth Services (OUNRCYS); 918-660-3700; www.nrcys.ou.edu/training.shtml
The Mandt System®	David Mandt & Associates, PO Box 831790, Richardson, TX 75083-1790; 972-495-0755; Fax 972-530-2292; http://www.mandtsystem.com/ or e-mail; comment@mandtsystem.com
Maybo Ltd	Russet Farm, Robertsbridge, East Suxxex, TN32 5NG; International Telephone: 01580 881386; http://maybo.com/index.shtml
NAPPI International	No physical address provided; http://www.nappi-training.com/index.php
Nonviolent Crisis Intervention (CPI)	Crisis Prevention Institute, Inc. (CPI) 3315-K North 1245h Street, Brookfield, WI 53005; 800-558-8976; http://www.crisisprevention.com
Positive Behavior Facilitation (PBF)	ROCKET, Inc.; 301-980-2927; www.rocketinc.net
Pro-ACT® Professional Assault Crisis Training	P.O. Box 5979, San Clemente, CA 92674-5979; 949-489-5700; http://parttraining.com/index.htm
Quality Behavior Solutions, Inc	P.O. Box 6221, Holliston, MA 01746; 866-429-9211; http://www.shop.qbscompanies.com/main.sc
Right Response	Service Alternatives Training Institute; P.O. Box 445, Woodinville, WA, 98072; 800-896-9234; http://rightresponse.org/index.php

Response Training Programs	Shutesbury, MA, 01072; http://responsetrainings.com/index.html
Safe Crisis Management by JKM Training, Inc.	36 South Pitt Street; Carlisle, PA 17013; 717-960-0457; fax 717-960-0458; http://www.jkmtraining.com
Safe Physical Management, LLC	P.O. Box 515, Colts Neck, NJ 07722; 732-922-6462; Fax 732-922-1686; http://www.restraintraining.com/default.asp
Satori Alternatives to Managing Aggression (SAMA)	5440 Babcock, Suite 129, San Antonio Texas, 78240; 210-641-0955; http://www.satorilearning.com/index.php
Therapeutic Crisis Intervention (TCI)	Residential Child Care Project, Family Life Development Center, College of Human Ecology, Cornell University; Ithaca, NY 14853; 607-254-5210; fax 607-255-4837; http://rccp.cornell.edu/TCIpage1.htm
Therapeutic Options®	Therapeutic Options, Inc., 100 Delaplaine Avenue, Newark, Delaware 19711; 302- 753-7115; http://www.therops.com/ ; info@therops.com

* *These programs are listed as examples. No endorsement of these programs should be implied.*

Note: See the following article for a detailed comparison of the content of many of these crisis intervention programs:

Couvillon, M., Peterson, R., Ryan, J., Scheuermann, B., & Stegall, J. (2010, May/June). A review of crisis intervention training programs for schools. *Teaching Exceptional Children*, 5(4), 6-17.



Appendix H

Incident Reporting For Restraint & Seclusion

Adapted from the Medway, Massachusetts Public Schools “Incident Report form Checklist” (Medway, Massachusetts downloaded from: http://www.medwayschools.org/schoolcomm/restraint_policy/incidentreport_checklist.pdf)

- Name of student
- Gender, disability status, ethnic status of student
- Date of Submission
- Date
- Time of Incident, duration of restrain or seclusion
- Name and title of person writing report
- Exact location of incident (e.g. address, floor of building, room number, hallway)
- Conditions (e.g. weather, lighting, slippery floor)
- List of key participants and their relationship to one another
 - Names/title of staff involved
 - Names/address/telephone numbers of witnesses
 - Names/address/telephone numbers of injured or acting-out person
 - Identify persons as staff, clients, students, patients, visitors, etc.
- Complete description of incident in chronological order
 - What led up to the incident?
 - At what point were you alerted to the incident?
 - What de-escalation techniques were attempted?
 - What verbal and/or physical interventions were attempted?
 - How was the incident resolved?
- Emergency action taken (e.g. did you summon police, security and/or medical help?)
- Consequences
 - Did injuries occur? To whom and what type?
 - Did property damage occur? What type?
- Persons verbally notified of incident (include name/title/date/time)
- Persons receiving copy of this report (include name/title)
- Signature of author/date of report

Sample Seclusion/Restraint Report

Adapted From Wisconsin Department of Public Instruction

Sample Seclusion or Restraint Reporting Sheet

Student Name	Date
Does this student have a disability? Yes No If yes, what is the disability?	Student ethnicity: Student gender:
Teacher/class	Time in/time out
Staff person initiating seclusion/restraint; others present/involved:	
Describe the behavior that led to seclusion/restraint, including time, location, activity, others present, other contributing factors:	
Procedures used to attempt to de-escalate the student prior to using seclusion/restraint:	
Student behavior during seclusion/restraint: Was there any injury or damage? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe:	Student behavior after seclusion/restraint:
Follow-up with student after the seclusion/restraint	
Is other follow-up needed (e.g., IEP meeting, additional evaluation, discussion with others)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, specify:	
Parent contact:	Administrative contact:

Sample Seclusion/Restraint Report

Wisconsin Department of Public Instruction

Student Name: _____ Age _____ Grade _____

Teacher: _____ Gender (circle): Male Female

Person making report: _____ Date of report: _____

Date/time of seclusion: _____ Location: _____

Behavior precipitating seclusion/restraint:

Others involved (staff & students):

Behavior during seclusion/restraint:

Duration of seclusion/restraint:

Desired alternative/replacement behavior:

Follow-up:

Parent contact (Date: _____ Method: _____)
Initials: _____)

Discussion with student:

Debriefing/follow-up with staff:

If applicable, is an IEP meeting needed? Yes (If yes, date scheduled: _____)
 No

Additional action needed (specify):



Appendix I

Links to a Representative Sample State and Local Policies

Compilations or Links to State Policies and Related Documents

U.S. Department of Education Summary of State Statutes, Regulations, Policies, and Guidance by State and Territories regarding Physical Restraint and Seclusion. The website has links to available policies via interactive map, and the pdf document contains web links to all materials.

<http://www2.ed.gov/policy/seclusion/seclusion-state-summary.html>

Pdf format. <http://www2.ed.gov/policy/seclusion/summary-by-state.pdf>

Links to and analysis of all state policies can also be found in these two articles:

- Ryan, J. B., Robbins, K., Peterson, R. L., & Rozalski, M. (2009). Review of state policies concerning the use of physical restraint procedures in schools. *Education and Treatment of Children*, 32(3), 487-504.
- Ryan, J. B., Peterson, R. L., & Rozalski, M. (2007). Review of state policies concerning the use of timeout in schools. *Education and Treatment of Children*, 30(3), 215-239.

Samples of Specific State Policies

While the following policies contain much valuable information, most were completed before the passage of H.R. 4247 and do not necessarily comply with what that bill would require of states or school districts.

- Colorado Department of Education. (n.d.). *Guidelines for the use of non-exclusionary and exclusionary time-out and Guidelines for the administration of the Protection of Persons from Restraint Act*". Downloaded 8/05 from www.cde.state.co.us/dpedlaw/download/RestraintGuidelines.pdf and www.cde.state.co.us/dpedlaw/download/TimeOutGuidelines.pdf
- Connecticut law on restraints and seclusion in public schools. Downloaded from: <http://www.cga.ct.gov/2007/ACT/PA/2007PA-00147-R00SB-00977-PA.htm>
- Illinois State Board of Education. *Isolated Time Out and Physical Restraint Rules*. Downloaded June 1, 2010, from http://www.isbe.state.il.us/spec-ed/pdfs/time_out.pdf and <http://www.isbe.net/rules/archive/pdfs/oneark.pdf>
- Michigan State Board of Education. (2006, December 12). *Supporting student behavior: Standards for the emergency use of seclusion and restraint*. Ann Arbor, MI: Author.
- Michigan State Board of Education. (n.d.). *Policy on integrating mental Health in Schools*. Ann Arbor, MI: Author.
- Michigan State Board of Education. (2006, September 12). *Positive behavior support*

policy. Ann Arbor, MI: Author.

Minnesota Department of Education. (2004, January). *Behavior Intervention Stakeholder Committee Report*. Downloaded August 1, 2005, from <http://education.state.mn.us/content/065960.pdf>

- New Hampshire Department of Education. (2005, Spring). *Guidance on considering the use of physical restraints in New Hampshire school settings*. <http://www.idanh.org/docs/nhdoePhysicalRestraintDocument%5B1%5D.pdf> Section 3, Selecting a training program, p. 17.
- Rhode Island Board of Regents for Elementary and Secondary Education. (2002). *Physical Restraint Regulations*. Downloaded from: <http://www.ride.ri.gov/Regents/Docs/RegentsRegulations/PHYS%20REST%20REGS%20FINAL.pdf>
- Wisconsin Department of Public Instruction (2009, August). *WDPI directives for the appropriate use of seclusion and physical restraint in special education programs*. Madison, WI: Author. Downloaded from: www.isbe.net/speced/PDF/TimeOutPhysicalRestraintRules2002.pdf

Sample of School District Policies and Procedures

- Medway Public Schools, Medway Massachusetts. http://www.medwayschools.org/schoolcomm/restraint_policy/default.htm
- Physical Restraint Policy #54 and incident report checklist. http://www.medwayschools.org/schoolcomm/restraint_policy/default.htm
- Amherst Regional Public Schools, 170 Chestnut Street Amherst, MA 01002 | (413) 362-1810. <http://www.arps.org/policy/JA>, and <http://www.arps.org/policy/JKAA>,



Appendix J

Nebraska Laws Potentially Pertinent to Restraint and Seclusion

Administrative and Teaching Personnel Authorized Actions

79-258. Administrative and teaching personnel; authorized actions.

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation.

Source: Laws 1976, LB 503, § 3; Laws 1994, LB 1250, § 9; R.S.1943, (1994), § [79-4,172](#); Laws 1996, LB 900, § 62.

Annotations

- This section provides authority for school teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment, and authorizes an acceptable level of incidental physical contact, as is necessary for teachers to promote personal interaction with their students. *Daily v. Board of Ed. of Morrill Cty. School Dist. No. [62-0063](#)*, 256 Neb. 73, 588 N.W.2d 813 (1999).

Corporal Punishment

79-295. Corporal punishment; prohibited.

Corporal punishment shall be prohibited in public schools.

Source: Laws 1988, LB 316, § 1; R.S.1943, (1994), § [79-4,140](#); Laws 1996, LB 900, § 99.

Annotations

- Corporal punishment, as prohibited in this section, is reasonably understood to be the infliction of bodily pain as a penalty for disapproved behavior. The use of corporal punishment by a teacher, in violation of this section, may subject the teacher to discipline for unprofessional conduct under section [79-824](#). *Daily v. Board of Ed. of Morrill Cty. School Dist. No. [62-0063](#)*, 256 Neb. 73, 588 N.W.2d 813 (1999).

School Discipline Act

79-267. Student conduct constituting grounds for long-term suspension, expulsion, or mandatory reassignment; enumerated; alternatives for truant or tardy students.

The following student conduct shall constitute grounds for long-term suspension, expulsion, or mandatory reassignment, subject to the procedural provisions of the Student Discipline Act, when such activity occurs on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose or in a vehicle being driven for a school purpose by a school employee or by his or her designee, or at a school-sponsored activity or athletic event:

- (1) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes;
- (2) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property;
- (3) Causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision;
- (4) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student;
- (5) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon;
- (6) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance, as defined in section [28-401](#), a substance represented to be a controlled substance, or alcoholic liquor as defined in section [53-103](#) or being under the influence of a controlled substance or alcoholic liquor;
- (7) Public indecency as defined in section [28-806](#), except that this subdivision shall apply only to students at least twelve years of age but less than nineteen years of age;
- (8) Engaging in bullying as defined in section [79-2,137](#);
- (9) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds not at a school function, activity, or event. For purposes of this subdivision, sexual assault means sexual assault in the first degree as defined in section [28-319](#), sexual assault in the second degree as defined in section [28-320](#), sexual assault of a child in the second or third degree as defined in section [28-320.01](#), or sexual assault of a child in the first degree as defined in section [28-319.01](#), as such sections now provide or may hereafter from time to time be amended;
- (10) Engaging in any other activity forbidden by the laws of the State of Nebraska which activity constitutes a danger to other students or interferes with school purposes; or
- (11) A repeated violation of any rules and standards validly established pursuant to section [79-262](#) if such violations constitute a substantial interference with school purposes.

It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities.

Source: Laws 1976, LB 503, § 11;Laws 1983, LB 209, § 2;Laws 1988, LB 316, § 3;Laws 1994, LB 1250, § 17;Laws 1995, LB 658, § 3;R.S.Supp.,1995, § [79-4,180](#);Laws 1996, LB 900, § 71;Laws 1996, LB 1050, § 5;Laws 2006, LB 1199, § 83; Laws 2008, LB205, § 2.**Effective Date: February 8, 2008**

Cross References

- **Anabolic steroids**, prohibited acts, see section [79-296](#).
- **Membership in secret school organization**, grounds for expulsion, see section [79-2,101](#) et seq.

Annotations

- The subsections of this section are coextensive and a particular instance of student conduct may constitute grounds for discipline under more than one subsection of the statute. A particular instance of student conduct may be punishable under a subsection of this section despite being excepted from the scope of another subsection, so long as the conduct meets the requirements of the subsection under which the school district seeks to discipline the student. *Busch ex rel. Knave v. Omaha Pub. Sch. Dist.*, 261 Neb. 484, 623 N.W.2d 672 (2001).
- Under subsection (1) of this section, the term "school purposes" includes the maintenance of an orderly and effective educational system. The use of violence or force to cause personal injury to a school employee who is attempting to prevent or break up a physical confrontation is a substantial interference with school purposes within the meaning of subsection (1) of this section. *Busch ex rel. Knave v. Omaha Pub. Sch. Dist.*, 261 Neb. 484, 623 N.W.2d 672 (2001).
- Pursuant to subsection (3) of this section (formerly section 79-4,180), under its usual meaning, an injury caused by accident is one caused accidentally, unintentionally, or unexpectedly. *Spencer v. Omaha Pub. Sch. Dist.*, 252 Neb. 750, 566 N.W.2d 757 (1997).
- This section (formerly section 79-4,180) lists the conduct that constitutes grounds for the use of long-term suspension, expulsion, or mandatory reassignment; it does not mandate the use of any one of these forms of punishment. *Kolesnick v. Omaha Pub. Sch. Dist.*, 251 Neb. 575, 558 N.W.2d 807 (1997).

Bullying Prevention and Education Policy

79-2,137. School district; development and adoption of bullying prevention and education policy; review.

(1) The Legislature finds and declares that:

(a) Bullying disrupts a school's ability to educate students; and

(b) Bullying threatens public safety by creating an atmosphere in which such behavior can escalate into violence.

(2) For purposes of this section, bullying means any ongoing pattern of physical, verbal, or electronic abuse on school grounds, in a vehicle owned, leased, or contracted by a school being used for a school purpose by a school employee or his or her designee, or at school-sponsored activities or school-sponsored athletic events.

(3) On or before July 1, 2009, each school district as defined in section [79-101](#) shall develop and adopt a policy concerning bullying prevention and education for all students.

(4) The school district shall review the policy annually.

Source: Laws 2008, LB205, § 1. Effective Date: February 8, 2008



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