

## GUIDANCE RELATED TO RECENT LEGISLATION REGARDING RESTRAINT AND SECLUSION IN SCHOOLS (REVISED JULY 2019)

**Purpose:** To provide an outline and review of the current laws and regulations related to restraint and seclusion (R/S) and provide guidance related to practices essential in reducing the use of R/S. Also reviewed is the use of newly defined “exclusionary time out”.

**Applicability:** The requirements of Public Act (PA) 18-51, effective July 1, 2018, apply to all public schools, and organizations, institutions or facilities operating under contract with a local or a regional board of education (public schools, approved private special education programs [APSEPs], charter schools, regional educational service centers [RESCs], and academies).

**Requirements:** Districts, schools, and programs must develop policies and procedures related to R/S that comply with all federal, state, and local laws and regulations and should include at the minimum:

- a) emergency response procedures;
- b) training requirements and procedures related to the use of R/S in schools; and
- c) required reporting and data collection.

**Current Legislation:** Public Act 18-51 **effective July 1, 2015**

### Definitions

**“Student”** means a child (A) enrolled in grades kindergarten to twelve, inclusive, in a public school under the jurisdiction of a local or regional board of education, (B) receiving special education and related services in an institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d of the general statutes, (C) enrolled in a program or school administered by a regional education service center established pursuant to section 10-66a of the general statutes, or (D) receiving special education and related services from an approved private special education program, but shall not include any child receiving educational services from (i) Unified School District #2, established pursuant to section 17a-37 of the general statutes, or (ii) the Department of Mental Health and Addiction Services. Section 10-236b of the Connecticut General Statutes (CGS) provides a definition of “student”, which includes all public school students K–12 and refers to special education students (pre-K thru 12) enrolled in public school or placed in RESCs, APSEPS, or other special education programs via a contract initiated by the district.

**“Physical Restraint”** means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head, **including, but not limited to, carrying or forcibly moving a person from one location to another. The term does not include:** (A) briefly holding a person in order to calm or comfort the person; (B) restraint involving the minimum contact necessary to safely escort a person from one area to another; (C) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper

body position or balance; (D) helmets or other protective gear used to protect a person from injuries due to a fall; or (E) helmets, mitts, and similar devices used to prevent self-injury when the device is part of a documented treatment plan and is the least restrictive means available to prevent such self-injury.

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

**“Psychopharmacologic Agent”** means any medication that affects the central nervous system, influencing thinking, emotion, or behavior.

**“Seclusion”** means **the involuntary confinement of a person in a room, from which the student is physically prevented from leaving. Seclusion does not include an exclusionary time out.** In a public school, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. **Seclusion does not include:** (1) an exclusionary time out or (2) in-school suspensions.

**“Exclusionary Time Out”** means a temporary, continuously monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior.

**“School Employee”** means (1) a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional, or coach employed by a local or regional board of education or working in a public elementary, middle or high school; or (2) any other individual who in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in a public elementary, middle, or high school, pursuant to a contract with the local or regional board of education. (Section 10-221o CGS)

**Prohibited Practices** (Applies to all students including students at risk or students identified as requiring special education services)

**Life-Threatening Physical Restraint (prohibited)** - No provider of care, education, or supervision of a person at risk and no assistant provider may use a life-threatening physical restraint on a person at risk. This section shall not be construed as limiting any defense to criminal prosecution for the use of deadly physical force that may be available under Sections 53a-18 to 53a-22, inclusive. The use of prone restraint is prohibited.

**Use of a Psychopharmacologic Agent** - No school employee may use a psychopharmacologic agent on a student without that student's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the student or to others, or (2) as an integral part of the student's established medical or behavioral support or educational plan, as developed consistent with Section 17a-543 of the general statutes or, if no such plan has been developed,

as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

**Use of restraint and seclusion as an identified “planned intervention” in the individualized education program (IEP) is prohibited.**

**Restraint - No school employee shall use a physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.** No school employee shall use a life-threatening physical restraint on a student. **The use of prone restraint is prohibited.** This section shall not be construed as limiting any defense to criminal prosecution for the use of deadly physical force that may be available under Sections 53a-18 to 53a-22, inclusive, of the general statutes. No school employee shall use a physical restraint on a student unless such school employee has received training on the proper means for performing such physical restraint pursuant to subsection (o) of Section 1 of Section 10-236b of the CGS.

**Seclusion - No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.** No student shall be placed in seclusion unless (1) such student is monitored by a school employee during the period of such student's seclusion and (2) the area in which such student is secluded is equipped with a window or other fixture allowing such student a clear line of sight beyond the area of seclusion. No school employee shall use a physical restraint on a student or place a student in seclusion unless such school employee has received training on the proper means for performing such seclusion pursuant to subsection (o) of this section. Any student who is involuntarily placed in seclusion shall be frequently monitored by a school employee.

### **Where can a seclusion take place?**

**Seclusion is the act of confining a student** in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving. Seclusion is not a “place,” although an area or room can be assigned for this purpose. In such cases, the following requirements apply to any room used for the seclusion of a person at risk shall:

- (1) Be of a size that is appropriate to the chronological and developmental age, size, and behavior of the person at risk;
- (2) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which it is located;
- (3) Be equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located;
- (4) Be free of any object that poses a danger to the person at risk who is being placed in the room;
- (5) Have a door with a lock only if that lock is equipped with a device that automatically disengages the lock in case of an emergency and conforms to applicable building code

requirements. If the door or doors to a room used for seclusion are to be locked, latched, or otherwise secured, a modification from the State Fire Marshal's office shall be secured prior to the installation of a locking mechanism. If a door locking mechanism is used, the person at risk shall be constantly monitored notwithstanding any other provisions of the CGS or Regulations to the contrary. The locking mechanism to be used shall be a device that shall be readily released by staff as soon as possible but in no case longer than within two minutes of the onset of an emergency and is connected to the fire alarm system so that the locking mechanism is released automatically when a fire alarm is sounded.

- (6) Have an unbreakable observation window located in a wall or door to permit frequent visual monitoring of the person at risk and any provider or assistant in such room. The requirement for an unbreakable observation window does not apply if it is necessary to clear and use a classroom or other room in the school building as a seclusion room for a person at risk.
- (7) The area in which such student is secluded is equipped with a window or other fixture allowing such student a clear line of sight beyond the area of seclusion.

**Documentation Monitoring and Reporting** (*Applies to special education students and students "at risk" who are in the referral to special education process*)

### **Documentation**

Any use of physical restraint or seclusion on a student shall be documented in the student's educational record. The documentation shall include:

- (1) the nature of the emergency and what other steps, including attempts at verbal de-escalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise; and
- (2) a detailed description of the nature of the restraint or seclusion, the duration of such restraint or seclusion and the effect of such restraint or seclusion on the student's established educational plan.

\* **NOTE:** A standard model form for reporting an incident of restraint ([Incident Report of Physical Restraint](#)) and a standard model form for reporting an incident of seclusion ([Incident Report of Seclusion](#)) are available on the Connecticut State Department of Education (CSDE) website.

### **Monitoring**

Any student who is physically restrained shall be *continually* monitored by a school employee.

Any student who is involuntarily placed in seclusion shall be *frequently* monitored by a school employee.

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

## Frequency of Monitoring

If any instance of physical restraint or seclusion of a student otherwise permissible under Public Act 18-51 exceeds 15 minutes, the following individuals, who have received training in the use of physical restraint and seclusion, will determine whether continued physical restraint or seclusion is necessary to prevent injury to self or others:

- (1) an administrator, as defined in Section 10-144e of the general statutes, or such administrator's designee;
- (2) a school health or mental health personnel, as defined in subsection (a) of Section 10-212b of the general statutes; or
- (3) a board certified behavioral analyst.

This individual shall make a new determination every 30 minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.

**Recording and Reporting** - Recording requirements for all special education students and those identified as "at risk."

Each local or regional board of education and each institution or facility operating under contract with a local or regional board of education must:

- record each instance of the use of physical restraint or seclusion on a student;
- specify the nature of the emergency that necessitated the use of such physical restraint or seclusion; and
- include such information in an annual compilation on its use of such restraint and seclusion on students.

Section 10-236b of the CGS, requires the CSDE to collect data from each local or regional board of education and each institution or facility operating under contract with a local or regional board of education. The required data includes:

- all instances of the emergency use of restraint and seclusion;
- the status of the student (special education eligible or in the referral process);
- the nature of the emergency that necessitated its use; and
- all instances of physical injury as a result of restraint or seclusion including non-serious injuries and serious injuries (defined as requiring attention beyond basic first aid).

## Reporting Injuries

### Definition of an Injury:

- A **Non-serious injury** includes red marks, bruises, or scrapes that require a Band-Aid or application of basic first aid; and
- A **serious injury** includes any injury requiring medical attention beyond basic first aid

If the use of such restraint or seclusion results in physical injury to the student, the local or regional board of education and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of Section 10-76d of the general statutes that provides special education for children, shall report the incident to the State Board

of Education (SBE), which shall include such incident in the report. The SBE shall report any incidence of serious injury or death to the Office of Disability Rights Inc., and if appropriate, to the Office of the Child Advocate.

See [SEDAC Restraint and Seclusion Users Guide](#)

### **Other District Requirements**

**Not later than January 1, 2019, each local or regional board of education shall establish a policy regarding the use of an exclusionary time out.** Such policy shall include, but need not be limited to, a requirement that:

- (1) Exclusionary time outs are not to be used as a form of discipline.**
- (2) At least one school employee remains with the student, or be immediately available to the student such that the student and school employee are able to communicate verbally, throughout the exclusionary time out.**
- (3) The space used for an exclusionary time out is clean, safe, sanitary, and appropriate for the purpose of calming such student or deescalating such student's behavior.**
- (4) The exclusionary time-out period terminates as soon as possible.**
- (5) If such student is a child requiring special education, as defined in Section 10-76a or a child being evaluated for special education, pursuant to Section 10-76d and awaiting a determination, and the interventions or strategies are unsuccessful in addressing such student's problematic behavior, such student's planning and placement team (PPT) shall convene as soon as is practicable to determine alternative interventions or strategies.**

### **Required Meetings**

#### **General Education (All Students K-12)**

In the event that physical restraint or seclusion is used on a student four or more times within twenty school days, a team composed of an administrator, one or more of such student's teachers, a parent or guardian of such student and, if any, a mental health professional, as defined in section 10-76t of the general statutes, shall convene for the purpose of:

- (A) conducting or revising a behavioral assessment of the student;
- (B) creating or revising any applicable behavioral intervention plan; and
- (C) determining whether such student may require special education pursuant to Section 10-76ff of the general statutes.

#### **Students requiring special education or a child being evaluated to determine eligibility for special education services pursuant to Section 10-76d of the CGS, as amended by this act, and awaiting a determination.**

In the event that physical restraint or seclusion is used on an above defined student four or more times within 20 school days, such student's PPT shall convene for the purpose of:

- (A) conducting or revising a functional behavioral assessment of the student;
- (B) creating or revising any applicable behavioral intervention plan, including, but not limited to, such student's IEP, and;
- (C) reviewing or revising accommodations of the IEP.

**The school level data team and/or the PPT should review the number of occurrences of the use of restraint or seclusion on a monthly basis to ensure that the appropriate meeting(s) has been convened following the 4<sup>th</sup> occurrence of restraint or seclusion in a 20-day period.**

### **Parental Notification**

Each local or regional board of education must notify a parent or guardian of a student who is placed in physical restraint or seclusion not later than 24 hours after the student was placed in physical restraint or seclusion and shall make a reasonable effort to provide such notification immediately after such physical restraint or seclusion is initiated.

A written report to parent/guardian must follow within two business days of the incident. The written report must include all information outlined in the [model incident reports](#) available on the CSDE website.

### **Use of Data**

Data on the frequency of use of restraint and seclusion for all children should be periodically reviewed at school leadership meetings, grade-level meetings, and other meetings of school staff. Data to be reviewed at these meetings should include information, consistent with privacy laws, about the frequency and duration of restraint and seclusion incidents across individual children, groups of children (e.g., gender, race, national origin, disability status and type of disability, and limited English proficiency, etc.), settings, individual staff, and programs, as well as, the number and proportion of children who were restrained or placed in seclusion since the last meeting, and for the year to date. Such reviews should be used to determine whether state, district, and school policies are being properly followed; whether procedures are being implemented as intended; and whether the school staff should receive additional training on the proper use of restraint and seclusion or positive behavioral supports and other preventive interventions.

### **Identification of a Crisis Intervention Team** (revised August 2017) HB 7276)

Effective July 1, 2017, requires that not later than July 1, 2017, and each school year thereafter, each local or regional board of education shall require each school in the district to identify a crisis intervention team defined as any teacher, administrator, and paraprofessional, who (1) has direct contact with students and (2) the principal designates to receive training, regarding physical restraint and seclusion of students. Identified members of the crisis intervention team must be trained in the use of physical restraint and seclusion.

### **Role of the Crisis Intervention Team** (revised August 2017)

The crisis intervention teams shall respond to any incident in which the use of physical restraint or seclusion may be necessary as an emergency intervention to prevent immediate or imminent injury to a student or to others.

### **Training and Professional Development** (revised August 2017)

No school employee shall use a physical restraint on a student or place a student in seclusion

unless such school employee has received training on the proper means for performing such physical restraint or seclusion. Each local or regional school district shall provide training to identified school-level crisis intervention team members.

Such training shall be conducted beginning with the school year commencing July 1, 2017, and shall include, but not be limited to:

- **Crisis Intervention Team**

- (A) An overview of the relevant laws and regulations regarding the use of physical restraint and seclusion on students, (PowerPoint Presentation has been provided to districts by the Department of Education, effective July 1, 2017, and annually or thereafter or periodically thereafter as prescribed by the elected training program. A [PowerPoint Presentation](#) is available on the CSDE website for use by districts.
- (B) De-escalation strategies and prevention of the use of restraint and seclusion.
- (C) The proper means of physically restraining or secluding a student, including, but not limited to:
  - (i) various types of physical restraint and seclusion;
  - (ii) the differences between life threatening physical restraint and other varying levels of physical restraint;
  - (iii) the differences between permissible physical restraint and pain compliance techniques; and
  - (iv) monitoring methods to prevent harm to a student who is physically restrained or in seclusion.

**Note: Each member of the crisis intervention team shall be recertified in the use of physical restraint and seclusion as required through the training program determined and provided by the district**

- **All Staff** (professionals, paraprofessional, and administrators).

An annual overview of the relevant laws and regulations regarding the use of physical restraint and seclusion on students is recommended. A PowerPoint Presentation [Understanding the Laws and Regulations Governing the Use of Restraint and Seclusion in Schools](#) has been developed by the Department of Education for use by districts.