

2011 Wisconsin Act 125 - Seclusion and Physical Restraint



Objectives

- Coverage
- Definitions
- Physical Restraint
- Seclusion
- Notification and Reporting
- Training
- Special Education Requirements
- Applicability of other statutory provisions
- Resources

Application of Act 125

- Applies to both special education **and** regular education students.
- Applies to public schools, including charter schools.
- Applies to school staff, including independent contractors and their employees, and student teachers.
- Does **not** apply to law enforcement officers working in the school.

Definitions

- **Physical restraint:** a restriction that immobilizes or reduces the ability of a student to freely move his or her torso, arms, legs or head.
- **Seclusion:** the involuntary confinement of a student, apart from other students, in a room or area from which the student is *physically prevented* from leaving.

General Prohibition

- Prohibits the use of physical restraint and/or seclusion in public schools, including charter schools, except when:
 - A student's behavior presents a *clear, present and imminent risk* to the physical safety of the student or to others,
 - and it is the *least restrictive intervention feasible*.

Physical Restraint

Additionally, physical restraint may be used only when:

- There are no medical contraindications to its use;
- The degree of force and duration used do not exceed what is necessary and reasonable to resolve the risk to the physical safety of the student or others; and
- No prohibited maneuver is used.

What maneuvers or techniques are prohibited?

Maneuvers or techniques that:

- Do not give adequate attention and care to protecting the pupil's head;
- Cause chest compression by placing pressure or weight on the student's chest, lungs, sternum, diaphragm, back or abdomen,
- Place pressure or weight on the student's neck or throat, on an artery, or on the back of the student's head or neck, or that otherwise obstruct the student's circulation or breathing; or
- Constitute corporal punishment.

What about mechanical or chemical restraints?

Mechanical and chemical restraints are prohibited under the Act.

Supportive equipment is not mechanical restraint if used under the oversight of appropriate medical staff and:

- properly aligns a student's body,
- assists in maintaining balance, or
- assists in mobility.

What is not physical restraint?

- Briefly touching a student's hand, arm, shoulder or back to calm, comfort, or redirect the pupil is not considered physical restraint.

Seclusion

Remember, just as with physical restraint, seclusion may only be used when a student's behavior presents a clear, present and imminent risk to the physical safety of the student or to others and it is the least restrictive intervention feasible.

Under what conditions may seclusion be used?

In addition, seclusion may only be used when:

- Constant supervision of the student is maintained.
- Seclusion is used no longer than necessary to resolve the risk to the physical safety of the student or others, and
- The student has adequate access to the bathroom, drinking water, required medications, and regularly scheduled meals.

What are the requirements for a room used as seclusion?

- In addition to being in compliance with all applicable school building codes, a room may only be used for seclusion if:
 - The room or area is free of objects or fixtures that may cause injury,
 - There are **no locks** on the door, including hold down type mechanisms that immediately release when pressure is removed.

What is not seclusion?

- Unless the student is confined to an area and is physically prevented from leaving, it is not considered seclusion to:
 - Direct a disruptive student to temporarily separate himself or herself from the activity in the classroom to regain control,
 - Directing a student to temporarily remain in the classroom to complete tasks while other students participate in activities outside of the classroom.

Notification Requirements

- If seclusion and/or physical restraint is used on a student at school, the principal or designee must:
 - As soon as possible, but no later than one business day after the incident, notify the student's parent of the incident and of the availability of the written report.

Reporting Requirements

- Within two business days after the incident, after consulting with school staff present, prepare a written report containing all of the following information:
 - The student's name,
 - The date, time, and duration of the incident,
 - A description of the incident including a description of the student's behavior before and after the incident, and
 - The names and titles of school staff present during the incident.

Reporting Requirements

- The written report must be kept at the school and made available for review by the student's parents within three business days of the incident.

Reporting Requirements

- Each year, the principal or designee must submit to the school board a report:
- of the number of incidents of seclusion and physical restraint in the previous year,
- the total number of students involved in the incidents, and
- the total number of students with disabilities involved in the incidents.

Training Requirements

- No school staff may use physical restraint unless he or she has received training.
- Each school where physical restraint may be used must have at least one staff member who has received training.
- The school must keep a record of the training received by staff, including information about how long the training is considered valid by the training program.

Training Requirements

- The training must include:
 - Methods of preventing the need for physical restraint;
 - Instruction in the identification and description of dangerous behavior indicating the need for physical restraint, and in methods of evaluating risk of harm to determine whether physical restraint is needed;
 - Experience in administering and receiving various types of physical restraint;
 - Instruction on the effects of physical restraint on the person restrained, methods of monitoring signs of physical distress, and techniques for determining when medical assistance may be needed;
 - Instruction in documenting and reporting incidents of physical restraint; and
 - Demonstration of proficiency in administering physical restraint.

Unforeseen Emergency Exception

School staff who have not received the prescribed training in physical restraint may use physical restraint on a student at school:

- only in an emergency, and
- only if school staff members who have received training are not immediately available.

Individualized Education Program (IEP) Requirements

If the IEP team determines that the use of seclusion or restraint may be reasonably anticipated for the student, the IEP must include:

- Appropriate positive interventions and supports and other strategies that address the behavioral concerns based on a functional behavioral assessment; and
- Clear statements that the use of restraint and/or seclusion may be used.

Individualized Education Program (IEP) Requirements

- If not anticipated, the first time that seclusion or physical restraint is used on a student, the student's IEP team must meet as soon as possible after the incident.
- The IEP team must review the student's IEP to make sure it contains appropriate positive behavioral interventions, supports, and other strategies to address the behavior, and revise if necessary.

Authority under other statutory provisions

- Nothing in the Act affects the ability of school staff to remove a student from class under current law (section 118.164 (3) (b) of the Wisconsin Statutes).

Authority under other statutory provisions

- Nothing in the Act affects the ability of school staff to use the exceptions to the prohibition on corporal punishment under current law (section 118.31 (3) of the Wisconsin Statutes).

What can we do now?

- Review IEPs for compliance with Act
- Training staff – documentation
- Review seclusion rooms
- Create/review incident report forms
- Talk to parents

Resources

Link to web-based resources:

<http://www.dpi.wi.gov/sped/sbseclusion.html>

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