



Education Justice Program

Advancing education equity and racial justice for all children.

KNOW YOUR RIGHTS: SECLUSION AND RESTRAINT

Did you know? Neither the Individuals with Disabilities Education Act nor Section 504 of the Rehabilitation Act expressly address seclusion and restraint practices. Under Missouri law, **Mo. Rev. Stat. § 160.263**, there are certain restraint and seclusion techniques that schools cannot use against students. Schools must report when they use restraints or seclusion techniques against students.

RESTRAINT - Exercising control over a student that limits their ability to move freely

Types:

- **Mechanical Restraint** – Using any type of device or equipment to limit a student's movements
- **Physical Restraint** – Another person using their own body to stop a student from moving freely
- **Prone Restraint** – Using force to restrict a student's movements while the student is lying face down

SECLUSION - A student, without consent, being put in an area by themselves that they are physically unable to leave

Seclusion is NOT:

- A time-out that is a part of an approved program
- In-school suspension (ISS)
- Detention

School Requirements:

- The local school board of each local education agency (or "schools," including public school districts and public charter schools) must have a **written policy** that addresses their use of seclusion and restraint practices as a way to manage behavior
- The written policy must include the following:
 - **Definitions** of restraint, seclusion, time-out, and any other relevant terms related to behavioral intervention
 - **When** these behavioral interventions can be used
 - Specific requirements when using these behavioral interventions
 - Documentation, notice, and permission that is required to use behavioral intervention
 - Statement that the local education agency will leave restraint or seclusion for situations where a student is an **immediate danger** to themselves or others
- Seclusion and restraint should **NOT be used as disciplinary measures**.
- Schools must **stop using** restraint or seclusion on a student once they are no longer a danger
- The policy must be reviewed every year with required **training** for those who use restraint and seclusion practices
- The use of restraint or seclusion must be **monitored** by either a member of the local education agency or another provider they contract with
- Whenever seclusion or restraint is used there **must be a report**
 - A copy of the report must be given to the parent or guardian of the student within 5 days of the incident
 - The local education agency must attempt to **notify** the parent or guardian immediately
 - The local education agency must submit an **incident report** to Missouri Department of Elementary and Secondary Education (DESE) within 30 days of the incident

A Report Made by Schools Must Include the Following:

1. Date, time, location, duration, and description of the incident and interventions
2. Events leading up to the incident
3. Reasons for using seclusion and restraint
4. The student's injuries
5. Names, roles, and certifications of the employees involved
6. Name, role, and signature of person who prepared the report
7. Name of employee who the parents and/or guardians can contact regarding the incident
8. Name of employee who the parents and/or guardians can contact if they want to file a complaint
9. A statement that provides contact information for a parent/guardian to report child abuse and neglect.

Use of Seclusion in Practice:

- Seclusion should always be a last resort measure reserved for emergency situations only
- Detailed minute-by-minute notes during seclusion are required for:
 - Student safety
 - Transparency to parents/guardians
 - Compliance with regulations
 - To be reviewed to assess the appropriateness of the interventions
 - To improve future practices

Requirements for the Department of Elementary and Secondary Education (DESE):

- DESE must develop and update a model policy on seclusion and restraint for districts to refer to
- DESE must track data from incident reports submitted by districts and make this data available online

New Federal Guidance on Seclusion and Restraint: Secretary of Education:

- Secretary of Education "commends those states that have prohibited the use of seclusion and limited the use of restraint"
- This new guidance shows a shift towards eliminating seclusion as a behavioral intervention strategy and limiting restraint only when necessary.

A School Official CANNOT:

- Block the view of a student's face
- Block a student's breathing or restrict them from breathing normally
- Place pressure or weight on a student's lungs, chest, back, stomach or genitals
- Block a student's blood flow
- Cover a student's face or body with any objects, even soft objects
- Put at risk a student's life
- Worsen a student's medical condition
- Purposely try to inflict pain
- Block a student from communicating
 - If a student uses American Sign Language (ASL) their hands cannot be restricted
 - If a student uses an augmented communication device, that device must be available to the student.

A School Official CAN:

- Seclude a student if there is imminent danger of harm to themselves or others
- Use devices by trained personnel or used by a student who has a prescription for the device
- Physically escort a student
- Comfort or calm down a student
- Hold a student's hand during transportation for safety reasons
- Intervene in a fight

ADVOCACY TIPS

- Be aware of the practices school officials can and cannot use against students
- Be sure to document if you are made aware of a restraint or seclusion practice being used on your child, and make sure a report is created by your local school district
- Ask for a meeting with school personnel to address your child's behaviors
- Ask school personnel in writing to use effective positive behavioral supports instead of seclusion and restraint practices

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EdRights App: edrights.lsem.org