

**COLORADO DEPARTMENT OF EDUCATION
GUIDELINES FOR THE ADMINISTRATION
OF THE PROTECTION OF PERSONS FROM RESTRAINT ACT**

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STATEMENT OF BASIS AND PURPOSE

The Rules for the Administration of the Protection of Persons from Restraint Act were developed in accordance with C.R.S. 26-20-101, et seq. in pursuance to the terms of the "Protection of Persons from Restraint Act." The rules outline the procedures to be followed in the administration of restraint, staff training, documentation requirements, and the review of the use of restraint. These guidelines are designed to provide clarification regarding the procedures outlined in the rules.

DEFINITIONS AND BASIS FOR THE USE OF RESTRAINT

Does the term restraint include seclusion?

The definition of restraint outlined in § 2.00 (2) of the Rules for the Protection of Persons from Restraint Act includes, but is not limited to, bodily physical force, mechanical devices, chemicals, and seclusion.

What is and is not an emergency?

As stated in the rules, an *emergency* means serious, probable, imminent threat of bodily harm to self or others. It is a sudden, unexpected occurrence demanding immediate action. An *emergency* may exist when a student is displaying physical behavior that is a danger to herself/himself and/or others. Restraints shall only be used in an *emergency* situation and with extreme caution.

It is not an emergency situation, and would be inappropriate to use restraint when:

- The student is destroying property unless it could lead to harm to herself/himself or others;
- The situation could be deescalated by removing others from the setting;
- An adult is seeking the student's compliance;
- The student could be escorted safely;
- The student could be held to provide comfort and support.

What is the difference between a hold and a restraint?

Restraint means any method or device used to limit freedom of movement including, but not limited to, physical force, mechanical devices, chemicals and seclusion. Only those individuals trained in a district/facility approved restraint technique may use restraint. Extreme caution must be used. A student should be released from a physical restraint

within fifteen minutes after the initiation of the restraint, except when precluded for safety reasons.

If it is not an emergency, staff may need to implement constructive methods to deescalate the situation. These may include physical escorts, removal of others from the setting, and/or a hierarchy of planned responses to behaviors of concern. Such responses might include prompts, redirecting, directive statements and time-out. Less restrictive options such as removal of the student from the stimulus may alleviate the need for restraint.

Holding is characterized by a student being hindered or delayed in a supportive manner by another individual. Holding, appropriate to the student's age, may only be used if the purpose and intent is to provide safety, and/or comfort and support to the student.

- Holding for the protection of the individual or other persons may occur for periods of less than five minutes. If the hold extends beyond five minutes it is a restraint.
- Holding for comfort and support of the student may occur for longer than five minutes and not be considered a restraint.

A hold may be used as part of a planned intervention instead of a physical restraint. Staff may need to hold a student or physically escort a student only for the period of time that is necessary to protect the student or ensure the safety of others. Trained staff may hold a student, as a planned intervention, given that such use is specifically outlined in the student's IEP or Behavior Support Plan.

An adult who is not trained in a district/facility approved restraint technique is limited in an emergency situation, to physically intervening by holding a student until trained staff are available. Untrained staff may hold the student for up to five minutes to protect the student or ensure the safety of others.

When may restraint be used?

Restraint may be used by trained staff in emergency situations. Serious, probable and imminent threat of bodily harm to self or others within the educational environment constitutes an emergency. Prior to the use of restraint, the school/facility staff must have tried all positive and constructive methods to deescalate the situation, including but not limited to:

- Implementation of a structured and consistent behavior management system,
- Physical structuring of the environment,
- Use of district/facility time-out procedures, and
- Helping the student communicate her/his needs.

What are the duties of staff when administering restraints?

School personnel shall:

- Use restraint only for the period of time necessary to accomplish its purpose and using no more force than is necessary.
- Release a student from a physical restraint within fifteen minutes after the initiation of the restraint, except when precluded for safety reasons. The best approach is to gradually release the student from a restraint when her/his behavior has deescalated and/or it is clear that she/he no longer poses a threat to self and/or others.
- Administer a restraint only when trained in a continuum of prevention techniques, including a district/facility or nationally recognized restraint technique.
- Never use restraint as a punitive form of discipline or as a threat to control or gain compliance of a student's behavior.

INFORMED DECISION MAKING WHEN PARENT PERMISSION FOR RESTRAINT IS ANTICIPATED

What recommended information is to be provided to the parent(s)?

The district's/facility's process should be designed to promote an informed permission/decision-making process. The parent should be provided with information to promote their understanding that the proper application of restraint will be provided within the parameters outlined in The Protection of Persons from Restraint Act and the applicable Rules.

Information provided to the parent **may** include a written explanation of:

- Positive and less restrictive methods to deal with the student prior to the use of restraints,
- Definition of restraint and an emergency situation,
- Purpose and use of restraints in an emergency situation,
- The district's/facility's procedure for the use of restraint,
- Required training of personnel and a description of the technique used,
- District/Facility personnel's reporting, documentation and review procedures,
- Recommended procedures if the parents have questions or concerns, and
- Placement of written reports of restraint in the student's confidential file.

Additionally, the parent should be provided with an opportunity to share relevant information with school personnel. For example, the parent may be able to describe a specific pattern of behaviors/actions that may signal an imminent situation or de-escalation techniques that work well at home. Most important, staff needs to be informed of any health issues (e.g. asthma, heart murmur, pregnancy, etc.) so that restraint

techniques can be adjusted, if appropriate. Whenever staff become aware of a medical condition, it is their responsibility to work with the parent to identify viable modifications/alternatives.

When is it necessary to obtain parent permission to apply restraint?

When it is anticipated that restraint will be used in an emergency situation, written parent permission must be obtained. Students with a history of dangerous behavior should have a specific behavior support plan (sometimes referred to as behavior intervention plan) that clearly outlines the context of when a restraint shall occur. Generally, a behavior support plan incorporates a Functional Behavior Assessment, a plan for teaching replacement skills, de-escalation techniques to be used, and a crises management plan, which may include restraint. It is recommended that parent permission be obtained by signing a statement to indicate that the parent/guardian agrees with the behavior support plan. If such a statement is not included in the behavior support plan, the district/facility must identify other means to secure parent's written permission.

What happens if the parent will not sign the behavior support plan or other written statement permitting the anticipated use of restraint?

If the parent does not attend the behavior support plan meeting, the school must attempt (a suggested minimum of three times) to secure written permission for the use of restraint. All attempts to obtain written permission should be documented and maintained in the student's confidential file.

If the parent either verbally states or provides a written statement that they refuse/deny permission for the use of restraints, personnel must first attempt to gain an understanding of the parent's objections and ensure the parent has a complete understanding of restraint procedures. In the instance when a parent continues to refuse to give permission for the use of restraint, the district/facility staff must develop a mechanism to insure that other students or other school personnel have recourse to insure their safety.

If the parent continues to refuse permission, the district/facility might take other action to assure student safety such as:

- Staff may call police, then the parent;
- Staff may inform parent(s) that they may be liable for injuries inflicted upon other students or staff;
- Staff may inform the parent that they may be liable for property damages;
- The school district/facility may consult other agencies to provide additional services to the students or family; and
- The school district/ facility may consider an alternative educational placement for the student.

What options does the school district/facility have if parents refuse to give permission to allow the use of restraints?

It is the responsibility of the school district to provide for the safety of all students. The general welfare and safety of others must be considered at all times. In dangerous situations where the student can cause serious, probable and imminent bodily harm to herself/himself or others, restraint may be used without parent written permission. Only emergency situations supersede the need for parent permission for the use of restraints.

REVIEW PROCESS FOR THE USE OF RESTRAINT

What should schools include in the building level review of the use of restraint process?

The rules specify that a review process must be established and conducted for each incident of restraint used. A variety of possible options are available to review each incident with the intent to minimize future use of restraint. Options are not intended to place an undo burden on teachers or school districts/facilities by having numerous meetings after each incident of restraint. However, an evaluative process must be in place to explore other available options that may not currently be employed. This may be accomplished through the district's/facility's code of conduct procedures, the IEP process and/or the Behavior Support Plan, sometimes referred to as Behavior Intervention Plan. Restraint rules indicate that the review shall include, but is not limited to:

- Staff review of the incident,
- Follow up communication with the student and her/his family, and
- Review of the documentation to ensure use of alternative strategies and recommendations for adjustment of procedures.

When is the complete IEP team required to meet regarding the use of restraints?

It is not necessary to bring the IEP team together to review the Behavior Support Plan after each incident. Use of restraints should be included in the accommodations specified in the IEP and/or in the crisis management part of the Behavior Support Plan if restraint is to be used as a necessary procedure for emergencies only. The Behavior Support Plan should outline what constitutes an emergency.

A formal IEP meeting may occur for the following reasons:

- The student with a disability is removed from the current school placement for more than 10 days, which constitutes a change of placement, or
- One or more IEP team members, including the parent, choose to call an IEP meeting to modify any portion of the Individualized Education Program and/or its implementation.

Behavior Support Plans do not necessarily have to be part of the IEP, but are frequently included in the IEP in order to address a student's specific behavior. Communication between members of the IEP team shall occur to review and insure that the Behavior Support Plan is followed. The reviewing team members may determine that:

- The precipitating factors of the incident require no further action;
- It is necessary for the IEP Team, including the parent, to meet to determine if the supplementary aids and services identified in the IEP are being provided and are appropriate and if changes to the Behavior Support Plan are needed; or
- There are issues that require administrative review/action.

Not all students with a Behavior Support Plan have an IEP. A Behavior Support Plan may be written for general education students as well as students identified as disabled under IDEA and/or Section 504 of the Rehabilitation Act.

What Procedures are required for each restraint?

- A written report must be submitted within one (1) school day to the school principal or designee;
- The school principal or designee shall verbally notify the parents as soon as possible but no later than the end of the school day that restraint was used; and
- A written report shall be sent to the parent(s) within thirty-six (36) hours following the use of restraint and a copy placed in the student's confidential file.

What information could be included in the written report to the parent/guardian?

It is recommended that the written report to the parent include the following information:

- Student's name, date, name and title of staff member(s) and their involvement in the restraint, the beginning and ending time of the restraint;
- A description of the precipitating incident(s) that necessitated the restraint, the student's behavior before/after the restraint occurred and the outcome(s) of the incident;
- Specifically describe the interventions that were utilized prior to the restraint, as well as the response from the student to these de-escalating actions; and
- Name and signature of the person completing the report.

What additional information may be submitted to the building administrator?

The following recommended items of documentation may also be placed in the report to the school administrator and may be used in the general review process:

- Description of the restraint technique used to protect the student or ensure the safety of others,

- Description of the physical condition and nature of any physical injury incurred during the restraint, the name of the person(s) injured and the type of medical care given,
- Specific notation if the student or staff requires any additional follow-up medical services/treatment for injuries related to a restraint, and
- Written parent permission for the anticipated use of restraints.

What documentation/information could districts/facilities consider in the annual, general review process?

Each public program shall ensure that a general review process is established and conducted annually. The purpose of the general review process is to ascertain that procedures are appropriate.

The intent of the administrative review is to explore the behavior intervention system and de-escalation techniques utilized by the school program in order to minimize the future use of restraints. Additional recommendations and adjusted procedures to minimize future use of restraint may include staff review of incident, review of alternative strategies employed, and follow-up communication with the student's family. The review shall include, but is not limited to several key components related to the use of restraints. These include an analysis of the following components:

- Incident reports,
- Procedures used during restraint including the proper administration of specific district/facility approved restraint techniques,
- Preventative measures or alternatives tried, techniques or accommodations used to avoid or eliminate the need for the future use of restraints;
- Documentation and follow up of procedural adjustments made to eliminate the need for future use of restraints;
- Injuries incurred during a restraint,
- Notification procedures,
- Staff training needs,
- Staff to student ratios,
- Specific patterns related to staff or student incidents, and
- Environmental considerations, including physical space, student seating arrangements and noise levels.