

***Regulations Governing the Use of
Seclusion and Restraint in Public
Elementary and Secondary Schools in
Virginia (Proposed Stage)***

Delivered to:
Virginia Board of Education

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Decision Point 1

| Section | Issue | Options | Discussion | Staff Recommendation |
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| <p><u>Decision Point 1</u></p> <p>Prohibitions – Should Seclusion be Banned?</p> <p>“Seclusion” means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving until the student no longer presents an immediate danger to self or others.</p> | <p>Parent and advocacy groups have urged that seclusion is so dangerous that it should never be used.</p> | <p><u>Option 1</u></p> <p>Retain draft language.</p> <hr/> <p><u>Option 2</u></p> <p>Ban seclusion.</p> | <ul style="list-style-type: none"> ➤ Seclusion can be an effective technique that allows physical restraint to be avoided. However, there have been incidents of serious injury to students while they were secluded. ➤ Two states currently ban seclusion for all students, while three ban seclusion for students with disabilities. ➤ The 15 Principles permit seclusion in circumstances where the student’s behavior poses an imminent threat to self or others. | <p>Allow seclusion as per the draft language, as other provisions discussed below provide safeguards.</p> |

Decision Point 2

| Section | Issue | Options | Discussion | Staff Recommendation |
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| <p>Decision Point 2</p> <p>Definition of Seclusion:</p> <p>“Seclusion” means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving until the student no longer presents an immediate danger to self or others.</p> | <p>Currently drafted option includes an exception from the definition of seclusion for confinement of a student in a room where the student is not free to leave during the investigation by school officials of a violation of the Code of Student Conduct.</p> <p>Reason the exception was included: School representatives did not want to be hamstrung in an instance where there is a drug deal or a fight, students involved are placed in separate rooms and the principal goes back and forth to investigate the incident.</p> | <p>Option 1</p> <p>Retain draft language.</p> <hr/> <p>Option 2</p> <p>Eliminate draft language.</p> <hr/> <p>Option 3</p> <p>Modify draft language to more specifically define instances in which this exception applies.</p> | <ul style="list-style-type: none"> ➤ Drafted language allows school staff to address disciplinary issues in the principal’s office or conference room. ➤ However, incidents are not reported and are not subject to protections that seclusion room would have (visual monitoring, size, construction materials, safety standards). ➤ Note that no one has offered any compromise language. | <p>Eliminate draft language as students should not be left without adult supervision.</p> |

Decision Point 3

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| <p><u>Decision Point 3</u></p> <p>Definition of Seclusion:</p> <p>Contains certain exceptions to the definition of seclusion; one of the exceptions contains the caveat “so long as the student is not physically prevented from leaving.”</p> | <p>Parent and Advocacy groups believe that all the exceptions to the definition should incorporate the concept that the student must be “free to leave”.</p> | <p><u>Option 1</u></p> <p>Incorporate “free to leave” standard.</p> <hr/> <p><u>Option 2</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 3</u></p> <p>Expand the “so long as the student is not physically prevented from leaving”.</p> | <p>The current language was drafted to ensure that students were not locked in a room or that doors were not held shut. The phrase “free to leave” seems to imply that a student cannot be told to “stay here.”</p> | <p>Expand the concept of “not physically prevented from leaving” to all exceptions.</p> |

Decision Point 4

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| <p><u>Decision Point 4</u></p> <p>Standards for Seclusion Rooms:</p> <p>Draft regulation includes specifications on size of room, ability to monitor space, light fixtures and controls, materials, contents, etc.</p> | <p>Superintendents from Region 7 requested that schools be allowed to determine their own specifications.</p> <p>Other groups asked for flexibility on what types of items could be in the room, e.g., sensory items, and to eliminate the reference to a mattress being the only thing permitted in the room.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Eliminate specifications.</p> <hr/> <p><u>Option 3</u></p> <p>Modify specifications.</p> | <p>Region 7 Superintendents were concerned that each building has its own physical layout, and that such prescriptive measures might be cost-prohibitive. We note that the current specifications were developed based on the Department of Behavioral Health and Developmental Services' Regulations for Children's Residential Facilities.</p> | <p>Maintain current language, but modify to allow flexibility with regard to contents, so long as the items do not pose a danger to the student.</p> |

Decision Point 5

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| <p><u>Decision Point 5</u></p> <p>Prone and supine restraints:</p> <p>Current draft bans both techniques.</p> | <p>School representatives and representatives from one of the training organizations involved in restraint and seclusion expressed concern that there may be instances in emergencies when such restraints are unavoidable.</p> <p>Alternatively, they urge that restraints that restrict the airway be banned.</p> | <p><u>Option 1</u></p> <p>Retain ban on prone and supine restraints.</p> <hr/> <p><u>Option 2</u></p> <p>Modify the language to simply ban restraints that restrict the airway.</p> | <p>15 Principles state that “Restraint or seclusion should never be used in a manner that restricts a child’s breathing or harms the child.”</p> | <p>Adopt language from the 15 Principles.</p> |

Decision Point 6

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| <p><u>Decision Point 6</u></p> <p>Notification and Reporting – Parent:</p> <p>Current draft requires that reasonable efforts be made to notify parents of an incident involving restraint or seclusion within one calendar day of the incident.</p> | <p>Parents and Advocacy groups argued for same day notification.</p> <p>School organizations believed that the requirement was too onerous and ought to be changed to one school day.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Provide for same day notification.</p> <hr/> <p><u>Option 3</u></p> <p>Provide for one school day notification.</p> | <ul style="list-style-type: none"> ➤ Parent and advocacy groups argued that parents needed to be aware of the event in case there was hidden injury, such as head trauma. ➤ In light of recent studies of traumatic brain injury in children and youth, this seems a reasonable position to take. ➤ Draft requires only that “reasonable efforts” be made to notify the parent. | <p>Modify to include same day notification.</p> |

Decision Point 7

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| <p><u>Decision Point 7</u></p> <p>Notification and Reporting – Incident Report Timing:</p> <p>Draft requires written report within two school days.</p> | <p>Superintendents’ groups indicated that the timeline was impractical.</p> <p>Special Education administrators urged changing the time to five school days.</p> <p>Some parents wanted written reports within one calendar day.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Shorten time line.</p> <hr/> <p><u>Option 3</u></p> <p>Lengthen time line.</p> | <p>Original language was drafted as a compromise between the practicality of completing the report and the risk of fading memory of the incident.</p> | <p>Retain current language.</p> |

Decision Point 8

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| <p><u>Decision Point 8</u></p> <p>Notification and Reporting – Content:</p> <p>Draft requires that the incident report address fifteen items.</p> | <p>Special education administrators urged that the following items be deleted as not necessary for thorough reporting:</p> <p>A detailed description of the physical restraint or seclusion method used; The student behavior that justified the use of restraint or seclusion; Description of prior events prompting the behavior, if known; Description of any less restrictive interventions attempted; when the student has an IEP, a Section 504 plan, a behavior intervention plan or other plan.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Delete requested items.</p> <hr/> <p><u>Option 3</u></p> <p>Delete some of the requested items.</p> | <p>While a more general question about the incident might, in some cases, elicit the information contained in these items, staff believes that it often would not, as specific prompts are often needed.</p> <p>This information is also critical in terms of engaging in a process of providing a tiered system of behavioral supports.</p> | <p>Retain current language.</p> |

Decision Point 9

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| <p><u>Decision Point 9</u></p> <p>Notification and Reporting – Student Debriefing:</p> <p>Draft regulations require that the student and principal or designee meet to debrief about the incident.</p> | <p>Parent and advocacy groups have requested that the debriefing include individuals other than the student and principal or designee. More specifically a number of groups and individuals requested regulations require that the parent be invited.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Expand the meeting to include parents and other individuals.</p> | <p>The purpose of the student debriefing is to allow the student and school personnel to discuss the incident and talk about ways similar incidents might be avoided in the future.</p> | <p>Retain current language.</p> |

Decision Point 10

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| <p><u>Decision Point 10</u></p> <p>Prevention; Use of Multiple Instances of Restraint and Seclusion – Non IEP/504 Students:</p> <p>Requires that a school team convene after two incidents to consider, among other things, behavioral supports and the possibility of a referral for evaluation.</p> | <p>Parent and advocacy groups have requested that, for students without IEPs or Section 504 plans, automatically trigger an evaluation.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Require referral.</p> | <p>Existing law already provides for requirements that a child should be evaluated if the eligibility team suspects a disability. This would create a duplicative and possibly conflicting process.</p> | <p>Retain current language.</p> |

Decision Point 11

| Section | Issue | Options | Discussion | Staff Recommendation |
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| <p><u>Decision Point 11</u></p> <p>Prevention; Use of Multiple Instances of Restraint and Seclusion – Trigger:</p> <p>Current language requires debriefing after two instances of restraint and seclusion.</p> | <p>School commenters believed that there should be more flexibility with regard to when a review would be triggered, noting that students with the most challenging behaviors might be restrained multiple times in a day.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> | <p>An early review point serves the purpose of encouraging the use of evidenced-based, positive behavioral interventions.</p> | <p>Retain current language.</p> |
| | | <p><u>Option 2</u></p> <p>Change language to provide school division with discretion.</p> | | |
| | | <p><u>Option 3</u></p> <p>Provide a trigger point that captures two or more days in which restraint or seclusion is used.</p> | | |

Decision Point 12

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| <p><u>Decision Point 12</u></p> <p>Training:</p> <p>Requires training for all school personnel in de-escalation, and the restraint and seclusion regulations;</p> <p>Requires advanced training for personnel employed in self-contained special education settings.</p> | <p>One advocacy group proposed replacing advanced training for personnel in self-contained settings with advanced training for a school-based crisis team.</p> <p>School groups expressed concerns about the lack of specificity regarding the training, and about the cost.</p> | <p><u>Option 1</u></p> <p>Retain current language.</p> <hr/> <p><u>Option 2</u></p> <p>Create a mandate for a crisis team.</p> <hr/> <p><u>Option 3</u></p> <p>Provide that VDOE will provide training.</p> <hr/> <p><u>Option 4</u></p> <p>Provide school divisions with funding.</p> | <ul style="list-style-type: none"> ➤ Research shows that the majority of incidents of restraint and seclusion involve special education students. As a result, staff elected to provide for advanced training for personnel in those settings. ➤ Staff wished to provide school divisions with flexibility with regard to choice and type of training, with the knowledge that school divisions throughout the Commonwealth use a number of different programs currently. ➤ While the provision of funding is a General Assembly matter, VDOE has discussed developing and providing the training module that is used for all personnel. | <p>Retain current language, but provide that VDOE will develop and provide the tier one training module.</p> |