

Framework for Developing Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia

Virginia Department of Education
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Virginia Code §22.1-279.1:1

The Board shall adopt regulations on the use of seclusion and restraint in the public elementary and secondary schools of the Commonwealth that (i) are consistent with its *Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations* and the *Fifteen Principles* contained in the U.S. Department of Education's *Restraint and Seclusion: Resource Document*; (ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students.

Guiding Documents

- VDOE's *Guidelines for Development of Policies and Procedures for the Management of Student Behavior in Emergency Situations* and the *Fifteen Principles* contained in the U.S. Department of Education's *Restraint and Seclusion: Resource Document* are generally consistent with one another.
- VDOE will use the *Fifteen Principles* to guide its development of the elements of regulations required by the Code of Virginia.
- Virginia's *Regulations Governing the Operation of Private Schools for Students with Disabilities* will also offer significant guidance.

Definitions

- Seclusion
 - Distinguish from “Time Out”
- Physical Restraint
- Mechanical Restraint
 - Craft appropriate exclusions
- Chemical or Pharmacological Restraint?
- Aversive Stimuli?
- Behavioral Intervention Plan?
- Imminent Danger?
- Serious Physical Harm?

Principle 1 (Criteria for Use)

- Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
 - What proactive measures should the regulations require?
 - PBIS?
 - BIPs?
 - IEP provisions for students with disabilities?

Principle 2 (Restrictions on Use)

- Schools should never use mechanical restraints to restrict a child's freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).
 - Exclude safety devices
 - Exclude orthopedic devices
 - But beware of misuse (e.g., Rifton chair used for restraint)

Principle 3 (Criteria for and Restrictions on Use)

- Physical restraint or seclusion should not be used except in situations where the child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm has dissipated
- NOTE: Property damage without more does not justify restraint or seclusion

Principle 4 (Criteria for and Restrictions on Use)

- Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities
- The Virginia Code requires this, but adds a requirement not contained in the *Fifteen Principles*: appropriate distinctions between elementary and secondary students and students with and without disabilities, taking into account physical and emotional development.

Principle 5 (Restrictions on Use)

- Any behavioral intervention must be consistent with the child's right to be treated with dignity and to be free from abuse.
 - NOTE: This principle relates to ALL behavioral interventions, not just restraint and seclusion
 - Prohibit aversive stimuli?

Principle 6 (Restrictions on Use)

- Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.

Principle 7 (Conditions for and Restrictions on Use)

- Restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child.
 - Should all prone restraints be prohibited?
 - What monitoring is required
 - What are physical requirements for seclusion rooms?

Principle 8 (Follow-up Requirements)

- The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
 - Should the regulations specify specific triggers: e.g., after three incidents in any school year, the IEP team must meet to address the behavior?

Principle 9 (Criteria for and Restrictions on Use)

- Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
 - Should a tiered system of support, or something like it, be required?

Principle 10 (Training Requirements)

- Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.

Principle 10 (Training Requirements) - Continued

- Who?
- What?
- When?
- How?
- How many?
- How often?

Principle 11 (Criteria for and Restrictions on Use)

- Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers and other personnel.
 - Is any additional guidance required for this criteria (e.g., is video monitoring sufficient?)

Principle 12 (Notification Requirements)

- Parents should be informed of the policies on restraint and seclusion and their child's school or other educational setting, as well as applicable Federal, State or local laws.
 - Should VDOE develop a model notification form?
 - What are the other laws that need to be identified?

Principle 13 (Notification Requirements)

- Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
 - What level of detail should the regulations specify, e.g., number of days, form of notification, content of notification?

Principle 14 (Follow-up Requirements)

- Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
 - State or local review?
 - How often
 - LEAs required to submit policies for review/approval?

Principle 15 (Reporting Requirements)

- Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint and seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff and other personnel to understand and implement the preceding principles.
 - What data should be collected?
 - Who collects?
 - How is it collected?
 - How and where is it submitted?