§4014. Use of seclusion and physical restraint

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Chemical restraint" means a drug or medication that is not prescribed as the standard treatment of a student's medical or psychiatric condition by a licensed physician or other qualified health professional acting under the scope of the professional's authority under state law that is used on a student to control behavior or restrict freedom of movement. [PL 2021, c. 453, §1 (NEW).]

B. "Covered entity" means an entity that owns, operates or controls a school or educational program that receives public funds from the department, including, but not limited to, public schools, public regional programs, public charter schools, private schools, private schools approved for tuition purposes, special purpose private schools, career and technical education programs, public prekindergarten programs and providers of services pursuant to the provisions of the federal Individuals with Disabilities Education Act, Parts B and C, 20 United States Code, Section 1401 et seq. (2015). [PL 2021, c. 453, §1 (NEW).]

C. "Mechanical restraint" means the use of a device to restrict a student's freedom of movement. [PL 2021, c. 453, §1 (NEW).]

D. "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location. [PL 2025, c. 266, §1 (AMD).]

E. "Physical prompt" means a teaching technique that involves voluntary physical contact with a student that enables the student to learn or model the physical movement necessary for the development of a desired competency. [PL 2021, c. 453, §1 (NEW).]

F. "Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move the arms, legs or head freely. "Physical restraint" does not include a physical escort, mechanical restraint, physical prompt or chemical restraint. [PL 2021, c. 453, §1 (NEW).]

G. "Seclusion" means the involuntary isolation or confinement of a student alone in a room or clearly defined area from which the student does not feel free to go or is physically denied exit. "Seclusion" does not include a timeout. [PL 2021, c. 453, §1 (NEW).]

G-1. **(TEXT EFFECTIVE UNTIL 8/01/29) (TEXT REPEALED 8/01/29)** "Serious physical injury" means any impairment of the physical condition of a person, whether self-inflicted or inflicted by someone else, that requires a medical practitioner, including, but not limited to, a school nurse, to evaluate or treat the person.

This paragraph is repealed August 1, 2029. [PL 2025, c. 266, §2 (NEW).]

H. "Timeout" means an intervention where a student requests or complies with an adult request for a break. Timeout is not seclusion. [PL 2021, c. 453, §1 (NEW).]

I. "Unlawful restraint or seclusion" means:

(1) Mechanical restraint;

(2) Chemical restraint;

(3) Physical restraint or physical escort that is life-threatening, restricts breathing or restricts blood flow to the brain, including prone restraint; or

(4) Physical restraint or seclusion that is contraindicated based on Title 34-B, section 3003 or section 15002 or the student's disability or health care needs or medical or psychiatric condition as documented in:

(a) A health care directive or medical management plan;

(b) A behavior intervention plan;

(c) An individual education plan or an individual family service plan as defined in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015); or

(d) A plan developed pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 794 (2015) or the federal Americans with Disabilities Act of 1990, Title II, 42 United States Code, Section 12131 et seq. (2009).

"Unlawful restraint or seclusion" does not include a physical escort except as provided in subparagraph (3), a physical prompt, the use of adaptive devices or mechanical supports to achieve proper body position, balance or alignment to allow greater freedom of movement than would be possible without the use of such devices or supports or the use of vehicle safety restraints when used as intended during the transport of a student in a moving vehicle. [PL 2021, c. 453, §1 (NEW).]

[PL 2025, c. 266, §§1, 2 (AMD).]

2. Prohibition on unlawful restraint and seclusion; restriction on use of physical restraint and seclusion. A covered entity that receives state or federal assistance may not subject a student to unlawful restraint or seclusion. A covered entity may use physical restraint or seclusion only if:

A. The student's behavior poses an imminent danger of serious physical injury to the student or another person; [PL 2021, c. 453, §1 (NEW).]

B. Less restrictive interventions would be ineffective in stopping imminent danger of serious physical injury to the student or another person; [PL 2021, c. 453, §1 (NEW).]

C. The physical restraint or seclusion ends immediately upon the cessation of imminent danger of serious physical injury to the student or another person; and [PL 2021, c. 453, §1 (NEW).]

D. The least amount of force necessary is used to protect the student or another person from imminent danger of serious physical injury. [PL 2021, c. 453, §1 (NEW).]

[PL 2021, c. 453, §1 (NEW).]

3. Report on data regarding the use of physical restraint and seclusion. Each covered entity shall submit to the department an annual report on incidents of physical restraint and seclusion of students of that covered entity that includes:

A. The aggregate number of uses of physical restraint; [PL 2021, c. 453, §1 (NEW).]

B. The aggregate number of uses of seclusion; [PL 2021, c. 453, §1 (NEW).]

C. The aggregate number of students placed in physical restraint; [PL 2021, c. 453, §1 (NEW).]

D. The aggregate number of students placed in seclusion; [PL 2021, c. 453, §1 (NEW).]

E. The aggregate number of students with disabilities and an individualized education program under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015) or a plan pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. placed in physical restraint; [PL 2021, c. 453, §1 (NEW).]

F. The aggregate number of students with disabilities and an individualized education program under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1401 et seq. (2015) or a plan pursuant to the federal Rehabilitation Act of 1973, 29 United States Code, Section 701 et seq. placed in seclusion; [PL 2021, c. 453, §1 (NEW).]

G. The aggregate number of serious physical injuries to students related to physical restraint; [PL 2021, c. 453, §1 (NEW).]

H. The aggregate number of serious physical injuries to students related to seclusion; [PL 2021, c. 453, §1 (NEW).]

I. The aggregate number of serious physical injuries to staff related to physical restraint; and [PL 2021, c. 453, §1 (NEW).]

J. The aggregate number of serious physical injuries to staff related to seclusion. [PL 2021, c. 453, §1 (NEW).]

[PL 2021, c. 453, §1 (NEW).]

4. Technical assistance. The department shall, using existing resources, provide technical assistance to covered entities by developing, implementing and providing technical assistance to support evidence-based programs that reduce the likelihood of physical restraint or seclusion, and support students in reducing behavior that can result in physical restraint or seclusion, such as developmentally appropriate, positive behavior interventions, functional behavioral interventions, mental health supports, restorative justice programs, trauma-informed care and crisis and de-escalation interventions.

[PL 2021, c. 453, §1 (NEW).]

5. Rules. The department shall adopt or amend rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 453, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 453, §1 (NEW). PL 2025, c. 266, §§1, 2 (AMD).

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