

Physical Restraint and Seclusion

Frequently Asked Questions

Division of Student Success

Office of Continuous Improvement and Support

Kentucky Department of Education

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Limitations on the Use of Physical Restraints

When can a physical restraint be used?

[704 KAR 7:160](#) states that physical restraint may only be implemented if:

- a) the student's behavior poses an imminent danger of physical harm to self or others and as permitted under [KRS 503.050](#), [KRS 503.070](#) and [KRS 503.110](#);
- b) the physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication, unless the student uses sign language or an augmentative mode of communication as the student's primary mode of communication and the implementer determines that freedom of the student's hands for brief periods during the restraint appears likely to result in physical harm to self or others;
- c) the student's physical and psychological well-being is monitored for the duration of the physical restraint;
- d) less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others, except in the case of a clearly unavoidable emergency situation posing imminent danger of physical harm to self or others; and
- e) school personnel implementing the physical restraint are appropriately trained as required by Section 6(3) of the regulation, except to the extent necessary to prevent physical harm to self or others in clearly unavoidable emergency circumstances where other school personnel intervene and summon trained school personnel as soon as possible.

Is there a time limit for how long a student can be placed in a physical restraint?

The use of physical restraint shall end as soon as the student's behavior no longer poses an imminent danger of physical harm to self or others.

Is it considered a physical restraint when a staff member is escorting a student out of the classroom or down the hall and has physical contact by placing their hand on the student, e.g. the student's arm?

The regulation specifies that temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of encouraging a student to move voluntarily to a safe location is not a physical restraint.

Are therapeutic hugs during the day, e.g. those used by school staff for students with autism, considered physical restraints?

A therapeutic hug is not a physical restraint because it does not immobilize the student or reduce the student's ability to move the torso, arms, legs or head freely.

There is a student with autism who often scratches himself. He stops if a school staff member gently holds him for a few seconds at a time. This happens each day. Is this considered a physical restraint, within the definition of the regulation, and must school staff document each incident?

Gently holding a student to keep him from scratching himself would not immobilize the student. It is a less restrictive form of physical contact that promotes student safety. As such, as long as the student isn't immobilized this situation does not come within the definition of physical restraint. However, if a student with autism is scratching himself "each day," a behavior plan aimed at decreasing these behaviors should be developed. It would be unacceptable to hold the student's hands down each day rather than addressing the underlying issue causing the behavior. The Admissions and Release Committee (ARC) should meet to address this behavior.

If a student "bolts" unless passed from hand to hand, may school staff grab them to prevent them from running from the school?

Yes, staff may keep the student from running from the school. School personnel may use limited physical contact to keep the student safe. Grabbing a student to prevent that student from becoming endangered does not meet the definition of physical restraint in the regulation, provided that excessive force or holds are not used. If the student continues to struggle to run into a dangerous situation, a physical restraint may be warranted if less restrictive behavioral interventions have not been effective in stopping the imminent danger to the student. Additionally, the ARC may need to be convened to address the cause of behavior and, if appropriate, a behavior intervention plan (BIP) may be created.

Are supine (lying face upward) and prone (lying face downward) physical restraints prohibited?

The regulation expressly prohibits the use of supine and prone restraints.

What if, during a physical restraint, the student and staff member fall to the floor? Will the staff member be in trouble for using a prone restraint?

No. A physical restraint in which the student and staff member fall to the floor is not a prone physical restraint unless pressure is applied to the student's body to keep them face down.

Must a functional behavior assessment (FBA) be conducted following a first incident of physical restraint?

The ARC must determine when an FBA should be conducted and plan accordingly. The use of physical restraint and/or seclusion could result in a violation of Free Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act (IDEA) and each individual case should be examined. FBAs and BIPs for students with an individualized education program (IEP) are governed by state and federal statutes and regulations, which must be followed, per [20 U.S.C. §1415](#) and [707 KAR 1:310](#), [707 KAR 1:320](#), and [707 KAR 1:340](#).

What is the difference in a mechanical restraint versus the use of adaptive equipment to assist a student with a disability?

"Mechanical restraint" means the use of any device or equipment to restrict a student's freedom of movement, but does not include:

- a) a device implemented by trained school personnel or utilized by a student that has been prescribed by an appropriate medical or related services professional that is used for the specific and approved purposes for which the device was designed;
- b) an adaptive device or mechanical support used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of the device or mechanical support;
- c) a vehicle safety restraint if used as intended during the transport of a student in a moving vehicle;
- d) restraint for medical immobilization; or
- e) an orthopedically prescribed device that permits a student to participate in activities without risk of harm.

Assistive technology devices or assistive technology services, or both, as defined in [707 KAR 1:002](#), are made available to a child with a disability, if required, as part of the child's special education, related services, or supplemental aids and services. Staff should ensure that these devices are used only in the manner for which they are designed and limited to the time required to conduct the activity for which the device is designed. An adaptive device or mechanical support used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of the device or mechanical support is NOT a physical restraint.

When physical restraint is included in a student's individualized education program (IEP) or behavior intervention plan (BIP), what guidelines are used when responding to student behaviors?

The ARC is the decision-making body for questions regarding the most appropriate response(s) to student behaviors as part of the IEP and/or BIP.

Limitations on the Use of Seclusion

Where can seclusion take place? What are the requirements for rooms used for seclusion?

The requirements for the room used for seclusion will follow these requirements from the regulation:

- a) be free of objects and fixtures with which a student could inflict physical harm to self or others;
- b) provide school personnel a view of the student at all times;
- c) provide adequate lighting and ventilation;
- d) be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;
- e) have an unlocked and unobstructed door; and
- f) have at least an annual fire and safety inspection.

Size, location, and occupancy certification should be defined in report from local Fire Marshal Inspection.

Is sending a student to the hallway or the principal's office considered seclusion?

No, provided the student isn't confined alone in a room. Seclusion means the involuntary *confinement* of a student *alone in a room or area* from which the student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions. Seclusion is a practice used by trained professionals when a student's behavior has become an imminent danger of physical harm to self or others.

If a student is placed in a small room with an unlocked door to either work on school work or to take a break would this be considered seclusion?

If the student is prevented from leaving the room or area then it would meet the regulatory definition describing a seclusion. A student completing assignments or "cooling-down" who has been given freedom to remove themselves from the room or area at any time is not being secluded.

Must a student be visually monitored while in seclusion?

Yes. The regulation requires that the student be visually monitored for the duration of the seclusion.

If locks cannot be used on seclusion room doors, may staff hold the door shut?

No. Holding the door shut is the same as locking the door.

Does the prohibition on locks apply only to the seclusion room or does it apply to a room that has a seclusion room located within it?

This requirement extends to any room or area being used for the purpose of secluding a student that exhibits behavior that poses an imminent danger of physical harm to self or others.

Before the use of seclusion can be determined to be an appropriate behavior response, does a current FBA have to be conducted?

No. The use of seclusion is incumbent on the threat of imminent danger posed by the student's behavior, availability of appropriate seclusion facility, and the training of core team members. The use of seclusion and physical restraint is the most restrictive, and often traumatic, emergency response following planned de-escalation and behavior interventions.

Is In-School Suspension (ISS, ISAP, PAC) considered a seclusion?

District policy determines the appropriate use of these punitive placements based on student behavior/incidents. The regulation specifically states seclusion does not mean classroom timeouts, supervised in-school detentions, or out-of-school detentions. However, these punitive placements could be recognized as seclusion responses if the student is prevented from leaving the placement of their own freewill.

Is there a time limit for how long a student can be placed in seclusion?

The use of seclusion to protect the student or others from imminent danger of physical harm shall end as soon as the student's behavior no longer poses an imminent danger of physical harm to self or others.

If a student calms down right away after being placed in seclusion is the school required to notify his/her parents, complete a seclusion incident report and hold a debriefing meeting?

Yes. After each incident of physical restraint and/or seclusion the child's parent/guardian must be notified verbally or through electronic communication within 24 hours. Parents/guardians must also be informed of their rights to request a debriefing session.

Does staff need to be in the room with the student or could there be a window or half door separating the student from the staff member(s)?

The requirement of regulation is that the student being secluded is visually monitored for the duration of the seclusion.

Student and Staff Safety

From the news, it seems that schools are getting more dangerous. Is this regulation actually keeping schools safe?

In 2017, over 41,000 Kentucky educators responded to Teaching, Empowering, Leading and Learning (TELL) Kentucky working conditions survey. 93% of teachers reported that their faculty works in a safe environment. By emphasizing prevention and proper training, which is required of all staff, the regulation regarding the use of physical restraint and seclusion can help schools become safer for students and teachers. It can give teachers and other school personnel tools to keep student behaviors from becoming dangerous.

Furthermore, physical restraint and seclusion may only be implemented when less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others. Schools must document behavioral interventions used immediately prior to any physical restraint or seclusion. The training to all school staff on positive behavioral supports and interventions is designed to:

1. Increase appropriate student behaviors;
2. Decrease inappropriate or dangerous student behaviors; and
3. Respond to dangerous behavior.

Won't the regulation make it harder or impossible for teachers to defend themselves from a dangerous student?

No. Physical restraint may be implemented when less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others. The restrictions on physical restraint apply only to situations in which a student is immobilized by

school staff or where the student's mobility is reduced. School personnel may continue to defend themselves and other students as permitted under other preexisting Kentucky law.

The regulation also requires all school personnel to be trained annually to use an array of positive behavioral supports and interventions to decrease inappropriate or dangerous student behaviors, crisis prevention, and de-escalation strategies for responding to inappropriate or dangerous behavior, including verbal de-escalation and relationship building. Proper training can reduce the likelihood that a student will exhibit dangerous behavior that may warrant teachers needing to defend themselves. In the event a student exhibits dangerous behavior, proper training can help school personnel know how to properly respond to the dangerous behavior.

Does [704 KAR 7:160](#) prevent the removal of a disruptive student from a classroom?

Escorting a student from a classroom would not constitute a physical restraint unless the student was immobilized. For example, a student could be escorted through temporary touching or holding of the hand, wrist, arm, shoulder, or back or through physical contact that does not immobilize the student.

Districts are required to establish and enact policies and procedures regarding the use of physical restraint and seclusion. Districts may elect to restrict the use of physical restraint and seclusion to a greater extent than the regulation. Banning the removal of a disruptive student from a classroom is not required by the regulation.

Does the regulation force teachers to stand by while students destroy property?

Physical restraint shall not be used to prevent property damage. However, if the student's behavior poses an imminent danger to self or others, physical restraint may be appropriate. Kentucky laws and the regulation permit school personnel to use physical force to protect themselves and others from the risk of harm. School personnel may also use physical force when immediately necessary to prevent a crime involving property.

Physical restraint does not include temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location; behavioral interventions, such as proximity control or verbal soothing, used as a response to calm and comfort an upset student; less restrictive physical contact or redirection to promote student safety; or physical guidance or prompting when teaching a skill or when redirecting the student's attention.

This regulation is focused on the prevention of inappropriate physical acting out by students. The training required under the regulation provides all school personnel with powerful, evidence-based tools that greatly reduce inappropriate student behavior.

Does the regulation prohibit teachers from breaking up fights between students?

No. Breaking up a fight is not the same as restraining a student. As defined in the regulation, "physically restrained" indicates the student is immobilized.

Breaking up a fight does not necessarily require the physical restraint of a student.

Typically, when teachers or other school personnel break up a fight or pull apart students who are fighting, they are using a less restrictive form of physical contact than “physical restraint.”

Under the regulation, school personnel are able to deal with unexpected emergencies while gaining skills to prevent minor student behaviors from escalating into dangerous ones. Most importantly, the regulation permits any school personnel to restrain (immobilize) a student to prevent physical injury to self or others if there is no one close by who is formally trained in safely restraining or secluding the student. School personnel implementing any physical restraint must be appropriately trained as required by Section 6 (3), except to the extent necessary to prevent physical harm to self or others in clearly unavoidable emergency circumstances where other school personnel intervene and summon trained school personnel as soon as possible.

Staff Training

Who should be trained on the requirements of [704 KAR 7:160](#)?

[704 KAR 7:160](#), *Use of Physical Restraint in Public Schools*, requires all school personnel be trained annually to use an array of positive behavioral supports and interventions to increase appropriate student behaviors, decrease inappropriate or dangerous student behavior and respond to dangerous behavior. The regulation defines school personnel as “teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, school resource officers, sworn law enforcement officers, and other support staff who is employed in a school or who perform services in the school on a contractual basis.”

Anyone performing a function that would typically be performed by school employees is included as “school personnel” and must be provided the required training, **including all personnel working in the school setting on a regular basis.**

For example, if the district determines an employee does not work in the school setting on a regular basis, the district may decide the employee does not need to be provided the required training. On the other hand, there may be district staff whose work station is at the district central office location, but who *is* regularly in the school setting. In this case, the individual should be included in the training.

Who should receive training in the use of physical restraint?

District policy dictates which school personnel will receive training.

How do staff members know when there is an imminent risk to the physical safety of the student or others?

The variation in staff perception of crisis and threat make this question difficult to answer. Staff training focused on an array of positive behavior interventions and supports, de-escalation techniques, proper use of physical restraint, and crisis prevention lead school personnel to an awareness of triggers and warning signs. These types of trainings may provide staff with added confidence to recognize what is considered a crisis involving imminent danger of physical harm.

How will a core team member know whether physical restraint is contraindicated?

Under the regulation, districts are required to establish physical restraint and seclusion policies and procedures. KDE believes that districts, as part of their policies and procedures, will establish effective processes to implement the regulation. Schools currently have health policies in place that alert school personnel when a student has a life-threatening condition. Similar policies will be utilized for students whose health is at risk if the student is physically restrained.

If a staff member has not been trained to properly impose physical restraint, may the staff member intervene to stop a fight?

Yes. School personnel may intervene to stop a fight without “restraining” a student. Only physical contact that immobilizes or reduces a student’s ability to move is defined as physical restraint. An untrained person is also permitted to physically restrain a student during a fight if the fight presents an unanticipated emergency, there is an imminent risk of physical harm, or a core team of trained staff are called as soon as possible.

Won’t this regulation burden our teachers even more?

For the vast majority of teachers, the only requirement is participating in an annual training to obtain the skills to prevent or de-escalate dangerous behavior and to safely protect students and themselves. A small team from each school will receive more intensive training that involves crisis management and information regarding safe responses to dangerous situations.

How are districts expected to afford the cost of training all school staff?

The regulation allows training for all school personnel to be delivered through web-based applications. KDE leads the development of free, web-based annual training. These training modules are available through [the University of Louisville, College of Education and Human Development, Academic and Behavioral Response to Intervention \(ABRI\)](#).

Are the video modules provided by KDE enough to certify our building core team?

The requirement for staff training is different from the training provided to a core team selected from each school. The core team will be trained in the prevention and use of physical restraint. A district may choose to do this by allowing a certified trainer in its district to train all core team members in its schools. The core team members will be required to exhibit proficiency through a written test and a physical demonstration. Each core team member will receive an attendance document that specifies the training received and the skills successfully demonstrated.

Why are school resource officers and sworn officers of the law exempt from the training requirements offered to the core team?

School Resource Officers (SRO) or other sworn law officers are trained in physical restraint as part of their job responsibilities. The regulation identifies SROs under the definition of “school personnel.” They will participate in the annual training that is required for all school personnel.

What kind of documentation should the school keep regarding staff training?

The expectation is that each district will manage and maintain documentation showing that all school personnel have completed the training. District policy and procedures should outline the terms for maintaining documentation.

Who approves the training programs for physical restraint used by schools?

Each district is responsible for ensuring that its core team training meets the requirements of the regulation. KDE program consultants are available to advise districts on their compliance with regulation.

Debriefing Session

Is it true that the regulation forces the school to take on a lot of extra work after an incident?

As with any behavior event, the regulation requires that a written record be made in the event of physical restraint or seclusion. The written record is similar to a typical incident report that describes “who, what, when, where, how and why.” The record must be maintained in the Infinite Campus student information system and the principal must be notified as soon as possible but no later than the end of the school day. An electronic or verbal notification of the physical restraint or seclusion must also be given to the student’s parent as soon as possible within 24 hours of the incident. If the parent cannot be reached within 24 hours, a written communication must be mailed to the parent/guardian.

The regulation requires the district to notify the parent/guardian or emancipated student that a debriefing may be requested. The debriefing and the written report serve the same purpose: to provide the parent/guardian, the student, and the district with a greater understanding of the events leading up to, during, and after the physical restraint or seclusion. The debriefing requires a more in-depth analysis of the purpose of the behavior, leading to informed plans that will anticipate and decrease the likelihood of the behavior from recurring.

Is a debriefing meeting required following the use of physical restraint or seclusion?

No. However, there is a requirement to offer a debriefing session to the parent/guardian within 24 hours of the physical restraint or seclusion. District policies must outline procedures to be followed during and after each use of physical restraint or seclusion, including notice to parent/guardian, documentation of the event in the student information system, **and a process for the parent/guardian or emancipated youth to request a debriefing session.**

Who must be included in the debriefing session? How soon do they meet?

The debriefing session shall occur as soon as practicable, but not later than five school days following the request of the parent or the emancipated youth, unless delayed by written mutual agreement of the parent or emancipated youth and the school.

If the parent or emancipated youth requests a debriefing session under Section 2(1)(d) of the administrative regulation, a debriefing session shall be held after the imposition of physical restraint or seclusion of a student.

If the parent or emancipated youth request a debriefing session, the following persons shall participate:

- a) the implementer of the physical restraint or seclusion;
- b) at least two of any other school personnel who were in the proximity of the student immediately before or during the physical restraint or seclusion;
- c) the parent/guardian;
- d) the student, if the parent requests or if the student is an emancipated youth; and
- e) appropriate supervisory and administrative school personnel, which may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members.

Are written notes required to be taken during this meeting? Who receives a copy of those written notes?

Yes. Written notes should include:

- a) Identification of the events leading up to the seclusion or physical restraint;
- b) Consideration of relevant information in the student's records and information from teachers, parent/guardian, other school district professionals, and the student;
- c) Planning for the prevention and reduction of the need for seclusion or physical restraint, with consideration of recommended appropriate positive behavioral supports and interventions to assist school personnel responsible for implementing the student's IEP, or Section 504 plan, or response to intervention plan, if applicable, and consideration of whether positive behavioral supports and interventions were implemented with fidelity.

All documentation utilized in the debriefing session shall become part of the student's education record. The parent/guardian should be given a copy of the notes from the meeting.

Reporting Data

What is the time limit to produce written documentation of an incident of physical restraint or seclusion?

The physical restraint or seclusion record as outlined in Section 5(1) of the regulation shall be completed by the end of the next school day following the use of seclusion or physical restraint.

Is there a required form for the written incident report?

KDE does not provide a standard incident report form. Kentucky School Boards Association (KSBA) member districts have access to incident report templates created by KSBA.

Do schools have to report their data on seclusion and physical restraint to KDE?

Yes. This data is collected in the state’s Student Information System (Infinite Campus) Behavior Management Tool as a Behavior Response.

Is data collected by KDE on physical restraint and seclusion reported publicly?

The aggregate data collected through Infinite Campus is compiled in the Safe Schools Report and is posted to the district report and school card each fall. This data is district level and does not contain any student level data.

Does physical restraint or seclusion by a police officer need to be documented and reported?

Yes. If the SRO or Sworn Law Enforcement is called to intervene in a crisis situation that results in a physical restraint or seclusion, the district staff must report the incident in Infinite Campus.

If a student is restrained, released, and then immediately becomes unsafe again necessitating physical restraint, would this be counted as two resolutions/responses or one?

The physical restraints administered by the core team follow a continuum from least restrictive to most restrictive physical restraint. If multiple physical restraint techniques occur during one incident (e.g., core team members switch roles due to fatigue), this is recorded as one incident and reported using the most restrictive physical restraint technique.

If the child is released due to a reduction in stress level, compliant behavior, and regaining of rationality but escalates soon thereafter it would be considered a new incident and would require separate behavior response reporting.

General Questions

Will staff members get in trouble if they use physical restraint or seclusion?

Employment discipline is a local decision. Not following a regulation may be cause for discipline by the local school district so it’s imperative that conduct conforms to the physical restraint and seclusion regulation and local policies and procedures. The regulation was intended to both limit the use of physical restraint and seclusion unless absolutely necessary, but also to educate school personnel about the dangers of immobilizing a student through physical restraint or placing a student in a seclusion room. These actions should never be taken lightly and must be the last, rather than the first, steps taken.

The regulation does not take away the teacher’s right to self-defense or to defend other students.

A staff member who uses physical restraint or seclusion should ensure their conduct follows the process set out in the regulation, and their district’s policies and procedures, including:

- a) attending annual training;
- b) following the training if a student misbehaves;
- c) not using physical restraint (immobilization) or seclusion unless an unexpected emergency happens that may cause physical injury;

d) using only the amount of force required under the circumstances.

Students who are deaf or hard of hearing often communicate through sign language, and some may have significant behavioral issues. The regulation says that children being restrained must be able to communicate, but staff may be afraid to let go of a student who communicates through sign language due to violent behavior. Do staff members have any options?

The regulation allows the student to have his hands free for brief periods during the physical restraint to allow for communication, unless the implementer of the physical restraint determines that freedom of the student's hands appears likely to result in physical harm to self or others.

What if a disruptive student refuses to leave the classroom?

Not all difficult classroom situations will be avoided by developing positive interactions with students. Research shows that many negative student-adult interactions can be prevented through relationship building, appropriate classroom management techniques, and a developed classroom management plan. This plan should include clearly articulated expectations, rules, procedures and a continuum of opportunities for students to receive feedback. Staff who create positive classroom environments guide students to replace inappropriate or challenging behavior.

Teachers will be provided with de-escalation strategies to keep students from becoming seriously disruptive. Teachers will learn to recognize the early warning signs of a possible escalation in challenging student behavior and steps to take to deescalate the situation. If preventive strategies do not work, a disruptive student may be escorted from the classroom to the office without the escort being considered a physical restraint.

Will staff members be sued if they use physical restraint, seclusion, break up a fight or do not break up a fight?

The system of law in the United States does not prevent the initial filing of a lawsuit.

However, courts can dismiss defendants who are wrongly sued, and the legal system can vindicate defendants who are not legally responsible for injuries. Kentucky's lawmakers have implemented statutes that help to shield school personnel from liability. While no one wants to be sued, the real question is whether a person can be found liable for monetary damages due to use of physical restraint or seclusion, breaking up a fight, or not breaking up a fight. It is important that teachers act within their roles. The regulation requires that physical restraint or seclusion be reserved for critical situations in which a student's behavior poses an imminent danger of physical harm to self or others; less restrictive behavioral interventions have been ineffective in stopping the dangerous behavior, and school personnel implementing the physical restraint are appropriately trained.

What positive steps can schools take to address inappropriate behavior without using physical restraint or seclusion?

There are many avenues a school and district can take to reduce incidents of physical restraint or seclusion. When implemented with fidelity, schoolwide Positive Behavioral Interventions and Supports (PBIS) have proven to reduce the use of physical restraint and seclusions in schools.

The KDE partners with agencies that provide PBIS training and coaching to local districts free of charge. For specific questions or requests for assistance, districts should contact one of the following groups:

- [Academic and Behavioral Response to Intervention \(ABRI\)](#) at University of Louisville, or
- Regional Educational Cooperatives that employ behavior consultants and/or PBIS staff:
 - [Greater Louisville Education Cooperative](#),
 - [Western Kentucky Educational Cooperative](#),
 - [Green River Regional Educational Cooperative](#),
 - [Central Kentucky Educational Cooperative](#),
 - [Ohio Valley Educational Cooperative](#),
 - [Northern Kentucky Cooperative for Educational Services](#),
 - [Southeast/South-Central Educational Cooperative](#),
 - [Kentucky Valley Educational Cooperative](#) and
 - [Kentucky Educational Development Corporation](#).

Is it advisable to have a disclaimer or general statement in the IEPs of all students with behavioral needs that seclusion or physical restraint could potentially be used?

No.

Are school districts required to have policies and procedures regarding Physical Restraint and Seclusion?

Yes. [704 KAR 7:160](#) states that districts were given 90 days after the adoption of the regulation to draft policies and procedures regarding physical restraint and seclusion. Districts that are members of the Kentucky School Boards Association are provided model policies while procedural processes are left up to the district.

Are there agencies that can investigate a school's or district's physical restraint and seclusion practices? Can I submit a written complaint?

KDE regularly monitors data in the student information system to identify where there may be areas of concern with regard to behavior events and restraint and seclusion. If there are areas of concern (e.g. restraint and seclusion data doesn't align with reports of behavior events) KDE will contact the school or district to discuss the concern. Written complaints can also be submitted to [Windy Newton](#) or [Rachel Njenga](#) for further investigation. Questions or concerns regarding a student with an IEP can be submitted to [Carol Ann Morrison](#).

The Individuals with Disabilities Education Act (IDEA) and its implementing regulations require states to have a system to resolve disputes between parents of students with disabilities and local school districts. If a disagreement arises, the Kentucky Department of Education suggests that

parents first contact the local director of special education (DoSE) to make them aware of the problem.

Three conflict resolution options are available under the IDEA.

Parties may resolve IDEA disputes through:

- Mediation;
- Formal Written Complaint; or
- Due Process Hearing.

Information regarding dispute resolution under the IDEA may be found at the [Dispute Resolution Process](#) page of the KDE website. Additional resources are available to parents/guardians:

- Children's Law Center - Covington
1002 Russell Street, Covington, KY 41011
Phone: 859.431.3313
Toll-Free: 866.386.8313
Fax: 859.655.7553
[Email the Children's Law Center](#)
- Kentucky Special Parent Involvement Network (KY-SPIN, Inc.)
10301-B Deering Rd.
Louisville, KY 40272
1-800-525-7746
(502)937-6894
Fax: (502) 937-6464
[Email KY-SPIN](#)
[KY-SPIN Website](#)
- Kentucky Protection and Advocacy
200 Fair Oaks Lane, Fifth Floor
Frankfort, KY 40601
(502) 564-2967
(800) 372-2988
[KYPA Website](#)
- Appalachian Research & Defense Fund: Telephone 866-277-5733
- Legal Aid of the Bluegrass: Telephone 800-888-8189
- Legal Aid Society: Telephone 800-292-1862

The [Office of Educational Accountability](#) (OEA) is charged with investigating complaints against public schools to ensure they are operated without waste, duplication, mismanagement, and political influence.

Many complainants who contact the OEA wish to remain anonymous. A complainant's identity remains confidential regardless of whether contact information is provided unless the complainant authorizes release.

Unless the complaint pertains to a life-threatening situation or is time-sensitive, OEA requires that complainants submit their concerns in writing or [file a complaint online](#). Complainant identity is protected unless release is authorized by the complainant.

If you have a concern or comment pertaining to a local school district, please contact OEA at (502) 564-8167 or toll free (within Kentucky) at (800) 242-0520. Complaints may also be faxed directly to the OEA at (502) 564-8322.

Is a separate incident log required for each student involved in a physical restraint and/or seclusion incident?

Yes. Each incident is considered separate to allow staff to evaluate pre-response interventions, post-response interventions, and antecedent data to help provide an individualized program of services for each child.

How many physical restraint and seclusion events have to occur for a student before their behavior plan is reviewed, amended and modified?

One. Per the regulation, discussion of the current behavior plan or future evaluation should begin as the event is being recorded into the written record before the end of the next school day.

What actions should a district take when a student, who has not been identified as eligible for special education or a 504 plan, has been subjected to frequent seclusion and/or physical restraints?

After every incident of physical restraint or seclusion, for any student not identified as eligible for services, documentation of a referral or documentation of the basis for declining to refer the student is to be recorded in the student's educational record. Accepting or declining a referral must be done through the ARC process.