

1 **Education and Workforce Development Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Amended After Comments)**

5 **704 KAR 7:160. Use of Physical Restraint and Seclusion in Public Schools.**

6 RELATES TO: KRS 156.160 (1) (g), 158.444 (1)

7 STATUTORY AUTHORITY: KRS 156.160 (1) (g), 156.070, 158.444 (1)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 (1) (g) and 158.444 (1) give

9 the Kentucky Board of Education the authority to promulgate administrative regulations related

10 to medical inspection, physical and health education and recreation, and other regulations

11 necessary or advisable for the physical welfare and safety of the public school children.

12 The first responsibility of Kentucky schools is to promote learning in a safe and healthy

13 environment for all children, teachers, and staff. The improper use of physical restraint and

14 seclusion by districts directly affects the psychological and physical welfare of students and may

15 result in psychological harm, physical harm, or death of students. Because there is no evidence

16 that physical restraint or [and] seclusion is effective in reducing the occurrence of inappropriate

17 behaviors, physical restraint or seclusion should never be used except in situations where a

18 child's behavior poses imminent danger of serious physical harm to self or others. Physical

19 restraint and seclusion should be avoided to the greatest extent possible without endangering the

20 safety of students and school personnel [staff]. This administrative regulation establishes the

1 requirements for the use of **physical** restraint and seclusion in districts and the notification and
2 data reporting requirements for the use of **physical** restraint and seclusion in districts.

3 Section 1. Definitions. (1) “Aversive behavioral interventions” means a physical or sensory
4 intervention program intended to modify behavior that the implementer knows would cause
5 physical trauma, emotional trauma, or both, to a student even when the substance or stimulus
6 appears to be pleasant or neutral to others and may include hitting, pinching, slapping, water
7 spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or
8 denial of reasonable access to toileting facilities.

9 (2) “**Behavioral** [Behavior] intervention” means the implementation of strategies to address
10 behavior that is dangerous, inappropriate, or otherwise impedes the learning of the students [or
11 others].

12 (3) [~~“Behavioral Intervention Plan” means a comprehensive plan for managing inappropriate or~~
13 ~~dangerous behavior by changing or removing contextual factors, antecedents, and consequences~~
14 ~~that trigger, maintain, or escalate inappropriate or dangerous behavior, and for teaching~~
15 ~~alternative appropriate behaviors to replace the inappropriate or dangerous behaviors.~~

16 (4)] “Chemical restraint” means the use of medication to control behavior or restrict a student’s
17 freedom of movement that includes over-the-counter medications used for purposes not specified
18 on the label but does not include medication prescribed by a licensed medical professional and
19 supervised by qualified and trained individuals in accordance with professional standards.

20 (4) [(5)] “Dangerous behavior” means behavior that presents an imminent danger of serious
21 physical harm to self or others but does not include inappropriate behaviors such as disrespect,
22 noncompliance, insubordination, or out of seat behaviors.

(5) [(6)] “De-escalation” means the use of behavior management techniques intended to mitigate and defuse dangerous behavior of a student, that reduces the imminent danger of serious physical harm to self or others.

(6) “Emancipated youth” means a student under the age of eighteen (18) who is or has been married or has by court order or otherwise been freed from the care, custody, and control of the student’s parents.

(7) “Emergency” means a sudden, urgent occurrence, usually unexpected but sometimes anticipated, that requires immediate action.

~~(8) [“Functional Behavioral Assessment” means a process to analyze environmental factors such as any history of trauma, the combination of antecedent factors (factors that immediately precede behavior) and consequences (factors that immediately follow behavior) that are associated with the occurrence of inappropriate or dangerous behavior and includes the collection of information through direct observations, interviews, and record reviews to identify the function of the dangerous behavior and guide the development of behavioral intervention plans.~~

(9) “Mechanical restraint” means the use of any device or equipment to restrict a student’s freedom of movement, but does not **mean** ~~[include]~~ devices implemented by trained school personnel; or utilized by a student that have been prescribed by an appropriate medical or related services professional that are used for the specific and approved purposes for which such devices were designed; **does not mean** ~~[and that may include]~~ adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; **does not mean** vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; **does not mean** restraint for medical immobilization; **and does not mean** or

1 orthopedically prescribed devices that permit a student to participate in activities without [with]
2 risk of harm.

3 **(9)** [(10)] “Parent” means a natural parent, a guardian, or an individual acting as a parent in the
4 absence of a parent or a guardian of a student.

5 **(10)** [(11)] “Physical Restraint” means a personal restriction that immobilizes or reduces the
6 ability of a student to move the student’s [his or her] torso, arms, legs, or head freely, but does
7 not mean [include] temporary touching or holding of the hand, wrist, arm, shoulder, or back for
8 the purpose of encouraging a student to move voluntarily to a safe location; does not mean
9 behavioral interventions, such as proximity control or verbal soothing, used as a response
10 to calm and comfort an upset student; does not mean less restrictive physical contact or
11 redirection to promote student safety; and does not mean physical guidance or prompting
12 when teaching a skill or when redirecting the student’s attention.

13 **(11)** [(12)] “Positive behavioral supports” means a school-wide systematic approach to embed
14 evidence-based practices and data-driven decision-making to improve school climate and culture
15 in order to achieve improved academic and social outcomes, to increase learning for all students,
16 including those with the most complex and intensive behavior needs; and to encompass a range
17 of systemic and individualized positive strategies to reinforce desired behaviors, to diminish
18 reoccurrence of inappropriate or dangerous behaviors, and to teach appropriate behaviors to
19 students.

20 **(12)** [(13)] “Prone restraint” means the student is restrained in a face down position on the floor
21 or other surface, and physical pressure is applied to the student’s body to keep the student
22 in the prone position.

1 ~~(13)~~ [(14)] "School personnel" means teachers, principals, administrators, counselors, social
 2 workers, psychologists, paraprofessionals, nurses, librarians, **school resource officers, other**
 3 **local law enforcement officers**, and other support staff who are employed in a school or who
 4 perform services in the school on a contractual basis [~~but does not include school resource~~
 5 ~~officers defined in KRS 158.441 (2)~~].

6 **(14) "School resource officer" is defined in KRS 158.441 (2).**

7 (15) "Seclusion" means the involuntary confinement of a student alone in a room or area from
 8 which the student is prevented from leaving but does not **mean** [~~include~~] classroom timeouts,
 9 supervised in-school detentions, or out-of-school suspensions.

10 (16) "Student" means any person enrolled in a preschool, school level as defined in 704 KAR
 11 5:240 Section 5, or other educational program offered by a local public school district.

12 (17) "Supine restraint" means **the** a student is restrained in a face up position on **the student's**
 13 [~~his or her~~] back **on the floor or other surface, and physical pressure is applied to the**
 14 **student's body to keep the student in the supine position.**

15 (18) "Timeout" means a behavior management technique that is part of an approved program,
 16 involves the monitored separation of the student in a non-locked setting, and is implemented for
 17 the purpose of calming.

18 Section 2: (1) Local **school** districts shall establish [~~local~~] policies and procedures that:

19 (a) Ensure school personnel are aware of and parents are notified how to access **the** [~~its~~] policies
 20 and procedures regarding **physical** restraint and seclusion;

21 (b) Are designed to ensure the safety of all students [~~, including students with the most complex~~
 22 ~~and intensive behavioral needs~~], school personnel, and visitors;

- 1 (c) Require school personnel to be trained in accordance with the requirements outlined in
 2 Section 6 [7] of this administrative regulation;
- 3 (d) Outline procedures to be followed during and after each use [~~incident involving the~~
 4 ~~imposition~~] of physical restraint or seclusion [~~upon a student~~], including notice to parents,
 5 documentation of the event in the student information system, and a process for the parent or
 6 emancipated youth to request a debriefing session;
- 7 (e) Require notification, within twenty-four (24) hours, to [~~of~~] the Kentucky Department of
 8 Education and local law enforcement in the event of death, substantial risk of death, extreme
 9 physical pain, protracted and obvious disfigurement or protracted loss or impairment of the
 10 function of a bodily member, organ, or mental faculty resulting from the use of physical restraint
 11 or seclusion;
- 12 (f) Outline a procedure by which parents may submit a complaint regarding the physical restraint
 13 or seclusion of their child, which requires the district and school to investigate the circumstances
 14 surrounding the physical restraint or seclusion, make written findings, and where appropriate,
 15 take corrective action; and
- 16 (g) Outline a procedure to regularly review data on physical restraint and seclusion usage and
 17 revise policies as needed.
- 18 (2) Local districts shall revise existing policies or develop policies consistent with this
 19 administrative regulation within ninety (90) calendar days of the effective date of this
 20 administrative regulation.
- 21 Section 3. (1) Physical restraint shall not be used in public schools or educational programs:
- 22 (a) As punishment or discipline;
- 23 (b) [~~As a means of coercion~~] To force compliance or to retaliate [~~retaliation~~];

- 1 (c) As a substitute for appropriate educational or behavioral support;
- 2 (d) To prevent property damage in the absence of imminent danger of serious physical harm to
- 3 self or others;
- 4 (e) As a routine school safety measure; or
- 5 (f) As a convenience for staff.
- 6 (2) School personnel are prohibited from imposing the following on any student at any time:
- 7 (a) Mechanical restraint;
- 8 (b) Chemical restraint;
- 9 (c) Aversive behavioral interventions [~~that compromise health and safety~~];
- 10 (d) Physical restraint that is life-threatening;
- 11 (e) Prone or supine restraint; and
- 12 (f) Physical restraint that is prohibited by a licensed medical professional.
- 13 (3) Physical restraint may only be implemented if:
- 14 (a) The student's behavior poses an imminent danger of serious physical harm to self or others;
- 15 (b) The physical restraint does not interfere with the student's ability to communicate in the
- 16 student's primary language or mode of communication, **unless the student uses sign language**
- 17 **or an augmentative mode of communication as the student's primary mode of**
- 18 **communication and the implementer determines that freedom of the student's hands for**
- 19 **brief periods during the restraint appears likely to result in serious physical harm to self or**
- 20 **others;**
- 21 (c) **The student's physical and psychological well-being shall be monitored for the duration**
- 22 **of the physical restraint** [~~The student's face is monitored for the duration of the physical~~
- 23 ~~restraint~~];

1 (d) Less restrictive **behavioral** interventions have been ineffective in stopping the imminent
 2 danger of serious physical harm to self or others, except in the case of a clearly unavoidable
 3 emergency situation posing imminent danger of serious physical harm to self or others; and

4 (e) **School personnel implementing the physical restraint** [Assigned staff] are appropriately
 5 trained [to use physical restraint], **except to the extent necessary to prevent serious physical**
 6 **harm to self or others in clearly unavoidable emergency circumstances where other school**
 7 **personnel intervene and summon trained school personnel or school resource officers or**
 8 **other sworn law enforcement officers as soon as possible.**

9 (4) When implementing a physical restraint, **school personnel** [staff] shall use only the amount
 10 of force reasonably believed to be necessary to protect the student or others from imminent
 11 danger of serious physical harm.

12 (5) The use of physical restraint shall end as soon as:

13 (a) The student's behavior no longer poses an imminent danger of serious physical harm to self
 14 or others; or

15 (b) A medical condition occurs putting the student at risk of harm.

16 (6) School personnel, **except school resource officers and other sworn law enforcement**
 17 **officers,** imposing physical restraint in accordance with this regulation shall:

18 (a) Be trained by an individual or individuals who have been certified by a crisis intervention
 19 training program that meets the established criteria in Section 6 of this administrative regulation
 20 [~~except in the case of clearly unavoidable emergency circumstances when trained school~~
 21 ~~personnel are not immediately available due to the unforeseeable nature of the emergency~~
 22 ~~circumstance~~]; and

(b) Be trained in state regulations and school district policies and procedures regarding **physical** restraint and seclusion.

~~[(7) A functional behavioral assessment shall be conducted following the first incident of restraint, unless one has been previously conducted for the behavior at issue.]~~

Section 4. (1) Seclusion shall not be used **in public schools or educational programs:**

(a) As punishment **or discipline;**

(b) ~~[As a means of coercion]~~ To force compliance or **to retaliate** ~~[retaliation];~~

(c) As a substitute for appropriate educational or behavioral support;

(d) To prevent property damage in the absence of imminent danger of serious physical harm to self or others;

(e) As a routine school safety measure;

(f) As a convenience for staff; or

(g) As a substitute for timeout.

(2) Seclusion may only be implemented when:

(a) The student's behavior poses an imminent danger of serious physical harm to self or others;

(b) The student is visually monitored for the duration of the seclusion;

(c) Less restrictive interventions have been ineffective in stopping the imminent danger of serious physical harm to self or others; and

(d) **School personnel implementing the seclusion** ~~[Assigned staff]~~ are appropriately trained to use seclusion.

(3) The use of seclusion shall end as soon as:

(a) The student's behavior no longer poses an imminent danger of serious physical harm to self or others; or

1 (b) A medical condition occurs putting the student at risk of harm.

2 (4) A setting used for seclusion shall:

3 (a) Be free of objects and fixtures with which a student could inflict physical harm to self or
4 others;

5 (b) Provide school personnel a view of the student at all times;

6 (c) Provide adequate lighting and ventilation;

7 (d) Be reviewed by district administration to ensure programmatic implementation of guidelines
8 and data related to its use;

9 (e) Have an unlocked and unobstructed door; and

10 (f) Have at least an annual fire and safety inspection.

11 Section 5. (1) All **physical restraints and seclusions** ~~[incidents of the use of restraint and~~
12 ~~seclusion]~~ shall be documented by a written record of each **use** ~~[episode]~~ of seclusion or physical
13 restraint and be maintained in the student's education record. Each ~~[incident]~~ record **of a use of**
14 **physical restraint or seclusion** shall be informed by an interview with the student and shall
15 include:

16 (a) The student's name;

17 (b) A description of the **use of physical restraint or seclusion** ~~[incident]~~ and the student
18 behavior that resulted in the **physical** restraint or seclusion;

19 (c) The date of the incident and **school personnel** ~~[staff members]~~ involved;

20 (d) The beginning and ending times of the **physical restraint or seclusion** ~~[incident]~~;

21 (e) A description of any events leading up to the use of **physical** restraint or seclusion including
22 possible factors contributing to the dangerous behavior;

23 (f) A description of the student's behavior **during physical** ~~[in]~~ restraint or seclusion;

- 1 (g) A description of techniques used in physically restraining or secluding the student and any
- 2 other interactions between the student and school personnel [staff] during the use of physical
- 3 restraint or seclusion;
- 4 (h) A description of any behavioral interventions used immediately prior to the implementation
- 5 of physical restraint or seclusion;
- 6 (i) A description of any injuries [~~whether~~] to students, school personnel [staff], or others;
- 7 (j) A description as to how the student's [~~An explanation as to why this~~] behavior posed an
- 8 imminent danger of serious physical harm to self or others;
- 9 (k) The date the parent was notified;
- 10 (l) A description of the effectiveness of physical restraint or seclusion in de-escalating the
- 11 situation; [~~and~~]
- 12 (m) A description of school personnel [staff] response to the dangerous behavior;
- 13 (n) A description of the planned positive behavioral interventions which shall be used to
- 14 reduce the future need for physical restraint or seclusion of the student; and
- 15 (o) For any student not identified as eligible for services under either Section 504 of the
- 16 Rehabilitation Act or the Individuals with Disabilities Education Act, documentation of a
- 17 referral under either law or documentation of the basis for declining to refer the student.
- 18 (2) The parent of the student shall be notified of the physical restraint and seclusion verbally or
- 19 through electronic communication, if available to the parent, as soon as possible within twenty-
- 20 four (24) hours of the incident. If the parent cannot be reached within twenty-four (24) hours, a
- 21 written communication shall be sent.
- 22 (3) The principal of the school shall be notified of the seclusion or physical restraint as soon as
- 23 possible, but no later than the end of the school day on which it occurred.

(4) The **physical restraint or seclusion** ~~[incident]~~ record as outlined in Section 5 (1) of this administrative regulation shall be completed within twenty-four (24) hours following the **use** ~~[incident]~~ of seclusion or physical restraint.

(5) If the parent or emancipated youth requests a debriefing session under Section 2 of this regulation, a debriefing session shall be held after the imposition of **physical** restraint **or** ~~[and]~~ seclusion upon a student.

(6) **The following persons** ~~[All school personnel who were in the proximity of the student immediately before and during the time of the incident, the parent, the student, if the parent requests or if the student is an emancipated youth, appropriate supervisory and administrative staff, that may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members]~~ shall participate in the debriefing session:

(a) The implementer of the physical restraint or seclusion;

(b) At least two (2) 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;

(d) the student, if the parent requests or if the student is an emancipated youth; and

(e) appropriate supervisory and administrative staff, that may include appropriate Admissions and Release Committee members, Section 504 team members, or response to intervention team members.

(7) The debriefing session shall occur as soon as practicable, but not later than five (5) 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.

1 (8) The debriefing session shall include:

2 (a) Identification of the events leading up to the seclusion or physical restraint;

3 (b) Consideration of relevant information in the student's records and information from teachers,
4 parents, other school district professionals, and the student;

5 (c) Planning for the prevention and reduction of the need for seclusion or physical restraint, with
6 consideration of **recommended appropriate positive behavioral supports and interventions**
7 **to assist school personnel responsible for implementing the student's IEP, or Section 504**

8 **plan, or response to intervention plan, if applicable, and** [the results of functional behavioral
9 assessments,] **consideration of** whether **positive behavioral supports and interventions**

10 [positive behavior plans] were implemented with fidelity [~~recommended appropriate positive~~
11 ~~behavioral interventions, and supports to assist personnel responsible for implementing the~~
12 ~~student's IEP, or Section 504 plan, or response to intervention plan, if applicable~~]; and

13 (d) For any student not identified as eligible for services under either Section 504 of the
14 Rehabilitation Act or the Individuals with Disabilities Education Act, **consideration** [evidence]
15 of a referral under either law **and** [~~or~~] documentation of the **referral or documentation of the**
16 basis for declining to refer the student.

17 (9) All documentation utilized in the debriefing session shall become part of the student's
18 education record.

19 Section 6. (1) **All school** [School] personnel shall be trained to use an array of positive
20 **behavioral supports and** [behavior] interventions[~~, strategies, and supports~~] to increase
21 appropriate student behaviors, **to** [**and**] decrease inappropriate or dangerous student behaviors
22 **and to respond**

- 1 ~~[(2) All school personnel in local districts shall have annual basic training in responding]~~ to
 2 **dangerous behavior** ~~[students in a behavioral crisis and shall receive communication from the~~
 3 ~~district identifying core team staff in the school setting that have been trained to engage in~~
 4 ~~physical restraint or seclusion procedures].~~ **This** ~~[The]~~ training may be delivered utilizing web-
 5 based applications. **This** ~~[The]~~ training shall include:
- 6 (a) Appropriate procedures for preventing the need for physical restraint and **seclusion** ~~[crisis~~
 7 ~~intervention]~~, including positive **behavioral** ~~[behavior]~~ **supports and interventions**
 8 ~~[management strategies];~~
 - 9 (b) Proper use of positive reinforcement;
 - 10 (c) The continuum of use for alternative behavioral interventions;
 - 11 (d) Crisis prevention;
 - 12 (e) De-escalation strategies **for responding to inappropriate or dangerous** ~~[of problematic]~~
 13 ~~behavior, including verbal de-escalation, and relationship building; and~~
 - 14 **(f) Proper use of seclusion as outlined in Section 4 of this administrative regulation,**
 15 **including instruction on monitoring physical signs of distress and how to obtain medical**
 16 **assistance when necessary.**
- 17 **(2) [(#)] All school personnel shall receive annual written or electronic communication**
 18 **from the district identifying core team members** ~~[Identification of]~~ in the school setting **who**
 19 ~~[staff that]~~ have been trained to **implement** ~~[engage in]~~ physical restraint ~~[or seclusion~~
 20 ~~procedures].~~
- 21 (3) A core team of selected school personnel shall be designated to respond to **dangerous**
 22 **behavior and to implement** ~~[emergency situations, including the]~~ physical restraint ~~[or~~

seclusion] of students. The core team, except school resource officers and other sworn law enforcement officers, shall receive additional yearly training in the following areas:

(a) Appropriate procedures for preventing the use of ~~[need for]~~ physical restraint except as permitted by this administrative regulation ~~[or crisis intervention, that shall include the de-escalation of problematic behavior, relationship building, and the use of alternatives to restraints];~~

(b) A description and identification of dangerous behaviors ~~[on the part of students]~~ that may indicate the need for physical restraint ~~[or crisis intervention]~~ and methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint ~~[or crisis intervention]~~ is safe and warranted;

(c) Simulated experience of administering and receiving physical restraint ~~[and crisis intervention]~~, and instruction regarding the effect(s) on the person physically restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;

(d) Instruction regarding documentation and notification ~~[reporting]~~ requirements and investigation of injuries; and

(e) Demonstration by core team members ~~[participants]~~ of proficiency in the prevention and use of ~~[administering]~~ physical restraint ~~[and crisis intervention]~~.

Section 7. The following data shall be reported in the student information system related to incidents of physical restraint and seclusion:

- (1) Aggregate number of uses of physical restraint;
- (2) Aggregate number of students placed in physical restraint;
- (3) Aggregate number of uses of seclusion;
- (4) Aggregate number of students placed in seclusion;

- 1 (5) Aggregate number of substantial risk of death, extreme physical pain, protracted and obvious
2 disfigurement or protracted loss or impairment of the function of a bodily member, organ, or
3 mental faculty to students related to physical restraint and seclusion;
- 4 (6) Aggregate number of instances of substantial risk of death, extreme physical pain, protracted
5 and obvious disfigurement or protracted loss or impairment of the function of a bodily member,
6 organ, or mental faculty to school personnel [staff] related to physical restraint and seclusion;
7 and
- 8 (7) Aggregate number of instances in which a school resource officer or other sworn law
9 enforcement officer is involved in the physical restraint or seclusion of a student.