

**New Regulations
Restraint & Seclusion
Regulations and Procedures:**

General Training

September 15, 2017

Tarrence Brown

603 CMR 46.00 Regulations Overview

New Regulation

The Regulations Ensure That:

Physical restraint is an emergency procedure of last resort and is prohibited except when:

- 1) A student's behavior poses a threat of assault, or imminent, serious, physical harm to self or others and
- 2) The student is not responsive to verbal directives or other lawful and less intrusive behavior interventions, or
- 3) Such interventions are deemed to be inappropriate under the circumstances

REVISED Regulations, effective January 1, 2016

Several changes have been made to the regulations that will go into effect as of January 1, 2016. These include:

- Revised definitions of restraint
- Addition of the definition of “time out”
- New prohibitions on the use of prone restraint
- Revised/additional reporting requirements after restraint has been used

Restraint Defined

The regulations define **physical restraint** as:

“direct physical contact that prevents or significantly restricts a student’s freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting for attention, providing comfort, or a physical escort.”

The definition of physical restraint is also made distinct from a **physical escort** which is defined as:

“a temporary touching or holding, without the use of force, of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is agitated to walk to a safe location.”

What is Permitted Under the New Regulations?

- Brief physical contact to promote student safety (such as guiding a student or re-directing a student)
- Providing physical guidance or prompting when teaching a skill
- Redirecting attention (such as to a shoulder, face or torso)
- Providing comfort
- Physical escort that does not involve force

Preventing Restraint

Roles of Individuals

Students, families, and school staff each play a role in preventing restraint and ensuring the safety of the school community:

Students- students should follow school rules and codes of conduct as outlined in district policies (e.g. student handbooks)

Families- families should be made aware of school rules and codes of conduct, as well as district policies and procedures; regular communication between parents and school is important to facilitate family support

School Staff- staff should inform students and parents of school rules and district policies, and abide by school policies and procedures, including adherence to Massachusetts restraint regulations.

Staff must also promptly inform their Principal of the use of restraint and must provide a written detailed report to the Principal within one school working day.

Safety Concerns

In case of student's safety concerns (either violence, self-injurious behaviors, suicide attempt, etc.) the staff observing the behavior must:

De-escalate the behavior:

Appear calm, centered and self-assured even though you don't feel it. Anxiety can make the student feel anxious and unsafe which can escalate aggression.

Use a modulated, low monotonous tone of voice (our normal tendency is to have a high pitched, tight voice when scared).

If you have time, remove necktie, scarf, hanging jewelry, religious or political symbols before you approach the student (not in front of him/her)

Do not be defensive-even if the comments or insults are directed at you, they are not about you. Do not defend yourself or anyone else from insults, curses or misconceptions about their roles.

De-escalation Techniques, Cont.

- Be aware of any resources available for back up. Know that you can always leave, or seek additional support as needed, should de-escalation not be effective
- Be very respectful even when firmly setting limits or calling for help. The agitated individual is very sensitive to feeling shamed and disrespected. We want him/her to know that it is not necessary to show us that they should be respected. We automatically treat them with dignity and respect.



Staff Demeanor When Managing Behavior

- Never turn your back for any reason
- Always be at the same eye level. Encourage the student to be seated, but if he/she needs to stand, you stand up also.
- Allow extra physical space between you – about four times your usual distance. Anger and agitation fill the extra space between you and the student.
- Do not maintain constant eye contact. Allow the student to break his/her gaze and look away.
- Do not point or shake your finger.

Staff Demeanor When Managing Behavior, Cont.

- Do not touch – even if some touching is generally culturally appropriate and usual in your setting. Cognitive disorders in agitated people allow for easy misinterpretation of physical contact as hostile or threatening.
- Keep hands out of your pockets, up and available to protect yourself. It also demonstrates a non-verbal ally, that you do not have a concealed weapon

The De-escalation Discussion

- Remember that there is no content except trying to calmly bring the level of arousal down to a safer place.
- Do not get loud or try to yell over a screaming person. Wait until he/she takes a breath; then talk. Speak calmly at an average volume.
- Respond selectively; answer only informational questions no matter how rudely asked, e.g. "Why do I have to follow these stupid rules anyway?" This is a real information-seeking question). DO NOT answer abusive questions (e.g. "Why are all you teachers jerks?") This question should get no response whatsoever.

The De-escalation Discussion, Cont.

- Explain limits and rules in an authoritative, firm, but always respectful tone. Give choices where possible in which both alternatives are safe ones (e.g. Would you like to continue this discussion calmly now or would you prefer to stop now and we'll discuss this after class when things can be more relaxed?)
- Empathize with feelings but not with the behavior (e.g. "I understand that you have every right to feel angry, but it is not okay for you to threaten me or other students.")
- Do not solicit how a person is feeling or interpret feelings in an analytic way.
- Do not argue or try to convince.

The De-escalation Discussion, Cont.

- Wherever possible, tap into the student's cognitive mode: DO NOT ask "Tell me how you feel." But instead: "Help me to understand what your are saying to me." People are not attacking you while they are explaining to you what they want you to know.
- Suggest alternative behaviors where appropriate e.g. "Would you like to take a break from this assignment now and work on your project instead?"
- Give the consequences of inappropriate behavior without threats or anger.
- Represent external controls as institutional rather than personal.



What if none of the de-escalation techniques work?

- * Remove other students from the area, if necessary.
- Contact the student's Principal and ask for help.
- The Principal will try to de-escalate the student.
- Some techniques used might be:
 - Remove the student from the area to a more private space
 - Contact the school psychologist

Next Steps After a Restraint Has Occurred

- Principal must report to the Director of Student Services as soon as possible on the same day that the restraint occurred.
- Principal shall follow up with any witnesses to the restraint.
- Principal shall meet with the student to review the incident with the student.
- Principal must review if the restraint was properly administered

Next Steps, Cont.

- The person(s) that did the restrain must complete and submit the attached form (see attachment #1) by the next school day to the Principal. Any witnesses to the restraint must also complete a report. Upon review, the Director of Student Services will determine if the report needs to be shared with the Department of Elementary and Secondary Education (DESE) based on the following:

Next Steps, Cont.

- physical restraint of a Massachusetts student lasting longer than twenty (20) minutes or
- physical restraint of a Massachusetts student that results in injury requiring emergency medical intervention to a student or staff member.
- This report must be sent to the DESE within three (3) school working days of the restraint.

Physical Restraint and Parent Communication

- If a restraint was conducted on a student, the Principal must contact the parents/guardians by phone within 24 hours of the incident.
- The Principal will email or mail a copy of the Physical Restraint Report, including, although not limited, all other de-escalation techniques unsuccessfully tried prior to the restraint by no later than 3 days after the restraint. If needed, the report must be translated to the parents/guardians home language.

Physical Restraint and Parent Communication

- The Principal shall schedule a meeting to meet with the parents/guardians to discuss the physical restraint, other techniques tried unsuccessfully, additional consequences (if any), and/or any injuries that may have occurred.
- In the event that a parent/guardian has any concerns/complaints, the parent/guardian shall contact the Principal (unless Principal was involved in restraint, then Director of Student Services) to discuss these concerns/complaints. The Principal will conduct an investigation based on the parents/guardians concerns and will report back to them of the findings.

Physical Restraint

- The Principal will be responsible for conducting an investigation, if appropriate, weekly monitoring of reported physical restraints, provide DESE any mandated report(s) regarding restraints, review this protocol annually, secure funding and time for yearly trainings, etc.

“Time-Out” vs. Seclusion

Seclusion means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include time-out as defined in 603 CMR 46.02. Seclusion is prohibited under 603 CMR 46.03.

Time-out means the temporary separation from learning or the classroom, but does not necessarily mean going to a special “time-out room”; it could mean moving to a desk outside of the classroom or to the guidance office to calm down.

Time-Out

Time-out is a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student:

- ***temporarily*** separates from the learning activity or the classroom, either by choice or by direction from staff, ***for the purpose of calming***.
- During time-out, a student must be ***continuously observed*** by a staff member.
- ***Staff shall be with the student or immediately available*** to the student at all times.
- The space for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed

Inclusionary vs. Exclusionary Time-Out

The state has further defined “time-out” procedures to assist Districts in understanding how to use time-out using the least restrictive methods:

• **Inclusionary Time-Out**: a behavior support strategy that allows the student to remain fully aware of the learning activities of the classroom. This can include: "planned ignoring," asking students to put their heads down, or placing a student in a different location within the classroom (this does not include walled off "time-out" rooms located within the classroom)

Inclusionary vs. Exclusionary Time-Out

- **Exclusionary Time-Out**: a behavior support strategy that includes the removal of a student from the learning environment. This should only be used when the student is displaying behaviors which present, or potentially present, an unsafe or overly disruptive situation in the classroom. Staff-directed exclusionary time-out should not be used as a method of punishment for noncompliance, or for incidents of misbehavior that are no longer occurring.
- Exclusionary time-out **cannot** include the use of a locked door! Closed doors are permitted as long as staff are able to continuously monitor the student at all times.

Further Restrictions on Time-Out

- If an exclusionary time-out period lasts 30 minutes, the Director of Student Services or Principal must approve the continuation of time-out based on the student's continuing agitation
- The time-out procedure should include seeking Director of Student Services or Principal approval prior to the 30 minute timeframe in order to proceed with the time-out

Further Restrictions on Time-Out

The emphasis on the added definition of “time-out” in the regulations is to clearly identify time-out as a behavior support strategy that is non-punitive and where students are never left alone. A staff person is always in proximity and is able to view the student at all times.

*The amended regulations explicitly prohibit seclusion. It should NEVER be used with students! A student **may not be left alone in a room until they calm down** without a staff member continuously observing her/him.*

De-escalation Techniques and Alternatives to Restraint

Physical restraint should ONLY be used as a LAST RESORT when no other safe alternatives can be used! Alternative interventions to restraint must be considered and attempted.

New Limitations on Behavior Support Plans

No written Behavior Plan or Individualized Education Program (IEP) may include “physical restraint” as a standard response to any behavior.

Physical Restraint is an emergency procedure and a last resort.

Crisis Intervention

If a student's behavior is significantly escalated, sometimes attempting to talk to the student can make them more agitated. Staff may consider using the "wait strategy" and limit their use of verbal language, while still visually monitoring the student at all times, and wait until the student shows signs of calming before they attempt to talk to the student.

If a student cannot be safely maintained in an area, staff may also consider the use of a time-out space as a safer alternative to physical restraint.

Crisis Intervention

If a student's behavior poses a threat of assault, or imminent serious physical harm to self or others and the student is nonresponsive to verbal directives or other lawful and less intrusive behavior interventions, or such interventions are deemed to be inappropriate under the circumstances, physical restraint shall be considered an emergency procedure of last resort, given these exceptions.

This means staff may forcefully move a student if the above criteria are met, prior to the arrival of a staff member with in-depth restraint training. Only the amount of force necessary to protect the student or others from physical injury or harm should be used.

A Few Words About Time-Out

- A student may choose time-out or a staff member may direct a student to the time-out area, for the purpose of calming
- Any student removal from the instructional area due to escalated behaviors is considered to be a “time-out” (e.g. guidance office, learning center room). It is not limited only to spaces labeled as a “time out” area.
- Any student in a time-out space must be continuously observed by a staff member
- Staff shall be with the student or immediately available at all times
- The space must be clean³⁵ and safe

Use of Physical Restraints

Types of Restraints Permitted

Only physical restraints, consistent with 603 CMR 46.00 are permitted to be used in schools.

Mechanical restraints, medication restraints, and seclusion are **prohibited** in public education programs!

Additionally, prone restraints (where student is placed laying face-down on the floor) are also **prohibited**, (except in rare circumstances where there is explicit written consent to do so).

Risks of Restraint

All restraints pose a significant amount of **risk** for both the student and staff members implementing the restraint.

Risks to the student may include: cuts/scrapes, bruises, broken bones, hyperthermia (overheating), psychological trauma, breathing problems/asphyxia, and death

Restraints should always be conducted in a team approach! This will ensure that the restraint is being implemented properly and safely and avoid the potential for future litigation.

Considerations to Administering Physical Restraints

What Types of Restraint Are Allowed in an Emergency?

- Only use the amount of force necessary to protect the student or others from physical injury or harm
- Use the safest method available and appropriate to the situation
- Prone restraints are prohibited unless an in-depth trained staff member judges that such a method is required to provide safety for the student or others present AND prior consent is obtained for the prone restraint.

What Should You Do If Faced with an Emergency?

1. Use only the amount of force necessary to move or contain the student and prevent injury or harm to the student or others
2. Move the student to a close-by safe, protected area. This area should be free of breakable materials or materials that could be thrown
3. Have someone call for a trained staff member
4. If possible, have a partner help you escort the student and then remain with you and the student until the trained staff member(s) arrive

Considerations

Considerations for restraint should be made on an individualized basis for each student. Students may have medical/psychological limitations or known or suspected trauma histories that should be considered prior to implementing restraint:

Medical/psychological limitations: considerations may include specific types of restraints that students may not be able to participate in (e.g. chair holds, one-person holds where students arm crosses their body, etc.) or if medical/psychological limitations exclude them from being able to be restrained entirely.

Trauma History: students who have known or suspected trauma histories may only be able to participate in restraints under certain circumstances (e.g. if a student had a history of abuse from a male individual, the protocol for restraint may include that only female staff can restrain the student in emergency situations as a last resort).

In-Depth Physical Restraint Training

Who May Do Physical Restraints?

- Only staff members who have received in-depth training are authorized to serve as a school-wide resource to assist in proper administration of physical restraint
- ***However, this does not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious physical harm***

In-Depth Training

Codman Academy Charter Public School uses the CPI training program.

Again, individuals certified in CPI that are able to implement restraints in the District include:

- Tarrence Brown
- Shawn Harrison
- Lauren Robinson
- Brendan OConnell

Summary

1. Regulations regarding physical restraint have changed in MA, and provide more explicit directives for staff in order to prevent unnecessary restraints of students
2. Prevention of escalation of behavior should always be a staff person's first intervention
3. Restraint may only be used in emergency situations to protect a student or staff member from assault, or imminent, serious, physical harm

4. Time-out, for the purpose of calming, may be used, as long as a staff person is continuously observing the student and is immediately available to the student. Time-out should cease as soon as the student has calmed.
5. Seclusion, (when a student is involuntarily confined and is physically prevented from leaving), is prohibited.
6. There is a team of staff in your school who have received in-depth training. Know how to contact that team if necessary.

7. Nothing in the Regulations precludes any teacher, employee or agent of your school or district from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm