

Regulations Governing the Use of Seclusion and Restraint in Virginia's Public Elementary and Secondary Schools

Background

In 2015, the Virginia General Assembly enacted HB 1443, which directed the Virginia Board of Education to adopt regulations governing the use of seclusion and restraint in public schools. The subsequently adopted Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia are effective on January 1, 2021. Any school division that chooses to use seclusion and restraint must follow these new regulations.

What is "Seclusion" and "Physical Restraint"?

"Seclusion" means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

"Physical restraint" means a personal restriction that immobilizes or reduces the ability of a student to move freely.

When can schools use Seclusion or Restraint?

Seclusion and restraint may only be used in emergency situations when other interventions would be ineffective, and only to:

- Prevent a student from seriously harming or injuring themselves or others;
- Quell a disturbance or remove a student from a disturbance in which the student's behavior threatens serious physical harm or injury to persons;
- Defend self or others from serious physical harm or injury;
- Obtain possession of weapons/dangerous objects/controlled substances/paraphernalia.

Seclusion and restraint must be discontinued as soon as the imminent risk of serious harm has dissipated, and they may not be used solely to prevent damage to property when the property damage at issue does not pose an imminent risk of serious harm or injury to people.

When are schools prohibited from using Seclusion or Restraint?

Seclusion and restraint may never be used:

- To punish or discipline,
- As a means of coercion or retaliation,
- As a convenience, or
- For any other reason besides those explicitly allowed.

Additionally, the following actions are always prohibited:

- Mechanical restraints (restraint with device, material, or equipment),
- Pharmacological restraints (use of medication or drug to restrict movement),
- Aversive stimuli,
- Prone restraints or other restraints that restrict a student's breathing or harm the student,
- Corporal punishment,
- Any restraint or seclusion when medically or psychologically contraindicated.

What kind of training must school personnel receive?

A school division that uses seclusion and restraint must train school personnel on positive behavior support, conflict prevention, de-escalation, and crisis response, as well as on the regulations, policies, and procedures governing the use of seclusion and restraint. Additionally, any school personnel assigned to work with a student who is likely to be physically restrained or secluded must be provided with advanced training in the use of physical restraint or seclusion.

How will I know if my child has been secluded or restrained?

If seclusion or restraint is used, school personnel must make reasonable efforts to notify the student's parent or guardian on the same day. The parent must also be provided a copy of an incident report describing the incident, including any less restrictive interventions attempted prior to the use of seclusion or restraint, within seven (7) calendar days of the incident.

How do I know what my school division is doing to implement these regulations?

All school divisions that choose to use seclusion and restraint must create and implement policies and procedures that meet or exceed the requirements of the Seclusion and Restraint Regulations. These policies and procedures must be posted to the school division's website and made available to school personnel and to the public, including by making printed copies available to citizens who do not have online access.

What should I do if I believe that my child's rights have been violated?

If your child has been subjected to unnecessary seclusion or restraint, or your school division is not following the new Seclusion and Restraint Regulations or the school division's own policies and procedures for the use of seclusion and restraint, you should contact the disability Law Center by filing an on-line request for help at www.dlcv.gethelp, or by calling 1-800-552-3962.