

TO: Task Force on Restraint and Seclusion

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RE: Background for Fourth Meeting – Documentation and Monitoring Compliance

I. Introduction

The purpose of this memo is to provide background information for the fourth and final meeting of the Task Force on Restraint and Seclusion, which is scheduled for August 16, 2017. The agenda for the meeting will include standards for monitoring compliance by local school systems, State operated programs, and nonpublic schools. In the context of monitoring, the task force will consider the documentation requirements that apply whenever school personnel use restraint or seclusion. As with each of the previous memos, what follows is a summary of current Code of Maryland Regulations (COMAR) provisions that relate to the agenda's topics.

II. Documentation

One way of monitoring compliance is to review the documentation created when restraint and seclusion are used. Each time a student is in a restraint, school personnel must document the following items: (i) other less intrusive interventions that have failed or been determined inappropriate; (ii) the precipitating event immediately preceding the behavior that prompted the use of restraint; (iii) the behavior that prompted the use of a restraint; (iv) the names of the school personnel who observed the behavior that prompted the use of restraint; and (v) the names and signatures of the staff members implementing and monitoring the use of restraint (COMAR 13A.08.04.05A(3)(a)). The same items are required to be documented each time a student is placed in seclusion, except for (iv) the names of the school personnel who observed the behavior (COMAR 13A.08.04.05B(6)(a)).

In addition, documentation must include a description of the restraint or seclusion event. For restraint, this includes: (i) the type of restraint; (ii) the length of time in restraint; (iii) the student's behavior and reaction during the restraint; and (iv) the name and signature of the administrator informed of the use of restraint (COMAR 13A.08.04.05A(3)(b)). For seclusion, this includes: (i) justification for initiating the use of seclusion; (ii) the length of time in seclusion; (iii) the student's behavior and reaction during the seclusion; and 4) the name and signature of the administrator informed of the use of seclusion (COMAR 13A.08.04.05B(6)(b)). Once again, the items that must be included in the description are nearly identical.

For both restraint and seclusion, this documentation must be maintained in the student's educational record and be available for inspection by the student's parent or legal guardian (COMAR 13A.08.04.05A(4) & B(7)). Unless otherwise provided for in the student's behavior

intervention plan or IEP, each time restraint or seclusion is used, school personnel must provide the student's parent with verbal notification or send written notice within 24 hours (COMAR 13A.08.04.05A(5) & B(8)).

III. Monitoring Compliance

Each public agency and nonpublic school must develop policies and procedures on: (1) monitoring the use of restraint and seclusion; and (ii) receiving and investigating complaints regarding restraint and seclusion practices (COMAR 13A.08.04.06D(1)). The regulation is not prescriptive as to what the monitoring and complaint processes must entail.

The Maryland State Department of Education is also authorized to monitor and request any information regarding any matter related to restraint or seclusion implemented by a public agency or nonpublic school. In exercising that authority, the Department must provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request (COMAR 13A.08.04.06D(2)).¹

¹ This chapter also addresses exclusion, but that is beyond the scope of the Task Force. *See* COMAR 13A.08.04.04.