



To: Members of the State Board of Education
From: Dr. Sylvia A. Lawson, Acting State Superintendent
Date: October 24, 2023
Subject: COMAR 13A.08.04
Student Behavior Interventions
PERMISSION TO ADOPT

Purpose

The purpose of this item is to request permission to adopt amendments to COMAR 13A.08.04 - *Student Behavior Interventions*.

Regulation Promulgation Process

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

Background/Historical Perspective

MSDE is committed to ensuring that every Maryland student has access to a safe and supportive learning environment with healthy and trusting relationships with school staff. It is essential that local education agencies (LEAs), public agencies (PAs), and nonpublic special education schools (nonpublic schools) create a positive culture and institute a tiered system of supports to address challenging student behavior. When students engage in inappropriate behavior, school staff must be prepared to respond with positive behavioral supports, rather than relying on aversive techniques such as physical restraint or seclusion.

During the 2022 legislative session, the Maryland General Assembly enacted House Bill (HB) 1255 *Physical Restraint and Seclusion – Limitations, Reporting, and Training* (2022 Md. Laws, Chap. 31). In general, the statute:

1. Bans the use of seclusion in LEAs and PAs;
2. Places strict requirements around the use of seclusion in nonpublic schools;
3. Requires each school to notify the LEA and MSDE within four business days when a student is restrained and/or secluded 10 or more times in a given school year (PAs notify only MSDE);
4. Requires the LEA to assess and provide behavioral intervention recommendations to the public or nonpublic school upon notification (MSDE will provide recommendations to PAs);
5. Requires the LEA/PA/nonpublic to develop a corrective action plan if a system reports 10 or more incidents for one student or if the LEA/PA/nonpublic fails to comply with the requirements of the law; and
6. Strengthens the collection of restraint and seclusion data tracking and reporting.

The changes to Md. Code, Education § 7-1101 *et seq.* went into effect on July 1, 2022, and MSDE began work immediately to operationalize the new statutory changes. Under the support and leadership of the State Superintendent and the Deputy Superintendents of Operational Effectiveness and Teaching and Learning, MSDE formed an internal, cross-divisional team to review the status of restraint and seclusion policies and practices across the State. Representatives from the Division of Early Intervention/Special Education Services; Division of Student Support, Academic Enrichment, and Educational Policy; Division of Educator Certification and Program Approval; and Division of Assessment, Accountability, and Performance Reporting began meeting weekly in January 2022. The Office of the Attorney General advised and supported the internal, cross-divisional team.

The internal team began developing procedures and tools to be used at schools, LEAs, PAs, nonpublic schools, and MSDE for implementation and the development of regulations. MSDE staff conducted fact-finding conversations with the LEAs, PAs, and nonpublic schools, to better understand what challenges, opportunities, and resources are needed to reduce reliance on restraint and seclusion across the State. Prior to the change in legislation, MSDE reviewed the LEAs' seclusion policies and determined that nine LEAs had formal policies that prohibited the use of seclusion, while 15 LEAs prohibited seclusion in practice, but would need to formally update their policy. Restraint policies were also reviewed for alignment with the current regulations.

2021-2022 Data Collection

MSDE developed a data collection manual for collection of data for the 2021-2022 school year. The data collection was updated and aligned with the new statute ensuring the collection reported on student level data in addition to the aggregate data that has been reported in the past. The Restraint and Seclusion Data Report 2021-2022 was published December 2022.

2022-2023 Data Collection (10 Incident Reporting)

MSDE audited restraint and seclusion data during the 2022-2023 school year. Data on students experiencing ten or more incidents of restraint and/or seclusion (“ten incident data”) were collected for the first semester of the 2022-2023 school year to ensure compliance with the statute and to provide technical assistance as needed.

2023-2024 Data Collection (10 Incident Reporting)

MSDE is collecting ten incident data starting with the 2023-2024 school year. LEAs and PAs are notifying MSDE when a student is physically restrained ten times or more and nonpublic schools are notifying MSDE when a student is physically restrained and/or secluded ten times or more within a school year as part of compliance with the statute. LEAs are then sharing recommendations regarding the student and the school’s pattern of behavioral health interventions with MSDE following these notifications. Technical assistance is provided as needed to ensure compliance with the statutory requirements.

In addition, MSDE is meeting with LEAs and schools when they report 30 incidents of restraint and/or seclusion for a student and every 20 incidents thereafter. MSDE is further conducting problem solving with LEAs and schools surrounding proper documentation, policies, and processes regarding restraint and seclusion.

MSDE Guidance Documents

Given the significant statutory changes for Student Behavior Interventions, MSDE recognized that LEAs, PAs, and nonpublic schools would require substantial support to understand their new roles and responsibilities. The MSDE internal team spent several weeks developing initial drafts of two key guidance documents: the *Restraint and Seclusion: Process Guide* and the *Restraint and Seclusion: Implementation Guide*. The *Process Guide* outlines procedurally the operational steps each LEA, PA, and nonpublic school must take to comply with the notification, review, recommendation, and corrective action requirements of the law. The *Implementation Guide* serves as an in-depth frequently asked question document, including interpretative questions raised in fact-finding conversations.

Restraint and Seclusion Focus Group

Given the longstanding use of restraint and seclusion across the State, along with the significant impact of the statutory changes, MSDE recognized the need to engage varied stakeholders in a meaningful way to ensure collective buy-in and to produce the best possible results for Maryland’s students. MSDE formed a Restraint and Seclusion Focus Group (see attached) to provide feedback regarding the implementation of Md. Code, Education § 7-1101 *et seq.* This diverse group – consisting of representation from local Directors of Special Education, local Directors of Student Support Services, Directors of Nonpublic Special Education Schools, the

advocacy community, and parents/guardians – was instrumental in developing new processes aligned with the law, as well as the proposed regulations.

The Restraint and Seclusion Focus Group met five times between October 2022 and March 2023, including four in-person meetings with one virtual meeting (March 2, 2023). With MSDE as presenters and facilitators, group members reviewed and discussed the statutory language, multiple drafts of the *Process* and *Implementation Guides*, and the regulations. Group members were given documents to review and provide written comments, in addition to discussion at the meetings. In between the Focus Group meetings, the internal MSDE team reviewed the input and adopted changes, as appropriate, to its work product. While perfect consensus was not possible, MSDE worked to ensure all voices were heard and considered when drafting the documents and regulations. Specific meeting topics included:

- Meeting #1 - October 11, 2022 - Review House Bill 1255 – Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training (HB 1255) and changes to the Education Article (MD Code, Education, §7-1101 et seq.); examine MSDE’s current interpretation of MD Code, Education §7-1101 et seq. and current proposed implementation of the statute; receive and provide feedback on draft MSDE guidance documents and forms.
- Meeting #2 – October 17, 2022 - Review updated Restraint and Seclusion: Process Guide and form mock-ups based on prior stakeholder feedback; provide feedback on Restraint and Seclusion: Implementation Guide; and receive Student Behavior Interventions regulations for review.
- Meeting #3 – October 26, 2022 – Provide input on the Restraint and Seclusion Process Guide and Restraint and Seclusion Implementation Guide along with early discussion of the regulations. The Process Guide contains:
 - Restraint and Seclusion Single Incident Form
 - Excessive (10 Incidents) Use of Restraint and/or Seclusion Notification
 - Excessive (10 Incidents) Use of Restraint and/or Seclusion School Level Review Document

The Implementation Guide contains:

- Information on Restraint and Seclusion for All Students
- Information on Restraint and Seclusion for Students with Disabilities
- Meeting #4 – December 8, 2022 – Provide input on the Single Incident Restraint and Seclusion Form, the Excessive Use (10 Incidents) Restraint and/or Seclusion Form, and Corrective Action Form
- Meeting #5 – March 2, 2023 – update on actions related to Restraint and Seclusion and provide input on draft regulations (in-writing comments were provided beyond the date of the meeting)

Restraint and Seclusion Technical Assistance Sessions

MSDE recognizes that the statutory and pending regulatory changes to the use of restraint and seclusion represent a large operational undertaking for Maryland schools. LEAs, PAs, and nonpublic schools must change

and evolve their policies, procedures, and practices, adopt new reporting forms and structures, and train relevant staff, and MSDE must also raise the level of high-quality leadership, support, and monitoring it provides at the same time to ensure student and educator success. Given this large shift, MSDE is mindful that while the law is currently in effect, some of the new proposed MSDE-created forms and processes will require time to be fully implemented. MSDE developed a roll-out plan to provide support and consistent messaging to LEAs, PAs, and nonpublic schools. Between February 1, 2023, and March 15, 2023, MSDE hosted multiple technical assistance sessions for the LEAs, PAs, and nonpublic schools. Invitations were sent to Directors of Special Education, Directors of Student Services, Nonpublic Special Education Schools, and Local Accountability Coordinators. These sessions allowed MSDE to cover the statutory changes and introduce Statewide procedures, including MSDE-developed forms. The *Restraint and Seclusion: Process and Implementation Guides* were distributed to all participants as well.

MSDE also held open office hours to provide a consistent, scheduled opportunity to meet with MSDE staff for thought partnership, clarification, and feedback. This allowed for a facilitated conversation with peers and MSDE staff. The MSDE internal team continues to meet weekly to discuss these questions, and guidance documents will be revised and distributed to ensure all parties share the same understanding of MSDE's interpretation of the law.

All forms and procedures were fully implemented on July 1, 2023. From the end of March 2023 through the end of June 2023, LEAs, PAs, and nonpublic schools had the opportunity to establish internal procedures for full implementation with MSDE support. The MSDE team worked with its Office of Information Technology to design and support the submission of all data.

Executive Summary

MSDE reviewed the regulations and made the proposed amendments and additions with two goals in mind. First, the proposed regulations are amended to align with the statutory language of Md. Code, Educ. § 7-1101 *et seq.* Where appropriate, MSDE added clarifying language to interpret the statute. Second, MSDE considered the feedback from its fact-finding conversations and Focus Group meetings to draft language that supports the goal of reducing the use of restraint and seclusion in Maryland schools. MSDE is recommending amendments to the following regulations:

COMAR 13A.08.04.01 *Scope*

- Clarifies the Juvenile Services Education Program exemption.

COMAR 13A.08.04.02 *Definitions*

- Amends definitions to be consistent with statutory language.

COMAR 13A.08.04.03 *Student Behavior Interventions*

- Adds “evidence-based, trauma informed crisis prevention intervention program” language to align with MSDE standards.

COMAR 13A.08.04.04 *Use of Exclusion*

- Amends language for periods of exclusion to align with MSDE standards.

COMAR 13A.08.04.05 *General Requirements for the Use of Restraint or Seclusion*

- Restructures sections for clarity.
- Updates the use of restraint and seclusion consistent with statutory language.
- Requires documentation of restraint and seclusion incidents on a Department-developed form.
- Adds Section 504 students explicitly into the same requirements for students with IEPs.
- Removes language that previously allowed the proactive inclusion of restraint and seclusion on a Section 504, IEP, or Behavior Intervention Plan before the intervention was used with the student.

COMAR 13A.08.04.06 *Administrative Procedures*

- Adds new sections to align with the notice, review, assessment, recommendation, and corrective action language of the statute.

MSDE is also recommending adoption of a new regulation:

COMAR 13A.08.04.07 *Annual Data Reporting*

- Addresses the annual reporting requirements under statute, including Restraint and Seclusion Data Reporting and Positive Behavioral Interventions Data Reporting.

MSDE incorporated as much feedback from stakeholders as possible into the proposed regulations. Some of the recommendations that were not accepted included suggested changes to definitions that were defined in statute by the General Assembly. MSDE did not want to create conflict with the statute; however, where it could provide further clarification, it did. Other suggestions were too nuanced for regulation language, but MSDE included it in the development of the guidance documents. For example, a number of individuals were concerned with LEAs, PAs, and nonpublic schools sharing a common understanding of the exceptions from physical restraint, such as an escort. While MSDE could not change the statutory language, it added clarifying language to COMAR 13A.08.04.03 *Student Behavior Interventions*, and it further explained the concept in the *Restraint and Seclusion: Implementation Guide*.

In addition to the stakeholder feedback sessions, MSDE hosted two listening sessions on September 25 and 27, 2023, to engage teachers, related service providers, and paraprofessionals who are involved in the implementation, monitoring, or data collection of restraint and seclusion incidents. Over 70 teachers, related service providers, and paraprofessionals attended the listening sessions representing both public and nonpublic schools. The listening sessions focused on identifying challenges related to the implementation of new policies and practices pertaining to the use of restraint; reviewing best practices for the implementation of proactive behavioral interventions; and identifying additional supports that may be needed to manage student behaviors.

Several key themes emerged from the discussion. First, there is need for MSDE to continue to provide training in the definitions of restraint and seclusion, as well as research-based proactive behavioral interventions. Participants also expressed a need for additional training and resources regarding trauma-informed care, coping skills for students, and self-regulation. Additionally, related services providers, and paraprofessionals identified frequent use of proactive behavioral interventions including multi-modal communication, restorative practices, leveled crisis intervention systems, and ongoing teacher coaching on verbal de-escalation techniques. MSDE scheduled technical assistance sessions starting in September 2023 on the definitions of restraint and seclusion as well as the process of documentation of notification to MSDE.

Public Comment

The proposed amendments to COMAR 13A.08.04 *Student Behavior Interventions* were brought before the State Board on March 8, 2023, requesting permission to publish. The State Board approved the request, and the regulations were posted in the Maryland Register for public comment from September 8, 2023, to October 10, 2023. MSDE received comments from two entities: the Education Advocacy Coalition for Students with Disabilities and a parent. Comments generally addressed suggested changes to definitions included in the proposed regulations, which, for the reasons outlined above, MSDE recommends the State Board not adopt. MSDE has and will continue to address these areas through updates to the Implementation Guide, Process Guide, Frequently Asked Questions documents, as well as training, and technical assistance sessions. More detail on the public comment is attached in the Public Comment and Summary document.

Action

Request permission to adopt amendments to COMAR 13A.08.04 *Student Behavior Interventions*.

Attachments

Public Comment Summary

COMAR 13A.08.04 *Student Behavior Interventions*

Restraint and Seclusion Implementation Guide

Restraint and Seclusion Process Guide

Restraint and Seclusion Frequently Asked Questions

Letter from the Education Advocacy Coalition for the Students with Disabilities

Email from a Parent

Public Comment Summary

COMAR 13A.08.04 – Student Behavior Interventions

Organization	Comment	MSDE Response
<p>Education Advisory Coalition for Students with Disabilities (EAC)</p> <p>Leslie Seid Margolis, Disability Rights Maryland, Co-Chairperson</p>	<p>The Education Advocacy Coalition appreciates the opportunity to submit comments regarding the proposed revisions to COMAR 13A.08.04 regarding the use of restraint and seclusion with students. overall, we believe the proposed regulations effectively reflect the changes required by the passage of Senate Bill 705/House Bill 1255 during the 2022 General Assembly session and provide clarification of several regulatory provisions that have long created uncertainty for families and school system staff.</p>	<p>No action required.</p>
	<p>(B)(1)(a): Definition of Behavior Intervention Plan</p> <ul style="list-style-type: none"> We recognize that legislative drafters reverted to the descriptor "problem behavior" but we recommend substituting "challenging behavior" as the proposed regulations do in the definition of "Debrief" (B)(5)(a). 	<p>The proposed regulation uses the statutory definition of "Behavior Intervention Plan" provided in law by the General Assembly. MSDE recommends keeping the statutory language.</p>
	<p>(B)(l)(a): Definition of Behavior Intervention Plan</p> <ul style="list-style-type: none"> Additionally, add to the definition "trauma informed": " ... educational setting through the use of trauma-informed, positive behavioral interventions, strategies, and supports." 	<p>MSDE will highlight trauma informed care as a best practice in the restraint and seclusion implementation guide.</p>
	<p>13A.08.02(B)(14)(b): Definition of Physical Restraint</p> <ul style="list-style-type: none"> We appreciate that the proposed regulations omit the language regarding physical escort, which caused significant confusion since the enactment of the first set of regulations in 2003. However, subsection (iii), which excludes from the definition of restraint "moving a disruptive student who is unwilling to leave the area [if] when other methods such as counseling have been unsuccessful" is also quite confusing to families and school staff. At what point does moving such a student turn into a restraint? We understand that the "moving a disruptive student" exception is in the statute, but we strongly recommend that MSDE clarify this provision and make clear at what point such movement turns into a restraint. This could be accomplished by revising the provision to say: "Holding a disruptive student's hand or arm to move the student if the student is unwilling to leave the area when other methods such as counseling have been unsuccessful." 	<p>The regulations will use the statutory language (Md. Code, Education § 7-1101 et seq). MSDE has provided clarification in the <i>Restraint and Seclusion Implementation Guide</i> (page 7) and the <i>Restraint and Seclusion: Frequently Asked Questions</i> (page 3). MSDE will continue to reiterate the distinctions in technical assistance sessions.</p>

	<p>13A.08.02(20): Definition of Seclusion:</p> <ul style="list-style-type: none"> • Why does the definition of seclusion include "during school hours"? The regulations should apply to all school activities and functions, regardless of when they are held. We strongly recommend deleting "during school hours" so students are protected during all school activities. 	<p>The regulations will use the statutory language (Md. Code, Education § 7-1101 et seq). MSDE has provided clarification in the <i>Restraint and Seclusion Implementation Guide</i> (page 6) that school hours include the designated time that a school opens and closes for students, school-provided transportation, and school-sponsored events.</p>
	<p>13A.08.02(20): Definition of Seclusion:</p> <ul style="list-style-type: none"> • The definition should make clear that seclusion includes situations in which a student is prevented from leaving a space by a person who is preventing egress but who is not interacting with the student in any way. 	<p>MSDE has provided clarification in the <i>Restraint and Seclusion Implementation Guide</i> (page 38) and in the <i>Frequently Asked Questions Document</i> (Summer 2023, page 4).</p>
	<p>13A.08.02(B)(22): Definition of Serious Physical Harm:</p> <ul style="list-style-type: none"> • We are pleased to see the incorporation of the definition of "Serious physical harm" from federal law into the proposed regulations. 	<p>No action necessary.</p>
	<p>13A.08.0S(A)(3)(a) and (5)(a): Debrief Requirement:</p> <ul style="list-style-type: none"> • The proposed regulations require debriefing and documentation each time restraint or seclusion is used. However, the proposed regulations address documentation of the restraint/seclusion without addressing the components of the debriefing. The regulations should require school staff to examine what could have been done to avoid the need for the use of restraint or seclusion and what could be done differently moving forward to minimize the need for restraint or seclusion in the future. 	<p>While it is important for the schools to do a proper debrief, MSDE does not recommend changing the language of the regulation.</p> <p>Additionally, MSDE requires each school to use the Single Incident Form, which includes a debrief. MSDE will update the form as it is trialed, and feedback is gathered.</p>
	<p>13A.08.07(2)(b) Annual Data Reporting:</p> <ul style="list-style-type: none"> • We appreciate that MSDE has clarified that each incident of seclusion must be documented separately. • EAC members have encountered many situations in which students have been placed in seclusion and at some point before the 30 minute has elapsed, staff open the door, then close it again but do not consider a new seclusion incident to have begun. The proposed regulation clarifies that each time this occurs, a separate incident must be documented. 	<p>No action necessary.</p>

Parent	<p>By continuing to allow a physical "escort" or "moving a disruptive student" to bypass the definition of "physical restraint," MSDE is allowing restraint to happen, undocumented. As a parent of a young student who experienced traumatic undocumented restraint under both of these exclusions in the Maryland School System, this grey area is problematic. If a child is coming home bruised and cut following a physical "escort," but the school does not document it as a restraint or notify the parent, a check and balance is missing. If a child is regularly pulled backwards by their arms to another area of the school and the school only sees "moving a disruptive student" and does not document it as a restraint or notify the parent, again this is a concern. Placing hands on a child and moving them, when they are otherwise unwilling and struggling to be free of the staff's hands, is traumatic. As a parent, I have seen this firsthand and the harm cannot be undone. Any "hands on" incidents should always be considered a significant enough event to be reported to the parent and documented as a restraint, at minimum.</p>	<p>The regulations will use the statutory language (Md. Code, Education § 7-1101 et seq).</p> <p>The regulations will use the statutory language (Md. Code, Education § 7-1101 et seq). MSDE has provided clarification in the <i>Restraint and Seclusion Implementation Guide</i> (page 7) and the <i>Restraint and Seclusion: Frequently Asked Questions</i> (page 3). MSDE will continue to reiterate the distinctions in technical assistance sessions.</p>
---------------	---	---

Title 13A

STATE BOARD OF EDUCATION

Subtitle 08 STUDENTS

13A.08.04 Student Behavior Interventions

Authority: Education Article, §§2-205, 7-301, 7-303—7-305, 7-307, 7-308, [and] 7-1101—7-1107, and 8-405, Annotated Code of Maryland

.01 Scope.

[This chapter applies to student behavior interventions by public agencies and nonpublic schools.]

A. *This chapter applies to the use of student behavior interventions by:*

- (1) *Public agencies;*
- (2) *The Residential Boarding Education Program for At-Risk Youth (SEED School);*
- (3) *The Regional Institutes for Children and Adolescents, as defined by COMAR 10.21.06.02; and*
- (4) *Nonpublic schools.*

B. *Regulations .05—.07 of this chapter do not apply to the Juvenile Services Education Program.*

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) *Behavior intervention plan.*

(a) "Behavior intervention plan" means a proactive[, data-based, structured plan that is developed as a result of a functional] *plan designed to address problem behavior exhibited by a student in the educational setting through the use of positive behavioral [assessment which is consistently applied by trained staff to reduce or eliminate a student's challenging behaviors and to support the development of appropriate behaviors and responses] interventions, strategies, and supports.*

(b) "Behavior intervention plan" includes:

- (i) *Clear and specifically defined targeted behaviors;*
- (ii) *Data on the targeted behaviors, as collected through a functional behavior assessment;*
- (iii) *Specific methods of data collection for progress monitoring; and*
- (iv) *A hierarchy of responses to address student behavior.*

(2) "Business day" has the meaning stated in COMAR [13A.08.03.] *13A.05.01.03.*

[(2-1)] (3)—[(3)] (4) (text unchanged)

(5) *Debrief.*

(a) "Debrief" means an intentional process wherein a restraint or seclusion incident is reviewed by school personnel in order to prevent future incidents and improve responses to the student's challenging behavior.

(b) "Debrief" includes:

- (i) *Review of the events leading up to the restraint or seclusion incident;*
- (ii) *Analysis of school personnel's compliance with an existing behavior intervention plan, Section 504 plan, or IEP;*

and

(iii) *Consideration of new or additional behavioral strategies to address the behavior that led to the use of restraint or seclusion.*

[(4)] (6)—[(5)] (7) (text unchanged)

(8) "Health care practitioner" means:

- (a) *A physician licensed to practice under Health Occupations Article, Title 14, Annotated Code of Maryland;*
- (b) *A psychologist licensed to practice under Health Occupations Article, Title 18, Annotated Code of Maryland;*
- (c) *A clinical social worker licensed to practice under Health Occupations Article, Title 19, Annotated Code of Maryland;*
- (d) *A registered nurse licensed to practice under Health Occupations Article, Title 8, Annotated Code of Maryland; or*
- (e) *A clinical professional counselor licensed under Health Occupations Article, Title 17, Annotated Code of Maryland.*

[(6)] (9) "IEP" means an [individual] *individualized* education program as defined and developed in accordance with COMAR [13A.05.01] *13A.05.01.03.*

[(7)] (10) "IEP team" has the meaning stated in COMAR [13A.05.01] *13A.05.01.03.*

[(8)] (11) (text unchanged)

[(9)] (12) "Nonpublic school" means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities [in accordance with COMAR 13A.09.10].

[(10)] (13) "Parent" has the meaning stated in COMAR [13A.05.01] *13A.05.01.03.*

[(11)] (14) *Physical Restraint.*

(a) "Physical restraint" means a personal restriction that immobilizes *a student* or reduces the ability of a student to move [the student's] *their* torso, arms, legs, or head freely.

(b) "Physical restraint" does not include:

- (i) Briefly holding a student *in order* to calm or comfort the student;
- [(ii)] A physical escort, which is the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purposes of inducing a student who is acting out to walk to a safe location;
- (ii) *Holding a student's hand or arm to escort the student safely from one area to another;*
- (iii) Moving a disruptive student who is unwilling to leave the area [if] *when* other methods such as counseling have been unsuccessful; or
- (iv) [(Intervening in)] *Breaking up a fight in the school building or on school grounds in accordance with Education Article §7-307, Annotated Code of Maryland.*
- [(12)] (15)—[(13)] (16) (text unchanged)
- [(14)] (17) "Public agency" [has the meaning stated in COMAR 13A.05.01] *means the Department, a local school system, the Maryland School for the Deaf, the Maryland School for the Blind, or the Juvenile Services Education Program.*
- [(15)] (18)—[(16)] (19) (text unchanged)
- [(17)] (20) Seclusion.
 - (a) "Seclusion" means the [involuntary] confinement of a student alone in a room [or area], *an enclosure, or any other space* from which the student is physically prevented from leaving *during school hours.*
 - (b) "Seclusion" does not include a [timeout, which is a] behavior [management technique that is part] *intervention plan* of [an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.] *separating a student by placing the student:*
 - (i) *Into a nonlocked room from which the student is allowed to leave; or*
 - (ii) *Within a separate location in a classroom from which the student is not physically prevented from leaving.*
- (21) "Section 504 plan" *means a plan developed to provide a qualified student with a disability a free appropriate public education consistent with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 34 C.F.R. §104.33.*
- (22) "Serious physical harm" *has the same meaning as "serious bodily injury" as defined in 18 U.S.C. §1365(h)(3).*
- [(18)] (23) "Student with a disability" has the meaning stated in COMAR [13A.05.01] *13A.05.01.03.*
- [(19)] (24) "Trauma-informed intervention" means an approach *to behavior intervention* that is informed by the recognition *that the experience of* [the impact that] trauma, including *the experience of* violence, abuse, neglect, disaster, terrorism, and war, may have [on a student's physical and emotional health and ability to function effectively in an educational setting] *a significant impact on an individual's physical and emotional health and ability to function.*

.03 Student Behavior Interventions.

- A. (text unchanged)
- B. School personnel shall only use exclusion, restraint, or seclusion:
 - (1) After less restrictive or alternative approaches have been [considered, and]:
 - (a)—(b) (text unchanged)
 - (2) (text unchanged)
 - (3) Without intent to harm or create undue discomfort; [and]
 - (4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan[.]; *and*
 - (5) *Consistent with an evidence-based, trauma-informed crisis prevention intervention program.*
- C. *School personnel conducting an escort shall use a natural position and safe manner.*
- [C.] D. (text unchanged)

.04 Use of Exclusion.

- A. School personnel may use exclusion to address a student's behavior:
 - (1) (text unchanged)
 - (2) If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious[,] physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
 - (3)—(4) (text unchanged)
- B.—C. (text unchanged)
- D. School personnel shall ensure that each period of exclusion:
 - (1) Is appropriate to the developmental level of the student and the severity of the behavior; [and]
 - (2) *Provides support to increase the student's self-regulation in order to return to the instructional setting; and*
 - [(2)] (3) (text unchanged)
- E. Parents and school personnel may at any time request a meeting to address the use of exclusion and to:
 - (1) (text unchanged)
 - (2) Develop, review, or revise a student's behavioral intervention plan, *Section 504 plan, or IEP.*
- F. School personnel shall consider the need to initiate a referral to a [pupil services] *Section 504* or IEP team if a nondisabled student has experienced excessive exclusion, to determine if the student has a disability that may require the provision of *accommodations, modifications, or special education and related services*[, in accordance with COMAR 13A.05.01].
- G. (text unchanged)

.05 General Requirements for the Use of Restraint or Seclusion.

A. Use of Restraint.

(1) Physical Restraint.

[(a) Except as provided in §A(1)(b) of this regulation, the use of physical restraint is prohibited in public agencies and nonpublic schools until there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.]

(a) *The use of physical restraint is prohibited in public agencies and nonpublic schools unless:*

(i) *Physical restraint is necessary to protect the student or another individual from imminent, serious physical harm;*

and

(ii) *Other less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the*

student.

[(b) Once physical restraint has been used or school personnel have made a student-specific determination that it may need to be used consistent with §A(1)(a) of this regulation, physical restraint may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(i) Review available data to identify any contraindications to the use of physical restraint based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(ii) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until physical restraint is used in an emergency situation; and

(iii) Obtain written consent from the parent, consistent with Education Article, §8-405, Annotated Code of Maryland.]

[(c)] (b) Physical restraint shall [be applied] only *be implemented and monitored* by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

[(d)] (c) In applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious[,] physical harm.

[(e)] (d) Physical restraint:

(i) Shall be removed as soon as the student [is calm] *no longer poses a threat of imminent, serious physical harm;* and

(ii) (text unchanged)

[(f)] (e) In applying physical restraint, school personnel may not:

(i) (text unchanged)

(ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct [a staff member's] *school personnel's* view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or

(iii) (text unchanged)

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in public agencies and nonpublic schools unless a public agency or nonpublic school is [certified] *accredited* by and meets the requirements of the Joint Commission [for the Accreditation of Health Care Organizations].

(b) [Regulation .04] *Section A(2)(a)* of this [chapter] *regulation* does not prohibit school personnel from using a protective or stabilizing device:

(i)—(ii) (text unchanged)

(3) Documentation of the Use of Restraint.

(a) Each time *school personnel use restraint on* a student [is in a restraint], school personnel involved in the restraint shall debrief and document *the incident using a form developed by the Department that includes:*

(i) Other less intrusive, *nonphysical* interventions that have failed or been determined inappropriate;

(ii)—(iii) (text unchanged)

(iv) *The type of restraint;*

(v) *The length of time in restraint;*

(vi) *The student's behavior and reaction during the restraint;*

[(iv)] (vii) The names of the school personnel who observed the behavior that prompted the use of restraint; [and]

[(v)] (viii) The names and signatures of the [staff members] *school personnel* implementing and monitoring the use of restraint[.]; and

[(b) Documentation under §A(3) of this regulation shall include a description of the restraint event, including:

(i) The type of restraint;

(ii) The length of time in restraint;

(iii) The student's behavior and reaction during the restraint; and]

[(iv)] (ix) (text unchanged)

(b) *The debrief and documentation shall occur as soon as possible after the event.*

(4) (text unchanged)

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours[, unless otherwise provided for in a student's behavior intervention plan or IEP].

B. Use of Seclusion.

[(1) Except as provided in §B(2) of this regulation, the use of seclusion is prohibited in public agencies and nonpublic schools until there is an emergency situation and seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.

(2) Once seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with §B(1) of this regulation, seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation, provided that school personnel:

(a) Review available data to identify any contraindications to the use of seclusion based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;

(b) Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until seclusion is used in an emergency situation; and

(c) Obtain written consent from the parent, consistent with Education Article, §8-405, Annotated Code of Maryland.]

(1) *The use of seclusion is prohibited in public agencies.*

(2) *The use of seclusion is prohibited in nonpublic schools unless:*

(a) *Seclusion is necessary to protect the student or another individual from imminent, serious physical harm;*

(b) *Other, less intrusive interventions have failed or been demonstrated to be inappropriate for the student;*

(c) *A qualified health care practitioner is on-site and is directly observing the student during the seclusion; and*

(d) *The health care practitioner concludes that seclusion is not contraindicated for the physical, psychological, or psychosocial health of the student.*

(3) *Before a health care practitioner may use seclusion as a behavioral health intervention for a student in a nonpublic school, the health care practitioner shall:*

(a) *Receive training in all topics required under Regulation .06 of this chapter; and*

(b) *Be clinically familiar with the student.*

[(3)] (4)—[(4)] (5) (text unchanged)

[(5)] (6) Seclusion shall only be [applied] *implemented and monitored* by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.

[(6)] (7) A seclusion event:

(a)—(b) (text unchanged)

(c) May not exceed [30 minutes.] *the shorter of:*

(i) *30 minutes; or*

(ii) *A point in time during which the student no longer poses a threat of imminent, serious physical harm.*

[(7)] (8) Documentation of Seclusion.

(a) Each time a student is placed in seclusion, school personnel involved in the seclusion [event] *incident* shall debrief and document *the incident using a form developed by the Department that includes:*

(i)—(iii) (text unchanged)

[(iv)] *The names and signatures of the staff members implementing and monitoring the seclusion.]*

(iv) *The length of time in seclusion;*

[(b)] The documentation under §B(7) of this regulation shall include a description of the seclusion event, including:

(i) Justification for initiating the use of seclusion;

(ii) The length of time in seclusion;]

[(iii)] (v) *The student's behavior and reaction during the seclusion; [and]*

(vi) *The names and signatures of the school personnel implementing and monitoring the seclusion; and*

[(iv)] (vii) (text unchanged)

[(8)] (9) The documentation described in [§B(7)] §B(8) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

[(9)] Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.]

(10) *Each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.*

C. Referral to a [Pupil] *Student Services, Section 504, or IEP Team.*

(1) If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's [pupil services team or an] *Student Support, Section 504, or IEP team.*

(2) If restraint or seclusion is used for a student with a disability, and the student's *Section 504 plan, IEP, or behavior intervention plan* does not include the use of restraint or seclusion, the *Section 504 or IEP team* shall meet[, in accordance with COMAR 13A.08.03,] within 10 business days of the incident to consider:

(a) (text unchanged)

(b) Developing appropriate behavioral interventions; [and]

(c) Implementing a behavioral intervention plan[.];

(d) *Training for school personnel; and*

(e) *Revisions to the Section 504 plan or IEP.*

(3) *If the behavior of a student with a Section 504 plan or IEP is adversely affected after the use of restraint or seclusion, the student's 504 or IEP team shall convene a meeting on an expedited basis or at the earliest opportunity to discuss alternative behavioral health treatments.*

(4) *Student with an IEP.*

(a) *For a student who has an IEP and is placed in seclusion, the IEP team, in consultation with the health care practitioner who observed the seclusion, shall review the student's physical, psychological, and psychosocial health history to determine whether seclusion is contraindicated for the student.*

(b) *A determination under this paragraph shall be made:*

(i) *At each annual review of the student's IEP; and*

(ii) *Within 10 days of a student's placement being changed.*

(5) *Physical restraint or seclusion may be included in a student's behavioral intervention plan, Section 504 plan, or IEP to address the student's behavior in an emergency situation, provided that school personnel:*

(a) *Determine restraint or seclusion has been used with the student;*

(b) *Review available data to identify any contraindications to the use of physical restraint or seclusion based on medical history or past trauma, including consultation with medical or mental health professionals as appropriate;*

(c) *Identify the less intrusive, nonphysical interventions that will be used to respond to the student's behavior until physical restraint or seclusion is used in an emergency situation; and*

(d) *Obtain written consent from the parent, consistent with §C(9) of this regulation.*

[(3)] (6) *If restraint or seclusion is used for a student with a disability, and the Section 504 plan, IEP, or behavior intervention plan includes the use of restraint or seclusion, the student's IEP or behavior intervention plan shall specify how often the Section 504 or IEP team shall meet to review or revise, as appropriate, the student's Section 504 plan, IEP, or behavior intervention plan[, in accordance with COMAR 13A.05.01 and 13A.08.03].*

[(4)] (7) *When [an] a Section 504 or IEP team meets to review or revise a student's Section 504 plan, IEP, or behavior intervention plan, as specified in [§C(3)] §C(4) of this regulation, the Section 504 or IEP team shall consider:*

(a)—(d) *(text unchanged)*

(e) *The frequency and duration of [restraints] restraint or seclusion incidents and behavior events that occurred since the IEP team last met.*

[(5)] (8) *The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when [an] a Section 504 or IEP team proposes or refuses to initiate or change the student's Section 504 plan, IEP, or behavior intervention plan that includes the use of restraint or seclusion.*

[(6)] (9) *Parental Consent.*

(a) *The Student Support, Section 504, or IEP team shall obtain the written consent of the parent if the team proposes to include restraint or seclusion in the behavior intervention plan, Section 504 plan, or IEP to address the student's behavior.*

(b) *If the parent does not provide written consent, the [IEP] team shall send the parent written notice within 5 business days of the [IEP] team meeting that states:*

(i) *(text unchanged)*

(ii) *If the parent does not provide written consent or a written refusal within 15 business days of the [IEP] team meeting, the [IEP] team may implement the proposed use of restraint or seclusion.*

(c) *Written Refusal.*

(i) *If the parent of a student with an IEP provides written refusal, the IEP team may use the dispute resolution options listed in Education Article, §8-413, Annotated Code of Maryland, to resolve the matter.*

(ii) *If the parent of a student with a Section 504 plan or behavior intervention plan from a Student Services team provides written refusal, there is no right to the dispute resolution options listed in the Education Article, §8-413, Annotated Code of Maryland, to resolve the matter.*

.06 Administrative Procedures.

A. *Each public agency and nonpublic school shall develop policies and procedures to address:*

(1)—(4) *(text unchanged)*

(5) *The use of restraint consistent with Regulation .05A of this chapter; [and]*

(6) *The use of seclusion consistent with Regulation .05B of this chapter[.]; and*

(7) *The notification, review, and recommendation requirements consistent with §§E and F of this regulation.*

B.—C. *(text unchanged)*

D. *Monitoring and Compliance.*

(1) *Each public agency and nonpublic school shall develop policies and procedures on:*

(a) *Monitoring the use and documentation of exclusion, restraint, and seclusion; and*

(b) *(text unchanged)*

(2) *(text unchanged)*

E. *Notice of Student's Tenth Incident of Physical Restraint or Seclusion.*

(1) *If a student enrolled in a public school is physically restrained ten times or more in a school year, the public school shall provide notice to the Department and the local school system at the earliest opportunity, but not longer than 4 business days after the student's tenth incident of physical restraint and every tenth incident thereafter.*

(2) *If a student placed in a nonpublic school by the local school system is physically restrained or placed in seclusion ten times or more in a school year, the nonpublic school shall provide notice to the Department and the local school system at the earliest opportunity, but not longer than 4 business days after the student's tenth incident of physical restraint or seclusion and every tenth incident thereafter.*

(3) If a student enrolled in a public agency that is not a public school is physically restrained ten times or more in a school year, the public agency shall provide notice to the Department at the earliest opportunity, but not longer than 4 business days after the student's tenth incident of physical restraint and every tenth incident thereafter.

F. Review, Assessment, and Recommendations.

(1) Within 10 business days from receipt of notice from a public school or nonpublic school under §E(1) and (2) of this regulation, the local school system shall:

- (a) Review the student's case, including the circumstances of each incident of physical restraint or seclusion;
- (b) Assess the public school's or nonpublic school's pattern of behavioral health interventions to evaluate whether the public school or nonpublic school could use less restrictive behavioral health interventions; and
- (c) Share the local school system's recommendations with the Department and the public school or nonpublic school.

(2) Within 10 business days from receipt of notice from a public agency under §E(3) of this regulation, the Department shall:

- (a) Review the student's case, including the circumstances of each incident of physical restraint;
- (b) Assess the public agency's pattern of behavioral health interventions to evaluate whether the public agency could use less restrictive behavioral health interventions; and
- (c) Share the Department's recommendations with the public agency.

G. Corrective Action.

(1) The Department shall require a public agency or nonpublic school to submit a corrective action plan, within a time period prescribed by the Department, if a public agency or nonpublic school:

- (a) Fails to comply with any provision of this chapter; or
- (b) Reports to the Department that a student has been physically restrained or placed in seclusion ten times or more in a school year.

(2) The Department may require different or additional student specific or systemic corrective action within a prescribed time period as determined appropriate by the Department.

.07 Annual Data Reporting.

A. Restraint and Seclusion Data Reporting.

(1) On or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report for the prior school year on:

- (a) The number of physical restraint incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement;
- (b) The number of physical restraint incidents for each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, age, and type of placement;
- (c) For nonpublic schools, the number of seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, and age; and
- (d) For nonpublic schools, the number of seclusion incidents for each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, and age.

(2) To determine the number of incidents for the report required under §A(1) of this regulation:

- (a) A seclusion incident shall be considered ended if at any point during the incident the student is no longer prevented from leaving or is removed from a room, an enclosure, or other space; and
- (b) If, after a seclusion incident has ended in accordance with §A(2)(a) of this regulation, the public agency or nonpublic school determines that it is necessary to place the student in seclusion again, the subsequent confinement of the student in a room, enclosure, or other space shall be considered a separate incident.

(3) On or before December 1 each year, each nonpublic school shall:

- (a) Personally observe and review seclusion rooms to ensure compliance with Regulation .05B(4) of this chapter;
- (b) Review training plans for the use of seclusion with Regulation .06C of this chapter; and
- (c) Report to the Department regarding findings made under §A(3)(a) and (b) of this regulation.

(4) The Department shall verify the accuracy of a report from any public agency or nonpublic school that reports no physical restraint or seclusion incidents under §A(1) of this regulation.

(5) If the Department is unable to verify the accuracy of a report submitted by a public agency or nonpublic school, the Department shall make recommendations for improvements in data collection and positive behavioral interventions at the public agency or nonpublic school.

B. Positive Behavioral Interventions Data Reporting. On or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report on steps taken to encourage positive behavioral interventions, including:

- (1) The professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions for the prior school year;
- (2) For nonpublic schools, the policy changes made to further reduce the use of seclusion incidents during the prior school year; and
- (3) The policy changes or new professional development opportunities designed to further increase positive behavioral interventions and reduce physical restraint or seclusion incidents in the upcoming school year.

MOHAMMED CHOUDHURY
State Superintendent of Schools

RESTRAINT AND SECLUSION

Implementation Guide

Office of Teaching and Learning
Division of Early Intervention and Special Education Services

Office of Organizational Effectiveness
Division of Student Support, Academic Enrichment,
and Educational Policy

May 2023



MARYLAND STATE DEPARTMENT OF EDUCATION

Mohammed Choudhury

State Superintendent of Schools

Deann Collins, Ed.D.

Deputy State Superintendent

Sylvia A. Lawson, Ph.D.

Deputy State Superintendent for Organizational Effectiveness

Wes Moore

Governor

MARYLAND STATE BOARD OF EDUCATION

Clarence C. Crawford

President, Maryland State Board of Education

Susan J. Getty, Ed.D. (Vice President)

Shawn D. Bartley, Esq.

Gail Bates

Chuen-Chin Bianca Chang

Charles R. Dashiell, Jr., Esq.

Jean C. Halle

Dr. Joan Mele-McCarthy

Rachel L. McCusker

Joshua L. Michael, Ph.D.

Lori Morrow

Brigadier General Warner I. Sumpter (Ret.)

Holly C. Wilcox, Ph.D.

Merin Thomas (Student Member)

Table of Contents

- SECTION I: INTRODUCTION 3**
 - BACKGROUND 3
 - PURPOSE..... 4
- SECTION II: RESTRAINT AND SECLUSION FOR ALL STUDENTS..... 5**
 - GUIDANCE FOR ALL STUDENTS 5
 - DEFINITIONS..... 5
 - FREQUENTLY ASKED QUESTIONS 6
- SECTION III: RESTRAINT AND SECLUSION FOR STUDENTS WITH DISABILITIES 15**
 - Guidance for Students with Disabilities 15
 - FREQUENTLY ASKED QUESTIONS 25
- SECTION IV: RESOURCES..... 32**
 - LEGISLATION 32
 - REGULATIONS 32
 - MSDE GUIDANCE 32
 - U.S. DEPARTMENT OF EDUCATION GUIDANCE 32
- APPENDIX A: PHYSICAL RESTRAINT AND SECLUSION CLARIFICATION 34**
 - I. LEGAL DEFINITION 34
 - II. OPERATIONAL GUIDANCE..... 34
 - III. WHEN MAY SCHOOL STAFF USE PHYSICAL RESTRAINT? 35
 - I. LEGAL DEFINITION 36
 - II. OPERATIONAL GUIDANCE..... 36
 - III. WHEN MAY SCHOOL STAFF USE SECLUSION? 37
- APPENDIX B: STAKEHOLDER FOCUS GROUP 38**
 - STAKEHOLDER FOCUS GROUP 38
- APPENDIX C: MSDE CROSS-DEPARTMENTAL WORK GROUP 39**
 - MSDE CROSS-DEPARTMENTAL WORK GROUP 39

Section I: Introduction

BACKGROUND

As the Maryland State Department of Education (MSDE) works to create a world-class public education system, it recognizes that a key component of this work is safe and healthy learning environments. Schools and classrooms must be safe spaces that provide a foundation in which our children can thrive. Extended school closures and stressors from the global COVID-19 pandemic, including the return to in-person learning, laid bare the challenges our families, schools, and communities face in addressing the social-emotional and behavioral needs of our students. MSDE fully supports the use of positive behavioral interventions and strategies to address challenging student behavior, with a focus on keeping students in the classroom and available for learning.

Across the State, local education agencies, public agencies, and nonpublic special education schools have often relied on the use of physical restraint and seclusion to manage inappropriate and challenging student behaviors. In 2012, the U.S. Department of Education issued the “Restraint and Seclusion: Resource Document,” which stated, “[t]here is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.” In fact, psychological harm, physical injuries, and even death can result from the use of restraint and seclusion.¹

On December 30, 2021, Mohammed Choudhury, State Superintendent of Schools issued a press release in response to the illegal and discriminatory use of restraint and seclusion. The Superintendent made clear that the illegal and inappropriate use of restraint and seclusion in any school is unacceptable, and he immediately formed an intra-department workgroup to develop an action plan to tackle this important issue. Subsequently, during the 2022 legislative session, the Maryland General Assembly passed House Bill 1255 “Physical Restraint and Seclusion – Limitations, Reporting, and Training” which amended and expanded the law governing restraint and seclusion. This bill, which went into effect July 1, 2022, amends the Education Article in part by:

- Banning the use of seclusion in local education agencies (LEA) and public agencies (PAs);
Placing strict requirements around the use of seclusion in nonpublic special education schools (nonpublic schools);
- Requiring each school to notify the LEA and MSDE within four days when a student is restrained and/or secluded 10 or more times in a given school year (public agencies that are not public schools must report to MSDE);
- Requiring the LEA to assess and provide trauma-informed behavioral intervention recommendations to the public or nonpublic school upon notification of 10 restraint and/or

¹ (National Association of State Mental Health Program Directors (NASMHPD). (2009). National executive training institute curriculum for the creation of violence free, coercion-free treatment settings and the reduction of seclusion and restraint, 7th edition. Alexandria, VA: National Association of State Mental Health Program Directors, Office of Technical Assistance.

Sailas, E.E.S. & Fenton, M. (2000). Seclusion and restraint for people with serious mental illnesses. The Cochrane Database of Systematic Reviews, Issue 1. Art. No.: CD001163. DOI: 10.1002/14651858.CD001163. Retrieved February 9, 2009, from <http://www.mrw.interscience.wiley.com/cochrane/clsysrev/articles/CD001163/frame.html>.

Weiss, E.M., Altimari, D., Blint, D.F., & Megan, K. (1998, October 11–15). Deadly restraint: A nationwide pattern of death. *Hartford Courant*.

seclusion incidents (MSDE will provide recommendations for public agencies that are not public schools);

- Requiring the LEA/PA/nonpublic school to develop corrective action if a system reports 10 or more incidents for a student or if the LEA/PA/nonpublic school fails to comply with the requirements of the law; and
- Elevating the annual collection of restraint and seclusion data tracking and reporting by MSDE.

PURPOSE

The purpose of this document is to provide guidance and resources to the LEA, PA, and nonpublic school to implement current State law and regulations, including restricting the use of restraint and eliminating the use of seclusion in all but nonpublic schools. Effectively addressing challenging behaviors proactively allows students to learn, develop, and participate in instruction, promoting high levels of academic achievement. With this in mind, the intent of this document is to:

- Provide a summary of State law pertaining to the use of restraint and seclusion for all Maryland students;
- Share guidance specific to students with disabilities;
- Offer answers to common questions pertaining to the use of restraint and seclusion; and
- Provide resources for the utilization of restraint and seclusion.

MSDE developed this document in collaboration with stakeholders (see Appendices B and C) to provide direction regarding the new statute and to guide LEAs, public agencies, and nonpublic schools in the revision and implementation of local policies. MSDE strongly supports the need for evidence-based positive behavioral interventions as a means for reducing the inappropriate reliance on restraint and seclusion. The Code of Maryland Regulations (COMAR) will be amended to reflect the requirements of the new statute and provide additional direction.

For questions regarding students with disabilities refer to Section III: Restraint and Seclusion for Students with Disabilities.

Section II: Restraint and Seclusion For All Students

GUIDANCE FOR ALL STUDENTS

The following questions and answers are provided to help clarify the requirements of the law, Md. Code, Education § 7-1101 et seq.; however, they are not intended to be all-inclusive. As MSDE, LEAs, PAs, and nonpublic schools implement the new statutory changes, additional questions may arise, and MSDE will update this document with further answers and clarifications, as appropriate.

DEFINITIONS

1. **Behavior Intervention Plan (BIP)** – a proactive plan designed to address problem behavior exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.
2. **Exclusion** – the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.
3. **Imminent, Serious Physical Harm** – has the same meaning as serious bodily injury as used in the Individuals with Disabilities Education Act (IDEA). It means bodily injury which involves:
 - A substantial risk of death;
 - Extreme physical pain;
 - Protracted and obvious disfigurement; or
 - Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

See 34 C.F.R § 300.530(h)(i)(3); 18 U.S.C. § 1365(h)(3).

4. **Nonpublic Special Education School (nonpublic school)** – a school that receives funds from MSDE for the purpose of providing special education and related services to students with disabilities.
5. **Physical Restraint** – a personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.
 - Physical restraint does not include:
 - Briefly holding a student in order to calm or comfort the student;
 - Holding a student’s hand or arm to escort the student safely from one area to another;
 - Moving a disruptive student who is unwilling to leave the area when other methods, such as counseling, have been unsuccessful; or
 - Breaking up a fight in the school building or on school grounds.

Additional clarification is available in Appendix A

6. **Positive Behavioral Interventions, Strategies, and Supports** – a school-wide and individual application of data-driven, trauma-informed actions, instruction, and assistance to promote positive social and emotional growth while preventing or reducing challenging behaviors in an effort to encourage educational and social emotional success.
7. **Public Agency** – MSDE, an LEA, the Maryland School for the Deaf, and the Maryland School for the Blind. Please note: the Juvenile Services Education Program is exempted from the restraint and seclusion requirements and from the notification and data collection requirements of this law.
8. **School Hours** – includes the designated time that a school opens and closes for students, school-provided transportation, and school-sponsored events.
9. **School Year** – the school year begins on July 1 of the current year and ends on June 30 of the following year.
10. **Seclusion** – the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving during school hours.
 - Seclusion does not include:
 - a behavior intervention plan of separating a student by placing the student into a nonlocked room from which the student is allowed to leave; or
 - within a separate location in a classroom from which the student is not physically prevented from leaving.

Additional clarification is available in Appendix A

11. **Trauma Informed Intervention** – an approach to behavior intervention that is informed by the recognition that the experience of trauma, including the experience of violence, abuse, neglect, disaster, terrorism, and war, may have a significant impact on an individual's physical and emotional health and ability to function.

FREQUENTLY ASKED QUESTIONS

Physical Restraint

1. When may a public agency or nonpublic school use physical restraint in response to a student's behavioral health crisis?

Neither a public agency nor a nonpublic school may use physical restraint on a student as a behavioral health intervention unless:

- Physical restraint is necessary to protect the student or other individual from imminent, serious physical harm; and
- Other, less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student.

2. What is the difference between an escort, transport, and restraint?

In all instances, adults should be using nonphysical techniques to include clear, concise, verbal and paraverbal communication with students to elicit movement to an identified safe location. When these attempts have failed and the student and/or other individuals are facing imminent, serious physical harm, adults should utilize the least restrictive approach and refer to the physical intervention training methods utilized by their LEA.

A physical escort is the temporary touching or holding of the hand, wrist, arm, shoulder, or back for purposes of guiding a disruptive student to another location. A physical escort is not a prolonged action and does not restrict the student's ability to move freely. It is limited in duration and physical touch and most importantly allows the student to move in a natural manner from one place to another using their own physical ability. Additional clarification is available in Appendix A.

Transport techniques taught as part of crisis intervention training programs vary in the degree to which they restrict movement, under what circumstances they are recommended for use, and whether the technique as taught meets the State's definition of a restraint. Each LEA determines the physical intervention training program they will use and should remain consistent with the techniques and procedures taught within the selected program.

A physical restraint is a personal restriction that immobilizes or reduces the ability of a student to move their torso, arms, legs, or head freely. Thus, once a student is held for any period of time, with one or more parts of the body no longer able to move freely, the student's movement is being restricted rather than redirected and a physical restraint has begun.

[MD Code, Education, § 7-1101(d)]

3. What are the reporting requirements for moving a disruptive student who is unwilling to leave an area?

Reporting under the category of restraint and seclusion is not required unless it meets the definition of restraint. As defined in MD Code, Education §7-1101(d):

- Physical restraint does not include:
 - Briefly holding a student in order to calm or comfort the student;
 - Holding a student's hand or arm to escort the student safely from one area to another;
 - Moving a disruptive student who is unwilling to leave the area when other methods, such as counseling, have been unsuccessful; or
 - Breaking up a fight in the school building or on school grounds.

4. If staff are holding a child's arms behind the child's back and propelling the child down a hallway but say the child can move their limbs because they can kick their legs or get their arms out of the hold, would this be considered a restraint or a transport?

The conditions of each incident must be reviewed and compared to the definitions of what restraint is or is not (Additional clarification is available in Appendix A). Consider:

- Is the student being held to the point that the student is immobilized, unable to move their torso, arms, legs, or head freely? Restriction of any part of the body is a restraint.
- Is the touching temporary, such as holding the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location? If the student's movement is not restricted and the student can move all parts of their body freely, it is a transport.
- Is the student's motion occurring in a natural fashion? The student is independently moving to a new location in a manner that mirrors natural progression (i.e., upright, forward facing, feet on the ground)

Seclusion

1. What constitutes seclusion?

Seclusion is defined as the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving during school hours.

Seclusion is composed of two important factors: a student is alone in a space and is physically prevented from leaving.

The designation of "alone in a room" is not limited to four walls. When school staff implement methods to isolate a student alone in an area and prevent the student from leaving the space, it is seclusion. The ability of a staff member to interact with and monitor the safety of a student as required by COMAR 13a.08.04.05(3) should not be prohibited by the space used during these emergency situations. Additional clarification is available in Appendix A.

If staff are in a space with the student and attempting supportive interactions to assist the student in regaining control, this is exclusion and not seclusion.

2. When can a public agency use seclusion in response to a student's behavioral health crisis?

A public agency may not use seclusion as a behavioral health intervention on a student at any time.

3. Does there still need to be training on seclusion in public schools and agencies now that it is prohibited?

Seclusion needs to be clearly defined in all school settings to ensure that educators are aware of what seclusion is and to prevent its use in a public agency. A nonpublic school that utilizes seclusion must still complete all required training.

4. Since seclusion is prohibited in public schools across the state of Maryland, what alternative approaches can school staff use in crisis situations?

MSDE will be sharing behavioral intervention guidance and working with LEAs across the state to identify alternative approaches. In addition, every LEA identifies strategies and provides training to staff.

Imminent, Serious Physical Harm

1. What is the meaning of “imminent, serious physical harm”?

Imminent, serious, physical harm has the same meaning as serious bodily injury as used in the Individuals with Disabilities Education Act (IDEA). It means bodily injury which involves:

- A substantial risk of death;
- Extreme physical pain;
- Protracted and obvious disfigurement; or
- Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

[34 C.F.R § 300.530(h)(i)(3); 18 U.S.C. § 1365(h)(3)]

Documentation, Notification, and Reporting

1. What is considered an incident of physical restraint?

A personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.

Each incident of restraint shall be documented on the MSDE, Restraint or Seclusion* Single Incident form and maintained in the student’s record.

2. What is considered an incident of seclusion?

Each time a student is enclosed in a room, enclosure, or other space and prevented from leaving, shall be counted as a separate incident of seclusion regardless of the duration of the incident.

Each incident of restraint shall be documented on the MSDE, Restraint or Seclusion* Single Incident form and maintained in the student’s record.

3. When must a public school provide notice to MSDE and the LEA regarding incidents of physical restraint?

If a student enrolled in a public school is physically restrained 10 times or more in a school year, and every 10th incident following (e.g., 10th, 20th, etc.), the public school will provide notice to MSDE and the LEA at the earliest opportunity, but not longer than four business days after the student’s 10th incident of physical restraint.

4. When must a public agency that is not a public school (i.e., Maryland School for the Deaf, Maryland School for the Blind, and The SEED School) provide notice to MSDE regarding incidents of physical restraint?

If a student in a public agency that is not a public school (i.e., Maryland School for the Deaf, Maryland School for the Blind, and The SEED School) is physically restrained 10 times or more in a school year, and every following 10th incident (e.g. 10th, 20th, 30th, etc.), the public agency shall

provide notice to MSDE at the earliest opportunity, but not longer than four business days after the student's 10th incident of physical restraint.

5. When must a nonpublic school provide notice to MSDE and the LEA regarding incidents of physical restraint and/or seclusion?

If a student placed in a nonpublic school by the LEA is physically restrained and/or placed in seclusion 10 times or more in a school year, and every following 10th incident (e.g. 10th, 20th, etc.), the nonpublic school shall provide notice to the Department and the LEA at the earliest opportunity, but not longer than four business days after the student's 10th incident of physical restraint and/or seclusion.

6. Is there a standard notification form to be used by all LEAs, PAs, and nonpublic schools?

Yes, all required universal templates are included in the Restraint and Seclusion: Process Guide. The Excessive (10 Incidents) Use of Restraint and/or Seclusion Report contains two parts. Part One is the Notification of 10 Incidents of Restraint and/or Seclusion.

7. For reporting purposes in nonpublic schools, must the school report to MSDE and LEA when a student is physically restrained 10 times and again when/if a student is placed in seclusion 10 times?

A nonpublic school must report to the Department and the LEA when the combined number of incidents (physical restraint AND/OR seclusion) reaches 10. At that time, the nonpublic school shall provide notice to the Department and the LEA at the earliest opportunity, but not longer than four business days after the student's 10th incident, and every following 10th incident (e.g., 10th, 20th, 30th, etc.), of combined physical restraint and seclusion incidents.

Responsibilities Upon Notification of the 10th Incident of Physical Restraint and/or Seclusion

1. What is the LEA's responsibility upon receipt of notice from a public school or nonpublic school of the 10th incident?

The LEA shall:

- Review the student's case, including the circumstances of each incident of physical restraint or seclusion; and
- Assess the public school or nonpublic school's pattern of behavioral health interventions to evaluate whether the public school or nonpublic school could use less restrictive behavioral health interventions; and
- Share the LEA's recommendations with MSDE and the public school or nonpublic school.

The review and recommendations are to be documented using the required MSDE, Excessive Use (10 Incidents) of Restraint and/or Seclusion form available in the Restraint and Seclusion: Process Guide. This Excessive (10 Incidents) Use of Restraint and/or Seclusion Report contains two Parts. Part Two is the Student and School Level Review with Recommendations.

If a student enrolled in a public agency that is not a public school is physically restrained 10 times or more in the school year, the public agency shall provide notice to MSDE at the earliest opportunity, but not longer than four business days after the student's 10th incident of physical restraint.

Upon receipt of notice from a public agency that is not a public school that a student is restrained 10 times or more, in a school year, MSDE shall:

- Review the student's case, including the circumstances of each incident of physical restraint or seclusion; and
- Assess the public agency's pattern of behavioral health interventions to evaluate whether the public school or nonpublic school could use less restrictive behavioral health interventions; and share MSDE's recommendations with the public agency.

2. Can the LEA/nonpublic school set up a system wherein the LEA/nonpublic is responsible for notifying the MSDE within four business days when a student is restrained and/or secluded 10 times? Or does it have to be the individual school?

Yes, the LEA/nonpublic school may set up a centralized notification protocol to report on behalf of the individual LEA/nonpublic school as long as the notification to MSDE occurs within four business days as required. The LEA is responsible for reporting on students attending a public school. The statute requires that the nonpublic school, "shall provide notice to MSDE and the local education agency at the earliest opportunity, not no longer four business days after the students' 10th incident of physical restraint and/or seclusion.

3. For reporting purposes, how will the 10 incidents be tracked and reported between public schools, nonpublic schools, and LEAs?

The public school, nonpublic school, or LEA where the student is currently enrolled must notify the MSDE upon the 10th incident, and every following 10th incident (e.g., 10th, 20th, etc.), of restraint and/or seclusion of the school year regardless of whether the incidents occurred in different schools or LEAs. This child-centered approach ensures that that student is not repeatedly subjected to restraint and/or seclusion without review of more appropriate interventions. Therefore, the number of incidents follow the student during the course of the school year and must include a continuous count of all incidents for the student in all schools that the student attended within the school year. Please refer to the Maryland Student Records Manual 2020 for guidance on procedures when a student transfers.

4. What happens if a public agency, the LEA in which the public agency is located, or a nonpublic school fails to comply with the provisions of this law or reports to the MSDE that a student has been physically restrained or placed in seclusion 10 times or more in a school year?

The public agency, the LEA in which the public agency is located, or a nonpublic school that fails to meet the provisions above shall submit to the Department a systemic, evidence-based, corrective action plan.

General Education and Section 504 Student Incidents

1. What happens if restraint or seclusion is used but the student does not have an IEP and/or Section 504 Plan?

If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.

[COMAR 13A.08.04.05C(1)]

2. What happens if restraint or seclusion is used and the student has a Section 504 Plan?

While COMAR does not currently specify when the pupil services team must hold a meeting after restraining a student with a Section 504 Plan, the pupil services team must ensure that the student's behavioral needs are met through their Section 504 plan and a behavior intervention plan as appropriate. If the team has not considered the need to conduct a Functional Behavior Assessment (FBA) for the student, then in order to appropriately meet the student's needs, it should do so in an expeditious manner.²

Annual Reporting Required by Public Agencies and Nonpublic schools

1. What are the annual reporting requirements for each public agency and nonpublic school?

On or before December 1 each year, each public agency and nonpublic school shall submit to MSDE a report for the prior school year on:

- The number of physical restraint incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement;
- The number of physical restraint incidents for each student who had at least one physical restraint or seclusion incident, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement;
- *For nonpublic schools*, the number of seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, and age; and
- *For nonpublic schools*, the number of seclusion incidents for each student who had at least one physical restraint or seclusion incident, disaggregated by jurisdiction, disability, race, gender, and age.

In addition, on or before December 1 each year, each public agency and nonpublic school shall submit to the Department a report on steps taken to encourage positive behavioral interventions, including:

² Under Section 504 of the Rehabilitation Act (Section 504), 29 U.S.C. § 794, students have protection against discrimination based on their disability. If a student is denied the opportunity to participate in or benefit from aids, benefits, and services by inappropriately restraining and/or secluding them, the school violates its obligations under Section 504. Therefore, it is critical that teams appropriately evaluated and/or re-evaluated students with disabilities with regard to behavior, and that Section 504 teams and IEP teams develop appropriate behavior intervention plans to address the student's behavioral needs.

- The professional development provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions for the prior school year;
- For nonpublic schools, the policy changes made to further reduce the use of seclusion incidents during the prior school year; and
- The policy changes or new professional development opportunities designed to further increase positive behavioral interventions and reduce physical restraint or seclusion incidents in the upcoming school year.

Additionally, each nonpublic school shall personally observe and review seclusion rooms, review training plans for the use of seclusion, and report to the Department regarding findings.

MSDE Responsibilities

1. What is the Department's responsibility regarding data submitted by nonpublic agencies and nonpublic schools?

MSDE is responsible for verifying the accuracy of a report from any public agency or nonpublic school that reports no physical restraint or seclusion incidents. If the MSDE is unable to verify the accuracy of a report submitted by a public agency or nonpublic school, MSDE shall make recommendations for improvements in data collection and positive behavioral interventions at the public agency or nonpublic school.

2. How will the Department hold public agencies and nonpublic schools accountable?

The MSDE will develop an accountability system to measure compliance by public agencies and nonpublic with COMAR 13A.08.04 – *Student Behavior Interventions* and any other regulations adopted to implement this law and analyzing data and information collected and submitted reports to determine trends and patterns in behavioral interventions. The MSDE is required to report to the General Assembly findings and recommendations reported by public agencies and nonpublic schools.

The report submitted by MSDE to the General Assembly will contain data for public agencies and nonpublic schools by school, subject to State and federal privacy laws. The data provided in the report will be presented in a manner that accounts for variations in enrollment between schools.

3. Is MSDE required to adopt regulations to implement the new law?

Yes. MSDE is required to develop regulations which must be approved and adopted by the State Board of Education.

4. How will the Department assist public agencies and nonpublic schools with professional development on positive behavioral interventions?

The MSDE will identify any gaps in behavioral interventions, strategies and supports. Following the identification of gaps, the MSDE, in consultation with representatives of institutions of higher education and the Professional Standards and Teacher Education Board, will adopt positive

behavioral intervention training requirements for teachers, administrators, behavioral health specialists, paraprofessionals, aides, and any other employees who interact routinely with students.

The adopted training requirements will include positive behavioral interventions, strategies, and supports that are evidence-based, include trauma-informed interventions and strategies for de-escalation, remedy any identified gaps, and are consistent with professionally accepted practices and standards for persons entering the field of education.

Additionally, the training requirements adopted will be the basis of a program of professional development that the MSDE will share with local school employees from public agencies and nonpublic schools. The MSDE will also issue guidance on best practices in implementing positive behavior intervention plans that are the basis for the professional development program.

COMAR 13A.08.04 – Student Behavior Interventions

The MSDE recognizes that COMAR 13A.08.04 – *Student Behavior Interventions* regulations will need to be amended in light of the new restraint and seclusion requirements under House Bill 1255 *Physical Restraint and Seclusion – Limitations, Reporting, and Training* (2022 Md. Laws, Chap. 31). However, it is important to note that COMAR 13A.08.04 remains valid where there is no conflict with the amended statute. This means that the new definitions adopted by the bill in Educ. Art. § 7-1101 override the existing definitions in COMAR. However, all other requirements of COMAR, such as restrictions on placing a student in a face down position during restraint (COMAR 13A.08.04.05A(1)(f)) and requirements for seclusion rooms (COMAR 13A.08.04.05B(3)), remain in effect. For more information on the existing Student Behavior Interventions regulations, please see [Guidance for Student Behavior Interventions: Restraint and Seclusion](#) (August 2019).

Section III: Restraint And Seclusion For Students With Disabilities

GUIDANCE FOR STUDENTS WITH DISABILITIES

MSDE’s Division of Early Intervention and Special Education Services (DEI/SES) is committed to ensuring that every Maryland student has access to a safe and supportive learning environment with healthy and trusting relationships with school staff. This starts with LEAs, PAs, and nonpublic schools creating a positive culture and instituting a tiered system of supports. In addition, LEAs/PAs, and nonpublic schools must proactively consider the social, emotional, academic, and behavioral needs of their individual students. When students engage in inappropriate or challenging behavior, LEAs/PAs, and nonpublic schools must determine the underlying cause of the behavior and employ trauma-informed positive behavioral interventions, as appropriate, to respond to, and to reduce, and/or eliminate these behaviors.

Restraint and seclusion are crisis interventions (Additional clarification is available in Appendix A) that may be implemented as part of an emergency response. *Restraint and Seclusion are only used in very limited and exceptional circumstances.* The purpose of this section is to aid IEP teams in implementing the new and amended statute governing Student Behavior Interventions (Md. Code, Education § 7-1101 *et seq.*) and current regulations (COMAR 13a.08.04 *et seq.*) as they relate to students with disabilities. One of the important changes to the statute is the adoption of amended and expanded definitions of restraint and seclusion. The below charts reflect the definitions in the statute. (MD Code, Education, § 7-1101).

Restraint IS...	Restraint IS NOT...
<p>A personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.</p>	<p>Briefly holding a student to calm or comfort the student;</p> <p>Holding a student’s hand or arm to escort the student safely from one area to another;</p> <p>Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful;³ or</p> <p>Breaking up a fight in the school building or on school grounds.</p>

³ “Transport” is a term used in specific behavior intervention training programs (e.g., *Crisis Prevention Intervention*). The term is not defined in the statute or regulations. A transport is NOT a physical restraint, as long as its use is not consistent with the definition of physical restraint in MD Code, Education, § 7-1101(d). See Question #12 for more information on physical escorts.

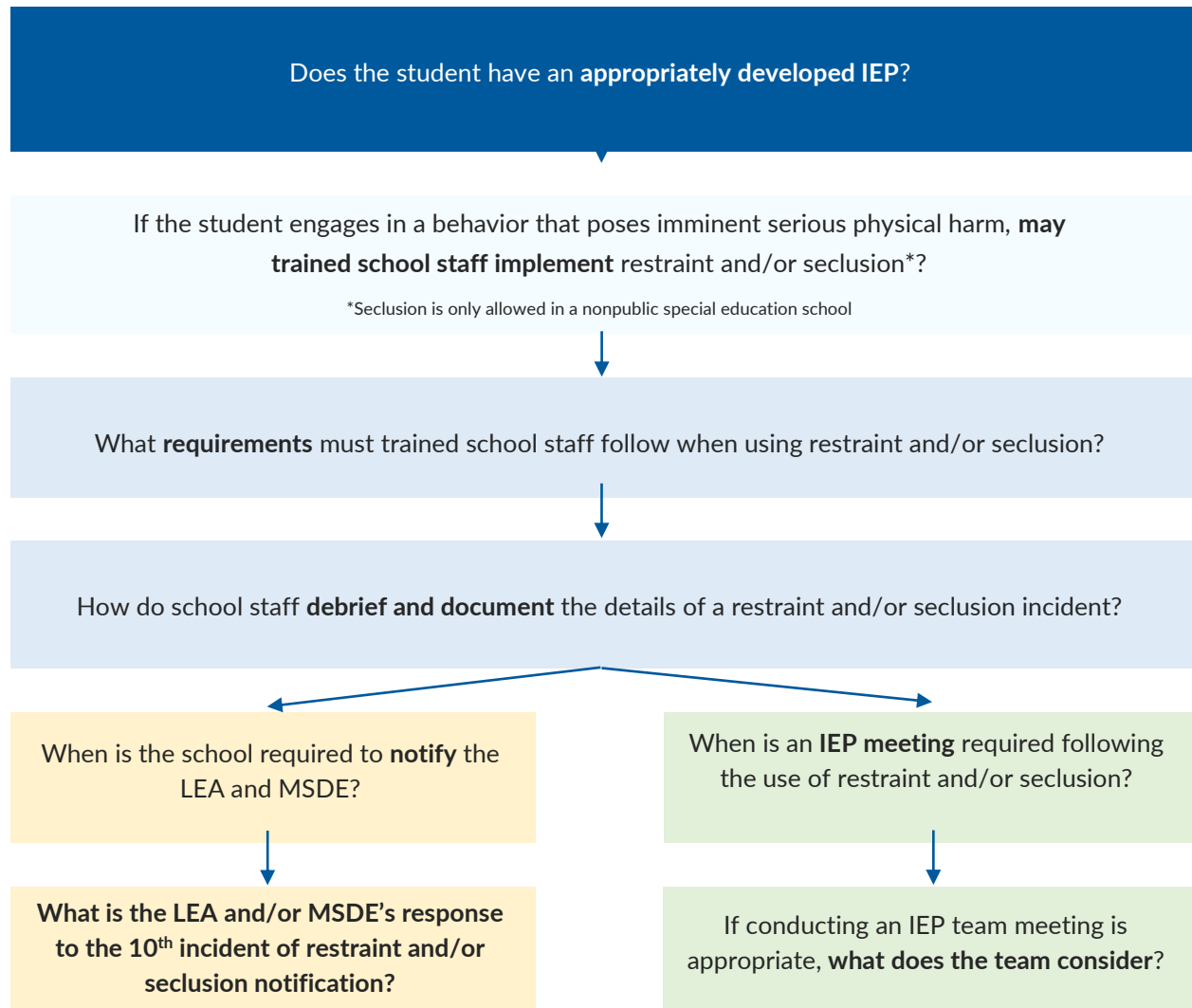
Seclusion* IS...	Seclusion* IS NOT...
<p>The confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving during school hours.</p>	<p>A behavior intervention plan of separating a student by placing the student:</p> <ul style="list-style-type: none"> into a nonlocked room from which the student is allowed to leave; or within a separate location in a classroom from which the student is not physically prevented from leaving.
Exclusion IS...	
<p>The removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.</p>	

The new statutory changes went into effect on July 1, 2022. Until the State Board of Education adopts revised restraint and seclusion regulations, the current regulations remain in full effect where there is no conflict with the statute. *See* COMAR 13A.08.04 *et seq.* This includes the specific requirements regarding debrief and documentation of incidents of restraint and seclusion, the requirements for seclusion rooms in nonpublic schools, as well as the requirements directing the use of exclusion. (Exclusion is the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support. Use of exclusion is subject to the requirements of [COMAR 13A.08.04.04.](#))

To assist LEAs/PAs, and nonpublic schools in understanding the new and existing statutory and regulatory requirements for the use of restraint and seclusion, the DEI/SES developed the *Restraint and Seclusion: Process for Students with Disabilities*. This process focuses on a proactive approach, where restraint and seclusion are absolute last alternatives used only in emergency circumstances which pose imminent, serious physical harm to the child or others. Imminent, serious, physical harm has the same meaning as serious bodily injury as used in the Individuals with Disabilities Education Act (IDEA). (See Question #3 below.) A proactive approach begins with the early identification and evaluation of students with disabilities, including full assessment of their academic, social, emotional, and behavioral needs. This information is essential to developing an appropriate Individualized Education Program (IEP) and Behavior Intervention Plan (BIP), including positive behavioral interventions, strategies, and supports to address behavior that impedes learning.

A well-developed IEP and BIP will reduce the occurrence of crises, mitigating the need to use restraint and/or seclusion. However, if a situation arises where staff must protect the student or another individual from imminent, serious physical harm when other, less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student, then trained staff may use restraint and/or seclusion; however, use must be consistent with the law and best practices. This is followed by appropriate documentation and a comprehensive debrief of the incident to determine how to prevent and/or respond to the student’s behavior moving forward. An IEP meeting may be required. The following graphic outlines the IEP team process that LEAs, PAs, and nonpublic schools must follow and provides guidance to "operationalize the law."

Restraint and Seclusion: Process for Students with Disabilities



Caution

It is important to note that the intent of the new statutory changes is to reduce the use of restraint and seclusion, both through limitations on how and when these interventions may be used, but also through a focus on trauma-informed positive behavior interventions and supports. As LEAs/PAs, and nonpublic schools remove and/or limit the use of these aversive interventions from their practices, they must ensure that students are not subject to other inappropriate or potentially harmful practices that remove the student from the classroom due to a lack of positive behavior supports and strategies. The use of exclusionary school discipline, such as suspension and expulsion, and emergency petitions are not an acceptable replacement for restraint and seclusion.

Does the student have an appropriately developed IEP?

If a student’s behavior impedes the student’s learning or the learning of others, the IEP team shall consider strategies, including positive behavioral interventions, strategies, and supports, to address that behavior, as appropriate. (COMAR 13A.05.01.08A(4)).

OPERATIONALIZING THE LAW

Develop as a component of local existing internal monitoring practices and protocols a system to ensure:

- PLAAFP addresses challenging behavior, utilizing:
 - Assessment information (formal and informal)
 - Behavioral performance trends over time
 - Focused observations
 - Input from staff and families
- Behavioral Intervention section of the IEP is completed
 - IEP teams do not proactively obtain signed parent consent for the use of restraint/seclusion
 - At a minimum, BIPs are annually reviewed and revised, as appropriate
- Supplementary aids/services and/or goals and objectives are included as appropriate; and
- Progress monitoring of behavioral needs



If the student engages in a behavior that poses imminent serious physical harm, may trained school staff implement restraint and/or seclusion*?

*Seclusion is only allowed in a nonpublic special education school

MD Code, Education, § 7-1102; COMAR 13A.08.04.05

Restraint:

Neither a public agency nor a nonpublic school may use restraint on a student as a behavioral health intervention unless:

- Restraint is necessary to protect the student or another individual from imminent serious physical harm; and
- Other, less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student.

Seclusion:

A nonpublic school may not use seclusion as a behavioral health intervention for a student unless:

- Seclusion is necessary to protect the student or another individual from imminent serious physical harm;
- Other, less intrusive interventions have failed or been demonstrated to be inappropriate for the student;

- A qualified health care practitioner is on site and is directly observing the student during the seclusion; and
- The health care practitioner determines that seclusion is not contraindicated for the physical, psychological, or psychosocial health of the student.

OPERATIONALIZING THE LAW

Develop as a component of local existing internal monitoring practices and protocols a system to ensure:

- Establish a training plan to provide high-quality, ongoing, professional development to all current and incoming staff and nonpublic special education school partners (Gen. Ed, Spec. Ed, Support Staff)
- Consider training families in positive, proactive behavior strategies. Include family training, as necessary, in the IEP
- Proactive, less intrusive strategies are implemented with consistency and fidelity system wide
- Restraint and seclusion are only utilized in situations as a safety measure to address a clear and imminent danger that may result in serious, physical harm to the student or other individual.



What **requirements** must trained school staff follow when using restraint and/or seclusion?

MD Code, Education, § 7-1102; COMAR 13A.08.04.05

Restraint:

- Only applied by school personnel who are trained in the appropriate use of restraint consistent with COMAR.
- Shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm.
- Shall be removed as soon as the student is calm.
- May not:
 - Exceed 30 minutes;
 - Place a student in a face down position;
 - Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or
 - Straddle a student's torso.

Seclusion:

Education § 7-1102

- A qualified health care practitioner is on site and is directly observing the student during the seclusion.
- The health care practitioner determines that seclusion is not contraindicated for the physical, psychological, or psychosocial health of the student.
- If the door to the room in which the student is being secluded has a locking mechanism, the locking mechanism is engaged only if held in place by an individual or, if operated electronically, automatically releases in the case of an active fire alarm.
- The period of seclusion lasts the lesser of:
 - 30 minutes; or
 - A point in time during which the student no longer poses a threat of imminent, serious physical harm.

COMAR 13A.08.04.05

- A room used for seclusion shall:
 - Be free of objects and fixtures with which a student could self-inflict bodily harm;
 - Provide school personnel an adequate view of the student from all angles; and
 - Provide adequate lighting and ventilation.
- School personnel shall:
 - Remain in close proximity to the door of a seclusion room at all times;
 - Actively observe a student placed in seclusion at all times; and
 - Provide a student placed in seclusion with:
 - An explanation of the behavior that resulted in the removal; and
 - Instructions on the behavior required to return to the learning environment.
 - Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with COMAR

Each LEA/PA/and nonpublic special education school is required to identify an evidence-based crisis intervention program with a focus on proactive positive behavior intervention that reinforces the use of restraint and seclusion as a last resort to maintain the safety of the student and others.

Develop as a component of local existing internal monitoring practices and protocols a system to ensure all staff implementing restraint and/or seclusion maintain current training/certification in the locally approved crisis intervention program and implement all strategies with fidelity.



How do school staff debrief and document the details of a restraint and/or seclusion incident?

COMAR 13A.08.04.05

Debrief and Document:

- Other less intrusive interventions that have failed or been determined inappropriate;
- The precipitating event immediately preceding the behavior that prompted the use of restraint/seclusion;
- The behavior that prompted the use of a physical restraint/seclusion;
- The names of the school personnel who observed the behavior that prompted the use of restraint;
- The names and signatures of the staff members implementing and monitoring the use of restraint/seclusion;
- Justification for initiating the use of restraint/seclusion;
- The type of restraint;
- The length of time in restraint/seclusion;
- The student's behavior and reaction during the restraint/seclusion; and
- The name and signature of the administrator informed of the use of restraint/seclusion.

Documentation must be maintained in the student's educational record and available for inspection by the student's parent or legal guardian.

Parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's IEP or BIP.

Develop as a component of local existing internal monitoring practices and protocols a system to ensure:

- Debriefing and documentation occur as soon as possible following the incident to ensure accurate recollection of events and circumstances and include staff involved in the behavioral incident
 - Clear documentation of debrief discussions and decisions
 - Accurate and complete documentation of required components of an incident report
 - Consider training and implementation of the MSDE model individual Restraint and Seclusion Documentation Form;
 - Documentation of one restraint or seclusion incident per form
 - Clear descriptions of the;
 - Incident including details of adult response to each student behavior/action
 - Precipitating events prior to the restraint should include information regarding what occurred before the student's behavior began to escalate
 - Reflection on and consideration of whether the incident could have been handled differently
 - Signatures for those implementing and monitoring the restraint and the administrator informed of the incident
- Consideration of the restraint and seclusion incident documentation and debriefing behavior data to determine less intrusive interventions to de-escalate and handle future behavior events



When is an **IEP meeting** required following the use of restraint and/or seclusion?

MD Code, Education, § 7-1102; COMAR 13A.08.04.05

Education § 7-1102

- If the behavior of a student with an IEP is adversely affected after being placed in seclusion, the student's individualized education program team shall convene a meeting on an expedited basis or at the earliest opportunity to discuss alternative behavioral health treatments.

COMAR 13A.08.04.05

- If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.
- If restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan does not include the use of restraint or seclusion, the IEP team shall meet within 10 business days of the incident to consider:
 - The need for a functional behavioral assessment;
 - Developing appropriate behavioral interventions; and
 - Implementing a behavioral intervention plan.
- If restraint or seclusion is used for a student with a disability, and the IEP or BIP includes the use of restraint or seclusion, the student's IEP or BIP shall specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or BIP.

OPERATIONALIZING THE LAW

Develop as a component of local existing internal monitoring practices and protocols a system to ensure:

- IEP Meeting notifications specify discussion of the restraint or seclusion incident as a purpose of the meeting
- IEP teams consider all available data, including restraint and seclusion debrief and documentation data to determine the need for;
 - Additional assessment/ data collection
 - Revisions to the IEP or BIP
- Prior Written Notice accurately document all considerations and decisions
- IEP teams meet to discuss and respond to the lack of behavioral progress



If conducting an IEP team meeting is appropriate, what does the team consider?

COMAR 13A.08.04.05

When an IEP team meets, the IEP team shall consider:

- Existing health, physical, psychological, and psychosocial information, including any contraindications to the use of restraint or seclusion based on medical history or past trauma;
- Information provided by the parent;

- Observations by teachers and related service providers;
- The student's current placement; and
- The frequency and duration of restraints or seclusion events that occurred since the IEP team last met

Parental Consent (MD Code, Education, § 8-405; COMAR 13A.08.04.05)

- The IEP team shall obtain the written consent of the parent if the team proposes to include restraint or seclusion in the behavior intervention plan or IEP to address the student's behavior.
- If the parent does not provide written consent or refusal, the IEP team shall send the parent written notice within 5 business days of the IEP team meeting that states:
 - The parent has the right to either consent or refuse to consent to the use of restraint or seclusion; and
 - If the parent does not provide written consent or a written refusal within 15 business days of the IEP team meeting, the IEP team may implement the proposed use of restraint or seclusion.
- If the parent provides written refusal, the IEP team may use the dispute resolution options listed in Education Article, § 8-413, Annotated Code of Maryland, to resolve the matter.

OPERATIONALIZING THE LAW

IEP teams should not proactively obtain consent for restraint and/or seclusion if the student has never been restrained or secluded.

Even if the IEP or BIP includes restraint or seclusion with parent consent, the IEP team must meet regularly to consider the need for new/additional/different strategies and accommodations for students (i.e., progress monitoring). This should occur before the 10th incident of restraint and/or seclusion.



When is the school required to **notify** the LEA and MSDE? What is the LEA and/or MSDE's response to **the 10th incident** of restraint and/or seclusion notification?

MD Code, Education, § 7-1103 and 7-1106

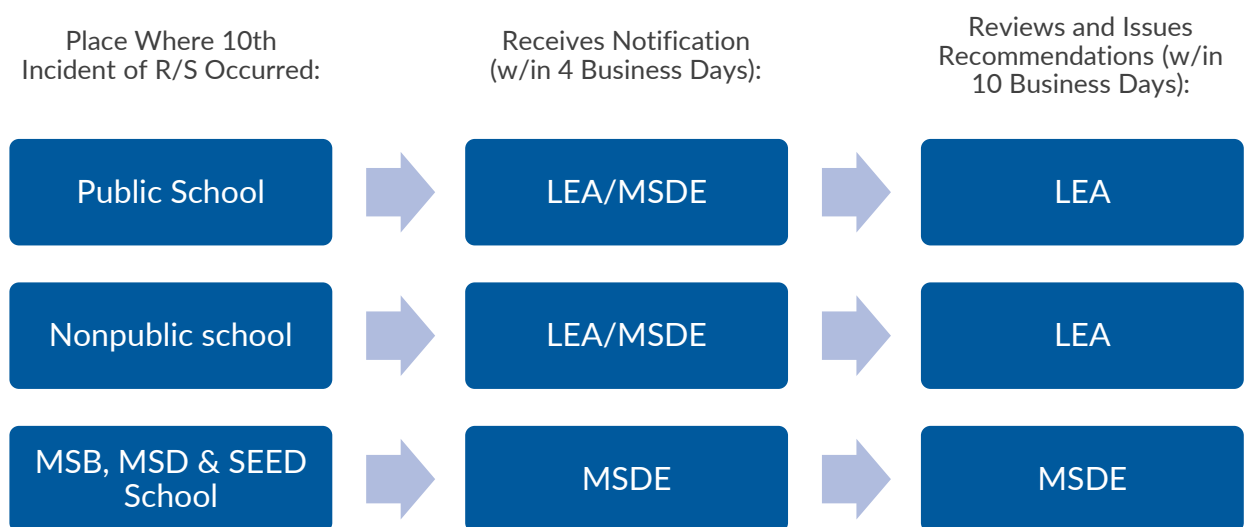
When the 10th incident of restraint and/or seclusion occurs for a student within one school year, the school must notify the LEA and the MSDE within four (4) business days:

- LEAs may conduct the notification to the MSDE.
- Public agencies that are not public schools (i.e., Maryland School for the Blind and Maryland School for the Deaf) only need to notify the MSDE.

Upon receipt of notification, within 10 business days, the LEA (or MSDE for MSB, MSD, and The SEED School) must:

- Review the student's case, including the circumstances of each incident of restraint or seclusion;
- Assess the public school or nonpublic school's pattern of behavioral health interventions to evaluate whether the public school or nonpublic school could use less restrictive behavioral health interventions; and
- Share recommendations with the MSDE and the public school or nonpublic school (or with the public agency).

Notification, Review, and Recommendations Flowchart



FREQUENTLY ASKED QUESTIONS

1. What interventions should be used prior to the use of restraint or seclusion with a student with a disability?

School personnel are required to create a positive culture and institute an integrated tiered system of supports that include an array of trauma-informed positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors. In addition, LEAs/PAs, and nonpublic schools must proactively consider the social, emotional, academic, and behavioral needs of their individual students. Less intrusive, nonphysical strategies must be unsuccessfully attempted (and fail) or be considered (and determined inappropriate) prior to the use of restraint or seclusion. If a student with a disability is manifesting challenging behaviors, the IEP team must consider: i) instructional and behavioral interventions; ii) a functional behavior assessment (FBA) and corresponding behavioral intervention plan (BIP); and iii) trauma-informed interventions as appropriate.

[COMAR 13A.08.04.03]

2. May restraint or seclusion be included on a student's IEP and BIP?

Once restraint or seclusion has been used and school personnel have made a student-specific determination that it may need to be used through intentional conversation and discussion in the IEP process and development of the IEP as outlined in Question #2, restraint or seclusion may be included on a student's BIP and IEP to address the student's behavior in a crisis situation where it is necessary to protect the student or another individual from imminent serious physical harm. The IEP document facilitates the IEP Team's decision-making process for the anticipated use of restraint (or seclusion) through the following steps:

- Reviewing available data to identify any contraindications to the use of restraint or seclusion based on medical history or past trauma, including consultation with medical or mental health professional as appropriate;
- Identifying the less intrusive, nonphysical interventions that will be used to respond to the student's behavior prior to the use of restraint or seclusion in an emergency situation; and
- Obtaining written consent from the parent, consistent with Education Article §8-405, Annotated Code of Maryland.

[COMAR 13A.08.04.05A(1)(b); COMAR 13A.08.04.05B(2)]

3. Does adding restraint or seclusion to a student's IEP and BIP change the circumstances under which these interventions may be used?

No. Restraint or seclusion, even if added to a student's BIP and IEP, may only be used to address the student's behavior in an emergency situation. An emergency situation arises when restraint or seclusion is necessary to protect a student or other person from imminent, serious, physical harm, and may only be used after less intrusive, nonphysical interventions have failed or been determined inappropriate.

[MD Code, Education, § 7-1102]

4. Is parental consent required before an IEP team may include restraint and/or seclusion on the IEP and BIP?

The IEP team must obtain the written consent of the parent before restraint and/or seclusion is added to the IEP and BIP. If the parent does not provide written consent at the IEP meeting, the IEP team must send the parent written notice within 5 business days of the IEP team meeting that states: i) the parent has the right to either consent or refuse to consent to the use of restraint or seclusion; and ii) if the parent does not provide written consent or a written refusal within 15 business days of the IEP team meeting, the IEP team may implement the proposed use of restraint or seclusion. If the parent provides a written refusal, the IEP team may use the dispute resolution options listed in Education Article §8-413, Annotated Code of Maryland, to resolve the matter.

[COMAR 13A.08.04.05C(6)]

5. What happens if an emergency situation arises, but the parent refused restraint or seclusion?

Restraint or seclusion may be used if there is an emergency situation and restraint or seclusion is necessary to protect a student or other person from imminent, serious, physical harm after other

less intrusive, nonphysical interventions have failed or been determined inappropriate. This is the case regardless of whether the parent has provided written consent or a written refusal to include restraint or seclusion on a student's BIP and IEP. In any event, each time restraint or seclusion is used, parents must be provided oral or written notification within 24 hours, unless otherwise provided for in a student's IEP and BIP. Additionally, an IEP team meeting must be conducted within ten (10) business days of the incident for any student whose IEP and BIP do not include restraint and/or seclusion.

[COMAR 13A.08.04.05A(5); COMAR 13A.08.04.05B(9)]

6. What must occur if restraint or seclusion is added to a student's IEP and BIP?

If restraint or seclusion is added to the IEP and BIP, the student's IEP and BIP must specify how often the IEP team must meet to review or revise, as appropriate, the student's IEP and BIP, in accordance with COMAR 13A.05.01 and COMAR 13A.08.03. When an IEP team meets to review or revise a student's IEP and BIP, the IEP team must consider:

- Existing health, physical, psychological, and psychosocial information, including any contraindications to the use of restraint or seclusion based on medical history or past trauma;
- Information provided by the parent;
- Observations by teachers and related service providers;
- The student's current placement; and
- The frequency and duration of restraints or seclusion events that occurred since the IEP team last met.

[COMAR 13A.08.04.05C(3)-(4)]

7. What must occur if physical restraint or seclusion is used but is not included on a student's BIP and IEP?

If restraint or seclusion is used for a student with a disability, and the IEP and BIP do not include the use of restraint or seclusion, the IEP team must meet, in accordance with COMAR 13A.08.03, within 10 business days of the incident to consider the need for a functional behavioral assessment, developing appropriate behavioral interventions, revisions to the IEP, and implementing or revising a BIP.

[COMAR 13A.08.04.05C(2)]

For example, Sarah is a kindergarten student at Maryland Elementary School with an IEP, receiving special education services under the category of Developmental Delay. Sarah's IEP does not include restraint, and the IEP team has not completed an FBA and a BIP. During a transition from lunch back into the classroom, Sarah became agitated and began engaging in self-injurious behavior that could result in serious bodily injury if left unaddressed (i.e. banging her head on a concrete wall). After attempting multiple less intrusive interventions to calm and de-escalate Sarah, a staff member trained in Crisis Prevention Intervention physically restrained Sarah.

Following the incident, the school notified the parent via a phone call that afternoon. Staff involved documented the incident using an approved form and met to debrief. The IEP team scheduled a meeting within 10 days of the incident to review what occurred, Sarah's behavior data, and to consider the need for an FBA. The team revised the IEP as appropriate.

8. When can a nonpublic school use seclusion as a behavioral intervention for a student?

A nonpublic school may not use seclusion as a behavioral health intervention for a student unless:

- Seclusion is necessary to protect the student or another individual from imminent, serious physical harm;
- Other, less intrusive interventions have failed or been demonstrated to be inappropriate for the student;
- A qualified health care practitioner, as defined in the Health Care Occupations Article is on site and is directly observing the use of seclusion;
- The health care practitioner determines that seclusion is not contraindicated for the physical, psychological, or psychosocial health of the student;
- If the door to the room in which the student is being secluded has a locking mechanism, the locking mechanism is engaged only if held in place by an individual or, if operated electronically, automatically releases in the case of an active fire alarm; and

The period of seclusion lasts the lesser of:

- 30 minutes; or
- A point in time during which the student no longer poses a threat of imminent, serious physical harm.

9. What happens if a student who has an Individualized Education Program (IEP) is placed in seclusion in a nonpublic school?

In consultation with the health care practitioner who observed the use of seclusion, the IEP team, which includes the parent, shall review the student's physical, psychological, and psychosocial health history to determine whether seclusion is contraindicated for the student. A determination of whether seclusion is contraindicated for the student shall be made at each annual review of the student's IEP and within 10 days of a student's placement being changed.

If a student's behavior is adversely affected after being placed in seclusion, the nonpublic school shall convene an IEP team meeting on an expedited basis or at the earliest opportunity to discuss alternative behavioral health treatments/interventions.

10. What additional steps must an IEP team take if a student at a nonpublic school is secluded?

Regardless of its inclusion on the IEP and BIP, if the student is adversely impacted by the use of seclusion, the new legislation requires the IEP team to convene a meeting to discuss. See Question #9. While the statute does not require this for the use of physical restraint, it is the expectation of MSDE that the LEA hold an IEP meeting if the student is adversely impacted by the use of physical restraint.

While a team may have parental consent to use these interventions, it does not remove the IEP team's obligation to monitor progress and revise the IEP and/or BIP to provide a FAPE, including positive behavioral interventions. The regulations require that the IEP or BIP specify how often the IEP team will meet to review or revise the student's IEP or BIP. The DEI/SES expects IEP teams to meet before restraint and/or seclusion are used 10 or more times.

[MD Code, Education, § 7-1102(d)(2); COMAR 13A.08.04.05C(3)]

For example, Bobby is an 8-year-old elementary student with an IEP at Maryland State Elementary school. Bobby is eligible for special education services under the category of Other Health Impairment. With his parent's consent, Bobby's IEP and BIP include the use of restraint when he physically attacks staff or other students by attempting to strangle. During an unstructured break time, Bobby was given access to an iPad, but when the break ended, Bobby began engaging in inappropriate behavior. Staff were unable to de-escalate him, and he physically attacked staff by placing his arms around staff's neck and attempting to strangle. Staff attempted to block the aggression, but Bobby continued to escalate and became more aggressive and his physical attack intensified. A trained staff member placed Bobby in a restraint consistent with Crisis Prevention Intervention. During the hold, Bobby continued to yell and attempted to head-butt the staff member implementing the restraint. The restraint lasted 2 minutes.

Staff contacted Bobby's parent via phone that day. The staff involved documented the incident using an approved form and met to debrief. The IEP and BIP specifies how often Bobby's IEP team must meet to review his IEP and BIP. The team, during the debrief, considered whether the review timelines on the IEP and BIP were appropriate or whether they needed to call an IEP meeting sooner to address the Bobby's behavior and the future use of restraint and other behavioral strategies. To make this determination, they reviewed his behavior data, including the number of restraints, the frequency of restraints, Bobby's pattern of behaviors leading up to the incident(s) of restraint, and other data as appropriate. During the call to Bobby's parent, staff discussed the parent's experiences with Bobby's displayed behavior.

If after reviewing all of the data, staff identify progress in Bobby's behaviors and the successful impact of implemented interventions, staff may decide not to call an IEP team meeting. For example, progress could be a consistent reduction in the frequency of restraint, the length of restraint, or the student's ability to use taught coping strategies. It is important for the team to consult with the parent in making this decision.

Similarly, if after reviewing all the data, Bobby's staff cannot identify progress in his behavior patterns or the successful use of implemented interventions, the IEP team should hold a meeting. For example, evidence that the use of restraint remains the same or increases, or that Bobby has not successfully learned replacement behaviors can indicate a lack of progress. At the IEP team meeting, members must review data, consider whether new or additional evaluations are necessary, and revise the IEP and BIP as appropriate to address Bobby's behavior, including training all staff who interact with the student.

11. In a nonpublic school, who is considered a qualified health care professional, and what must s/he do before using seclusion?

The following is considered a health care professional:

- A physician, licensed to practice under Title 14 of the Health Occupations Article;
- A psychologist, licensed to practice under Title 18 of the Health Occupations Article;
- A clinical social worker, licensed to practice under Title 19 of the Health Occupations Article;
- A registered nurse, licensed to practice under Title 8 of the Health Occupations Article;
- A clinical professional counselor, licensed to practice under Title 17 of the Health Occupations Article;

Before a health care professional may use seclusion as a behavioral health intervention for a student in a nonpublic school, the health care practitioner shall:

- Have received training in all topics required under COMAR 13A.08.04.06, in effect on June 30, 2022; and
- Be clinically familiar with the student.

12. When is a seclusion incident considered ended?

A seclusion incident shall be considered ended if at any moment during the incident the student is no longer prevented from leaving, is removed from a room, an enclosure, or other space, or an adult engages with the student in a supportive manner to support the de-escalation process. It is best practice to notify the student that seclusion has ended, as appropriate. Please note: If, after a seclusion incident has ended as described above, nonpublic school determines that it is necessary to place the student in seclusion again, the subsequent confinement of the student in the room, enclosure, or other space, shall be considered a separate seclusion incident and be documented as such.

13. What if the staff person is outside and repeatedly opens the door to see if the child is ready to exit and then closes the door because the situation is still an emergency?

A student in seclusion must be observed at all times and the space utilized should provide staff with an adequate view of the student from all angles. An incident of seclusion ends when the door is opened, and a staff member begins to interact with the student for purposes of assessing the situation and/or de-escalation.

If after a seclusion incident has ended, the nonpublic school staff determines that it is necessary to place the student in seclusion again, the subsequent confinement of the student in the room, enclosure, or other space, shall be considered a separate seclusion incident and documented as such.

14. Can exclusion be used with a student with a disability?

Exclusion is the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

Exclusion is allowed, but not required, in the following circumstances:

- If the student's behavior unreasonably interferes with the student's learning or the learning of others;
- If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
- If exclusion is requested by the student; or
- If supported by the student's behavior intervention plan.

Any setting used for exclusion shall:

- Provide personnel with the ability to see the student at all times;
- Provide adequate lighting, ventilation, and furnishings; and
- Be unlocked, with the door open, free of barriers that prevent egress.

The exclusion may not last longer than thirty (30) minutes and students must be supervised at all times.

While exclusion may be allowed in a particular situation, it should not be staff's first response to challenging behavior. When a student is excluded from the classroom, the child is removed from an opportunity to engage in instruction and participate with their peers. Furthermore, for some students who engage in avoidant behavior, exclusion reinforces inappropriate behavior.

If a student with an IEP is repeatedly excluded, the IEP team should consider what additional services and supports are necessary for the student to be available for learning and make progress on their IEP goals. If a student with a disability experiences an excessive period of exclusion, consistent with COMAR 13A.08.03, the IEP team must follow procedures to determine whether the student experienced a change in placement.

If a student without a disability is excessively excluded, staff should consider whether the student should be referred to the IEP team for evaluation.

[COMAR 13A.08.04.01, COMAR 13A.08.04.04]

Section IV: Resources

LEGISLATION

House Bill 1255 (Md. Ed. Art. Chapter 31)– Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training. This link contains the enrolled bill, which went into effect on July 1, 2022.

REGULATIONS

Code of Maryland Regulations (COMAR) Required training for qualified health care practitioners to use seclusion as a behavioral health intervention in a nonpublic school: COMAR 13A.08.04.06.

Licenses for health care professionals:

- Licensed physician Title 14 of the Health Occupations Article;
- Licensed psychologist Title 18 of the Health Occupations Article;
- Licensed clinical social worker Title 19 of the Health Occupations Article;
- Licensed registered nurse Title 8 of the Health Occupations Article;
- Licensed clinical professional counselor Title 17 of the Health Occupations Article;

MSDE GUIDANCE

The [Maryland Student Records System Manual 2020](#) provides instructions and forms to assist in the maintenance of student records including enrollment, student attendance, student discipline, and promotion.

Consistent with MD Code, Education, § 7-427.1, MSDE published [A Trauma-Informed Approach for Maryland Schools \(2021\)](#). This guidance provides LEAs with a framework to establish a holistic approach to education, through a multi-tiered system of support, in which all teachers, school administrators, staff, students, families, and community members recognize and effectively respond to the behavioral, emotional, relational, and academic impact of stress on those within the school system.

U.S. DEPARTMENT OF EDUCATION GUIDANCE

U.S. Department of Education - January 17, 2019 - Initiative to Address the Inappropriate Use of Restraint and Seclusion to Protect Children with Disabilities, Ensure Compliance with Federal Laws. ... “The only way to ensure the success of all children with disabilities is to meet the needs of each child with a disability. <https://www.ed.gov/news/press-releases/us-department-education-announces-initiative-address-inappropriate-use-restraint-and-seclusion-protect-children-disabilities-ensure-compliance-federal-laws>

U.S. Department of Education – May 15, 2012 – Restraint and Seclusion Resource Document to present and describe 15 principles for state, district, and school staff; parents; and other stakeholders to consider when states, localities, and districts develop policies and procedures which should be in writing on the use of restraint and seclusion. <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>

U.S. Department of Education, Office for Civil Rights (OCR) - December 28, 2016 - Guidance letter and series of questions and answers to inform school districts how the use of restraint and seclusion may result in discrimination against students with disabilities in violation of Federal laws that prohibit disability

discrimination, including Section 504 of the Rehabilitation Act of 1973 (Section 504).

<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

U.S. Department of Education, Office of Special Education and Rehabilitative Services - July 19, 2022 - *Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders* - A guidance document that highlights best practices for responding to inappropriate student behavior while creating safe, supportive, and predictable learning environments. <https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf>

Appendix A: Physical Restraint and Seclusion Clarification

What is physical restraint?

I. LEGAL DEFINITION

State law defines physical restraint. See Md. Code, Education § 7-1101(d).

Physical Restraint IS...	Restraint IS NOT...
<p>A personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.</p>	<p>Briefly holding a student to calm or comfort the student;</p> <p>Holding a student’s hand or arm to escort the student safely from one area to another;</p> <p>Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful;⁴ or</p> <p>Breaking up a fight in the school building or on school grounds.</p>

II. OPERATIONAL GUIDANCE

(A) Additional Clarification

When school staff implement methods to maintain physical control by restricting the movement of any part of the student’s body, it is a physical restraint – even when staff are encouraging, inducing, or forcing a student to move to an alternate location. This is distinguishable from an escort, where the student’s bodily movement is not restricted in any way and the student is not resistant to the relocation. For example, if staff hold a hand or place a hand on the student’s back as the student willingly moves with the staff member to another location, this is an escort and not a physical restraint.

(B) Examples

Examples of Physical Restraint are...	Examples of actions that are NOT Physical Restraint are...
<p>Holding or moving a student against their will, including:</p> <p>A transport that immobilizes any part of the body, or</p> <p>Moving a student in a position that would not occur naturally.</p>	<p>Holding a hand or placing a hand on the student’s back or elbow as the student willingly moves with the staff member to another location.</p>

⁴ “Transport” is a term used in specific behavior intervention training programs (e.g., *Crisis Prevention Intervention*). The term is not defined in the statute or regulations. A transport is NOT a physical restraint, as long as its use is not consistent with the definition of physical restraint in MD Code, Education, § 7-1101(d). See Question #12 for more information on physical escorts.

Examples of Physical Restraint are...	Examples of actions that are NOT Physical Restraint are...
<p>Holding a student to prevent impulsive behavior that threatens the student’s immediate safety, including;</p> <ul style="list-style-type: none"> Running in front of a car, or Climbing out a window. 	<p>Blocking a student’s access to an unauthorized or unsafe area when the student is free to move in another direction/location.</p>
<p>Holding a student to prevent imminent serious physical harm to self or another, such as:</p> <ul style="list-style-type: none"> Hitting another individual with a weighted or sharp object; or Repeated, forceful head banging against a hard immoveable surface. 	<p>Breaking up a fight by separating students or stepping between students physically fighting.</p>

III. WHEN MAY SCHOOL STAFF USE PHYSICAL RESTRAINT?

Under State law, physical restraint and seclusion are behavior interventions that may only be used in limited, emergency circumstances. Local education agencies (LEAs), public agencies (i.e., Maryland School for the Blind, Maryland School for the Deaf, and SEED School), and nonpublic special education schools may not use physical restraint unless:

- Physical restraint is necessary to protect the student or another individual from imminent serious physical harm; and
- Other, less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student.

What is seclusion?

I. LEGAL DEFINITION

Seclusion is defined in State law. See Md. Code, Education § 7-1101(f).

Seclusion IS...	Seclusion IS NOT...
<p>The confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving during school hours.</p>	<p>A behavior intervention plan of separating a student by placing the student:</p> <ul style="list-style-type: none"> - into a nonlocked room from which the student is allowed to leave; or - within a separate location in a classroom from which the student is not physically prevented from leaving.

II. OPERATIONAL GUIDANCE

(A) Additional Clarification

When school staff implement methods to isolate a student alone in an area and prevent the student from leaving the space, it is seclusion – even when the space does not have a door or walls. This is distinguishable from exclusion, where the student can leave the setting at will. For example, if staff are in a room with the student and attempting supportive interactions to assist the student in regaining control, this is exclusion and not seclusion.

(B) Examples

Examples of Seclusion are...	Examples of actions that are NOT Seclusion are...
<p>Placing a student alone in a location that they are prevented from leaving, such as:</p> <ul style="list-style-type: none"> A room with a closed locked door; A space with partitions that isolates the student and prevents egress; or Using mats to create a blocked area that the student is unable to leave. 	<p>The student is in a location observed by a staff member and is allowed to leave of their free will.</p>

Examples of Seclusion are...	Examples of actions that are NOT Seclusion are...
<p>A student in a location with a staff member who is preventing the child from leaving and NOT engaging the student in a supportive matter, such as:</p> <ul style="list-style-type: none"> A staff member physically blocking the doorway while not supportively engaging with the student; or A staff member using physical proximity to intimidate the student into not leaving the space while not supportively engaging with the student. 	<p>A student is in a location with a staff member who is interacting with the student supportively, even while not allowing the student to leave.</p>

III. WHEN MAY SCHOOL STAFF USE SECLUSION?

Seclusion is banned in all Maryland public schools and public agencies. A nonpublic special education school may use seclusion only if:

- Seclusion is necessary to protect the student or another individual from imminent serious physical harm;
- Other, less intrusive interventions have failed or been demonstrated to be inappropriate for the student;
- A qualified health care practitioner is on site and is directly observing the student during the seclusion;
- The health care practitioner concludes that seclusion is not contraindicated for the physical, psychological, or psychosocial health of the student;
- If the door to the room in which the student is being secluded has a locking mechanism, the locking mechanism is engaged only if held in place by an individual or, if operated electronically, automatically releases in the case of an active fire alarm; and
- The period of seclusion lasts the lesser of:
 - 30 minutes; or
 - A point in time during which the student no longer poses a threat of imminent serious physical harm.

Appendix B: Stakeholder Focus Group

STAKEHOLDER FOCUS GROUP

Selene Almazan, Esq.

Attorney, Council of Parent Attorneys, Education Advocacy Coalition

Emily Ames-Messinger

Assistant Director for Intensive Climate Cohort, University of Maryland, School of Social Work

Susan Barnes-McLendon

Associate Vice President, Arrow Child and Family Ministries, Nonpublic Special Education School

Trinell Bowman

Associate Superintendent for Special Education, Prince George's County Public Schools

Carmen Brown

MSDE, Branch Chief, Interagency Collaboration Branch, Division of Early Intervention and Special Education Services

Kimberly Buckheit

MSDE, Section Chief, Climate and Safety, Division of Student Support, Academic Enrichment, and Educational Policy

Agatha Callahan

Associate Administrator/Director of Education, Villa Maria School, Nonpublic Special Education School

Alexandra Cambra

MSDE, Director of Program Approval, Division of Educator Certification and Program Approval

Deann Collins, Ed.D.

MSDE, Deputy Superintendent, Office of Teaching and Learning

Tracy Cottman

Supervisor of Student Services, Somerset County Public Schools

Nicol Elliott

MSDE, Section Chief, Monitoring and Accountability, Division of Early Intervention and Special Education Services

Marcella E. Franczkowski

MSDE, Assistant State Superintendent, Division of Early Intervention and Special Education Services

Mary Gable

MSDE, Assistant State Superintendent, Division of Student Support, Academic Enrichment, and Educational Policy

Jeffrey Gladhill

Director of Special Education, Washington County Public Schools

Chandra Haislet

MSDE, Assistant State Superintendent, Division of Assessment, Accountability, and Performance Reporting

Bernard Hennigan

Executive Director of Student Support Services, Harford County Public Schools

Dawn Hubbard

MSDE, Program Manager, Performance Reporting and Accountability, Division of Assessment, Accountability, and Performance Reporting

Sylvia Lawson, Ph.D.

MSDE, Deputy Superintendent of Organizational Effectiveness

Leslie Margolis, Esq.

Attorney, Disability Rights Maryland, Education Advocacy Coalition

Cara Phillips

Parent, Frederick County Public Schools

Guy Stephens

Parent, Founder and Executive Director, Alliance Against Seclusion and Restraint

Pamela Talley

Parent, Co-Chair, Special Education State Advisory Committee

Amanda R. White

Assistant Attorney General, Office of the Attorney General

APPENDIX C: MSDE CROSS-DEPARTMENTAL WORK GROUP

MSDE CROSS-DEPARTMENTAL WORK GROUP

Carol Beck

Director, Office of School Innovations

Carmen Brown

Branch Chief, Interagency Collaboration Branch

Kimberly Buckheit

Section Chief, Climate and Safety

Alexandra Cambra

Director, Program Approval

Deann Collins, Ed.D.

Deputy Superintendent, Office of Teaching and Learning

Nicol Elliott

Section Chief, Monitoring and Accountability

Marcella E. Franczkowski

Assistant State Superintendent, Division of Early Intervention and Special Education Services

Mary Gable

Assistant State Superintendent, Division of Student Support, Academic Enrichment, and Educational Policy

Chandra Haislet

Assistant State Superintendent, Division of Assessment, Accountability, and Performance Reporting

Dawn Hubbard

Program Manager, Performance Reporting and Accountability

Sylvia Lawson, Ph.D.

Deputy Superintendent, Office of Organizational Effectiveness

Kelly Meadows

Assistant State Superintendent, Division of Educator Certification and Program Approval

Walter Sallee

Director, Student Services and Strategic Planning

April Turner, Ph.D.

School Psychological Services Supervisor

Amanda R. White

Assistant Attorney General

RESTRAINT AND SECLUSION

Process Guide

Office of Teaching and Learning
Division of Early Intervention and Special Education Services

Office of Organizational Effectiveness
Division of Student Support, Academic Enrichment, and Educational Policy

May 2023



MARYLAND STATE DEPARTMENT OF EDUCATION

Mohammed Choudhury

State Superintendent of Schools

Deann Collins, Ed.D.

Deputy Superintendent of Teaching and Learning

Sylvia Lawson, Ph.D.

Deputy Superintendent of Organizational Effectiveness

Wes Moore

Governor

MARYLAND STATE BOARD OF EDUCATION

Clarence C. Crawford

President

Susan J. Getty, Ed.D. (Vice President)

Dr. Joan Mele-McCarthy

Shawn D. Bartley, Esq.

Rachel L. McCusker

Gail Bates

Lori Morrow

Chuen-Chin Bianca Chang

Brigadier General Warner I. Sumpter (Ret.)

Charles R. Dashiell, Jr., Esq.

Holly C. Wilcox, Ph.D.

Vermelle Greene, Ph.D.

Merin Thomas (Student Member)

Jean C. Halle

Table of Contents

INTRODUCTION.....	4
RESTRAINT OR SECLUSION* SINGLE INCIDENT REPORT	7
EXCESSIVE USE (10 INCIDENTS) OF RESTRAINT AND/OR SECLUSION REPORT	19
Part One: Notification of 10 Incidents of Restraint and/or Seclusion.....	20
Part Two: Student and School Level Review with Recommendations	23
CORRECTIVE ACTION REPORT	29
RESOURCES.....	32
Appendix A: Restraint Or Seclusion* Single Incident Exemplar	33
Appendix B: Excessive Use (10 Incidents) of Restraint and/or Seclusion Report Exemplar	46

Introduction

In 2022, the Maryland General Assembly enacted House Bill 1255 Physical Restraint and Seclusion – Limitations, Reporting, and Training (2022 Md. Laws, Chap. 31). In general, the bill:

1. Bans the use of seclusion in local education agencies (LEAs) and public agencies (PAs);
2. Places strict requirements around the use of seclusion in nonpublic special education schools (nonpublic schools);
3. Requires each school to notify the LEA and Maryland State Department of Education (MSDE) within four business days when a student is restrained and/or secluded 10 or more times in a given school year;
4. Requires the LEA to assess and provide behavioral intervention recommendations to the public or nonpublic school upon notification;
5. Requires the LEA/PA to develop a corrective action plan if a system reports 10 or more incidents for a student or if the LEA/PA fails to comply with the requirements of the law; and
6. Strengthens the collection of restraint and seclusion data tracking and reporting.
7. The MSDE developed this Restraint and Seclusion: Process Guide to provide LEAs, PAs, and nonpublic schools with processes to support the navigation and requirements of the new statute, which became effective July 1, 2022.

The Process Guide provides timelines, forms, and other information to support LEAs, PAs, and nonpublic schools in fulfilling the requirements of Education Article § 7-1101 *et seq.*, as amended by Chapter 31 of 2022. The three stages of the processes are:

- Restraint or Seclusion Single Incident (See Appendix A for Exemplar)
- Excessive Use (10 Incidents) of Restraint and/or Seclusion (See Appendix B for Exemplar)
 - Part One: Notification of 10 Incidents of Restraint and/or Seclusion
 - Part Two: Student and School Level Review with Recommendations
- Corrective Action

Each stage is summarized and described in detail in the next section with forms that have been developed for each stage.

Stages of Restraint and/or Seclusion* Process Reports

*Seclusion is only allowed in a nonpublic special education school

	RESTRAINT OR SECLUSION SINGLE INCIDENT REPORT	EXCESSIVE (10 INCIDENTS) USE OF RESTRAINT AND/OR SECLUSION REPORT		CORRECTIVE ACTION REPORT
		Part One: Notification of 10 Incidents of Restraint and/or Seclusion	Part Two: Student and School Level Review with Recommendations	
Purpose	Document the individual restraint/seclusion incident, including the team debrief with next steps to support the student	Document and notify the Local Education Agency (LEA) and MSDE of every 10 th restraint and/or seclusion incident for an individual student.	Document the review of the student’s case, assessment of the school’s behavioral health interventions, and provide recommendations.	Document a systemic, evidenced-based corrective action to address either: failure to comply with the statute or the excessive use of restraint and/or seclusion.
Timeline and Deadlines	Documentation should occur as soon as possible after the incident. The school must notify parents in writing or orally of the use of restraint or seclusion within 24 hours of the incident.	The <i>Excessive (10 Incidents) Use of Restraint and/or Seclusion Report</i> consisting of Part One and Part Two must be completed within 14 business days of the 10th incident.		Within 30 business days of submission of the <i>Student and School Level Review with Recommendations</i> document to the school.
		Documentation must be provided within four business days of the 10th incident of restraint and/or seclusion, and every following 10th incident (e.g., 20th, ...)	Documentation must be provided within 10 business days of LEA/MSDE receipt of Notification of submission of <i>Excessive (10 Incidents) Use of Restraint and/or Seclusion Notification Document</i>	
Required Form	Restraint and/or Seclusion Single Incident	<i>Excessive (10 Incidents) Use of Restraint and/or Seclusion Part One: Notification of 10 Incidents of Restraint and/or Seclusion</i>	<i>Excessive (10 Incidents) Use of Restraint and/or Seclusion Part Two: Student and School Level Review with Recommendations</i>	Corrective Action

	RESTRAINT OR SECLUSION SINGLE INCIDENT REPORT	EXCESSIVE (10 INCIDENTS) USE OF RESTRAINT AND/OR SECLUSION REPORT		CORRECTIVE ACTION REPORT
		Part One: Notification of 10 Incidents of Restraint and/or Seclusion	Part Two: Student and School Level Review with Recommendations	
Personnel responsible	A school must identify an individual(s) to complete the required documentation and notify the parent. To complete the debrief process, school personnel involved in the restraint and/or seclusion incident and any other appropriate individuals (e.g., the parent, the student, etc.) shall participate.	Completed by the School Staff designated by the LEA, nonpublic school, MSB, MSD, or The SEED School shall upload the <i>Notification</i> documentation to the secure server. Secure Server logins are provided to the Local Accountability Coordinator (LAC), Director of Student Services, and Director of Special Education.	Completed by the LEA The LEA-level multi-disciplinary team includes as appropriate a: School Psychologist, Behavioral Health Personnel, Pupil Personnel Worker, Special Educator, General Educator, System Level Administrator, and School Level Administrator. *MSDE will review and provide recommendations for MSB/MSD/The SEED School.	The LEA-level or nonpublic school/system (operating under one legal authority) multi-disciplinary team and others as appropriate.
Recipient of the Documentation Form	To be included in the student's education records	Public and nonpublic schools must notify the LEA and MSDE. (The LEA may create a centralized system to notify MSDE on behalf of the individual schools within their system.) MSB/MSD/The SEED School only need to notify MSDE.	School where incident occurred and MSDE	MSDE
Legal Reference	COMAR 13A.08.04.05A(3) & B (7).	Md. Code Ann. Education § 7-1103(b) & (d).	Md. Code Ann. Education § 7-1103(c) & (e).	Md. Code Ann. Education § 7-1106(a).

Restraint Or Seclusion* Single Incident Report

*Seclusion is only allowed in a nonpublic special education school

A public agency may not use seclusion as a behavioral health intervention for a student. Neither a public agency nor a nonpublic school may use physical restraint on a student as a behavioral health intervention unless: (1) physical restraint is necessary to protect the student or another individual from imminent serious physical harm; and (2) other less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student. Md Code Ann. Education, § 7-1102.

STUDENT DEMOGRAPHIC INFORMATION	
Student Name: Click or tap here to enter text.	Date of Emergency Incident: Click or tap to enter a date.
DOB: Click or tap to enter a date.	Type of incident: <input type="checkbox"/> Restraint <input type="checkbox"/> Seclusion
Student Age: Click or tap here to enter text.	Previous number of restraint incidents in the current school year. Click or tap here to enter text.
Grade: Click or tap here to enter text.	Previous number of seclusion incidents in the current school year. Click or tap here to enter text.
SASID: Click or tap here to enter text.	Time behavior event began: Click or tap here to enter text.
Local ID: Click or tap here to enter text.	Time behavior event ended: Click or tap here to enter text.
Student Ethnicity: Click or tap here to enter text.	Time restraint or seclusion began: Click or tap here to enter text.
Student Race: Click or tap here to enter text.	Time restraint or seclusion ended: Click or tap here to enter text.
Student Gender: Click or tap here to enter text.	Total time of restraint or seclusion: Click or tap here to enter text. Note: MUST not exceed 30 minutes duration.
	Location of behavior: Click or tap here to enter text.
	Location of restraint or seclusion: Click or tap here to enter text.
	Does the student have a current FBA: <input type="checkbox"/> Yes <input type="checkbox"/> No
	Does the student have a current BIP: <input type="checkbox"/> Yes <input type="checkbox"/> No
	If yes, the date of the most recent BIP review: Click or tap to enter a date.

STUDENT DEMOGRAPHIC INFORMATION

If yes, does the BIP include the provision of Physical Restraint?

Yes No

Date of parent consent: Click or tap to enter a date.

If yes, does the BIP include the provision of Seclusion?

Yes No

Date of parent consent: Click or tap to enter a date.

Resident School: Click or tap here to enter text.

Resident County: Click or tap here to enter text.

Service School: Click or tap here to enter text.

Service County: Click or tap here to enter text.

Special Education:

Yes No or Date of Referral Click or tap to enter a date.

Disability: Choose an item.

Current LRE: Choose an item.

504 Plan: Yes No

PREVENTION STRATEGIES IMPLEMENTED OR DETERMINED INAPPROPRIATE

Describe the less intrusive interventions, nonphysical interventions implemented prior to the use of restraint or seclusion that failed or were determined inappropriate for the student.

Choose all that apply and then describe in narrative why the strategies failed or were deemed to be inappropriate:

Alternative efforts made to de-escalate the situation & prevent behaviors (check all that apply):	Describe what staff did to avoid the use of physical restraint or seclusion:
<ul style="list-style-type: none"><input type="checkbox"/> Redirection<input type="checkbox"/> Verbal intervention & de-escalation techniques<input type="checkbox"/> Provided choices<input type="checkbox"/> Proximity control<input type="checkbox"/> Calming technique/meditation<input type="checkbox"/> Use of sensory room<input type="checkbox"/> Movement break/take a walk<input type="checkbox"/> BIP strategies (if applicable)<input type="checkbox"/> Planned ignoring<input type="checkbox"/> Reduced demands<input type="checkbox"/> Reminder of reinforcement system<input type="checkbox"/> Reminder of rules<input type="checkbox"/> Set limits of inappropriate behavior<input type="checkbox"/> Removal of other students<input type="checkbox"/> Request for assistance	<p>Click or tap here to enter text.</p>

PREVENTION STRATEGIES IMPLEMENTED OR DETERMINED INAPPROPRIATE

Describe the less intrusive interventions, nonphysical interventions implemented prior to the use of restraint or seclusion that failed or were determined inappropriate for the student.

Choose all that apply and then describe in narrative why the strategies failed or were deemed to be inappropriate:

Alternative efforts made to de-escalate the situation & prevent behaviors (check all that apply):

Describe what staff did to avoid the use of physical restraint or seclusion:

- Voluntary removal of student to another location
- Protective strategies/interventions
- Other: Limited language
- Other: Blocking techniques

Each time a student is in a restraint or placed in seclusion, school personnel shall document other less intrusive interventions that have failed or been determined inappropriate.

COMAR 13A.08.04.05A(3)(a)(i) and COMAR 13A.08.04.05B(7)(a)(i)

PRECIPITATING EVENT/ANTECEDENT

Describe in detail the precipitating event immediately preceding the behavior that prompted the use of restraint and/or seclusion (e.g., directive for the non-preferred task, unexpected change) and any other factors that may have impacted the student’s behavior (e.g., loss of family member, lack of sleep).

<ul style="list-style-type: none"> <input type="checkbox"/> Demand/Request <input type="checkbox"/> Denied access to item, person, or location <input type="checkbox"/> Did not earn reward <input type="checkbox"/> Difficulty/Non-preferred task <input type="checkbox"/> Environmental stimuli <input type="checkbox"/> Interruption to activity <input type="checkbox"/> Peer behavior <input type="checkbox"/> Adult behavior 	<ul style="list-style-type: none"> <input type="checkbox"/> Reduced/Diverted attention <input type="checkbox"/> Self-reported distress or frustration <input type="checkbox"/> Self-reported/suspected illness or physical discomfort <input type="checkbox"/> Staff change <input type="checkbox"/> Transition <input type="checkbox"/> Unexpected schedule/routine change <input type="checkbox"/> Unstructured time <input type="checkbox"/> Other: Click or tap here to enter text. 	<p>Describe in detail the precipitating event/antecedent:</p> <p>Click or tap here to enter text.</p>	<p>Describe any other factors that may have impacted the student’s behavior:</p> <p>Click or tap here to enter text.</p>
--	---	---	--

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the precipitating event immediately preceding the behavior that prompted the use of restraint or seclusion.

COMAR13A.08.04.05A(3)(a)(ii) and COMAR13A.08.04.05B(7)(a)(ii)

BEHAVIOR THAT PROMPTED THE USE OF RESTRAINT OR SECLUSION

Operationally define the behavior that resulted in the use of restraint or seclusion (i.e., describe what the behavior looked like).

A behavior prompting the use of restraint or seclusion must meet the threshold for “imminent, serious, physical harm” defined as bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (18 U.S.C. § 1365(h)(3) and 34 C.F.R. § 300.530(h)(i)(3)).

Describe the behavior prompting the use of restraint or seclusion:

Click or tap here to enter text.

Must select at least 1 of the following:

- Threat of Imminent, Serious Physical Harm to Self
- Threat of Imminent, Serious Physical Harm to Others

Optional:

- Physical restraint and/or seclusion is included in the BIP or IEP to address the student’s behavior in an emergency situation.
- Other: Click or tap here to enter text.

Describe the circumstances that met the standard for imminent serious physical harm:

Click or tap here to enter text.

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the behavior that prompted the use of restraint or seclusion. COMAR13A.08.04.05A(3)(a)(iii) and COMAR13A.08.04.05B(7)(a)(iii)

TYPE OF RESTRAINT APPLIED

Describe what type of restraint intervention was used with the student, and how long the student was in a restraint position.

Name of evidence-based crisis intervention program:

Click or tap here to enter text.

Name of the specific restraint from your system-approved evidence-based crisis intervention program.

Click or tap here to enter text.

Each time a student is in a restraint personnel shall document: the type of restraint.

COMAR 13A.08.04.05A(3)(b)(i)

STUDENT BEHAVIOR AND REACTION DURING THE RESTRAINT OR SECLUSION

Describe the student's behavior and reaction during the restraint or seclusion.

- Attempts to injure others
- Attempts to injure self
- Self-expressed concerns (e.g., breathing, pain, etc.)
- Talking
- Continuous resistance (e.g., struggling)
- Crying
- Making verbal threats
- Spitting
- Yelling/Screaming
- Profanity/cursing
- Disrobing
- Enuresis/Encopresis
- Other: Click or tap here to enter text.

Describe student behavior and response during the physical restraint or seclusion:

Click or tap here to enter text.

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the student's behavior and reaction during the restraint. For a student who has an individualized education program and is placed in seclusion, the individualized education program team, in consultation with the health care practitioner who observed the seclusion, shall review the student's physical, psychological, and psychosocial health history to determine whether seclusion is contraindicated for the student.

Md. Code Ann. Education, § 7-1102(d)(2)(i); COMAR 13A.08.04.05A(3)(b)(iii) and COMAR 13A.08.04.05B(7)(b)(iii)

TEAM MEMBERS WHO OBSERVED, IMPLEMENTED, OR MONITORED

Identify the name and role/title of each team member who observed the behavior or implemented or monitored the restraint or seclusion.

Name	Role/Title	Observed (O) Implemented (I) Monitored (M)	Current training in the use of restraint	Staff Signature (Required)
Click or tap here to enter text.	Click or tap here to enter text.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Click or tap here to enter text.	Click or tap here to enter text.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Click or tap here to enter text.	Click or tap here to enter text.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Click or tap here to enter text.	Click or tap here to enter text.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Click or tap here to enter text.	Qualified Health Care Provider Required if seclusion was utilized.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the names and signatures of the staff members implementing and monitoring the use of restraint.

COMAR 13A.08.04.05A(3)(a)(v) and COMAR 13A.08.04.05B(7)(a)(iv)

ADMINISTRATOR NOTIFIED OF THE RESTRAINT OR SECLUSION

Name and Title

Signature

Click or tap here to enter text.

Click or tap here to enter text.

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the name and signature of the administrator informed of the use of restraint.

COMAR 13A.08.04.05A(3)(b)(iv) and COMAR 13A.08.04.05B(7)(b)(iv)

STUDENT INJURY

Describe any reported and/or observed student injuries (e.g., physical, social-emotional, etc.) following evaluation by school staff.
If no injuries occurred, please indicate.

Provide a description of all injuries or indicate “no injuries”:

Click or tap here to enter text.

Name(s) and position(s) of individual(s) evaluating student injuries (e.g., school nurse, nurse tech, health care practitioner, trained staff, etc.):

Click or tap here to enter text.

PARENT NOTIFICATION

Describe how and when the parent was notified of the restraint or seclusion incident.

Name of Staff Who Notified Parent/Legal Guardian: Click or tap here to enter text.

Name of Parent/Legal Guardian Notified: Click or tap here to enter text.

Method of Notification:

Email In person Letter Phone call

Date of Parent Notification: Click or tap to enter a date.

Time of Parent Notification: Click or tap here to enter text.

School personnel shall provide the student’s parent with verbal notification or send written notice within 24 hours, unless otherwise provided for in a student’s behavior intervention plan or IEP.

COMAR 13A.08.04.05A(5) and COMAR 13A.08.04.05B(9)

LEA NOTIFICATION (NONPUBLIC USE ONLY)

Describe how and when the student’s LEA was notified of the restraint or seclusion incident.

Name of Nonpublic Staff Who Notified the LEA: Click or tap here to enter text.

Name of LEA Contact Notified: Click or tap here to enter text.

Method of Notification:

Email In person Letter Phone call

Date of Notification: Click or tap to enter a date.

Time of Notification: Click or tap here to enter text.

DEBRIEF

School personnel involved in the restraint and/or seclusion, and other appropriate individuals (e.g., parent, student, etc.), shall debrief and consider next steps to support the student and staff.

Date of the Debrief: Click or tap to enter a date.

Participant Name	Role/Title
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Qualified Health Care Provider Required if seclusion* was utilized.

Summary of next steps/modifications/additional resources (including referral to IEP team or SST team, as appropriate): Click or tap here to enter text.

Each time a student is in a restraint or placed in seclusion, school personnel involved shall debrief.
COMAR 13A.08.04.05A(3) and COMAR 13A.08.04.05B(7)

Excessive Use (10 Incidents) Of Restraint and/or Seclusion Report

The Excessive Use (10 Incidents) of Restraint and/or Seclusion Report consists of two parts which must be completed within 14 days of the 10th incident. Part One is the required notification to the Local Education Agency (LEA) and MSDE of an excessive use of restraint and/or seclusion (i.e., every 10th incident). Part Two is the required case review, assessment, and recommendations to support the reduction and elimination of incidents of restraint and/or seclusion. This report should be included as a part of the student record. Directions for each part are described below:

Part One: Notification of 10 Incidents of Restraint and/or Seclusion

All Maryland LEAs, PAs, and nonpublic schools must complete the Notification of 10 Incidents of Restraint and/or Seclusion each time there is an excessive use (10 incidents) of restraint and/or seclusion for an individual student at their school. The form must be sent to the LEA and MSDE no later than four business days following the student's 10th incident. Incidents that occurred at any Maryland school during the school year for the individual student must be recorded on this form.

The completed Part One: Notification of 10 Incidents of Restraint and/or Seclusion Report shall be sent to MSDE by uploading to the secure server.

Part Two: Student and School Level Review with Recommendations

All LEAs must complete Part Two: Student and School Level Review with Recommendations and provide a copy to the student's school and MSDE no later than 10 business days following notification of the student's 10th incident.

The completed Part Two: Student and School Level Review with Recommendations accompanies Part One: Notification of 10 Incidents of Restraint and /or Seclusion and should be uploaded to the MSDE secure server.

PART ONE: NOTIFICATION OF 10 INCIDENTS OF RESTRAINT AND/OR SECLUSION

(To be completed by the School, LEA, or PA)

NOTIFICATION

School Year: Click or tap here to enter text.

LEA / Public Agency / Nonpublic School name: Click or tap here to enter text.

LEA / Public Agency / Nonpublic School number: Click or tap here to enter text.

School name(s): Click or tap here to enter text.

School number(s): Click or tap here to enter text.

Date of Incident #10 (20,...): Click or tap to enter a date.

Date of notification to MSDE (from Nonpublic School, LEA, or Public Agency): Click or tap to enter a date.

Name and title of individual notifying MSDE: Click or tap here to enter text.

STUDENT INFORMATION

Student Name: Click or tap here to enter text.

DOB: Click or tap to enter a date.

Student Age: Click or tap here to enter text.

Grade: Click or tap here to enter text.

State Assigned Student ID: Click or tap here to enter text.

Ethnicity: Click or tap here to enter text.

Race: Click or tap here to enter text.

Gender: Click or tap here to enter text.

IEP or IFSP: Yes No

Disability Code: Click or tap here to enter text.

Placement Type: Click or tap here to enter text.

504 Plan: Yes No

Number of Incidents Included in this Form:

Click or tap here to enter text.

STUDENT INCIDENT INFORMATION						
Incident #	Incident Date	Restraint or Seclusion	Start Time and End Time	School Name	Behavior that posed “imminent serious physical harm”	Date and type of parent notification
1 (11, ...)	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
10 (20...)	Click or tap to enter a date.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

PART TWO: STUDENT AND SCHOOL LEVEL REVIEW WITH RECOMMENDATIONS

(To be completed by the LEA or MSDE)

IDENTIFYING INFORMATION

Date of Incident #10 (20, ...): Click or tap to enter a date.

Date of Part Two Submission to MSDE: Click or tap to enter a date.

LEA / Public Agency / Nonpublic School Name: Click or tap here to enter text.

LEA / Public Agency / Nonpublic School Number: Click or tap here to enter text.

School Name: Click or tap here to enter text.

School Number: Click or tap here to enter text.

Student Name: Click or tap here to enter text.

State Assigned Student ID: Click or tap here to enter text.

HISTORY OF BEHAVIOR ASSESSMENT AND PLANNING

Current Functional Behavior Assessment Date: Click or tap to enter a date.

Behavior Intervention Plan Implementation Date: Click or tap to enter a date.

Functional Behavior Assessment (FBA)

1. If an FBA has not previously been done for the student one should begin immediately.
2. If an FBA has previously been completed for the student (even recently), the FBA should be reviewed by a qualified individual or team other than the person who previously completed it.

HISTORY OF BEHAVIOR ASSESSMENT AND PLANNING

FBA date of development/review: Click or tap here to enter text.

Name & Title of individuals conducting/reviewing the FBA: Click or tap here to enter text.

Behavior Intervention Plan (BIP)

1. If a BIP has not previously been created for the student, one should be developed immediately using information gleaned from the FBA.
2. If a BIP currently exists, the BIP plan should be reviewed by a qualified individual other than the person who previously developed or reviewed and amended by the IEP team for a Student with Disabilities (SWD).

BIP date of development/review: Click or tap to enter a date.

Name & Title of individuals conducting/reviewing the BIP: Click or tap here to enter text.

PATTERN OF BEHAVIORAL HEALTH INTERVENTIONS FOR THE STUDENT		
Behavior Health Interventions Type of behavior health interventions used or scheduled to be used with the identified student (list individually)	Fidelity of Implementation Frequency, duration of intervention use (when began, how often used, etc.)	Student's Response to the Intervention Is the intervention effective? Could it be modified to increase effectiveness?
Click or tap here to enter text.	Start Date: Click or tap to enter a date. Frequency of Implementation: Click or tap here to enter text.	Intervention Effectiveness: Click or tap here to enter text. Recommendations: Click or tap here to enter text.
Click or tap here to enter text.	Start Date: Click or tap to enter a date. Frequency of Implementation: Click or tap here to enter text.	Intervention Effectiveness: Click or tap here to enter text. Recommendations: Click or tap here to enter text.
Click or tap here to enter text.	Start Date: Click or tap to enter a date. Frequency of Implementation: Click or tap here to enter text.	Intervention Effectiveness: Click or tap here to enter text. Recommendations: Click or tap here to enter text.
Click or tap here to enter text.	Start Date: Click or tap to enter a date. Frequency of Implementation: Click or tap here to enter text.	Intervention Effectiveness: Click or tap here to enter text. Recommendations: Click or tap here to enter text.
Click or tap here to enter text.	Start Date: Click or tap to enter a date. Frequency of Implementation: Click or tap here to enter text.	Intervention Effectiveness: Click or tap here to enter text. Recommendations: Click or tap here to enter text.
What other relevant personal or environmental information will inform recommendations?		Click or tap here to enter text.

PATTERN OF BEHAVIOR INTERVENTIONS USED BY THE SCHOOL

The review team should identify schoolwide behavior interventions and approaches currently being implemented at this school to reduce the use of physical restraint or seclusion (nonpublic schools only) for ALL students.

Type of behavior health interventions used (list individually)	Frequency and duration of use (when began, how often used, etc.)	Apparent impact upon student behavior
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

RECOMMENDATIONS

The review team should identify recommendations specific to the student and for the school. Recommendations should be listed here as a means of communicating to MSDE and other relevant stakeholders. Recommendations related to the need for additional professional learning, resources, and support at the school to reduce the excessive use of physical restraint or seclusion should be considered.

Student Specific Recommendations	School Specific Recommendations
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.

MSDE USE ONLY

Student and school level review document due by: Click or tap to enter a date.

On time? Yes No

Date completed student and school level review document received by MSDE: Click or tap to enter a date.

Explanation of excessive use of restraint or seclusion: Click or tap here to enter text.

Name of MSDE official receiving notification: Click or tap here to enter text.

Title of MSDE official receiving notification: Click or tap here to enter text.

Feedback: Click or tap here to enter text.

Law Reference: [Md. Code Ann. Education § 7-1103\(c\) & \(e\)](#). On receipt of notice from a public school or nonpublic school of a 10th incident of restraint and/or seclusion, the LEA shall: (1) review the student’s case, including the circumstances of each incident of physical restraint or seclusion; (2) assess the public school or nonpublic school’s pattern of behavioral health interventions to evaluate whether the public school

or nonpublic school could use less restrictive behavioral health interventions; and (3) share the LEA's recommendations with MSDE and the public school or nonpublic school. MSDE will conduct the review for public agencies.

Corrective Action Report

(To be completed by the LEA, PA, or nonpublic school/system (operating under one legal authority), a multi-disciplinary team, and others as appropriate.

Under Md. Code Ann. Education § 7-1106(a), each LEA, public agency (i.e., Maryland School for the Blind, Maryland School for the Deaf, The SEED School), and a nonpublic school is required to submit a systemic, evidence-based corrective action plan to the MSDE if the public agency (PA) or nonpublic school either:

Fails to comply with any provision of Md. Code Ann. Education § 7-1101 *et seq.*; or

Reports to MSDE that a student has been physically restrained or placed in seclusion 10 times or more in a school year as required by Md. Code Ann. Education § 7-1103.

Directions:

Upon meeting one or both criteria described above, the LEA, PA, or nonpublic school must complete **Corrective Action** within **30 days** of submission of *Part Two: Student and School Level Review with Recommendations* document.

The purpose of *Corrective Action* is to address any systemic issues that contribute to a failure to comply with the law and/or excessive use of restraint and/or seclusion.

PUBLIC AGENCY OR NONPUBLIC SCHOOL INFORMATION

LEA / Public Agency / Nonpublic Special Education School name: Click or tap here to enter text.

LEA / Public Agency / Nonpublic Special Education School number: Click or tap here to enter text.

LEA / Public Agency / Nonpublic Special Education School contact name: Click or tap here to enter text.

Title: Click or tap here to enter text.

Email: Click or tap here to enter text.

Phone: Click or tap here to enter text.

Date of submission of *Part Two: Student and School Level Review with Recommendations* document: Click or tap to enter a date.

Date Correction Action Submitted to MSDE: Click or tap to enter a date.

Special Education Contact (if different from the contact who is submitting): Click or tap here to enter text.

General Education Contact (if different from the contact who is submitting): Click or tap here to enter text.

Superintendent Name: Click or tap here to enter text.

Superintendent Signature: Click or tap here to enter text.

SYSTEMIC, EVIDENCE-BASED PLAN

Step 1. Conduct a root cause analysis (using qualitative and quantitative data) to identify the cause(s) of the failure to comply and/or excessive use of restraint and/or seclusion. Describe the results of the root cause analysis.

Click or tap here to enter text.

Step 2. Based on the root cause analysis, develop [SMART goals](#) for improvement that are specific, measurable, attainable, relevant, and time-based.

- Define monitoring intervals
- Define who will monitor
- Define the method for responding to data. Include a link to SMART goals.

Goal	Monitoring Period	Responsible Personnel	Measurable Targets
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

Step 3. Identify the actions your system/school will take to support achieving the SMART goals.

- Each step must directly relate to an identified cause for failure to comply and/or excessive use of restraint and/or seclusion.

Steps must include action steps, personnel, timeline, milestones of success, professional training needed, etc. (columns may be added).

Action Steps	Personnel	Timeline	Milestones of Success	Professional Training Needed
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.

For each section of the Corrective Action, include revisions and review dates that are made addressing additional notifications of students with 10 incidents or failure to comply.

Resources

Md. Code Ann. Education § 7-1101 *et seq.*

Code of Maryland Regulations (COMAR) 13A.08.04.05

APPENDIX A: RESTRAINT OR SECLUSION* SINGLE INCIDENT EXEMPLAR

A public agency may not use seclusion as a behavioral health intervention for a student. Neither a public agency nor a nonpublic school may use physical restraint on a student as a behavioral health intervention unless: (1) physical restraint is necessary to protect the student or another individual from imminent serious physical harm; and (2) other less intrusive, nonphysical interventions have failed or been demonstrated to be inappropriate for the student. Md. Code Ann. Education, § 7-1102.

STUDENT DEMOGRAPHIC INFORMATION	
<p>Student Name: Bobby Brown DOB: 8/12/2014 Student Age: 8 Grade: 3 SASID: XXXXXXXXX Local ID: XXXXXXXX Student Ethnicity: Hispanic Student Race: White Student Gender: Male</p>	<p>Date of Emergency Incident: 12/1/2022 Type of incident: <input checked="" type="checkbox"/> Restraint <input type="checkbox"/> Seclusion Previous number of restraint incidents in the current school year. 0 Previous number of seclusion incidents in the current school year. 0 Time behavior event began: 1:45 PM Time behavior event ended: 2:30 PM Time restraint or seclusion began: 2:12 PM Time restraint or seclusion ended: 2:14 PM Total time of restraint or seclusion: 2 minutes Note: MUST not exceed 30 minutes duration. Location of behavior: classroom Location of restraint or seclusion: classroom Does the student have a current FBA: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Does the student have a current BIP: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, the date of the most recent BIP review: 9/29/2022 If yes, does the BIP include the provision of Physical Restraint? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

STUDENT DEMOGRAPHIC INFORMATION

	<p>Date of parent consent: 9/29/2022</p> <p>If yes, does the BIP include the provision of Seclusion? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Date of parent consent: NA</p>
<p>Resident School: Maryland State Elementary</p> <p>Resident County: Maryland County</p> <p>Service School: Maryland State Elementary</p> <p>Service County: Maryland County</p>	<p>Special Education:</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or <input type="checkbox"/> Referral - Date NA</p> <p>Disability: Other Health Impairment</p> <p>Current LRE: A - >80% of the day</p> <p>504 Plan: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

PREVENTION STRATEGIES IMPLEMENTED OR DETERMINED INAPPROPRIATE

Describe the less intrusive interventions, nonphysical interventions implemented prior to the use of restraint or seclusion that failed or were determined inappropriate for the student.

Choose all that apply and then describe in narrative why the strategies failed or were deemed to be inappropriate:

Alternative efforts made to de-escalate the situation & prevent behaviors (check all that apply):	Describe what staff did to avoid the use of physical restraint or seclusion:
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Redirection <input checked="" type="checkbox"/> Verbal intervention & de-escalation techniques <input checked="" type="checkbox"/> Provided choices <input checked="" type="checkbox"/> Proximity control <input type="checkbox"/> Calming technique/meditation <input type="checkbox"/> Use of sensory room <input type="checkbox"/> Movement break/take a walk <input type="checkbox"/> BIP strategies (if applicable) <input type="checkbox"/> Planned ignoring <input type="checkbox"/> Reduced demands <input type="checkbox"/> Reminder of reinforcement system <input checked="" type="checkbox"/> Reminder of rules <input type="checkbox"/> Set limits of inappropriate behavior <input type="checkbox"/> Removal of other students <input type="checkbox"/> Request for assistance 	<p>At the end of the school day, Bobby earned a screen break and the use of an iPad. The teacher provided Bobby with the iPad open to the allowed website (Education.com). When the teacher checked, Bobby had changed to a nonapproved website. Ms. Classroom Teacher explained to Bobby that he needed to return to the approved game site. Bobby began yelling and cursing at Ms. Classroom Teacher. Ms. Classroom Teacher redirected him to approved games and offered the choice of another preferred activity. Bobby continued to yell and curse. Ms. Classroom Teacher called for assistance. Mr. Trained Staff Member and Ms. Trained Staff Member arrived, and Mr. Instructional Assistant escorted the other students from the room. Mr. Trained Staff Member provided Bobby the opportunity to take a walk or move to a quiet space to calm down. Bobby began to throw books and other objects at the staff in the room. Mr. Trained Staff Member moved a safe distance away and using limited language again provided choices and options for calming. Bobby began to physically attack Mr. Trained Staff Member by hitting with a closed fist, biting, and kicking. Mr. Trained Staff Member attempted to block the aggression, but Bobby continued to escalate and became more aggressive and intense in his physical attack.</p>

<ul style="list-style-type: none"><input type="checkbox"/> Voluntary removal of student to another location<input type="checkbox"/> Protective strategies/interventions<input checked="" type="checkbox"/> Other: Limited language<input checked="" type="checkbox"/> Other: Blocking techniques	
<p>Each time a student is in a restraint or placed in seclusion, school personnel shall document other less intrusive interventions that have failed or been determined inappropriate.</p> <p>COMAR 13A.08.04.05A(3)(a)(i) and COMAR 13A.08.04.05B(7)(a)(i)</p>	

PRECIPITATING EVENT/ANTECEDENT

Describe in detail the precipitating event immediately preceding the behavior that prompted the use of restraint and/or seclusion (e.g., directive for the non-preferred task, unexpected change) and any other factors that may have impacted the student’s behavior (e.g., loss of family member, lack of sleep).

<ul style="list-style-type: none"> <input type="checkbox"/> Demand/Request <input checked="" type="checkbox"/> Denied access to item, person, or location <input type="checkbox"/> Did not earn reward <input type="checkbox"/> Difficulty/Non-preferred task <input type="checkbox"/> Environmental stimuli <input type="checkbox"/> Interruption to activity <input type="checkbox"/> Peer behavior <input type="checkbox"/> Adult behavior 	<ul style="list-style-type: none"> <input type="checkbox"/> Reduced/Diverted attention <input type="checkbox"/> Self-reported distress or frustration <input type="checkbox"/> Self-reported/suspected illness or physical discomfort <input type="checkbox"/> Staff change <input type="checkbox"/> Transition <input type="checkbox"/> Unexpected schedule/routine change <input type="checkbox"/> Unstructured time <input type="checkbox"/> Other: Click or tap here to enter text. 	<p>Describe in detail the precipitating event/antecedent:</p> <p>At the end of the school day, Bobby earned a screen break and the use of an iPad. Ms. Classroom Teacher provided Bobby with the iPad open to the allowed website (Education.com). When the teacher checked, Bobby had changed to a non-approved website. Ms. Classroom Teacher explained to Bobby that he needed to return to the approved game site.</p>	<p>Describe any other factors that may have impacted the student’s behavior:</p> <p>It is noted that the parent had emailed earlier in the day that Bobby had a “rough evening and did not sleep well last night. “Lack of sleep may have impaired his ability to regulate.</p>
---	---	--	---

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the precipitating event immediately preceding the behavior that prompted the use of restraint or seclusion.

COMAR13A.08.04.05A(3)(a)(ii) and COMAR13A.08.04.05A(7)(a)(ii)

BEHAVIOR THAT PROMPTED THE USE OF RESTRAINT OR SECLUSION

Operationally define the behavior that resulted in the use of restraint or seclusion (i.e., describe what the behavior looked like).

A behavior prompting the use of restraint or seclusion must meet the threshold for “imminent, serious, physical harm” defined as bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (18 U.S.C. § 1365(h)(3) and 34 C.F.R. § 300.530(h)(i)(3)).

Describe the behavior prompting the use of restraint or seclusion.

Bobby was using his body to ram into Mr. Trained Staff Member and knocked him off balance. Kicks and punches became more rapid and with increased force making blocking strategies ineffective. Mr. Trained Staff Member began to experience multiple forceful hits to the head, neck, and shoulder area. Mr. Trained Staff Member was hit in the head and began to fall to the ground. Ms. Trained Staff Member responded by placing Bobby in an approved hold (name of hold) to protect Mr. Trained Staff Member from further injury. During the hold, Bobby continued to yell and attempted to head-butt Ms. Trained Staff member who was implementing the restraint. The restraint lasted 2 minutes.

Must select at least 1 of the following:

- Threat of Imminent, Serious Physical Harm to Self
- Threat of Imminent, Serious Physical Harm to Others

Optional:

- Physical restraint and/or seclusion is included in the BIP or IEP to address the student’s behavior in an emergency situation.
- Other: Click or tap here to enter text.

Describe the circumstances that met the standard for imminent serious physical harm.

Staff began to experience multiple forceful hits to the head, neck, and shoulder area.

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the behavior that prompted the use of restraint or seclusion. COMAR13A.08.04.05A(3)(a)(iii) and COMAR13A.08.04.05A(7)(a)(iii)

TYPE OF RESTRAINT APPLIED

Describe what type of restraint intervention was used with the student, and how long the student was in a restraint position.

Name of the evidence-based crisis intervention program: Click or tap here to enter text.

Specific name of restraint from your system-approved evidence-based crisis intervention program. Click or tap here to enter text.

Each time a student is in a restraint personnel shall document: the type of restraint.

COMAR 13A.08.04.05A(3)(b)(i)

STUDENT BEHAVIOR AND REACTION DURING THE RESTRAINT OR SECLUSION

Describe the student's behavior and reaction during the restraint or seclusion.

- Attempts to injure others
- Attempts to injure self
- Self-expressed concerns (e.g., breathing, pain, etc.)
- Talking
- Continuous resistance (e.g., struggling)
- Crying
- Making verbal threats
- Spitting
- Yelling/Screaming
- Profanity/cursing
- Disrobing
- Enuresis/Encopresis
- Other: Click or tap here to enter text.

Describe student behavior and response during the physical restraint or seclusion:

During the first minute of the restraint Bobby continued to yell and attempted to head-butt the staff member implementing the restraint. Progressively Bobby became less physically aggressive and body tension reduced. Ms. Trained Staff Member gradually release pressure of the restraint and followed the program protocol for release from the restraint.

Once released Mr. Trained Staff Member and Ms. Trained Staff Member accompanied Bobby from the classroom to his chosen quiet space to allow him to continue to self-regulate.

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the student's behavior and reaction during the restraint. For a student who has an individualized education program and is placed in seclusion, the individualized education program team, in consultation with the health care practitioner who observed the seclusion, shall review the student's physical, psychological, and psychosocial health history to determine whether seclusion is contraindicated for the student.

Md. Code Ann. Education § 7-1102(d)(2)(i); COMAR 13A.08.04.05A(3)(b)(iii) and COMAR 13A.08.04.05B(7)(b)(iii)

TEAM MEMBERS WHO OBSERVED, IMPLEMENTED, OR MONITORED

Identify the name and role/title of each team member who observed the behavior, or implemented or monitored the restraint or seclusion.

Name	Role/Title	Observed (O) Implemented (I) Monitored (M)	Current training in the use of restraint	Staff Signature (Required)
Mr. Trained Staff Member	Counselor	<input type="checkbox"/> O <input type="checkbox"/> I <input checked="" type="checkbox"/> M	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Ms. Trained Staff Member	Principal	<input type="checkbox"/> O <input checked="" type="checkbox"/> I <input type="checkbox"/> M	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Ms. Classroom Teacher	Gen Ed Teacher	<input checked="" type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Click or tap here to enter text.	Click or tap here to enter text.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Click or tap here to enter text.	Qualified Health Care Provider Required if seclusion was utilized.	<input type="checkbox"/> O <input type="checkbox"/> I <input type="checkbox"/> M	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Each time a student is in a restraint or placed in seclusion, school personnel shall document: the names and signatures of the staff members implementing and monitoring the use of restraint.

COMAR 13A.08.04.05A(3)(a)(v) and COMAR 13A.08.04.05B(7)(a)(iv)

ADMINISTRATOR NOTIFIED OF THE RESTRAINT OR SECLUSION

Name and Title	Signature
Ms. Trained Staff Member, Principal	Click or tap here to enter text.
<p>Each time a student is in a restraint or placed in seclusion, school personnel shall document: the name and signature of the administrator informed of the use of restraint.</p> <p>COMAR 13A.08.04.05A(3)(b)(iv) and COMAR 13A.08.04.05B(7)(b)(iv)</p>	

STUDENT INJURY

Describe any reported and/or observed student injuries (e.g., physical, social-emotional, etc.) following evaluation by school staff. If no injuries occurred, please indicate.

Provide a description of all injuries or indicate “no injuries”:

There were no visible or student reported injuries.

Name(s) and position(s) of individual(s) evaluating student injuries (e.g., school nurse, nurse tech, health care practitioner, trained staff, etc.):

Ms. School Nurse examined the student following the event.

PARENT NOTIFICATION

Describe how and when the parent was notified of the restraint or seclusion incident.

Name of Staff Who Notified Parent/Legal Guardian: Ms. Trained Staff Member

Name of Parent/Legal Guardian Notified: Mr. Bobby Brown Sr.

Method of Notification:

Email In person Letter Phone call

Date of Parent Notification: 12/1/2022

Time of Parent Notification: 4:30 PM

School personnel shall provide the student’s parent with verbal notification or send written notice within 24 hours, unless otherwise provided for in a student’s behavior intervention plan or IEP.

COMAR 13A.08.04.05A(5) and COMAR 13A.08.04.05B(9)

LEA NOTIFICATION (NONPUBLIC USE ONLY)

Describe how and when the student’s LEA was notified of the restraint or seclusion incident.

Name of Nonpublic Staff Who Notified the LEA: Click or tap here to enter text.

Name of LEA Contact Notified: Click or tap here to enter text.

Method of Notification:

Email In person Letter Phone call

Date of Notification: Click or tap to enter a date.

Time of Notification: Click or tap here to enter text.

DEBRIEF

School personnel involved in the restraint and/or seclusion, and other appropriate individuals (e.g., parent, student, etc.), shall debrief and consider next steps to support the student and staff.

Date of the Debrief: 12/5/2022

Participant Name	Role/Title
Mr. Trained Staff Member	Counselor
Ms. Trained Staff Member	Principal
Ms. Classroom Teacher	Gen Ed Teacher
Mr. Special Educator	Spec Ed Teacher
Click or tap here to enter text.	Qualified Health Care Provider Required if seclusion* was utilized.

Summary of next steps/modifications/additional resources (including referral to IEP team or SST team, as appropriate):

Bobby’s IEP and BIP include the use of restraint, with parent consent. The BIP specifies that a review will occur every 6-months. The group considered if an IEP Team meeting was needed prior to the 6-month timeline, but determined a meeting was not needed based on a review of historical data regarding the use of restraint last school year compared to this school year. Behavior data shows fewer occurrences of BIP targeted behaviors and the length of time between restraints has increased from 3 times 4th quarter, last school year, to one time first quarter this school year. Physical aggression has decreased by 12% and verbal aggression as decreased by 8% compared to 4th quarter last school year.

The group discussed the lack of sleep may have impacted Bobby’s behavior and tolerance for denial. Instructional Technology will be consulted regarding blocking specific sites or limiting access to nonapproved sites to proactively avoid confrontation regarding use of the iPad. It was determined the BIP will continue to be implemented as written and the 6-month review of the BIP will be conducted as scheduled in March 2023.

Each time a student is in a restraint or placed in seclusion, school personnel involved shall debrief.

COMAR 13A.08.04.05A(3) and COMAR 13A.08.04.05B(7)

APPENDIX B: EXCESSIVE USE (10 INCIDENTS) OF RESTRAINT AND/OR SECLUSION REPORT EXEMPLAR

The Excessive Use (10 Incidents) of Restraint and/or Seclusion Report consists of two parts which must be completed within 14 days of the 10th incident. Part One is the required notification to the Local Education Agency (LEA) and MSDE of an excessive use of restraint and/or seclusion (i.e. every 10th incident). Part Two is the required case review, assessment, and recommendations to support the reduction and elimination of incidents of restraint and/or seclusion. This report should be included as a part of the student record. Directions for each part are described below:

Part One: Notification of 10 Incidents of Restraint and/or Seclusion

All Maryland public schools, public agencies, and nonpublic schools must complete the Notification of 10 Incidents of Restraint and/or Seclusion each time there is an excessive use (10 incidents) of restraint and/or seclusion for an individual student at their school. The form must be sent to the LEA and MSDE no later than four business days following the student's 10th incident. Incidents that occurred at any school during the school year for the individual student must be recorded on this form.

The completed Part One: Notification of 10 Incidents of Restraint and/or Seclusion Report should be sent to MSDE by uploading to the secure server.

Part Two: Student and School Level Review with Recommendations

All LEAs must complete *Part Two: Student and School Level Review with Recommendations* and provide a copy to the student's school and MSDE no later than 10 business days following notification of the student's 10th incident.

The completed *Part Two: Student and School Level Review with Recommendations* accompanies *Part One: Notification of 10 Incidents of Restraint and /or Seclusion* and should be uploaded to the MSDE secure server.

Part One: Notification of 10 Incidents of Restraint and/or Seclusion

(To be completed by the School or LEA)

NOTIFICATION

School Year 2022-2023

LEA / Public Agency / Nonpublic School name: XXXX County Schools

LEA / Public Agency / Nonpublic School number: 12345

School name(s): Smiley Elementary

School number(s): 123

Date of Incident #10 (20,...): 01/09/2023

Date of notification to MSDE (from Nonpublic School, LEA, or Public Agency): 01/12/2023

Name and title of individual notifying MSDE: Kelly Brown, Special Education Director

STUDENT INFORMATION

Student Name: Sam Wilson
 DOB: 12/1/2012
 Student Age: 10
 Grade: 5
 State Assigned Student ID: 123456
 Ethnicity: Non-Hispanic
 Race: White
 Gender: Male

IEP or IFSP: Yes No
 Disability Code: NA
 Placement Type: NA
 504 Plan: Yes No
 Number of Incidents Included in this Form:
 Incident Numbers 1-10

STUDENT INCIDENT INFORMATION

Incident #	Incident Date	Restraint or Seclusion	Start Time and End Time	School Name	Behavior that posed "imminent serious physical harm"	Date and type of parent notification
1	10/17/2022	R	2:21-2:23pm	Smiley Elementary School	Pinching, slapping, punching, hitting, spitting, kicking staff	10/17/2022 Phone call
2	10/17/2022	R	2:30-2:33pm	Smiley Elementary School	Striking staff (kicking, punching, slapping)	10/17/2022 Phone call

3	11/21/2022	R	10:32-10:35	Smiley Elementary School	Pinching, slapping, punching, hitting, spitting, kicking staff	11/21/2022 Phone call
4	11/22/2022	R	8:51-8:56	Smiley Elementary School	Lifted chair and swung it towards staff members	11/22/2022 Phone call
5	11/28/2022	R	9:39-9:41	Smiley Elementary School	Punching, kicking, head butting, biting	11/28/2022 Phone call
6	11/29/2022	R	10:15-10:20	Smiley Elementary School	Pinching, slapping, punching, hitting, spitting, kicking staff	11/29/2022 Phone call
7	12/19/2022	R	11:10-11:14	Smiley Elementary School	Punch, push, kick, twist arm and charge at staff	12/19/2022 Phone call
8	12/20/2022	R	2:17-2:20	Smiley Elementary School	Throwing large objects at staff members, desks, chairs	12/20/2022 Phone call
9	1/3/2023	R	8:07-8:11	Smiley Elementary School	Biting, punching staff	1/3/2023 Phone call
10	1/9/2023	R	9:15-9:17	Smiley Elementary School	Rammed body into staff member with rapid kicks and punches	1/9/2023 Phone call

Law Reference: [Md. Code Ann. Education § 7-1103\(b\) & \(d\)](#). If a student enrolled in a public school is physically restrained 10 times or more in a school year, or if a student placed in a nonpublic school by the LEA is physically restrained or placed in seclusion 10 times or more in a school year, then the school must notify the LEA and MSDE at the earliest opportunity, but not longer than four (4) business days after the student's 10th incident of physical restraint and/or seclusion. If the student is enrolled at a public agency, then the public agency must notify MSDE.

Part Two: Student and School Level Review with Recommendations

(To be completed by the Local Education Agency (LEA) or MSDE)

IDENTIFYING INFORMATION

Date of Incident #10 (20,...): 1/9/2023

Date of Part Two Submission to MSDE: 1/27/2023 (10 business days after notification)

LEA / Public Agency / Nonpublic School Name: XXX County

LEA / Public Agency / Nonpublic School Number: 123

School Name: Smiley Elementary

School Number: xxx

Student Name: Sam Wilson

State Assigned Student ID: xxxxx

HISTORY OF BEHAVIOR ASSESSMENT AND PLANNING

Current Functional Behavior Assessment Date: 11/2/2022

Behavior Intervention Plan Implementation Date: 11/8/2022

Functional Behavior Assessment (FBA)

1. If an FBA has not previously been done for the student one should begin immediately.
2. If an FBA has previously been completed for the student (even recently), the FBA should be reviewed by a qualified individual or team other than the person who previously completed it.

HISTORY OF BEHAVIOR ASSESSMENT AND PLANNING

FBA date of development/review: 1/17/2023

Name & Title of Individuals conducting/reviewing the FBA: LEA Qualified reviewer or team, such as special educator, school psychologist, behaviorist, administrator, parent

Behavior Intervention Plan (BIP)

1. If a BIP has not previously been created for the student, one should be developed immediately using information gleaned from the FBA.
2. If a BIP currently exists, the BIP plan should be reviewed by a qualified individual other than the person who previously developed or reviewed and amended for a SWD.

BIP date of development/review: 1/17/2022

Name & Title of Individuals conducting/reviewing the BIP: LEA Qualified reviewer or team, such as special educator, school psychologist, behaviorist, administrator, parent

PATTERN OF BEHAVIORAL HEALTH INTERVENTIONS FOR THE STUDENT		
<u>Behavior Health Interventions</u>	<u>Fidelity of Implementation</u>	<u>Student's response to the intervention</u>
Type of behavior health interventions used or scheduled to be used with the identified student (list individually)	Frequency, duration of intervention use (when started or will start, how often used, etc.)	Is the intervention effective? Could it be modified to increase effectiveness?
Check-In/Check Out: The student has a designated adult in which they meet with each morning to identify goals and review appropriate behaviors for the day.	Start Date: Sept 10, 2022 Frequency of Implementation: Daily (8:00am-8:10am)	Intervention Effectiveness: The student participates in the intervention and enjoys the one-on-one time with the preferred adult. Recommendations: Continue this intervention
Social Stories: The student has social stories for changes in routines, school breaks, transitions. These stories are reviewed during the morning check-in with the preferred adult	Start Date: Sept 10, 2022 Frequency of Implementation: Daily (8:00am)	Intervention Effectiveness: The student participates in the intervention and enjoys the one-on-one time with the preferred adult. Recommendations: Continue this intervention
Warning for transitions	Start Date: November 1, 2022 Frequency of Implementation: Daily in the classroom setting	Intervention Effectiveness: Most of the time this intervention prevents unexpected behaviors. Recommendations: Improvements could be in the delivery of the warnings to include visual, verbal and tactile (personal picture schedule)
Practice with de-escalation strategies	Start Date: October 17, 2022 Frequency of Implementation: Two times per month during small group instruction (provided by the paraprofessional)	Intervention Effectiveness: The student is learning the strategies but having difficulty with generalization to the classroom setting. Recommendations: Modifications could include for frequent practice within the classroom setting with visual, verbal and tactile prompts.

PATTERN OF BEHAVIORAL HEALTH INTERVENTIONS FOR THE STUDENT

<p><u>Behavior Health Interventions</u></p> <p>Type of behavior health interventions used or scheduled to be used with the identified student (list individually)</p>	<p><u>Fidelity of Implementation</u></p> <p>Frequency, duration of intervention use (when started or will start, how often used, etc.)</p>	<p><u>Student's response to the intervention</u></p> <p>Is the intervention effective? Could it be modified to increase effectiveness?</p>
<p>What other relevant personal or environmental information will inform recommendations?</p>		<p>When examining the pattern of incidents, there appears to be an increase in unexpected behaviors following or before a school break (i.e. thanksgiving, winter break, 3-day weekends). Additionally, when the student is late to school there is an increase of unexpected behaviors due to changes in routine and sometimes missing the morning check-in with preferred adult.</p>

PATTERN OF BEHAVIOR INTERVENTIONS USED BY THE SCHOOL

The review team should identify schoolwide behavior interventions and approaches currently being implemented at this school to reduce the use of physical restraint or seclusion (nonpublic schools only) for ALL students.

Type of behavior health interventions used (list individually)	Frequency and duration of use (when began, how often used, etc.)	Apparent impact upon student behavior
School-wide positive behavior supports (Weekly lessons, specific monthly skills)	Weekly	Students comply with directions and the targeted skill is increased
Social-Emotional Learning Supports (Specific class time designated for social-emotional instruction)	Daily in the first period class	Students comply with directions and the targeted skill is increased

RECOMMENDATIONS

The review team should identify recommendations specific to the student and for the school. Recommendations should be listed here as a means of communicating to MSDE and other relevant stakeholders. Recommendations related to the need for additional professional learning, resources, and support at the school to reduce the excessive use of physical restraint or seclusion should be considered.

Student Specific Recommendations	School Specific Recommendations
Increased direct instruction in de-escalation strategies	Develop small group intervention for students who are not making progress with school-wide behavioral supports: Click or tap here to enter text.
Improvements could be in the delivery of the transition warnings to include visual, verbal and tactile (personal picture schedule)	Implement class wide transition warnings for all students.

MSDE USE ONLY

Student and school level review document due by: January 27, 2023

On time? Yes No

Date completed student and school level review document received by MSDE: January 27, 2023

Explanation of inappropriate use of restraint or seclusion: Complete

Name of MSDE official receiving notification: Jane Doe

Title of MSDE official receiving notification: Director

Law Reference: [Md. Code Ann. Education § 7-1103\(c\) & \(e\)](#). On receipt of notice from a public school or nonpublic school of a 10th incident of restraint and/or seclusion, the LEA shall: (1) review the student's case, including the circumstances of each incident of physical restraint or seclusion; (2) assess the public school or nonpublic school's pattern of behavioral health interventions to evaluate whether the public school or nonpublic school could use less restrictive behavioral health interventions; and (3) share the LEA's recommendations with MSDE and the public school or nonpublic school. MSDE will conduct the review for public agencies.

Restraint and Seclusion: Frequently Asked Questions

Division of Student Support, Academic Enrichment, and Educational Policy
Division of Early Intervention and Special Education Services

Summer 2023



Table of Contents

Purpose	2
A. Physical Restraint.....	3
B. Seclusion	4
C. Notification and Reporting	5

Purpose

This document provides local education agencies (LEAs), public agencies (PAs), and nonpublic schools with additional guidance regarding the implementation of the Physical Restraint and Seclusion statutes (Md. Code, Education § 7-1101 et seq). The Code of Maryland Regulations (COMAR) are currently being revised to reflect the requirements of the new statutory language and provide additional direction.

The Maryland State Department of Education (MSDE) strongly supports the need for evidence-based positive behavioral interventions to reduce the inappropriate reliance on restraint and seclusion. In all crisis situations, adults should first use nonphysical techniques such as clear, concise, verbal, and paraverbal communication with students to deescalate the situation, and when necessary, elicit movement to an identified safe location.

A. Physical Restraint

Physical restraint is defined in Md. Code, Education § 7-1101 et seq. as “personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.” Physical restraint should only be used in a crisis situation when it is necessary to protect the student or other individual from imminent, serious physical harm and other, less intrusive, nonphysical interventions have failed or been determined to be inappropriate for the student.

A1. WHAT ARE THE CHARACTERISTICS OF A PHYSICAL ESCORT?

Purpose: To guide a disruptive student to walk to a safe location in which the student is in motion and being redirected to a safe location

Physical Contact: Temporary touching or holding of hand, wrist, arm, shoulder or back.

Duration: Limited, temporary, and discontinued once the student reaches a safe location

These characteristics should be considered when removing a disruptive student who is unwilling to leave the area when other methods, such as counseling, have been unsuccessful.

A2. IS A “TRANSPORT” A PHYSICAL RESTRAINT?

Some crisis intervention training programs include the use of a "transport". LEAs, PAs, and nonpublic schools using these programs must consider whether the "transport" meets the definition of a physical restraint as defined by the law and not the training program (See Md. Code, Education § 7-1101 et seq.).

A3: WHEN DOES A RESTRAINT BEGIN AND END?

Physical restraint begins when the student’s movement is restricted rather than redirected.

A restraint ends when a full release has occurred as prescribed by the crisis intervention program because the student no longer poses a threat of imminent, serious physical harm.

Restraints that are disrupted for student or staff safety, as prescribed by the crisis intervention program, shall be followed by an assessment of the need for an additional restraint as outlined in the Restraint and Seclusion Implementation Guide (May 2023) on page 5 and Md. Code, Education § 7-1101 et seq. If the conditions for restraint are present, the additional restraint would be documented as an additional individual incident of restraint.

B. Seclusion

Seclusion is defined in Md. Code, Education § 7-1101 et seq. as “The confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving during school hours.” Seclusion is banned in all Maryland public schools and public agencies.

B1: DOES SECLUSION REQUIRE THE STUDENT TO BE BOTH ALONE IN A SPACE AND PREVENTED FROM LEAVING?

Yes, seclusion is composed of **two important factors**: a student is alone in a space and is physically prevented from leaving. Both factors must be present to constitute seclusion.

B2: IS A BOARD-CERTIFIED BEHAVIOR ANALYST (BCBA) A QUALIFIED HEALTH CARE PROFESSIONAL WHO CAN SUPERVISE THE IMPLEMENTATION OF SECLUSION IN A NON-PUBLIC SETTING?

No, a BCBA is not included in the list of qualified health care professionals who can supervise the implementation of seclusion.

The Md. Code, Education § 7-1102 lists those health care professionals who can supervise a seclusion as:

- (i) A physician licensed to practice under Title 14 of the Health Occupations Article;
- (ii) A psychologist, licensed to practice under Title 18 of the Health Occupations Article;
- (iii) A clinical social worker licensed to practice under Title 19 of the Health Occupations Article;
- (iv) A registered nurse licensed to practice under Title 8 of the Health Occupations Article; or
- (v) A clinical professional counselor, licensed under Title 17 of the Health Occupations Article.

C. Notification and Reporting

C1: WHEN A STUDENT TRANSFERS, HOW ARE THE STUDENT'S INCIDENTS OF RESTRAINT AND/OR SECLUSION SHARED WITH THE RECEIVING SCHOOL?

Each incident of restraint and/or seclusion should be documented on the MSDE Restraint and/or Seclusion Single Incident Form individually. The documentation of single incidents of restraint and/or seclusion shall be kept in the student's cumulative record.

Each LEA can specify where in the student's cumulative record the single incident forms are kept; however, it must be shared with the receiving school when the student transfers. It is advised that when the receiving school makes the official request for records, the request for restraint and seclusion documentation be included.

C2: WHO IS RESPONSIBLE FOR COMPLETING PART TWO: STUDENT AND SCHOOL LEVEL REVIEW WITH RECOMMENDATIONS FOR A STUDENT ATTENDING A NONPUBLIC SCHOOL?

Upon the notification of 10 incidents of restraint and/or seclusion at a nonpublic school, the LEA which has educational responsibility for the student must complete a student and school level review to determine strategies to reduce the use of restraint and seclusion. Each LEA should develop procedures to facilitate collaboration between the nonpublic school, the LEA, and additional relevant stakeholders in order to complete the student and school level review.

Education Advocacy Coalition

for Students with Disabilities

October 5, 2023

Mary Gable
Assistant State Superintendent
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Re: Comments of the Education Advocacy Coalition re Proposed Revisions to COMAR 13A.08.04
(Student Behavior Interventions)

Dear Ms. Gable:

The Education Advocacy Coalition appreciates the opportunity to submit comments regarding the proposed revisions to COMAR 13A.08.04 regarding the use of restraint and seclusion with students. Overall, we believe the proposed regulations effectively reflect the changes required by the passage of Senate Bill 705/House Bill 1255 during the 2022 General Assembly session and provide clarification of several regulatory provisions that have long created uncertainty for families and school system staff. We do, however, have several comments, outlined below.

13A.08.04.02(B)(1)(a): Definition of Behavior intervention plan

Comment: We recognize that legislative drafters reverted to the descriptor “problem behavior” but we recommend substituting “challenging behavior” as the proposed regulations do in the definition of “Debrief” ((B)(5)(a)).

Rationale: For students whose behavior is a result of their disability, the behavior should not be viewed as a “problem.”

Comment: Additionally, add to the definition “trauma informed”: “...educational setting through the use of trauma-informed, positive behavioral interventions, strategies, and supports.”

Rationale: All interventions should be conducted through the context of trauma-informed care.

13A.08.02(B)(14)(b): Definition of Physical Restraint

Comment: We appreciate that the proposed regulations omit the language regarding physical escort, which caused significant confusion since the enactment of the first set of regulations in 2003. However, subsection (iii), which excludes from the definition of restraint “moving a disruptive student who is unwilling to leave the area [if] *when* other methods such as counseling have been unsuccessful” is also quite confusing to families and school staff. At what point does moving such a student turn into a restraint? We understand that the “moving a disruptive student” exception is in the statute, but we strongly recommend that MSDE clarify this provision and make clear at what point such movement turns into a restraint. This could be accomplished by revising the provision to say: “Holding a disruptive

student's hand or arm to move the student if the student is unwilling to leave the area when other methods such as counseling have been unsuccessful."

Rationale: If moving a disruptive student causes "a personal restriction that immobilizes [the] student or reduces the ability of [the] student to move their torso, arms, legs, or head freely" it would be considered a physical restraint, and this exception would swallow up the definition. As written, the regulation will continue to cause significant confusion if it is not clarified.

13A.08.02(20): Definition of Seclusion:

Comment: Why does the definition of seclusion include "during school hours"? The regulations should apply to all school activities and functions, regardless of when they are held. We strongly recommend deleting "during school hours" so students are protected during all school activities.

Rationale: This clarification is needed to ensure that students participating in before- and after-school activities, school-related trips, and other activities are protected by these regulations.

Comment: The definition should make clear that seclusion includes situations in which a student is prevented from leaving a space by a person who is preventing egress but who is not interacting with the student in any way.

Rationale: When school staff block egress and are not engaging in any de-escalation or conversation with the student, the staff are operating as the "lock" on the door, functioning only as the means by which the student is prevented from leaving the room, but the student is not literally "alone." Clarification is needed to ensure that these situations are encompassed within the definition of seclusion.

13A.08.02(B)(22): Definition of Serious physical harm:

Comment: We are pleased to see the incorporation of the definition of "Serious physical harm" from federal law into the proposed regulations.

Rationale: This has been MSDE's operating definition for many years, and we are glad to know it will be operationalized in the regulations governing behavior interventions, particularly the use of restraint and seclusion.

13A.08.05(A)(3)(a) and (8)(a): Debrief requirement

Comment: The proposed regulations require debriefing and documentation each time restraint or seclusion is used. However, the proposed regulations address documentation of the restraint/seclusion without addressing the components of the debriefing. The regulations should require school staff to examine what could have been done to avoid the need for the use of restraint or seclusion and what could be done differently moving forward to minimize the need for restraint or seclusion in the future.

Rationale: Documentation is essential but it is not the equivalent of a debrief, which requires an analysis of what happened, whether the student's behavior intervention plan (BIP) (if the student has

Ms. Mary Gable
October 5, 2023
Page Three

one) was implemented with fidelity and what could have been done differently to avoid a different outcome in the future.

13A.08.07(2)(b) Annual Data Reporting:

Comment: We appreciate that MSDE has clarified that each incident of seclusion must be documented separately.

Rationale: EAC members have encountered many situations in which students have been placed in seclusion and at some point before the 30 minute has elapsed, staff open the door, then close it again but do not consider a new seclusion incident to have begun. The proposed regulation clarifies that each time this occurs, a separate incident must be documented.

Again, the EAC appreciates the opportunity to provide comments regarding these proposed regulations. Please feel free to be in touch with any questions.

Sincerely,

Leslie Seid Margolis, Disability Rights Maryland, Co-Chairperson
Beth Benevides, Howard County Autism Society/Hussman Institute for Autism, Co-Chairperson
Selene Almazan, Selene Almazan Law, LLC
Rene Averitt-Sanzone, The Parents' Place of Maryland
Linda Barton, MSED, Education Consultant
Ellen Callegary, Attorney
Melanie Carlos, xMinds
Rich Ceruolo, Parent Advocacy Consortium
Michelle Davis, M.Ed., ABCs for Life Success
Alyssa Fieo, Maryland Office of the Public Defender
Jennifer Engel Fisher, Weinfeld Education Group
Lisa Frank, Special Kids Company
Sara E. Furlow, Esq.
Kim Glassman, Law Office of Brian K. Gruber
Christi Green, Maryland Coalition of Families
Marjorie Guldán and Rosemary Kitzinger, Bright Futures, LLC
Beth Ann Hancock, Charting the Course, LLC
Kalman Hettleman, Independent Advocate
Nicole Joseph and Kate Raab, Law Offices of Nicole Joseph
Ande Kolp, The Arc Maryland
Rachel London, Maryland Developmental Disabilities Council
Mark B. Martin, Law Offices of Mark B. Martin, P.A.
Lindsay Muir, M.Ed., Abilities Network (Project Act)
Ellen O'Neill, Atlantic Seaboard Dyslexia Education Center

Ms. Mary Gable
October 5, 2023
Page Four

Ronza Othman, National Federation of the Blind of Maryland

Maria Ott, Attorney

Rebecca Rienzi, Pathfinders for Autism

Jaime Seaton, BGS Law

Kelly Spanoghe, Education Advocate

Karleen Spitulnik, Decoding Dyslexia Maryland

Ronnetta Stanley, M.Ed., Loud Voices Together

Guy Stephens, Alliance Against Seclusion and Restraint

Jessica Williams, M.Ed., Education Due Process Solutions

Liz Zogby, Maryland Down Syndrome Advocacy Coalition

----- Forwarded message -----

From:

Date: Wed, Oct 11, 2023 at 10:01 PM

Subject: Re: Public Comment question for 13A.08.04 Student Behavior Interventions

To: Division of Student Support -MSDE- <doss.msde@maryland.gov>

Good evening and thank you for responding, Ms. Gable.

My comment is in regards to the section on what Physical Restraint does *not* include, roman numerals (ii) and (iii) as highlighted in bold blue below:

Maryland Register

Issue Date: September 8, 2023

Volume 50 • Issue 18 • Pages 785 —844

Title 13A

STATE BOARD OF EDUCATION

Subtitle 08 STUDENTS

13A.08.04 Student Behavior Interventions

(14) Physical Restraint.

(b) "Physical restraint" does not include:

(ii) Holding a student's hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area [if] when other methods such as counseling have been unsuccessful; or

In regards to the highlighted blue section above, by continuing to allow a physical "escort" or "moving a disruptive student" to *bypass* the definition of "physical restraint," MSDE is allowing restraint to happen, undocumented. As a parent of a young student who experienced traumatic undocumented restraint under both of these exclusions in the Maryland School System, this grey area is problematic. If a child is coming home bruised and cut following a physical "escort," but the school does not document it as a restraint or notify the parent, a check and balance is missing. If a child is regularly pulled backwards by their arms to another area of the school and the school only sees "moving a disruptive student" and does not document it as a restraint or notify the parent, again this is a concern. Placing hands on a child and moving them, when they are otherwise unwilling and struggling to be free of the staff's hands, is traumatic. As a parent, I have seen this firsthand and the harm cannot be undone. Any "hands on" incidents should *always* be considered a significant enough event to be reported to the parent and documented as a restraint, at minimum.

Please let me know if you have any questions about what I wrote above. And if you need to attach my name (if it helps my feedback to be taken more seriously), then do attach it, but please confirm if it is included or not.

Thank you!