

Chap 33 (Original)	Proposed Amendments
<p>05-071 DEPARTMENT OF EDUCATION</p> <p>Chapter 33: REGULATIONS GOVERNING TIMEOUT ROOMS, THERAPEUTIC RESTRAINTS AND AVERSIVES IN PUBLIC SCHOOLS AND APPROVED PRIVATE SCHOOLS</p>	<p>05-071 DEPARTMENT OF EDUCATION</p> <p>REGULATIONS GOVERNING SECLUSION TIME-OUT PROCEDURES, PHYSICAL RESTRAINTS AND AVERSIVES IN PUBLIC SCHOOLS AND APPROVED PRIVATE SCHOOLS</p>
<p><b>Section 1. In General</b></p> <p><b>1.1 Policy and Purpose</b></p> <p>These regulations establish standards for the use of separate, isolated timeout rooms and the use of therapeutic restraint when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use a timeout room or implement a program of therapeutic restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limit the protections of individual students under applicable special education standards.</p>	<p><b>SECTION 1. IN GENERAL</b></p> <p><b>1.1 Policy and Purpose</b></p> <p>These regulations establish standards for the use of seclusion time-out areas and the use of physical restraint to ensure a safe and secure school environment. Seclusion time-out may be used when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Physical restraint (also known as safety holds, emergency holds, or therapeutic restraints, etc.) may be used when the behavior of a student presents a risk of injury or harm to the student or others and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use seclusion time-out areas or implement a program of physical restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limits the protections of individual students under applicable special education standards.</p>
<p><b>1.2 Local Policy Required</b></p> <p>Each School Administrative Unit and each approved private school shall develop local policies and procedures relating to the use of timeout rooms and therapeutic restraint prior to initiating such interventions in their schools. School Administrative Units and approved private schools which have local policies and / or permit the use of timeout rooms and / or therapeutic restraint shall revise existing policies or develop policies consistent with these rules within 90</p>	<p><b>1.2 Local Policy Required</b></p> <p>Each School Administrative Unit and each approved private school shall develop local policies and procedures relating to the use of seclusion time-out and physical restraint prior to initiating such interventions in their schools. School Administrative Units and approved private schools which have local policies which permit the use of seclusion time-out areas and/or physical restraint shall revise existing policies or develop policies consistent with these rules within</p>

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<p>calendar days of the effective date of these rules. These policies and procedures shall be developed with input, as needed, from representatives of related disciplines such as special education, psychology, school psychology, social work and / or counseling. SAUs and approved private schools shall establish a process to review, at least annually, the use of timeout rooms and therapeutic restraint and to make recommendations as necessary to the governing body for changes in local policy.</p>	<p>90 calendar days of the effective date of these rules. These policies and procedures shall be developed with input, as needed, from representatives of the educational community such as parents, administrators, special educators, general educators, psychologists, school psychology, social workers and / or counselors.</p> <p>In accordance with confidentiality concerns, local requirements and expectations of the governing body, each SAUs and approved private schools shall establish a process to collect, aggregate and report at least annually the use of physical restraint and seclusion time-out within the preceding school year and to make recommendations, as necessary, to the governing body for any changes in local policy or procedures.</p>
<p><b>1.3 Documentation</b></p> <p>Each use of a timeout room and / or therapeutic restraint shall be documented. The documentation shall include at a minimum, the date and time of initiation, the time of termination, the student, the location, the antecedent events prior to the behavioral episode, the behavior that resulted in the use of timeout and / or therapeutic restraint, the type of intervention, and the staff person(s) involved in the use of timeout and / or therapeutic restraint. This documentation shall be written as soon as practical after the incident and provided to the program administrator or designee within 2 school days of the incident. The program administrator or designee shall inform the parents or guardians of the use of timeout or therapeutic restraint as soon thereafter as practical.</p>	<p><b>1.3 Documentation</b></p> <p>Each use of a seclusion time-out and / or physical restraint shall be documented. The documentation shall include at a minimum the date and time of initiation, the time of termination, the student, the location, and a narrative describing the course of the seclusion time-out or physical restraint. At a minimum this narrative would include:</p> <ul style="list-style-type: none"> <li>• Antecedent events / precursors prior to the behavioral episode,</li> <li>• Less restrictive interventions tried prior to the use of seclusion time out or physical restraint,</li> <li>• The behavior that resulted in the use of seclusion time-out and/or physical restraint,</li> <li>• The type of intervention(s),</li> <li>• The staff person(s) involved and their role in the use of seclusion and /or physical restraint,</li> <li>• The resolution of the incident and</li> <li>• The process of the student’s return to programming.</li> </ul> <p>If seclusion time-out and/or physical restraint is / are carried out in accordance with a previously agreed upon behavior support plan, then the documentation shall be written consistent with the behavior support</p>

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	<p>plan. This documentation shall be written as soon as practical after the incident and provided to the program administrator or designee by the next school day. The program administrator or designee shall make a reasonable effort to inform the parent or guardian of the use of seclusion time-out or physical restraint as soon as practicable following the incident and prior to the end of the school day and inform the parent or guardian that the definitive documentation will be completed for administrative review by the following school day and thereafter be available to the parent or guardian.</p>
<p><b>Section 2. Definitions</b></p> <p><b>2.1 Timeout</b></p> <p>Removal to a timeout room is a therapeutic intervention to bring the behavior of a student presenting a risk of injury or harm to self or others or significant property damage under control. The purpose of the use of timeout rooms is to reduce the frequency and intensity of harmful behaviors, to permit the student to regain his or her composure and to assist the student to return to the learning environment. Timeout includes requiring a student to leave the classroom, playground, or other educational setting and go to a designated timeout room for a period of time specified in these rules and local policy. For purposes of these rules, timeout is limited to a designated timeout room. The term does not include disciplinary actions imposed by a school administrator or teacher / staff imposed behavior interventions. Examples of disciplinary actions imposed by a school administrator include, but are not limited to, detention and "in school suspension." Examples of teacher / staff imposed behavior interventions include, but are not limited to, requesting a student to sit in a "quiet chair" within the classroom, directing a student to put his / her head on their desk, sending a student to the principal's office, etc. These exclusions may not be used to circumvent the intent of these rules.</p>	<p><b>Section 2. Definitions</b></p> <p><b>2.1 Seclusion Time-out</b></p> <p>Seclusion time-out in the service of preserving school safety is a therapeutic intervention to bring the behavior of a student presenting a risk of injury or harm to self or others, significant property damage, or severe educational disruption under control and to preserve school safety. The purpose of the seclusion time-out in the context of an emergency or behavior support plan is to assist the student to reduce the frequency and intensity of harmful behaviors, to permit the student to regain his or her composure, and to support the student's successful re-entry into the learning environment.</p> <p>Seclusion time-out includes a staff member directing a student to go to or remain in a designated area secluded from observing the classroom activities and being observed by peers. The term does not include administrator imposed disciplinary actions or teacher / staff imposed behavior interventions. Examples of disciplinary actions imposed by a school administrator include, but are not limited to, detention and "in school suspension." Examples of teacher / staff imposed behavior interventions include, but are not limited to, requesting a student to sit in a "quiet chair" within the classroom, directing a student to put his / her head on their desk, sending a student to the principal's office, etc. These exclusions may not be used to circumvent the intent of these rules.</p>

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<p><b>2.2 Timeout Room</b></p> <p>A time out room is a designated space, separate from a student’s classroom, which is used to isolate a student from his or her peers and school activities. All timeout rooms will meet the standards specified in these rules.</p>	<p><b>2.2 Seclusion Time-out Area</b></p> <p>A seclusion time-out area is a designated space which is used to separate a student from his or her peers and school activities and prevent the student from observing the class activities or being disruptive to his / her peers. All seclusion time-out areas will meet the standards specified in these rules. Nothing prevents the use of this designated seclusion time-out area for other purposes such as a separate study area or for individual therapy, testing, etc.</p>
<p><b>2.3 Therapeutic restraint</b></p> <p>Therapeutic restraint is the use of a therapeutic physical intervention with a student by an appropriately trained staff person to prevent injury or harm to the student or others. Title 20-A, §4009 permits staff to use a reasonable degree of force to intervene and control emergency situations. Nothing in these regulations applies to any conduct by a school official that would otherwise be covered by the legal protections of 20-A MRSA §4009.</p>	<p><b>2.3 Physical restraint</b></p> <p>Physical restraint is also known as safety holds, emergency holds, therapeutic restraints, or other terms as defined by recognized training programs. Physical restraint may be used in an emergency situation or as a planned intervention in the context of a behavior support plan to prevent injury to the child or youth or others when a child is in crisis.</p> <p>Physical restraint is defined as any recognized physical intervention of one or more persons substantially restricting another person’s freedom of movement, physical activity, or normal access to his or her body for the purpose of maintaining the safety of the student or others. It is a means for controlling that person’s movement, reestablishing behavioral self control, and establishing and maintaining safety for the individual, other individuals, and school staff.</p> <p>The term does not include physical prompts, physical guidance or physical cues used in the context of educational and functional programming and skill development.</p> <p>Physical restraint is not permitted as punishment or to compel compliance and is only permitted when there is a clear risk of injury to self or others.</p> <p>Physical restraint shall be implemented by appropriately trained staff to the extent possible. If, as a result of an emergency situation, untrained staff have intervened and initiated a physical restraint, appropriately trained personnel will be summoned to the scene and assume control of</p>

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	<p>the situation as rapidly as possible.</p> <p>Title 20-A, §4009 permits staff to use a reasonable degree of force to intervene and control emergency situations. Nothing in these regulations applies to any conduct by a school official that would otherwise be covered by the legal protections of 20-A MRSA §4009.</p>
<p>Section 3. Time Out Room</p> <p><b>3.1 Limitations on the use of timeout room</b></p> <p>Timeout rooms shall be used consistent with local policy to reduce dangerous behaviors and only after less intrusive interventions have failed. Timeout rooms may be used for either an emergency intervention or as part of an intervention plan. Local policy will determine when a pattern of the use of timeout rooms requires referral to the appropriate intervention team and / or the development of an individualized intervention plan. Parents or guardians shall be involved in the development of any individualized intervention plans. Timeout rooms shall not be used for punitive purposes, staff convenience or to control minor misbehavior.</p>	<p><b>SECTION 3. SECLUSION TIME-OUT</b></p> <p><b>3.1 Limitations</b></p> <p>Seclusion time-out shall be used consistent with local policy to reduce dangerous behaviors / significant property damage / severe educational disruption and only after any less intrusive interventions have failed. Seclusion time-out may be used for either an emergency intervention or as part of a behavior support plan. Local policy will determine when a pattern of the use of seclusion time-out requires referral to the appropriate intervention team and / or the development of a behavior support plan. Parents or guardians may, to the extent possible, be involved in the development of any behavior support plan. Seclusion time-out shall not be used for punitive purposes, staff convenience or to control minor misbehavior.</p>
<p><b>3.2 Time limitations on the use of timeout rooms</b></p> <p>Use of timeout rooms shall be limited in duration to that time necessary to allow the student to compose him/herself and return to the classroom. The use of timeout shall be consistent with local policy and the student’s individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this period the use of timeout may be continued with written authorization of the program administrator or designee.</p>	<p><b>3.2 Time limitations</b></p> <p>The use of seclusion time-out shall be limited in duration to that time necessary to allow the student to re-establish his/her emotional and behavioral self-regulation and successfully return to the classroom. The use of seclusion time-out shall be consistent with the student’s individualized behavior support plan, if applicable, and local policy. If a student is still presenting dangerous behaviors after multiple and reasonable efforts to both de-escalate the student’s behavior and to assist the student to regain emotional and behavioral self control have been unsuccessful, the SAU or private school may request assistance from local EMS or other community resources.</p>

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<p><b>3.3 Adult supervision</b></p> <p>Students in a timeout room shall be directly observed at all times by a staff person.</p>	<p><b>3.3 Adult supervision during seclusion time-out</b></p> <p>Any child or youth in seclusion must be continuously observed by an adult both visually and aurally for the entire period of the seclusion time-out and these observations will be recorded consistent with the requirements of section 1.3 of these rules until the student has regained emotional and behavior self regulation and is able and permitted to return to the educational and functional programming.</p>
<p><b>3.4 Physical Characteristics</b></p> <p>Timeout rooms will be a minimum of 60 square feet with adequate light, heat, and ventilation and of normal room height. The door to the timeout room may not be locked, latched or secured in any way that would prevent the student from exiting the room. An unbreakable observation window shall be located in a wall or door to permit continuous observation of the student and any staff member in the timeout room.</p>	<p><b>3.4 Physical Characteristics</b></p> <p>Seclusion time-out areas will be a minimum of 60 square feet with adequate light, heat, and ventilation and of normal room height. The door to the seclusion time-out area may not be locked, latched or secured in any way that would prevent the student from exiting the room. An unbreakable observation window shall be located in a wall or door to permit continuous observation of the student and any staff member in the seclusion time-out area. All seclusion time-out areas shall be inspected at least weekly and after each use to ensure the safety of students and staff.</p>
<p><b>Section 4. Therapeutic restraint</b></p> <p><b>4.1 Permitted uses of therapeutic restraint</b></p> <p>Appropriately trained staff may physically intervene with a student to prevent injury or harm to the student or others. Therapeutic restraint may be used for either an emergency intervention or as part of an intervention plan. The intervention shall occur only after less intrusive efforts to control the behavior have been attempted. The intervention shall involve the least amount of physical contact necessary, shall be implemented consistent with the standards of a training program as specified in §4.5 and consistent with local policy. The use of therapeutic restraint shall require the presence of at least two adults at all times. Title 20-A, §4009 permits a single individual to use a reasonable degree of force in emergency situations to control or remove the student.</p>	<p><b>SECTION 4. PHYSICAL RESTRAINT</b></p> <p><b>4.1 Permitted uses of physical restraint</b></p> <p>Physical restraint may be used to prevent injury or harm to the student or others, as an emergency intervention or as part of a previously agreed upon behavior support plan implemented by appropriately trained staff. The intervention shall occur only after less intrusive efforts to control the behavior have been attempted. The intervention shall involve the least amount of physical contact and force necessary, shall be implemented consistent with local policy and in the case of a student with a behavior support plan consistent with the standards of a training program as specified in §4.5.</p> <p>Any physical restraint that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech of students is prohibited. The use of physical restraint shall</p>

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	require the presence of at least two adults at all times except in the case of an emergency situation. Title 20-A, §4009 permits a teacher or other school staff to use a reasonable degree of force in emergency situations to control or remove a student who creates a disturbance.
<p><b>4.2 Time limits on the use of therapeutic restraint</b></p> <p>Use of therapeutic restraint shall be limited in duration consistent with local policy and the student’s individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this time period, the use of therapeutic restraint may be continued with written authorization of the program administrator or designee.</p>	<p><b>4.2 Time limits on the use of physical restraint</b></p> <p>The use of physical restraint shall be limited in duration consistent with the student’s behavior support plan and local policy. If a student is still presenting dangerous behaviors after multiple and reasonable efforts to both de-escalate the student’s behavior and to assist the student to regain emotional and behavioral self control have been unsuccessful, the SAU or private school may request assistance from local EMS or community resources.</p>
<p><b>4.3 Exclusions</b></p> <p>Protective equipment or devices that are part of a treatment plan prescribed by a physician or psychologist for treatment of a chronic condition are not prohibited by these regulations.</p>	<p><b>4.3 Exclusions</b></p> <p>Protective equipment or devices that are part of a treatment plan prescribed by a licensed health care provider for treatment of a chronic condition are not prohibited by these regulations.</p>
<p><b>4.4 Mechanical or Chemical Restraints Prohibited</b></p> <p>The term "therapeutic restraint" does not include mechanical or chemical restraints used to control or modify a student's behavior. Chemical restraints include but are not limited to medication, noxious sprays or gases. Prescribed medication administered by a health care provider consistent with a student's health care plan are permitted. Mechanical restraints are prohibited.</p>	<p><b>4.4 Mechanical or Chemical Restraints Prohibited</b></p> <p>Mechanical or chemical restraints shall not be used in school settings when their purpose is to manage or address a student’s behavior. Prescribed assistive devices such as splints, standing tables and chairs with restraints used for positioning or prevention of contractures are not considered mechanical restraints. Their use shall be supervised by qualified and trained individuals in accord with professional standards.</p> <p>Vehicle restraints required by law or recommended as part of a behavior support plan are not considered mechanical restraints subject to these regulations.</p> <p>Those restraints used by law enforcement officers or school resource officers in the course of their professional duties are not considered mechanical restraints subject to these regulations.</p> <p>Chemical restraints used to control or modify a student's behavior are</p>

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	prohibited. Chemical restraints include but are not limited to noxious sprays or gases. Prescribed medications administered by a health care provider consistent with a student’s health care plan are permitted.
<p><b>4.5 Training</b></p> <p>Except as provided by Title 20-A, §4009, individuals who implement or supervise the implementation of therapeutic restraint shall have successfully completed an appropriate training program in the identification and de-escalation of potentially harmful behaviors and the safe use of passive physical therapeutic restraints. This training includes, but is not limited to, Non-Abusive Psychological and Physical Intervention (NAPPI), Mandt, Crisis Prevention Institute, Therapeutic Crisis Intervention Training, and other training as determined appropriate by local policy.</p>	<p><b>4.5 Training</b></p> <p>Except as provided by Title 20-A, §4009, individuals who implement or supervise the implementation of planned physical restraint in accordance with a behavior support plan shall have successfully completed and maintain current certification from an appropriate training program in the identification, prevention, and de-escalation of potentially harmful behaviors and the safe use of physical restraints. This training includes, but is not limited to, Safety Care, Non-Abusive Psychological and Physical Intervention (NAPPI), Mandt, Crisis Prevention Institute, Therapeutic Crisis Intervention Training, and other training as determined appropriate by local policy.</p>
<p><b>SECTION 5. AVERSIVES</b></p> <p><b>5.1 Use of Aversive Therapy or Treatment Prohibited</b></p> <p>A school administrative unit or an approved private school may not use aversive therapy or treatment in order to modify or change a student's behavior. Aversive therapy or treatment includes the application of unusual, noxious or potential hazardous substances, stimuli or procedures to a student. Such substances, stimuli and procedures include but are not limited to: water spray, hitting, pinching, slapping, noxious fumes, extreme physical exercise, costumes or signs.</p>	<p><b>SECTION 5. AVERSIVES</b></p> <p><b>5.1 Use of Aversive Therapy or Treatment Prohibited</b></p> <p>A school administrative unit or an approved private school may not use aversive therapy or treatment in order to modify or change a student's behavior. Aversive therapy or treatment includes the application of unusual, noxious or potential hazardous substances, stimuli or procedures to a student. Such substances, stimuli and procedures include but are not limited to: water spray, hitting, pinching, slapping, noxious fumes, extreme physical exercise, costumes or signs.</p>