

2010 Update: New Restraint/Seclusion Laws (Prepared by Jane Hudson, J.D., NDRN 1/24/11)

	Allowed if...	Prohibitions	IEP and other plans	Notice to Parents	Debriefing	Reporting to State
Federal HB 4247ⁱ Passed	Imminent danger of physical injury to student, personnel or others	<u>Mechanical restraint</u> ; <u>Chemical restraint</u> ; <u>Physical restraint</u> that restricts breathing; <u>Aversive behavioral intervention</u> that compromises health and safety;	Prohibited as planned intervention in an IFP, safety plan, behavior plan or education plan	Immediate oral notice; and 24 hour written notice	None	Two years after HHS issues regs; law directs SEAs to report on each LEA and schools some totals and some disaggregated data.
Federal SB 3855ⁱⁱ Not passed	Imminent danger of serious bodily injury to student, school personnel or others,	<u>Mechanical restraint</u> ; <u>Chemical restraint</u> ; <u>Physical restraint</u> that restricts breathing; <u>Aversive behavioral intervention</u> that compromises health and safety;	Not in IEP or other plans unless complies with minimum standards; 2-year documented history of imminent danger of serious bodily injury; and comprehensive FBA conducted and BIP implemented	Immediate oral notice; 24 hour written notice; and Advance notice of debriefing	5 days after incident; conduct or revise FBA	Two years after HHS issues regs, law directs SEAs to report on each LEA and schools some totals and some disaggregated data.

	physical injury or to prevent serious property damage).	interventions (holding physical positions, restricting senses, intense sensory stimuli, withholding food and water, etc.	may be used only when there is an emergency		emerges and restrictive procedures are not included in IEP or behavior plan	
New Hampshire^{vi} Eff. 9/1/10	Immediate physical safety of persons where there is a substantial and imminent risk of serious bodily harm to child or others	Medication restraint Mechanical restraint	IEP and other school plans not mentioned	None	Verbal notice within 24 hours Written incident report to director within 5 days, who then must sent to parents within 2 business days	State DOE shall adopt rules for periodic review of restraint records and establish process for complaints and investigations of improper use; annual reporting on use of restraint by state DOE and HHS If serious injury or death, school shall provide written notice to commissioner of state DOE, AG and P&A

ⁱhttp://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4247eh.txt.pdf

ⁱⁱGo to www.thomas.gov and look up bill number for 110th Congress.

ⁱⁱⁱ<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h1073er.docx&DocumentType=Bill&BillNumber=1073&Session=2010>

^{iv}<http://www.gadoe.org/documents/doe/legalservices/160-5-1-.35.pdf>

^v<https://www.revisor.mn.gov/statutes/?id=125A>; <https://www.revisor.mn.gov/rules/?id=3525>

^{vi}http://www.gencourt.state.nh.us/rules/state_agencies/ed1100-1200.html

<p>Floridaⁱⁱⁱ Eff. 7/1/10</p>	<p>Incident reports must explain precipitating behaviors and why there was an imminent risk of serious injury or death to the student or others, and</p>	<p>Restraint that restricts breathing. Seclusion in room that is unlit, doesn't meet fire marshal codes, and is closed, locked or physically blocking student from exiting</p>	<p>IEP and other plans not mentioned</p>	<p>Written notice before end of school day on which R/S used and reasonable effort by telephone or e-mail, and documentation of parent acknowledgment of receipt Written incident report prepared within 24 hours and sent to parents within 3 days</p>	<p>None</p>	<p>State DOE maintains aggregate data of incidents and some disaggregated data, updated monthly.</p>
<p>Georgia^{iv} Eff. 7/29/10</p>	<p>Immediate danger to himself or others</p>	<p>Seclusion (except when trained staff physically present with student in unlocked room) Prone restraint Mechanical restraint Chemical Restraint</p>	<p>IEP and other plans not mentioned</p>	<p>Schools must have policies of written parental notice within reasonable time not to exceed one school day</p>	<p>None</p>	<p>Training records to Georgia DOE</p>
<p>Minnesota^v Eff. 8/1/11</p>	<p>Emergency (immediate intervention to protect child or others from</p>	<p>Physical holding that restricts breathing. Aversive</p>	<p>Allowed in IEP and other plans, but restrictive procedures</p>	<p>Reasonable efforts on same day, but written notice within 2 days</p>	<p>When physical holding or seclusion is used twice in 30 days or when a pattern</p>	