

Parental Notification of the Laws Relating to the use of Seclusion and Restraint in the Public Schools

Introduction

You have been provided with a copy of the “Procedural Safeguards in Special Education.” The Procedural Safeguards document outlines your rights and the rights of your child under the federal Individuals with Disabilities Education Act (the IDEA) and the Connecticut statutes and regulations concerning the provision of special education and related services to children with disabilities.

The Board of Education is also required by state statute to inform you about a specific provision of the state statutes and regulations regarding the emergency use of physical restraint and seclusion or the use of seclusion as a behavior intervention in a child’s IEP. **Every parent must be advised of these rights at the initial Planning and Placement Team meeting (PPT) held for their child even if the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child’s IEP is not likely to occur with their child.**

On and after October 1, 2009, you must be provided with a copy of the state developed “Parental Notification of the Laws relating to Physical Restraint and Seclusion in the Public Schools” at the first PPT meeting following your child’s initial referral for special education. If your child was eligible for special education prior to October 1, 2009, you will receive this notice at the first PPT meeting convened after October 1, 2009. In addition, the notice must also be provided to you at the first PPT meeting where the use of seclusion as a behavior intervention is included in your child’s IEP.

Who are the children covered by the law ?

The state statute uses the term “person at risk” to describe the people generally covered by the statute. For the public schools, the “person at risk” is (1) a child requiring special education and related services who is receiving services from their board of education or (2) a child being evaluated to determine the child’s eligibility for special education and related services. This notice uses the term “child” and this means a child who is eligible for special education and related services and is receiving services from their board of education or a child who is being evaluated to determine the child’s eligibility for special education and related services.

What does “physical restraint” mean?

Physical restraint means any mechanical or personal restriction that immobilizes or reduces the free movement of a child’s arms, legs or head. It does not include: (1) briefly holding a child in order to calm or comfort the child; (2) restraint involving the minimum contact necessary to safely escort a child from one area to another; (3) medication devices, including supports prescribed by a health care provider to achieve proper body position or balance; (4) helmets or other protective gear used to protect a child from injuries due to a fall; or (5) helmets, mitts and similar devices used to prevent self injury when the device is part of a documented treatment plan or IEP and is the least restrictive means available to prevent self-injury.

What does “seclusion” mean?

Seclusion means the confinement of a child in a room, whether alone or with staff supervision, in a manner that prevents the child from leaving. In public schools, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement such as in-school suspension and time-out.

What do I need to know about the emergency use of restraint and seclusion?

1. Life threatening physical restraint is prohibited. Life threatening physical restraint means any physical restraint or hold of a child that restricts the flow of air into a child’s lungs, whether by chest compression or any other means.
2. Involuntary physical restraint may not be used to discipline a child; it may not be used because it’s convenient and it may not be used as a substitute for a less restrictive alternative.
3. Involuntary physical restraint is to be used solely as an emergency intervention to prevent immediate or imminent injury to the child or to others. When a child is physically restrained, the child is to be continually monitored by a person who has the training as described in #7 below. Monitoring means direct observation of the child or observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed. A child who is physically restrained must be regularly evaluated for any signs of physical distress by a person who has the training as described in #7 below. The evaluation must be documented in the child’s educational records.
4. Involuntary seclusion may not be used to discipline a child; it may not be used because it’s convenient and it may not be used as a substitute for a less restrictive alternative.
5. When a child is involuntarily placed in seclusion as an emergency intervention to prevent immediate or imminent injury to the child or to others, the child is to be frequently monitored by a person who has the training as described in #7 below. Monitoring means direct observation of the child or observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed. A child who is involuntarily secluded must be regularly evaluated for any signs of physical distress by a person who has the training as described in #7 below. The evaluation must be documented in the child’s educational records.
6. A psychopharmacologic agent (medications that affect the central nervous system, influencing thinking, emotion or behavior) may not be used with your child except as prescribed by a physician and administered according to the orders of your child’s physician and in compliance with board policies concerning the administration of medications in the school.
7. A child may be physically restrained or removed to seclusion only by a person who has received training in physical management, physical restraint and seclusion procedures including training to recognize health and safety issues for children placed in seclusion. Additional training such as verbal defusing or de-escalation; prevention strategies; types of physical restraint; the differences between permissible physical restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques, monitoring to prevent harm to a child physically restrained or in seclusion and recording and reporting procedures on the uses of restraint and seclusion must also be provided.
8. Public schools are required to maintain a safe school setting. Public schools are allowed to use reasonable physical force when and to the extent there is a reasonable belief it is necessary to protect students or staff, obtain possession of a dangerous instrument or controlled substance upon or within control of a minor, protect property from physical damage or restrain a child or remove a child to another area to maintain order. The prohibitions listed in Items 1-5, above, do not conflict with the responsibility of public schools to maintain a safe school setting or use reasonable physical force as described here.

If seclusion is used as a behavior intervention in my child’s IEP, what can I expect?

9. A public school may use seclusion as a behavior intervention if it’s specifically addressed in your child’s individualized education program (IEP). A “behavior intervention” means supports and other strategies developed by the PPT to address a child’s behavior which may interfere with the child’s learning or the learning of others.
10. Seclusion may only be used as a behavior intervention in your child’s IEP if other less restrictive, positive behavior interventions appropriate to the behavior exhibited by your child were tried but the child’s behavior did not improve.
11. Seclusion may not be used as a behavior intervention for a child if it is known that the child has any medical or psychological conditions that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion.

12. Where seclusion is used as a behavior intervention, your child's IEP must specify:
 - (a) the location of seclusion, which may be multiple locations within a school building;
 - (b) the maximum length of any period of seclusion;
 - (c) the number of times in a single day the child may be placed in seclusion;
 - (d) the frequency of monitoring while the child is in seclusion; and
 - (e) any other concerns addressed by the PPT concerning the age, disability and behaviors of a child where seclusion may be used as a behavior intervention.
13. The use of seclusion as a behavior intervention is to be limited to the time necessary to allow the child to calm down and return to school activities. A child may not be placed in seclusion for more than one hour unless necessary to prevent immediate or imminent injury to the child or to others. Seclusion may be continued over an hour only with the written authorization of the building principal or someone designated by the building principal. When the child may need to be transported, the written authorization to continue the use of seclusion is not required if immediate or imminent injury to the child or to others is a concern.
14. Any assessment data or other relevant information used by the PPT to decide if it is appropriate to use seclusion as a behavior intervention must be included in your child's IEP under "Present Levels of Academic Achievement and Functional Performance." Any medical or psychological evaluations used to decide whether there may be a medical or psychological reason why the use of seclusion is not appropriate for your child is also to be included with the data and other information.
15. The PPT must review at least annually the continued use of seclusion as a behavior intervention for the child.
16. If seclusion as a behavior intervention is repeated more than two times in any school quarter, the PPT must convene to review the use of seclusion as a behavior intervention, may consider additional evaluations or assessments to address the child's behaviors and may revise the child's IEP, as appropriate. You and the school should discuss when to convene this required PPT meeting taking into consideration the needs of your child. For example, your child is transitioning to a less restrictive setting (from a residential to day treatment program). You and the PPT have discussed that it may take some time for your child to adjust and that seclusion may be used frequently as your child adjusts to the new program. You and the PPT may decide that it is appropriate not to hold the PPT meeting at the time when seclusion is repeated more than two times in any school quarter as a behavior intervention but to schedule the PPT at a later date to review the use of seclusion as a behavior intervention.
17. A child may be removed to seclusion only by a person who has received training in physical management, physical restraint and seclusion procedures including training to recognize health and safety issues for children placed in seclusion. Additional training such as verbal defusing or de-escalation; prevention strategies; types of physical restraint; the differences between permissible physical restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques, monitoring to prevent harm to a person physically restrained or in seclusion and recording and reporting procedures on the uses of restraint and seclusion must also be provided.
18. A child placed in seclusion as a behavior intervention must be monitored as described in the child's IEP by a person specifically trained in physical management, physical restraint and seclusion procedures, which include training to recognize health and safety issues for children placed in seclusion to ensure the safe use of seclusion as a behavior intervention.
19. If you disagree with the use of seclusion in your child's IEP, you have the right to special education due process. You may request the school district agree to mediation to resolve your concerns, or you may proceed directly to a hearing to challenge the use of seclusion in your child's IEP as a behavior intervention. You may also file a complaint with the State Department of Education regarding the use of seclusion as a behavior intervention.
20. Any room used for seclusion must be physically comparable to other rooms in the building used for instructional purposes and must be of a size that is appropriate to the chronological and developmental age, size and behavior of the child. The room used must be free of any object that might pose a danger to the child who is placed in the room. If the door has a lock, the lock must be able to be disengaged automatically in the case of an emergency. The room must have an

unbreakable observation window located in the wall or door to allow frequent visual monitoring of the child and any other person in the room.

What kinds of reporting is done by the schools on the use of restraint and seclusion ?

21. The school must document any use of physical restraint or seclusion in the child's educational record and, if an injury occurs, in the child's health record at school by filling out the State Department of Education standardized incident report.
22. Where restraint or seclusion is of an emergency nature, the incident report must include: (a) the nature of the emergency, (b) what other steps, including attempts at verbal de-escalation, were taken to prevent the emergency from happening if there were signs that this kind of an emergency was likely to happen, (c) a detailed description of the nature of the restraint or seclusion, (d) how long the child remained in seclusion and (e) what effect being in seclusion had on the child's medical or behavioral support or educational plan.
23. The school district must record each instance of the use of physical restraint or seclusion and the nature of the emergency that necessitated its use and include this information in an annual compilation on the district's use of restraint and seclusion.
24. Where seclusion is used as a behavior intervention, the incident report must provide a detailed description of the nature of the seclusion, how long the child remained in seclusion and what effect being in seclusion had on the child's medical or behavioral support or educational plan.

How will I be notified if restraint or seclusion is used with my child?

25. The school district must attempt to notify you on the day of or within twenty-four hours after the emergency use of physical restraint or seclusion. This notification may be made by phone, e-mail or other method of communication which may include sending a note home with the child. You must be sent a copy of the incident report no later than two business days after the emergency use of physical restraint or seclusion.
26. If seclusion is included in your child's IEP as a behavior intervention, you and the PPT determine a timeframe and manner of notification of each incident of seclusion. This information is to be included in your child's IEP.

Where can I find a copy of the State Statutes and Regulations Discussed in this Notification ?

The state statutes addressing the use of physical restraint or seclusion in the public schools are found in Section 10-76d(a)(8)(B) and Sections 46a-150 to 46a-154, inclusive of the Connecticut General Statutes. The state regulations are Sections 10-76b-5 to 10-76b-11, inclusive. The state statute concerning the responsibility of boards of education to maintain a safe school setting may be found in Section 10-220 of the statutes and, the state statute concerning the use of reasonable physical force may be found in Section 53a-18 of the general statutes.

You may find the state statutes on the www.cga.ct.gov Legislative website. Once on the website, place the cursor on the "Statutes" link. Move the cursor down to "Browse Statutes" and click on it. You will see the statutes listed by Title; for Section 10-76d, look in Title 10; for Sections 46a-150 to 46a-154, look in Title 46a and for Section 53a-18, look in Title 53.

A copy of the state regulations is available from the State Department of Education.

You may obtain a copy of the school district's written policies and procedures about the use of physical restraint or seclusion from Amy Emory, Pupil Personnel Director. Any questions regarding this document, please feel free to contact Amy Emory at (860) 349-7208 for further explanations.

You may also contact the State Department of Education for further explanations of this document. Contact the Bureau of Special Education in Hartford at (860) 713-6910.

Release date September 15, 2009