

Restraint & Seclusion in the Public Schools



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Enforcement Duties



☞ 704 KAR 7:160 – Use of Physical Restraint and Seclusion in Public Schools

- ☞ The regulation establishes requirements for use of physical restraint and seclusion in districts; and
- ☞ The notification and data reporting requirements for the use of physical restraint and seclusion in districts; and
- ☞ **Does not** prohibit the lawful exercise of law enforcement duties by sworn law enforcement officers.

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Definitions



☞ "Aversive behavioral interventions" – a physical or sensory intervention program intended to modify behavior that the **implementer knows** would cause physical trauma, emotional trauma, or both, to a student **even when the substance or stimulus appears to be pleasant or neutral to others**, and **may include** hitting, pinching, slapping, water spray, noxious fumes, extreme physical exercise, loud auditory stimuli, withholding of meals, or denial of reasonable access to toileting facilities.

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Definitions Continued



- ☞ (2) "Behavioral intervention" – implementation of strategies to address behavior that is dangerous/inappropriate/otherwise impedes students' learning.
- ☞ (3) "Chemical restraint" – use of **medication** to control behavior/restrict a student's freedom of movement that includes over-the-counter medications **used for purposes not specified on the label but does not include** medication prescribed by a licensed medical professional and supervised by **qualified and trained individuals in accordance with professional standards**.

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Definitions Continued



- œ (4) "Dangerous behavior" – behavior that presents **imminent danger of physical harm** to self or others but **does not include** inappropriate behaviors such as disrespect, noncompliance, insubordination, or out of seat behaviors.
- œ (5) "De-escalation" – the use of behavior management techniques intended to:
 - œ (a) Mitigate and defuse dangerous behavior of a student; or
 - œ (b) Reduce the imminent danger of physical harm to self or others.

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Definitions Continued



- œ (6) "Emancipated youth" means a student under the age of eighteen (18) who is or has been married or has by court order or otherwise been freed from the care, custody, and control of the student's parents.
 - œ (Or age 18 or older – and has no court appointed guardian)
- œ (7) "Emergency" – a sudden, urgent occurrence, usually **unexpected but sometimes anticipated**, that requires immediate action.

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Definitions Continued



- œ (8) "Mechanical restraint" – the use of any **device/equipment to restrict a student's freedom of movement, but does not include:**
- œ (a) A device implemented by **trained school personnel or utilized by a student that has been prescribed by an appropriate medical or related services professional** that is used for the specific and approved purposes for which the device was designed;
 - œ (b) An adaptive device or mechanical support used to achieve proper body position, balance, or alignment **to allow greater freedom of mobility** than would be possible without the use of the device or mechanical support;

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Definitions Continued



- œ (c) A vehicle safety restraint **if used as intended** during the transport of a student in a moving vehicle;
 - œ (d) Restraint for medical immobilization; or
 - œ (e) An orthopedically prescribed device that permits the student to participate in activities without risk of harm.
- œ (9) "Parent" – a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian of the student.

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Definitions Continued



- ☞ (10) "Physical Restraint" – a personal restriction that **immobilizes** or **reduces** the ability of a student to move the student's torso, arms, legs, or head freely, but **does not include**:
- ☞ (a) **Temporary** touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of **encouraging a student to move voluntarily to a safe location**;
 - ☞ (b) A behavioral intervention, such as proximity control or verbal soothing, used as a response to calm and comfort an upset student;
 - ☞ (c) Less restrictive physical contact or redirection to promote student safety; or
 - ☞ (d) Physical guidance or prompting when teaching a skill or redirecting the student's attention.

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Definitions Continued



- ☞ (11) "Positive behavioral supports" – a school-wide systematic approach to embed evidence-based practices and data-driven decision-making to:
- ☞ (a) Improve school climate and culture in order to achieve improved academic and social outcomes;
 - ☞ (b) Increase learning for all students, including those with the most complex and intensive behavior needs;
 - ☞ (c) Encompass a range of systemic and individualized positive strategies to reinforce desired behaviors;
 - ☞ (d) Diminish reoccurrence of inappropriate or dangerous behaviors; and
 - ☞ (e) Teach appropriate behaviors to students.

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Definitions Continued



- ⌘ (12) "Prone restraint" means the student is restrained in a face down position on the floor or other surface, and **physical pressure is applied to the student's body to keep the student in the prone position.**
- ⌘ (13) "School personnel" means teachers, principals, administrators, counselors, social workers, psychologists, paraprofessionals, nurses, librarians, school resource officers, sworn law enforcement officers, and other support staff who are employed in a school **or** who perform services in the school on a contractual basis.
- ⌘ Includes law enforcement officers, district employees, or contractors **performing a function typically performed by school district staff per KDE guidance document.**

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Definitions Continued



- ⌘ (14) "School resource officer" is defined in KRS 158.441(2).
- ⌘ (15) "Seclusion" - involuntary confinement of a student **alone in a room or area from which the student is prevented from leaving but does not mean** classroom timeouts, supervised in-school detentions, or out-of-school suspensions.
- ⌘ (16) "Student" - any person enrolled in a preschool, school level as established in 703 KAR 5:240, Section 5, **or** other educational program offered by a local public school district.

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Definitions Continued



- œ (17) "Supine restraint" – student is restrained in a face up position on the student's back on the floor or other surface, **and physical pressure is applied to the student's body to keep the student in the supine position.**
- œ (18) "Timeout" – **a behavior management technique that is part of an approved program**, involves the **monitored** separation of the student in a **non-locked** setting, and is implemented **for the purpose of calming.**

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Local Policies and Procedures



- œ (1) Each local school district shall establish policies and procedures that:
 - œ (a) **Ensure school personnel are aware of and parents are notified how to** access the policies and procedures regarding physical restraint and seclusion;
 - œ (b) Are designed to ensure the safety of all students, personnel, and visitors;
 - œ (c) Require school personnel to be trained in accordance with Section 6 of the regulation;

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Local Policies and Procedures



- œ (d) Outline procedures to be followed during and **after each** use of physical restraint or seclusion, including:
 - œ Notice to parents;
 - œ Documentation of the event in the student information system, and
 - œ A process for the parent/emancipated youth to request a debriefing session;
- œ (e) **Require notification, within twenty four (24) hours**, to KDE and local law enforcement in the event of death, 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 **resulting from** the use of physical restraint or seclusion;

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Local Policies and Procedures Continued



- œ (f) Outline a procedure **by which parents may submit a complaint** regarding the physical restraint/seclusion of their child, which shall require the **district and school** to:
 - œ Investigate the circumstances surrounding the physical restraint or seclusion;
 - œ Make written findings; and
 - œ **If appropriate**, take corrective action;
- œ (g) Outline a procedure to **regularly review data** on physical restraint and seclusion usage and revise policies as needed.

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Local Policy and Procedure Timeline



- œ (2) Each local school district shall revise existing policies or develop policies consistent with this administrative regulation within ninety (90) calendar days of the effective date of this administrative regulation.

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When Physical Restraint **Cannot** Be Used



- œ Physical restraint **shall not be used in a public school or educational program:**
 - œ (a) As punishment or discipline;
 - œ (b) To force compliance or to retaliate;
 - œ (c) As a substitute for appropriate educational or behavioral support;
 - œ (d) To prevent property damage, **except as permitted under KRS Chapter 503;**
 - œ (e) As a routine school safety measure; or
 - œ (f) As a convenience for staff.

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What Physical Restraint **Cannot** Be Used



- ⌘ (2) School personnel **shall not impose** the following on any student at **any time**:
- ⌘ (a) Mechanical restraint;
 - ⌘ (b) Chemical restraint;
 - ⌘ (c) Aversive behavioral interventions;
 - ⌘ (d) Physical restraint that is life-threatening;
 - ⌘ (e) Prone or supine restraint; or
 - ⌘ (f) Physical restraint **if they know** that physical restraint is contraindicated based on the student's disability, health care needs, or medical or psychiatric condition.

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When Physical Restraint **May be Implemented**



- ⌘ (3) Physical restraint **may only be implemented in a public school or educational program**:
- ⌘ (a) By all school personnel if the student's behavior poses an **imminent danger of physical harm to self or others**; or
 - ⌘ (b) By core team personnel as permitted under KRS 503.050, 503.070, and 503.110;
 - ⌘ Non-core team personnel who restrain must summon core team personnel as soon as possible.

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When Physical Restraint May be Implemented

- œ (b) The physical restraint **does not interfere** with the student's **ability to communicate** in the student's primary language or mode of communication, **unless** the student uses sign language or an augmentative mode of communication as the student's **primary mode of communication and the implementer determines** that freedom of the student's hands **for brief periods** during the restraint appears likely to result in physical harm to self or others;
- œ (c) The student's physical and psychological well-being are monitored for the duration of the physical restraint;

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When Physical Restraint May be Implemented Continued

- œ (d) Less restrictive behavioral interventions have been ineffective in stopping the imminent danger of physical harm to self or others,
 - œ **Except** in the case of a clearly unavoidable emergency situation **posing imminent danger of physical harm to self or others;**
 - œ **Note that less restrictive behavioral interventions must be used prior to restraining to stop property damage or disruption that does not pose imminent damage of physical harm to self or others.**

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When Physical Restraint May be Implemented Continued



- ⌘ (e) School personnel implementing the physical restraint are appropriately trained as required by Section 6(3) (core team) of the regulation, except to the extent necessary to prevent physical harm to self or others in clearly unavoidable emergency circumstances where other school personnel intervene and summon trained school personnel as soon as possible.

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Amount of Force



- ⌘ (4) When implementing physical restraint, school personnel shall use only the amount of force **reasonably believed to be necessary to protect the student/others from imminent danger of physical harm.**

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When Physical Restraint Must End



- ☞ (5) The use of physical restraint shall end as soon as:
 - ☞ (a) Student's behavior no longer poses imminent danger of physical harm to self or others; **or**
 - ☞ (b) A medical condition occurs putting the student at risk of harm.

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When Seclusion Cannot Be Used



- ☞ (1) Seclusion **shall not be used** in a public school or educational program:
 - ☞ (a) As punishment or discipline;
 - ☞ (b) To force compliance or to retaliate;
 - ☞ (c) As a substitute for appropriate educational or behavioral support;
 - ☞ (d) **To prevent property damage in the absence of imminent danger of physical harm to self or others;**
 - ☞ (e) As a routine school safety measure;
 - ☞ (f) As a convenience for staff; **or**
 - ☞ (g) As a substitute for timeout.

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When Seclusion May Be Implemented

- œ (2) Seclusion **may only be implemented** in a public school or educational program if:
 - œ (a) The student's behavior poses an **imminent danger of physical harm to self or others**;
 - œ (b) The student is **visually monitored for the duration of the seclusion**;
 - œ (c) **Less restrictive interventions** have been ineffective in stopping the imminent danger of physical harm to self or others; and
 - œ (d) School personnel implementing the seclusion **are appropriately trained to use seclusion**.

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When Seclusion Must End

- œ (3) Seclusion shall end as soon as:
 - œ (a) The student's behavior **no longer poses an imminent danger of physical harm to self or others**; or
 - œ (b) A medical condition occurs putting the student at risk of harm.

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Seclusion Setting Requirements



- ⌘ (4) A setting used for seclusion shall:
 - ⌘ (a) Be free of objects and fixtures with which a student could inflict physical harm to self/others;
 - ⌘ (b) **Provide school personnel a view** of the student at all times;
 - ⌘ (c) Provide adequate lighting and ventilation;
 - ⌘ (d) Be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;
 - ⌘ (e) Have an **unlocked and unobstructed door**; and
 - ⌘ (f) Have at least an annual fire and safety inspection.

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Post Incident Interview & Documentation of Incident



- ⌘ **All uses of physical restraint and seclusion** shall be documented by a written record and **be maintained in the student's education record - written record must be completed by end of the next school day.**
- ⌘ Each record of use of physical restraint or seclusion shall be **informed by an interview with the student and shall include:**
 - ⌘ (a) Student's name;
 - ⌘ (b) Description of the use of physical restraint or seclusion and
 - ⌘ (c) The student behavior that resulted in the physical restraint/seclusion;
 - ⌘ (d) Date of the physical restraint/seclusion;
 - ⌘ (e) School personnel involved;

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Post Incident Interview & Documentation of Incident Continued



- œ (f) Beginning and ending times of the physical restraint/seclusion;
- œ (g) Description of any events leading up to the use of physical restraint/seclusion, including possible factors contributing to the dangerous behavior;
- œ (h) Description of the student's behavior during physical restraint/seclusion;
- œ (i) **Description** of techniques used in physical restraining/secluding student;
- œ (j) Any other interactions between the student and school personnel during the use of physical restraint/seclusion;
- œ (k) Description of any behavioral interventions used **immediately prior to** the implementation of physical restraint or seclusion;
- œ (l) Description of any injuries to students, school personnel, or others;

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Post Incident Interview & Documentation of Incident Continued



- œ (m) Description as to how the student's behavior posed an imminent danger of physical harm to self or others;
- œ (n) Date the parent was notified;
- œ (o) Description of the effectiveness of physical restraint or seclusion in de-escalating the situation;
- œ (p) Description of school personnel response to the dangerous behavior;
- œ (q) Description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint/seclusion of the student; and
- œ (r) **For any student not identified as eligible for services under either Section 504 or the IDEA, documentation of a referral under either law, or**
- œ (s) **Documentation of the basis for declining to refer the student.**

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Parent & Principal Notice



- ☞ If the student is **not an emancipated youth**, the parent of the student shall be notified of the physical restraint and seclusion verbally or through electronic communication, **if available to the parent**, as soon as possible within twenty-four (24) hours of the incident.
- ☞ **If the parent cannot be reached within twenty-four (24) hours**, a written communication shall be mailed to the parent via U.S. mail.
- ☞ The principal of the school shall be notified of the seclusion/physical restraint as soon as possible, **but no later than the end of the school day on which it occurred**.

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Right to Debriefing Session



- ☞ (5) If the parent/emancipated youth requests a debriefing session, a debriefing session shall be held after the imposition of physical restraint/seclusion.
- ☞ (6) The following persons shall participate in the debriefing session:
 - ☞ (a) The implementer of the physical restraint or seclusion;
 - ☞ (b) **At least two (2)** of any other school personnel who were **in the proximity of the student immediately before or during** the physical restraint or seclusion;
 - ☞ (c) The parent of an unemancipated student;

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Right to Debriefing Session Continued



- œ (d) Student, if the parent requests/if the student is an emancipated youth; and
- œ (e) Appropriate supervisory and administrative school personnel, **which may include** appropriate ARC members, Section 504 team members, or response to intervention team members.
- œ (7) Debriefing session shall occur as soon as practicable, but **not later than five (5) school days following the request** of the parent/emancipated youth, **unless delayed by written mutual agreement** of the parent/emancipated youth and the school.

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Debriefing Session



- œ (8) The debriefing session shall include:
 - œ (a) Identification of events leading up to seclusion/restraint;
 - œ (b) Consideration of relevant information in the student's records and information from teachers, parents, other school district professionals, and the student;
 - œ (c) Planning for the prevention and reduction of the need for seclusion/restraint, with consideration of **recommended** appropriate positive behavioral supports and interventions to assist school personnel responsible for implementing the student's IEP, or Section 504 plan, or response to intervention plan, **if applicable**;

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Debriefing Session Continued



- ☞ Consideration of whether positive behavioral supports/ interventions were implemented with fidelity; and
- ☞ (d) For any student not identified as eligible for services under either Section 504 or the IDEA, **consideration of a referral under either law and documentation of the referral or documentation of the basis for declining to refer the student.**
- ☞ All documentation utilized in the debriefing session shall become part of the student's education record.

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Training for All School Personnel



- ☞ KDE says all employees and contractors **performing a task typically performed by school district staff.**
- ☞ Includes law enforcement officers **directly employed or performing services under a contract with the district.**
- ☞ (1)(a) All school personnel shall be trained in **state administrative regulations and school district policies and procedures** regarding physical restraint/seclusion.

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Training for All School Personnel Continued

- œ (b) All school personnel shall be **trained annually** to use an array of positive behavioral supports and interventions to:
 - œ 1. Increase appropriate student behaviors;
 - œ 2. Decrease inappropriate or dangerous student behaviors;
and
 - œ 3. Respond to dangerous behavior.
- œ May be delivered utilizing web-based applications.

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Training for All School Personnel Continued

- œ (d) All Staff Required Training Content
 - œ 1. Appropriate procedures for preventing the need for physical restraint/seclusion, **including** positive behavioral supports and interventions;
 - œ 2. State administrative regulations and school district policies and procedures regarding physical restraint/seclusion;
 - œ 3. Proper use of positive reinforcement;
 - œ 4. The continuum of use for alternative behavioral interventions;

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Training for All School Personnel Continued

- ☞ 5. Crisis prevention;
- ☞ 6. De-escalation strategies for responding to inappropriate or dangerous behavior, **including** verbal de-escalation, and relationship building; and
- ☞ 7. Proper use of seclusion as established in Section 4 of the regulation,
 - ☞ **Including instruction on monitoring physical signs of distress and obtaining medical assistance if necessary.**

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Designation & Notice of Core Team Members

- ☞ A core team of selected school personnel **shall be designated** to respond to dangerous behavior and to implement physical restraint.
- ☞ All school personnel shall receive **annual written or electronic communication** from the district **identifying core team members in the school setting** who have been trained to implement physical restraint.

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Core Team Training



- œ The core team, **except school resource officers and other sworn law enforcement officers**, shall receive additional **yearly** training in the following areas:
 - œ (a) Appropriate procedures for preventing the use of physical restraint except as permitted by the regulation;
 - œ (b) Description and identification of dangerous behaviors that may indicate the need for physical restraint;
 - œ Methods for evaluating the risk of harm in individual situations, in order to determine whether the use of physical restraint is safe and warranted;

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Core Team Training Continued



- œ (c) Simulated experience of administering/receiving physical restraint;
- œ Instruction regarding the effect on the person physically restrained, **including**:
 - œ Instruction on monitoring physical signs of distress and obtaining medical assistance;
- œ (d) Instruction regarding documentation and notification requirements and investigation of injuries; and
- œ (e) Demonstration by core team members of proficiency in the prevention and use of physical restraint.

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Aggregate Data Reporting



☞ The following data shall be reported by the district in the student information system related to incidents of physical restraint/seclusion:

- ☞ (1) Aggregate number of uses of physical restraint;
- ☞ (2) Aggregate number of students placed in physical restraint;
- ☞ (3) Aggregate number of uses of seclusion;
- ☞ (4) Aggregate number of students placed in seclusion;

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Aggregate Data Reporting Continued



- ☞ (5) Aggregate number of instances of:
- ☞ 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 **to students** related to physical restraint/seclusion;

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Aggregate Data Reporting Continued



- œ (6) Aggregate number of instances of 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 to **school personnel** related to physical restraint and seclusion; and
- œ (7) Aggregate number of instances in which a **school resource officer or other sworn law enforcement officer** is involved in the physical restraint or seclusion of a student.

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