



Parental Notification of Ch. 33 The Rule Governing

Physical Restraint and Seclusion in Maine Schools

What is the purpose of Ch. 33?

Ch. 33 establishes standards for the use of physical restraint and seclusion (R&S) to provide for the safety of all individuals. This rule establishes that R&S may only be used as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others.

What entities are covered?

An entity that owns, operates, or controls a school or educational program that receives public funds from the Maine Department of Education including, but not limited to: public schools, public regional programs, public charter schools, private schools, publicly-supported private schools, special purpose private schools, Career and Technical Education schools, public pre-kindergarten, and Child Development Services (CDS).

What is a Physical Restraint?

Physical Restraint is an intervention that restricts a student's freedom of movement or normal access to his or her body, and includes physically moving a student who has not moved voluntarily. Physical restraint does not include: 1. Physical escort;

2. Physical prompt; 3. Physical contact when *voluntarily accepted* by the student for the purpose of comfort; 4. Deflecting the movement of a student when the student's movement would be destructive, harmful or dangerous to the student or to others; 5. *To assist in the intended* use of vehicle seat belts, safety belts or similar passenger restraint; 6. The *intended* use of a medically prescribed harness; or 7. Physical contact necessary to break up a fight.

What is a physical escort?

Physical escort is temporary touching or holding for the purpose of inducing a student to walk to another location, including assisting the student to the student's feet. If needed, a restraint may be used to move a student only if the need for movement outweighs the risks involved in such movement.

What is Seclusion?

Seclusion is the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.

What is a timeout?

Timeout is an intervention where a student requests, or complies with an adult request for, a break, and is not covered by this rule. Timeout is not seclusion.

What should parents know about the use of R&S?

1. R&S may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.

2. R&S must be implemented by trained staff to the extent possible. If, *in an emergency*, untrained staff have intervened and initiated R&S, trained personnel must be summoned to the scene and assume control of the situation as rapidly as possible.

3. R&S is prohibited to be used for punitive purposes, staff convenience or to control challenging behavior.

4. R&S is prohibited to be used to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm.

5. R&S is prohibited to be used as a therapeutic or educational intervention.

6. A physical restraint that restricts the free movement of the diaphragm or chest or ~~that~~ restricts the airway interrupting normal breathing or speech of a student, is prohibited

7. The staff involved in the use of R&S will continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the R&S must be discontinued as soon as possible.

8. If R&S continues for more than 10 minutes, an administrator or designee will determine whether continued R&S is warranted, and will continue to monitor the status of

the R&S every 10 minutes until the R&S is terminated.

What is considered an incident?

An incident consists of all R&S actions between the time a student begins to create a risk of harm and the time the student ceases to pose a risk of harm and returns to his or her regular programming.

How will I be notified of an incident?

An administrator or designee will notify you that R&S and any related first aid have occurred as soon as practical but within the school day in which the incident occurred.

When will I get the incident report?

The parent will be provided with written documentation within 7 calendar days.

What is the response after the use of R&S?

1. Following each R&S incident, the covered entity will ensure that, within two school days, an administrator or designee performs a debriefing of the incident with all staff persons who implemented the use of R&S *and the student involved*. *Staff discussion includes* whether the use of R&S was implemented in compliance with this rule and local policies, and how to prevent or reduce the future need for R&S. *Student discussion includes* what triggered the student's escalation; and what the student and staff can

do to reduce the future need for restraint or seclusion.

2. Following the debriefing, staff must develop, implement, *or review and revise an existing* written plan for response and de-escalation for the student.

3. For all students after the third incident, a team will meet within ten school days of the third incident in a school year to discuss the incidents.

4. The team will consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is to be made, the need to conduct a *Functional Behavior Assessment (FBA)*, and/or develop a *Behavior Intervention Plan (BIP)*.

5. Keep an open communication line going with your Team and start a diary of the events, to help you track your concerns.

What is a BIP?

A Behavior Intervention Plan (BIP) is a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, and by strengthening replacement skills.

What is a FBA?

A Functional Behavioral Assessment (FBA) is a school-based process that includes the parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and how the behavior relates to the child's environment. *It* includes direct assessments, indirect assessments and data analysis designed to assist the team to

identify and define the problem behavior in concrete terms, identify *all* the factors that contribute to the behavior, and *create* a hypothesis regarding the general conditions under which a behavior usually occurs and the probable consequences that maintain the behavior. Formal documentation of the assessment by appropriately qualified individuals becomes part of the child's educational record.

What are positive alternatives to R&S?

Positive alternatives are a set of instructional and environmental supports to teach students pro-social *solutions* to problem behaviors with high rates of positive feedback.

What is De-escalation?

De-escalation is the use of behavior management techniques intended to cause a situation involving problem behavior of a student to become more controlled, calm and less dangerous, thus reducing the risk for injury or harm. See Emergency Prevention, LOW and SLOW, and 10 Tips for Crisis Prevention, at the R&S website <http://www.maine.gov/doe/school-safety/restraints/>.

How can parents participate in the process?

The covered entity will make reasonable, documented efforts to encourage parent participation in all related meetings and to schedule

them at times convenient for parents to attend.

When can R&S be included in a written plan?

Never, and a covered entity may not seek written permission from a parent to provide R&S to a student.

What are the staff training requirements?

The Department of Education maintains a directory of approved training programs on its website <http://www.maine.gov/doe/school-safety/restraints/>. The list of approved training programs may include regional training programs and regional "train the trainer" model programs. These training programs must require participants to demonstrate competency to achieve certification, and must include instruction in the required core components. Parents are encouraged to request a parent training of these programs.

What can a covered entity do to reduce the future use of R&S?

The superintendent or chief administrator will review cumulative data reports received as required by this rule and identify those areas that can be addressed to reduce the future use R&S. Each covered entity will ensure that a sufficient number of administrators or designees, general and special education staff, maintain certification in an approved training program. A list of staff with the required approved training must be

made available in each building office, as well as any central office, along with other school-wide emergency procedures and must be updated at least annually.

Where can we find more information?

The Department of Education's R&S website <http://www.maine.gov/doe/school-safety/restraints/>

What can parents do with concerns about following Ch. 33?

Parents are encouraged to work with their Team to determine how to reduce the need to use R&S. If, after these efforts, you are unable to reach the desired results, parents can bring complaints related to R&S to their local covered entity in accordance with the local policy and procedure. Any parent who is dissatisfied with the result of the local complaint process may file a complaint with the Department of Education. The Department will review the results of the local complaint process and may initiate its own investigation of the complaint, and will issue to the complaining parent and the covered entity a written report with specific findings within 60 days of receiving the complaint. If a violation is found, the Department will develop corrective action plan by which the entity will achieve compliance.