

## **Use of Restraint and Seclusion\*\***

The Board is dedicated to the development and application of best practices within the ESD's educational/behavioral programs. It is the intent of the Board to establish a policy that defines the circumstances that must exist and the requirements that must be met prior to, during and after the use of physical restraint and/or seclusion as an intervention with students being served in an ESD facility. LBL staff working with students in districts should be aware of and adhere to the state's physical restraint and seclusion policy and district procedures.

### **Definitions**

1. "Physical restraint" means the restriction of a student's movement by one or more persons holding the student or applying physical pressure upon the student. "Physical restraint" does not include touching or holding a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity. The definition of "physical restraint" does not include the use of mechanical, chemical or prone restraint of a student as these methods are prohibited by Oregon law.
2. "Seclusion" means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving.

Seclusion does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control, in a setting from which the student is not physically prevented from leaving.

3. "Serious bodily injury" means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.
4. "Mechanical restraint" means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student.

"Mechanical restraint" does not include:

- a. A protective or stabilizing device ordered by a licensed physician; or
  - b. A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.
5. "Chemical restraint" means a drug or medication that is used on a student to control behavior or restrict freedom of movement that has not been prescribed by a licensed health professional or other qualified health care professional acting under the professionals scope of practice.
  6. "Prone restraint" means a restraint in which a student is held face down on the floor.

The use of physical restraint and/or seclusion is only permitted as a part of a behavioral support plan when other less restrictive interventions would not be effective and the student's behavior poses a threat of imminent, serious physical harm to the student or others.

Except in the case of an emergency, only staff current in the required training in accordance with the ESD-designated physical restraint and seclusion training program will implement physical restraint or seclusion with a student. In an emergency, physical restraint and/or seclusion may also be used by an ESD administrator, teacher or other ESD employee as necessary when the student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or to others. The use of physical restraint or seclusion under these circumstances is only allowed so long as the student's behavior poses a threat of imminent, serious physical harm to themselves, or to others. Any student being restrained or secluded within the scope of the ESD program, whether in an emergency or as a part of a plan, shall be constantly monitored by staff for the duration of the intervention. Any room used for seclusion of a student must meet the standards as outlined in Oregon Administrative Rule (OAR) 581-021-0568.

Training programs used for physical restraint and seclusion will be: Safety First Curriculum for the ESD Early Intervention/Early Childhood Special Education Program (EI/ECSE) and the Crisis Prevention Institute Training (CPI) for all other ESD programs. As required by state regulation, the selected programs shall include: behavioral support, prevention, de-escalation and crisis response techniques. Any program selected by the ESD must be in compliance with state and federal law with respect to the use of physical restraint and/or seclusion.

An annual review of the use of physical restraint and seclusion, during the preceding school year, shall be completed and submitted to the Superintendent of Public Instruction to ensure compliance with ESD policies and procedures. The results of the annual review shall be documented and shall include at a minimum:

- a. The total number of incidents of physical restraint;
- b. The total number of incidents of seclusion;
- c. The total number of seclusions in a locked room;
- d. The total number of students placed in physical restraint;
- e. The total number of students placed in seclusion;
- f. The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;
- g. The total number of students placed in physical restraint and/or seclusion more than ten times in a school year and an explanation of what steps have been taken by the ESD to decrease the use of physical restraint and seclusion for each student;
- h. The total number of physical restraint and seclusion incidents carried out by untrained individuals;

- i. The demographic characteristics of all students upon whom physical restraint and/or seclusion was imposed;
- j. The total number of rooms available for use by the ESD for seclusion of a student and a description of the dimensions and design of the rooms.

This report shall be made available to the Board and to the public at the ESD’s main office and on the ESD’s website.

At least once each school year the public shall be notified as to how to access the report.

The ESD shall investigate all complaints regarding the use of physical restraint and/or seclusion practices according to the procedures outlined in Board policy KL Public Complaints and KL-AR (1) – “Public Complaints Procedure.” The complaint procedure is available at the ESD’s administrative office and is available on the home page of the ESD’s website.

A complainant, who is a parent or guardian of a student attending a school operated by the ESD, a student or a person who resides in a district that receives services from the ESD, may appeal a final decision by the Board to the Deputy Superintendent of Public Instruction as provided in OAR 581-002-0040. This appeal process is identified in administrative regulation KL-AR(2) - Appeal to the Deputy Superintendent of Public Instruction.

The Superintendent shall develop administrative regulations to carry out the requirements set forth in this policy and to meet any additional requirements established by law related to the use, reporting and written documentation of the use of physical restraint or seclusion by ESD personnel.

\*\*As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005(4) and 125.300 – 125.325. The determination of whether an individual is acting in a parental relationship, for purposed of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to who rights have been transferred and foster parent as defined in OAR 581-015-200.

END OF POLICY

**Legal Reference(s):**

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| <a href="#">ORS 161.205</a>      | <a href="#">OAR 581-021-0061</a> | <a href="#">OAR 581-021-0550</a>  |
| <a href="#">ORS 339.250</a>      | <a href="#">OAR 581-021-0063</a> | <a href="#">OAR 581-022- 2370</a> |
| <a href="#">ORS 339.291</a>      | <a href="#">ORS 339.288</a>      |                                   |
| <a href="#">OAR 581-021-0556</a> | <a href="#">ORS 339.285</a>      |                                   |
| <a href="#">OAR 581-021-0553</a> |                                  |                                   |
| <a href="#">OAR 581-021-0559</a> |                                  |                                   |
| <a href="#">OAR 581-021-0566</a> |                                  |                                   |
| <a href="#">OAR 581-021-0568</a> |                                  |                                   |
| <a href="#">OAR 581-021-0569</a> |                                  |                                   |
| <a href="#">OAR 581-021-0570</a> |                                  |                                   |