

WYOMING DEPARTMENT OF EDUCATION

CHAPTER 42

SECLUSION AND RESTRAINT IN SCHOOLS

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WYOMING DEPARTMENT OF EDUCATION

CHAPTER 42

SECLUSION AND RESTRAINT IN SCHOOLS

Section 1. Authority.

The Wyoming rules are authorized by W.S. §21-2-202(a)(xxxii) and W.S. §21-3-110(a)(xxxi). These rules govern and regulate the use of seclusion and restraint with students in public school districts providing education to children ages five (5) through the completion of the school year in which the child turns twenty-one (21) pursuant to Wyoming law.

Section 2. Scope.

(a) All provisions W.S. §21-2-202(a)(xxxii) and W.S. §21-3-110(a)(xxxi), including any subsequent amendments or revisions of the law and/or rules, apply to every school district as defined in W.S. §§21-3-102 through 21-3-104.

(b) Wyoming statute requires the State Superintendent of Public Instruction to ensure the requirements of law, regulation, rule, and educational standards are met in all education programs administered, approved, and/or accredited by the state. Pursuant to W.S. §21-2-202(a), the State Superintendent shall review the policy of each school district for compliance with the state statute governing Seclusion and Restraint in Schools, and approve those policies only after a determination that compliance has been achieved.

(c) To the extent that these rules governing Seclusion and Restraint in Schools overlap with other state or federal rules or regulations, compliance with the regulation or rule offering greater student protection shall be deemed compliance with this rule. To the extent that these rules governing Seclusion and Restraint in Schools exceed the requirements of other state or federal rules or regulations, school districts must comply with the requirements of this rule. In the event of conflict with another state agency's rules or federal rules or regulations, school districts must ensure compliance with this rule.

Section 3. Purpose

Schools should ensure that students are treated with respect and dignity in an environment that provides for the physical safety and security of students and staff. Each student has a right to be free from seclusion or restraint used as a means of coercion, punishment, convenience, or retaliation. Seclusion and restraint are not instructional tools for the development of prosocial behavior. Proactive and preventative behavioral interventions should be initiated and ongoing to diffuse disruptive and volatile situations.

Section 4. Applicability; No Civil Liability Created; Immunity.

(a) This rule shall not be interpreted to prevent a party from seeking redress pursuant to any other applicable civil or criminal law. This rule does not create or alter any civil cause of action for monetary damages against any person or school district nor shall it constitute grounds for any claim or motion raised by either the state or defendant in any proceedings, except that the defense of immunity shall be retained and may be asserted in any action arising under this rule.

Section 5. Promulgation, Amendment, or Repeal of Rules.

Any amendments to these rules shall become effective as provided by the Wyoming Administrative Procedure Act (W.S. §§16-3-101 through 16-3-115).

Section 6. Definitions.

(a) “Appropriate Disciplinary Measures” includes classroom, school-wide, and/or district-wide plans for student conduct adopted pursuant to a school policy promulgated under the authority of W.S. §21-4-308 or other appropriate authority.

(b) “Appropriately Trained Professional” or “Professional Team” includes individuals who are appropriately licensed, trained, and knowledgeable regarding the acceptable use of assistive or protective devices consistent with recognized professional standards and manufacturers’ instructions.

(c) “Assistive or Protective Device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child or protect a child from harm.

(d) “Behavior Intervention” is a systematic implementation of procedures developed in conjunction with the parent intended to result in lasting positive changes in a student’s behavior. Interventions may include positive strategies, program or curricular modifications, and aids and supports required to address the disruptive behaviors.

(e) “Emergency” means a situation constituting an imminent risk to health or safety.

(f) “Escort” includes guiding a student by touching his/her back, arm, or hand, or holding the student’s arm or hand to escort the student safely from one area to another as long as the student is not refusing to comply with the escort. The term does not include the use of coercion or force to move a student from one location to another.

(g) “Evidence-Based Training Program” includes programs that are externally developed and have a record of successful implementation in a variety of settings, that at a minimum, emphasize training in de-escalation procedures, the specific techniques used in safe restraint ranging from the least to most restrictive, and the specific techniques to encourage the safe reentry of the student back in to the educational environment.

(h) “Imminent Risk” means an immediate and impending threat of a person causing substantial physical injury to self or others.

(i) “Isolating” means visually, auditorally, or physically separating a student from the learning environment, school activity, or peers.

(j) “Prohibited Practices” means that certain activities or objects are prohibited from being utilized with students under any circumstances. Prohibited elements include:

(i) “Aversives” means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors.

(ii) “Locked Seclusion” means a seclusion room with a locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact, which upon release immediately permits the door to be opened from the inside.

(iii) “Mechanical Restraints” include devices or equipment designed or utilized to restrict the free movement of all or a portion of a student’s body. The term does not include assistive or protective devices or equipment prescribed by an appropriately trained professional or professional team that are used for the specific and approved purposes for which such devices or equipment were designed and prescribed.

(iv) “Prone Restraints” include holding a student in a face down position or in any position that will:

- (A) Obstruct a student’s airway or otherwise impair the ability to breathe;
- (B) Obstruct a staff member’s view of a student’s face;
- (C) Restrict a student’s ability to communicate distress;
- (D) Place pressure on a student’s head, neck, or torso; or
- (E) Straddle a student’s torso.

(k) “Restraint” means the use of physical force, with or without the use of any device or material, to restrict the free movement of all or a portion of a student’s body. Restraint does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight or using an assistive or protective device prescribed by an appropriately trained professional or professional team. The term does not encompass any of the prohibited practices described in this rule.

(l) “School” includes a school district as defined in W.S. §§21-3-102 through 21-3-104.

(m) “School Activity” means any activity taking place at school, on school premises, or to or at a school function under the jurisdiction of the state or school district.

(n) “Seclusion” means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. There are two distinct categories: i) Seclusion from the Learning Environment, and ii) Isolation Room. The term does not include a student requested break or in-school-suspension, detention or other appropriate disciplinary measure.

(i) “Seclusion from the Learning Environment” means visually or auditorally isolating the student from the classroom or other school activity, away from peers in an area that obstructs the student’s ability to participate in regular classroom or school activities. The student is prevented from rejoining the learning environment or school activity until directed by staff.

(ii) “Isolation Room” means purposefully placing the student in an enclosed room built in compliance with all relevant health and safety codes. The student is not released from the Isolation Room and permitted to rejoin the learning environment or school activity until directed by staff. An Isolation Room is not the same as locked seclusion, which is a prohibited practice.

(o) “Time-out” means providing the student with a brief opportunity to regain self-control in a setting that does not physically remove the student from peers or the learning environment, and the student is not physically prevented from leaving the time-out area. The use of time-out without seclusion is not regulated by these rules.

Section 7. Policy Requirements

(a) Staff Training and Professional Development. School district policies must, at a minimum, include the following staff training and professional development components:

(i) All staff shall receive training in evidence-based techniques shown to be effective in the prevention of physical restraint and seclusion, including evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, de-escalation, and conflict management.

(A) The minimum amount of training required for all staff shall be the number of hours recommended by the evidence-based training program selected by the school.

(B) Ongoing training for all staff shall be provided as recommended by the evidence-based training program selected by the school.

(ii) A ratio of classified and nonclassified staff, as determined by the school considering school size and the location of specialized programs, shall receive training in evidence-based techniques in the safe use of physical restraint.

(A) The minimum amount of training for the ratio of staff shall be the number of hours necessary to obtain certification by the evidence-based training program selected by the school.

(B) Certification shall be maintained as prescribed by the evidence-based training program selected by the school.

(iii) Information regarding the school district's policy on the safe use of seclusion and restraint shall be incorporated into each school's annual professional development programming.

(b) Procedures. School policies must, at a minimum, include the following procedural components:

(i) Restraint:

(A) Only trained, certified staff consistent with Section 7(a)(ii) above shall be permitted to utilize restraint as part of a planned behavior intervention unless a bona fide emergency situation constituting an imminent risk to health or safety exists.

(B) Schools shall not utilize aversive interventions, mechanical restraints, or prone restraints at any time.

(C) Restraint shall be utilized for the minimum amount of time necessary to permit the student to regain control and for staff to restore safety.

(D) Schools must develop restraint duration guidelines including a release strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(E) Restraints exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the restraint may continue.

(F) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(G) Schools must document each restraint consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(ii) Seclusion: There are two distinct seclusion categories: Seclusion from the Learning Environment and Isolation Room.

(A) School staff must be able to see and hear the student in seclusion at all times.

(B) Students placed in seclusion must be permitted access to normal meals and personal hygiene opportunities. Meals and bathroom breaks may be separate and supervised if needed to ensure safety.

(C) Schools must document each occurrence of seclusion consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(D) The use of timeout without seclusion is not regulated by these rules.

(E) Seclusion from the Learning Environment:

(1.) Seclusion from the Learning Environment may be used as a planned behavior intervention strategy.

(2.) Schools must develop Seclusion from the Learning Environment duration guidelines.

(3.) Completion of an incident report is not required for use of Seclusion from the Learning Environment.

(F) Isolation Room:

(1.) An Isolation Room may be used in a bona fide emergency.

(2.) Schools must develop Isolation Room duration guidelines, including a reentry strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(3.) Isolation Room seclusion exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the Isolation Room seclusion may continue.

(4.) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(5.) Physical Space Requirements for Isolation Rooms:

a. The room must provide a means of continuous visual and auditory monitoring of the student.

b. The room must be adequately lighted, with switches to control lighting located outside the room.

c. The room must be adequately ventilated, with switches to control fans or other ventilation devices located outside the room.

d. The room must maintain a temperature within the normal comfort range and consistent with the rest of the building, with temperature controls located outside of the room.

e. The room must be clean and free of objects and fixtures that could be potentially dangerous to a student and must meet all fire and safety codes.

f. The room must be constructed of materials safe for the intended use, including wall and floor coverings designed to prevent injury to the student.

g. The room must be able to be opened from the inside immediately upon the release of the security mechanism held in place by constant human contact.

h. The dimensions of the room must be of adequate width, length and height to allow the student to move about and recline comfortably.

(c) **Mandatory Documentation.** Schools must complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(i) **Incident Report:** At a minimum, the incident report must include:

- (A) Antecedents, interventions, and other relevant factors;
- (B) Description of the regulated intervention utilized;
- (C) Time and duration;
- (D) Student's response;
- (E) Administrative review, if necessary;
- (F) Status assessment;
- (G) Release or reentry factors;
- (H) Injuries, if any;
- (I) Debriefing

(ii) The parent shall receive copies of all mandatory documentation according to the parent notification procedure developed by the school.

(d) **Parent Notification.** The school shall develop a parent notification procedure to include, at a minimum, written notification within 24 hours of the use of a regulated procedure, or other timeframe as agreed upon by the school and parent. Written notification shall be complete upon mailing, personal delivery, or electronic transmission of the written notice.

Section 8. Enforcement of Policy.

Schools shall specify a procedure for the lodging and investigation of complaints regarding misuse of the school district's policy on seclusion and restraint.

Section 9. Publication of Policy.

Schools shall provide for the manner in which the policy is to be publicized within the school community.

Section 10. Data Collection Requirements

Schools shall collect and report annually to the Wyoming Department of Education the WISER ID for each student involved in the use of a regulated intervention, the number of incidents of seclusion and restraint for each student, and the type of regulated intervention utilized for each student.

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(c) To the extent that these rules governing Seclusion and Restraint in Schools overlap with other state or federal rules or regulations, compliance with the regulation or rule offering greater student protection shall be deemed compliance with this rule. To the extent that these rules governing Seclusion and Restraint in Schools exceed the requirements of other state or federal rules or regulations, school districts must comply with the requirements of this rule. In the event of conflict with another state agency's rules or federal rules or regulations, school districts must ensure compliance with this rule.

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Section 4. Applicability; No Civil Liability Created; Immunity.

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(b) “Appropriately Trained Professional” or “Professional Team” includes individuals who are appropriately licensed, trained, and knowledgeable regarding the acceptable use of assistive or protective devices consistent with recognized professional standards and manufacturers’ instructions.

(c) “Assistive or Protective Device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child or protect a child from harm.

(d) “Behavior Intervention” is a systematic implementation of procedures developed in conjunction with the parent ~~that~~ intended to result in lasting positive changes in a student’s behavior. Interventions may include positive strategies, program or curricular modifications, and aids and supports required to address the disruptive behaviors.

(e) “Emergency” means a situation constituting an imminent risk to health or safety.

(f) “Escort” includes guiding a student by touching his/her back, arm, or hand, or holding the student’s arm or hand to escort the student safely from one area to another as long as the student is not refusing to comply with the escort. The term does not include the use of coercion or force to move a student from one location to another.

(g) “Evidence-Based Training Program” includes programs that are externally developed and have a record of successful implementation in a variety of settings, that at a minimum, emphasize training in de-escalation procedures, the specific techniques used in safe restraint ranging from the least to most restrictive, and the specific

techniques to encourage the safe reentry of the student back in to the educational environment.

(h) "Imminent Risk" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(i) "Isolating" means visually, auditorally, or physically separating a student from the learning environment, school activity, or peers.

(j) "Prohibited Practices" means that certain activities or objects are prohibited from being utilized with students under any circumstances. Prohibited elements include:

(i) "Aversives" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors.

(ii) "Locked Seclusion" means a seclusion room with a locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact, which upon release immediately permits the door to be opened from the inside.

(iii) "Mechanical Restraints" include devices or equipment designed or utilized to restrict the free movement of all or a portion of a student's body. The term does not include assistive or protective devices or equipment prescribed by an appropriately trained professional or professional team that are used for the specific and approved purposes for which such devices or equipment were designed and prescribed.

(iv) "Prone Restraints" include holding a student in a face down position or in any position that will:

- (A) Obstruct a student's airway or otherwise impair the ability to breathe;
- (B) Obstruct a staff member's view of a student's face;
- (C) Restrict a student's ability to communicate distress;
- (D) Place pressure on a student's head, neck, or torso; or
- (E) Straddle a student's torso.

(k) "Restraint" means the use of physical force, with or without the use of any device or material, to restrict the free movement of all or a portion of a student's body. Restraint does not include comforting or calming a student, holding the hand or arm of a student to escort the student if the student is complying, intervening in a fight or using an assistive or protective device prescribed by an appropriately trained professional or professional team. The term does not encompass any of the prohibited practices described in this rule.

(l) "School" includes a school district as defined in W.S. §§21-3-102 through 21-3-104.

(m) “School Activity” means any activity taking place at school, on school premises, or to or at a school function under the jurisdiction of the state or school district.

(n) “Seclusion” means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. There are two distinct categories: i) Seclusion from the Learning Environment, and ii) Isolation Room. The term does not include a student requested break or in-school-suspension, detention or other appropriate disciplinary measure.

(i) “Seclusion from the Learning Environment” means visually or auditorally isolating the student from the classroom or other school activity, away from peers in an area that obstructs the student’s ability to participate in regular classroom or school activities. The student is prevented from rejoining the learning environment or school activity until directed by staff.

(ii) “Isolation Room” means purposefully placing the student in an enclosed room built in compliance with all relevant health and safety codes. The student is not released from the Isolation Room and permitted to rejoin the learning environment or school activity until directed by staff. An Isolation Room is not the same as locked seclusion, which is a prohibited practice.

(o) “Time-out” means providing the student with a brief opportunity to regain self-control in a setting that does not physically remove the student from peers or the learning environment, and the student is not physically prevented from leaving the time-out area. The use of time-out without seclusion is not regulated by these rules.

Section 7. Policy Requirements

(a) Staff Training and Professional Development. School district policies must, at a minimum, include the following staff training and professional development components:

(i) All staff shall receive training in evidence-based techniques shown to be effective in the prevention of physical restraint and seclusion, including evidence-based skills training related to positive behavior supports, safe physical escort, conflict prevention, de-escalation, and conflict management.

(A) The minimum amount of training required for all staff shall be the number of hours recommended by the evidence-based training program selected by the school.

(B) Ongoing training for all staff shall be provided as recommended by the evidence-based training program selected by the school.

(ii) A ratio of classified and nonclassified staff, as determined by the school considering school size and the location of specialized programs, shall receive training in evidence-based techniques in the safe use of physical restraint.

(A) The minimum amount of training for the ratio of staff shall be the number of hours necessary to obtain certification by the evidence-based training program selected by the school.

(B) Certification shall be maintained as prescribed by the evidence-based training program selected by the school.

(iii) Information regarding the school district's policy on the safe use of seclusion and restraint shall be incorporated into each school's annual professional development programming.

(b) Procedures. School policies must, at a minimum, include the following procedural components:

(i) Restraint:

(A) Only trained, certified staff consistent with Section 7(a)(ii) above shall be permitted to utilize restraint as part of a planned behavior intervention unless a bona fide emergency situation constituting an imminent risk to health or safety exists.

(B) Schools shall not utilize aversive interventions, mechanical restraints, or prone restraints at any time.

(C) Restraint shall be utilized for the minimum amount of time necessary to permit the student to regain control and for staff to restore safety.

(D) Schools must develop restraint duration guidelines including a release strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(E) Restraints exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the restraint may continue.

(F) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(G) Schools must document each restraint consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(ii) Seclusion: There are two distinct seclusion categories: Seclusion from the Learning Environment and Isolation Room.

(A) School staff must be able to see and hear the student in seclusion at all times.

(B) Students placed in seclusion must be permitted access to normal meals and personal hygiene opportunities. Meals and bathroom breaks may be separate and supervised if needed to ensure safety.

(C) Schools must document each occurrence of seclusion consistent with the Mandatory Documentation requirements specified in paragraph (c) below.

(D) The use of timeout without seclusion is not regulated by these rules.

(E) Seclusion from the Learning Environment:

(1.) Seclusion from the Learning Environment may be used as a planned behavior intervention strategy.

(2.) Schools must develop Seclusion from the Learning Environment duration guidelines.

(3.) Completion of an incident report is not required for use of Seclusion from the Learning Environment.

(F) Isolation Room:

(1.) An Isolation Room may be used in a bona fide emergency.

(2.) Schools must develop Isolation Room duration guidelines, including a reentry strategy based on the student's ability to regain control and staff's ability to reestablish safety.

(3.) Isolation Room seclusion exceeding the durational limits set forth in the school's guidelines shall require immediate administrative review to determine if and under what conditions the Isolation Room seclusion may continue.

(4.) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken.

(5.) Physical Space Requirements for Isolation Rooms:

a. The room must provide a means of continuous visual and auditory monitoring of the student.

b. The room must be adequately lighted, with switches to control lighting located outside the room.

c. The room must be adequately ventilated, with switches to control fans or other ventilation devices located outside the room.

d. The room must maintain a temperature within the normal comfort range and consistent with the rest of the building, with temperature controls located outside of the room.

e. The room must be clean and free of objects and fixtures that could be potentially dangerous to a student and must meet all fire and safety codes.

f. The room must be constructed of materials safe for the intended use, including wall and floor coverings designed to prevent injury to the student.

g. The room must be able to be opened from the inside immediately upon the release of the security mechanism held in place by constant human contact.

h. The dimensions of the room must be of adequate width, length and height to allow the student to move about and recline comfortably.

(c) **Mandatory Documentation.** Schools must complete the mandatory documentation for all use of Restraint and Isolation Room seclusion.

(i) **Incident Report:** At a minimum, the incident report must include:

- (A) Antecedents, interventions, and other relevant factors;
- (B) Description of the regulated intervention utilized;
- (C) Time and duration;
- (D) Student's response;
- (E) Administrative review, if necessary;
- (F) Status assessment;
- (G) Release or reentry factors;
- (H) Injuries, if any;
- (I) Debriefing

(ii) The parent shall receive copies of all mandatory documentation according to the parent notification procedure developed by the school.

(d) **Parent Notification.** The school shall develop a parent notification procedure to include, at a minimum, written notification within 24 hours of the use of a regulated procedure, or other timeframe as agreed upon by the school and parent. Written notification shall be complete upon mailing, personal delivery, or electronic transmission of the written notice.

Section 8. Enforcement of Policy.

Schools shall specify a procedure for the lodging and investigation of complaints regarding misuse of the school district's policy on seclusion and restraint.

Section 9. Publication of Policy.

Schools shall provide for the manner in which the policy is to be publicized within the school community.

Section 10. Data Collection Requirements

Schools shall collect and report annually to the Wyoming Department of Education the WISER ID for each student involved in the use of a regulated intervention, the number of incidents of seclusion and restraint for each student, and the type of regulated intervention utilized for each student.