



Objective

Advocate to end the practices of seclusion and restraint in Michigan schools through student advocacy, teacher support, parent education, quality control, and legislative change.

Position Statement

Seclusion and Restraint are dangerous and traumatic¹ practices. Not only is there no evidence that they are effective in reducing problem behaviors², but there is evidence of deteriorated student-teacher relationships³, increased behavior problems⁴, and they can be a denial of a Free Appropriate Public Education (FAPE).⁵

Because of the risk of damage to the physical, social, mental, and emotional health of both students and teachers:

- Involuntary seclusion should never be used in Michigan schools with any student for any reason.
 - Restraint should only be used in life threatening situations. Extreme effort should be made to prevent life threatening situations and therefore, the use of restraint in Michigan schools should be exceptionally rare.
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1) "In fact, seclusion and restraint are dangerous and traumatic not only to the individuals subjected to these practices, but also for the staff implementing them." - U.S. Department of Health and Human Services: Substance Abuse and Mental Health Service Administration (SAMHSA) Brief #1

https://www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf

2) "Furthermore, there continues to be no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques." - U.S. Department of Education - Restraint and Seclusion: Resource Document page iii - <https://sites.ed.gov/idea/files/restraints-and-seclusion-resources.pdf>

3) "The forceful assertion of another person's will over one's own, along with the loss of control over one's body and environment, generates very negative emotions and has deep psychological and traumatic impacts on people." - Strategies to End Seclusion and Restraint: WHO Quality Rights Specialized Training <https://www.jstor.org/stable/resrep27900.15>

4) "Moreover, some studies indicate that seclusion and restraint use leads to an increase in the behaviors that staff members are attempting to control or eliminate." - U.S. Department of Health and Human Services: Substance Abuse and Mental Health Service Administration (SAMHSA) Brief #1

https://www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf

5) ". A school's use of restraint or seclusion may have a traumatic impact on a student, such that even if she were never again restrained or secluded, she might nevertheless have new academic or behavioral difficulties that, if not addressed promptly, could constitute a denial of FAPE. That traumatizing effect could manifest itself in new behaviors, impaired concentration or attention in class, or increased absences, any of which could, if sufficiently severe and unaddressed, result in a denial of FAPE for that student." - Fact Sheet: Restraint and Seclusion of Students with Disabilities - U.S. Department of Education Office of Civil Rights - <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

Michigan has made progress in attempting to limit the use of seclusion and restraint in Michigan schools. In 2016, the state of Michigan adopted Public Act 394 of 2016 which restricts the use of seclusion and restraint. This law was followed by the State Board of Education issuing policy and guidance to local school districts on how to limit seclusion and restraint in school settings.⁶

A recent Detroit Free Press series in 2022 highlighted how, despite this law and the requirement that schools and school districts document their use of seclusion and restraint, the techniques have still been used at least 94,000 times since.⁷

Michigan Advocates to End Seclusion and Restraint will work to end the practices of seclusion and restraint in Michigan schools through student advocacy, teacher support, parent education, quality control, and legislative change.

Proposed Policy Changes

- Increase the quality and quantity of data collection and ensure free public access to all data
- Change the definition of “emergency situation” in MCL 380.1307h
- Add all forms of involuntary seclusion to the “statement of prohibited practices” in MCL 380.1307b
- Change the definition of “emergency physical restraint” in MCL 380.1307h
- Secure funding to increase teacher education and support
- Increase parent/guardian education and support
- Secure funding to create state and ISD level monitoring system with crisis response teams at the state, ISD, and local school district levels.
- Secure funding for all schools to provide adequate sensory spaces and require that schools give at-risk students voluntary access to these spaces according to the guidelines
- Publish guidelines for identifying and supporting at-risk students to prevent crisis situations

6) A link to the policy can be found on Michigan Department of Education’s Health and Safety page:

<https://www.michigan.gov/mde/services/health-safety/topics/emergency-use-of-seclusion-and-physical-restraint-2>

7) The first article of the series, called “Trapped & Traumatized,” can be found on the Detroit Free Press Page:

<https://www.freep.com/in-depth/news/education/2022/10/12/seclusion-restraint-michigan-schools-tudents/69528037007/>

Policy Change Details

Increase the quality and quantity of data collection and ensure free public access to all data:

- Currently, districts across Michigan are using their own forms to document seclusions and restraints and then report them to the state at the end of each quarter. As a result, methods of data collection used by districts across the state are inconsistent and quarterly data is sometimes inaccurate. In addition, citizens who have used the FOIA to request copies of school data have been denied access or charged excessive fees to gain access to the data⁸.
- Create a digital form (to replace individual districts' own forms) to be completed by educators within 24 hours of the use of seclusion and restraint. This will create a uniform system to ensure consistency across districts without creating more work for educators⁹.
- Create a seclusion and restraint dashboard to ensure accuracy and transparency of data. Information from the digital forms will be compiled into a database in real time and visible on the public dashboard at the end of each month (not daily to protect student privacy).
- Include age, grade, race, ethnicity, primary language, sex, disability, primary communication method (language or device) in data collection.

Change to the definition of "emergency situation" in MCL 380.1307h:

- The current definition of emergency situation is too vague and can include a kindergartner kicking a teacher, which should not be a justification for using seclusion or restraint.
- Current Definition: "Emergency situation" means a situation in which a pupil's behavior poses imminent risk to the safety of the individual pupil or to the safety of others. An emergency situation requires an immediate intervention.
- Proposed Definition: "Emergency situation" means a situation in which a pupil's behaviors poses an imminent threat to self or others of death or serious bodily injury; extreme physical pain, long-term, obvious disfigurement, or long-term loss or impairment of the function of bodily member, organ, or mental faculty.
- Give examples of what does and does not constitute imminent threat of death or serious bodily injury so that it is clear to educators when the use of restraint is justified.

8) The Detroit Free Press used the FOIA to request documents from 47 school districts around Michigan. Twelve districts replied with data, 6 denied their request, Kentwood Public Schools said the data did not exist, 2 never responded, and 26 districts responded with invoices ranging from \$167 to \$19,740 for the documents. See the article at - <https://www.freep.com/story/news/education/2022/11/01/michigan-schools-restraint-seclusion-records-fees/69594148007/>

9) A model form already exists, and schools are already required to use either the model form or their own equivalent. This proposal will not only require all schools to use the same form, but also collect the data immediately, ensuring that quarterly data matches the real time data. - https://www.michigan.gov/-/media/Project/Websites/mde/specialeducation/policies/SeclusionRestraint_DocumentationForm.pdf?rev=ffc7cb7c51564c2e8092d48a9f721137

Add all forms of involuntary seclusion to the “statement of prohibited practices” in MCL 380.1307b:

- (d) Involuntary seclusion in any form
- Give examples of what does and does not constitute seclusion; an adult’s body blocking the exit, preventing the student from being able to leave is considered seclusion.
- Strike emergency seclusion from all areas of 380.1307 except for describing exactly what is prohibited.
- Require the removal of doors on all existing seclusion rooms in school buildings.
- Recommend that seclusion rooms either be removed or modified, possibly transformed into sensory spaces if they are large enough in dimension.
- If, for any reason, seclusion spaces remain in any buildings, require motion sensor cameras to be installed in them so that all activity can be recorded. The resulting videos are protected by FERPA and are for the sole purposes of preventing future crisis situations and investigating complaints. Schools shall be required to show the videos to parents/guardians, relevant school staff members, and ISD or state level officials only (in addition to relevant individuals in the case of a subpoena).

Change to the definition of “emergency physical restraint” in MCL 380.1307h:

The current definition includes the phrases “an opportunity for the pupil to regain self-control” and “safety intervention” which leads adults to believe that physical restraint is therapeutic and can help students gain self-control, as well as to believe that physical restraint is safe. The belief that restraint is therapeutic has been disproven¹⁰ and it is likely that sometimes what educators are perceiving as calm control is actually the dorsal vagal state of shutdown¹¹, which is a state that can increase the chances that the student will develop trauma symptoms. Students have died as the result of restraints applied by trained professionals and those who do not die often suffer physical, social, mental, and emotional harm¹².

10) “Restraint and seclusion are not therapeutic care procedures. In fact, restraint and seclusion can induce further physical or psychosocial trauma. In short, these procedures pose a safety risk to the emotional and physical well-being of the person and have no known long-term benefit in reducing behaviours.” - Canadian Patient Safety Institute

www.patientsafetyinstitute.ca/en/education/PatientSafetyEducationProgram/PatientSafetyEducationCurriculum/MentalHealthModules/Pages/Mental-Health-Care-Seclusion-and-Restraint.aspx

11) “When our sympathetic nervous system has kicked into overdrive, and we still can’t escape and feel impending death the dorsal vagal parasympathetic nervous system takes control. It causes freezing or shutdown, as a form of self preservation.” “In shutdown mode, at some level our nervous system believes we are in a life-threatening situation, and it tries to keep us alive through keeping our body still.” “Our response is all in our perception of the event.” “Whatever the reason, whether the incident was intentional or not, our body shifted into shutdown mode, we registered it as a trauma.” - David Puder, MD Episode 023: Emotional Shutdown - Understanding Polyvagal Theory

https://www.psychiatrypodcast.com/search?q=023&f_collectionId=5ef5112e8575ee1ad64fc768

12) “Studies have shown that psychological harm, physical injuries, and death can result from the use of seclusion and restraint to both the individual subjected to and staff applying these techniques” (NASMHPD, 2009; Sailas & Fenton, 2000; Weiss et al., 1998). - U.S. Department of Health and Human Services: Substance Abuse and Mental Health Service Administration (SAMHSA) Brief #1 - www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf

Change to the definition of "emergency physical restraint" in MCL 380.1307h (Continued):

- Proposed Definition: "Emergency physical restraint" means a last resort emergency ~~safety~~ intervention involving physical restraint that is necessitated by an ongoing, life-threatening emergency situation ~~and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others.~~ Emergency physical restraint does not include physical restraint that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support. Emergency physical restraint does not include a practice prohibited under section 1307b. Emergency physical restraint does not include physical restraint when contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.

Secure funding to increase teacher education and support:

- Ensure that school employees understand Michigan's laws involving seclusion and restraint in schools and the risks associated with their use by requiring that all school employees who interact with students periodically complete a training module.
- Ensure that school employees receive regular training, mentoring, and access to peer support groups at the district and ISD levels in order to practice and trouble shoot the use of relationship based, preventive approaches to education and have the confidence to meet the complex needs of at-risk students in order to prevent aggressive meltdowns and crisis situations.

Increase parent/guardian education and support:

- Produce a document for parents and guardians to understand the laws around seclusion and restraint and what to do if they have concerns about how they are being used with their child including how to report a complaint, what questions to ask a school to understand what experience their child has had, and how to get their child appropriate therapy to process an adverse childhood experience such as being secluded or restrained at school.
- Require schools to offer a physical or electronic copy of the parent document to the parent or guardian at every IEP and 504 meeting for students of all ages (along with the procedural safeguards) as well as at the required follow-up meeting every time a student is secluded or restrained.

Secure funding to create state and ISD level monitoring systems with crisis prevention and response teams at the state, ISD, and local school district levels:

- ISD personnel are responsible for making sure districts file data with the state.
- ISD personnel are responsible for receiving complaints, documenting them in a spreadsheet, reporting them to the state quarterly, and investigating complaints (through conversations with

Secure funding to create state and ISD level monitoring systems with crisis prevention and response teams at the state, ISD, and local school district levels (Continued):

- the student, parent, and staff member, official written documentation of the incident, and video camera footage) to determine if the complaint warrants further investigation at the state level.
- State level personnel are responsible for investigating complaints that have been escalated by the ISD. State level personnel are also responsible for advising change to policies, personnel, or environments to ensure that offenses are not able to be repeated. State level personnel are then responsible for following-up to make sure that advice was followed and that it was effective before closing the case. If the proposed advice for change was not effective, then state level officials must consult with specialists (such as pediatric psychologists and trauma therapists) to offer new advice and follow-up accordingly.
 - Create state, ISD, and local level crisis prevention and response teams to offer school employees regular training, mentoring, and access to peer support groups at the district and ISD levels in order to practice and trouble shoot the use of relationship based, preventive approaches to education so that they have the confidence to meet the complex needs of at-risk students in order to prevent aggressive meltdowns and crisis situations.

Secure funding for all schools to provide adequate sensory gyms and voluntary calming spaces and require schools to give at-risk students voluntary access to the spaces according to the guidelines:

- Sensory gyms - work with a team of occupational therapists to define adequate sensory gyms including a minimum dimension for sensory gyms, number of gyms per student population, and checklists for equipment options.
- Voluntary calming spaces - work with a team of child psychologists to define adequate voluntary sensory spaces including minimum dimensions for voluntary calming spaces, number of spaces per student population, and checklists for content options.
- Produce guidelines for the use of sensory gyms and voluntary calming spaces; they are not rewards to be earned for compliance nor places that students are required to go. They are considered necessary accommodations for at-risk students in order to function in school and prevent aggressive meltdowns where students can leave at will.

Publish guidelines for identifying and supporting at-risk students:

- Current guidelines required schools to create an Emergency Intervention Plan (EIP) only after 3 instances of seclusion and restraint; a reaction to a pattern of crisis situations.
- Define at-risk students in MCL 380.1307
- Require a preventive Emergency Intervention Plan (EIP), updated during the first 6 weeks of the school year for all at-risk students to be completed in cooperation with parents or guardians if they are willing to participate.
- Preventive EIPs should be unique to each student, including de-escalation and calming strategies that are specific to each student. Techniques should be practiced with individual students and

Publish guidelines for identifying and supporting at-risk students (Continued):

their responses to different strategies documented, voluntary calming spaces should be toured with at-risk students, and trusting relationships should be formed with adults during regulated times so that staff know what is and is not effective with individual students before a crisis situation is reached.

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