

RESOLUTION TO FOLLOW MICHIGAN STATE LAWS AND FEDERAL GUIDANCE PERTAINING TO THE USE OF SECLUSION AND RESTRAINT IN SCHOOLS

WHEREAS, since the 2017-2018 school year Michigan Law ([MCL 380.1307a](#))¹ has required that school boards adopt and implement a local policy that is consistent with the state policy.

WHEREAS, The use of restraint and seclusion can have very serious consequences, including, most tragically, death²; There is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques²; Seclusion and restraint are dangerous and traumatic not only to the individuals subjected to these practices, but also for the staff implementing them³; 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 people⁴; A school's use of restraint or seclusion may have a traumatic impact on a student, such that if she were never again restrained or secluded, she might nevertheless have new academic or behavioral difficulties that, if not addressed properly could constitute a denial of FAPE (Free Appropriate Public Education)⁵.

WHEREAS, [Federal Guidance](#) further states that restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child; The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior. When restraint or seclusion is repeatedly used with a child, used multiple times within the same classroom, or used multiple times by the same individual, a review of the student's Behavior Intervention Plan (BIP) should occur, the prescribed behavioral strategies should be modified, if needed, and staff training and skills should be re-evaluated;

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- 1) Michigan Compiled Law - [Section 380.1307a](#)
 - 2) U.S. Department of Education - [Restraint and Seclusion: Resource Document](#)
 - 3) U.S. Dept of Health & Human Services: Substance Abuse & Mental Health Service Admin: [Brief#1](#)
 - 4) World Health Organization - Strategies to End Seclusion and Restraint: [Specialized Training](#)
 - 5) U.S. Dept of Education Office of Civil Rights - [Seclusion & Restraint of Students with Disabilities](#)

WHEREAS, [Federal Guidance](#) also states that policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate; and data on the frequency of use of restraint and seclusion for all children should be periodically reviewed at school leadership meetings, grade-level meetings, and other meetings of school staff.

WHEREAS, [Michigan Law](#) MCL 380.1307a-h states that emergency seclusion and emergency physical restraint must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate education program; Emergency seclusion and emergency physical restraint may be used only under emergency situations and only if essential to providing for the safety of the pupil or safety of another; and Emergency seclusion and emergency physical restraint may not be used in place of appropriate less restrictive interventions;

WHEREAS, [Michigan Law](#) makes it clear that seclusion and restraint should not be used repeatedly on the same child as it lists several very specific steps that should be taken if a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint.

WHEREAS, [Michigan Law](#) also states that a school district shall collect and report data on and related to the use of restraint and seclusion in the school district; The data should be analyzed by the school and the school district to determine the efficacy of the school's school wide system of behavioral support; The data should be analyzed in the context of attendance, suspension, expulsion, and dropout data; and The data should be analyzed for the purposes of continuous improvement of training and technical assistance toward the elimination of seclusion and restraint.

AND WHEREAS, [Michigan Law](#) requires that each seclusion or restraint be reported to the pupil's parent or guardian immediately; A written report shall be provided to parents or guardians within 1 school day; School personnel must make reasonable efforts to debrief and consult with the parent or guardian (and pupil if appropriate) regarding future actions; and If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency

situation in the future, then school personnel are encouraged to conduct a functional behavioral assessment (FBA) and develop or revise a positive behavioral intervention and support (PBIS) plan to facilitate the elimination of the use of seclusion and restraint.

THEREFORE, BE IT RESOLVED on this {date} day of {month, year}, by the Board of {District}, that {District} will provide meaningful oversight to all schools in the {District}, to ensure that they are following Michigan Law and Federal Guidance pertaining to the use of seclusion and restraint including:

General

- 1) Every effort will be made to prevent the need for the use of restraint or seclusion.
- 2) Seclusion and restraint will not be used disproportionately on any group by age, disability, race, neurotype, access to spoken language, etc.
- 3) Physical restraint or seclusion will not be used except in ongoing emergency situations where the child's behavior poses imminent danger of serious physical harm⁶ to self or others.
- 4) Physical restraint or seclusion will not be used when other interventions would be effective.
- 5) Physical restraint or seclusion will not be used as a planned response to inappropriate behavior, as discipline, punishment, or as a substitute for an appropriate educational program.
- 6) Restraint or seclusion will not be used in a manner that restricts a child's breathing or harms a child.

Response to Use

- 7) When seclusion or restraint are used, there will be a review and, if necessary, a revision of strategies currently in place to address dangerous behavior.
- 8) Parents or guardians will be notified immediately after each use of seclusion or restraint.
- 9) A written report will be provided to the parent or guardian *within 1 school day*⁷.
- 10) School personnel will schedule a meeting to debrief and seek information or advice from (consult with) parents or guardians (and student if appropriate) regarding the determination of future actions.

Repeated Use

- 11) Restraint or seclusion will not be used repeatedly on an individual student, multiple times within the same classroom, or multiple times by the same staff member.
- 12) If an individual student is secluded or restrained more than once, there will be a review of the student's BIP and a modification of the prescribed behavioral strategies.
- 13) If seclusion or restraint are used more than once by the same staff member or within the same classroom, then the training and skills of the staff members involved will be re-evaluated.

Policy Review

- 14) District policies regarding the use of restraint and seclusion will be reviewed regularly and updated as appropriate.

Data

- 15) Data on the use of restraint and seclusion will be analyzed regularly:
 - a) To determine the efficacy of the school wide system of behavioral support.
 - b) In the context of attendance, suspension, expulsion, and dropout data.
 - c) For the purpose of continuous improvement of training and technical assistance toward the elimination of seclusion and restraint.
 - d) To discover if seclusion or restraint are being misused or overused.
 - e) To discover if seclusion or restraint are being used disproportionately on any group by age, disability, race, access to spoken language, etc.
 - f) To discover if seclusion or restraint are being used repeatedly on the same student, in the same classroom, or by the same staff member.
 - g) To discover if seclusion or restraint are being used outside of ongoing emergency situations where a child's behavior poses imminent danger of serious physical harm⁶ to self or others.
 - h) To discover if seclusion or restraint are being used when other interventions would have been effective.
 - i) To discover if seclusion or restraint are being used as a response to inappropriate behavior, as punishment or discipline.

Prevention

- 16) If a student exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, then school personnel, in partnership with the parent or guardian, will:
- a) Develop a written emergency intervention plan by taking all of the steps documented in MCL 380.1307e.
 - b) Conduct a functional behavioral assessment (FBA).
 - c) Develop or revise a positive behavioral intervention and support (PBIS) plan to facilitate the elimination of the use of seclusion and restraint.
- 17) Educators will be provided with *regular*⁸, effective training that results in the prevention of seclusion or restraint including:
- a) Regular review of Federal Guidance and Michigan Law.
 - b) Regular training and practice in trauma-informed, neuroscience aligned, neurodiversity affirming, collaborative approaches⁹.
 - c) Being informed that the use of restraint and seclusion can have very serious consequences, including trauma³ and death².
 - d) Being informed that there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques².
 - e) Being informed that seclusion and restraint are dangerous and traumatic not only to the individuals subjected to these practices, but also for the staff implementing them³.
 - f) Being informed that 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 people⁴.
 - g) Being informed that a school's use of restraint or seclusion may have a traumatic impact on a student, such that if she were never again restrained or secluded, she might nevertheless have new academic or behavioral difficulties that, if not addressed properly could constitute a denial of FAPE (Free Appropriate Public Education)⁵.
- 18) The effectiveness of the training will be evaluated by using data to determine if

seclusion and restraint are *exceptionally rare*¹⁰ or *systematically decreasing*¹¹. If instances of seclusion or restraint are not *exceptionally rare*¹⁰ or *systematically decreasing*¹¹ then:

- a) The implementation of the approaches will be evaluated; Are the approaches being implemented with fidelity? Do staff members need more practice using the approaches? Are there changes that need to be made to the school culture and climate in order for approaches to be effective?
- b) The approach training will be evaluated; Was the training effective in helping staff members utilize the approaches as designed and intended?
- c) Changes will be made to the approaches, the implementation, or the training if restraint and seclusion are not exceptionally rare or systematically decreasing.

BE IT FURTHER RESOLVED, that {District} will refuse to send students to schools in districts that do not follow Michigan Law and Federal Guidance pertaining to the use of seclusion and restraint.

References:

- 1) **Michigan Compiled Law** - Section 380.1307a-h
<https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-380-1307a>
- 2) **U.S. Department of Education** [Restraint and Seclusion: Resource Document](https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf)
<https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>
- 3) **U.S. Dept of Health & Human Services**: Substance Abuse & Mental Health Service Admin ([SAMHSA](#)) [Brief #1](#)
https://www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf8
- 4) **World Health Organization** - Strategies to End Seclusion and Restraint: [Quality Rights Specialized Training. Jan 1, 2019 pp. 12-17](#)) Topic 3: The personal experience and impact of seclusion and restraint p.13
<https://www.jstor.org/stable/resrep27900.15?seq=1>
- 5) **U.S. Department of Education Office of Civil Rights** [Fact Sheet: Seclusion & Restraint of Students with Disabilities](#)
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf>

Definitions & Notes:

- 6) **Imminent Danger of Serious Physical Harm:** A serious physical injury will occur if action is not taken. A serious physical injury is an injury that (a) is life threatening; (b) results in permanent impairment of a bodily function or permanent damage to body structure; or (c) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure. ([42 USC § 247d-6d\(i\)\(10\)](#))
- 7) **Within 1 school day:** A written report will be provided to the parent or guardian within the earlier of 1 school day or 7 calendar days. ([MCL 380.1307d](#) (a))
- 8) **Regular:** at a minimum at the beginning and middle of each school year, but more often if there are enrolled students with a history or high incidence of dangerous behavior who might be subjected to physical restraint or seclusion procedures. Use and prevention training should be accompanied by regular supervised practice. Like quarterly fire drills, all staff members should be expected to regularly and frequently review and practice approaches to prevent the conditions that result in the use of restraint or seclusion and in the use of specific and planned physical restraint or seclusion procedures. ([Principle 10, pg. 19](#))
- 9) **Trauma-informed, neuroscience aligned, neurodiversity affirming, collaborative approaches:** There are several examples at endsar-mi.org/a-better-way.
- 10) **Exceptionally rare:** Fewer than 1 or 2 times on a single student, within the same classroom, or by the same educator.
- 11) **Systematically decreasing:** Significantly and continually reducing the number of seclusions and restraints to an intentional plan; for example, decreasing by 50% every year until it becomes exceptionally rare.