

# FLORIDA DEPARTMENT OF EDUCATION



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## Technical Assistance Paper

### Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities

#### Summary:

This document provides guidance regarding the use, documenting, reporting, and monitoring of restraint and seclusion with students with disabilities in school districts, including (a) when restraint and/or seclusion might be used, (b) considerations when selecting a training program for restraint, (c) what should be documented, (d) parent notification and reporting, and (e) monitoring use. It also contains information about the recently amended statute, section 1003.573, Florida Statutes, *Use of restraint and seclusion on students with disabilities*

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## **Technical Assistance Paper**

### **Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities**

#### **A. Introduction and Background**

##### **A-1. What is the purpose of this technical assistance paper (TAP)?**

In 2007, the Bureau of Exceptional Education and Student Services (Bureau) convened a workgroup composed of school officials, agency representatives, parents, advocates, and other interested parties to provide information and make recommendations to the Bureau to address the use of restraint with students in special education programs. Legislation passed during the 2010 session created section 1003.573, Florida Statutes (F.S.), which established documenting, reporting, and monitoring requirements on the use of restraint and seclusion for students with disabilities. The 2011 Legislature amended this law resulting in the revision of technical assistance being disseminated.

There are concerns among students, educators, and parents about the use of restraint and seclusion with students in special education programs. These concerns include: the use of restraint and seclusion when less-intrusive measures are preferable; lack of adequate training for staff; inadequate documentation of restraint and seclusion procedures; failure to notify parents when restraint and seclusion are used; and failure to use data to further analyze/address the function of the precipitating behavior(s).

Florida 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. There are instances in which students pose a threat to the safety of themselves or others. The purpose of restraint and seclusion is to prevent injury to self and/or others; these procedures are not to be used to punish a student, as a deterrent, or to “teach a student a lesson.” It is important to recognize that the use of restraint and seclusion may have an emotional impact on students. Such interventions should only be used in emergency situations when an imminent risk of serious injury or death to the student or others exists and in a manner that conveys respect for the dignity of the student.

##### **A-2. Are there standards regarding the use of restraint and seclusion on students with disabilities?**

Yes. Section 1003.573, F.S., required the Florida Department of Education (FDOE) to develop standards for documenting, reporting, and monitoring the use of restraint and seclusion. These standards shall be provided to districts by October 1, 2011. These standards require districts to develop written policies and

procedures on reporting, documenting, and monitoring the use of restraint and seclusion. Included in these procedures are the provisions for training personnel on the use of restraint and seclusion, the reporting and documenting and monitoring procedures and a plan to reduce the use of restraint and seclusion (see Appendix A).

## **B. Restraint**

### **B-1 What is restraint?**

Restraint is an emergency intervention sometimes used in schools when students are exhibiting disruptive or dangerous behavior. Restraint is not an instructional tool for the development of pro-social behavior. Rather, it is one method to prevent students from harming themselves or others. It should only be used in emergency situations when an imminent risk of serious injury or death to the student or others exists.

Section 1003.573, F.S., does not provide a definition for restraint but does require documenting, reporting, and monitoring of restraint with students with disabilities. The Bureau has determined that all documenting, reporting, and monitoring requirements for restraint, discussed later in this TAP, shall be based upon the same definitions issued by the Office for Civil Rights (OCR) for reporting instances of restraint and seclusion for all students. For the purpose of this TAP and the documenting, reporting, and monitoring requirements for restraint, definitions are as follows:

#### ***Physical restraint***

Physical restraint immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term *physical restraint* does not include a physical escort. "Physical escort" means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

When reporting the physical restraint, there is a requirement to document the type of restraint using terms in accordance with terminology defined by the Bureau. Those terms include seated, standing, prone (lying face down), supine (lying face up), immobilization during transport and mechanical restraint (see definition below).

#### ***Mechanical restraint***

Mechanical restraint is the use of any device or equipment to restrict a student's freedom of movement. The term does not include devices implemented by trained school personnel or devices used by a student that have been prescribed by an appropriate medical or related service professional and are used for the specific and approved purposes for which such devices were designed, such as:

- Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports
- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle
- Restraints for medical immobilization
- Orthopedically prescribed devices that permit a student to participate in activities without risk of harm

These definitions may also be found on the FDOE website at [http://www.fldoe.org/eias/dataweb/database\\_1011/st81\\_1.pdf](http://www.fldoe.org/eias/dataweb/database_1011/st81_1.pdf).

**B-2. Is there a difference between the term “escort” and “transport”?**

Transports, by definition, may require physical force or exertion in order to propel a student into motion while immobilizing their arms and torso with one or more persons assisting. Transports with immobilization should be reported as restraints. “Immobilization during transport” is included on the Bureau’s web-based reporting system as a drop-down choice under the type of restraint used. Escort involves inducing the student to walk without physical force or immobilization and would not be reported as restraint.

**B-3. Are there any restrictions regarding the use of restraint?**

Yes. Section 1003.573(4), F.S., expressly prohibits the use of mechanical or physical restraint that restricts a student’s breathing.

**B-4. What are the circumstances when restraint might be used with students with disabilities?**

Section 1003.573(1)(b)8.b., F.S., states that the required incident report must include a description of the student’s behavior leading up to the incident, “including an indication as to why there was an imminent risk of serious injury or death to the student or others.” Restraint should only be used in emergency situations when an immediate and significant threat to the physical safety of the student and/or others exists. Restraint should be used only for the period of time needed to contain the behavior of concern and eliminate the immediate threat of harm to self and/or others. Additionally, the settings in which restraint is used should include practices that incorporate positive behavior supports and have trained staff that use positive behavioral intervention and strategies consistently with students to ensure that restraint is only used as a last resort.

Restraint procedures might be used to intervene with students with disabilities in the following circumstances:

- *Aggression*: Demonstration of behaviors that pose a clear threat to the physical safety of others; examples include repeated hitting, kicking, head

butting, or use of any other part of the body or an object that may injure another person

- *Self injury*: Demonstration of behaviors that pose a clear threat to the physical safety of the student; examples include repeated head-banging, face-slapping, and eye-poking
- Unsafe behaviors that pose a significant risk (e.g. climbing on furniture, running away, property destruction that creates imminent risk of serious injury or death)

**B-5. What constitutes serious bodily injury?**

Rule 6A-6.03312(1)(d), Florida Administrative Code (F.A.C.), *Discipline Procedures for Students with Disabilities*, defines serious bodily injury to mean “bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of bodily member, organ, or mental faculty.”

**B-6. Are there guidelines that districts should follow when considering which personnel may implement restraint procedures?**

Restraint should be used only by school personnel who are qualified through school district-approved training in the appropriate application of specific techniques and in the procedures associated with the use of this level of intervention. School personnel who have received training not associated with their employment with the school district (e.g. former corrections staff, former residential setting staff), should be trained in the specific district-approved techniques and should not apply techniques or procedures acquired elsewhere.

School districts should consider whether it is appropriate for employees working in specific settings to be trained in restraint techniques (e.g. school bus drivers, bus aides, job coaches, employment specialists, cafeteria workers). There may be situations in which staff members who have not received training are confronted with an emergency situation that poses an immediate and significant threat to the physical safety of a student or others. In those situations, staff should be guided by existing district policies—including those required by sections 1003.573, F.S., *Use of restraint and seclusion on students with disabilities*; 1003.32, F.S., *Authority of teacher; responsibility for control of students; district school board and principal duties*; and 1006.11, F.S., *Standards for use of reasonable force*.

The 2011 Florida Legislature amended section 1003.573, F.S., to require that districts describe a plan for selecting personnel to be trained in their Exceptional Student Education Policies and Procedures (SP&P) document. These policies must be submitted to the Department no later than January 31, 2012.

**B-7. Is reporting of restraint or seclusion required for students in a Department of Juvenile Justice (DJJ) facility or county jail?**

Incidents of restraint or seclusion of students with disabilities receiving educational services in DJJ or jail must be reported for those incidents that occur during the time designated as school time in those settings.

**C. Seclusion**

**C-1. What is seclusion?**

Seclusion is an emergency intervention sometimes used in schools when students are exhibiting disruptive or dangerous behavior. Seclusion is not an instructional tool for the development of pro-social behavior. Rather, it is one method to prevent students from harming themselves or others. It should only be used in emergency situations when an imminent risk of serious injury or death to the student or others exists.

Section 1003.573, F.S., does not provide a definition of seclusion. However, OCR now requires that the FDOE report all instances of seclusion and restraint for all students (**not just those with disabilities**). Documentation, reporting, and monitoring requirements for seclusion, discussed later in this TAP, are based on the definition issued by OCR with additional parameters described in section 1003.573, F.S.

The OCR defines seclusion as “the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a time-out, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.” This definition may also be found on the FDOE website at [http://www.fldoe.org/eias/dataweb/database\\_1011/st81\\_1.pdf](http://www.fldoe.org/eias/dataweb/database_1011/st81_1.pdf).

**C-2. How does section 1003.573, F.S., further clarify what schools and districts must report, document, and monitor with regard to incidents of seclusion?**

Section 1003.573(5), F.S., clearly states that school personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion rooms. While not all school districts allow the use of seclusion, for districts that do allow it, a seclusion room must meet the requirements identified in Rule 69A-58.0084, F.A.C., *Seclusion Time-out Rooms* (see Appendix B). Districts are reminded that in accordance with Rule 69A-58.0084, F.A.C., an electro-magnetic locking device is the only approved device to secure a seclusion room and that such a device can only be engaged by “constant human contact.” Additionally, all seclusion rooms must have a view panel that meets the dimensions stipulated in Rule 69A-58.0084, F.A.C., in order

to “allow a staff member to continuously keep the student under observation.” Covering the view panel with any material is expressly prohibited.

Given OCR’s definition of seclusion, including “alone in a room or area from which the student is physically prevented from leaving,” the documenting, reporting, and monitoring requirements defined in section 1003.573, F.S., include any time a student is confined in a room or other space and prevented from leaving. Therefore, reportable incidents of seclusion include those that take place in rooms that meet the requirements of the State Fire Marshal rules. If seclusion of a student with a disability occurs in a room not designed for seclusion, reporting is still required.

## **D. Training**

### **D-1. What training should personnel receive?**

It is required by section 1003.573, F.S., that districts provide training in the use of restraint and seclusion. Such training should be provided to building administrators and instructional personnel as determined by the district’s plan for selecting personnel for training on restraint and seclusion.

It is recommended that trainings include, but are not limited to:

- Procedures for de-escalating problematic behaviors before they increase to a level or intensity necessitating physical intervention
- Information regarding the risks associated with restraint, and procedures for assessing individual situations and students to determine if its use is appropriate and sufficiently safe
- The actual use of specific techniques that range from the least to most restrictive, with ample opportunity for trainees to demonstrate proficiency in their use
- Techniques for implementing restraint with multiple staff members working as a team
- Techniques for assisting the student to re-enter the instructional environment and re-engage in learning
- Instruction in the documentation and reporting requirements as required by section 1003.573, F.S., and specified in district policies
- Procedures to identify and deal with possible medical emergencies resulting from the use of restraint

It is recommended that districts provide refresher training on restraint techniques **at least annually, or in accordance with guidelines of the training program used** for all staff members who have successfully completed the initial training component (see the list of characteristics of an effective training model in D-2).

## D-2. Are there guidelines for selecting a training program?

There are many training programs available from vendors around the country. The FDOE does not endorse any particular training model. Project REST<sup>1</sup> has identified characteristics of effective training models.

Districts may find this list of characteristics of an effective training model useful when selecting a training model for restraint:

- Is externally developed and has a record of successful implementation in a variety of settings (i.e. developed by a program or individual independent of the school)
- Includes a curriculum that is available for review
- Emphasizes prevention of the type of events that require physical intervention, including relationship building, positive approaches to prevention of escalation, and an emphasis on de-escalation skills
- Promotes safety as the only acceptable reason to use physical intervention
- Includes instruction in the physiological effects of restraint and the monitoring of physical distress signs, including positional asphyxia
- Includes instruction in personal safety and evasion techniques
- Includes instruction in safe holding techniques (this instruction must include discussion and modeling, an opportunity to physically practice the techniques, and a requirement that the staff member demonstrate competency in the model)
- Includes techniques on how to help the student process or debrief the event
- Includes information on how staff members are to debrief the event, including reviewing the event to understand how it evolved and to uncover areas of improvement for future situations; assisting staff members in managing the stress of the event; documentation of the event; and communication about the event to appropriate parties, including parents, the school administration, and, as needed, other students and staff members
- Requires that staff successfully complete post-training assessments of knowledge and skills
- Specifies a minimum training/refresher training schedule (training should be conducted on at least an annual basis; the needs of the students and staff may dictate more frequent training/refresher training)

The Child Welfare League of America (CWLA) identified practices that should be prohibited from use in any program.<sup>2</sup> These practices are:

- Pain inducement to obtain compliance
- Bone locks

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<sup>1</sup> "Family Resource Center for Disabilities and Special Needs," June 2004, *Manual of Recommended Practice, Project REST, Restraint: Efficacy, Safety and Training*, Charleston, SC: Author.

<sup>2</sup> *State Regulations for Behavior Support and Intervention: A Promising Model* (p. 15), by Bullard, L., Fulmore, D., Gupta, N., and Johnson, K., 2004, Washington, D.C.: CWLA Press.

- Hyperextension of joints
- Peer restraint
- Use of seclusion rooms that do not meet agency, licensing, or accreditation standards
- Use of restraint when the child would be medically compromised
- Mechanical restraint
- Restraint and seclusion used simultaneously with mechanical restraint devices
- Pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression
- Straddling or sitting on any part of the body, or any maneuver that places pressure, weight, or leverage on the neck or throat, on any artery, or on the back of the child's head or neck, or that otherwise obstructs or restricts the circulation of blood or obstructs an airway
- Any type of choking, hand chokes, and any type of neck or head hold
- Any technique that involves pushing on or into the child's mouth, nose, eyes, or any part of the face, or covering the face or body with anything, including soft objects such as pillows or washcloths
- Any maneuver that involves punching, hitting, poking, pinching, or shoving

## **E. Documenting and Reporting**

### **E-1. What are the documenting and reporting requirements when restraint and/or seclusion are used?**

Section 1003.573, F.S., requires that parents be informed whenever restraint and seclusion are used with a student with a disability (see Appendix C). Effective July 1, 2011, the documentation and reporting requirements include the following:

Schools are required to notify a parent or guardian each time restraint and/or seclusion are used. This notification must be **in writing and provided before the end of the school day in which the restraint and/or seclusion occurs**. Reasonable efforts must be taken to notify the parent or guardian by telephone or electronic mail or both, in accordance with standards established by the Bureau (see Appendix A). The notification must include the type of restraint used and any injuries occurring during or resulting from restraint or seclusion. The school shall obtain and keep in its records the parent or guardian's signed acknowledgment of the written notification. If parents fail to return signed acknowledgment of their receipt of notification, written documentation should be maintained with a minimum of two attempts made to notify parents.

In addition to the written notification described above, an incident report shall be prepared within 24 hours after a student is released from seclusion and/or restraint. The content of the report must include:

- The name, grade, race, ethnicity, gender, and exceptionality of the student
- The date, time, and location of the event and the duration of the seclusion and/or restraint
- The type of restraint used, as defined by the Bureau, and a description of the restraint and the crisis management technique used
- The name of the person using or assisting in the seclusion and/or restraint of the student
- The name of any nonstudent who was present to witness the seclusion and/or restraint
- A description of the incident to include the context in which the seclusion and/or restraint occurred
- The behavior leading up to the decision to use seclusion and/or restraint including an indication as to why there was an imminent risk of serious injury or death to the student or others
- Any positive behavioral strategies used to prevent or de-escalate the behavior
- What occurred immediately after the termination of seclusion and/or restraint
- Any injuries, marks, or medical emergencies
- Evidence of steps taken to notify the parent or guardian

Schools are required to provide the parent or guardian with the completed incident report in writing by mail within three school days after the event. The school shall obtain and keep in its records the parent or guardian's signed acknowledgment that the incident report was received. *Schools must make a minimum of two additional attempts to obtain written parent acknowledgment when parents fail to respond to initial notices or incident reports and maintain documentation of these attempts.* Incident reporting must be submitted to the school principal, the district director of exceptional student education (ESE), and the Bureau.

**E-2. If injuries occur or medical treatment is necessary for a student after an incident of seclusion or restraint, should steps be taken to provide treatment and notify the parents about injuries?**

Yes. It is always important to contact parents immediately if injuries occur. You should include this in the initial notification and the incident report, along with a description of the injury.

**E-3. How do schools report a restraint that occurred for less than one minute?**

Incidents of restraint or seclusion of less than one minute must be reported in the web-based system. The system will create a statement of "< 1 minute" when the same start and end time are reported.

For example, if the start time and end time of restraint/seclusion are both entered as 8:31, then the system will generate the "< 1 minute" statement.

**E-4. If the incident report is written and provided to the parent/guardian on the day of the incident, could this suffice as meeting the requirement to provide written notice?**

Yes. In this circumstance, the school should document that the incident report also served as the written notice and was provided to the parent/guardian on the day of the incident. Written acknowledgement of receipt must be obtained from the parent/guardian and kept in the school's records.

**E-5. Do the documenting, reporting, and monitoring requirements specified in section 1003.573, F.S., apply only to students with disabilities who have an individual educational plan (IEP)?**

No. The statutory language does not restrict the documenting and reporting requirements to only those students who have an IEP. The documentation and reporting requirements should be followed for any student with a disability, which includes those students eligible under the provisions of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

**E-6. Do the documenting, reporting, and monitoring requirements specified in section 1003.573, F.S., apply to students with disabilities receiving educational services in DJJ or residential facilities?**

Yes. Section 1003.573, F.S., addresses the use of seclusion and restraint on students with disabilities and does not exclude any specific locations. The documentation, reporting, and monitoring requirements apply to all students with disabilities in any school program, including such settings as DJJ facilities, jail, and residential programs. In these settings, incidents that occur during the time designated as the school day must be reported.

**E-7. Do the documenting, reporting, and monitoring requirements specified in section 1003.573, F.S., apply to incidents of seclusion and restraint that occur outside of the school day?**

The language in section 1003.573, F.S., does not include specific parameters on time of day, but does reference "school day." Districts are advised to report all incidents of seclusion and restraint and are reminded to be precise when documenting timeframes, locations, and other details to clearly define exactly what occurred.

**E-8. Must the district report incidents that occur in child care or other early childhood settings, in the home for students who are served on hospital/homebound (H/H), or in private schools if the student has a service plan?**

Yes. The district must report incidents of restraint or seclusion that are initiated and implemented by school district staff or their contracted providers during the course of providing services to those children or students.

*Reporting would occur*

- If a speech-language pathologist (SLP); either district staff or contracted by the district) goes to a community early care and education facility to provide therapy to a prekindergarten child with an IEP or to a private school to provide therapy through a services plan (SP) and the SLP restrains the child or student, it must be reported.
- If the district contracts with an early education and care provider for special education for a prekindergarten child with an IEP and restraint or seclusion is implemented by the provider during the course of the contracted program day, it must be reported.
- If a homebound teacher goes to the home to provide services to a student through an IEP and restrains the student, the incident must be reported.

*Reporting would not occur*

- If the private school staff or parent restrains the child or student while the SLP or homebound teacher is at the private school or home providing services, the incident need not be reported.
- If the early care and education staff restrains a child during the part of the day when the parent is paying for child-care services, the incident need not be reported.

**E-9. Should restraint or seclusion of students placed by the school district or a state agency in out-of-county or out-of-state residential facilities be reported?**

Yes. Students with disabilities residing in residential facilities whose education is provided and/or funded using state funds are covered under this statutory requirement. Residential facilities will be considered schools under the funding district for the purposes of web-based reporting. Incidents that occur during the time designated as the school day should be reported.

Given the structure of the reporting system and the fact that there are a number of districts throughout the state who fund placement in a single facility it will not be possible for a residential facility to be a school user in multiple districts. Therefore, for each incident, the residential facilities will complete the paper documents (one for restraint or one for seclusion) and fax the document to the funding school district. The funding school district will identify a school user to

attach to the school number that is used for reporting residential students for funding and enter the information provided in the fax.

**E-10. Do the documenting, reporting, and monitoring requirements specified in section 1003.573, F.S., apply when seclusion and/or restraint are used by a school resource officer (SRO)?**

The requirements in section 1003.573, F.S., do not exclude any specific personnel from the reporting requirements. Therefore, when a SRO secludes and/or restrains a student with a disability, such an incident must be reported.

If such an incident rises to the level of arrest, any hand-cuffing or restraining that might occur at the time of arrest would then constitute the end of the seclusion and/or restraint. In this circumstance, the school must still document and report the incident(s) of seclusion and/or restraint that preceded the arrest.

**E-11. If the SRO conducted the restraint, can the officer's name be included in the web-based reporting system as the individual "using the restraint"?**

Yes. If the officer has restrained the student, that individual's name is included in the web-based reporting system.

Section 119.071, F.S., prohibits the release of the address, phone number, social security number, and photographs of active or former law enforcement officers, but does not prohibit the release of the name.

**E-12. What if the SRO conducts the restraint and does not use the district's procedures for that restraint (e.g. the district uses Professional Crisis Management intervention techniques and the officer's restraint does not conform to those procedures)? What should be reported in the web-based reporting system?**

The school should report what occurred and the type of restraint used.

**E-13. If a student is being restrained or secluded and then a law enforcement officer takes custody of the student under the provisions of the Baker Act, how should documentation be handled?**

The school would document the incident until the time that law enforcement assumed control of the situation.

**E-14. How should parents be informed of a district’s policies regarding the use of seclusion and restraint?**

Districts are required to have policies and procedures regarding the use of restraint and seclusion completed and on file with the Bureau by January 31, 2012. Policies and procedures are a matter of public record, and copies may be requested by members of the public. Districts may elect to include information on restraint and seclusion in other publications that are routinely shared with parents, such as the Student Code of Conduct. The Bureau has developed an informational brochure that may be found on the Bureau website.

**E-15. If a student residing in foster care or a group home is secluded or restrained, to whom should the written notice and written incident report required in section 1003.573, F.S., be provided?**

Every student has some individual or entity acting as the parent or guardian. The person “acting as parent” on the day the incident occurred must be notified on that day (e.g. foster parent, group home staff person). In this instance, both the notice and the incident report should be provided to the foster parent. Schools should consult with the district Foster Care Educational Liaison for information regarding all matters of communication about students in foster care or group care settings.

If the district has knowledge of the legal parent of the student, the district is encouraged to provide the written incident report to that individual **as well as** the person acting as parent.

**E-16. What should the school do if the parent or guardian fails to provide written acknowledgement of receipt of either the written notice or the incident report?**

Schools must make a minimum of two additional attempts to obtain written parent acknowledgment when parents fail to respond to initial notices or incident reports and maintain documentation of these attempts.

**E-17. What are the differences between the reporting done in accordance with section 1003.573, F.S., and the Office for Civil Rights (OCR) reporting requirement in the state student database regarding discipline referrals?**

There are two completely separate reporting requirements for incidents of restraint and seclusion. Section 1003.573, F.S., requires that parent reports be prepared for all incidents of restraint and seclusion for students with disabilities (including students with 504 plans). Districts complete these reports at: <https://app1.fldoe.org/ESE/RestraintSeclusionIncident/Default.aspx>.

Separately, the OCR is requiring all states to report all incidents of restraint and seclusion, regardless of whether the student being restrained/secluded is disabled or not. In Florida, we are collecting this information via the automated student database. The requirements for this reporting are much simpler. There are codes in the database as part of the Discipline/Referral Action Element for mechanical restraint, physical restraint, and seclusion. These codes are reported each time any student is restrained or secluded.

Here are examples that involve both types of reporting requirements:

- Two students are fighting, one is a student with a disability and the other is a general education student. Both are restrained as a result of initial discipline for the fight. The general education student's restraint is recorded as a Discipline/Referral Action in the state automated student database. The ESE student's restraint is recorded in both databases (web-based reporting system for restraint and seclusion incidents and as a Discipline/Referral Action in the automated state database).
- A student with a disability who has a history of self-injurious behavior is restrained in order to prevent serious injury to self. The student becomes highly agitated and is restrained. This restraint is reported in the web-based reporting system and the Discipline/Referral Action reporting.

**E-18. If the student has reached the age of majority, to whom is notification and incident reporting provided?**

Districts should make a determination consistent with how reporting is handled for other documents that are conveyed by the school. For example, if the district provides the report card of an 18-year-old student to the parent, the notice and incident reporting should be provided to the parent.

**E-19. When injuries occur to staff members, should this be included in the “description of injury” text box in the web-based reporting system?**

Section 1003.573(1)(b)8.e., F.S., states that the incident report must include, “any injury, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.” This means injury to anyone, including the student, school personnel, and other students, must be documented.

**F. Monitoring**

**F-1. What should monitoring at the classroom level include?**

At the classroom level, monitoring the use of restraint and seclusion allows the teacher, paraprofessionals, and any other staff (counselors, therapists, psychologists, behavior specialists, behavior analysts) to revise the instructional, behavioral, or other aspects of the student's program. Analyzing the events

leading to the use of restraint and/or seclusion and the events following the intervention through a problem-solving, team-based approach may provide valuable information for planning how to avoid the use of seclusion and/or restraint in the future.

The recurrent use of seclusion and/or restraint for an individual student indicates the need for a functional behavioral assessment (FBA) and should trigger a review and possible revision of that student's IEP and Behavioral Intervention Plan (BIP). For example, students with limited communication skills may exhibit aggressive behaviors in an effort to communicate. The FBA should be used to identify such situations and a BIP should be developed to address the need(s) through appropriate instructional techniques.

The recurrent use of seclusion and/or restraint with more than one student in a particular setting indicates a need to review the structure of the setting and its various components, including curriculum, instructional techniques, behavior management system, and physical layout. The use of restraint and/or seclusion in an emergency should be reviewed after the fact by the school-based problem-solving team to examine the circumstances of the event and determine what strategies may be employed to avoid the use of seclusion and/or restraint in the future. Such a review may also lead to a parent-teacher conference or to convening the IEP team.

## **F-2. What should monitoring at the school level include?**

At the school level, the principal must be informed of all instances of the use of seclusion and restraint occurring in the school and should review all documentation of such events, as required in section 1003.573, F.S. Monitoring at the building level should include an analysis of the following:

- The frequency, duration, and location of seclusion and restraint procedures
- Staff involved in the use of seclusion and restraint procedures
- Appropriate use of seclusion and restraint procedures
- Proper documentation of the use of seclusion and restraint procedures and timely parental notification

On-going analysis of these components should alert administration to the overuse of seclusion and restraint procedures in particular settings, by particular staff, or with specific students, and monitor the notification of parents or guardians. Principals should use these data to initiate reviews of student IEPs and/or BIPs, request technical assistance to help staff make changes in the classroom or other settings, and identify teachers or other staff in need of additional support and/or training. Administrators may need to be involved in the review of individual incidents as part of the instructional team.

**F-3. What should monitoring at the district level include?**

District-level administrators must monitor the use of seclusion and restraint throughout the school district, as required by section 1003.573(2)(a), F.S. Data collected and periodically reviewed by the district should be used to identify schools where there is multiple and repeated use of restraint and/or seclusion. The district must have a written plan in place for the reduction of the use of restraint and seclusion, and implementation of such a plan may include:

- Review of the school's system of positive behavioral support
- Evaluation of the circumstances leading up to the use of restraint and seclusion as emergency interventions
- Review of instructional programs for students having behavioral problems
- Provisions of training to personnel on both awareness of policy and procedures regarding restraint and seclusion, positive behavior supports, and crisis management strategies and techniques used when necessary

**F-4. What documentation or evidence of district monitoring is expected? Would evidence that someone logged into the system be sufficient?**

No. Districts must have a written plan for reviewing restraint and seclusion data and effectiveness of instructional and behavioral practices used, to include when, where, and why restraint and seclusion occurred and a plan for reducing the use of restraint and seclusion. This plan must be on file with the Bureau. Districts must also ensure that rooms used for seclusion meet the requirements of Rule 69A-58.0084, F.A.C.

**F-5. What does monitoring at the state level include?**

At the state level, the Bureau monitors the rates of restraint and seclusion and has on-site monitoring procedures related to restraint and seclusion.

**G. District Policies and Procedures**

**G-1. Are districts required to have policies and procedures regarding restraint and/or seclusion?**

Yes. Section 1003.573, F.S., establishes requirements regarding the development of district policies and procedures for documentation, reporting, and monitoring the use of seclusion and restraint for students with disabilities. Districts must develop policies and procedures that address incident reporting, data collection, and monitoring and reporting of data collected. As required by this statute, each district must file policies and procedures addressing these requirements with the Bureau no later than January 31, 2012.

**G-2. Do the policies and procedures described in the Exceptional Student Education Policies and Procedures document apply to students with Section 504 plans? If so, how is this documented?**

Yes. The written policies and procedures developed by districts would apply to students with 504 plans. The statute does not exempt students with disabilities who are eligible only under Section 504.

**G-3. What should districts do to ensure appropriate restraint and seclusion practices, including documenting, reporting, and monitoring, for students with disabilities?**

At a minimum, to meet the requirements of section 1003.573, F.S., school districts must have policies and procedures regarding incident reporting, data collection, monitoring, and reporting of data. In addition, school districts must have a plan for reducing the use of restraint and seclusion that are addressed in this TAP.

When reviewing or writing policies and procedures related to restraint and seclusion, districts should evaluate content related to:

- Allowable use
- Personnel authorized to use seclusion and restraint
- Training procedures
- Analysis of data to determine trends

Additionally, districts are encouraged to implement positive behavior supports and intervention strategies designed to reduce the occurrence of problem behavior for all students.

## Appendix A

### Districts and School-based Restraint and Seclusion Reporting and Documenting Standards

#### District-Level Standards

##### Districts shall:

- Have written procedures for reporting incidents of restraint and seclusion using the Department of Education web-based reporting system
- Have policies and procedures for restraint and seclusion on file with the Bureau of Exceptional Education and Student Services
- Have training for personnel on the use of restraint and seclusion and maintain records of such trainings; the records maintained should include, but not be limited to:
  - Names of personnel trained
  - Description of training received
  - Dates of trainings
- Have a written plan for reducing restraint and seclusion

#### School-Level Standards

##### Schools shall:

- Have written school-based procedures for reporting incidents of restraint and seclusion using the Department of Education web-based reporting system
- Have school-based personnel who are trained to enter and report incidents using the Department of Education web-based reporting system
- Follow procedures for written notification of incidents of restraint and seclusion on the date of the incident including, but not limited to:
  - Providing parents with a notification in writing of any incident of restraint or seclusion; this written notification must include the type of restraint used and any injuries occurring during or resulting from the restraint
  - Making reasonable efforts to contact the parent via telephone or computer electronic mail on the day of the incident
  - Obtaining the parent's signed acknowledgement of receipt of the notification
  - Maintaining the documentation of the parent's signed acknowledgement of notice
- Follow procedures for written incident reporting including, but not limited to:
  - Providing parents with a written incident report generated by the Department of Education web-based reporting system by mail within three days of any incident of restraint and seclusion
  - Obtaining the parent's signed acknowledgement of receipt of the incident report
  - Maintaining the documentation of the parent's signed acknowledgement of receipt of the incident
- Make a minimum of two attempts to obtain written parent acknowledgment when parents fail to respond to initial notices or incident reports

## **District Monitoring Standards**

### **Districts shall:**

- Have written policies and procedures for monitoring the use of restraint and seclusion for students with disabilities at the classroom, building, school, and district levels
- Have a plan for reviewing restraint and seclusion data and effectiveness of instructional and behavioral practices used to reduce the use of restraint and seclusion, to include when, where, and why the restraint or seclusion occurred
- Have policies and procedures for monitoring the use of restraint and seclusion on file with the Bureau of Exceptional Education and Student Services
- Implement a plan for the purpose of reducing the use of restraint and seclusion
- Ensure that rooms used for seclusion meet the requirements of Rule 69A-58.0084, Florida Administrative Code

## Appendix B

Rule 69A-58.0084, F.A.C., Seclusion Time-out Rooms.

1. Egress. Secured seclusion time-out rooms, when provided, shall be equipped with doors which allow egress at all times in the event of an emergency.
2. Locking devices.
3. Locking devices on secured seclusion time-out rooms are permitted only when such room is in full compliance with the criteria in this section.
4. An electro-magnetic locking device is the only approved device to secure a secured seclusion time-out room. The lock shall remain engaged only when the human hand is in contact with it placing pressure on it.
5. Upon release of pressure, the door shall unlock. The locking device shall be designed, and shall be operated, so that it cannot be engaged by leverage of an inanimate object or in any manner except by constant human contact.
6. The push button shall be recessed from the face of the unit housing, or in some other way designed to prevent taping or wedging the button in the engaged mode.
7. The device shall have an interface with the fire alarm system and shall automatically release and disengage upon activation of the fire alarm. The locking device shall automatically release and disengage in the event of power failure.
8. A timer shall not be used on the locking device.
9. Door Requirements. The door shall have only a push panel exposed on the interior of the room. A vision panel shall be provided in the door, and it shall be no larger than 12"x12" (144) square inches. The view panel shall consist of clear one-quarter (1/4) inch thick unbreakable plastic panel, flush with the face of the door on the inside. The view panel shall be positioned in the door to allow a staff member to continuously keep the student under observation. The view panel shall not be covered with any material.
10. Finishes and materials. The ceiling, floor, and walls must be free of any loose, torn or potentially hazardous materials. All surfaces must be kept smooth and free of any hooks, outlets, switches or similar items. Construction materials shall meet all applicable provisions of the Florida Fire Prevention Code and the Florida Building Code. Each secured seclusion time-out room must be identified with a permanently mounted room number.
11. All secured seclusion time-out rooms must have natural or mechanical ventilation.
12. The division and the local fire official are permitted to conduct unannounced inspections of all secured seclusion time-out rooms to ensure compliance with this rule chapter. A written record of each inspection must be made and a copy of same must be provided to the school administrator or designee.
13. During each unannounced inspection, the division or the local fire official is permitted to inspect secured seclusion time-out rooms, interview staff, and review staff development activities to ensure compliance with this rule chapter.
14. If during any fire safety inspection a secured seclusion time-out room is found in violation of this rule chapter, the board or the local fire official shall immediately report the deficiency to the division in accordance with Section 1013.12(1)(c) or 1013.12(5), F.S., and the secured seclusion time-out room shall be immediately withdrawn from use.

*Specific Authority 1013.12 FS. Law Implemented 1013.12 FS. History–New 11-26-06.*

## Appendix C

Section 1003.573, F.S., Use of restraint and seclusion on students with disabilities.—

(1) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint or seclusion. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.
2. The age, grade, ethnicity, and disability of the student restrained or secluded.
3. The date and time of the event and the duration of the restraint or seclusion.
4. The location at which the restraint or seclusion occurred.
5. A description of the type of restraint used in terms established by the Department of Education.
6. The name of the person using or assisting in the restraint or seclusion of the student.
7. The name of any nonstudent who was present to witness the restraint or seclusion.
8. A description of the incident, including:
  - a. The context in which the restraint or seclusion occurred.
  - b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.
  - c. The specific positive behavioral strategies used to prevent and deescalate the behavior.
  - d. What occurred with the student immediately after the termination of the restraint or seclusion.
  - e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.
  - f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(2) MONITORING.—

(a) Monitoring of the use of manual or physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) Documentation prepared as required in subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality,

and other variables, including the type and method of restraint or seclusion used. This information shall be updated monthly.

(d) The department shall establish standards for documenting, reporting, and monitoring the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion. These standards shall be provided to school districts by October 1, 2011.

(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
3. Monitoring and reporting of data collected.
4. Training programs relating to manual or physical restraint and seclusion.
5. The district's plan for selecting personnel to be trained.
6. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:
  - a. Additional training in positive behavioral support and crisis management;
  - b. Parental involvement;
  - c. Data review;
  - d. Updates of students' functional behavioral analysis and positive behavior intervention plans;
  - e. Additional student evaluations;
  - f. Debriefing with staff;
  - g. Use of schoolwide positive behavior support; and
  - h. Changes to the school environment.

(b) Any revisions to the district's policies and procedures, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012.

(4) PROHIBITED RESTRAINT.—School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student's breathing.

(5) SECLUSION.—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.