

Legislative Regulation Review Committee

2009-001a

State Board of Education

USE OF SECLUSION & RESTRAINT IN PUBLIC SCHOOLS

IMPORTANT: Read Instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT
REGULATION

OF

NAME OF AGENCY _____
State Board of Education

Concerning

SUBJECT MATTER OF REGULATION _____
Use of Seclusion and Restraint in Public Schools

SECTION _____

STATE OF CONNECTICUT
REGULATION
of
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The Regulations of Connecticut State Agencies are amended by adding Sections 10-76b-5 to 10-76b-11, inclusive, as follows:

(New) Section 10-76b-5. Use of physical restraint and seclusion in public schools.
Definitions.

For the purposes of sections 10-76b-6 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Assistant" means "assistant" as defined in section 46a-150 of the General Statutes;
- (2) "Behavior intervention" means supports and other strategies developed by the planning and placement team to address the behavior of a person at risk which impedes the learning of the person at risk or the learning of others;
- (3) "Business day" means "business day" as defined in subsection (a) of section 10-76b-1 of the Regulations of Connecticut State Agencies;
- (4) "Individualized education plan" or "IEP" means "individualized education plan" as defined in section 10-76a-1 of the Regulations of Connecticut State Agencies;
- (5) "Parent" or "parents," means "parents" as defined in section 10-76a-1 of the Regulations of Connecticut State Agencies;
- (6) "Person at risk" means "person at risk" as defined in subparagraph (A) of subdivision (3) of section 46a-150 of the Connecticut General Statutes;
- (7) "Physical restraint" means "physical restraint" as defined in section 46a-150 of the Connecticut General Statutes;
- (8) "Planning and placement team" or "PPT" means "planning and placement team" as defined in section 10-76a-1 of the Regulations of Connecticut State Agencies;
- (9) "Provider" means "provider" as defined in section 46a-150 of the Connecticut General Statutes; and
- (10) "Seclusion" means "seclusion" as defined in section 46a-150 of the Connecticut General Statutes, provided seclusion does not include any confinement of a person at risk in which the person is physically able to leave the area of confinement including, but not limited to, in-school suspension and time-out.

(New) Section 10-76b-6. Use of physical restraint and seclusion in public schools.

No provider or assistant shall (1) use involuntary physical restraint on a person at risk or (2) involuntarily place a person at risk in seclusion, unless such use conforms to the requirements of sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes, and the requirements of sections 10-76b-5 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies.

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(New) Section 10-76b-7. Use of physical restraint and seclusion in public schools, exceptions.

Nothing in sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes or sections 10-76b-5 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies shall be construed to interfere with the responsibility of local or regional boards of education to maintain a safe school setting in accordance with section 10-220 of the Connecticut General Statutes or to supersede the provisions of subdivision (6) of section 53a-18 of the Connecticut General Statutes concerning the use of reasonable physical force.

(New) Section 10-76b-8. Use of seclusion in public schools, requirements.

- (a) Except for an emergency intervention to prevent immediate or imminent injury to the person or to others conforming to the requirements of subsection (b) of section 46a-152 of the Connecticut General Statutes, seclusion may only be used if (1) this action is specified in the IEP of the person at risk and (2) if other less restrictive, positive behavior interventions appropriate to the behavior exhibited by the person at risk have been implemented but were ineffective.
- (b) If the PPT of a person at risk determines, based upon the results of a functional assessment of behavior and other information determined relevant by the PPT, that use of seclusion is an appropriate behavior intervention, the PPT shall include the assessment data and other relevant information in the IEP of the person at risk as the basis upon which a decision was made to include the use of seclusion as a behavior intervention. In such a case, the IEP shall specify (1) the location of seclusion, which may be multiple locations within a school building, (2) the maximum length of any period of seclusion, in accordance with subsection (d) of this section, (3) the number of times during a single day that the person at risk may be placed in seclusion, (4) the frequency of monitoring required for the person at risk while in seclusion, and (5) any other relevant matter agreed to by the PPT taking into consideration the age, disability and behaviors of the child that might subject the child to the use of seclusion.
- (c) In the event the parent disagrees with the use of seclusion in the IEP of the person at risk, the parent shall have a right to the hearing and appeal process provided for in section 10-76h of the Connecticut General Statutes.
- (d) Any period of seclusion (1) shall be limited to that time necessary to allow the person at risk to compose him or herself and return to the educational environment and (2) shall not exceed one hour. The use of seclusion may be continued with written authorization of the building principal or designee to prevent immediate or imminent injury to the person at risk or to others. In the case where transportation of the person at risk is necessary, the written authorization to continue the use of seclusion is not required if immediate or imminent injury to the person at risk or to others is a concern.
- (e) The PPT shall, at least annually, review the continued use of seclusion as a behavior intervention for the person at risk. When the use of seclusion as a behavior intervention is repeated more than two times in any school quarter, the PPT (1) shall convene to review the use of seclusion as a behavior intervention, (2) may consider additional evaluations or assessments to address the child's behaviors, and (3) may revise the child's IEP, as appropriate.
- (f) The PPT shall inquire as to whether there are any known medical or psychological conditions that would be directly and adversely impacted by the use

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of seclusion as a behavior intervention. A person at risk shall not be placed in seclusion if such person is known to have any medical or psychological condition that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion. For purposes of this subsection, a "licensed health care provider" means (1) a legally qualified practitioner of medicine, (2) an advanced practice registered nurse, (3) a registered nurse licensed pursuant to chapter 378 of the Connecticut General Statutes, or (4) a physician assistant licensed pursuant to chapter 370 of the Connecticut General Statutes. Such licensed health care provider may be the person at risk's licensed health care provider or a licensed health care provider utilized by the public schools to provide an evaluation of the person at risk for purposes of determining the appropriate use of seclusion as a behavior intervention in the person at risk's IEP. As part of the assessments described in subsection (b) of this section, the PPT may request a medical or psychological evaluation of the child for purposes of determining whether there is a medical or psychological condition that will be directly and adversely impacted by the use of seclusion as a behavior intervention. The parent may provide that information to the PPT. Any written statement provided by a licensed health care provider shall be included in the educational record of the person at risk.

- (g) A person at risk in seclusion shall be monitored as described in the child's IEP by a provider or assistant specifically trained in physical management, physical restraint and seclusion procedures including, but not limited to, training to recognize health and safety issues for children placed in seclusion to ensure the safe use of seclusion as a behavior intervention.
- (h) Any room used for the seclusion of a person at risk shall:
- (1) Be of a size that is appropriate to the chronological and developmental age, size and behavior of the person at risk;
 - (2) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which it is located;
 - (3) Be equipped with heating, cooling, ventilation and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located;
 - (4) Be free of any object that poses a danger to the person at risk who is being placed in the room;
 - (5) Have a door with a lock only if that lock is equipped with a device that automatically disengages the lock in case of an emergency. Not later than January 1, 2014, the locking mechanism of any room in a public school specifically designated for use as a seclusion room shall be a pressure sensitive plate. Any latching or securing of the door, whether by mechanical means or by a provider or assistant holding the door in place to prevent the person at risk from leaving the room, shall be able to be removed in the case of any emergency. An "emergency" for purposes of this subdivision includes, but is not limited to, (A) the need to provide direct and immediate medical attention to the person at risk, (B) fire, (C) the need to remove the person at risk to a safe location during a building lockdown, or (D) other critical situations that may require immediate removal of the person at risk from seclusion to a safe location; and
 - (6) Have an unbreakable observation window located in a wall or door to permit frequent visual monitoring of the person at risk and any provider or assistant in such room. The requirement for an unbreakable observation window does not apply if it is necessary to clear and use a classroom or other room in the school building as a seclusion room for a person at risk.

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(New) Section 10-76b-9. Parental notification of physical restraint, seclusion.

- (a) If a person at risk is physically restrained or placed in seclusion, an attempt shall be made to notify the parent on the day of, or within twenty-four hours after, physical restraint or seclusion is used with the child as an emergency intervention to prevent immediate or imminent injury to the person or others, as permitted under sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes. Such notification shall be made by phone, e-mail or other method which may include, but is not limited to, sending a note home with the child. The parent of such child, regardless of whether he or she received such notification, shall be sent a copy of the incident report no later than two business days after the emergency use of physical restraint or seclusion. The incident report shall contain, at a minimum, the information required under subsection (d) of section 46a-152 of the Connecticut General Statutes.
- (b) Where seclusion is included in the IEP of a person at risk, the PPT and the parents shall determine a timeframe and manner of notification of each incident of seclusion.
- (c) The Department of Education shall develop a plain language notice for use in the public schools to advise parents of the laws and regulations concerning the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child's IEP. On and after October 1, 2009, this notice shall be provided to the child's parent at the first PPT meeting following the child's referral for special education. For children who were eligible for special education prior to October 1, 2009, the notice shall be provided to the parent at the first PPT meeting convened after October 1, 2009. The notice shall also be provided to a child's parent at the first PPT meeting at which the use of seclusion as a behavior interventions is included in the child's IEP.

(New) Section 10-76b-10. Required training for providers or assistants on the use of physical restraint or seclusion.

A person at risk may be physically restrained or removed to seclusion only by a provider or assistant who has received training in physical management, physical restraint and seclusion procedures. Providers or assistants shall also be provided with training as described in subdivision (2) of subsection (a) of section 46a-154 of the Connecticut General Statutes.

(New) Section 10-76b-11. Reports of physical restraint, seclusion.

The recording and reporting of instances of physical restraint or seclusion and the compilation of this information shall be in accordance with section 46a-153 of the Connecticut General Statutes. The recording of such instances shall be done on a standardized incident report developed by the Department of Education. Such reports shall be completed no later than the school day following the incident.

EFFECTIVE DATE: Upon filing with the Secretary of the State.

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STATEMENT OF PURPOSE:

(A) Purpose of regulation: To address the use of physical restraint or seclusion in the public schools for children who are or may be eligible for special education consistent with the requirements of Public Act 07-147.

(B) Summary of the main provisions of the regulation: This regulation adopts definitions contained in Public Act 07-147 concerning what is seclusion and restraint and who may perform such; requires that the use of physical restraint or seclusion conforms to the requirements of Public Act 07-147; provides exceptions to the restrictions on the use of physical restraint or seclusion as emergency interventions to allow districts to maintain a safe school setting and to use reasonable physical force consistent with the requirements of Section 53a-18 of the general statutes; details under what conditions seclusion may be used as a behavioral intervention strategy for a child eligible for special education; provides for parental notification in the event physical restraint or seclusion must be used as an emergency intervention, allows the PPT to determine the appropriate method of notification if seclusion is used as a behavioral intervention and provides clarification on how school districts are to notify parents regarding the laws and regulations on the use of restraint and seclusion in the public schools; provides that providers or assistants be provided with training as required pursuant to subdivision (2) of subsection (a) of section 46a-154 of the general statutes; and requires that the Department of Education create a standardized incident report form for reporting incidents of physical restraint or seclusion.

(C) Legal effects of the regulation: The proposed regulation adds to the regulatory requirements for the provision of special education and related services to children who are eligible or whose eligibility for special education is being determined. The development of the IEP, including the conducting of any assessment or evaluation would follow the procedural requirements contained in the federal Individuals with Disabilities Education Act (IDEA) and the state special education regulations.

CERTIFICATION
R-39 REV. 1/77

Be it known that the foregoing:

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Section 10-76b(a) of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on July 15, 2008 19____, of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on 19 day of August ~~18~~ 2008

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The _____ day of _____ 19____.

In Witness Whereof:	DATE <u>3/11/09</u>	SIGNED (Head of Board, Agency or Commission) <i>Dr. Dan Sauer</i>	OFFICIAL TITLE, DULY AUTHORIZED Commissioner of Education
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Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	SIGNED <i>William B. Attkisson</i>	DATE <u>3/24/09</u>	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL
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Approved

Disapproved

Disapproved in part, (Indicate Section Numbers disapproved only)

Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State.)	BY
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INSTRUCTIONS

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.