



# OLR RESEARCH REPORT

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## **USE OF RESTRAINT AND SECLUSION IN CONNECTICUT PUBLIC SCHOOLS**

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You asked for a summary of state law and regulations governing restraint and seclusion of students in Connecticut public schools and to provide available information on the prevalence of these measures.

Because state law addresses restraint and seclusion regarding special education students, this report focuses on that population.

### **SUMMARY**

State law prohibits the use of:

1. physical restraint on public school students receiving or being evaluated for special education services (i.e., "special education student") unless used in emergency situations to avoid imminent injury to the student or others, and
2. seclusion on public school special education students unless used in emergency situations or if it is specified as an option in a student's special education individualized education program (IEP).

The law requires districts to inform parents early in the special education evaluation process of their rights and the student's rights under state law regarding restraint and seclusion. It also requires local and regional school boards to notify a special education student's parents or guardian each time a student is placed in physical restraint or seclusion.

The boards also must keep records and compile annual reports of each instance and the nature of the underlying emergency that caused the use, and the State Board of Education (SBE) can review the annual compilation of each board of education and may produce an annual summary report on the frequency of use of restraint and seclusion on special education children.

The law also applies to regional education service center programs and private special education programs.

The law required the State Department of Education (SDE) to issue regulations, which became effective May 7, 2009, to further detail restraint and seclusion requirements.

Preliminary data collected by SDE for the 2009-2010 school year shows there were 8,511 incidents of restraint and 9,823 of emergency seclusion in Connecticut. SDE officials note that SDE staff has not audited or reviewed this data. Furthermore, it was not reported in a consistent manner and as such it is difficult to draw conclusions. SDE indicated that school districts gave it reasons to believe there is over-reporting and under-reporting of incidents in the data. SDE is planning on revising the survey instrument to gain clearer and more consistent information in the future.

SDE estimates that for the 2010-11 school year there were 62,016 identified special education students in public schools and 68,165 special education student in all settings. All settings include children placed at regional education service center (RESC) programs and approved private special education programs (APSEP).

This report addresses the statutory and regulatory limits and requirements separately.

## **DEFINITIONS**

With some exceptions, the law defines “physical restraint” as any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs, or head. The definition does not include helmets, mitts, and similar devices used to prevent special education students from hurting themselves if their use is documented in their IEPs.

With some exceptions, “seclusion” is defined as the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving. The law permits involuntary seclusion (1) in accordance with a student's IEP or (2) in an emergency to prevent immediate or imminent injury to the person or others, so long as it is the least restrictive alternative (CGS §§ [46a-150](#) & [46a-152](#)).

## **STATUTORY LIMITS AND REQUIREMENTS**

PA 07-147 (“the act” extended to all special education students the limits on restraint and seclusion that existed for special education students at regional educational service centers and private institutions and facilities that provide special education under contract with school boards. There were also previous protections for children in the care of the departments of Children and Families, Mental Health and Addiction Services, Developmental Services, and Public Health ([CGS § 46a-152](#)).

The act prohibits the use of:

1. physical restraint on special education students unless used in emergency situations to avoid imminent injury to the student or to others, and
2. seclusion on special education students unless used in emergency situations or if it is specified as an option in a student’s IEP and is the least restrictive option.

It also applied the earlier restrictions to all public school special education students. These (1) banned the use of life-threatening physical restraint and (2) limited use of medication that affects the central nervous system except in an emergency to prevent imminent injury or as part of a person’s medical support or educational plan (CGS §§ [46a-150](#) to - [152](#)).

## ***Parental Notification Requirements***

The act requires local and regional school boards to notify a special education student's parents or guardian of each time the student is placed in physical restraint or seclusion (CGS § [46a-152](#)). It requires all boards of education to inform parents and guardians, and surrogate parent or student of the laws and the parents' and student's rights regarding restraint and seclusion at the first planning and placement team meeting (PPT) involving the student's IEP (CGS § [10-76d\(a\)\(8\)\(b\)](#)). PPTs are meetings of the student's parents, teachers, and special education staff (special education teachers, school psychologists, and other specialists) to develop the student's IEP.

## ***Additional Reporting Requirements***

Each local or regional board of education must record each incident where physical restraint or seclusion is used on a special education student in an emergency situation. The board must compile the information annually and the SBE may review the annual compilation. The SBE may issue an annual summary report identifying the frequency of emergency physical restraint or seclusion.

If restraint or seclusion results in a physical injury, the local or regional board may report it to the SBE. The SBE must report any incident of serious injury or death to the director of the Office of Protection and Advocacy for Persons with Disabilities, and if appropriate, the child advocate (CGS § [46a-153](#)).

## **REGULATIONS**

### ***Overview***

State regulations regarding restraint and seclusion provide more specific direction regarding a number of important aspects of this issue. This includes how and when to notify parents after the emergency that triggered the restraint or seclusion. It also includes staff training requirements, steps to minimizing the use of seclusion, limits on the length of time a student can be in seclusion, and seclusion room physical requirements.

The regulations state a provider or staff assistant is prohibited from using physical restraint or seclusion on a special education student unless done in conformity with state law and the regulations (Conn. Agency Regs. § 10-76b-6). The regulations became effective May 7, 2009.

### ***Parent Notification and Rights***

The regulations require a board of education to attempt to notify parents on the day of, or within 24-hours after, the emergency intervention using restraint or seclusion to prevent imminent injury to the student or others. The notification must be made by phone, e-mail, sending a note home with the student, or other method. Regardless of whether the parent has received this initial notice, the board must send him or her a copy of the incident report no later than two business days after the emergency use of restraint or seclusion.

The report must contain, at a minimum:

1. the nature of the emergency;
2. what steps, including verbal calming, were taken to prevent the emergency if there were indications that such an emergency would arise; and
3. a detailed description of the nature of the restraint or seclusion, including duration and effect on the student's medical, behavioral support or educational plan (Conn Agency Regs. § 10-76b-9(a)).

When seclusion is part of the IEP, the PPT and parents must determine a timetable and method of notification for each incident.

SDE is required to provide a plain language parental notice for school boards to use to advise parents of the laws and regulations concerning restraint and seclusion. On and after October 1, 2009, this notice must be provided to all parents at their first PPT meeting convened after that date. It must also be provided to parents at the first PPT meeting at which the use of seclusion as an intervention is included in a student's IEP (link to this document:

[www.sde.ct.gov/sde/lib/sde/pdf/pressroom/parental\\_notification\\_tri\\_fold.pdf](http://www.sde.ct.gov/sde/lib/sde/pdf/pressroom/parental_notification_tri_fold.pdf)).

### ***Disagreement Over Seclusion in an IEP***

In the event a parent disagrees with the use of seclusion in his or her child's IEP, the parent has the right to the hearing and appeals process provided in state special education law (Conn. Agency Regs. § 10-76b-8(c)).

### ***Required Staff Training***

Special education students can be restrained or removed to seclusion only by a provider or assistant who has been trained in physical management, physical restraint, and seclusion procedures (Conn. Agency Regs. § 10-76b-10).

### ***Seclusion***

A PPT's decision to include seclusion in a special education student's IEP must be based on a functional assessment of behavior and other relevant information, and the PPT must indicate why it is an appropriate behavior intervention. This assessment and other information must be included in the IEP as the basis for including seclusion.

The IEP must also specify:

1. the location of the seclusion, which may be more than one place in the school;
2. maximum duration of any period of seclusion;
3. maximum number of times during a single day a student may be in seclusion;
4. the frequency of monitoring required for the student while in seclusion; and
5. any other relevant issue the PPT agrees to.

The period of seclusion must (1) be limited to the time needed to allow the student to compose him or herself and return to class and (2) not exceed one hour. Seclusion may continue beyond one hour only with written authorization of the principal or his or her designee if the continuation is necessary to prevent imminent injury.

When use of seclusion as an intervention is repeated more than two times in any school quarter, the PPT:

1. must convene to review the use of seclusion in the IEP,
2. may consider additional evaluations or assessments, and
3. may revise the IEP as appropriate.

At least annually, the PPT must meet to review whether the continued use of seclusion for the student is still appropriate.

The PPT must inquire as to whether the student has any known medical or psychological conditions that would be adversely affected by seclusion, and a student with any such condition may not be placed in seclusion.

### ***Seclusion Monitoring***

A student in seclusion must be monitored as described in his or her IEP by a provider or assistant specifically trained in physical management, physical restraint and seclusion procedures, including training to recognize health and safety issues for children placed in seclusion.

### ***Seclusion Room Requirements***

The regulations set numerous requirements for the rooms to be used for seclusion. The seclusion rooms, in part, must (1) be of appropriate size to the student's chronological and developmental age, (2) be equipped with heating, lighting, ventilation, and cooling systems comparable with the rest of the school, (3) be free of objects that could pose a danger to the student, (4) only be permitted to have a door lock if the lock is equipped with a device that automatically disengages the lock in an emergency, and (5) have an unbreakable observation window located in a wall or door to permit visual monitoring of the student and any provider or assistant in the room. The unbreakable window provision does not apply if it is necessary to clear and use a classroom or other school room as a seclusion room (Conn. Agencies Regs. § 10-76b-8).

## **Reporting Requirements**

Each local or regional board of education must record each incident where physical restraint or seclusion is used on a special education student in an emergency situation. The board must compile the information annually and the SBE may review the annual compilation. The regulations specify that the reports must be done on a standardized SDE developed incident form and must be completed no later than the school day following the incident.

## **SDE RESTRAINT AND SECLUSION DATA**

In the summer of 2010, SDE collected preliminary data for the 2009-2010 school year that shows there were 8,511 incidents of restraint and 9,823 of emergency seclusion. SDE officials note that SDE staff has not audited or reviewed this data and they caution against using the data to draw conclusions. Also, they note that the data is incident based, which means one student could produce a number of incidents and each incident is registered separately. SDE is planning on revising the survey instrument to gain clearer and more consistent information in the future.

The data comes from local and regional school boards, RESC programs and APSEP. APSEPs are private education placements of special education students, often done to provide more specialized or individualized care for the student.

SDE provided percentage breakdowns of emergency restraints and seclusions in public schools and in RESC or APSEP settings.

### **Statewide Emergency Restraints (8,511 total incidents)**

- 69.9% of emergency restraints were reported in RESC and APSEP settings
- 30.1% of emergency restraints reported in public school settings

### **Statewide Emergency Seclusions (9,823 total incidents)**

- 87.9% of emergency seclusions were reported in RESC and APSEP settings.
- 12.1% of emergency seclusions were reported in public school settings.

Source: SDE

The public school parental notification rate was 85.1% statewide, but the rates ranged from 0% to 100% across school districts. The RESC parental notification rate was 42.2% statewide, with a range of 10% to 95%. SDE did not collect APSEP parental notifications. A parental notification requirement has existed for many years in the APSEP policies, procedures and standards manual and compliance is monitored on a cyclical basis.

### ***Possible Reasons for Over Reporting and Under Reporting***

SDE noted several other concerns about the data:

1. As required by law, the intended data concerning emergency use of seclusion. But several public schools reported the inability to distinguish between emergency use and IEP approved (non-emergency) use. Therefore, the data may not accurately reflect the intention of the statute and could reflect over-reporting.
2. While the law requires all public schools to report, several indicated they had not properly documented the emergency use of restraints and seclusions and consequently could not report any data to SDE. This contributes to under-reporting.
3. The law addresses restraint and seclusion for special education students, but several districts reported they did not have a way to distinguish between data for special education students and non-special education students. Therefore, some data may not accurately reflect the intention of the statute and may contribute to over-reporting.

Data for the 2010-2011 school year was not collected. SDE plans to collect data for the 2011-2012 school year with revised survey questions.

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