



Seclusion and Restraint in North Carolina Schools

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Contact us for assistance or to request this information in an alternate format.

Disability Rights North Carolina
3724 National Drive, Suite 100
Raleigh, North Carolina 27612
www.disabilityrightsn.org

919-856-2195
877-235-4210 (toll free)
888-268-5535 (TTY)
919-856-2244 (fax)

Seclusion and Time-out

What does it mean?

Seclusion: Confining a student alone in an enclosed space in which the student is either physically prevented from leaving by locking the exits, or not capable of leaving because of physical or intellectual capacity. Seclusion is regulated by North Carolina law.

Time-out: Separating a student from other students for a limited period of time while monitored by an adult. Time-out is not restricted or regulated by North Carolina law.

Isolation: Confining a student in an enclosed space in which the student is not prevented from leaving. Isolation is regulated by North Carolina law.

See N.C. Gen. Stat. § 115C-391.1(b), (e)-(g)

What is seclusion?

Seclusion means confining a student alone in an enclosed space in which the student is prevented from leaving. For example:

- A student is locked in a room
- A student is put in a room and a teacher holds the door shut
- A student is put in a room and a teacher blocks the doorway
- A student who uses a wheelchair is put in a room and cannot leave the room because he cannot push his own wheelchair out
- A student is put in a room and does not understand that she can leave

Is seclusion different from time-out?

Yes. Time-out just means the student is separated from other students. For example:

- A student is put in the hallway
- A student is moved to a desk in the back of the classroom, while the other students are in the front of the classroom

The school may call a seclusion room different things—a time-out room; a cool-down space; a turn-around room. The name of the space does not matter. The key is whether the student is prevented from leaving the room. If so, it is seclusion.

Is seclusion different from isolation?

Yes. If the student is prevented from leaving an enclosed space, it is seclusion. If the student is not prevented from leaving the space, it is isolation.

When can the school staff seclude my student?

Staff may use seclusion:

- When reasonably necessary to prevent injury to

themselves or others

- As written in the student's IEP, 504 plan, or Behavior Intervention Plan

When are school staff not permitted to seclude my student?

- Staff may not use seclusion solely as a disciplinary measure or punishment.
- Staff must release the student when the behaviors that led to seclusion have ended, or as otherwise written in the student's IEP or 504 plan.

What type of seclusion space is allowed?

- It must be appropriately lighted, ventilated, and heated or cooled
- It cannot contain any objects that unreasonably expose the student or others to harm (such as metal objects, sharp edges, ropes, toilets, heavy doors, household cleaners).
- The space must be approved by the school system for use as a seclusion space.
- The student must be monitored by an adult who is able to see and hear the student at all times.

Appropriate seclusion spaces

- Large room constructed within a classroom
- Empty classroom

Inappropriate seclusion spaces

- Small room where the student cannot stand up or move
- A bathroom
- A closet
- A room with no window in the door, or a window that is blacked out with paint, paper, etc.

Can the seclusion space be locked?

Yes, but the lock may only engage when a key, knob, handle or button is held in position by a person. If the lock is electric, it must automatically disengage when the fire alarm is activated.

How long can my student be placed in seclusion?

There is no set limit on the length of time a student can be placed in seclusion. School staff must release the student when the behaviors that led to seclusion have ended, or as otherwise written in the student's IEP or 504 plan.

Will the school notify me when they use seclusion on my student?

By law, the school is only required to notify parents of a prohibited use of seclusion (meaning seclusion used for discipline or punishment), seclusion that lasts longer than 10 minutes, or seclusion that lasts longer than the time allowed in the student's IEP or behavior intervention plan.

In these cases, school staff must notify you of the incident by the end of the following work

day. Within 30 days, the school must give you a written incident report that includes:

- The date, time, nature and duration of the seclusion;
- The events leading up to the incident, including other interventions staff tried;
- A full description of any injuries to the student; and
- The name of a school employee you may contact with questions.

Although notice is only required in the situations listed above, it is best practice for the school to provide you with a report every time seclusion is used on your student.

Can I demand that the school not use seclusion on my student?

No. The law does not require school staff to have parental consent to use seclusion.

You can advocate for the use of seclusion to be as rare as possible. Tips for advocacy start on page 10.

THE KEYS TO SECLUSION

- Occurs in an enclosed space
- Alone in space
- Prevented from leaving space
- Space may be locked
- Must be reasonably necessary
- Must be monitored—a staff member must be able to see and hear the student at all times
- Must be a safe space that is approved by the school system
- Must end as soon as the behavior that led to seclusion ends, or otherwise as written in the IEP/BIP



Restraint

What does it mean?

Physical restraint:

Using physical force to keep a student from moving all or part of his/her body freely. Physical restraint is regulated by North Carolina law.

Mechanical

restraint: Using a device or material that the student cannot easily remove, such as handcuffs, a harness, or a straitjacket, to keep the student from moving freely. Mechanical restraint is also regulated by North Carolina law.

See N.C. Gen. Stat. § 115C-391.1(b)-(d)

What is physical restraint?

Physical restraint means using the hands or body to prevent the student from moving freely. Schools use different phrases for physical restraint:

- Physical hold
- Therapeutic hold
- Child control

When can the school staff physically restrain my student?

Staff may use physical restraint when reasonably necessary to:

- Obtain possession of a weapon or dangerous object
- Maintain order, or stop or prevent a fight
- Prevent injury to themselves, or others
- Escort a student safely from one place to another
- Prevent property destruction

Staff may also use physical restraint as written in the student's IEP, 504 plan, or Behavior Intervention Plan

When are school staff not permitted to physically restrain my student?

Staff may not use physical restraint solely as a disciplinary measure or punishment.

What types of physical restraint are allowed?

North Carolina does not limit the use of certain restraint techniques. This means staff are allowed to use "prone restraint," a dangerous technique in which a student is held in a face-down position. Contact Disability Rights NC for more information about advocating to stop the use of prone restraint.

What training program should I request the school use?

The characteristics of a good training program include:

- Emphasis on de-escalation and prevention techniques, with restraint as a last resort
- Requirement to de-brief or process with the student after using restraint

- Restraints are in standing or sitting positions, not lying on the floor
- Restraints do not put pressure on the student's chest or torso

Must school staff be certified in safe restraint techniques?

No. The school system must offer training in de-escalation and proper restraint techniques to staff. Staff are not required to be certified before using physical restraint. You can ask whether your student's teacher is certified.

What is mechanical restraint?

Mechanical restraint means using an object or device to prevent the student from moving freely. For example:

- A seatbelt on the bus
- A lap belt for a student in a wheelchair
- A Rifton chair or other desk with straps, belts or a tray
- Handcuffs

When can the school staff mechanically restrain my student?

Staff may use mechanical restraint:

- When properly used as an assistive technology device included in the student's IEP, 504 plan, or Behavior Intervention Plan, or as prescribed by a medical or related service provider
- When using seatbelts or safety restraints to secure the student during transportation
- As reasonably necessary to obtain possession of a weapon or other dangerous object
- As reasonably necessary to prevent injury to themselves, other staff or students (including the student being restrained)
- A law enforcement officer may use handcuffs as part of law enforcement duties

When are school staff not permitted to mechanically restrain my student?

Staff may not use mechanical restraint solely as a disciplinary measure or punishment, or for the convenience of staff. Staff also may not tie or tape down the student.

Although staff can use mechanical restraint to prevent injury, it should not be used as a regular means of managing a student's behavior or as a substitute for a behavior program.

Mechanical restraint that is usually considered assistive technology

Includes:

- Straps and lap belts in a wheelchair
- A Rifton chair when used to help maintain posture

Mechanical restraint that is usually not considered appropriate assistive technology includes:

- A gait belt used to keep the student with staff
- A Rifton chair used for any purpose other than to maintain posture
- Straps or lap belts in a wheelchair that are used improperly

How long can my student be placed in restraint?

There is no set limit on the length of time a student can be placed in restraint. School staff must release the student when the behaviors that led to the restraint have ended.

Will the school notify me when they use restraint on my student?

By law, the school is only required to notify parents of a prohibited use of mechanical restraint, or a physical restraint that results in observable physical injury to the student.

In these cases, school staff must notify you of the incident by the end of the following work day. Within 30 days, the school must give you a written incident report that includes:

- The date, time, nature and duration of the restraint;
- The events leading up to the incident, including other interventions staff tried;
- A full description of any injuries to the student; and
- The name of a school employee you may contact with questions.

Although notice is only required in the situations listed above, it is best practice for the school to provide you with a report every time restraint is used on your student.

Can I demand that the school not use restraint on my student?

No. The law does not require school staff to have parental consent to use physical or mechanical restraint.

You can advocate for the use of restraint to be as rare as possible. Tips for advocacy start on page 10.

THE KEYS TO RESTRAINT

- Physical hold, or item or device
- Prevented from moving or accessing part of body
- Must be reasonably necessary or as assistive technology included in IEP
- Must end as soon as the behavior that led to restraint ends



Aversives

See N.C. Gen. Stat. § 115C-391.1(b), (h)

What is an aversive?

An aversive is a behavior modification program that causes or can be reasonably expected to cause:

- Significant physical harm (such as tissue damage or physical illness) to the student
- Serious, long-term psychological impairment to the student
- Obvious repulsion to an observer

What are examples of aversives?

Aversive techniques include:

- Electric shock
- Extremely loud noises
- Forcing a foul substance, such as hot sauce, into the student's mouth, eyes, ears, nose or skin
- Placing the student in a tub of cold water or shower
- Slapping, pinching or hitting the student
- Pulling the student's hair
- Blindfolding the student
- Unreasonably withholding food
- Denying reasonable access to the bathroom
- Forcing the student to eat his/her own vomit

When can the school staff use aversives on my student?

Never. The use of aversive procedures is prohibited by law.

How will I know if the school uses an aversive?

By law, the school is required to notify parents of any use of aversive procedures.

The school must notify you of the incident by the end of the following work day.

Within 30 days, the school must give you a written incident report that includes:

- The date, time, nature and duration of the aversive;
- The events leading up to the incident, including other interventions staff tried;
- A full description of any injuries to the student; and
- The name of a school employee you may contact with questions.

School Resource Officer (SRO)

Does the law about seclusion and restraint apply to SROs?

No. SROs may use seclusion or restraint in carrying out their law enforcement duties. The law specifically exempts law enforcement officers from the its restrictions.

Does the SRO have training to work with students with disabilities?

Most SROs have some basic, general training about people with disabilities. Most SROs do not receive in-depth training about specific disabilities. The school does not train the SRO on your student's individual needs and characteristics.

Does the SRO know about my student's IEP or BIP?

Probably not. There are laws that protect your student's privacy, including information about his/her IEP. Because of these laws, the school may not want to share your student's IEP with the SRO without your permission.

The SRO handcuffed my student. What do I do?

You can contact the police department or sheriff's office that employs the SRO and:

- File a complaint
- Ask about the department's policy on the use of reasonable force
- Ask about the department's policy on SROs and their role in criminal and non-criminal activities on school property. Some policies prohibit the SRO from participating in non-criminal, disciplinary matters.

You can ask the school system to investigate the incident, but only related to school staff members' responses and behavior—not the SRO's.

What is an SRO?

A law enforcement officer who works in a school.

Most SROs are not employed by the school system. They work for the local police department or sheriff.

Avoiding Seclusion and Restraint

The school system has the right to use seclusion or restraint in an emergency. You can take proactive steps to make the need for such interventions as rare as possible.

Use the IEP process to develop a positive, proactive Behavior Intervention Plan (BIP).

- Offer other strategies to address your student's undesired behaviors. Think about the things you do at home. Consult with other professionals who work with your student (therapists, CAP workers, psychiatrists, etc.). It may be helpful to bring documentation from these professional to the IEP meeting to share with the Team.
- Advocate for the BIP to include detailed documentation about your student's behaviors, the strategies used to address the behaviors, and the results of those strategies. Ask for the documentation to include notice to you any time emergency seclusion or restraint is used.
- Advocate to keep seclusion and restraint out of the BIP. A BIP is meant to include positive, evidence-based behavior practices that teach the student appropriate behaviors. Seclusion and restraint are not evidence-based, positive practices. They are emergency interventions of last resort. Remember that the BIP is part of the IEP and the school system is required to implement the interventions listed in the BIP—including seclusion or restraint!
- If the IEP Team insists on including seclusion and restraint in the BIP, ask that your objection to the use of these interventions and to including them in the BIP be documented in the minutes and, if possible, on the BIP or IEP itself.
- Read more about Functional Behavioral Assessments, BIPs and Positive Behavioral Interventions and Supports (PBIS) beginning on page 12.

Take care in developing a crisis plan.

The IEP Team might want to develop a crisis plan for your student that details the steps to be taken if a true emergency occurs (e.g. if your student's behavior poses an imminent threat to the safety of himself or others). In developing this plan, consider the following:

- Is the plan truly a crisis plan, or is it a BIP? If it is a BIP, advocate to keep seclusion and restraint out of the plan.
- If the plan is truly a crisis plan, advocate that seclusion and restraint not be included in the plan. If these interventions are included, advocate for them to be an absolute last resort that is used only when other, less restrictive interventions have failed.

Provide the IEP Team with any information about why seclusion or restraint is unsafe for your student.

- For example, if your child has a health condition that makes restraint dangerous for him/her, ask your medical professional for documentation about this condition and provide it to the school.
- If your child was abused in the past, and seclusion or restraint is likely to re-traumatize the student, ask the therapist or psychiatrist for documentation and provide it to the school.
- Ask these treating professional to suggest safe, appropriate alternatives to address the student's behavior.

Educate yourself about seclusion practices in your student's school.

- If your school has a seclusion space, ask to see the space. Look for dangerous objects in the room or problems with the door's locking mechanism.
- Advocate for the space to be used for time-out rather than seclusion.
- Advocate for your student to learn how to remove himself to the seclusion space in order to take a time-out and calm down.
- Ask the school to consider creating a "comfort room" or "sensory room"—a space that is calming and provides pleasant sights, sounds, smells and/or physical stimuli—where the student can relax and calm down before the situation escalates.

Educate yourself about restraint practices in your student's school.

- Ask which school staff are trained in de-escalation and restraint techniques.
- Advocate to have all the staff who work with your student trained in de-escalation and PBIS.
- Learn about the restraint techniques in your school system's training curriculum.
- Ask to attend a training session on your school's restraint techniques. Some school systems will let parents attend trainings for free or a reduced price.

Educate the SRO, your student and yourself.

- Introduce your student to the SRO before there is an emergency or confrontation. Teach your student how to respond appropriately to a law enforcement officer.
- Consider sharing information about your student's disability and unique needs with the SRO. Many SROs will be willing to learn more about your student, but remember that the SRO is not required to meet with you.
- Contact the law enforcement agency that employs the SRO and ask about the SRO's role in criminal activity and school disciplinary matters.

Functional Behavior Assessment and Behavior Intervention Plan

Why create a Behavior Intervention Plan?

The law requires the IEP Team to review your student's behavior and determine whether it gets in the way of his/her learning or the learning of others. If your student's IEP Team identifies behavioral difficulties, the behavior challenges are evaluated and a Behavior Intervention Plan is put into place to help the student, the family and the school respond to the challenging behaviors as they happen. A good behavior intervention plan begins with a good Functional Behavior Assessment.

What is the Functional Behavior Assessment?

A Functional Behavior Assessment (or FBA) is a tool used to help identify and understand a student's behavior. A Functional Behavior Assessment should:

- Describe the undesired behavior. For example, "Mary throws her books on the floor."
- Predict when and where the behavior will occur. For example, "Mary throws her books when it is time for the class to work independently on their math assignments. This behavior usually happens as soon as it is time for the classwork to begin."
- Identify possible reasons the student may be having behavior issues. For example, "The IEP Team reviewed Mary's math grades and her behaviors. We believe that Mary uses this behavior to avoid working on math, which she struggles with. Mary believes that if she gets in trouble, she can avoid her math assignment."
- Develop intervention strategies. For example, "The IEP Team will create a plan to reward Mary for each math lesson where she does not throw her books. Mary will also begin attending resource classes for extra help in math."

To get all of this accomplished, the team needs a lot of information or data on your student's behavior. This data should come from many sources, including observation of your student and a complete review of your student's record.

How do I get an FBA?

- The school must conduct an FBA if there is a change in your student's educational placement because of his/her behavior. (See Disability Rights NC's special education manual, Parents Together, for more on this topic.)
- You may request an FBA at any time. Remember to make your request in writing.

What is the Behavior Intervention Plan?

A Behavior Intervention Plan (or BIP) is a written plan that can support your student, and

should be based on the information gathered in the FBA. A BIP should be positive. It should be focused on giving your student skills that he/she needs to interact successfully in school, not on punishing him/her for undesired behavior. The point of the FBA and the BIP is to support children who really need it, so that they can have positive school experiences and hopefully overcome behavior problems.

The BIP should do more than target behaviors that are a problem. It should identify positive behaviors that can replace those negative ones. For example, an appropriate behavior goal for Mary might be that “Mary will ask the teacher for help with her math assignments.” This positive behavior would replace the negative behavior of throwing books on the floor.

The BIP should include a reward for replacing the negative behavior with a positive one. It is important to include your student in selecting a reward. Your student is more likely to work on positive behavior in order to earn a desired reward. Rewards might include playing basketball, using a computer, individual attention from an adult, or anything else your student is willing to work towards.

You might consider using a system with multiple rewards. For example, Mary might earn a small prize at school each time she asks for help instead of throwing her books. She might earn a large prize at home at the end of the week if she has not thrown her books during the whole week. Reinforcing your student’s improved behavior at home and at school can motivate him to work even harder.

The BIP should also include a system for tracking your student’s behavior and whether the BIP is successful. The IEP Team might use emails to parents, behavior charts, or sticker sheets to collect data on any improvements in the targeted behaviors.

Remember that the BIP is part of your student’s IEP. It must be followed by the school staff, and it should be reviewed and changed as needed.

What is Positive Behavioral Interventions and Supports?

Positive Behavioral Interventions and Supports (PBIS) is a system for teaching and reinforcing appropriate behaviors. School staff members teach students ways to replace their inappropriate actions with more appropriate behavior.

Compared with other schools, those that implement PBIS show increased student achievement, decreased disciplinary referrals and are safer.

You can contact the NC Department of Public Instruction for more information about PBIS and to find a PBIS consultant in your area.

Responding to the Use of Seclusion and Restraint

Being put in seclusion or restraint can be stressful for your student and for you—especially if you do not know much about what happened, or if you believe the use of these interventions was inappropriate. The following are strategies you can use after your student has been secluded or restrained.

Request an IEP Team meeting to amend the student’s BIP.

- Develop a BIP if your student does not have one.
- Add strategies to the BIP to help the student de-escalate and avoid the use of seclusion or restraint.

Document any injuries to your student.

Read more about responding to unexplained injuries on page 16.

Request an internal investigation.

Ask the school system to investigate the incident and determine whether school staff violated any laws or school system policies. For a sample letter requesting an investigation, see page 18.

File a grievance with the school system.

- Every school system has a grievance procedure. Typically, you can contact the school principal. If you are not satisfied with the principal’s response, you can contact the superintendent of the school system. If you are not satisfied with the superintendent’s response, you can contact the board of education.
- Put your grievance in writing:
 - ◇ Explain what you are grieving (the use of seclusion or restraint)
 - ◇ Present the relevant facts and include any rules you believe the school failed to follow
 - ◇ Explain why you are grieving and how you would like the grievance resolved
 - ◇ Be as clear and concise as possible.
- Keep a copy for your records.
- Be sure to note any time limits for your response or for contacting the next person in the process.

File a grievance with the law enforcement agency that employs the SRO.

Include the same information as the school system grievance. If you are familiar with the law enforcement agency’s policies, and believe there was a violation of those policies,

include that information.

Use the IEP process to resolve disagreements.

If your disagreement involves the contents of your student's IEP or BIP, or any decision made by the student's IEP Team, you can use the IDEA and IEP process to resolve your disagreement. This includes:

- Requesting a facilitated IEP meeting
- Filing a complaint with the NC Department of Public Instruction (DPI)
- Requesting mediation through DPI
- Filing a due process complaint in the Office of Administrative Hearings (OAH)

File an OCR complaint.

The Office for Civil Rights in the U.S. Department of Education can investigate complaints from parents in certain situations. Regarding seclusion and restraint, the OCR can investigate allegations that the use of these interventions was disability-based discrimination or violated certain federal laws.

For more information, visit <http://www2.ed.gov/about/offices/list/ocr/know.html>.

Contact an advocacy organization for more information or support.

Physical Injuries and Student Safety

Your Response to Unexplained Bumps, Bruises or Cuts

Students may come home from school with unexplained injuries. Sometimes a bruise is not suspicious—children fall, bump into things, and have accidents on the playground. Sometimes, a bruise or injury is a sign of something more—seclusion, restraint or abuse. How can you respond to unexplained injuries?

Ask your student about the injury.

Document the injury.

- Take pictures
- Draw an outline of a human body on a piece of paper and indicate where the injury is located
- Describe the size, shape, color or other characteristics

Meet with your student's teacher.

- Talk about the class's activities that day. Could your student have been injured during recess or Physical Education? Did the student bump into furniture?
- Talk about your student's relationship with others in the classroom. Could another student have caused the injury?
- Ask if the teacher noticed the bruise or cut on your student. Did the teacher document the injury? Did the teacher tell anyone about the injury? What does the teacher think caused the injury?
- Ask if other teachers or school staff mentioned the injury to the teacher. What information did they share?
- Ask for a copy of any incident reports or notes the teacher made about the injury.

Follow the school student/parent grievance procedure.

Every school system has a grievance procedure. Your student's school handbook should explain the procedure. You can also find it on your school system's website or by asking the school principal.

In general, the process is to:

- Contact the principal to discuss your concerns.
- If you are not satisfied with the principal's response, you can contact the superintendent of the school system.
- If you are not satisfied with the superintendent's response, you can contact the board of education.

Ask for a formal investigation of the injury.

Be strategic in requesting a formal investigation! Carefully consider the information you have learned about your student's injury. Consider whether an investigation might uncover new or different information. If not, it may not help to request an investigation into this particular situation.

- If you suspect that a student or staff member caused the injury, ask the school principal to investigate the matter.
- If you suspect that a special education staff member caused the injury, ask the school system's Exceptional Children Program director to investigate the matter.
- If you suspect that the injury is a result of the use of seclusion or restraint, ask the school system's Exceptional Children Program director to investigate the matter.
- The school system should share the findings of the investigation with you. But, you do not have the right to know if the school took personnel action against a staff member (i.e. whether a staff member was disciplined). But, you do not have the right to know if another student was disciplined as a result of the investigation.

A sample letter for requesting an investigation is on page 18.

Use the IEP or 504 Plan process to advocate for your student's safety.

Is the cause of the injury still unknown?

- Incorporate close adult supervision into the IEP or 504 Plan.
- Incorporate daily checks for injury into the IEP or 504 Plan. Make this part of your daily routine at home, too.

Was your student injured by another student?

- Ask your school system's bullying coordinator to attend the meeting.
- Incorporate close adult supervision into the IEP or 504 Plan.
- Incorporate social skills or self-advocacy training into the IEP or 504 Plan.

Was your student injured by a piece of equipment or Assistive Technology?

- Ask your school's physical therapist or occupational therapist to attend the meeting.
- Incorporate periodic equipment checks and adjustments by a therapist into the IEP or 504 Plan.

Was your student injured during seclusion or restraint?

- Improve your student's Behavior Intervention Plan by adding more strategies and Positive Behavior Supports.
- Incorporate related services, such as counseling, into the IEP.
- Incorporate social skills training into the IEP.
- Ask that all staff members involved with your student become certified in a de-escalation and restraint curriculum.
- Ask that all staff members involved with your student learn about the student's BIP.

Sample Letter to Request Internal Investigation

(Date)

(Principal) (Name of school)
(Address of school) Re: (Child's name)

Dear (Principal),

I am the parent of (child's name). I have been informed that school staff recently used restraint on my child. I am very concerned about this restraint, especially because (it is my understanding that two adult staff members sat on my child in order to restrain him). I am also concerned that (child's) Behavior Intervention Plan was not implemented during this incident. Therefore, I am writing to request that (school system) conduct an investigation into the use of restraint on (child) on (date/dates), and that a copy of the investigation be provided to me.

Please advise me about the status of this request within 10 days of the date of this letter. I look forward to hearing from you soon.

Thank you for your help.

Sincerely,

(Your name)

cc: (Exceptional Children's Director, your school system)