

***Frequently Asked Questions about the
Use of Physical Restraint and Seclusion in Public Schools
under Section 118.305, Wis. Stats.***

Revised September 9, 2021

Section 118.305 of the Wisconsin Statutes addressing the use of physical restraint and seclusion in schools was originally created by the legislature in 2011 Wisconsin Act 125. The law prohibits the use of seclusion or physical restraint by school staff except in very limited circumstances where a student's behavior presents a clear, present, and imminent risk to the physical safety of students and/or school staff and it is the least restrictive intervention feasible. This law applies to all students, both with and without disabilities.

The legislature made revisions to the law through 2019 Wisconsin Act 118, which went into effect on March 4, 2020. Consequently, we have updated this frequently asked question document to reflect these changes.

Definitions & Coverage

- **What does “at school” mean?** The term “at school” refers to the day-to-day operations of a school and any school-related activities. This would include, for example, field trips, sporting events, after school clubs and the transport of students. The definition of “school” in § 118.305 applies to public schools including charter schools, and also applies to private schools participating in the Special Needs Scholarship Program.
- **How does the law define the term “covered individual?”** Covered individuals include any person employed by the school district, independent contractors and their employees providing services for the benefit of the school district, and student teachers working under the supervision of a district employee. School board/governing body members and law enforcement officials are expressly excluded from the definition of covered individuals under § 118.305.
- **How does the law define the term “incident?”** An incident is an occurrence of a covered individual or a law enforcement officer using seclusion or physical restraint on a student. It is considered one incident if, immediately following the use of seclusion or physical restraint on a student, the student's behavior presents a clear, present, and imminent risk to the physical safety of the student or others and seclusion or physical restraint is immediately resumed.
- **Does the law apply to public school 3K and 4K programs?** Yes, if the 3K or 4K program is operated by a school district, § 118.305 applies. This includes parental notification, debriefing, reporting, documentation, and staff training requirements.
- **Does the law apply to private schools?** Yes, in some circumstances. The law applies to all private schools that participate in the [Special Needs Scholarship Program](#). The law also applies to private schools where public school IEP teams

place students. When an IEP team places a student at a private school, the public school districts remain responsible for the provision of a free, appropriate public education (FAPE) by ensuring IEPs are being implemented.

- **Under what limited circumstances does the law permit school staff to use seclusion or physical restraint with a student?** The law permits the use of physical restraint or seclusion only in circumstances where a student's behavior presents a clear, present, and imminent risk to the physical safety of the student or others, and physical restraint or seclusion is the least restrictive intervention feasible.
- **Does the law allow the use of physical restraint or seclusion in the case of property damage?** No. Property damage alone, without the threat of an imminent risk to the physical safety of the student or others, is not a sufficient basis for the use of physical restraint or seclusion.

Seclusion

- **How does the law define the term "seclusion?"** Seclusion means the involuntary confinement of a student, apart from other students, in a room or area from which the student is physically prevented from leaving. Staff must maintain constant supervision of the student by either remaining with the student in the room or area, or by viewing the student through a window large enough to see all areas of the room or area. Seclusion may be used only as long as is necessary to resolve the risk to the physical safety of the student or others.
- **What does "physically prevented from leaving" mean?** A student is being physically prevented from leaving when the student is not allowed to leave a secluded setting by physical means, i.e. blocking the doorway, holding the door closed, restraint, etc.
- **Can doors of rooms or areas used for seclusion have locks?** No. No locks are allowed on doors of rooms or areas used for seclusion.
- **May staff hold the door shut?** The law does not prohibit staff from holding the door of a seclusion room shut. However, it is very important for schools to determine whether it is a good, safe idea to do so for a particular student. The decision about holding a door shut will need to be determined on an individualized, case-by-case basis.
- **Is it considered seclusion when all other students are cleared from a classroom while staff work with a student whose behavior is escalating?** No, provided staff do not physically prevent the student from leaving the classroom. This technique is sometimes used as a method of reducing the level of stimulation from the other students in order to assist a student whose behaviors are escalating to calm, regulate, and de-escalate. Nothing in the law prevents staff from using this technique on a limited basis if it is appropriate and effective with a particular student. Provided that staff are not physically preventing the student from leaving the classroom, it would not be seclusion to direct all other students out of the classroom. However, if staff isolate the student and physically prevent the student from exiting the classroom, the situation becomes an inappropriate use of seclusion. In addition to having doors that lock, classrooms generally contain a wide

variety of items that could cause injury. As such, it is never acceptable to seclude a student in a typical classroom.

- **Is sending a student to the hallway or the principal's office considered seclusion?** No, unless the student is apart from other students and is physically prevented from leaving the area.
- **If a student is placed in a small room to either work on school work or to take a break would this be considered seclusion?** No. If a student is not physically prevented from leaving a room or area, it is not considered seclusion.
- **If a student is displaying unsafe behaviors, how can school staff provide adequate access to bathroom facilities, drinking water, necessary medications, and regularly scheduled meals?** The law specifies that students must have "adequate" access, not necessarily immediate access, to these things. If a student's behavior is dangerous, it may not be safe to take the student to the bathroom at that exact moment. However, staff should ensure the student is able to have access to these necessities as soon as safely possible. The duration of any seclusion or physical restraint should be very short, generally a few minutes at the most. By only using seclusion or physical restraint in crisis situations and for very short periods of time, staff will be able to ensure students have adequate access.

Physical Restraint

- **How does the law define "physical restraint?"** Physical restraint means a restriction that immobilizes or reduces the ability of a student to freely move his or her torso, arms, legs, or head. It may only be used when a student's behavior presents a clear, present, and imminent risk to the physical safety of the student or others, and it is the least restrictive intervention feasible. Physical restraint cannot be used if there are any medical contraindications to its use. The degree of force used and the duration of the physical restraint may not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the student or others. The law forbids staff from using any physical restraint techniques or maneuvers that do not give adequate attention and care to protecting the student's head; cause chest compression by placing pressure or weight on the student's chest, lungs, sternum, diaphragm, back, or abdomen; place pressure or weight on the student's neck or throat, on an artery, or on the back of the student's head or neck; that otherwise obstruct the student's circulation or breathing; or place the student in a prone (face down) position.
- **Are mechanical restraints permitted under the law?** No. Wisconsin law expressly prohibits the use of mechanical restraints in schools. Use of supportive equipment to properly align a pupil's body, assist a pupil to maintain balance, or assist a pupil's mobility, under the direction and oversight of appropriate medical or therapeutic staff, is not considered mechanical restraint. Use of handcuffs by law enforcement in the process of taking an individual into custody is not considered mechanical restraint.

- **Are chemical restraints permitted under the law?** No. Wisconsin law expressly prohibits the use of chemical restraints in schools.
- **Are prone physical restraints permitted under the law?** No. The law specifically prohibits the use of prone (i.e., lying face down) restraints because they carry a high risk of restricting a student's breathing.
- **What other types of physical restraint maneuvers are not permissible under the law?** Restraint maneuvers that restrict breathing must never be used because they can cause serious injury or death. A student's breathing can be restricted if loose clothing becomes entangled or tightened or if the student's face is covered by a staff member's body part (e.g., hand, arm, or torso) or through pressure to the abdomen or chest. Any restraint or seclusion technique should be consistent with known medical or other special needs of a student. School districts should be cognizant that certain restraint and seclusion techniques are more restrictive than others and use the least restrictive technique necessary to end the threat of imminent danger of serious physical harm. A student's ability to communicate (including for those students who use sign language or other forms of manual communication or assistive technology) also should not be restricted unless less restrictive techniques would not prevent imminent danger of serious physical harm to the student or others. Staff must always make minimizing both physical and emotional harm a top priority when restraint or seclusion is considered.
- **Are bus harnesses or other vehicle safety restraints permitted under the law?** The use of vehicle safety restraints when used as intended during transportation of a student in a moving vehicle is not considered restraint and is allowed under the law. For a student with a disability, the use of any safety equipment during transportation must be documented in the student's IEP.
- **Are weighted blankets, vests, etc. considered mechanical restraints?** Weighted equipment used properly for sensory support under the direction and oversight of appropriate medical or therapeutic staff is not considered a mechanical restraint. For example, school-based occupational therapists often design and oversee the use of sensory items. Use of such sensory supports must be included in the IEP. More information about the use of this type of equipment may be found in the department's [Occupational Therapy and Physical Therapy Resource and Planning Guide](#).
- **May staff redirect students by touch?** Yes, touching or holding a student's hand, arm, shoulder or back to calm, comfort, or redirect the student is not considered physical restraint. Only when staff members immobilize or restrict the ability of a student to freely move is a maneuver considered physical restraint.

IEP Requirements

- **If physical restraint or seclusion is utilized with a student with a disability, is the IEP team required to meet?** After the second incident of seclusion or physical restraint with a student with a disability within the same school year, the student's IEP team must reconvene as soon as practicable, but no later than 10 school days after the incident. The IEP team must review the IEP to ensure it contains

appropriate positive behavioral interventions and supports and other strategies to address the behavior of concern. These interventions and supports must be based on a functional behavioral assessment of the behavior of concern.

- **Does this mean the IEP team must meet after the 2nd incident, and again after the 4th incident, and again after the 6th incident, etc.?** No. The requirement to reconvene the IEP team applies only after the second incident within the same school year. However, seclusion and physical restraint are extremely restrictive interventions and should rarely be utilized. Repeated incidents of physical restraint or seclusion are an indication that the IEP team should review the positive behavioral supports and other strategies contained within the IEP to determine their effectiveness and if necessary, make revisions.
- **Are there circumstances that require an IEP to specifically describe the use of physical restraint or seclusion?** No. 2019 Act 118 repealed the section of the law including the requirement for IEPs to incorporate the use of the terms “seclusion” or “physical restraint” in a student’s IEP if the IEP team determines their use could reasonably be anticipated. As such, IEP teams are no longer required to determine whether the use of restraint or seclusion is anticipated, and the IEP is not required to contain these terms.

Debriefing Requirements

- **Must school staff meet to “debrief” after each incident?** Yes. The law requires the principal or designee to meet with the school staff who participated in the incident to discuss the events, preceding, during, and following the use of seclusion or physical restraint. The department encourages principals or their designees to conduct the meeting with the staff prior to completing the written incident report to assist in gathering the necessary information.

Documentation and Reporting Requirements

- **Is there a specific required form for the written incident report?** The department does not require a specific incident report form, but [examples](#) are provided on our website. School districts should minimally ensure the form they choose to use includes the student’s name, the date, time and duration of the use of physical restraint or seclusion, a description of the incident including a description of the actions of the student before, during and after the incident, and the names and titles of the school staff and any law enforcement officers present at the time of the incident.
- **Are schools required to provide parents a copy of the incident report?** Yes. Within three business days of the incident, the principal or designee must provide the report to the student’s parent by 1st class mail, electronic transmission, or hand delivery.
- **Are schools required to report their data on seclusion and physical restraint to their school boards?** Yes. The law requires the principal or designee to report the data annually, by October 1, to the school board or governing body. This includes public schools including charter schools, private schools participating in the Special

Needs Scholarship Program, and private schools where LEA-placed students attend. For each school, the principal or designee must submit a report to their governing body containing the following information:

- The number of incidents of seclusion in the school during the previous school year.
 - The total number of students who were involved in the incidents of seclusion.
 - The number of students with disabilities who were involved in the incidents of seclusion.
 - The number of incidents of physical restraint in the school during the previous school year.
 - The total number of students who were involved in the incidents of physical restraint.
 - The number of students with disabilities who were involved in the incidents of physical restraint.
- **Must the information in the annual report be broken down by school?** Yes. The information in the annual report must be provided for each school under the school board or governing body's charge. The school district may decide to compile this information in one report as long as each school's data is included separately.
 - **Do governing bodies have to report their data on seclusion and physical restraint to DPI?** Yes. Annually by December 1, each governing body that receives a report must submit a report of the information described in question 30 above for each school under the governing body's charge. DPI collects this data via an online survey administered to all school district administrators in Wisconsin. More information about this data may be found [here](#).
 - **Does restraint or seclusion by a police officer need to be documented and reported?** Yes. The law requires schools to document, notify parents, and report all incidents involving law enforcement officers. However, law enforcement officers are not covered individuals under the law, so other provisions about the use of seclusion and physical restraint do not apply to them. Law enforcement officers follow police training and protocols when responding to crisis situations.

Training Requirements

- **Who should be trained on the requirements of the seclusion and physical restraint law?** All staff members who are in contact with students should be aware of the law's requirements.
- **Who should receive the training required by law regarding physical restraint?** The law requires at least one staff member in each school where restraint might be used to be trained. The law does not specify particular staff member roles as requiring training. Schools should carefully consider which staff members should receive training. Administrators, security/safety personnel, regular education staff, student services and special education staff should be considered. The district may wish to consider training several people within a school. In the rare event physical

restraint is needed in a situation, it is helpful to have more than one trained person available to ensure safety for students and staff alike.

- **What topics are required to be covered by training regarding physical restraint?**

Required training must include the following:

- Evidence-based instruction related to positive behavioral supports and interventions, safe physical escort, understanding antecedents, de-escalation, conflict prevention, and conflict management.
 - Evidence-based techniques, including debriefing, that have been shown to prevent or reduce the use of physical restraint.
 - An identification and description of dangerous behavior that may indicate the need for physical restraint and methods of evaluating risk of harm in order to determine whether physical restraint is warranted.
 - Instruction regarding the effects of physical restraint on the person restrained, in monitoring signs of physical distress, and in obtaining medical assistance.
 - Instruction in documenting and reporting incidents of physical restraint.
 - A requirement that the trainee demonstrate his or her ability to identify prohibited techniques in administering physical restraint.
- **Does DPI certify or recommend training programs?** No. DPI has no authority to certify, review, or recommend providers of training. DPI strongly suggests all schools and districts to confirm with the vendor or provider that its program includes all required components prior to purchasing training.
 - **What kind of documentation should the school keep about staff training?** Training programs will provide documentation such as certificates of participation upon completion. The law does not require a particular format. Districts should maintain documentation of the dates of training, who participated, and when it “expires” or the provider requires refreshers.