



HB 149: Seclusion and Restraint of Students with Disabilities in Public Schools Q & A

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Agenda

- Seclusion
- Restraint
- Documentation and Reporting
- Monitoring
- Positive Behavior Interventions and Supports (PBIS)
- Crisis Intervention Plans
- Policies and Procedures



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Seclusion

Are there any restrictions regarding the use of seclusion?

- Yes.
- [Section 1003.573, Florida Statutes](#), expressly prohibits the use of seclusion in all school districts.
- Seclusions must be reported if one occurs.



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Restraint

What are the circumstances when a restraint might be used with students with disabilities?

Circumstances include:

- Exhausting all positive behavior interventions and supports
- When there is risk of imminent risk of serious injury

What type of restraints are excluded?

“Techniques or devices such as straight jackets, zip ties, handcuffs, or tie downs may not be used in ways that may obstruct or restrict breathing or blood flow or that place a student in a face-down position with the student’s hands restrained behind the student’s back.”



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Documentation and Reporting

When and how should a school notify the parent or guardian each time a restraint is used?

Same day notification:

- Notification must be in writing and be provided **before the end of the school day.**
- Reasonable efforts must also be taken to notify the parent or guardian by telephone or email, or both, and must be documented.
- The school must obtain and keep the records of the parent's or guardian's signed acknowledgement that they were notified of their child's restraint.

What are the documenting and reporting requirements when a restraint is used?

Schools are required to prepare an incident report within 24 hours after the student is released or 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; the following must be included in the incident report:

- The student's name, age, grade, ethnicity and disability
- The date, time and duration
- The location
- Type of restraint
- Name of person using or assisting in the restraint and the date the person was last trained in the use of positive behavior interventions and supports
- The name of any non student present
- A description of the incident www.FLDOE.org

A description of the incident includes:

- The context in which the restraint occurred
- The student's behavior leading up to and precipitating the decision to use restraint, including an indication as to why there was an imminent risk of serious injury to the student or others
- The positive behavior interventions and supports used to prevent and deescalate the behavior
- What occurred with the student immediately after the termination of the restraint
- Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint, documented according to district policies
- Evidence of steps taken to notify the student's parent or guardian
- The date the crisis intervention plan was last reviewed and whether changes were recommended

When and how should a school provide the parent or guardian with an incident report after restraint is used?

Within three school days:

- A school shall provide the parent or guardian with the **completed incident report** in writing by mail within three (3) school days after a restraint.
- The school must obtain and keep the records of the parent's or guardian's signed acknowledgement that they were notified of their child's restraint.

Are School Resource Officers (SROs) or other law enforcement excluded from reporting?

- No.
- The requirements in s. 1003.573, F.S., do not exclude any specific personnel from the reporting requirements.
- When an SRO or other law enforcement restrains a student with a disability, such an incident must be reported in the BESE restraint reporting system, including:
 - School property;
 - School event; and
 - School transportation.

When does reporting for an SRO or other law enforcement officer stop?

Reporting stops when:

- The SRO or other law enforcement releases the student from the restraint.
- When the SRO or other law enforcement place the student under arrest.

Is it a mechanical restraint when an SRO or other law enforcement handcuffs a student?

Yes. If an SRO or other law enforcement restrains a student using a device, it must be reported as a mechanical restraint in the BESE restraint reporting system.

Are students who are receiving ESE services in Prekindergarten excluded from documenting, reporting and monitoring?

- No.
- [Rule 6A-6.03028, Florida Administrative Code](#), states, “(1) Entitlement to FAPE. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to FAPE...”

Are students in the Department of Juvenile Justice (DJJ) excluded from documenting, reporting and monitoring?

No. Title 34, section 300.2, Code of Federal Regulations, Applicability of this part to State and local agencies.

(1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including:

(iv) State and local juvenile and adult correctional facilities

- The United States of the Department of Education (USED) requires recipients of federal funds to report restraint and seclusion data.
- DJJ is explicitly included in the federal reporting requirements.
- DJJ should report any incidents of restraint and seclusion that occurred during educational time, regardless of who performs the restraint or seclusion.

Are students in the Florida Department of Corrections excluded from documenting, reporting and monitoring?

- No.
- 34 C.F.R. § 300.2
- All occurrences of restraint or seclusion must be reported.
- A student charged with or convicted of a crime does not diminish his or her substantive rights or the procedural safeguards and remedies.

34 C.F.R. § 300.102, Limitation—exception to FAPE for certain ages

(a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

(2)

(i) Children aged 18 through 21 to the extent that State law does not require that special education and related services under Part B of the Act be provided to students with disabilities who, in the last educational placement prior to their incarceration in an adult correctional facility—

(A) Were not actually identified as being a child with a disability under §300.8; and

(B) Did not have an IEP under Part B of the Act.

Do the documenting, reporting, and monitoring requirements apply to students with disabilities in a residential facility?

- It depends.
- Rule 6A-6.0361(5)(f), Florida Administrative Code (F.A.C.), Contractual Agreements With Nonpublic Schools and Residential Facilities
 - The contents of the contract must include a, “Provision for notifying appropriate school district personnel and the parent of the use of seclusion or restraint of the student, in accordance with section 1003.573, F.S.”
- Rule 6A-6.0361(6)(i), F.A.C., states, “Reporting, data collection, and monitoring the use of seclusion or restraint of the student, in accordance with section 1003.573, F.S.”

Are there guidelines that districts should follow when considering which personnel may implement restraint procedures?

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.



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Monitoring

Who should monitor restraints?

- The use of restraint on students must be monitored at the classroom, building, district and state levels.
- Any documentation prepared by a school must be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Student Education electronically each month that the school is in session.
- The department shall maintain aggregate data of incidents of restraint and disaggregate the data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint used. This information shall be updated monthly and made available to the public through the Florida Department of Education's website.



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Positive Behavior Intervention Support (PBIS)

Who must be trained in positive behavior interventions and supports (PBIS)?

According to s. 1003.573, F.S., each school district must:

- Identify all school personnel authorized to use PBIS; and
- Provide training to all school personnel authorized to use PBIS pursuant to school district policy.

To view a district's approved SP&P, visit <https://beessgsw.org/#/spp/institution/public/>.

What must the PBIS training include?

- The use of positive behavior interventions and supports
- Risk assessment procedures to identify when restraint may be used
- Examples of when positive behavior interventions and support techniques have failed to reduce the imminent risk of serious injury
- Examples of safe and appropriate restraint techniques and how to use these techniques with multiple staff members working as a team
- Instruction in the district's documentation and reporting requirements
- Procedures to identify and respond to possible medical emergencies arising during the use of restraint
- Cardiopulmonary resuscitation (CPR)

How often must authorized district personnel using PBIS be trained?

- Training in PBIS must be provided annually.

How must a district implement the PBIS training?

- Section 1003.573, F.S., does not indicate how a district must implement the PBIS training; therefore, it is a district decision, which is documented in their Exceptional Student Education Policies and Procedures (SP&P).
- To view a district's approved SP&P, visit <https://beessgsw.org/#/spp/institution/public/>.



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Crisis Intervention Plans

When must a school develop a crisis intervention plan for a student?

- The school must develop a crisis intervention plan the second time a student is restrained in the same semester.

Who must the crisis intervention plan team include when developing a crisis intervention plan?

- The crisis intervention plan team must be developed by the student's parent or guardian, school personnel and applicable physical and behavioral health professionals.

Can a crisis intervention plan be part of a student's positive behavior intervention plan?

- Section 1003.573, F.S., does not indicate whether a crisis intervention plan can be part of the student's positive behavior intervention plan; therefore, it is a district decision, which is documented in their Exceptional Student Education Policies and Procedures (SP&P).

What must the crisis intervention plan include?

- Specific positive behavior interventions and supports to use in response to dangerous behaviors that create a threat of imminent risk of serious injury.
- Any known physical and behavioral health concerns that will limit the use of restraint for the student.
- A timetable for the review and, if necessary, a revision of the crisis intervention plan.

Must the district provide a copy of the crisis intervention plan to the parent or guardian?

- Yes. The school must provide a copy of the crisis intervention plan to the student's parent or guardian.



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District Policies and Procedures

What are districts required to develop in their policies and procedures?

- Incident-reporting procedures
- Data collection and monitoring, including when, where, and why students are restrained and the frequency of occurrences of such restraint
- Monitoring and reporting of data collected
- Training programs and procedures relating to restraint
- The district's plan for selecting personnel to be trained

What are districts required to develop in their policies and procedures? (Continued)

- The district's plan for reducing the use of restraint, particularly in settings in which it occurs frequently or with students who are restrained repeatedly.
- The plan must include a goal for reducing the use of restraint and must include activities, skills and resources needed to achieve that goal.

When do districts have to post their adopted policies and procedures regarding positive behavior interventions and supports?

- At the beginning of each school year, each school district shall publicly post its policies and procedures on positive behavior interventions and supports as adopted by the school district.

When should the district notify the bureau of changes to their policies and procedures?

- Any changes made to a district's policies and procedures must be filed with the bureau within 90 days.

Sources

[CS/HB 149](#)

<https://sites.ed.gov/idea/files/idea-letter.pdf>

<https://www2.ed.gov/about/offices/list/ocr/data.html>

<https://sites.ed.gov/idea/files/idea-letter.pdf>



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