ADVISORY BULLETIN: PHYSICAL INTERVENTION, RESTRAINTS AND SECLUSION IN PUBLIC SCHOOLS

September 26, 2023

During the 2022 and 2023 legislative sessions, two bills were signed into law impacting mandatory school policies and practices around physical intervention, restraints and seclusion of students. In 2023 [House Bill 23-1191](https://leg.colorado.gov/sites/default/files/2023a_1191_signed.pdf) was passed, explicitly prohibiting corporal punishment in public schools. Additionally, in 2022, [House Bill 22-1376](https://leg.colorado.gov/sites/default/files/2022a_1376_signed.pdf) was passed, establishing new and modifying existing requirements regarding restraints and seclusion in public schools. In May 2023, the State Board approved revisions to [1 CCR 301-45](https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=10879) to conform to changes made by [House Bill 22-1376](https://leg.colorado.gov/sites/default/files/2022a_1376_signed.pdf). The changes became effective on June 30, 2023.

**Key Take-Aways:**

* Under no circumstances shall a student be physically held for more than **one minute** (formerly five minutes) unless certain restraint provisions are followed.
* Seclusion means placement of a student alone in a room from which egress is involuntarily prevented. If the school uses a seclusion room, there must be at least one window for monitoring when the door is closed. If a window is not feasible, monitoring must be possible through a video camera. A student placed in a seclusion room must be continually monitored. The room must be a safe space free of injurious items. The seclusion room must not be a room that is used by school staff for storage, custodial, or office space.
* School Resource Officers and Law Enforcement may not use handcuffs on a student unless there is a danger to themselves or others.
* Parents or guardians must be notified verbally and in writing of certain incidents resulting in restraint or seclusion.
* Employees who may need to restrain or seclude students must undergo training on the new processes.
* Schools must provide an annual report to CDE on incidents resulting in restraint or seclusion.

Click [here](#_Physical_Intervention) for more detailed information on these important changes. CSI has developed a [sample school policy](https://resources.csi.state.co.us/wp-content/uploads/2023/09/Sample-Policy-on-Use-of-Restraints_REV-8.23.23_FINAL.docx) incorporating these changes for use and adaptation by schools.

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The following captures some of the key revisions to previous requirements related to physical intervention, restraints and seclusion. It does not capture all changes; schools should review the regulations and consult with their legal counsel regarding implications on school policies and practices. A [sample policy](https://resources.csi.state.co.us/wp-content/uploads/2023/09/Sample-Policy-on-Use-of-Restraints_REV-8.23.23_FINAL.docx) is provided for use by CSI schools.

# Physical Intervention

[House Bill 23-1191](https://leg.colorado.gov/sites/default/files/2023a_1191_signed.pdf), explicitly prohibits “corporal punishment” in schools.

**Definition**

**Corporal punishment** is the willful infliction of, or willfully causing the infliction of, physical pain on a child.

In accordance with C.R.S. 22-1-140, school employees may use reasonable and appropriate physical intervention with a student, to accomplish the following:

* To quell a disturbance threatening physical injury to the student or others, or damage to property;
* For the purposes of self-defense; and
* To obtain possession of weapons or other dangerous objects within the control of the student.

Under no circumstance shall a student be physically held for more than one minute unless the provisions regarding restraint contained are followed.

# Restraints and Seclusion

The [revised restraint regulations](https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=10879) establish new and modify existing provisions related to restraint and seclusion in public schools. A red-lined version can be accessed [here](https://go.boarddocs.com/co/cde/Board.nsf/files/CRER9Z6CD468/%24file/1%20CCR%20301-45_Redline%203.30.2023%20-%20Final.pdf). A summary of the key changes is provided below.

**Definitions**

**Restraint** means any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, and chemicals. *A restraint now includes a hold of one minute or more. (Restraints previously included a hold of five minutes or more.)*

**Seclusion** means placement of a student alone in a room from which egress is involuntarily prevented.

## Basis for the Use of Restraints and Seclusion

Restraints and seclusion can only be used by trained employees in an emergency and with extreme caution after the failure of less restrictive alternatives and a determination that such alternatives would be inappropriate or ineffective.

In accordance with the revised regulations, schools cannot use restraints or seclusion as a form of discipline or to gain compliance from a student. If property damage may be involved, restraints and seclusion can only be used when the destruction of property could possibly result in bodily harm to the individual or another person.

## Administration of Restraints and Seclusion

[1 CCR 301-45](https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=10879) establishes specific requirements for the administration of restraints and seclusion in schools. In addition to requirements previously included, the revised regulations specify that:

* a school resource officer or a law enforcement officer acting in the officer’s official capacity at a school cannot use handcuffs on any student, unless there is a danger to themselves or others or handcuffs are used during a custodial arrest that requires transport.
* If the school uses a seclusion room, there must be at least one window for monitoring when the door is closed. If a window is not feasible, monitoring must be possible through a video camera. A student placed in a seclusion room must be continually monitored. The room must be a safe space free of injurious items. The seclusion room must not be a room that is used by school staff for storage, custodial, or office space.

## Staff Training

Schools must ensure that staff utilizing restraint or seclusion are trained in accordance with [1 CCR 301-45](https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=10879).

## Notification and Documentation Requirements

[1 CCR 301-45](https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=10879) establishes requirements for notifying Parents/Guardian(s) and documenting incidences of restraint and seclusion. The revised regulations establish additional requirements for schools, including specifically:

* Requiring schools establish procedures for documenting incidences of restraint or seclusion in the student’s record;
* Requiring the trained school employee who administered the restraint or seclusion provide notice to the school administration “as soon as possible” so that the school administration can provide notice to the parent/guardian the same day;
* Requiring the trained school employee who administered the restraint or seclusion complete a written report to the school administration within one school day;

The regulations specify that the school administration must verbally or in writing notify the Parent/Guardian(s) as soon as possible but no later than the end of the day that a restraint or seclusion was used. Additional communication and documentation requirements are listed below depending on the duration of the restraint:

* For a physical restraint on a student that lasts one minute or more but less than five minutes, a Parent/Guardian(s) must be notified in writing on the day of the physical restraint (this can be in addition to a verbal notification). This written notice must include the date, the student’s name, and the number of physical restraints that day that lasted one minute or more but less than five minutes. If there were multiple physical restraints on that day and one restraint lasted five minutes or more, the Parent/Guardian(s) must be informed that they will receive a more detailed written report regarding the longer physical restraint(s) within five calendar days.
* For restraints that last five minutes or more, the school administration must complete a written report regarding the incident and send the report to the Parent/Guardian(s) no more than five calendar days after the use of the restraint on the student.

When completing the written report, the school administration should review the incident to assure that appropriate procedures were followed and to minimize the future use of restraint when possible. The review should include, but is not limited to:

* Ensuring there is follow up communication with the student and the student's Parent/Guardian(s);
* Considering whether there were alternative strategies that could have been used; and
* Recommendations for adjustment of procedures, if appropriate.

If requested by the School or the student's parents, the School should convene a meeting to review the incident. For students with IEPs or Section 504 plans, such review may occur through the IEP or Section 504 process.

## Annual Review

Under the revised regulations, the School must complete an annual review on the use of restraints. The purpose of the review is to determine whether restraints were properly administered, identify additional training needs, increase the use of positive behavior interventions, and reduce the incidence of injury to students and staff. As part of this process, the School must:

* Analyze incident reports, including procedures used during the restraint, preventative or alternative techniques tried, documentation, and follow up;
* Consider the training needs of staff;
* Review the staff to student ratios; and
* Review environmental conditions, including physical space, student seating arrangements and noise levels.

The School will be required to document the number of students restrained in a year and the total number of restraints in a year. For physical restraints, the report will include:

* The total number of physical restraints lasting one or more but less than five minutes;
* The total number of restraints lasting five minutes or more;
* The number of students who experienced at least one restraint lasting from 1 to 4:59 minutes; and
* The number of students who experienced at least one restraint lasting five minutes or more.

The report will also include differentiated information for mechanical and prone restraints, if any, that were administered by law enforcement or school resource officers. The School should include an analysis of the data and records reviewed, and without revealing any confidential student data, the School may include the context for when and why restraints may be necessary to protect students from self-harm or from harming other students or staff.

**A Note on Data Reporting:** CSI schools should ensure that a comprehensive review process is established for the appropriate use of restraint. This includes documenting incidents and the school’s review of incidents in the Statewide Student Information System (SIS) and reporting required data to the state annually via the School Discipline Collection. Schools should contact submissions\_csi@state.co.us for questions related to the revised annual restraint and seclusion data reporting requirements.

By June 30, 2024, and each year thereafter, the School will submit the Annual Restraint Review Report to the Colorado Department of Education. Any member of the public will be able to request any Annual Restraint Review Report by emailing cde\_communications\_office@cde.state.co.us.

## Complaints

Under the new regulations, the Department of Education has enforcement authority over the restraint and seclusion investigative decisions and may require corrective action by the school.

# Resources

[Sample Policy](https://resources.csi.state.co.us/wp-content/uploads/2023/09/Sample-Policy-on-Use-of-Restraints_REV-8.23.23_FINAL.docx)