



STATE OF ALABAMA
DEPARTMENT OF EDUCATION



Eric G. Mackey, Ed.D.
State Superintendent of Education

May 20, 2020

MEMORANDUM

TO: City and County Superintendents of Education

FROM: Eric G. Mackey *EGM*
State Superintendent of Education

RE: Seclusion and Restraint for ALL Students

The Alabama State Board of Education (SBE) enacted the *Alabama Administrative Code* (AAC), Rule 290-3-1-.02(1)(f), Seclusion and Restraint for ALL Students, on December 11, 2011 (attached). This rule requires local education agencies (LEAs) to review their board's policy to ensure consistency with the AAC rule.

As part of the AAC rule, LEAs must document all incidents of seclusion and restraint and annually submit a report to the Alabama State Department of Education (ALSDE). The annual report(s) should be submitted to:

Alabama State Department of Education
Prevention and Support Services Section
5227 Gordon Persons Building
P. O. Box 302101
Montgomery, AL 36130-2101

Please review the PowerPoint and additional information by accessing the link below:

Please submit your LEAs' report(s) to the ALSDE by June 30, 2020. If you have any questions regarding this matter, please contact Dr. Marilyn Lewis at 334-694-4717.

EGM/ML

Attachment

cc: School Safety Coordinators

FY20-2082

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290-3-1-.02(1.)(f)

290-3-1-.02(1.)(vi)(IV)

290-3-1-.02(1.)(f)

Seclusion and Restraint for ALL Students

1. Definitions.

(i) Chemical Restraint - Any medication that is used to control violent physical behavior or restrict the student's freedom of movement that is not a prescribed treatment for the student's medical or psychiatric condition. Use of chemical restraint is prohibited in Alabama public schools and educational programs.

(ii) Mechanical Restraint - The use of any device or material attached to or adjacent to a student's body that is intended to restrict the normal freedom of movement and which cannot be easily removed by the student. The term does not include an adaptive or protective device recommended by a physician or therapist when used as recommended by the physician or therapist to promote normative body positioning and physical functioning, and/or to prevent self-injurious behavior. The term also does not include seatbelts and other safety equipment when used to secure students during transportation. Use of mechanical restraint is prohibited in Alabama public schools and educational programs.

(iii) Physical Restraint - Direct physical contact from an adult that prevents or significantly restricts a student's movement. The term physical restraint does not include mechanical restraint or chemical restraint. Additionally, physical restraint does not include: providing limited physical contact and/or redirection to promote student safety or prevent self-injurious behavior, providing physical guidance or prompting when teaching a skill, redirecting attention, providing guidance to a location, providing comfort, or providing limited physical contact as reasonably needed to prevent imminent destruction to school or another person's property.

(iv) Physical Restraint that restricts the flow of air to the student's lungs- Any method (face-down, face-up, or on your side) of physical restraint in which physical pressure is applied to the student's body that restricts the flow of air into the student's lungs. Use of this type of restraint is prohibited in Alabama public schools and educational programs.

(v) Seclusion - a procedure that isolates and confines the student in a separate, locked area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1.)(vi) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Alabama public schools and educational programs.

(vi) Time-out – A behavioral intervention in which the student is temporarily removed from the learning activity. Time-out is appropriately used when:

(I) The non-locking setting used for time-out is appropriately lighted, ventilated, and heated or cooled.

(II) The duration of the time-out is reasonable in light of the purpose of the time-out and the age of the child; however, each time-out should not exceed 45 minutes.

(III) The student is reasonably monitored by an attending adult who is in reasonable physical proximity of the student and has sight of the student while in time-out.

(IV) The time-out space is free of objects that unreasonably expose the student or others to harm.

290-3-1-.02(2.)(i)

290-3-1-.02(2.)(viii)

2. Requirements.

- (i) The use of seclusion is prohibited in Alabama public schools and educational programs.
- (ii) The use of any method of physical restraint that restricts the flow of air to a student's lungs is prohibited in Alabama public schools and educational programs.
- (iii) The use of mechanical restraint is prohibited in Alabama public schools and educational programs.
- (iv) The use of chemical restraint is prohibited in Alabama public schools and educational programs.
- (v) The use of physical restraint is prohibited in Alabama public schools and educational programs except in those situations in which the student is an immediate danger to himself or others and the student is not responsive to less intensive behavioral interventions including verbal directives or other de-escalation techniques. Notwithstanding the foregoing, physical restraint is prohibited in Alabama public schools and educational programs when used as a form of discipline or punishment.
- (vi) All physical restraint must be immediately terminated when the student is no longer an immediate danger to himself or others or if the student is observed to be in severe distress.
- (vii) Schools and programs that use physical restraint in accordance with paragraph (2.)(v-xiv) of this rule must develop and implement written policies to govern the use of physical restraint. Parents must be provided information regarding the school or program's policies governing the use of physical restraint. The written policies must include the following provisions:
 - (I) Staff and faculty training on the use of physical restraint and the school or programs policy and procedures,
 - (II) Written parental notification when physical restraint is used to restrain their student within a reasonable time not to exceed one school day from the use of restraint,
 - (III) The use of physical restraint to be documented and a debriefing session held by staff or faculty participating in or supervising the restraint for each student in each instance in which the student is restrained,
 - (IV) Procedures for the periodic review of the use of restraint and the documentation described in paragraph (2.)(vii)(III),
 - (V) Procedures for reporting the use of restraint and the documentation described in paragraph (2.)(vii)(III) and any prohibited use of seclusion and chemical, mechanical, or physical restraint to the local board of education annually,
 - (VI) The documentation described in paragraph (2.)(vii)(III) (monthly summary reports) and any prohibited use of seclusion and chemical, mechanical, or physical restraint is to be submitted to the Alabama Department of Education annually, and
 - (VII) The written policies described in paragraph (2.)(vii)(I and II) are to be included in each local education agencies' code of conduct and/or the student handbook.
- (viii) Schools and programs that use physical restraints in accordance with paragraph (2.)(v-xiv) of this rule, must ensure that staff and faculty are trained in the use of physical restraint.

290-3-1-.02(2.)(ix)

290-3-1-.02(2.)(xiv)

This training shall be provided as a part of a program which addresses prevention and de-escalation techniques as well as positive behavioral intervention strategies. Schools and programs must maintain written or electronic documentation on training provided and the list of participants in each training. Records of such training must be made available to the Alabama Department of Education or any member of the public upon request.

(ix) Nothing in this rule shall be construed to interfere with a school system, school or program, or school or program employee's authority to utilize time-out as defined in paragraph (1.)(vi) of this rule or any other classroom management technique or approach, including a student's removal from the classroom, that is not specifically addressed in this rule.

(x) Nothing in this rule modifies the rights of school personnel to use reasonable force as permitted under the *Code of Alabama, 1975, §16-1-14* or modifies the rules and procedures governing discipline under the *Code of Alabama, 1975, §16-28-12*.

(xi) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking reasonable action to diffuse or break up a student fight or altercation.

(xii) Nothing in this rule shall be construed to prohibit a school system, school, or program employee from taking reasonable action to obtain possession of a weapon or other dangerous objects on a student or within the control of a student.

(xiii) Nothing in this rule shall be construed to eliminate or restrict the ability of an employee of a school system, school or program to use his or her discretion in the use of physical restraint to protect students or others from imminent harm or bodily injury. Nothing in this rule shall be construed to create a criminal offense or a private cause of action against any local board of education or program or its agents or employees.

(xiv) In some instances in which a student is an immediate danger to himself or herself or others, the school or program must determine when it becomes necessary to seek assistance from law enforcement and/or emergency medical personnel. Nothing in these rules shall be construed to interfere with the duties of law enforcement or emergency medical personnel. Parents must be promptly informed when students are removed from the school or program setting by emergency medical or law enforcement personnel.

Author: Dr. Ed Richardson

Statutory Authority: Const. of Ala. 1901, Amend No. 284, Code of Ala. (1975), 16-1-1, 16-2-2, 16-3-11, through 12, 16-3-14, 16-4-14, 16-8-35 through 36, 16-12-8, 16-26-1 through 3, 1982 Acts of Ala. No. 82-482, *No Child Left Behind Act* of 2001, Public Law 107-110, Title IX, § 9532 (a) and (b).

History: Adopted ER effective March 13, 2003; adopted ER as regular rule May 8, 2003, effective June 12, 2003. Adopted 290-3-1-.02(1)(f) as rule November 10, 2011, effective December 11, 2001