

April 2024

TO: BOCES District Superintendents
School District Superintendents
Superintendents of Special Act School Districts
Superintendents of State-Operated Schools
Superintendents of State-Supported Schools
Public School Administrators
Charter School Leaders
Special Education Directors
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Administrators of Nonpublic Schools with Approved Special Education Programs
Organizations, Parents, and Individuals Interested in Special Education

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SUBJECT: Updates to Behavioral Supports and Interventions in Schools

Effective August 2, 2023, the Board of Regents adopted the [amendment](#) of Section 19.5, of its Rules of the Board of Regents, and changes to Commissioner's Regulations Sections 100.2, 200.1, 200.7, 200.15, and 200.22 regarding the prohibition of corporal punishment, aversive interventions, prone restraint, and seclusion; permitted use of timeout and restraint; data collection; and changes to Part 200 of the Commissioner's Regulations relating to Students with Disabilities to secure alignment with Section 19.5.

These provisions were revised to ensure student health and safety by strengthening the authority of the New York State Education Department (NYSED) to ensure that behavioral supports and interventions are used safely, carried out in accordance with research-based practices, and with the highest standards of oversight, monitoring, and data collection.

The Frequently Asked Questions are provided as guidance to these updated regulations and will continue to be updated.

[Resources for Further Information](#)

General questions regarding these regulations may be emailed to StudentSupportServices@nysed.gov.

Updates to Behavioral Supports and Interventions in Schools: Frequently Asked Questions

The University of the State of New York
The State Education Department
Office of Student Support Services Office
of Special Education



Released January 2024
Updated April 2024

Introduction

Effective August 2, 2023, the Board of Regents adopted the [amendment](#) of Section 19.5, of its Rules of the Board of Regents, and changes to Commissioner's Regulations Sections 100.2, 200.1, 200.7, 200.15, and 200.22 regarding the prohibition of corporal punishment, aversive inte

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Frequently Asked Questions

A) Purpose

A-1) What is the purpose of Section 19.5 and what entities are covered?

The purpose of Section 19.5 of the Rules of the Board of Regents is to establish uniform guidelines prohibiting the use of corporal punishment, aversive interventions, and seclusion, and to authorize, and define parameters for, the limited use of timeout and physical restraint in schools to address student behaviors [8 NYCRR §19.5(a)]. Section 19.5 applies to all students enrolled in the following entities:

- Public school districts
- Board of Cooperative Educational Services (BOCES)
- Charter schools
- State-operated and State-supported schools (Articles 85, 87, and 88 of the Education Law)
- Approved in-state and out-of-state private residential or non-residential schools for the education of students with disabilities (Article 89 or Article 81 of the Education Law)
- State administered Prekindergarten (PreK) program directly operated by a school district, BOCES, or an eligible agency, as defined in Section 1511.29 (E)16 (ned i) 0 12 1()10e ErerETes ageOCeliby a

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Physical restraint may be used only when less restrictive and intrusive interventions and de-escalation techniques would not prevent imminent danger of serious physical harm to the student or others [8 NYCRR §19.5(d)(2)].

Note: Physical restraint cannot be used with preschool students attending a preschool program that is licensed by the New York State Office of Children and Family Services or the New York City Department of Health and Mental Hygiene [18 NYCRR § 418-1.9; 24 RCNY §§ 47.01(f) and 47.67(a)].

C-2) What is a prone restraint and is it allowed?

A prone restraint is defined as a physical or mechanical restraint while the student is in the face down position [8 NYCRR §19.5(b)(8)].

The use of prone restraint is prohibited [8 NYCRR §19.5(d)(2)(iii)].

C-3) Can physical restraint be used as a planned intervention?

No, physical restraint shall not be used as a planned intervention with any student and cannot be on a student's individualized education program (IEP), behavioral intervention plan (BIP), Section 504 accommodation plan, and/or other plan developed for a student by the school as a planned intervention [8 NYCRR §19.5(d)(2)(iv), 200.22(d)(2)]. Nor can physical restraint be used as a substitute for positive, proactive intervention strategies that are designed to change, replace, modify, or eliminate a targeted behavior [8 NYCRR §200.22(d)(1)].

C-4) What is seclusion and is it allowed?

Seclusion is defined as the involuntary confinement of a student alone in a room or space that they are physically prevented from leaving or that they may perceive that they cannot leave at will [8 NYCRR §19.5(b)(10)]. Seclusion does not include timeout as defined in 8 NYCRR §19.5 (b)(11).

The use of seclusion is prohibited [8 NYCRR §19.5(c)(1)(iii)].

C-5) What is a timeout and when is it allowed?

Timeout is defined as a beh(22()17 (d))5nclu

and/or reduce future instances of the use of timeout and/or physical restraint and, also, help identify areas for improvement [8 NYCRR §19.5(d)(5)].

Debriefing is required following instances of timeout and/or the use of physical restraint and must occur as soon as practicable [8 NYCRR §19.5(d)(5)]. Debriefing shall include a school administrator or designee and the staff involved in the use of timeout and/or physical restraint. Schools shall direct a school staff member to debrief the incident with the student in a manner appropriate to the student's age and developmental ability to process the behavior precipitating the intervention [8 NYCRR §19.5(d)(5)(ii)].

D-4) When should documentation be reviewed?

School administrators or designees shall regularly review documentation regarding the use of timeout and physical restraint to ensure compliance with the school's policy and procedures [8 NYCRR §19.5(d)(6)]. When there are multiple incidents within the same

- staff training requirements under section 19.5 (d)(7);
- requirements for information to be provided to the parent/guardian, which must include a copy of the school timeout and physical restraint policy;
- requirements for same day notification; and
- required data collection to monitor patterns of use of timeout and physical restraint.

A school's written policy and procedures regarding the use of timeout and physical restraint must be made publicly available for review at the district or school administrative office(s) and each school building, and posted on the school's website, if one exists [8 NYCRR §19.5(d)(8)].

D-7) Is an SRO subject to the same training and reporting requirements related to the use of physical restraint [8 NYCRR §19.5(d)(8)]?

“[A]gent” (of a school) shall include, but not be limited to, school resource officers, except when a student is under arrest and handcuffs are necessary for the safety of the student and others.

Please see [Q&A D-5](#): All staff shall receive annual training on the school’s policies and procedures related to the use of timeout and physical restraint, evidence-based positive, proactive strategies, crisis intervention, prevention procedures, and de-escalation techniques [8 NYCRR §19.5(d)(7)(i)]. In addition to the training requirements for all staff, any staff who may be called upon to implement timeout or physical restraint, shall receive annual, evidence-based training in safe and effective, developmentally appropriate timeout and physical restraint procedures [8 NYCRR §19.5(d)(7)(ii)]. Training programs and specific personnel training requirements are determined at the local school level.

Education Law 2801-a requires that comprehensive district-wide safety plans include collaborative arrangements with state and local law enforcement officials, designed to ensure that school safety officers and other security personnel are adequately trained, including being trained to de-escalate potentially violent situations. Additionally, school districts that employ, contract or otherwise retain law enforcement or public or private security personnel, including school resource officers, are required to have a written contract or memorandum of understanding (MOU) that includes the roles, responsibilities and involvement of law enforcement or security personnel within a school and clearly delegate the role of school discipline to the school administration and that schools define the roles and areas of responsibility of security personnel and/or law enforcement in response to student misconduct.

To assist school districts and charter schools in considering topics for inclusion in a MOU, the Department recommended a [list](#) which includes items such as “[w]hen school staff can request SRO intervention,” “integration of SRO into school community,” and “other interactions with students.” Districts may want to review and update MOUs in consideration of the updated regulations.

D-9) The amendments require that all staff shall receive annual training on the school’s policies and procedures related to the use of timeout and physical restraint; evidence- based positive, proactive strategies; crisis intervention and prevention procedures and de -escalation techniques. Does “all staff” include non - student facing positions such as bus mechanics or central office staff? Does this include part -time extracurricular staff such as coaches, referees, lifeguards, and club advisors?

Please see

