

**WINCHESTER PUBLIC SCHOOLS
POLICY AND PROCEDURES
ON THE USE OF
PHYSICAL RESTRAINT AND SECLUSION**

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PHYSICAL RESTRAINT AND SECLUSION POLICY

POLICY ON PHYSICAL RESTRAINT AND SECLUSION

School personnel may implement physical restraint or seclusion only when other interventions are, or would be, in the reasonable judgment of the school personnel implementing physical restraint or seclusion in an emergency situation, ineffective and only to:

1. Prevent a student from inflicting serious physical harm or injury to self or others;
2. Quell a disturbance;
3. Remove a student from the scene of a disturbance in which the student's behavior or damage to property threatens serious physical harm or injury to persons;
4. Defend self or others from serious physical harm or injury; or
5. Obtain possession of controlled substances or paraphernalia or weapons or other dangerous objects that are upon the person of the student or within the student's control.

Physical restraint and seclusion shall be discontinued as soon as the imminent risk of serious physical harm or injury to self or others presented by the emergency situation has dissipated.

Nothing in this policy shall be construed to require school personnel to attempt to implement a less restrictive intervention before using physical restraint or seclusion where, in the reasonable judgment of the school personnel in an emergency situation, a less restrictive intervention would be ineffective.

The School Board encourages the use of positive behavioral interventions and supports to reduce and prevent the need for the use of physical restraint and seclusion.

The superintendent is responsible for developing procedures to address the requirements of the Virginia Board of Education Regulations regarding physical restraint and seclusion in public schools.

The School Board will review this policy at least annually and update it as needed.

PHYSICAL RESTRAINT AND SECLUSION PROCEDURES

§ 1. Glossary of terms.

For the purposes of these Procedures, the following terms and definitions are provided.

Aversive stimuli means interventions that are intended to induce pain or discomfort to a student for purposes of punishing the student or eliminating or reducing maladaptive behaviors, such as:

1. Noxious odors and tastes;
2. Water and other mists or sprays;
3. Blasts of air;
4. Corporal punishment as defined in Va. Code § 22.1-279.1;
5. Verbal and mental abuse;
6. Forced exercise, when:
 - a. The student's behavior is related to the student's disability;
 - b. The exercise would have a harmful effect on the student's health; or
 - c. The student's disability prevents participation in such activities.
7. Deprivation of necessities, including:
 - a. Food and liquid at a time it is customarily served;
 - b. Medication; or
 - c. Use of a restroom.

Behavioral Intervention Plan or **BIP** is a plan that utilizes positive behavioral interventions and supports to address behaviors that interfere with the learning of a student, the learning of others, or that require disciplinary action.

Business day means Monday through Friday, 12 months of the year. It does not include federal and state holidays.

Calendar days means consecutive days, including Saturdays and Sundays. Whenever an action expires on a Saturday, Sunday, or federal or state holiday, the period of time for taking such action is extended to the next day that is not a Saturday, Sunday, or a federal or state holiday.

Child with a disability or **student with a disability** means a student who is eligible under the Individuals with Disabilities Education Act (IDEA)¹ or Section 504 of the Rehabilitation Act (Section 504).²

Corporal punishment means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline. (A full definition can be found in Appendix E.)

¹ 20 U.S.C. § 1401(3).

² 29 U.S.C. § 705(20)(A).

Crisis Intervention Program refers to a formal training program designed to teach school personnel how to effectively manage a potentially negative or even dangerous situation with students. Examples of crisis intervention programs include, but are not limited to, The Mandt System, Nonviolent Crisis Intervention, Safety-Care Behavioral Safety Training, and Handle With Care Behavior Management System.

Day means a calendar day unless otherwise designated as a business day or school day.

Evaluation means procedures used in accordance with the IDEA (or Section 504) to determine whether a child has a disability and the nature and extent of the special education and related services the child needs.

Functional Behavioral Assessment or **FBA** is a process to determine the underlying cause or functions of a student's behavior that impede the learning of the student or the learning of the student's peers. A functional behavioral assessment can include a review of existing data or new testing data or evaluation.

Individualized education program or **IEP** means a written statement for a child with a disability that is developed, reviewed, and revised at least annually in a team meeting in accordance with the IDEA. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs.

Individualized education program team or **IEP team** means a group of individuals described in the Virginia special education regulations (at 8 VAC 20-81-110) that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

Mechanical Restraint means the use of any material, device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel or used by a student that have been prescribed by an appropriate medical or related service professional and are used with parental consent and for the specific and approved purposes for which such devices were designed, such as:

1. Adaptive devices or mechanical supports used to achieve proper body position, balance or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
2. Vehicle restraints, including seat belts, when used as intended during the transport of a student in a moving vehicle;
3. Restraints for medical immobilization;
4. Orthopedically prescribed devices that permit a student to participate in activities without risk of harm; or
5. High-chairs and feeding stations used for age and/or developmentally appropriate students.

Pharmacological restraint means a drug or medication used on a student to control behavior or restrict freedom of movement that is not (i) prescribed by a licensed physician or other qualified health professional under the scope of the professional's authority for the standard treatment of a student's medical or psychiatric condition and (ii) administered as prescribed by a licensed physician or other qualified health professional acting under the scope of the professional's authority.

Physical Restraint means a personal restriction that immobilizes or reduces the ability of a student to move freely. Physical restraint does *not* include:

1. Briefly holding a student in order to calm or comfort the student;
2. Holding a student's hand or arm to escort the student safely from one area to another; or
3. The use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control.

Restraint means mechanical restraint, physical restraint, or pharmacological restraint.

School day means any day, including a partial day, that students are in attendance at school for instructional purposes. The term has the same meaning for all students in school, including students with and without disabilities.

School personnel means individual(s) employed by the school division on a full-time or part-time basis or as independent contractors or subcontractors as instructional, administrative, and support personnel, and includes individuals serving as a student teacher or intern under the supervision of appropriate school personnel.

Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Provided that no such room or space is locked, the term "seclusion" does *not* include the following activities:

1. In-school suspension;
2. Detention;
3. Time-out;
4. Student-requested breaks in a different location in the room or a separate room;
5. Removal of a student for a short period of time to provide the student with an opportunity to regain self-control, so long as the student is in a setting from which the student is not physically prevented from leaving;
6. Removal of a student for disruptive behavior from a classroom by the teacher as provided in Va. Code § 22.1-276.2; or
7. Confinement of a student alone in a room or area from which the student is physically prevented from leaving during an investigation and questioning by school personnel regarding the student's knowledge of or participation in

events constituting a violation of the code of student conduct (e.g., physical altercation, or an incident involving drugs or weapons).

Section 504 Plan means a written plan of modifications and/or accommodations for qualified individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).

Student means any student, with or without a disability, enrolled in a Virginia public school (as defined by Va. Code § 22.1-1). It also includes those students who are:

1. Attending a public school on a less-than-full-time basis, such as those students identified in Va. Code § 22.1-253.13:2.N;
2. Receiving homebound instruction pursuant to 8 VAC 20-131-180 and as defined in 8 VAC 20-81-10 without regard to special education eligibility;
3. Receiving home-based instruction pursuant to 8 VAC 20-81-10; and
4. Attending a pre-school program operated by the school division or receiving services in a pre-school program from school division personnel.

Under these procedures, a student does not include those children who are:

1. Enrolled in private, denominational, or parochial schools;
2. Receiving instruction by a tutor or teacher of qualifications approved by the division superintendent;
3. Receiving home instruction pursuant to Va. Code § 22.1-254; and
4. Receiving instruction in a secured facility or detention home as defined in Va. Code § 16.1-288 or in a facility operated by the Virginia Department of Behavioral Health and Developmental Services.

Time-out means a behavioral intervention in which the student is temporarily removed from the learning activity but in which the student is not confined. In some instances, the student may self-select this procedure. Time-out is *not* seclusion.

§ 2. Application of the physical restraint and seclusion procedures.

These procedures govern the use of physical restraint and seclusion by school personnel. If an action does not constitute restraint or seclusion, as those terms are defined herein, then school personnel may act within their reasonable discretion. If the action falls within the definitions of restraint or seclusion, it may be used, but only under the circumstances described in these procedures.

These procedures apply to all students attending school in the school division and all school personnel. Some students with disabilities are placed in private schools by the school division as a means of providing a free appropriate public education (FAPE). These restraint and seclusion procedures do not apply to such private school students. With regard to restraint and seclusion, those students are afforded the protections set forth in the Regulations Governing the Operation of Private Schools for Students with Disabilities.³

³ 8 VAC 20-671 *et seq.*

§ 3. Positive behavioral interventions and support strategies.

The school division encourages the use of positive behavioral interventions and supports to reduce and prevent the need for the use of physical restraint and seclusion. The following are some examples of positive behavior interventions and support strategies to consider:

- Implementing a comprehensive behavioral system, such as PBIS,⁴ to create a school-wide environment that reinforces appropriate behaviors while reducing instances of dangerous behaviors that may lead to the need to use restraint or seclusion. Key elements of a school-wide system or framework include (1) universal screening to identify children at risk for behavioral problems; (2) use of a continuum of increasingly intensive behavioral and academic interventions for children identified as being at risk; (3) an emphasis on teaching and acknowledging school-wide and individual expected behaviors and social skills; and (4) systems to monitor the responsiveness of individual children to behavioral and academic interventions.
- Having trained school staff use preventive assessments (e.g., FBAs) to identify where, under what conditions, with whom, and why specific inappropriate behavior may occur, as well as implementing de-escalation techniques to defuse potentially violent dangerous behavior. Preventive assessments can include (1) a review of existing records; (2) interviews with parents, family members, school staff, and/or students; and (3) examination of previous and existing behavioral intervention plans. Using data from such assessments could help schools identify the conditions when inappropriate behavior is likely to occur and the factors that lead to the occurrence of these behaviors; and develop and implement preventive behavioral interventions that teach appropriate behavior and modify the environmental factors that escalate the inappropriate behavior.
- Having planned behavioral strategies or plans (e.g., BIPs) in place to: (1) attempt to de-escalate potentially violent dangerous behavior; (2) identify and support positive behavior to replace dangerous behavior; and (3) support and positively reinforce appropriate behavior in class and/or throughout the school, especially if a student has a history of escalating dangerous behavior.

Any behavioral intervention used by school personnel should be consistent with a student's rights to be treated with dignity and to be free from abuse.

§ 4. Prohibited actions by school personnel.

The following actions are *not* permitted:

1. Use of mechanical restraints;
2. Use of pharmacological restraints;
3. Use of aversive stimuli;
4. Use of corporal punishment;
5. Use of restraint or seclusion under the following circumstances:
 - a. In any manner that restricts a student's breathing or harms the student.
For example:
 - i. Prone (i.e., lying face down) restraints or other restraints that can restrict breathing or speaking should not be used;
 - ii. Other maneuvers that place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat should not be used;
 - iii. Breathing or speaking can also 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) and, thus, such techniques should not be used.
 - b. As punishment or discipline (e.g., disrespect, noncompliance, insubordination, out-of-seat behavior, etc.);
 - c. As a means of coercion or retaliation;
 - d. As a convenience;
 - e. To solely prevent property damage;
 - f. In any other manner not consistent with these procedures; or
 - g. When medically or psychologically contraindicated as documented by an IEP team, 504 team, school professionals, a licensed physician, psychologist, or other qualified health professional under the scope of the professional's authority.
6. Use of seclusion rooms or freestanding units not meeting the standards set forth in § 5.1 of these procedures.

§ 5. Permitted actions by school personnel.

School personnel may implement physical restraint or seclusion only when other interventions are, or would be, in the reasonable judgment of the school personnel implementing physical restraint or seclusion in an emergency situation, ineffective and only to:

1. Prevent a student from inflicting serious physical harm or injury to self or others;
2. Quell a disturbance;
3. Remove a student from the scene of a disturbance in which the student's behavior or damage to property threatens serious physical harm or injury to persons;
4. Defend self or others from serious physical harm or injury; or
5. Obtain possession of controlled substances or paraphernalia or weapons or other dangerous objects that are upon the person of the student or within the student's control.

The specific technique used should be safe for the student and appropriate to the student's age, disability, and medical needs.

A less restrictive intervention does not have to be attempted prior to using physical restraint and seclusion when, in the reasonable judgment of the school personnel in an emergency situation, a less restrictive intervention would be ineffective.

Property damage alone does not justify the use of physical restraint or seclusion. But physical restraint or seclusion might be justified in an emergency situation when a student's damage to property creates an imminent risk of serious physical harm or injury to the student or others.

If physical restraint is used upon a student whose primary mode of communication is sign language or an augmentative mode, the student should be permitted to have a hand(s) free of restraint for a brief period of time, unless staff determines that such freedom appears to likely result in harm to the student or others.

Physical restraint and seclusion must be used only for limited periods of time using only the force that is necessary and should cease immediately when the emergency situation has dissipated. An alternative plan should be in place in the event that the student does not begin to calm down within a reasonable time period, usually just a few minutes.

The student should be continuously and visually observed and monitored while he or she is restrained or placed in seclusion. Those observing the application of a restraint

should confirm that the restraint does not cause harm to the student, such as restricting the student's breathing. Continuous visual monitoring of restraint or seclusion includes, for example: (1) continuous assessment of staff and student status, including potential physical injuries; (2) termination of restraint or seclusion when imminent danger of serious physical harm to self or others has dissipated; (3) evaluation of how procedures are being implemented; and (4) consideration of opportunities for redirection and defusing the dangerous behavior.

- *Exception to the visual monitoring requirement:* Visual monitoring is not required during an emergency situation if securing someone to perform visual monitoring before implementing the physical restraint or seclusion would, in the reasonable judgment of the school employee, result in serious physical harm or injury to persons.

Staff trained in the use of cardiopulmonary resuscitation (CPR) and First Aid should be available in the event of an emergency related to the use of physical restraint or seclusion. A portable automatic electronic defibrillator (AED) should also be available in the school.

Following the use of physical restraint or seclusion:

- School health clinic personnel should promptly assess the student;
- The school principal or designee should be notified of the incident and any related first-aid as soon as possible and no later than the end of the school day;
- Reasonable efforts should be made to notify the student's parent of the incident and any related first-aid on the same school day;
- An incident report (see appendix) should be completed and submitted to the school principal within two (2) school days and sent to the parent within seven (7) calendar days; and
- A debriefing should occur with everyone involved within two (2) school days.

See §§ 6 and 7 for more detailed information regarding notification, reporting, and debriefing requirements.

See § 8 for a discussion of the required meetings following multiple uses of physical restraint or seclusion in a school year regarding a specific student.

§ 5.1 Structural and physical standards for rooms and areas used for seclusion.

Any seclusion room or area, if used, should meet the following specifications:

1. Be safe and free of any potential or predictable safety hazards;

2. Be of reasonable size permitting students to lie or sit down or stand;
3. Have adequate ventilation including heat and air conditioning as appropriate;
4. Have adequate lighting;
5. All space in the room or area shall be visible through the door, either directly or by mirrors;
6. Provide for direct continuous visual and auditory monitoring of the student either by the presence of school personnel in the seclusion room or area or observation through a window, viewing panel, or half-door;
7. Windows shall be constructed to minimize breakage;
8. Permit automatic release of any locking device if fire or other emergency in the school exists; and
9. Be inspected at least annually, including by fire or safety inspectors.

In addition to the above requirements, the appropriate use and duration of seclusion should be based upon the age and development of the student.

§ 6. Notification and reporting requirements following use of physical restraint or seclusion.

Whenever a student has been physically restrained or secluded, the school principal and the student's parent(s) must be promptly notified and a written incident report must be completed.

§ 6.1 Each incident of restraint and seclusion must be reported to the school principal and the student's parent on the day of the occurrence whenever possible.

1. *Report to school principal:* School personnel involved shall report the incident and the use of any related first aid to the school principal or the principal's designee as soon as possible and in no instance later than the end of the school day in which the incident occurred.
2. *Notice to parent:* The school principal or the principal's designee, or other school personnel, shall make a reasonable effort to contact the student's parent, either in person, through telephone conversation, or other means of communication authorized by the parent such as email, to notify the parent of the incident and any related first aid administered to the student on the day the incident occurred.
 - a. Staff should document the parent contact and indicate the type of contact (phone, email, in-person, etc.) and content of the interaction.

If the physical restraint or seclusion occurred after the regular school day, the above notifications shall be made as soon as practicable in compliance with the school division's school crisis, emergency management, and medical emergency response plan required by Va. Code § 22.1-279.8.

§ 6.2 Following each instance of physical restraint or seclusion, school staff must complete an incident report.

1. *Within two school days* of the incident: school personnel involved in the incident or other school personnel, as may be designated by the principal, should complete and provide to the principal (or designee) a written incident report.
2. *Within seven calendar days* of the incident: the school division should provide the parent with a copy of the written incident report.

The written incident report should contain the following information:

1. Student name, age, gender, grade, and ethnicity;
2. Location of the incident;
3. Date, time, and total duration of incident, including documentation of the beginning and ending time of each application of physical restraint or seclusion;
4. Date of report;
5. Name of person completing the report;
6. School personnel involved in the incident, their roles in the use of physical restraint or seclusion, and documentation of their completion of the division's training program;
7. Description of the incident, including the resolution and process of return of the student to the student's educational setting, if appropriate;
8. Detailed description of the physical restraint or seclusion method used;
9. Student behavior that justified the use of physical restraint or seclusion;
10. Description of prior events and circumstances prompting the student's behavior, to the extent known;
11. Less restrictive interventions attempted prior to the use of physical restraint or seclusion, and an explanation if no such interventions were employed;
12. Whether the student has an IEP, a Section 504 plan, a BIP, or other plan;
13. If a student, school personnel, or any other individual sustained bodily injury, the date and time of nurse or emergency response personnel notification and the treatment administered, if any;
14. Date, time, and method of parental notification of the incident; and
15. Date, time, and method of school personnel debriefing.

An incident checklist and a sample incident report form can be located in the appendix.

§ 7. Staff and student debriefing.

Following each incident of physical restraint or seclusion, the school principal must promptly review the incident with school personnel and, if appropriate, the student.

Within two school days, the principal (or designee) must review the incident with all school personnel who implemented the use of physical restraint or seclusion to discuss:

1. Whether the use of restraint or seclusion was implemented in compliance with these procedures; and
2. How to possibly prevent or reduce the future need for physical restraint or seclusion.

Within two school days or upon the student's return to school, as appropriate, depending on the student's age and developmental level, the principal (or designee) should review the incident with the student involved to discuss:

1. Details of the incident to assist the student and school personnel in identifying patterns of behaviors, triggers, or antecedents; and
2. Alternative positive behaviors or coping skills the student could use to reduce behaviors or prevent physical restraint or seclusion.

An incident checklist and a sample debriefing report form can be located in the appendix.

§ 8. Prevention/multiple uses of restraint or seclusion.

The use of physical restraint or seclusion, particularly when there is repeated use for an individual student, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, development or revision of behavioral strategies.

§ 8.1 Required meetings for students who have an IEP or a 504 Plan.

In the *initial development and subsequent review and revision* of a student's IEP or Section 504 Plan, the student's IEP or Section 504 team shall consider whether the student displays behaviors that are likely to result in the use of physical restraint or seclusion. If the IEP or Section 504 team determines that future use is likely, the team shall consider, among other things, the need for:

1. An FBA;
2. A new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions;
3. Any new or revised behavioral goals; and
4. Any additional evaluations or reevaluations.

Within 10 school days following the second school day in a single school year on which an incident of physical restraint or seclusion has occurred, the student's IEP or Section 504 team shall meet to discuss the incident and to consider, among other things, the need for:

1. An FBA;
2. A new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions;
3. Any new or revised behavioral goals; and
4. Any additional evaluations or reevaluations.

§ 8.2 Required meeting for general education students.

Within 10 school days of the second school day in a single school year on which an incident of physical restraint or seclusion has occurred, a team consisting of the following individuals will meet to discuss the incident:

1. The parent;
2. The principal (or designee);
3. A teacher of the student;

4. School personnel involved in the incident (if not the teacher or administrator already invited); and
5. Other appropriate school personnel, such as a school psychologist, school counselor, or school resource officer, as determined by the school division.

During the meeting, the team should discuss the incident and consider, among other things, the need for:

1. An FBA;
2. A new or revised BIP that addresses the underlying causes or purposes of the behaviors as well as de-escalation strategies, conflict prevention, and positive behavioral interventions; and
3. A referral for evaluation under the IDEA and/or Section 504 if the team suspects a disability.

Nothing in this section shall be construed to (i) excuse the team or its individual members from the obligation to refer the student for evaluation if the team or members have reason to suspect that the student may be a student with a disability; or (ii) prohibit the completion of an FBA or BIP for any student, with or without a disability, who might benefit from these measures but whose behavior has resulted in fewer than two incidents of physical restraint or seclusion in a single school year.

§ 8.3 The school principal should regularly review incidents of restraint and seclusion to ensure that school staff are complying with the school division's procedures.

In addition to the above-required team meetings, the principal (or designee) should regularly review the use of physical restraint or seclusion within the school building to ensure compliance with school division policy and procedures.

When there are multiple incidents of physical restraint or seclusion within the same classroom or by the same individual, the principal should take appropriate steps to address the frequency of use, such as conducting additional training for school staff, convening IEP and Section 504 team meetings, and completion of the FBA and BIP process, etc.

§ 9. Investigation of complaints.

Any incident of physical restraint or seclusion that results in a complaint from a parent/guardian or a reported injury to a student or staff should be investigated pursuant to applicable school board policies.

§ 10. Training and staff development.

There are two levels of required training on the use of physical restraint and seclusion: initial and advanced. All school personnel, as defined herein, must complete the initial training. Select school personnel must complete the advanced training.

§ 10.1 Initial Training

All school division personnel should receive initial training on:

1. Skills related to positive behavior support;
2. Conflict prevention;
3. De-escalation;
4. Crisis response (to include follow-up support and social-emotional strategy support for students, staff, and families); and
5. Regulations, policies, and procedures regarding physical restraint and seclusion.

The initial training should be evidence-based.

The Virginia Department of Education (VDOE), in partnership with Old Dominion University (ODU), has developed a series of modules to provide professional development to Virginia school personnel on physical restraint and seclusion. These free, on demand, online modules fulfill the first level of training requirements. The series of modules can be found on the ODU-VDOE joint webpage at <https://www.odu.edu/eps/programs/ciees/initiatives/restraint-and-seclusion.html>.

Attendance at each training session should be documented and such documentation should be maintained.

§ 10.2 Advanced Training

In addition to completing the initial training, the following individuals must complete advanced training on physical restraint and seclusion:

1. At least one administrator in every school building; and
2. Personnel assigned to work with any student whose IEP or Section 504 team determines that the student is likely to be physically restrained or secluded.

The advanced training should be evidence-based. The specific content of the advanced training is usually prescribed by the specific crisis intervention program selected by the school division. Such training may include the following elements:

- Certification in a recognized behavior management system that addresses physical restraint and seclusion;
- Regular updates for training and recertification;
- Education in the use of positive, instructional, and preventative methods for addressing student behavior;
- Instruction in de-escalation strategies and conflict management;
- Identifiable conditions under which physical restraint and seclusion are allowed;
- Procedures to be followed when physical restraint and seclusion are implemented;
- Education about the potential harm of using restraint and seclusion;
- Methods for monitoring a student's well-being when using restraint and seclusion; and
- Instruction regarding incident documentation and reporting requirements, and the procedures for investigating injuries and complaints.

Attendance at each training session should be documented and such documentation should be maintained by each building.

§ 11. Annual review of the procedures.

The school division must review these physical restraint and seclusion procedures at least *annually* and update them as appropriate.

As part of the annual review process, the school division should consider the distinctions in emotional and physical development between elementary and secondary students and between students with and without disabilities.⁵

⁵ The Code of Virginia, at § 22.1-279.1:1, expressly required the Virginia Board of Education (“VBOE”) to address in its restraint and seclusion regulations the "distinctions in emotional and physical development, between (a) the general student population and the special education student population and (b) elementary school students and secondary school students." The VBOE regulations on restraint and seclusion do not, however, address this requirement.

§ 12. Annual reporting requirements.

The division's school principals and superintendent must annually prepare and file the following reports:

School Principal's (or Designee) Annual Report

- Each school principal or the principal's designee shall submit to the division superintendent each year a report on the use of physical restraint or seclusion in the school.
- This report should be based on the incident reports completed by school personnel following each occurrence of physical restraint or seclusion.

Division Superintendent's Annual Report

- The division superintendent shall annually report the frequency of incidents of physical restraint and seclusion in the school division to the state superintendent of public instruction (on a form that is supposed to be provided by the VDOE).
- This information should also be made available to the public.

§ 13. Publicly-placed private school students.

Some students with disabilities are placed in private schools by the school division as a means of providing a free appropriate public education (FAPE). These restraint and seclusion procedures do not apply to such private school students. With regard to restraint and seclusion, those students are afforded the protections set forth in the Regulations Governing the Operation of Private Schools for Students with Disabilities.⁶

If there is reason to believe that a private school is improperly using restraint or seclusion or applying it in a discriminatory manner regarding a division-placed student, the school division should investigate. If there is reason to believe that a private school's use of restraint or seclusion is interfering with a student's provision of FAPE, an IEP meeting should be held to review and, if necessary, develop or revise behavioral strategies and supports, and/or consider other changes to the student's educational program.

⁶ 8 VAC 20-671 *et seq.*

§ 14. Construction and interpretation of these procedures.

Nothing in these procedures shall be construed to modify or restrict:

- The initial authority of teachers to remove students from a classroom pursuant to § 22.1-276.2 of the Code of Virginia;
- The authority and duties of school resource officers and school security officers, as defined in § 9.1-101 of the Code of Virginia, except to the extent governed by a memorandum of understanding between the local law enforcement agency and the school division;⁷
- The authority of the Virginia Department of Juvenile Justice with regard to students in its custody at any of its sites or in any of its programs; or
- The civil immunity afforded teachers employed by local school boards for any acts or omissions resulting from the supervision, care, or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of supervision, care, or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct, as provided in § 8.01-220.1:2 of the Code of Virginia.

A copy of these procedures must be available to employees and the public.

- A current copy of the procedures must be posted on the school division's website;
- Printed copies should be available as needed for citizens who do not have online access.

The school division welcomes parent input into the school division's use of physical restraint and seclusion.

⁷ School divisions that use school resource officers must enter into a Memorandum of Understanding with local law enforcement addressing the use of restraint and seclusion by law enforcement personnel in school settings.

§ 15. Resources regarding restraint and seclusion.

Va. Code Ann. § 22.1-279.1, Corporal Punishment Prohibited,
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.1>.

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School Board Policy on Physical Restraint and Seclusion