

During the 2016 Louisiana legislative session, Act 522 (originally Senate Bill 317) dealing with the use of physical restraint and seclusion was enacted. In order to be compliant with this law, the following procedures are to be strictly followed in the event that any student with a disability (any special education student excluding students who are identified as gifted and/or talented only).

1. When an incident of seclusion and/or physical restraint takes place, the person who has made that determination must report the details of the incident to the campus principal/administrative designee, the PAC Manager and the parent.
2. The principal/administrative designee must provide all of the required paperwork to the person who secluded or restrained the student with a disability.
3. The paperwork must be completed in its entirety before the end of business on the day that the restraint and/or seclusion took place.
 - a. This paperwork shall be submitted to the campus principal no later than the day following the incident.
 - b. A copy of this paperwork will be included as part of the written notification of the incident to the parent/guardian within 24 hours of the incident.
 - c. A copy of this paperwork shall be submitted to the Pupil Appraisal Center Manager no later than the day following the incident.
4. The parent of the child who was restrained/secluded must be notified in writing within 24 hours of the incident. The notice will come from the principal/administrative designee and must include:
 - a. Reason for restraint/seclusion
 - b. Procedures used
 - c. Length of time of the restraint/seclusion
 - d. Names and titles of any school employee involved
5. The Special Education Director or his/her designee (Pupil Appraisal Center Manager) shall be notified in writing after each such occurrence.
6. In the event a student is subject to the use of restraint and/or seclusion a total of five times within the same school year, the student's IEP team shall convene to review and revise, if appropriate, the student's Behavior Intervention Plan to include any appropriate and necessary behavioral supports.
7. After the fifth such event, at a minimum of every three weeks the teacher of IEP authority and the campus principal/administrative designee shall review documentation compiled for a student who has been placed in seclusion or physically restrained when it is determined through data that the student's challenging behaviors continue or escalate. If necessary, the student's IEP team shall convene to review and revise, if appropriate the student's Behavior Intervention Plan to include any appropriate and necessary behavioral supports.

What IS Physical Restraint?

Physical restraint means bodily force used to limit a person's movement. Some examples of physical restraint might include (but are not limited to):

1. Blocking a student's exit from a classroom "for more than a moment"
2. Carrying a student out of a classroom when he/she does not want to leave
3. Using any sort of CPI-approved restraint, i.e. basket hold, two-person transport, etc.
4. Grabbing a student's arm, leg, shoulder, etc. to stop him/her from going where he/she wants to go.

Physical restraint does not include: (1) Consensual, solicited, or unintentional contact; (2) "Momentary" blocking of a student's action if the student's action is likely to result in harm to the student or any other person; (3) Holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted; (4) Minimal physical contact for the purpose of safely escorting a student from one area to another; (5) Minimal physical contact for the purpose of assisting the student in completing a task or response.

So that you don't get a feeling that this is all clear-cut, let me give you an example that will help you to understand the judgment that is required to make a determination on whether or not a physical restraint is being used:

A Kindergarten student is in line to go from the cafeteria where he has just had breakfast into his classroom when the school day is about to begin. As 6-year-old boys are apt to do, he takes off and runs toward the street. The teacher or administrator runs after him, grabs his arm and stops him before he can get into the street where he could be injured. The student stops immediately and willingly goes with you to his classroom (or office, depending on the circumstances). Because the restraint was only momentary and it was to prevent the student from getting hurt, this is NOT a restraint and does not have to be reported.

BUT...

In the same scenario, when the teacher/administrator grabs the student to stop him, the child resists and continues to try to pull away from the adult. If the hold is more than "momentary", then this would be a physical restraint and it would have to be documented per the administrative procedures attached.

What is Mechanical Restraint?

Mechanical restraint means the application of any device or object used to limit a person's movement. Mechanical restraint does not include: (1) A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider; and (2) Any device used by a duly licensed law enforcement officer in the execution of his/her official duties.

So, the use of a harness on the bus for purposes of addressing behavioral concerns IS a mechanical restraint. We do NOT use harnesses on the bus or in the classroom for this purpose but if someone does choose to use it for this purpose, a report would have to be made each time the harness was used and administrative action would be required for the inappropriate use of a harness.

If, however, there is a clinical reason (for proper positioning) for the use of a harness, then this would NOT be a mechanical restraint and such a use would not have to be documented. Additionally, the use of a harness for purposes of positioning would be an IEP decision which would include an OT or PT and the parent would have already been involved in the decision to use it, making this a consensual restraint (if the parent agreed to it during the IEP meeting).

What is Seclusion?

Seclusion shall mean a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others. This would include “time out” unless this has been determined to be an appropriate behavioral intervention for the child and that has been document in his/her IEP. If any special education student is put in timeout and it is NOT the result of an IEP team decision, then this incident would have to be document and reported as indicated on the attached administrative procedure.

DISCLAIMER: While there may be some instances in which Act 522 doesn’t require reporting to a parent that their child has been “restrained” or “secluded”, best practices would dictate that you use your professional judgment as to when you would notify the parent of these incidents.