

This is a summary of the key provisions in Virginia’s new Regulations Governing Seclusion and Restraint in the Commonwealth’s public schools.

You can find all the details of the final regulations at: <http://register.dls.virginia.gov/details.aspx?id=8093>

Title of Regulation: 8VAC20-750. Regulations Governing the Use of Seclusion and Restraint in Public Elementary and Secondary Schools in Virginia

Effective Date: January 1, 2021

This Regulation Applies: to all public elementary and secondary schools in Virginia and all public-school students and staff. The term “student” includes those who are enrolled less than full time, those receiving home-bound or home-based instruction, and preschool students enrolled in a public-school operated program, or those receiving services from school personnel.

Seclusion: the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

Seclusion Does Not Include

- Short term removal that allow the student to regain self-control (as long as the student is not physically prevented from leaving the setting)
- Removal of a student for disruptive behavior from a classroom
- Confinement during an investigation of a student’s knowledge of the Code of Student Conduct
- Time-out when a student is not confined
- In-school suspension
- Detention
- Student-requested breaks

Restraint: There are three types of restraint: mechanical, pharmacological, and physical.

Mechanical restraint - any material, device, or equipment used to restrict a student's freedom of movement.

Pharmacological restraint - a drug or medication used on a student to control behavior or restrict freedom of movement that is not prescribed and administered for a medical or psychiatric condition, by a licensed physician or other qualified health professional, acting under his authority.

Physical restraint - a personal restriction that immobilizes or reduces the ability of a student to move freely.

Notification: There are strict notification requirements in place for when school staff need to notify their principal and when the school needs to notify the parents that an incident of seclusion and restraint has occurred (and any related first aid). Reasonable efforts must be made to notify parents on the same day as the incident. Written incident reports are required.

Prohibited Actions: The regulations prohibit (forbid) the use of the following:

- **Mechanical** restraints
- **Pharmacological** restraints
- **Prone restraint** (face down) or other restraint that restricts a breathing or harms the student
- **Aversive stimuli** intended to cause pain or discomfort to a student to punish or address behaviors
- **Seclusion that restricts breathing or harms** the student
- **Corporal punishment**
- **Seclusion rooms or freestanding seclusion units** that don't meet specified standards
- **Physical restraint or seclusion** as **(a)** punishment or discipline; **(b)** a means of coercion or retaliation; **(c)** a convenience; **(d)** to prevent property damage, **(e)** when medically or psychologically contraindicated as documented by Individualized Education Program (IEP) team, 504 team, school professionals or licensed medical or health professional acting within their scope of authority, or **(f)** in any manner other than as provided for in the regulations.

Permitted Actions: Physical restraint and seclusion can only be implemented in an emergency when other interventions are deemed ineffective by staff personnel. In **emergency situations**, seclusion and restraint can **only** be used to:

1. Prevent a student from inflicting serious physical harm or injury to self or others.
2. Reduce the impact of a disturbance or 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.
3. Defend themselves or others from serious physical harm or injury.
4. Obtain possession of controlled substances or paraphernalia on the student or in their control.
5. Obtain possession of weapons or other dangerous objects on the student or in their control.

Schools must examine ways to prevent and reduce the use of physical restraint and seclusion for students with and without disabilities.

1. For students with an IEP or 504 Plan: Team must consider the need for a functional behavioral analysis (FBA) or development or revision of a Behavior Intervention Plan (BIP).
2. Students suspected of having a disability must be referred for an evaluation.



The contents of this factsheet were developed under a grant from the US Department of Education, #H328M200002. However, those contents do not necessarily represent the policy of the US Department of Education, and you should not assume endorsement by the Federal Government. Project Officer. PEATC is not a legal services agency and cannot provide legal advice or legal representation. Any information contained in this factsheet is not intended as legal advice and should not be used as a substitution for legal advice.

