

Wisconsin's Law on the use of Seclusion & Physical Restraint in Schools

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Wisconsin Law on Seclusion and Physical Restraint in Schools

- **Section 118.305 of the Wisconsin Statutes**
- **Originally enacted in 2012 by 2011 Wisconsin Act 125**
- **Modified by 2019 Wisconsin Act 118, effective March 4, 2020**

Main Thing to Remember...

- Use of seclusion or physical restraint is prohibited unless:
 - a student's behavior presents a clear, present, and imminent risk to the physical safety of the student or others, and
 - It is the least restrictive intervention feasible.
 - Duration must be **ONLY** as long as is necessary to resolve the imminent risk.
- Applies to **ALL** students!

Definition of Seclusion

“Seclusion” means the involuntary confinement of a student, apart from other students, in a room or area from which the student is physically prevented from leaving.

Definition of Physical Restraint

“Physical restraint” means a restriction that immobilizes or reduces the ability of a student to freely move his or her torso, arms, legs, or head.

Applicability

Requirements apply to public schools, private schools participating in the Special Needs Scholarship Program, and private schools where students are placed by public school districts

Definition of “incident”

- Under previous law, the term “incident” was not defined
- “Incident” is defined under current law as an occurrence of a covered individual or a law enforcement officer using seclusion or physical restraint on a student
- It is considered one incident if immediately following the use of seclusion or restraint, the student’s behavior presents a clear, present, and imminent physical safety risk, and the covered individual or law enforcement officer resumes the use of seclusion or physical restraint

Reporting Requirements – Law Enforcement Officials

- **Previous law:** Reporting requirements did not expressly apply when seclusion or physical restraint was utilized by a law enforcement officer in a school
- **Current law:** Schools are expressly required to include incidents of seclusion or physical restraint by law enforcement officers in schools when documenting incidents, notifying parents, and developing and providing a written report

Individualized Education Programs (IEPs)

- **Previous law: If the IEP team of a student with a disability determined use of seclusion or physical restraint could reasonably be anticipated, the student's IEP was required to contain the terms "seclusion" or "physical restraint."**
- **2019 Act 118 repealed this provision of the law. IEP teams are no longer required to include these terms.**

Requirements: IEP Teams

- **After the second incident of seclusion or physical restraint in a school year with a student with an IEP, the IEP team must meet to review the IEP within 10 school days of the incident**
- **The IEP must include appropriate positive behavior interventions and supports based on a functional behavioral assessment (FBA) of the behavior(s) of concern**

Seclusion Specifics

- **Previous law: Doors to room or area used for seclusion could not be capable of being locked**
- **Current law: Locks are not allowed on rooms or areas being used for seclusion**
- **Has not changed: Staff must maintain constant supervision, and room or area must be free of objects or fixtures that may cause injury**

Physical Restraint: Prone (face down) Maneuvers

- **Previous law:** Prohibited maneuvers include those that do not adequately protect a student's head, cause chest compression, or place pressure or weight on the student's neck, throat, an artery, the back of a student's head or neck, or otherwise obstruct the student's circulation or breathing were prohibited. Prone maneuvers not specifically addressed; however not allowed given prohibited maneuvers.
- **Current law:** Above maneuvers still prohibited, but prone restraints now expressly prohibited.

Vehicle Safety Restraints

- **Previous law: Did not address use of vehicle safety restraints**
- **Current law: Appropriate use of vehicle safety restraints used as intended while transporting a student in vehicle is NOT considered mechanical restraint.**
- **Has not changed: Chemical and mechanical restraints are not allowed.**

“Debrief” after each incident

Current law: After each incident, principal or designee must meet with the involved staff to discuss:

- The events preceding, during, and following the incident; and
- How to prevent the need for seclusion and restraint
 - Factors contributing to the escalation of the student’s behaviors; and
 - Alternatives to physical restraint such as de-escalation techniques and possible interventions, and other strategies

Parent Notification of Incident

Principal or designee to notify the student's parent of the incident as soon as possible or within one business day of the incident.

This requirement also applies when an incident occurs involving law enforcement officers.

Documentation of Incident

Principal or designee must consult with staff and law enforcement officers present during the incident before completing the written report.

The report must include the following:

- The student's name.
- The date, time, and duration of the use of seclusion or physical restraint.
- A description of the incident, including a description of the actions of the student before, during, and after the incident.
- The names and titles of the covered individuals and any law enforcement officers present during the incident.

The principal or designee must keep the report and send it to the parent within three business days of the incident.

Training Requirements

No school staff may use physical restraint unless they have received training including the following:

- Evidence-based instruction on positive behavioral supports and interventions, safe physical escort, understanding antecedents, de-escalation, conflict prevention, and conflict management
- Evidence-based techniques, including debriefing, shown to prevent or reduce the use of restraint
- Instruction in identification and description of dangerous behavior indicating the need for restraint
- Instruction in methods of evaluating risk of harm to determine whether restraint is needed
- Instruction on effects of restraint on the person restrained, monitoring signs of physical distress, and in obtaining medical assistance
- Instruction in documenting and reporting incidents of restraint
- Demonstration of ability to identify prohibited restraint techniques

Reporting Requirements: School Board

Annually by October 1st, principal or designee must submit following information in report to the governing body with information from the previous school year:

- **Number of incidents of seclusion during the previous school year;**
- **Total number of students who were involved in incidents of seclusion;**
- **The number of students with disabilities who were involved in incidents of seclusion;**
- **Number of incidents of physical restraint;**
- **Number of students who were involved in incidents of physical restraint;**
- **Number of students with disabilities who were involved in incidents of physical restraint.**

Reporting Requirements: Report to DPI

Annually by December 1st, each governing body must submit a report containing disaggregated incident information for each school.

Data from the 2019-20 and 2020-21 schools year available on DPI's website.

2021-22 data will be available soon.

Lessons from the Data

- **Vast majority of incidents involve students with disabilities.**
- **Disproportionate use with students of color.**
- **Vast majority of incidents are at elementary schools.**
- **Pandemic years/school closing... what will 2021-22 data look like?**

Questions?

- DPI Special Education Team: (608) 266-1781
- <https://dpi.wi.gov/support/contact-special-education>

Thank you!