



January 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

FROM: Maribeth Barney

Christopher Suriano

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.

Questions relating to these regulations specific to students with disabilities may be emailed to SPECED@nysed.gov.

For questions regarding the reporting of data to NYSED's Student Information Repository System (SIRS), please contact your [Level 1 Reporting Center or Big 5 point of contact](#). For all other data reporting inquiries, please contact the Office of Information and Reporting Services at [Datasupport](#) with the subject line "Student Behavioral Interventions."

Attachment

Updates to Behavioral Supports and Interventions in Schools:

Frequently Asked Questions

January 2024

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



Introduction

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Updates to Behavioral Supports and Interventions: Questions and Answers

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Frequently Asked Questions

January 2024

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 151-1.2(b) of this Title, or operated by a school district in collaboration with an eligible agency
- Preschool special education program pursuant to Education Law Section 4410
- Registered nonpublic nursery schools, kindergartens, and high schools, and nonpublic schools serving grades 1 through 8 with a registered high school.

B) Scope

B-1) What is an aversive intervention and is it allowed?

An aversive intervention is defined as an intervention that is intended to induce pain or discomfort for the purpose of eliminating or reducing student behavior [8 NYCRR §19.5(b)(1)].

The use of aversive interventions is prohibited [8 NYCRR §19.5(c)(1)(ii)].

B-2) What is corporal punishment and is it allowed?

Corporal punishment is defined as any act of physical force upon a student for the purpose of punishing that student [8 NYCRR §19.5(b)(2)]. It is important to note that corporal punishment does not include the use of physical restraints required to protect the student, another student, teacher, or any other person from physical injury when alternative procedures and methods not involving the use physical restraint cannot reasonably be employed to achieve these purposes [8 NYCRR §19.5(b)(2)]. As of October 25, 2023, corporal punishment, is prohibited in every school within the state of New York and is classified as child abuse (Education Law [§1125](#) and [§305](#)).

(Note: Not all forms of child abuse constitute corporal punishment as defined in 8 NYCRR §19.5(b)(2), prohibited in [Education Law §1125\(a\)](#), and any instances outside of the corporal punishment definition are not reportable under these regulations).

B-3) What is de-escalation and when should it be used?

De-escalation is defined as the use of a behavior management technique that helps a student increase control over their emotions and behavior and results in a reduction of a present or potential level of danger to the student or others [8 NYCRR §19.5(b)(3)].

De-escalation techniques should be used to attempt to calm and/or redirect a student's behavior before any other more restrictive interventions are used, such as timeout and/or physical restraint [8 NYCRR §19.5(d)].

B-4) What is a mechanical restraint and is it allowed?

Mechanical restraint is defined as the use of any device or equipment to restrict a student's freedom of movement [8 NYCRR §19.5(b)(4)].

Mechanical restraint does not include devices implemented by trained school personnel, that have been prescribed by an appropriate medical or related services professional, or utilized by a student and are used for the specific and approved purposes for which such devices were designed. Examples of such devices include:

- vehicle safety restraints, such as car seats, booster seats, vests, and seat belts when used for the safe transport of a student in a moving vehicle;
- adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment;
- prescribed medical restraints used to immobilize, support, or prevent injury; and
- orthopedically prescribed devices that permit a student to participate in activities without the risk of harm [8 NYCRR §19.5(b)(4)].

A mechanical restraint is considered an aversive intervention [8 NYCRR §19.5(b)(1)(iv)] and, as such, is prohibited, except in such instance when a school resource officer is

carrying out a law enforcement arrest of a student and the use of handcuffs is necessary for the safety of the student and others [8 NYCRR §19.5(c)(2)].

B-5) May a school resource officer use handcuffs?

Yes. School resource officers are authorized to use handcuffs when carrying out an arrest of a student within the scope of their law enforcement duties and the use of handcuffs is necessary for the safety of the student and others [8 NYCRR §19.5(c)(2)].

However, if not effecting an arrest, school resource officers, as agents of a school, must comply with all NYSED regulations, including the prohibition of corporal punishment, seclusion, aversive interventions, and mechanical restraints [8 NYCRR §§ 19.5(c)(2), 155.17 (c)(1)(xi)].

B-6) What is a multi-tiered system of supports (MTSS) and when should it be used?

MTSS is defined as a proactive and preventative framework that utilizes data to inform instruction and the allocation of services to maximize achievement for all students and support students' social, emotional, and behavioral needs from a culturally responsive and strength-based perspective [8 NYCRR §19.5(b)(5)]. This framework should be embedded in school-wide systems with interventions, practices, and policies used on a daily basis to proactively support all students [8 NYCRR §19.5(d)].

B-7) What is a physical escort and is it allowed?

A physical escort is defined as the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location and is allowed when used in this manner [8 NYCRR §19.5(b)(6) & (7)]. However, if the technique used to escort a physically resistant student involves immobilization, it would constitute a physical restraint and would need to be followed up with the documentation and notification required by 8 NYCRR §19.5(d)(3).

C) Authorized Limited Use of Timeout and Physical Restraint

C-1) What is physical restraint and when is it allowed?

A physical restraint is defined as a physical restriction that immobilizes or reduces the ability of a student to move their arms, legs, body, or head freely [8 NYCRR §19.5(b)(7)]. It is important to note that this term does not include a physical escort or brief physical contact and/or redirection to promote student safety, calm or comfort a student, prompt or guide a student when teaching a skill or assisting a student in completing a task, or for other similar purposes [8 NYCRR §19.5(b)(7)].

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 behavior management technique that involves the monitored separation of a student in a non-locked setting and is implemented for the purpose of de-escalating, regaining control, and preparing the student to meet expectations to return to their education program [8 NYCRR §19.5(b)(11)].

Timeout must only be used in a situation that poses an immediate concern for the physical safety of the student or others or when used consistent with a student with a disability's individualized education program (IEP) and behavioral intervention plan

(BIP) that is designed to teach and reinforce alternative appropriate behaviors [8 NYCRR §§ 19.5(d)(1), 200.22(c)].

Timeout does not include:

- a student-initiated or student-requested break to utilize coping skills, sensory input, or self-regulation strategies;
- use of a room or space containing coping tools or activities to assist a student to calm and self-regulate, or the use of such intervention strategies consistent with a student with a disability's behavioral intervention plan as defined in 8 NYCRR § 200.1(mmm); or
- a teacher removal, in-school suspension; or any other appropriate disciplinary action [8 NYCRR §19.5(b)(11)].

C-6) Does Section 19.5 provide two different threshold standards for the limited use of timeout?

No. Section 19.5 authorizes the limited use of timeout according to a single threshold standard. Timeout shall only be used in a situation that poses an immediate concern for the physical safety of the student or others, except as provided in 8 NYCRR § 200.22(c) (governing use of timeout for students with disabilities whose IEPs specify when a behavioral intervention plan includes the use of timeout), [8 NYCRR §19.5(d)(1)].

Despite some confusion caused by the use of different terminology in the subdivision's introductory paragraph, the intent was not to state more than one standard. Refer to question C-7 for additional information about the use of timeout for students with disabilities.

C-7) When may timeout be used with a student with a disability?

Except for situations that pose an immediate concern for the physical safety of the student or others, timeout may be used consistent with a student with a disability's IEP when such IEP specifies when a behavioral intervention plan includes the use of timeout. In such instances, the use of timeout consistent with a student's BIP is designed to teach and reinforce alternative appropriate behaviors [8 NYCRR §§ 19.5(d)(1), 200.22(c)].

C-8) Does newly amended rule Section 19.5 allow for supports and strategies that students may use for self-regulation, such as sensory activities and/or breaks, check-ins with clinical staff, and student-initiated breaks?

Yes, the revised rule allows for:

- a student-initiated or student-requested break to utilize coping skills, sensory input, or self-regulation strategies.
- the use of a calming space or room containing coping tools or activities to assist a student to calm and self-regulate; or
- the use of such intervention strategies consistent with a student with a disability's IEP and BIP. [8 NYCCR §19.5(b)(11)(i – ii)].

However, these “calming” spaces and rooms must never be locked (and any door must be able to be opened from the inside) or used to strictly isolate the student as a form of punishment. The intention is that the “calming” spaces or rooms are a **temporary intervention strategy** and that students return to class/program as soon as they are able, ready to learn, and missing as little instruction as possible. It is expected that schools monitor the use of this strategy. Routine or more frequent use of this strategy may warrant a functional behavioral assessment to ensure that behavior is not interfering with academic and social progress and the student is receiving supports to return to class/program as soon as possible.

C-9) Can physical restraint be used to only protect property?

Physical restraint cannot be used for the sole purpose of preventing the destruction of property except in situations where there is imminent danger of serious physical harm to the student or others and the student has not responded to positive, proactive intervention strategies [8 NYCRR §19.5(d)(2)(v)].

D) Documentation and Training

D-1) Following a timeout or restraint, what information needs to be provided to the parent/guardian and by when?

Schools must ensure same day parent/guardian notification consistent with Education Law Section 4402, which requires same-day parental/guardian notification in the event of use of timeout or physical restraint on students with disabilities. Section 19.5 requires schools to develop procedures to ensure same day notification to a parent/guardian when certain behavioral interventions are used [8 NYCRR §19.5(d)(3)(i)]. A copy of the documentation of the incident should be provided to the affected student's parent/guardian within three school days of the use of timeout or a physical restraint [8 NYCRR §19.5(d)(3)(ii)].

D-2) What documentation is required after the use of timeout or a physical restraint?

Section 19.5 requires schools to maintain documentation of each incident involving the use of timeout, including timeout used in conjunction with a student's behavioral intervention plan consistent with 8 NYCRR §200.22(c), and/or physical restraint on each student. Documentation of each incident shall be maintained by the school and made available for review by NYSED upon request [8 NYCRR §19.5(d)(4)(iii)].

Under Section 19.5(d)(4)(i), **schools shall maintain documentation of each incident including the following:**

- the name and date of birth of the student;
- the setting and location of the incident;

- the name of the staff who participated in the implementation, monitoring and supervision of the use of timeout and/or physical restraint and any other persons involved;
- a description of the incident including duration, and for physical restraint, the type of restraint used;
- whether the student has an individualized education program, Section 504 accommodation plan, behavioral intervention plan, or other plan developed for the student by the school;
- a list of all positive, proactive intervention strategies utilized prior to the use of timeout and/or physical restraint; and for students with disabilities, whether those strategies were consistent with a student's behavioral intervention plan, if applicable;
- the details of any injuries sustained by the student or staff during the incident and whether the student was evaluated by the school nurse or other medical personnel;
- the date and method of notification to the parent/guardian and whether a meeting was held;
- the date the debriefing was held; and
- the date the incident was reviewed by supervisory personnel and as necessary, the school nurse or other medical personnel.

D-3) What is a debriefing and when does it occur?

Debriefing is an evidence-based technique that involves an analysis and discussion of an incident after its conclusion. Through the use of debriefing, schools can work to prevent 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 classroom, or involving the same staff, the school administrator or designee shall take appropriate steps to address the frequency and pattern of use [8 NYCRR §19.5(d)(6)].

D-5) What staff needs to be trained and in what?

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 are determined at the local school level. NYSED does not endorse specific training programs.

D-6) What needs to be in a school's written student behavioral intervention policy?

Each school shall adopt a written policy that establishes administrative practices and procedures regarding the use of timeout and physical restraint [8 NYCRR §19.5(d)(8)]. Under section 19.5 (d)(8), such policy and procedures shall, at a minimum, include:

- factors which may precipitate the use of the timeout or physical restraint;
- developmentally appropriate time limitations for the use of timeout and physical restraint;
- prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised;
- prohibiting the use of prone restraint;
- requirements of 8 NYCRR §200.22(c) for documenting students with disabilities whose behavioral intervention plan includes the use of timeout as a behavioral consequence;
- 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)].

E) Annual Reporting

E-1) Which entities must report on the use of timeout and physical restraint to NYSED?

All entities covered under the definition of school shall report to NYSED [see question A-1]. The regulations require, **beginning with the 2024-2025 school year**, that each public school district, board of cooperative educational services (BOCES), charter school, State-operated school pursuant to Articles 87 and 88 of the Education Law, and private residential school operated pursuant to Article 81 of the Education Law, submit an annual report on the use of physical restraint and timeout, substantiated and unsubstantiated allegations of the use of the following prohibited interventions: corporal punishment, mechanical restraint, aversive interventions, prone physical restraint, and seclusion to NYSED, on a form and at a time prescribed by the Commissioner.

The regulations also require that school districts report data for students for whom they are the district of residence, including students attending a State-supported school pursuant to Article 85 of the Education Law, approved in-state and out-of-state private residential or non-residential school for the education of students with disabilities approved pursuant to Article 89 of the Education Law, or preschool special education program approved pursuant to section 4410 of the Education Law [8 NYCRR §19.5(e)].

The data must be reported to the Department's Student Information Repository System (SIRS) using the eScholar Student Restraint Event template. Information specific to SIRS Reporting can be found in the [SIRS Manual](#) and the November 30, 2023 data reporting [memo](#).

E-2) How will private entities that do not use NYSED's SIRS collection system report data?

A student's school district of residence must have procedures in place to collect data from non-SIRS reporting entities where their students are being educated. The student's home district will be responsible for reporting this information to the SIRS, using the private placement's location code to identify the placement.

E-3) When an agent of a school, such as a school resource officer (SRO), or school safety/security officer uses a physical restraint, is it subject to the reporting requirements?

The use of physical restraint by an agent of the school, including an SRO or school safety/security officer, must be reported pursuant to 8 NYCRR §19.5.

By contrast, when a school calls a local police department or sheriff's agency to respond to an incident, the actions of this law enforcement officer would be included in the regular police agency reporting system.

E-4) Are incidents that occur off school grounds, such as on a bus or at an evening school event reportable?

Yes, these examples, incidents on a school bus or at an evening school event, are considered as occurring on school grounds and are, thus, subject to the reporting requirements.

E-5) Are the reported incidents school year specific?

Yes, all incidents that occur from July 1 to June 30 of each school year should be reported to the SIRS in that school year, beginning with the 2024-2025 school year. School districts should be maintaining the data in their local student management systems so that they can begin reporting data to the SIRS each September.

Additional guidance specific to the reporting of this data to SIRS is addressed in the November 30, 2023, field memorandum; [Reporting Student Behavioral Interventions in 2024-25](#) from the NYSED's Office of Information and Reporting Service.