

A Review of the MDE Policy for the Emergency Use of Seclusion and Restraint:

November 9th, 2017

Paul Deschamps, Ph.D., N.C.S.P. Behavior Specialist

Andy Holmberg, Ph.D., Behavior Specialist

Purpose

- ▶ The purpose of the session is to provide a review and discussion surrounding the use of seclusion and restraint in any Michigan school and implications of recent legislation and corresponding MDE policy revisions earlier in 2017.
- ▶ School psychologists working in Michigan schools perform a variety of duties and have expertise in many areas. It is important that school psychologists are aware of these changes as they may be called upon to serve in a variety of capacities including crisis response, staff training, functional behavior assessment / behavior plan development, and supporting best-practices at the district level.

Topic outline

- ▶ Relevant laws and policies and background on the intent of the current legislation.
- ▶ The role of the MDE PBIS framework and support policy
- ▶ New MDE training requirements for all school personnel regarding seclusion and restraint as well as the required identification of “Key Identified Personnel” and their training requirements.
- ▶ Legal definitions, limitation, prohibited practices, and general procedures for using seclusion and restraint.
- ▶ The role of “Key Identified Personnel, documentation and reporting requirements, and debriefing requirements.
- ▶ Practice for reoccurring incidents, including the process for developing and required contents of an Emergency Intervention Plan.
- ▶ Specific discussion on how these issues are addressed by the presenters in their respective roles.

I. Introduction

- ▶ In December, 2016, the State of Michigan adopted new laws restricting the use of seclusion and restraint in schools. MCL 380.1307
- ▶ MDE Policy for the Emergency Use of Seclusion and Restraint - approved by the State Board of Education March 14, 2017
- ▶ Not later than the beginning of the 2017-2018 school year, the board of a school district or intermediate school district or board of directors of a public school academy shall adopt and implement a local policy that is consistent with the state policy under this section. and restraint in the public schools
- ▶ Each school district and public school academy in Michigan or an intermediate school district program in which pupils are enrolled shall report to the Michigan Department of Education on the use of seclusion and restraint periodically., MDE will develop guidelines.

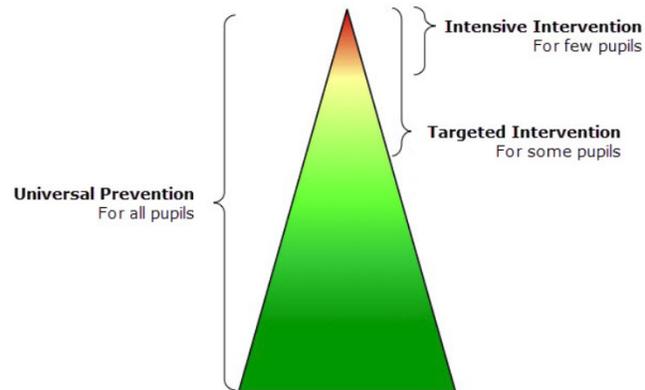
I. Intent of the Law

- ▶ Promote the care, safety, welfare, and security of the school community and dignity of each pupil.
- ▶ Encourage the use of proactive, effective, evidence- and research- based strategies and best practices to reduce challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instruction for all pupils.
- ▶ Ensure that seclusion and restraint are used only as a last resort in an emergency situation, and are subject to diligent monitoring, documentation, and reporting by trained personnel.
- ▶ Clearly defines the terms seclusion, restraint, emergency seclusion, and emergency physical restraint, and clearly state the procedures for use of emergency seclusion and physical restraint.

II. Positive Behavioral Interventions and Supports

- ▶ PBIS is a framework that assists schools in adopting and organizing evidenced-based behavioral interventions into an integrated continuum that enhances academic and social behavior outcomes for all students.
- ▶ As a multi-tiered behavioral framework, PBIS emphasizes a model for both prevention and intervention.
- ▶ Schools implementing PBIS invest in prevention efforts to reduce the need for seclusion and restraint procedures.
- ▶ Schools teach, practice, and reinforce behaviors that result in positive pupil academic and social outcomes.
- ▶ Through systematic behavior monitoring, pupils requiring additional assistance are quickly identified and provided the appropriate resources to experience success in school.

II. Positive Behavioral Interventions and Supports



II. Positive Behavioral Interventions and Supports

Tier 1

- ▶ Behavioral expectations defined, explicitly taught, and practiced.
- ▶ Environments structured to promote success.
- ▶ Continuum of strategies identified to acknowledge desired behaviors and correct undesired behaviors.
- ▶ Ongoing collection and use of data for problem solving and decision making.

Tier 2

- ▶ Universal screening to identify pupils requiring additional supports.
- ▶ Ongoing progress monitoring for at-risk pupils.
- ▶ Targeted supports, including increasing: structure and predictability, contingent adult feedback, and home/school communication.
- ▶ Ongoing collection and use of data for problem solving and decision making.

II. Positive Behavioral Interventions and Supports

Tier 3

- ▶ Individualized evaluation/functional behavioral assessment.
- ▶ Data driven individualized intervention plan incorporating pupil's strengths and needs.
- ▶ Collaborative (school-home-community), team-based, person-centered planning.
- ▶ Ongoing collection and use of data for problem solving and decision making.

III. Training Framework

- ▶ **Awareness Training:** required of all school personnel who have regular contact with pupils, including substitutes teachers.
- ▶ **Training for Key Identified Personnel:** the school must identify sufficient key personnel to ensure that trained personnel are generally available for an emergency situation.

III. Training Key Identified Personnel ALL elements are REQUIRED

- ▶ Proactive practices and strategies that ensure the dignity of pupils.
- ▶ De-escalation techniques.
- ▶ Techniques to identify pupil behaviors that may trigger emergency situations.
- ▶ Related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion and restraint is used.
- ▶ Instruction in the use of ES and EPR.
- ▶ Identification of events and environmental factors that may trigger emergency situations.
- ▶ Description and identification of dangerous behaviors.
- ▶ Methods for evaluating the risk of harm to determine whether the use of ES or EPR is warranted.
- ▶ Types of seclusion and restraint
- ▶ The risk of using seclusion or restraint in consideration of a pupil's known and unknown physical or mental health conditions or psychological limitations.
- ▶ The effects of seclusion and restraint on all pupils.

III. Training Key Identified Personnel

Required (cont)

- ▶ Instruction on the state policy on the use of seclusion and restraint.
- ▶ How to monitor for and identify the physical signs of distress and the implications for pupils generally and for pupils with particular physical or mental health conditions or psychological limitations.
- ▶ How to obtain appropriate medical assistance.
- ▶ Cardiopulmonary resuscitation and first aid.

Recommended

- ▶ Conflict resolution.
- ▶ Mediation.
- ▶ Social skills training.
- ▶ PBIS strategies

IV and V. Emergency Seclusion and Restraint Key Definitions

- ▶ **Emergency Situation**: a situation in which a pupil's behavior poses imminent risk to the safety of the individual pupil or to the safety of others.
- ▶ An emergency situation requires an immediate intervention.
- ▶ Seclusion and restraint can only be used in an emergency situation.

Emergency Seclusion

- ▶ the confinement of pupil in a room or other space from which the pupil is physically prevented from leaving.
- ▶ Emergency seclusion is a last resort safety intervention necessitated by an on-going emergency situation
- ▶ provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others.
- ▶ Does not include lockdown drills

Seclusion: Limitations in use

- ▶ Confinement (seclusion) of preschool children
- ▶ pupils who are severely self-injurious or suicidal;
- ▶ as a form of discipline or punishment;
- ▶ For the convenience of school personnel, as a substitute for adequate staffing, or an educational program or less restrictive alternatives
- ▶ when contraindicated based on (as documented in a record or records made available to the school) a pupil's:
 - ▶ Disability
 - ▶ health care needs
 - ▶ medical or psychiatric condition.

Seclusion: Procedures

- ▶ The room or area used for confinement must comply with state and local fire and building codes
- ▶ must not be locked; must not prevent the pupil from exiting the area if school personnel become incapacitated or leave that area.
- ▶ Must provide for
 - ▶ adequate space, lighting, ventilation,
 - ▶ viewing,
 - ▶ the safety and dignity of the pupil and others, in accordance with department guidelines.

Seclusion procedures

School personnel must do all of the following

- ▶ involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil
- ▶ continually observe the pupil in emergency seclusion for indications of physical distress and seek medical assistance if there is a concern
- ▶ document observations.

Key Definitions

- ▶ **Emergency Physical Restraint:** restraint that involves direct physical contact that prevents or significantly restricts a pupil's movement.
- ▶ Emergency physical restraint is a last resort safety intervention that is necessitated by an on-going emergency
- ▶ provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others.

Restraint does not include:

- ▶ the brief holding of a pupil in order to calm or comfort;
- ▶ the minimum contact necessary to
 - ▶ physically escort a pupil from one area to another
 - ▶ assist a pupil in completing a task or response if the pupil does not resist or resistance is minimal in intensity or duration
- ▶ the holding of a pupil for a brief time in order to prevent an impulsive behavior that threatens the pupil's immediate safety, such as running in front of a car.

Restraint does not include necessary actions taken:

- ▶ to break up a fight
- ▶ to stop a physical assault, as defined in MCL 380.1310(b) (*“Physical assault” means intentionally causing or attempting to cause physical harm to another through force or violence.*); or
- ▶ to take a weapon from a pupil

Restraint does not include actions that are an integral part of a sporting event, such as a referee pulling football players off of a pile or a similar action.

General Procedures: Proportionate Response

Any use of seclusion or restraint must be performed in a manner that is:

- ▶ safe
- ▶ appropriate
- ▶ proportionate to and sensitive to the pupil's:
 - ▶ severity of behavior;
 - ▶ chronological and developmental age;
 - ▶ physical size;
 - ▶ gender;
 - ▶ physical condition;
 - ▶ medical condition;
 - ▶ psychiatric condition; and
 - ▶ personal history, including any history of physical or sexual abuse or other trauma.

General Procedures: Time Limits

- ▶ School personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation, or as soon as possible if calling for help immediately would increase risk to pupil or others.
- ▶ Emergency seclusion and physical restraint should not be used any longer than necessary.
- ▶ Time limits:
 - ▶ Restraint - 10 minutes
 - ▶ Seclusion - 15 minutes elementary school age; 20 minutes secondary school age
 - ▶ Additional support and reporting is required if these time limits are exceeded i.e. change in staff, nurse or specialist, or additional key identified personnel

Prohibited Practices

- ▶ Corporal punishment, as defined in MCL 380.1312.
- ▶ The deprivation of basic needs.
- ▶ Child abuse.
- ▶ Seclusion or physical restraint, other than emergency situations
- ▶ The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort.
- ▶ Mechanical restraint.
- ▶ Chemical restraint.
- ▶ Any restraint that negatively impacts breathing, including floor restraints, facedown position, or any position in which an individual is bent over in such a way that it is difficult to breathe, seated or kneeling position in which a pupil is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.
- ▶ Prone restraint.

General Procedures: Reporting and Debrief

- ▶ Each use of seclusion and restraint and the reason for each use shall be reported in writing or orally to the school building administration and the pupil's parent or guardian immediately.
- ▶ A written report for each use of seclusion or restraint provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.
- ▶ After any use of seclusion or restraint, school personnel must make reasonable efforts to debrief and consult with the parent or guardian or with the parent or guardian and the pupil, as appropriate, regarding the determination of future actions.
- ▶ Required to use MDE debrief form

Repeated Use of Seclusion & Restraint: PBIS Plan & Emergency Intervention Plan

If a pupil exhibits a pattern of behavior that necessitates the use of emergency seclusion or restraint the school should do all:

- ▶ conduct a functional behavioral assessment,
- ▶ develop or revise a positive behavioral intervention and support, plan to facilitate the elimination of the use of seclusion
- ▶ develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan should be developed in partnership with the parent or guardian by the school team.

Emergency Intervention Plan

- ▶ should be developed in partnership with the parent or guardian by a team that includes
 - ▶ a teacher
 - ▶ an individual knowledgeable about the legally permissible use of emergency seclusion
 - ▶ an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion.
- ▶ A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency seclusion could be used.

Emergency Intervention Plan Steps

- ▶ a. describe in detail the emergency intervention procedures;
- ▶ b. describe in detail the legal limits on the use of emergency seclusion, including examples of legally permissible and prohibited use;
- ▶ c. make inquiry to the pupil's medical personnel, with parental consent, regarding any known medical or health contraindications for the use of emergency seclusion;
- ▶ d. conduct a peer review by knowledgeable school personnel; and

Emergency Intervention Plan Steps

- ▶ e. provide the parent or guardian with all of the following, in writing and orally:
 - ▶ a detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil's behavior creating an emergency situation;
 - ▶ an explanation of what constitutes an emergency situation as defined in MCL 380.1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition;
 - ▶ a detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion;
 - ▶ a detailed explanation of the legal limits on the use of emergency seclusion, including examples of legally permissible and prohibited use;
 - ▶ a description of possible discomforts or risks; and
 - ▶ answers to any questions.

Appendix B: Michigan State Board of Education Positive Behavior Support Policy

- ▶ A positive behavior support system is a data-based effort that concentrates on adjusting the system that supports the student. Such a system is...
- ▶ In keeping with this vision, it is the policy of the State Board of Education that each school district in Michigan implement a school-wide positive behavior support strategy.
- ▶ **Adopted September 12, 2006**

Data collection

- ▶ Data Collection - The school district, public school academy, or intermediate school district shall collect and report data regarding the use of seclusion. The data should:
 - ▶ a. be analyzed to determine the efficacy of the school's schoolwide system of behavioral support;
 - ▶ b. be analyzed in the context of attendance, suspension, expulsion, and dropout data;
 - ▶ c. be analyzed for the purposes of continuous improvement of training and technical assistance toward the elimination of seclusion;
 - ▶ d. be analyzed on a schedule determined by the MDE; and
 - ▶ e. be electronically reported to the MDE.
 - ▶ f. include a list of appropriately-trained key identified personnel and their levels of education; training; and knowledge. This request for information that is currently reported to the Center for Education Performance and Information (CEPI) satisfies this requirement.

Appendix C: The Revised School Code (Excerpt) i.e. Corporal Punishment Law MCL 380.1312

- ▶ "Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

School personnel "may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

- (a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.
- (b) For self-defense or the defense of another.
- (c) To prevent a pupil from inflicting harm on himself or herself.
- (d) To quell a disturbance that threatens physical injury to any person.
- (e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.
- (f) To protect property."

References

- ▶ MDE Policy
- ▶ Wayne RESA website
- ▶ Wayne RESA Seclusion and Restraint workgroup
- ▶ CPI workbook, website, training manual
- ▶ Chris McEvoy, Wayne RESA Consultant for Behavior Support
- ▶ Cooke School document samples
- ▶ Burger Baylor document samples