

# Policy for the Emergency Use of Seclusion and Restraint

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*Updated to include 4.d. on page 10 that was inadvertently omitted. This addition is required by MCL 380.1307c(h)(v).*



Michigan Department of Education



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# Policy for the Emergency Use of Seclusion and Restraint

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## I. Introduction

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In 2006, the Michigan Department of Education, State Board of Education adopted “Supporting Student Behavior: Standards for the Emergency Use of Seclusion and Restraint.” In December 2016, the State of Michigan adopted new laws restricting the use of seclusion and restraint in schools. MCL 380.1307 now states:

It is the intent of the legislature that sections 1307 to 1307h [MCL 380.1307 to 380.1307h] shall provide for a uniform policy regarding the use of seclusion and restraint in the public schools that accomplishes the following objectives:

- Promotes the care, safety, welfare, and security of the school community and the dignity of each pupil.
- Encourages the use of proactive, effective, evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors, eliminate the use of seclusion and restraint, and increase meaningful instructional time for all pupils.
- Ensures that seclusion and physical restraint are used only as a last resort in an emergency situation and are subject to diligent assessment, monitoring, documentation, and reporting by trained personnel.
- Clearly defines the terms “seclusion,” “restraint,” “emergency seclusion,” and “emergency physical restraint,” and clearly states the procedures for the use of emergency seclusion and emergency physical restraint.

Sections 1307 to 1307h do not limit any right or remedy of an individual under state or federal law.

MCL 380.1307a states:

The department shall develop a state policy regarding the use of seclusion and restraint in the public schools that includes all of the elements under sections 1307b to 1307h [MCL 380.1307b to 380.1307h], along with guidelines as the department considers appropriate. 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. A person who fails to comply with this section or who fails to comply with any of the requirements of the state policy developed under this section is considered to have failed to comply with and to have violated this act [the revised school code].

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. The department will develop guidelines that outline the process for reporting redacted, aggregated data regarding the use of seclusion and restraint compiled by school districts, public school academies and intermediate school districts.

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## **II. Positive Behavioral Interventions and Supports (PBIS)**

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PBIS is a framework for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavior outcomes for all pupils. PBIS emphasizes four integrated elements:

- a) socially valued and measurable outcomes;
- b) empirically validated and practical practices;
- c) systems that efficiently and effectively support implementation of these practices; and
- d) continuous collection and use of data for decision-making.

As a multi-tiered behavioral framework, PBIS emphasizes a model for both prevention and intervention. PBIS has demonstrated through research: improvement in overall school climate and safety, an increase in perceived school safety, and reductions in problem behavior and bullying behaviors. Effective implementation of PBIS has been shown to reduce office discipline referrals and school suspensions. There is a correlation between the use of PBIS and improvement in social skills and emerging evidence linking PBIS to improved academic outcomes.

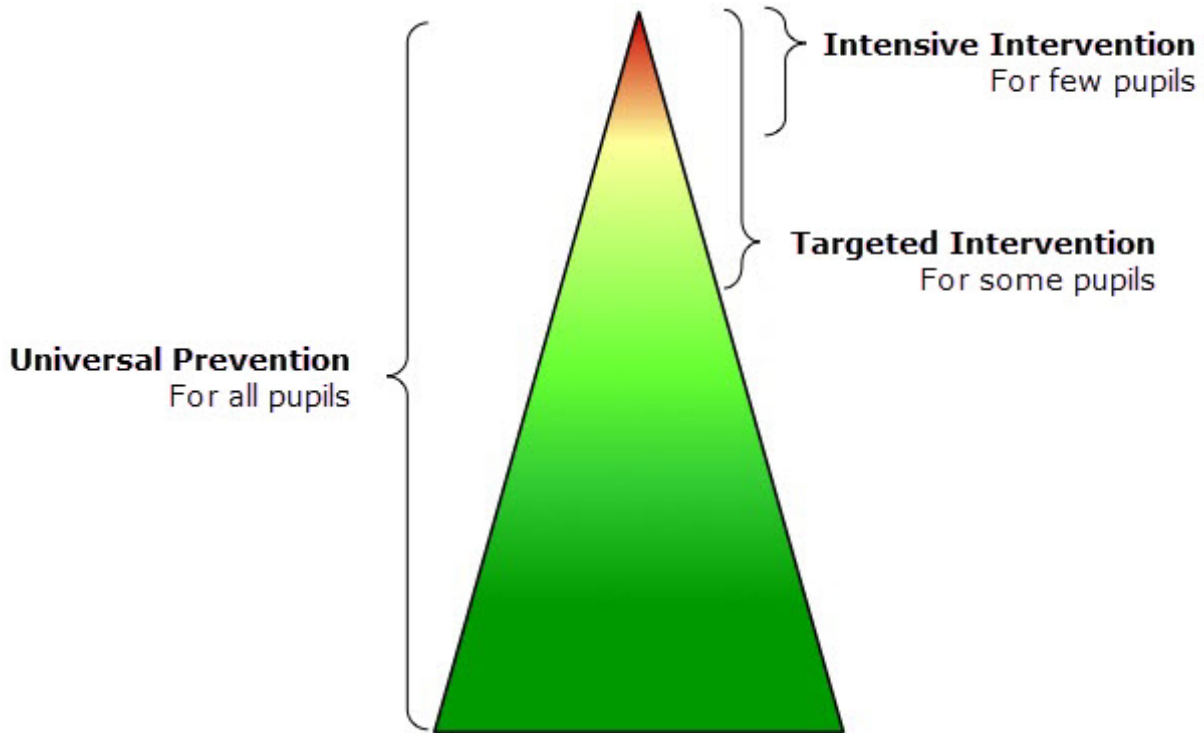
PBIS emphasizes the establishment of organizational supports or systems that give school personnel capacity to use effective interventions accurately and successfully at the school, district, and state levels. These supports include:

- a) team-based leadership;
- b) data-based decision-making;
- c) continuous monitoring of pupil behavior;
- d) regular universal screening; and
- e) effective ongoing professional development.

PBIS is not a packaged curriculum but an approach to behavior support that defines core elements that can be achieved through a variety of strategies. 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.

### Multi-Tiered System of Support



Tier	Core Elements
<p>Tier 1 Universal prevention All pupils (100 percent of pupil population)</p>	<ol style="list-style-type: none"> <li>1. Behavioral expectations defined, explicitly taught, and practiced.</li> <li>2. Environments structured to promote success.</li> <li>3. Continuum of strategies identified to acknowledge desired behaviors and correct undesired behaviors.</li> <li>4. Ongoing collection and use of data for problem solving and decision making.</li> </ol>
<p>Tier 2 Targeted Interventions (5–15 percent of pupil population)</p>	<ol style="list-style-type: none"> <li>1. Universal screening to identify pupils requiring additional supports.</li> <li>2. Ongoing progress monitoring for at-risk pupils.</li> <li>3. Targeted supports, including increasing: structure and predictability, contingent adult feedback, and home/school communication.</li> <li>4. Ongoing collection and use of data for problem solving and decision making.</li> </ol>

Tier	Core Elements
Tier 3 Intensive Interventions (1–5 percent of pupil population)	<ol style="list-style-type: none"> <li>1. Individualized evaluation/functional behavioral assessment.</li> <li>2. Data driven individualized intervention plan incorporating pupil's strengths and needs.</li> <li>3. Collaborative (school-home-community), team-based, person-centered planning.</li> <li>4. Ongoing collection and use of data for problem solving and decision making.</li> </ol>

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### III. Training

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#### A. Training Framework

1. In accordance with department guidelines, a school district, intermediate school district, or public school academy shall implement a comprehensive training framework that includes:
  - a. awareness training for all school personnel who have regular contact with pupils, and
  - b. comprehensive training for key identified personnel as described in section B: Training Components for Key Identified Personnel below.
2. The school district, intermediate school district, or public school academy must ensure that substitute teachers are informed of and understand the procedures regarding use of emergency seclusion and emergency physical restraint. This requirement may be satisfied using online training and an online acknowledgment of understanding developed or approved by the department and completed by the substitute teacher.

#### B. Training Components for Key Identified Personnel

1. A school district, intermediate school district, or public school academy shall identify sufficient key personnel to ensure that trained personnel are generally available for an emergency situation. Before using emergency seclusion or emergency physical restraint with pupils, key identified personnel who may have to respond to an emergency situation shall be trained in all of the following (a) to (p) and should be trained in (q) through (t):
  - a. proactive practices and strategies that ensure the dignity of pupils;
  - b. de-escalation techniques;
  - c. techniques to identify pupil behaviors that may trigger emergency situations;

- d. related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion or restraint is used;
- e. instruction in the use of emergency seclusion and emergency physical restraint;
- f. identification of events and environmental factors that may trigger emergency situations;
- g. instruction on the state policy on the use of seclusion and restraint;
- h. description and identification of dangerous behaviors;
- i. methods for evaluating the risk of harm to determine whether the use of emergency seclusion or emergency physical restraint is warranted;
- j. types of seclusion;
- k. types of restraint;
- l. the risk of using seclusion or restraint in consideration of a pupil's known and unknown or mental health conditions or psychological limitations;
- m. the effects of seclusion and restraint on all pupils.
- n. how to monitor for and identify physical signs of distress and the implications for pupils generally and for pupils with particular physical or mental health conditions or psychological limitations;
- o. how to obtain appropriate medical assistance;
- p. cardiopulmonary resuscitation and first aid;
- q. conflict resolution;
- r. mediation;
- s. social skills training; and
- t. positive behavioral intervention and support strategies.

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## **IV. Emergency Seclusion**

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Seclusion is intended for the purposes of emergency situations only, 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.

Emergency seclusion may not be used in place of appropriate less restrictive interventions.

### **A. Definition of Seclusion**

1. "Seclusion" means the confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving. Seclusion does not include the general confinement of pupils if that confinement is an integral part of an emergency lockdown drill required under section 19(5) of the fire



prevention code, 1941 PA 207, MCL 29.19, or of another emergency security procedure that is necessary to protect the safety of pupils.

## **B. Definition of Emergency Seclusion**

1. "Emergency seclusion" is defined in MCL 380.1307h(e) as "a last resort emergency safety intervention involving seclusion that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others."
2. "To qualify as emergency seclusion, there must be continuous observation by school personnel of the pupil in seclusion, and 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; and must provide for adequate space, lighting, ventilation, viewing, and the safety and dignity of the pupil and others, in accordance with department guidelines."

## **C. Limitations in Use**

1. Emergency seclusion is not permitted:
  - a. for the confinement of preschool children or of pupils who are severely self-injurious or suicidal;
  - b. if the seclusion is used:
    - i. for the convenience of school personnel;
    - ii. as a substitute for an educational program;
    - iii. as a form of discipline or punishment;
    - iv. as a substitute for less restrictive alternatives;
    - v. as a substitute for adequate staffing; or
    - vi. as a substitute for school personnel training in positive behavioral intervention and support;
  - c. as prohibited under MCL 380.1307b; or
  - d. when contraindicated based on (as documented in a record or records made available to the school) a pupil's:
    - i. disability;
    - ii. health care needs; or
    - iii. medical or psychiatric condition.

## **D. General Procedures for Emergency Seclusion**

1. Emergency seclusion shall be performed in a manner that, based on research and evidence, is:
  - a. safe;
  - b. appropriate; and
  - c. proportionate to and sensitive to the student's:
    - i. severity of behavior;
    - ii. chronological and developmental age;

- iii. physical size;
  - iv. gender;
  - v. physical condition;
  - vi. medical condition;
  - vii. psychiatric condition; and
  - viii. personal history, including any history of physical or sexual abuse or other trauma.
2. School personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.
  3. Time and Duration – Emergency seclusion should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his/her behavior to the point that the emergency situation necessitating the use of emergency seclusion is ended and generally no longer than:
    - a. 15 minutes for an elementary school pupil or
    - b. 20 minutes for a middle school or high school pupil.

If an emergency seclusion lasts longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil, all of the following are required:

    - a. additional support (which may include a change of staff, introducing a nurse or specialist, or additional key identified personnel); and
    - b. documentation to explain the extension beyond the time limit.
  4. School Personnel Requirements – While using emergency seclusion, school personnel must do all of the following:
    - a. involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil;
    - b. continually observe the pupil in emergency seclusion for indications of physical distress and seek medical assistance if there is a concern;
    - c. document observations; and
    - d. ensure that at all times during the use of emergency seclusion there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.
  5. Documentation and Reporting – Each use of seclusion and the reason for each use shall be:
    - a. documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately; and

- b. documented in a written report for each use of seclusion (including multiple uses within a given day) with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.
6. Debrief – After any use of seclusion, 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. The debriefing and consultation shall be done in accordance with department guidelines and documented on forms developed by the department.
7. Reoccurring Behavior – If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint, school personnel are encouraged to do all of the following:
  - a. conduct a functional behavioral assessment;
  - b. develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of seclusion;
  - c. develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least:
    - i. the parent or guardian;
    - ii. the pupil (if appropriate);
    - iii. the individuals responsible for implementation of the positive behavioral intervention and support plan; and
    - iv. individuals knowledgeable in positive behavioral intervention and support.
8. Emergency Intervention Plan – If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion, school personnel should 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 a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion. The emergency intervention plan should be developed and implemented by taking the following documented 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
- e. provide the parent or guardian with all of the following, in writing and orally:
  - i. 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;
  - ii. 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;
  - iii. a detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion;
  - iv. a detailed explanation of the legal limits on the use of emergency seclusion, including examples of legally permissible and prohibited use;
  - v. a description of possible discomforts or risks; and
  - vi. answers to any questions.

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 seclusion must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency seclusion or emergency physical restraint.

- 9. 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.

## **E. Prohibited Practices**

1. The following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:
  - a. Corporal punishment, as defined in MCL 380.1312.
  - b. The deprivation of basic needs.
  - c. Child abuse.
  - d. Seclusion, other than emergency seclusion.
  - e. The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort. A noxious substance or stimulus is prohibited whether it is generally acknowledged or is specific to the pupil.
  - f. Mechanical restraint.
  - g. Chemical restraint.
  - h. Any restraint that negatively impacts breathing.
    - i. Any restraint that inhibits 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.
    - ii. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.
  - i. Prone restraint.
  - j. Physical restraint, other than emergency physical restraint.
  - k. Any other type of restraint.

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## **V. Emergency Physical Restraint**

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Physical restraint is intended for the purposes of emergency situations only, 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.

Emergency physical restraint may not be used in place of appropriate less restrictive interventions.

### **A. Definition of Restraint**

1. "Restraint" means an action that prevents or significantly restricts a pupil's movement.
  - a. "Physical restraint" means restraint involving direct physical contact.
  - b. "Chemical restraint" means the administration of medication for the purpose of restraint.

- c. "Mechanical restraint" means the use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint.
2. Restraint does not include:
  - a. the brief holding of a pupil in order to calm or comfort;
  - b. the minimum contact necessary to physically escort a pupil from one area to another;
  - c. the minimum contact necessary to assist a pupil in completing a task or response if the pupil does not resist or resistance is minimal in intensity or duration; or
  - d. 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.
3. Restraint does not include:
  - a. the administration of medication prescribed by and administered in accordance with the directions of a physician;
  - b. an adaptive or protective device recommended by a physician or therapist when it is used as recommended; or
  - c. safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation.
4. Restraint does not include necessary actions taken:
  - a. to break up a fight;
  - b. to stop a physical assault, as defined in MCL 380.1310(b); or
  - c. 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.

## **B. Definition of Emergency Physical Restraint**

"Emergency physical restraint" is defined in MCL 380.1307h(d) as "a last resort emergency safety intervention involving physical restraint that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others."

## **C. Limitations in Use**

1. Emergency physical restraint is not permitted:
  - a. if the physical restraint is used:
    - i. for the convenience of school personnel;
    - ii. as a substitute for an educational program;
    - iii. as a form of discipline/punishment;
    - iv. as a substitute for less restrictive alternatives;
    - v. as a substitute for adequate staffing; or

- vi. as a substitute for school personnel training in positive behavioral intervention and support;
- b. as prohibited under MCL 380.1307b; or
- c. when contraindicated based on (as documented in a record or records made available to the school) a pupil's:
  - i. disability;
  - ii. health care needs; or
  - iii. medical or psychiatric condition.

#### **D. General Procedures for Emergency Restraint**

1. Emergency physical restraint shall be performed in a manner that, based on research and evidence, is:
  - a. safe;
  - b. appropriate; and
  - c. proportionate to and sensitive to the pupil's:
    - i. severity of behavior;
    - ii. chronological and developmental age;
    - iii. physical size;
    - iv. gender;
    - v. physical condition;
    - vi. medical condition;
    - vii. psychiatric condition; and
    - viii. personal history, including any history of physical or sexual abuse or other trauma.
2. School personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.
3. Time and Duration – Emergency physical restraint should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency physical restraint is ended and generally no longer than 10 minutes. If an emergency physical restraint lasts longer than 10 minutes, all of the following are required:
  - a. additional support (which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel); and
  - b. documentation to explain the extension beyond the time limit.
4. School Personnel Requirements – while using emergency physical restraint, school personnel must do all of the following:

- a. involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil;
  - b. continually observe the pupil in emergency physical restraint for indications of physical distress and seek medical assistance if there is a concern;
  - c. document observations;
  - d. ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency physical restraint does not interfere with the pupil's ability to communicate using the pupil's primary mode of communication; and
  - e. ensure that at all times during the use of emergency physical restraint there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.
5. Documentation and Reporting – Each use of restraint and the reason for each use shall be:
  - a. documented in writing and reported in writing or orally to the school building administration and the pupil's parent or guardian immediately; and
  - b. documented in a written report for each use of restraint, including multiple uses within a given day, with this written report provided to the parent or guardian within the earlier of 1 school day or 7 calendar days.
6. Debrief - After any use of 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. The debriefing and consultation shall be done in accordance with department guidelines and documented on forms developed by the department.
7. Reoccurring Behavior – If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency physical restraint, school personnel are encouraged to do all of the following:
  - a. conduct a functional behavioral assessment;
  - b. develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of restraint;
  - c. develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least:
    - i. the parent or guardian;
    - ii. the pupil (if appropriate);
    - iii. the individuals responsible for implementation of the positive behavioral intervention and support plan; and



- iv. individuals knowledgeable in positive behavioral intervention and support.
8. Emergency Intervention Plan – If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency physical restraint, school personnel should 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 a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of restraint. The emergency intervention plan should be developed and implemented by taking all of the following documented steps:
- a. describe in detail the emergency intervention procedures;
  - b. describe in detail the legal limits on the use of emergency physical restraint, 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 physical restraint;
  - d. conduct a peer review by knowledgeable school personnel; and
  - e. provide the parent or guardian with all of the following, in writing and orally:
    - i. 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;
    - ii. 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;
    - iii. a detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency physical restraint;
    - iv. a detailed explanation of the legal limits on the use of emergency physical restraint, including examples of legally permissible and prohibited use;
    - v. a description of possible discomforts or risks; and
    - vi. answers to any questions.

A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency physical restraint could be used.

Emergency physical restraint must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency physical restraint.

9. Data Collection – The school district, public school academy, or intermediate school district shall collect and report data regarding the use of restraint. The data should:
  - a. be analyzed to determine the efficacy of the school’s school-wide 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 restraint;
  - d. be analyzed on a schedule determined by the MDE; and
  - e. be 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.

## **E. Prohibited Practices**

1. The following practices are prohibited for school personnel in the public schools of this state under all circumstances, including emergency situations:
  - a. Corporal punishment, as defined in MCL 380.1312.
  - b. The deprivation of basic needs.
  - c. Child abuse.
  - d. Seclusion, other than emergency seclusion.
  - e. The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort. A noxious substance or stimulus is prohibited whether it is generally acknowledged or is specific to the pupil.
  - f. Mechanical restraint.
  - g. Chemical restraint.
  - h. Any restraint that negatively impacts breathing.
    - i. Any restraint that inhibits 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.

- ii. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.
- i. Prone restraint.
- j. Physical restraint, other than emergency physical restraint.
- k. Any other type of restraint.

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## Appendix A: Key Terms

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**Chemical Restraint** means the administration of medication for the purpose of restraint.

**De-Escalation Techniques** means evidence- and research-based strategically employed verbal or nonverbal interventions used to reduce the intensity of threatening behavior before, during, and after a crisis situation occurs.

**Documentation** means documentation developed by the department that is uniform across the state.

**Emergency Situation** means 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.

**Functional Behavioral Assessment** means an evidence- and research-based systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A functional behavioral assessment shall describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur, and identify the factors that are maintaining the behaviors over time.

**Key Identified Personnel** means those individuals who have received the mandatory training described in MCL 380.1307g(b)(i) to (xvi).

**Mechanical Restraint** means the use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint.

**Physical Restraint** means restraint involving direct physical contact.

**Positive Behavioral Intervention and Support** means a framework to assist school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum of intensifying supports based on pupil need that unites examination of the function of the problem behavior and the teaching of alternative skill repertoires to enhance academic and social behavior outcomes for all pupils.

**Positive Behavioral Intervention and Support Plan** means a pupil-specific support plan composed of individualized, functional behavioral assessment-based intervention strategies, including, as appropriate to the pupil, guidance or instruction for the pupil to use new skills as a replacement for problem behaviors, some rearrangement of the antecedent environment so that problems can be prevented and desirable behaviors can be encouraged, and procedures for monitoring, evaluating, and modifying the plan as necessary.

**Prone Restraint** means the restraint of an individual facedown.

**Regularly and Continuously Work Under Contract** means that term as defined in MCL 380.1230.

**Restraint** means an action that prevents or significantly restricts a pupil's movement. 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, the minimum contact necessary to assist a pupil in completing a task or response if the pupil does not resist or resistance is minimal in intensity or duration, or 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 the administration of medication prescribed by and administered in accordance with the directions of a physician, an adaptive or protective device recommended by a physician or therapist when it is used as recommended, or safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation. Restraint does not include necessary actions taken to break up a fight, to stop a physical assault, as defined in MCL 380.1310, 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.

**Restraint That Negatively Impacts Breathing** means any restraint that inhibits 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. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.

**School Personnel** includes all individuals employed in a public school or assigned to regularly and continuously work under contract or under agreement in a public school, or public school personnel providing service at a nonpublic school.

**Seclusion** means the confinement of a pupil in a room or other space from which the pupil is physically prevented from leaving. Seclusion does not include the general confinement of pupils if that confinement is an integral part of an emergency lockdown drill required under section 19(5) of the fire prevention code, 1941 PA 207, MCL 29.19, or of another emergency security procedure that is necessary to protect the safety of pupil.

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

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The vision of the State Board of Education is to create learning environments that prepare students to be successful citizens in the 21st Century. The educational community must provide a system that will support students' efforts to manage their own behavior and assure academic achievement. An effective behavior support system is a proactive, positive, skill-building approach for the teaching and learning of successful student behavior. Positive behavior support systems ensure effective strategies that promote prosocial behavior and respectful learning environments. Research-based positive behavior support systems are appropriate for all students, regardless of age.

The principles of Universal Education reflect the beliefs that each person deserves and needs a positive, concerned, accepting educational community that values diversity and provides a comprehensive system of individual supports from birth to adulthood. A positive behavior support policy incorporates the demonstration and teaching of positive, proactive social behaviors throughout the school environment.

A positive behavior support system is a data-based effort that concentrates on adjusting the system that supports the student. Such a system is implemented by collaborative, school-based teams using person-centered planning. School-wide expectations for behavior are clearly stated, widely promoted, and frequently referenced. Both individual and school-wide learning and behavior problems are assessed comprehensively. Functional assessment of learning and behavior challenges is linked to an intervention that focuses on skill building. The effectiveness of the selected intervention is evaluated and reviewed, leading to data-based revisions. Positive interventions that support adaptive and prosocial behavior and build on the strengths of the student lead to an improved learning environment. Students are offered a continuum of methods that help them learn and maintain appropriate behavior and discourage violation of codes of student conduct.

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**

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## **Appendix C: The Revised School Code (Excerpt)**

### **Act 451 of 1976**

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**380.1312 “Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.**

Sec. 1312.

- (1) As used in this section, “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.
- (2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.
- (3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.
- (4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy 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.
- (5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.
  - (6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.
  - (7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.
  - (8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.
  - (9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of



education shall provide assistance to schools in the development of programs and materials to implement this section.

- (10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 1988, Act 521, Eff. Mar. 30, 1989 ;-- Am. 1992, Act 6, Imd. Eff. Mar. 10, 1992 ;-- Am. 1995, Act 289, Eff. July 1, 1996 ;-- Am. 2000, Act 461, Imd. Eff. Jan. 10, 2001

**Popular Name:** Act 451