

Banning seclusion and creating a legal framework for physical restraint

Seclusion of a child or young person is no longer an acceptable tool in student behaviour management, and physical restraint is a serious intervention that should only be used in circumstances where it is absolutely necessary.

Source: Ministry of Education factsheet

Seclusion can cause physical and psychological harm and has been banned in the school environment.

The Act clarifies how and when teachers and authorised staff members can use physical restraint. The restrainer must have reasonable grounds to believe that there is an imminent and serious risk to the safety of a child or student or any other person, and physical restraint must be reasonable and proportionate in the circumstances.

What is seclusion and how is it defined in the Act?

'Seclude', in relation to a student or child, means to place a student involuntarily alone in a room from which they cannot or believe they cannot freely exit.

Can schools still use time out?

Schools can still use time out as long as the student voluntarily takes themselves to an acceptable space to calm down or is prompted by a teacher to do so. The child or student must be aware that they can freely exit the space.

What is the definition of 'physically restrain'?

'Physically restrain', in relation to a student, means to use physical force to prevent, restrict or subdue the movement of the student's body or part of their body.

Who can legally physically restrain students?

Teachers or authorised staff members. The board must authorise non-teaching staff to use physical restraint. This would be by way of resolution at a board meeting recorded in the minutes. Boards must also ensure that teachers and staff who are authorised to physically restrain students receive suitable training

and support.

Responsibilities for the board

Boards must ensure that school practices are clear, follow the rules, are well-documented and available to all, and explained to students in an age-appropriate way.

Systems must be in place to support the recording, notification, and reporting of the use of physical restraint. It is a requirement for 'the employer' to ensure that any incident of physical restraint is notified to parents or caregivers. 'The employer' must also ensure that parents or caregivers are notified if physical restraint is an element in a student's Individual Behaviour Plan.

It is the board's role to monitor incidents of the use of physical restraint, looking for trends and any action that could be taken at governance level to support reducing such incidents. The principal is required to share information on physical restraint incidents with the board via the Principals' report. This information is shared in public excluded business.

All boards of trustees are required to have a policy around Managing Challenging Behaviour and Physical Restraint that is consistent with the Guidelines.

Where do I find this in the Education Act?

Part 11 sections 139AB-139AE.

When do the changes take effect?

These provisions took effect from 19 May 2017. Rules and Guidelines around Physical restraint came into force in August 2017.

Where do I get advice?

NZSTA will continue to update and advise you through factsheets, newsletters, and our website.

You can call **0800 782 435** or email actupdates@nzsta.org.nz.