

# Restraint and Seclusion: Frequently Asked Questions

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## Purpose

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This document provides local education agencies (LEAs), public agencies (PAs), and nonpublic schools with additional guidance regarding the implementation of the Physical Restraint and Seclusion statutes (Md. Code, Education § 7-1101 et seq). The Code of Maryland Regulations (COMAR) are currently being revised to reflect the requirements of the new statutory language and provide additional direction.

The Maryland State Department of Education (MSDE) strongly supports the need for evidence-based positive behavioral interventions to reduce the inappropriate reliance on restraint and seclusion. In all crisis situations, adults should first use nonphysical techniques such as clear, concise, verbal, and paraverbal communication with students to deescalate the situation, and when necessary, elicit movement to an identified safe location.

## A. Physical Restraint

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Physical restraint is defined in Md. Code, Education § 7-1101 et seq. as “personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours.” Physical restraint should only be used in a crisis situation when it is necessary to protect the student or other individual from imminent, serious physical harm and other, less intrusive, nonphysical interventions have failed or been determined to be inappropriate for the student.

### A1. WHAT ARE THE CHARACTERISTICS OF A PHYSICAL ESCORT?

**Purpose:** To guide a disruptive student to walk to a safe location in which the student is in motion and being redirected to a safe location

**Physical Contact:** Temporary touching or holding of hand, wrist, arm, shoulder or back.

**Duration:** Limited, temporary, and discontinued once the student reaches a safe location

These characteristics should be considered when removing a disruptive student who is unwilling to leave the area when other methods, such as counseling, have been unsuccessful.

### A2. IS A “TRANSPORT” A PHYSICAL RESTRAINT?

Some crisis intervention training programs include the use of a "transport". LEAs, PAs, and nonpublic schools using these programs must consider whether the "transport" meets the definition of a physical restraint as defined by the law and not the training program (See Md. Code, Education § 7-1101 et seq.).

### A3: WHEN DOES A RESTRAINT BEGIN AND END?

Physical restraint begins when the student’s movement is restricted rather than redirected.

A restraint ends when a full release has occurred as prescribed by the crisis intervention program because the student no longer poses a threat of imminent, serious physical harm.

Restraints that are disrupted for student or staff safety, as prescribed by the crisis intervention program, shall be followed by an assessment of the need for an additional restraint as outlined in the Restraint and Seclusion Implementation Guide (May 2023) on page 5 and Md. Code, Education § 7-1101 et seq. If the conditions for restraint are present, the additional restraint would be documented as an additional individual incident of restraint.

### A4: WHAT ARE THE REPORTING REQUIREMENTS FOR SCHOOL RESOURCE OFFICERS REGARDING RESTRAINT?

The actions of the school resource officers and other state and local law enforcement are not subject to the reporting requirements of Md. Code, Education § 7-1101 et seq and COMAR 13A.08.04.

## B. Seclusion

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Seclusion is defined in Md. Code, Education § 7-1101 et seq. as “The confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving during school hours.” Seclusion is banned in all Maryland public schools and public agencies.

**B1: DOES SECLUSION REQUIRE THE STUDENT TO BE BOTH ALONE IN A SPACE AND PREVENTED FROM LEAVING?**

Yes, seclusion is composed of **two important factors**: a student is alone in a space and is physically prevented from leaving. Both factors must be present to constitute seclusion.

**B2: IS A BOARD-CERTIFIED BEHAVIOR ANALYST (BCBA) A QUALIFIED HEALTH CARE PROFESSIONAL WHO CAN SUPERVISE THE IMPLEMENTATION OF SECLUSION IN A NON-PUBLIC SETTING?**

No, a BCBA is not included in the list of qualified health care professionals who can supervise the implementation of seclusion.

The Md. Code, Education § 7-1102 lists those health care professionals who can supervise a seclusion as:

- (i) A physician licensed to practice under Title 14 of the Health Occupations Article;
- (ii) A psychologist, licensed to practice under Title 18 of the Health Occupations Article;
- (iii) A clinical social worker licensed to practice under Title 19 of the Health Occupations Article;
- (iv) A registered nurse licensed to practice under Title 8 of the Health Occupations Article; or
- (v) A clinical professional counselor, licensed under Title 17 of the Health Occupations Article.

## C. Notification and Reporting

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### C1: WHEN A STUDENT TRANSFERS, HOW ARE THE STUDENT'S INCIDENTS OF RESTRAINT AND/OR SECLUSION SHARED WITH THE RECEIVING SCHOOL?

Each incident of restraint and/or seclusion should be documented on the MSDE Restraint and/or Seclusion Single Incident Form individually. The documentation of single incidents of restraint and/or seclusion shall be kept in the student's cumulative record.

Each LEA can specify where in the student's cumulative record the single incident forms are kept; however, it must be shared with the receiving school when the student transfers. It is advised that when the receiving school makes the official request for records, the request for restraint and seclusion documentation be included.

### C2: WHO IS RESPONSIBLE FOR COMPLETING PART TWO: STUDENT AND SCHOOL LEVEL REVIEW WITH RECOMMENDATIONS FOR A STUDENT ATTENDING A NONPUBLIC SCHOOL?

Upon the notification of 10 incidents of restraint and/or seclusion at a nonpublic school, the LEA which has educational responsibility for the student must complete a student and school level review to determine strategies to reduce the use of restraint and seclusion. Each LEA should develop procedures to facilitate collaboration between the nonpublic school, the LEA, and additional relevant stakeholders in order to complete the student and school level review.

### C3: ON THE SINGLE INCIDENT FORM, WHAT IS THE DIFFERENCE BETWEEN AN INDIVIDUAL WHO MONITORS AND AN INDIVIDUAL WHO OBSERVES A RESTRAINT OR SECLUSION?

An individual who is **monitoring** a restraint or a seclusion is **someone who is trained** in the evidence-based crisis intervention program utilized by the school or public agency. That person is monitoring the restraint or seclusion to ensure correct implementation. A monitor should be listed on the school or public agency's record of training in the implementation of that crisis intervention program. An **observer** is any staff member who viewed the incident and **may or may not be trained** or have expertise in the evidence-based crisis intervention program utilized by the school or public agency.

### C4: MAY A SCHOOL, LEA, OR PUBLIC AGENCY CREATE THEIR OWN VERSION OF THE SINGLE INCIDENT FORM?

Yes, schools, LEAs, and public agencies are allowed to create their own version of the Single Incident Form provided it meets two requirements:

1. it has all the same information as the MSDE form; and
2. it is capable of capturing signatures, either hand-signed or e-signatures, in the two sections where signatures are required (i.e., signatures of team members who implemented, monitored, or observed the incident; and the signature of the administrator who was notified of the incident).