

**MASSACHUSETTS
PHYSICAL RESTRAINT
REGULATIONS
CASE COLLABORATIVE 2023-24**

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Regulations (603 C.M.R. 46.00) apply to:

- ▶ All students
- ▶ All publicly funded elementary and secondary education programs
- ▶ Includes all public school districts, charter schools, virtual schools, collaboratives, and the school day of educational facilities operated by DYS, DMH, DPH, and Houses of Correction

Key Components

- ▶ Prohibition against use of restraint in IEPs or BIPs.
- ▶ Prohibition against use of prone restraints except under specific conditions
- ▶ Additional training requirements
- ▶ Additional reporting requirements and self-monitoring
- ▶ Definition of “time out”

Definition of Physical Restraint

- ▶ Physical restraint shall mean direct physical contact that prevents or significantly restricts a student's freedom of movement.

What's NOT physical restraint?

- ▶ Brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.
- ▶ **Time out**
 - ▶ See Technical Assistance Advisory SPED 2016-1 (distinguishing “time out” from exclusion).
 - ▶ **Physical escort** shall mean a temporary touching or holding, without the use of force, of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is agitated to walk to a safe location.
 - ▶ **Time-out** shall mean a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.

**Prior principal/administrator approval required if over 30 minutes.*

Physical Restraint Prohibited

- ▶ **Except** when student's behavior poses a threat of assault, or imminent, serious, physical harm to self or others **and** the student is not responsive to verbal directives or other lawful and less intrusive behavior interventions, or such interventions are deemed to be inappropriate under the circumstances.

“An emergency procedure of last resort”

- ▶ Goal is to protect a student and/or staff member from assault or imminent, serious, physical harm;
- ▶ and to prevent or minimize any harm to the student as a result of using physical restraint.

Prohibitions

- ▶ Mechanical restraint
- ▶ Medical restraint
- ▶ Seclusion
- ▶ Prone restraint except under certain circumstances

Further prohibitions

- ▶ As a means of discipline
- ▶ When medically contraindicated
- ▶ As a response to property destruction, disruption of school order, refusal to comply with staff directive, or verbal threats when actions do not constitute a threat of assault, or imminent, serious, physical harm
- ▶ As a standard response to an individual student; as a provision in a student's IEP or BIP

What's Not Prohibited?

- ▶ The right of law enforcement to report a crime committed by student or other individual
- ▶ The right of law enforcement or school security personnel from exercising their responsibilities, including physical detainment of student or other person alleged to have committed a crime or posing a security risk
- ▶ The exercise of an individual's responsibility as a mandated reported pursuant to G.L. c. 119, §51A

By January 1, 2016, Districts were expected to:

- ▶ Update policies on behavioral support and use of restraint
- ▶ Have conducted training
- ▶ Be prepared to collect and report data
- ▶ Amend IEPs and BIPs where necessary

Training for ALL program staff

Training on the district's restraint prevention and behavior support policy

Training on requirements when restraint is used

Training within the first month of each school year and, for employees hired after the school year begins, within a month of their employment

“In-depth” staff training

- ▶ Principals must identify program staff who are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint.
- ▶ Such staff shall participate in “in-depth” training in the use of physical restraint.
- ▶ DESE recommends “competency-based” training (at least 16 hours with at least one refresher annually).

Proper Administration

- ▶ Trained personnel
- ▶ Only the amount of force necessary to protect the student or others from physical injury or harm
- ▶ Safest method (floor or prone restraints only by staff with in-depth training) and is required to provide safety for the student or others present
- ▶ Duration: longer than 20 minutes requires permission of principal

Duration of Restraint

- ▶ All physical restraint must be terminated as soon as:
 - ▶ the student is no longer an immediate danger to himself or others;
 - ▶ the student indicates that he or she cannot breathe; and
 - ▶ the student is observed to be in severe distress, such as having difficulty breathing, or sustained or prolonged crying or coughing.

Remember: Longer than 20 minutes requires permission of principal

Reporting to Principal

- ▶ ALL restraints must be reported to the Principal
 - ▶ Verbally inform the principal as soon as possible
 - ▶ Written report no later than the next school working day
 - ▶ The principal shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the parent or the Department upon request.
 - ▶ Content of the required written report is set out in regulations.

Reporting to Parents

- ▶ The principal shall make reasonable efforts to verbally inform the student's parent within 24 hours
- ▶ And by written report sent within three school working days
 - ▶ to an email address provided by the parent for communications
 - ▶ by regular mail postmarked no later than three school working days of the restraint
 - ▶ in parent's language
 - ▶ opportunity to comment orally and in writing on the use of the restraint and information in the report

Reporting to DESE

- ▶ Report all restraint-related injuries (to student or staff) by sending a copy of the written report no later than three school working days of the administration of the restraint.
- ▶ Send a copy of the record of physical restraints maintained by the principal for the 30-day period prior.
- ▶ The Department shall determine if additional action by the program is warranted and, if so, shall notify the school within 30 calendar days of receipt of the required written report(s).
- ▶ Report data annually to DESE in a manner and form directed by the Department.

New: Administrative Review by Principal

- ▶ Weekly Individual Student Review
 - ▶ Review team
 - ▶ Caution!
- ▶ Monthly School-wide review
 - ▶ Consider patterns;
 - ▶ the number and duration of restraints school-wide and for individual students
 - ▶ duration of restraints
 - ▶ number and type of injuries
 - ▶ determine whether it is necessary or appropriate to modify the school's restraint prevention and management policy, conduct additional staff training, or take such other action as necessary or appropriate to reduce or eliminate restraints.

Prone Restraint

- ▶ HIGHLY INADVISABLE.
- ▶ May only be used if all of the following conditions are met:
 - ▶ Documented history of serious self-injuries and/or injuries to others;
 - ▶ All other forms of restraints have failed;
 - ▶ No medical contraindications as documented by a licensed physician;
 - ▶ No psychological or behavioral contraindications as documented by a licensed mental health professional;
 - ▶ The program has obtained consent to use prone restraint in an emergency as set out in 603 CMR 46.03(1)(b), and such use has been approved in writing by the principal; and,
 - ▶ All of the above are documented in advance.

Legal References

- ▶ 603 CMR 46.00
- ▶ <https://www.doe.mass.edu/lawsregs/603cmr46.html>
- ▶ 603 CMR 18.00 (amended to conform with 603 CMR 46.00)
- ▶ Technical Assistance Advisory SPED 2016-1 (distinguishing time out from exclusion)
<http://www.doe.mass.edu/sped/advisories/2016-1>
- ▶ Q&A published by DESE (providing guidance on implementation of new regs) also located at
<http://www.doe.mass.edu/sped/advisories/2016-1>

**This information is not
intended to be legal advice.**

If you need legal assistance, please contact your school
district's attorney.

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