

Code of Maryland Regulations
Title 13A State Board of Education
Subtitle 08 Students
Chapter 04 Student Behavior Interventions

COMAR T. 13A, Subt. 08, Ch. 04, Refs & Annos

Editors' Notes

Authority: Education Article, §§2-205, 7-301, 7-303-7-305, 7-307, 7-308 and 7-1101-7-1104, Annotated Code of Maryland

.01 Scope.

This chapter applies to student behavior interventions by public agencies and nonpublic schools.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Behavior intervention plan" means a proactive plan designed to address problem behaviors exhibited by a student in the educational setting through the use of positive behavioral interventions, strategies, and supports.

(2) "Business day" has the meaning stated in COMAR 13A.08.03.

(2-1) Communicate.

(a) "Communicate" means to convey information verbally or nonverbally.

(b) "Communicate" includes, but is not limited to:

(i) Speech;

(ii) Gestures;

(iii) Symbols; and

(iv) American Sign Language.

(3) "Department" means the Maryland State Department of Education.

(4) “Exclusion” means the removal of a student to a supervised area for a limited period of time during which the student has an opportunity to regain self-control and is not receiving instruction including special education, related services, or support.

(5) Functional Behavior Assessment.

(a) “Functional behavior assessment” means the systematic process of gathering information to guide the development of an effective and efficient behavior intervention plan for the problem behavior.

(b) “Functional behavior assessment” includes the:

(i) Identification of the functions of the problem behavior for the student;

(ii) Description of the problem behavior exhibited in the educational setting; and

(iii) Identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence, and maintenance of the behavior over time.

(6) “IEP” means an individual education program as defined and developed in accordance with COMAR 13A.05.01.

(7) “IEP team” has the meaning stated in COMAR 13A.05.01.

(8) Mechanical Restraint.

(a) “Mechanical restraint” means any device or material attached or adjacent to the student’s body that restricts freedom of movement or normal access to any portion of the student’s body and that the student cannot easily remove.

(b) “Mechanical restraint” does not include a protective or stabilizing device.

(9) “Nonpublic school” means a school that receives funds from the Department for the purpose of providing special education and related services to students with disabilities in accordance with COMAR 13A.09.10.

(10) “Parent” has the meaning stated in COMAR 13A.05.01.

(11) Physical Restraint.

(a) “Physical restraint” means the use of physical force, without the use of any device or material, that restricts the free movement of all or a portion of a student’s body.

(b) “Physical restraint” does not include:

(i) Briefly holding a student to calm or comfort the student;

(ii) Holding a student’s hand or arm to escort the student safely from one area to another;

(iii) Moving a disruptive student who is unwilling to leave the area if other methods such as counseling have been unsuccessful; or

(iv) Intervening in a fight in accordance with Education Article §7-307, Annotated Code of Maryland.

(12) “Positive behavior interventions, strategies, and supports” means the application of affirmative school-wide and individual student specific actions, instruction, and assistance to encourage educational success.

(13) Protective or Stabilizing Device.

(a) “Protective or stabilizing device” means any device or material attached or adjacent to the student’s body that restricts freedom of movement or normal access to any portion of the student’s body for the purpose of enhancing functional skills, preventing self-injurious behavior, or ensuring safe positioning of a person.

(b) “Protective or stabilizing device” includes:

(i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;

(ii) Seat belts; or

(iii) Other safety equipment to secure students during transportation in accordance with the public agency or nonpublic school transportation plan.

(14) “Public agency” has the meaning stated in COMAR 13A.05.01.

(15) “Restraint” means the use of a physical or mechanical restraint.

(16) “School personnel” means an individual employed by a public agency or nonpublic school as defined in this chapter.

(17) “Seclusion” means the confinement of a student alone in a room from which the student is physically prevented from leaving.

(18) “Student with a disability” has the meaning stated in COMAR 13A.05.01.

.03 Student Behavior Interventions.

A. General. School personnel are encouraged to use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.

B. School personnel shall only use exclusion, restraint, or seclusion:

- (1) After less restrictive or alternative approaches have been considered, and:
 - (a) Attempted; or
 - (b) Determined to be inappropriate;
- (2) In a humane, safe, and effective manner;
- (3) Without intent to harm or create undue discomfort; and
- (4) Consistent with known medical or psychological limitations and the student's behavioral intervention plan.

C. This chapter does not prohibit:

- (1) School personnel from initiating appropriate student disciplinary actions pursuant to Education Article §7-305, Annotated Code of Maryland, COMAR 13A.08.01.11, and COMAR 13A.08.03; or
- (2) Law enforcement, judicial authorities, or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

.04 Use of Exclusion.

A. School personnel may use exclusion to address a student's behavior:

- (1) If the student's behavior unreasonably interferes with the student's learning or the learning of others;
- (2) If the student's behavior constitutes an emergency and exclusion is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;
- (3) If exclusion is requested by the student; or
- (4) If supported by the student's behavior intervention plan.

B. A setting used for exclusion shall:

- (1) Provide school personnel with the ability to see the student at all times;
- (2) Provide adequate lighting, ventilation, and furnishings; and

(3) Be unlocked and free of barriers to prevent egress.

C. School personnel shall monitor a student placed in exclusion and provide a student in exclusion with:

(1) An explanation of the behavior that resulted in the removal; and

(2) Instructions on the behavior required to return to the learning environment.

D. School personnel shall ensure that each period of exclusion:

(1) Is appropriate to the developmental level of the student and the severity of the behavior; and

(2) Does not exceed 30 minutes.

E. Parents and school personnel may at any time request a meeting to address the use of exclusion and to:

(1) Conduct a functional behavioral assessment; and

(2) Develop, review, or revise a student's behavioral intervention plan.

F. School personnel shall consider the need to initiate a referral to a pupil services or IEP team if a nondisabled student has experienced excessive exclusion, to determine if the student has a disability that may require the provision of special education and related services, in accordance with COMAR 13A.05.01.

G. School personnel shall ensure the implementation of appropriate procedures, in accordance with COMAR 13A.08.03, if a student with a disability has experienced an excessive period of exclusion that may result in a change of placement.

.05 General Requirements for the Use of Restraint or Seclusion.

A. Use of Restraint.

(1) Physical Restraint.

(a) The use of physical restraint is prohibited in public agencies and nonpublic schools, unless:

(i) There is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;

(ii) The student's behavioral intervention plan or IEP describes the specific behaviors and circumstances in which physical restraint may be used; or

(iii) The parents of a nondisabled student have otherwise provided written consent to the use of physical restraints while a behavior intervention plan is being developed.

(b) Physical restraint shall be applied only by school personnel who are trained in the appropriate use of physical restraint consistent with Regulation .06C of this chapter.

(c) In applying physical restraint, school personnel shall only use reasonable force as is necessary to protect a student or other person from imminent, serious, physical harm.

(d) Physical restraint:

(i) Shall be removed as soon as the student is calm; and

(ii) May not exceed 30 minutes.

(e) In applying physical restraint, school personnel may not:

(i) Place a student in a face down position;

(ii) Place a student in any other position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or

(iii) Straddle a student's torso.

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in public agencies and nonpublic schools unless a public agency or nonpublic school is certified by and meets the requirements of the Joint Commission for the Accreditation of Health Care Organizations.

(b) Regulation .04 of this chapter does not prohibit school personnel from using a protective or stabilizing device:

(i) As prescribed by a health professional; or

(ii) For a student with a disability, in accordance with the student's IEP or behavior intervention plan.

(3) Documentation of the Use of Restraint.

(a) Each time a student is in a restraint, school personnel shall document:

- (i) Other less intrusive interventions that have failed or been determined inappropriate;
- (ii) The precipitating event immediately preceding the behavior that prompted the use of restraint;
- (iii) The behavior that prompted the use of a restraint;
- (iv) The names of the school personnel who observed the behavior that prompted the use of restraint; and
- (v) The names and signatures of the staff members implementing and monitoring the use of restraint.

(b) Documentation under §A(3) of this regulation shall include a description of the restraint event, including:

- (i) The type of restraint;
- (ii) The length of time in restraint;
- (iii) The student's behavior and reaction during the restraint; and
- (iv) The name and signature of the administrator informed of the use of restraint.

(4) The documentation described in §A(3) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(5) Each time restraint is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

B. Use of Seclusion.

(1) The use of seclusion is prohibited in public agencies and nonpublic schools unless:

- (a) There is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;
- (b) The student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used; or
- (c) The parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.

(2) Seclusion Room.

- (a) At a minimum, a room used for seclusion shall:
 - (i) Be free of objects and fixtures with which a student could self-inflict bodily harm;
 - (ii) Provide school personnel an adequate view of the student from an adjacent area; and
 - (iii) Provide adequate lighting and ventilation.
- (3) School personnel shall:
 - (a) View a student placed in seclusion at all times; and
 - (b) Provide a student placed in seclusion with:
 - (i) An explanation of the behavior that resulted in the removal; and
 - (ii) Instructions on the behavior required to return to the learning environment.
- (4) Seclusion shall only be applied by school personnel trained in the appropriate use of seclusion consistent with Regulation .06C of this chapter.
- (5) A seclusion event:
 - (a) Shall be appropriate to the student's developmental level and severity of the behavior;
 - (b) May not restrict the student's ability to communicate distress; and
 - (c) May not exceed 30 minutes.
- (6) Documentation of Seclusion.
 - (a) Each time a student is placed in seclusion, school personnel shall document:
 - (i) Other less intrusive interventions that have failed or been determined inappropriate;
 - (ii) The precipitating event immediately preceding the behavior that prompted the use of seclusion;
 - (iii) The behavior that prompted the use of seclusion; and
 - (iv) The names and signatures of the staff members implementing and monitoring the seclusion.
 - (b) The documentation under §B(6) of this regulation shall include a description of the seclusion event, including:

- (i) Justification for initiating the use of seclusion;
- (ii) The length of time in seclusion;
- (iii) The student's behavior and reaction during the seclusion; and
- (iv) The name and signature of the administrator informed of the use of seclusion.

(7) The documentation described in §B(6) of this regulation shall be maintained in the student's educational record and available for inspection by the student's parent or legal guardian in accordance with COMAR 13A.08.02.

(8) Unless otherwise provided for in the student's behavior intervention plan or IEP, each time seclusion is used, school personnel shall provide the student's parent with verbal notification or send written notice within 24 hours.

C. Referral to a Pupil Services or IEP Team.

(1) If restraint or seclusion is used for a student who has not been identified as a student with a disability, the student shall immediately be referred to the school's pupil services team or an IEP team.

(2) If restraint or seclusion is used for a student with a disability, and the student's IEP or behavior intervention plan does not include the use of restraint or seclusion, the IEP team shall meet, in accordance with COMAR 13A.08.03, within 10 business days of the incident to consider:

- (a) The need for a functional behavioral assessment;
- (b) Developing appropriate behavioral interventions; and
- (c) Implementing a behavioral intervention plan.

(3) If restraint or seclusion is used for a student with a disability, and the IEP or behavior intervention plan includes the use of restraint or seclusion, the student's IEP or behavior intervention plan shall specify how often the IEP team shall meet to review or revise, as appropriate, the student's IEP or behavior intervention plan, in accordance with COMAR 13A.05.01 and 13A.08.03.

(4) When an IEP team meets to review or revise a student's IEP or behavior intervention plan, as specified in §C(3) of this regulation, the IEP team shall consider:

- (a) Existing health, physical, psychological, and psychosocial information;
- (b) Information provided by the parent;

- (c) Observations by teachers and related service providers; and
 - (d) The student's current placement.
- (5) The local school system or nonpublic school shall provide the parent of the student with written notice in accordance with COMAR 13A.05.01.12A when an IEP team proposes or refuses to initiate or change the student's IEP or behavior intervention plan that includes the use of restraint or seclusion,
- (6) A parent may request mediation in accordance with COMAR 13A.05.01.15B or a due process hearing in accordance with COMAR 13A.05.01.15C if the parent disagrees with the IEP team decision to propose or refuse to initiate or change:
- (a) The student's IEP;
 - (b) The student's behavior intervention plan to use restraint or seclusion; or
 - (c) The student's placement.

.06 Administrative Procedures.

- A. Each public agency and nonpublic school shall develop policies and procedures to address:
- (1) A continuum of positive behavioral interventions, strategies, and supports for use by school personnel before exclusion, restraint, or seclusion;
 - (2) The prevention of self-injurious behaviors;
 - (3) Methods for identifying and defusing potentially dangerous behavior;
 - (4) The use and documentation of exclusion consistent with Regulation .04 of this chapter;
 - (5) The use of restraint consistent with Regulation .05A of this chapter; and
 - (6) The use of seclusion consistent with Regulation .05B of this chapter.
- B. Each public agency and nonpublic school shall annually review policies and procedures and provide them to school personnel and parents as described in COMAR 13A.08.01.
- C. Professional Development.
- (1) Each public agency and nonpublic school shall provide professional development to designated school personnel on this chapter and the appropriate implementation of policies and procedures developed in accordance with §A of this regulation.
 - (2) At the beginning of each school year, each public agency and nonpublic school shall

identify school personnel authorized to serve as a school-wide resource to assist in ensuring proper administration of exclusion, restraint, and seclusion.

(3) The school personnel described in §C(2) of this regulation shall receive training in current professionally accepted practices and standards regarding:

(a) Positive behavior interventions strategies and supports, including methods for identifying and defusing potentially dangerous behavior;

(b) Functional behavior assessment and behavior intervention planning;

(c) Exclusion;

(d) Restraint and alternatives to restraint;

(e) Seclusion; and

(f) Symptoms of physical distress and positional asphyxia.

(4) The professional development described in §C(3) of this regulation shall include a written examination and physical demonstration of proficiency in the described skills and competencies.

D. Monitoring and Compliance.

(1) Each public agency and nonpublic school shall develop policies and procedures on:

(a) Monitoring the use of exclusion, restraint, and seclusion; and

(b) Receiving and investigating complaints regarding exclusion, restraint, and seclusion practices.

(2) The Department may monitor and request any information regarding any matter related to exclusion, restraint, or seclusion implemented by a public agency or nonpublic school. The Department shall provide written notice of the requested information and specify the time and the manner in which the public agency or nonpublic school shall respond to the request.