In accordance with N.J.A.C. 6A:23A-5.2, the Board of Education adopts this Policy and its strategies to ensure the use of legal services by employees and the Board of Education members and the tracking of the use of legal services.

The Board of Education authorizes the Superintendent of Schools, School Business Administrator/Board Secretary, Board President, Director of Educational Services, and the Assistant Superintendent of Technology/HR as designated contact persons to request services or advice from contracted legal counsel.

The School Business Administrator shall be responsible to review all legal bills and confer with designated contact persons in reviewing such legal bills.

In accordance with the provisions of N.J.A.C. 6A:23A-5.2(a)2, the Board designates the administrative staff member to review all legal bills and designates contact persons to ensure the prudent use of legal services.

School districts with legal costs that exceed one hundred thirty percent of the Statewide average per student amount should establish the procedures outlined in 1., 2., 3., and 4. below and, if not established, provide evidence such procedures would not result in a reduction of costs.

1. The designated contact person(s) shall ensure that contracted legal counsel is not contacted unnecessarily for management decisions or readily available information contained in district materials such as Board policies, administrative regulations, or guidance available through professional source materials.

2. All requests for legal advice shall be made to the designated contact person(s) in writing and shall be maintained on file in the district.
offices. The designated contact person shall determine whether the request warrants legal advice or if legal advice is necessary.

3. The designated contact person(s) shall maintain a log of all legal counsel contact including the name of the legal counsel contacted, date of the contact, issue discussed, and length of contact.

4. All written requests for legal advice and logs of legal counsel contacts shall be forwarded to the School Business Administrator, who shall be responsible to review all legal bills and compare all legal bills to the contact logs and to investigate and resolve any variances.

Any professional services contract(s) for legal services shall prohibit advance payments. Services to be provided shall be described in detail in the contract and invoices for payment shall itemize the services provided for the billing period. Payments to legal counsel(s) shall only be for services actually provided.

School districts and vocational school districts are prohibited from contracting with legal counsel or using in-house legal counsel to pursue any affirmative claim or cause of action on behalf of district administrators and/or any individual Board members or pursuing any claim or cause of action for which the damages to be awarded would benefit an individual rather than the school district as a whole.

The Board of Education will annually establish prior to budget preparation, a maximum dollar limit for each type of professional service, including legal services. In the event it becomes necessary to exceed the established maximum dollar limit for the professional service, the Superintendent of Schools shall recommend to the Board of Education an increase in the maximum dollar amount. Any increase in the maximum dollar amount shall require formal Board action.

Contracts for legal services will be issued by the Board in a deliberative and efficient manner that ensures the district receives the highest quality services at a fair and competitive price or through a shared service arrangement. This may
include, but is not limited to, issuance of such contracts through a Request for Proposals (RFP) based on cost and other specified factors or other comparable processes. Contracts for legal services shall be limited to non-recurring or specialized work for which the district does not possess adequate in-house resources or in-house expertise to conduct.

N.J.A.C. 6A:23A-5.2

(First Reading August 28, 2018)

(Revised)

Adopted:
The Board of Education strives to provide a safe, caring atmosphere that supports all students in the least restrictive environment. On occasion, during an emergency, a situation may arise making it necessary to temporarily restrain or seclude a student with a disability in accordance with N.J.S.A. 18A:46-13.4 through 13.7.

A school district, an educational services commission, or an approved private school for students with disabilities (APSSD) that utilizes physical restraint on students with disabilities shall ensure that:

1. Physical restraint is used only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

2. A student is not restrained in the prone position, unless the student's primary care physician authorizes, in writing, the use of this restraint technique;

3. Staff members who are involved in the restraint of a student receive training in safe techniques for physical restraint from an entity determined by the Board of Education to be qualified to provide such training, and that the training is updated at least annually;

4. The parent of a student is immediately notified when physical restraint is used on the student. This notification may be by telephone or electronic communication. A post-incident full written notification report of the incident of physical restraint shall be provided to the parent within forty-eight hours of the occurrence of the incident;

5. Each incident in which physical restraint is used is carefully and continuously visually monitored to ensure it was used in
accordance with established procedures set forth in Policy and Regulation 5561 – Use of Physical Restraint and Seclusion Techniques for Students with Disabilities, developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

6. Each incident in which physical restraint is used is documented in writing in sufficient detail to enable staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan (IEP) meeting.

A school district, an educational services commission, and an APSSD shall attempt to minimize the use of physical restraints through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan IEP team.

A school district, an educational services commission, or an APSSD that utilizes seclusion techniques on students with disabilities shall ensure that:

1. A seclusion technique is used on a student with disabilities only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

2. Each incident in which a seclusion technique is used is carefully and continuously visually monitored to ensure it was used in accordance with established procedures set forth in Policy and Regulation 5561 – Use of Physical Restraint and Seclusion Techniques for Students with Disabilities, developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

3. Each incident in which a seclusion technique is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan IEP meeting.
A school district, an educational services commission, and an APSSD shall attempt to minimize the use of seclusion techniques through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan IEP team.

The New Jersey Department of Education shall establish guidelines for school districts, educational services commissions, and APSSDs to ensure a review process is in place to examine the use of physical restraints or seclusion techniques in emergency situations, and for the repeated use of these methods for an individual child, within the same classroom, or by a single individual. The review process shall include educational, clinical, and administrative personnel. Pursuant to the review process the student's individualized education-plan IEP team may, as deemed appropriate, determine to revise the behavior intervention plan or classroom supports, and a school district, educational services commission, or APSSD may determine to revise a staff member's professional development plan pursuant to N.J.S.A. 18A:46-13.7.

The Superintendent or designee may gather input from school staff members and parents of students with disabilities on this Policy and Regulation. All students with disabilities and their parents shall be afforded the procedural safeguards provided by the Individuals with Disabilities Education Act (IDEA).

The Superintendent or designee shall annually inform parents of students with disabilities about the Board's Policy regarding restraint and seclusion.


New Jersey Department of Education Restraint and Seclusion Guidance for Students with Disabilities – July 10, 2018

(An Incident Report Form can be found on Staff Share.)

(Revised Alert 216) (First Reading August 28, 2018)

Adopted:
[See POLICY ALERT Nos. 192, 215 and 216]

[THIS REGULATION IS ONLY REQUIRED IF THE BOARD ALLOWS THE USE OF PHYSICAL RESTRAINT AND SECLUSION TECHNIQUES FOR STUDENTS WITH DISABILITIES IN ACCORDANCE WITH POLICY 5561.]

R 5561 USE OF PHYSICAL RESTRAINT AND SECLUSION TECHNIQUES FOR STUDENTS WITH DISABILITIES

A. Definitions

"Mechanical Restraint" means the use of any device or equipment to restrict a student’s freedom of movement, but does not include devices implemented by trained school personnel, or utilized by a student that has been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed such as:

- Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;

- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;

- Restraints for medical mobilization; or

- Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

"Physical restraint” means the use of a personal restriction that immobilizes or reduces the ability of a student to move all or a portion of his or her body.
“Seclusion technique” means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, but does not include a timeout.

“Timeout” means a behavior management technique that involves the monitored separation of a student in a non-locked setting and is implemented for the purpose of calming.

B. Physical Restraint

A school district, an educational services commission, or an approved private school for students with disabilities (APSSD) that utilizes physical restraint on students with disabilities shall ensure that:

1. Physical restraint is used only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

2. A student is not restrained in the prone position, unless the student’s primary care physician authorizes, in writing, the use of this restraint technique;

3. Staff members who are involved in the restraint of a student receive training in safe techniques for physical restraint from an entity determined by the Board of Education to be qualified to provide such training, and that the training is updated at least annually;

4. The parent of a student shall be immediately notified when physical restraint is used on the student. This notification may be by telephone or electronic communication. In addition, a full post-incident written notification report of the incident of physical restraint shall be provided to the parent within forty-eight hours of the occurrence of the incident.

   a. The post-incident written notification report shall include, but not be limited to, details regarding the nature of the behavior that precipitated the use of the
restraint; the staff involved; and recommendations for follow-up activities including, if appropriate, revisions to the student's individualized education plan (IEP) or administration of a functional assessment.

b. The post-incident written notification report shall be maintained in a manner consistent with State and Federal regulations regarding the confidentiality of student records, while also serving as a mechanism for gathering data which allows the IEP team to make informed decisions regarding the student's needs.

5. Each incident in which physical restraint is used is carefully and continuously visually monitored to ensure it was used in accordance with established procedures set forth in Policy and Regulation 5561 – Use of Physical Restraint and Seclusion Techniques for Students with Disabilities, developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

6. Each student involved in physical restraint will be examined by the school nurse.

7. Each incident in which physical restraint is used is documented in writing in sufficient detail to enable staff to use this information to develop or improve the behavior intervention plan (BIP) at the next individualized-education-plan IEP meeting.

a. Each incident that requires the use of restraint shall be documented in a manner that supports informed data-driven decision making by school staff including the IEP team.

b. The data collected through this process shall include, but not be limited to, the location of the incident, persons involved, triggering events, prevention, redirection or de-escalation techniques utilized during
the incident, a description of any injuries or physical damage that occurred, observational data or monitoring data taken during the incident, debriefing with staff, reflections on adherence to the IEP and district procedures, and specific follow-up that will take place including, if appropriate, an IEP team meeting.

c. Data shall be reviewed on a continual basis to determine the effectiveness of the individual student’s BIP and the school district’s procedures. Any reviews should be conducted across sub-groups and involve staff, Child Study Team members, and administration.

A school district, an educational services commission, and an APSSD shall attempt to minimize the use of physical restraints through inclusion of positive behavior supports in the student’s behavior-intervention-plans BIPs developed by the individualized-education-plan IEP team.

C. Physical-Restraint Training Requirements

The training requirements on the use of physical restraint shall be as follows:

1. Building-level administrators and school staff members who are involved in the restraint of a student shall receive training in safe techniques for physical restraint from an entity determined by the Board to be qualified to provide such training:

   a. The Principal or designee shall determine the school staff members that shall receive training in safe techniques for physical restraint of a student.

   b. Training may include techniques of prevention and de-escalation, as well as alternatives to physical restraint.

   c. Training may include current professionally accepted practices and standards regarding behavior management.
The training program in safe techniques for physical restraint shall be updated at least annually.

C. Seclusion

A school district, an educational services commission, or an APSSD that utilizes seclusion techniques on students with disabilities shall ensure that:

1. A seclusion technique is used on a student with disabilities only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

2. Each incident in which a seclusion technique is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in Policy and Regulation 5561 – Use of Physical Restraint and Seclusion Techniques for Students with Disabilities; and

3. Each incident in which a seclusion technique is used is documented in writing in sufficient detail to enable staff to use this information to develop or improve the BIP at the next IEP meeting.

   a. Each incident that requires the use of a seclusion technique shall be documented in a manner that supports informed data-driven decision making by school staff including the IEP team.

   b. The data collected through this process shall include, but not be limited to, the location of the incident, persons involved, triggering events, prevention, redirection or de-escalation techniques utilized during the incident, a description of any injuries or physical damage that occurred, observational data or monitoring data taken during the incident, debriefing with staff, reflections on adherence to the IEP and
district procedures, and specific follow-up that will take place including, if appropriate, an IEP team meeting.

c. Data shall be reviewed on a continual basis to determine the effectiveness of the individual student's BIP and the school district's procedures. Any reviews should be conducted across sub-groups and involve staff, Child Study Team members, and administration.

A school district, an educational services commission, and an APSSD shall attempt to minimize the use of seclusion techniques through inclusion of positive behavior supports in the student's BIP developed by the IEP team.

D. Interventions

1. Classroom interventions may include, but not be limited to, the following strategies:

   a. The staff member may ignore the behavior;

   b. The staff member may redirect the student to a task with verbal or non-verbal prompts or gestures. Proximity and the use of gentle humor may help, when appropriate;

   c. The staff member shall be clear, polite, and respectful when redirecting the student's behavior. The staff member should make eye contact and tell the student what to do such as "I can't teach when you are talking, throwing things,..." or "Please stop and listen, read, write,..."—The staff member should remind the student of consequences for non-compliance and rewards if they comply with the staff member's request, re-direct the behavior by utilizing behaviorally specific language to target the behavior being corrected.

   d. The staff member shall be polite at all times. The staff member may repeat steps a. through c. above and quietly give the student adequate wait time. If the staff member
moves on, the student may comply after the initial confrontation if attention goes back to the lesson;

e. The staff member may advise the student to proceed to a time out area in the classroom for a limited time if deemed a danger to self and others (elementary and middle school); and

f. If classroom removal is required, the staff member shall follow school discipline procedures for notification and request for assistance if necessary.

2. Security interventions may include, but are not limited to, the staff member:

a. Standing quietly in the doorway and asking the student to accompany the staff member; and

b. Informing the student of the violation of the school discipline code and procedure and assure the student they have the choice to leave the classroom quietly.

E. Use of Physical Restraint

1. If necessary, the staff member shall restrain the student until the emergency no longer exists (i.e. the student stops punching, kicking, spitting, damaging property, etc.).

2. The school staff member shall immediately contact the appropriate administrator and school nurse and complete a written report on the physical restraint the staff member used during the emergency situation within 48 hours.

3. The Principal’s or designee’s or any school staff member’s report regarding the incident shall be documented in writing in sufficient detail to enable staff to use this information to develop or improve the behavior intervention plan BIP at the next individualized
education-plan IEP meeting. The documentation of physical restraint shall be placed in the student’s school file.

4. The use of physical restraint is subject to the following additional requirements:

a. Physical restraint techniques shall consider the student’s medical conditions and shall be modified as necessary;

b. Students shall not be subjected to physical restraint for using profanity, other verbal displays or disrespect, or for non-compliance. A verbal threat will not be considered as constituting a physical danger unless a student also demonstrates a means of or intent to carry out the threat;

c. In determining whether a student who is being physically restrained should be removed from the area where the restraint was initiated, the supervising staff should consider the potential for injury to the student, the student’s need for privacy, and the educational and emotional well-being of the other students in the vicinity;

d. A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing harm to himself/herself, others, or imminent property destruction; and

c. The student shall be examined by the school nurse after any restraint.

F. — Seclusion Techniques

A school district, an educational services commission, or an APSSD that utilizes seclusion techniques on students with disabilities shall ensure that:
1. A seclusion technique is used on a student with disabilities only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

2. Each incident in which a seclusion technique is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in Policy and Regulation 5561—Use of Physical Restraint and Seclusion Techniques for Students with Disabilities, developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

3. Each incident in which a seclusion technique is used is documented in writing in sufficient detail to enable staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

A school district, an educational services commission, and an APSSD shall attempt to minimize the use of seclusion techniques through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan IEP team.

F. Restraint and Seclusion Training Requirements

1. All staff members working directly with students with disabilities shall receive training on Policy and Regulation 5561 and in safe techniques for physical restraint and seclusion from an entity determined by the Board of Education to be qualified to provide such training.

   a. The Principal or designee shall determine the school staff members that shall receive restraint and seclusion training.
b. The training shall be identified in the school district’s professional development plan and should be considered as a topic for ongoing professional learning communities (PLCs).

c. The training shall emphasize the use of appropriate de-escalation techniques and the use of Positive Behavior Supports (PBS) as mechanisms to avoid the need for the use of physical restraint and seclusion.

d. Training may include current professionally accepted practices and standards regarding behavior management.

e. The training program shall be updated at least annually.

2. In addition to district-wide training and PLCs, the Board may also consider additional training for all staff members who will be responsible for implementing the IEPs which include BIPs for students with disabilities.

   a. This additional training should include a framework that emphasizes de-escalation techniques, identifying PBSs, and behavior strategies which support appropriate behavior in all school settings.

   b. Staff members responsible for implementing BIPs for student IEPs should be trained on the use of continuous monitoring techniques and the collection of data which can be used to inform decision making regarding the continued use of restraint and seclusion.
3. Training for school administrators shall include information on the effectiveness of school-wide positive behavior programs, a tool for evaluating the effectiveness of the Policy and Regulation 5561, and a tool for evaluating the effectiveness of the school district’s trainings.

(An Incident Report form can be found on Staff Share.)

(First Reading August 28, 2018)

(Revised Alert 216)

Issued:
## INCIDENT REPORT

<table>
<thead>
<tr>
<th>Student Name:</th>
<th>ID #:</th>
<th>Date of Birth:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Race:</th>
<th>Gender:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>☐ IEP</th>
<th>☐ BIP</th>
<th>☐ 504 Plan</th>
<th>Grade:</th>
<th>School:</th>
</tr>
</thead>
</table>

### Incident Description:

### Date Incident Occurred: | Time:
---|---

### Location of incident: | Behavior(s) directed at:
- ☐ Classroom | ☐ Staff
- ☐ Hall | ☐ Peers
- ☐ Cafeteria | ☐ Self
- ☐ Playground | ☐ Other: ______________________
- ☐ Other: ______________________ | ☐ Other: ______________________

### Thorough description of efforts made to deescalate the Incident:

---

### Report prepared by

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date:</th>
<th>Position:</th>
</tr>
</thead>
</table>

Parent contacted by the following staff member (include name and position):

---

Pg. 1-Co: Building Principal
School Counselor
## Description of activity in which the student or other students were engaged in immediately preceding behavioral concern:

<table>
<thead>
<tr>
<th>Did the Incident Result in a Physical Hold?</th>
<th>Did the Incident result in Seclusion?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes ☐ No Approx. # of min:</td>
<td>☐ Yes ☐ No Approx. # of min:</td>
</tr>
<tr>
<td># of students involved:</td>
<td># of students involved:</td>
</tr>
</tbody>
</table>

| Student's behavior during the hold or seclusion: | Student's behavior after the physical hold or seclusion: |

### Staff Administering Physical Hold

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Certified to administer Physical holds</th>
<th>CPI Methodology</th>
<th>Received prior training</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>☐ Yes ☐ No</td>
<td>☐ Yes ☐ No</td>
<td>☐ Yes ☐ No</td>
</tr>
</tbody>
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### Observers during Physical Hold/Seclusion

<table>
<thead>
<tr>
<th>Staff members/other adult witnesses (include name and position):</th>
<th># of Student observers:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name:</td>
<td>Position:</td>
</tr>
<tr>
<td>Signature:</td>
<td>Date:</td>
</tr>
<tr>
<td>Name:</td>
<td>Position:</td>
</tr>
<tr>
<td>Signature:</td>
<td>Date:</td>
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</tbody>
</table>

### Parent/Guardian Notification

<table>
<thead>
<tr>
<th>Name of parent(s) immediately contacted:</th>
<th>Documented attempt to contact parent if unable to contact verbally (describe):</th>
<th>Contacted by the following staff member (include name and position):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone #:</td>
<td>Date and time of parent contact:</td>
<td>Date the written report was emailed to parent (within 48 hours):</td>
</tr>
<tr>
<td>Was the parent reached:</td>
<td>Date the written report was emailed to parent (within 48 hours):</td>
<td>Examined by School Nurse (immediately following incident)</td>
</tr>
<tr>
<td>Date:</td>
<td>Time:</td>
<td>Date:</td>
</tr>
<tr>
<td>Notes:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Report Prepared by: | Date: |