

Overview

ESBOCES prohibits the use of corporal punishment, aversive interventions, and seclusion. ESBOCES authorizes the limited use of timeout and physical restraint in schools to address student behaviors subject to conditions in law, regulation, and this policy.

Definitions

For purposes of this policy, the following definitions apply.

Aversive intervention means an intervention that is intended to induce pain or discomfort for the purpose of eliminating or reducing student behavior, including interventions such as:

1. contingent application of noxious, painful, intrusive stimuli or activities;
2. strangling, shoving, deep muscle squeezes, or other similar stimuli;
3. any form of noxious, painful, or intrusive spray, inhalant, or tastes;
4. contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
5. movement limitation used as a punishment, including, but not limited to, helmets and mechanical restraints; or
6. other stimuli or actions similar to the interventions described in this definition.

Aversive intervention does not include interventions such as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

Corporal punishment means any act of physical force upon a student for the purpose of punishing that student. The term does not include the use of physical restraints to protect the student, another student, teacher, or any other person from physical injury when alternative procedures and methods not involving the use physical restraint cannot reasonably be employed to achieve these purposes.

De-escalation means the use of a behavior management technique that helps a student increase control over their emotions and behavior and results in a reduction of a present or potential level of danger to the student or others.

Mechanical restraint means the use of any device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include devices implemented by trained ESBOCES personnel, or utilized by a student, that have 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

1. 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;
2. vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
3. restraints for medical immobilization; or
4. orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

Multi-tiered system of supports means a proactive and preventative framework that utilizes data to inform instruction and the allocation of services to maximize achievement for all students and support students' social, emotional, and behavioral needs from a culturally responsive and strength-based perspective.

Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

Physical restraint means a personal restriction that immobilizes or reduces the ability of a student to move their arms, legs, body, or head freely. Physical restraint does not include a physical escort or brief physical contact and/or redirection to promote student safety, calm or comfort a student, prompt or guide a student when teaching a skill or assisting a student in completing a task, or for other similar purposes.

Prone restraint means physical or mechanical restraint while the student is in the face down position.

Seclusion means the involuntary confinement of a student alone in a room or space that they are physically prevented from leaving or they may perceive that they cannot leave at will. Seclusion does not include 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 de-escalating, regaining control, and preparing the student to meet expectations to return to their education program. Timeout does not include

1. a student-initiated or student-requested break to utilize coping skills, sensory input, or self-regulation strategies;
2. use of a room or space containing coping tools or activities to assist a student to calm and self-regulate, or the use of such intervention strategies consistent with a student with a disability's behavioral intervention plan;

3. a teacher removal, in-school suspension, or any other appropriate disciplinary action.

Prohibition of the Use of Corporal Punishment, Aversive Interventions, and Seclusion

No teacher, administrator, officer, employee, or agent of ESBOCES will use the following against a student:

1. corporal punishment;
2. aversive interventions; or
3. seclusion.

Agent includes, but is not limited to, school resource officers, except when a student is under arrest and handcuffs are necessary for the safety of the student and others.

Authorized Limited Use of Timeout and Physical Restraint

Positive, proactive, evidence-based, and research-based strategies through a multi-tiered system of supports will be used to reduce the occurrence of challenging behaviors, eliminate the need for the use of timeout and physical restraint, and improve school climate and the safety of all students.

Timeout and physical restraint may be used only when

1. other less restrictive and intrusive interventions and de-escalation techniques would not prevent imminent danger of serious physical harm to the student or others;
2. there is no known medical contraindication to its use on the student; and
3. staff using the interventions have been trained in its safe and appropriate application.

Timeout and physical restraints will not be used as discipline or punishment, retaliation, or as a substitute for positive, proactive intervention strategies that are designed to change, replace, modify, or eliminate a targeted behavior.

Timeout

The following rules apply to the use of timeout at ESBOCES.

1. Timeout will only be used in a situation that poses an immediate concern for the physical safety of the student or others or in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.
2. A room or physical space used for timeout may be located either within or outside of a classroom. The room or physical space will
 - a. be unlocked, and any door must be able to be opened from the inside; the use of locked rooms or physical spaces is prohibited;

- b. provide a means for continuous visual and auditory monitoring of the student. The use of a room where the student cannot be continuously observed and supervised is prohibited.
 - c. be of adequate width, length, and height to allow the student to move about and recline comfortably.
 - d. be clean and free of objects and fixtures that could be potentially dangerous to a student.
 - e. meet all local fire and safety codes.
 - f. have wall and floor coverings that, to the extent practicable, are designed to prevent injury to the student.
 - g. have adequate lighting and ventilation.
 - h. have a temperature that is within the normal comfort range and consistent with the rest of the building.
3. When a student is in a timeout room or space, staff will continuously monitor the student.
 4. Any staff functioning as timeout monitors will be trained in accordance with law and regulation.
 5. Staff will return the student to their educational program as soon as the student has safely deescalated, regained control, and is prepared to meet expectations.

Factors which may precipitate the use of timeout include:

1. need to de-escalate and regain control;
2. positive, proactive intervention strategies failed;
3. immediate concern for student's physical safety or safety of others; and
4. to prevent imminent danger of serious physical injury to the student or others.

The use of timeout will adhere to the following developmentally appropriate time limitations:

the maximum amount of time a student will need to be in timeout as a behavioral intervention will be determined on an individual basis in consideration of the student's age and individual needs.

The following additional rules apply to the use of timeout in conjunction with a behavioral intervention plan.

1. ESBOCES will ensure that timeout is used consistent with the rules for the use of timeout listed above.

2. The student's individualized education program (IEP) will specify when a behavioral intervention plan includes the use of timeout, including the maximum amount of time a student will need to be in timeout as a behavioral consequence as determined on an individual basis in consideration of the student's age and individual needs.
3. Prior to the initiation of a behavioral intervention plan that will incorporate the use of timeout, ESBOCES will inform the student's parents or persons in parental relation and give them the opportunity to see the room or physical space that will be used.
4. Prior to the initiation of a behavioral intervention plan that will incorporate the use of timeout, ESBOCES will give the student's parents or persons in parental relation a copy of this policy.

Physical Restraint

Physical restraint will only be used in a situation in which immediate intervention involving the use of reasonable physical force is necessary to prevent imminent danger of serious physical harm to the student or others.

The following rules apply to the use of physical restraint in ESBOCES.

1. The type of physical restraint used will be the least restrictive technique necessary and be discontinued as soon as the imminent danger of serious physical harm has resolved.
2. Physical restraint will never be used in a manner that restricts the student's ability to breathe or communicate or harms the student.
3. The use of prone restraint is prohibited.
4. Physical restraint will not be used as a planned intervention on a student's individualized education program, Section 504 accommodation plan, behavioral intervention plan, or other plan developed for a student by ESBOCES.
5. Physical restraint will not be used to prevent property damage except in situations where there is imminent danger of serious physical harm to the student or others and the student has not responded to positive, proactive intervention strategies.
6. Physical restraints will be administered only by staff who have received the legally required training.
7. Following a physical restraint, if an injury has been sustained or believed to have been sustained, the school nurse or other medical personnel (i.e., physician, physician assistant, or nurse practitioner) will evaluate the student to determine and document if any injuries were sustained during the incident.

Factors which may precipitate the use of physical restraint include:

during an elopement or in a situation in which immediate intervention involving the use of proper CPI techniques is necessary to prevent imminent danger of serious physical

harm to the student or others and the student has not responded to positive, proactive intervention strategies.

The use of physical restraint will adhere to the following developmentally appropriate time limitations.

the maximum amount of time a student will need to be supported with CPI as a behavioral intervention will be determined on an individual basis in consideration of the student's age and individual needs.

Notification Following the Use of Timeout, Physical Restraint, and/or Mechanical Restraint

Parent(s) or person(s) in parental relation to the student will be notified on the same day when timeout, physical restraint, and/or mechanical restraint is used, including timeout used in conjunction with a student's behavioral intervention plan. When the student's parent or person in parental relation cannot be contacted, after reasonable attempts are made, the building principal or administrator will record the attempts. For students with disabilities, the building principal or administrator will report the attempts to the student's committee on preschool special education or committee on special education. The notification will offer the parent or person in parental relation the opportunity to meet regarding the incident.

Additionally, ESBOCES will provide the parent or person in parental relation with copies of this policy and the documentation of the incident within three school days of the use of timeout and/or physical restraint.

Debriefing

As soon as practicable, after every incident in which timeout and/or a physical restraint is used on a student, a building administrator or designee will

1. meet with the staff who participated in the use of timeout and/or physical restraint to discuss
 - a. the circumstances leading to the use of timeout and/or physical restraint;
 - b. the positive, proactive intervention strategies that were utilized prior to the use of timeout and/or physical restraint; and
 - c. planning for the prevention and reduction of the future need for timeout and/or physical restraint with the student including, if applicable, whether a referral should be made for special education programs and/or other support services or, for a student with a disability, whether a referral for review of the student's individualized education program and/or behavioral intervention plan is needed; and
2. direct an ESBOCES staff member to debrief the incident with the student in a manner appropriate to the student's age and developmental ability and to discuss the behavior(s), if any, that precipitated the use of timeout and/or physical restraint.

Training

All staff will receive annual training on ESBOCES policies and procedures related to the use of timeout and physical restraint; evidence-based positive, proactive strategies; crisis intervention and prevention procedures and de-escalation techniques. Additionally, any staff who may be called upon to implement timeout or physical restraint, will receive annual, evidence-based training in safe and effective developmentally appropriate timeout and physical restraint procedures.

Notification

This policy will be made publicly available for review at ESBOCES administrative offices and each instructional building. It will also be posted on the ESBOCES website.

Reporting

ESBOCES will submit an annual report on the use of physical restraint and timeout and substantiated and unsubstantiated allegations of use of corporal punishment, mechanical restraint, and other aversive interventions, prone physical restraint, and seclusion to the New York State Education Department, on a form and at a time prescribed by the Commissioner of Education in accordance with law and regulation.

Recordkeeping

ESBOCES will maintain documentation on the use of timeout and/or physical restraint, including timeout used in conjunction with a student's behavioral intervention plan, for each student. This documentation will include:

1. the name and date of birth of the student;
2. the setting and location of the incident;
3. the name of the staff who participated in the implementation, monitoring, and supervision of the use of timeout and/or physical restraint and any other persons involved;
4. a description of the incident including duration, and, for physical restraint, the type of restraint used;
5. whether the student has an individualized education program, Section 504 accommodation plan, behavioral intervention plan, or other plan developed for the student by ESBOCES;
6. a list of all positive, proactive intervention strategies utilized prior to the use of timeout and/or physical restraint and, for students with disabilities, whether those strategies were consistent with a student's behavioral intervention plan, if applicable;
7. the details of any injuries sustained by the student or staff during the incident and whether the student was evaluated by the school nurse or other medical personnel;
8. the date and method of notification to the parent or person in parental relation and whether a meeting was held; and

9. the date of the debriefing held.

Documentation of the incident will be reviewed by supervisory personnel and, as necessary, the school nurse or other medical personnel.

Documentation of each incident will be maintained by the school and made available for review by the New York State Education Department upon request.

A record should be created for each instance of physical restraint or timeout, and for allegations concerning prohibited intervention types. Multiple event records during a day for a student would be created only

1. if a new situation occurs involving the student after the prior event had de-escalated and student had returned to the learning environment or
2. when a new restraint or intervention response type is employed during the event (for example, during an event, a staff person employed a physical restraint on a student and the situation escalated to the point where a timeout was used; the addition of the timeout would constitute an additional event record beginning with that application).

ESBOCES will use this data collection to monitor patterns of use of timeout and physical restraint.

Review

The building administrator or designee will regularly review documentation on the use of timeout and physical restraint to ensure compliance with ESBOCES policy and procedures. When there are multiple incidents within the same classroom or involving the same staff, the building administrator or designee shall take appropriate steps to address the frequency and pattern of use of timeout or physical restraint.

References:

- Education Law Section 4402
- 8 NYCRR Sections 19.5, 100.2(l)(3), and 200.22

First Adopted: 7/1/03
Readopted: 7/11/07
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