

PENNSYLVANIA DISTANCE LEARNING CHARTER SCHOOL

Book: Policy Manual

Section: Programs

Title: Positive Behavior Support and Restraints Policy

Reference: Individuals with Disabilities Education Act, Title 34, Code of Federal Regulations 34 CFR Part 300

22 PA Code Sec. 4.133, 14.143. 14145

Individuals with Disabilities Education Act, 20 U.S.C. Sec 1400 et seq

Pennsylvania Training and Technical Assistance Network Questions and Answers on the Restraint Reporting Requirements and System

Adopted: December 5, 2011

Revised: December 12, 2012, October 23, 2017, December 4, 2017, October 17, 2023

PURPOSE: Pennsylvania Distance Learning Charter School (PDLCS) recognizes the evidence-based research and the legal foundation supporting the implementation of positive behavior supports and plans for children in need of behavioral support. This policy and subsequent procedures, address specific behavior support techniques, positive behavior intervention plans, functional behavior assessments, use of restrictive or intrusive procedures or restraints and training of personnel. Charter and cyber schools have the primary responsibility to ensure that behavior support programs are in accordance with 22 PA Code 711.46.

SCOPE: This policy applies directly to all special educators, general educators and school administrators. Failure to (1) complete a functional behavior assessment; and (2) ensure that research-based, positive behavior supports are identified and implemented in the behavior support plan based on the function of the said behavior would result in noncompliance.

POLICY AUTHORITY: Policy draft is reviewed by the CEO of PDLCS; then (1) sent to the Board of Trustees, and (2) presented at the next formal, public Board Meeting for review, public comments and approval.

DETAILED POLICY STATEMENT:

In accordance with applicable state regulations, including Title 22 Pa. Code Chapter 711.46, the Board of Trustees (“Board”) of the PA Distance Learning Charter School (“Charter School”) has established this policy to effectuate a program of positive behavior support at the Charter School.

DEFINITIONS:

Aversive techniques--Deliberate activities designed to establish a negative association with a specific behavior.

Crisis Plan - A crisis plan is an action plan that is needed for times when a student may be at risk of harm to self or others and is part of a student’s Positive Behavioral Support Plan in the IEP. It should be developed by individuals knowledgeable about the child and include someone trained in mental health crisis response. A crisis plan defines what a specific student’s crisis looks like in the charter school setting and includes steps the charter school will take to support the student. These steps will include who to contact for assistance, how to work together with the student during the crisis, and how to know when the crisis is over. A crisis plan also identifies when parents should be notified.

Positive behavior support plan--A plan for students with disabilities who require specific intervention to address behavior that interferes with learning. A positive behavior support plan shall be developed by the individualized education program (“IEP”) team and be based on a functional behavior assessment and become part of the student’s IEP. These plans include methods that utilize positive reinforcement and other positive techniques to shape a student’s behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

Restraints—

(i) The application of physical force, with or without the use of a device, for the purpose of restraining the free movement of a student’s body. The term does not include briefly holding, without

force, of a student to calm or comfort him, guiding a student to an appropriate activity, or holding a student's hand to safely escort him from one area to another.

(ii) Excluded from this definition are hand-over-hand assistance with feeding or task completion and techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents and specified in the IEP. Devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices are examples of mechanical restraints which are excluded from this definition.

Seclusion - refers to the involuntary confinement of a child alone in a room or isolated area from which the child is prevented from leaving. Seclusion may include having a door locked or physically blocked or held shut with the child being alone, or having a child placed away from peers and caregivers for a period of time with no access to social interaction; the child also may have limited contact with a caregiver. Seclusion can be confused with "time out" which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, with removal or limiting of the amount of reinforcement or attention that is available to a child for a brief period of time and is implemented for the purpose of calming. Time out does not require or imply seclusion.

The U.S. Department of Education states that every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel. Only school personnel who have received the required training on the use of restraint and seclusion should be engaged in observing and monitoring these children. Monitoring should include a procedural checklist and recordkeeping procedures. School staff engaged in monitoring should be knowledgeable regarding (1) restraint and seclusion procedures and effective alternatives; (2) emergency and crisis procedures; (3) strategies to guide and prompt staff members engaged in restraint or seclusion procedures; and (4) procedures and processes for working as a team to implement, monitor, and debrief uses of restraint or seclusion. Monitoring staff should receive training to ensure that the use of physical restraint or seclusion does not harm the child or others, and that procedures are implemented as planned.

Trained school staff should also inspect and prepare the seclusion area before a child is placed in seclusion. For example, the area should be free of any objects a child could use to injure him- or herself

or others. School staff should either be inside the area or outside by a window or another adjacent location where staff can continuously observe the child and confirm that the child is not engaging in self-injurious behavior

POSITIVE BEHAVIOR SUPPORT:

Positive rather than negative measures shall form the basis of positive behavior support programs to ensure that all of the Charter School's students shall be free from demeaning treatment, the use of aversive techniques and the unreasonable use of restraints.

Positive techniques required for the development, change and maintenance of behavior shall be the least intrusive necessary.

RESEARCH-BASED PRACTICES:

Behavior support programs must include research-based practices and techniques to develop and maintain skills that will enhance an individual student's opportunity for learning and increase replacement behaviors.

FUNCTIONAL BEHAVIOR ASSESSMENT:

Behavior support programs and plans shall be based on a functional assessment of behavior ("FBA") and utilize positive behavior techniques. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student must be the least intrusive necessary.

The IDEA does not provide specific guidelines and recommendations concerning how to conduct an FBA. However, the Charter School follows, among other things, guidelines from PaTTAN regarding the FBA process which "is frequently used to determine the nature and extent of the special education and

related services that the child needs, including the need for a positive behavior support plan. As with other individualized evaluation procedures, and consistent with 34 CFR §300.300 (a) and (c), parental consent is required for an FBA to be conducted as part of the initial evaluation or a reevaluation.”

RESTRAINTS:

Per PDE, the use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques.

Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to himself, to other students or to employees, and only when less restrictive measures and techniques have proven to be or are less effective.

In the event that the need to use restraint cannot be reasonably anticipated for a particular student, or the parents/guardians refuse to provide consent therefore, appropriately trained staff may use such restraint when the student is acting in a manner that constitutes a clear and present danger to the student, to other students, or to employees.

NOTIFICATION TO PARENT/GUARDIAN OF USE OF RESTRAINT OR SECLUSION AND PROCEDURES:

The use of restraints or seclusion to control the aggressive behavior of an individual student shall cause the Charter School to notify the parent of the use of restraint, as soon as practical and shall cause a meeting of the IEP Team within 10 school days of the inappropriate behavior causing the use of restraints or seclusion in order to review the effectiveness and appropriateness of the current IEP, unless the parent, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student needs a functional behavioral assessment, reevaluation, a new or revised positive behavior support plan or a change of placement to address the inappropriate behavior.

Restraints or use of seclusion that result in injury to the student must be reported to the parent/guardian per 22 PA Code §10.25:

(a) A school entity shall immediately notify, as soon as practicable, the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act (24 P.S. § 13-1303-A(b)(4.1) and (4.2)). In making the notification, the school entity shall inform the parent or guardian as to whether the local police department having jurisdiction over property of the school entity has been, or may be, notified of the incident.

(b) A school entity shall document attempts made to reach the parent or guardian of a victim or suspect directly involved in an incident listed in section 1303-A(b)(4.1) or (4.2) of the Safe Schools Act.

Administration is directed to write internal procedures that detail who is responsible for reporting restraints and use of seclusion, who is responsible for notifying key administrators regarding the use of a restraint or seclusion, and who is responsible for entering restraints or seclusion in any PDE system to reporting on the use of restraints and seclusion. Administration is further directed to comply with PDE guidelines regarding the reporting of the use of restraints and seclusion. Staff trained and/or certified in a program of positive behavioral supports and de-escalation techniques, and safe physical management techniques will be designated as the individuals to intervene in crisis management situations that might require restraint or seclusion of a student. Physical interventions or secluding a student should only be undertaken by staff persons who have successfully completed a comprehensive crisis management course that covers: crisis definition and theory; the use of de-escalation techniques; crisis communication; anger management; passive physical intervention techniques; the legal, ethical, and policy aspects of physical intervention use; decision making related to physical interventions and debriefing strategies.

RESTRAINT REPORTING AND PROCEDURES:

The Charter School shall maintain and report data on the use of restraints as prescribed by the Secretary of the Department of Education. The report is subject to review during cyclical compliance monitoring conducted by the Department. A physical restraint as defined above must be reported regardless of the length of time used, the role of the adult performing the restraint, or the employer of that adult. The LEA must report the use of restraints within 30 days to PDE's Bureau of Special Education through the Restraint Information System of Collection (RISC), a secure website. PDE recommends that all LEAs

designate a person who will be responsible for reporting restraints to the RISC website in a timely manner. If the restraint results in serious injury to a student, staff person or both, a report shall be made via email to the RISC coordinator within 48 hours.

Additionally, a restraint or use of seclusion that results in any injury to a student, staff person or both shall be reported to the CEO who shall comply with any requirement to report the injury as a Mandated Reporter, and in accordance with the School's MOU with law enforcement, as well as PDE's Educator Misconduct Act and any other applicable state and federal reporting requirements.

INCLUSION OF USE OF RESTRAINTS OR SECLUSION IN A STUDENT'S IEP:

The use of restraints or seclusion may only be included in a student's IEP when:

- (i) Utilized with specific component elements of positive behavior support.
- (ii) Used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.
- (iii) Staff are authorized to use the procedure and have received the staff training required.
- (iv) There is a plan in place for eliminating the use of restraint and seclusion through application of positive behavior support.

The use of restraints may not be included in the IEP for the convenience of staff, as a substitute for an educational program or employed as punishment.

PROHIBITION AGAINST PRONE RESTRAINTS:

The use of prone restraints is **prohibited** in educational programs. Prone restraints are those in which a student is held face down on the floor.

MECHANICAL RESTRAINTS:

Mechanical restraints are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed. The use of mechanical restraints must be recommended by a qualified medical professional, agreed to by the parent(s), and specified in the IEP. This type of restraint must be applied as recommended by qualified medical personnel. Mechanical restraints must prevent a student from injuring himself or others or promote normative body positioning and physical functioning. Charter School staff must be trained in use of mechanical restraints.

PROHIBITION AGAINST AVERSIVE TECHNIQUES:

The following aversive techniques of handling behavior are considered inappropriate and **shall not** be used in educational programs:

- (1) Corporal punishment.
- (2) Punishment for a manifestation of a student's disability.
- (3) Locked rooms, locked boxes or other locked structures or spaces from which the student cannot readily exit.
- (4) Noxious substances.
- (5) Deprivation of basic human rights, such as withholding meals, water or fresh air.
- (6) Suspensions constituting a pattern.
- (7) Treatment of a demeaning nature.
- (8) Electric shock.

TRAINING OF PERSONNEL

The Board of Trustees hereby directs that school personnel be trained each school year on the general use of positive behavior support, de-escalation techniques, and emergency responses.

In addition to general positive behavior support training, when students are identified as in need of these supports, individual teachers and teacher groups are notified and trained accordingly so that they can act in accordance with the student's specific Positive Behavior Support Plan and de-escalation techniques, and respond appropriately in emergencies.

Per guidance from the Pennsylvania Department of Education, staff trainings include core training components of the positive support plan and de-escalation (restraint reduction).

ADDITIONAL REQUIREMENTS AND ADMINISTRATIVE PROCEDURES

The CEO or designee is directed to ensure that behavior support programs administered at the Charter School are in accordance with Title 22 Pa. Code Chapter 711, including the training of personnel for the use of specific procedures, methods and techniques, and for having written procedures on the use of behavior support techniques and obtaining parental consent prior to the use of restrictive or intrusive procedures such as seclusion or restraints.

The CEO or designee is further directed to make professional development opportunities provided by the Bureau of Special Education available to train staff regarding Positive Behavior Support.

The CEO or designee is charged with using the most updated forms available through the Bureau of Special Education related to positive behavior support, including the use of any forms promulgated for functional behavior assessments and behavior support plans.

REFERRALS TO LAW ENFORCEMENT

An updated functional behavior assessment and positive behavior support plan shall be required subsequent to a referral to law enforcement, including revisions to the IEP, for a student with a disability who has a positive behavior support plan.

For a student with a disability who does not have a positive behavior support plan, subsequent to notification to law enforcement, the Charter School shall convene the student's IEP Team to consider whether a behavior support plan should be developed to address the student's behavior, in accordance with law, regulations and Board policy.