



Disability Law Center's Self-Advocacy Materials

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Special Education

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit:

<http://www.dlc-ma.org/about/funding/>

School Restraint, Time-Out and Seclusion Laws in Massachusetts

You Will Learn About:

- School Restraint Laws
- Time-Out and Seclusion Laws
- Other Resources

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

School Restraint Laws

What Is A Restraint?

A restraint is when a school staff member physically uses force with a student to prevent or restrict a student's ability to move on his or her own. For example:

Restraint	Not a Restraint
<ul style="list-style-type: none"> Physically picking a child up off the ground and placing the child in a classroom or hallway is a restraint Holding a child in place so that they cannot leave the area is a restraint Pulling a child with force away from an undesired area (e.g. road) is a restraint Holding a student with force in the staff member's lap or on the ground so that the child is not able to get up on his or her own is a restraint 	<ul style="list-style-type: none"> A guiding touch on the shoulder in the hall to direct a student into class is not a restraint Gently hugging an upset child to provide comfort is not a restraint Gently holding the students hand/arm and guiding the student towards a safe area is not a restraint Using a small mat to direct/guide the student towards a safe area without restricting the child's movement is not a restraint

When Can School Staff Restrain Students?

Normally, school staff cannot physically restrain a child for everyday misbehaviors (e.g. refusing to follow a teacher's instructions; causing a disruption; destroying school property; making threats without ability to immediately act).

However a school can restrain (i.e. physically put their hands on a child with force) when the child acts in a way that may hurt self or others, and trying to calm the child down without physical force has not worked.

Legal Restraint	Illegal Restraint
Child throwing chairs and desks in a crowded classroom. Teacher asks child to stop. Child ignores and continues. Teacher restrains child to prevent chairs and desks from hitting other students.	Child kicking and hitting chairs and desks in an empty classroom, breaking them badly. Teacher asks child to stop. Child ignores and continues. Teacher restrains child to prevent property damage. <ul style="list-style-type: none"> Problem: School cannot restrain a child for property damage.
Amy and Billy are arguing next to each other. Amy threatens to punch Billy and raises her fist. Teacher puts Amy in a brief hold so that Amy cannot punch Billy.	Amy and Billy talking next to each other about Charlie who is across the room. Amy says she is going to punch Charlie after school. Teacher restrains Amy. <ul style="list-style-type: none"> Problem: The threat is not immediate. Charlie is not immediately in danger, so there is no emergency and no need for restraint.
Child repeatedly banging head into wall. Teacher attempts to re-direct student away from wall.	Child banging fists against padded wall, but does not have the strength to hurt himself against padded walls. Teacher restrains child to make child stop.

<p>Child continues to bang head. Teacher puts child in a restraint to stop the head banging (self-injury).</p>	<ul style="list-style-type: none"> - Problem: The child is not a threat to himself, so there is no emergency and no need for restraint.
<p>Child throws a tantrum in a crowded stairwell at dismissal. She is bumping other students and at risk of tripping down the stairs. School staff place her in a restraint to stop her from harming herself or others.</p>	<p>Child throws a tantrum at the end of gym class and refuses to leave the gym. Another class is waiting to start gym. School picks child up and moves her out of gym class and into the hallway.</p> <ul style="list-style-type: none"> - Problem: School cannot restrain a child for not following directions when there is no emergency or threat of harm.

How Much Force Can Staff Use And How Long Can A Restraint Last?

School staff should use as little force as possible to protect the student or others from harm.

All restraints must end:

- as soon as the child is not a present danger to himself or others; OR
- when the child shows signs of serious distress in the restraint (e.g. difficulty breathing, crying for a long time or coughing)

When Are Restraints Prohibited?

School staff cannot restrain a student for:

- Property destruction
- Disruption of school order
- Not following staff member's directions
- Spoken threats when the child cannot actually cause the harm that is threatened immediately

Are There Any Restraints That Schools Are Not Allowed To Use?

Generally, prone restraint (placing a child face down on the floor during a restraint) is not allowed.

Schools cannot use mechanical restraints (e.g. strapping a child down to a chair).

Schools cannot use medical restraints (e.g. using drugs not prescribed to the child to calm a child).

Do Schools Need Parental Permission To Restrain Students; If Not, How Are They Notified?

School districts do not need parental permission to restrain students; but, schools must verbally tell parents about a restraint within 24 hours and in writing in 3 school days.

The written notice should be very detailed. It must include the names and titles of staff who completed or observed the restraint, and must include the date, the type of restraint, and the length of restraint. The written notice also must state the ways that the school tried to calm the student, and describe the events that happened before and after the restraint.

Schools have to report all restraints to the Massachusetts Department of Elementary and Secondary (DESE) education one time a year. Schools also have to report injuries that happen during a restraint to DESE within 3 days of the restraint.

Do Schools Need To Train Staff Every Year About Restraints?

Yes, all school staff must get training within the first month of school (or first month of hire) on the right way to use restraints and how to correctly report restraints to parents and the state.

Each school must have at least one staff person get an in-depth training on restraints.

Time-Out and Seclusion Laws

What Is Time-Out?

Time-out is a common and legal classroom practice.

Time-out is a strategy teachers use to direct a student to leave an activity or the classroom for a short period of time in order to give the student a short break, re-group and calm down.

During time-out, staff have to constantly watch the student and be available to the student at all times.

Time-out is usually called another name. For example: Cool Down Room; Chill Zone; Safety Center; Relaxation Corner; Break Room; Therapeutic Room.

What Is Seclusion?

Seclusion happens when a child is placed in an area that the child cannot remove himself from AND no staff person is immediately available.

Seclusion is an illegal practice and should not be used as a way to improve student behavior.

What Is The Difference Between Illegal Seclusion and Legal Time-Out?

Generally, if a staff person is immediately available to the student and can see the student (i.e. right outside a locked door watching the child), or a child can remove himself from the area (i.e. door unlocked), it is legal time out. However, not all time-out is legal.

Can A School Use Time-Out To Punish A Child For Misbehavior?

No. A school cannot remove a student from the classroom or place the student in a walled off time-out room to punish the student for misbehavior. A school can only remove a student from the

classroom or place the student in a walled off time-out room within the classroom for calming purposes.

How Long Can A School Keep A Child In Time-Out?

The time-out must end as soon as the child calms down and the disruptive behavior has stopped.

If a child is in time-out for more than 30 minutes, school staff must get permission from the principal to continue the time-out.

If the time-out makes the child’s behavior worse or after 30 minutes has not helped the student calm down, other behavioral strategies have to be tried.

What Is The Difference Between Seclusion, Legal Time-Out and Illegal Time-Out?

Legal Time-Out	Illegal Time-Out	Seclusion
<p>A student is running around the classroom during reading time. The teacher directs the student to the “Calming Corner”, a closet in the classroom with a mat and sensory toys. There is no lock on the door. The student remains for 5 minutes and then rejoins the class.</p>	<p>A student is running around the classroom during reading time. The teacher tells the student that he is misbehaving, which has consequences. The teacher directs the student to the “Calming Corner” for 5 minutes as punishment for misbehavior.</p> <ul style="list-style-type: none"> - Problem: School cannot use time-out as punishment 	<p>A student is running around the classroom during reading time. The teacher directs the student to the “Calming Corner” which has a locked door and no window. The teacher opens the door after 5 minutes.</p> <ul style="list-style-type: none"> - Problem: Student is not observed at all time and teacher not immediately available to student
<p>A student is upset and talking back to and cursing at the teacher. The paraprofessional escorts student to the “Safety Center” down the hall to take a break and collect himself. The “Safety Center” is a room with coloring books, journals and bean bags without a door. He colors for 10 minutes, slowly calming down and the paraprofessional takes him back to class.</p>	<p>A student is upset and talking back to and cursing at the teacher. The paraprofessional escorts student to the “Safety Center” down the hall. He colors for 10 minutes and calms down. The paraprofessional has him stay in the Safety Center for the rest of class (40 minutes) and complete his work.</p> <ul style="list-style-type: none"> - Problem: As soon as a student is calm, he must be allowed to return to class; did not seek principal’s permission to keep in 	<p>A student is upset and talking back to and cursing at the teacher. The paraprofessional escorts student to the “Safety Center” down the hall. The paraprofessional Velcro’s a mat across the door opening and leaves the student unattended.</p> <ul style="list-style-type: none"> - Problem – Student not able to remove himself from room and paraprofessional not observing him.

	time-out for more than 30 minutes.	
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Other Resources

Where Do I File A Complaint If The School Has Violated The Law?

- Within one year of the illegal restraint, illegal time-out or seclusion, a parent or guardian can file a complaint with the Massachusetts Department of Elementary and Secondary Education:
<http://www.doe.mass.edu/pqa/prs/IntakeForm.pdf>.
- The parent or guardian can also call DLC (617 723-8455) about the illegal restraint, illegal time-out or seclusion.

Where Can I Find More Information On These Laws?

- Massachusetts School Restraint and Seclusion Regulations -
<http://www.doe.mass.edu/lawsregs/603cmr46.html?section=all>
- Massachusetts Q&A on Restraint and Seclusion Regulations -
<http://www.doe.mass.edu/sped/advisories/QuestionAnswerGuide-603CMR.pdf>
- Massachusetts Advisory on Time-out and Seclusion -
<http://www.doe.mass.edu/sped/advisories/2016-1ta.html>