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Physical Restraint and Seclusion

581-021-0550

Definitions

As used in OAR 581-021-0550 to 581-021-0570:

- (1) 'Chemical restraint' means a drug or medication that is used on a student to control behavior or restrict freedom of movement and that is not:
 - (a) Prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice for standard treatment of the student's medical or psychiatric condition;
 - (b) Administered as prescribed by a licensed physician or other qualified health professional acting under the professional's scope of practice.
- (2) 'Mechanical restraint' means a device used to restrict the movement of a student or the movement or normal function of a portion of the body of a student. 'Mechanical restraint' does not include:
 - (a) A protective or stabilizing device ordered by a licensed physician; or
 - (b) A vehicle safety restraint when used as intended during the transport of a student in a moving vehicle.
- (3) 'Physical restraint' means the restriction of a student's movement by one or more persons holding the student or applying physical pressure upon the student.
 - (a) 'Physical restraint' does not include the touching or holding of a student without the use of force for the purpose of directing the student or assisting the student in completing a task or activity;
 - (b) 'Physical restraint' does not include prone restraint as defined in Section 2, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939).
- (4) 'Prone restraint' means a restraint in which a student is held face down on the floor.
- (5) 'Public education program' means a program that:
 - (a) Is for students in early childhood education, elementary school or secondary school;
 - (b) Is under the jurisdiction of a school district, an education service district or another educational institution or program; and

(c) Receives, or serves students who receive, support in any form from any program supported, directly or indirectly, with funds appropriated to the Department of Education.

(6) 'Seclusion' means the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. 'Seclusion' does not include:

(a) The removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.

(7) 'Seclusion cell' means a freestanding, self-contained unit that is used to:

(a) Isolate the student from other students; or

(b) Physically prevent a student from leaving the unit or cause the student to believe that the student is physically prevented from leaving the unit.

(8) 'Serious bodily injury' means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

Stat. Auth. 326.051

Stats. Implemented: chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939)

581- 021-0553

Use of Physical Restraint and Seclusion in Public Education Programs

(1) The use of a chemical restraint, mechanical restraint or prone restraint on a student in a public education program in this state is prohibited.

(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), which includes the following:

(a) Physical restraint or seclusion may be used on a student in a public education program only if:

(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and,

(B) Less restrictive interventions would not be effective.

(b) Physical restraint or seclusion may not be used for discipline, punishment or convenience of personnel of the public education program.

(c) If physical restraint or seclusion is used on a student, the physical restraint or seclusion must be:

(A) Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;

(B) Imposed by personnel of the public education program who are:

(i) Trained to use physical restraint or seclusion through programs approved by the Department of Education under OAR 581-021-0563; or

(ii) Otherwise available in the case of an emergency circumstance when trained personnel are not immediately available due to the unforeseeable nature of the emergency circumstance;

(C) Continuously monitored by personnel of the public education program for the duration of the physical restraint or seclusion.

(3) If physical restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and,

(c) Every 15 minutes after the first 30 minutes of the physical restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the physical restraint or seclusion, including providing documentation for the reason the physical restraint or seclusion must be continued.

Stat. Auth. 326.051

Stats. Implemented: chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939)

581- 021-0556

Program's Procedures Regarding Physical Restraint & Seclusion

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of physical restraint or seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian of the student:

(a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred;

(b) Written documentation of the incident within 24 hours of the incident that provides a description of the physical restraint or seclusion including:

(A) The date of the physical restraint or seclusion;

(B) The times when the physical restraint or seclusion began and ended;

(C) The location of the physical restraint or seclusion;

(D) A description of the student's activity that prompted the use of physical restraint or seclusion;

(E) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted;

(F) The names of the personnel of the public education program who administered the physical restraint or seclusion;

(G) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian; and,

(H) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.

(3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:

(a) The lack of training; and

(b) The reason the physical restraint or seclusion was administered by a person without training.

(4) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.

(a) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.

(5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided by the public education providers within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion.

(9) As indicated, per ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and OAR 581-021-0553.

(10) The district school board shall adopt written policies to implement Physical Restraint & Seclusion procedures consistent with and as indicated in chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), ORS 339.250 and OARs 581-021-0550 to 581-021-0570, and shall inform teachers, administrators, school employees and school volunteers.

Stat. Auth. 326.051

Stats. Implemented: chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939)

Reporting Requirements for the Use of Physical Restraint & Seclusion

(1) Each entity that has jurisdiction over a public education program must prepare and submit to the Superintendent of Public Instruction an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

- (a) The total number of incidents involving physical restraint;
- (b) The total number of incidents involving seclusion;
- (c) The total number of seclusions in a locked room;
- (d) The total number of students placed in physical restraint;
- (e) The total number of students placed in seclusion;
- (f) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;
- (g) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;
- (h) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and
- (i) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

- (a) The public at the entity's main office and the website of the entity; and
- (b) The school board or governing body overseeing the entity;
- (c) If the entity is an education service district, the component school districts of the education service district;
- (d) If the entity is a public charter school, the sponsor of the public charter school;

(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

Stat. Auth. 326.051

Stats. Implemented: chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939)

581-021-0563

Approval of Physical Restraint and Seclusion Training Programs for School Staff

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

(a) Teach evidence-based techniques that are shown to be effective in the prevention and safe use of physical restraint or seclusion;

(b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program.

(a) If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

Stat. Auth. 326.051

Stats. Implemented: chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939)

581-021-0566

Required Use of Approved Restraint and Seclusion Programs

On or after July 1, 2012, a Public Education Program may only use training programs on physical restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

Stat. Auth. 326.051

Stats. Implemented: chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939)

581-021-0568 Standards for Seclusion Rooms (new rule)

(1) Beginning with the 2014-15 school year, public education programs must meet the following standards for the structural and physical requirements for rooms used for seclusion:

- (a) The room must be of adequate size to permit three adults to move freely and allows for one of those adults to lie down.
- (b) Any room used for seclusion must be part of the structural integrity of the room (not free standing cells or portable units) and must be no less than 8 x 8 feet (64 square feet); the distance between adjacent walls must be no less than 7 feet across.
- (c) The room must not be isolated from regular program staff of the facility;
- (d) Doors must be unlocked or equipped with immediate-release locking mechanisms;
- (e) The door must open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside; half doors are acceptable options as well where direct visual monitoring can occur.
- (f) The room must contain no protruding, exposed, or sharp objects;
- (g) The room must contain no furniture.
- (h) Windows must be transparent for both staff and the student, and made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass must be protected by adequate climb-proof screening;
- (i) There must be no exposed pipes or electrical wiring in the room. Electrical outlets must be permanently capped or covered with a metal shield secured by tamper-proof screws. Ceiling and wall lights must be recessed or covered with screening, safety glass or unbreakable plastic. Any cover, cap or shield must be secured by tamper-proof screws;
- (j) The room must meet State Fire Marshal fire, safety, and health standards. If sprinklers are installed, they must be recessed and/or covered with a cage. If pop-down type, sprinklers must have breakaway strength of less than 80 pounds. In lieu of sprinklers, combined smoke and heat detector must be used with similar protective design or installation;
- (k) The room must be ventilated, heating and cooling vents must be secure and out of reach;
- (l) The room must be designed and equipped in a manner that would not allow a child to climb up a wall;

- (m) Walls, floor and ceiling must be solidly and smoothly constructed, to be cleaned easily, and have no rough or jagged portions; and
- (n) Seclusion cells are prohibited as provided in OAR 581-021-0569.

(2) These standards are first applicable on or after July 1, 2014.

Stat. Auth.: Section 2, chapter 650, Oregon Laws 2013 (Enrolled House Bill 2585)
Stats. Implemented: Chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and Section 2, chapter 650, Oregon Laws 2013 (Enrolled House Bill 2585)

581-021-0569

Use of Seclusion Cells Prohibited (new rule)

- (1) A public education program may not:
 - (a) Purchase, build or otherwise take possession of a seclusion cell; or
 - (b) Use a seclusion cell.
- (2) No later than July 1, 2013, a public education program shall ensure that all seclusion cells are removed from the classrooms of the public education program.
- (3) No later than September 1, 2013, a public education program shall ensure that all seclusion cells are removed from the premises of the public education program.
- (4) Notwithstanding the applicability date specified in OAR 581-021-0568 the prohibition on the use of seclusion cells under this rule is effective and applicable beginning on or after April 5, 2013.

Stat. Auth.: Section 1, chapter 30, Oregon Laws 2013 (Enrolled House Bill 2756)
Stats. Implemented: Chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and Section 1, chapter 30, Oregon Laws 2013 (Enrolled House Bill 2756)

581-021-0570

Complaint procedures (new rule)

- (1) An organization or an individual may submit to the Superintendent of Public Instruction a written, signed complaint alleging that a public education program is violating or has violated a provision of sections 1 to 6, chapter 665, Oregon Laws 2011 or 581-021-0550 to 581-021-0566.
- (2) The complaint must indicate that, prior to submitting the complaint to the superintendent, the organization or individual attempted to seek a remedy for the complaint from the board or governing body overseeing the entity that has jurisdiction over the public education program against which the complaint is being submitted by:
 - (a) First filing the complaint with the public education entity; and

(b) Attempting to follow any complaint procedures that the entity has adopted including those adopted by school districts pursuant to ORS 327.103 and OAR 581-022-1941.

(3) The organization or individual filing the complaint and the Superintendent shall follow the appeal procedures specified in OAR 581-022-1940.

Stat. Auth.: Section 2, chapter 650, Oregon Laws 2013 (Enrolled House Bill 2585)
Stats. Implemented: Chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and
Section 2, chapter 650, Oregon Laws 2013 (Enrolled House Bill 2585)