



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 125
[2011 Senate Bill 353]

**Seclusion and Physical Restraint of
Pupils**

2011 Wisconsin Act 125 creates a new provision in the statutes relating to the use of seclusion and physical restraint on pupils in public schools, including charter schools. Current law permits the use of reasonable force to quell a disturbance, for example, and addresses removal of pupils from the classroom but does not directly address seclusion and physical restraint.

Use of Seclusion or Physical Restraint

Under the Act, a “covered individual” may use seclusion or physical restraint on a pupil only under specified conditions. The Act defines “covered individual” as all of the following: (a) an individual who is employed by a governing body (i.e., a school board or the governing body of a charter school), or under contract with a governing body as an independent contractor, to provide services for the benefit of the school governed by the governing body; (b) an individual who is employed by a person under contract with a governing body to provide services for the benefit of the school governed by the governing body; and (c) an individual who is engaged in student teaching under the supervision of a person who is employed by or under contract with a governing body to provide services for the benefit of the school governed by the governing body.

A “covered individual” does not include a member of a governing body or a law enforcement officer who is authorized or designated by the governing body to enforce laws or to maintain physical security and safety of a public school.

The Act defines “seclusion” as the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving. Under the Act, a covered individual may use seclusion on a pupil at school only if all of the following apply:

- The pupil’s behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and seclusion is the least restrictive intervention feasible.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

- A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.
- The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.
- The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.
- The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.
- No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked.

The Act defines “physical restraint” as a restriction that immobilizes or reduces the ability of a pupil to freely move his or her torso, arms, legs, or head. The Act provides that a covered individual may use physical restraint on a pupil at school only if all of the following apply:

- The pupil’s behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and physical restraint is the least restrictive intervention feasible.
- There are no medical contraindications to its use.
- The degree of force used and the duration of the physical restraint do not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.
- None of the following maneuvers or techniques are used: (a) those that do not give adequate attention and care to protecting the pupil’s head; (b) those that cause chest compression by placing pressure or weight on the pupil’s chest, lungs, sternum, diaphragm, back, or abdomen; or (c) those that place pressure or weight on the pupil’s neck or throat, or an artery, or on the back of the pupil’s head or neck, or that otherwise obstruct the pupil’s circulation or breathing.
- It does not constitute corporal punishment, as defined in current law.
- The covered individual does not use a mechanical or chemical restraint on the pupil.

The Act provides that, whenever seclusion or physical restraint is used on a pupil at school, the school principal or his or her designee must notify the pupil’s parent of the incident as soon as practicable, but no later than one business day after the incident. Within two business days after the incident and after consulting with the covered individuals present during the incident, the principal or his or her designee must prepare a written report containing information regarding the incident as specified in the Act.

Children With a Disability

If an individualized education program team for a child with a disability determines that the use of seclusion or physical restraint may reasonably be anticipated for the child, the Act requires the child's individualized education plan (IEP) to include appropriate positive interventions and supports and other strategies that address the behavior of concern and that comply with the following: (a) the interventions, supports, and other strategies are based upon a functional behavior assessment of the behavior of concern; (b) the interventions, supports, and other strategies incorporate the use of the term "seclusion" or "physical restraint"; and (c) the interventions, supports, and other strategies include positive behavioral supports.

The first time that seclusion or physical restraint is used on a child with a disability, the child's individualized education program team must convene as soon as practicable after the incident. The child's team must review the child's IEP to ensure that it contains appropriate positive behavioral interventions and supports and other strategies to address the behavior of concern and revise it if necessary.

Training

Under the Act, no covered individual may use physical restraint on a pupil at school unless he or she has received training in the use of physical restraint that includes components set forth in the Act. The governing body of a school must ensure that at least one covered individual has received training in the use of physical restraint in each school that it operates in which physical restraint is used. The school is required to maintain a record of the training received by the covered individual.

A covered individual who has not received training may use physical restraint on a pupil at school only in an emergency and only if a covered individual who has received training is not immediately available due to the unforeseen nature of the emergency.

Construction

The Act specifies that the Act does not prohibit a covered individual from doing any of the following at school if the pupil is not confined to an area from which he or she is physically prevented from leaving: (a) directing a pupil who is disruptive to temporarily separate himself or herself from the general activity in the classroom to allow the pupil to regain behavioral control and the covered individual to maintain or regain classroom order; (b) directing a pupil to temporarily remain in the classroom to complete tasks while other pupils participate in activities outside the classroom; or (c) briefly touching or holding a pupil's hand, arm, shoulder, or back to calm, comfort, or redirect the pupil.

Effective date: Act 125 takes effect on September 1, 2012.

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