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CAUTION

This presentation contains general recommendations and specific information and should not be relied upon for any specific purpose without consultation with legal counsel and in the context of specific facts and circumstances.



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WHY NOW?

- You asked for it.
- Over the last few years have seen an increased focused at the federal and state level on discipline of students, especially students with disabilities.
- Restraint and Seclusion is a tool in your toolbox for addressing behavior.
- Increasing number of due process complaints, OCR complaints, and even Department of Justice (DOJ) complaints involving school districts' use of restraint and seclusion.
- FOIA requests from parents and other entities regarding use of. Likely a precursor to the above-referenced.
- Is your house in order?

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EMERGENCY SITUATIONS

• Limit use of S/R to "Emergency Situations"

•Defined: "Where a student's behavior poses an **imminent risk** to the safety of the student or another, such that **immediate** intervention is **required**."

•Must be necessitated by an ongoing emergency situation and is a last resort intervention.

•Must be performed in a manner that, based on research and evidence, is safe, appropriate, and proportionate to and sensitive to the student's severity of behavior, chronological and developmental age, physical size, gender, physical condition, medical condition, psychiatric condition, and physical history.

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EMERGENCY SITUATIONS (CONT'D)

• **Duration of emergency seclusion and emergency physical restraint should not be any longer than necessary, based on research and evidence, to allow the student to regain control of his/her behavior to the point that the emergency situation necessitating the use of emergency seclusion or emergency physical restraint has ended.**

• **Emergency physical restraint should generally not be used longer than 10 minutes.**

• **Emergency seclusion should generally not be used longer than 15 minutes for elementary school students, and 20 minutes for middle school and high school students.**

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EMERGENCY SITUATIONS (CONT'D)

• **If school personnel exceed one of the above time limits, the law requires:**

- additional support is needed (e.g., change of staff, introducing a nurse or specialist, obtaining additional expertise); and
- documentation to explain the reason for the extension beyond the time limit.

• **Other than physical restraint in emergency situations, all forms of restraint, including mechanical (by equipment, device, garment, etc.) chemical (by medication), and prone (in a facedown position) are completely banned.**

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PROHIBITIONS

- State Policy shall prohibit in all public schools even in emergency:
 - Corporal punishment as defined in 1312;
 - Deprivation of basic needs;
 - Child abuse;
 - Seclusion, other than emergency seclusion;
 - Application of a noxious substance or stimulus;
 - Mechanical Restraint;
 - Chemical Restraint;
 - Restraint that negatively impacts breathing;
 - Prone Restraint;
 - Physical restraint, other than emergency physical restraint;
 - Any other type of restraint.

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SECLUSION REMINDERS

- Seclusion can occur in **any** room, not just the designated room(s) that the district has identified for that specific purpose.
- Per the definitions provided by MDE, it is important to note that the student does **not** have to be in a room by himself/herself for a seclusion to occur.
- Anytime the student is physically prevented from leaving the room when an attempt is made, per the MDE's definition, would constitute a seclusion.
- Remember, seclusion (or restraint) is not a special education intervention.
- Are your general education administrators/staff truly in the know?
- Lack of KIP involvement does not negate that a seclusion (or restraint) occurred if definition is met.

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DOCUMENTATION IS KEY!

- Is your documentation in order?
 - If you are not using the MDE forms, do your forms contain all of the required information? (more on this later)
- Each incidence of seclusion and restraint, regardless of whether meets the definition of emergency seclusion or emergency physical restraint, **must** be documented.
- Documentation must be filled out, collected, and maintained!!!!
- Does your documentation appropriately reflect **WHY** restraint and/or seclusion was a **necessary** intervention to address student behavior?
- Does your documentation appropriately reflect the interventions that were actually used prior to the use of emergency physical restraint and/or emergency seclusion?

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TIMELY REPORT TO ADMINISTRATION/PARENT/GUARDIAN

- Documented in writing and reported to the building administration immediately;
- Reported to the parent or guardian immediately; and
- A written report must be given to the parent or guardian earlier of 1 school day or 7 calendar days.
- Don't forget to debrief! Must use a debriefing form.
- Staff must debrief and consult with the parents and student (when appropriate) regarding the determination of future actions

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DOCUMENTATION AND REPORTING

- Questions to ask:
 - 1.What precipitated the behavior that required the emergency intervention?
 - 2.What strategies/interventions were effective?
 - 3.Is there a pattern of behavior that could result in future use of seclusion and/or restraint?
 - 4.What could be done differently in the future to reduce the likelihood of the problem behavior that led to the use of seclusion and/or restraint?
 - 5.What are the next steps/action plan?

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WRITTEN REPORT MUST INCLUDE

- Date, time, location.
- Name/title of staff involved, including who initiated the seclusion and/or restraint and key identified personnel.
- Description of what was occurring in the environment prior to the behavior (antecedent/trigger).
- Description of pupil behavior requiring seclusion and/or restraint.
- Description of any intervention used prior to the use of seclusion and/or restraint.
- Summary of observations, including the duration of use and pupil response to intervention, and follow up with pupil.

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WRITTEN REPORT MUST INCLUDE (CONT'D)

- Whether or not anyone was injured during the intervention.
- Whether or not there was a known medical condition.
- Why seclusion and/or restraint was a necessary response.

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IS YOUR DISTRICT ANALYZING YOUR R/S DATA?

- Per MDE, districts are required analyze their restraint and seclusion data on an annual basis as part of their school/district improvement process to determine the efficacy of the school's school-wide system of behavioral support impact on
 - pupil attendance;
 - suspension;
 - expulsion;
 - dropout data; and
- and for the purposes of continuous improvement of training and technical assistance toward the elimination of the use of seclusion and restraint.

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EMERGENCY INTERVENTION PLANS

- Required to develop in partnership with the parent/guardian if student exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency physical restraint.
- Although plan should be developed in partnership with parent or guardian, informed consent is not required before can implement the plan.
- EIP should be developed by a team that includes a teacher, an individual knowledgeable about the legally permissible use of emergency seclusion and emergency physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint.

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QUESTIONS



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Vickie L. Coe
517.318.3013
vcoe@clarkhill.com

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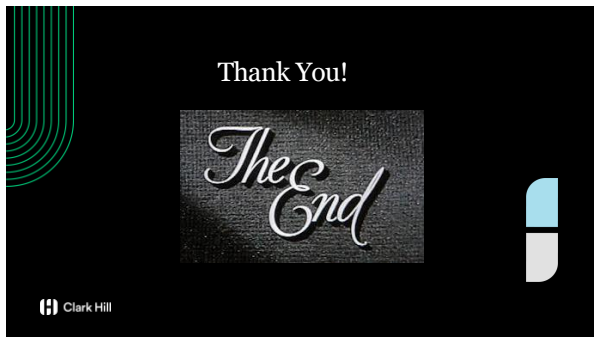
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- School law issues are complex and fact specific; when in doubt, consult with your legal counsel!

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