

Rule 4500 Questions and Answers

The Use of Restraint and Seclusion in Vermont Schools

The Vermont Department of Education issues this Q&A document to provide guidance on Vermont's State Board of Education Rule 4500, The Use of Restraint and Seclusion in Vermont Schools. This Q&A document represents the Department's current thinking on this topic. It does not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations.

1. Does Rule 4500 apply to approved independent schools and pre-kindergarten education programs?

Yes to both.

The rule applies to all learning environments over which the Vermont Department of Education has regulatory authority and/or receive public education funding.

2. Does Rule 4500 apply to the residential component of independent schools?

No! However, licensing requirements for residential settings provide similar requirements and restrictions.

3. Do schools need to have a policy for the use of restraint or seclusion?

While a separate policy is not required a school must implement the requirements of the rule, including having sufficient staff trained in appropriate methodologies for crisis prevention and when necessary restraint. However the school must notify staff and parents of students enrolled in the school (learning environment) annually about the requirements of this rule and the school's intent to avoid preventable use of restraint and seclusion by using a school-wide model of positive behavioral interventions and support.

4. Are floor restraints prohibited?

No, however they may be used only when the student's size and severity of behavior require such a restraint because other interventions have failed or would be ineffective.

5. Should the use of restraint be part of a student's Individual Education Plan or other individual plan?

The principles of when to use a restraint are framed for use with the entire student population and based on the urgent need to prevent harm to self, others and/or property. Since these interventions only occur during crisis situations, they should not need to be referenced in any type of individual plan as the same degree of safety will provided to all students. In rare instances an individual safety plan may be included. However, if it is included, the plan must also include all of the requirements in 4502.3.

6. Must each use of restraint be reported and documented?

Yes, each use must be reported to the building administrator no later than the end of the school day. The building administrator is responsible for maintaining a written record of each use that includes all of the information listed in 4504. The building administrator is also responsible for attempting to report the use of restraint or seclusion to the parents of the student by the end of the school day of the occurrence and send a written report within 24 hours to the parents. The building administrator is also responsible for sending a report to the Superintendent when the criteria in 4503.3 are met.

In the event state-level reporting is indicated based on the criteria in 4503.4, the Superintendent is responsible for filing the report with the officer of the Commissioner of Education.

7. What is the purpose for sending reports to the Superintendent and to the Department of Education when the restraint or seclusion meets the criteria for such reports?

First and foremost the reporting requirements are intended to allow for reflection on the use of these interventions, examine practices and prevent practices from reoccurring that may be inconsistent with the Rule. The reporting requirements are not intended to create opportunities for punitive sanctions. The Commissioner may use the reports as a basis for the development of a corrective action plan and/or recommend additional training.

8. Where should complaints about the use of restraint or seclusion be directed?

Complaints should be directed to the building administrator, principal or director in writing or verbally if the person making the complaint is unable to put it in writing. The investigation and written findings will be completed within 30 days of the receipt of the complaint. Unresolved complaints will be directed to the Superintendent of the Supervisory Union in which the student resides.

This process does not limit an individual's rights associated with Special Education, Child Protection law or any other state or federal rule or regulation when applicable.

9. Who is responsible for monitoring the student for the remainder of the day after a restraint or seclusion and for conducting a physical/medical assessment?

A nurse or nurse designee should be used for this purpose. The nurse should review a basic protocol for the monitoring and assessment with the designee and should provide oversight for this responsibility.

10. Where can we find the directory of recommended physical restraint programs?

The list is maintained and updated on the Vermont Department of Education's web-site.

11. Does the State regulation 16VSA 1161a expand on this rule or create a lesser threshold for the use of restraint or seclusion?

No, the definition of reasonable force in 16 VSA 1161a is operationalized by Rule 4500. That is, the use of restraint or seclusion must be limited to preventing imminent danger to self or others or property destruction. It would be unreasonable to use these interventions for a lesser behavior. The inclusion of

the term, to quell a disturbance is also consistent with Rule 4500 as the disturbance must rise to the level of creating danger to self or others or property destruction.