

# **Einstein Charter Public Schools**

## **Seclusion/Restraint Procedures For Students with Exceptionalities**

Under  
Louisiana Revised Statutes 17:416.21  
(Act 328 of 2011)  
&  
Louisiana Bulletin 1706, Revised 2012

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[Adapted from Template Provided by Law Offices of Hammonds & Sills]

# INTRODUCTION

This document provides procedures/guidance for the use, reporting, documentation and oversight of seclusion and restraint in the Einstein Charter Schools following issuance of regulations by the Board of Elementary and Secondary Education (BESE), Louisiana Department of Education (LDE).

These procedures specifically address the statutory requirements of La.R.S. 17:416.21 (Louisiana Act 328 of 2011) and revised Louisiana Bulletin 1706 regarding the use of seclusion and restraint as emergency safety measures to control the actions of students with exceptionalities in Louisiana's public schools. It is understood that this procedural/guidance document is a work in progress and in no way constitutes the totality of interventions and strategies that may be used by the New Orleans Parish School Board (NOPS) and its personnel in addressing the educational needs of students with exceptionalities.

For the purposes of this document, New Orleans Parish Public Schools (NOPS) may encompass policies adopted by the New Orleans Parish School Board; administrative procedures implemented by school administrators and school employees (as defined herein) and guided forms developed to assist school employees in carrying out their responsibilities under La.R.S. 17:416.21 (Act 328 of 2011) and applicable sections of Louisiana Bulletin 1706.

# Guidelines for Seclusion and Restraint

## Of Students with Exceptionalities

### DEFINITIONS

**Definitions** of terms as provided by the Louisiana Legislature in Act 328 which governs seclusion and restraint of students with exceptionalities:

**Emergency** – A sudden, generally unexpected set of circumstances that require immediate action.

**“Imminent risk of harm”** – An immediate and impending threat of a person causing substantial physical injury to self or others. The risk is “imminent” if it is likely to occur within a matter of moments.

**“Mechanical Restraint”** – The application of any device or object used to limit a person’s movement.

Does NOT include:

- A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider.
- Any device used by a duly licensed law enforcement officer in the execution of his official duties.

**“Physical Escort” – Touching** or holding a student with or without the use of force for the purpose of directing the student to a new location. Physical escort does not include the unforced holding of a student’s hand or other physical prompts for the purpose of safely guiding the student from one task to another or directing the student in and educational activity.

**“Physical Restraint”** – Bodily force used to limit a person’s movement.

Does NOT include:

- Consensual, solicited, or unintentional contact.
- Holding of a student, by a school employee, for **less than five minutes in any given hour or class period** for the protection of the student or others.
- Holding of a student, by a school employee, for the purpose of calming or comforting the student - provided the student's freedom of movement or normal access to his or her body is not restricted.
- Minimal physical contact for the purpose of safely escorting a student from one area to another.
- Minimal physical contact for the purpose of assisting the student in completing a task or response.

**“Positive Behavior Interventions and Support”** – A systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate and culture.

**“Seclusion”** – A procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.

**"Seclusion Room"** - A room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving.

**"School Employee"** - A teacher, paraprofessional, administrator, support staff member, or a provider of related services.

**“Substantial Risk of Injury”** – Behavior which has both the intent and available means to cause serious physical harm to self or others.

**“Time Out”** – A behavior reduction procedure that involves the absence of positive reinforcement for a limited period of time. Time out may include: (1) *Inclusionary time-out* where the student remains in sight and sound of others in the classroom; (2) *Exclusionary time-out* where the student leaves the learning environment and goes to

another location but is not isolated and prevented from leaving. These forms of time-out are NOT considered by the School Board to constitute seclusion but must be monitored and documented at the school level to ensure that repetitive incidents of time-out do not occur and, if occurring, do not result in substantial isolation of the student from instructional activities.

**“Written Guidelines and Procedures”** – The written guidelines and procedures adopted by a school’s governing authority regarding appropriate responses to school behavior that may require immediate intervention.

## **SUPERINTENDENT’S DIRECTIVES**

### **PURSUANT TO SCHOOL BOARD POLICY**

The New Orleans Parish School Board has approved the following guidelines and procedures relative to the use of seclusion and restraint by its employees:

#### **REPORTING REQUIREMENTS**

1) Notification requirements for school officials and parents/legal guardians

The principal or designee in absence of the principal is responsible for ensuring that parents/legal guardians are notified that their child has been restrained or secluded according to Parish Policy. It is also the principal or designee in absence of the principal to notify the Director of Special Education when a student has been restrained/secluded. The Director of Special Education is responsible for notifying the LDE when a student has been restrained/secluded.

2) Explanation of methods of physical restraint

Methods of physical restraint employable by NOPS personnel are those generally accepted in the field, and employees shall use professional judgment in the use of such methods, guided by professional practice and/or standards. In addition, school employees are to be provided training in crisis intervention methods that include verbal de-escalation procedures, the utilization of appropriate methods of physical restraint, and determination of circumstances in which the use of physical restraint is appropriate.

3) Training requirements relative to the use of restraint

Each school will be required to have a Team of at least 3 people trained in the use of physical restraint. One of the team members must be a school administrator. The “Handle With Care Behavior Management System” (HWC) will be used by Einstein Charter Schools. Training will include verbal de-escalation and physical restraint. The Team will be required to participate in annual training of “Handle With Care” to maintain certification. Documentation of training will be kept by the Director of Special Education or designee.

4) Dissemination of guidelines and procedures will be made available to all school employees (defined under La.R.s. 17:416.21 as teachers, paraprofessionals, administrators, support staff, and related services providers).

5) Dissemination of guidelines and procedures will be made available to every parent of a child with an exceptionality (students with disabilities identified under Bulletin 1508/1706, including those identified as gifted and/or talented) at annual IEP meetings.

- 6) Notifications to the Louisiana Department of Education, of all instances of seclusion and/or restraint, will be the responsibility of the Director of Special Education. Forms will be faxed and documentation of receipt will be kept on file by the Director of Special Education.

## SECLUSION

Seclusion is a procedure that isolates and confines a student in a separate room or area until he/she is no longer an immediate danger to self or others. Seclusion does not include time-out, “which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming”. The term does not include in-school suspension or student requested breaks.

Seclusion is **permitted** only:

1. For behaviors that involve an imminent risk of harm.
2. As a LAST resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.
3. As long as necessary to minimize the imminent risk of harm while summoning the assistance of crisis intervention personnel, emergency medical services personnel, and/or law enforcement officers when a crime has been committed.

Seclusion is **prohibited**:

1. For addressing behaviors such as general noncompliance, self-stimulation, and academic refusal. (Such behaviors SHALL be responded to with less stringent and less restrictive techniques).
2. As a form of discipline or punishment.
3. As a threat to control, bully, or obtain behavioral compliance.
4. For the convenience of school personnel.
5. When unreasonable, unsafe, or unwarranted.
6. If the student is known to have any medical or psychological condition that precludes such action (as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled).

## SECLUSION ROOM

Seclusion Room is **permitted** only under the following conditions:

1. As a LAST resort if and when less restrictive measures such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student’s environment, have failed to stop a student’s actions that pose an imminent risk of harm.
2. By a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he/she is in the seclusion room.
3. If one student is placed in a seclusion room at any given time and the school employee supervising the student is able to see and hear the student the entire time the student is placed in the seclusion room.
4. The room is free of any object that poses a danger to the student placed in the room.
5. The room has an observation window and is of a size appropriate for a student’s size, behavior, and chronological and developmental age.
6. The room has a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

Seclusion Room is **prohibited**:

1. As a form of discipline or punishment.
2. As a threat to control, bully, or obtain behavioral compliance.
3. For the convenience of school personnel.
4. When unreasonable, unsafe, or unwarranted.

5. If the student is known to have any medical or psychological condition that precludes such action (as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled).

## **MECHANICAL RESTRAINT**

No student shall be subjected to any form of mechanical restraint by school employees.

## **PHYSICAL RESTRAINT**

Physical Restraint **is permitted** only under the following conditions:

1. If the student's behavior presents a threat of imminent risk of harm to self or others.
2. As a last resort to protect the safety of self and others.
3. To the degree necessary to stop dangerous behavior.
4. In a manner that causes **NO PHYSICAL INJURY** to the student.
5. Results in the least possible discomfort to the student.
6. Does not interfere in any way with a student's breathing or ability to communicate with others.
7. Does not involve the use of any form of mechanical restraint.
8. The student is not physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.
9. Applied only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

Physical Restraint **is prohibited**:

1. As a form of discipline or punishment.
2. As a threat to control, bully, or obtain behavioral compliance.
3. For the convenience of school personnel.
4. When unreasonable, unsafe, or unwarranted.
5. If the student is known to have any medical or psychological condition that precludes such action (as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled).

## **MONITORING & DOCUMENTATION**

Seclusion and Restraint requires monitoring, documentation, and analysis of data collected:

1. Continuous monitoring.
2. Documentation every 15 minutes (with adjustments made accordingly).
3. Student is released/removed as soon as the reasons for the action have subsided.
4. Parent or guardian must be notified as soon as possible by face to face conversations, phone calls, electronic communications and/or home visits.
5. Parent or guardian notified in writing within 24 hours of EACH incident of seclusion/restraint.
6. Reason for seclusion/restraint
7. Description of procedures used
8. Length of time of seclusion/restraint
9. Names and titles of school employees involved.
10. Director/Director of Special Education notified any time student is placed in seclusion/restraint by providing a copy of the signed SR3 form. The Director/Director of Special Education will forward documentation to the LDE in a timely manner.
11. School employee who used seclusion/restraint shall complete Form SR-1 for each incident of restraint and seclusion.

12. School employee shall submit Form SR-2a along with SR 1 to the School Principal not later than the school day immediately following the day of the seclusion/restraint.
13. School employee shall submit copy of Form SR3 to student's parent or guardian.
14. When a student is involved in 5 incidents of restraint/seclusion in a single school year\*, the IEP Team must reconvene to review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. The IEP team may reconvene prior to the 5<sup>th</sup> incident in order to add or adjust the behavior plan and/or add a crisis plan.
15. Review data/documentation at least once every 3 weeks for students secluded and restrained and whose challenging behavior continues or escalates.

**\*Five (5) incidents in a school year includes the cumulative number of incidents of restraint AND seclusion. (e.g., 2 restraints + 3 seclusions = 5 incidents).**

## **SECLUSION AND RESTRAINT PROCEDURES**

### **Dissemination of Policy, Procedures, and LDE Guidance**

Each School Principal shall make available, annually, to school personnel and the parents/guardians/students of majority age, copies of Louisiana Act 328 of 2011, LDE Guidance, and local policies and procedures regarding the use of reasonable restraint and seclusion of students with disabilities in the educational environment. Regulations, guidance, policies and procedures will be provided to parents/guardians/students on an annual basis.

### **Use of Restraint and/or Seclusion By School Personnel**

**TIME-OUT:** School personnel may separate a student from other students for a limited duration as a behavior management technique, as long as the student is monitored at all times and is not substantially isolated from instructional activities. TIME OUT is not considered seclusion; however, TIME OUT periods must be documented to ensure that repetitive incidents of TIME OUT do not occur and to ensure that repetitive behaviors are addressed appropriately.

Monitoring requires close, visual proximity to the student, release as soon as the behaviors cease that led to the isolation/seclusion, the space where the student is secluded has adequate lighting, ventilation, heating and cooling, the space is free of objects or items that may unreasonable expose the student to danger; the space is designated by the school as a safe environment for the temporary, safety-required seclusion.

**SECLUSION:** School personnel may use seclusion (isolation and confinement of the student in a separate area) ONLY when the student poses an immediate risk of danger to self or others as more fully described below:

- 1) The person is in control of a weapon;
- 2) Isolation is needed to break up a fight or maintain order at the school;
- 3) The person poses a viable threat of imminent harm to self or others or substantial destruction of school property;
- 4) Isolation is required/specified by a student's IEP, Section 504 Plan, and/or Behavior Intervention Plan;
- 5) Other such incidents involving imminent risk of significant injury to the student or others.

Seclusion **SHALL** be:

- 1) The action of last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.
- 2) Used only as long as necessary to minimize the risk of harm while summoning the assistance of crisis intervention personnel, and/or law enforcement officers when a crime has been committed.

Seclusion **SHALL NOT** be used:

- 1) As the sole means of behavioral intervention and support for any student with a disability.
- 2) As a form of discipline or punishment
- 3) As a threat to control, bully, or obtain behavioral compliance.
- 4) For the convenience of school personnel.
- 5) When unreasonable, unsafe, or unwarranted.
- 6) If the student is known to have any medical or psychological condition that precludes such action (as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled); or
- 7) After the substantial risk of injury no longer exists.

### **Monitoring:**

A student placed in seclusion must be monitored/supervised at all times by an adult. Monitoring requires close, visual proximity to the student. The student should be released as soon as the behaviors cease that led to the isolation/seclusion.

**Seclusion used for reasons other than imminent risk of harm and contrary to the procedures listed above shall be considered unreasonable and strictly prohibited. Seclusion SHALL NOT be used as a disciplinary consequence for minor infractions or to otherwise isolate the student from needed educational instruction.**

### **SECLUSION ROOM:**

School personnel may confine a student with a disability to a seclusion room (a room or other confined area from which the student is involuntarily prevented from leaving) on an individual basis and for a limited time to allow the student the opportunity to regain control in a private setting.

When the use of a seclusion room is necessary, the student with a disability should be escorted to the seclusion area without the use of physical force. Physical prompts are permissible for the purpose of safely guiding the student from one area to another, but care should be taken to limit the use of physical contact with the student and to avoid the use of physical force. Verbal redirection and other means of positive support should be used before resorting to physical means.

### **ENVIRONMENTAL AND OTHER CONDITIONS:**

When a seclusion room is necessary as a last resort (after less restrictive measures have been used such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of the student's environment), the following environmental and other conditions are **REQUIRED**:

- 1) The student must be supervised by a school employee.
- 2) The supervising employee must be able to see and hear the student the entire time the student is confined to the seclusion room.
- 3) The seclusion room must be free of any object that poses a potential danger to the student while in the room.
- 4) The seclusion room must have an observation window of a size appropriate to the student's size, behavior, and chronological and developmental age.
- 5) The seclusion room must have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.
- 6) The seclusion room must **NOT** be used for the convenience of school personnel or when unreasonable, unsafe, or unwarranted.
- 7) The seclusion room must **NOT** be used as a form of discipline or punishment or to threaten or bully the student or to obtain behavioral compliance.
- 8) The seclusion room **IS NOT PERMITTED** for use by a student known to have a medical or psychological condition that precludes its uses (as certified by a licensed health care provider in a written statement provided to the school)

### **DOCUMENTATION:**

- 1) All incidents of seclusion and use of a seclusion room must be documented on the Seclusion Incident Report Form.
- 2) A copy of the procedures governing the use of restraint/seclusion/seclusion rooms should be provided to the parent(s), student of majority age at each student's annual IEP review meeting. A statement can be added to the IEP document indicating that the parent was provided a copy of the school district's restraint/seclusion procedures.

**INCIDENT REPORTING:**

Reporting the use of seclusion and/or restraint **MUST** be made to the Director of Special Education within 24 hours of receiving the signed Parent notification Form (SSR3) or within 3 days of the incident.

Seclusion/Seclusion Room Incident Reporting data must be analyzed at least annually. These procedures should be reviewed and revised as necessary during the interim period to ensure appropriateness and effectiveness.

Data will be used to track the number of incidents of seclusion by student, staff, and type of incidents; description and number of injuries sustained by student and/or staff and the nature of any such injuries; and other factors such as precipitating events and other observable factors.

## **Louisiana's Seclusion/Restraint Law**

### **Louisiana Revised Statute §17:416.21 — Behavior of students with exceptionalities; use of seclusion and physical restraint**

§416.21. Behavior of students with exceptionalities; use of seclusion and physical restraint

A. As used in this Section:

(1) "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others.

(2)(a) "Mechanical restraint" means the application of any device or object used to limit a person's movement.

(b) Mechanical restraint does not include:

(i) A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider.

(ii) Any device used by a duly licensed law enforcement officer in the execution of his official duties.

(3)(a) "Physical restraint" means bodily force used to limit a person's movement.

(b) Physical restraint does not include:

(i) Consensual, solicited, or unintentional contact.

(ii) Holding of a student, by a school employee, for less than five minutes in any given hour or class period for the protection of the student or others.

(iii) Holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted.

- (iv) Minimal physical contact for the purpose of safely escorting a student from one area to another.
- (v) Minimal physical contact for the purpose of assisting the student in completing a task or response.
- (4) "Positive behavior interventions and support" means a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate and culture.
- (5) "School employee" means a teacher, paraprofessional, administrator, support staff member, or a provider of related services.
- (6) "Seclusion" means a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.
- (7) "Seclusion room" means a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving.
- (8) "Written guidelines and procedures" means the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

B. (1) Seclusion shall be used only:

- (a) For behaviors that involve an imminent risk of harm.
- (b) As a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.
- (2) Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.
- (3)(a) A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.
- (b) A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.
- (c) Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

(4) A seclusion room shall:

- (a) Be free of any object that poses a danger to the student placed in the room.
- (b) Have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age.
- (c) Have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.

C. (1) Physical restraint shall be used only:

- (a) When a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others.
- (b) To the degree necessary to stop dangerous behavior.
- (c) In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.
- (2) No student shall be subjected to any form of mechanical restraint.

(3) No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

(4) A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

D. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

E. No student shall be subjected to unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.

F. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

G. A student who has been placed in seclusion or has been physically restrained shall be monitored continuously. Such monitoring shall be documented at least every fifteen minutes and adjustments made accordingly, based upon observations of the student's behavior.

H. A student shall be removed from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

I. (1) The parent or other legal guardian of a student who has been placed in seclusion or physically restrained shall be notified as soon as possible. The student's parent or other legal guardian shall also be notified in writing, within twenty-four hours, of each incident of seclusion or physical restraint. Such notice shall include the reason for such seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

(2) The director or Director of special education shall be notified any time a student is placed in seclusion or is physically restrained.

J. A school employee who has placed a student in seclusion or who has physically restrained a student shall document and report each incident in accordance with the policies adopted by the school's governing authority. Such report shall be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or physically restrained and a copy shall be provided to the student's parent or legal guardian.

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports.

L. The documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose challenging behavior continues or escalates shall be reviewed at least once every three weeks.

M. (1) The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

(a) Reporting requirements and follow-up procedures.

(b) Notification requirements for school officials and a student's parent or other legal guardian.

(c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

(2) These guidelines and procedures shall be provided to all school employees and every parent of a child with an exceptionality.

N.(1) The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the Department of Education.

(2) The Department of Education shall maintain a database of all reported incidents of seclusion and physical restraint of students with exceptionalities and shall disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employees.

Acts 2011, No. 3 28, §1, eff. June 29, 2011.