

# Restraint & Seclusion

## What is Restraint & Seclusion?

Physical restraint means restricting a student's ability to freely move their torso, arms, legs, or head. Mechanical restraint means using a device or equipment to restrict a student's freedom of movement (not including things like seatbelts or medically prescribed equipment or devices). Seclusion means closing a student in a room and not letting the student leave.

## Does North Dakota Have Laws That Regulate Restraint & Seclusion?

North Dakota has no statewide rules governing seclusion or restraint. School districts may have a policy or procedure about the use of restraint and/or seclusion. School board policies are often posted on a school district's website. You may also request copies of policies by contacting the school. If your school district does not have a policy, you can ask the school board to adopt a policy. The US Department of Education (DOE) has developed a 15-principle framework for developing and implementing policies and procedures.

## Is Restraint & Seclusion Disability Discrimination?

Section 504 of the Rehabilitation Act of 1973 and Title II of Americans with Disabilities Act of 1990 (both as amended) protect against discrimination and may apply to situations involving restraint and/or seclusion. The US Department of Education's Office of Civil Rights provides guidance and enforcement for these laws. It also conducts investigations in response to complaints or reports of possible discrimination.

Discrimination on the basis of disability by school districts occurs when:

- Students with disabilities are unnecessarily treated differently from students without disabilities;
- Policies, practices, procedures, or criteria are implemented that have the effect of discriminating against students on the basis of disability; or
- The right to a free appropriate public education (FAPE) is denied.



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## What Is Improper Use of Restraint or Seclusion?

It depends on whether your school has a policy and what that policy says. DOE guidance says that schools should never use mechanical restraint, physical restraint, or seclusion for disciplinary purposes.

## When Can Schools Use Restraint or Seclusion?

Trained school officials should use restraint or seclusion only if a child's behavior poses imminent danger of serious physical harm to self or others.

## Why is Restraint or Seclusion Being Used Repeatedly?

Frequent use of restraint and/or seclusion indicates a student's needs are not being met. The student may require an evaluation for special education and related services. The cause for behavior should always be evaluated and responded to appropriately. If the child already receives special education services and supports, they should be reevaluated for effectiveness. If there is a behavior plan in place, it should be reevaluated. A student experiencing behavior challenges in school may have a disability, even if there are no academic struggles.

## What Can I Do About Restraint or Seclusion?

If restraint or seclusion is occurring, your child's school should have records. Investigate and document your findings (how often, when, where, who). Find out if your school has a policy, get a copy of the policy, and gather records relating to the restraint and/or seclusion.

### Where Can I File a Complaint?

- The US Department of Justice, Civil Rights Division accepts complaints regarding seclusion. [File a complaint](#) or call 1-877-292-3804.
- The US Office of Civil Rights accepts discrimination complaints. [File a complaint](#) or call 1-800-421-3481.

### Additional Resources

- [US Dept. of Education Restraint and Seclusion Resources](#)
- [US Dept. of Education Dear Colleague Letter Restraint and Seclusion of Students with Disabilities](#)
- [US Dept. of Justice Combating Improper Seclusion in Schools](#)
- [Office of Civil Rights \(OCR\) Civil Rights Data Collection 2017-18 Restraint & Seclusion Estimations North Dakota](#)

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