



"No Consent" LETTER

What is a "No Consent" letter?

The use of restraint and seclusion has become more common practices when responding to disability-related behaviors within school settings. A "No Consent" letter is a written document that states you, as a parent or guardian, do not consent to the school's use of restraint or seclusion in response to your child's behavior.

What is Restraint and Seclusion?

The Office of Civil Rights uses the following definitions:

- 1) Physical Restraint refers to a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely;
- 2) Mechanical restraint refers to the use of any device or equipment to restrict a students' freedom of movement; and
- 3) Seclusion refers to the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.

Seclusion does not include a timeout, a behavior management technique that is part of an approved program.

Please see "ND P&A's Restraint and Seclusion in Schools" Fact Sheet and other resources listed on the last page for more detailed information about restraint and seclusion.

On the next two pages, find information about what to include in a "No Consent" letter and what to keep in mind when using the "No Consent" letter.

What can be included in a "No Consent" letter?

Following are items suggested to include in the letter.

- 1.** Your name, contact information (regular and emergency), and date letter is sent
- 2.** Name of your child, birthdate, and school he/she attends

Statements addressing the following:

- 3.** You are concerned your child's behavioral challenges are or could be addressed with restraint or seclusion by the school.
- 4.** You do not permit to use of restraint or seclusion strategies as behavioral interventions in non-emergency situations.
- 5.** IDEA (Individuals with Disabilities Education Act) provides that school districts must consider the use of functional behavior assessments (FBA) and positive behavioral supports (PBS) plans if a child's behavior interferes with his/her education or the education of others.
- 6.** You expect to fully participate with your child's IEP team decisions regarding programming for your child.
Parents are members of their child's IEP team. Parents should ask that an IEP team meeting is held if problems arise or persist.
- 7.** If applicable, you have read the school policy regarding restraint and seclusion.
Check with your child's school to see if it has a restraint and seclusion policy. If it does, request a copy to review.
- 8.** You recognize that emergencies involving imminent danger may require the use of brief physical interventions to maintain the safety of your child and/or that of others.
- 9.** If restraint or seclusion is used with your child, you want to be notified as soon as possible, but no later than the end of the same day.
- 10.** You request the "No Consent" letter is placed in your child's file and will become part of the cumulative file.
You may want to request written confirmation that it was received and placed in the file. At the beginning of each school year, consider sending an updated "No Consent" letter to the school. This is advised as there may be personnel changes, etc.

Included with your "No Consent" letter, you may want to provide supportive documentation from professionals (e.g., therapist, medical doctor) stating their professional opinions as to why restraint and seclusion should not be used with your child.

Does a "No Consent" letter prohibit schools in ND from using restraint and seclusion on your child?

No, it does not. North Dakota is one of only four states that has no laws, regulations, or statewide policies or guidelines governing restraint and seclusion in schools. Some schools/districts in ND have their own policies regarding restraint and seclusion. That information should be available in the school's handbook or can be requested from the school.

If the school can still use restraint and seclusion, then what does a "No Consent" letter do?

A "No Consent" letter communicates you oppose the use of restraint and seclusion with your child. It also communicates you want to work with your child's 504/IEP team for the development and implementation of appropriate behavioral supports for your child. It is one proactive step to support a safe and secure school environment for your child.

Schools may communicate they cannot follow the "No Consent" letter due to school/district policies or other reasons. They may communicate they cannot or will not place the "No Consent" letter in your child's file for the same or similar reasons. Keep records of your communication with the school in this regard. Continue to communicate your "no consent" position.

What about emergencies?

As referenced at #8 on the previous page, when any student or school personnel is in immediate physical danger, brief physical interventions may be needed for the safety of those involved. This should only occur when less restrictive interventions are not possible. These are safety emergencies and the interventions necessary are the same that would be used with all children - with or without disabilities.

RESOURCES:

Access the resources electronically by using the links provided below. If you received this fact sheet as a handout, please go to www.ndpanda.org, find the "Fact Sheets" section (under [insert location]), and link to resources there. You can also contact ND P&A for assistance. See contact information below.

ND P&A's Restraint and Seclusion in Schools Fact Sheet

<https://www.ndpanda.org/sites/www/files/documents/Seclusion%20%26%20Restraint%20Fact%20Sheet%207.2021.pdf>

Website: [Stop Hurting Kids](#) – APRAIS (Alliance to Prevent Restraint, Aversive Interventions, and Seclusion).

Under the 'Resources' section of the website is a Parent's Guide regarding restraint and seclusion. Included is a sample "No Consent" Letter.

Webinar: [Students with Disabilities and the Use of Restraint and Seclusion in K-12 Public Schools \(January 9, 2020\)](#)

Press Release: [U.S. Department of Education Announces Initiative to Address the Inappropriate Use of Restraint and Seclusion to Protect Children with Disabilities, Ensure Compliance with Federal Laws](#)

ND Protection & Advocacy welcomes questions and requests for assistance related to the "No Contact" letter and many other issues related to rights of individuals with disabilities.

FOR MORE INFORMATION, CONTACT:

ND PROTECTION & ADVOCACY PROJECT

400 E. BROADWAY, SUITE 409

BISMARCK, ND 58501

1-800-472-2670

(701) 328-2950

www.ndpanda.org

panda_intake@nd.gov



If you need this fact sheet in an alternative format, please contact the ND Protection & Advocacy Project at (701) 328-2950 or TTY 711.