



# MASP

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Maine Department of Education  
23 State House Station  
Augusta, Maine  
04333-0233

*RE: MASP Comments on Proposed Amendments to Chapter 33, Rule Governing Physical Restraint and Seclusion*

“School psychologists are charged with advocating for the mental health needs of all students and play a critical role at all levels of support for students with behavioral, social, and emotional concerns.” (NASP, 2009). Consequently, we frequently work with the student, family, or team whether it is a regular or special education student. In addition to the National Association of School Psychologists (NASP,) the Maine Association of School Psychologist (MASP) believes that the creation of positive conditions for learning is essential to student success and foundational to effective school discipline policies. “To help students learn to their fullest potential, schools need to actively cultivate conditions that promote safety, prevent negative behaviors, foster increased student engagement, and support social– emotional wellness, mental health, and positive behavior (NASP, 2011).”

The Maine Association of School Psychologists’ vision is that all students access effective learning, behavior, and the mental health supports necessary to thrive in school, at home, and throughout life. As a NASP state affiliate, MASP is dedicated to all children having positive, safe, supportive, welcoming, and inclusive environments that promote learning and are free of bullying, harassment, discrimination, and violence in order to support student learning and well-being. Our professional practices highlight that all students are protected from emotional and physical harm when a child becomes dysregulated or aggressive. As a profession, we focus much more on affirming and trauma-informed interventions, rather than on isolation and external control. We believe that in developing guidance for Chapter 33 restraint and seclusion procedures, it is vital to focus on both prevention and intervention.

MASP agrees with the NASP position statement that, “Restraint and seclusion are dangerous practices that continue to cause children trauma, injury and death, especially when utilized by staff without proper training. Physical restraint and seclusion practices in schools should be limited to emergency situations when a student is posing a significant danger to self or others.” At the same time, we also believe that, “when implemented properly, these procedures can assist in maintaining a

safe and positive school climate and afford students an opportunity to remain in the least restrictive educational placement.” (NASP, 2019)

Given both of these factors, we understand that in developing guidance to restraint and seclusion procedures, our focus needs to be on protecting both the dysregulated student and also potential victims, keeping in mind that going to great lengths to protect one child may inadvertently result in physical harm or emotional trauma to another. Given these dual considerations, we offer the following recommendations.

**Allowable use of physical restraint:** Despite a multi-tiered approach to behavioral interventions and professionals’ best efforts to provide effective evidence-based behavioral and trauma-informed interventions, MASP recognizes that physical restraint is sometimes necessary in order to maintain safety. MASP firmly believes restraint should only be used when absolutely necessary, by trained staff, and in concert with a range of positive discipline and behavioral techniques and interventions.

**Definition of Serious Physical Injury:** MASP is concerned about the requirement that physical restraint may only be used in instances when the student’s behavior poses an immediate danger of serious physical injury to the student or another person.

The decision to use seclusion and restraint is generally made when a student is in crisis, with the intent of keeping students and staff safe. Under these circumstances it would be very challenging for school staff to predict to what extent the student’s behavior might result in serious physical injury to another student when making this split-second decision. NASP has taken the position that, “The term of “serious physical injury” is too stringent and that using this definition as the minimum standard for allowable use of physical restraint has the potential to create unclear expectations for educators’ response to student conduct, unsafe learning conditions for all students, and potentially unnecessary and expensive lawsuits.” (NASP, February 2019) To reduce the risk of preventing the necessary use of appropriate restraint when it is warranted to ensure the safety of students and staff, MASP asks the Maine DOE to reconsider the definition of ‘serious physical injury’ and suggests the adoption of the term “serious physical or emotional injury” or another stringent, but less restrictive standard.

**Definition of Deflection:** Prior to a potential restraint, the proposed changes note that “less restrictive interventions would be ineffective in stopping imminent danger of serious physical injury to the student or another person.” MASP is concerned that restrictions of preventative measures may have the unintended consequence of leading to increased use of physical restraints or seclusions due to the revised definition of deflection. For example, some previously recommended Safety Care procedures that used physical redirection (light pressure on the back) and strategic releases from students (grab, bite, hair release) are now deemed ‘restraints’ under the new law. At this time, with educators’ heightened fear of using physical prompts or redirection when a verbal intervention is ineffective, early intervening measures may be overlooked, resulting in an escalated situation. Thus, putting the dysregulated student, other children, and adults in more danger with further risk of emotional trauma and physical injury.

**Staff Training:** MASP recommends that school professional development opportunities include effective trauma-informed practices and interventions. Specifically, day one of Safety Care training for all school staff is essential so that student needs could be met before they escalate out of control. These procedures are evidence-based and considered best practice. They are preventative and focus

on maintaining respect and dignity for the student. Some of these strategies include: prompting of desired behavior, distraction, modeling, and offering choice. They also encourage students to engage in relaxation strategies when they are elevated, such as deep breathing or taking a break. Teacher preparation programs should also require courses that offer strategies for appropriately responding to challenging student behaviors to address the growing needs of the students they will eventually support. Additionally, MASP supports Maine DOE training to school personnel regarding setting up threat assessment teams to work with assessing how to deal with threats in school settings as a safety measure that may have possible merit in dealing with the issues involved in the restraint and seclusion.

**Consideration of documentation process:** In February 2019, NASP provided testimony on restraint and seclusion. The association stated that it “supports the requirement of parental notification, either verbally or electronically, when seclusion or restraint is used with a student. We also support a review of the antecedents leading up to the use of seclusion or restraint, the use of functional behavioral assessment, the implementation of evidence-based behavioral interventions, and the identification of additional strategies to be provided in the future.” With increasingly stringent definitions of deflection and what constitutes a physical restraint, MASP believes the increased time spent on documentation is likely to have negative implications for time devoted to direct instruction, implementation of preventative behavioral management interventions, and budgetary or financial obligations.

We thank you for the consideration of these recommendations and, as always, will make ourselves available for any further discussion on these crucial matters.

Sincerely,  
Lisa Backman, NCSP  
Chair, Professional Standards Committee  
Maine Association of School Psychologists

Kathy Gillis, NCSP  
Chair, Government and Professional Relations Committee  
Maine Association of School Psychologists

Resource: [Link: NASP Testimony Seclusion and Restraint \(February, 2019\)](#)

CC:  
Erin Frasier, Maine Director of Special Services  
Gay MacDonald, Executive Director of MADSEC  
Ruth Crowell, MASP President