



Fact Sheet: Restraint and Seclusion of Students with Disabilities

What Is the Dear Colleague Letter on Restraint and Seclusion?

The [guidance letter and series of questions and answers](#), issued by the Department of Education's Office for Civil Rights (OCR) on December 28, 2016, inform school districts how the use of restraint and seclusion may result in discrimination against students with disabilities in violation of Federal laws that prohibit disability discrimination, including Section 504 of the Rehabilitation Act of 1973 (Section 504).

Why did OCR Issue this Guidance?

According to the Department's Civil Rights Data Collection CRDC, during the 2013-14 school year, students with disabilities were subjected to mechanical and physical restraint and seclusion at rates that far exceeded those of other students. The existence of this disparity raises a question as to whether school districts are imposing restraint or seclusion in discriminatory ways. In addition, OCR continues to see in investigations legal violations in schools' use of restraint and/or seclusion for students with disabilities. OCR is issuing the guidance to help educators, parents, students, and other stakeholders better understand Section 504, and how the use of restraint or seclusion may run afoul of the law.

What does Federal law require school districts to do for students with disabilities?

The guidance explains that Section 504 requires a school district to provide students with disabilities an equal opportunity to participate in the educational program and to provide a free appropriate public education (FAPE) to each student with a disability. To meet the FAPE requirement, school districts must evaluate any student who needs, or whom the district has reason to believe needs, special education or related services because of a disability.

A student's behavioral challenges, such as those that lead to an emergency situation in which a school believes restraint or seclusion is a justified response could be a sign that the student actually has a disability and needs special education or related aids and services in order to receive FAPE. When a student exhibits behavior that interferes with the student's education, or the education of other students, in a manner that would reasonably cause a teacher or other school personnel to believe or suspect that the student has a disability, the school district must evaluate the student.

Can the use of restraint or seclusion deny a student's receipt of Section 504 FAPE?

Yes. A school's use of restraint or seclusion may have a traumatic impact on a student, such that even if she were never again restrained or secluded, she might nevertheless have new academic or behavioral difficulties that, if not addressed promptly, could constitute a denial of FAPE. That traumatizing effect could manifest itself in new behaviors, impaired concentration or attention in class, or increased absences, any of which could, if sufficiently severe and unaddressed, result in a denial of FAPE for that student.

The repeated use of restraint or seclusion in school could deny a student's receipt of FAPE in another way. Consider a student with a disability who engages in behavior in response to which the school secludes him for extended periods and on multiple occasions. While secluded, the student does not



receive educational instruction or services. Cumulatively, the school's repeated use of seclusion with that student could result in the school's failure to comply with the Section 504 team's decision about the regular or special education, related aids and services, or supplemental services and modifications that the student needs, or the appropriate setting in which to receive those services, and therefore may constitute a denial of FAPE.

Where the school determines that not all of the student's educational needs are being met, the school must (1) determine the extent to which additional or different interventions or supports and services, including positive behavioral interventions and supports and other behavioral strategies, may be needed; (2) determine if current interventions and supports are being properly implemented; (3) ensure that any needed changes are made promptly; and (4) remedy any denial of FAPE that resulted from the school's prior use of restraint or seclusion.

Does the parent or guardian of a student with a disability have a right to discuss the impact of restraint or seclusion on their child's access to FAPE?

Yes. Section 504 requires that school districts establish and implement a system of procedural safeguards for parents or guardians to appeal district actions regarding the identification, evaluation, or educational placement of students with disabilities who need or are believed to need special education or related services. The school district must tell parents and guardians about this system, notify them of any evaluation or placement actions, allow them to examine their child's records, afford them an impartial hearing with opportunity for parent or guardian participation and representation by counsel, and provide them a review procedure.

How Can I Get Help From OCR?

- ***Requesting More Information.*** With questions or for more information, including technical assistance on civil rights compliance, please contact the U.S. Department of Education's Office for Civil Rights (OCR) customer service team at 1-800-421-3481 (TDD 1-800-877-8339) or ocr@ed.gov or visit OCR's website at www.ed.gov/ocr.
- ***Filing a Complaint.*** Anyone who believes that a school that receives Federal financial assistance has discriminated against someone based on race, color, national origin, sex, disability, or age, can file a complaint of discrimination with OCR within 180 days of the alleged discrimination. The person or organization filing the complaint need not be a victim of the alleged discrimination, but may complain on behalf of another person or group. For more details, please visit www.ed.gov/ocr/complaintintro.html or contact OCR's customer service team at 1-800-421-3481 (TDD 1-800-877-8339).