



28 AUG 2019

Dear [REDACTED]

Thank you for your email of 29 June 2019 to the Ministry of Education requesting the following information:

*You are currently running an advisory group to review the physical restraint guidelines. Can you please provide the following:*

- a. name of the members of the advisory group and the organisations they represent*
- b. the terms of reference for the group*
- c. the name of the group's chair/convener, and the organisation they represent*
- d. the name and position of the person(s) the group is reporting to, and the expectations on the group for progress and final reporting to said person(s)*
- e. copies of agendas and accompanying papers for all advisory group meetings*
- f. copies of minutes and all meeting notes from advisory group meetings*
- g. copies of papers and advice provided to the advisory group*
- h. copies of advice and papers from the advisory group given to the person they are reporting to, the Ministry or Minister responsible for the work*
- i. information about the decision making process for constituting the advisory group, the reason for its establishment, and why, how and when individual members were appointed.*
- j. the groups forward meeting schedule*
- k. information about budget for the work and remuneration [sic] rates for members of the advisory group*

*Can you please also provide:*

- l. since 1 January 2017, copies of reports/advice/papers provided to the Ministry of Education or Minister responsible about the physical restraint guidelines from the Teaching Council (or then Education Council), and the Ministry's/Ministers response to these.*
- m. copies of all guidelines for schools related to physical restraint and seclusion/timeout room issued since 1995. Please include updated and amended versions.*
- n. information about membership (names and organisations represented) of advisory groups or equivalent that the ministry has convened since 2000 to discuss or review guidelines or guidance related to physical restraint or seclusion/timeout rooms. Please also indicate the date range these groups were active, and the names these groups were known by.*
- o. since 1 Jan 2016, correspondence from unions, union spokespeople, teacher representatives, and NZSTA related to the physical restraint guidelines, and any subsequent responses from officials or the minister.*

Your request has been considered under the Official Information Act 1982 (the Act) and my response to each aspect of your request is below.

**a. Name of the members of the advisory group and the organisations they represent**

Organisations represented on the Advisory Group are:

- New Zealand Principals' Federation
- New Zealand School Trustees Association
- Secondary Principals' Association of New Zealand
- Te Akatea New Zealand Māori Principals' Association
- Special Education Principals' Association of New Zealand
- New Zealand Area Schools Association
- NZEI Te Riu Roa
- Post Primary Teachers' Association
- Teaching Council of Aotearoa New Zealand
- Office of the Children's Commissioner
- New Zealand Police, and
- Ministry of Health.

Invitations to attend and to be part of the reconvened Advisory Group were sent to organisations, and organisations determined who would attend. Individuals attending vary from time to time, as such I am not able to give you a comprehensive list of the names of attendees.

**b. The terms of reference for the group**

The purpose for reconvening the Advisory Group was set out in a letter from Dr David Wales, National Director Learning Support, to members of the Advisory Group. A copy of this letter, and the attachment: *Physical Restraint Advisory Group representation sheet* is attached as **Appendix A**. Some information in this letter has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

**c. The name of the group's chair/convener, and the organisation they represent**

The two meetings held have been chaired by Dr David Wales, National Director Learning Support, from the Ministry of Education.

**d. The name and position of the person(s) the group is reporting to, and the expectations on the group for progress and final reporting to said person(s)**

The reconvened Advisory Group, now temporarily paused, reports to Dr David Wales, National Director Learning Support.

The attending organisations were asked to provide feedback on suggested changes made by the Ministry of Education to the Guidelines for Registered Schools in NZ on the Use of Physical Restraint a year after they were issued in August 2017.

The Advisory Group was not expected to report to the National Director for Learning Support. The role of the Group was to advise on drafting changes to the guidelines led by the Ministry of Education.

**e. Copies of agendas and accompanying papers for all advisory group meetings**

Two meetings with the Advisory Group were held. These were held on 14 September 2018 and 9 November 2018. Agendas and accompanying papers for both meetings are attached



as **Appendices B and C**. Some information has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

***f. Copies of minutes and all meeting notes from advisory group meetings***

Copies of minutes and meeting notes from the first meeting of 14 September 2018 are attached as **Appendix D**. No formal minutes were produced for the meeting of 9 November 2018. The scope of the discussions included:

- real-world class room scenarios provided by schools and practitioners and how the guidelines can be applied
- the use of values to help direct teacher action
- how principles could be used to support school actions to minimise the use of physical restraint
- how information could be presented better for different users of the guidance (teachers, school principals, boards)
- additional information about what can be done, instead of what can't, and
- how to incorporate cultural values to reflect our commitment to Te Tiriti O Waitangi and Te Ao Māori.

***g. Copies of papers and advice provided to the advisory group***

No additional material has been supplied and no advice has been provided to the Advisory Group. I am refusing this part of your request under section 18(e) of the Act, as the documents requested do not exist.

***h. Copies of advice and papers from the advisory group given to the person they are reporting to, the Ministry or Minister responsible for the work***

No advice and papers were produced by the Advisory Group for the Ministry or Minister. I am refusing this part of your request under section 18(e) of the Act, as the documents requested do not exist.

***i. Information about the decision making process for constituting the advisory group, the reason for its establishment, and why, how and when individual members were appointed.***

The Advisory Group, which compiled the original guidelines, was reconstituted to review the guidelines one year from their issue in August 2017. It was timely to review the guidelines following a range of feedback.

There was no appointment process. Organisations were invited to identify their own representatives.

Membership/participation beyond the original group was extended to include Te Akatea NZ Maori Principals' Association, New Zealand Area Schools Association (NZASA), the Office of the Children's Commissioner, the New Zealand Police and the Teaching Council of Aotearoa New Zealand.

Te Akatea NZ Maori Principals' Association and NZASA diversified the perspectives offered by school leaders.

The Office of the Children's Commissioner was invited to provide a children's right perspective.

The New Zealand Police was invited, recognising their role in preventing and responding to harm and serious risk to safety in school communities, as well as their role investigating complaints to them of inappropriate physical restraint.

The Teaching Council was invited, recognising their role in guiding teacher behaviour and teacher practice expectations, as well as managing concerns about a teacher's conduct.

***j. The groups forward meeting schedule***

There is no forward meeting schedule. Therefore I am refusing this part of your request under section 18(e) of the Act, as the document requested does not exist.

***k. Information about budget for the work and remuneration [sic] rates for members of the advisory group***

The Advisory Group membership are not remunerated for their attendance and their advice. As a result there is no fixed budget for the work. Therefore I am refusing this part of your request under section 18(e) of the Act, as the document requested does not exist.

***l. Since 1 January 2017, copies of reports/advice/papers provided to the Ministry of Education or Minister responsible about the physical restraint guidelines from the Teaching Council (or then Education Council), and the Ministry's/Ministers response to these.***

The Education Council provided the Ministry with a copy of Briefing Note: Physical Restraint in Education. I have attached a copy of this briefing as **Appendix E**. Some information in this letter has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

***m. Copies of all guidelines for schools related to physical restraint and seclusion/timeout room issued since 1995. Please include updated and amended versions.***

The Ministry had developed guidelines in 1998 on 'Managing Extreme Behaviour in Schools' (1998 Guidelines). These were described as primarily a resource for classroom teachers. They were revised in 1999 and 2005, and effective until the 2016 guidance was issued.

The 1998 guidelines (July 2005 revision), 'Managing Extreme Behaviour in Schools' is attached as **Appendix F**. Early versions of the guidelines are not centrally located within the Ministry. With movement of staff and changes to record management systems we are unable to locate and provide you with early version of the guidelines.

The 2016 guidance 'Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint' included a definition of seclusion and advice that its use is no longer acceptable. The document is attached as **Appendix G**.

The 2016 guidance was then updated to align it with the new legal framework for physical restraint created through the Education (Update) Amendment Act 2017. These current Guidelines for Registered Schools in NZ on the Use of Physical Restraint (August 2017) are available at the following link:

<https://www.education.govt.nz/assets/Documents/School/Managing-and-supporting-students/Guidance-for-New-Zealand-Schools-on-Behaviour-Mgmt-to-Minimise-Physical-....pdf>



The guidelines make clear that the use of seclusion in schools is now prohibited by law, as well as outlines the new requirement to report incidents of physical restraint to the Ministry of Education.

***n. Information about membership (names and organisations represented) of advisory groups or equivalent that the ministry has convened since 2000 to discuss or review guidelines or guidance related to physical restraint or seclusion/timeout rooms. Please also indicate the date range these groups were active, and the names these groups were known by.***

A Restraint and Seclusion Advisory Group was convened for the first time in June 2015 to consider the use of seclusion and restraint in schools, and to investigate best practice models. The Advisory Group was made up from representatives from the following organisations:

- New Zealand School Trustees Association
- Special Education Principals' Association
- New Zealand Principals' Federation
- Secondary Principals' Association of New Zealand
- New Zealand Post Primary Teachers Association
- New Zealand Educational Institute Te Riu Roa
- Child Youth and Family's High and Complex Needs Unit
- Ministry of Health, and
- Ministry of Education.

The Advisory Group met once or twice a month between June and October 2015.

By October 2015, two sets of draft guidelines had been formulated: *'Physical Restraint'* and *'Transitional Guidelines as we work towards the Elimination of the Use of Seclusion in New Zealand Schools'*. The draft guidelines were submitted to the Ministry to be finalised and disseminated.

The Advisory Group remained active in 2016, meeting in April and August to consider a number of matters including a training package to support schools with the proposed guidelines.

In October 2016, the Minister for Education directed the Ministry to work on ending the use of seclusion in schools as soon as possible. The two sets of draft guidelines were combined into one document and amended to reflect the change in approach. In November 2016, the Acting Secretary for Education wrote to all schools advising that the use of seclusion was no longer acceptable and the *'Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint'* was issued.

The Advisory Group then meet again in March and May 2017 to discuss matters including the implementation of the 2016 Guidance, the training package, the Education Update, and updating the guidance in response to the new legal framework for physical restraint created through the Education (Update) Amendment Act 2017.

The updated 2016 guidelines were then issued in August 2017 as *Guidelines for Registered Schools in NZ on the Use of Physical Restraint*.

Throughout this engagement, organisations represented on the Advisory Group remained unchanged, and was made up of representatives from:

- New Zealand School Trustees Association
- Special Education Principals' Association of New Zealand
- New Zealand Principals' Federation
- Secondary Principals' Association of New Zealand
- New Zealand Post Primary Teachers Association
- New Zealand Educational Institute Te Riu Roa
- the inter-agency High and Complex Needs Unit
- Ministry of Health, and
- Ministry of Education.

The Advisory Group has most recently met on September and November 2018, to discuss the latest refresh. Membership and participation has been extended to include Te Akatea NZ Maori Principals' Association, the New Zealand Area Schools Association, the Office of the Children's Commissioner, New Zealand Police and the Teaching Council of Aotearoa.

- o. Since 1 Jan 2016, correspondence from unions, union spokespeople, teacher representatives, and NZSTA related to the physical restraint guidelines, and any subsequent responses from officials or the minister.***

I have interpreted your request for correspondence as being for formal written correspondence received from unions, union spokespeople, teacher representatives and NZSTA related to physical restraint guidelines, and sent by the Ministry. Copies of this correspondence is attached as **Appendix H**. Information has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons.

As required under section 9(1) of the Act, I have had regard to the public interest considerations favouring the release of the information withheld. I do not consider the public interest considerations favouring the release of this information are sufficient to outweigh the need to withhold it at this time.

Please note, the Ministry now proactively publishes OIA responses on our website. As such, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Katrina Casey  
Deputy Secretary  
Sector Enablement and Support



[Date]  
[Name]  
[Address]

Tēnā koe [name]

### Physical Restraint Advisory Group

It is a year since we have been implementing the new physical restraint legal framework. It is time to take stock of that discussion, consolidate and move forward. Given the feedback we have received, we are intending to refresh the guidelines and incident reporting forms so they are clearer and easier to use.

We are therefore re-convening the Physical Restraint Advisory Group, and invite your organisation to be represented on the group and participate at a meeting to be held at the Ministry of Education, Mātauranga House, 33 Bowen St, Wellington on Friday 14 September, from 9:00am to 1:00pm.

The purpose of the meeting is to discuss the valuable insights we have from the data collected. We will also discuss some proposed changes to the guidelines as it has become evident from feedback that more clarity is required. We will also revisit the reporting forms.

The scope and focus of the work is on the guidelines and incident reporting forms. The work does not include revisiting the legal framework itself.

The organisations that have been invited to be part of the advisory group are:

- Education Council
- High and Complex Needs Unit (HCN, Oranga Tamariki)
- Ministry of Health
- NZEI Te Riu Roa, NZ Educational Institute (NZEI)
- NZ Principals' Federation (NZPF)
- NZ School Trustees Association (NZSTA)
- Office of the Children's Commissioner
- Post Primary Teachers' Association (PPTA)
- Secondary Principals' Association NZ (SPANZ) - Professional
- Special Education Principals' Association of NZ (SEPANZ), and
- Te Akatea NZ Māori Principals' Association.

Please confirm the name and availability of your representative who will contribute to the work of this advisory group by completing the attached sheet and return it to [Learning.SupportMailbox@education.govt.nz](mailto:Learning.SupportMailbox@education.govt.nz) by 31 August 2018.

Ngā mihi nui,

David Wales  
**National Director Learning Support**

Attachment: Physical Restraint Advisory Group representation sheet

Released under the Official Information Act 1982





## Physical Restraint Advisory Group Representation

14 September 2018 meeting

Organisation: \_\_\_\_\_

Representative:

Name: \_\_\_\_\_ Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Dietary requirements: \_\_\_\_\_

Accessibility requirements: \_\_\_\_\_

Declarations:

1. We agree that the scope of the work is to advise on a refreshed version of the guidelines and incident reporting forms.
2. We understand that the work does not include advice around the legal framework or the Rules.
3. Our representative is familiar with the *Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint* and is able to provide constructive advice aimed at improving the guidelines so that they best meet the needs of schools.

Signed: \_\_\_\_\_

Date:     /     / 2018

Name: \_\_\_\_\_

**Please scan and return this form to: [Learning.SupportMailbox@education.govt.nz](mailto:Learning.SupportMailbox@education.govt.nz)  
by 31 August 2018.**

## **Addresses to send letters:**

### Education Council

PO Box 5326  
Wellington 6140  
Ph: 04 471 0852    Email: [enquiries@educationcouncil.org.nz](mailto:enquiries@educationcouncil.org.nz)

### High and Complex Needs Unit (HCN, Oranga Tamariki)

The HCN Unit  
c/o Oranga Tamariki  
PO Box 1556  
Wellington 6140  
Ph: 04 918 9092    Email: [hcn@ot.govt.nz](mailto:hcn@ot.govt.nz)

### Ministry of Health

Colin Hamlin, Principal Advisor  
PO Box 5013  
Wellington 6140  
Ph: 04 496 2000    Email: [info@health.govt.nz](mailto:info@health.govt.nz)

### NZEI Te Riu Roa, NZ Educational Institute (NZEI)

Lynda Stuart, President  
PO Box 466  
Wellington 6140  
Ph: 04 384 9689    Email: [nzei@nzei.org.nz](mailto:nzei@nzei.org.nz)

### NZ Principals' Federation (NZPF)

Whetu Cormick, National President  
P O Box 25380  
Wellington 6146  
Ph: 04 471 2338    Email: [whetu@nzpf.ac.nz](mailto:whetu@nzpf.ac.nz)

### NZ School Trustees Association (NZSTA)

Lorraine Kerr, President  
PO Box 5123  
Wellington 6140  
Ph: 04 471 6422    Mobile: 027 687 5606    Email: [lkerr@nzsta.org.nz](mailto:lkerr@nzsta.org.nz)

### Office of the Children's Commissioner

PO Box 5610  
Wellington 6145  
Ph: 04 471 1410    Email: [children@occ.org.nz](mailto:children@occ.org.nz)



Post Primary Teachers' Association (PPTA)

Jack Boyle, President

PO Box 2119

Wellington 6140

Ph: 04 384 9964 Email: [enquiries@ppta.org.nz](mailto:enquiries@ppta.org.nz)

Secondary Principals' Association NZ (SPANZ) – Professional

Michael Williams, President

PO Box 11541

Ellerslie

Auckland 1542

Ph: 09 571 2233 Email: [office@spanz.school.nz](mailto:office@spanz.school.nz)

Special Education Principals' Association of NZ (SEPANZ)

Judith Nel, President

Parkside School

Pukekohe

Auckland 2120

Ph: 09 238 9689 Email: [principal@parkside.net.nz](mailto:principal@parkside.net.nz)

Te Akatea NZ Māori Principals' Association

Hoana Pearson, President

PO Box 8039

Kensington

Whangarei 0145

Ph: 9(2)(a) Email: 9(2)(a)@gmail.com

## Comparison between the previous and current legal situations

	Previous legal situation	Current legal situation
<i>United Nations Convention on the Rights of the Child (UNCROC)</i>	Article 19 – Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.	Article 19 – Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.
<i>NZ Bill of Rights Act 1990</i>	New Zealanders have the right not to be subjected to torture, or to cruel, degrading or disproportionately severe treatment or punishment.	New Zealanders have the right not to be subjected to torture, or to cruel, degrading or disproportionately severe treatment or punishment.
<i>Human Rights Act 1993</i>	The Human Rights Commission's primary functions include: <ul style="list-style-type: none"> <li>• advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society;</li> <li>• encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society;</li> <li>• promote and protect the full and equal enjoyment of human rights by persons with disabilities.</li> </ul>	The Human Rights Commission's primary functions include: <ul style="list-style-type: none"> <li>• advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society;</li> <li>• encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society;</li> <li>• promote and protect the full and equal enjoyment of human rights by persons with disabilities.</li> </ul>
<i>Education Act 1989 (the Act)</i>	Nothing in the Act to cover appropriate use of physical restraint in schools.	The physical restraint provisions set out the appropriate use of physical restraint by teachers and authorised staff members in a school.  They establish a positive authority for teachers and authorised staff members to use force in a school context.
<i>Associated guidance</i>	<i>Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint</i> provided advice to schools, teachers and authorised staff members on when and how they could use physical restraint in a school. This guidance was non-statutory so it was voluntary for schools, teachers and authorised staff members to follow all or some aspects. The Ministry could withdraw the guidance at any time.  The guidance advised that physical restraint should ideally only be applied by school staff trained in both its use and emergency first aid. The guidance also provided advice on alternatives for untrained staff such as calling the Police, or removing themselves and other students from the situation and calling for help.	Statutory Rules set out what schools, teachers and authorised staff members must do when using physical restraint.  Statutory Guidelines set out best practice in using physical restraint. It is mandatory for schools, teachers and authorised staff members to follow all aspects of them.
<i>Crimes Act 1961</i>	The Crimes Act 1961 provides general defences to explain why a school staff member was justified in using force on a student.	The Crimes Act 1961 are not affected by the Education Act 1989, and sit alongside the provisions which regulate the use of physical restraint by a teacher or authorised staff member on a student in a school.



		The Crimes Act 1961 defences apply (as they have always done) to the use of physical restraint by an unauthorised staff member in a school in an emergency situation.
<i>Health and Safety at Work Act 2015</i>	<p>It is the duty of all school boards, managers and sponsors to keep all staff and students healthy and safe. This includes having policies and procedures for staff to follow to ensure their health and safety; notifying all serious injuries or near misses; and monitoring the health and workplace conditions of school staff to prevent injury.</p> <p>School staff must take reasonable care of their own health and safety, and reasonable care that others are not harmed by something they do or do not do. They must follow any reasonable instructions given to them by the school board, manager or sponsor, and cooperate with health and safety policies and procedures.</p>	<p>It is the duty of all school boards, managers and sponsors to keep all staff and students healthy and safe. This includes having policies and procedures for staff to follow to ensure their health and safety; notifying all serious injuries or near misses; and monitoring the health and workplace conditions of school staff to prevent injury.</p> <p>School staff must take reasonable care of their own health and safety, and reasonable care that others are not harmed by something they do or do not do. They must follow any reasonable instructions given to them by the school board, manager or sponsor, and cooperate with health and safety policies and procedures.</p> <p>If a board, manager, sponsor, teacher or authorised staff member is facing legal action under the health and safety regime as a result of the use of physical restraint, they can mitigate their legal liability if they have acted in accordance with the Act, Rules and Guidelines.</p>

<i>Code of Health and Disability Services Consumers' Rights 1996</i>	<p>The Code extends to schools catering for students with disabilities, particularly those who cannot participate in the classroom without support. It confers rights such as to be treated with respect; to be free from discrimination, coercion, harassment and exploitation; to dignity and independence; to services of an appropriate standard; to effective communication; to be fully informed; and to give informed consent. It places obligations on all people and organisations who provide health and disability services, including schools and teachers.</p> <p>Complaints about breaches of the Code can be made to the Health and Disability Commissioner. If the Commissioner finds that rights under the Code have been breached, they can make recommendations to the provider; report their opinion to the relevant professional body; make a formal complaint to the relevant professional body; or refer the complaint to the Human Rights Review Tribunal.</p>	<p>The Code extends to schools catering for students with disabilities, particularly those who cannot participate in the classroom without support. It confers rights such as to be treated with respect; to be free from discrimination, coercion, harassment and exploitation; to dignity and independence; to services of an appropriate standard; to effective communication; to be fully informed; and to give informed consent. It places obligations on all people and organisations who provide health and disability services, including schools and teachers.</p> <p>Complaints about breaches of the Code can be made to the Health and Disability Commissioner. If the Commissioner finds that rights under the Code have been breached, they can make recommendations to the provider; report their opinion to the relevant professional body; make a formal complaint to the relevant professional body; or refer the complaint to the Human Rights Review Tribunal.</p> <p>If a board, manager, sponsor, teacher or authorised staff member is subject to a complaint under the Code as a result of the use of physical restraint, they can mitigate their legal liability if they have acted in</p>
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		accordance with the Act, Rules and Guidelines.
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## **At a Glance: Everything you need to know about the use of Physical Restraint in NZ schools**

### **Physical Restraint defined**

The Education Act defines physical restraint as using physical force to prevent, restrict, or subdue the movement of a student's body or part of the student's body.

### **Programmes that support positive behaviour in schools**

Programmes that provide staff with the skills and knowledge to prevent and/or de-escalate violent student behaviour:

- [PB4L initiatives](#): School-Wide; Restorative Practice; Incredible Years Teacher.
- *Understanding Behaviour Responding Safely* (UBRS) – delivered by MOE on request

### **Restraint - and professional judgement**

When the teacher or authorised staff member reasonably believes that **the safety of the student or of any other person** is at serious and imminent risk...

...then teachers or authorised staff need to use their professional judgement to decide if to use physical restraint.

- Physical restraint is a serious intervention. The aim is to minimise or eliminate its use. If there is an alternative to physical restraint, use the alternative.

### **Use physical restraint only as a last resort**

- Developing an understanding of challenging children and having a behaviour plan with whanau is important
- Know the child. Know the triggers and remove. Learn what works from the family. Work as a team
- It is far better to prevent dangerous situations developing or use de-escalation techniques to calm things down.

### **Challenging students' behaviour may escalate...**

- when they feel anxious or unsafe in situations
- with proximity of others
- with voice tone or unhelpful verbal interactions
- when punished.

### **De-escalation techniques**

- Create space and time
- Communicate minimally and calmly
- Think ahead – devise an exit plan; send for help if necessary

### **Legal requirements**

It is a legal requirement for schools to comply with the Act and rules and to have regard to the guidelines. [The Rules](#) cover:

1. Information to be made available
2. Authorisation of staff members who are not teachers
3. Notifying the use of physical restraint
4. Monitoring the use of physical restraint
5. Reporting on the use of physical restraint
6. Keeping records
7. Training and support for staff
8. School policies

### **Using physical restraint**

Apply physical restraint only for the minimum time necessary and stop as soon as the danger has passed.

#### **Some restraints are dangerous when:**

- They inhibit breathing or communicating
- Use pressure on neck/chest/face
- Risk breaking or twisting joints (tackling, sitting, lying or kneeling on, headlocks, dragging or moving to another location)

#### **DO:**

- **Request safe restraint advice and instruction from your local Ministry office.**  
They will provide advice and instruction for the team around a child with a behaviour plan that includes the need for restraint.

Go to the [Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint](#) for:

- Best practice guidance
- What to do following an incident involving physical restraint – eg. Reviewing, documenting, reporting.

## Meeting of Physical Restraint Advisory Group

**Friday 14 September 2018, 9am-1pm**

**Ministry of Education, 33 Bowen St, RM 2.04**

### Agenda

- 1 Welcome
- 2 Introductions
- 3 Purpose of the meeting:  
*Together discuss insights from restraint data, and consider some proposed changes*
- 4 What is the data telling us, one year on?
- 5 Feedback themes and proposed changes
  - Q and A
  - Scenarios and prompts
  - Supports and resources
  - Structure of the guide
- 6 Reporting forms
- 7 Reflection forms
- 8 Resources and supports

**We will break at 10.30 am. Lunch is provided at 1pm**



# Refresh of 2017 Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint

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# Agenda

- What is the data telling us, one year on?
- Feedback themes, and proposed changes
  - Q and A
  - Scenarios and prompts
  - Supports
  - Structure of the guide
- Reporting forms
- Reflection forms
- Resources and supports

# One year on, what is the data telling us?

## 139AD Rules on physical restraint

The rules must include—

*(a) requirements to keep written records on the use of physical restraint, including requirements to notify, monitor, and report on the use of physical restraint*

## Period Aug '17 to Aug '18

- 2658 reports of restraint (~222 per month)
- Total # of students: 1407 (0.18% of the 800,00 students in schools)

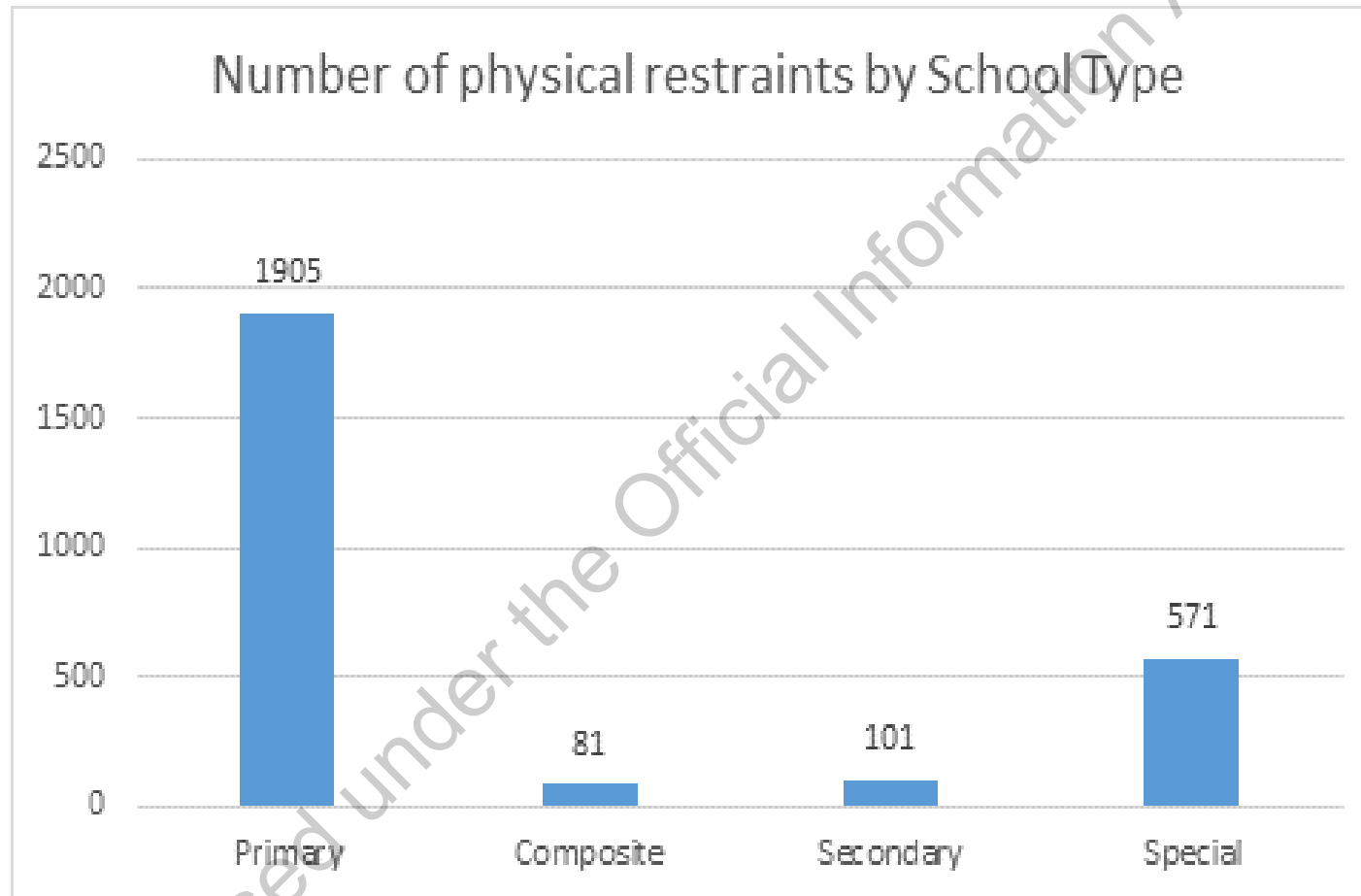


# What about the data?

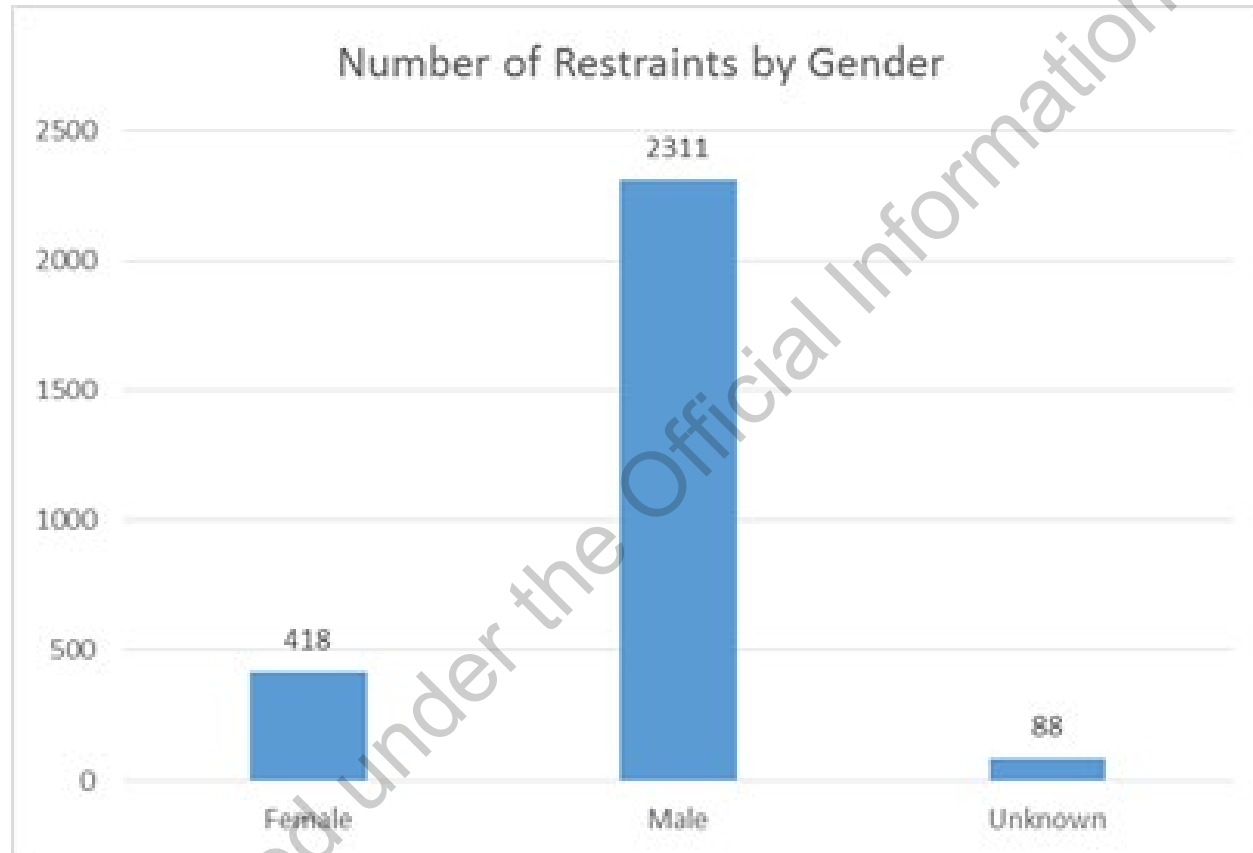
Initial observations since the changes came into effect are:

- Prevalence – about 12 incident reports a day are sent through for Ministry to follow up
- Overwhelmingly, physical restraint is being reported in primary schools
- Boys are 5.5 times more likely to be physically restrained than girls
- Some very young students are being physically restrained.

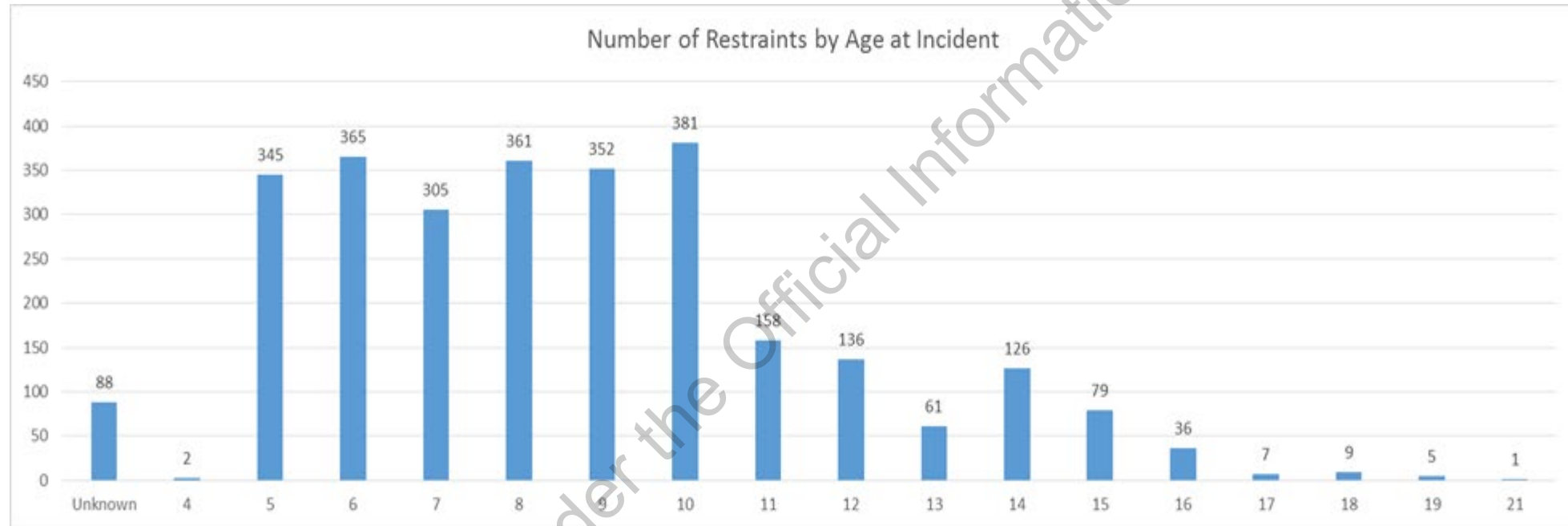
# School Type



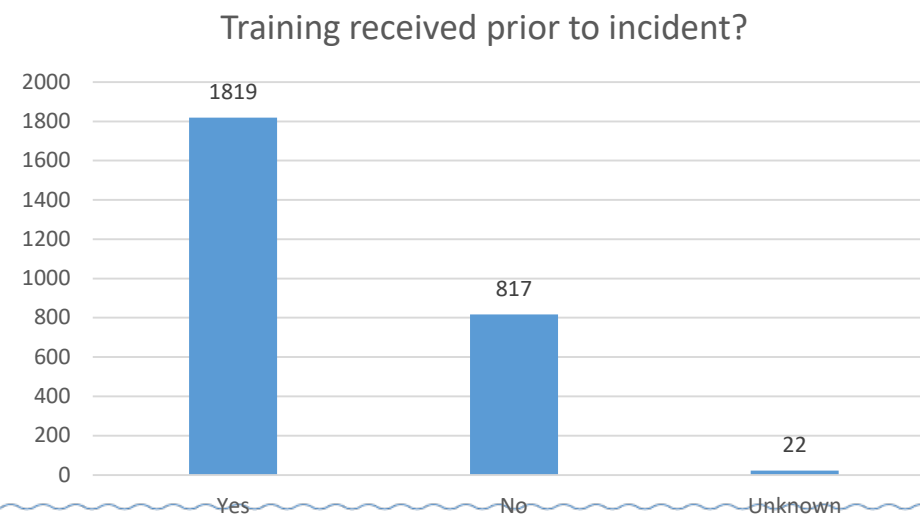
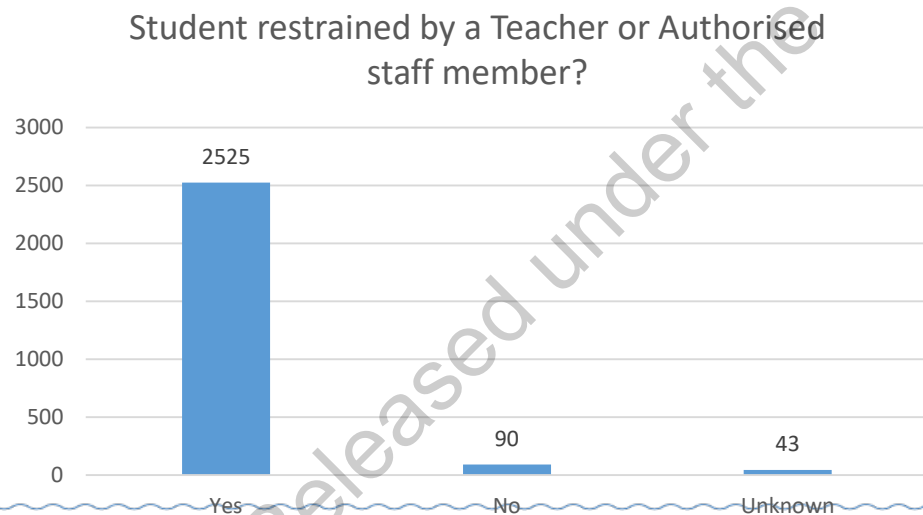
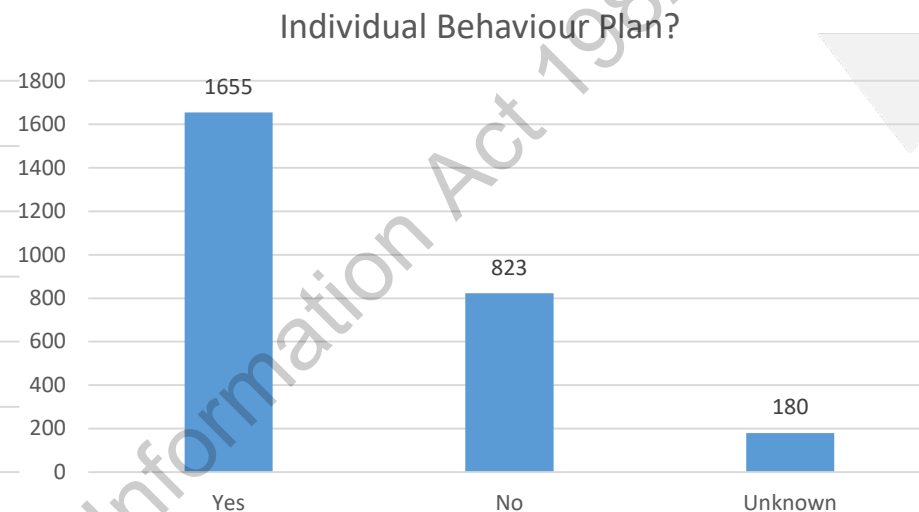
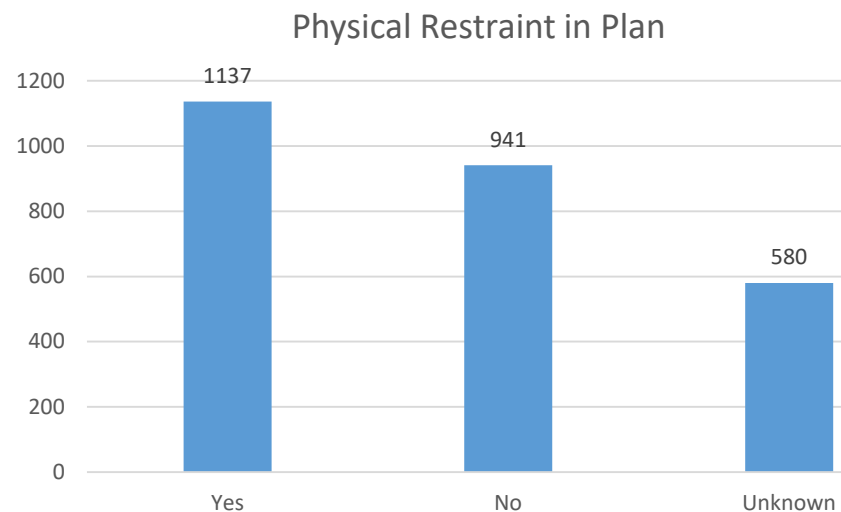
# Gender

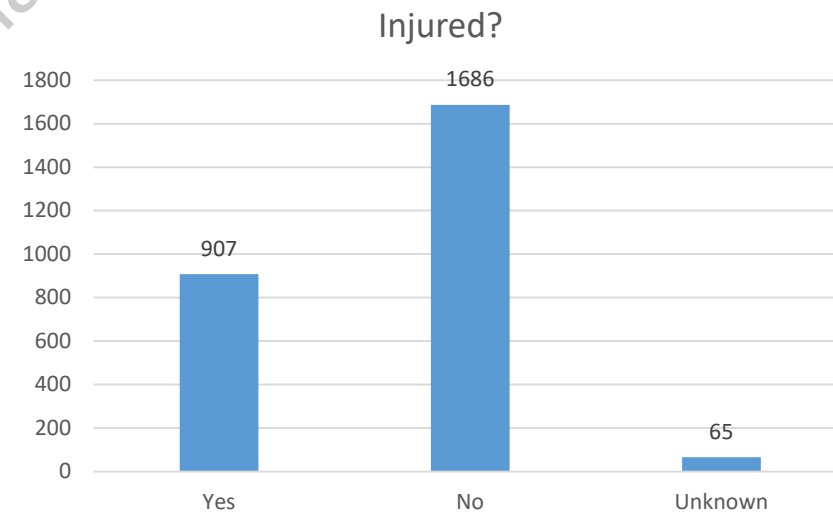
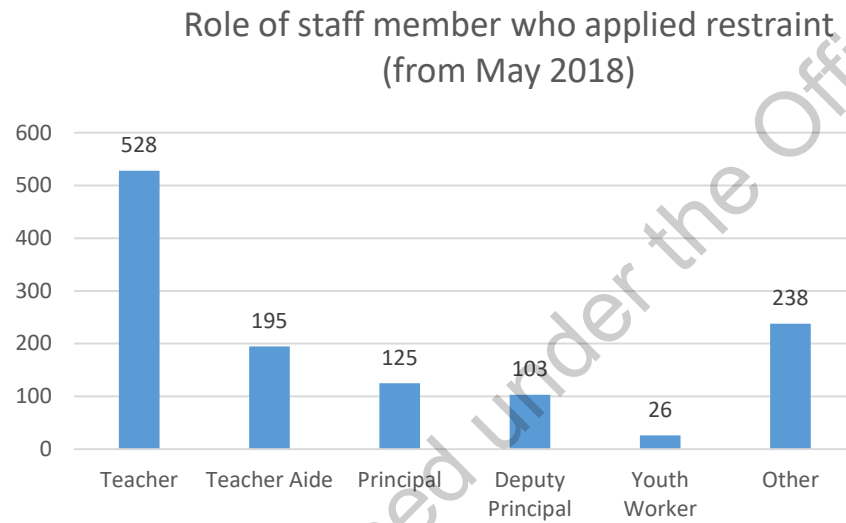
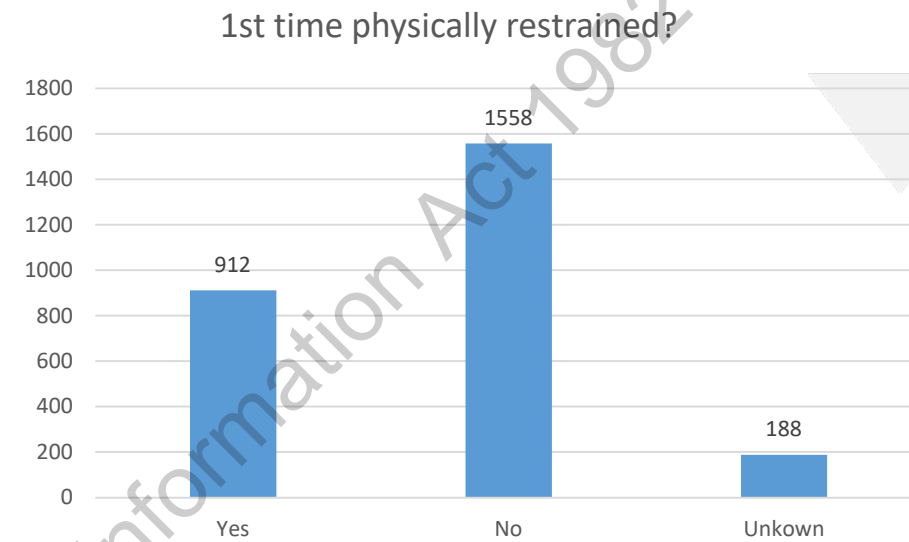
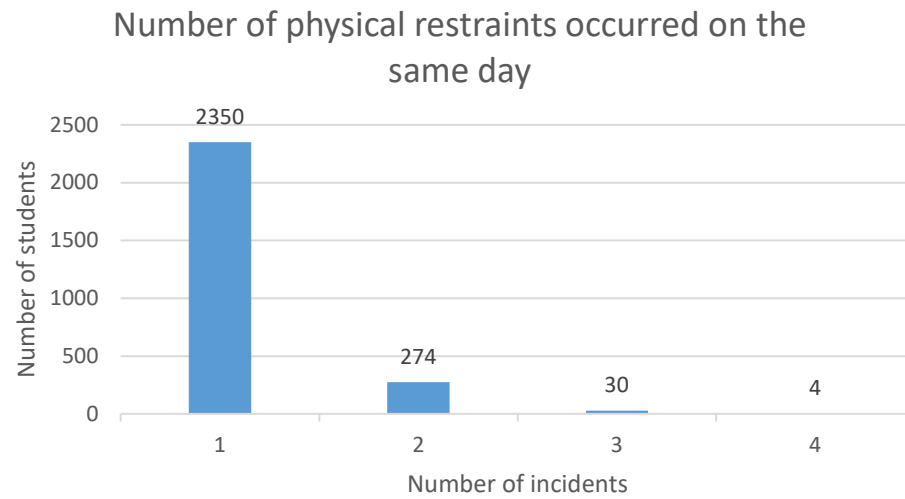


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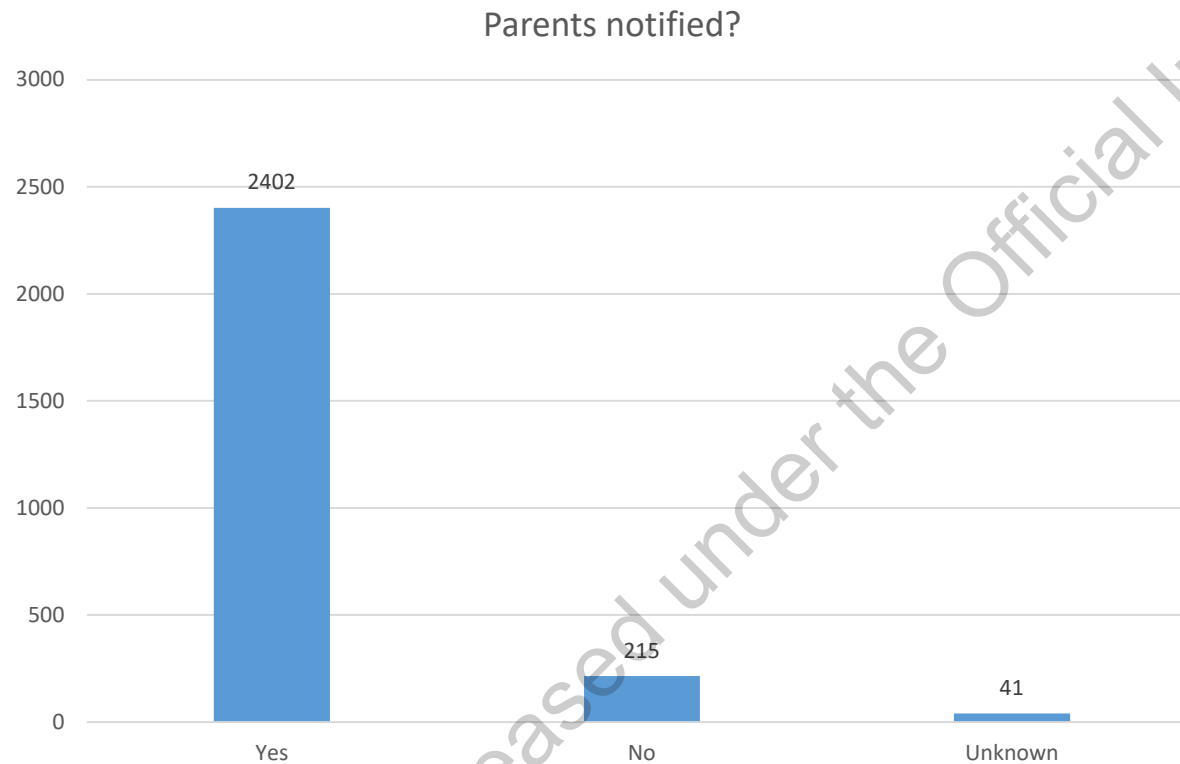








# Parents notified



## Information for the Ministry of Education and the employer form

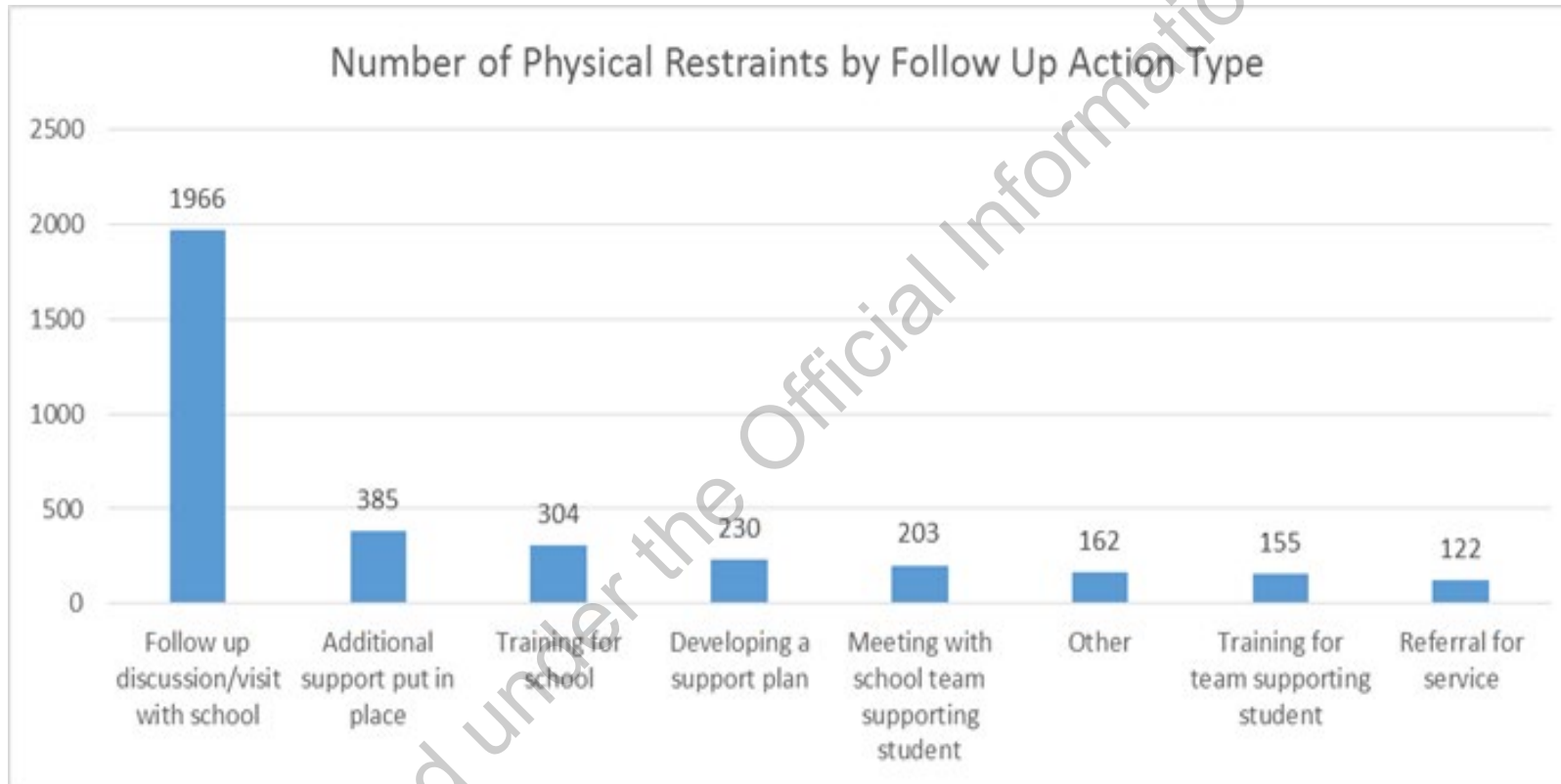
Information for Ministry of Education and the Employer: completed by		Date of incident	dd/MM/yy	Date of report	dd/MM/yy
Name of School					
Student's National Student Number (no name)					
Date of birth	dd/MM/yy	Year level	yy	Gender	M F
Ethnicity					
First time the student has been physically restrained?	Yes	No			
The student was physically restrained more than once during the day?	Yes	No	If yes, how many times?		
The student has an Individual Behaviour Plan?	Yes	No			
Physical restraint was a part of the plan?	Yes	No			
Were parents notified?	Yes	No			
Was anyone injured?	Yes	No	If yes describe		
Was the staff member who applied the restraint a teacher or authorised staff member?	Yes	No	If no, provide details		
Role of staff member who applied the restraint?	Teacher	Other	If other, describe role		
Did the staff member who applied the restraint receive any training prior to the incident?	Yes	No	If yes, what training?		
Why was the use of physical restraint considered necessary?					
Serious and imminent risk to the safety of the student or any other person – describe					
Any other comments					

Complete the form above and email it to the Ministry of Education at [physical.restraint@education.govt.nz](mailto:physical.restraint@education.govt.nz)  
Provide a copy to the employer (board of trustees, sponsor of a partnership school kura hourua, or manager of a private school)

**Note:** The information in this form may be the subject of requests made under the Privacy Act 1993 and the Official Information Act 1982.



# Follow-up



# Any surprises with the data?



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# Feedback themes and proposed responses

## Technical aspects of the law

- How does the changes in the Education Act fit with the Crimes Act?
  - *Questions and answers in the guide?*

## Continued confusion about what staff members can and can't do.

- How does physical restraint differ from acceptable contact?
- More information needed on what we can do?
  - *Scenarios, prompts?*

# Feedback themes and responses, continued

## Language and structure of the guide

“....the guidelines must include-

- a. Best practice examples for the use of physical restraint; and
- b. Other examples of best practice in behaviour management” (Ed. Act, 139AE)

The guide is overly negative and doesn't provide enough information on what to do

- Do we need a forward that outlines the law or can we footnote this. Can we place the legislation on page 4 further on in the guide.
- Do we need to change the content order (e.g. how the guidelines were developed and responsibilities later – key principles up front, good practice guidance
- What language items 'jar' – tell us
- Do we need more information about calming strategies and teaching emotional regulation skills
- What else do we need to change/need more of/less of?



# Feedback themes and proposed changes, continued

## What happens to the data?

- Why is being collected?
- What happens to it?
  - *Questions and answers*
  - *Information made available to community of practice, including supports?*
  - *Changes needed to the forms?*

## Training and support

- Concerns that initial teacher education not preparing teachers
- Training for support teachers
- Mixed reviews of UBRS
  - *Addition of supports and links (school policies behaviour, behaviour plan PB4L Tier 2, restorative practices, search and seizure)*
  - *Review of UBRS training and needs*

# Any thing that we have missed



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## Questions and Answers

### **Q. Why was the law changed?**

- A. Legal framework is consistent with other sectors in New Zealand where physical restraint is used. It was designed to bring clarity to a legally grey area where potentially school staff could be charged under the Crimes Act 1961 as a result of using physical restraint. Staff also needed to take into account
- The New Zealand Bill of Rights Act, 1990
  - The Health and Safety at Work Act, 2015
  - The Code of Health and disability Services Consumers Rights, 1996

The international evidence also tells us that physical restraint is a last resort, high risk action that should be regulated in schools particularly to prevent injury or death and to ensure the safety and wellbeing of both students and teachers.

### **Q. Why did the Ministry publish guidelines?**

- A. The guidelines were published to take into account of the changes to the Education (Update) Amendment Act 2017 and the Education (Physical Restraint) Rules 2017 (the rules). The act and the rules set out what schools must do when using physical restraint and the guidelines set out best practice in preventing using, monitoring and reporting on physical restraint

### **Q. Why have the guidelines been refreshed?**

- A. The legal framework regarding physical restraint has been in place for a year now. We have reviewed these in light of their use and the feedback we have received.

### **Q. What changed as a result of the refresh?**

A.

### **Q. What constitutes physical restraint?**

- A. The Act defines physical restraint as using physical force to prevent, restrict, subdue the movement of a student's body or part of the student's body. The legislation limits the use of physical restraint on students to teachers or authorised staff members.

The following situations involving physical contact happen in schools every day. They are not examples of physical restraint and do not have to be reported to the Ministry:

- Temporary physical contact, such as a hand on the arm, back or shoulders to remove a student from a situation to a safer place.
- Holding a student with a disability to move them to another location, or help them to get in a vehicle or use the stairs.

- The practice of harness restraint, when keeping a student and others safe in a moving vehicle, or when recommended by a physiotherapist or occupational therapist for safety or body positioning.
- Younger students, especially in their first year of school, sometimes need additional help. For example, you may “shepherd” a group of younger children from one place to another.
- Staff may hold the hand of a young student who is happy to have their hand held for a short time.
- Staff may pick a young student up to comfort them briefly.

**Q. Under what circumstances can schools use physical restraint, and who is allowed to use it?**

- A. Physical restraint should only be used where there is a serious and imminent risk to the safety of students, staff or others. It should be used in a responsible way, proportionate to the situation and only for as long as needed to ensure everyone is safe.

Physical restraint can be used by teachers or authorised staff members. Authorised staff members are employees authorised by their employer (e.g. board of trustees, sponsor or manager) to use physical restraint.

Physical restraint is a serious intervention.

Situations where it would be appropriate to use physical restraint include:

- Breaking up a fight
- Stopping a student from moving in with a weapon
- Stopping a student who is throwing furniture close to others who could be injured by it
- Preventing a student from running onto a road.

**Q. What was the situation for teachers in schools and kura when using physical restraint prior to the legislative change?**

- A. There was nothing in the Act to cover appropriate use of physical restraint in schools and kura. Teachers and support staff in schools and kura had to interpret what general law such as the Crimes Act 1961 and the New Zealand Bill of Rights Act 1990 allowed them to do.

**Q. If physical restraint is a last resort, what alternative techniques should teachers be using?**

- A. The best thing teachers can do is try to prevent a situation developing to the stage where safety becomes an issue. Most schools use positive behaviour management practices to deal with inappropriate or dangerous student behaviour. If things do start to develop there are a number of ways to try to cool things down and ‘de-escalate’. Training is available to help schools and teachers learn how to do this.

**Q. Why are schools being required to report incidents of physical restraint to the Ministry?**

- A. Physical restraint is a serious intervention. The emotional and physical impact on the student being restrained and the person doing the restraining can be significant. There are legal and reputational risks if a student is harmed.

If a teacher or staff member physically restrains a student the incident must be reported to the Ministry of Education and the employer (Board of Trustees, sponsor of a partnership school kura hourua, or manager of a private school). Reporting incidents also enables the Ministry of Education to provide to schools to manage challenging behaviour

**Q. What does the Ministry of Education do with the data and information?**

- A. The Ministry is using the information to provide appropriate support to schools and students when there are incidents of physical restraint on students. The data has indicated that the total number of students being restrained is very small, many of these students are being restrained multiple times and 2/3rds involved students with plans in place. The information also has implications for the way we provide support to schools to manage challenging behaviour.

**Q. What advice and support is available to schools about the use of physical restraint?**

- A. The legislation and rules set out what schools must do. The guidelines outline good practice in using physical restraint, and monitoring and reporting on the use of physical restraint. The rules and guidelines were developed with the help of a cross-sector advisory group.

The training workshop Understanding Behaviour, Responding Safely, has been offered to all schools. It focuses on prevention and de-escalation strategies and is run by experience behaviour management specialists (who also offer ongoing support). Any school interested in the workshop should contact their local Ministry of Education office.

Some of the students with the most challenging behaviours will have specific physical intervention and restraint techniques in their individual student plans. Where the Ministry is part of the team supporting such a student specific training for staff in using those techniques is available.

**Q. Do the restraint rules and guidelines apply in private and partnership schools?**

- A. Yes.



- Q. What should school and kura staff do if they see an incident of physical restraint or seclusion and are concerned?**
- A. They should speak to the principal and the Board of Trustees in the first instance. If they are not happy, they should contact the Ministry of Education. The same advice applies to family or whanau.
- Q. Are unauthorised staff and teachers allowed to use restraint in an emergency are they covered under the current laws?**
- A. The Act provides a framework for the use of physical restraint in schools that is based on its use by authorised staff. Unauthorised staff using physical restraint are not covered by the Act and may be in breach of school policy. Everyone is justified in using, in the defence of himself/herself or another, such force as, in the circumstances as he/she believes them to be, it is reasonable to use (Crimes Act s48). Justified means not guilty of an offence and not liable to any civil proceedings (Section 2, Crimes Act 1961).
- *Was the purpose defending themselves or another?*
  - *What were the circumstances the defendant believed them to be?*
  - *Was the force reasonable?*
  - *Does the school have a robust authorisation process and behaviour policy?*
- Q. Can teachers and authorised staff members use physical restraint to protect property?**
- A. No. The Education Act s139AC does not allow restraint to be employed for the sole purpose of protecting property. Sections 52 - 56 of the Crimes Act permit limited use of force to protect property. These sections put human life and safety even for the person doing wrong, above protecting or possessing property. The force required to protect property excludes striking or causing physical harm to another person

## **Seclusion**

- Q. What is covered by the ban on seclusion?**
- A. Schools, early childhood services and ngā kōhanga reo must not use seclusion.
- Seclusion is placing a child or student in a room involuntarily, alone, and from which they cannot freely exit, or believe they cannot freely exit. An action must meet all three of these tests to be considered seclusion.
- Q. Are any schools still using seclusion rooms?**
- A. No - seclusion is prohibited under the legislation.
- Q. Does this mean that my school can no longer use time out?**
- A. No. Time out is where a child or student voluntarily takes themselves to an agreed space or unlocked room to de-stimulate or calm down, or when a teacher prompts a disruptive child or student to work in another space.

Teachers should be very explicit when using time out that the child or student is free to come out of the room whenever they choose. This clarity is consistent with good practice around using time out in schools.

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DRAFT

## Restraint and Seclusion Scenarios

**A panel discussion on restraint and seclusion was held at the Education Law Conference 2018. The discussion was chaired by a school principal and the panel was made up of MoE practitioners and education lawyers. The panel discussed seven scenarios, in conversation with the audience of educators and legal professionals**

Task: Read through the following scenarios. Determine the serious and imminent danger, if restraint would be justified, what advice and guidance you would give for each one.

### Scenario One

A group of Year 13 students were playing touch rugby on the back field. The game turned sour when student 'A' began mocking student 'B's mother as a joke. Student 'B' became enraged at the insult and began to seriously assault student 'A'.

A teacher on field duty came upon the assault with other Year 13 students watching. Student 'A' is on the ground and is at risk of serious injury, while student 'B' is so angry he is not listening to anyone, yelling 'you're dead meat'. The teacher is unsure of his ability to intervene to stop the fight or whether to ask the other students to assist. The field is some distance from the office and he is very concerned about his obligation to protect student 'A'.

*Would restraint be justified?*

*Would you recommend using other students in this situation?*

*What would you recommend?*

### **Panel Recommendation**

- Restraint can be justified (in order to create a space between the students and prevent further harm)
- Try to remove the audience and support the provision of a distraction (e.g. whistle, siren)
- Schools must address NAG 5 to keep students safe. Recommend having a whole staff discussion about possible situations, obligations and capabilities and devise a support system. Teachers should not be alone in dealing with a fight, back up is required.
- Use of professional teacher judgement comes into effect at the time of the situation - this may have to be justified formally later. If teachers do not feel able to intervene they do not need to. Their intention should be made clear to the fighters and audience. The incident must be reported.
- Schools must address NAG 5 to keep students safe. Recommend having a whole staff discussion about possible situations, obligations and capabilities and devise a support system. Teachers should not be alone in dealing with a fight, back up is required. Remembering that
- to discuss as a school their system "protocols" around how they will get help, and the level staff have also been injured intervening in fights on schools grounds
- Need of response. This needs to be clear for students, staff and parents what e protocols are.
- Other students **cannot** be asked or encouraged to intervene
- Do ask students to get help
- Try to remove the audience and support the provision of a distraction (e.g. whistle, siren)
- Schools must address NAG 5 to keep students safe. Recommend having a whole staff discussion about possible situations, obligations and capabilities and devise a support system. Teachers should not be alone in dealing with a fight, back up is required.
- Need to discuss as a school their system around levels of response and be clear when students are this age what they can do – needs to be transparent for students, staff and parents what the protocols are.

## Scenario Two

James, age 45, was a police officer for 15 years before deciding to retrain as a secondary school history teacher. James is an expert in unarmed combat and pursued karate as a sport for 20 years. He is also experienced in the use of firearms, having been an armed offenders' squad member whilst in the police.

During a class, James hears a scuffle in the corridor outside his room. He looks out and sees two well-built Year 13 male students fighting. They appear equally matched. While punches are being thrown, it does not appear that either is doing serious harm to the other. James moves into the corridor and orders them to stop fighting. They carry on. He orders again and they ignore his request. James then takes one of the students by the arm in an attempt to pull him away from the other. The student turns and swings a punch at James. James responds by putting the student into a painful arm-lock, combined with gripping the student's head to bring him to his knees on the ground. The scuffle then ends.

The student suffers no lasting injury or ongoing pain. However, the student and the parents complain to the school, saying that James used excess force, causing significant pain and humiliation.

*What would you recommend?*

*Does the teacher have any potential criminal liability?*

*Should he be exposed to professional disciplinary proceedings?*

*Should the school take employment disciplinary action against him?*

For the record: James is not fictitious and he opted not to physically intervene. He chose to call the police after the students ignored his instructions to stop fighting. Before the police arrive, one of the students lost his front teeth.

*Again, does the teacher have any potential criminal liability? Should he be exposed to professional disciplinary proceedings? Should the school take employment disciplinary action against him?*

### Panel Recommendation

**Response as above** Restraint can be justified (in order to create a space between the students and prevent further harm). Distract, get help, have a protocol in place

- Other students **cannot** be asked or encouraged to intervene
- Do ask students to get help
- In the case of the 'arm-lock' and parental complaint, Crimes Act Section 42: preventing breach of peace (e.g. fighting) could justify restraint. "Justified" means not liable to criminal prosecution or civil proceedings.
- Risk: If a single limb is held this can expose you to a reaction from the other limbs and head.

## Scenario Three

Student 'A', who has known 'anger management' issues was working quietly on his Year 12 Art folio when another student accidentally spilt black ink onto his work. Student 'A' lost the plot, jumping up shouting 'you've f....g ruined it, and proceeded to rip up his board. He then began to attack other Year 12 Art folios.

The teacher recognised he is in an extremely emotional state and not listening to reason. Although there is no physical risk to anyone, the Art folios represent hundreds of hours of work by students and are an essential part of their NCEA assessment, which can't be redone if they are destroyed. The teacher is not sure if restraint is justified in these circumstances or to just remove the other students from the Art room.

*Would restraint be justified?*

*What do you know about willful vandalism?*

*What would you recommend?*

#### Panel Recommendation

- Restraint is not justified in terms of the Education Act Restraint Rules, as it is property.
- From a legal perspective staff may be defended in a court of law through the Crimes Act Section 41 if they choose to restrain in this circumstance.
- Consider a 'fire' situation in terms of health and safety policy; whereby students gather up items and exit in an orderly manner.
- Some students may need further support emotionally if they have lost their work. The school can follow up with NZQA for next steps. Preventative steps could have included safe storage of items, ongoing records of work and submission / evidence of finished items.
- The school receives funding for vandalism in their Operations Grant. Insurance may not cover vandalism. A top up of this funding may be granted under some circumstances - the BOT would be expected to have a Vandalism Policy.

#### **Scenario Four**

A student who is diagnosed with Autism has had a confrontation with the Deputy Principal of a primary School. When asked to report to the Principal's office, he rushes to the school fence and begins climbing. There is a busy motorway on the other side of the fence. The DP perceives a real threat to the student's safety but knows if he tries to pull him down from the fence, he may cause injury to the student or himself.

*Would restraint be justified?*

*What would you recommend?*

*Would it make a difference if this student was secondary age?*

#### Panel Recommendation

- Use of temporary physical contact may be necessary in this situation.
- Whilst the fence is an obstacle, this can be similar to running onto the road. Failure to act may cause further injury (motorway)
- Support through remaining calm, stating intent "I'm here to help" and sending for a staff member who has a relationship with the student.
- If the student is prone to running away and the risk is already known, agreed strategy with family and staff can be planned and communicated to all members of school staff.

### **Scenario Five**

Ms X, an art teacher, reported to the DP that she believed that student A took an 'up the skirt' video on his phone while he was in her class. The P has spoken to few students in the class who confirmed the teacher's account and add that he planned to upload it on his Facebook page. It is now 3pm and student A is in the DP's office denying the allegation. He is refusing to hand over the cell phone and insisting he has to leave to catch a bus.

*Would restraint be justified?*

*What do you know about surrender and retention?*

*What would you recommend?*

#### **Panel Recommendation**

- There should be no physical contact. The family should be informed.
- Follow Surrender and Retention Guidelines (2014).
- Refusal to hand over, use school discipline process, even if they delete the evidence.
- Netsafe can support situation and retrieval of material.

### **Scenario Six**

Student A is transitioning into a new primary school. He does not follow the class routine and ignores the teacher's requests to join the class on the mat. Student A leaves the classroom. The teacher follows and sends another student to reception to get another adult to supervise the class. Student A climbs to hide on the adventure playground. The teacher tries to encourage Student A to come down and return to class. Student A throws a stone nearby the teacher. Another staff member sees the stone being thrown and comes to assist the teacher. They agree that his behaviour is unsafe and are now deciding how to transfer the student to the principal's office.

*Would restraint be justified?*

*What would you recommend?*

What happens if the Ministry of Education witnesses restraint, and the school do not report it?

#### **Panel Recommendation**

- No restraint is justified.
- Give space to decrease the risk of injury
- Supervise only, no interaction, wait it out (can take over an hour).
- School system to determine support for teacher at this time and logical consequence for student when he is ready to engage again.
- The Education Council Code of Conduct 2.1 states that a teacher will work in the best interests of learners by promoting the wellbeing of learners and protecting them from harm. Therefore, inappropriate handling such as physically grabbing, shoving or pushing, or using physical force to manage a learner's behaviour is not permissible.
- If inappropriate handling occurs or restraint occurs then the school must report it.
- If Ministry of Education staff are aware the school have not reported an incident they have witnessed then Ministry of Education staff should discuss with the Principal and report it in compliance with the Restraint Rules and Child Protection Policy. The BOT may also be requested to be involved.



### **Scenario Seven**

In the New Entrants class there is a child who is distressed at beginning of the day as they don't want their parent to leave. The child will cry and cling onto their mum or dad and not want to stay in the classroom. When their mum or dad starts leave they run after them and try to leave the classroom to find their parent. The teacher is not sure whether they can intervene as would that mean that a restraint notification form would need to be completed?

*Would restraint be justified?*

*What would you recommend?*

*Are there conflicting views about this situation?*

#### **Panel Recommendations**

- Consider acceptable physical contact (Page 7)
- Holding a New Entrant's hand and/or supporting them to move to a new location and providing them with comfort when they are upset about leaving their parent are all acceptable responses to a distressed child and would not be seen as restraint.
- Parents can often feel anxious about a child starting schools and contribute to the separation issues. Building a relationship with the parents can help to ease separation worries on both sides.
- Having a plan and a routine to follow with the child's parents to help support the separation would be important

**Andy Smith**

---

**From:** Olga Berezovsky  
**Sent:** Wednesday, 7 November 2018 4:34 p.m.  
**To:** 'winnifredmorris@icloud.com'; 'principal@tauraroa.school.nz'; 'principal@parkside.net.nz'; 'Stephanie.Mills@nzei.org.nz'; 'Bella\_Ansell@moh.govt.nz'; 'tom@merivale.school.nz'; 'Gerard Direen'; David Wales; Shelley Dean; Mary Pupich; 'J Nel'; 'Belle Tuimaseve-Fox'; 'simon.king@police.govt.nz'; David Pluck; 'Mary Hall'; 'Jack Boyle'; 'JamesTh@wpgcollege.school.nz'  
**Subject:** Physical Restraint Guidelines - draft working document not for wider circulation  
**Attachments:** Physical Restraint Guidelines Redraft (004).docx

Kia ora koutou

Please find attached a working draft of the refreshed physical restraint guidelines. We considered the feedback received, and made some changes. We will work through these and other ideas not incorporated in this current draft, at the session. This draft is circulated for use at the meeting. Please note there will be a fully edited/proofed penultimate draft after Friday's workshop.

The agenda for the session is:

- Welcome
- Minutes from the last meeting and general update
- Scenarios activity, identifying the response (the Acts, the defence)
- Update of the guidelines (alignment with the rules), and what's changed
- Reporting requirements vs reviewing
- Additional Resources (Q n A; Scenario Resource)
- Testing understanding of the resource
- Roll out plan

See you at the meeting.

Olga

**Olga Berezovsky** | Senior Advisor  
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 33 Bowen Street, Wellington

[education.govt.nz](http://education.govt.nz) | Follow us on Twitter: @EducationGovtNZ

We get the job done *Ka oti i a mātou ngā mahi*  
 We are respectful, we listen, we learn *He rōpū manaaki, he rōpū whakarongo, he rōpū ako mātou*  
 We back ourselves and others to win *Ka manawanui ki a mātou, me ētahi ake kia wīkitoria*  
 We work together for maximum impact *Ka mahi ngātahi mō te tūkinga nui tonu*

Great results are our bottom line *Ko ngā huanga tino pai ā mātou whāinga mutunga*



# **Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint**

November 2018

These guidelines are issued by the Secretary for Education under section 139AE of the Education Act 1989.

Ministry of Education

Mātauranga House

33 Bowen Street

PO Box 1666

Wellington 6140

[www.education.govt.nz](http://www.education.govt.nz)

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## Contents

Foreword .....	E
<a href="#">xxx Principles</a>	
Legislation .....	<b>Error! Bookmark not defined.</b>
Responsibilities of Boards of Trustees, Sponsors of Partnership Schools Kura Hourua, Managers of Private Schools .....	<b>Error! Bookmark not defined.</b>
Good practice guidance .....	K
Student and staff wellbeing come first .....	K
Identifying when you may need to apply physical restraint.....	K
Use physical restraint only where safety is at a serious and imminent risk .....	K
What is serious and imminent risk to safety? .....	K
These examples do not pose a serious and imminent risk to safety.....	L
Acceptable Physical Contact .....	L
Use preventative and de-escalation techniques first .....	M
Preventative techniques.....	M
What may escalate the behaviour.....	O
Guidance if you have to use physical restraint .....	P
What to do if prevention and de-escalation do not work.....	P
Monitor wellbeing throughout when applying physical restraint.....	Q
Good practice following an incident involving physical restraint.....	Q
Debriefing the incident .....	Q
Promote the minimisation of physical restraint.....	S
Reporting and documenting the incident .....	S
Individual Behaviour Plan.....	T
Adapting the Individual Behaviour Plan .....	U
Training in safe responses .....	U
For the whole school.....	<b>Error! Bookmark not defined.</b>
For the team supporting the student .....	<b>Error! Bookmark not defined.</b>
Reporting templates for physical restraint.....	U
Appendix 1: Staff physical restraint incident report form.....	V
Appendix 2: Information for the Ministry of Education and the employer – in accordance with Rule 8(1) of the Education (Physical Restraint) Rules 2017. <b>Error! Bookmark not defined.</b>	
Information for the Ministry of Education and the employer form .....	<b>Error! Bookmark not defined.</b>

Appendix 4: Debriefing form for staff involved in physical restraint incident .....	BB
Appendix 5: Physical restraint debriefing form – parents or caregivers, student.....	CC
Developing the guidelines: expertise from throughout the sector.....	1

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## Foreword

Student and staff wellbeing is at the heart of these guidelines. Safe physical and emotional environments are of greatest importance for all students, and support teachers in their professional role. Minimising the use of physical restraint is important. Research tells us that physical restraint compromises the health and safety of students, and those using it.

The guidelines are a resource issued under section 139AE of the Education Act 1989 to help schools understand their responsibilities under the legislation on the use and reporting of physical restraint, and the prohibition of seclusion (sections 139AB – sections 139AE). They also explain the associated Physical Restraint Rules 2017<sup>1</sup>.

The legislation requires all schools to have regard to these guidelines. The guidelines also make it clear that under the legislation seclusion is prohibited and must not be used in New Zealand schools.

The guidelines take into account current international research and directions, and relevant legislation and international conventions including the New Zealand Bill of Rights Act 1990, Education Act 1989, United Nations Convention on the Rights of the Child, United Nations Convention on the Rights of Persons with Disabilities, Vulnerable Children Act 2014, Health and Safety at Work Act 2015, and the Crimes Act 1961.

Expertise from throughout the sector helped inform the development of the guidelines. We thank representatives from the Special Education Principals' Association of New Zealand, New Zealand Principals' Federation, New Zealand Educational Institute Te Riu Roa, New Zealand School Trustees Association, Secondary Principals' Association of New Zealand, New Zealand Post Primary Teachers Association, Ministry of Health, High and Complex Needs Unit, the Children's Commission, New Zealand Police and the Ministry of Education.

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<sup>1</sup> The *Guidelines for Registered Schools in New Zealand on the use of Physical Restraint* (the guidelines) are issued by the Secretary for Education under section 139AE of the Education Act 1989 (The Act). They supplement the legislation relating to limits on the use of physical restraint and the prohibition of seclusion. They explain the legislation (sections 139 AB to 139AE of the Education Act 1989) and the associated Education (Physical Restraint) Rules 2017 (the rules).

## Introduction

The guidelines are a resource to help schools understand their responsibilities under the legislation on the use and reporting of physical restraint and the prohibition of seclusion. The guidelines also aim to support staff to safely manage potentially dangerous behaviour.

The guidelines support these objectives by describing:

- key principles to help ensure all schools and learning environments are safe for all children and adults
- who can apply physical restraint and under what circumstances (as defined by the legislation)
- the roles and responsibilities of school leaders (Boards, Sponsors and Managers)
- advice about identifying when physical restraint can be applied
- safe ways to manage potentially dangerous situations when a student may need to be physically restrained. These include preventative or de-escalation techniques to avoid the need to physically restrain a student. Options for managing behaviour, if prevention or de-escalation does not work, are also provided
- how to incorporate physical restraint into an Individual Behaviour Plan if necessary, and who to involve in the decision making process, including parents and caregivers
- how to review situations involving restraint to provide information or new learning to prevent future occurrences and provide support for staff and children affected
- how to report incidents of physical restraint, and
- examples of physical contact and physical restraint policies.

Using these guidelines will help staff respond to the uncertainty they can experience when faced with a student exhibiting difficult behaviour that may escalate into a dangerous situation, and prevent future occurrences.

## Guiding principles

The guidelines are built on a number of fundamental guiding principles.

**Principle 1:** Physical restraint is a serious intervention. These guidelines aim to minimise the use of physical restraint.

**Principle 2:** If there is an alternative to physically restraining a student, use the alternative. Behaviour strategies to respond to dangerous behaviour should address the underlying cause or purpose of the dangerous behaviour.

**Principle 3:** Schools staff should have access to resources or training on appropriate, effective alternatives to physical restraint and seclusion such as positive behaviour interventions and supports, and for cases involving imminent danger or serious harm, on the safe use of physical restraint for children.

**Principle 4:** All schools are required to provide a safe physical and emotional environment for students and staff. Parents, students and the public have a legitimate expectation that the school environment will be a safe environment that supports learning.

**Principle 5:** The Education Act 1989 provides for the circumstances when teachers and authorised staff members may physically restrain a student. In exercising these powers, teachers and authorised staff members must act reasonably and proportionately in the circumstances to achieve a safe environment for students and staff.

**Principle 6:** Students' rights are protected under the Bill of Rights Act 1990.

**Principle 7:** Each restraint incident provides an opportunity for reflecting to develop understanding about the child and circumstance to prevent restraint.

**Principle 8:** Schools should develop clear behaviour policies that incorporates guidance on safe appropriate, physical contact to support staff.

## Physical contact with children

Physical contact is part of a teacher's expression of care for a student. Teachers should and do respond to children and young people in a way that gives expression to an appropriate level of care. Teachers who work with younger students, for example in junior primary, are faced with different situations than teachers in upper primary and secondary schools. They are more likely to have physical contact with younger students, for example, when offering comfort, guidance and in daily aspects of their teaching. This may involve assisting students who have soiled themselves or who need help dressing or undressing at appropriate times. Such contact should be defined within a school's acceptable physical contact.

## New Zealand Legislation

### What is physical restraint?

The Act defines physical restraint as using physical force to prevent, restrict, or subdue the movement of a student's body or part of the student's body.

### Who can use physical restraint in schools?

Physical restraint can only be used by teachers or authorised staff members. Teachers are people employed in a teaching position at a school. This includes a person with a Limited Authority to Teach, and a relief teacher employed by the employer (e.g. board of trustees, sponsor or manager). All teachers are automatically authorised to act under the legislation.

### When can physical restraint be used in schools?

The Act limits the use of physical restraint by teachers or authorised staff members in schools to situations where:

- they have reasonable grounds to believe that there is a serious and imminent risk to the safety of a student or of any other person; and
- the restraint used is reasonable and proportionate in the circumstances.

### How does the legal framework for physical restraint work?

Physical restraint is regulated via a combination of the Act, the rules and statutory guidelines. It is a legal requirement for schools to:

- comply with the Act and rules
- have regard to the guidelines.

The legislation and rules set out what schools must do. The guidelines outline good practice in using physical restraint, and monitoring and reporting on the use of physical restraint. By following the Act, the rules and the guidelines when using physical restraint, a teacher or authorised staff member will minimise their risk of injuring a student or being hurt themselves, and mitigate their risk of legal liability.

### When did the legislation come into effect?

The legislation has applied since 19 May 2017.

### Seclusion

The Act bans the use of seclusion in schools and early childhood services including ngā kōhanga reo.

More information about seclusion can be found on the Ministry of Education website:

<https://education.govt.nz/school/managing-and-supporting-students/student-behaviour-help-and-guidance/seclusion/>

## **Responsibilities of Boards of Trustees Sponsors of Partnership Schools Kura Houra, Managers of Private Schools**

### **Authorising Staff members**

Boards, sponsors of partnership schools kura hourua and managers of private schools must follow the procedure for authorising staff members, who are not employed as teachers, to use restraint in accordance with Rule 5 of the Rules. The Rules are:

- An employer may authorise an employee, who is not a teacher, to use physical restraint.
- Every authorization must be in writing
- The employer must give the employee a copy of the authorization
- The employee may, by written notice to the employer, revoke an authorisation at any time.

### **Administration**

Boards, sponsors and managers should ensure that:

- school practices are clear, follow the rules, are well-documented, explained to students in an age-appropriate way, and available to all
- teachers and authorised staff who are designated to physically restrain students are suitably supported and trained for this task.
- systems are in place to support the smooth running of the school. These include keeping written records and following requirements to notify, monitor and report on the use of physical restraint.

### **School policies on physical restraint**

Each school should:

- develop policies on physical restraint that follow these guidelines and make these policies available for all students, parents and caregivers
- provide a clear complaints process for students, parents and caregivers
- review the policy as part of the school's annual review cycle.

### **Communicating with students and with the school community**

It is the school's responsibility to ensure that parents, students, school staff and the community know about the school's plans and policies for managing challenging behaviour and using physical restraint.

This includes having processes in place to inform parents when physical restraint has been used.

### **Review**

The Education Review Office may review a school's use of physical restraint, as it would any other school operation or procedure.

Released under the Official Information Act 1982

## Good practice guidance

### Student and staff wellbeing come first

These guidelines focus on staff and student safety and wellbeing. They provide staff with generic techniques for preventing and de-escalating potentially dangerous situations. Schools can request the Understanding Behaviour Responding Safely training which provides staff with further training in preventing and de-escalating behaviours (see page xxx).

## Identifying when you may need to apply physical restraint

### Use physical restraint only where safety is at a serious and imminent risk

Physical restraint is a serious intervention. The emotional and physical impact on the student being restrained and the person doing the restraining can affect the wellbeing of both the student and the staff member who applies it.

The first aim should be to avoid needing to use physical restraint. Use preventative and de-escalation techniques to reduce the risk of injury.

#### Use physical restraint only when:

The teacher or authorised staff member reasonably believes that the safety of the student or of any other person is at serious and imminent risk.

The physical restraint response must be reasonable and proportionate in the circumstances:

- Use the minimum force necessary to respond to the serious and imminent risk to safety.
- Use physical restraint only for as long as is needed to ensure the safety of everyone involved.

### What is serious and imminent risk to safety?

The physical restraint provisions are intended to deal with the upper end of the spectrum of situations where it is clear that, in these situations, the restraint is in response to an imminent risk to safety.

Teachers and authorised staff members will need to use their professional judgement to decide what constitutes “a serious and imminent risk to safety”. These situations are examples.

- A student is moving in with a weapon, or something that could be used as a weapon, and is clearly intent on using violence towards another person.
- A student is physically attacking another person, or is about to.
- A student is throwing furniture, computers, or breaking glass where there is a possibility that they or others could be injured if cut or hit.



- A student is putting themselves in danger, for example running onto a road or trying to harm themselves.

### **These examples do not pose a serious and imminent risk to safety**

Avoid using physical restraint to manage behaviour in these situations:

- to respond to behaviour that is disrupting the classroom but not putting anyone in danger of being hurt
- for refusal to comply with an adult's request
- to respond to verbal threats
- to stop a student who is trying to leave the classroom
- to stop a student leaving a school without permission (who has the developmental capacity to be safe walking on the footpath or crossing the road)
- as coercion, discipline or punishment
- to stop a student who is damaging or removing property, unless there is a risk to safety. School Trustees Association provides information for schools about property damage.

### **Acceptable Physical Contact**

Staff may need to physically support students. The following situations involving physical contact to support students happen in schools every day:

- Physical contact, such as an open hand on the arm, back or shoulders to remove a student from a situation to a safer place.
- Staff may hold the hand of a young student who is happy to have their hand held for a short time.
- Staff may need to comfort a younger child when their parent leaves, or may pick a student up to comfort them.
- Younger students, especially in their first year of school, sometimes need additional help. For example, you may "shepherd" a group of younger students from one place to another.
- Physical contact to support a student to move them to another location, or help them to get in a vehicle or use the stairs.
- The practice of harness restraint, when keeping a student and others safe in a moving vehicle, or when recommended by a physiotherapist or occupational therapist for safety or body positioning.
- Assisting a student with toileting, including changing a nappy.

## **When there is serious and imminent risk to safety use preventative and de-escalation techniques first**

Research tells us that many cases of restraint can be prevented through knowing the student, building trusting relationships and using effective de-escalation techniques.

De-escalation refers to a set of verbal and non-verbal responses which if used selectively and appropriately reduces the level of a student's anxiety or anger to prevent loss of control.

### **Preventative techniques**

#### **Understand the student**

- Get to know the student and identify potentially difficult times or situations that may be stressful or difficult for them. Analyse school reports and see if there are patterns of difficulty, such as conflict with peers at break times.
- Monitor wider classroom/playground behaviour carefully for potential areas of conflict. School-wide behavior supports offer a range of tools to support monitoring. School-wide positive behavior is a resource available to all schools.
- Identify skills that are developing for the student that might need additional support such as managing transitions. The ALSUP tool is a great resource for thinking through different scenarios where a child may need further support.  
<https://www.livesinthebalance.org/sites/default/files/ALSUP%20060417.pdf>
- Identify the student's unique personal signs of stress. These behaviour cues are important predictors for a child's loss of emotional regulation or control and allow you to intervene early. They can be characterised by:

Breathlessness

Flushing of the face,

Talking fast, excitedly or loudly

Arguing

Making noises

Rigid posture, clenching of fists and jaws

Pacing up and down

Swearing, abusive and derogatory remarks

- Behaviour cues occur on a continuum e.g. from a flushed face, to arguing, to pacing. Know the signs and intervene early.
- Teach all your children skills to keep calm. Mindfulness games and breathing exercises are a fun way to build these.

- Build calming activities into your routines e.g. reading after energetic activities. Some students are more likely to escalate if their body is not calm.
- For students that have difficulty with their emotional regulation, develop plans with them where they can practice being calm. Have places in the classroom or nearby where this can occur, and where other students know not to disturb them or will not disturb them. Trust that calm students want to return to their learning activities.

### **Build trusting relationships**

Research shows that students learn best when they experience positive relationships with their teachers.

The Ministry of Education supports the building of trusting relationships with access to the Incredible Years Teacher programme, and the Restorative Practice tools and resources kete.

The Incredible Years Teacher programme provides teachers with approaches to help turn disruptive behaviour around and create a more positive learning environment for their students. The programme is for teachers of children aged 3–8 years. The programme covers:

- building positive relationships with students
- proactively preventing behaviour problems
- using attention, encouragement and praise to turn behaviour around
- motivating students by giving them incentives
- helping students learn social skills, empathy, and problem-solving
- using appropriate consequences for undesirable behaviour.

Restorative Practice is a relational approach to school life grounded in beliefs about equality, dignity, mana and the potential of all people. The Positive Behaviour for Learning (PB4L) Restorative Practice model focuses on building and maintaining positive, respectful relationships between students and staff, and their peers. School staff are supported with best-practice tools and techniques to restore relationships when things go wrong. See here for resources: <http://pb4l.tki.org.nz/PB4L-Restorative-Practice/What-is-PB4L-Restorative-Practice>.

Restorative kete 2 contains resources that support teachers to develop effective communication skills. It focuses on listening, questioning and restorative scripts when things get tricky. See here: <http://pb4l.tki.org.nz/PB4L-Restorative-Practice/Restorative-Practice-Kete-Book-Two>

Explore additional resources on building trusting relationships on TKI “Putting student relationships first”. See here: <http://nzcurriculum.tki.org.nz/Curriculum-resources/NZC-Online-blog/Putting-student-relationships-first>

### **De-escalation techniques**

Demonstrate a supportive approach. A supportive approach includes body position – to the side, relaxed, and with limited ‘direct’ eye contact.

- Standing side on to a student vs facing front on to a student, protects your body from harm and is less intimidating to others. Relax your shoulders and stay calm by breathing slowly to calm your body. A calm body conveys reassurance to the child.
- Maintain an appropriate distance. (Not too close, but close enough to provide presence and reassurance to the student).
- Limit eye contact. Direct eye contact can be challenging and intimidating for children. Be flexible in your responses: adapt what you're doing to the demands of the situations.
- Demonstrate a verbally calm, authoritative presence. Maintain a calm voice tone (quality and pitch) and cadence (rhythm and rate). Deliver messages calmly with an even 'rate' of words.
- Maintain an appropriate voice volume i.e. be aware of loudness and intensity (e.g. not shouting or whispering). Keep the volume appropriate.
- Redirect as needed a student's focus to the desired outcome. Use the child's name "I'm here to help. When you are ready we can xxx"
- Allow venting.
- Name the emotion in a calm even voice: "You look really angry", "I can see that you are very frustrated"...
- Use the child's name to gain attention.
- Say what you want the child to do: "When you xxx, then we can xxx", "walk slowly" (vs the words "don't", "stop that" etc.)
- Wait.
- Remove the audience – ask other students to take their work and move away.

Focus on communicating respect, your desire to help, what you want the child to do versus what they are doing. Keep verbal interactions respectful. When appropriate, give the student clear choices and/or directions to help them feel more secure and regain control. **Think ahead in case the situation escalates.**

### Further escalation or intimidation

Take all threats seriously. ***Avoid physical intervention unless there is no safer alternative.***

- If escalation occurs, move further away.
- Seek assistance.
- Make sure you have an exit plan.
- Constantly reassess the situation.

### What may escalate the behaviour

- Tone of voice, arguing or interrupting.

- Not being able to stay calm and “over talking”.
- Contradicting what the student says – even if they are wrong.
- Challenging or threatening the student with a consequence.
- Trying to shame the student or showing your disrespect for the student.

## **Guidance if you have to use physical restraint**

### **What to do if prevention and de-escalation do not work**

- Physical restraint can be applied by teachers and authorised staff.
- If teachers and authorised staff members do not have the skills or confidence to safely restrain a student, call for help.
- Call the police when a student cannot be managed safely or does not calm after restraint and it continues to be unsafe for students, staff or themselves, after all alternatives have been explored.
- There may be situations when an unauthorised staff member intervenes and physically restrains a student, for example when there are no teachers or authorised staff nearby.
- Although the Education Act 1989 does not cover the intervention of an unauthorised staff member who physically restrains a student there may be other justifications for intervening available in legislation or common law that apply.

### **Do not use these restraints**

- Physical restraint that inhibits the student’s breathing, speaking or main method of communication, for example physical restraint that inhibits a student’s ability to use sign language.
- Prone (face-down) physical restraint
- Pressure points and pain holds
- Tackling, sitting, lying or kneeling on a student
- Pressure on the chest or neck
- Hyperextension (bending back) of joints
- Headlocks
- Using force to take/drag a student, who is resisting, to another location
- Restraint when moving a student from one place to another – trying to get them into a van or taxi, for example – when they are in an escalated state, as this may escalate them further.

## **Monitor wellbeing throughout when applying physical restraint**

- The physical and psychological state of the student being restrained should be continuously monitored by the person performing the restraint and other people present.
- Apply physical restraint only for the minimum time necessary and stop as soon as the danger has passed.
- Monitor the physical and psychological wellbeing of both the student and the staff member who applied the restraint for the rest of the school day. Watch for shock, possible unnoticed injury and delayed effects.

## **Good practice following an incident involving physical restraint**

### **After the event**

After an incident involving physical restraint, take these steps to ensure everyone involved stays safe, future incidents can be prevented if possible, the parents or caregivers know, and the incident is reported.

- Check the student regularly and support them as necessary
- Tell the parents or caregivers the same day the incident occurred so they can monitor the student's wellbeing at home.
- If the student attends a residential school, ensure the residential team manager is told, so the student's wellbeing can be monitored after school.
- Check with the staff member that they have support before they go home and access to services as needed. Ensure they have someone that they can talk to if they want to, a partner, a friend, a colleague. Connecting with others supports people through a crisis. Employee Assistance Programme (EAP services) can provide additional support as needed.

### **Reviewing the incident**

It is important to review situations with staff involved. Staff may be distressed by the event. They may realise that actions could have been prevented or someone was hurt. Others may be worried about the consequences, such as the needs of other children who saw the restraint, or complaints from parents or legal action.

The structured process outlined below can help provide reassurance and resolution, and allows planning for prevention and de-escalation if there is a risk of reoccurrence.

### **A team approach when reviewing allows a range of perspectives**

- Hold a review session with involved staff, the Principal or Principal's delegate, and another member of staff not involved in the physical restraint incident. Hold it within a few days of the incident. If Ministry or RTLB practitioners are part of the student's team, involve them in the review process.

- Choose someone to lead the review. The person leading the review should be someone independent of the situation, who can respond with active, empathetic listening.
- If the police were involved in the incident, invite them to participate in the review session.
- Reflect formally on why the incident occurred. Consider what might have prevented it, and what might need to change to decrease the likelihood of it happening again.
- Consider whether all preventative and de-escalation strategies were used and whether the restraint used was safe.
- Review the Individual Behaviour Plan (if there is one) and make decisions as a team about what needs to be strengthened to minimise the likelihood of a similar incident.
- Write notes on the review along with agreed, next steps or actions.

### **Reflecting prompts**

The way we reflect is important and prevents blame and other processes from preventing next steps or actions.

- Check the person/people involved and or applied the restraint is ready to review.  
 “Are you ready to talk about the incident”
- Orientate the team by focusing on the ‘lead up’ facts and patterns.  
 “Tell me what happened”  
 “What lead up to the incident, has it happened before?”  
 “What physical or verbal changes did you notice just before the escalation?”  
 “What interventions did you try to de-escalate the situation?”  
 “How could you tell things were escalating?”  
 “What worked well/what didn’t work well?”
- What can you suggest that might prevent this happening again in the future?
- What can we do to strengthen the things that worked well or improve the things that didn’t go so well?
- Do we need to agree on some actions for improvement? If so what are they?
- What help and support do you need to make these improvements?

### **Reviewing with parents or caregivers**

- Offer the parents or caregivers a separate review as soon as practically possible
- At this meeting, give them the opportunity to discuss the incident. Invite them to become active partners in exploring alternatives to restraint. If appropriate, involve the student in this review session. Write notes from the review along with next steps or actions.



## Managing complaints from parents

- It is understandable that some parents may feel upset if their child has been physically restrained. All schools will have a policy on responding to parent complaints.
- The school should also contact the local Ministry office if the complaint cannot be easily resolved. If further investigation is required then the Ministry can support the process.

## Promote the minimisation of physical restraint

The Principal or Principal's delegate should be responsible for:

- promoting the goal of minimising the use of physical restraint through a focus on alternative strategies
- ensuring appropriate training is provided that aligns with the goal of minimising physical restraint in the school
- monitoring the use of physical restraint in the school (to include gathering and analysing information, identifying trends, and checking that documentation about each incident is complete)
- collating information about physical restraint in a report and sharing data on physical restraint regularly with the Board of Trustees via the Principal's report at Board meetings. Do this in a public-excluded session
- managing any complaints and feedback

## Reporting and documenting the incident

- All incidents of physical restraint must be reported to the Ministry of Education and the employer. Complete the form attached as appendix 1 to do this.
- When you report the Ministry will contact your school to determine whether your school needs further support and what this support might look like.
- Staff must also complete a staff physical restraint incident report. You can use the form attached as appendix 2 to these guidelines, or other suitable template.
- Put the completed incident report on the student's file, and make them available to the student's teacher and parents or caregivers.

## Individual Behaviour Plan

A student who regularly presents with high-risk behavior should have an Individual Behaviour Plan.

*School-wide Tier Two Implementation Manual* (section four) provides information on how to develop an Individual Behavior Plan. See here: <http://pb4l.tki.org.nz/PB4L-School-Wide/Support-material>. RTLB and/or MOE staff can work with the student's support team to develop the plan. An effective plan occurs when everyone works together over time to reduce unsafe situations, and builds the skills of the student and the team.

The Individual Behaviour Plan should outline situations where risk occurs, the preventative and de-escalation strategies which, if successfully implemented, would prevent the need for physical restraint.

### Use of physical restraint within an Individual Behaviour Plan

Where a Ministry behaviour specialist is part of the team supporting the student, and where unsafe situations are continuing to occur frequently or are of such magnitude that physical restraint is the only option, the team will be taught how to safely restrain the student. These are likely to be situations where preventative and de-escalation strategies were not able to be implemented or have not been effective due to the child's on going level of elevation. Parents and caregivers who have to use physical restraint in the home environment may want to be part of this training.

Evidence tells us that an effective Individual Behavior Plan will build the skills of the child, support their needs and reduce the need to restrain.

### Parents or caregivers should always be a member of the team developing the plan.

- Give parents or caregivers the opportunity to help make decisions about their child and agree to the interventions that will be put in place to support them.
- Inform parents or caregivers if physical restraint is identified in the student's Individual Behaviour Plan, including how it will be applied in accordance with these guidelines.
- Provide all relevant professionals and parents or caregivers with a copy of the Individual Behaviour Plan. It should be signed off by the Principal (or Principal's delegate) and the student's parents or caregivers.

### The use of physical restraint

- The use of physical restraint should be regularly reviewed and monitored by the team supporting the student.
- Parents/caregivers should be told as soon as possible on the same day about the incident and how it was managed in accordance with the guidelines.
- If the student resides in a residential school or home, the residential team should be told so the student's wellbeing can be monitored after school.

## Adapting the Individual Behaviour Plan

- Following an incident of physical restraint hold a meeting as soon as possible. Involve the team supporting the student, including the parents or caregivers, and the residential team manager if the student is enrolled in a residential school. Use the meeting to review the Individual Behaviour Plan and the physical restraint processes followed in the incident.
- In the updated plan, identify ways to prevent the need to use physical restraint in the future.
- Incorporate in the plan the suggestions of parents or caregivers and, if appropriate, the student.
- If a behaviour specialist from the Ministry or an RTLB is supporting the team around the student, involve them in the review of the plan.
- Put all relevant documentation in the student's file, and copy it to the student's teacher and parents or caregivers.

## Training in safe responses

### For the whole school

A training package, *Understanding Behaviour – Responding Safely (UBRS)*, provides training with a focus on preventative and de-escalation techniques. It is available to all staff and can be delivered in modules. Contact your local Ministry of Education office for information about this training.

School staff should be made aware of the following:

- physical restraint should only be used in emergency situations, and only when less restrictive interventions have not ended the serious and imminent risk to the safety of the student or others.
- the forms of physical restraint that may compromise health and safety, and the serious physical risks associated with some physical restraint techniques. These include the risk of asphyxia and sudden death.

## Appendix 1: information for the Ministry of Education and the Employer – in accordance with Rule 8(1) of the Education (Physical Restraint) Rules 2017

If a student is physically restrained the incident must be reported to the Ministry of Education and the employer (board of trustees, sponsor of a partnership school kura hourua, or manager of a private school).

- Complete the form below and email it to [physical.restraint@education.govt.nz](mailto:physical.restraint@education.govt.nz).
- Provide a copy of the form to the employer. Information on physical restraint incidents should only be shared with the Board of Trustees via the Principal's report.
- Only share this information in a session that excludes the public.

### Why is the Ministry collecting this information?

The Ministry will use the information to provide appropriate support to schools and students when there are incidents of physical restraint on students.

The Ministry will also use this information to update the rules and guidelines to reflect evolving practice or address areas of concern.

### What is physical restraint?

The Act defines physical restraint as using physical force to prevent, restrict, or subdue the movement of a student's body or part of the student's body. Physical restraint is a serious intervention. The legislation limits the use of physical restraint on students to teachers or authorised staff members.

The following situations involving physical contact happen in schools every day. They are not examples of physical restraint and do not have to be reported to the Ministry:

- Temporary physical contact, such as a hand on the arm, back or shoulders to remove a student from a situation to a safer place.
- Holding a student with a disability to move them to another location, or help them to get in a vehicle or use the stairs.
- The practice of harness restraint, when keeping a student and others safe in a moving vehicle, or when recommended by a physiotherapist or occupational therapist for safety or body positioning.
- Younger students, especially in their first year of school, sometimes need additional help. For example, you may "shepherd" a group of younger children from one place to another.
- Staff may hold the hand of a young student who is happy to have their hand held for a short time.
- Staff may pick a young student up to comfort them briefly.

## Information for the Ministry of Education and the employer form

<b>Information for Ministry of Education and the Employer:</b> completed by		<b>Date of incident</b>		<b>Date of report</b>	
Name of School					
Student's National Student Number (no name)					
Date of birth	Year level	Gender M <input type="checkbox"/> F <input type="checkbox"/>			
Ethnicity					
First time the student has been physically restrained?	Yes <input type="checkbox"/> No <input type="checkbox"/>				
The student was physically restrained more than once during the day?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, how many times?				
The student has an Individual Behaviour Plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>				
Physical restraint was a part of the plan?	Yes <input type="checkbox"/> No <input type="checkbox"/>				
Were parents notified?	Yes <input type="checkbox"/> No <input type="checkbox"/>				
Was anyone injured? If yes describe	Yes <input type="checkbox"/> No <input type="checkbox"/>				
Was the staff member who applied the restraint a teacher or authorised staff member?	Yes <input type="checkbox"/> No <input type="checkbox"/> If no, provide details				
Role of staff member who applied the restraint?	<input type="checkbox"/> Teacher <input type="checkbox"/> Other If other, describe role				
Did the staff member who applied the restraint receive any training prior to the incident?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, what training?				

Why was the use of physical restraint considered necessary?	
Serious and imminent risk to the safety of the student or any other person – describe	
Any other comments	

Complete the form above and email it to the Ministry of Education at

**[physical.restraint@education.govt.nz](mailto:physical.restraint@education.govt.nz)** Provide a copy to the employer (board of trustees, sponsor of a partnership school kura hourua, or manager of a private school)

**Note:** The information in this form may be the subject of requests made under the Privacy Act 1993 and the Official Information Act 1982.

## Appendix 2: Staff Physical Restraint Incident Report form

If a student is physically restrained the incident staff must complete a *Staff Physical Restraint Incident Report*<sup>2</sup>.

- Use this form, or some other suitable template.
- The form must be completed as soon as possible.
- The incident report should be signed off by the staff involved, any staff who witnessed the incident, and the Principal or Principal's delegate.
- If the Principal applied the restraint, a delegated senior management team member should sign off the report.
- Place a copy of the *Staff Physical Restraint Incident Report* and any other relevant forms, e.g. an injury form, in the student's file. Make the copied forms available to the student's teacher/s and the student's parents or caregivers.

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<sup>2</sup> The reporting requirement is made in accordance with Rule 8(2) of the Education (Physical Restraint) Rules 2017.

## Staff physical restraint incident report form

Report completed by		Date of incident		Date of report	
Name of student					
Date of birth				Gender M <input type="checkbox"/> F <input type="checkbox"/>	
Ethnicity					
Time restraint started					
Time restraint ended					
Name/s of staff member/s administering restraint					
Trained in safe physical restraint?		Yes <input type="checkbox"/> No <input type="checkbox"/>			
Other staff /adults who witnessed					

Place where restraint occurred	
Classroom	
Corridor	
Assembly hall	
Outdoor area	
Toilet block	
Administration area	
Other (identify)	

Behaviour directed a	
Staff member – name	
Student – name	
Self	
Property – describe the serious and imminent risk to the safety of self or others	

Reason restraint was considered necessary	
Serious and imminent risk to safety – describe	
Actual injury – describe and attach injury form	

Signatures	
Principal or Principal's delegate	
Staff member involved	
Other staff (witnesses)	

Place a copy of this form on the student's file.

**Note:** The information in this form may be the subject of requests made under the Privacy Act 1993 and the Official Information Act 1982.



### Appendix 3: Sample review form for staff involved in physical restraint incident

Date of incident			
Date of debriefing		Time of debriefing	
Names of the people at the debriefing			
Findings of debriefing			
Next steps/actions			
Principal or Principal's delegate signature			

**Note:** The information in this form may be the subject of requests made under the Privacy Act 1993 and the Official Information Act 1982.

## Appendix 5: Sample physical restraint review form, for parents, caregivers or student

Date of incident		
Date of debriefing	Time of debriefing	
Names of the people at the debriefing		
Findings of debriefing		
Parent or caregiver – comments and suggestions		
Student – comments and suggestions		
Next steps/actions agreed		
Signatures		
Principal or Principal's delegate:		
Parents or caregivers:		
Student:		

**Note:** The information in this form may be the subject of requests made under the Privacy Act 1993 and the Official Information Act 1982.

Released under the Official Information Act 1982

## **Developing the guidelines: expertise from throughout the sector**

An advisory group from across the sector contributed to the development of the guidelines. We sincerely thank this group for their contribution to the development of this guideline. The group included representatives from the Special Education Principals' Association of New Zealand, New Zealand Principals' Federation, New Zealand Educational Institute Te Riu Roa, New Zealand School Trustees Association, Secondary Principals' Association of New Zealand, New Zealand Post Primary Teachers Association, Ministry of Health, High and Complex Needs Unit, the Children's Commission, New Zealand Police and the Ministry of Education.

# Refresh of 2017 Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint

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# Agenda

## Agenda

- Welcome
- Minutes from the last meeting and general update
- Scenarios activity, identifying the response (the Acts, the defence)
- Update of the guidelines (alignment with the rules), and what's changed
- Reporting requirements vs reviewing
- Additional Resources (Q n A; Scenario Resource)
- Testing understanding of the resource
- Roll out plan

# Themes from minutes of the last meeting

## ***Data***

- National data important to share and helpful for policy
- More information wanted on the type of post restraint support given to schools, and if this was helpful
- Explore ways of sharing restraint information with MOE (electronic reporting?)

## ***Compliance***

- Teachers/authorised staff confused about what is permitted. Harder to apply common sense)
- Boards and teachers fearful of the law and rules
- Variable response to legislation (restraint used?) and the rules (restraint reported?)

# Themes continued

## *Guidelines*

- Guidelines OK; Need to be clear about what is lawful/not lawful
- Opportunity to strengthen/add messaging
- Addition of Q and A's and scenarios helpful
- Addition of more primary examples needed
- Some teachers/leaders need more support on behaviour prevention and change strategies

## *Issues*

- Insufficient support for the roll out of previous guidelines
- Inadequate follow-up support post restraint
- Legislative framework and associated rules



# Scenarios

- Exercise



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# Scenarios

Anything that we have missed



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# Guidelines changes

- Provide a clearer reflection of the rules – H/O (Education Rules)
- The language has been reviewed (“too overly negative”, “jarring”)
- Provide more information on “what to do” and make clearer the role of physical contact vs physical restraint (not “common sense”; too many grey areas”)
- More information provided about what to do to prevent physical restraint
- Example policies (physical contact and physical restraint)
- Reporting requirements clarified and reflection invited

Are there supports missing?

Are there still some elements that are unclear?

## Supporting materials

- Questions and answers
- Scenarios
- Training and supports

# Testing and rollout plans



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Scenario	No contact?	Physical contact?	Physical restrain?	What would the response look like, what would you recommend?
Sweeping books off shelves, tipping water, chairs and tables, ripping displays off walls, other children's work.				
Child who likes a particular seat each day keeps pushing other children off the chair when they sit on it.				
A child won't sit at their desk and work alongside peers and is always on the move. This is discussed with the parent and the parent says she has trouble at meal times and places them in a high chair and this works. She suggests something similar at school				
Two children that mock and tease each other frequently. This can escalate quickly to punching and hitting.				
Child crawling under tables and lying with feet in the air, banging on tables, making growling noises.				
Non-verbal child keeps biting and picking at skin making it bleed, some bites severe and distressing for other children.				
When teacher requests are made the child swears and shouts at the teacher.				

Child hurts other children by pulling their hair when he is seated near them.				
Child breaks other children's equipment and pens/pencils when he gets annoyed/angry at them.				
Child spits at other children when he gets annoyed. Will also spit at the teacher.				
Child gets argumentative when playing games and shouts at other children about rule violations. She/he will hit, trip, push others who he/she sees are in the "wrong".				
Child climbing on shelving in room and sitting on top of shelving.				
Child playing outside in the sandpit and refusing to come in when asked.				
Child starts crying when parent leaves in the morning.				
Child upset and running after parent in the morning. Parent asking you to do something as they need to get to work.				
Child upset and crying and refusing to join the group.				
Child hits another student then refuses to leave the classroom to see the principal.				

Child hits another student and refuses to go to time out to calm down.				
Child in wheel chair keeps bumping other children "on purpose" with the chair, hurting children despite being told to stop.				
Non-verbal autistic child loses control outside of NZQA hall doorway. Students inside started sitting exam. Child refuses to move and keeps screaming loudly.				
Child goes to time out but refuses to stay there and continues arguing and keeps coming back to class lesson and disrupting the class.				
Child refuses to sit at desk or do any activities. Scooters around on their hands and feet disturbing other children while they work				
Limited language, Down Syndrome boy loves cars and often talks with adults in the car park about their cars. Loves to hop inside cars to see how they work. Hops in a contractors car who is visiting the school and then refuses to hop out, sitting behind the wheel.				
Child new to the school refuses to sit on the mat with others for mat time and keeps inviting children out to play with him/her.				



Child keeps sitting on top of other children refusing to get off when asked.				
Child soils themselves and refuses to leave the mat/seat/classroom. Child smells and children start commenting.				
Child wets themselves and stays seated in the puddle refusing to get up.				
Child refusing to go with parent after the school day is ended.				
Child refusing to sit on the mat stating that they want to continue reading their book.				
Child saying that they don't want to join the class to go and visit class 9.				
Child inside the class laying waste to everything, swearing and yelling and throwing pencils, scissors anything at people. I walked in and promptly had a pencil thrown at me.				
Child tried punching teacher and using school bag to swing at others including teacher.				
Child threatening other children and staff with 'weapons' (baseball bat, wooden sticks, blocks of wood etc.).				
Child banging their head on the concrete repeatedly.				

Child punching walls of classroom and screaming.				
Eight year old boy smashed windows/punched holes in the bathroom walls during outbursts.				
Larger city school a student assaulted two other students and a teacher aide.				
Parent unable to get child out of their car, child clinging to parent, returning home with child.				
Child having a tantrum when the parent leaves.				
Child out of control or throwing a tantrum.				
Child locking themselves in the classroom or other rooms.				
Student throwing digital device across a crowded classroom				
Student climbing on the roof of a classroom and refusing to come down.				
Viscously assaulting other kids during class time.				
Student howling in (medical room) leaving and then screaming, lying down, and refusing to move in corridor outside main office.				
Child running away from teacher, who is following them, throughout the school grounds.				
5 year old punches, kicks and screams.				

Child refuses to come into school, from the top of his mother's car. He has missed 15 - 20 days of school already by refusing to attend school in this way.				
Student with special needs emptying out containers of dice, pens, crayons, mobilo and other equipment around the classroom, shouting aggressively, throwing objects, including picking up a laptop, upturning desks and chairs and becoming very physically intimidating at the end of the school day.				
A 7yr old starts running up a state highway, as he wants to run home.				

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**Minutes of Physical Restraint Advisory Group****Friday, 14 September 2018, 9am – 1am****Ministry of Education, 33 Bowen St, Rm 2.04****Attendees**

Deidre Alderson (NZ Principals' Federation), Grant Burns (Area Schools Association of NZ), Doug Clarke (NZ Post Primary Teachers' Association), Judith Nel (Special Education Principals Association), Karene Biggs (SPANZ), Lorraine Kerr (NZ School Trustees Association), Tom Paekau (Te Akatea NZ Māori Principals' Association), Winnifred Morris (NZEI Te Riu Roa), Bella Ansell (Ministry of Health), Belle Tuimaseve-Fox (Office of the Children's Commissioner), Gerard Direen (Education Council of Aotearoa NZ), Tute Porter-Samuels (NZEI Te Riu Roa), Stephanie Mills (NZEI Te Riu Roa), David Wales (National Director of Learning Support), David Pluck (National Manager, IWS), Shelley Dean (Specialist Service Lead), Mary Pupich (Manager, Learning Support), Bruce Cull (Performance and Quality Lead).

<b>1 Welcome and purpose of meeting</b>	<b>David Wales</b>
<ul style="list-style-type: none"> <li>Together, discuss insights from restraint data and consider some proposed changes to the restraint guidelines.</li> <li>Timely to do so, one year on.</li> <li>Legislation and rules out of review scope. There is a clear steer from Ministers that legislation will not be revisited at this stage.</li> </ul>	

<b>2 Introductions</b>	<b>All</b>
<b>Questions and concerns raised by attendees at the start of the meeting</b>	<b>By attendees</b>
<ul style="list-style-type: none"> <li>Bigger question of how workable the guidelines are, in the context of broader concerns around the physical restraint legislation, resourcing and the reality of what schools and teachers face. (NZ Principals', Area Schools, SEPANZ, SPANZ, NZEI).</li> <li>NZEI stressed its view that the legislation is unworkable, needed review, and would continue to pursue this.</li> <li>Education Council supported the focus of the meeting.</li> <li>Ministry noted that broader concerns can be feedback to Ministers.</li> </ul>	

<b>3 What is the data telling us?</b>	<b>Shelley Dean</b>
<ul style="list-style-type: none"> <li>Ministry presented compliance information reported by schools. Caveated with 'we don't know what we don't know'.</li> </ul> <p><u>Responses from attendees:</u></p> <ul style="list-style-type: none"> <li>Would have liked data in advance to analyse (NZEI) – noted by Ministry, and this will be done for any future information.</li> </ul>	

Belief that there is under-reporting

- Belief that physical restraint numbers are likely to be four times as great (NZ Principals’).
- As not all schools are reporting, it seems likely that schools may not complying with the reporting requirements. This means the data is likely to under-reporting physical restraint.
- Schools also finding other ways of intervening that are not reported e.g parents are being asked to ‘reset’ their kids.
- Older kids are physically intervening (NZ PPTA).

It would be useful to understand the data better

- Who/what is the ‘unknown group’ in the reported data presented? (NZ Principals’, NZ PPTA)
- Who/what is the ‘other’ in the figure which describes the role of staff member who applied restraint?
- What data do we have about who did not receive follow up?
- Do we know about the number of schools where there have been complaints about the misuse of physical restraint? (NZEI)
- What is the number of schools reporting physical restraint, and what does this tell us? (NZEI)
- What does the complaints data tell us about parental concern about when schools use restraint? (NZ Principals)
- Increasingly, girls are coming in with the most severe behaviour issues but the data does not show that. Is there a gender bias in reporting or the nature of the intervention? (Ministry, NZEI)
- We need to dig into the data more, to better understand who is being restrained and to get the right responses in place. Who are these kids, and what are their needs? (Education Council)

Schools would value having compliance data

- It would be useful for schools to receive nationally collected restraint data.

Data as evidence

- Data is important to supporting resourcing decisions with Treasury, so this is a reason schools should be encouraged to support it. (NZEI)

**4 Feedback themes and proposed changes**

**Shelley Dean**

The Ministry briefly described known stakeholder concerns about:

- technical aspects of the law
- confusion about what staff members can and can't do
- language and structure of guide
- what happens with data, and
- training and support for teachers.

The Ministry asked how draft Q&As and draft scenarios could be used, how the guidelines could be changed in response to concerns, and any other necessary responses to improve their use and effectiveness. The group broke out to consider Q&As and Scenarios.

#### Responses from attendees re Q&As:

- Q&As are helpful.
- Could be placed on website rather than in guidelines.

#### Responses from attendees re scenarios:

- Scenarios are helpful. They would help staff get ahead of the situation. (Education Council)
- Suggest more primary scenarios cf secondary scenarios.
- How would the scenarios be different to those included in UBRS training materials? (NZ Principals')
- Scenarios should be part of ITEs. (NZ Principals')
- Scenario about using phone to illicitly film teacher irrelevant
- Scenarios should describe the dilemmas faced by school staff. What are those high frequency situations?
- Context is important, to help teachers make better decisions:
  - scenarios need to cover the range of contexts in schools e.g male/female, ability, cultural, primary/secondary (Ministry of Health)
  - scenarios could describe the student first (NZEI)
- Scenarios are irrelevant to Special Schools. Special Schools use a set of underpinning principals to understand their children and young people, and respond appropriately. Every child is unique.

#### Responses from attendees re guidelines:

- Content of the guidelines should be determined by the purpose of the guidelines: is the purpose to help schools understand the 'the bright line test' is for lawful action, or is it about improving practice? (NZEI)

##### Clarity in messaging

- Need to be really clear about what is lawful/what is not lawful. (SEPANZ, NZEI)
- Principals need to know how to keep staff and kids safe. (NZ Principals')
- Move the forward blurb to the back of the document. Start the document with a clear statement about what is restraint, and when it can be used. Follow this with how schools can restrain, and what to do to minimise its use. This will help busy school leaders access key messaging faster. SEPANZ's general view is that the guidelines are clear. (SEPANZ)

##### Gaps

- Guidelines need to acknowledge that the area is complex, and that responses require conversations between teachers and staff. Also, schools need clarity about what support will be provided by the Ministry. (NZEI)
- Guidelines don't refer to or take account of the "high heat" of response when staff or student safety is at serious and imminent risk. (NZ PPTA)
- Do we need to acknowledge in the guidelines that there has been a big shift in the expectations of parents and in the law towards the recognition of the rights of children? (NZEI)
- A rich cultural lens/perspective is missing in the context setting. Ideas of mana, taonga, and so on, could be introduced. (NZEI)
- Can we introduce a common language based on values and beliefs such as MoE values so that we can model of engagement to help carry and support the forum, and from which we can hang the guidelines and practice on? (Office of the Children's Commissioner)
- Where are our children and young people's voices? What are the positive outcomes for

children and their whanau when minimising or using restraint? How can we use these outcomes to support positive practice? (Office of the Children's Commissioner)

Alignment with other documents

- Bring key principles from the Code into the forward of the guidelines so that common messages are aligned. (Education Council)

What does our experience working with the guidelines tell us?

- What is actually working with the guidelines, where and why? What can this tell us about what we want to see happening? (NZEI)

Responses from attendees re reporting templates:

- Can data be inputted electronically, similar to SDS on ENROL? (NZ Principals')
- Section 3 is too wordy, and 'ego-centric' around the school (NZ Principals')
- Reporting to Boards and families important.
- Awhi is important.
- Can we reduce angst by reducing reporting where there are IEP plans with physical restraint agreed already ie we could change the rules? The Ministry to explore this point.

Ministry responses to conversation

- Ministry suggested that guidelines could be in two parts: the first part focused on what is permitted, and the second part describing a spectrum of scenarios which could aid judgement-based discussions in schools.
- There was broad support for scenarios from attendees, as well as support for a blank template which could be completed by staff to aid unpicking (potential) events and responses.
- General observation is that parents are becoming more assertive about what they will not tolerate from schools/teaching staff.

**ACTION:**

**Ministry to send out scenarios and Q&As for direct input by those who wish to**  
**Ministry to send out minutes/summary of the meeting**

<b><i>5 Broader issues that impact on the workability and effectiveness of the guidelines</i></b>	<b><i>General comment from attendees throughout the meeting</i></b>
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There is confusion about what is permitted, and the consequences for schools if they don't get it right

- There is general confusion amongst staff about what to do under the new legislation and greater clarity is needed. Te Tai Tokerau principals' experiences tabled, and other examples shared (e.g. staff uplifting children from cars, holding a child's hand to remove them, removing class where a child is out of control in the class room).
- The general view is that it is harder to apply common sense now.
- Boards are fearful of the law and rules, and these are mirrored in school responses. (NZ School Trustees)
- The roll-out of the guidelines was rapid with insufficient support. School leaders may not have read the guidelines.

Effective Ministry follow-up is required after a restraint is reported. This will help schools meet the needs of their staff and students. Effective resourcing is important to do this

- What's the point of data reporting when it isn't followed up with timely or effective Ministry support? Example given of a Ministry letter as 'response', with no actual support.
- What's the best type of follow up following an incident? (Education Council)
- Follow-up should be needs based (Ministry)
- We need to understand that there is secondary trauma when incidents happen
- We need to understand that some teachers, leaders and schools need a lot of support alongside them. (Education Council)
- It comes down to resourcing to make it work. (NZEI, SEPANZ)

Prevention is required, and understanding causation is important

- Need to address causative factors (SEPANZ)
- Disconnect between what has happened prior to restraint and the event (NZEI)



## **Feedback from the Restraint Advisory Group Meeting 14 August 2018 provided on yellow stickys and on resources– themed**

A number of changes were suggested for the guidelines to highlight key practice points, and clarify a number of areas.

- The one page "At a glance" page is excellent.
- Don't clutter the guidelines with too much information – provide links to resources.
- Guideline changes - Put all the "blurb" to the back e.g. forward etc.
- First page should clearly state what restraint looks like and whether it may be used.
- Note about definitions: Health sector uses definition of restraint in HDS standards. Personal restraint is when a staff member uses their body to restrain. Physical restraint is when staff member uses equipment or furniture to restrain.
- 'Clear guidelines on what constitutes authorised person and how do you get authorised.' 'Schools need clear advice on how to manage authorised staff members.' 'Make it clear that is an authorised person is a person is one that....(clarify)'
- Perhaps freedom for BOT's to seek permission for parents for restraint.
- Add reflections as a leader.
- Provide reflective questions for teachers.
- Reinforce what you might review later.

It was suggested that the guidelines could be strengthened with a clear set of values, cultural values and competencies expected of all teachers.

- The teacher code includes a set of values and cultural competencies that could be built on in the guidelines.
- Guidelines could be aligned to the [Code of Professional Responsibility and Standards for the Teaching Profession](#).
- Consideration of tikanga in schools, particularly rumaki/kura a iwi/kura kaupapa needs to be included.
- The environment in these spaces is a Taonga TOW, Article 2. Makes for an unsafe space when physical restraint cannot be used when these are trashed.
- Support cohesive message to teachers and leaders x community.

Is there a need to include how the Health and Safety Act relates to physical restraint?

- Explore Health and Safety repercussions and the Education Act in relation to physical restraint?
- Need behaviour identified as a hazard.

Some general comments were made in relation to other resources that could be referenced, which might be helpful in guiding changes to the guidelines, changes to practice and the support offered to schools.

- Explore how Te Pou's Resource Towards restraint-free mental health practice supporting the reduction and prevention of personal restraint in mental health inpatient settings might build on the use of physical restraint guidelines.
- ERO research division could be charged to find and report on good practice examples as either a special research project or a NET. This is a quick and effective way to support the sector.
- Question and answer sheet can be used as supplementary document – placed on web site.
- Explore the Safe Practice Effective Communication (SPEC) training programme developed by DHB's to reduce restraint and inpatient mental health units. SPEC is delivered through a 'train the trainer' model. DHBs are working in regional alliances to support the development and implementation of the programme.

Several participants wanted to explore further questions in relation to the data.

- Who is being injured? (slide page, 9)
- PowerPoint data majority of ages 5-10?
- Who are the unknowns being restrained?
- No role of SENCO mentioned in restraint data?
- Who is getting injured and how?
- A lot of physical restraints in Special Schools would not be recorded
- Data should be collected on the negative consequences of following the guidelines. e.g. the 24 Northland principals examples
- How does the use of restraint differ for schools using school wide?

Some advisory group members could not see value in the data collected

- LESS reporting.
- Just a compliance administration exercise.
- Data needs to be analysed more deeply to be useful, data is a collection point.

Some advisory members could see added value in the data collected

- The data should/could inform resourcing.
- Community of learning – sharing of information for transparency.

Follow up support following the sharing of data was questioned, and some suggestions were made about the provision of timely support.

- What is being done to support schools who are reporting?
- It seems like few schools are getting further support (385 – additional support/304 training for school)
- A follow up letter is ticking a box in terms of support!
- We need contextualised, timely, targeted response when requests
- Seek feedback on the effectiveness of support and training directly from teachers – ERO could do this.
- UBRS for all staff of all schools.

The restraint scenarios were considered helpful, and could be included in the guidelines.

- Restraint scenarios are helpful.
- Add more Primary School scenarios if indeed we have more restraint in the primary sector.
- The scenarios would probably assist some teacher to be more relaxed about when to/not to use physical contact/restraint.
- Limit key points after the scenarios to a few – add notes on use.
- Other students cannot be asked to intervene – add physically.
- Question ? about having a plan to support a new entrant to schools
- Provide scenarios where teachers/leaders are having to make a judgement call about the needs of one, balanced over needs of others in terms of physical and emotional wellbeing/safety e.g. classroom setting/learning environment/there has been an escalation over time, wet and cold outside etc.,

The questions and answers were considered helpful and very clear.

- Questions and answers – very clear
- Maybe these should be added to the website rather than the guidelines

A number of comments were made in relation to specific questions in the Question and Answers.

Question 1.

- Add The legal framework...ensure the safety? – or to ensure compliance to protect staff from legal action. Less is best. Look forward, not back in terms of this work – don't reiterate why the law was changed! Reference the "code".

Question five.

- Not and do not need highlighting. They are **NOT** examples .....and **DO NOT**

Question 6.

- Change wording unclear about employer e.g. An employer (e.g. BOT) may authorise an employee to sue physical restraint
- Situations where it **would be** (needs underlining )
- Agree totally that it is a serious and imminent risk to (don't need the repetition (Physical restraint is a serious intervention) – also occurs in question 9.

Question 11.

- Modify this and add to what support can be given – get more specific about this.

Question 16.

- May need more info re Crimes Act, and what you can and can't do.

Question 18.

- Unhelpful

Question 19.

- Focus on what can be done.

Several needs were identified around training on understanding of restraint, and further supports were suggested.

- Need ongoing training
- PPTa – Mahi Tika Aspiring Principals – supporting leaders with the act/all legislation.
- MAPA training available.
- Restraint should be in the school policy – parents agree (in agreement)
- Sharing of examples of plans.

A number of participants questioned the makeup of the current advisory group, wondering if it could be furthered strengthened with the voices from other members of the sector

- Where is alternative education input into the advisory group given they educate some of our most at risk students?
- Do RTLB have a role of input here?
- Get a teacher perspective?

Schools identified a number of staffing and learning needs in relation to the use of physical restraint in schools.

- Formalise and pay SENCO's in every school.
- More hours for beginning teachers.
- Support mentoring and coaching in schools.
- Agree insufficient preparation in teacher education and keeping yourself and others safe.
- Resources for "awhi" and monitoring
- Release time for support etc.

Some queries were made about the use of timeout and students following instructions.

- Does this mean that my school can no longer use time-out?
- The statement that a child can decide whether or not to follow a lawful instruction (see stand downs) is problematic. To de-escalate, children are often removed from the situation. If they refuse this may lead to an escalated situation. In other words children follow a lawful instruction.

This statement was made that sums up why we are working together

Kids love coming to school, they don't like the holidays, school is safe

The school can be a model to help with children

*"Otahi te kohao o te ngira e kuhuna ai te miro ma, te miro pango, te miro whero"*



EDUCATION COUNCIL  
NEW ZEALAND | Mātauranga Aotearoa

## BRIEFING NOTE: Physical Restraint in Education

<b>Date:</b>	4 May 2018	<b>Priority:</b>	Medium
<b>Approved by:</b>	Graham Stoop	<b>DDI:</b>	027 689 9039

### Purpose

1. Following public interest in cases where teachers have been disciplined for using force unreasonably or without justification, you asked the Education Council of Aotearoa New Zealand (**the Education Council**) to facilitate discussions on the use of physical restraint in education.
2. This paper provides you with an update on those discussions.

### Background

3. In 2017 there were changes to the Education Act 1989 (**the Education Act**), with accompanying guidelines, making it explicit that teachers can use physical restraint when someone's safety is at "serious and imminent risk" (section 139AC (1)(a) of the Education Act).
4. Since then we have heard from teachers and parents about how strongly they feel about the appropriate use of physical contact in education settings especially when situations involve health-related behavioural issues.

### Discussing physical restraint

5. It is clear from discussions with teachers, parents, and others involved with supporting children and young people in education, that the use of restraint is not an issue that can be considered in isolation.
6. There are three key stages that have been identified:
  - (1) Preventing the need to use physical restraint which includes understanding behaviour
  - (2) Knowing when and how to use physical restraint appropriately when it is necessary
  - (3) After restraint is used, making sure children and teachers are supported and that lessons learned can affect change.

#### EDUCATION COUNCIL OF AOTEAROA NEW ZEALAND

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## ***Prevention***

7. The reasons why teachers sometimes need to consider using restraint are fundamental to any discussion on resolving concerns about its use. We consistently heard that the use of physical restraint on learners, even for the purposes of preventing harm, is not a desirable option for anyone.
8. Both teachers and parents say schools need to work more closely with whānau to understand the needs of each learner so that appropriate responses to manage behaviour are in place when needed. More emphasis and investment is needed to support teachers to avoid the use of restraint and to better understand their learners.

## ***Knowing when and how to restrain appropriately***

9. The current guidelines have widespread support from parent and teacher groups we spoke with. However, teachers have asked for clarification in the guidelines to support decision making and action when physical restraint is required.
10. Consistent with the Education Council's submission opposing the proposal in the Supplementary Order Paper that resulted in s 139AC,<sup>1</sup> those proposing the repeal of that section say it is necessary because it conflicts with defences available under other legislation including the Crimes Act 1961. This has created confusion and angst in the profession, leading to teachers walking away from situations because they are not confident to use restraint because they fear punitive action.
11. For example, even where there is a clear serious and imminent danger of harm, such as a child running onto a busy road, some teachers said they would be worried about restraining the child. There has also been concern expressed about whether a teacher would be acting lawfully to prevent harm, such as by stepping in to prevent a fight between students.
12. The point made is that at the moment in time when a child or young person may be putting themselves or others at risk in some way, teachers need clarity around what they can do.

## ***After physical restraint is used***

13. Although concern has been expressed about the arduous reporting requirements if restraint is used, it is acknowledged that data can be used to identify and target support. We have heard that this will only be effective if the right data is collected and interpreted in the right way.
14. Continuous improvement should also be part of the training and support package to support schools, learner and communities.

## ***Key themes***

15. Key themes from the discussions on restraint are attached at appendix B. The discussions facilitated by the Education Council were:

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<sup>1</sup> The relevant part of the Education Council's submission dated 30 January 2018 is appended to this briefing.

Forum	Stakeholders involved
Blog "Fact Check"	Readers were invited to share their thoughts on restraint directly through an email address.
Workshop	<ul style="list-style-type: none"> <li>• 9(2)(a) Principal Welcome Bay School</li> <li>• 9(2)(a) Executive Officer New Zealand Principals' Federation</li> <li>• 9(2)(a) President New Zealand School Trustees Association</li> <li>• 9(2)(a) Manager Kimi Ora School</li> <li>• Mark Potter, Principal Berhampore School and NZEI representative</li> <li>• Tom Haig, Deputy Secretary General PPTA</li> <li>• 9(2)(a) Executive Member New Zealand Secondary Principals' Council</li> <li>• 9(2)(a) Board Member Autism New Zealand</li> <li>• 9(2)(a) National Policy Coordinator CCS Disability Action</li> <li>• 9(2)(a) Executive New Zealand Normal and Model Schools</li> <li>• 9(2)(a) Member Te Akatea - Māori Principals' Association</li> <li>• 9(2)(a) Principal Avalon School</li> <li>• Ministry of Education policy and legal teams</li> <li>• Ministry of Education psychologist</li> <li>• 9(2)(a) parent of a child who has been restrained</li> </ul>
Parent focus group	We brought together three parents to share their experiences of restraint. This included one parent whose experience had instigated the change to legislation.
Panel podcast	<p>Tom Haig, Deputy Secretary General PPTA</p> <p>Mark Potter, principal Berhampore School and NZEI representative</p> <p>Mandy Coupe, professional manager Kindergarten Taranaki</p> <p>Heather Henare, Chief Executive Skylight Trust</p> <p>(Special Education Principals' Association was unable to attend)</p>

16. The podcast will be released on Friday 4 May on the Education Council website and promoted on our website and through social media. The purpose of the podcast is to encourage engagement of the profession and communities in a public forum. Interested parties can also email us directly with their thoughts and comments.

17. We have also approached the Children's Commissioner to hear his views.

### Summary

18. Although these discussions about physical restraint in education were initiated following concerns raised about whether the law was achieving the right balance, the issues are more complex, and the solution multifaceted.

19. While there is some support for a change to the law, a legislative change on its own will be ineffective in reducing a need for teachers to use physical restraint. It will also not adequately reduce the confusion teachers and staff are experiencing.

20. For change to be impactful, we have heard that the guidelines need to be aligned with other relevant legislation and provide specific guidance on what teachers can do, with an increased investment in training and support.
21. Underpinning this must be a strong partnership and agreement between teachers, other experts, whānau and communities.

**Next steps**

22. As the Ministry of Education (the Ministry) is the agency responsible for the Education Act and accompanying guidelines, and for providing much of the support currently available to schools, we suggest the next step is to discuss matters with the Ministry.



## Appendix A

Extract from *Education Council Submission on the Supplementary Order Paper 250 regarding seclusion and restraint – Education (Update) Amendment Bill 30 January 2017*

## Physical Restraint

## Limits on the use of physical restraint (section 139AC)

We do not agree there should be additional provisions placed in primary legislation to set out the circumstances where teachers or other educational staff members can justifiably use physical restraint on a student. We consider the existing legal and regulatory provisions are sufficient to protect the rights, health and safety of students and others, and provide adequate protection for teachers to use physical restraint in specified circumstances. Instead, we consider best practice guidelines to be a much more appropriate lever to achieve consistent best practice.

## Definition

We have serious concerns that proposed definition of physical restraint<sup>2</sup> is too broad and the threshold for using physical restraint is too high. We consider that this proposed amendment may lead to a raft of unintended consequences through misinterpretation or misunderstanding, whereby teachers fear that cannot have any physical contact with children and young people in the course of their valid professional role. Likewise, it may result in a wave of complaints against teachers who may have used physical contact in reasonable circumstances, but where the high threshold of the safety of someone being at serious or imminent risk is not met. A spike of unwarranted complaints would undermine confidence in the profession.

There are numerous situations where it may be entirely appropriate for a teacher to use “*physical force to prevent, restrict or subdue the movement of a student’s body or part of their body*” and where the safety of someone is not at *serious and imminent risk*. Examples include:

“We have serious concerns that proposed definition of physical restraint is too broad and the threshold for using physical restraint is too high.”

<sup>2</sup> “**Physically restrain**, in relation to a student, means to use physical force to prevent, restrict, or subdue the movement of the student’s body or part of the students body”

“We have particular concerns that the proposed wording of the legislation does not take into account best practice for working with children and students with disabilities, where holding or using physical contact (which may involve “restricting or subduing the movement of a student’s body or part of their body”) is often necessary and appropriate.”

- Physically escorting using physical contact to gently assist or prompt a child or student in performing a task or move them from one area to another
- Gently holding the hand of a young student to provide comfort
- Picking up or holding a child or young student to comfort them
- Holding a child or student with disabilities to move them to another area or help them get into a vehicle
- Guiding or ushering a child or young student who is engaged in disruptive behaviour (such as throwing water or paint) away to another area
- Briefly holding (without undue force) a very young child or a child or student with cognitive or developmental disorders in order to calm them
- Using calming techniques which involve physical contact such as “deep touch pressure techniques” for students with autistic spectrum disorders
- Physically moving students from one another to break up a minor altercation where they are not responding to verbal instructions to desist from fighting, but where the safety of the students or others is not deemed to be at “serious or imminent risk” (e.g. where they are pulling each other’s hair or are pushing at each other in a non-harmful way)
- Lifting a young child or student into a car restraint or placing them in a wheelchair, push chair or high-chair
- Holding or supporting a young child or student with disabilities in order to perform or assist them with personal care tasks, such as toileting, changing diapers or bathing.

We have particular concerns that the proposed wording of the legislation does not take into account best practice for working with children and students with disabilities, where holding or using physical contact (which may involve “restricting or subduing the movement of a student’s body or part of their body”) is often necessary and appropriate. Indeed, the recent Ministry of Education publication *Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint* (p.3) refers to examples which they state are not physical restraint, but which could arguably still meet the definition in the proposed Bill.

This adds further weight to our recommendation that policy on the use of physical restraint is best addressed in best practice guidelines where the complexity of the issues, and the range of circumstances where physical restraint can be reasonably used, can be more fully explained.

#### **Existing provisions against inappropriate or excessive use of force**

We consider the current legal and regulatory provisions, definitions and interpretations which prohibit the use of inappropriate or excessive force are sufficient to protect the rights of children and young people and are already well understood. Again, we disagree there needs to be new legislation specific to the education sector. Current provisions against the excessive use of force already exist, and include:

Crimes Act 1961. Section 62: Excess use of force: Everyone authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act that constitutes the excess.

“There are already legal and professional consequences if a student is harmed or physical force is used inappropriately.”

Crimes Act 1961. Section 194: Assault on a child: Everyone is liable to imprisonment for a term not exceeding 2 years who (a) assaults<sup>3</sup> any child under the age of 14 years; or (b) being a male, assaults any female.

Crimes Act 1961. Section 196. Common assault: Everyone is liable to imprisonment for a term not exceeding 1 years who assaults any other person

The Education Act 1989, Section 139A: This essentially banned the corporal punishment and prohibits the use of force “by way of correction or punishment towards any student or child”.

Rule 9 of the Education Council Rules 2016: These rules set out the criteria for reporting serious misconduct of teachers. This includes (a) the physical abuse of a child or young person, (c) the psychological abuse of a child or young person, (f) ill treatment of any child or young person in the teacher’s care.

There are already legal and professional consequences if a student is harmed or physical force is used inappropriately. They could be charged with assault under the Crimes Act and the incident could be investigated by the New Zealand Teachers Disciplinary Tribunal which has the powers to cancel, or suspend a teacher’s registration and practicing certificate, impose fines and impose conditions.

There are likely to also be employment consequences for a person who is found to have acted inappropriately or illegally.

#### **Existing legal provisions which set out the justifiable use of force**

We consider the existing legal provisions which set out the circumstances where people *can use* physical force protect them or other people from harm are sufficient, and that specific legislation for the education sector in this regard is unnecessary.

Provisions in The Crimes Act 1961 which allow justifiable force to be used are set out in sections 41<sup>4</sup>, 42<sup>5</sup>, 43<sup>6</sup>, and 48<sup>7</sup>.

Furthermore, the proposed amendments would actually establish a higher legal threshold for teachers and authorised persons for the circumstances when they can use physical force than exists for the general public as set out in sections 42, 43 and 48 of the Crimes Act. We see this as unhelpful and unnecessary. It also actually does the opposite of what this legislation was intending in part to address, that is, to remove the risk of legal liability for school personnel who use physical restraint.

3 The Crimes Act, Section 2(1) interpretation: “assault” means the act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe on reasonable grounds that he or she has, present ability to effect his or her purpose; and “to assault” has a corresponding meaning.

4 Section 41: For the prevention of suicide

5 Section 42: “Preventing breach of the peace: Everyone who witnesses a breach of the peace is justified in interfering to prevent its continuance or renewal, and may detain any person committing it in order to give him or her into the custody of a constable...provided that the person interfering shall use no more force than is reasonably necessary for preventing the continuance or renewal of the breach of peace, or than is reasonably proportionate to the danger to be apprehended from its continuance or renewal.”

6 Section 43: “Suppression of riot: Everyone is justified in using such force as is necessary to suppress a riot, if the force used is not disproportionate to the danger to be apprehended from the continuance of the riot”.

7 Section 48: Self-defence and defence of another: Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he or she believes them to be, it is reasonable to use.

“As the professional body for teachers, we consider it important that all teachers are held to the same high standard of conduct, whether they are employed by at a state school, partnership school or an independent (private) school.”

“We consider guidelines to be a much more appropriate tool to set out the expectations and to achieve consistent practice on this complex matter, than primary legislation.”

#### **Private schools are excluded from this proposed provision**

Notwithstanding our strong recommendation that the proposed amendments do not include physical restraint, if the decision is made to include it, it should apply in all early childhood education centres and schools, including private and partnership schools. As currently drafted, private schools are excluded.

We understand this is consistent with Section 139AAA Surrender and Retention of Property, but we see no valid reason why private schools should be exempt. As the professional body for teachers, we consider it important that all teachers are held to the same high standard of conduct, whether they are employed at a state school, partnership school or an independent (private) school. Likewise it is important that our legislation entitles all New Zealand children and young people to be safe and receive a high quality education, including the right to be free from assault or from arbitrary detention.

#### **Guidelines on Physical Restraint (proposed Section 139AE)**

We support this proposed section which places into legislation the requirement for the Secretary of Education to issue guidance on the use of physical restraint and that boards, principals and teachers must have regard to the guidelines.

We consider guidelines to be a much more appropriate tool to set out the expectations and to achieve consistent practice on this complex matter, than primary legislation.

We note that, as currently drafted, private schools are excluded from this clause. As stated previously, we have major concerns about this exclusion and strongly recommend s139AE is amended to include private schools. We know of no good reason why private schools should be exempt from applying best practice on this issue.

We welcome the recent guidance issued by the Ministry of Education *Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint*. We are also pleased to see that the Ministry of Education is supporting this guideline with the professional development workshops to teachers on responding to challenging behaviour. We do have some suggestions on ways to strengthen the guideline, in order to remove any ambiguity about the circumstances where physical restraint can be used. We will be raising this with the Ministry of Education separately from this submission.

#### **Early childhood education sector**

We note that the proposals on physical restraint are for the schooling sector only and exclude the early childhood education sector. The Ministry of Education's regulatory impact statement on this proposal suggests making consequential amendments for similar provisions for early childhood education services and ngā kōhanga reo through the Education (Early Childhood) Regulations 2008 and the Education (Playgroups) Regulations 2008. We welcome any opportunity to be involved in these discussions and the drafting of any regulation and guidance for this sector.

## Appendix B

### Key feedback themes from restraint discussions

Area	Feedback
1. The legislation	<p>There are discrepancies about what is in the Education Act and what is in other law (including the Crimes Act) creates confusion. This lack of clarity is making teachers and staff nervous to take action – it creates paralysis which can create significant risk for children and young people.</p> <p>Other jurisdictions similar to New Zealand have quite a different framework for the use of physical restraint. New Zealand has gone further with explicit limits on teachers. While this may not be wrong, the absence of sufficient discussion prior to the legislative change has led to inconsistencies.</p> <p>The law needs to make the issue less complicated, not more. It is ambiguous. It was intended to provide an “authorising environment” to enable teachers to use restraint but it has created angst because teachers and staff are unsure when they are subject to the Education Act and the Crimes Act for example. The law change seems to protect the legislators but not those out in the field.</p> <p>Any legislative change (or repeal) must come with a sufficient and useful support package (guidelines, training and support), and currently it is not quite there.</p> <p>Some parents have said the legislation is fine and the issue is with implementation, training and support.</p>
2. The guidelines	<p>The guidelines are helpful and the strategies for de-escalation and minimisation of risk are its strengths. However, for the use of restraint, they focus on what a person should not do but provide insufficient guidance on what a person can do if restraint is a necessary option of last resort. Positive guidance on appropriate physical contact will give teachers and staff greater confidence in managing complex behaviour, for example when there is violence or threat of violence towards people or property.</p> <p>A stronger child or young person’s voice, sector specific guidance and cultural specific violence can strengthen the guidelines.</p> <p>The guidelines rely on other legislation which means there are grey areas such as injury or likely injury to animals in the school or classroom, or spitting.</p> <p>The guidelines need to recognise the Code of Professional Responsibility and the Standards for the Teaching Profession</p>

	<p>because they set out the expectations of behaviours and practice in teaching.</p>
3. Reporting	<p>Agencies need to be careful when establishing reporting requirements. Teachers and staff say the reporting forms and process make reporting onerous.</p> <p>Reporting only has value if there is follow-up to resolve the issues the reporting exposes. There needs to be a clear strategy (what is being done with the data and why) and the value of it needs to be explicit to everyone.</p> <p>We need to improve the understanding of what the data means rather than making assumptions about it. Some of the reporting has led to people questioning the practice of some teachers rather than looking at what is behind the need to restrain (for example, high restraint numbers among younger children is actually expected because of behaviours and required care of younger children rather than necessarily poor teacher performance).</p> <p>Parents and communities need to be able to trust that information held about their child is safe and is treated sensitively.</p> <p>Some parents have said reporting is a huge asset and that some schools are concerned because it will highlight that children with special needs are being restrained the most and therefore schools are not appropriately responding to health-related behavioural needs. Reporting, done right, has its place in understanding issues and targeting resource, and in being transparent. But the right data must be collected, the process not arduous, and the data interpreted appropriately.</p>
4. Training and support	<p>Training and support is critical for successful implementation and outcomes. The current resources are inadequate and investment is needed. Current training is variable and often does not add value. Not everyone or every scenario is the same and so the training needs to be tailored – currently resources are being wasted. One size does not fit all particularly as some schools need more detail and structure than others because of background of children and young people they enrol.</p> <p>Best practice sharing is essential – resources and scenarios are needed to model this practice. Good training and support can help minimise reporting requirements because teachers and staff are better equipped to manage behaviours.</p> <p>Good training is about care, not compliance. It tells the story simply to remove confusion and is collaborative with a student and parent voice. It is not about blame but it needs a robust framework to operate from whether its legal or guidance, and</p>

	<p>it should be about practice and treatment rather than about policy and procedure.</p> <p>We need to be clear about who is responsible for professional development and consider if it should be mandatory in this area. Some parents have suggested a national programme should be rolled out.</p> <p>Beginning teachers need to be better prepared.</p>
5. Engagement	<p>Some parents have said that schools are not being honest about the use of restraint and this is what is making it hard for parents to engage. Instead they are having to fight the system rather than working together.</p> <p>Schools agree it is important to work together – teachers, school, child, parent, community, education and health professionals. A child does not come into education alone. There is a collective responsibility by everyone to be open and honest and have a plan to understand and best support each child and young person. It is also important there is a seamless transition of the child and knowledge between each sector – from early childhood into primary into secondary schooling.</p> <p>Child-centred decisions need everyone involved.</p> <p>Schools need strong engagement within their own school environment to talk about what they already do, what works and what needs to change.</p> <p>The system is massively devolved and principals and boards are on their own.</p>
6. Societal issues	<p>There are broader societal issues impacting on teachers doing their job. Are teachers also social workers and police officers?</p> <p>There are more extreme behaviours being exhibited by children and young people, and society's expectations are that every school will fix every problem as well as teach students. It is incredibly complex. Teachers are asking how much training they are expected to undertake to stay on top of these problems which often sit outside of their skill set and role.</p>





MINISTRY OF EDUCATION  
*le Tāhuhu o te Māhūmāhū*

## Managing Extreme Behaviour in Schools



### **About the Author**

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ISBN: 0-478-13020-1

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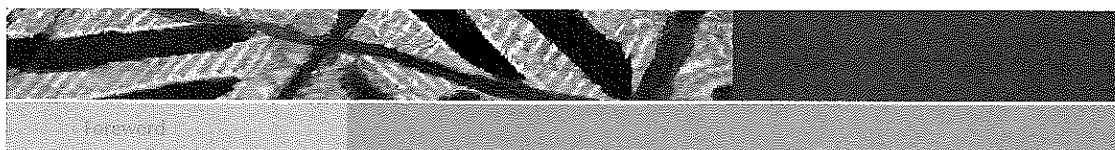
Revised November 1999

Revised July 2005

Written by Ingrid Dunckley  
for the Ministry of Education

## Table of Contents

Foreword	2
Introduction	3
School and Classroom Policies	5
Values, Ethics and the Law	12
Preventing Extreme Behaviour	17
Common Responses to Extreme Behaviour	26
Safety Plans for Students	37
Long term Behaviour Change	50
Bibliography	55
Additional Resource Materials	56
Ministry of Education, Special Education (GSE) Offices	57



## Foreword

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Better supporting teachers and parents to manage children and young people with extreme behaviour needs is a priority for the Ministry of Education, and I'm pleased to introduce this updated resource as a reflection of our commitment.

It provides a systematic approach to the management of extreme behaviour in schools. As well as advocating the use of individual management plans, the book provides practical guidance that will help schools become physically and emotionally safer environments.

Primarily this booklet is a resource for classroom teachers, but it will also provide parents with a range of useful information.

I urge you to read it and to use and adapt the strategies and ideas described. They will help you support student education achievement, and create long term behaviour change.

The latest research evidence tells us effective teaching is the largest influence within the education system on education outcomes. Fostering better student engagement in learning and developing mutually respectful relationships are core components of an effective teaching process.

Effective teaching relies on a strong knowledge base and expertise, and on the ability to foster positive relationships within the classroom with students and their parents, families and whānau.

We do need to work together to support students with severe behaviour needs, reading and using the strategies outlined in this resource will provide us all with a good first step in that journey.

Barbara Disley

GROUP MANAGER

Ministry of Education, Special Education

## Introduction

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Students with extreme behaviour difficulties can pose major problems for schools. These behaviours interfere with the functioning of class and school programmes, affect the wellbeing of the student and others, and make excessive demands on staff and resources. Sometimes people and property are damaged and the students themselves cause considerable concern for their families and communities.

Extreme behaviour happens when students engage in acting out behaviour. This may include hitting, biting, kicking and hair pulling. Objects may be used as weapons. The behaviour can be accompanied by threats, crying, yelling, screaming or swearing. The student's response to teacher reprimands may include an escalation of the acting out behaviour.

It is very difficult for teachers to deal with extreme behaviour in classrooms. Teachers facing these problems need support from others. By working together, teachers help keep themselves and their students safe and will not feel it is their problem alone.

Teachers generally have a range of strategies for the day-to-day management of their classes in ways that stress positive relationships, develop self-esteem in their pupils and provide clear guidelines on expectations. There is also a variety of school-wide initiatives such as EV (Eliminating Violence) Anti-bullying and Assertive Discipline programmes. These are important because, for example, high rates of bullying in a school are often a precursor to violence and would therefore indicate that there is an immediate need for a school-wide approach to deal with this problem.

School staff dealing with incidences of extreme behaviour can respond in a variety of ways. Sometimes the responses are not effective and problems get worse. Teachers need to use techniques for preventing and defusing violent situations. Principals have a role to ensure that staff are trained and able to support each other and to problem-solve situations where students and teachers are in danger.

This book is a practical guide for teachers on how to respond during times of extreme behaviour. More importantly, it aims to prevent incidents.

The techniques outlined do not replace detailed assessments, individual programming or specialist support and intervention. Extreme behaviour indicates extreme problems, and extreme problems need to be comprehensively dealt with in order to achieve long term behaviour change.

- *A student broke his construction so he punched him to the ground and kicked him in the stomach. He then started swearing at me. I took him out of the room. He was screaming and swearing. He broke two panes of glass. He threw blocks at the other students, hurting three of them. He hit my feet with the same blocks. He is a danger to others and himself.*
- *She has tantrums which are brought on by the slightest frustration such as not having her demands responded to immediately. She stomps, bangs her fists against the wall, has kicked and hit teachers and other students, and emits verbal abuse including swearing of some dimensions.*
- *He returned again but this time entered the classroom, jumping over the desk and grabbing one of the other boys by the throat with both hands and attempting to strangle him.*

## School and Classroom Policies

Schools need written policies that outline behaviour expectations and include guidelines for preventing and responding to extreme behaviour. Boards of trustees have a responsibility to provide safe physical and emotional environments for students (National Administration Guidelines 5.2) and to be a good employer (State Sector Act). Policies that have been developed by boards with staff, family, whānau and community input protect both students and staff. They provide a framework for action and accountability. Good policies, consistently applied, give communities confidence that schools are safe for students.

There are ethical and legal issues surrounding the use of negative responses that schools may currently use such as timeout and physical restraint, both of which have led to formal complaints against teachers and schools.

Schools are likely to achieve more effective results when they use positive strategies and work together with parents, caregivers, families and whānau to develop policies and mutual goals.

### School Policies

School policies guide teachers in the preparation of classroom behaviour plans and management strategies for individual students. Policies provide the boundaries for the adults. These are vital when staff are faced with young people behaving in out-of-control and extreme ways.

School policies could include:

- a statement about students' rights
- recognition of cultural issues relevant to the community
- school rules. All students need to know what is expected of them. These need to be clearly specified so they can be responded to in a consistent manner
- guidelines for the involvement of families
- positive procedures for the management of extreme behaviour

- guidelines for preparation of Safety Plans, including appropriate interventions
- strategies that are unacceptable (strategies can be unacceptable because they are illegal or because they do not fit within the ethos of the school and community)
- guidelines for the use of any form of timeout from the class, if it has been endorsed by the school and community. The conditions for timeout need to be clearly spelled out for staff, students and their families
- guidelines for imposition of suspension and expulsion (in accordance with the Education Act 1989)
- guidelines for the use of physical restraint. This is an action of last resort during serious incidents, and care needs to be taken with the specification for its use
- support services both from within the school and outside of the school.

Schools need to have in place a procedure for dealing with a crisis. It is recommended a team is trained and available to respond when required, such as when a teacher is dealing with a serious incident in the playground. Schools should also ensure they have a method for signalling a member of the team. One system is to have a coloured card, which a teacher gives to a student who takes it to the office. Other schools have more immediate systems such as a telephone or alarm system.

### **Classroom Behaviour Management Plans**

Classroom behaviour management plans comply with school policies and guidelines. They are the responsibility of a class teacher and may be written in consultation with the students. It is also helpful to work together with parents, caregivers, families and whānau, in the preparation of the plans, as this is likely to ensure wider support.

A classroom behaviour management plan may include:

- rules, positives and consequences
- classroom routines for promoting classroom organisation and cooperative behaviour
- strategies for teaching social and cooperative behaviour
- strategies for teaching rules and routines
- strategies for dealing with severe behaviour.

Teachers usually have a list of rules on display in the classroom, but sometimes these are vague and difficult to respond to. For example:

*Stand tall, Make good choices, Consider others than yourself, Look after equipment, Be nice to others, and Listen to the teacher.*

How can we be sure a child is listening to the teacher, or being nice, or making good choices?

We need to be more specific than that, for example:

*Do what the teacher tells you.*

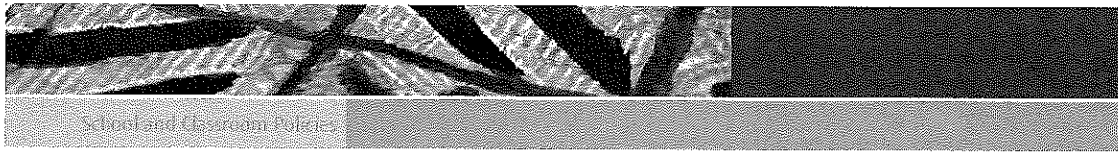
If rules are vague and unable to be followed through, then teachers tend to respond inconsistently and students become confused about what is expected of them.

It is helpful for a teacher to distinguish between rules and routines for they need to be written in a way so that every child and adult understands them and also understands the associated consequences.

Rules need to be:

- clearly specified
- functional and achievable
- able to be followed through.





By being followed through consistently children learn that:

- appropriate behaviour (academic and social) results in positive consequences
- inappropriate behaviour leads to the absence or withdrawal of positive consequences.

By responding consistently, a teacher increases predictability in children's lives and helps in their learning of social and cooperative behaviour.

Classroom Behaviour Management Plan	
Class Rules	Positives
<i>We follow teacher direction</i>	<i>Individual:</i> praise, positive points on group chart, name on board, certificate, choosing activity <i>Class awards:</i> shared lunch, ice block, game outside, pizza party
<i>We keep our hands and feet to ourselves and don't hit or annoy others</i>	
<i>We try to finish our work</i>	Consequences
<i>We do not swear or use put-downs to other students</i>	Warning, Non availability of points for chart, apology, finish work in own time, 5 minutes compliance training or practice of routines.

Routines provide guidance for how people should go about their daily work. Teachers establish routines for things like coming into and leaving the room, sitting on the mat, stopping when the teacher claps his/her hands, getting started on written activities and following teacher directions.

When delivering instructions, teachers ensure they have student attention. The strong relationship between effective teaching practices such as these and student behaviour is well documented.

Teachers promote cooperative behaviour in their classrooms by teaching both routines and rules with their classes. These have to be established immediately from the first day, otherwise it gets more difficult later. They may need to be rehearsed and reviewed with individuals or groups when necessary.

Rules that are broken can be practised by simulating situations involving them, providing practise, followed by debriefing. Teachers also use whole class activities as a means for promoting cooperation. For example, Brain Gym, DEX (Daily Exercises for School), or games such as Simon Says.

#### Mat Manners (Routines)

Sit on your bottom with a nice straight back  
Put up your hand if you wish to speak  
Don't have anything in your hands unless it's for news

#### Classroom Expectations (Routines)

In our classroom we try to look after each other and our environment.  
This means:  
We keep our classroom tidy and clean  
We help those who are doing something wrong to be good  
We help others when they need it  
We listen quietly when someone is talking in class

### Individual Behaviour Plan

A student who persistently exhibits severe behaviour and who has not responded to a class behaviour management system, requires an Individual Behaviour Plan for long term behaviour change. These are like Individual Education Plans (IEPs) and are written in consultation with the team working with the student including parents, caregivers, families and whānau, teachers, and an RTLB (Resource Teacher: Learning and Behaviour) or a behaviour specialist from the Ministry of Education, Special Education (GSE).

The plan is based on a careful and comprehensive assessment and analysis of the behaviour, and other relevant information. Intervention strategies are in accordance with the research literature and with assessment information. Individual Behaviour Plans need to comply with school policies in order to be safe for teachers and students.

### Safety Plans

This is an action plan for responding to incidents of extreme behaviour. Safety Plans ensure that everyone, including the student, knows what will happen if incidents occur. In addition, these plans include ways that prevent incidents happening in the first place or will at least reduce the impact of them when they do. Safety Plans can be developed and implemented quickly in order to assist with immediate situations and are also included as part of an Individual Behaviour Plan. Behaviour specialists follow Ministry of Education policy with the development of these plans.

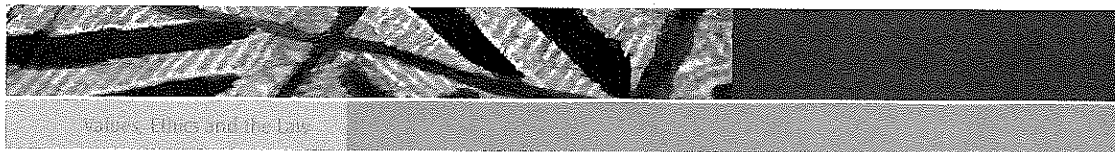
Parents, caregivers, family and whānau are encouraged to participate in the planning process. They need to know how their child's behaviour, is going to be managed at school. Collaboration and cooperation between teachers and parents demonstrate to the young person that there is consistency and support across the home and school situations.

A Safety Plan may include the following:

- information about the behaviour of concern including under what circumstances it is more likely and less likely to occur
- preventative strategies to avoid an incident arising in the first place
- strategies and script for defusing incidents
- script and plan for dealing with incidents.

#### Have a plan. Know what to do

- *Todd wouldn't play with a ball because he didn't get the partner he wanted. We had to restrain him. J crying because he trod on her hand. Had to carry him to classroom. He really went off. Both of us bruised. Teacher in tears. Tape deck broken. Crayons spread everywhere. I desperately needed a cup of tea so took him with me. He wouldn't settle and threw things. I spent an awful night worrying. I'm very bruised and my hand is sprained.*
- *Two students were having a friendly argument over something. Jo who was not at all involved, suddenly jumped up and punched one of the students in the stomach. She refused to leave the room. I finally got her outside the door. She yelled and swore "you f-n bitch" and ran away.*



## Values, Ethics and the Law

*Behaviour is not either desirable or undesirable. Rather than being a dichotomy, desirability can be measured on a continuum and behaviour has degrees of desirability. The same holds for many other adjectives, such as "appropriate" or "acceptable".*

LA VIGNA & DONNELLAN, 1997 P2.

There is no fixed way of judging the appropriateness or acceptability of any behaviour, apart from where the behaviour is in breach of the Crimes Act, or other legislation. There are many standards by which behaviour may be judged and these will vary greatly between age groups, cultures, families, schools and other groupings of people.

Behaviour change can be brought about in a number of ways. Each procedure has values attached to it, associated ethical considerations and must operate within specific cultural context and legal frameworks.

In the past it was believed that the punitive measures such as corporal punishment and exclusion were essential tools for behaviour change. These and other aversive methods are not necessary and have a dehumanising effect on staff and students.

In contrast there are many strategies which will bring about behaviour change in a less intrusive way. For example, students do respond to carefully managed systems of positive incentives for desired behaviour. In addition, in the short term, extreme behaviour may be able to be managed through supportive statements and other non-punitive verbal strategies that assist the student to calm down. Strategies enabling students to learn more acceptable behaviours can also be effective. Positive methods are almost invariably more acceptable to staff and families. Where they are less acceptable there may already be too much reliance on punishment and control.

The key to the use of less intrusive strategies is to always remember that the short-term goal is to manage the extreme behaviour so that no one gets hurt. Short-term management must not contribute to the escalation of out-of-control behaviours. Negative comments and reprimands during the crisis will probably result in escalation.

It is important to avoid actions that are likely to be emotionally or physically distressing to a student. These actions are aversive and can place both students and staff at risk:

- shutting students into rooms where they can't get out
- confining students to chairs including wheelchairs to restrict movement
- using force to drag or pull students to make them go some place else
- restraining students in ways that are dehumanising and unsafe, for example, sitting on students
- pouring cold water over students
- hitting, slapping, shaking
- verbally abusing.

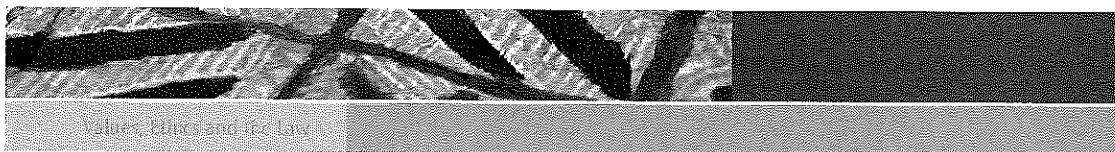
Behaviour results in consequences, which may be positive or negative. For example, the consequence of learning a new skill may be the pleasure enjoyed by being able to participate in a new activity with others. This is a positive consequence to increase behaviour. A negative consequence occurs, for example, when a child has destroyed a toy and then does not have use of it after it has been destroyed. Consequences, as well as occurring naturally, can be linked to specific behaviours and used effectively by teachers. For example, sports, games, swimming, free reading time and computer games can be awarded as rewards or as positive reinforcement. Alternatively, if used as a negative consequence or a sanction, then the reward is not given.

**Positive consequence (positive reinforcement):**

*If you play without hurting anyone you will be able to take the ball outside at lunchtime.*

**Negative consequence (or consequence to reduce behaviour):**

*If you act silly and hurt someone you will not be able to use the ball at lunchtime.*



Consequences can be incorporated into an Individual Behaviour Plan to reduce a target behaviour. They may include things like not getting points, staying for a few minutes to practise a desired behaviour, writing a statement about what rule should have been followed, or not receiving access to a reward activity. Some schools have a system of community service. Note the mildness of the consequences. They are not intended to punish students. Consequences are something the student doesn't like but are more of a nuisance value to the student and more importantly they let him or her know that every time certain behaviour occurs, you are going to follow through. It is not the severity of the consequence that is important, it is the consistency. This process lessens the chance of a negative behaviour occurring again, especially when combined with a positive consequence that reinforces the desired behaviour. Students are more likely to accept consequences as fair and just if they know about them beforehand and know they are going to be followed through in a consistent manner by the teacher.

Consequences to reduce behaviour should always be paired with positive use of incentives to promote or teach acceptable behaviour so that a student is motivated by incentive.

More severe consequences, such as removal of the student from class or the use of physical intervention in order to protect others from harm may be needed occasionally to prevent people being hurt. It is important to remember that students may become more aggressive if restrained and that people may be hurt. Staff involved in physical restraint can also be vulnerable to allegations of assault or indecency.

Use of physical intervention is therefore a last resort to manage an immediately dangerous situation. It can only be used to prevent hurt or damage, and only be used for the time it takes the student to calm down. It needs to be used with great care in accordance with school and Ministry of Education policies, which should specify the circumstances when physical intervention may be used. It should not be used to punish or to force a student to go to the principal's office.

While the removal of a student from the presence of others may be necessary, if the student is not responsive then it is easier to ask the other students to leave. It is safer to bring support staff to the student than to take the student elsewhere.

The cultural values of students can easily be violated. These violations may lead to more aggression on the part of the student. For example, for some the touching of the head can be interpreted to be challenging rather than supporting.

When working with Māori students, staff should take into account their physical, mental, social, emotional and spiritual values, all essential to that student's wellbeing. Some of the terminology used by Māori in this context includes: mana, whakama and wairuatanga. This cultural understanding is very important. Always remember that the issue is to restore calm and order, never to punish.

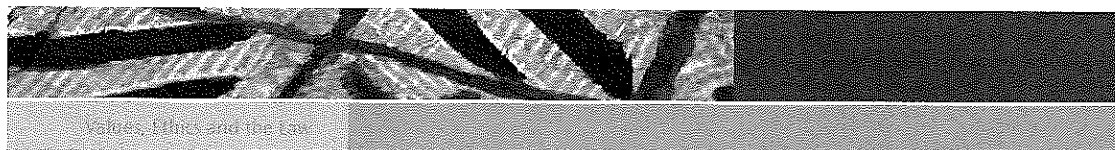
Establishing a rapport with the family requires an understanding of whānau. This is the concept of relating to the child in the context wider than the immediate family.

It recognises the significant role of extended family and the child's place within their extended family.

Whakama is a state of mind that may affect both positive and negative behaviour. Students' reactions can be seen to be arrogant or withdrawn when they may actually be distressed. Whakama can also affect interaction with families because of different understandings of problems. An understanding of whakama will help the whānau to keep mana intact.

Wairuatanga is the basis of spirituality for Māori people. Karakia, an integral part of wairuatanga, is the visible expression of that. Each home visit or meeting may include karakia, which can be performed personally or shared. It can provide a beginning and an end for the focus of the meeting.





Teachers have a responsibility to know how to handle difficult behaviour safely. They should work within their levels of competence and seek further training and guidance if necessary. This includes extending the understanding of cultures other than their own and using this knowledge to prevent incidents, defuse potentially violent situations and deal with behaviour without causing unnecessary distress and loss of mana to the student and their whānau.

Teachers must also understand and recognise the rights of young people in relation to natural justice, legal and human rights, and incorporate safe practices in the management of difficult behaviour situations.

- *Guides to the ethical obligations of teachers can be found in the Teachers Registration Board Leaflet 5 (A Satisfactory Teacher) and the New Zealand Educational Institute Code of Ethics.*
- *The legal obligations of early childhood centres and schools are in Section 139a of the Education Act 1989 and its Amendments, the Human Rights Act 1994 and the New Zealand Bill of Rights 1990. The regulations that accompany the Education Act are the National Education Guidelines. These include the National Education Goals, the National Curriculum Statements and the National Administration Guidelines. In addition New Zealand is a signatory to the United Nations Convention on the Rights of the Child (UNCROC).*

## Preventing Extreme Behaviour

### An ounce of prevention is worth a pound of cure

Extreme behaviours significantly and seriously disrupt the functioning and wellbeing of the student. Extreme behaviours cause major disruption and danger or harm to others.

Students develop extreme behaviours for a variety of reasons.

The behaviours may be associated with trauma caused by physical, sexual or emotional abuse, severe family stress, illness or other issues occurring at home, school or in the community. It is possible for the effects of trauma to remain long after events have occurred. Extreme behaviour can also be related to developmental factors.

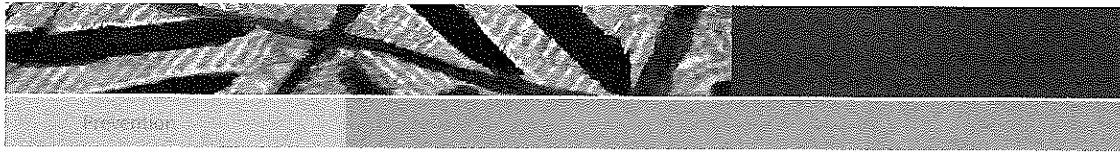
Students may not have learnt to deal with frustration that arises when things don't go their way or others upset them. Aggressive reactions to frustration can become persistent if the aggression achieves what is wanted. Where this happens the behaviour has been reinforced and thus becomes learnt. There is little motivation to change when extreme behaviour produces desired outcomes.

Behaviour has a function for the individual. When students have limited means for verbal communication they may learn to express themselves through extreme behaviours. They may be expressing needs and feelings, for example, boredom, frustration or hunger. It is easy to misinterpret these communication attempts. Careful observations will help identify the function the behaviour serves.

We do not have control over all factors influencing behaviour but there are many that affect learning over which we do have an influence.

For example, we can change the way in which we respond and this can make a difference. We can also assist students to learn to cope during times of upset and frustration.

Some students have had difficulty learning, or have not been taught social and cooperative behaviour. Often these students behave in generally non-compliant ways across settings and experience difficulty with things like sharing, turn-taking, and following the rules of games. More significantly they have not been taught to follow directions.



Many of the issues outlined here would be addressed within assessment-based intervention for long term behaviour change. For example, communication and social skill training could be included in the goals of an Individual Behaviour Plan. Where a student is engaging in extreme behaviour a Safety Plan can be implemented immediately.

It is far easier to prevent extreme behaviour or to defuse situations that may lead to extreme behaviour than to intervene further down the track.

Prevention strategies involve planned changes that lessen the likelihood of extreme behaviour developing. These include:

- having policies and practices that promote non-violence, mutual respect and respect for property
- providing interesting programmes that are achievable. Students who experience success are less likely to engage in negative behaviour
- giving praise and positive reinforcement for effort and for completion of tasks and activities
- providing stable predictable environments with familiar routines, rules and consistent limits. Students benefit by knowing what is acceptable behaviour, what is required and what will happen if transgressions occur. Rules are displayed, explained and reviewed
- creating positive environments. Creating situations where students will value praise and comments
- teaching that reinforces acceptable behaviour and doesn't assume that this will be learned incidentally. For example, teach students to put their hands up to gain attention and praise and respond to them when they do. Practise where necessary
- defusing incidents through positive comments. Friendly positive direction will encourage cooperation (for example, *"When you have removed your hat you can come and join us"*). Give choices. Choices reduce the likelihood of outright refusal (for example, *"You can do this now or at lunchtime"*)

- being aware of events that may be stressful for students and teachers. These situations cannot always be avoided, but careful management can reduce the risk of extreme behaviour
- avoiding situations known to lead to extreme behaviour for individual students. Know the circumstances under which certain behaviour is likely to occur and make changes accordingly
- intervening early, and not ignoring behaviours that are likely to become extreme.

Students whose behaviour provides ongoing difficulties can best be helped if staff work together to share ideas and support each other.

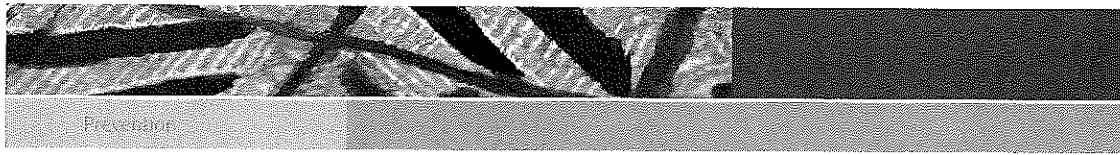
Teachers must not be left on their own to deal with extreme behaviour. If they are expected to simply cope, they become isolated and increase the risk of major difficulties such as severe stress or allegations of assault.

We cannot make young people behave themselves.

Students cannot be punished into good behaviour.

A planned team approach is far more likely to succeed and is more likely to be within the boundaries of safe practice. A team approach benefits students, teachers, family, whānau and the school.

- *I took her by the wrist. She used her feet to break all the constructions and as I removed her she kicked down chairs, tables and used her other arm to sweep everything off the tables. She then kicked me several times on the shins, stamped on my foot and tried to bite me. I moved her towards the door and she picked up children's shoes and threw them knocking a light. She threw blocks, shoes and other objects at the children.*
- *When I said he hadn't done his spelling he hit me and kept launching himself on me. Also hit other kids. I took him out and he ran away. I caught him and he kicked me. I took his shoes off and he kicked me again. Very vicious fight with him laughing and saying, "ha ha" and spitting in my face all the time. Head-butted me when I tried to restrain him.*



### Classroom Checklist

#### Tasks

1. The teacher uses positive statements and gives clear directions.
2. Students know what is expected of them.
3. Students have the equipment they need to participate in the classroom programme.
4. Achievable tasks and incentives enable students to experience success.
5. There are clear routines operating around classroom processes and organisation.
6. The rules are understood and consistently followed through.
7. There are choices and consequences and these are known by the students.
8. The teacher is consistent and fair.
9. The teacher knows how to deal with non-compliance in ways that will defuse incidents.

### Crisis Behaviour Development Model

#### Anxiety

Although it may seem that behaviour occurs *out of the blue*, this is not usually the case. The thing that triggers it off is not necessarily the cause. Those in a stressed state or those in a stressful situation may have a *shorter* fuse and therefore react more immediately to something than would normally be the case.

Anxiety may be associated with feelings of worry, frustration, anger, distress, sadness and fear. These feelings may not be obvious to another person and can be misinterpreted. An example of this is when a student refuses to apologise. This is seen as an act of defiance, when it may actually be an indication of embarrassment and distress. Other examples include students smiling or laughing when being reprimanded.

Cultural, as well as individual, differences influence the way anxiety is shown. Students get anxious about different things and some get more anxious than others. Some students don't even show they are in an anxious state. Teachers need to get to know all their students and observe and note their moods. Those with high levels of anxiety are most likely to react to things that happen at school. If students have not learnt to react in acceptable ways seemingly small incidents can escalate out of control.

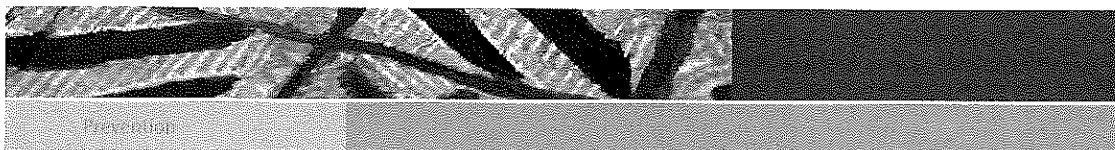
The following behaviours may indicate high anxiety:

- increase in movement and noise
- talking faster and louder
- non-compliance
- head down, quiet and overly compliant
- social withdrawal and avoidance of eye contact
- inappropriate smiling and laughter
- not concentrating.

Staff and parents or caregivers can prevent and avoid situations known to cause anxiety. They can also provide communication between home and school so people can be warned when a student is in an anxious state. There is a staff responsibility at these times, to be more watchful and supportive of students and to help them feel more secure.

This can mean being on hand to intervene if necessary.

- *Ella arrived at school with a face like thunder. Within a few minutes she was involved in a fight with another student. Later when talking to Ella's mother, the teacher discovered that Ella's father had gone away on business and this had been known to cause problems previously. It was decided to give Ella a calendar with a picture of Dad pasted onto the day on which he was coming home and to incorporate relevant discussion into her daily programme.*



### Agitation

Students who are anxious may become agitated under certain conditions, leading to increases in movement and verbalisation, and to less rational behaviour. Agitation is more difficult to manage and may escalate into aggression.

All sorts of things set young people off in this way, for example, losing a toy or object, being told to take their jacket off, being beaten to the front of the line or being teased. Some of the precipitators may seem small and inconsequential. However, it is important to remember that the student is already in an anxious state. By getting to know a student well it is possible to gauge what is more likely to trigger anxious and agitated behaviour.

Factors that may trigger anxious and agitated behaviour, in addition to the ones above, include:

- changes in routine. These can include sports days, end of year activities, class outings and teacher absence
- illness, discomfort, pain, anger, lack of sleep, sensory difficulties
- difficulty understanding instructions and/or tasks
- fear and embarrassment, which can be caused by incidents including being reprimanded in front of others.

The anxious/agitated state is critical because staff actions will either accelerate or defuse the situation.

Students should not become more aggressive as a result of staff intervention. The goal for staff is always to defuse. Effective management requires the adult to remain calm and to set limits. The important thing for staff to remember is firstly to defuse the situation, and sort out the issues later. If a person is unable to do this, the behaviour could escalate into a more serious incident.

Students in an agitated state require guidance and direction to increase their sense of security. Use verbal intervention to defuse the situation, calmly telling the student what to do. Where possible and appropriate, give the student a choice, then some time to respond. The student makes their choice, then after an appropriate time, the teacher follows through with consequences. If the student is disruptive and not responding to verbal intervention escort them from the room in accordance with school policy until they have calmed down.

- *Wiri started pacing up and down the corridor outside the principal's office. He was talking loudly, saying repeatedly that he was going to ring his mother. He was thumping the walls,*

### Acting out

Although acting out behaviour often follows anxiety and agitation, it can also occur with little or no warning. Acting out students are aggressive and are dangerous to themselves and others.

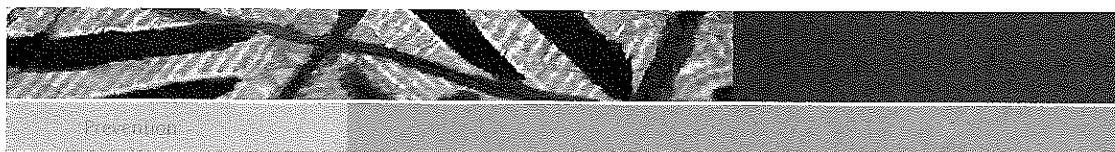
In these situations when the student is out-of-control, the teacher's first priority is to assist the student to regain control. Safety comes first and the goal is to defuse the situation. Where there is already a Safety Plan or Individual Behaviour Plan, staff will know what to do. It is helpful if there is an actual script outlining a step by step process for staff to follow.

Where there is no existing plan, staff members will need to follow the school policy.

Where the aggressive act has been completed and it is unlikely that further aggression will follow, there is no need to physically intervene. Certainly the matter still needs to be dealt with, for example, the victim attended to, and consequences for the perpetrator.

Where the perpetrator is in a highly anxious or agitated state, have another staff member attend to the victim and get the perpetrator to sit quietly until they are calm enough to talk about what has happened. When they do talk it is important to be non-judgemental and not to lecture. Remind the student of the rules and follow through with consequences.





## Prevention

If the behaviour continues to be threatening and disruptive, isolate the student from the others. Ask for their co-operation in doing this: *"Come outside until things have settled."* Ideally the student will readily come outside. To achieve this, prior practise will be helpful.

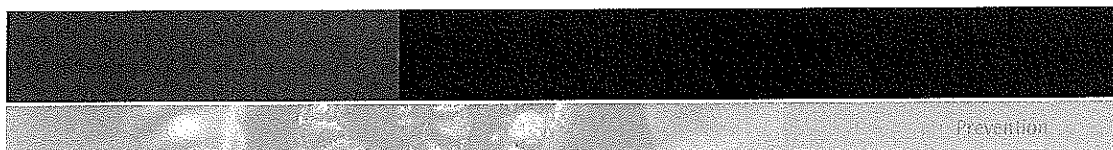
The purpose is to assist rather than to punish the student. Irrational and abusive language from the student should not be taken personally. If they are being physically aggressive then it may be necessary to restrain them in accordance with safe practice.

Where patterns of student aggression are shown, preliminary actions can be taken. For example, if a student is known to kick others then all children could have their shoes off inside. If a student scratches, ensure fingernails are cut short. Objects lying around the place that may be used as something to throw, can be put away. Also avoid overcrowding a student who might lash out and bite. It is amazing how many people get hurt simply because they're too close to a student. The objective with safety precautions is prevention. Prevention is physically and emotionally easier on everyone.

Avoid practices that are emotionally or physically harmful to students. These practices are likely to increase extreme reactions and are not helpful. Non-aversive interventions that aim to teach positive behaviours, combined with planned incentives, will always be more effective.

For advice and training on safe escorting and restraint contact your local Ministry of Education, Special Education office. They may be able to run a course such as Non-violent Crisis Intervention, or at least provide guidance for individuals.

- *He chased another pupil into the classroom, threw furniture around the room and had to be restrained by a teacher until I arrived. He attempted to punch and kick and abuse all those around him.*

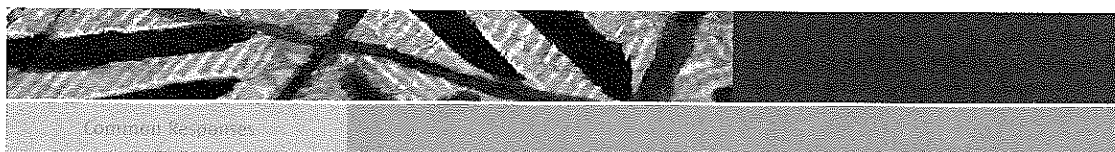


Prevention

### After an incident

The teacher sits down and talks therapeutically with the student. This provides an opportunity for the student to give their version of events. It may not be the correct one but the teacher needs to listen in a non threatening, matter-of-fact manner. Don't engage in argument. The teacher reminds the student of the rule and consequence and assists in planning an alternative procedure for next time.

Summary	
Behaviour	Strategy
Anxiety	Be supportive - give clear simple directions.
Agitation	Stay calm, set limits, do not overwhelm the student.
Acting out	Stay calm, protect victims, set limits, and seek help. Isolate the student either by removing them or removing other students. Use Easy Change or other practiced procedure. Restrain only if necessary to avoid people being hurt.
After an incident	Attend to victims. Listen to the perpetrator. Remind them of the rules. Follow through with consequences. Debrief the incident with other staff and plan for the management of future incidents.



## Common Responses to Extreme Behaviour

It can be difficult and frustrating to respond to acting out behaviour. Sometimes no matter what a teacher does the behaviour seems to get worse. Teachers not knowing what to do can become more punitive towards the student, increasing the severity of the consequences. Where there has been no forward planning, consequences are often reactive and may include physical coercion, verbal chastisement, unnecessarily severe deprivations and long periods of isolation for the student. These are unsafe or unnecessary practices for both staff and student.

Teachers sometimes use a range of responses within a short period of time. This is confusing for a student with behaviour difficulties and it is not likely to result in positive change.

Effective interventions are likely to have been planned, implemented early and will follow a sequence, starting with the least intrusive.

### Verbal Interventions

The difference between the success and failure of a verbal intervention can often be found in the way teachers speak to students. Authoritarian approaches encourage opposition and defiance. Tactics such as lecturing, arguing, counselling, threatening and answering back do not defuse heated situations.

Staying calm and providing the student with the opportunity to move out of the situation with dignity is important. The student may or may not take this opportunity. However, if they do, the immediate and most important objective of managing and defusing the situation will have been achieved.

It is important for the teacher not to force an issue in front of the class. If the student is no longer disruptive the incident can be followed up later.

Setting limits is about providing clear boundaries for the student to respond and consistently enforcing consequences. It is a step-by-step procedure aimed at helping a student to feel more secure and regain control.

For some students, teachers may use visual strategies, including cue cards, to increase their understanding.

#### Practical Tips for Dealing with Disruptions

Keep it simple. Watch body language and body space. The aim is to defuse the situation and prevent a serious outburst. When approaching the student, stand in a non threatening way slightly to the side and with hands at the side or in front. Avoid invading the person's personal space. Try to use verbal methods to gain compliance and give clear and simple directions.

#### Setting Limits

Gain attention by saying the student's name

*Ben.*

Wait for him to look at you and praise

*Good.*

Give direction, stating which behaviour is unacceptable

*Ben, you are upsetting Robbie.*

Focus on what you want the student to do

*I want you to return to your desk and finish your writing.*

If the student responds then praise

*That's good Ben.*

If the student doesn't respond, give a reasonable choice or consequences.

Say what will happen if they do not follow the instruction. Remember

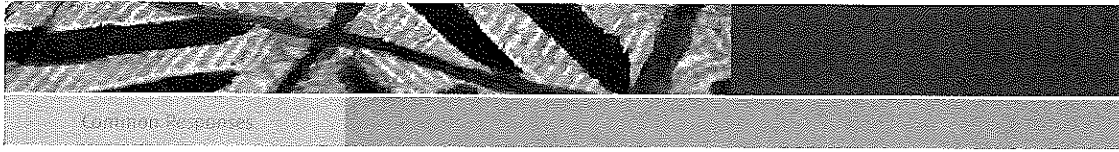
the student may be in a high anxiety state and therefore less rational.

Do not engage in argument.

*Ben, you either do your writing now or at lunchtime.*

Add an additional incentive

*If you do it now you will get your point and then you will be able to have a choosing time.*



Give time. This is important. As long as the student is not disruptive then you can leave them to make their choice. If the student does not choose the original instruction then ensure you follow through.

*All right Ben, you have made your choice, you will not get your point and you will do your work at lunchtime.*

If the student becomes more agitated, stay in control. People can become irrational and say things they don't really mean. Don't take it personally. It might be difficult to do this but it's best to deal with it later. The current task is to assist the student to regain control. Use an understanding, reasonable approach, set limits and be prepared to enforce them.

If the student continues to be disruptive you will need to go to the next step on your plan. For example, it may be necessary to isolate Ben from the other children.

*Ben, go to the library corner and I will be there in a minute.*

**Tip:** It is best to have it worked out beforehand what you are going to say. Have a script.

If aggression is developing, escort the student from the room. There needs to be a planned procedure for this in order to avoid further disruption. For example, the first strategy is to ask the student to leave, if necessary escort them out, or fetch another person to assist the student from the room. If the procedure has been previously practised and established there is rarely a problem.

The point at which the student is out of the room and the disruption and aggression has stopped, the incident is over. There is no more danger at this time and the objectives of situational management and defusing have been achieved.

When the student is out of the room, sit down and let him or her talk. Don't react too much to what is being said. Help the student to settle and then let them return to class. The issues of consequences and acceptable behaviour can come later.

**High probability response**

One way to increase cooperation is by using a high probability instruction or something the student is likely to follow. Some people may see this as rewarding the student but remember that at this stage the objective is to defuse the situation by diverting their attention or by providing them with a face-saving way to extricate themselves from a developing situation.

**Higher probability (High P)**

*Let's go for a walk round the playground.*

*Will you go and get the swimming key for me?*

*Read in the library corner for a few minutes.*

**Lower probability (Low P)**

*We are going to the principal's office.*

*Come while I ring your parents.*

*Increase motivation by providing an incentive:*

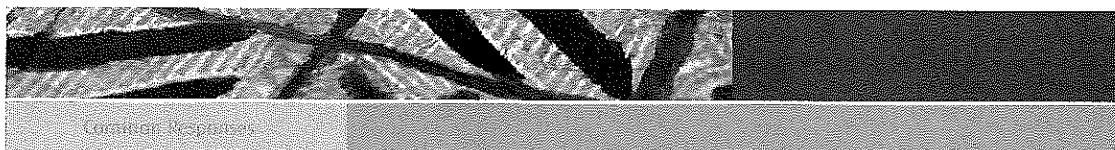
*When we have done our walk we can come back inside.*

*If you go to the library corner quietly I won't have to send for the principal.*

If a student has not learnt instructional control then this needs to form part of the assessment information and be incorporated in the individual behaviour plan.

**Mini-timeout**

Mini-timeout is a planned procedure where a student removes him or herself to a specified space nearby for a brief period of time, usually less than a minute. Students choose to use Mini-timeout. The motivation for students to use Mini-timeout is that it gives them the opportunity to shift out of a developing situation with minimal fuss and then be able to return to the group within a short period of time and without a more severe consequence being implemented.



Mini-timeout needs to be implemented in the early stages of uncooperative behaviour, before students become aggressive. It is more effective when it has been planned, discussed and practised with the student prior to a demand being made. With prior discussion and planning, students know what to do and they also know that there will be no more serious consequences.

### Seek Assistance from Other Staff Members

Teachers need to know how and when to seek assistance from other staff. It is important to have a clear understanding of the role of the support person, who will likely be a senior staff member. Is it to take over the situation or is it to support the teacher who called for assistance? By seeing another teacher there, the student may understand that the situation has become serious and be more likely to comply with requests and instructions. However, it is also possible that the presence of another teacher might cause the student's behaviour to escalate so be prepared and know what you are going to do.

Working in partnership the two teachers can set limits, with one person giving the directions and the other acting in a supportive role, concentrating on managing and defusing the situation and thus protecting other students and adults.

If the student is still non-compliant and disruptive it may be necessary to isolate them either by escorting them from the room, according to a pre-rehearsed procedure, or by sending other students away.

### Ignoring

- *I decided to ignore everything that he did but that only made him worse.*

Ignoring is not an appropriate response for extreme behaviour. Where there is the possibility of people getting hurt or of property being damaged, teachers have a responsibility to intervene. All teachers ignore some disruptive behaviour and this may be appropriate where the disruption is minor and when the student involved actually responds and stops.

Some people ignore behaviour because they don't know what else to do. They may be tentative around the student and anxious about how the student will react if they intervene. Ignoring sends out confused messages to both perpetrators and other students. For example, if extreme behaviour is ignored for some students and not for others then there will be confusion about what is and what isn't acceptable. Also, for some students ignoring may actually lead to a decline in behaviour and will set up the possibility that it will become even more extreme and dangerous.

### Reasoning

- *I tried to reason with her and get her to talk but she became more aggressive.*

Acting out students are in a highly emotional state and are unlikely to be able to discuss their behaviour in a rational way. It is not appropriate to try to reason or talk the student out of their state. The time for reasoning and rational discussion will come later at the point where the student is able to discuss what happened, the consequences of their actions and how they can prevent the extreme behaviour from happening again.

### Reprimands

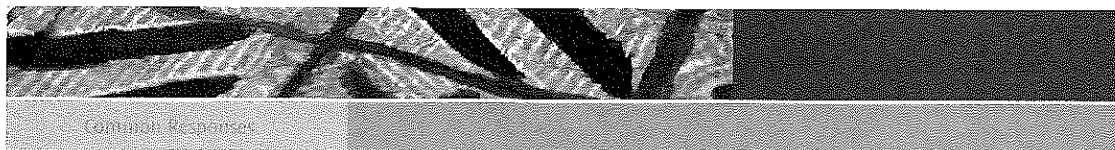
- *No matter how much I told him off he wouldn't stop.*

It is not appropriate to lecture or continuously reprimand. Don't engage in verbal battles or conversation. Don't argue. This is because the student will be in a less rational state of mind and so unlikely to react positively. Do speak calmly, give clear directions and be supportive. Always remember that the objective is to manage and defuse the situation.

### Sarcasm and Public Humiliation

- *Following an incident the student was made to sit in the middle of the classroom and each member of the class walked past and said aloud what they didn't like about the student.*





Sarcasm and public humiliation are not appropriate for behaviour management. Schools are required to provide emotionally and physically safe environments for all students. This includes students who behave in extreme ways. Sarcasm and public humiliation are in breach of these requirements.

Students who are humiliated in front of others may feel that they have nothing more to lose and their out-of-control behaviour may escalate. In addition, it is likely that they, and the other students who hear the sarcasm and public humiliation, will learn these techniques and use them on more vulnerable students.

### **Send Out of the Room**

- *I sent him outside. He kept banging on the doors and windows.*

Students who are excluded from the classroom and left on their own can use this as an opportunity to continue the disruption. For example, excluded or isolated students may pull faces through a glass door or window, bang on the door, call out or disrupt other classes. Sending students out of the classroom is a form of timeout and must be used with care. Use Mini-timeout or Easy Change (see below).

### **Easy Change**

This is a planned alternative activity in which students can be motivated to walk unassisted (but accompanied) from a room to engage in an alternative previously practised activity which has a calming effect so that the student can return to class in a short time and with minimum fuss.

The alternative activity may include something like a power walk around the netball court, or a ball catching activity.

### Advantages

- it is inclusive in that it involves regular activities that other children engage in
- it helps the student to calm down
- it increases compliance under difficult conditions
- the teacher is still in charge
- it involves teaching and reinforcing appropriate behaviour
- it teaches self-control.

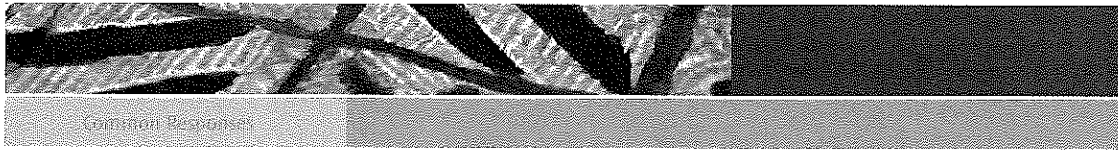
Here is an example of an Easy Change procedure developed for Caleb. The task was to immediately redirect him away from the trouble spot to something he liked doing and so help him calm down. The teacher aide took a ball outside and had catches, counting each throw until they reached 10. If Caleb was calm the teacher would then ask if he was ready to go back inside. As this routine became established, the ball catches were deleted and Caleb was able to count by himself slowly to 10.

Students comply with Easy Change because they:

- know what will happen and are therefore less likely to increase anxiety
- know that if they go quickly and quietly they will be able to return to class and the teacher won't, for example, send for the principal
- have practised the procedure and it comes easily to them.

### Timeout Room

- *Amy had a tantrum and was dragged by two staff to her specially prepared timeout room. Her screaming could be heard throughout the school. This is happening more than once a day and so far her behaviour has not improved.*



Timeout is when a student is removed from other students for a specified period of time. Sometimes special timeout rooms are used. Timeout is often misused and misunderstood.

Timeout rooms should not be used. They are not necessary and can result in teachers and schools being accused of using inhumane and cruel punishments.

A major disadvantage of timeout is that it does not teach the student alternative appropriate behaviours. Use Mini-timeout or Easy Change.

#### **Withdrawal of Privileges, Desired Activities or Points Earned**

- *You will lose all your points for this week.*

Points systems are based on accumulations for good behaviour rather than on deficits. For points systems to be effective the points have to be valued by students. If the points are not valued there is no incentive and they will not work. A loss of points may erode their value to students. The more they lose, the less they mean.

In addition, it does not pay to spring unpleasant surprises on students who are already behaving in extreme or potentially extreme ways.

The sudden threat of losing points may precipitate further loss of control and the onset of aggressive, violent behaviour. The student may perceive they have nothing left to lose.

If loss of points is included within the management plan for the student then ensure that the student is aware that this loss will be a consequence for extreme behaviour. Better still have a system of positive reinforcement operating where the student earns points for good behaviour.

### Informing Parents/Caregivers

- I received a visit from a parent who said the teacher rings her each time her child misbehaves at school. The parent wonders why the school can't control her son. She said, "When I hear he has got into trouble at school, I just crack him and send him to his room. He gets a hell of a hiding. I'll punish him but why can't you sort him out?"*

Parents, caregivers, family and whānau need to be involved in what is happening with their children at school but it is best if they are involved, working together with the team rather than only being called during a crisis. They also need to hear the positive things as well as being informed of problems. There can be risks for students when parents/caregivers are informed of out-of-control behaviour. These include physical and emotional punishment and a loss of faith in both the school and the teacher. Where students are physically punished there is a need to be aware of the issues surrounding abuse. If abuse is suspected then teachers need to follow the school policy and protocol for the reporting of that abuse.

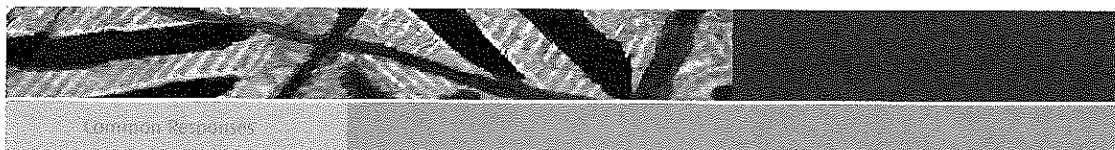
Informing parents and families is most successful when they are invited to collaborate with the school in developing ways of preventing acting out behaviour. The partnership between the school, family and whānau may ensure that consistent management strategies can be used in both settings.

### Restraint

- I restrained him, holding each wrist hoping to stop his anger and calm him down. He kicked me. I forcibly took him out to the corridor but he continued screaming and kicking.*

If the need for restraint arises, because people are being hurt, then follow the Safety Plan for that person. Restraint should not be used if there is any doubt about the teacher's physical ability to safely restrain the student. Where there is doubt, do the best to make the environment safe and seek further help. This may require calling the police.

Staff should avoid getting too close to a student who is in an angry state. It is easy to get involved unnecessarily.



Any use of restraint must conform to school and national policy. Staff need to be trained in safe methods but, more importantly, they need to be trained in alternative, less aversive and more effective strategies.

For advice contact your local Ministry of Education, Special Education (GSE) office listed at the back of this booklet.

### **Informal Suspension (Kiwi Suspension)**

- *The parents were asked by the school to keep their child at home for a few days. When they took him back they were advised to take him to another school. The principal said that this would be better than having to suspend him indefinitely. They took him away but found that no other school would take him.*

Kiwi suspensions deprive students of their right to an education and are illegal under the Education Act 1989. They happen when schools send students home during school time without following the suspension regulations. Schools are not entitled to do this; parents often do not know what their rights are in this situation or they may feel embarrassed and vulnerable because of the behaviour of the student and will not be able to either ask about the rights of their child, or to stand up for those rights.

Involve parents, family and whānau and the student concerned to work together in a collaborative plan for their child so that everyone knows the outcomes of incidents of severe behaviour.

Safety Plans are for students who have a history of behaviour that threatens the safety and wellbeing of themselves and others.

Safety Plans are written documents that outline procedures to be followed when a student, who is out-of-control, engages in behaviours such as outbursts of swearing, physical aggression against people or property, and/or self-injurious actions. Safety Plans include both preventative strategies and procedures for managing out-of-control behaviour. The objectives of the Safety Plan are prevention, defusion and management.

## Safety Plans for Students

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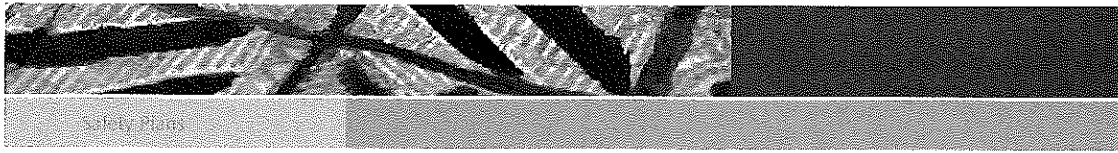
### Preparation of Safety Plans

Safety Plans are collaborative documents. They are the result of partnerships between families, whānau, teachers, other school staff, Resource Teachers: Learning and Behaviour (RTLBs) and GSE Psychologists or Behaviour Specialists. The participation of parents or caregivers is critical. Parents who are involved will know what the Safety Plan is, they will understand the need for it and what is trying to be achieved, and it is likely that they will be supportive of it. If this is the case, the principles and procedures are also more likely to be used both at home and at school, because everyone understands and agrees with them.

A Safety Plan is not a behaviour intervention plan. It involves quick and early responses to an individual's behaviour before a more detailed comprehensive plan is introduced to address long term behaviour change.

Safety Plans must comply with school policies. This is particularly important in the areas of touch, restraint and in any form of timeout. Parents will also have to give their permission for the Plan to be implemented.

The preparation of a Safety Plan takes into account up-to-date information about the student at home, school and in the community. This includes social and interactional patterns, verbal and other communication skills, activities and interests, academic achievements and information about the behaviours of concern.



**A Safety Plan includes:**

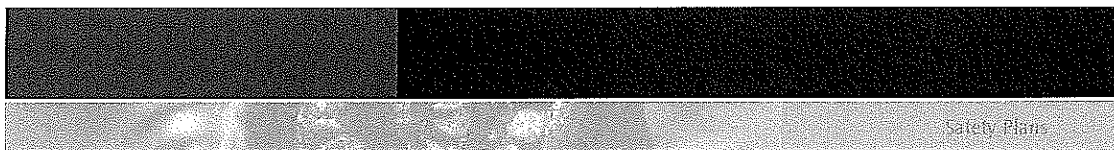
- the behaviour that is causing concern
- preceding and surrounding events associated with the behaviour (when it is more likely to occur)
- preventative strategies
- strategies for defusing and preventing incidents
- planned action for responding to acting out behaviour
- scripts for staff to follow during an incident
- contingency plans (for example, management for when relievers are taking the class).

Involve the student in the preparation of the Plan and ensure they understand it. They then know their behaviour is going to be monitored and that if acting out behaviour occurs there will be set procedures and consequences. It is helpful to walk the student through the Plan. It is also important to teach and practise a planned procedure or activity such as Easy Change to help defuse a situation. This process may actually reduce incidents.

**The student needs to understand:**

- everyone is working together as a team
- the behaviour that is required
- the behaviour that is unacceptable
- the consequences for unacceptable behaviour
- the incentives for improved behaviour
- how the Safety Plan will be monitored and reviewed
- monitoring methods.

Data collection can include incident reports, graphs, charts, observations and any other appropriate material. This assists staff to monitor the effectiveness of the Plan. A frequency chart will indicate the occurrence or non-occurrence of severe incidents.



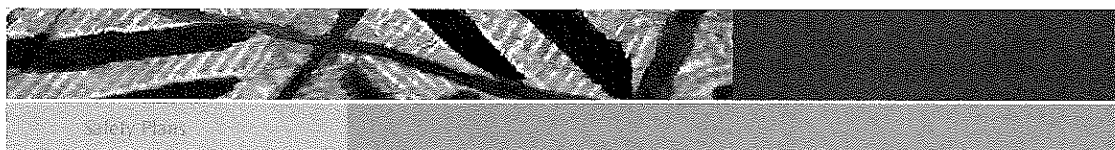
Safety Plans need to be reviewed in the early stages. This will ensure that the plan is modified as required and the teacher feels supported. Safety Plans that are reviewed frequently are more likely to be effective.

### **Implementation of the Safety Plans**

All staff working with the student need to understand the Plan and be confident of their ability to put it into practice. It is important that the Safety Plan is implemented consistently and safely. This will not happen if there are staff members who do not understand or support it.

When changes are required these must be discussed and agreed on during review meetings. When changes need to be made between reviews it is important that the student and all staff are informed as soon as possible.





### Example: Safety Plan for Sammy

Behaviour of concern	Hitting, kicking and biting
Information about the behaviour	<p>Occurring 5-10 times a week</p> <p>Students getting scratched and kicked. Other kids wind him up and he loses it. Mostly occurs in playground but also in classroom during morning writing activities.</p>
Rule/goal	No hitting, kicking or biting
Preventive methods	<p>Adapted programme with achievable tasks</p> <p>Restricted play area with activity (bats and ball)</p> <p>Teacher aide to intervene to prevent incidents</p> <p>Teach and practise Easy Change activity (power walk)</p> <p>Reward activity for completed work</p> <p>Teach coping strategies</p> <p>No teasing allowed.</p>
Incentives	<p>DRO (direct reinforcement of other behaviour)</p> <p>2 points three times a day for no hitting or biting = 1 sticker</p> <p>Alt-R (direct reinforcement of alternative behaviour)</p> <p>a point for each completed task. 6 points = 1 sticker</p> <p>all points entered onto 100's chart</p> <p>10 points = choose from reinforcement menu</p> <p>100 points = class award of shared lunch.</p>
Consequences	<p>5 minutes compliance training plus apology</p> <p>If behaviour recovers consequence is discussed and lessened</p> <p>Doesn't earn point for chart.</p>

	Safety Plans

Behaviour out-of-control	Power walk around netball court Follow up with consequence later when calm again.
Monitoring	Daily completed tasks plus frequency of incidents Incident report 100's chart for total points Graph.
Review	Mondays at 3pm team meeting.

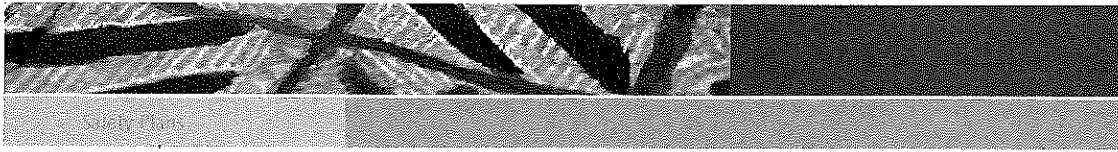
### Responding to Extreme Behaviour

First - assess

Take into account the following:

- is anyone being physically hurt now? If they are do everything that you can to stop this.
- what is the problem?
- is anyone hurt?
- is anyone likely to get hurt?
- who is involved?
- are there any weapons or dangerous objects?
- can I handle this, do I need help?
- how angry/frightened are the people involved?

Although an immediate intervention may be required to prevent further injury, often the arrival of the teacher will stop the immediate crisis. When this happens a quick assessment based on the above will assist the teacher to make decisions that will contribute to defusing and managing the situation.



#### Second - act

As a matter of school policy it should be expected that if violent acts happen within the school (classrooms or playing areas), at least two teachers would be on hand as quickly as possible. This is a protection measure for teachers. Where there are two teachers it is less likely that unsafe practices will happen. One manages the extreme behaviour while the other attends to the victim.

Where there is only one teacher present:

- tell the student to stop
- follow the Safety Plan or the Individual Behaviour Plan if there is one
- follow the School Plan for dealing with crises
- use assertive verbal direction to defuse the situation, set limits
- if verbal directions do not work take stronger actions. For example, get adult help as quickly as possible, clear the area of onlookers, and protect victims.
- *He attacked a fellow student during a class run. When I arrived he had him down and was kicking him in the head. Student's mouth was bleeding.*
- *I spoke quietly but firmly and told him to hand over the knife but he refused. I removed the knife and escorted him to my office. On the way he slammed a door shut, pulled over the bookcase and scattered a box of materials over the floor. He abused me loudly in obscene terms.*
- *She climbed the wall and banged on the glass door. Got her settled. She did it again just before the bell. This was a very fierce attack and it took two of us to restrain her. The principal took her away. The teacher aide was punched on the jaw and has a broken watch and bruised arms.*

Ensure that all actions comply with school policy and do not put the teacher at risk of charges of assault or allegations of cruelty.

Where there are two teachers present:

- protect and attend to the victim
- isolate the out-of-control student and send other students away if in the playground
- send other students from the classroom or remove the student
- do not leave teachers on their own with the student if there is any danger that the violence will continue
- remove dangerous objects
- keep clear of windows and objects that may be thrown, tripped over or used as weapons.

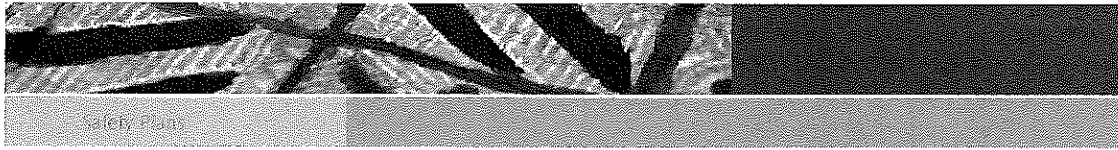
It is important that teachers protect themselves from both physical injury and the emotional injury that can come from allegations of assault or cruel practice.

Protection from physical injury can be avoided by remaining at a safe distance. Allegations of assault are most likely to come from situations of isolation. For example, if a teacher has to manage a situation on their own they are far more vulnerable to allegations than if they have a colleague present.

### Physical Intervention

Physical restraint is sometimes used with students who are hurting themselves or others and/or are seriously damaging property.

It is a method of last resort to prevent further damage and must be used with extreme caution. School policies need to outline what staff can and cannot do in these situations. Use only approved methods to avoid injury. Guidance on the use of restraint is available through local GSE offices, see the back of this booklet for contact details.



Never show anger when dealing with an incident. The student may see any anger as a challenge. Remaining outwardly calm will help the student to feel more secure and to regain control.

When holding a student do not engage in dialogue other than to tell the student what is wanted of them but avoid repetitive talk.

*Calm down. When you are quiet you can go back to class.*

Accompany decreased restraint with verbal encouragement.

*That's it, good job, settle down.*

Combine with reinforcement of desired behaviour.

*Good you are calm again now. Let's count to 10 slowly together and then we can go back and join the others.*

Any incident should be documented as soon as possible and debriefed. Debriefing provides the opportunity for the incident to be reviewed and for lessons to be drawn from it. Debriefing will also assist the teacher and others to deal with any emotional residue that they may have and will ensure that they feel supported.

### **Dealing with Fights**

Fights are the same as other out-of-control situations. They should be approached in the same way as suggested earlier and in accordance with school policy. With fights it is always appropriate to intervene early. Avoid leaving the students who are fighting to sort it out for themselves. However, don't intervene if you can't handle the situation safely. The initial intervention with fights is always verbal. Tell the students to stop fighting. If this is not effective then use the strategies listed earlier.

## Personal Safety

Staff need to know how to protect themselves. This can include common-sense measures like avoiding wearing earrings, keeping hair tied back, ensuring that ties and scarves cannot be used to choke.

Keep out of the student's personal space whenever possible. Often it is important to avoid small, enclosed spaces. Solid, heavy tables, or some other barrier between the teacher and the student, may be appropriate if there is a danger of the student suddenly lashing out.

## When the Aggression has Stopped

Often incidents are already over by the time teachers arrive. In these situations if there are two teachers present one attends to the victim and the other manages the perpetrator.

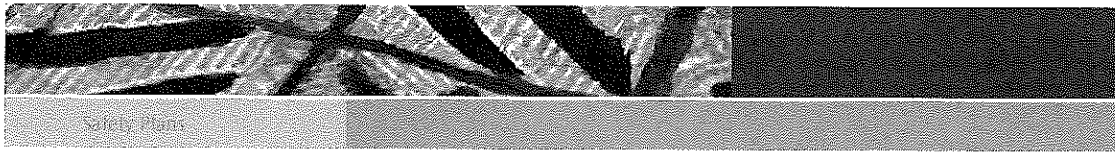
Check the victim for physical injuries and provide necessary care. Attending to the victim sends a message to other students. So that it is not the aggressor who receives the attention.

Sit with the victim in a quiet place and when they feel up to it ask them what happened. Write a detailed version of events. Check whether it has happened before and whether there is a pattern. Ask the student how they could prevent it happening again. Remember though, it is not the victim's fault.

When they are ready they should return to class and to regular school activities.

Meanwhile the other staff member attends to the perpetrator. Although the incident is over, the student may still be in a highly agitated state so that the staff member has several responsibilities:

- It is important that the student is not antagonised so the out-of-control behaviour recurs. This unfortunately is a common occurrence as staff start to blame and question the student. The staff member must defuse the situation and help the student to keep calm.

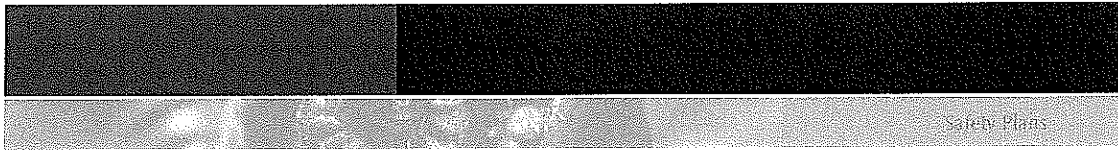


- It is important to find out what happened from the perpetrator's point of view. It is likely that this will vary considerably from the account of the victim. It is important that the victim and the perpetrator are not brought together when their stories are told.
- When the student is ready to talk, write a detailed version of their account. Do not get into arguments about accuracy. This is a recording of one version.
- Check whether or not it has happened before and whether there is a pattern. Ask what could have been done to prevent the violence and what they would do if it seemed to be happening again.
- Ensure that the student hears that hitting, kicking or violence towards others is completely unacceptable at school, regardless of the cause. Explain to them that there are consequences for their actions and that the matter will be followed through.

Keep in mind, following the incident, that the school has a responsibility to provide an emotionally and physically safe environment for all students. It would be appropriate to ensure that the perpetrator is monitored for the rest of the day. In particular, if the student disappears from school, this needs to be reported and steps taken to ensure that the student is safe.

In some circumstances it may be necessary to call the police. This is less likely to be necessary with younger children. Violence against others is assault and is against the law. The young age of a perpetrator does not make it any more acceptable or any less illegal. Where there is an immediate and ongoing danger of people getting hurt and the perpetrator will not respond to efforts to manage or defuse the situation, then the police should be called. Clearly the principal should be involved in any decision to call the police. In situations where lives are in danger, immediate action may be required.

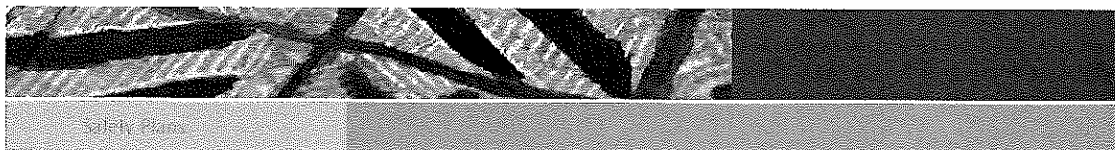
The school's senior management team considers each incident report. It will usually be appropriate for the teachers involved in the incident to be a part of these considerations.



The recommendations that can arise from the review of an incident report can include liaison with the family and whānau, use of in-school monitoring systems and the development of an Individual Behaviour Plan.

Reviews will also guide school practice and policy development. It is important for the school to develop more effective ways of dealing with these types of situations in order to ensure that the obligations for the provision of a safe physical and emotional environment are being met.





### Incident Report Form

Name of interviewer:

Person being interviewed:

Date:

Description of what was happening before the incident:

Time, Place and Activity:

Who was there?

Description of incident:

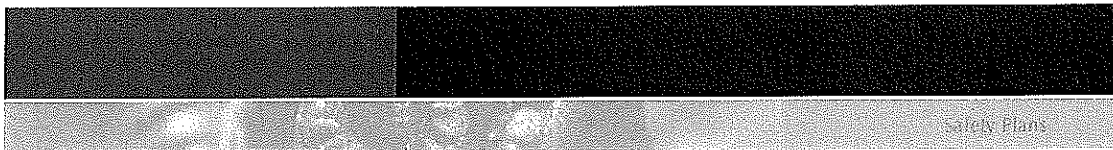
What did the person do?

Who was affected and how?

Description of what happened after the incident:

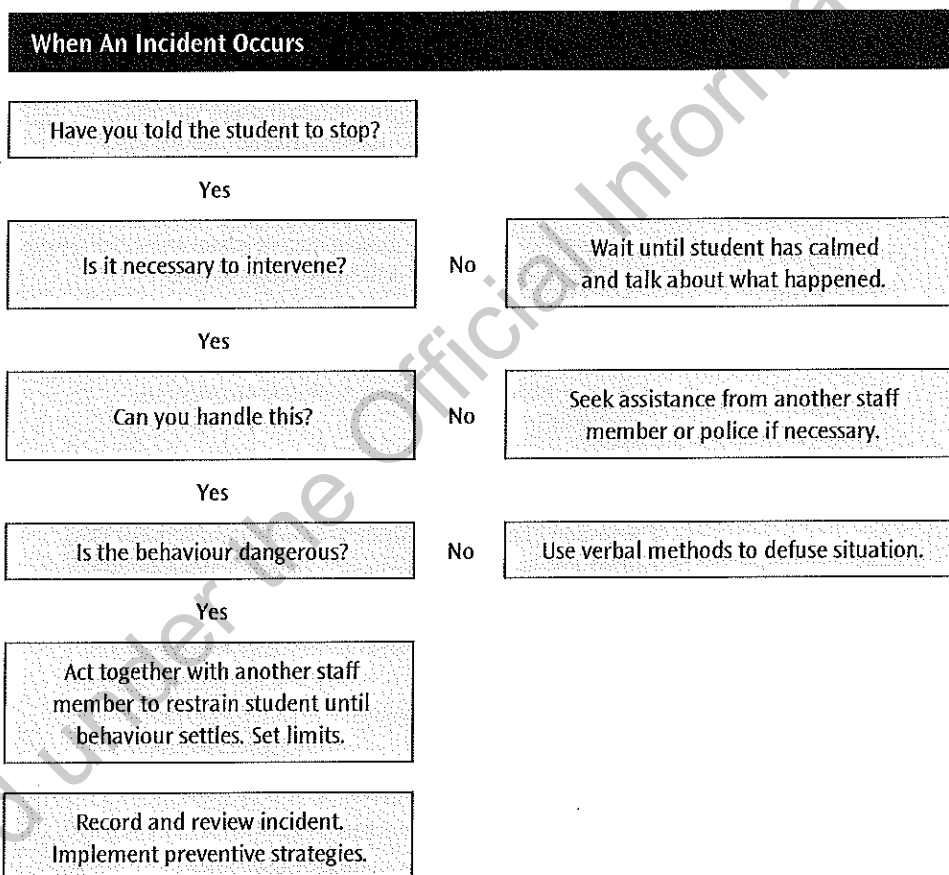
Why did it happen?

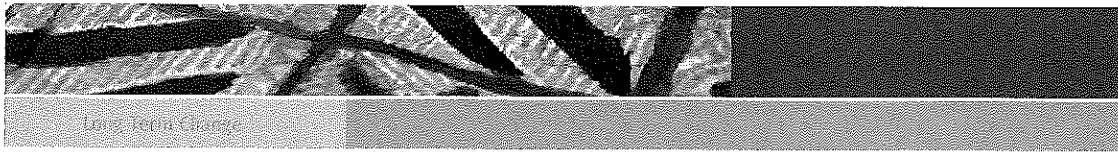
How can you prevent a further recurrence?



### Decision Flow Chart

The following decision chart can be used for decision-making when an incident occurs.





## Long term Behaviour Change

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This book is primarily about preventing, defusing and managing extreme behaviour.

For long term behaviour change a student requires an Individual Behaviour Plan based on a comprehensive specialist assessment across all areas of their life.

This assessment is carried out by a behaviour specialist in collaboration with school staff, parents, caregivers, family and whānau. The assessment is a process of gathering information for analysis. Assessment incorporates both environmental and individual events, and involves a number of methods including observations, interviews and sharing of information. It also involves examination of school and other records and individual curriculum and achievement assessment.

The assessment content comprises a range of relevant information including:

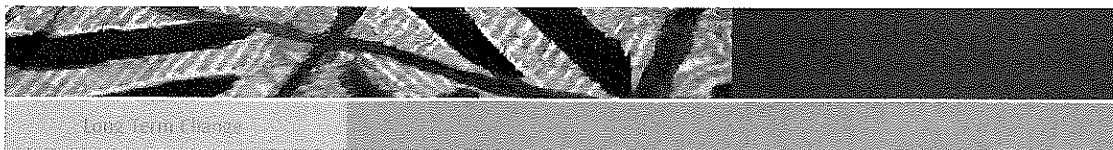
- characteristics of environments including programmes and activities
- individual skills and activities in different environments including cognitive, communication, social, recreation and daily living
- description of the behaviour that is causing concern including current baseline levels – frequency, duration, intensity and effect on others
- preceding and surrounding events that may be contributing to the behaviour
- health and physiological factors
- communication intent
- preferences and non preferences
- social interaction and friendships
- previous interventions and comments from others.

The analysis of information is best carried out as a shared process involving key people who have a significant involvement with the child. In analysis we are asking: *Why does the behaviour occur and what now needs to happen?* The assessment information will indicate the content of the intervention and will identify a number of goals and methods. It will tell us what to do.

The Individual Behaviour Plan identifies new goal behaviours and skills to be taught. This is the most enduring of all components. The students can be motivated to learn these through the use of incentives, which may no longer be needed, as the social and interactional skills are learned. An Individual Behaviour Plan helps to prevent the student being suspended or expelled. Suspension and expulsions lead to early disengagement from education.

Long-term plans are formulated in accordance with the assessment. They may include:

- goal behaviours, and strategies for teaching and promoting goal behaviour
- strategies for motivating and promoting change
- antecedent changes - changes to learning environments to reduce the incidence of problem behaviour. Includes adaptation of the physical environment, materials, programmes, instructional methods, rules and routines
- safety plans for responding to out-of-control behaviours, including strategies for defusing and preventing incidents
- teaching of new skills and behaviours including educational skills, communication skills, social skills, instructional control, self-control strategies and recreation activities
- health and well-being. Medical and related issues are referred to a health practitioner
- reinforcement schedules targeting both desired and negative behaviours to facilitate application of pro-social activities and behaviours in home, school and community settings
- working with families and whānau.



### Reinforcement Schedules

Reinforcement is a powerful but under utilised tool for behaviour change. Positive reinforcement is a consequence that strengthens behaviour. If a behaviour is followed by something a person likes then behaviour is more likely to happen again. The behaviour has been strengthened or reinforced.

Positive reinforcement, carried out in a systematic and consistent manner, enables a young person to make a connection between doing something desirable and getting a reward for it. A predictable environment helps. For example: *Penelope knows that after writing time she can choose a book to read.* Behaviour specialists can assist with constructing schedules to increase desired behaviour for those with severe behaviour difficulties. The schedule can be faded when the behaviour has been acquired.

### Compliance Training

Some students with severe behaviour have not acquired instructional control in their early years. This means, for example, that they have not learnt to respond to a simple command such as *Stop* or a simple instruction such as *Bring me your book.*

A detailed assessment helps identify the reason for non-compliance and then, if necessary, a simple routine of instruction and practise can be implemented. It is often effective to introduce practise in compliance as a consequence for negative behaviour. This serves a dual purpose. It provides a consequence to reduce behaviour that is at the same time educative and assist the student to develop instructional control. Effective teachers also respond in a fair and consistent manner to reinforce the classroom rules and routines.

### **School Review and Staff Development**

Schools need policies and procedures to assist with the management of students who behave in extreme ways.

#### **Checklist for schools**

School has relevant policies and guidelines for:

- student management
- management of traumatic incidents
- management of extreme behaviour.

Policy endorsed by board of trustees

Policy introduced to staff

Policy introduced to parents

Policy introduced to students

Relief staff know policy

All classes have policies

Procedures for incident reporting in place

All incidents reviewed by staff

Individual Behaviour Plans for identified students

Individual Behaviour Plans monitoring and review system in place

Staff use preventative strategies

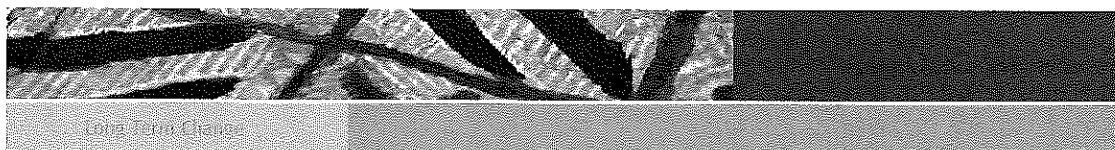
Staff know how to defuse incidents to avoid crises

Staff trained in safe restraint methods.

### **Staff Development**

All teachers need to be familiar with the methods described in this book for preventing and managing extreme behaviour. The book can be used as the basis for staff training sessions.

It is also recommended that all staff complete a course such as Non-violent Crisis Intervention.



### Development suggestions

Ask teachers to take responsibility for presenting different topics to staff. The presentation could include a discussion of the content and its application to the school or syndicate. Staff action can then be planned to ensure a safe environment for students and staff.

Ask staff in groups to take two incidents that have occurred recently and to review them using ideas in the book to guide discussion. Staff brainstorm ideas and write a plan for future action.

Teach, practise and model staff behaviours so that staff are less likely to revert to old behaviour when under stress and dealing with particularly difficult students. This includes role-playing in giving directions, setting limits, use of restraint.

Staff consult with and work with parents, families and whānau to establish policy statements, and in the writing of Individual Behaviour Plans.

Use either examples of extreme behaviour from staff experience or the following scenarios and develop appropriate:

- prevention strategies
- methods for defusing
- management plans (either for the particular incident or specific Individual Behaviour Plans).

The Ministry of Education, Special Education has behaviour specialists in all Area Offices. Referrals can be phoned, faxed or written. Contact can also be made through the Ministry's website: [www.minedu.govt.nz](http://www.minedu.govt.nz)

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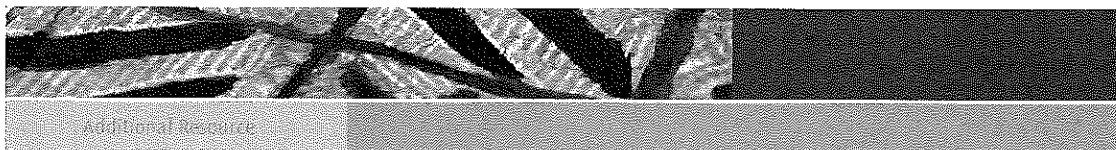
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### **Additional Resource Materials**

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The Responsibility of Boards of Trustees for the Personal Safety of Students, Including when they are in Residential Facilities Associated with Schools and in Off-Site Programmes. Circular to Schools, March 13, 1997

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MINISTRY OF EDUCATION  
Te Tihimahi o te Matatunanga

# Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint

October 2016

Released under the Official Information Act 1982



## Contents

Foreword .....	1
The purpose of this guide.....	2
Student and staff wellbeing come first .....	2
What is physical restraint? .....	2
Identifying when you may need to apply physical restraint.....	3
Use physical restraint only where there is “imminent danger of physical injury” .....	3
What is “imminent danger of physical injury”? .....	3
These situations do not pose imminent danger.....	4
Guidance if you have to use physical restraint .....	4
What to do if prevention and de-escalation do not work.....	4
Do not use these restraints.....	5
Monitor wellbeing throughout when applying physical restraint.....	5
Use preventative and de-escalation techniques first .....	6
Preventative techniques.....	6
De-escalation techniques.....	7
What may escalate the behaviour.....	7
An Individual Behaviour Plan.....	8
Training in safe responses .....	9
For the whole school.....	9
For the team supporting the student .....	9
Good practice following an incident involving physical restraint.....	9
Suggestions about managing follow-up after the incident.....	10
Reporting the incident.....	10
Debriefing the incident .....	10
Managing complaints from parents .....	11
Adapting the Individual Behaviour Plan .....	11
School policies on physical restraint.....	12
Governance responsibilities .....	12
Promote the minimisation of physical restraint.....	12
Monitor and report the use of physical restraint .....	12
Oversight by the Board of Trustees.....	12
Guidance on Alternatives to Seclusion .....	13

What is seclusion?.....	14
Involving the police .....	14
Use preventative and de-escalation techniques.....	14
Preventative techniques.....	14
De-escalation techniques.....	15
What may escalate the behaviour.....	16
Acknowledgements.....	16
Reporting templates for physical restraint.....	A
Physical restraint incident report .....	C
Debriefing form for staff involved in physical restraint incident.....	F
Physical restraint debriefing form – parents or caregivers, student.....	G

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## Foreword

This guide has been developed to help schools address the uncertainty staff experience when faced with a student exhibiting difficult behaviour that may escalate into a dangerous situation.

The guide's aim is to strengthen the good practice already happening in schools, and avoid the need for physical restraint or the use of seclusion.

Student and staff wellbeing is at the heart of this guide. Inclusive practices and safe environments are of greatest importance for all students.

### **Physical restraint: a last resort**

Physical restraint is a serious intervention. The emotional and physical impact on the student being restrained, and the person doing the restraining, can be significant. There are legal and reputational risks if a student is harmed.

Staff need to use their professional judgement when they decide whether to use physical restraint. They should consider their duty of care to students, their right to protect themselves and others from harm, and their obligation to act lawfully.

Physical restraint should only be used in emergency situations when the student's behaviour poses an imminent danger of physical injury to themselves or others.

### **Eliminating seclusion**

Seclusion should no longer be used in New Zealand schools.

### **Developing the guide: expertise from throughout the sector**

An Advisory Group from across the sector developed the guide. The group included representatives from the Special Education Principals' Association of New Zealand, the New Zealand Principals' Federation, the New Zealand Educational Institute Te Riu Roa, the New Zealand School Trustees Association, the Secondary Principals' Association of New Zealand, the New Zealand Post Primary Teachers Association, the Ministry of Health, the High and Complex Needs Unit, and the Ministry of Education.

The guide takes into account current international research and directions. It respects students' rights under the Bill of Rights Act 1990, the Education Act 1989, the United Nations Convention on the Rights of the Child 1989, the United Nations Convention on the Rights of Persons with Disabilities 2007, the National Administration Guideline 5, the Vulnerable Children Act 2014, the Health and Safety at Work Act 2015, and the Crimes Act 1961.



## The purpose of this guide

The purpose of this guide is to provide school staff with safe ways to manage potentially dangerous situations where a student may need to be physically restrained.

Following the guide on physical restraint you will find guidance on alternatives to seclusion.

Its aim is to minimise the use of physical restraint. Where there is imminent danger of physical injury, the first response is to prevent or de-escalate the situation. This guide gives generic techniques for de-escalation.

It also gives options for responding if prevention or de-escalation do not work.

The guide describes how to incorporate physical restraint into an Individual Behaviour Plan if necessary. It covers who to involve in the decision-making, including parents and caregivers.

The guide directs staff to training in techniques for managing potentially dangerous situations and applying physical restraint safely.

It also suggests how to debrief and report a situation involving physical restraint.

## Student and staff wellbeing come first

Physical restraint affects the wellbeing of both the student and the staff member who applies it. It is associated with injury and increased emotional trauma for both.

Therefore, this guide focuses on staff and student safety and wellbeing. It provides staff with techniques for preventing and de-escalating potentially dangerous situations.

If you follow this guide when deciding whether or not to use physical restraint, you will minimise the risk of hurting a student or being hurt yourself. And the risk of legal liability can be mitigated.

## What is physical restraint?

Physical restraint is when a school staff member uses their own body to deliberately limit the movement of a student.

### Match physical restraint to the situation

- Only use physical restraint where it is justifiable in the particular circumstances. The guide provides scenarios where it may be justifiable, but school staff need to use their judgement to decide when physical restraint is warranted.
- Respond only proportionately to the level of risk.
- Use the minimum force necessary to respond to the risk of imminent danger.

- Use physical restraint only for as long as is needed to prevent the imminent danger of physical injury and ensure the safety of everyone involved.

### **You may need to physically help students**

The following are not examples of physical restraint.

- Temporary physical contact, such as a hand on the arm, back or shoulders to remove a student from a situation to a safer place.
- Holding a student with a disability to move them to another location, or help them to get in a vehicle or use the stairs.
- The practice of harness restraint, when keeping a student and others safe in a moving vehicle, or when recommended by a physiotherapist or occupational therapist for safety or body positioning.

Younger children, especially in their first year of school, sometimes need additional help. For example, you may “shepherd” a group of younger children from one place to another. You may hold the hand of a young child who is happy to have their hand held for a short time. You may pick a child up to comfort briefly. This is also not restraint.

## **Identifying when you may need to apply physical restraint**

### **Use physical restraint only where there is “imminent danger of physical injury”**

Physical restraint is a serious intervention. If you have an alternative to physically restraining a student, use it. Resort to physical restraint only when:

- The student’s behaviour poses an imminent danger of physical injury to other students, staff, themselves or others.
- You have used preventative and de-escalation techniques and not been able to reduce the risk of injury.

### **What is “imminent danger of physical injury”?**

You will need to use your professional judgement to decide what constitutes “imminent danger”. These situations are examples:

- A student is moving in with a weapon, or something that could be used as a weapon, and is clearly intent on using violence towards another person.
- A student is physically attacking another person, or is about to.

- A student is, for example, throwing furniture, computers, or breaking glass close to others who would be injured if hit.
- A student is putting themselves in danger, for example running onto a road or trying to harm themselves.

### **These situations do not pose imminent danger**

Avoid using physical restraint to manage behaviour in these situations:

- To respond to behaviour that is disrupting the classroom but not putting anyone in danger of being hurt.
- For refusal to comply with an adult's request.
- To respond to verbal threats.
- To stop a student who is trying to leave the classroom or school without permission.
- As coercion, discipline or punishment.
- For damaging property, unless this could cause injury.

### **Guidance if you have to use physical restraint**

#### **What to do if prevention and de-escalation do not work**

- Ideally, physical restraint should only be applied by staff trained in its safe use, and trained in emergency first aid such as CPR.
- There may be no one with training nearby. If, as an untrained adult, you feel you can use physical restraint safely – both for yourself and the student – use your judgement and intervene.
- If you do not have the skills or confidence to safely restrain a student, remove the other students from the scene and call for help.
- Call the police when a student cannot be managed safely and the imminent danger to students, staff or themselves remains after all alternatives have been explored.

## **Do not use these restraints**

If you have to use physical restraint, avoid these restraint holds to minimise the likelihood of injuring a student:

- Physical restraint that inhibits the student's breathing, speaking or main method of communication, for example physical restraint that inhibits a student's ability to use sign language.
- Prone (face-down) physical restraint.
- Pressure points and pain holds.
- Tackling, sitting, lying or kneeling on a student.
- Pressure on the chest or neck.
- Hyperextension (bending back) of joints.
- Headlocks.
- Using force to take/drag a student, who is resisting, to another location.
- Restraint when moving a student from one place to another – trying to get them into a van or taxi, for example – when they are in an escalated state, as this may escalate them further.

## **Monitor wellbeing throughout when applying physical restraint**

- The physical and psychological state of the student being restrained should be continuously monitored by the person performing the restraint and other people present.
- Apply physical restraint only for the minimum time necessary and stop as soon as the danger has passed.
- Monitor the physical and psychological wellbeing of both the student and the staff member who applied the restraint for the rest of the school day. Watch for shock, possible unnoticed injury and delayed effects.
- Contact parents or caregivers on the same day, as soon as possible after the incident, so they can monitor their child's wellbeing at home.
- If the student is in a residential school or home, inform the residential team so they can monitor the student's wellbeing after school.

## Use preventative and de-escalation techniques first

Your first aim is to avoid needing to use physical restraint.

Use the following strategies for unexpected "one-off" incidents, as well as for students who regularly present with high-risk behaviours. These are general suggestions. For students with high-risk behaviours, have an Individual Behaviour Plan developed, tailored to the student's needs.

### Preventative techniques

#### Understand the student

- Get to know the student and identify potentially difficult times or situations that may be stressful or difficult for them.
- Identify the student's personal signs of stress or unhappiness and intervene early.
- Monitor wider classroom/playground behaviour carefully for potential areas of conflict.

#### Respect the student

- Demonstrate a supportive approach: "I'm here to help."
- Be flexible in your responses: adapt what you're doing to the demands of the situation.
- Be reasonable: a reasonable action, request or expectation deserves a reasonable response.
- Promote and accept compromise or negotiated solutions, while maintaining your authority.
- Take the student seriously and address issues quickly.

#### Preserve the student's dignity

- Address private or sensitive issues in private.
- Avoid the use of inappropriate humour such as sarcasm or mocking.

## De-escalation techniques

### Safety first – create space and time

- Remove the audience – ask other students to take their work and move away.
- Give the student physical space.
- Name the emotion in a calm even voice: “You look really angry”, “I can see that you are very frustrated”.
- Wait.

### Communicate calmly

- Talk quietly, even when the student is loud.
- Try to remain calm and respectful.
- Monitor your own body language and allow the student the opportunity to move out of the situation with dignity.
- Focus on communicating respect and your desire to help.
- Keep verbal interactions respectful.
- When appropriate, give the student clear choices and/or directions to help them feel more secure and regain control.

### Think ahead in case the situation escalates

- If escalation occurs, move further away.
- Make sure you have an exit plan.
- Constantly reassess the situation.
- Send for help if necessary.

### What may escalate the behaviour

- Threatening the student.
- Arguing or interrupting.
- Contradicting what the student says – even if they are wrong.
- Challenging the student.
- Trying to shame the student or showing your disrespect for the student.

## An Individual Behaviour Plan

A student may present regularly with high-risk behaviour. Their support team may agree to include physical restraint in their Individual Behaviour Plan as an emergency strategy for keeping people safe. Making this part of their plan ensures an individualised approach that is tailored to the student's needs.

The Individual Behaviour Plan should outline the preventative and de-escalation strategies which, if successfully implemented, would prevent the need for physical restraint. It should clearly state that physical restraint is only to be used when the student's behaviour poses an imminent danger of physical injury to themselves or others.

The team supporting the student should ensure the type of physical restraint used is consistent with the student's individual needs and characteristics, including:

- The student's age, size and gender.
- Any impairments the student has, for example physical, intellectual, neurological, behavioural, sensory (visual or hearing) impairments, or impairments to communication.
- Any mental health issues or psychological conditions the student has, particularly any history of trauma or abuse.
- Any other medical conditions the student may have.
- The student's likely response to preventative, de-escalation and physical restraint techniques.

### **Parents or caregivers should always be a member of the team developing the plan**

- Parents or caregivers should be able to help make decisions about their child and should agree to the interventions that will be put in place to support them.
- Parents or caregivers should be fully informed if physical restraint is identified in the student's Individual Behaviour Plan, including how it will be applied in accordance with this guide.
- Parents or caregivers should be told as soon as possible on the same day about the incident and how it was managed in accordance with the guide.
- If the student is in a residential school or home, the residential team should be told so the student's wellbeing can be monitored after school.

All relevant professionals and parents or caregivers should have a copy of the Individual Behaviour Plan. It should be signed off by the Principal (or Principal's delegate) and the student's parents or caregivers.

The use of physical restraint should be regularly reviewed and monitored by the team supporting the student.

## Training in safe responses

### For the whole school

A training package, *Understanding Behaviour – Responding Safely*, has been developed for New Zealand schools. It includes a full-day workshop for all staff and ongoing support afterwards. The training can be delivered in modules rather than a full day if this is a better option for your school. The focus is on preventative and de-escalation techniques. Contact your local Ministry of Education district office for information about this training.

### For the team supporting the student

- The team directly supporting the student should be taught how to safely restrain the student when positive, preventative and de-escalation strategies have not been effective. Parents and caregivers who have to use physical restraint in the home environment may want to be part of this training. If there is a Ministry or RTLB practitioner on the team, they can discuss the individualised training options available. Otherwise contact the Ministry about training.
- Some schools have a high number of students with intellectual disability or developmental delay who regularly present with potentially dangerous behaviour. In these schools, ensure that enough staff are trained in safe physical restraint to meet the needs of the student population.

The rest of the school staff should be made aware of these things:

- They should know that physical restraint should only be used in emergency situations, and only when less restrictive interventions have not ended imminent danger of physical injury to the student or others.
- They should know the basic safe handling practices. They should know the forms of physical restraint that may compromise health and safety, and the serious physical risks associated with some physical restraint techniques. These include the risk of asphyxia and sudden death.

## Good practice following an incident involving physical restraint

After an incident involving physical restraint, take these steps to ensure everyone involved stays safe, future incidents can be prevented if possible, the parents or caregivers know, and the incident is reported.



- Check the staff member and the student regularly to ensure they are not in shock. Support them as necessary.
- Ensure the parents or caregivers of the student are told as soon as possible after the incident, so they can monitor the student's wellbeing at home.
- If the student attends a residential school, ensure the residential team is told, so the student's wellbeing can be monitored after school.
- Reflect formally on why the incident occurred that resulted in the student being restrained. Consider what might have prevented it, and what might need to change to minimise the likelihood of it happening again.
- Consider whether all preventative and de-escalation strategies were used according to the Individual Behaviour Plan and whether the restraint used was safe.
- Write an incident report for the team directly supporting the student.
- Review the Individual Behaviour Plan and make decisions as a team about what needs to be strengthened to minimise the likelihood of a similar incident.

### **Suggestions about managing follow-up after the incident**

Your school may already have its own processes. Use these best-practice suggestions as you wish to develop procedures that suit your needs.

### **Reporting the incident**

- Tell the parents or caregivers the same day the incident occurred.
- Write up every incident of physical restraint in an incident report and reflect on it. See the templates at the end of this guide.
- Have the staff members involved in the physical restraint sign the report, as well as the Principal or Principal's delegate.
- Put the completed forms on the student's file, and make them available to the student's teacher and parents or caregivers.

### **Debriefing the incident**

#### **Debriefing staff**

- Hold a debriefing session with involved staff, the Principal or Principal's delegate, and another member of staff not involved in the physical restraint incident. Hold it within two days of the incident.

- In the debriefing, focus on the incident, the lead-up to it, the different interventions used that were unsuccessful in de-escalating the behaviour, and what could have been done differently.
- If Ministry or RTLB practitioners are part of the student's team, involve them in the debriefing process.
- If the police were involved in the incident, invite them to participate in the debriefing session.
- Write notes from the debrief along with next steps or actions.

### **Debriefing parents or caregivers**

- Offer the parents or caregivers a separate debriefing as soon as practically possible, preferably within two days of the incident.
- At this meeting, give them the opportunity to discuss the incident. Invite them to become active partners in exploring alternatives to restraint. If appropriate, involve the student in this debriefing session.
- Write notes from the debriefing along with next steps or actions.

## **Managing complaints from parents**

It is understandable that some parents may feel upset if their child has been physically restrained. All schools will have a policy on responding to parent complaints.

The school should also contact the local Ministry office if the complaint cannot be easily resolved. If further investigation is required then the Ministry reserves the right to be a party to that process.

### **Adapting the Individual Behaviour Plan**

- Hold a meeting as soon as possible. Involve the team supporting the student, including the parents or caregivers, and the residential team manager if the student is enrolled in a residential school. Use the meeting to review the Individual Behaviour Plan and the physical restraint processes followed in the incident.
- In the updated plan, identify ways to prevent the need to use physical restraint in the future.
- Incorporate in the plan the suggestions of parents or caregivers and, if appropriate, the student.
- If a behaviour specialist from the Ministry or RTLB service is supporting the team around the student, involve them in the review of the plan.

- Put all relevant documentation in the student's file, and copy it to the student's teacher and parents or caregivers.

## School policies on physical restraint

- Each school should develop policies on physical restraint that follow this guide. Make policies available for all parents and caregivers.
- Provide a clear complaints process for the students, parents and caregivers.
- Review the policy as part of the school's annual review cycle.

## Governance responsibilities

Collect data in accordance with the Privacy Act 1993. Full details are at [www.legislation.govt.nz/act/public/1993/0028/latest/DLM296639.html](http://www.legislation.govt.nz/act/public/1993/0028/latest/DLM296639.html).

### Promote the minimisation of physical restraint

The Principal or Principal's delegate is responsible for:

- Promoting the goal of minimising the use of physical restraint through a focus on alternative strategies.
- Ensuring appropriate training is provided that aligns with the goal of minimising physical restraint in schools.

### Monitor and report the use of physical restraint

The Principal or Principal's delegate is responsible for:

- Monitoring the use of physical restraint in the school (to include gathering and analysing information, identifying trends, and checking that documentation about each incident is complete).
- Collating information about physical restraint in a report and sharing data on physical restraint regularly with the Board of Trustees via the Principal's report at Board meetings – do this in a public-excluded session.
- Managing any complaints and feedback.

### Oversight by the Board of Trustees

The Board of Trustees is responsible for governance oversight:

- If physical restraint has been used, schools are encouraged to contact the Ministry of Education for advice and support.

- The ERO may review a school's use of physical restraint, as they would any other school operation or procedure.
- The Ministry of Education, through the Health and Safety Sector Reference Group, has provided schools with a practical guide to the Health and Safety at Work Act 2015. The guide provides an overview to the legislation, outlines the responsibilities of boards of trustees and school leaders under it and is intended as a supplementary resource. This will help to support the people involved in governance and leadership at schools/kura to develop a clear understanding of what the legislation means for them. The primary source of information must be the legislation itself, the Regulations made under the legislation and WorkSafe New Zealand. We recommend all schools read this guide – it can be found on the Ministry or NZSTA's websites, <http://www.education.govt.nz/ministry-of-education/specific-initiatives/health-and-safety/h-and-s-for-boards-of-trustees-and-school-leaders/>

## Guidance on Alternatives to Seclusion

Seclusion is an extremely serious intervention. It is potentially traumatic and can harm a student's wellbeing. It is an inappropriate response to a child's behaviour and it must be eliminated.

Student and staff wellbeing is at the heart of this guidance. The overall goal is to promote safe, inclusive learning environments that foster the wellbeing and education of all students.

Schools need to consider their duty of care to students, their right to protect themselves and others from harm, and their obligation to act lawfully.

The Advisory Group agreed that eliminating seclusion is both essential and achievable. The research showed us that this practice is risky and potentially harmful, physically and psychologically.

In line with evidence-based practice, it is recommended to focus on interventions that are strengths-based and positive to prevent the need for seclusion.

Seclusion has been associated with trauma and injury (sometimes self-inflicted). All staff should be aware of the possible effects of seclusion on a student's wellbeing. They should also understand that seclusion can no longer be used.

Any schools secluding students should stop this practice immediately. Any instance of seclusion must be reported to the Board of Trustees and to the local Ministry of Education office. The Ministry will support schools to explore other options so that this practice ceases with immediate effect.

## What is seclusion?

Seclusion is when a student is involuntarily placed alone in a room, at any time or for any duration, from which they cannot freely exit. The door may be locked, blocked or held shut.

This may occur in any room that is lockable or, even if not locked, where a level of authority or coercion leads to a student believing that they must not or cannot exit the room in which they are confined.

When used in this way, seclusion has no therapeutic value nor does it promote mental and physical wellbeing. It also creates serious health and safety risks if a child cannot leave a locked or blocked room if there is an emergency such as a fire. In the event of something like this occurring this action would be a serious breach of the Health and Safety Act.

### Seclusion is not the use of timeout such as:

- When a student is asked to leave an activity or area because of their behaviour and go to another specified area where they must stay until told they can return.
- When a student voluntarily takes themselves to an agreed space or unlocked room (part of a planned intervention) to de-stimulate or calm down.
- When they take themselves, or are asked, to go to a quiet place in the classroom to calm down.

It is seclusion that we are eliminating not other forms of timeout. Every school should take the opportunity to assess their policies with respect to timeout practice to ensure that there is no overlap with or it cannot be construed as seclusion.

## Involving the police

In the event that incidents cannot be resolved quickly and where there is a sustained level of significant physical risk the police should be contacted.

## Use preventative and de-escalation techniques

Use the following strategies for unexpected "one-off" incidents, as well as for students who regularly present with high-risk behaviours. These are general suggestions. For students with high-risk behaviours, have an Individual Behaviour Plan developed, tailored to the student's needs.

### Preventative techniques

Understand the student:

- Get to know the student and identify potentially difficult times or situations that may be stressful or difficult for them.
- Identify the student's personal signs of stress or unhappiness and intervene early.
- Monitor wider classroom/playground behaviour carefully for potential areas of conflict.

Respect the student:

- Demonstrate a supportive approach: "I'm here to help."
- Be flexible in your responses: adapt what you're doing to the demands of the situation.
- Be reasonable: a reasonable action, request or expectation is more likely to achieve a reasonable response.
- Promote and accept compromise or negotiated solutions, while maintaining your authority.
- Take the student seriously and address issues quickly.

Preserve the student's dignity:

- Address private or sensitive issues in private.
- Avoid the use of inappropriate humour such as sarcasm or mocking.

### De-escalation techniques

Safety first – create space and time:

- Remove the audience – ask other students to take their work and move away.
- Give the student physical space.
- Name the emotion in a calm even voice: "You look really angry", "I can see that you are very frustrated".
- Wait.

Communicate calmly:

- Talk quietly, even when the student is loud.
- Try to remain calm and respectful.
- Monitor your own body language and allow the student the opportunity to move out of the situation with dignity.
- Focus on communicating respect and your desire to help.
- Keep verbal interactions respectful.

- When appropriate, give the student clear choices and/or directions to help them feel more secure and regain control.

Think ahead in case the situation escalates:

- If escalation occurs, move further away.
- Make sure you have an exit plan.
- Constantly reassess the situation.
- Send for help if necessary.

### **What may escalate the behaviour**

- Threatening the student.
- Arguing or interrupting.
- Contradicting what the student says – even if they are wrong.
- Challenging the student.
- Trying to shame the student or showing your disrespect for the student.

### **Acknowledgements**

We wish to thank the following members of the cross-sector Advisory Group for their work in contributing to the development of this guidance:

Bernadette Anne (High and Complex Needs Unit), Colin Hamlin (Ministry of Health), Justine Henderson (New Zealand Educational Institute), Denise Torrey (New Zealand Principals Federation), Lorraine Kerr (New Zealand School Trustees Association), Angela King (Post Primary Teachers Association), Patrick Walsh (Secondary Principals Association of New Zealand), Graeme Daniel (Special Education Principals' Association of New Zealand), Bruce Cull (Ministry of Education), Brian Coffey (Ministry of Education), David Pluck (Ministry of Education), Di Thomas (Ministry of Education), Murray Roberts (Ministry of Education), and Terri Johnstone (Contractor).

## Reporting templates for physical restraint

(Sample only – many schools will have established processes to reflect on incidents where restraint has been used, and have good reporting processes)

### Instructions

1. Attach the debriefing forms and any other relevant form (eg, Injury Form) to the Physical Restraint Incident Form.
2. Place copies of these forms in the student's file. Make the copied forms available to the student's teacher/s and the student's parents or caregivers.
3. Share data on physical restraint incidents with the Board of Trustees via the Principal's report. Only share this data in a session that excludes the public.

### 1. Physical restraint incident report (staff)

- The staff involved in restraining the student should complete this as soon as possible and within 24 hours.
- The incident report should be signed off by the staff involved, any staff who witnessed the incident, and the Principal or Principal's delegate.

**Note:** If the Principal applied the restraint, a delegated senior management team member should sign off the report.

### 2. Physical restraint debriefing form (staff)

- Within two days of the incident, a debriefing with the staff involved should be held by the Principal or Principal's delegate. Another member of staff who was not involved in the restraint should attend.
- If a behaviour specialist from the Ministry or RTL service is supporting the student's team, they should be part of the debriefing process.

**Notes:** The Principal is responsible for facilitating the debriefing unless they are the person who applied the physical restraint. If this is the case, a suitable senior leader in the school should take this role. If police have been involved they should be invited to the staff debriefing too.

### 3. Physical restraint debriefing (parents or caregivers and, if appropriate, the student)

- The parents or caregivers should be notified and involved in discussion about the incident with the Principal or Principal's delegate as soon as possible so they can monitor their child's physical and emotional wellbeing at home.
- The parents or caregivers should be given the opportunity to discuss the incident and invited to become active partners in exploring alternatives to restraint.

**Note:** The staff member who applied the physical restraint should not be part of this meeting.



Released under the Official Information Act 1982

## Physical restraint incident report

Report completed by	Date of incident		Date of report	
Name of student				
Date of birth		Gender M <input type="checkbox"/> F <input type="checkbox"/>		
Ethnicity				
Time restraint started				
Time restraint ended				
Name/s of staff member/s administering restraint				
Trained in safe physical restraint?	Yes <input type="checkbox"/> No <input type="checkbox"/>			
Other staff /adults who witnessed				

Place where restraint occurred	
Classroom	
Corridor	
Assembly hall	
Outdoor area	
Toilet block	
Administration area	
Other (identify)	

Behaviour directed at	
Staff member – name	
Student – name	
Self – describe how they intended self-harm	
Property – describe potential injury to self or others	

Reason restraint was considered necessary	
Imminent danger, serious risk of injury – describe	
Actual injury – describe and attach injury form	

Please turn over and complete the reflection section.

## Reflection

### Events leading to the incident

Describe what was happening before the behaviour started to escalate. What was the student doing? What do you think might have triggered the behaviour? How were other students reacting to the student?

### Behaviour of the student

What did you notice about the student's behaviour that alerted you that they were struggling to cope? Think about the way they looked, for example facial expressions, physical signs, language.

### What did you try before the restraint?

Describe the alternative techniques and interventions tried to prevent the emergency, including a description of the de-escalation strategies you used. What was the response from the student?

### The restraint method used

Describe the nature of the physical restraint. Include the type of hold and number of people required.

## Monitoring

Describe how the student's physical and emotional distress was monitored while they were restrained.

## After the restraint ended

Describe the mood of the student following the restraint. What help and support were they offered?

## If there's a next time

What could be done differently in the future to prevent the need for restraint?

## How about you?

How are you feeling and what support do you need?

\_\_\_\_\_  
Signature of person who applied the restraint

\_\_\_\_\_  
Signatures of any staff witnesses

Debriefing form for staff involved in physical restraint incident

Date of incident	
Date of debriefing	Time of debriefing
Names of the people at the debriefing	
Findings of debriefing	
Next steps/actions	
Principal or Principal's delegate signature	

## Physical restraint debriefing form – parents or caregivers, student

Date of incident		
Date of debriefing		Time of debriefing
Names of the people at the debriefing		
Findings of debriefing		
Parent or caregiver – comments and suggestions		
Student – comments and suggestions		
Next steps/actions agreed		
Signatures		
Principal or Principal's delegate:		
Parents or caregivers:		
Student:		

Released under the Official Information Act 1982

Released under the Official Information Act 1982



**From:** [Angelique Kerr](#)  
**To:** [Ministerial Requests](#)  
**Subject:** C002195  
**Date:** Thursday, 5 April 2018 11:23:30 a.m.

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For draft reply

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**From:** Marama Kainamu-Wheeler  
**Sent:** Tuesday, 3 April 2018 12:29 PM  
**To:** Angelique Kerr <[Angelique.Kerr@parliament.govt.nz](mailto:Angelique.Kerr@parliament.govt.nz)>  
**Subject:** RE: Waitakere Area Principals Association meeting with Tracey Martin this morning

Kia ora Angelique

Will your Minister respond to this one?

Marama

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**From:** K Davis (MIN)  
**Sent:** Monday, 26 March 2018 11:05 AM  
**To:** Marama Kainamu-Wheeler <[Marama.Kainamu-Wheeler@parliament.govt.nz](mailto:Marama.Kainamu-Wheeler@parliament.govt.nz)>  
**Subject:** FW: Waitakere Area Principals Association meeting with Tracey Martin this morning

Please see correspondence below.

Kind regards,

**Kaitlyn de Lugt** | Roving Private Secretary (Administration)

**Office of Hon Kelvin Davis**

Minister of Corrections

Minister for Crown/Maori Relations

Minister of Tourism

Associate Minister of Education (Maori Education)

[kaitlyn.delugt@parliament.govt.nz](mailto:kaitlyn.delugt@parliament.govt.nz)

Parliamentary Service Te Ratonga Whare Paremata  
Private Bag 18041, Wellington 6160, New Zealand  
[www.parliament.nz](http://www.parliament.nz)

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**From:** Kelly Stratton **On Behalf Of** Office Davis  
**Sent:** Monday, 26 March 2018 9:44 AM  
**To:** K Davis (MIN) <[k.davis@ministers.govt.nz](mailto:k.davis@ministers.govt.nz)>  
**Subject:** FW: Waitakere Area Principals Association meeting with Tracey Martin this morning

Naku noa, na

**Kelly Stratton** | **On Behalf of Hon Kelvin Davis**

*Authorised by Kelvin Davis MP, Parliamentary Buildings, Wellington*

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**From:** Donal Mclean [<mailto:donalmclean@fruitvale.school.nz>]

**Sent:** Friday, 23 March 2018 12:03 PM

**To:** Hon Tracey Martin <[Tracey.Martin@parliament.govt.nz](mailto:Tracey.Martin@parliament.govt.nz)>; Hon Chris Hipkins <[Chris.Hipkins@parliament.govt.nz](mailto:Chris.Hipkins@parliament.govt.nz)>; Hon Jenny Salesa <[Jenny.Salesa@parliament.govt.nz](mailto:Jenny.Salesa@parliament.govt.nz)>; Hon Kelvin Davis <[Kelvin.Davis@parliament.govt.nz](mailto:Kelvin.Davis@parliament.govt.nz)>

**Subject:** Waitakere Area Principals Association meeting with Tracey Martin this morning

Kia Ora Koutou Ministers Hipkins and Martin, Salesa and Davis  
WAPA met with Minister Tracey Martin this morning 7:30 -9am

It was a very useful meeting where much was spoken that helped we as educators to get alongside our ministers.

Challenges were thrown out on both sides and respectfully dealt with by both sides. The Waitakere Area Principals Association would be more than happy to engage with the ministry in the summits and beyond these

A sea change of respectfulness and responsibility was in evidence and the 90 principals and senior leadership in the room left very heartened. .

This is in stark contrast to the previous governments approach to education.

We spoke of all topics concerning education but in short these themes were covered

#### Discussion Theme #1: Learning Support

1. Restraint & Seclusion guidelines, an update and next steps
2. Funding for students with Mental Health issues
3. Improving support systems to schools
4. Understanding and working with the data

#### Discussion Theme #2: Property

1. Managing timeframes
2. Transparency of process
3. Ensuring equity

#### Discussion Theme #3: System Change

1. Learning support system review, an update and next steps

2. Educanz, an update and next steps.
3. WAPA's role in the Education Summit.
4. Understanding and working with the concept of 'progress' in assessment

Discussion Theme#4: Teacher Supply & Principal Wellbeing

1. Teacher Supply, an update and next steps
2. System change will increase workloads, plans for mitigating this
3. How will we fulfil the 30 year plan without quality teachers

These themes were specifically spoken too and the ministers passion and process was evident as was her relationship to all of you inside the education port olio that hold positions of responsibility

Thank-you Associate Minister Martin.

--

*Donal McLean*

Principal



Fruitvale School

Email: [principal@fruitvale.school.nz](mailto:principal@fruitvale.school.nz)

Phone: 09 8272752 Mob: 9(2)(a)

President

Waitakere Area Principals Association

"Be the change you want in the world" Gandhi

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# Hon Tracey Martin

Minister for Children

Associate Minister of Education

Minister of Internal Affairs

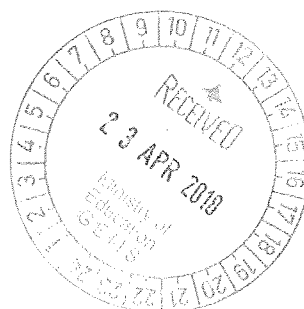
Minister for Seniors



20 APR 2018

Donal McLean  
Principal  
Fruitvale School

[principal@fruitvale.school.nz](mailto:principal@fruitvale.school.nz)



Dear Donal

Thank you for your email of 23 March 2018 about the meeting between the Waitakere Area Principals' Association and myself.

I appreciated the opportunity to discuss a broad range of issues with your members. I am pleased you are supportive of our approach in engaging with educators in a collaborative way.

I want to thank the principals of Waitakere for their commitment to supporting every child to be the best they can be. The Government is committed to developing a learning support system in which children have their individual needs identified and supported early. We want to see every child in New Zealand receive a high-quality education and have the opportunity to achieve.

All education strategies require a skilled and sufficient workforce to implement them. It is important we attract the very best teachers to deliver positive change and provide ongoing development opportunities to support them throughout their careers.

It is unfortunate I was not able to attend a further meeting with you as originally planned. I hope to be able to have that conversation in the future.

I look forward to the Education Summit in May this year and the opportunity to progress a national conversation on education and establish agreed priorities across the system.

Thank you again for writing.

Yours sincerely

Hon Tracey Martin  
Associate Minister of Education

**From:** 9(2)(a)  
**To:** [Hon Tracey Martin](#)  
**Subject:** Restraint guidelines  
**Date:** Tuesday, 4 September 2018 7:45:43 p.m.

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Kia Ora Tracey

With an upcoming Te Tai Tokerau Principals meeting coming up Im just wondering if there have been any developments fre

9(2)(a)

Released under the Official Information Act 1982

**From:** 9(2)(a)  
**To:** [Hon Tracey Martin](#)  
**Subject:** Oops sent before finished  
**Date:** Tuesday, 4 September 2018 7:52:31 p.m.

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... query where the Restraint of pupils request for reviewing is at. If you recall the way it is interpreted both by MOE and schools takes common sense out of the equation.

Arohanui

9(2)(a)

Released under the Official Information Act 1982

9(2)(a)

Dear 9(2)(a)

Thank you for your email of 4 September 2018 about the review of restraint of pupils. You may know the Education (Physical Restraint) Rules 2017 are available at [www.education.govt.nz/assets/Documents/News/2017-Physical-Restraint-Rules-2017.pdf](http://www.education.govt.nz/assets/Documents/News/2017-Physical-Restraint-Rules-2017.pdf).

The Act limits the use of physical restraint by teachers to situations where staff reasonably believe that the safety of the student or of any other person is at serious and imminent risk and the restraint used is reasonable and proportionate in the circumstances.

Guidelines for school and teachers have been issued under the legislation to help schools understand the legislation and follow it. They can be found at [www.education.govt.nz/assets/Documents/School/Managing-and-supporting-students/Guidance-for-New-Zealand-Schools-on-Behaviour-Mgmt-to-Minimise-Physical-....pdf](http://www.education.govt.nz/assets/Documents/School/Managing-and-supporting-students/Guidance-for-New-Zealand-Schools-on-Behaviour-Mgmt-to-Minimise-Physical-....pdf). They aim to address the uncertainty staff experience when faced with a student exhibiting difficult behaviour that may escalate into a dangerous situation.

The Ministry of Education is reconvening the Physical Restraint Advisory Group as the legal framework has been in place for one year. The Group will look at the guidelines in light of their use over the last twelve months.

Thank you again for writing.

Yours sincerely

Hon Tracey Martin  
Associate Minister of Education

**From:** [Angelique Kerr](#)  
**To:** [Ministerial Requests](#)  
**Subject:** C004058  
**Date:** Monday, 24 September 2018 1:40:30 p.m.  
**Attachments:** [Chris Hipkins.docx](#)

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For draft reply

**From:** 9(2)(a)  
**Sent:** Saturday, 22 September 2018 5:04 PM  
**To:** Hon Chris Hipkins <Chris.Hipkins@parliament.govt.nz>  
**Cc:** 9(2)(a)  
**Subject:** Child restraint regulations in schools

Dear Mr Hipkins

Please find attached a letter re child restraint practices not working at our school

This has been also shared with the Board and discussed with them throughout the year

Regards

9(2)(a)

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22<sup>nd</sup> September 2018  
Chris Hipkins  
Minister of Education  
Wellington  
E mail [chris.hipkins@parliament.govt.nz](mailto:chris.hipkins@parliament.govt.nz)  
cc 9(2)(a)

Dear Mr Hipkins

RE: Use of Physical Restraint

As a Principal I have found the implications of the legislation relating to the use of physical restraint very difficult in terms of supporting our parents. We have struggled with several cases this year.

Numerous times parents have asked for help when their 5 year olds have difficulty disengaging. Parents have also asked for help in getting the students out of the car and support getting them to school. Each time we can offer support but can't take the child from the parent even when the parent asks us to do this. Recently we have had to restrain a child who was running out on to the road after his parents.

We have a 6-year-old, and under learning support. The parents are strongly wanting us to take him out of difficult situations and put him in time out e.g. Principal's office for a short time. He has trashed the classroom, hit students, hit the teacher Aide several times..once nearly winding her and the second time throwing a metal gardening tool at her which has resulted in a head injury, possible mild concussion, 3 days away from school and then no longer willing to work with the student. We recognise that we can apply physical restraint when his own safety or the safety of others is evident but it isn't always in time before an incident. The parents recognise taking their child away from the place where he loses control is in the best interest of the safe and emotional environment for their son, other students and staff. The parents would like us to follow the way they deal with him at home e.g. restraining for a short period of time and then time out to address the issues created. They are willing to sign permission for us to use physical restraint.

We have undertaken as a staff Learning Support Ministry training called UBRS and also a group of teachers have undertaking training in applying physical restraint called MAPA training. We also have great support from the learning support team

A second case is also a special needs student enrolled for 3 years. Before the restraint laws came in we were able to support the Mother with separation. Now under the new guidelines we have been unable to offer this support for the Mum. We send a teacher Aide to the home for 2 hours a week and an outreach teacher attends 1 day a week. but she hasn't been at school since the beginning of term 1. We are implementing a requirement that she must start back at school in term 4 and stressing it is the parent's requirements to get their child to school!! Learning support have been involved the whole time

A third instance. We have another year 3 student who is really struggling to get to school. He has anxieties and so does Mum. We have had meetings and put in all sorts of strategies and there has been some improvement. However, the student knows we can't restrain him and has run off home and the mother often can't get him to school, or when she does it is for part of the day

Common sense to me would be allow restraint to also happen where parents give written consent and agree to the type of restraint and time to be restrained etc.

I look forward to changes that support parents and schools

9(2)(a)



30 OCT 2018

9(2)(a)

Dear 9(2)(a)

Thank you for your email of 22 September 2018 sharing your experience of how legislation that limits the use of physical restraint has impacted your school. Principals and teachers are very skilled at what they do and I value the important role you play in the lives of children.

Every day, teachers and principals use their professional judgement to effectively manage challenging or complex behaviour in schools, which includes applying prevention and de-escalation techniques.

I know there are situations where de-escalation strategies are not effective or teachers are not able to intervene early. On these occasions a student may need to be physically restrained. In 2017, changes to the Education Act came into effect to protect teachers when they use physical restraint in school. The associated physical restraint guidelines outline when it is appropriate to use physical restraint, and when it is not.

Given that the physical restraint guidelines have been in place for a year, the Ministry is refreshing them to make them clearer and easier to use. As part of this, it will work through issues schools may have with practically applying the guidelines. The first step in this process was reconvening the Physical Restraint Advisory Group to discuss the best way to update the guidelines, and address concerns raised by principals and teachers. Your comments have been forwarded to the Ministry for consideration as part of this review.

Thank you for writing and sharing your concerns. I wish everyone at Glendowie School all the very best.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH' followed by a stylized flourish.

**Chris Hipkins**  
**Minister of Education**

**From:** [Angelique Kerr](#)  
**To:** [Ministerial Requests](#)  
**Subject:** C004457  
**Date:** Thursday, 27 September 2018 2:29:21 p.m.  
**Attachments:** [image001.png](#)  
[image002.jpg](#)  
[image003.png](#)

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For draft reply

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**From:** 9(2)(a)  
**Sent:** Thursday, 27 September 2018 10:24 AM  
**To:** Hon Chris Hipkins <Chris.Hipkins@parliament.govt.nz>  
**Subject:** Response to MOE lack of understanding!

## MY RESPONSE TO MR DAVID WALES NATIONAL MANAGER LEARNING SUPPORT MINISTRY OF EDUCATION

27 June 2018

Kia Ora Chris

So the ministry is monitoring even the Northland Age. See the letter below to the Editor, from a David Wales who calls himself National Manager Learning Support. Pity that he hadn't spent the time understanding our problem instead of trying to defend the indefensible...

David Wales's response, shows a total lack of understanding of our problem. Remember this is the same person who stated that if we had violent children we should call the Police, even if we were a 100km away from a Police Station.

His response misconstrues what our concerns are, and treats us like country bumpkins who don't understand how helpful his guidelines actually are for us! David also makes out that all those attending the meeting in Wellington were totally in agreement with the Ministry stance, which we know is totally untrue, and he basically laments that we at the coal face, don't understand!

Let's be clear...

I have never said that Ministry of Education prohibited teachers from physically restraining children who are behaving dangerously in school!! However, we have given at least one example of a principal following Ministry Guidelines who as a result was put through a 3.5month investigation by police and treated like a criminal with no support from Ministry.

**What David Wales and his ghost writer in the Ministry fail to grasp is the unintended**

**consequences of the guidelines with regards dealing with children who are not being a danger to themselves or others!**

The child smashing equipment or destroying a room... guidelines say remove all the other children and leave the child in room, presumably until they have destroyed everything! David do you really believe that that is what most people would consider was the best way to handle such a situation, or is it Mad Hatter territory?

The 5-year-old throwing a tantrum because they don't want mum or dad to go and leave them at school and keeps trying to run after her or him!!! A school is under the guidelines not allowed to restrain them and calm them down as we used to for years

David do you really believe that that is what most people would consider was the best way to handle such a situation, or is it Mad Hatter territory?

The child refusing to get out of a car and walk into school.... we are not allowed to pick the child up and carry them into school as we have done for years. David do you really believe that that is what most people would consider was the best way to handle such a situation, or is it Mad Hatter territory?

The child running out of the school grounds we are not allowed to stop.... we are told we cannot restrain until they put themselves in danger... so we run after them and wait till they run out on the road in front of a truck??? David do you really believe that that is what most people would consider was the best way to handle such a situation, or is it Mad Hatter territory?

I would love David and his office bound colleagues to actually deal with the daily occurrences we have to deal with in our classrooms. Then instead of spending time defending the indefensible, they just might do what they are paid to do: - actually help us!!


David Wales obviously does not understand the real need for change with regards restraint He also forgot coincidentally to mention that the Ministry responses at the meeting in Wellington were so pedantically up to expectations that it is laughable if it wasn't so sad! The Ministry refused point blank to look at an amendment to legislation, which is what really is needed...

Its cuckoo and, run by the Mad Hatters and all David has done in his response to the Editor of the Northland Age, is a film flam job to cover ineptitude and denigrate those of us actually dealing with the problem created by his Ministry.

What a pity that David could not put the same effort into actually helping schools with this problem...

9(2)(a)

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**From:** Kathleen Stack [<mailto:Kathleen.Stack@education.govt.nz>] **On Behalf Of** David Wales  
**Sent:** Wednesday, 26 September 2018 12:23 p.m.  
**To:** Editor - Northland Age  
**Cc:** Peter Jackson; Media Team Shared Mailbox  
**Subject:** Ministry response to Northland Age editorial 25 September

Dear Editor

I would like to correct your editorial of 25 September 'We Deserve Better', regarding the guidelines for teachers using restraint in classrooms.

The Ministry of Education does not prohibit teachers from physically restraining children who are behaving dangerously in school.

Sometimes things risk getting out of control in a classroom. I think everyone would agree it is better to prevent dangerous situations developing or using de-escalation techniques to calm things down, but that's not always possible.

Sometimes, someone, usually the teacher, needs to step in. In a serious situation, that might involve physically restraining the child.

We have always recognised teachers need assistance and support to deal with these situations. To that end we worked with school leaders and representatives to develop the guidelines which help them understand when it is ok to use physical restraint, how to do so in a way that is safe for them and for the child, and what other techniques they could use when physical restraint is not appropriate.

It is important to note the guidelines recognise teachers should use their professional judgement to decide how to manage challenging behaviour.

The guidelines were written to protect and support our children – children with challenging behaviour, as well as their classmates – and also to support and protect our teachers.

While we worked with professional leaders to develop the guidelines, we understood that making these as clear and helpful as possible would also require some time being tested in (if they were only being tested why were we not told this, and why then have principals been subjected to inquisitions?? - Pat) schools. So we've always planned to listen and take on board the feedback (BUT REFUSED TO CHANGE LEGISLATION! - <sup>9(2)(a)</sup>) and experiences of the people who are using them. A year after introducing the guidelines that's exactly what we're doing - we have asked those professional leaders back to review the guidelines and explore any changes to them that may be needed.

The Physical Restraint Advisory Group includes representatives of the NZ Principals' Federation, NZ School Trustees Association, Secondary Principals' Association NZ, Te ākatea NZ Maori Principals' Association, Special Education Principals' Association of NZ, NZ



Area Schools Association, NZEI Te Riu Roa, and the Post Primary Teachers' Association the Education Council, the Office of the Children's Commissioner, and the Ministry of Health. The Group met again recently, and there will be more meetings to discuss possible clarifications to the guidelines, as well as a wider opportunity for parents and others to provide feedback. (How many of them wanted changes to the legislation which the Ministry refused point blank? - 9(2)(a))

The representatives on this group are people who know how challenging it can be in classrooms and who have the wisdom and experience to advise on what can be done to assist teachers in these challenging situations.

We appreciate the time these leaders are putting in to ensure teachers have the clearest advice and the best support available in these challenging situations, and that the wellbeing of all of our children and school staff is paramount.

This is important work. Our children deserve the best. Our teachers deserve the best support we can give them. (Oh I wish! - 9(2)(a))

### Nga mihi

**Dr David Wales** | National Director Learning Support  
33 Bowen Street, Wellington

[education.govt.nz](http://education.govt.nz) | [Follow us on Twitter: @EducationGovtNZ](https://twitter.com/EducationGovtNZ)

**We get the job done** *Ka oti i a matou nga mahi*

**We are respectful, we listen, we learn** *He ropu manaak, he ropu whakarongo, he ropu ako matou*

**We back ourselves and others to win** *Ka manawanui ki a matou, me etahi ake kia wikitoria*

**We work together for maximum impact** *Ka mahi ngatahi mo te tuinga nui tonu*

**Great results are our bottom line** *Ko nga huanga tino pai a matou whainga mutunga*



# Hon Chris Hipkins

MP for Rimutaka

Minister of Education

Minister of State Services

Leader of the House

Minister Responsible for Ministerial Services



26 OCT 2018

9(2)(a)

Dear 9(2)(a)

Thank you for your email of 27 September 2018 about physical restraint. I apologise for the delay in responding.

In 2017, a new legal framework came into effect with rules and guidelines to provide greater clarity about when it is okay to use physical restraint. An important catalyst for the new framework was the need to protect teachers in an area that is legally complicated.

The physical restraint guidelines were produced to support school staff, and outline when it is appropriate to use physical restraint, and when it is not. Teachers or authorised staff members can use physical restraint if they reasonably believe there is a serious and imminent risk to the safety of the student or others. Examples are given in the guidelines where restraint can be used, such as when a student is throwing furniture, computers, or breaking glass close to others who would be injured if hit.

Teachers use their professional judgement to decide how to manage challenging behaviour in schools. This includes a good understanding of preventative and de-escalation techniques. The Ministry of Education provides a range of support to help schools manage challenging behaviour, including the *Understanding Behaviour, Responding Safely* workshop, which is available to all schools. This training intentionally focuses on prevention and de-escalation.

Given that the physical restraint guidelines have been in place for a year, the Ministry is refreshing them to make them clearer and easier to use. The first step in this process was reconvening the Physical Restraint Advisory Group to discuss the best way to update the guidelines and address concerns raised by principals and teachers. Your views have been forwarded to the Ministry for consideration as part of this review.

Thank you again for writing.

Yours sincerely

A blue ink signature of Chris Hipkins, written in a cursive style.

**Chris Hipkins**  
Minister of Education