

**QUESTIONS AND ANSWERS ON THE RESTRAINT REPORTING REQUIREMENTS
AND SYSTEM
June 2009**

- 1. Is there a minimum amount of time that a restraint is conducted that needs to be reported to the Pennsylvania Department of Education (PDE) and how do Local Education Agencies (LEAs) report an incident of restraint?**

Any time a restraint is used on an Individual with Disabilities Education Act (IDEA)-eligible child, the incident must be reported to the PDE. 22 Pa. Code § 14.133(b) defines restraint as: *the application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's or eligible young child's body. Restraint does not include briefly holding, without force, a student or eligible young child to calm or comfort him, guiding a student or eligible young child to an appropriate activity, or holding a student's or eligible young child's hand to safely escort her from one area to another.* LEAs shall maintain and report data on the use of restraints regardless of the amount of time of the restraint, as prescribed by the Secretary of Education. The report shall be reviewed during cyclical compliance monitoring conducted by PDE. The website for reporting use of restraints is the Restraint Information System of Collection (RISC) and can be found at: <https://apps.leadingservices.com/risc>.

- 2. Why was a new data collection system (RISC) developed rather than using the Pennsylvania Information Management System (PIMS)?**

PIMS is in development and additional data elements will be incorporated over the next two years. Currently, data collection for special education specific elements is collected separately and will be incorporated into PIMS. The Bureau of Special Education (BSE) and the Bureau of Education Technology (BET) are working collaboratively to incorporate the special education specific data elements within PIMS. Because the consolidation of data systems is not yet completed, the BSE has developed a collection system to facilitate the reporting of the use of restraints pursuant to 22 Pa. Code §§ 14.133 and 711.46.

- 3. If a student is determined eligible for gifted educational services under Chapter 16, do LEAs have to report the use of restraints for the gifted only student?**

No, the restraint reporting requirement applies to students with disabilities as defined in 22 Pa. Code Chapter 14 and children with disabilities as defined in 22 Pa. Code 711.

4. If a student is attending an Approved Private School (APS), Intermediate Unit (IU) program, partial hospitalization program or residential treatment facility, which LEA (home or host district/charter school) reports the restraint?

If the home district placed the student in a program or facility, then the home district is responsible for reporting the use of restraints. If an agency placed the student in a residential facility outside of the home district, then the district where the facility is located (the host district) has the responsibility to report the use of restraints. The host district must specify the placement setting where the restraint occurred.

5. If a regular education student or thought-to-be-eligible student is restrained, must the restraint be reported?

No, the restraint reporting requirement contained in Chapters 14 and 711 applies to students with disabilities as defined in Chapter 14 and children with disabilities as defined in Chapter 711. While reporting requirements apply only to eligible children, LEAs should be aware that thought-to-be-eligible children are not without rights if an LEA has reason to believe that a child is an eligible child and the LEA uses restraints to physically control the child.

6. Does the RISC system apply to 3-5 year old programs?

No, a different reporting system is used for this group of children and the Bureau of Early Intervention Services (BEIS) will notify school entities that provide services to eligible young children regarding the use of restraints and reporting requirements.

7. Do IUs or APSs enter data into the RISC system or do IUs and APSs report the use of restraints to the appropriate LEA?

IUs and APSs report the use of any restraints to the appropriate LEA, which shall maintain and report data on the use of restraints.

8. Are school staff members required to be trained annually in the use of physical restraints?

LEAs have the primary responsibility for ensuring that positive behavior support programs are in accordance with Chapters 14 and 711, including the training of personnel for the use of specific procedures, methods and techniques, and for having a written policy and procedures on the use of positive behavior support techniques and obtaining parental consent prior to the use of restraints or intrusive procedures. Training should be sufficient for the LEAs to meet this obligation, but there is no requirement that training take place annually.

9. Within the RISC system, can LEAs run data reports?

The RISC system currently does not allow LEAs to run reports. PDE staff develops monthly reports and each Division Chief and Single Point of Contact receives a copy of the monthly report on the use of restraints. The trends and/or issues identified in the data reports are shared and discussed with LEA special education administration.

10. What are the types of restraints?

The RISC system provides a drop-down list of types of restraints. In addition, there is an “other” option with a text box for written comments.

11. If a student is in an educational program operated by an agency and a restraint is used, is the use of the restraint reported to the LEA?

Yes, the agency shall report to the appropriate LEA (the LEA on whose behalf the agency is providing the services), which shall maintain and report data on the use of restraints when a student is in an educational program operated by an agency.

12. Do LEAs report the total number of minutes of each restraint in the RISC system?

Yes, the total number of minutes of each restraint is reported.

13. If a restraint is required, LEAs typically have two staff members on-hand during the restraint (one conducting the restraint and one writing a real time narrative of the event). Do LEAs report “1” or “2” in the field for number of staff conducting the restraint?

The LEA would report the staff member(s) who is physically conducting the restraint.

14. Who should the LEA list as the “Contact Person” in the RISC system?

The contact person should be an individual that can answer any questions regarding the use of restraints, implementation of the IEP or positive behavior support plan.

15. Do LEAs have to give a parent written notification when a restraint is used?

Sections 14.133(c)(1) and Section 711.46(c)(1) require LEAs to notify the parent of the use of restraint and conduct a meeting of the IEP team within 10 school days of the inappropriate behavior causing the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. Methods of communication such as telephone calls, voicemail or e-mail are acceptable means of providing the parent with notification related to the use of the restraint, but must be documented.

Notification of the IEP team meeting, however, must be written and the IEP team meeting must occur within 10 days of the behavior causing the use of restraints.

16. If the parent waives the IEP team meeting, must the IEP team meet to review the IEP and Positive Behavioral Support (PBS)?

No, if the parent, after written notice, agrees in writing to waive the meeting, then an IEP team meeting is not required.

17. If an IEP meeting is scheduled and the parent does not attend, is this still considered an IEP meeting?

Yes, as long as the parent was provided written notice of the IEP team meeting, but did not attend.

18. Can an IEP team meeting be held for the use of multiple restraints in a short period of time?

As long as the requirements of 22 Pa. Code § 14.133(c)(1) and 22 Pa. Code § 711.46(c)(1) are met related to written notice and as long as parents are given reasonable notice of the scope of the IEP team meeting, all incidents of restraint which occurred within a short period of time can be addressed at the same meeting.

19. Is there a minimum or maximum number of waivers that can be signed before an IEP team meeting must be convened?

No, as long as the parent, after written notice, agrees in writing to waive each IEP team meeting, there is no maximum amount of times a parent can waive the IEP team meeting.

20. Do Private Schools who provide contracted services on behalf of LEAs report directly into the RISC system, or do they report to the LEA?

The private school should report to the appropriate LEA (home district or to the host district, if the student is publicly placed in a residential facility outside the home district) and the LEA will enter the data into the RISC system.

21. The RISC system addresses injuries “during the restraint.” If a staff injury occurred prior to the use of a restraint, does this injury get reported?

No, the LEA should enter information related to an injury to staff suffered during the actual restraint.

22. Do injuries resulting from restraints in APSs get reported to LEAs?

Yes, injury to students or staff is a required field in the RISC system; therefore, APSs should immediately report the use of any restraint and injury resulting from the restraint to the appropriate LEA, which shall report the incident and injury in the RISC system.

23. Is the RISC system applicable to Private Residential Rehabilitation Institutions (PRRIs), Residential Treatment Facilities (RTFs) or Partial Hospitalization Programs (PHPs)?

No, the Department of Public Welfare (DPW) has a reporting system for PRRIs, RTFs and PHPs. However, if the restraint occurs in the educational program of a student who is placed in one of these residential facilities, the restraint should be reported to the appropriate LEA and recorded in the RISC system.

24. How serious must the student's injury be before LEAs are required to report the injury in the RISC system?

All injuries – no matter how serious – must be reported in the RICS system. If any injury to a student has occurred, LEAs should choose the “Yes” option in response to the question “did an injury to student occur?” and should provide a brief description of the event and the injury. Because the purpose of the reporting requirement is to assist the Department in analyzing trends and/or issues related to the use of restraints, the description of the incident and injury should be detailed enough to be helpful to the Department's analysis.

25. Which LEA reports restraints for students who are in RTFs or an APS, the host district or the district of residence?

For students who are placed by their home districts, the district of residence would report the restraint. For students that are publicly placed in an RTF, the host district of the facility would report the restraint and specify in the building attended section of the report that the restraint occurred in a placement setting.