

Draft Rules on the use of Physical Restraint

Kia Ora!

Why are we consulting on the draft rules on physical restraint?

We know that happy healthy children who feel safe learn better, and we have heard from parents, whānau, schools, and members of the disability community that the current rules and guidelines on physical restraint need to be strengthened to provide more practical guidance and to better protect children and young people from harm.

Recent changes in the Education and Training Act 2020 need to be reflected in the rules and guidelines to provide clarity for school staff, boards, and parents and whānau about when physical restraint can be used.

The Physical Restraint Advisory Group (the Advisory Group) was established in September 2020 to help the Ministry of Education to update the rules and guidelines. The Advisory group includes representatives of parents, the education sector and disability communities.

The jointly agreed purpose of the Advisory Group is to develop workable and sustainable rules and guidelines on physical restraint in schools that:

- uphold the rights of children, whānau and school staff
- prevent the use of physical restraint except as a last resort
- provide clarity and support as to when and how physical restraint can be used.

How you can help

The Advisory Group has produced a proposed set of draft rules and guidelines

We need you to scroll down, read through the Rules and tell us what you think.

You can fill in our [online survey here](#) or email your feedback to physicalrestraint.convo@education.govt.nz.

We want to hear from schools, kura, teachers, non-teaching staff, learning support specialists, disabled people, children and young people and their parents and whānau about whether these would work for them, and whether there are any gaps.

Submissions are open from 23 November 2021 until 31 March 2022.

When the survey period has closed, the Ministry will work with the Advisory Group to consider everyone's feedback before finalising the rules and guidelines for publication.

What are the draft Rules on the use of physical restraint about?

The rules prescribe the practice and procedures to be followed by employers, principals, teachers and authorised staff members in relation to the use of physical restraint in registered schools.

1. Title

These rules are the Education (Physical Restraint) Rules 2021.

2. Commencement

- These rules will come into force at a date to be decided, following the consultation.

3. Interpretation

In these rules:

- **Act** means the Education and Training Act 2020
- **Authorised staff member** has the same meaning as in section 99 of the Act
- **Employer** means:
 - a. the board of a State school
 - b. the managers of a private school
- **physically restrain** has the same meaning as in section 99 of the Act
- **principal** has the same meaning as in section 10 of the Act
- **school community** has the same meaning as in section 10 of the Act
- **teacher** means a person holding a teaching position at a registered school

4. School policies

1. Every employer must have a policy on student distress and the use of physical restraint that has regard to the guidelines issued by the Secretary under section 101 of the Act, including a process for managing complaints.
2. Every employer must take reasonable steps to ensure that parents and caregivers, students, school staff and the school community know about the school's policies on student distress and the use of physical restraint.

5. Authorisation of staff members who are not teachers

1. An employer may authorise an employee, who is not a teacher, and who has been trained in accordance with Rule 12, to use physical restraint in accordance with section 99 of the Act.
2. Every authorisation under sub-clause (1) must be in writing.
3. The employer must give the employee a copy of the authorisation.
4. The employer may, by written notice to the employee, revoke an authorisation at any time.

6. Information to be made available

1. Every employer must ensure that the following documents are available to the school community:
 - b. the guidelines issued by the Secretary under section 101 of the Act;
 - c. the names and positions of any authorised staff members; and
 - d. the school's policy on student distress and the use of physical restraint (Rule 4)

7. Keeping records

1. Every employer must keep written records of every instance of physical restraint of a student.
2. Any record must be kept for a minimum period of 7 years.

8. Developing support plans for the prevention of physical restraint

1. Every employer must ensure a support plan for preventing student distress and de-escalating crisis situations is put in place for any student:
 - a. who the employer identifies as having a high likelihood of being involved in a crisis situation where physical restraint may be used on them; or
 - b. who is subject to the use of physical restraint more than once in a term; or
 - c. at the request of the student's parents or caregivers.
2. Every employer must ensure the student's parents or caregivers provide informed consent if a section on physical restraint is appended to the student's support plan.

9. Notifying the use of physical restraint

Every employer must ensure that when a student has been physically restrained, the student's parents or caregivers are:

- a. notified as soon as possible about the incident of physical restraint; and
- b. provided with a reasonable opportunity to attend a debrief about the incident, including how it was managed with regard to the guidelines, within 72 hours of the incident or later by mutual agreement.

10. Monitoring the use of physical restraint

1. Every employer must take reasonable steps to ensure that:
 - a. any student who has been physically restrained; and
 - b. any staff member who has used physical restraint,

has their physical and psychological wellbeing monitored so that appropriate support can be provided if adverse impacts from the restraint occur.
2. Every employer must ensure that the records kept under Rule 7 are analysed so that trends including increased use of physical restraint can be identified, and appropriate responses to minimise restraint developed.

11. Reporting on the use of physical restraint

1. Every employer must report every incident of physical restraint to the Ministry of Education, including the information in Appendix 1, using their Student Management System or by completing and emailing the form attached to these Rules as Appendix 1.
2. Every staff member who uses physical restraint must complete a staff physical restraint incident report. The employer must place a copy of the form in the student's file and provide a copy to the student's parents and/or caregivers.

12. Training and support for staff

Every employer must ensure:

- a. from 1 March 2023, teachers and authorised staff members have completed online modules on the content of the Guidelines issued under section 101 of the Act;
 - b. from 1 July 2024, teachers and authorised staff members are supported and trained in identifying stress triggers, understanding unmet needs and preventing, minimising and responding to student distress;
 - c. teachers that the employer identifies as having a high likelihood of needing to use physical restraint are trained in appropriate physical holds by accredited physical restraint practitioners;
 - d. every authorised staff member (who is not a teacher) has been trained in appropriate physical holds by accredited physical restraint practitioners prior to their authorisation.
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Information for the Ministry of Education and for Board of Trustees Reporting

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) NSN				
Date of birth	dd/MM/yy			
If the student was physically restrained more than once during the day, indicate how many times?				
Did the student have a support plan?	Yes	No		
Was physical restraint a part of the support plan?	Yes	No		
Who made the principal aware of the incident of physical restraint?	<input type="checkbox"/> Staff member <input type="checkbox"/> Student <input type="checkbox"/> Parent or caregiver <input type="checkbox"/> Other			
Has the school notified the parents or caregivers?	Yes	No		
Please briefly describe the events that led to the use of restraint				
Was anyone injured due to the use of restraint?	<input type="checkbox"/> Staff member <input type="checkbox"/> Student <input type="checkbox"/> Parent or caregiver <input type="checkbox"/> Other			
Does the student have a learning support need e.g. disability, neurodiversity, specific learning difference (diagnosed or self-identified)?	Yes	No	If yes, provide details	
What is the role of the staff member who applied the restraint?	<input type="checkbox"/> Teacher <input type="checkbox"/> Other		If other, describe role	
What is the role of the staff member who applied the restraint?	Yes	No		
Did the staff member who applied the restraint receive training in physical holds prior to the incident?	Yes	No		
Has a debrief meeting been organised?	Yes	No		

The Education (Physical Restraint) Rules 2021 require reporting of physical restraint incidents.

Complete the form above and email it to the Ministry of Education at physical.restraint@education.govt.nz
Provide a copy to the employer (school board or manager of a private school) and the parent or caregiver.

Note: The information in this form may be the subject of requests made under the Privacy Act 2020 and the Official Information Act 1982. You can fill in our online survey here or email your feedback to physicalrestraint.convo@education.govt.nz.

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Ngā mihi.