

September 2017

Restraint guidelines

A Secretary for Education bulletin was sent to schools recently with the new restraint rules. The Education Act amendment is coming into force in phases. It includes an explicit ban on seclusion rooms in schools and power for teachers - in very specific circumstances - to use physical restraint on students. Rules were promulgated in August about how to respond when there were incidents of physical restraint.

The regulations under the Education Act: 'Education (Physical Restraint) Rules 2017

<https://education.govt.nz/assets/Documents/School/Supporting-students/Students-with-Special-Needs/2017-Physical-Restraint-Rules-2017.pdf>

Previously there was no power other than that which came from the Crimes Act to use proportional physical restraint against someone in some situations and the police would be reasonable in their interpretation. It is now explicit that teachers can use physical restraint when someone's safety is at "serious and imminent risk".

This is a concrete defence for teachers, but the test is quite high – it cannot be used to defend property, or to separate students who are simply shouting at each other, and where two students are confronting each other but not physically attacking it could be claimed that is no imminent risk. So actions are going to be open to testing for case law.

Support for schools to manage challenging student behaviour

<https://education.govt.nz/school/student-support/special-education/behaviour-services-to-help-schools-and-students/support-for-schools-to-minimise-physical-restraint/>

There are very strict reporting requirements – any incident has to be reported in an *Incident of Physical Restraint Form* to the MoE. The responsibility and workload will likely fall on SL in the same way that the recent changes to the confiscation rules have.

<https://education.govt.nz/news/new-rules-for-using-physical-restraint-in-schools/>

In cases of the search, surrender and retention of property there is also a complicated process for schools to follow if you have to take something off a student. There is a legal power to confiscate but, again, the administration around it is complex.

A whole class can be 'asked' to give back a stolen item, but blanket searches are prohibited. However, schools can apply their own disciplinary procedures in regards to situations like this, and keeping a class in may be permitted if it's set out in the school rules. A student who walked out of a class being kept in could be subjected to the schools' disciplinary processes

PPTA represents the professional and industrial interests of some 17,500 secondary teachers in state secondary, area, manual training and intermediate schools, as well as tutors in community education institutions, alternative education and activity centres, and principals in secondary and area schools.

and would not have an automatic defence, but a teacher can't physically restrain the student from walking out.

Regulations under the Education Act: Education (Surrender and Retention) Rules, 2013

<https://education.govt.nz/assets/Documents/School/Education-Surrender-Retention-and-Search-Rules-2013.pdf>

Surrender and retention of property, and searches – guidelines

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

Schools can request workshops from the local ministry office (on managing restraint, de-escalating etc.). PPTA would like feedback on the value of these workshops and on how these new rules are working in schools, how aware students and parents are of them and if they are using them to their advantage.

PPTA will be incorporating advice on the new restraints requirements into its anti-violence toolkit. <https://ppta.org.nz/dmsdocument/65>.