**Restraint and Seclusion Resource Document-US Department of Education**

General comments (in order of going through document)

1. The document should just refer to restraint.
2. The document should refer to the fact that seclusion is prohibited, and the only time that a child should be in a room on their own in response to behaviours of concern is when a room has been evacuated, leaving the child in it (as discussed at our meeting).
3. The comments on positive behaviour interventions and supports I believe are relevant as I understand DET have been running a similar program?
4. Clearly, everything referencing US law needs to go, however if DET are minded to refer to research, the same research applies and there would be no reason to think that people in Australia have not read it (I know I have).
5. Looking at the “background” section, the explanation of why the document is required should not refer to the US, but could, for example, refer to the need to be consistent with the Commonwealth’s ‘National Framework For Reducing and Eliminating the Use of Restrictive Practices in the Disability Sector’ and the *Disability Act*.
6. It is important in my view to keep references to the serious consequences of restrictive practices eg injury and death, and the fact that there is no evidence that restrictive practices work. Putting aside the obvious reasons why we don’t want children with disabilities injured or killed, I think it is only fair to school staff that they understand the risks of using restrictive practices themselves.
7. There are references throughout the document to “*physical restraint should not be used except in situations where the child’s behaviour poses imminent danger of serious physical harm to self or others and restraint should be avoided to the greatest extent possible without endangering the safety of students and staff*” and different variations of this sentence. This forms the basis of the third of the 15 principles. My recommendation is that every time this sentence is used in isolation throughout the document, that there is a footnote referring to the page where this principle is elaborated upon.

The reason for this is that this type of term has been used by DET for years to defend restraint and seclusion without guidance as to what is actually meant. See Point 13.

1. I think principle 8 needs to be reworded to stress that any use of restraint should trigger a review.
2. Throughout the documents, references to “dangerous behaviour” or the use of the term “violent” should be changed to “serious” or “significant” or “severe” behaviours of concern.
3. Principles 12 and 14 imply that each school should have their own policies on behaviours of concern. For the sake of consistency and competence, there should be one set of policies/procedures for all schools.
4. **Principle 1**

This principle should provide a checklist of the things that must be done in response to behaviours of concern. This is the most practical way staff can be supported to address these behaviours. The checklist should be graded. So for example the suggestions about reviewing records, interviewing parents, examining previous behavioural interventions etc. are all good. The very **basics** of functional behaviour assessmentprinciples could be attempted, ensuring that it is made absolutely clear that if a certain number of weeks go past (not months), the checklist should then be returned to, moving on, for example, to obtaining external assistance, specific qualifications etc. The research tells us that in the large majority of cases evidence-based intensive behavioural support can effectively address behaviours of concern. Therefore, when after going through the basics, behaviours are not addressed, this indicates that the “big guns” are required.

On the checklist should be “does the child have functional communication”? If not that should trigger a Speech Pathologist to do a comprehensive communication assessment and write a communication plan which someone is trained in and which is formally monitored and evaluated.

The tenets of undertaking preventative strategies to preclude the need for the use of restrictive practices, are that the more serious the behaviours of concern, the more intensive and expert the assistance needs to be. That needs to be made clear to teaching staff.

The list should end with the greatest assistance, being a Board Certified Behaviour Analyst doing a Functional Behaviour Assessment and then developing an Intervention/Treatment Plan which is formally monitored and evaluated.

The checklist has to have some markers that assist staff in knowing where to start. So for example, let’s say that the checklist has points 1-20, and point number 1, is “consult with parents on behaviours of concern and write a draft behaviour plan”. There is absolutely no point in starting here if a student has arrived at a school and quickly displayed behaviour so severe that it has had resulted in an unplanned restraint. Therefore there may be a marker on the checklist for such behaviour which indicates to a staff member that instead of starting at point number 1, they should start at point number 15 which might be “immediately establish a Student Support Group and invite the students treating practitioners to attend”.

It goes without saying that there is no point having the checklist unless DET commits to providing schools with the resources they will need to follow such a checklist.

1. **Principle 2** Seems fine.
2. **Principle 3.**

This is where we need some explanation of restraint being used “*in situations where the child’s behaviour poses imminent danger of serious physical harm to self or others and other interventions are ineffective*” etc.

Similar, but not exactly the same as the OPP 2011 guidelines, staff should be put on notice that as soon as it is clear that a child has behaviours of concern, particularly so if they are significant, and obviously, if they have been sufficiently significant to require one instance of restraint or protective behaviour (from staff), then that must initiate the actions on the checklist. In other words the first and really only time restraint is used, it should be unplanned, and a response to an unexpected behaviour of concern. Once that behaviour occurs, there is no reason for restraint to be used again (unless one can’t obtain immediate behavioural intervention in a particular time frame), because one should have immediately put an action plan into place.

This links in with principle 1. Staff need to know what the “other interventions” are that they should be trying/have tried prior to having to resort to restrictive practices. This goes back to the checklist.

Needless to say, there is no point in staff restraining students and claiming they have tried A, B, C, D and E when we know that all of those things are ineffective. There needs to be agreement about what they should be doing to try and effectively address behaviours of concern.

1. **Principle 4.** All good, however we know that really it is students with disabilities who display behaviours of concern, rarely if ever a child who has no disability whatsoever.
2. **Principle 5.** Note that sub point (2) referring to a “*use of the continuum of increasingly intensive behavioural and academic interventions for children identified as being at risk*” refers to, in my view, the need for the checklist.
3. **Principle 6.** Assuming that restraint will be used from time to time, unfortunately, we should not allow that use “for limited periods of time”, we should be giving a number of minutes as this is to open to interpretation. Sub point (3) touches on why restraint should not be used (in theory) more than once and should not be included in behaviour plans. While we might accept that there may be extraordinary situations where restraint might be used more than once, I believe it is better to in theory disallow it, rather than acknowledge that it can happen. This is due to the history of staff using it repeatedly - they need to understand that it is not acceptable. If we say restraint should only be used once there is more pressure for staff to immediately put in the supports that are required. In other words if one gives staff an “out”, they will take it. Best not to give it.
4. **Principle 7.** While this is very good in theory, how do staff know what type of restraint is “*consistent with known medical or other special needs of the child”?* This is exactly why we should be heading for the elimination of restraint. The burden of staff to understand this and apply it is unfair. What restraint holds should staff be using? On one hand I would prefer staff were not trained in restraint, because the evidence seems to be that once trained in restraint, that is what you will use. A good example of this is Bendigo SDS where staff tell me they attended sessions on pressure points where the “tutor” said that such technique should only be used if the child was ‘sitting in the middle of the road’. What happened of course was that it was used frequently, and out of that context. This again is why I suggest that it should be expected of staff that they should only restraint once. However, I can understand there is some argument as to staff then knowing what restraint is the least dangerous. I would welcome other people’s views.
5. **Principle 8.** Any use of restraint , or any significant behaviour of concern should trigger a review. I referred to earlier comments about the checklist. Note the reference in this section to “*trained personnel* *should develop this plan*” using practices such as “*functional behaviour assessments and behaviour intervention plans*.” At least this document is noticing that for significant behaviours of concern, it is not appropriate for teachers to be doing functional behaviour assessments and drawing up behaviour plans. Otherwise support this principle.
6. **Principle 9.** All good. Repeat comments about functional behaviour assessments and who can do them. This section refers to “antecedent factors” “consequences” and data collection. There needs to be one standard form that DET use for data collection. This needs to be the universally accepted ABC sheet (antecedent, behaviour, consequence). Teachers need to be trained in it, as most don’t understand the meaning of the term “consequence” in this paradigm, and don’t understand the need for the level of detail that is required in the data collection. When staff fill in ABC sheets properly they are then able to be used when professionals come in to start analysing behaviour immediately. Data collection currently is all over the place, if it happens at all.
7. **Principle 10.** All good except the school should not have its own policies and procedures, and I refer to comments under Principle 7 in relation to using restraint. Same comments in relation to data collection. Staff need to understand the difference between data collection and an incident report.
8. **Principle 11.** All good in theory but refer again to training in restraint. Also the way this section is worded it’s almost as if there is an expectation of the frequent use of restraint - I think that is unhelpful and any references to restraint need to continue to punctuate how rarely it should be used.
9. **Principle 12.** This should refer to the DET policies and procedures, domestic discrimination law and the Charter.
10. **Principle 13.** All good-I would suggest that parents should be informed on the same day.
11. **Principle 14.** In favour of policies being reviewed, but this needs to happen at a department level, with schools feeding into the department. This ensures there continues to be only one policy and procedure. Also, it is important, due to conflict of interest, that external experts are involved in such reviews. With all due respect, the SSSO DET complement is widely regarded as having conflict of interest, a lack of expertise in comparison to their colleagues who work external to DET, and lacking knowledge of best practice.
12. **Principle 15.** All good. This should be consistent across Victoria.
13. I think the remainder of the document is probably irrelevant?

**Other important factors that are pivotal to addressing behaviours of concern**

* Student Support Groups. The DET guidelines are very good. They must be mandated.
* Individual Education Plans. The current template that staff sometimes use does not even meet the basics of SMART principles (specific, measurable, achievable, realistic, time bound). The current template is not compulsory and therefore there continue to be numerous and unsatisfactory individual education plans across Victoria. Staff across the board do not understand what is meant by a “measurable outcome”. Training in the writing of IEPs needs to be compulsory and a new template needs to be developed and made compulsory.
* Data Collection. As mentioned above a data collection template must be developed and be compulsory.

Training

There will the will the will the seems to be an issue with training and requiring consistent practice. Often the excuse is that there are so many thousands of teachers in Victoria, the implication being that it is difficult to get them all on the same page. This is not acceptable and not mirrored in the private sector. Large organisations with thousands of employees still require those employees to read and agreed to certain terms and conditions that may change throughout their employment. If the DET are going to mandate a form, policy or procedure, all that needs to be done is that the principal of each school needs to distribute the required material and ensure each teacher signs and acknowledgment that they have read it and understand it.

This is standard professional practice, regardless of the size of an organisation.

**Example of a checklist for school staff**

Below is an example of a checklist (which could have a column for ticking off and dating) assuming that other supports are in place as mentioned above, such as professional mandated template for an Individual Education Plan, mandated Student Support Group guidelines, professional mandated template for a Behaviour Plan etc

Preamble

Preventative actions to avoid behaviours of concern for students with disabilities.

Some students enrolled at your school may have a propensity to exhibit behaviours of concern which staff are advised of by parents at enrolment. Other students with cognitive disabilities may enrol at your school with no history of behaviours of concern, but the evidence is those behaviours may develop if the environment the student is in is not supportive, and/or fails to make the adjustments that student requires. The below checklist will assist you in putting in place preventative strategies and supports that bring out the best in a student. It will also assist you in knowing what to do if behaviours of concern arise.

**Action Circumstance**

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| --- | --- |
| Formation of a Student Support Group as per DET Guidelines. Rely on parental advice as to whether treating practitioners should initially be part of this group. | Upon enrolment and once every term thereafter |
| Development of an Individual Education Plan as per DET guidelines. | Upon enrolment and review at least every term thereafter. |
| Development of a Positive Behaviour Plan as per DET Guidelines. | Upon enrolment if parents advise that behaviours of concern may arise if environment unsuitable. |
| Commencement of collection of behavioural data as per DET guidelines.Meeting of Student Support Group to review Positive Behaviour Plan and Behavioural Data. Simple Functional Behaviour Assessment undertaken. | Mild behaviours of concern arise. |
| Collection of behavioural data as per DET guidelines. Meeting of Student Support Group including relevant treating practitioners to review Positive Behaviour Plan. | Mild behaviours of concern continue shortly after review of positive behaviour plan. |
| Collection of behavioural data as per DET guidelines. Engage Board Certified Behaviour Analyst to undertake Functional Behaviour Assessment, develop, monitor and evaluate Positive Behaviour Plan. | Behaviours of concern continue and are interfering with the education of students and other students, and the socialisation/ reputation of student at the school.Behaviours of concern are significant and students/staff are at risk of injury. |

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Disabilities Discrimination Legal Service

5 August 2016