## Attachment 2

This chart follows the organization of 603 CMR 46.00, Physical Restraint Regulations, and highlights specific key areas of comment and the final recommended language for those areas.

Technical changes to regulations and other minor changes, which received little or no comment, are not reflected in the chart below. The first column "citation" refers to the sections of the proposed amendments to 603 CMR 46.00, as re-organized or proposed for public comment (third column), and as recommended for final adoption (fourth column) with rationale for change (column five). Current regulatory language appears in column two. In all of the revisions displayed below, new and revised language is indicated by <u>underline</u> and deleted language (from the current regulation) by strikethrough.

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
603 CMR	Title: Physical	Prevention of Physical Restraint	Prevention of Physical Restraint	This title reflects more
46.00	Restraint	and Requirements If Used	and Requirements If Used	accurately the purpose of
				this chapter.
46.02:	Consent not defined.	Consent shall mean agreement	Consent shall mean agreement	A number of commenters
Definitions		by a parent who has been fully	by a parent who has been fully	requested or suggested
		informed of all information	informed of all information	language to ensure that
Consent		relevant to the activity for which	relevant to the activity for which	consent to the use of
		agreement is sought, in his or her	agreement is sought, in his or	restraint was not
		native language or other mode of	her native language or other	"coerced" by
		communication, that the parent	mode of communication, that the	conditioning admission
		understands and agrees in	parent understands and agrees in	or receipt of services on
		writing to carrying out of the	writing to carrying out of the	such consent.
		activity, and understands that the	activity, and understands that the	
		agreement is voluntary and may	agreement is voluntary and may	DESE response: This
		be revoked at any time. The	be revoked at any time. The	comment appears to be
		agreement describes the activity	agreement describes the activity	primarily directed at
		and lists the records (if any)	and lists the records (if any)	approved private special
		which will be released and to	which will be released and to	education schools, since
		whom.	whom. In seeking parental	public schools cannot
			consent, a public education	conditionally admit
			program shall not condition	students. Under current
			admission or continued	regulations (603 CMR

enrollment upon agreement to the proposed use of any restraint.46.07), the use restraint may in an IEP, whi generally mus to by a parent implemented, school may as waive notice t when the scho the student.We have revisi regulation bas consent is nec administer a p restraint unde school (1)(b), parent's refuss consent to the	ale
in an IEP, whi generally must to by a parent implemented, school may as waive notice t when the schoo the student. We have revisi regulation bas comments. Th regulations cla consent is nec administer a p restraint under §46.03(1)(b), parent's refusa	
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administer a p restraint under §46.03(1)(b), parent's refusa	ify that
restraint under §46.03(1)(b), parent's refusa	ssary to
\$46.03(1)(b), parent's refusa	
parent's refusa	
-	
consent to the	-
prone restrain	
basis for denia	
admission or o	
service. This	•
aligns with EF	
regulations, w	
include simila	language.

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
46.02:	Mechanical Restraint:	Mechanical restraint shall mean	Mechanical restraint shall mean	A number of commenters
Definitions	The use of a physical	the use of a physical device to	the use of any physical device or	stated that the existing
	device to restrict the	restrict the movement of a	equipment to restrict a student's	and proposed definitions
Mechanical	movement of a	student or the movement or	freedom of the movement. of a	do not appropriately
Restraint	student or the	normal function of a portion of	student or the movement or	distinguish between
	movement or normal	his or her body. The term does	normal function of a portion of	mechanical devices used
	function of a portion	not include an adaptive or	his or her body. A protective or	for restraint and
	of his or her body. A	protective device recommended	stabilizing device ordered by a	appropriate protective or
	protective or	by a physician and consented to	physician shall not be	positioning devices or
	stabilizing device	by the parent, when used as	considered mechanical restraint.	equipment necessary for
	ordered by a	recommended by the physician	The term does not include	participation in a
	physician shall not be	to promote normative body	devices implemented by trained	program on a regular
	considered	positioning and physical	school personnel, or utilized by	basis. Many
	mechanical restraint.	functioning.	a student that have been	recommended
			prescribed by an appropriate	incorporating the
			medical or related services	definition of mechanical
			professional, and are used for	restraint used by the US
			the specific and approved	Department of
			positioning or protective	Education's Office for
			purposes for which such devices	Civil Rights in its Civil
			were designed. Examples of	Rights Data Collection
			such devices include: adaptive	(CRDC).
			devices or mechanical supports	
			used to achieve proper body	DESE response: We
			position, balance, or alignment	agree. The final
			to allow greater freedom of	definition includes the
			mobility than would be possible	CRDC definition with
			without the use of such devices	inclusion of "positioning
			or mechanical supports; vehicle	and protective" language
			safety restraints when used as	to more closely conform
			intended during the transport of	to the EEC language.
			a student in a moving vehicle;	

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
			restraints for medical immobilization; or orthopedically prescribed devices that permit a student to participate in activities without risk of harm.	
46.02: Definitions Chemical Restraint	Chemical restraint: The administration of medication for the purpose of restraint.	<u>Medication restraint shall mean</u> the administration of medication for the purpose of <del>restraint</del> <u>temporarily controlling behavior.</u>	Medication restraint shall mean the administration of medication for the purpose of restraint temporarily controlling behavior. Medication prescribed by a physician and authorized by the parent for administration in the school setting is not medication restraint.	DESE received few comments on this provision. DESE added language to clarify that prescribed medication authorized by a parent for administration in a school setting is not
46.02:	Physical restraint:	Physical restraint shall mean	Physical restraint shall mean	medication restraint. Several commenters
Definitions	The use of bodily force to limit a	<u>direct physical contact that</u> prevents or significantly restricts	<u>direct physical contact that</u> prevents or significantly restricts	asked for removal of the language "without force"
Physical Restraint	student's freedom of movement.	a student's freedom of movement. The term physical restraint does not include prone restraint, mechanical restraint, or medication restraint. Additionally, physical restraint does not include: providing brief physical contact, without force, to promote student safety or limit self-injurious behavior, providing physical guidance or	a student's freedom of movement. Physical restraint does not include: brief physical contact to promote student safety, providing physical guidance or prompting when teaching a skill, redirecting attention, providing comfort, or a physical escort.	and "limit self-injurious behavior" because it was confusing. The reference to "self-injurious behavior" also was included in the then- proposed limited individual student plan for restraint. DESE response: We
		prompting when teaching a skill, redirecting attention, providing		agree that the provision should be clearer and

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
		comfort, or a physical escort.		have removed the
				objected-to language.
46.02:	Public education	Public education programs shall	Public education programs shall	Several advocacy groups
Definitions	programs: mean	mean Ppublic schools, including	mean Ppublic schools, including	requested changes in this
	Public schools,	charter schools, virtual schools,	charter schools, virtual schools,	provision as well as to
Public	including charter	collaborative education	collaborative education	current 46.04(4) (which
Education	schools, virtual	programs, special education	programs, and the school day of	addresses "referral to law
Programs	schools, collaborative	schools approved under 603	special education schools	enforcement and other
	education programs,	CMR 28.09, except as provided	approved under 603 CMR 28.09,	state agencies") to
	special education	in 603 CMR 18.05(5)(h), and	except as provided in 603 CMR	require that school
	schools approved	school events and activities	18.05(5)(h), and school events	resource officers (SROs)
	under 603 CMR	sponsored by such programs.	and activities sponsored by such	be subject to the
	28.09, except as	The term "programs" may be	programs. <u>The term "programs"</u>	requirements of 603
	provided in 603 CMR	used in 603 CMR 46.00 to refer	may be used in 603 CMR 46.00	CMR 46.00. Under
	18.05(5)(h), and	to "public education programs."	to refer to "public education	current regulations,
	school events and		programs." For purposes of 603	SROs, security
	activities sponsored		CMR 46.00, public education	personnel, and law
	by such programs.		programs shall not include the	enforcement are
			educational services provided	permitted to exercise
			within Department of Youth	their responsibilities
			Services, Department of Mental	within the school or
			Health, Department of Public	program.
			Health, or County Houses of	DESE response:
			Corrections operated or	We do not recommend a
			contracted facilities.	change to the regulations.
				It is more appropriate to
				address the roles, duties,
				and limitations of the
				SRO in separate
				guidance relating to the
				recently enacted Act
				Relative to the Reduction

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
				of Gun Violence. The
				new law establishes
				procedures and protocols
				for the assignment of
				SROs in schools, and
				their selection and
				training. It also specifies
				that a memorandum of
				agreement between the
				superintendent and local
				chief of police will
				identify the SRO's role
				and duties.
				Based on other
				comments, the final
				regulation includes
				language consistent with
				that in 46.01 which
				makes clear that
				programs in EOHHS
				contracted or operated
				facilities are public
				education programs for
				purposes of 603 CMR
				46.00.
46.02:	Restraint - Other:	Restraint-Other: shall mean	Delete definition.	Some commenters
Definitions	Limiting the physical	Limiting limitation on a		objected to the phrase
	freedom of an	student's the physical movement		"against the student's
Restraint -	individual student by	using force against the student's		resistance." They
Other	mechanical means or	resistance.		reasoned that it would
	seclusion in a limited			allow restraint of a

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
	space or location, or			student who was not
	temporarily			resisting because the
	controlling the			limitation on the
	behavior of a student			student's movement
	by chemical means.			would fall outside of the
				definition.
				DESE response: We
				have deleted the entire
				definition because it is
				unnecessary.
46.02:	Seclusion Restraint:	Seclusion shall mean the	Seclusion shall mean the	Many commenters raised
Definitions	Physically confining	involuntary confinement of a	involuntary confinement of a	questions and concerns
	a student alone in a	student alone in a room or area	student alone in a room or area	about the distinction
Seclusion	room or limited space	from which the student is	from which the student is	between seclusion and
Restraint	without access to	physically prevented, or	physically prevented from	time-out in the proposed
	school staff. The use	reasonably believes he or she	leaving. Seclusion does not	definitions. Commenters
	of "time out"	will be prevented, from leaving.	include a time-out as defined in	also were concerned
	procedures during	Seclusion does not include a	<u>603 CMR 46.02</u> .	about setting a time limit
& Time-out	which a staff member	time-out as defined in 603 CMR		on time-out. Some
	remains accessible to	<u>46.02</u> . &	&	thought that there should
	the student shall not			be no time limit, and the
	be considered	Time-out shall mean a	Time-out shall mean a	use of time-out should be
	"seclusion restraint."	behavioral support strategy in	behavioral support strategy	left to the judgment of
		which a student temporarily	developed pursuant to 603 CMR	the professionals in
		separates from the learning	46.04(1) in which a student	programs. Others argued
		activity or the classroom, either	temporarily separates from the	that the time limit should
		by choice or by direction from	learning activity or the	be lower for elementary
		staff, for the purpose of calming.	classroom, either by choice or	age students than for
		During time-out, a student shall	by direction from staff, for the	secondary level students.
		not be involuntarily confined and	purpose of calming. During	Some also said that time-
		must be continuously observed	time-out, a student must be	out is allowed to continue
		by a staff member. Staff shall be	continuously observed by a staff	longer than necessary

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
		with the student or immediately	member. Staff shall be with the	and is overused.
		available to the student at all	student or immediately available	Commenters
		times. Time-out shall cease as	to the student at all times. The	recommended that the
		soon as the student has calmed or	space used for time-out must be	space used for time-out
		when thirty (30) minutes have	clean, safe, sanitary, and	meet standards of
		passed, whichever event is	appropriate for the purpose of	cleanliness and size.
		earlier.	calming. Time-out shall cease as	
			soon as the student has calmed.	DESE response: We
				appreciated the number
				and variety of comments
				that we received on
				seclusion and time-out.
				The only purpose of a
				definition of time-out in
				the restraint regulations
				is to distinguish it from
				seclusion, which is
				prohibited. Based on the
				comments, the final
				regulations clarify that
				seclusion means the
				student is confined alone
				in a room whereas a
				student in time-out must
				be with or continuously
				observed by a staff
				person. We have clarified
				that time-out is for the
				purpose of calming and
				must end when the
				student has calmed. We
				have added a new

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
				provision at 603 CMR
				46.04(1)(j) which
				requires written
				procedures for the
				principal or designee to
				approve any time-out
				lasting more than 30
				minutes. This is
				consistent with the EEC
				regulations. We also
				clarified that the space
				for time-out must be
				clean, safe, sanitary, and
				appropriate for the
				purpose of calming.
46.03	Use of restraint.	Physical restraint shall be	(c) <u>Physical restraint, including</u>	Commenters were
	Physical restraint	considered an emergency	prone restraint where	generally supportive of
Use of	may be used only in	procedure of last resort and shall	permitted, shall be	language stating that
Restraints	the following	be prohibited in public education	considered an emergency	restraints are an
	circumstances:	programs except when a	procedure of last resort and	emergency procedure of
		student's behavior poses a threat	shall be prohibited in public	last resort, and were
	(a) Non-physical	of imminent, serious, physical	education programs except	supportive of protective
	interventions	harm to self or others and the	when a student's behavior	procedures.
	would not be	student is not responsive to	poses a threat of assault, or	
	effective; and	verbal directives or other lawful	imminent, serious, physical	See next row for a
		and less intrusive behavior	harm to self or others and the	discussion of the
	(b) The student's	interventions, or such	student is not responsive to	recommended
	behavior poses a	interventions are deemed to be	verbal directives or other	prohibition of prone
	threat of imminent,	inappropriate under the	lawful and less intrusive	restraint except under
	serious, physical	circumstances.	behavior interventions, or	certain conditions.
	harm to self and/or		such interventions are	
			deemed to be inappropriate	

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
	others.		under the circumstances.	
			(d) <u>All physical restraints</u> ,	
			including prone restraint	
			where permitted, shall be	
			administered in compliance	
			with 603 CMR 46.05.	
46.03	(3) Prohibitions.	Prohibitions. Mechanical	(1)Prohibition.	Most commenters
10.05	Physical restraint is	restraint, prone restraint, and		submitted their views –
	prohibited in the	seclusion shall be prohibited in	(a) Mechanical restraint,	for and against – on the
Prohibitions	following	public education programs. The	medication restraint, and	prohibition of prone
	circumstances:	use of medication restraint is	seclusion shall be prohibite	
		prohibited unless specifically	in public education	
	(a) As a means of	prescribed by a physician and	programs.	DESE response: The
	punishment; or	consented to by the parent.	(b) Prone restraint shall be	final regulation prohibits
		Physical restraint shall not be	prohibited in public	prone restraints, but also
	(b) As a response to	used:	education programs	includes an exception for
	property		except on an individual	students with a history of
	destruction,	(a) As a means of <u>discipline or</u>	student basis, and only	danger to self or others
	disruption of school	punishment; <del>or</del>	under the following	under specific conditions.
	order, a student's		circumstances:	This is consistent with
	refusal to comply	(b) When the student cannot be	1. <u>The student has a</u>	the EEC regulations. The
	with a school rule	safely restrained;	documented history of	recommended effective
	or staff directive, or		repeatedly causing	date for the final
	verbal threats that	(c) As a response to property	serious self-injuries	regulations is January 1,
	do not constitute a	destruction, disruption of school	and/or injuries to other	2016, which will allow
	threat of imminent,	order, a student's refusal to	students or staff;	schools a year to adjust
	serious, physical	comply with a school public	2. <u>All other forms of</u>	their policies, practices,
	harm.	education program rule or staff	physical restraints have	and procedures, and to
		directive, or verbal threats that	failed to ensure the	provide additional
		when those actions do not	safety of the student	training for staff to

Citation	Current Regulation	Initial Proposed Amendment	Final R	ecommended Language	Rationale
Citation	Current Regulation	Initial Proposed Amendment constitute a threat of imminent, serious, physical harm; or (d) As a planned response for any individual student. As an emergency procedure of last resort, no written individual behavior plan or individualized education program (IEP) may include use of restraint as a standard response to any behavior. However, for students who prDESEnt with repetitive self-injurious behaviors, the principal may propose to the parent a separate written agreement for the use of restraint on an emergency basis over a limited and specified period of time. In such cases the plan must include detailed reporting to the parent on the frequency of the use and duration of restraints, and the specific time period over which the use of physical restraint will be reduced and eliminated. The principal shall obtain the parent's written consent to the plan prior to implementation.	3.	and/or the safety of others: There are no medical contraindications as documented by a licensed physician; There is psychological or behavioral justification for the use of prone restraint and there are no psychological or behavioral contraindications, as documented by a licensed mental health professional; The program has obtained consent to use prone restraint in an emergency as set out in 603 CMR 46.03(1)(b), and such use has been approved in writing by the principal; and,	Rationaleprepare for this change.The final regulation alsomakes clear that use ofphysical restraint maynot be included in anystudent's individual planbecause it should alwaysbe treated as anemergency response andused as a last resort.The final regulations donot include an option fora time-limited plan toaddress repetitive self-injurious behaviors as itis adequately addressedby the new individualreview requirements,which require a review ofstudents who arerestrained multiple timesin a week. (603 CMR46.06(5))

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
			(2) <u>Physical restraint shall not</u> <u>be used:</u>	
			(a) As a means of <u>discipline</u> or punishment; <del>or</del>	
			(b) When the student cannot be safely restrained because it is medically contraindicated for reasons including but not limited to asthma, seizures, cardiac condition, obesity, bronchitis, communication-related disabilities, or risk of vomiting;	
			(bc) As a response to property destruction, disruption of school order, a student's refusal to comply with a school public education program rule or staff directive, or verbal threats that when those actions do not constitute a threat of assault, or imminent, serious, physical harm; or	

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
			(d) As a standard response for any individual student. No written individual behavior plan or individualized education program (IEP) may include use of physical restraint as a standard response to any behavior. Physical restraint is an emergency procedure of last resort.	
46.04	Procedures. Public education programs shall develop written	Procedures. Public education programs shall develop <u>and</u> implement written restraint	As proposed with changes noted below.	We received few comments on this section, and they were
Procedures	procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:	prevention and behavior support policy and procedures consistent with 603 CMR 46.00 regarding appropriate responses to student behavior that may require immediate intervention. Such policy and procedures shall be annually reviewed and provided to schoolprogram staff and made available to parents of enrolled students. Such policy and procedures shall include, but not be limited to: (a) Methods for preventing student violence, self-injurious		generally supportive of the changes, including support for adding specific time-out procedures and reporting to parents on any physical restraint. DESE response: The final language is similar to the preliminary proposal, with changes to allow for email notice to parents if they so choose, and, due to the concerns about overuse and

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
	(a) Methods for	behavior, and suicide,		extended use of time-out,
	preventing student	including time-out and de-		an additional provision
	violence, self-	escalation of potentially		requiring the principal's
	injurious behavior,	dangerous behavior occurring		approval of time-out if it
	and suicide,	among groups of students or		will extend for more than
	including de-	with an individual student;		30 minutes.
	escalation of			
	potentially	(b) A school policy regarding		
	dangerous	restraint that provides a		
	behavior occurring	description and explanation of		
	among groups of	the school's or program's		
	students or with an	method of physical restraint, a		
	individual student;	description of the school's or		
		<del>program's training</del>		
	(b) A school policy	requirements, reporting		
	regarding restraint	requirements and follow-up		
	that provides a	procedures, and a procedure		
	description and	for receiving and investigating		
	explanation of the	complaints regarding restraint		
	school's or	practices.		
	program's method			
	of physical	(b) Methods for engaging		
	restraint, a	parents in discussions about		
	description of the	restraint prevention and the		
	school's or	use of restraint solely as an		
	program's training	emergency procedure;		
	requirements,			
	reporting	(c) A description and		
	requirements and	explanation of the school's or		
	follow-up	program's <u>alternatives to</u>		
	procedures, and a	physical restraint and method		
	procedure for	of physical restraint in		

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
	receiving and	emergency situations;		
	investigating			
	complaints	(d) A statement prohibiting:	( <u>d</u> ) a statement prohibiting:	
	regarding restraint	medication restraint except as	medication restraint, mechanical	
	practices.	provided in 603 CMR 46.04,	restraint, prone restraint unless	
		mechanical restraint, prone	permitted pursuant to 603 CMR	
	(c) A description and	restraint, seclusion, and the	46.03(1)(b), seclusion, and the	
	explanation of the	use of physical restraint in a	use of physical restraint in a	
	school's or	manner inconsistent with 603	manner inconsistent with 603	
	program's method	<u>CMR 46.00;</u>	<u>CMR 46.00;</u>	
	of physical			
	restraint.	(e) A description of the school		
		<del>or</del> program's training		
	(d) A description of	requirements, reporting		
	the school or	requirements, and follow-up		
	program's training requirements,	procedures;		
	reporting	(f) A procedure for receiving		
	requirements, and	and investigating complaints		
	follow-up procedures;	regarding restraint practices;		
		(g) A procedure for		
	(e)A procedure for	conducting periodic review of		
	receiving and	data and documentation on the		
	investigating	use of physical restraints as		
	complaints	described in 603 CMR		
	regarding restraint	46.06(5) and (6);		
	practices;			
		(h) A procedure for		
		implementing the reporting		
		requirements as described in		

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
		603 CMR 46.06; and		
		(i) Oral parental notification	(i) a procedure for making	
		of the use of restraint on a	reasonable efforts to orally	
		student within 24 hours of the	notify a parent of the use of	
		restraint, followed by written	restraint on a student within 24	
		notification postmarked no	hours of the restraint, and for	
		later than three school	sending written notification to	
		working days following the use of restraint.	the parent within three school working days following the use	
		<u>use of restraint.</u>	of restraint to an email address	
			provided by the parent for the	
			purpose of communicating about	
			the student, or by regular mail to	
			the parent postmarked within	
			three school working days of the	
			restraint;	
			(j) If the program uses time-out	
			as a behavioral support strategy,	
			a procedure for the use of time-	
			out that includes a process for	
			obtaining principal approval of	
			time-out for more than 30	
			minutes based on the individual	
			student's continuing agitation.	
46.04	Required training for	Required training for all staff.	As proposed.	We received few
-0.0 <del>1</del>	all staff. Each	Each principal or director shall		comments on this
	principal or director	determine a time and method to		section, and they were
Required	shall determine a	provide all program staff with		generally supportive of
nequireu	time and method to	provide un program stant with		Senerally support to of

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
training for	provide all program	training regarding the program's		the changes. One
all staff	staff with training	school's restraint prevention and		suggestion was to
	regarding the	<u>behavior support</u> policy <u>and</u>		regulate the content of
	school's restraint	requirements when restraint is		training to include the
	policy. Such training shall occur within the	used. Such training shall occur		role of the student,
	first month of each	within the first month of each		family and staff as well
	school year and, for	school year and, for employees		as known or suspected
	employees hired after	hired after the school year		trauma history.
	the school year	begins, within a month of their		
	begins, within a	employment. Training shall		DESE response: We
	month of their	include information on the		believe the regulation is
	employment.	following:		sufficiently detailed. The
	Training shall include	6		final language is
	information on the	(a) The role of the student,		unchanged from the
	following:	family, and staff in preventing		preliminary proposal.
		restraint;		promotion proposant
	(a) The program's	<u>rostraint,</u>		
	restraint policy;	(b) The program's restraint		
		prevention and behavior		
	(b) Interventions that	support policy and procedures,		
	may preclude the need for restraint,	including use of time-out as a		
	including de-	behavior support strategy		
	escalation of	distinct from seclusion;		
	problematic	distinct from sectusion,		
	behaviors;	(ha) Interventions that may		
	,	(bc) Interventions that may		
	(c) Types of restraints	preclude the need for restraint,		
	and related safety	including de-escalation of		
	considerations,	problematic behaviors <u>and</u>		
	including	other alternatives to restraint		
	information	in emergency circumstances;		
	regarding the			
	increased risk of	(ed) Types of restraints and		

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
	<ul> <li>injury to a student when an extended restraint is used;</li> <li>(d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and</li> <li>(e) Identification of program staff who have received in- depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.</li> </ul>	<ul> <li>When behavior prDESEnts an emergency that requires physical restraint, the types of permitted physical restraints and related safety considerations, including information regarding the increased risk of injury to a student when any restraint is used, in particular a extended restraint of extended duration is used;</li> <li>(de) Administering physical restraint in accordance with medical or psychological limitations, known or suspected trauma history, and/or behavioral intervention plans applicable to an individual student; and</li> <li>(ef) Identification of program staff who have received indepth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.</li> </ul>		
46.04 In-depth staff training	In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal or director	In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal or director of each public education program or his	In-depth staff training in the use of physical restraint. At the beginning of each school year, the principal <del>or director</del> of each public education program or his	Public and private school commenters were concerned about specifying the required length of training

Citation Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
CitationCurrent Regulationof each public education program or his or her designee shall identify program staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in- depth training in the use of physical restraint. The Department of Elementary and Secondary Education recommends that such training be at least sixteen (16) hours in length.	Initial Proposed Amendment or her designee shall identify program staff that who are authorized to serve as a school- wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint, which shall. The Department of Elementary and Secondary Education recommends that such training be competency-based and be-at least-sixteen (16) hours in length. Such individuals shall participate in at least one refresher course during subsequent school years of no less than eight (8) hours in length.	Final Recommended Language or her designee shall identify program staff that who are authorized to serve as a school- wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department of Elementary and Secondary Education recommends that such training <u>be competency-based</u> and be at least-sixteen (16) hours in length with refresher training occurring annually thereafter.	because, of more than ten recognized programs for training on the use of physical restraint, most have a different number of hours of recommended training. Further, districts that did not use physical restraint were equally concerned about the number of hours that staff would be absent from the schools every year if training of a certain length is mandated. DESE response: We agree with the concern. The final regulation recommends competency-based training of 16 hours and an annual refresher, but does not mandate the number of hours. This will give schools flexibility to choose from
			number of hours. This will give schools

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
46.05 Proper Administra- tion of Physical Restraint Safest Method	Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present.	Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the <u>at least one</u> staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present.	(3) Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor restraints, including prone restraints otherwise permitted under 603 CMR 46.03(1)(b), shall be prohibited unless the-staff members administering the restraint hasve received in-depth training according to the requirements of 603 CMR 46.043(3) and, in the judgment of the trained staff members, such method is required to provide safety for the student or others present.	Several commenters strongly supported in- depth training for staff who administer restraints that impose risks to students, especially floor restraints. DESE: The final regulation clarifies that all of the staff members involved in floor restraints must participate in in-depth training.
46.05 Proper Administra- tion of Physical Restraint Duration	Duration of restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a	Duration of restraint. <u>All</u> physical restraint must be terminated as soon as the student is no longer an immediate danger to himself or others, or the student indicates that he or she cannot breathe, or if the student is observed to be in severe	As proposed.	Several commenters supported the increased descriptive language in the proposed amendment. DESE response: The final regulation is unchanged from the

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
	restraint continues	distress, such as having difficulty		proposed amendment.
	for more than twenty	breathing, or sustained or		
	(20) minutes, it shall	prolonged crying or coughing. A		
	be considered an	person administering physical		
	"extended restraint"	restraint shall discontinue such		
	for purposes of the reporting	restraint as soon as possible. If,		
	requirements in 603	due to unusual circumstances, a		
	CMR 46.06.	restraint continues for more than		
		twenty (20) minutes, it shall be		
		considered an "extended		
		restraint" for purposes of the		
		reporting requirements in 603		
		CMR 46.06.		
46.05 Proper	(a) No restraint shall	(a) No restraint shall be	Retain proposed language with	Commenters were
Administra-	be administered in	administered in such a way that	one change and one addition as	generally supportive of
tion of	such a way that the	the student is prevented from	below:	increased detail. Some
Physical	student is prevented	breathing or speaking. During		commenters said staff
Restraint	from breathing or	the administration of a restraint,		had refused to release a
	speaking. During the	a staff member shall		physical restraint upon
	administration of a	continuously monitor the		the student's assertion of
Safety	restraint, a staff	physical status of the student,		physical distress, saying,
requirement	member shall	including skin temperature and		"If you can talk, you can
s	continuously monitor	color, and respiration. A restraint		breathe." Some
	the physical status of	shall be released immediately		commenters also
	the student, including	upon a determination by the staff		expressed concern about
	skin color and	member administering the		the length of restraints,
	respiration. A	restraint that the student is no		and the risks associated
	restraint shall be	longer at risk of causing		with longer restraints.
	released immediately	imminent physical harm to him		
	upon a determination	or herself or others.		DESE response: We have
	by the staff member			added language in
	administering the	(b) Restraint shall be	(b) Restraint shall be	subsection (b) to specify

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
	restraint that the	administered in such a way so as	administered in such a way	that program staff must
	student is no longer at	to prevent or minimize physical	so as to prevent or minimize	release a restraint upon a
	risk of causing	harm. If, at any time during a	physical harm. If, at any time	student's expression of
	imminent physical	physical restraint, the student	during a physical restraint,	significant physical
	harm to him or	demonstrates significant physical	the student demonstrates or	distress.
	herself or others.	distress including, but not limited	expresses significant	
		to difficulty breathing, the	physical distress <u>including,</u>	In addition, we have
	(b) Restraint shall be	student shall be released from the	but not limited to difficulty	added subsection (c) to
	administered in such	restraint immediately, and school	breathing, the student shall	require approval by the
	a way so as to	staff shall take steps to seek	be released from the restraint	principal or designee for
	prevent or minimize	medical assistance	immediately, and school	any restraints lasting
	physical harm		staff shall take steps to seek	longer than 20 minutes.
			medical assistance.	This language also aligns
			(c) If a student is restrained for a	with EEC regulations.
			period longer than 20	
			minutes, program staff shall	
			obtain the approval of the	
			principal or designee. The	
			approval shall be based upon	
			the student's continued	
			agitation during the restraint	
			justifying the need for	
			continued restraint.	

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
46.06	(1)Circumstances	Circumstances under which a	Circumstances under which a	No comments were
Reporting	under which a	physical restraint must be	physical restraint must be	received on this section.
Require-	physical restraint	reported. Program staff shall	reported. Program staff shall	
ments	must be reported.	report and document the use of	report the use of <u>any</u> physical	DESE: Retained the
	Program staff shall	physical restraint in all	restraint as specified in 603	proposed concept with
When to	report the use of	circumstances. restraint as	CMR 46.06(2). after	edits for clarity.
report	physical restraint as	specified in 603 CMR 46.06(2)	administration of any physical	
	specified in 603	after administration of a physical	restraint. that results in any	
	CMR 46.06(2) after	restraint that results in any injury	injury to a student or staff	
	administration of a	to a student or staff member, or	member, or any physical	
	physical restraint that	any physical restraint of a	restraint of a duration longer	
	results in any injury	duration longer than five minutes	than five minutes	
	to a student or staff			
	member, or any			
	physical restraint of a			
	duration longer than			
	five minutes.			
46.06	(3)Informing parents.	Informing parents. The principal	Informing parents. The principal	Some commenters
Reporting	The principal or	or director of the program or	or director of the program or	supported the opportunity
Require-	director of the	his/her designee shall verbally	his/her designee shall make	for parents to be
ments	program or his/her	inform the student's parents or	reasonable efforts to verbally	informed and to
	designee shall	guardians of the restraint as soon	inform the student's parents or	comment on the use of
Informing	verbally inform the	as possible but no later than 24	<del>guardian</del> of the restraint <del>as soon</del>	the restraint and on the
Parents	student's parents or	hours after the event, and by	as possible within 24 hours of	report. Some suggested
	guardians of the	written report postmarked no	the event, and shall notify the	using language from the
	restraint as soon as	later than three school working	parent by written report sent	new regulations on
	possible, and by	days following the use of	postmarked no later than three	discipline, allowing
	written report	restraint. If the school or	school working days following	notice through email.
	postmarked no later	program customarily provides a	the use of restraint either within	
	than three school	parent or guardian of a student	three school working days of the	DESE response: We
	working days	with report cards and other	restraint to an email address	have added language
	following the use of	necessary school-related	provided by the parent for	here and in related

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
	restraint. If the school	information in a language other	communications about the	provisions to allow
	or program	than English, the written restrain	student, or by regular mail	schools to notify parents
	customarily provides	report shall be provided to the	postmarked no later than three	via email if provided by
	a parent or guardian	parent or guardian in that	school working days following	
	of a student with	language. The principal shall	of the restraint. If the school of	# administrative burden
	report cards and other	provide the student and the	program customarily provides	
	necessary school-	parent an opportunity to	parent or guardian of a studen	t
	related information in	comment orally and in writing or	<u>a</u> with report cards and other	
	a language other than	the use of the restraint and on	necessary school-related	
	English, the written	information in the written report.	information in a language othe	er
	restraint report shall		than English, the written	
	be provided to the		restraint report shall be provid	led
	parent or guardian in		to the parent or guardian in the	at
	that language.		language. The principal shall	
			provide the student and the	
			parent an opportunity to	
			comment orally and in writing	F
			on the use of the restraint and	on
			information in the written repo	<u>ort.</u>
46.06	None	Individual student review.	(5) Individual student review.	School-based commenters
Reporting		The principal of the program	The principal of the program	were concerned about the
Require-		shall convene a review team	shall conduct a weekly review	increased administrative
ments		to make an assessment of an		requirements. They expressed
		individual student's needs if a	identify students who have	concerns about how to
		student has been restrained on	been restrained multiple times	proceed with the small
Individual		two (2) separate occasions	during the week. If such	number of students who may
review		within a seven (7) day period	students are identified, the	be restrained multiple times in
		or three (3) times within a	principal shall convene one or	a day and asked how many
		thirty (30) day period.	more review teams as the	meetings they would be
		Members of the grade level	principal deems appropriate to	required to hold.

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
		team and such other program	assess each student's progress	
		staff as the principal may	and needs. The assessment	Other commenters supported
		determine, shall participate in	shall include at least the	the increased review
		the assessment. Each member	following:	requirements. Some suggested
		of the review team shall read		mandating that the school
		the written reports developed	(a) review and discussion	invite the parent to the
		in accordance with 603 CMR	of the written reports	individual review and asked
		46.06 and any comments	developed in accordance	that the results of the review
		provided by the student and	with 603 CMR 46.06 and	be made available to the
		parent about such reports and	any comments provided by	parent.
		the use of the restraints. In	the student and parent	
		addition to review and	about such reports and the	Several commenters suggested
		discussion of such reports by	use of the restraints;	adding a mandate that schools
		the team, the assessment shall		conduct a review based on the
		include an analysis of the	(b) an analysis of the	frequency of time-out.
		circumstances leading up to	circumstances leading up	
		each restraint, including	to each restraint, including	DESE response: The final
		factors such as time of day,	factors such as time of day,	regulation requires a principal
		day of the week, antecedent	day of the week,	to review restraint data weekly
		events, and individuals	antecedent events, and	and to convene individual
		involved. The assessment	individuals involved;	student reviews for students
		shall conclude with a plan for		who are restrained multiple
		addressing any factors that	(c) consideration of factors	times in a week. The
		may have contributed to	that may have contributed	regulation leaves it to the
		escalation of behaviors,	to escalation of behaviors,	principal to determine who
		consideration of alternatives	consideration of	will be part of the review
		to restraint, including de-	alternatives to restraint,	team. The regulation has been
		escalation techniques and	including de-escalation	edited for clarity.
		possible interventions, and	techniques and possible	
		such other strategies and	interventions, and such	While the regulation does not
		decisions, as appropriate, with	other strategies and	require that a parent be
		the goal of reducing or	decisions, as appropriate,	included in the meeting,

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	
		eliminating the use of restraint	with the goal of reducing	schools and programs may
		in the future. If the principal	or eliminating the use of	choose to do so. They must
		directly participated in the	restraint in the future;	make a record of the review
		restraint, a duly qualified		available to the parent upon
		individual designated by the	(d) an agreement on a	request. The Department will
		superintendent or board of	written plan of action by	develop a format for this
		trustees shall lead the review	the program.	review record.
		team's discussion. The		
		principal shall ensure that a	If the principal directly	We are not mandating
		record of each individual	participated in the restraint, a	additional data collection or
		student review is maintained	duly qualified individual	review of time-out data at the
		and made available for review	designated by the	state level, as it is not the
		by the Department, upon	superintendent or board of	focus of the physical restraint
		<u>request.</u>	trustees shall lead the review	regulations. Schools may
			team's discussion. The	adopt additional data and
			principal shall ensure that a	review procedures at the local
			record of each individual	level.
			student review is maintained	
			and made available for review	DESE has learned from the
			by the Department or the	comment that there is a great
			parent, upon request.	deal of interest in the use of
				time-out and behavior support
				generally. We plan to provide
				guidance to schools on
				behavioral support strategies,
				including the appropriate use
				of time-out, over the next
				year.
46.06	None.	Administrative review. The	As proposed.	Some commenters expressed
Reporting		principal of the program shall		concern at the added

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale
Require-		conduct a monthly review of		administrative responsibilities
ments		school-wide restraint data.		that the monthly review of
		This review shall consider		restraint data would require.
		patterns of use of restraints by		Others strongly supported the
Administra-		similarities in the time of day,		increased review and
tive review		day of the week, or		reporting of data.
		individuals involved; the		
		number and duration of		DESE response: The final
		physical restraints school-		regulation maintains the
		wide and for individual		requirement as proposed. The
		students; the duration of		collection and reporting of
		restraints; and the number and		restraint data in a more
		type of injuries, if any,		systematic way is critical to
		resulting from the use of		being able to gauge the use of
		restraint. The principal shall		restraint in Massachusetts,
		determine whether it is		and to identify and curtail
		necessary or appropriate to		excessive use and extended
		modify the school's restraint		use if and where it does exist.
		prevention and management		The Department will develop
		policy, conduct additional		a report format that minimizes
		staff training on restraint		the administrative burden on
		reduction/prevention		schools.
		strategies, such as training on		
		positive behavioral		
		interventions and supports, or		
		take such other action as		
		necessary or appropriate to		
		reduce or eliminate restraints.		
46.06	Report to the	(7)Report to the Department:	(7)Report all restraint-related	Several commenters advocate
Reporting	Department of	-of Elementary and Secondary	injuries to the Department: .of	requiring schools to report
Require-	Elementary and	Education restraint related	Elementary and Secondary	restraint data to the DESE at
ments	Secondary Education.	injury. When a physical	Education. When a physical	least quarterly and that there

Citation	<b>Current Regulation</b>	Initial Proposed Amendment	Final Recommended Language	Rationale
	When a restraint has	restraint has resulted in an	restraint has resulted in a <u>n</u>	be additional monitoring.
	resulted in a serious	serious injury to a student or	serious injury to a student or	Some of the same
Reporting to	injury to a student or	program staff member or	program staff member-or when	commenters also advocate
the	program staff	when an extended restraint	an extended restraint has been	requiring schools to report
Department	member or when an	has been administered, the	administered, the program	time-out data to DESE.
	extended restraint has	program shall provide a copy	shall <del>provide</del> <u>send</u> a copy of	
	been administered,	of the written report required	the written report required by	DESE response: We do not
	the program shall	by 603 CMR 46.06(4) to the	603 CMR 46.06(4) to the	recommend expanding the
	provide a copy of the	Department of Elementary	Department of Elementary and	data reporting requirements at
	written report	and Secondary Education	Secondary Education within	this time. After we have an
	required by 603 CMR	within five postmarked no	five postmarked no later than	opportunity to review the
	46.06(4) to the	later than three (3) school	three (3) school working days	additional data we will be
	Department of	working days of the	of the administration of the	receiving under these
	Elementary and	administration of the restraint.	restraint. The program shall	regulations, then we could
	Secondary Education	The program shall also	also <del>provide</del> <u>send</u> the	revisit whether increased
	within five school	provide the Department with a	Department with a copy of the	reporting is necessary.
	working days of the	copy of the record of physical	record of physical restraints	
	administration of the	restraints maintained by the	maintained by the <del>program</del>	We do not recommend adding
	restraint. The	program administrator	administrator-principal	mandatory reporting of time-
	program shall also	principal pursuant to 603	pursuant to 603 CMR 46.06(2)	outto DESE, for reasons
	provide the	CMR 46.06(2) for the thirty	for the thirty <u>30-</u> day period	previously stated.
	Department with a	day period prior to the date of	prior to the date of the reported	
	copy of the record of	the reported restraint. The	restraint. The Department shall	
	physical restraints	Department shall determine if	determine if additional action	
	maintained by the	additional action on the part	on the part of by the public	
	program	of the public education	education program is	
	administrator	program is warranted and, if	warranted and, if so, shall	
	pursuant to 603 CMR	so, shall notify the public	notify the public education	
	46.06(2) for the thirty	education program of any	program of any required	
	day period prior to	required actions within thirty	actions within thirty 30	
	the date of the	calendar days of receipt of the	calendar days of receipt of the	
	reported restraint.			

Citation	Current Regulation	Initial Proposed Amendment	Final Recommended Language	Rationale	
	The Department shall	required written report(s).	required written report(s).		
	determine if				
	additional action on	(8) Report to the Department	(8) Report all physical		
	the part of the public	- all physical restraints. Every	restraints to the Department.		
	education program is	public education program	Every program shall collect		
	warranted and, if so,	shall collect and annually	and annually report data to the		
	shall notify the public	report data to the Department	Department regarding use of		
	education program of	regarding use of physical	physical restraints. Such data		
	any required actions	restraints. Such data shall be	shall be reported in a manner		
	within thirty calendar	reported in a manner and form	and form directed by the		
	days of receipt of the	directed by the Department.	<u>Department</u>		
	required written				
	report(s).				
46.07:	The effective date of 60	03 CMR 46.00, as amended, is Ja	nuary 1, 2016.	L	
Effective	The effective dute of 000 effict to.00, as amended, is sumary 1, 2010.				
Date	DESE recognizes that some of the changes in the regulations will require time and training and revision of program				
	policies, practices, and procedures. DESE has committed to creating appropriate forms and additional guidance to help				
	with implementation of the regulations to accomplish their purpose of significantly reducing and eventually eliminating				
	the use of physical restraint wherever possible in public education programs in the Commonwealth. DESE encour				
	programs to begin implementing the new regulations as soon as possible, but in all cases, no later than 1/1/201			no later than $1/1/2016$ .	