
MEMORANDUM

TO: Superintendents, Special Education Directors, and Independent School Directors

FROM: Tracy Watterson

SUBJECT: Restraints and Seclusions of Students from Contracted Service Providers and/or Independent Schools

DATE: March 15, 2023

Purpose

Supervisory Unions and Supervisory Districts (SU/SDs) need to know that The Agency of Education (AOE) has recently had a number of questions and concerns regarding the use of restraints and seclusions by SD Associates (SDA) staff and staff members from the Foundations Upper Valley Independent School. To the extent these staff members are exclusively trained in the SUPPORT program, they have not been appropriately trained in the use of restraints and seclusions under [Rule 4509 of the VT Rule 4500 Series](#) and [Vermont's Recommended Physical Restraint Training Programs](#). NOTE: Until the AOE has evidence of the certification in one of the recommended restraint training programs this memo remains in effect.

The purpose of this memo is to clarify:

- the current status of SDA and Foundations staff regarding their ability to perform restraints and seclusions in alignment with Vermont law
- the actions that SDA and Foundations staff will need to complete before they are authorized to administer restraints and seclusions again
- the types of supports that SDA and Foundations staff can offer in the interim
- the process for documenting unauthorized restraints and seclusions performed by SDA and Foundations staff, including which entity shall be responsible for providing this documentation.

Clarifications

In August 2022, the Agency published an [updated list](#) of recommended programs that provide physical restraint training, in alignment with [Rule 4509](#). Individuals (including contracted service providers and staff in independent schools) who have not been

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trained in a program from this updated list shall not administer restraints or seclusions, and doing so represents a violation of the Rule 4500 series.

Current Status of SDA and Foundations Staff

Staff members from these programs who have not received updated training are prohibited from administering restraints or seclusions in Vermont schools at this point in time.

What Actions SDA and Foundations Staff Must Complete Before Permitted to Administer Restraints and Seclusions

Staff members from SDA and Foundations must complete their training and be certified in one of the training programs on VT AOE's list of recommended training programs.

The Types of Supports and Interventions SDA staff and Foundations may offer SU/SDs in the Interim

In the interim, SDA and Foundations may still operate as contracted service providers and, for Foundations Upper Valley, as an approved independent school and are permitted to perform other services (behavior intervention, functional behavioral assessments, behavior support plan development and implementation, etc.) for which they are qualified.

Documentation of Unauthorized Restraints and Seclusions Administered by SDA and/or Foundations

We have also received information that some SU/SDs have been told they are to document reports of unauthorized reports of physical intervention administered by SDA/Foundations. This is a misrepresentation of the AOE's position.

The AOE and Rule 4500 do require that each use of restraint or seclusion by improperly trained staff members be reported as a violation *but the AOE does not support documentation as a substitute for training in an approved program.*

Superintendents are responsible for receiving and reporting to the AOE any violations of the Rule 4500 series that have occurred for their students. This includes those students served by contracted service providers and Independent Schools. However, the reporting responsibilities also fall to SDA and Foundations and we have designed a mandated electronic reporting form that allows both to occur automatically.

To be clear, SDA and Foundations staff members who have administered restraints or seclusions without having first being trained and certified in a training program from the AOE's list of recommended training programs shall complete that first-hand report on the state's mandated electronic form and when they hit the "submit" icon, the report will be sent to both the AOE and the Superintendent of the student's SU/SDs.