

**Summary of Major Revisions to the Regulations on Behavioral Interventions**

The following revisions to the emergency regulations are proposed:

**Definition**

**The term “aversive behavioral interventions” was changed to “aversive interventions” and the definition revised to mean:**

- (i) contingent application of noxious, painful, intrusive stimuli or activities;
- (ii) any form of noxious, painful or intrusive spray, inhalant or tastes;
- (iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
- (iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; and
- (v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The regulations were revised to **prohibit, without exception, the following aversive interventions**: ice applications; hitting; slapping; pinching; deep muscle squeezes; use of an automated aversive conditioning device; the combined simultaneous use of physical or mechanical restraints and the application of an aversive intervention; withholding of sleep, shelter, bedding or bathroom facilities; denial or unreasonable delays in providing regular meals to the student that would result in a student not receiving adequate nutrition; placing a student unsupervised or unobserved in a room from which the student cannot exit without assistance; or other stimuli or actions similar to these interventions at the discretion of the Commissioner.

**Child-Specific Exception**

The procedures for **child-specific exceptions for aversive interventions** were revised to:

- authorize child-specific exceptions only for the 2006-07, 2007-08 and 2008-09 school years, provided that a student with an individualized education program (IEP) that includes aversive interventions as of June 30, 2009 may be provided a child-specific exception each subsequent year, unless the student’s IEP is revised to no longer include aversive interventions.
- clarify that a Subcommittee on Special Education cannot recommend a child-specific exception and that the physician member must be invited to the Committee on Special Education (CSE) meeting convened to consider including aversive interventions on a student’s IEP.
- add that when an IEP includes a child-specific exception or if an IEP is amended to no longer include a child-specific exception that a copy of the IEP must be submitted to the Commissioner.
- clarify that an application for a child-specific exception must be submitted annually.

**Schools that may use aversive interventions**

- The regulations were revised to **limit the schools** that use aversive interventions to those that have their policies and procedures for the use of aversive interventions approved by the

New York State Education Department

Department as of **June 30, 2007**, except that all **preschool programs are prohibited, without exception**, from using aversive interventions with preschool students.

**Program standards when aversive interventions are used**

The program **standards for the use of aversive interventions** were modified to:

- clarify the qualifications of the individuals responsible for designing and supervising behavioral intervention plans that include the use of aversive interventions.
- limit the number of human rights committee members appointed by the school or agency.
- clarify that quality assurance reviews of incident reports relating to aversive interventions must be conducted periodically by the program providing the aversive interventions.
- require that a representative of the school district observe a student, and if appropriate, interview a student at least once every six months when the student's IEP includes the use of aversive interventions.

**Behavioral interventions**

The definition of “**behavioral intervention plan**” (**BIP**) was revised to add that the intervention strategies to address behaviors must include positive behavioral supports and services.

The program standards for the use of **time out rooms** were revised to:

- define a time out room to mean an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program.
- require the school's policies and procedures to: prohibit placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised; include factors which may precipitate the use of the time out room, time limitations for the use of the time out room; specify requirements for inservice training for staff on the policies and procedures related to the use of time out room; specify data collection to monitor the effectiveness of the use of time out rooms; and specify information to be provided to parents.
- clarify that a time out room may only be used as part of behavioral intervention plan or for unanticipated situations that impose an immediate concern for the physical safety of a student or others.
- clarify that a student in a time out room must be continuously monitored and that no student may be placed in a time out room unsupervised or unobserved.
- specify that the school district must inform the student's parents prior to the initiation of a behavioral intervention plan that will incorporate the use of a time out room for a student and shall give the parent the opportunity to see the physical space that will be used as a time out room and provide parent with a copy of the school's policy on the use of time out rooms.

The term “**emergency use of physical restraints**” was changed to “**emergency interventions.**” The program standards on the use of “emergency interventions” were revised to add documentation requirements when such interventions are used.