



MONASH University
Castan Centre for Human Rights Law

**Feedback on the Department of Education and
Training Restraint and Seclusion Policy,
Guidelines and Principles**

Prepared by Eleanor Jenkin

On behalf of the Castan Centre for Human Rights Law

Faculty of Law, Monash University

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The Castan Centre welcomes the opportunity to provide feedback on the Department of Education and Training restraint and seclusion Policy, Guidelines and Principles ('the guidance'). In recent years the Castan Centre has worked closely with the Department of Education and Training ('DET') to review the educational experiences on children with disability in Victoria's government school system.¹ We are pleased to contribute to the process of improving protections for children in the State's educational settings.

Our submission comprises this document, and a marked-up version of the *Principles for Reduction and Elimination of Restraint and Seclusion in Victorian Government Schools* ('the Principles'). This document offers feedback on the suite of guidance on restraint and seclusion in three sections. Section A addresses problems with the form and accessibility of information. Section B offers general feedback on the content of the guidance. Section C provides feedback on specific content issues, with a particular focus on inconsistencies and deficiencies in schools' reporting obligations.

Much of our feedback reflects four key concerns:

1) *The obligations placed on schools and their staff are too weak.*

The guidance - in particular the Principles - often uses 'should' to describe the responsibility of schools and their staff in cases where the law places a clear and unambiguous obligation on them (i.e., the correct language is 'must'). It appears that, at times, 'must' and 'should' have been employed haphazardly. We note that departmental staff are the intended audience of much of the guidance. Without greater clarity of their obligations, and better alignment with the law, the value of the guidance is diminished.

2) *The commitment to reducing and eliminating restraint and seclusion is largely aspirational, and is not supported by a clear strategy*

While the title of the Principles indicates an acknowledgement of the need to reduce the use of restraint and seclusion, with a view to their elimination, this commitment is not reflected in the content of the guidance. Nowhere does the guidance describe or establish a framework for monitoring and reducing these practices at the State or school level - for example, through the elaboration of indicators and targets, and monitoring processes.

3) *The guidance contains a number of inconsistencies*

There are multiple, significant inconsistencies between (and at times within) the guidance documents. Often these inconsistencies relate to the nature of the obligation on schools and school staff (for example, one document states that staff 'should' notify parents of the use of restraint, and other documents state that staff 'must' do so).

4) *The guidance lacks sufficient detail on process and procedure*

Much of the guidance - in particular the commentary to the Principles - is overly general and does not provide concrete information on the precise steps which staff ought to take. It is interesting to note that while the Principles are adapted from the U.S. Department of Education's *Restraint and Seclusion: Resource Document* ('the US document'), much of the procedural detail contained in that document has not been replicated in the Victorian Principles. The lack of detail regarding how reporting and communications with parents² are to be undertaken is especially concerning.

¹ See: Eleanor Jenkin, Claire Spivakovsky, Sarah Joseph and Marius Smith, *Improving Educational Outcomes for Children with Disability in Victoria*, Castan Centre for Human Rights Law (2018).

² Any reference to 'parents' in this document is a reference to parents, guardians, or primary caregivers.

We have reached the conclusion that the best way to address the deficiencies in the current guidance is to start from scratch. We have included in our feedback a marked-up version of the guidance, but we have done this predominantly to point out the areas of greatest concern rather than as a line-by-line set of recommendations. We therefore recommend the establishment of an inclusive consultative process to develop new guidance on the use of restraint and seclusion in Victorian government schools.

A. Feedback on Form and Accessibility of Information

1. Simplify guidance and make it easier to navigate

Department guidance on restraint and seclusion is spread across too many documents, which are difficult to navigate. We counted 22 separate links and 8 unique downloads on the Restraint and Seclusion homepage alone. Restraint and seclusion information is spread across 12 separate webpages (not counting downloads), many of which contain additional links and which are often difficult to navigate. Moreover, it is difficult to establish how the different documents and webpages fit together. A range of links are contained under the heading *Policy guidance, procedures and resources*, including the *Restraint of Student Policy*, and the *15 Principles*. It is unclear which of this information constitutes DET policy and which is simply advisory. There is also significant duplication, overlap, and sometimes inconsistency, between the various documents and webpages. Important inconsistencies are discussed in detail later in this submission. These shortcomings may generate considerable confusion for school staff trying to understand their obligations.

Recommendations:

- 1) Overhaul the restraint and seclusion web presence, including consolidation of information into fewer documents, and a user-experience review to make information more accessible.
- 2) Redraft all guidance to clearly distinguish between information which describes legal and policy obligations which must be adhered to, and information which is merely advisory.

2. Improve how information on policies and procedures is communicated to parents

Principle 12 states that ‘parents/carers should be informed of the Department’s policy (*School Policy and Advisory Guide – Restraint of Student*) on restraint and seclusion’. We note however that the commentary on Principle 12 offers no insights into how, and how often, this information should be communicated. This is symptomatic of a general inadequacy in the way that DET communicates its policy position to parents – an issue the Castan Centre raised in our report *Improving Educational Outcomes for Children with Disability in Victoria*.³

It is instructive to compare Principle 12 with its counterpart in the US document. The commentary on the US principle states:

‘All parents should receive, at least annually, written information about the policies and procedures for restraint and seclusion issued by the State, district, or school. This information should be included, for example, in the district’s or school’s handbook of policies and

³ Jenkin, et al, above n 1.

procedures or other appropriate and widely distributed school publications. Schools, districts, and States are encouraged to involve parents when developing policies and procedures on restraint and seclusion... If policy or procedural changes are made during the school year staff and family members should be notified immediately...'

The US commentary also provides detailed guidance on what issues these policies and procedures should cover. At present, Victorian schools are not required to develop and adopt school policies on restraint and seclusion (as they are with, for example, Student Engagement policies), nor are they required to make the DET *Restraint of Student Policy* ('the Policy') available on their websites (as they are with the Privacy Policy). Principle 12 and the Policy should be amended to give much more practical guidance on these issues.

Lastly, the US principle and commentary states that 'schools, districts, and States are encouraged to involve parents when developing policies and procedures on restraint and seclusion.' Although the US document is still too general, it provides a good starting point for developing more specific commentary in the Victorian document. It is unclear to us whether parents have been properly consulted during the development and review of the DET guidance (for example, whether parents were invited to provide written feedback).

Recommendations:

- 1) Require schools to include the DET Policy on their websites, or include a link to the Policy on the DET website (as is currently required for the Privacy policy).
- 2) Amend Principle 12 and commentary, and the Policy, to provide specific details on the frequency with which parents must be updated on the restraint and seclusion policy, and the form in which this update must be provided. At a minimum, parents should receive written information about policy and procedures on restraint and seclusion at least annually, and also whenever the Policy or associated guidance is updated.
- 3) Ensure that any review of the guidance on restraint and seclusion properly engages parents by, for example, asking schools to circulate through their usual communication channels (such as newsletters) an invitation to parents to provide feedback.

B. General Feedback on Content

3. Articulate clear aims and measurable targets

Despite bearing the title *The Principles for Reduction and Elimination of Restraint and Seclusion in Victorian Government Schools*, the Principles, Policy and associated guidance do not contain an explicit commitment to eliminating the use of restraint in schools, nor do they explain how reductions will be measured, at either the State, school or student level.

As we recommended in our feedback on the draft guiding principles in 2016,⁴ the Principles and Policy should contain a clear statement that the Department's goal is to create an environment in schools where restraint and seclusion are not used, while acknowledging that they may be necessary in very rare instances. This would be a statement of intent to make it clear to everyone concerned that restraint and seclusion are undesirable and should be eradicated where possible. This view is

⁴ Letter from Marius Smith to Mandy Donley, 2 November 2016.

consistent with that of Kumble and McSherry, who state that “banning [restraint and seclusion] is the ideal outcome from a human rights perspective, but this is difficult to achieve in reality.”⁵

This statement of intent should also clearly inform the procedures set out in the guidance. At present, the guidance does not provide a strategic framework for reducing the use of restraint and seclusion. At the Department level, the guidance does not set out indicators or monitoring processes to establish whether the prevalence of restraint and seclusion is in fact reducing. We note that data on the prevalence of the use of restraint and seclusion is not available on DET’s website. This is despite a clear focus within the Principles on the importance of data-driven policy and practice.

The guidance similarly lacks processes for determining trends in the use of restraint and seclusion at the school level. We note that the U.S. Department of Education’s *Restraint and seclusion: Resource document* – upon which the Principles are based – makes detailed recommendations on this front:

‘Data on the frequency of use of restraint and seclusion for all children should be periodically reviewed at school leadership meetings, grade-level meetings, and other meetings of school staff. Data to be reviewed at these meetings should include information, consistent with privacy laws, about the frequency and duration of restraint and seclusion incidents across individual children, groups of children (e.g., gender, race, national origin, disability status and type of disability, limited English proficiency, etc.), settings, individual staff, and programs, as well as the number and proportion of children who were restrained or placed in seclusion since the last meeting and for the year to date. Such reviews should be used to determine whether state, district, and school policies are being properly followed, whether procedures are being implemented as intended, and whether the school staff should receive additional training on the proper use of restraint and seclusion or PBIS. States, districts, and schools should consider making these data public, ensuring that personally identifiable information is protected.’

Unfortunately, similar requirements for schools to examine their own compliance with State and Federal law, and DET policy and best practice, are not contained in the Victorian guidance.

Recommendations:

- 1) Adopt an explicit aim to reduce, and eventually eliminate, the use of restraint and seclusion in Victorian government schools.
- 2) Include in the restraint and seclusion guidance a description of the processes used to monitor the prevalence of, and trends within, the use of restraint and seclusion in Victorian schools.
- 3) Make public on an annual basis state-level statistics on the use of restraint and seclusion in Victorian schools.
- 4) Require schools to periodically review the statistics on the use of restraint and seclusion in their school, in order to assess their own performance and develop strategies to reduce and eventually eliminate the use of restraint and seclusion.

⁵ Surabhi Kumble and Bernadette McSherry (2010) ‘Seclusion and Restraint: Rethinking Regulation from a Human Rights Perspective’, *Psychiatry, Psychology and Law* 17:4, 557.

4. Support and entrench positive behaviour supports

The guidance – in particular the Principles – relies heavily on positive behaviour support strategies (PBS) as a means of avoiding the use of restraint and seclusion. We concur that the implementation of a PBS framework is critical to the reduction and eventual elimination of restraint and seclusion. However, the approach adopted in the guidance is problematic because there is no comprehensive PBS framework currently in place in Victoria. PBS supports are seriously underfunded. The School-wide positive behaviour support program is in its infancy, and remains optional for schools. There is no requirement, and few incentives, for schools to put in place positive behaviour support strategies. Professional development for teachers (under the ‘Managing challenging behaviours professional learning’ unit) is entirely optional (this is addressed in detail below). As noted in our report *Improving Educational Outcomes for Children with Disability in Victoria*,⁶ the extent to which individual schools adopt inclusive practices – including PBS strategies – often depends on the interest and inclination of the principal, and varies widely across schools.

We submit that the aims of the Principles for Reduction and Elimination of Restraint and Seclusion in Victorian Government Schools and associated policy and guidance cannot be achieved without much greater investment in PBS. This should include increased funding, and mandatory PBS frameworks for schools, and professional development for school staff.

Recommendations:

- 1) The School wide positive behaviour support program should be made mandatory for all Victorian government schools.
- 2) Indicators relating to the effective implementation of PBS strategies should be integrated into the VRQA Minimum Standards, FISO, and school leader and staff performance review processes.

C. Specific Feedback on Content

5. Strengthen the Principles so that they better reflect legal obligations

Throughout the Principles, the words ‘must’ and ‘should’ are used haphazardly and seemingly interchangeably to describe school staff’s obligations. This is important, as stating that a school ‘should’ behave in a particular way confers a discretion. At times, this discretion is at odds with either schools’ legal obligations, or with Department policy. At times, ‘must’ and ‘should’ are used in different parts of the document to refer to the same obligation, creating considerable confusion.

We have provided a line-by-line review of each example of the misuse of ‘should’ within the Principles document. However, we wish to draw your attention to several pertinent examples of this trend:

Principle 2: ‘... Restraint or seclusion **should** be discontinued as soon as the immediate danger has dissipated.’

Once an immediate danger to self or others has dissipated, restraint or seclusion is no longer permissible under regulation 25. Clearly, the legal obligation is that it must be discontinued immediately and Principle 2 must reflect this fact.

⁶ Jenkin, et al, above, n 1.

Principle 4: Schools **should** never use mechanical restraints or a drug/medication that restricts a student’s freedom of movement or to control behaviour.

According to the definitions section of the Principles, both mechanical and chemical restraint fall outside the scope of regulation 25, and ‘would not be considered a reasonable action in response to an emergency situation within a school context.’ Mechanical and chemical restraint must never be used in schools, and Principle 4 must reflect this fact.

Principle 7: Physical restraint or seclusion **should** never be used in a manner that restricts a student’s breathing or harms the student.

Physical restraint must never be used in a manner which restricts a student’s breathing. To do so would be to place a student at high risk of severe injury or death, and could never be considered reasonable. Indeed, the Policy explicitly states that any restraint which in any way restricts a student’s breathing must not be used. Similarly, use of physical restraint or seclusion which places a student at risk of serious harm or injury, must never be permitted. Principle 7 must reflect this fact.

6. Provide consistent guidance which makes it mandatory to notify parents of each use of restraint or seclusion

The guidance provided on whether parents ‘must’ or ‘should’ be notified of each use of restraint or seclusion is inconsistent. The following table sets out the (conflicting) information provided in the various documents:

Document	Guidance
Principle 13	Parents/carers should be notified as soon as possible following each instance in which physical restraint or seclusion is used with their child/student.
What Is Physical Restraint? Guidance For Victorian Government Schools	Parents/carers should be notified as soon as possible following an instance in which physical restraint is used on their child.
Restraint and seclusion: response and recovery	A staff member, preferably a member of school leadership team, must also notify the student's parents of the incident on the day it occurs, as soon as possible after the event, and also provide them with the Parent Fact Sheet/s.
Restraint and seclusion: incident intervention	use of physical restraint must be communicated to the student's parent/carer as soon as practicable after the incident, preferably on the same day
Restraint and seclusion: working with parents and carers	Where a student has demonstrated behaviours leading to physical harm or danger to self or others, and/or has been physically restrained or secluded to protect safety, their school needs to notify parents/carers as soon as practicable, or attempt to notify them as soon as practicable and ideally by the end of the day on which the incident occurred

Parent Factsheet on Reducing and Eliminating Restraint and Seclusion In Schools	What Can I Expect If My Child Has Been Restrained Or Secluded? If your child has been restrained or secluded the school will... notify you as soon as possible after the incident
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Of particular concern is the mismatch between Principle 13 and *What Is Physical Restraint? Guidance for Victorian Government Schools*, and the *Parent Factsheet on Reducing and Eliminating Restraint and Seclusion In Schools*, which leads parents to believe that they will be notified in the event of their child being restrained or secluded. We are aware of cases in which schools have failed to notify parents that their child has been subjected to restraint or seclusion, and have defended their actions by referring to Principle 13, contending that schools are not required to notify parents.

We believe that compelling policy and pragmatic reasons exist for requiring schools to provide detailed reports all incidents of restraint and seclusion to parents. As noted in the commentary to Principle 13, '[fully informing parents] helps parents/carers to participate as informed team members which can work with their child's teachers and other school staff to determine whether the behavioural supports at school and at home (including prevention and de-escalation strategies) are effective.' Parents often know their child best, and have valuable information and insights which may be critical to responding effectively to challenging behaviour. Expecting parents to play this role without complete information is deeply unfair. Failing to disclose incidents of restraint to parents may also undermine trust between the school and family, further damaging a relationship which is critical for responding effectively to a child's behaviour. Lastly, allowing schools to use restraint and seclusion without notifying parents raises serious questions about accountability. Parents are often their child's strongest advocate, and they play an important oversight role in any school system. When they are not notified of incidents of restraint and seclusion, parents are hampered from ensuring that their child's best interests are being respected.

We also note that no guidance is provided on the precise information which must be provided to parents. We are aware of cases in which parents have been unable to obtain critical information regarding uses of restraint on their children, including the forms of restraint employed, the duration of restraint, and the alternative, preventative strategies which were employed before the incident. Such incomplete information severely limits the capacity of parents to actively engage with PBS processes, to provide appropriate behavioural and emotional support to their children, and to advocate on behalf of their child's best interests. Both Principle 15 and the Policy contain lists of details which they state 'should' be included in the school record of an incident. However, these lists do not include all the same details, and there is no specific requirement that this – or any – information needs to be provided to parents.

Recommendations:

- 1) The Department should develop a reporting form which requires schools staff to include, at a minimum, the following information when notifying parents:
 - a. The student who was restrained or secluded
 - b. The date on which the restraint or seclusion occurred
 - c. The time at which it began, and concluded
 - d. Persons involved in the restraint or seclusion
 - e. Details of the restraint or seclusion strategies used

- f. Details of the student’s behaviour which posed an imminent threat of serious physical harm or danger to self or others
 - g. Factors contributing to the manifestation of the behaviour of concern, including any triggering events
 - h. Preventative strategies employed before the restraint or seclusion
 - i. Outcomes of the use of seclusion or restraint
 - j. Descriptions of any physical injuries or damages which occurred during the incident
 - k. How the student was monitored during and after the incident
 - l. Follow-up actions and debriefing, including the provision of appropriate medical and psychosocial support to the student
 - m. Next steps, including calling a meeting of the student’s Student Support Group (or, where one is not in place, convening a meeting to form one).
- 2) Principle 13 be amended to read: ‘Parents/carers **must** be notified as soon as possible (at least by the end of the day) following each instance in which physical restraint or seclusion is used with their child/student. Any oral notification must be followed by a written notification [using the DET’s standardized reporting form] within 48 hours of the incident.’
- 3) All policies and guidance dealing with the notification of parents should be aligned and consistent, and should emphasise that such notification is mandatory.

7. Clarify and strengthen reporting obligations

The various policy and other guidance offers inconsistent guidance on which officials must be notified of a use of restraint, and in what form.

The Policy states that, ‘The incident **may** need to be reported to the Security Services Unit (previously known as the Emergency Management Unit).’ However, Restraint and seclusion: response and recovery states that ‘Every instance of restraint or seclusion in schools **must** be reported to the DET Security Services Unit.’ This is consistent with the *Reporting (emergency and incidents) School Policy* (‘Following notification to 000 schools **must** report to SSU any incident posing a risk to the safety of a student, parent, visitor or staff member including ... the use of seclusion or physical restraint of a student in response to an incident’⁷) and *What Is Physical Restraint?: Guidance For Victorian Government Schools* (‘All incidents of physical restraint must be reported to the Department’s Security Services Unit.’)⁸ The inconsistency in this advice is extremely confusing. The difference between requiring reporting to the SSU, and allowing schools’ discretion in whether to report, has important consequences for the handling of individual students’ cases, and for the accuracy and utility of the DET’s data.

We also note that the guidance is inconsistent as to *whom* the report should be made. Principle 15 only suggests the making of a report (without specifying where it must be lodged). The Policy states that the record of the incident ‘should be added to a student’s file on CASES 21 or SOCS as appropriate’. *What Is Physical Restraint?: Guidance For Victorian Government Schools* states that, ‘Each incident involving the use of physical restraint must be documented in writing... Written records must be added to a student’s file on CASES21 or Student Online Case System (SOCS).’⁹ *What Is Physical Restraint?:*

⁷ Although note that Reporting (emergency and incidents) School Policy also requires that teachers call 000 immediately to report any incident. This step is not required in any other guidance, and does not appear to be followed.

⁸ See, p. 8.

⁹ See, p. 7.

Guidance For Victorian Government Schools also offers a checklist of information which should be included in the report.

It is very concerning that schools are not clearly required to add every incident of restraint to a student's file. Firstly, the effectiveness of any positive behaviour support plan depends on its being based on accurate data – which will not be available if a school keeps incomplete records on a student. The second reason is that the DET's own data will be incomplete and unreliable if schools are not required to record and upload details of every incident. This has repercussions for the Department's attempts to continually improve its policies and programmes. Lastly, this has worrying implications for proper oversight and accountability.

We note that the existing guidance makes no reference to external oversight, which we believe is essential if students' rights are to be protected. We have previously been informed by DET representatives that, in fact, the Principal Practice Leader is notified whenever an incident of restraint is logged on DET's system. We are deeply concerned that unless this is done consistently, in all cases of restraint, the Principal Practice Leader's ability to exercise oversight and discharge her duties will be compromised. It is worth comparing this situation to the requirements for reporting of incidents of restraint and seclusion under section 148 of the *Disability Act 2006* (Vic), which requires program officers to report any emergency use of restraint or seclusion to the Senior Practitioner (Disability) (and sets out the timeframe and format for doing so). The Senior Practitioner (Disability) is then required to monitor whether the use of the restraint or seclusion is in accordance with the Act, and to advise the program officer to report on the implementation of the person's behaviour management plan at intervals not exceeding 12 months. The reporting requirements for schools using restraint and seclusion - on children, who often have disability – are remarkably flimsy in comparison.

As noted previously, the guidance on what information should be included in the notification differs between Principle 15 and the Policy. It is unclear whether a standard reporting form exists (for example, within Case 21), and if so, what information fields it contains. As proposed above, a checklist of information should be included on a restraint incident report. We believe that our proposed checklist is comprehensive and useful. Assuming no standard reporting form exists, one based on the fields set out in *What Is Physical Restraint?: Guidance For Victorian Government Schools* should be created.¹⁰

Recommendations:

- 1) Update all policy guidance, including the Policy, to make reporting to the Principal and SSU of all uses of restraint mandatory.
- 2) Require principals to log every incident of restraint and seclusion on the relevant DET database (which will in turn alert the Principal Practice Leader).
- 3) Amend Principle 15 and the Policy to make sure that the information required to be included in all reports of restraint and seclusion are consistent, and at a minimum contain the information set out in the preceding section.

¹⁰ We note that the Catholic Education Commission of Victoria provides a Record of Restraint / Seclusion Template to Catholic schools. While we believe that template could be improved, it provides a useful example. See: Catholic Education Commission of Victoria, *CECV Positive Behaviour Guidelines* (undated) p. 55.

8. Clarify which restraints are impermissible

The different documents under review as part of this process inconsistently list forms of restraint which are impermissible:

Document	List of prohibited restraints
Policy	any restraint must not be used which: <ul style="list-style-type: none"> - covers the student's mouth or nose - restricts breathing - takes student to the ground into the prone (lying flat with the face down, sometimes with the hands behind the head or neck) or supine position (lying with the face up); or - involves the hyperextension of joints, or application of pressure to the neck, chest or joints
Restraint and seclusion: incident intervention	As above, in Policy
Principle 2	Prone restraint and supine restraint are not permitted within Victorian Government Schools
What Is Physical Restraint? Guidance For Victorian Government Schools	The following actions are strictly prohibited within Victorian government schools: <ul style="list-style-type: none"> - prone restraint (holding a student face down) and supine restraint (holding a student face up) on the floor - headlock - choke hold or application of pressure to the neck, chest or joints - 'full or half Nelson' (wrestling holds) - pressing on pressure points to cause pain - holds that cover the face - use of any cloth or object on the face - using a hog tied position - straddling

Only supine and prone restraint are prohibited in all documents – with no consistency on other forms of restraint. The inconsistency across the documents is – again – very confusing. School staff cannot be expected to comply with Department policy and standards when those standards are unclear.

Moreover, the list of impermissible restraints should be expanded to reflect those which are prohibited in the disability sector.¹¹ Many of the students who are subjected to physical restraints in Victorian schools have disability (and those who do not are still children, with the physical, psychological and emotional vulnerabilities childhood entails). It is therefore common sense that restraints considered unsafe or unreasonable in a disability services setting are similarly inappropriate in a school setting.

¹¹ Senior Practitioner, Physical Restraint Direction Paper (May 2011).

Recommendations:

- 1) Bring all DET guidance on prohibited restraint methods into alignment by consolidating all practices listed as impermissible in one or more of the existing guidance documents, and by adding those practices which are prohibited in the disability sector, so that the following actions are strictly prohibited:
 - any restraint which covers the student's mouth or nose
 - any restraint that has the purpose or effect of restraining or inhibiting a person's respiratory or digestive functioning
 - prone restraint (holding a student face down)
 - supine restraint (holding a student face up) on the floor
 - restraints which involve the hyperextension of joints, or application of pressure to the neck, chest or joints
 - headlock
 - choke hold or application of pressure to the neck, chest or joints
 - 'full or half Nelson' (wrestling holds)
 - pressing on pressure points to cause pain
 - holds that cover the face
 - use of any cloth or object on the face
 - using a hog tied position
 - straddling
 - pin downs (subduing a person by holding down their limbs or any part of the body, such as their arms or legs)
 - basket holds (subduing a person by wrapping your arm/s around their upper and or lower body)
 - takedown techniques (subduing a person by forcing them to free-fall to the floor or by forcing them to fall to the floor with support)
 - any restraint that has the effect of pushing the person's head forward onto their chest

9. Enhance requirements for post-incident support and debriefing

The post-incident phase is addressed inadequately in the guidance. Post-incident support is not addressed at all in the Principles. It is addressed in *Restraint and seclusion: response and recovery*, which states that 'incidents involving behaviours of concern leading to harm to self or others may cause distress to the students and staff involved or present', and that 'depending on the nature of the incident schools should consider what support needs to be offered – this could involve school staff reassuring students that they are safe or engaging Student Support Services or other specialists to provide counselling and help restore wellbeing.' It also states that 'all school staff members are encouraged to contact the Employee Assistance Program for counselling support following an incident. School leadership may decide on a case by case basis if any additional support is to be provided for staff at the school level.' The Policy also addresses the issue, stating that following the use of restraint on a student, appropriate supports must be offered to the student who has been restrained or secluded and their parents/guardians, as well as other students and staff members who were involved in or witnessed the incident. The Policy states that in relation to students who have experienced restraint, support 'may include participation in decisions involving the student's behaviour management, Student Support Group meetings, the development of a student Behaviour Support Plan, and involvement of Student Support Services.'

Firstly, the forms of support proposed in the Policy are entirely misguided. Participation in decisions involving the student's behaviour management, SSG meetings, the development of a student Behaviour Support Plan, and involvement of Student Support Services, are all examples of good practice which must be taken after an incident – and indeed should be in place where any student is at risk of behaviours of concern. They are not examples of appropriate post-incident measures to ensure a student's emotional, physical and psychological wellbeing.

At least, however, the Policy requires that appropriate support *must* be offered. The formulation in *Restraint and seclusion: response and recovery*, that 'depending on the nature of the incident schools should consider what support needs to be offered', is inadequate. As acknowledged in the document, the use of restraint can cause significant distress to those involved. It can also cause serious and enduring physical, emotional and psychological damage.

Lastly, provisions for post-incident care for staff members involved in incidents of restraint must be strengthened. Merely encouraging teachers to contact the Employee Assistance Programme is inadequate.

Recommendations:

- 1) All guidance on post-incident support in all policy and other documents should be brought into alignment. This guidance should provide that:
 - a. any student who has been subjected to physical restraint must be seen by a medical practitioner immediately after the incident;
 - b. any student who has been subjected to physical restraint must be referred to a counsellor. Where requested by the student or parents, this counselling support should continue as long as reasonably required;
 - c. any other students who were involved in, or witnessed, the incident of restraint must be offered counselling;
 - d. the principal must conduct a debriefing with any staff member involved in the incident, and offer counselling through the EAP or other channels; and
 - e. after any incident of restraint, information on available support services should be provided to the student, parents, relevant teachers, other students and witnesses.

10. Strengthen and elaborate training requirements

The Principles state that teachers and relevant school staff should receive training on appropriate behaviour management strategies for preventing behaviours of concern, and that this should 'ideally' cover how to develop, implement and evaluate the effectiveness of school-wide behavioural programs. The Principles can, and should, go much further in detailing the types, frequency, and content of training which staff should receive. It is particularly concerning that the recommended training relates only to PBS, and not to training on alternatives to restraint and seclusion, and to the safe use of restraint and seclusion techniques as a last resort. This raises the possibility of untrained staff using potentially harmful and injurious restraint techniques. Clearly, only staff who have been appropriately trained should employ these techniques. Similarly, training should address proper data collection and reporting. Lastly, guidance should be offered on the optimal frequency and design of staff training.

We note that the U.S. Department of Education's *Restraint and seclusion: Resource document* contains much of this additional detail. It is not clear why the training requirements set out in the U.S. document were not adopted, or adapted, in the Victorian guidance.

The paucity of guidance on staff training is starkly demonstrated when comparing it with the *Asthma School Policy*. The policy sets out in detail recommendations and requirements for staff training on asthma, including:

- all staff with a direct teaching role with students affected by asthma and any other school staff identified by the principal, based on an assessment of the risk of an asthma attack occurring while a student is under the care or supervision of the school, should undertake non-accredited training in Asthma first aid management at least every three years;
- certain staff (identified in the policy) should undertake accredited training in asthma management every three years (the policy sets out the specific, accredited courses); and
- if a staff member has not yet completed training, the principal is responsible for developing an interim Student Health Support Plan that includes the student's Asthma Action Plan in consultation with the student's parents. Training should take place as soon as practicable after the student diagnosed with asthma enrolls, preferably before the student's first day at school.

Both asthma and restraint and seclusion represent serious risks to a child's health, safety and well-being. While we believe that the use of 'should' in the *Asthma School Policy* is inadequate, we nonetheless regard the level as detail in the policy as instructive. That the training requirements and guidance for school staff on restraint and seclusion are so weak is deeply concerning. Training on these issues should be mandatory for all classroom staff, and the requirements of such training set out in much more detail.

Recommendations:

Recommendations 1-4 are adapted from the U.S. document.

- 1) Amend the Principles and related guidance to state that
 - All school staff must undertake adequate ongoing professional development focusing on creating a positive environment that minimises the likelihood that students will exhibit behaviours of concern. In particular:
 - all classroom staff and school leaders must undertake training units on PBS.
 - all school staff must be trained in alternatives to physical restraint and seclusion, and how to use these techniques safely as a last resort; and
 - school staff must be trained on the proper documentation and reporting of restraint and seclusion.
- 2) The above training and refreshers should take place twice a year, and more frequently where enrolled students have a history or high risk of behaviours of concern.¹²
- 3) Only school personnel who have undertaken the required training on the use of restraint and seclusion should be permitted to employ these interventions, or to monitor their use.

¹² This frequency is drawn from the U.S. document, which states that, 'At a minimum, training on the use of physical restraint and seclusion and effective alternatives should be provided at the beginning and middle of each school year. However, such training should be conducted more often if there are enrolled students with a history or high incidence of dangerous behavior who may be subjected to physical restraint or seclusion procedures.' (p. 19).

- 4) Staff who engage in multiple uses of restraint and seclusion must be required to undertake additional, intensive training and support.
- 5) Training should be accompanied by regular supervised practice, in which staff are given the opportunity to review and practice approaches to preventing the conditions which may result in the use of restraint or seclusion.
- 6) Where a student is identified as being at high risk of behaviours of concern, and a relevant staff member has not yet completed training on PBS, alternatives to restraint and seclusion, and the safe use of restraint and seclusion, the principal must develop a professional development plan for that staff member to ensure they have the skills and knowledge to support the student in question.