

**ECHO IDAHO**

**K12 Behavioral Health  
in the Classroom**

# **Legal Obligations and Safety Considerations for Teachers**

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# Learning Objectives

- Understanding FAPE
- Legal and ethical obligations for teachers
- Restraint and Seclusion Law
- Suspensions and Expulsions
- Manifestation Determination process

# Legal Obligations

Take a minute and enter into the Chat your answer to the following question:

What are some of the legal and ethical concerns that teachers are currently facing?

# FAPE: Free and Appropriate Public Education

FAPE, or Free Appropriate Public Education, is a key component of the Individuals with Disabilities Education Act (IDEA). It's a legal right that ensures every child with a disability has access to an education tailored to their unique needs, at no cost to their family.

## Four requirements of FAPE

1. **Free** (at no cost to the parent): Provided at public expense, under public supervision and direction, and without charge.
2. **Appropriate** (IEPs outline a specific program to meet a student's needs): Meeting the standards of the State Educational Agency (SEA).
3. **Public** (students have the same rights to attend public school as other children): Including an appropriate preschool, elementary school, or secondary school education.
4. **Education** (provide accommodations to participate in the general education curriculum): Providing necessary services such as adaptive aids, modifications, therapy, and accommodations.

[Center for Parent Information & Resources](#)

# Idaho Code of Ethics Idaho Professional Educators

Principle I - Professional Conduct

Principle II - Educator/Student Relationships

Principle III - Alcohol and Drug Use or Possession

Principle IV - Professional Integrity

Principle V - Funds and Property

Principle VI - Compensation

Principle VII - Confidentiality

Principle VIII - Breach of Contract of Abandonment of Employment

Principle IX - Duty to Report

Principle X - Professionalism

# Seclusion and Restraint IHB 581

<b>PROHIBITED PRACTICES</b>	<b>CONDITIONS FOR USE</b>
<b>Districts and charters SHALL NOT:</b> <ol style="list-style-type: none"><li>1. Use corporal punishment</li><li>2. Use chemical restraint</li><li>3. Use restraint or seclusion as a form of discipline or punishment.</li></ol>	<b>Restraint and/or Seclusion may only be deployed when:</b> A student's behavior places the student, staff, or others in imminent danger of serious bodily harm.

## ***What constitutes imminent danger?***

Imminent danger means that it is reasonably likely that serious bodily harm to self or others is likely to occur.

## ***Can restraint or seclusion be used to avoid serious property destruction?***

**No.** Restraint or seclusion can only be used when the student or others are in imminent danger of serious bodily harm.

## ***Does this mean that we must wait until a student inflicts harm on self or others before restraint or seclusion can take place?***

**No.** Imminent danger does not mean that staff must wait until serious bodily harm has already been inflicted. Less restrictive options such as removing staff and other students from the student's proximity or utilizing de-escalation strategies are always an option for responding to escalating behavior. Restraint or seclusion may be used as a response to imminent danger of serious bodily harm when all other options have been exhausted.

# Seclusion and Restraint IHB 581

***Does restraint or seclusion have to be in a “plan” to use it?***

**No.** Situations where imminent danger of serious bodily harm may occur are not always predictable. Restraint and seclusion should always be a last resort option and should only be listed in a student’s plan as a last resort option rather than as a go-to strategy for behavior management under any circumstances. Repeated use of restraint or seclusion should trigger further conversation (such as the consideration for a Functional Behavior Assessment, a Behavior Intervention Plan and/or revisions to existing plans) and team planning related to the student’s behavioral support needs.

***Are there time and duration limits on the use of restraint and seclusion?***

**Yes.** Restraint or seclusion should not exceed 30 minutes except under extreme circumstances. In these cases, more than one staff member should be involved and contact with parent and administrator should be made immediately.

***Is it considered seclusion if a student is placed in a room by themselves and not allowed to leave?***

**Yes.** If the student is in the room alone and is not allowed to leave, or perceives that they aren’t allowed to leave, then it is considered seclusion.

***If a teacher refuses to allow a student into class because of behavior, is this seclusion?***

**No.** However, this is a type of “informal removal” and must be documented as a removal or suspension.

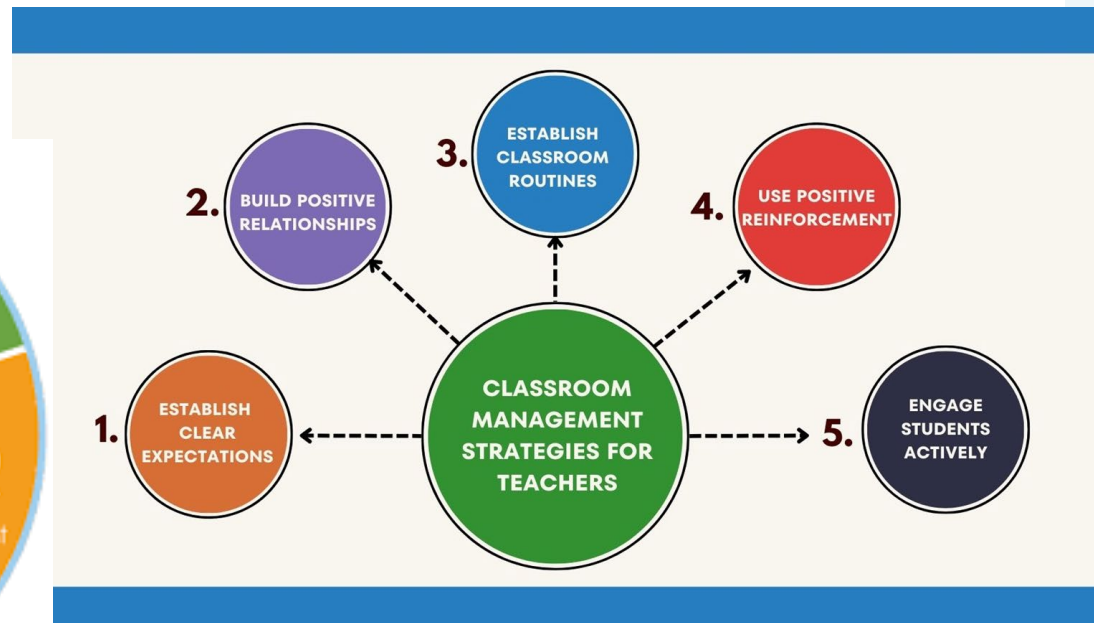
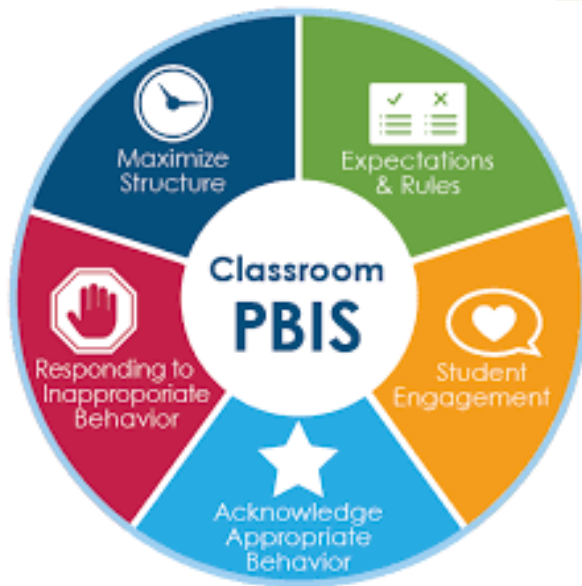
***Does picking up and/or carrying a student count as restraint?***

**Yes.** Picking up and carrying a student is a type of restraint that is unsafe, poses, unnecessary risk, and should not be used. It is NOT a type of physical escort (This does not include lifting and carrying students for disability-related transfers conducted as directed by a professional).

# What do we do instead?

**Annual Training required for all staff to include: Positive behavior supports, De-escalation techniques, Classroom behavior management**

**Annual Training required for specialized staff to include: Crisis management, De-escalation techniques, Correct use of restraint and seclusion, Functional Behavior Assessment, Behavior Intervention plans, Crisis plans**





# Procedure for a Room Clear

**Clearing a Room: Why, When, How, Who Supports**  
(What's the plan?)

**Remember to never leave an escalated student unattended.**



**Why?** As a way to ensure everyone's safety.

**When?** A student exhibits physically dangerous or destructive behavior that places others in a dangerous situation.

**How?** Establish clear procedure: 1. Identify where the rest of the class will go and what they will do. 2. Establish procedures for supervision of student engaged in physically dangerous behavior. 3. Determine consequences for behavior in advance.

**Who Supports?** Establish who is part of the team (admin, teacher, special education staff, support staff? )

**Follow up action:** Debrief with team (including parents and students).

# Suspension- Expulsion: Points to Remember

- Suspension
  - Up to 10 Days per year.
    - Cumulative and includes partial days
    - Formal or Informal suspensions
- Expulsion
  - Educational Services, including special education and general education, must continue.
- Imminent Threat or Possession of Illegal Drugs or Firearms
  - Removal of up to 45 days if student brings drugs or firearms to school or school activity. (Some exceptions can reduce this time.)

# Manifestation Determination Process

- What is a Manifestation Determination
- When Must a Team Conduct a Manifestation Determination
- Preparing for a Manifestation Determination Meeting
- During the Meeting: Answering the Questions
  - Question 1: Was the conduct in question caused by or have a direct and substantial relationship to the student's disability?
  - Question 2: Was the conduct in question the result of the LEA's failure to implement the IEP or 504 plan?
- After The Meeting

## Manifestation Determination: A Practice Guide

# Questions and Answers

# Resources & References

- [Idaho Special Education Manual 2018](#)
- [Student Removal Quick Guide](#)
- [The Educator's Guide to Student Discipline and Supports](#)
- [Reminders on Disciplining Students with Disabilities](#)
- [Manifestation Determination Flowchart](#)
- [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions](#)
- [Procedural Safeguards Notice](#)