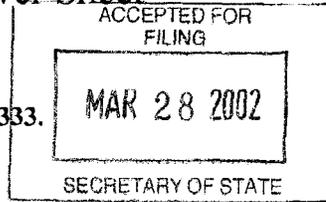


Rule-Making Cover Sheet

MAPA-1

TO: Secretary of State
ATTN: Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.



2002-104

- 1. Agency: Department of Education
2. Agency umbrella and unit number: 05 071
3. Title of rule: Use of Timeout Rooms, Therapeutic Restraints, and Aversives in Public Schools and Approved Private Schools
4. Chapter number assigned to the rule Chapter 33
5. Date(s)/method(s) of notice: Filed with the Secretary of State's Office for advertisement on November 27, 2001.
6. Date(s)/place(s) of hearing(s): none requested
7-A. Type: xx new rule
8. Name/phone of agency contact person: Dr. Judith Lucarelli 624-6606
9. If a major substantive rule under Title 5, c. 375, sub-CII-A, check one of the following

10. Certification Statement: I, J. Duke Albanese, hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by the Maine Department of Education on March 28, 2002.
Signature: [Handwritten Signature]
Printed name & title: Commissioner, Maine Department of Education

11. Approved as to form and legality by the Attorney General on 3/28/02
Signature: [Handwritten Signature]
Printed Name: Sarah A Forster

05- DEPARTMENT OF EDUCATION  
071 COMMISSIONER OF EDUCATION  
Chapter 33 USE OF TIMEOUT ROOMS, THERAPEUTIC RESTRAINTS AND AVERSIVES IN  
PUBLIC SCHOOLS AND APPROVED PRIVATE SCHOOLS

Section 1. In General

1.1 Policy and Purpose

These regulations establish standards for the use of separate, isolated timeout rooms and the use of therapeutic restraint when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use a timeout room or implement a program of therapeutic restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limit the protections of individual students under applicable special education standards.

1.2 Local Policy Required

Each School Administrative Unit and each approved private school shall develop local policies and procedures relating to the use of timeout rooms and therapeutic restraint prior to initiating such interventions in their schools. School Administrative Units and approved private schools which have local policies and / or permit the use of timeout rooms and / or therapeutic restraint shall revise existing policies or develop policies consistent with these rules within 90 calendar days of the effective date of these rules. These policies and procedures shall be developed with input, as needed, from representatives of related disciplines such as special education, psychology, school psychology, social work and / or counseling. SAUs and approved private schools shall establish a process to review, at least annually, the use of timeout rooms and therapeutic restraint and to make recommendations as necessary to the governing body for changes in local policy.

1.3 Documentation

Each use of a timeout room and / or therapeutic restraint shall be documented. The documentation shall include at a minimum, the date and time of initiation, the time of termination, the student, the location, the antecedent events prior to the behavioral episode, the behavior that resulted in the use of timeout and / or therapeutic restraint, the type of intervention, and the staff person(s) involved in the use of timeout and / or therapeutic restraint. This documentation shall be written as soon as practical after the incident and provided to the program administrator or designee within 2 school days of the incident. The program

---

administrator or designee shall inform the parents or guardians of the use of timeout or therapeutic restraint as soon thereafter as practical.

## Section 2. Definitions

### 2.1 Timeout

Removal to a timeout room is a therapeutic intervention to bring the behavior of a student presenting a risk of injury or harm to self or others or significant property damage under control. The purpose of the use of timeout rooms is to reduce the frequency and intensity of harmful behaviors, to permit the student to regain his or her composure and to assist the student to return to the learning environment. Timeout includes requiring a student to leave the classroom, playground, or other educational setting and go to a designated timeout room for a period of time specified in these rules and local policy. For purposes of these rules, timeout is limited to a designated timeout room. The term does not include disciplinary actions imposed by a school administrator or teacher / staff imposed behavior interventions. Examples of disciplinary actions imposed by a school administrator include, but are not limited to, detention and "in school suspension." Examples of teacher / staff imposed behavior interventions include, but are not limited to, requesting a student to sit in a "quiet chair" within the classroom, directing a student to put his / her head on their desk, sending a student to the principal's office, etc. These exclusions may not be used to circumvent the intent of these rules.

### 2.2 Timeout Room

A time out room is a designated space, separate from a student's classroom, which is used to isolate a student from his or her peers and school activities. All timeout rooms will meet the standards specified in these rules.

### 2.3 Therapeutic restraint

Therapeutic restraint is the use of a therapeutic physical intervention with a student by an appropriately trained staff person to prevent injury or harm to the student or others. Title 20-A, §4009 permits staff to use a reasonable degree of force to intervene and control emergency situations. Nothing in these regulations applies to any conduct by a school official that would otherwise be covered by the legal protections of 20-A MRSA §4009.

## Section 3. Time Out Room

### 3.1 Limitations on the use of timeout room

Timeout rooms shall be used consistent with local policy to reduce dangerous behaviors and only after less intrusive interventions have

failed. Timeout rooms may be used for either an emergency intervention or as part of an intervention plan. Local policy will determine when a pattern of the use of timeout rooms requires referral to the appropriate intervention team and / or the development of an individualized intervention plan. Parents or guardians shall be involved in the development of any individualized intervention plans. Timeout rooms shall not be used for punitive purposes, staff convenience or to control minor misbehavior.

### 3.2 Time limitations on the use of timeout rooms

Use of timeout rooms shall be limited in duration to that time necessary to allow the student to compose him/herself and return to the classroom. The use of timeout shall be consistent with local policy and the student's individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this period the use of timeout may be continued with written authorization of the program administrator or designee.

### 3.3 Adult supervision

Students in a timeout room shall be directly observed at all times by a staff person.

### 3.4 Physical Characteristics

Timeout rooms will be a minimum of 60 square feet with adequate light, heat, and ventilation and of normal room height. The door to the timeout room may not be locked, latched or secured in any way that would prevent the student from exiting the room. An unbreakable observation window shall be located in a wall or door to permit continuous observation of the student and any staff member in the timeout room.

## Section 4. Therapeutic restraint

### 4.1 Permitted uses of therapeutic restraint

Appropriately trained staff may physically intervene with a student to prevent injury or harm to the student or others. Therapeutic restraint may be used for either an emergency intervention or as part of an intervention plan. The intervention shall occur only after less intrusive efforts to control the behavior have been attempted. The intervention shall involve the least amount of physical contact necessary, shall be implemented consistent with the standards of a training program as specified in §4.5 and consistent with local policy. The use of therapeutic restraint shall require the presence of at least two adults at all times. Title 20-A, §4009 permits a single individual to use a reasonable degree of force in emergency situations to control or remove the student.

4.2 Time limits on the use of therapeutic restraint

Use of therapeutic restraint shall be limited in duration consistent with local policy and the student's individualized intervention plan but may not exceed one hour. If a student is still presenting dangerous behaviors after this time period, the use of therapeutic restraint may be continued with written authorization of the program administrator or designee.

4.3 Exclusions

Protective equipment or devices that are part of a treatment plan prescribed by a physician or psychologist for treatment of a chronic condition are not prohibited by these regulations.

4.4 Mechanical or Chemical Restraints Prohibited

The term "therapeutic restraint" does not include mechanical or chemical restraints used to control or modify a student's behavior. Chemical restraints include but are not limited to medication, noxious sprays or gases. Prescribed medication administered by a health care provider consistent with a student's health care plan are permitted. Mechanical restraints are prohibited.

4.5 Training

Except as provided by Title 20-A, §4009, individuals who implement or supervise the implementation of therapeutic restraint shall have successfully completed an appropriate training program in the identification and de-escalation of potentially harmful behaviors and the safe use of passive physical therapeutic restraints. This training includes, but is not limited to, Non-Abusive Psychological and Physical Intervention (NAPPI), Mandt, Crisis Prevention Institute, Therapeutic Crisis Intervention Training, and other training as determined appropriate by local policy.

Section 5. Aversives

5.1 Use of Aversive Therapy or Treatment Prohibited

A school administrative unit or an approved private school may not use aversive therapy or treatment in order to modify or change a student's behavior. Aversive therapy or treatment includes the application of unusual, noxious or potential hazardous substances, stimuli or procedures to a student. Such substances, stimuli and procedures include but are not limited to: water spray, hitting, pinching, slapping, noxious fumes, extreme physical exercise, costumes or signs.

Don't  
use to  
use written  
on last pg  
of rule

EFFECTIVE DATE: April 27, 2002

**TO:** APA FILES  
05-071, Ch. 33

**FROM:** Lucille L. Weeks, A.P.A. Officer  
Office of Secretary of State

**DATE:** April 3, 2002

**SUBJECT:** 05-071 - Chapter 33 Use of Timeout Rooms, Therapeutic Restraints and  
Aversives in Public Schools and Approved Private Schools

---

This major substantive rule was provisionally adopted and filed with the Secretary of State on May 31, 2000 as **Chapter 125.17D** (LR 2000-11). The final adoption was filed on June 29, 2001 again as **Ch. 125.17D**(2001-232).

The Department of Education decided that it was complicated to have this section as part of Ch. 125 therefore the Department published a notice of rulemaking on December 5, 2001. The fact sheet mentioned that the rule would be removed from Ch. 125 and assigned a new chapter number, however the proposed rule notice published in the newspaper did not mention that fact.

The Department of Education and Sarah Forster, AAG felt that since the language of the section did not change, it would not be necessary to submit the rule to the Legislature to get final approval to adopt the final rule.

Therefore the Secretary of State was asked to accept it for filing as a final rule.

---



# Notice of Agency Rule-making Proposal

**AGENCY:** Department of Education

**RULE TITLE OR SUBJECT:**

Chapter 33 Use of Timeout Rooms, Therapeutic Restraints, and Aversives in Public Schools and Approved Private Schools

**PROPOSED RULE NUMBER:**

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE):

**CONCISE SUMMARY (UNDERSTANDABLE BY AVERAGE CITIZEN):**

These regulations establish standards for the use of separate, isolated timeout rooms and the use of therapeutic restraint when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use a timeout room or implement a program of therapeutic restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limits the protections of individual students under applicable special education standards.

The content of the proposed rule was enacted during the first session of the 120<sup>th</sup> Legislature as major substantive rule as a part of Chapter 125 Basic Approval Standards: Public Schools and School Units. It is now proposed to remove this and place it in a separate rule.

**THIS RULE WILL    WILL NOT xx HAVE A FISCAL IMPACT ON MUNICIPALITIES.**

**STATUTORY AUTHORITY:** Title 20-A M.R.S.A. § 4502(5)(M)

**PUBLIC HEARING:** none proposed  
(IF ANY, GIVE DATE, TIME, LOCATION)

**DEADLINE FOR COMMENTS:** January 4, 2002

**AGENCY CONTACT PERSON:** Dr. Judith Lucarelli  
**AGENCY NAME:** Department of Education  
**ADDRESS:** 23 State House Station, Augusta, 04333-0023

**TELEPHONE:** 624-6620

---

Please approve bottom portion of this form and  
assign appropriate MFASIS number.

**APPROVED FOR PAYMENT** \_\_\_\_\_

*Authorized signature*

**DATE:** November 27, 2002

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	OSA	6222	722			

## Notice of Agency Rule-making Adoption

**AGENCY:** Department of Education

**CHAPTER NUMBER AND TITLE:** Chapter 33 Use of Timeout Rooms, Therapeutic Restraints, and Aversives in Public Schools and Approved Private Schools

**ADOPTED RULE NUMBER:**

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY**

These regulations establish standards for the use of separate, isolated timeout rooms and the use of therapeutic restraint when the behavior of a student presents a risk of injury or harm to the student or others, significant property damage, or seriously disrupts the educational process and other less intrusive interventions have failed. Nothing in these rules would require an SAU or approved private school to construct or use a timeout room or implement a program of therapeutic restraint. Schools that are licensed as residential child care facilities or mental health treatment centers and governed by other state standards shall comply with the higher standard. Nothing within these rules limits the protections of individual students under applicable special education standards.

The content of the proposed rule was enacted during the first session of the 120<sup>th</sup> Legislature as major substantive rule as a part of Chapter 125 Basic Approval Standards: Public Schools and School Units. The Department of Education is now proposing removal of this material and placement in a separate rule for three reasons:

1. Chapter 125 is a joint rule with the State Board of Education and contains no other major substantive component;
2. the content of the proposed rule carries enough importance and significance that it should not be embedded in the lengthy School Approval Rule; and
3. the content of the proposed rule applies to a greater number of schools than does Chapter 125.

**EFFECTIVE DATE:**

(TO BE FILLED IN BY SECRETARY OF STATE)

**AGENCY CONTACT PERSON:** Dr. Judith Lucarelli  
**AGENCY NAME:** Department of Education  
**ADDRESS:** 23 State House Station, Augusta, 04333-0023  
**TELEPHONE:** 624-6606

Please approve bottom portion of this form and  
 assign appropriate MFASIS number.

APPROVED FOR PAYMENT *J. Luke Albene* DATE: March 28, 2002  
Authorized signature

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
010	OSA	6222	722			