

RIGHTS REGARDING THE USE OF TIME-OUT IN MASSACHUSETTS PUBLIC SCHOOLS

**Prepared by the Mental Health Legal Advisors Committee
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WHAT RIGHTS DOES THIS FLIER COVER?

The Massachusetts Department of Elementary and Secondary Education (DESE) regulates Massachusetts public schools in their use of time-out.¹ This flier describes the requirements regarding time-out.

WHO DO THESE REGULATIONS APPLY TO?

These regulations apply to all Massachusetts public school districts, charter schools, virtual schools, collaborative education programs, and to the *school day* of special education schools approved by DESE under 603 CMR 28.09 (Public or Private Day and Residential Special Education School Programs).²

WHAT IS A TIME-OUT?

A time-out is a behavioral support strategy in which a student temporarily separates from the learning activity or classroom, either by choice or by staff direction, for the purpose of calming.³

There are two kinds of time-out:

- Inclusionary – when a student is removed from positive reinforcement or full participation in the class while remaining in the class.
- Exclusionary – when a student is separated from the rest of the class through complete visual separation or actual physical separation.⁴

WHAT MUST STAFF DO DURING EXCLUSIONARY TIME-OUT?

Staff must:

- continuously observe the student;
- be with the student or immediately available to the student at all times;
- ensure that the time-out space out is clean, safe, sanitary, and appropriate for calming;
- end time-out as soon as the student is calm.⁵

WHAT ADDITIONAL GUIDANCE HAS DESE PROVIDED ON EXCLUSIONARY TIME-OUT?

DESE has provided further guidance on exclusionary time-out.⁶

When time-out can be used:

- Time-out is only for calming an agitated student.
- Time-out is not for punishment.

Doors and time-out:

If it is not safe for the staff to be present with the student, the student may be left in time-out with the door closed.

- However, a school counselor or other behavioral support professional must be immediately available outside the time-out setting to continuously observe and communicate with the student to determine when the student has calmed.
- Students must never be locked in a room.
- For students displaying self-injurious behavior, staff must be in the same setting with the student.

Time-outs over 30 minutes:

- Time-outs lasting more than 30 minutes require principal review and approval.⁷
- The principal may not routinely approve such requests, but must consider the individual circumstances (whether the student continues to be agitated) to determine whether time-out beyond 30 minutes is allowed.⁸
- If it appears that time-out exacerbates the student's behavior, or the continuation of time-out beyond 30 minutes has not helped the student to calm, staff should use other behavioral support strategies.⁹

After time-out:

- Staff must return the student to class as soon as he/she is able to remain calm.

When time-out becomes seclusion:

- DESE has a flowchart to clarify when time-out becomes seclusion, available at <http://www.doe.mass.edu/sped/advisories/2016-1ta.html>.

ENDNOTES

¹ Mass. Gen. L. ch. 71, § 37G and 603 Code of Massachusetts Regulation (CMR) 46.00.

² 603 CMR 46.01(2).

³ 603 CMR 46.02.

⁴ DESE, Technical Assistance Advisory SPED 2016-1, Time-out and Seclusion (July 31, 2015), <http://www.doe.mass.edu/sped/advisories/2016-1ta.html>.

⁵ 603 CMR 46.02.

⁶ DESE, Technical Assistance Advisory SPED 2016-1, Time-out and Seclusion (July 31, 2015), <http://www.doe.mass.edu/sped/advisories/2016-1ta.html>.

⁷ DESE, Technical Assistance Advisory SPED 2016-1, Time-out and Seclusion (July 31, 2015), <http://www.doe.mass.edu/sped/advisories/2016-1ta.html>.

⁸ DESE, Technical Assistance Advisory SPED 2016-1, Time-out and Seclusion (July 31, 2015), <http://www.doe.mass.edu/sped/advisories/2016-1ta.html>.

⁹ DESE, Technical Assistance Advisory SPED 2016-1, Time-out and Seclusion (July 31, 2015), <http://www.doe.mass.edu/sped/advisories/2016-1ta.html>.