



Physical restraint guidelines consultation

Frequently asked questions

1. What key changes did the Education and Training Act 2020 introduce?

The 2020 legislation changed some definitions related to physical restraint.

Physical restraint

The definition of physical restraint - 'to use physical force to prevent, restrict, or subdue the movement of the student's body or part of the student's body' has been amended to include 'against the student's will'. This addition clarifies that physical contact such as hugging or contact with ākonga when it is not against their will is permissible.

***physically restrain**, in relation to a student, means to use physical force to prevent, restrict, or subdue the movement of the student's body or part of the student's body against the student's will.*

Significant emotional distress

The new definition of "harm" includes "significant emotional distress" - this inclusion supports the intent of the Our Code, Our Standards | Ngā Tikanga Matatika, Ngā Paerewa to consider ākonga overall well-being, including physical and emotional safety.

***harm** means harm to the health, safety, or well-being of the student or another person, including any significant emotional distress suffered by the student or the other person.*

The draft *Guidelines* describe significant emotional distress:

***significant emotional distress** involves a high, sustained level of distress that is utterly intolerable, causing a student or staff member extreme upset.*

Imminent harm

The previous requirement to assess "serious and imminent risk" has been changed to "imminent harm" - we believe this will help teachers make quicker decisions about whether to act in what are often very quick-moving and fluid situations.

*the physical restraint is necessary to prevent **imminent harm** to the student or another person*

The conditions that must be fully met before physical restraint can be used

There are three conditions that must all be met before physical force can be used as a last resort (remember that physical restraint is when force is applied against the will of ākongā):

The conditions are that—

- (a) the physical restraint is necessary to prevent imminent harm to the student or another person; **and**
- (b) the teacher or authorised staff member reasonably believes that there is **no other option** available in the circumstances to prevent the harm; **and**
- (c) the physical restraint is reasonable and proportionate in the circumstances.

2. How have these consultation documents been developed?

The Ministry of Education established a new PRAG – Physical Restraint Advisory Group – in August 2020 (an earlier PRAG was established to develop the 2017 *Guidelines*). PRAG includes representatives from principals' groups; disability groups such as IHC, VIPS and Autism NZ; the Office of the Children's Commissioner; and teacher groups such as NZEI, PPTA and the Teaching Council (the Council). The Council was represented on PRAG by Kathy Moy-Low, an ex-principal and a Lead Investigator in our Professional Responsibility Team. Following Kathy's retirement, Sharon Coulton, Manager Professional Responsibility, and a former lecturer, teacher and professional leader in the ECE space, has become the Council's PRAG representative.

PRAG met on 10 occasions between September 2020 and November 2021 to develop the draft consultation material. They will re-convene to consider the feedback received during the consultation period by the Ministry of Education and make recommendations before the final *Rules* and *Guidelines* are issued.

3. Who do these documents apply to?

The guidelines have been developed for schools/kura. There has been no change in who the rules and guidelines apply to.

Under the Act all kaiako and people holding a Limited Authority to Teach (LAT) have the authority to apply physical force, but only as a last resort to prevent imminent harm, and only if all criteria for the use of physical force are fully met.

Principals may continue to authorise an employee of a registered school/kura to be an authorised staff member who can use physical restraint; however, it is now a requirement under the Act that the authorised officer must be trained in appropriate physical holds by accredited physical restraint practitioners, prior to authorisation.

The guidelines do not apply to the early childhood sector. The previous prohibitions on using force or seclusion to correct or punish ākongā in an early childhood service continue to apply.

4. What training and resources will be provided?

The draft new *Rules* require every employer to ensure kaiako and authorised staff members:

- have completed online modules on the content of the *Guidelines* from 1 March 2023 and
- are supported and trained in identifying stress triggers, understanding unmet needs and preventing, minimising and responding to student distress from 1 July 2024.

In addition, the draft *Rules* require employers to ensure that kaiako identified as having a high likelihood of needing to use physical restraint, plus every authorised staff member who is not a teacher, are trained in appropriate physical holds by accredited physical restraint practitioners.

The development and rollout of a new training package and the refresh of resources are proposed. There is opportunity to comment about whether the proposed training will meet the needs of kaiako and school staff.

Stressing the importance of access to training will be an important part of our Governing Council's submission.

5. What should I be thinking about when reviewing the documents?

The following questions are prompts to help you think about what improvements are needed to the draft guidance documents. We recommend you discuss them with your colleagues and consider making a joint submission on suggested changes.

We are recommending tumuaki communicate and share the consultation documents with schoollkura communities so they have an opportunity to participate.

Questions:

- what further information or examples do you need to help you better understand what physical restraint is?
- what further information or examples do you need to help you better understand what 'significant emotional distress' is?
- is it clear what the conditions are that make the difference between physical restraint being justified or unjustified?
- do the draft *Guidelines* provide you with a useful and practical framework for decision-making and problem-solving?
- is it clear how the willingness of ākonga determines whether acceptable physical contact is okay and when contact may become physical restraint?
- are the practical examples helpful prompts for discussion about your schoollkura policies and procedures for preventing and de-escalating situations, and, if necessary, as a last resort, using physical restraint?
- what actual or potential physical restraint situations have you experienced that may be useful to include as practical examples?
- does the draft matrix help explain how ākonga willingness and imminent harm determine whether physical contact is acceptable or not, or when physical restraint may be justified or not?
- how could the key messages be better presented to make them more obvious?
- what changes could be made to the format/presentation to make the information easier to access or understand?
- what training and support do you need?

6. What can I do as a tumuakilleader to encourage feedback?

Leadership in this area is important in order to engage kaiako, staff, Boards of Trustees and schoollkura communities in discussion and feedback about these draft guidance documents.

Suggestions for encouraging engagement include:

- kaiako/staff meetings to discuss the material, identify improvements, and provide feedback
- Board of Trustee meetings to discuss obligations, and provide feedback
- communications to schoollkura communities, advising them how to access the documentation, and inviting them to provide feedback.

7. Will the Council be making a submission?

The Governing Council will be making a submission about the draft *Rules* and *Guidelines*.

A major focus of our submission will be on ensuring that employers and tumuaki are provided with the training and resources to meet the requirements of the physical restraint framework.

Previous Teaching Council updates about physical restraint

[Consultation on revised physical restraint guidelines - delayed](#) - Matatū newsletter - May 2021

[Consultation about revised physical restraint guidelines](#) - Matatū article - March 2021

[Changes to physical restraint in schools framework](#) - article - 31 July 2020

[Disappointment about lack of change to physical restraint framework](#) - press release - 23 July 2020

[Child safety and wellbeing at the heart of Teaching Council efforts around physical restraint rules](#) - press release - 14 July 2020

[Teaching Council submission on the Education and Training Bill 2019](#) - 14 February 2020

[Changes proposed to physical restraint framework](#) - article - 16 October 2019