

**UPDATED Education Client Alert**  
**January 2016**

**DESE MAKES USE OF ELECTRONIC RESTRAINT REPORTING FORM**  
**OPTIONAL**

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In November, 2015, this office issued an Education Client Alert concerning a new, electronic Restraint Reporting Form posted by the Department of Elementary and Secondary Education (“DESE”). On January 5, 2016, the Department updated its guidance and determined that public education program’s use of the Restraint Reporting Form will be optional. However, public education programs will still be required to annually submit all of the information reflected in the Restraint Reporting Form spreadsheet.

The updated instructions for use of the Restraint Reporting Form may be accessed here: <http://www.doe.mass.edu/sped/ta/restraint-report-instructions.html>.

As of January 1, 2016, the revised regulations on physical restraint in public education programs (603 CMR 46.00) have become effective. 603 CMR 46.06(8) states that “every program shall collect and annually report [physical restraint] data to the Department... in a manner and form directed by the Department.” On November 19, 2015, DESE unveiled the Restraint Reporting Form, a macro-enabled workbook file (.xlsm), to meet this requirement. The accompanying instructions initially appeared to mandate that public education program staff use the electronic forms and related spreadsheet to report, log, and save information about each and every physical restraint, as well as using the spreadsheet to upload annual data to the Department.

Mandating the use of the Restraint Reporting Form posed significant technical challenges for many schools. Concerned advocates, including this firm, requested that DESE clarify how schools could remain compliant if they could not open, download, or save the Restraint Reporting Form to school computers as instructed.

On January 5, 2016, DESE posted revised instructions, which are now titled “If using the optional ESE reporting form: Instructions for the completion and submission of district restraint data.” In addition to clarifying that use of the Restraint Reporting Form is optional, DESE has revised the spreadsheet and the instructions for completing the form. For example, staff should be aware that they cannot retrieve a report form after it has been submitted and saved to the spreadsheet. Therefore, in order to send a hard copy of the completed form to the parents, staff will need to print it out before clicking “submit.”

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Since use of the Restraint Reporting Form is optional, schools may choose to use locally-developed physical restraint report forms and/or restraint logs to meet the requirements of the revised regulations. DESE has advised that, if not using the Restraint Reporting Form, schools must submit their restraint data by July 31<sup>st</sup> of each year in an Excel spreadsheet (.xls or .xlsx). That spreadsheet must include all of the required fields that appear on the Restraint Reporting Form spreadsheet. Therefore, if a public education program can utilize the Restraint Reporting Form, it would make the annual data submission faster and easier for staff.

*This Alert was prepared by Tami L. Fay, an attorney in the law firm of Murphy, Hesse, Toomey & Lehane, LLP. If you have any questions or concerns with regard to this alert, please contact Attorney Fay, the attorney assigned to your account, or your own education counsel.*

*Murphy, Hesse, Toomey & Lehane, LLP, is a multi-service law firm with offices in Quincy, Boston, and Springfield, Massachusetts. The firm emphasizes education law, special education law, municipal law, labor & employment law, employee benefits law, municipal law, public sector labor law, and related litigation*