

Quality Standards Framework Regulations Implementation Bulletin #7: Physical Restraints

FEBRUARY 15, 2023

In follow up to the February 8, 2023, email, this is the seventh of the weekly communications that will be sent by the Ministry of Children, Community and Social Services (ministry) to out of home care¹ service providers and placing agencies on the new and updated [Quality Standards Framework](#) related regulations, which come into effect on July 1, 2023.

The weekly bulletins will cover the 10 regulatory topics with the intent to help familiarize licensees and placing agencies with the new and updated requirements, and answer questions about how they can start preparing for implementation.

Note that the information that follows does not constitute legal advice. It provides general information about the regulatory amendments made to licensing requirements under the *Child, Youth and Family Services Act, 2017 (CYFSA)*. If you require assistance with respect to the interpretation of the regulatory requirements and their potential application in specific circumstances, you should seek legal advice.

1. Who do the new and updated plan of care requirements apply to?

The new physical restraint regulations apply to all service providers under the CYFSA. For out of home care licensees, this includes children's residence licensees, foster care licensees and staff model home licensees. This captures children's aid societies who hold a foster care license, as well as licensees operating a place of temporary detention, of secure custody or of open custody and secure treatment facilities.

2. Overview of new physical restraints requirements:

The use of physical restraint is an extremely intrusive measure that is prohibited under the CYFSA unless authorized by the regulations.

¹ Although the term **residential care** is a legal term under the CYFSA and its regulations, the ministry is using the term "out-of-home care" instead of "residential care" to acknowledge the traumatic history of the Residential School system in Canada. We recognize the importance of choosing different languages, especially, since the term may be triggering to some.

The CYFSA defines [physical restraint](#) as a holding technique to restrict a person's ability to move freely².

On July 1, 2023, the following changes will become effective respecting the use of physical restraint pursuant to O. Reg. 155/18 under the CYFSA, ss. 11, 12, 16 and 17:

Policy

- All service providers that use or permit the use of physical restraint must have a written policy on the use of physical restraint that includes protocols, applicable when a child or young person begins receiving a service, for explaining the following to the child or young person, in language suitable to their understanding and in accordance with their age and maturity, and to the child or young person's parent or the person who placed the child:
 - What constitutes a physical restraint under the Act, and
 - The rules governing the use of physical restraints under the Act, including circumstances in the which the child or young person may be physically restrained and the procedures that must be followed after the use of a physical restraint

Debrief

- The service provider must make sure that during the debriefing process conducted among the persons involved in the use of the restraint and the child or young person on whom the restraint was used:
 - The reasons for why a child or young person was physically restrained are explained to them,
 - The child or young person understands those reasons,
 - The child or young person is asked whether they may require any services or support because of the use of the physical restraint, and

The service provider is also required to ensure that a written record is prepared setting out any information reported by the child or young person during the debriefing (described above), including any information about any services or supports the child or young person may require, and this record must be kept in their file.

Training and Education – Children's Residences & Staff Model Homes Licensees

- All of the training and education requirements applicable to the use of physical restraint by licensees operating children's residences and staff model homes have now been harmonized.
- **Training:** As of July 1, 2023, these licensees are required to ensure that all persons providing direct care to a child or young person in the course of the licensee's

² "physical restraint" means a holding technique to restrict a person's ability to move freely but, for greater certainty, does not include,

- (a) restricting movement, physical redirection or physical prompting, if the restriction, redirection or prompting is brief, gentle and part of a behaviour teaching program, or
- (b) the use of helmets, protective mitts or other equipment to prevent a person from physically injuring or further physically injuring themselves.

provision of service complete a training program in the use of physical restraint that is approved by the Minister.

- **Education:** As of July 1, 2023, licensees operating staff model homes will have until July 30, 2023, to ensure that all persons providing direct care to a child on the licensee's behalf complete the required education in respect of the provisions of the Act and regulation concerning the use of physical restraint.

Training and Education – Other Service Providers, including Foster Care Licensees

- As of July 1, 2023, all other service providers who use or permit the use of physical restraint must ensure that all persons providing direct care to a child or young person in the course of providing a service to the child or young person, including foster parents, complete a training program in the use of physical restraint that is approved by the Minister.

On July 1, 2023, the following changes will become effective respecting the use of physical restraint pursuant to O. Reg. 156/18 under the CYFSA, ss. 90, 98 and 130.1:

Initial and Review of Orientation for Children or Young Persons

- A licensee who operates a children's residence, staff model home or foster care agency shall ensure that, upon admission of a child or young person to the licensed setting, the child or young person receives an orientation in language suitable to their understanding and in accordance with their age and maturity in respect of the use of physical restraints, including:
 - The licensee's policy as to whether or not the licensee uses or permits the use of physical restraints, and
 - If applicable, the circumstances in which physical restraints may be used, including,
 - What constitutes a physical restraint under the Act,
 - The rules governing the use of physical restraints under the Act, including the circumstances in which the child or young person may be physically restrained and the procedures that must be followed after any such use of physical restraint, and
 - The child or young person's right to speak in private with and receive visits from the Ombudsman appointed under the Ombudsman Act and members of the Ombudsman's staff, including with respect to concerns about the use of a physical restraint or a mechanical restraint.
- A licensee shall ensure that the information to be reviewed with a child or young person during an orientation are again reviewed with the child or young person at the following times:
 - 7 days after the child or young person's admission to the residence,
 - As soon as reasonably possible after the child or young person requests that the information be reviewed with them, and
 - Any time at which, in the opinion of the licensee or a person designated by the licensee, the information should be reviewed with the child or young person.

Documentation of Orientation

- The licensee shall document the following information in the case record or file of the child or young person:
 - The date on which the child or young person received the required orientation,
 - The date or dates on which the orientation information was reviewed again with the child or young person, and
 - A written record signed by the child or young person that indicates that they understood the matters reviewed with them during the orientation or, if the child or young person refuses to sign such record, a written record documenting this.

CYFSA, O. Reg. 156/18, Section 98

Amendments to Staffing Requirements related to Physical Restraints – Children’s Residences & Staff Model Homes

All children’s residence and staff-model home licensees who use or permit the use of physical restraint must, at all times, ensure that there is at least one program staff person on duty who has completed the training and education requirements related to physical restraints under section 16 of O. Reg. 155/18.

3. How do the new physical restraint requirements enhance quality of care?

Over the last several years, the ministry has received feedback from inquests, expert reports, people with lived experience, and first voice advocates regarding the need for enhancements to the physical restraint regulatory requirements. Physical restraints should only be used in situations of imminent risk (as per the regulations) when necessary, as a last resort, or not at all, and not used as a behaviour modification tool. These changes aim to support children and young persons to feel that their placement is safe, inclusive, and accessible, reduce the likelihood of harm to children, staff and foster parents, and ensure that children and young persons have a voice in their care.

The amendments will enhance the existing requirements with the goals of:

- Further clarifying the rules and restrictions specific to the use of physical restraints which are prohibited under the CYFSA unless authorized by the regulations,
 - Requiring all service providers to complete training on the use of physical restraint in a training program approved by the Minister.
 - Better supporting children and young persons in understanding how and why a physical restraint can be used; and
 - Using these restraints safely.
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4. Where can I find the regulations?

The new physical restraint regulations can be found on E-Laws accessible by the following links: O. Reg. 155/18, [Section 11](#), [Section 12](#), [Section 16](#) and [Section 17](#) and O. Reg. 156/18, [Section 90](#), [Section 98](#) and [Section 130](#).

5. What resources are available to me right now to begin preparing for implementation of the new requirements?

To begin preparing for the in-effect date of July 1, 2023, licensees are encouraged to:

- Read through the new regulations, which are highlighted in grey on the e-laws website.
- Check to confirm if all persons providing direct care to a child or young person in a staff-model home have completed a ministry-approved physical restraints training program (see below). This is important as all staff working in these licensed settings are required to complete the ministry-approved physical restraint training, regardless of whether physical restraints are used or permitted for use by the licensee.
- For foster care licensees that use or permit the use of physical restraint: ensure all persons who provide direct care to a child, including foster parents, have completed a ministry-approved physical restraint training program.

The list of ministry-approved physical restraint training programs can be found [here](#).

In addition, as part of the requirements in the CYFSA, all children in care have a right to speak in private with and receive visits from the Office of the Ontario Ombudsman. These children and young persons also have a right to be informed about the existence of the Ombudsman and their functions in the event they wish to reach out to them for help. The Office of the Ombudsman can also provide child-friendly resources and information about children's and young persons' rights and can help connect children and young persons to other child- and youth-serving organizations, as needed. For more information on the Office of the Ombudsman please visit their website: [Children & Youth - Ontario Ombudsman](#). They may also be reached toll-free: 1-800-263-2841 or 416-325-5669.

6. What resources will be available to me in future to support implementation of the new requirements?

In the coming months, the following will be available to licensees to support understanding and compliance with the new physical restraint requirements:

- A guidance document covering the new requirements, purpose for the new requirements, indicators used by the ministry to assess compliance, guidance for placing agencies and best practices for implementation (March 2023).
- A physical restraint reporting template (March 2023).

- Information webinars for service providers on the new requirements (Spring 2023).
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7. Who should I be sharing this information with?

Information regarding the new physical restraint requirements should be shared with all children's out of home care service providers. For out of home care licensees, this includes children's residence licensees, foster care licensees and staff model home licensees. This captures children's aid societies who hold a foster care license, as well as licensees operating a place of temporary detention, of secure custody or of open custody and secure treatment facilities. This information should also be shared with placing agencies, front-line staff members and foster parents.

8. Who can I contact if I have questions about the new and updated regulations?

If you require assistance with respect to the interpretation of the legislation and its potential application in specific circumstances, you should seek legal advice.

You may also contact your regional licensing team for more information as you implement the new requirements. Any additional questions pertaining to future activities to support operationalization of the new regulations can be directed to qualitystandardsframework@ontario.ca.

9. What's Next?

Stay tuned! The next Quality Standards Framework Regulations Implementation Bulletin topic will be on **mechanical restraints**.