

## **Restraint, Isolation, and Other Use of Reasonable Force**

This procedure is intended to apply to a broad range of circumstances whenever it is deemed reasonably necessary by ESD 123 staff to control spontaneous behavior by any student that poses an imminent likelihood of serious harm. This procedure is intended to be interpreted as consistent with the requirements of RCW 28A.600.485, RCW 9A.16.020, RCW 9A.16.100, RCW 28A.160.300, RCW 28A.155.210, WAC 392-400-235, and, for students with an Individualized Education Program (IEP), consistent with the regulations of Chapter 392-172A, WAC.

### **Definitions**

1. Behavioral Intervention Plan (BIP): A plan incorporated into a student's IEP, which at a minimum describes: a) The pattern of behavior that impedes the student's learning or the learning of others; b) The instruction and/or environmental conditions or circumstances that contribute to the pattern of behavior(s) being addressed by the IEP team; c) The positive behavioral interventions and supports to i) reduce the pattern of behavior(s) that impedes the student's learning or the learning of others and increases the student's desired prosocial behaviors; and ii) ensure the consistency of the implementation of the positive behavioral interventions across the student's program-sponsored instruction or activities), and d) The skills that will be taught and monitored as alternatives to challenging behavior(s) for a specific pattern of behavior of the student.
2. Chemical Spray: Pepper spray, OC spray, or other similar chemicals that are used to control a student or limit a student's freedom of movement.
3. De-escalation: The use of positive interventions and other ESD 123-approved strategies to defuse a student who has lost self-control, is non-compliant, or is demonstrating unacceptable behavior. These strategies address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.
4. Emergency Response Protocol (ERP): An addendum to a student's IEP pursuant to WAC 392-172A-02105, providing advanced educational planning required in order to provide a free, appropriate public education (FAPE), with the consent of the parent/guardian, as defined in WAC 392-172A-01040.
5. Imminent: The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.
6. Isolation: Restricting a student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming or the temporary removal of a student from his/her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.
7. Likelihood of serious harm: a substantial risk that physical harm will be inflicted by a student:
  - A. upon his/her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
  - B. upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm;

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- C. upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or,
  - D. after the student has threatened the physical safety of another and has a history of one (1) or more violent acts.
- 8. Physical Force: The use of bodily force or physical restriction that substantially immobilizes or reduces the free movement of a student.
  - 9. Positive Behavioral Interventions: Strategies and instruction that can be implemented in a strategic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his/her own behavior.
  - 10. Restraint: Physical intervention or force used to control a student, including the use of a restraint device. It does not include the appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment or to permit a student to safely participate in activities.
  - 11. Restraint Device: A device used to assist in controlling a student, including, but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers, or batons. A harness or seatbelt used to safely transfer students who require support and/or proper physical positioning is not defined as a "restraint device". This definition, consistent with RCW 28A.600.485(1)(c), is not intended to endorse or encourage the use of such devices or techniques with ESD 123 students.
  - 12. Site Police Officer: An employee of ESD 123 responsible for security services under the direction of a site administrator, but who also is a commissioned officer.
  - 13. Site Resource Officer: A commissioned law enforcement officer who provides law enforcement services and may perform other duties for ESD 123, and is assigned by the employing police department or agency to work in collaboration with ESD 123.
  - 14. Site Security Officer: A classified or contracted ESD 123 employee other than a site resource officer who provides security services under the direction of a site administrator.

### **General use of restraint, isolation, or other forms of reasonable force**

- 1. Restraint, isolation, or other forms of reasonable force may be used to prevent or minimize imminent bodily harm to self or others, or, if de-escalation or other positive behavioral interventions fail or are inappropriate, to protect ESD 123 property, where there is an "imminent likelihood of such serious harm" occurring, as defined above.
- 2. Restraint, isolation, or other forms of reasonable physical force may be used when a student has caused a substantial loss or damage to the property of others, and the student's behavior poses a substantial risk that such property damage will be inflicted.
- 3. Restraint devices may be used as needed to obtain possession of a known or reasonably suspected weapon or other dangerous objects on a person or within the control of a person.
- 4. An IEP or plan developed under Section 504 of the Rehabilitation Act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student's individual needs require more specific advanced education planning (in the form of an

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Emergency Response Protocol) when the student's parent/guardian agrees. Nothing in these procedures is intended to limit the provision of free appropriate public education (FAPE) under Part B of the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act of 1973.

5. Restraint, isolation, or other forms of reasonable physical force will not be used as a form of discipline or punishment.
6. Restraint, isolation, or other forms of reasonable physical force will not be used as an initial response to the destruction of property, program disruption, refusal of the student to comply with program rules or a staff directive; or a verbal threat that does not constitute a threat of imminent bodily injury unless other forms of de-escalation and positive behavioral interventions fail or are inappropriate.
7. Restraint, isolation, or other forms of reasonable physical force should not be used as an intervention if an ESD 123 employee, resource officer, or security officer knows that the student has a health condition or physical problem and the condition or problem would be exacerbated by the use of such techniques.

### **Practices presumed to be unreasonable when correcting or restraining any child (RCW 9A.16.100)**

Under RCW 9A.16.100, the following is a non-exclusive list of acts that are presumed unreasonable when correcting or restraining a child:

1. throwing, kicking, burning, or cutting a student;
2. striking a student with a closed fist;
3. shaking a student under age three;
4. interfering with a student's breathing;
5. threatening a student with a deadly weapon; or,
6. doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

This non-exclusive list should not be read so as to imply that another, unlisted form of correction or restraint is permissible. Whether or not an unlisted use of force or restraint is presumptively permissible depends upon a balanced consideration of all relevant state laws and regulations, and whether the use is reasonable under the totality of the circumstances.

Conditions specific to the use of isolation or restraint with students eligible for special education (consistent with WAC 392-172A-02110):

- The isolation enclosure will be ventilated, lighted and temperature controlled from inside or outside for purposes of human occupancy.
- The isolation enclosure will permit continuous visual monitoring of the student from outside the enclosure.
- An adult responsible for supervising the student will remain in the visual or auditory range of the student at all times.

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- Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within the view of an adult responsible for supervising the student.
  - Any staff member or other adults using isolation, restraint, or a restraint device must be trained and currently certified by a qualified provider in the use of trauma-informed crisis intervention (including de-escalation techniques) and the safe use of isolation unless trained personnel are not immediately available due to the unforeseeable nature of the emergency.

**Prohibited practices involving restraint, use of force, and discipline specifically for students eligible for special education (consistent with WAC 392-172A-02076)**

The following practices are prohibited with students eligible for special education services:

1. District personnel are prohibited from using aversive interventions with a student;
2. District personnel are prohibited from physically restraining or isolating any student, except when the student's behavior poses an imminent likelihood of serious harm as defined above;
3. No student may be stimulated by contact with electric current, including, but not limited to, tasers;
4. A student may not be denied or subjected to an unreasonable delay in the provision of food or liquid from when the food or liquid is customarily served as a form of punishment;
5. A student may not be the recipient of force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law (see above, for example, for a list of practices presumed to be unreasonable when used in correcting or restraining a child);
6. A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care;
7. A student must not be denied or subjected to an unreasonable delay in the provision of medication;
8. A student may not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172A-02110;
9. A student must not be forced to listen to noise or sound that the student finds painful;
10. A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance;
11. A student must not be forced to taste or ingest a substance that is not commonly consumed or which is not commonly consumed in its existing form or concentration;
12. A student's head must not be partially or wholly submerged in water or any other liquid.
13. A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object or against a wall or the floor, except under the conditions set forth in WAC 392-172A.02110;
14. A student must not be subjected to the use of prone (lying face-down) or supine (lying face-up) restraint, wall restraint, or any restraint that interferes with the student's breathing.

## **Degree of force**

Restraint, isolation, or other forms of reasonable force will be discontinued as soon as a determination is made by the staff member administering the restraint, isolation, or other forms of reasonable force that the likelihood of serious harm has dissipated.

Restraint, isolation, or other forms of reasonable force must be administered in such a way as to prevent or minimize physical harm to the student. If at any time during the use of restraint isolation or other forms of reasonable force, the student demonstrates significant physical distress, the techniques must be reduced immediately and, if necessary, ESD 123 program staff must take immediate steps to seek medical assistance.

## **Monitoring**

An adult must continually monitor any student when restraint, isolation, or other forms of reasonable physical force are used. Monitoring must be conducted by continuous visual monitoring of the student. Monitoring must include regularly evaluating the student for signs of physical distress.

## **Post-incident notification and review with parent/guardian**

Within twenty-four (24) hours following the use of restraint, isolation, or other forms of reasonable physical force with a student, the site administrator or designee must make a reasonable effort to verbally inform the student's parent/guardian of the incident. The site administrator or designee must also send written notification as soon as practical, but postmarked no later than five (5) business days after restraint, isolation, or other forms of reasonable physical force have been used with a student. If the program customarily provides the parent/guardian with program-related information in a language or mode of communication other than English, the written report must be provided to the parent/guardian in that language or mode of communication.

The site administrator or designee will review the incident with the student and the parent/guardian (though not necessarily at the same time) to address the behavior that precipitated the use of the technique and the appropriateness of the response. The site administrator or designee will review the incident with the staff person(s) who administered the restraint, isolation, or other forms of reasonable physical force to discuss whether proper procedures were followed and what staff training or support is needed to help the student avoid similar incidents.

IEPs and 504 plans will include the above procedures for notification of parents/guardians regarding the use of isolation and restraint on their students.

## **Incident report**

Any ESD 123 employee, site resource officer, or site security officer who uses restraint, isolation, or other forms of reasonable physical force, as defined in this procedure, on any student during program-sponsored instruction or activities, will inform the site administrator or a designee as soon as possible and within two (2) business days submit a written report of the incident to ESD 123 office. The written report will contain, at a minimum:

1. the date and time of the incident;

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2. the name and job title of the staff member who administered the restraint, isolation, or other forms of reasonable physical force;
  3. a description of the activity that led to the restraint, isolation, or other forms of reasonable physical force;
  4. the type of restraint, isolation, or other forms of reasonable physical force used on the student, and the duration;
  5. whether the student or staff was physically injured during the incident involving restraint, isolation, or other forms of reasonable physical force;
  6. any medical care provided to the student or staff; and
  7. any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

### **Resolution of concerns about the use of force incident**

A student or his/her parent/guardian who has concerns regarding a specific incident involving restraint, isolation, or other forms of reasonable physical force may seek to resolve the concern by using ESD 123's complaint process which is set forth in Policy 4220, Complaints Concerning Staff or Programs.

### **Providing parents/guardians with Restraint, Isolation, and Other Uses of Reasonable Force policy**

ESD 123 will make available to all parents/guardians of students ESD 123's policy on Restraint, Isolation, and Other Use of Reasonable Force. If the student has an IEP or 504 plan, ESD 123 will provide the parents/guardians a copy of the policy each time an initial or annual IEP or 504 plan is developed.

### **Staff training requirements**

Annually, program administrators will provide all site staff with the ESD 123 policy and procedure regarding the use of restraint, isolation, or other forms of reasonable physical force. Staff training for all staff who provide instructional programs to students will include instruction in positive behavior management supports and interventions to modify student behavior; cultural sensitivity; effective communication for defusing and de-escalating disruptive or dangerous behavior; and safe and appropriate use of restraint, isolation, or other forms of reasonable physical force.

All staff will be informed of de-escalation strategies and proper physical intervention procedures. Appropriate staff and those who are required or reasonably anticipated to provide physical force intervention will be trained in the use of physical force intervention.

Only staff trained by a qualified provider and authorized to use isolation, restraint, restraint devices, or chemical spray procedures will administer it to students. The appropriate personnel will include those staff members who are most likely to be called upon to use isolation, restraint, restraint devices, or chemical spray to prevent or address disruptive or dangerous student behavior

### **Submission of incident reports to the Office of the Superintendent of Public Instruction**

Beginning January 1, 2016, and annually by January 1 thereafter, ESD 123 will summarize the written incident reports described above and submit those summaries to OSPI. The summaries will include:

1. the number of individual incidents of restraint and isolation;
2. the number of students involved in the incidents;
3. the number of injuries to students and staff; and,
4. the types of restraint or isolation used.

### **Annual Report**

The site administrator or a designee will maintain a log of all instances of the use of force as defined by this procedure, which will be presented to the Superintendent annually. The Superintendent will provide an annual report to the Board regarding ESD 123's use of force when requested.

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