

## Restraint, Isolation and Other Uses of Reasonable Force

It is the policy of the Yakima School District that the district maintains a safe learning environment while treating all students with dignity and respect. All students in the district, including those who have an individualized education program (IEP) or plan developed under section 504 of the Rehabilitation Act of 1973, will remain free from unreasonable restraint, restraint devices, isolation, and other uses of physical force. Under no circumstances will these techniques be used as a form of discipline or punishment.

This operational procedure is intended to address district students. It is not intended to prevent or limit the use of restraint or other reasonable force as necessary with adults or other youth from outside the district as allowed by law.

This operational procedure is intended to apply to a broad range of circumstances whenever it is deemed reasonably necessary by district staff to control spontaneous behavior by any student that poses an imminent likelihood of serious harm. This procedure is intended to be interpreted 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 IEP, consistent with the regulations of WAC 392-172A.

### Definitions:

- **Behavioral intervention plan:** A plan incorporated into a student's Individualized Education Program (IEP), which at a minimum describes:
  - 1) The pattern of behavior that impedes the student's learning or the learning of others;
  - 2) The instruction and/or environmental conditions or circumstances that contribute to the pattern of behavior(s) being addressed by the IEP team;
  - 3) 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 school-sponsored instruction or activities; and
  - 4) The skills that will be taught and monitored as alternatives to challenging behavior(s) for a specific pattern of behavior of the student.
- **Chemical spray:** Pepper spray, OC spray, or similar chemicals that are used to control a student or limit a student's freedom of movement.
- **De-escalation:** The use of positive behavioral interventions and other district-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.
- **Imminent:** The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.
- **Isolation:** Restricting the 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 temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.
- **Likelihood of serious harm:** A substantial risk that physical harm will be inflicted by a student:

- upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
  - 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;
  - upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
  - after the student has threatened the physical safety of another and has a history of one or more violent acts.
- **Physical force:** The use of bodily force or physical restriction that substantially immobilizes or reduces the free movement of a student.
  - **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 or her own behavior.
  - **Restraint:** Physical intervention or force used to control a student, including the use of a restraint device. It does not include 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.
  - **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. Restraint device does not mean a seat harness used to safely transport students. This definition is consistent with RCW 28A.600.485 (1)(c), and is not intended to endorse or encourage the use of such devices or techniques with district students.
  - **School police officer:** An employee of the school district responsible for security services in the district under the direction of a school administrator, but who also is a commissioned officer.
  - **School resource officer:** A commissioned law enforcement officer who provides law enforcement services and may perform other duties for the district, and is assigned by the employing police department or agency to work in collaboration with the district.
  - **School security officer:** A classified or contracted school district employee other than a school resource officer who provides security services in the district under the direction of a school administrator.

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

- 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 district property, where there is an “imminent likelihood of such serious harm” occurring, as defined above.
- 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.
- Restraint devices may be used as needed to obtain possession of a known or reasonably-suspected weapon or other dangerous object on a person or within the control of a person.
- 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 and the student’s parent or guardian

agrees. Nothing in these procedures is intended to limit the provision of a free appropriate public education (FAPE) under Part B of the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act of 1973.

- Restraint, isolation, or other forms of reasonable physical force will not be used as a form of discipline or punishment.
- Restraint, isolation, or other forms of reasonable physical force will not be used as an initial response to destruction of property, school disruption, refusal of the student to comply with school 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 intervention fail or are inappropriate.
- Restraint, isolation, or other forms of reasonable physical force should not be used as an intervention if the school employee, school resource officer or school 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:

- throwing, kicking, burning, or cutting a child;
- striking a child with a closed fist;
- shaking a child under age three;
- interfering with a child's breathing;
- threatening a child with a deadly weapon; or
- 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 use of isolation 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 visual or auditory range of the student at all times.
- Either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student.
- Any staff member or other adults using isolation must be trained and certified by a qualified provider in the 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:

- District personnel are prohibited from using aversive interventions with a student;
- 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;
- No student may be stimulated by contact with electric current, including, but not limited to, tasers;
- 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;
- 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);
- A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care;
- A student must not be denied or subjected to an unreasonable delay in the provision of medication;
- 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;
- A student must not be forced to listen to noise or sound that the student finds painful;
- A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance;
- A student must not be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration;
- A student's head must not be partially or wholly submerged in water or any other liquid.
- 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, except under the conditions set forth in WAC 392-172A.02110.

**Degree of Force:**

- Restraint, isolation, or other forms of reasonable physical force will be discontinued as soon as a determination is made by the staff member administering the restraint, isolation, or other forms of reasonable physical force that the likelihood of serious harm has dissipated.
- Restraint, isolation, or other forms of reasonable physical force must be administered in such a way so 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 physical force, the student demonstrates significant physical distress, the technique must be reduced immediately and, if necessary, school 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 is used. The 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 principal or designee must make a reasonable effort to verbally inform the student's parent or guardian of the incident. The principal or designee must also send written notification (OP 3246.4XE) as soon as practical, but postmarked no later than five (5) business days after restraint, isolation, or other forms of reasonable physical force has been used with a student. If the school or district customarily provides the parent or guardian with school-related information in a language or mode of communication other than English, the written report will be provided to the parent or guardian in that language or mode of communication.

The principal or designee will review the incident with the student and the parent or 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 principal 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 student.

**Incident report:**

Any school employee, school resource officer or school security officer who uses restraint, isolation, or other forms of reasonable physical force, as defined in this procedure, on a student during school-sponsored instruction or activities, will inform the principal or a designee as soon as possible and within two (2) business days submit a written report (OP 3246.2XE) of the incident to the district office. The written report will contain, at a minimum:

- The date and time of the incident;
- The name and job title of the staff member who administered the restraint, isolation, or other form of reasonable physical force;
- A description of the activity that led to the restraint, isolation, or other form of reasonable physical force;
- The type of restraint, isolation, or other forms of reasonable physical force used on the student, and the duration;
- Whether the student or staff was physically injured during incident involving restraint, isolation, or other forms of reasonable physical force;
- Any medical care provided to the student or staff; and
- 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 or 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 the district's complaint process which is set forth in OP 4312, Complaints Concerning Staff or Programs.

**Providing parents/guardians with Restraint, Isolation, and Other Uses of Reasonable Force operational procedure:**

The district will make available to all parents/guardians of students the district's OP 3246 on Restraint, Isolation and Other Use of Reasonable Force. If the student has an IEP or 504 plan, the district will provide the parents/guardians a copy of OP 3246 each time an initial or annual IEP or 504 plan is developed.

**Staff training requirements:**

All training will include instruction in positive management of student behavior, cultural sensitivity, effective communication for defusing and de-escalating disruptive or dangerous behavior and safe and appropriate use of force, isolation, and restraint. Annually, administrators will provide all staff with OP 3246 regarding the use of reasonable force.

All staff should 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 (OP 3246.3XE) 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 Superintendent of Public Instruction:**

Beginning January 1, 2016 and annually by January 1 thereafter, the district will summarize the written incident reports described above and submit those summaries to OSPI (OP 3246.5XE). The summaries will include:

- the number of individual incidents of restraint and isolation;
- the number of students involved in the incidents;
- the number of injuries to students and staff; and
- the types of restraint or isolation used.

**Annual report:**

The building administrator or a designee will maintain a log (OP 3246.1XE) of all instances of use of force as defined by this operational procedure, which will be presented to the superintendent annually. The superintendent will provide an annual report to the board regarding the district's use of force.

Cross References:

OP 2160	Special Education and Related Services for Eligible Students
OP 2161	Education of Students with Disabilities Under Section 504 of the Rehabilitation Act of 1973
OP 3246.1XE	Restraint, Isolation and Other Uses of Reasonable Force - Log
OP 3246.2XE	Restraint, Isolation and Other Uses of Reasonable Force - Incident Report
OP 3246.3XE	Restraint, Isolation and Other Uses of Reasonable Force - Staff Trained
OP 3246.4XE	Restraint, Isolation and Other Uses of Reasonable Force - Parent/Guardian Notification
OP 3246.5XE	Restraint, Isolation and Other Uses of Reasonable Force - End of the Year OSPI Annual Report
OP 4312	Complaints Concerning Staff or Programs

Legal References:

RCW 9A.16.020	Use of Force — When lawful
RCW9A.16.100	Use of Force on Children — Policy — Actions presumed unreasonable
RCW28A.150.300	Corporal Punishment Prohibited - Adoption of policy
RCW 28A.155.210	Use of restraint or isolation — Requirement for procedures to notify parent or guardian.
RCW 28A.600.485	Restraint of students with individualized education programs or plans developed under section 504 of the rehabilitation act of 1973—Procedures—Definitions. [as amended by SHB 1240]
RCW 70.96B.010	Definitions
WAC 392-172A	Rules for the Provision of Special Education
WAC 392-400-235	Discipline — Conditions and limitations

Management Resources:

- Policy and Legal News*, 2016 - March Issue
- Policy and Legal News*, 2013 - July Issue
- Policy News*, December 2008 Use of Reasonable Force Policy

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