

POLICY GROUP 6 - SPECIAL EDUCATION

USE OF CONFINEMENT, RESTRAINT, SECLUSION, AND TIME-OUT

Sec. 1. BEHAVIOR MANAGEMENT TECHNIQUES

It is the policy of the state to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities. *Tex. Educ. Code § 37.0021(a); 19 TAC 89.1053(a), (j).*

Sec. 2. CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Tex. Educ. Code § 37.0021(a).*

Texas Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Texas Education Code 37.007(a)(1). *Tex. Educ. Code §§ 37.0021(a); 37.0021(f), 37.007(a)(1); Penal Code 46.02, 46.05.*

Sec. 3. SECLUSION

An International Leadership of Texas employee or volunteer or an independent contractor of International Leadership of Texas may not place a student in seclusion. "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to seclude a person; and contains less than 50 square feet of space. *Tex. Educ. Code § 37.0021(b)(2), (c).*

Sec. 4. RESTRAINT

An International Leadership of Texas employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.

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4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c).

a) Definitions

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. *Education Code 37.0021(b)(1); 19 TAC 89.1053(b)(2).*

“Restraint” does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a child to promote safety (*e.g.*, holding a student’s hand), to prevent a potentially harmful action (*e.g.*, running into the street), to teach a skill, or to provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a child from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the IEP as required by 34 CFR 300.324(a)(2)(i) to promote student learning or reduce and/or prevent the need for ongoing intervention; or
4. Seat belts and other safety equipment used to secure children during transportation. *19 TAC 89.1053(f).*

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction. *19 TAC 89.1053(b)(1).*

b) Training

Training for International Leadership of Texas employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the following requirements:

1. A core team of personnel on each International Leadership of Texas campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.
2. Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.
3. Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.
4. All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

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Tex. Educ. Code § 37.0021(d); 19 TAC 89.1053(d).

c) *Data Reporting*

Cumulative data regarding the use of restraint must be electronically reported through the Public Education Information Management System in accordance with reporting standards specified by the Texas Education Agency. *19 TAC 89.1053,(k).*

d) *Documentation*

In a case in which restraint is used, International Leadership of Texas employees, volunteers, or independent contractors must implement the following documentation requirements:

1. On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
2. On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.
3. Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
4. Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavior improvement plan or a behavioral intervention plan. In addition, the information in the student's eligibility folder must include a copy of the written notification provided to the parent; information on the method by which the written notification was sent to the parent; and the contact information for the parent to whom the district sent the notification.

19 TAC 89.1053(e)(1)-(4)

e) *Written notification to the parent*

Written notification must be provided to the student's parent(s) or person standing in parental relation to the student for each use of restraint, and documentation of each restraint must be placed in the student's special education eligibility folder. The written notification of each restraint must include the following:

1. name of the student;
2. name of the individual administering the restraint;
3. date of the restraint and the time the restraint began and ended;
4. location of the restraint;
5. nature of the restraint;

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6. a description of the activity in which the student was engaged immediately preceding the use of restraint;
7. the behavior of the student that prompted the restraint;
8. the efforts made to de-escalate the situation and any alternatives to restraint that were attempted;
9. observation of the student at the end of the restraint;
10. information documenting parent contact and notification; and
11. one of the following:
 - a. if the student has a behavior improvement plan or behavioral intervention plan, whether the behavior improvement plan or behavioral intervention plan may need to be revised as a result of the behavior that led to the restraint and, if so, identification of the staff member responsible for scheduling an ARD committee meeting to discuss any potential revisions; or
 - b. if the student does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an ARD committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and developing a plan for the student.

19 TAC 89.1053(e)(5)

Sec. 5. TIME-OUT

An International Leadership of Texas employee, volunteer, or independent contractor may use time-out with the following limitations:

1. Physical force or threat of physical force shall not be used to place a student in time-out;
2. Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's individualized education program ("IEP") and/or behavior intervention plan ("BIP") if it is utilized on a recurrent basis to increase or decrease a targeted behavior; and
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(b)(3), (g).

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and

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2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

Tex. Educ. Code § 37.0021(b)(3); 19 TAC 89.1053(b)(3).

a) *Training*

Training for International Leadership of Texas employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the following requirements:).

1. General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.
2. Newly identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.
3. Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
4. All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out. *19 TAC 89.1053(h)*

b) *Documentation*

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. If a student has a BIP, International Leadership of Texas personnel must document each use of time-out prompted by a behavior of the student specified in the student's BIP, including a description of the behavior that prompted the time-out. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use. *19 TAC 89.1053(i).*

Sec. 6. PEACE OFFICERS

Texas Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time out) and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. is employed or commissioned by International Leadership of Texas; or
2. provides, as a school resource officer, a regular police presence on an International Leadership of Texas campus under a memorandum of understanding between International Leadership of Texas and a local law enforcement agency.

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Tex. Educ. Code § 37.0021(h)

Texas Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

1. A peace officer, while performing law enforcement duties, except that International Leadership of Texas shall report electronically to the Texas Education Agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity;
2. Juvenile probation, detention, or corrections personnel; or
3. An educational services provider with whom a student is placed by a judicial authority unless the services are provided in an International Leadership of Texas educational program.

Tex. Educ. Code § 37.0021(g) and (i).

A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use a chemical irritant spray or Taser on a student enrolled in fifth grade or below unless the student poses a serious risk of harm to the student or another person. *Tex. Educ. Code § 37.0021(j).*

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

“Taser” means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emissions of a projectile or conductive stream. The term, for purposes of this law, includes a similar device manufactured, sold, or distributed by another person.

Tex. Educ. Code § 27.0021(b)(4) and (5)