

**BOARD OF TRUSTEES
HUMBOLDT COUNTY SCHOOL DISTRICT**

POLICY 5155

STUDENTS

**USE OF AVERSIVE INTERVENTIONS AND PHYSICAL AND
MECHANICAL RESTRAINTS ON STUDENTS WITH DISABILITIES
POLICY**

The Humboldt County School District recognizes the importance of fully investigating and resolving all instances where aversive interventions or physical and mechanical restraints have been used with students who have disabilities. The provisions of NRS §§388.471-515 govern these instances and are commonly referred to as the provisions of “AB 56” (referring to the 2009 Assembly Bill which revised the statutes originally enacted in 1999 as “AB 280”).

Permissible Uses and Prohibitions

Aversive Interventions:

Employees of the school district shall not use aversive intervention on a student with a disability. Aversive intervention is defined as any of the following actions if the action is used to punish a student with a disability or to eliminate, reduce or discourage maladaptive behavior of a student with a disability:

- 1) The use of noxious odors and tastes;
- 2) The use of water and other mists or sprays;
- 3) The use of blasts of air;
- 4) The use of corporal punishment;
- 5) The use of verbal or mental abuse;
- 6) The use of electric shock;
- 7) The administration of chemical restraint to a person;
- 8) The placement of a person alone in a room where release from the room is prohibited by a mechanism, including, without limitation, a lock, device or object positioned to hold the door closed or otherwise prevent the person from leaving the room;
- 9) Requiring a person to perform exercise under forced conditions if the:
 - a) Exercise is required because he/she exhibited a behavior that is related to his/her disability;
 - b) Exercise is harmful to the health of the person because of his/her disability; or
 - c) Nature of the person’s disability prevents him/her from engaging in the exercise; or
- 10) The deprivation of necessities needed to sustain the health of a person regardless of the length of deprivation, including, with limitation, the denial or unreasonable delay in the provision of:
 - a) Food or liquid at a time when it is customarily served; or
 - b) Medication.

All uses of aversive intervention are non-permissible, violate the NRS, and constitute a denial of the student's rights. A report of the denial of rights must be entered in the student's cumulative record and confidential file by promptly placing a copy of the Restraints/Aversive Interventions Investigation Report into those files. Although not required by state law, HCSD also notifies the student's parent or guardian that the student has been subjected to an aversive intervention that violates the NRS and constitutes a denial of the student's rights.

Mechanical Restraints:

A mechanical restraint involves the use of devices, including, without limitation, mittens, straps and restraint chairs to limit a person's movement or hold a person immobile. See, NRS §388.491. NRS §388.503(2) allows for the permissible use of mechanical restraints for limited purposes. Emergency use of mechanical restraints is permitted if used in accordance with the provisions of NRS §388.503(1). All other uses of mechanical restraints are non-permissible, violate the NRS, and constitute a denial of the student's rights. A report of the denial of rights must be entered in the student's cumulative record and confidential file by promptly placing a copy of the Restraints/Aversive Interventions Investigation Report into those files. Although not required by state law, HCSD also notifies the student's parent or guardian that the student has been subjected to a non-permissible mechanical restraint that violates the NRS and constitutes a denial of the student's rights.

Permissible emergency use of mechanical restraint is limited to situations where an emergency exists. An emergency is defined as a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of severe property damage. See, NRS §388.487.

If mechanical restraint is used on a student with a disability in an emergency, the use of the procedure must be reported in the student's cumulative record and a confidential file maintained for the student not later than 1 working day after the procedure is used. A copy of the report must be provided to the district administrator with oversight over special education programs¹, the student's IEP team and the parent or guardian of the student. If the district administrator with oversight over special education programs² determines that a denial of the student's rights has occurred, the Superintendent shall submit a report to the Department in accordance with NRS §388.513. See, NRS §388.503(3).

If a student with a disability has three reports of the use of mechanical restraint in an emergency in his or her record in 1 school year, the school district shall notify the school in which the student is enrolled to review the circumstances of the use of the restraint on the student and provide a report to the school district on its findings. See, NRS §388.503(4).

If a student with a disability has five reports of the use of mechanical restraint in an emergency in

¹ The Board of Trustees has designated the district administrator with oversight over special education programs to receive the report of an emergency use of a mechanical restraint.

² The Board of Trustees has designated the district administrator with oversight over special education programs to determine whether a denial of the student's rights has occurred as a result of the emergency use of a mechanical restraint and, if so, the Board of Trustees has designated the Superintendent to submit a report to the Nevada Department of Education.

his or her record in 1 school year, the student's IEP must be reviewed. If mechanical restraint continues after the student's IEP has been reviewed, the school district and the parent or legal guardian of the student shall include in the student's IEP additional methods that are appropriate for the student to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports. See, NRS §388.503(5).

Physical Restraints:

A physical restraint is the use of physical contact to limit a person's movement or hold a person immobile. See, NRS §388.494. NRS §388.501(2) allows for the permissible use of physical restraints for limited purposes. Emergency use of physical restraint is permitted if used in accordance with the provisions of §388.501(1). All other uses of physical restraints are non-permissible, violate the NRS, and constitute a denial of the student's rights. A report of the denial of rights must be entered in the student's cumulative record and confidential file by promptly placing a copy of the Restraints/Aversive Interventions Investigation Report into those files. Although not required by state law, HCSD also notifies the student's parent or guardian that the student has been subjected to a non-permissible physical restraint that violates the NRS and constitutes a denial of the student's rights.

Permissible emergency use of physical restraint is limited to situations where an emergency exists. An emergency is defined as a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of severe property damage. See, NRS §388.487.

If physical restraint is used on a student with a disability in an emergency, the use of the procedure must be reported in the student's cumulative record and a confidential file maintained for the student not later than 1 working day after the procedure is used. A copy of the report must be provided to the district administrator with oversight over special education programs³, the student's IEP team and the parent or guardian of the student. If the district administrator with oversight over special education programs⁴ determines that a denial of the student's rights has occurred, the Superintendent shall submit a report to the Department in accordance with NRS §388.513. See, NRS §388.501(3).

If a student with a disability has three reports of the use of physical restraint in an emergency in his or her record in 1 school year, the school district shall notify the school in which the student is enrolled to review the circumstances of the use of the restraint on the student and provide a report to the school district on its findings. See, NRS §388.501(4).

If a student with a disability has five reports of the use of physical restraint in an emergency in his

³ The Board of Trustees has designated the district administrator with oversight over special education programs to receive the report of an emergency use of a physical restraint.

⁴ The Board of Trustees has designated the district administrator with oversight over special education programs to determine whether a denial of the student's rights has occurred as a result of the emergency use of a physical restraint and, if so, the Board of Trustees has designated the Superintendent to submit a report to the Nevada Department of Education.

or her record in 1 school year, the student's IEP must be reviewed. If physical restraint continues after the student's IEP has been reviewed, the school district and the parent or legal guardian of the student shall include in the student's IEP additional methods that are appropriate for the student to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports. See, NRS §388.501(5).

Training and Prevention

The District shall provide mandatory training for all relevant staff on positive behavioral interventions and the appropriate use of physical and mechanical restraints in emergencies only (see, NRS §388.505). Training must emphasize preventing the need for restraints through evidence-based supports and be completed before staff may apply permissible restraints.

Penalties for Intentional Use of Aversive Interventions or Non-Permissible Restraints

In addition to any penalty prescribed by specific statute, a teacher or administrator who intentionally uses aversive intervention on a student with a disability or intentionally violates NRS §388.499 (the prohibition on the use of physical or mechanical restraint except where permitted by law) is subject to disciplinary action pursuant to NRS §391.330 or §391.750, or both, and all other employees may be disciplined through verbal warning, written reprimand, suspension or dismissal. Discipline will be consistent with the Negotiated Agreements.

Reporting Requirements

All uses of non-permissible physical and mechanical restraints or aversive interventions must be reported by any staff member who is aware of the use to the site administrator immediately upon occurrence/discovery and in no case more than 24 hours after the use. The site administrator must immediately notify the district administrator with oversight over special education programs.

All violations (aversive interventions and non-permissible uses of restraints) must be reported by the district administrator with oversight over special education programs to the Board of Trustees within 24 hours of occurrence or upon discovery. The report to the Board of Trustees must specify that the violation constitutes a denial of the student's rights.

In the event of the use of an aversive intervention or the non-permissible use of restraint, the district administrator with oversight over special education programs will decide if Child Protective Services or law enforcement must be notified and will direct the appropriate staff to do so.

When a violation occurs, the district administrator with oversight over special education programs⁵ will draft and submit to the Superintendent a corrective plan as soon as is practicable. The

⁵ NRS §388.508(2) requires that the board of trustees of the school district where the violation occurred shall develop, in cooperation with the superintendent of schools of the school district, a corrective plan to ensure that within 30 calendar days after the violation occurred, appropriate action is taken by the school and the board of trustees to prevent future violations. NRS §391.210 authorizes the board of trustees to direct the administrators, principals, teachers, and other licensed personnel employed by the board to exercise such powers and authority in the schools as the board has under Title 34 of NRS. Through this Policy 5155, the board of trustees hereby directs the district administrator with oversight over special education programs to develop, in cooperation with the Superintendent, the corrective plan referenced under NRS §388.508(2).

Superintendent in cooperation with the district administrator with oversight over special education programs will finalize the corrective plan and the Superintendent will submit it to the Nevada Department of Education (NDE). The corrective plan must set forth in detail the factual circumstances surrounding the violation/denial of the student's rights (NRS §388.513(2)), and a plan describing measures that have been or will be taken to ensure that within 30 calendar days after the violation/denial of student's rights occurred, appropriate action is taken to prevent future violations (NRS §388.508(2)).

Should the corrective plan require revision at the request of NDE, the Superintendent will work in cooperation with the district administrator with oversight over special education programs to revise and resubmit the plan to the Nevada Department of Education.

On or before August 1 of each year, the school district must prepare and submit a report regarding the use of restraints and aversive interventions and submit it to the Nevada Department of Education by August 15 of each year, in the form prescribed by the Department, including the number of instances during the previous school year (NRS §388.515).

All practices must comply with federal laws, including IDEA, Section 504, and ADA Title II, ensuring restraints do not deny FAPE or discriminate based on disability.

Legal Reference:

NRS 388.471-515

NRS 391.330

NRS 391.750

NRS 391.210

Adopted: 10/8/2019

Revised: 1/26/2021; 9/22/2026