Regulation 2163R

REGULATION ON USE OF RERAINT, ISOLATION AND OTHER USES OF REASONABLE FORCE

I. PURPOSE

This regulation 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.

II. DEFINITIONS

a. Behavioral intervention plan: A plan 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; 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 d) The skills that will be taught and monitored as alternatives to challenging behavior(s) for a specific pattern of behavior of the student.

b. 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.

c. 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.

d. Imminent: The state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

e. Isolation: Restricting a student alone within a room or any 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.

f. Likelihood of serious harm: A substantial risk that physical harm will be inflicted by a student:

i. Upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
ii. 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;

iii. Upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

iv. After the student has threatened the physical safety of another and has a history of one or more violent acts.

g. **Physical force:** The use of bodily force or physical restriction that substantially immobolizes or reduces the free movement of a student.

h. **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.

i. **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.

j. **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.

k. **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.

l. **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.

m. **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.

### III. LIMITATIONS ON THE USE OF RESTRAINT AND ISOLATION
Restraint, isolation, or other forms of reasonable force may be used under the following conditions: 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 serious harm.

a. 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.

b. 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.

c. 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 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.

d. Restraint, isolation, or other forms of reasonable physical force will not be used as a form of discipline or punishment.

e. 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 and positive behavioral interventions fail or are inappropriate.

f. 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.

IV. 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:

a. Throwing, kicking, burning, or cutting a child;

b. Striking a child with a closed fist;

c. Shaking a child under age three;

d. Interfering with a child’s breathing;
e. Threatening a child with a deadly weapon; or

f. 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.

V. PROCEDURAL SAFEGUARDS

Any use of isolation, restraint, and/or restraint device shall be used only when a student's behavior poses an imminent likelihood of serious harm. The limited use of isolation, restraint, or restraint device not prohibited in WAC 392-172A-02076 and is conditioned upon compliance with the following procedural and substantive safeguards:

a. Isolation

   i. The isolation must be discontinued as soon as the likelihood of serious harm has dissipated.

   ii. The isolation enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.

   iii. The isolation enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

   iv. An adult responsible for supervising the student shall remain in visual or auditory range of the student at all times.

   v. 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.

   vi. Any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.
b. **Restraint**

   i. The restraint must be discontinued as soon as the likelihood of serious harm has dissipated.

   ii. The restraint shall not interfere with the student's breathing.

   iii. Any staff member or other adults using a restraint must be trained and certified by a qualified provider in the use of such restraints, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

c. **Restraint Device**

   i. The restraint device must be discontinued as soon as the likelihood of serious harm has dissipated.

   ii. The restraint device shall not interfere with the student’s breathing.

   iii. Either the student shall be capable of releasing himself or herself from the restraint device or the student shall continuously remain within view of an adult responsible for supervising the student.

   iv. Any staff member or other adults using a restraint device must be trained and certified by a qualified provider in the use of such restraint devices, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

   v. **Documentation and Reporting.** Staff must follow document and reporting requirements identified in Section VI below.

**VI. DOCUMENTATION AND REPORTING**

a. **Review of Incidences**

   i. 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.

   ii. The principal or designee will also 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 restraint or isolation and the appropriateness of the response. b. **Parental Notification** - 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 will make a reasonable effort to verbally inform the student’s parent or guardian of the incident.
c. IEPs and 504 plans will include the above procedures for notification of parents/guardians regarding the use of isolation and restraint on their student.

d. Incident report—Any school employee, school resource officer or school security officer who uses restraint, isolation, or other form of reasonable physical force, as defined in this regulation, on any 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 of the incident to the district office. The written report will contain, at a minimum:

i. The date and time of the incident;

ii. The name and job title of the staff member who administered the restraint, isolation, or other form of reasonable physical force;

iii. A description of the activity that led to the restraint, isolation, or other form of reasonable physical force;

iv. The type of restraint, isolation, or other forms of reasonable physical force used on the student, and the duration;

v. Whether the student or staff was physically injured during incident involving restraint, isolation, or other forms of reasonable physical force;

vi. Any medical care provided to the student or staff; and

vii. Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

VII. Submission of incident reports to the Office of Superintendent of Public Instruction.

The District will summarize the written incident reports described above and submit those summaries to OSPI. The summaries will include:

a. The number of individual incidents of restraint and isolation;

b. The number of students involved in the incidents;

c. The number of injuries to students and staff; and

d. The types of restraint or isolation used.

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