Changes to the use of Restraint and Isolation in Washington
Overview of Recent History

In 2013, the WA legislature passed House Bill 1688, which was later codified at RCW 28A.600.485.

*RCW 28A.600.485* is entitled “*Restraint of students with individualized education programs or plans developed under section 504 of the rehabilitation act of 1973 - Procedures - Definitions.*”

RCW 28A.600.485 did the following things:

- Defined the terms: isolation, restraint, and restraint device.
- Required schools to implement follow-up procedures after the use of restraint or isolation with a student who had an IEP or 504 plan.
- Required that any staff member who used isolation or restraint:
  - Inform the building administrator as soon as possible, and
  - Submit a written report of the incident to the district office within in 2 business days.
- Recommended the written report include 5 items.
- Required principals to make a reasonable effort to verbally inform parents within 24 hours of the incident and send written notification within 5 business days.

RCW 28A.600.485 did not limit the use of aversive interventions.
Overview of Recent History

In 2013, the legislature also passed RCW 28A.600.486 and RCW 28A.155.210.

**RCW 28A.600.486** is entitled “District policy on the use of isolation and restraint - Notice to parents and guardians of children who have individualized education programs or plans developed under section 504 of the rehabilitation act of 1973.”

- RCW 28A.600.486 requires that districts provide parents with a copy of the district’s policy on the use of isolation and restraint at the time the IEP or 504 plan is created.

**RCW 28A.155.210** is entitled “Use of restraint and isolation - Requirement for procedures to notify parent or guardian.”

- RCW 28A.155.210 requires that districts include within the IEP the procedures for notifying parents regarding the use of restraint or isolation.
  - This is not a requirement for 504 plans.
Substitute House Bill (SHB) 1240

SHB 1240 was passed during the 2015 legislative session and was signed by the governor in May 2015. The bill became effective on July 24, 2015.

In SHB 1240, the legislature did the following things:

► Found that “there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their school programs when not necessary for immediate safety.”

► Prohibited the “planned use of aversive interventions, to promote positive interventions when a student with disabilities is determined to need specially designed instruction to address behavior, and to prohibit schools from physically restraining or isolating any student except when the student’s behavior poses an imminent likelihood of serious harm to that student or another person.”

► Amended RCW 28A.600.485.

► Required OSPI to update the WACs to address the new law.

SHB 1240 did not amend or repeal RCW 28A.600.486 or RCW 28A.155.210.
RCW 28A.600.485 Amendment

The amended version of RCW 28.600.485 does the following things:

- Applies to all students, not just students with IEPs or 504 plans.
- Further defines the terms: isolation, restraint, and restraint device.
- Prohibits an IEP or 504 plan from including the use of restraint and isolation as a planned behavior intervention unless:
  - The student’s individual needs require more “advanced educational planning”, and
  - The parent agrees.
- Allows for the use of restraint or isolation only when “reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm as defined in RCW 70.96B.010.”
- Requires any use of restraint and isolation to be closely monitored to prevent harm to the student.
- Requires the restraint or isolation to be discontinued as “soon as the likelihood of serious harm has dissipated.”
- Requires districts to adopt a policy providing for the least amount of restraint or isolation to protect the safety of students and staff under the circumstances.

Continued...
RCW 28A.600.485 Amendment

The amended version of RCW 28.600.485 also does the following things:

- Further defines the follow-up procedures districts must implement after the use of restraint or isolation.
- Still requires that any staff member who used isolation or restraint:
  - Inform the building administrator as soon as possible, and
  - Submit a written report of the incident to the district office within in 2 business days.
- Requires that the written report include at a minimum 6 items.
- Still requires principals to make a reasonable effort to verbally inform parents within 24 hours of the incident and send written notification within 5 business days.
- Requires districts to summarize the written reports and submit the summaries to OSPI.
- Requires OSPI to post the data received by districts to OSPI’s website.
- Allows OSPI to use the data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation.
Breaking Down the New Requirements of RCW 28A.600.485

- Further defines the terms: isolation, restraint, and restraint device.
  - **Isolation** is now defined as - 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.
  - **Restraint** is now defined as - physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. 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** is now defined as - 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 section shall not be construed as encouraging the use of these devices.
Breaking Down the New Requirements of RCW 28A.600.485

- Prohibits an IEP or 504 plan from including the use of restraint and isolation as a planned behavior intervention unless:
  - The student’s individual needs require more “advanced educational planning”, and
  - The parent agrees.
Breaking Down the New Requirements of RCW 28A.600.485

- Allows for the use of restraint or isolation only when “reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm as defined in RCW 70.96B.010.”

- **RCW 70.96B.010 Definitions include:**
  - **Imminent** - means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

- **Likelihood of serious harm** means:
  - A substantial risk that:
    - Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;
    - Physical harm will be inflicted by a person 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; or
    - Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
    - The person has threatened the physical safety of another and has a history of one or more violent acts.
Breaking Down the New Requirements of RCW 28A.600.485

- Requires districts to adopt a policy providing for the least amount of restraint or isolation to protect the safety of students and staff under the circumstances.
  - This policy applies to all students, not just students eligible for special education or students with a 504 plan.
  - If you don’t already have this policy in place, consult with WSSDA, your district attorney, etc.
- Further defined the follow-up procedures districts must implement after the use of restraint or isolation.
  - These procedures must include:
    a) Reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response; and
    b) Reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.
  - These follow-up procedures are required after any use or restraint or isolation with any student, not just students eligible for special education or students with a 504 plan.
Breaking Down the New Requirements of RCW 28A.600.485

- **Requires** that the written report include **6 items**.
  - The written report must include, at a minimum, the following information:
    1. The date and time of the incident;
    2. The name and job title of the individual who administered the restraint or isolation;
    3. A description of the activity that led to the restraint or isolation;
    4. The type of restraint or isolation used on the student, including the duration;
    5. Whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and
    6. Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

- *Recommendation* - Develop 1 form that includes all 6 requirements and train your staff on how to complete the form properly. Make sure the form is user friendly.
Breaking Down the New Requirements of RCW 28A.600.485

- Requires districts to summarize the written reports and submit the summaries to OSPI.
  - This is a requirement for all uses of restraint and isolation, not just for use of restraint or isolation with students eligible for special education or students with a 504 plan.
  - For each school in the district, the summaries must include:
    - The # of individual incidents of restraint and isolation,
    - The # of students involved in the incidents,
    - The # of injuries to students and staff, and
    - The types of restraint or isolation used.
  - Districts are required to start summarizing the reports beginning January 1, 2016.
- Requires OSPI to post the data received by districts to OSPI’s website within 90 days of receiving the data.
- Allows OSPI to use the data to investigate the training, practices, and other efforts used by school and district to reduce the use of restating and isolation.
Proposed Rules to Address SHB 1240

First set of proposed rules:

- Published in the State Register on July 15, 2015.
- OSPI began receiving written comments.
- Public Hearing on August 13, 2015. OSPI received numerous comments from stakeholders.
- Based on the comments, OSPI determined that substantive changes needed to be made to the proposed rules and that a new CR-102 would need to be filed.

So where are we at now?

- OSPI has rewritten the proposed rules and has submitted a new CR-102. The new proposed rules are now available for public comment which can be submitted to OSPI. The proposed rules can be found at http://www.k12.wa.us/SpecialEd/Rulemaking.aspx.
Next Steps

Next Steps...


► Review the new proposed rules. The proposed rules can be found at http://www.k12.wa.us/SpecialEd/Rulemaking.aspx.

► Contact OSPI if you have questions about the proposed rules.

► Submit written comments or attend the hearing if you have any concerns.