

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-30

PROCEDURAL HISTORY

On March 6, 2023, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent of a student (Complainant) attending the Vancouver School District (District). The Complainant alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the education of students eligible for special education services.

On March 6, 2023, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On March 23, 2023, OSPI received the District's response to the complaint. As the Complainant is not the parent of all the students in the complaint, the District's response included personally identifiable information that was redacted. OSPI forwarded the redacted response to the Complainant on March 24, 2023. OSPI invited the Complainant to reply.

On March 29, 2023, the Complainant requested an extension of time to reply to the District's response to the complaint. OSPI granted the extension to April 11, 2023.

On April 11, 2023, OSPI requested that the District provide additional information, and the District provided the requested information the same day. OSPI forwarded the information to the Complainant on April 12, 2023.

On April 11, 2023, OSPI received the Complainant's reply. OSPI forwarded that reply to the District on April 12, 2023.

On April 19, 2023, the OSPI complaint investigator consulted with OSPI's special education lead for the Washington System of Integrated Monitoring (WISM).¹

On April 21, 2023, OSPI requested that the District provide additional information, and the District provided the requested information April 24, 2023. OSPI forwarded the information to the Complainant on April 24, 2023.

On April 25, 2023, the OSPI complaint investigator consulted with OSPI's director of school health and student safety.

On April 26, 2023, the OSPI complaint investigator conducted interviews with a District principal, the District's assistant director of compliance, and the District's legal counsel.

¹ OSPI notes that the District is currently undergoing focused monitoring related to restraint and isolation.

OSPI considered all information provided by the Complainant and the District as part of its investigation. It also considered the information received and observations made by the complaint investigator during interviews.

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on March 7, 2022. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUE

1. Whether, during the 2021–2022 school year—since March 7, 2022—and the 2022–2023 school year, the District followed all restraint and isolation reporting, follow-up, documentation, and training requirements as outlined in WAC 392-172A-02110 (referencing RCW 28A.600.485)?

LEGAL STANDARDS

Restraint & Isolation Conditions: Restraint and isolation shall be used only when a student’s behavior poses an imminent likelihood of serious harm. Any staff member or other adults using a restraint or isolation must be trained and currently certified by a qualified provider in the use of trauma-informed crisis intervention (including de-escalation techniques) and such restraints, and for isolation also trained by the district is isolation requirements, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency. WAC 392-172A-02110.

Follow-up and Reporting Requirements: School districts must follow the documentation, follow-up, and reporting requirements for any use of isolation or restraint consistent with RCW 28A.600.485. WAC 392-172A-02110. These procedures must include: 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 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. Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information: the date and time of the incident; the name and job title of the individual who administered the restraint or isolation; a description of the activity that led to the restraint or isolation; the type of restraint or isolation used on the student, including the duration; whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents. The principal or principal's designee must make a reasonable effort to verbally inform the

student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language. RCW 28A.600.485.

FINDINGS OF FACT

Complaint

1. On March 6, 2023, OSPI received and opened a complaint from a Parent (Complainant) of a Student in the Vancouver School District regarding District-wide practices around restraint and isolation. The Complainant alleged that District schools were not consistently following requirements; specifically, that the District was not following follow-up, documentation, and reporting procedures; and that District staff using restraint and isolation were not trained and currently certified. The Complainant also alleged that District resources officers (DROs)² are not using the correct reporting form.
2. In her complaint, the Complainant included emails in support of her allegations from January and February 2023 with District staff that illustrate the following:
 - The District acknowledged that the DROs were not using the same form as the teachers and that the District was “in the process of having DRO initiated incidents documented on the form used by special education staff.” And the email indicated the form being used by the DROs did not include a place for recommendations to address the behavior that led to the restraint or isolation like the form used by teachers did.
 - The District indicated the recommendations for avoiding similar incidents was not being captured on the District’s form, “Thank you for bringing the absence of RCW 28A.600.485(5)(f) requirements on the new isolation and restraint form to the District’s attention. After restraint incidents, our District IEP teams meet and debrief, so the best interest and welfare of the student is always a first priority. We also understand this is not currently being captured, in writing, on the District’s online form, prior to being signed off by the building principal. We can assure you that, as of today, the District is taking steps to add this piece to our form as required information.”
 - The District stated that currently, the District was using an electronic reporting system for restraint and isolation where all information is entered electronically and then can be printed out onto a hard copy “form” as needed and clarified that, “As I mentioned in my previous email, the district is updating the electronic method to make sure we appropriately capture the information required by Section F.”
3. The Complainant, in her reply to the District’s response, noted that she has monitored and reviewed District restraint and isolation data from public records requests for the last five years, and the lack of change led her to file a systemic complaint. The Complainant stated her

² DROs are “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.” See District Procedure 3246.

complaint stemmed from restraint and isolation incidents with her own Student, of which “not one single incident followed the law.” The Complainant stated she hoped this could be:

An opportunity for one of the largest districts to reflect on their oversights, ask themselves what can they do to lead the state in better programming for all children to succeed, to actively move away from...acts to control the...disabled child, to build better programs not focusing on compliance of the disabled child but helping build on their strengths, develop skills to belong in our community, to be valued and respected.

4. In her reply, the Complainant referenced a component of the written report—the requirement that the report include “Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents”—stating her understanding was that the purpose of this portion of the report is to help “avoid similar incidents”. The Complainant noted that, “simply stating why an escalated student had hands put on them would not and does not avoid similar incidents.”

The Complainant also stated she had been pointing out discrepancies in the District’s reporting to OSPI. For example, the Complainant emailed OSPI’s director of school health and student safety in April 2022 regarding the District’s data, stating, “the numbers are not matching...the information on isolation rooms also doesn’t add up to how many isolations they have listed on the public record request.” OSPI stated it would look into the issue because there were technical issues with the District’s data populating correctly and later emailed:

The discrepancy is due to how [District] reported their end-of-year data. The data that was provided to you matches what is in the [District] database. However, the data that shows on the OSPI website combines many restraints and/or isolations when they occur in close time proximity to each other. (A student is restrained, and then let go, but another restraint is needed directly afterward). This is not against reporting guidelines and is a common practice that can encourage systems to utilize shorter restraints, which is good. That is also why some of the isolations and restraints have a longer duration. That said, this school year, [District] has decided to count each restraint and isolation as a separate record, even when they are in close proximity in time.

The Complainant and OSPI continued to exchange emails in April and May 2022 regarding data reporting inconsistencies.

5. The Complainant also stated that in her review of documentation in the District’s response, that the restraint forms—specifically DRO case reports—included descriptions of prohibited prone and wall restraints.

Data Request & District Response

6. OSPI requested the District provide a copy of any isolation and restraint records and notifications (restraint and isolation forms or incident reports) from April, June, November 2022, and January 2023. OSPI requested a sampling of months to get a random sampling of students and schools. The District provided in its response District-wide restraint and isolation records from January 2022 through March 2023.

7. In 2020, the District created a new position: the assistant director of compliance, who reports to their executive director of special services. Among other responsibilities, the assistant director of compliance oversees state and federal compliance with restraint and isolation laws.

The assistant director shared in an interview that monitoring the use of restraint and isolation is a primary part of his job. The assistant director shared that, unlike in past years when it would take several days to get restraint and isolation reports, with the new electronic system, he gets notified within a day of each incident. He and an instructional specialist review all forms to look at whether the restraint or isolation was used in an appropriate imminent likelihood of harm situation and whether the report is complete and accurate. Additionally, the special services team meets weekly and looks at data on restraint and isolation at the individual student level and by building. If there are concerns about students, teams, or buildings, additional support is provided and instructional specialists visit the team or building to provide support. The special services team also looks at current data in comparison to data from the past years.

From his perspective, restraints and isolations are decreasing in the District and he stated this was due to a number of factors, including more focus on monitoring and looking at data and trends, along with adoption of the "Ukeru" system and training on that, along with more intensive training at the beginning of the year.

Documentation, Follow-Up, & Reporting Requirements

8. In the District's response, the District maintained that it followed the written notification requirements both in terms of timeline and required written notification topics. This is addressed in the District's procedures 3246 and 2161, which require staff to "follow the documentation and reporting requirements for any use of isolation, restraint, or a restraint device consistent with RCW 28A.600.485 and the parental notification requirement of RCW 28A.155.210."³
9. In its response, the District noted that its policy and procedures require staff, including DROs, to follow four steps when a restraint or isolation is used with a student:
 - "[A]ny school employee...or district resource officer who uses restraint, isolation, or other forms of reasonable physical force...on any student during school-sponsored instruction or activities, will inform the principal or a designee as soon as possible."
 - "[W]ithin 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."
 - "[T]he 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."
 - "[T]he 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

³ OSPI notes that following a previous special education complaint (SECC 22-155), the District is in the process of updating procedures 3246 and 2161.

procedures were followed and what staff training or support is needed to help the student avoid similar incidents.”

The District noted in its response that its reporting form documents the District’s compliance with the follow-up procedures, including the date the building administrator was notified, the date the parent or guardian was verbally notified, and the date the report was submitted to the District.

2021–2022 School Year

10. The District’s information indicated that reporting had changed over time and summarized the process for the 2021–2022 school year:

- The District used a paper restraint and isolation report form.
- The form was completed by the classroom staff who administered the restraint or isolation and then staff submitted the report to the building administrator and special services department for review.
- The report was signed by the building administrator and then sent to the parent or guardian.
- The District stated the report included all required topics listed in the regulation.

11. OSPI reviewed a random sampling of restraint and isolation report forms from the 2021–2022 school year, including incidents from March through June 2022. During this period, the District used two different forms with an additional page on some of the reports if a DRO administered the restraint. Based on this review, OSPI observed the following patterns:

- “Isolation and Restraint Report”
 - The report form had spaces on the form for all required elements.
 - The majority of the reports were complete with all required elements. Occasionally, a report would have a missing element, and a few were not sent to the parent within five business days.
 - There seemed to be confusion regarding what to include in the “description of activity that led to incident” section. Some reports included what occurred prior to an incident or where the student was, for example “end of lunch”, “speech”, “transition”, etc. Other reports used this to describe the escalated behavior that warranted a restraint.
 - When there were reports related to the same student, with restraint or isolation incidents numerous days in a row, the recommendations to address the behavior and prevent future incidents was often the same—e.g., “continue to teach skills necessary to get their needs met in appropriate ways” or “continue BIP”—after each incident despite continued incidents of restraint or isolation.
- “Behavior Incident Report”
 - The report form did not include a section for recommendations, a required element of the written report.
 - The report included a section for “debrief”, but it was unclear whether this was the involved staff debrief, parent debrief, or student debrief. This section was not filled out on many of the reports.
 - The section indicating the written report had been provided to the parent was rarely completed.
 - The section indicating the parent had been verbally notified was inconsistently completed.

- The behavior incident report frequently had very detailed notes from the incident.
- The behavior incident report form was occasionally used for behavior incidents that did not involve a restraint or isolation.

2022–2023 School Year

12. The District’s information indicated that the process for reporting restraint and isolation incidents had changed over time and summarized the process for the 2022–2023 school year:

- The District developed an electronic restraint and isolation reporting form. The form is completed by classroom staff and then automatically emailed to the building administrator and special services administrators for review.
- The District stated, “the electronic form includes built-in safeguards to ensure complete and accurate reporting of incidents. For example, the administrator cannot sign the report until all mandatory fields in the report are completed.”
- Once the form is completed and signed by an administrator, the form is automatically emailed to the parent or guardian.

13. District training materials, related to the electronic reporting system, outline the current process and steps that occur when a restraint or isolation incident occurs in the District, as follows:

- Step 1: Restraint or isolation incident. “Staff submits initial electronic notification of restraint or isolation...Staff can complete full form now or later in the day.”
- Step 2: Administrator receives notice. “Administrator (and [special education] assistant director) receives notice that a restraint or isolation has occurred.” The email notification indicates a full report will follow and prompts the administrator to debrief with the involved staff.
- Step 3: Case manager notifies parent. “Case manager calls the parent...*should* happen before the end of the school day...*must* happen within 24 hours.” (Emphasis in original.)
- Step 4: Staff completes restraint and isolation form. “Staff have one day to complete the electronic R & I form.”
- Step 5: Administrator reviews the form and debriefs with team. “Administrator (and [special education] assistant director) receives notice that R & I form is complete. Review the form. Complete debrief with staff...Return electronic form to staff if revisions are needed...This meeting must take place and the R & I form must be complete with administrator review within 2 days of the incident.”
- Step 6: Debrief with parent and student. “Administrator, case manager, and other staff...meet with the parent *and* the student...This meeting should take place within 5 days of the incident.” (Emphasis in original.)
- Step 7: Sign and provide written notice. “Administrator signs R & I form and sends a copy to the parent...within 5 days of the incident.”

14. The District acknowledged that, “the new electronic reporting form did not include information about ‘recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents to the student and staff members in order to avoid similar incidents,’” as required by the regulation.

The District stated that on February 7, 2023, it acknowledged the oversight and notified the Complainant that the District was resolving the “omission on the electronic form.” The District stated:

The electronic form was subsequently updated and presently includes an option for staff to identify whether there are any recommended changes. Notably, although this item was missing from the electronic reporting form, it was included on the District's discussion guide for the staff debrief meeting...this topic was being discussed by school teams and families, even if not documented on the form. In any event, the District corrected this omission from the new electronic restraint and isolation reporting form.

15. OSPI reviewed a random sampling of reports from the new electronic reporting system used by the District during the 2022–2023 school year, including incidents from September 2022 through March 2023. Based on this review, OSPI observed the following patterns:

- As acknowledged by the District, the electronic reporting system did not include a spot to include recommendations for change. The report forms indicate that the system has now been updated to include this, at least as of March 7, 2023, and reports from March 2023 include recommendations for change.
 - The two March 2023 reports reviewed that included “recommendations” stated “Yes” and “none at this time; parents were each called and updated on situation. [Student] was able to calm down and successfully complete day.”
- All required components of the electronic report form are consistently completed.
- The report form included spots to note the dates that: an administrator was notified, the written report submitted to the District, the parents verbally notified, and the written report sent to parents.
 - A small number of reports noted dates that went beyond the required timelines, ranging from some with the date the parent was verbally notified and dates written reports submitted to the District and parent being a day or two outside the timeline (with 24 hours, 2 business days, and five business days respectively) to several days, to a few that were reported/notified more than a month later—e.g., incidents in November 2022 that was not reported until January 23, 2023, or several incidents in October 2022 that were not reported until February 2023.
- The report form did not include spots to note the dates the review with staff occurred or the dates the parent and student debrief occurred.

16. The District provided additional information about the debrief with staff, parents, and students, stating:

The electronic report could be completed before the school team meets (i.e., the electronic reporting system itself doesn't prevent that from happening). That said, [as shown] in the training materials, building administrators have been trained not to finalize the electronic report until the school team debriefs the incident.

...The date of the parent and student debrief is not reported on the electronic form or on another document. In individual situations, there may be relevant communication with the parent, such as scheduling emails, a post-debrief email, or subsequent revisions to an IEP/BIP. However, the district has not required staff to document the parent and student debrief meeting.

17. In an interview with the principal of the Jim Tangeman Center (JTC)⁴, the principal explained the process that occurs when a restraint or isolation incident happens. The principal spoke in detail to the steps in the process and the electronic reporting system. With respect to the review with parents, students, and involved staff, the principal provided the follow information about their practices following an incident of restraint or isolation:

- The teacher notifies the parents verbally, typically before the student gets home, and has a conversation with the parents regarding what occurred, precursors, and next steps. The parents are invited and encouraged to join the debrief with staff.
- The principal shared that only a handful of parents come in-person to the debrief, and some join via phone or video conference. However, the principal stated that most parents debrief with the teacher via phone and choose not to participate in additional debrief.⁵
- The principal gets notified when the incident report is started and finished, and reviews for accuracy and completion.
- Once the principal signs off on the report, it gets emailed to the parent. The principal stated he does not sign off on the report to release to the parent until the debrief has occurred with involved staff.
- Involved staff, including the principal, if he is involved in the incident, debrief the afternoon of the incident or the next morning. The team has guiding questions to go through and takes notes that are submitted to the principal for review. The principal stated that parents are invited and encouraged to attend this debrief, but many choose not to.
- Every staff debrief is attended by either the JTC's BCBA or one of three mental health specialists.
- In terms of debriefing with the student, there is a more formal process through the classroom "reset folders" and this is integrated into programming. The JTC has a process for resetting after any behavior incident where students, in part, take a "quiet 5" and the reflect at writing ("stop and think sheets" and reflection sheets depending on the age of the student) to process the incident, their behavior, what occurred, what could have happened differently, and what additional support does the student think they need that day and in the future.

18. The District, in its response, included a discussion guide it had developed for staff for the staff debrief meeting. The debrief document included prompts to discuss the incident, data, next steps, and other information and noted the debrief should "occur no later than 2 days after the restraint/isolation" and the team discussion should include the case manager, building administrator, and staff involved in the incident. More specific prompts included:

- "Restraint and isolation procedures"
- "The escalation cycle (potential triggers, de-escalation etc.)"
- "Interventions attempted prior to restraint/isolation"

⁴ The JTC is the District's day treatment program and serves students with more intensive mental health, self-regulation, and behavioral needs. The JTC is approximately 50–60% students from the District and serves other districts in the region, with about 40–50% of the students coming from other districts. The District stated that about 50% of the restraints and isolation that occur in the District occur at the JTC due to the population of students served and their needs.

⁵ The principal explained that this is for a variety of reasons. For example, some of the families do not live in the District. Or, for example, the principal stated that because the JTC serves students with higher behavior needs, most of the parents already know that a restraint or isolation may occur, know the circumstances an escalation may be connected to like something that happened the day before, or at home.

- "Who all was affected and/or involved in the incident?"
- "What was the restraint/isolation needed (why imminent likelihood of serious harm?"
- "In future, what might the staff do differently to prevent/reduce the isolation/restraint?"
- "What patterns are the team seeing? (Student patterns and adult response patterns)"
- "Consider whether restraints/isolations have been used previously."
- "Consider whether frequency and duration of R&I have increased/decreased."
- "Discuss whether additional staff training is needed."
- "Discuss whether the IEP team should meet to determine if the FBA/BIP should be reviewed/developed."
- "Are there restorative steps needed?"
- "Give support and encouragement to all team members."
- "Discuss timeline of completion of the R&I form/process."

District Resource Officers

19. The District stated that DROs completed a separate "use of force" report if they administer a restraint or isolation.

20. OSPI reviewed a random sampling of DRO reports and based on this review, OSPI observed the following patterns:

- "To be completed by admin when DRO is the only staff involved in the R&I" Form/Page
 - This form adds spaces to indicate that the parent and student debrief occurred and a spot to note recommendations for change.
 - There were examples of the "behavior incident report" stating, "restraint by DRO", but then no accompanying "DRO form/page."
- "[District] District Resource Officers Case Report"
 - The report consistently included the following elements required in a restraint and isolation report: incident date and time; staff involved name and title; description of incident; type of restraint and duration.
 - The report did not clearly include a place to note injury or recommendations for change.
 - The report inconsistently included "Parent Contacted?" and "incident reviewed w/parent?", which would be marked as "True" if the parent was contacted.
 - The report did not include places to indicated whether an administrator was notified, although did include a place for "manager/supervisor" noted.
 - The report did not consistently include a place to indicate that the incident was reviewed with the student or involved staff. A few reports reviewed indicated there was a staff debrief.
 - Some, but not all reports, indicated the Student was a "IEP or 504 Student?", which indicated that the report form was used for Students in general and special education.
 - Reports did not consistently include all required elements. For example, some reports did not indicate a restraint was used or the duration, despite the narrative of the incident describing a restraint.

21. Regarding the reporting forms completed by DROs, the District stated that program staff use the electronic reporting system while DROs complete a separate case report (called a "use of force" report). The District further stated:

In some cases, the restraint or isolation is documented through both the electronic reporting system and the DRO case report. However, we have learned that there are also instances where a restraint is only documented in the DRO case report. Generally, these are situations that do not involve program staff or where a DRO is the primary responder. To remedy this, we will work with our safety and security leadership to begin documenting all restraints -- whether program staff or DRO -- through the electronic reporting system.

22. With respect to DROs, this is the one area that both the assistant director of compliance and the District's legal counsel shared that there are gaps in the system—primarily when an incident is DRO initiated—meaning the DRO initiated a restraint or isolation rather than a special education or special education staff. The special services office gets a copy of DRO monthly reports and DRO use of force reports; however, the notification is not as timely as the electronic reporting system. The District's legal counsel stated that the DRO initiated incidents are a small subset for students in special education, as most restraint and isolation incidents involving students in special education are initiated by special education classroom staff. However, the District's legal counsel acknowledged this was an area where the integration of DRO initiated incidents could be improved. And the District's legal counsel speculated that incidents reported in the electronic system late were likely incidents where a DRO was involved.

State Reporting

23. Regarding required annual reporting to the state, the District stated that its District policies require the District to annually, "summarize the written [restraint and isolation] incident reports and submit those summaries to OSPI" and that it has submitted its data annually, with the most recent submission in January 2023.
24. The District provided in its response the District level restraint and isolation data for the 2021–2022 and 2022–2023 school years, indicating that the data had been included in the report to the state.

Training

25. In general, the District stated in its response that it meets the requirement to train staff by providing training through the "Crisis Prevention Institute" (CPI). CPI training is provided to all certificated special education staff and paraeducators assigned to "self-contained programs" who may reasonably be anticipated to use restraint or isolation. The District stated this included staff assigned to certain special education programs, such as "a structured learning center, supported communication program, structured communication program, or intensive communication center." The District stated it also offers, on a voluntary basis, CPI training to other building administrators who anticipate that they may use or participate in the use of restraint or isolation.

Starting in the 2020–2021 school year, the District stated it also began offering "Ukeru Systems" training to staff. The District stated, for example, that all staff at the District's therapeutic day treatment school (that services students from across regional school districts) are trained in both CPI and Ukeru.

26. In August 2022, the District trained building administrators and special education staff on state law requirements for restraint and isolation, including follow-up procedures and information about each step of the process. The training also included information on the District's new electronic documentation/notification system. For example, the District stated that the training addressed, "what topics should be discussed when debriefing the incident with the family."

27. Regarding the District's DROs, the District stated the following in its response:

The District also employs resource officers, who are non-commissioned safety and security staff, as defined in RCW 28A.320.124. Resource officers respond to emergency situations in schools (among other duties) and may use physical interventions with students when necessary and less intensive interventions are ineffective or impractical. Resource officers receive extensive training developed by Educational Service District [ESD]...in the areas listed in RCW 28A.310.515(2), which includes training on trauma-informed approaches to working with youth and on best practices for interacting with students with disabilities during escalations. The District also provides resource officers additional training in de-escalation techniques and the safe use of physical interventions (which is provided in a training titled 'defensive tactics') during August pre-service.

The District provided the materials from the ESD "Safety and Security Staff Training," which indicated there were three components of the training—classroom training consisting of 13 units to be completed within the first 6 months of working on school property when students are present, on-the-job training, and check-ins. Training units included, among other topics, trauma-informed approach, students with disabilities, restraint and isolation, and de-escalation.

The District's response included "training proof of completion" for 33 individuals who had completed the "Safety and Security Staff Training" in January 2023.

Other

28. The District noted in its response that it was already "collaborating with OSPI to make improvements to our restraint and isolation policies and operational practices," as follows:

- "In accordance with the corrective action ordered in Special Education Community Complaint 22-155, the District is (1) in the process of reviewing and revising its restraint and isolation policies and procedures, which will be submitted to OSPI for input, and (2) working with...[the] OSPI Director of School Health and Safety, to provide additional staff training on restraint and isolation."
- The OSPI Director of School Health and Safety "is also leading OSPI's 2022-2023 Washington Integrated System of Monitoring ('WISM') review of the District's restraint and isolation policies and operational practices. This process is intended both to ensure the District's legal compliance with state and federal requirements and also to promote effectiveness in the District's special education programs."

29. Special education community complaint (SECC) 22-155 was opened on December 20, 2022 and a decision issued on February 16, 2023. The decision included corrective actions relevant to this investigation, as follows:

Training

The District, in cooperation and collaboration with a non-District employee (e.g., the ESD or...OSPI's director of school health and student safety, or other pre-approved trainer), will develop and conduct a training on the below topics...The training will be provided to all DROs and their supervisors. The training will include the following topics:

- Training on WAC 392-172A-02110.
- Training on WAC 392-172A-02076.

30. OSPI's director of school health and student safety noted that the above training has been completed and he is doing a follow-up meeting with District leadership around District processes, including DROs in debriefings and aligning DRO restraint training with the District's other restraint trainings for program staff.

CONCLUSIONS

Issue One: Restraint and Isolation – The Complainant alleged the District failed to follow restraint and isolation training, reporting, follow-up, and documentation requirements.

Training: Any staff member or other adult using a restraint or isolation must be trained and currently certified by a qualified provider in the use of trauma-informed crisis intervention (including de-escalation techniques) and such restraints, and for isolation also trained by the district is isolation requirements, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency.

The District provided documentation, including training sign-in sheets, certification records, and substantive training materials supporting that staff are provided training. Staff are trained through both the "Crisis Prevention Institute" (CPI) and "Ukeru Systems." Staff are provided annual training about state law requirements for restraint and isolation, including follow-up procedures and information about each step of the process. In August 2022, the training also included information on the District's new electronic documentation/notification system and addressed "what topics should be discussed when debriefing the incident with the family." Trainings are provided to building administrators, special education staff, and specifically staff who may reasonably be anticipated to use restraint or isolation like all certificated special education staff and paraeducators assigned to "self-contained programs," such as "a structured learning center, supported communication program, structured communication program, or intensive communication center."

DROs also receive training, including training on trauma-informed approaches, de-escalation techniques, and the safe use of physical interventions. Further, the District's DROs and supervisors recently underwent additional training pursuant to a previous special education community complaint. OSPI's director of school health and student safety noted that the above training has been completed and he is doing a follow-up meeting with District leadership around District processes, including DROs in debriefings and aligning DRO restraint training with the District's other restraint trainings for program staff.

Overall, OSPI finds the District has met the requirement to train staff who can be reasonably anticipated to use restraint or isolation.

Report to Building Administrator & Verbal Report to Parent: Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible. The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within 24 hours of the incident.

District policy, procedures, and training materials included the requirements to report to the building administrator and verbally to the parent. During the 2021–2022 school year, the District staff (excluding DROs) used two different restraint and isolation reports (“isolation and restraint report” and “behavior incident report”). The reports indicated building administrators were consistently timely notified. The “isolation and restraint report” forms indicated that parents were consistently verbally notified; however, the “behavior incident report” inconsistently indicated that the parent was verbally notified. During the 2022–2023 school year, the District developed a new electronic reporting process, which included “built-in safeguards to ensure complete and accurate reporting of incidents...the administrator cannot sign the report until all mandatory fields in the report are completed.” During the 2022–2023 school year, the majority of reports indicated the parents were timely verbally notified; however, a small number of reports recorded dates that went beyond notifying the parent within 24 hours—including several examples of notifications not occurring until several months later.

District DROs use a separate case report system—although the District stated that it is moving to have DROs, and thus all program and DRO staff—complete reports through the electronic reporting system. The DRO case reports for the 2021–2022 and 2022–2023 school years inconsistently indicated that parents were contacted.

Overall, the District’s policies and procedures appropriately address the requirements to notify the parents and building administrator, and staff are trained on requirements. However, OSPI finds a violation as the District’s documentation of its current reporting system still includes examples of parents not being verbally notified in the timeline required and DRO initiated incidents reflect parents were inconsistently notified.

The Complainant also raised concerns about discrepancies between the restraint and isolation data the District has reported to OSPI, and the data reported locally. The documentation supported that the District met the requirement to report to OSPI. OSPI’s director of school health and student safety explained in emails with the Complainant that OSPI was working with the District on technical issues and that some of the discrepancy is due to how data is reported:

The discrepancy is due to how [District] reported their end-of-year data. The data that was provided to you matches what is in the [District] database. However, the data that shows on the OSPI website combines many restraints and/or isolations when they occur in close time proximity to each other. (A student is restrained, and then let go, but another restraint is needed directly afterward). This is not against reporting guidelines and is a common

practice that can encourage systems to utilize shorter restraints, which is good. That is also why some of the isolations and restraints have a longer duration. That said, this school year, [District] has decided to count each restraint and isolation as a separate record, even when they are in close proximity in time.

OSPI's director of school health and student safety stated that there is a difference between the District's local reporting and what is required to be reported to the state due to the reporting systems used. OSPI finds that the documentation does not substantiate a violation here with respect to state reporting; however, OSPI recommends the District continue to work with OSPI to ensure its data report systems are accurate.

Review with Involved Staff, Parent, Student: Districts are required to review 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 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. District policy, procedures, and training materials included these requirements to review the incident with involved staff, parents, and students.

During the 2021–2022 school year, as discussed, the District used two different report forms. The "isolation and restraint report" consistently indicated that staff, parent, and student debriefs occurred. However, while the "behavior incident report" incident report included a section for "debrief," it was unclear whether this was the staff, parent, or student debrief and regardless, this section was not completed on many of the reports.

During the 2022–2023 school year, the District explained that the process rolled out with the new electronic reporting system required the administrator to debrief with involved staff as the restraint and isolation form is reviewed and completed. The District explained that the "administrator (and [special education] assistant director) receives notice that R & I form is complete. Review the form. Complete debrief with staff...Return electronic form to staff if revisions are needed...This meeting must take place and the R & I form must be complete with administrator review within 2 days of the incident." The administrator, case manager, and other staff are also required to meet with the parent and student within five days of the incident to review the incident.

While the incident report form itself does not include spaces to note that the debriefs occurred, the principal⁶ OSPI interviewed provided a detailed description of how the parent, student, and staff debriefs occur. Parents review the incident via phone with the teacher and/or participate in the staff debrief. Staff debrief the incident the afternoon of the incident or the next morning, the principal participates if he is involved in the incident, and staff debriefs are attended by a BCBA or a mental health specialist. Staff use a discussion guide for the debrief that prompts discussion of

⁶ The principal interviewed is the principal at the JTC, which according to the District, accounts for a large percentage of the restraint and isolation incidents in the District and serves students with more intensive mental health, self-regulation, and behavior needs.

the incident, interventions, preceding events, changes and recommendations for future, etc. Students are debriefed through a “reset” process that involves reflection and writing about the incident behavior, what occurred, what could have happened differently, and what additional support does the student think they need that day and in the future.

The DRO reports and use of force reports inconsistently indicate that a parent and staff debrief occurred and the use of force report did not include a space to indicate whether a student debrief was held.

Overall, OSPI finds a violation as debriefs inconsistently occurred during the 2021–2022 school year and inconsistently occur when an incident is initiated by a DRO. However, OSPI finds that during the 2022–2023 school year, debriefs regularly occurred.

Written Notification/Report: The Complainant alleged the District’s DROs were not using the correct reporting form, and that the District’s report form did not include all required elements, specifically the District form did not include a space for “recommendations for avoiding similar incidents.”

Within two business days, a written report of the incident must be submitted to the district office and the written report must be sent to the student's parent or guardian as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. The written report must include, at a minimum, the following information: the date and time of the incident; the name and job title of the individual who administered the restraint or isolation; a description of the activity that led to the restraint or isolation; the type of restraint or isolation used on the student, including the duration; whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

District policy, procedures, and training materials included these requirements to submit a written report to the District and parent. During the 2021–2022 school year, as discussed above, the District used two different report forms. The “isolation and restraint report” included spaces on the form for all required elements. The majority of reports were completed with all required elements; however, there were occasional reports with a missing element and a few reports that were not sent to the parent within five business days. The “behavior incident report” did not include a section for recommendations, a required element of the report and on these reports, the section indicating the written report had been provided to the parent was rarely completed.

During the 2022–2023 school year, the District stated staff are required to complete the electronic report in the system within a day of the incident and the report cannot be finalized unless all elements are filled out. Once the report is signed by the administrator, the system submits the incident to the District and a copy is emailed to the parent. The District acknowledged that the “the new electronic reporting form did not include information about ‘recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents to the student and staff members in order to avoid similar incidents,’”

as required by the regulation. The District subsequently fixed this—and OSPI notes the reports reviewed from March 2023 indicate this section has been added to the electronic reporting system. The District also stated that despite this piece being missing from the form, “it was included on the District’s discussion guide for the staff debrief meeting...this topic was being discussed by school teams and families, even if not documented on the form.”

A review of the reports from the 2022–2023 electronic report indicated that, aside from the recommendations piece, all elements of the form were consistently completed. While most reports were completed in a timely manner, there were a number of reports that went beyond the required timelines, ranging from some with the dates the written reports was submitted to the District and parent being a day or two outside the timeline (two business days, and five business days respectively) to several days, to a few that were reported/notified more than a month later—e.g., incidents in November 2022 that was not reported until January 23, 2023, or several incidents in October 2022 that were not reported until February 2023.⁷

As discussed above, the DROs used a separate reporting form. The District stated that some incidents were documented both in the electronic reporting system and the DRO case report, and some incidents were only documented in the DRO case report. The DRO reports did not consistently include all required elements. For example, some of the DRO reports did not indicate a restraint was used or the duration, despite the narrative of the incident describing a restraint. And the report did not clearly include a place to note whether there was an injury or recommendations for change. The report generally included the incident data, time, staff involved and title, description of the incident, and type of restraint (if a restraint was recorded).

Overall, the District’s policies and procedures appropriately address the written notification requirements, and staff are trained on requirements. However, because the DRO reports do not consistently include all required elements and because some reports are not submitted to the District and provided to the parent in the required timelines, OSPI finds a violation.

The Complainant also alleged that some of the restraint and isolation reports included insufficient recommendations, in that “simply stating why an escalated student had hands put on them would not and does not avoid similar incidents.” OSPI notes that in reviews of reports from the 2021–2022 school year, there were examples of reports related to the same student, with restraint or isolation incidents numerous days in a row, where the recommendations to address the behavior and prevent future incidents were often the same or minimal—e.g., “continue to teach skills necessary to get their needs met in appropriate ways” or “continue BIP”—after each incident, despite continued incidents of restraint or isolation. Further, in the two reports with recommendations from March 2023, one report simply stated, “Yes” for recommendations and the other report stated, “none at this time; parents were each called and updated on situation. [Student] was able to calm down and successfully complete day.” Because OSPI is not part of these students’ teams, it is challenging to determine how sufficient or appropriate these recommendations are and as the regulations do not specify the amount of detail required, OSPI

⁷ The District’s legal counsel speculated that these incidents were likely DRO initiated incidents and that was why they were not entered into the electronic reporting system in a timely manner.

does not find a violation on this point. But OSPI reminds the District that discussing the recommendations for changing the nature or amount of resources available is a key discussion point and the goal is to work to avoid similar incidents. Thus, OSPI notes that almost every incident should have a recommendation and especially when there is a student with a series of restraints or isolations, the team should use the opportunity to explore the student's needs and whether changes are necessary, rather than continuing to state the same recommendation that appears to not result in change.

OSPI also noted, in reviewing some reports, there seemed to be confusion about what to record under a description of the activity that led to an incident, with some reports including the escalated behaviors that justified a restraint or isolation and other reports including what had occurred prior or where the student was, such as "end of lunch," "speech," "transition," etc. This meant on some reports, it would be challenging to determine if a restraint or isolation was justified. OSPI recommends the District continue to work with staff on best practices around documenting restraint and isolation and emphasize in trainings the value of documentation in creating data that can be used to explore individual student needs, discuss behavior strategies and supports, and creatively explore recommendations for change to reduce or eliminate the use of restraint and isolation.

District Systems & Use of Restraint and Isolation: The Complainant also stated in her reply that in reviewing documentation in the District's response restraint forms, particularly DRO case reports, included descriptions of prohibited prone and wall restraints. OSPI notes that per WAC 392-172A-02076, prone, supine, and wall restraints are prohibited. OSPI reminds the District that these types of restraint cannot be used in any circumstances and encourages the District to continue training with DROs to ensure these practices are not used.

Additionally, the District's assistant director of compliance and legal counsel acknowledged that DRO initiated incidents of restraint and isolation present a gap in the District's system. The documentation supports this in that DROs use a different reporting system and do not necessarily follow the same process for documenting, reporting, and reviewing incidents. Further, the assistant director described how the special services team reviews restraint and isolation data at the student, team, and building level in their weekly meetings. If there are concerns about students, teams, or buildings additional support is provided and instructional specialists visit the team or building to provide support. The special services team also looks at current data in comparison to data from the past years. However, while the new electronic reporting system means that incident data is available within about a day or less of an incident, the same is not true for DRO initiated incidents. DRO incident data is not reported in real time to the special services office, creating a gap in the data and presenting a barrier to the special services monitoring of data and need. While the DRO initiated reports are a small subset of the incidents, this gap represents an area the District could focus on for improvement.

Overall Conclusions: Overall, OSPI finds that especially during the 2021–2022 school year and in DRO documentation, the records in the complaint indicate that verbal notification of parents occurred inconsistently; written documentation inconsistently included all requirements; reviews

with students, parents, and staff occurred inconsistently; and required timelines were met inconsistently.

During the 2022–2023 school year, the District’s electronic reporting system has improved implementation of the required processes. While a small number of incidents were not processed in the required timelines and the written report only recently included recommendations for change, in the vast majority of incidents, appropriate follow-up, reporting, and documentation requirements were met.

OSPI notes that while it finds several violations in this investigation, it is important to note the improvements the District has made. The assistant director of compliance cited more focus on monitoring and looking at data and trends, along with adoption of the “Ukeru” system and training on that, along with more intensive training at the beginning of the year in the District’s improvements. It is also important to acknowledge that the District, pursuant to the previous complaint, is reviewing and revising its policies and practices and has completed training with OSPI’s director of school health and student safety.

Thus, OSPI finds appropriate corrective actions for the District’s violations will include additional training, District integration of DRO reporting into the electronic reporting system, and an audit/review of highly impacted students and teams/buildings.

CORRECTIVE ACTIONS

By or before **May 15, 2023, June 16, 2023, August 1, 2023,** and **September 15, 2023,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

Principal Training

The District, in cooperation and collaboration with OSPI’s director of school health and student safety, will provide the training recently provided to DROs and supervisors to all District principals.

By or before **May 15, 2023,** the District will notify OSPI that it has connected with OSPI’s director of school health and student safety and when the principal training is scheduled. OSPI will provide additional deadlines for documentation at that point.

All District Training

The District, in cooperation and collaboration with a non-District employee (e.g., the ESD, above required consultant, or other trainer), will develop and conduct a training on the below topics during the District’s all staff back-to-school professional development in August 2023. The District will provide the trainer with a copy of this decision, SECC 23-30.

The District will determine which staff are required to attend. The training will cover the following topics:

- Washington legal requirements around restraint and isolation;
- Documentation, follow-up, and reporting requirements; and,
- Best practices to reduce the use of restraint and isolation, including the importance on restraint and isolation documentation as data collection about student need and how to leverage the review/debrief processes.

By or before **May 15, 2023**, the District will notify OSPI of the name of the trainer and provide documentation that the District has provided the trainer with a copy of this decision for use in preparing the training materials.

By or before **August 1, 2023**, the District will submit a draft of the training materials for OSPI to review. OSPI will approve the materials or provide comments by August 8, 2023.

By **September 8, 2023**, the District will conduct the training regarding the topics raised in this complaint decision.

By **September 15, 2023**, the District will submit documentation that required staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) a separate official human resources roster of all staff required to attend the training, so OSPI can verify that all required staff participated in the training.

DRO Integration into Electronic Reporting System

The District will develop a plan to integrate DRO's into the restraint and isolation electronic reporting system so that DRO initiated restraints or isolations are reported in the same manner as all District staff report. The District's plan will include whether there are any technical changes that need to be made to the system, a plan for any training needed, and the proposed timeline.

By **June 16, 2023**, the District will provide OSPI with its plan for review and potential suggested additions. OSPI will then determine if any further monitoring deadlines are needed.

Audit/Monitoring

The District will be required to complete a review and audit of students, teams, and buildings with high instances of restraint and isolation. This can occur at the District's regularly schedule weekly special services meetings.

The District will review and identify students who have experienced five+ restraints and/or isolations during the 2022–2023 school year. For these students, a discussion will occur as to whether the students require an IEP meeting, additional or changed services, behavior strategies, and supports, and counseling to address trauma. OSPI will document these students and any necessary planned next steps on a spreadsheet to provide to OSPI.

The District will also identify if there are particular staff/teams/classrooms with the highest rates of restraint and/or isolation. The District will consider whether these staff/teams/classrooms need

to examine staffing numbers and/or need additional training and coaching, or any other support needs. OSPI will document these staff/teams/classrooms and any necessary planned next steps on a spreadsheet to provide to OSPI.

By **June 16, 2023**, the District will provide OSPI with the spreadsheets identifying planned next steps and OSPI will review and determine if additional documentation and monitoring deadlines are required.

The District will submit a completed copy of the Corrective Action Plan (CAP) Matrix documenting the specific actions it has taken to address the violations and will attach any other supporting documents or required information.

RECOMMENDATIONS

OSPI recommends the District continue to work with OSPI to ensure its data report systems are accurate and that locally reported data is consistent with data reported to the state.

OSPI recommends the District continue to work with staff on best practices around documenting restraint and isolation and emphasize in trainings the value of documentation in creating data that can be used to explore individual student needs, discuss behavior strategies and supports, and creatively explore recommendations for change to reduce or eliminate the use of restraint and isolation.

OSPI reminds the District that these types of restraint cannot be used in any circumstances and encourages the District to continue training with DROs to ensure these practices are not used.

OSPI recommends the District consider forming a workgroup or hosting a community conversation to explore community concerns around restraint and isolation in the District, and encourages the District to use the Inclusionary Practices Project Family Engagement Collaborative "Community Conversation Toolkit" <https://www.fecinclusion.org/community-conversation-toolkit.html>. OSPI recommends that such a workgroup include students, parents, special education and general education teachers, other staff, and administrators. The District may want to focus this on staff at and families attending the JTC. OSPI recommends the workgroup or community conversation include reviewing the complaint and discussion creative, collaborative ideas for reducing the use of restraint and isolation in the District. The workgroup or community conversation would come up with a set of recommendations for the District to consider.

Dated this 2nd day of May, 2023

Dr. Tania May
Assistant Superintendent of Special Education
PO BOX 47200
Olympia, WA 98504-7200

THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)