



Washington Office of Superintendent of
PUBLIC INSTRUCTION

REPORT TO THE LEGISLATURE

Crisis Response Workgroup

2022

Authorizing Legislation: Senate Bill 5693, Sec. 501(3)(h)(i) [2022 Supplemental Operating Budget]

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EXECUTIVE SUMMARY

The 2022 Supplemental Operating Budget (Senate Bill [SB] 5693 Section 501[3][h][i]) directed the Office of Superintendent of Public Instruction (OSPI) to create an advisory workgroup with specific participants and develop a report to the Legislature on topics related to student isolation and seclusion. OSPI requested proposals from consultants to convene the workgroup across a six-month period. The University of Washington School Mental Health Assessment, Research and Training (SMART) Center received the contract and launched the workgroup in August 2022.

These recommendations are accompanied by draft language for consideration to implement the recommendations. A technical assistance document is being developed to support implementation of the recommendations. The consensus of the workgroup members is to advance and provide adequate funding for all the following recommendations and strongly encourage swift adoption of the necessary legislative changes. The workgroup developed four categories of recommendations:

Eliminate Isolation and Chemical Restraint from Schools

The workgroup has determined that isolation should be immediately prohibited in public schools in Washington. The use of isolation is detrimental to students. The workgroup has determined the use of chemical restraint is unnecessary in public schools within Washington and should be prohibited.

Improve Access to Proactive and Effective Mental Health Supports and Trauma-Informed Behavior Supports

The workgroup finds that support and funding for sustained training and coaching should be provided to expand the implementation of the [Washington Multi-Tiered System of Support Framework](#) focused on improving social, emotional, behavioral and mental health supports along with overall school and classroom climate.

Increase Educator Training of De-escalation Practices

To eliminate isolation and reduce the need for restraint, the workgroup finds that ongoing educator training of crisis prevention and de-escalation practices is necessary. These practices include crisis intervention programs, de-escalation training, and evidence-based practices shown to proactively reduce physical restraint and eliminate isolation.

Improve Data Collection and Reporting

The workgroup recommends changes to the current data collection and reporting system regarding restraint, including requiring all public schools, comprehensive educational programs serving public school students, and nonpublic agencies in the state to collect and report restraint data to OSPI. Additional data collection changes include increased monitoring and oversight of schools that do not report data in a timely manner.

INTRODUCTION

Isolation, also known as seclusion¹, is a practice used in Washington and across the country to control students' behavior. Quiet rooms, reflection spaces, cool-down rooms, and safe rooms are just a few names given to the rooms used in schools to isolate students from their peers. Research has shown that isolation provides no educational, behavioral, or therapeutic benefit ([U.S. Senate Health, Education, Labor, and Pensions Committee, 2014](#); [Council for Children with Behavioral Disorders, 2020](#)). Isolation can cause short and long-term psychological and emotional harm, as well as ongoing trauma to students experiencing it. In practice, isolation is when a student is locked in a room alone—sometimes a specially designed room, a closet, or a classroom—when demonstrating a behavior that is undesirable to an educator. By state law, the student's behavior must be posing an imminent threat of harm to self or others. Some students in the state have been isolated hundreds of times in both public schools and nonpublic agencies.

“My son was regularly restrained in second grade. I recently asked him if he remembered anything from that year. His response was, ‘Oh, you mean the grade when I spent all my time in that little room.’” (See Appendix F for full text of testimonials).

Recognizing the importance of this issue, Washington policy makers mandated the development of a workgroup to address student restraint and isolation and develop recommendations regarding educator training and student behavioral health. Isolation and restraint are intricately connected, so while the primary charge was to address isolation, educator training and data collection in respect to restraint were also addressed. In addition, in OSPI's request for proposals for the workgroup, they stated an interest in soliciting proposals from “consultants interested in convening and facilitating a workgroup focused on student restraint and isolation. Over a six-

month period, the workgroup will identify trauma informed strategies, approaches, and curricula for supporting students in distress and with challenging behaviors that prioritize relational safety.”² The following legislative report provides a background on the workgroup, history of isolation and restraint, current practices in the state of Washington, and detailed recommendations of the workgroup. This report includes sample legislative text (see Appendix A) to amend House Bill (HB) 1240 to enact the recommendations.

¹ Throughout this document, the terms “isolation” and “seclusion” are used interchangeably and purposefully when describing national, local, and historical activities. Isolation has a defined meaning in Washington: 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 their regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan. For the purposes of this report, seclusion has the meaning defined in the Keeping All Students Safe Act: the term “seclusion” means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, except that such term does not include a time out.

² [Request for Proposals No. 2022-41, Restraint and Isolation Workgroup](#)

BACKGROUND, CONTEXT, AND PURPOSE

Legislative Directive and Workgroup Description

The 2022 Legislature directed OSPI to create an advisory workgroup to prioritize relational safety. The workgroup was directed to convene individuals with specific attendees and develop this legislative report.

OSPI requested proposals from consultants to convene the workgroup in consultation with OSPI across a six-month period. The University of Washington’s School Mental Health Assessment, Research, and Training (SMART) Center received the contract and launched the workgroup in August 2022. A full list of attendees can be found in Appendix C.

The workgroup met nine times from August through December to discuss topics impacting isolation and restraint in Washington state. The workgroup discussed required topics and expanded topics that were based on lived experiences of self-advocates, families, and educators. Meeting topics included but were not limited to discussion on the current state of isolation and restraint in Washington and nationally; the impact of isolation and restraint on students, educators, and families; crisis intervention programs; evidence-based practices; tracking and reporting data; avenues of recourse; self-advocate experiences; the need for funding and training for educators; and intersectionality in discipline. The workgroup meetings in December allowed opportunities to review, discuss, and provide final input on this legislative report. A detailed list of meeting dates, session topics, and guest speakers can be found in Appendix D.

History and Background of Isolation and Restraint

The earliest documented uses of restraint and isolation took place during the 1700–1800’s in mental health facilities and institutions for people with disabilities³ (Colaizzi, 2005; Masters et al., 2002).⁴ Today, isolation and physical restraint are practices used in classrooms around the country to control student behavior. Restraint is physical force, chemicals, or devices to control behavior. Restraint can be split into physical restraint, mechanical restraint, and chemical restraint (U.S. Department of Education, 2012).

³ This report uses person first and identity first language throughout. The intention of this choice is to honor the preferences, cultures, and identities within the disability community.

⁴ Colaizzi, J. (2005). Seclusion & restraint: A historical perspective. *Journal of Psychosocial Nursing and Mental Health Services*, 43(2), 31-37;

Masters, K. J., Bellonci, C., Bernet, W., Arnold, V., Beitchman, J., Benson, R. S., et al. (2002). Practice parameter for the prevention and management of aggressive behavior in child and adolescent psychiatric institutions, with special reference to seclusion and restraint. *Journal of the American Academy of Child and Adolescent Psychiatry*, 41(2), 4S-25S.

Physical restraint is most commonly used and involves a person (typically an adult in a school) using their body to restrict a student's freedom of movement. Mechanical restraint is the use of devices to restrict a student's freedom of movement, such as handcuffs, plastic ties, ankle restraints, pepper spray, and other devices ([see Revised Code of Washington \(RCW\) 28A.600.485](#) for details). Chemical restraint is the use of a drug or medication to restrict a student's freedom of movement or control behavior ([U.S. Department of Education, 2012](#)). Although they may be used together, such as using a physical restraint prior to an isolation incident, isolation and restraint are different practices. Restraint requires someone else to either hold a student, place the device, or administer the medication. In contrast, isolation is restricting a student alone in a room or enclosure in which a student is prohibited from leaving. Instead of holding a student, it is withholding and isolating a student from everyone else.

Physical restraint and isolation garnered increased attention from public policy makers in the early 2000s. In 2009, a groundswell of [advocacy efforts](#), media attention, and [reports](#) documenting serious harm and child deaths in schools and residential facilities led to the introduction of federal legislation, the Keeping All Students Safe Act (KASSA). This bill would have collected data on and discouraged the use of physical restraint and isolation in public schools. KASSA was never passed into law and has been reintroduced each congressional session with updates. The [most recent iteration of KASSA](#) includes a ban on isolation, chemical restraint, mechanical restraint, and prone and supine restraints. KASSA generally seeks to limit the use of restraint and seclusion in schools to instances where there is an imminent danger of serious physical harm to the student or others, provides criteria and procedures for emergency use of physical restraint, and promotes the use of positive behavioral reinforcement and less restrictive interventions.

More than of 30 states have some statute or regulation that governs the use of isolation and restraint in schools for all students ([Butler, 2019](#)). Additional states have specific statutes and regulations on the practices specifically for children with disabilities. A full analysis of all state laws has not been conducted since before to the start of the COVID-19 pandemic in 2020. Statutes and regulations vary widely from state to state, with some merely collecting data, to others including parental notification. States such as [Georgia](#) and [Hawaii](#) have the most comprehensive policies including isolation bans. In addition, several states have language that significantly limits the use of isolation and prohibits the use of isolation rooms.

The [most recent national data](#) on isolation and restraint paints a discouraging picture of the current use of these practices. With data collected in more than 97,000 schools with over 50 million students, nearly 71,000 students in public schools in the U.S. were subjected to physical restraint and nearly 28,000 students were subjected to isolation in 2017–18. There is disproportionality shone in the data. While students with disabilities make up only approximately 13% of the national student population, they accounted for 77% of students isolated and 80% of the students physically restrained. Of the students with disabilities isolated, there were significant disparities by race: 22% of students with disabilities isolated were identified as Black (compared to only making up 18% of the population) and 7% of the students with disabilities identified as two or more races (compared to making up only 4% of the population).

Risks of Physical and Psychological Harm

Research does not support any educational or therapeutic benefit of restraint or seclusion ([U.S. Health, Education, Labor, and Pensions Committee, 2014](#)). There is, however, evidence of substantial risks of physical and psychological harm ([Mohr, Petti, & Mohr, 2003](#)). Children as young as five have died of complications including asphyxiation, cardiorespiratory arrest, and suffocation ([U.S. Government Accountability Office, 2009](#); [CCBD, 2020](#)). Survivors repeatedly report that they had difficulty breathing while they were restrained, and even where restraint is properly administered by an adult trained in an approved program, there are documented injuries of broken bones, bruising, damaged joints and ligaments, and loss of consciousness ([Scheurmann, Peterson, Ryan, & Billingsley, 2016](#)). Students in isolation may be harmed by hitting or kicking doors in attempts to leave the enclosed space, or by engaging in self-injurious behaviors such as repeatedly hitting their heads on walls.

Psychological and emotional harms include anxiety, fear, and symptoms of post-traumatic stress disorder (PTSD); the risk is higher for youth that have previously been exposed to abuse ([Mohr et al, 2003](#)). Repeated instances of restraint and isolation can result in [adverse childhood experiences \(ACEs\)](#), which then contribute to [complex post-traumatic stress disorder \(CPTSD\)](#). For students this may manifest as avoidance of authority figures, difficulty paying attention in class, increased absences, or social withdrawal from friends and family ([U.S. Department of Education, 2016](#)). For adults and employees imposing the interventions, the effects are reflected in higher staff turnover, increased use of sick time, and lower job satisfaction ([samhsa.gov, March 2010](#)). There is a lack of research about the long-term psychological effects of restraint or seclusion on the child being restrained or isolated, but all parties involved can experience long-lasting consequences to their mental health.



“My child was 5 years old with severe anxiety and Autism. He was repeatedly moved to an empty classroom [isolated] when he would do simple things such as crumple his own paper as he didn’t understand the work.”

Impact on Students with and without Disabilities

Disciplinary practices are used with all students, including students with disabilities. Students with disabilities face disproportionate use of exclusionary discipline and aversive discipline, including isolation and all types of restraint. However, as demonstrated by data above, the practices are used to control behavior of students regardless of disability. Recent studies have shown that although there are disparate impacts of discipline practices, the practices described previously are used on all students and leading to highly detrimental instruction loss. Students of color experience more disciplinary actions, including isolation and physical restraint, than students classified as white. However, no empirical evidence demonstrates that any racial group of students commit

proportionally more offenses ([U.S. Commission on Civil Rights 2019 report](#)). Students with disabilities may engage in behaviors that are manifestations of their disability and are communicative. However, empirical evidence does not demonstrate any indication that students with disabilities engage in behavior that is proportionate to the high use of disciplinary practices. Therefore, the discipline practices are used in a discriminatory manner.

Guidance from the U.S. Department of Education Office for Civil Rights (OCR) ([ed.gov, Letter: Restraint and Seclusion of Students with Disabilities, December 2016](#)) suggests that the use of restraint and isolation may discriminate against students with disabilities if district policies, practices, or procedures unnecessarily treat students with disabilities differently than students without disabilities. The OCR suggests that repeated use of [restraint](#) and [isolation](#) may indicate a violation of a student's right to a Free Appropriate Public Education (FAPE) if the student's accommodations do not provide appropriate supports and services or are not being properly implemented. If the total time spent in restraint or seclusion results in lost instructional time or reduced access to educational services, schools have an obligation to remedy the violation of FAPE.

It is the recommendation of the workgroup that isolation and restraint policies be applicable to all children within the authority of the legislature and OSPI.

Isolation and Restraint in Washington

In Washington, the most recent legislation that defines isolation and restraint is [HB 1240](#) from 2015, which is the most significant legislation on the topic in recent years. The definitions are as follows:

- "Restraint means 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 means 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."
- "Isolation means 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."

“I found out [my son] was receiving regular instruction in that locked isolation room without my knowledge or consent. He took several strides backwards in development and was left with school-based trauma with an aversion to any academic schoolwork.”

For the purposes of this report, the above definitions will be used. When referring to restraint that does not include restraint devices, the term “physical restraint” will be used. Per Washington Administrative Code (WAC) [392-172A-02110](#), restraint and isolation may only be used when reasonably necessary to control student behavior that poses an imminent likelihood of serious harm and must discontinue immediately when the serious harm is no longer present. See also [RCW 71.05.020](#) for more definitions and information.

The workgroup finds the term “likelihood of serious harm” not a significant enough threshold for the implementation of restraint practices. The workgroup recommends using the term *imminent danger of serious physical injury* that clarifies that restraint should only be used as a last resort to maintain safety in emergency situations when there is substantial risk of imminent danger of serious physical injury to the student and/or others.

Data collection on isolation and restraint in Washington is relatively new as compared to other educational data. As such, there are inconsistencies in reporting and lack of reporting from schools and districts. Washington was one of three states examined in the Government Accountability Office (GAO) report [“Education Needs to Address Significant Quality Issues with its Restraint and Seclusion Data.”](#) The audit, published in April 2020, found that incidents may be over- and under-reported because school officials lack consistent understanding of what constitutes “restraint” or “isolation.”⁵

In an analysis of Washington's current restraint and isolation data, more students who identify as boys are subjected to isolation and restraint than students who identify as girls. Further, similar to the national data, more students with disabilities are restrained and isolated than students without disabilities, by a disproportionate amount compared to the student population. While students with disabilities make up only 14.4% of the statewide enrollment in kindergarten through grade four, students with disabilities make up 94% of the students restrained and isolated. Students of color are also disproportionately isolated and restrained. In all grade levels, students identified as Black and students that identify as two or more races were isolated and restrained at higher levels, on a proportional basis, as compared to students who were identified as white.⁶

⁵ For example, OCR guidance specifies that a “physical escort” is not a restraint, but staff unfamiliar with the guidance may interpret an escort as restricting the student’s freedom of movement and therefore incorrectly report this as a restraint.

⁶ Office of Superintendent of Public Instruction, Washington State totals, 2019–2020 School Year Restraint and Isolation Data, Pulled 3/31/21.

Current Preventative Practices in Washington

OSPI has defined a multi-tiered system of support (MTSS), based on a public health approach, which provides an organizational structure for ensuring students have equitable access to nurturing environments and supports that are differentiated to meet their needs. According to OSPI, Positive Behavioral Interventions and Supports (PBIS), one specific example of an MTSS, is currently being implemented in 551 of approximately 2500 Washington schools. When implemented correctly, PBIS is associated with reductions in exclusionary discipline procedures for students with and without disabilities and can provide an organizing framework for developing a variety of supports to reduce the need for exclusionary practices such as restraint and isolation.⁷ While practices within an MTSS framework vary across schools, the workgroup learned that several schools and local educational agencies (LEAs) have implemented successful strategies to reduce restraint and reduce or eliminate isolation. Practices used in these examples included district policy data review; de-escalation and trauma-informed care training for staff; direct instruction in skill development for problem solving and regulation strategies for students; and reductions in student to staff ratios.

Educators in the state also engage in a number of trainings regarding crisis intervention and de-escalation, including special educators receiving training on trauma informed practices. However, any specific training is not mandated and the use of trainings within districts and schools varies. Crisis intervention programs used statewide include Ukeru, Crisis Prevention and Intervention (CPI), Right Response, Pro-Act, and other local programs. There is currently no system to track which programs are used by which district and to guarantee accuracy of training and implementation of these programs in schools.



“During the first few weeks of Kindergarten [my son] was restrained at school during a meltdown. The experience added to his trauma and eroded our trust with the administrators who restrained him. We felt we had no choice but to keep our child home to keep him safe, until the school could implement a plan that didn't involve restraint.”

⁷ Simonsen, B., Freeman, J., Gambino, A. J., Sears, S., Meyer, K., & Hostelton, R. (2022). The relationship between PBIS and discipline outcomes for students with disabilities. *Remedial and Special Education*, 43(5), 287-300. See also: [An Exploration of the Relationship Between PBIS and Discipline Outcomes for Students with Disabilities](#)

WORKGROUP RECOMMENDATIONS

The workgroup developed **four categories of** recommendations:

- Eliminating the use of isolation and chemical restraint
- Access to proactive and effective mental health and trauma informed behavioral supports
- Training on de-escalation practices
- Improving data collection, use for decision making and monitoring

These recommendations are accompanied by sample legislative text found in Appendix A. In addition, a technical assistance document is being developed to support implementation of the recommendations. The workgroup recommends that after such time the legislature passes the suggested legislative text that addresses the following recommendations, OSPI shall update and align all regulations applying to isolation and restraint (see Appendix E for recommended list). The consensus of the workgroup members is to advance and provide adequate funding for all the following recommendations and strongly encourage swift adoption of the necessary legislative changes.

Eliminate Isolation and Chemical Restraint from Schools

The workgroup has determined that isolation should be immediately prohibited in public schools in Washington. The use of isolation is detrimental to students and evidence has documented the practice can be eliminated without harm to educators or students. Classrooms and schools across the state have already taken proactive measures to eliminate isolation. Language regarding isolation should be clearly articulated for clarity to educators and families. To support this, a definition of time out is recommended and has been added to the legislative proposal.

As discussed previously, there are multiple types of restraint. It was determined to be outside the scope of this workgroup to fully address mechanical restraint. The workgroup proposes additional funding to reconvene to address mechanical restraint due to the detrimental impact the practice causes to students. In addition, the workgroup has determined that the use of chemical restraint is unnecessary in public schools within Washington, and it should be prohibited. Unless a medication is deemed medically necessary and provided under the direct supervision of a licensed physician, educators and school nurses should not be permitted to use chemical restraints under any circumstance. The workgroup recommends legislative changes to prohibit the use of chemical restraint in schools.

It is the recommendation of the workgroup to provide ongoing technical assistance to educators, schools, and LEAs, including continually updating content, as necessary. This workgroup feels the recommendation to prohibit isolation and eliminate chemical restraint cannot be fully carried out without adequate funding to improve access to mental health supports, improve access to trauma-informed practices, increase educator training, and improve data collection.

Improve Access to Proactive and Effective Mental Health Supports and Trauma-Informed Behavior Supports

To improve access to mental health supports and trauma-informed practices, the workgroup finds that support and funding for sustained training and coaching should be provided to expand the use of MTSS that focus on improving overall school and classroom climate and providing a positive, predictable, inclusive, and safe environment. Further, MTSS implementation should include a specific focus on building positive relationships between staff and students and teaching foundational social emotional and behavioral skills for students and social emotional and self-regulation skills for staff.

OSPI Elementary and Secondary Schools Emergency Relief (ESSER) funds managed through the Center on the Improvement of Student Learning (CISL) are being used to fund a demonstration project for installation of school mental health supports through the [Washington MTSS framework](#). The Interconnected Systems Framework (ISF) is a structure and process that maximizes effectiveness and efficiency by blending the strengths of school and community mental health with strengths of the MTSS framework used in PBIS (Barrett, Eber, Weist, 2013). This effort is building internal capacity to support ongoing implementation at the state and regional level with the Educational Staff Associate (ESA) Behavioral Health Coalition (a group of School Nurses, School Social Workers, School Counselors, School behavior analysts, School Psychologists, and other identified school and community employed mental health professionals, districts, and buildings).

The workgroup also emphasized the importance of expanding capacity for conducting [high quality functional behavioral assessments \(FBAs\)](#) and developing behavior intervention planning procedures that center student and family voice and are conducted using a trauma-informed, equitable, strengths-focused lens and explicitly aim to reduce the use of exclusionary practices. Behavior support plans must be linked to and evaluated within the MTSS framework to ensure plans are developed and implemented with fidelity and regularly monitored for effectiveness by the MTSS leadership team. As well, school building and district MTSS leadership teams should regularly monitor the overall need for and content of individualized behavior support plans to identify and address systemic barriers or other environmental factors that may be contributing to the need for high levels of individualized supports.

This workgroup feels the above recommendations to improve access to mental health supports and trauma informed practices cannot be carried out without adequate funding and support.

Increase Educator Training of De-escalation Practices

To eliminate isolation and reduce the need for restraint, the workgroup finds that ongoing educator training of crisis prevention and de-escalation practices is necessary. These practices include crisis intervention programs, de-escalation training (i.e., Colvin & Scott, 2014; Colvin &

Sugai, 1989),⁸ and evidence-based practices shown to proactively reduce physical restraint and eliminate isolation. The following is a list of such practices recommended by the workgroup.

The workgroup recommends that schools and districts adopt one of the following trauma-informed crisis intervention programs that do not provide training in the use of prone restraint. Districts may consider the specific needs of their students and staff when selecting a program. Districts must include supplemental training materials, provided by the state, which include the lived experiences of people who have gone through being restrained and/or isolated in a K–12 setting.

- [Ukeru Systems](#) (blocking only no holds)
- [Crisis Intervention Training](#) (CPI)
- [Nonviolent Crisis Intervention Systems](#) (NCI)
- [Mandt System](#)
- [Safety Care](#)
- [Oregon Intervention Systems](#) (developed specifically for adults and children with I/DD)
- [Right Response](#)
- [Collaborative and Proactive Solutions](#) (prevention and de-escalation only, no crisis or physical management)

In addition to selecting a high-quality crisis prevention and intervention program, the workgroup found the following classroom practices to be effective for reducing the need for crisis procedures:

For all students, Tier 1 Supports:

- Defining, teaching, and reinforcing predictable and positive school/classroom expectations and routines using trauma informed lens (PBIS/ISF Tier 1 practices)
- Building, repairing, and actively evaluating relationships
- Teaching and practicing self-regulation strategies for adults
- Direct instruction in self-regulation/Social Emotional Learning skills for students
- Implementing universal design for learning
- Proactive behavior management
- Culturally responsive teaching practices that promote a culture of dignity for all students

⁸ Colvin, G., & Scott, T. M. (2014). *Managing the cycle of acting-out behavior in the classroom*. Corwin Press; Colvin, G., & Sugai, G. (1989). *Managing escalating behavior*. Behavior Associates.

- Consistent access for student’s identified accommodations and communication supports

For some students, Tier 2 Supports:

- Reducing staff/student ratios
- Self-regulation strategy choices for student
- De-escalation strategies (verbal and non-verbal)
- Brief functional behavioral assessment (FBA)/behavior intervention plan (BIP)
- Timely access to mental health supports via small groups and family supports

For a few students, Tier 3 Supports:

- Function based escalation review process
- FBA/BIP
- Timely access to individualized mental health supports as needed

The workgroup feels the above recommendations cannot be carried out without adequate funding. This funding should also include providing ongoing technical assistance to educators, schools, and LEAs and continually updating training content and supports, as necessary.

Improve Data Collection and Reporting

The workgroup recommends changes to the current data collection and reporting system regarding restraint. Should an isolation incident occur, it is the workgroup’s recommendation to immediately notify the parents or guardian of the student, notify the LEA within one school day, and notify OSPI of such incident within three school days. Additional support for data collection and reporting for educators and schools will be included in the technical assistance document, noted above.

The recommendations to improve data collection and reporting are:

- All public schools and comprehensive educational programs serving public school students in the state shall be required to collect and report restraint data to OSPI, as detailed below.
- Non-public agencies that provide educational services to students in the state shall be responsible for reporting data to OSPI, in addition to sending annual reports to the home schools of each student on the use of physical restraint on such students.
- Require twice yearly reporting of physical restraint data by LEAs to OSPI by December 31 (July–November) and July 31 (December–June), capturing the prior months of physical restraint incidents.
- Reporting restraint incidents shall include:

- The date and time of the incident
 - The name, organization and job title of the individual who administered the restraint
 - A description of the activity that led to the restraint
 - The type of restraint used on the student, including the duration
 - Whether the student or staff was physically injured during the restraint incident and any medical care provided
 - Any recommendations for changing the nature or number of resources available to the student and staff members in order to avoid similar incidents
 - Incidents of restraint in Washington State Department of Children, Youth, and Families (DCYF) Juvenile Rehabilitation facilities and juvenile detention facilities must be reported to DCYF
- Aggregate data publicly reported shall include number of incidents, number of students on whom physical restraint was imposed, number of incidents in which law enforcement engaged in physical restraint, number of physical restraint incidents that resulted in injury to the student, number of physical restraint incidents that resulted in injury to the educator, and number of incidents in which the educators imposing the physical restraint were not trained in a crisis intervention and de-escalation program. Incidents should be further disaggregated by economically disadvantaged students, students from major racial and ethnic groups, children with disabilities (children with an IEP and children with a 504 plan), English proficiency status, gender, migrant status, homeless status, status as student with a parent who is a member of the Armed Forces, and status as a child in foster care.
 - A school that does not report its data in a timely manner or is found to be consistently under reporting will be placed on an improvement plan, in which direct technical assistance will be provided, close monitoring to support compliance, and yearly site visits until improvement is demonstrated.
 - OSPI will publicly report aggregate data no later than three months after receiving data from schools to ensure public transparency.
 - Provide legislatively mandated appropriations (funding) to OSPI for staff (1 Full Time Equivalent (FTE)) to specifically oversee physical restraint data collection and reporting across Washington. This funding should also include providing ongoing technical assistance to LEAs and continually updating software, as necessary. The workgroup feels the above recommendations cannot be carried out without such funding.

CONCLUSION

As stated in HB 1240, “there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs.” In 2015, the Legislature took the initial steps to remove using isolation and physical restraint as a planned intervention, begin collecting data, and promote positive behavioral interventions. Since then, further evidence demonstrated in this report suggests that more action is necessary to keep children and educators safe in classrooms and learning in an equitable, accessible, inclusive, and supportive environment.

As directed by the Legislature, this workgroup convened to determine recommendations to improve access to evidence-based intervention programs to reduce physical restraint and discuss further steps necessary to eliminate isolation. The workgroup finds there is no use for isolation or chemical restraint in classrooms in Washington. To accomplish this, educator training and support must increase to support access to evidence-based crisis intervention programs and de-escalation strategies, and data collection and monitoring must be increased and expanded. By implementing these recommendations, the legislature will move forward with necessary actions to keep children and educators learning and working in positive and supportive classrooms and schools.

APPENDICES

Appendix A: Suggested Legislative Text

Suggested amendments to HB 1240 (2015) are underlined (new text) or crossed through (removed text). Unmarked text is current law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. The legislature finds that there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs when not necessary for immediate safety. The use of isolation or restraints in nonemergency situations poses significant physical and psychological danger to students and school staff. The legislature declares that it is the policy of the state of Washington to prohibit the planned use of aversive interventions, to promote positive interventions ~~when a~~ with any student with disabilities is determined to need specially designed instruction to address behavior, to prohibit schools from isolating any student, to prohibit schools from using chemical restraint on any student, and to prohibit schools from physically restraining ~~or isolating~~ any student except when the student's behavior poses an imminent ~~likelihood of serious harm~~ danger of serious physical injury to that student or another person.

Sec. 2. RCW 28A.155.020 and 2007 c 115 s 2 are each amended to read as follows:

There is established in the Office of the Superintendent of Public Instruction an administrative section or unit for the education of children with disabilities who require special education.

Students with disabilities are those children whether enrolled in school or not who through an evaluation process are determined eligible for special education due to a disability.

In accordance with part B of the federal individuals with disabilities education improvement act and any other federal or state laws relating to the provision of special education services, the superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all children with disabilities between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 19 through 28A.155.160, functional definitions of special education, the various types of disabling conditions, and eligibility criteria for special education programs for children with disabilities, including referral procedures, use of positive behavior interventions, the education curriculum and statewide or district-wide assessments, parent and district requests for special education due process hearings, and procedural safeguards. For the purposes of RCW 28A.155.010 through 28A.155.160, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities who are enrolled either full time or part time in a school district. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

Sec. 3. RCW 28A.600.485 and 2013 c 202 s 2 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Isolation" means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. Alone includes an individual blocking the student from leaving, acting as a doorway with their body or an object, or otherwise physically prohibiting a student from leaving an enclosure. 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.

(b) "Restraint" means 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 does not mean physical escort (paragraph (e)).

(c) "Restraint device" means 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.

(d) "Chemical restraint" means a drug or medication used on a student to control behavior or restrict freedom of movement that is not—

(i) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

(ii) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under State law.

(e) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

(f) "Time Out" means a behavior management technique that may involve the separation of the student from the group or classroom in a non-locked setting. Time out does not include isolation or a separation of a student from which such student is physically or otherwise prohibited from leaving.

(2) The provisions of this section apply to all students, including those who have an individualized education program or plan developed under section 504 of the rehabilitation act of 1973. The provisions of this section apply only to incidents of restraint or isolation that occur while a student is participating in school-sponsored instruction or activities.

(3) Prohibitions:

(a) Upon enactment of this act, no student shall be subjected to isolation by staff, including by a law enforcement officer, resource officer, or a school security guard, while attending school or participating in school-sponsored instruction or activities. Schools and nonpublic agencies are prohibited from building or constructing rooms or settings used for the purpose of isolation. All locks on isolation room doors must be removed immediately. Rooms used for the purpose of isolation must be removed or repurposed immediately.

(b) Upon enactment of this act, no student shall be subjected to chemical restraint by staff including by a law enforcement officer, resource officer, or a school security guard while attending school or participating in school-sponsored instruction or activities.

~~(3)~~(4) (a) An individualized education program 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 educational planning and the student's parent or guardian agrees.~~ When a student's parent or guardian agrees, a student in need of advanced behavioral support may have planning documents that include de-escalation, accommodation, self-regulation, debrief or other support strategies to be used surrounding the possible event of restraint. Such documentation does not signify parental consent for restraint, waive liability for injury, nor does it permit school personnel to use restraint without imminent danger of serious physical injury. Such documentation may not be used as a condition of a student's educational program enrollment. All other plans may refer to the district policy developed under subsection ~~(3)~~(4)(b) of this section. Nothing in this section is intended to limit the provision of a free appropriate public education under Part B of the federal individuals with disabilities education improvement act or section 504 of the federal rehabilitation act of 1973.

(b) ~~Restraint or isolation~~ of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent danger of serious physical injury likelihood of serious harm, as defined in RCW 70.96B.010. ~~Restraint or isolation~~ must be closely monitored to prevent harm to the student, and must be discontinued as soon as the imminent danger of serious physical injury likelihood of

~~serious harm~~ has dissipated. Each school district shall adopt a policy providing for the least amount of restraint ~~or isolation~~ appropriate to protect the safety of students and staff under such circumstances and a policy to eliminate the use of isolation and chemical restraint.

~~(4)~~(5) Following the release of a student from the use of restraint ~~or isolation~~, the school must implement follow-up procedures. 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.

~~(5)~~(6) 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:

- (a) The date and time of the incident;
- (b) The name and job title of the individual(s) who administered the restraint and their certification or training for crisis intervention and de-escalation ~~or isolation~~;
- (c) A description of the activity that led to the restraint ~~or isolation~~;
- (d) The type A description of the restraint ~~or isolation~~ used on the student, including the duration;
- (e) Whether the student or staff was physically injured during the restraint ~~or isolation~~ incident and any medical care provided; and
- (f) Any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

~~(6)~~(7) 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.

(8) Should a prohibited activity under subsection (3) of this section occur, staff shall immediately inform the building administrator or building administrator's designee of the incident. The building administrator or designee shall notify the parents or guardian of the student within twenty-four hours of the incident, and must send written documentation as

soon as practical but postmarked no later than two business days. The building administrator or designee must notify the school district within 1 business day, and notify the Office of the Superintendent of Public Instruction of such incident within 3 business days for further investigation.

(7)(9)(a) Data Collection. - Beginning January 1, 2016, and by January 1st annually, e~~Each~~ school district shall summarize the written reports received under subsection (5)(6) of this section and submit the summaries to the Office of the Superintendent of Public Instruction twice yearly by December 31 and July 31, reporting for months prior to reporting date. For each school, the school district shall include the number of individual incidents of restraint and isolation, the number of students involved in the incidents; the number incidents that resulted in injuries to students; and the number incidents that resulted in injuries to staff; the number of incidents in which staff imposing restraint were not trained in crisis intervention or de-escalation; the number of incidents in which law enforcement, school resource officers, or school security guards were involved in; and the types of restraint or isolation used. Incidents should be further disaggregated by economically disadvantaged students, students from major racial and ethnic groups, children with disabilities (children with an IEP and children with a 504 plan), English proficiency status, gender, migrant status, homeless status, status as student with a parent who is a member of the Armed Forces, and status as a child in foster care.

(b) No later than ninety days after receipt, the Office of the Superintendent of Public Instruction shall publish to its web site the data received by the districts. The Office of the Superintendent of Public Instruction may use this data to investigate the training, practices, and other efforts used by schools and districts to reduce the use of restraint and isolation.

(c) A school district that does not report its data in a timely manner will be placed on an improvement plan in which direct technical assistance will be provided, close monitoring to support compliance, and yearly site visits until improvement in data submission is demonstrated.

(10) Additional Activities: School districts shall carry out the following activities, with the support of the Office of the Superintendent of Public Instruction, to support the elimination of isolation and chemical restraint and reduce the use of restraint in schools:

(a) Provide ongoing professional development, training, and certification for staff to comply with policies in this section.

(b) Providing ongoing training to staff on how to comply with education and civil rights laws, including the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), when interacting with students with disabilities, including, when conducting disciplinary actions involving students with disabilities.

(c) Implement and provide consistent high-quality professional development and training programs to implement evidence-based systematic approaches, such as multi-tiered systems of supports, schoolwide positive behavioral interventions and

supports, and universal design for learning and training in addressing disparity when using restraint.

(d) Implement and provide consistent technical assistance to support evidence-based, crisis intervention programs that include mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions. Recommended training programs include: Ukeru Systems (blocking only no holds), Crisis Prevention Intervention (CPI), Nonviolent Crisis Intervention Systems (NCI), Mandt System, Safety Care, Oregon Intervention Systems (developed specifically for adults and children with I/DD), Right Response, and Collaborative and Proactive Solutions (prevention and de-escalation only, no crisis or physical management).

Appendix B: Senate Bill 5693 Sec. 501(3)(h)

(i) \$200,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for the superintendent of public instruction to convene a workgroup to identify trauma informed strategies, approaches, and curricula for supporting students in distress and with challenging behaviors that prioritize relational safety. Stipends may be provided for workgroup members who are representing families and individuals as experts with lived experiences to compensate for time and travel to meetings. The workgroup at a minimum must include the following:

(a) One representative from the Department of Children, Youth, and Families with expertise on inclusion, equitable access, trauma informed practices, and relational safety in education settings;

(b) One representative from an organization representing youth with intellectual and developmental disabilities;

(c) Individuals representing youth with communication disorders, students or young adults who have lived experience with restraint and isolation, and students or adults who are survivors of the school-to-prison pipeline;

(d) One representative from an organization working to eliminate racial inequities in education;

(e) One representative from an organization working to eliminate disparities for families and students with a native language other than English;

(f) One representative from an organization working to improve inclusive practices in Washington that works with families and communities;

(g) One member of an organization representing youth in foster care;

(h) One member of an organization representing youth experiencing homelessness; and

(i) An administrator, teacher, and paraeducator professional with experience working in or around a self-contained behavior program.

(ii) The workgroup shall submit a report to the education committees of the legislature, the governor's office, and the education ombuds by December 1, 2022. The report must include a list of approved crisis response protocols and de-escalation techniques for schools that are trauma informed and prioritize relational safety, recommended elements needed to improve access to mental health supports for all students, building-based strategies to enhance fidelity to multi-tiered systems of support and student behavior plans for students with challenging behaviors and strategies to track and reduce/eliminate restraint and isolation use, and best practices for implementation of identified strategies, with recommendations for district compliance and tracking mechanisms.

Appendix C: Restraint & Isolation Workgroup Members

Restraint & Isolation Workgroup Members

Name	Organization
Amy Campbell	Special Education Teacher
Andi Ervin	Treehouse For Kids
Andrea Kadlec	Attorney, Disability Rights Washington
Bridget Walker	Educational Consultant and Trainer, Sound Supports K-12
Cynthia Blasko	Parent/TASH Communication Access Committee Member
Debbie Limon	OSPI, MTSS/Special Education
Eric Warwick	Community Advocacy Coordinator, The Arc of King County
Fran McCarthy	Northwest Educational Service District 189
Jaimee Kidder	OSPI, Special Education
Jesus Torres	Mujeres in Action
John Sander	Franklin Pierce School District
Joy Sebe	Open Doors for Multicultural Families
Katie Sutch	The Arc of Spokane
Kendrick Washington	American Civil Liberties Union of Washington
Kristi De Vadder	Seattle Special Education PTSA
Laura Smith	Pioneer School District, MTSS Coordinator and Behavior Coach
Lee Collyer	OSPI, Student Engagement and Support
Merry Kamp	Parent
Micheal Williams	Washington Educators Association
Sarah Butcher	Roots of Inclusion
Shanna McBride	Department of Children, Youth, and Families
Shawnda Hicks	WA PAVE

Name	Organization
Tanya Cochran	White Salmon School Dist. (K–12), Special Education Teacher - Lifeskills
Victoria Carroll	Cocoon House
Vanessa Tucker	Pacific Lutheran University, Associate Professor of Special Education
Wendy Stegall	Assistant Principal, Snohomish School District

Restraint & Isolation Workgroup Facilitation, Research, and Operations Team

Name	Organization
Eric Bruns	Principal Investigator, University of Washington SMART Center
Jennifer Cohen	Operations Coordinator, University of Washington SMART Center
Jennifer Freeman	Project Consultant, University of Connecticut
Kelcey Schmitz	Project Director, University of Washington SMART Center
Kendall Fujioka	Research Consultant, University of Washington SMART Center
Kim Knackstedt	Project Consultant, The Century Foundation
Kurt Hatch	Project Consultant, University of Washington Tacoma
Lee Collyer	Director, Student Health and School Safety, OSPI

Appendix D: Workgroup Agenda Topics, Meeting Dates, and Speakers

Date	Topic Discussed	Speakers
August 26, 2022	Meet and Greet with Workgroup Members	UW SMART team facilitators
September 13, 2022	Setting a Baseline: Restraint and Isolation	UW SMART team facilitators
September 20, 2022	Reducing Isolation in Schools: Practical Application & Data and Practices in WA	Spokane Public Schools; American School for the Deaf; UW SMART team facilitators
October 4, 2022	Preventing Restraint and Isolation: PBIS, Crisis Intervention Programs, and De-escalation	UW SMART team facilitators
October 18, 2022	Barriers to Reducing Restraint and Isolation & Tracking and Reporting Data and Barriers to Successful Data Implementation	UW SMART team facilitators
November 15, 2022	Reducing Restraint and Isolation in Practice & Recourse and Remedies for Isolation and Restraint	Evergreen Public Schools; UW SMART team facilitators
November 29, 2022	Discriminatory Discipline: The US Department of Education Office for Civil Rights and Seclusion and Restraint & Upcoming Reports on Isolation and Restraint	Assistant Secretary Catherine Lhamon; ACLU WA; Disability Rights Washington
December 9, 2022	Putting It All Together: Isolation and Restraint & Workgroup Recommendations Draft Report	Guy Stephens; UW SMART team facilitators
December 19, 2022	Wrap up Questions on Draft Report	UW SMART team facilitators

Appendix E: Regulations on the Use of Restraint and Isolation

The following list of regulations will need to be updated to align with suggested legislative changes regarding restraint and isolation.

Definition of Restraint WAC 392-172A-01162

Restraint as defined in RCW [28A.600.485](#) means: 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 participate in activities safely.

Definition of Isolation WAC 392-172A-01107

Isolation as defined in RCW [28A.600.485](#) means: 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.

Definition of Restraint Device WAC 392-172A-01163

Restraint device as defined in RCW [28A.600.485](#) means: 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. This section shall not be construed as encouraging the use of these devices. A restraint device does not include a seat harness used to transport a student safely or other safety devices, including safety belts for wheelchairs, changing tables, booster seats, and other ambulatory or therapeutic devices when used for the purpose intended for the safety of a student.

Restraint and Isolation-Conditions WAC 392-172A-02110

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](#) is conditioned upon compliance with the following procedural and substantive safeguards:

(1) Isolation: The use of isolation as defined by RCW [28A.600.485](#) is subject to each of the following conditions:

- (a) The isolation must be discontinued as soon as the likelihood of serious harm has dissipated.

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

(c) The isolation enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

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

(e) 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.

(f) 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.

(2) Restraint: The use of restraint as defined by RCW [28A.600.485](#) is subject to each of the following conditions:

(a) The restraint must be discontinued as soon as the likelihood of serious harm has dissipated.

(b) The restraint shall not interfere with the student's breathing.

(c) 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.

(3) Restraint device: The use of a restraint device as defined by RCW [28A.600.485](#) is subject to each of the following conditions:

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

(b) The restraint device shall not interfere with the student's breathing.

(c) 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.

(d) 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.

(4) School districts must follow the documentation and reporting requirements for any use of isolation, restraint, or restraint device consistent with RCW [28A.600.485](#).

(a) Imminent: Imminent is defined in RCW [71.05.020](#) as the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(b) Likelihood of serious harm: Likelihood of serious harm as defined in RCW [71.05.020](#) means:

(1) A substantial risk that:

(a) 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;

(b) 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

(c) 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

(2) The person has threatened the physical safety of another and has a history of one or more violent acts.

Prohibited Practices WAC 392-172A-02076

School district personnel are prohibited from using aversive interventions with a student eligible for special education, and are prohibited from physically restraining or isolating any student, except when the student's behavior poses an imminent likelihood of serious harm as defined in WAC [392-172A-01092](#) and [392-172A-01109](#).

(2) There are certain practices that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or their illegality. The purpose of this section is to prohibit the use of certain practices with students eligible for special education as follows:

(a) Electric current. No student may be stimulated by contact with electric current including, but not limited to, tasers.

(b) Food services. A student who is willing to consume subsistence food or liquid when the food or liquid is customarily served must not be denied or subjected to an unreasonable delay in the provision of the food or liquid.

(c)(i) Force and restraint in general. A district must not use force or restraint that is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal

punishment as a matter of state law. See RCW [9A.16.100](#), which prohibits the following uses of force or restraint including:

- (a) Throwing, kicking, burning, or cutting a student.
- (b) Striking a student with a closed fist.
- (c) Shaking a student under age three.
- (d) Interfering with a student's breathing.
- (e) Threatening a student with a deadly weapon.
- (f) Doing any other act that is likely to cause bodily harm to a student greater than transient pain or minor temporary marks.

(c)(ii) The statutory listing of worst case uses of force or restraint described in this subsection may not be read as implying that all unlisted uses (e.g., shaking a four-year-old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances.

(d) Hygiene care. A student must not be denied or subjected to an unreasonable delay in the provision of common hygiene care.

(e) Isolation. A student must not be excluded from his or her regular instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC [392-172A-02110](#).

(f) Medication. A student must not be denied or subjected to an unreasonable delay in the provision of medication.

(g) Noise. A student must not be forced to listen to noise or sound that the student finds painful.

(h) Noxious sprays. A student must not be forced to smell or be sprayed in the face with a noxious or potentially harmful substance.

(i) Physical restraints. A student must not be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC [392-172A-02110](#).

(j) Taste treatment. A student must not be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration.

(k) Water treatment. A student's head must not be partially or wholly submerged in water or any other liquid.

Emergency Response Protocols WAC 392-172A-02105

If the parent and the school district determine that a student requires advanced educational planning, the parent and the district may develop emergency response protocols to be used in the case of emergencies that pose an imminent likelihood of serious harm, as defined in this section. Emergency response protocols, if developed, must be incorporated into a student's IEP. Emergency response protocols shall not be used as a substitute for the systematic use of a behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

(1) Emergency response protocols are subject to the conditions and limitations as follows:

(a) The student's parent provides consent, as defined in WAC [392-172A-01040](#), in advance, to the emergency response protocols to be adopted;

(b) The emergency response protocols specify:

(i) The emergency conditions under which isolation, restraint, or restraint devices, if any, may be used;

(ii) The type of isolation, restraint, and/or restraint device, if any, that may be used;

(iii) The staff members or contracted positions permitted to use isolation, restraint, or restraint devices with the student, updated annually, and identify any required training associated with the use of isolation, restraint, or restraint device for each staff member or contracted position;

(iv) Any other special precautions that must be taken.

(c) Any use of isolation, restraint, and/or restraint device must be discontinued as soon as the likelihood of serious harm has dissipated.

(d) Any staff member or other adults using isolation, restraint, or a restraint device must be trained and certified by a qualified provider in the use of isolation, restraint, or a restraint device.

(2) School districts must follow the documentation and reporting requirements for any use of isolation, restraint, or restraint device consistent with RCW [28A.600.485](#), regardless of whether the use of isolation, restraint, or restraint device is included in the student's emergency response protocols.

(3) Nothing in this section is intended to limit the application of a school district's policy developed under RCW [28A.600.485](#) to protect the general safety of students and staff from an imminent likelihood of serious harm.

(4) Nothing in this section is intended to limit the provision of a free and appropriate public education under Part B of the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973.

Appendix F: Testimonials

The following parent testimonials were shared with the SMART Center with permission to share for the purpose of the report. Names, locations, and identifying information have been removed for the protection of the children and families. Excerpts from the testimonials are shared throughout the report.

Testimonial 1: My son was regularly restrained in second grade. I recently asked him if he remembered anything from that year. His response was, "Oh, you mean the grade when I spent all my time in that little room." He was restrained and secluded frequently, sometimes multiple times a day. The district then moved him to a non-profit agency.

Testimonial 2: My child was 5 years old with severe anxiety and Autism. He was repeatedly moved to an empty classroom [isolated] when he would do simple things such as crumple his own paper as he didn't understand the work. One day he came home crying because his teacher grabbed and squeezed him. We immediately took him to the doctor that night and called the school. It hadn't been reported to the principal, but they identified it as a restraint. My child started to refuse to go back to school even with a tremendous effort with social workers.

Testimonial 3: During my son's time in elementary school as a kindergartener, he was frequently and repeatedly restrained and led to an isolation room to "calm down." His behavior at home began to escalate mid-year. When I finally received a phone call from the school nurse informing me of his daily stress incontinence, I found out he was receiving regular instruction in that locked isolation room without my knowledge or consent. He took several strides backwards in development and was left with school-based trauma with an aversion to any academic schoolwork.

Testimonial 4: My son has a history of trauma, ADHD, and other disabilities and has an IEP for services. During the first few weeks of Kindergarten, he was restrained at school during a meltdown. The experience added to his trauma and eroded our trust with the administrators who restrained him. We felt we had no choice but to keep our child home to keep him safe, until the school could implement a plan that didn't involve restraint. Later that year, he was also threatened with suspension after an elopement incident. My family will always remember how our kid was treated during his earliest encounters with the public school system. I also shudder to think of what could have happened to him without our strong advocacy and intervention to change the school's perspective and approach to provide him with appropriate support.

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