

Behavioral Intervention, Seclusion, and Restraint Policy

SP 6164.202

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The member districts of the Shasta County SELPA follow behavioral intervention, seclusion, and restraint regulations according to Education Code sections 56520–56525, 49005-49006.4, and Section 3001 of Title 5 of the California Code of Regulations. Believing that all students have a right to a safe and secure environment, when behavioral interventions are used, they are used in consideration of the student's physical freedom and social interaction, and are administered in a manner that respects human dignity and personal privacy. Behavioral interventions should be developed collaboratively and should be minimally intrusive and efficient in terms of time, labor and complexity. Interventions should focus on teaching appropriate behavior to replace maladaptive behavior. The member districts of the Shasta County SELPA shall enforce standards appropriate to student conduct in order to provide a safe and secure environment for students and staff on campus, but are prohibited from using seclusion and behavioral restraint to control student behavior except to the limited extent authorized by law.

The U.S. Department of Education, Office of Special Education and Rehabilitative Services, has outlined the following guidelines with regard to the use of behavioral supports for students on IEPs:

1. IDEA requires IEP teams to consider the use of behavioral interventions and supports for student with disabilities whose behavior interferes with their learning or the learning of others.
2. When a student displays inappropriate behavior, such as violating a code of student conduct or disrupting the classroom, this may indicate that behavioral supports should be included in the student's IEP; this is especially true when the student displays inappropriate behavior on a regular basis or when the behavioral incidents result in suspensions or other disciplinary measures that exclude the student from instruction.
3. If a student displays inappropriate behavior despite having an IEP that includes behavioral supports, this may indicate that the behavioral supports in the IEP are not being appropriately implemented, or the behavioral supports in the IEP are not appropriate for the student. In these situations, the IEP team would need to meet to discuss amending the current IEP to ensure that the interventions and supports in the IEP can be implemented, or to revise the behavioral interventions and supports that are currently in place.
4. IDEA requires that needed behavioral supports in the IEP, whether provided as special education, related services, or supplementary aids and services, be based on peer-reviewed research to the extent possible. The supports chosen should be individualized to the student's needs. Some examples of supports that schools may use include instruction on, and reinforcement of, school expectations for behavior, violence prevention programs, anger management groups, counseling for mental health issues, life skills training, social skills instruction, meetings with a behavioral coach, or other approaches.

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5. In addition to behavioral supports for student with disabilities, it may also be necessary, and consistent with IDEA requirements, to provide supports for school personnel and training on the use of behavioral interventions and supports in order to appropriately address the behavioral needs of a particular student.
6. While providing individualized behavioral supports to students with disabilities who need them through the IEP process is required as part of IDEA, research has shown that these supports are typically most effective when they are delivered within a school-wide evidence-based multi- tiered behavioral framework that provides all student with clear expectations, targeted intervention for small groups who do not respond to the school-wide supports, and individualized supports for those student who need the most intensive behavioral services.
7. It is important for schools and agencies to keep in mind that, in general, placement teams may not place a student with a disability in special classes, separate schooling, or other restrictive settings outside of the general educational environment solely due to the student's behavior if the student's behavior can be effectively addressed in the general education setting with the provision of behavioral supports. The failure to make behavioral supports available throughout a continuum of placements, including in a general education setting, could result in an inappropriately restrictive placement and may violate IDEA's LRE requirements. Doing so may constitute failure to provide the student with access to the LRE.
8. Schools should exercise caution in using disciplinary measures that remove a student from his or her current placement, such as suspension. Research has shown that exclusionary measures, in general, are not only ineffective at reducing or eliminating the reoccurrence of the misbehavior but may even be harmful to the student, possibly leading to lower academic performance, disengagement from school, and risk for drop out.
9. Parents have the right to request an IEP team meeting at any time, and public schools generally must grant a reasonable request from a parent for an IEP team meeting.
10. Parents may want to request an IEP team meeting following disciplinary removal or changes in the student's behavior that impede the student's learning or that of others, as these likely indicate that the IEP may not be properly addressing the student's behavioral needs or is not being properly implemented.

Additionally, EC § 56521.2 requires districts to employ behavior supports for students whose behavior impedes the learning of himself or others. This section prohibits the use of: (1) any intervention designed to, or likely to, cause physical pain, including, but not limited to, electric shock; (2) an intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual; (3) an intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (4) an intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma; (5) restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment; (6) locked seclusion, unless it is in a facility otherwise licensed or permitted by

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state law to use a locked room; (7) an intervention that precludes adequate supervision of the individual; and (8) an intervention that deprives the individual of one or more of his or her senses.

The California Education Code requires the following with regard to emergency interventions EC 56521.1, 56521.2:

1. Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student with a disability, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.
2. Emergency interventions shall not be used as a substitute for the systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior.
3. No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.
4. Emergency interventions shall not include:
 - a. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
 - b. Employment of a device, material, or objects that simultaneously immobilize all four extremities,.
 - c. An amount of force that exceeds that which is reasonable and necessary under the circumstances.
 - d. Prone restraint of any kind. A prone restraint is defined as the application of a behavioral restraint on a pupil in a facedown position for any period of time and includes the procedure known as prone containment. Per Education Code SEC. 4. Section 56028.3
5. To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the student with a disability. The behavioral emergency report shall include all of the following:
 - a. The name and age of the student with a disability.
 - b. The setting and location of the incident.
 - c. The name of the staff or other persons involved.
 - d. A description of the incident and the emergency intervention used, and whether the student with a disability is currently engaged in any systematic BIP.
 - e. Details of any injuries sustained by the student with a disability, or others, including staff, as a result of the incident.

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- i. All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator (including District of Special Education Accountability for students placed in programs outside of their District of Residence).
- ii. If a behavioral emergency report is written regarding a student with a disability who does not have a BIP, the designated responsible administrator shall, within two days, schedule an IEP (IEP) team meeting to review the emergency report, to determine the necessity for a FBA, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the FBA, not developing an interim plan, or both.
- iii. If a behavioral emergency report is written regarding a student with a disability who has a BIP, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the BIP.

Behavior Intervention Plan (BIP) and Emergency Interventions Procedures

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An IEP team shall facilitate and supervise all assessment, intervention, and evaluation activities related to a student's BIP. BIPs shall be used to substitute acceptable behavior for specified maladaptive behaviors, be based on a Functional Behavior Assessment (FBA), if necessary, and be used in a systematic manner.

The following behavioral interventions are prohibited from use under any circumstances:

1. Interventions designed to, or likely to, cause pain or trauma;
 - a. Locked seclusion;
 - b. Devices, materials, or objects that simultaneously immobilize all four extremities;
 - c. Release of noxious, toxic or unpleasant sprays in proximity to the student's face;
 - d. Denial of sleep, food, water, shelter, bedding, physical comfort, or bathroom facilities;
 - e. Use of verbal abuse, ridicule, humiliation;
 - f. Denial of adequate supervision;
 - g. Deprivation of his or her senses.

Functional Behavior Assessment (FBA)

Any FBA to be conducted for a student with a disability shall focus on identifying the function or purpose of the student's behavior.

Before any FBA is conducted, the Superintendent or designee of the LEA responsible for providing FAPE to that student, shall notify the student's parent/guardian in accordance with

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Education Code section 56321 and obtain the parent/guardian's consent. (Ed. Code, § 56321; 34 C.F.R. § 300.324.)

If the parent/guardian disagrees with the result of an FBA, he/she has the right to obtain an independent educational evaluation at the responsible LEA's expense, subject to the conditions specified in 34 C.F.R. 300.502.

1. A FBA shall gather information by direct observation, interviews and record reviews. The FBA shall include:
 - a. A systematic observation of the occurrence of the targeted behavior across all school settings;
 - b. A systematic observation and analysis of the antecedent events;
 - c. A systematic observation and analysis of the consequences of the behavior to determine the function of the behavior;
 - d. An ecological analysis of the environment in which the behavior occurs;
 - e. A review of the health and medical records;
 - f. A review of the history of the behavior; and
 - g. A determination of possible reinforcers.

Functional Behavior Assessment Report

1. A FBA report shall include the following:
 - a. A description of the nature and severity of the targeted behaviors in objective and measurable terms;
 - b. A description of the targeted behavior that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior;
 - c. A description of the hypothesized function of the targeted behavior;
 - d. A description of the rate of alternative behaviors including the antecedent and consequences that maintain the alternative behaviors;
 - e. Recommendations for consideration by the IEP team which may include a proposed BIP.

Positive programming for behavioral intervention may include the following:

1. Altering the antecedent events to prevent the occurrence of the behavior;
2. Teaching alternative replacement behaviors that serve the same function as the targeted behavior;
3. Teaching adaptive behaviors to prevent inappropriate behaviors;
4. Manipulating the consequences in order to have the alternative behaviors produce the desired outcome;

Evaluation of the effectiveness of the plan shall be determined by:

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1. Comparison of baseline measure of frequency, duration, and intensity of targeted behavior and of measures of frequency, duration and intensity of the targeted behavior after utilizing the plan;
2. Documentation of implementation of the plan;
3. Documentation of skill acquisition of the functionally equivalent replacement behavior.

The effectiveness of the plan shall be reviewed by the teacher, the case manager, parent, and others as appropriate at scheduled intervals determined by the IEP team.

Modifications to the behavior plan may be necessary as a result of outcome data. The teacher and case manager shall conduct additional FBAs and, based on the outcomes, shall propose changes to the BIP.

The IEP team may develop the behavior plan to include provisions for altering specified procedures without the necessity for reconvening the IEP team.

Emergency Interventions

Emergency interventions may be used only to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the student or others which cannot be immediately prevented by a less restrictive response. Because emergency physical interventions pose risk to injury to students and others involved, only procedures that are designed to provide maximum safety during emergency interventions shall be permitted. Only staff members who have received training in such procedures and have demonstrated competence in their use during simulated emergency interventions shall be permitted to conduct an emergency physical intervention. Shasta County SELPA provides annual training in ProACT (Professional Assault Crisis Training) and recommends staff take the full certification course every three years, with a recertification refresher course to include an eight-hour refresher and a two hour restraint training course during subsequent years.

Emergency interventions shall not substitute for BIPs.

No emergency intervention shall be employed for longer than is necessary to contain the behavior. If the situation requires prolonged use of an emergency intervention, or the safety of both staff and students cannot be effectively maintained, staff shall seek the assistance of the school site administrator or law enforcement agency as appropriate.

Emergency interventions may not include:

1. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;
2. Employment of a device, material, or objects that simultaneously immobilize all four extremities;

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3. An amount of force that exceeds that which is reasonable and necessary under the circumstances.

In addition, staff shall not take any of the following actions: (Ed. Code, §§ 49005.2, 49005.8)

1. Administer a drug that is not a standard treatment for a student's medical or psychiatric condition in order to control the student's behavior or restrict the student's freedom of movement
2. Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use as a locked room
3. Use a physical restraint technique that obstructs a student's respiratory airway or impairs a student's breathing or respiratory capacity, including a technique in which a staff member places pressure on the student's back or places his/her body weight against the student's torso or back
4. Use a behavioral restraint technique that restricts breathing, including, but not limited to, the use of a pillow, blanket, carpet, mat, or other item to cover a student's face
5. Place a student in a facedown position with the student's hands held or restrained behind the student's back
6. Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others.

Limited Use of Seclusion or Restraint

Staff shall avoid the use of seclusion and behavioral restraint of students whenever possible. Seclusion or behavioral restraint may be used only to control student behavior that poses a clear and present danger of serious physical harm to the student or others, which cannot be prevented by a response that is less restrictive. (Ed. Code, §§ 49005.4, 49005.6, 49005.8)

If a student is put in seclusion, the student shall be under constant, direct observation of a staff member. Such observation may be through a window or another barrier through which the staff member is able to make direct eye contact with the student, but shall not be made through indirect means such as a security camera or closed-circuit television. (Education Code 49005.8)

If a student is restrained, staff shall afford the student the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the student and others. (Education Code 49005.8)

Emergency interventions may include:

1. SELPA approved physical intervention containment strategies by a trained individual;

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2. Intervention by the police;
3. Intervention by Shasta County Behavioral Health;
4. Physical intervention containment strategies by staff on hand only sufficient to prevent harm to self or others in the absence of other alternatives noted;
5. Removal from classroom or school by staff or parent as may be appropriate to protect student, other students, and staff.

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent or care provider shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs.

The Shasta County SELPA Behavior Emergency Report shall be completed when an emergency intervention is used and shall be maintained in the student's file. A supplemental Behavior Debriefing Worksheet is also available for teams, but is not required by the SELPA. For NonPublic schools, both the BER and the supplemental Behavior Debriefing Worksheet are required.

All Behavioral Emergency Reports shall be immediately forwarded to and reviewed by an administrator (including District of Special Education Accountability for students placed in programs outside of their District of Residence). If the student does not have a current BIP, the administrator shall schedule, within two days, an IEP meeting to review the emergency report, to determine the need for a FBA, and to determine the necessity for an interim BIP. In the case of the student who has a BIP, if the emergency involved a previously unseen serious behavior or where the behavior plan is not effective, the administrator will initiate an IEP meeting to review the current plan and the need for modification of the student's behavior plan.

Annual Reports Submitted to the California Department of Education

For students enrolled in or served by an LEA that is a member of the Shasta County SELPA for all or part of the prior school year, the Superintendent or designee of that LEA shall annually collect data on the number of times that seclusion, mechanical restraint, and physical restraint were used on students and the number of students subjected to such techniques. The data shall be disaggregated by race/ethnicity and gender, and reported for students with a Section 504 plan, students with an IEP, and all other students. This report shall be submitted to the California Department of Education (CDE) no later than three months after the end of each school year, and shall be available as a public record pursuant to Government Code sections 6250-6270. (Ed. Code, § 49006.) It shall be the sole responsibility of the LEA that has enrolled the student or serves the student to create and submit said report to the CDE. Reports shall not be forwarded to or retained by Shasta County SELPA.

Definitions

Behavioral restraint includes mechanical restraint or physical restraint used as an intervention when a student presents an immediate danger to self or to others. Behavioral restraint does not

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include postural restraints or devices used to improve a student's mobility and independent functioning rather than to restrict movement. (Ed. Code, § 49005.1.)

Mechanical restraint means the use of a device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include the use of devices as prescribed by an appropriate medical or related services professional, including, but not limited to, adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment; vehicle safety restraints during the transport of a student; restraints for medical immobilization; or orthopedically prescribed devices which permit a student to participate in activities without risk of harm. Mechanical restraint also does not include the use of devices by peace officers or security personnel for detention or for public safety purposes. (Ed. Code, § 49005.1)

Physical restraint means a personal restriction that immobilizes or reduces the ability of a student to move the torso, arms, legs, or head freely. Physical restraint does not include a physical escort in which a staff member temporarily touches or holds the student's hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location. Physical restraint also does not include the use of force by peace officers or security personnel for detention or for public safety purposes. (Ed. Code, § 49005.1)

Prone restraint means the application of a behavioral restraint on a student in a facedown position. (Ed. Code, § 49005.1)

Seclusion means the involuntary confinement of a student alone in a room or an area from which the student is physically prevented from leaving. Seclusion does not include a timeout involving the monitored separation of the student in an unlocked setting, which is implemented for the purpose of calming the student. (Ed. Code, § 49005.1)

EDUCATION CODE

49001 Prohibition against corporal punishment

49005-49006.4 Seclusion and restraint

56321 Notice of parental rights; consent of parents

56500-56508 Procedural safeguards, including due process rights

56520-56525 Behavioral interventions, students with disabilities, especially:

56521.1 Emergency interventions when behavior poses threat to student or others

56521.2 Prohibited interventions

CODE OF REGULATIONS, TITLE 5

3065 Staff qualifications - related services

GOVERNMENT CODE

6250-6270 California Public Records Act

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities

Management Resources:

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Restraint and Seclusion: Resource Document, May 2012

FEDERAL REGISTER
Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

Behavior Analyst Certification Board: <http://www.calaba.org/bacb.shtml>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education: <http://www.ed.gov>

U.S. Department of Education, Office of Special Education Programs:

<http://www2.ed.gov/about/offices/list/osers/osep>

U.S. Department of Education "Dear Colleague" letter dated August 1, 2016:

<https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf>