
Education Committee

E2SHB 1479

Brief Description: Concerning restraint or isolation of students in public schools and educational programs.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Callan, Santos, Goodman, Ramel, Ormsby and Pollet; by request of Superintendent of Public Instruction).

Brief Summary of Bill

- Limits restraint of students, including prohibiting chemical and mechanical restraint.
- Prohibits isolation of students in prekindergarten through grade 2, and phases out all student isolation by January 1, 2026.
- Modifies requirements for incident notification, incident review, incident reporting, behavioral intervention planning, and policies and procedures.
- Adds staff professional development requirements and governing body training requirements.
- Establishes state compliance monitoring and support.
- Requires multiple reports to the Legislature.

Hearing Date: 1/11/24

Staff: Megan Wargacki (786-7194).

Background:

Use of Isolation and Restraint.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Isolation or restraint of a student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

Each school district must adopt a policy providing for the least amount of isolation or restraint appropriate to protect the safety of students and staff.

Student Plans.

Parents and guardians of students who have individualized education programs (IEPs) or plans developed under section 504 of the Rehabilitation Act (section 504 plans) must be provided a copy of the district policy at the time that the IEP or section 504 plan is created.

An IEP or section 504 plan may not include the use of isolation or restraint 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.

Rules adopted by the Office of the Superintendent of Public Instruction (OSPI) define a behavioral intervention plan as part of a student's IEP that describes the positive behavioral interventions and supports to be used to reduce the student's challenging behaviors.

Incident Notification, Report, and Review.

After any incident of isolation or restraint, the school must review the incident with the student and the parent or guardian, and with the staff who used the isolation or restraint.

The principal must: (1) make a reasonable effort to verbally inform the student's parent or guardian within 24 hours of the incident; and (2) send written notification as soon as practical but postmarked no later than five business days after the incident occurred.

School employees, resource officers, and school security officers who use isolation or restraint must inform the building administrator as soon as possible and submit a written report of the incident to the school district office within two business days.

School districts must annually submit a summary of the staff reports to the OSPI. The OSPI must publish to its website the data received by the school districts. The OSPI may use this data to reduce the use of isolation and restraint.

Work Group Report.

Legislation enacted in 2022 directed the OSPI to convene a work group to identify trauma-informed strategies, approaches, and curricula for supporting students in distress and with challenging behaviors that prioritize relational safety. The work group's 2022 report includes four categories of recommendations: (1) eliminate isolation and chemical restraint from schools; (2) improve access to proactive and effective mental health supports and trauma-informed behavior supports; (3) increase educator training of de-escalation practices; and (4) improve data collection and reporting.

Demonstration Projects, Technical Assistance, and Professional Development.

In the 2023 operating budget, the OSPI was appropriated funding to:

1. provide grants to demonstration project sites to build school-level and district-level systems that eliminate student isolation, track and reduce restraint use, and build schoolwide systems to support students in distress and prevent crisis escalation cycles that may result in restraint or isolation. The schoolwide systems must include trauma-informed positive behavior and intervention supports, de-escalation, and problem-solving skills. Grant recipients must commit to isolation phaseout and must report on restraint reduction and progress to the OSPI by June 30, 2025;
2. create a technical assistance manual to support the elimination of isolation and reduction of restraint and room clears based on the results of the demonstration projects. In developing the manual, the OSPI must consult with specified groups;
3. provide professional development and training; and
4. report to the Legislature by September 1, 2024 with: (a) a status update on demonstration projects that occurred during the 2023–24 school year, the technical assistance manual, and professional development offered statewide; (b) key implementation challenges and findings; and (c) recommendations for statewide policy changes or funding.

The OSPI must prioritize provision of professional development and selection of demonstration sites to local education agencies, educational programs, and staff who provide educational services to students in prekindergarten through grade 5 and have high incidents of isolation, restraint or injury related to use of restraint or isolation.

Summary of Bill:

Prohibited Practices.

Staff of school districts and providers of public educational services (education providers) are prohibited from using the following types of isolation or restraint on students:

- chemical restraint;
- mechanical restraint;
- physical restraint or physical escort that is life-threatening, restricts breathing, or restricts blood flow to the brain, including prone, supine, and wall restraints;
- isolation or physical restraint that is contraindicated based on the student's disability or health care needs or medical or psychiatric condition as documented in a health care directive or medical management plan, a behavioral intervention plan (BIP), an individualized education program (IEP), or a plan developed under section 504 of the Rehabilitation Act;
- corporal punishment; and
- noxious spray and other aversive intervention as prohibited in rule of the Office of the Superintendent of Public Instruction (OSPI).

Isolation of students in prekindergarten through grade 2 is prohibited. Beginning January 1, 2026, isolation of students in prekindergarten through grade 12 is prohibited.

Neither a student nor the student's parent or guardian may consent, or be asked to consent, to the use of isolation or restraint that is prohibited.

Use of Physical Restraint.

Staff of school districts and education providers are permitted to use physical restraint only when:

1. the student's behavior poses an imminent likelihood of serious harm to the student or to others;
2. less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;
3. the least amount of force necessary is used to protect the student or another person from an imminent likelihood of serious harm to the student or to others; and
4. the physical restraint of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others.

Use of Isolation Rooms.

Through December 31, 2025, staff of school districts and education providers are permitted to isolate a student who is in grade 3 through 12 only when:

1. the student's behavior poses an imminent likelihood of serious harm to the student or to others;
2. less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others;
3. the least amount of force necessary is used to protect the student or another person from an imminent likelihood of serious harm to the student or to others; and
4. the isolation of the student ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others.

Unless a waiver is claimed, doors to isolation rooms must remain unlocked to the occupants.

Isolation rooms may not be constructed, and must be removed or repurposed by January 1, 2026.

By August 1, 2023, the OSPI must implement a process for school districts and education providers to claim a waiver to permit isolation of students in grades 3 through 12 in a locked room. The OSPI must provide technical assistance to those claiming a waiver.

Exemptions.

A state-operated psychiatric hospital that serves students is not prohibited from having isolation rooms or from using isolation rooms with locked doors.

A school resource officer is not prohibited from carrying out the lawful duties of a commissioned law enforcement officer.

Incident Notifications.

The following notifications must be made after any incident of isolation, restraint, or room clear:

- Immediately following the student's release, the staff must notify the principal or building administrator about the incident.
- Within 24 hours, the principal or building administrator must notify the student's parent or guardian about the incident.
- Within three business days, the principal or building administrator must send written documentation to the parent or guardian.

In addition, the principal or building administrator must make the following notifications after an incident of prohibited isolation or restraint:

- within one business day, notify the school district superintendent or chief administrator of the education provider;
- within three business days, notify the OSPI; and
- within three business days, notify the contractee, if the school district or education provider is a contractor.

Behavioral Intervention Plans.

As soon as practicable after any incident of isolation, restraint, or room clear, staff must:

- complete a functional behavioral assessment of the student who was isolated, restrained, or caused the emergency, if one has not been completed; and
- develop or modify a BIP for the student, and, in cases where the student has an IEP, the BIP must be developed and modified in accordance with the student's IEP.

Incident Reviews.

The following reviews must be completed as soon as practicable after any incident of isolation, restraint, or room clear:

- The principal or building administrator must review the incident with the student and the parent or guardian and inform them about BIP requirements, within one week of incident report submission.
- Staff must provide the student with an opportunity to meet with a counselor, nurse, psychologist, or social worker.
- A team of staff must review the incident and identify needed training, coaching, or assistance.

Incident Reports.

The following reports must be prepared after any incident of isolation, restraint, or room clear:

- Within two business days, staff must submit a written incident report with specified information to the school district superintendent or the chief administrator of the education provider.
- At least annually, school districts and education providers must submit incident report data and disaggregated summaries to the OSPI.
- Within 90 days of receipt, the OSPI must publish the incident report data and summaries on its website in a manner that allows trend analysis.

Policies and Procedures.

During the 2024–25 school year and periodically thereafter, each school board and education provider's governing body must review the student isolation and restraint policy and procedures with input from specified groups.

The school boards and governing bodies must annually monitor the impact of the policy and procedures by performing trend analyses and reviewing the professional development plan.

Professional Development for Staff.

By January 30, 2024, and by August 31 annually thereafter, each school district superintendent and chief administrator of an education provider, or the school board and provider's governing body, must submit to the OSPI a plan that describes the professional development that will be provided to staff during the following school year. The plan must include:

- professional development on student isolation and restraint and other specified topics to be provided, from a list of programs and resources developed by the OSPI;
- provision to staff in a specified order and as appropriate to each staff type, staff experience, and staff assignment; and
- the mechanism used to determine whether a contracted entity is providing required professional development to its staff.

Within three months of receipt, the OSPI must review each professional development plan.

Training for Governing Bodies.

Beginning in the 2023–24 school year, and every four years thereafter, each member of the school board and each member of the governing body of an education provider must complete the training program on student isolation and restraint provided by the OSPI, in partnership with the Washington State School Directors' Association.

State Monitoring and Support.

When a school district or education provider is not making sufficient progress towards the goals established in its professional development plan or when disparities in use of isolation or restraint are identified in its incident report data, the OSPI must provide targeted technical assistance until plan goals are met or disparities are eliminated.

Subject to appropriation, the OSPI must provide technical assistance related to student isolation and restraint that includes developing guidance, identifying professional development programs and resources, providing professional development with priority to certain staff, and completing site visits. Before implementing the technical assistance, the OSPI must conduct focus groups on staff challenges to implement isolation and restraint requirements.

Reports to the Legislature.

Annually by November 1, the OSPI must report to the Legislature with a summary of its monitoring and support activities. The report must describe the progress made towards providing professional development to all staff.

By December 1, 2023, the Professional Educator Standards Board and the Paraeducator Board

must jointly submit to the Legislature a plan for integrating isolation and restraint requirements into educator preparation programs and paraeducator certificate requirements.

By September 1, 2024, the OSPI must submit to the Legislature the report of a research entity contracted to analyze the impacts of room clears on students and to summarize best practices on the use of room clears.

By December 1, 2024, the OSPI must report to the Legislature with its progress on developing a professional development deployment strategy and its assessment of the need and demand for professional development in the coming biennium.

Definitions.

Definitions for the following terms are revised or added: BIP; chemical restraint; educational service; functional behavioral assessment; imminent; isolation; isolation room; likelihood of serious harm; mechanical restraint; physical escort; physical prompt; physical restraint; prohibited isolation or restraint; provider of public educational services; restraint; room clear; staff; and students.

Appropriation: None.

Fiscal Note: Requested on January 4, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.