



# Consent

## RESTRAINT AND TIME-OUT

August 2023

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## RESTRAINT AND TIME-OUT

### What is Required

It is the policy of the state of Texas to treat with dignity and respect all students, including students with disabilities who receive special education services. Campus Personnel must only utilize behavior management techniques or discipline management practices that protect the health and safety of the student and others. No such technique or practice may be calculated to inflict injury, cause harm, demean, or deprive a student of basic human necessities.

District policies and procedures relating to restraint and time-out apply to all school employees, volunteers, and independent contractors of the District. They also apply to peace officers who are employed or commissioned by the District or who are school resource officers providing a regular police presence on the Campus under a memorandum of understanding between the District and the local law enforcement agency. In addition, the data reporting requirements regarding restraint apply to any peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. However, District policies and procedures relating to restraint and time-out do not apply to juvenile probation, detention, or corrections personnel, or an educational services provider with whom a student has been placed by a judge, unless the services are provided in an educational program within the District.

### **Prohibited Aversive Techniques**

An aversive technique is a technique or intervention that is used to reduce the chance of the behavior reoccurring by intentionally inflicting significant physical or emotional discomfort or pain on a student. District employees, District volunteers, and/or District independent contractors may not use an aversive technique or authorize, order, consent to, or cause an aversive technique to be applied to a student.

Prohibited aversive techniques or interventions include ones that:

- Are designed to or are likely to cause physical pain, other than an intervention or technique allowed under the use of corporal punishment;
- Are designed to or are likely to cause physical pain by using electric shock or any procedure that involves the use of pressure points or joint locks;
- Involve the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
- Deny the student adequate sleep, air, food, water, shelter, bedding, physical, comfort, supervision, or access to a restroom facility;

- Ridicule or demean the student in a way that adversely impacts or endangers the student's learning or mental health or constitutes verbal abuse;
- Use a device, material, or object that simultaneously immobilizes all four extremities, including any procedure resulting in prone or supine floor restraint;
- Impair the student's breathing, including any procedures involving the application of pressure to the student's torso or neck or the obstruction of the student's airway by placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
- Restrict the student's circulation;
- Secure the student to a stationary object while the student is sitting or standing;
- Inhibit, reduce, or hinder the student's ability to communicate;
- Involve the use of a chemical restraint;
- Constitute a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, where applicable, toward the annual goals in the student's IEP, including isolating the student by the use of physical barriers; or
- Deprive the student of the use of one or more senses, except that this aversive technique may be used if it does not cause the student discomfort or pain or complies with the student's IEP or behavior intervention plan ("BIP").

## Confinement

A student with a disability receiving special education services may not be confined in a locked box, locked closet, or other specially-designed locked space as either a discipline management practice or a behavior management technique. However, confinement is allowed in an emergency situation while awaiting the arrival of law enforcement personnel if the student possesses a weapon and the confinement is necessary to prevent the student from causing bodily harm to the student or another person.

## Restraint

District employees, volunteers, and independent contractors may use restraint in an emergency situation. Restraint means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body. Emergency situation means a situation in which a child's behavior poses a threat of imminent, serious physical harm to the child or others or imminent, serious property destruction.

However, the restraint must be limited to reasonable force necessary to address the emergency and must stop as soon as the emergency no longer exists. The restraint must also be implemented in such a way as to protect the health and safety of the student and others and cannot deprive the student of basic human necessities.

Restraint does not include the use of:

- Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
- Limited physical contact with a student to promote safety (e.g., holding a child's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, or provide comfort to the student;
- Limited physical contact or appropriately described adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or
- Seat belts and other safety equipment used to secure students during transportation.

## Restraint Training

All District employees, volunteers, and independent contractors utilizing restraint must be properly trained to do so. Each Campus must have a core team of Campus Personnel that are trained in the use of restraint. This team should include a Campus Administrator or designee and any other Campus Personnel likely to use restraint, such as a general or special education teacher or teacher assistant. Restraint training must include prevention and de-escalation techniques and provide alternatives to using restraint. Additionally, the training must include instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint. Any Campus Personnel who are called upon to use restraint in an emergency situation who have not received prior training must receive training within 30 school days following the use of the restraint.

## Restraint Documentation

All incidents where restraint is utilized must be documented. First, on the day restraint is utilized, the District employee, volunteer, or independent contractor utilizing the restraint must notify the Campus Administrator or other designee verbally or in writing regarding the use of restraint. The District employee, volunteer, or independent contractor utilizing the restraint must also make a good faith effort to verbally notify the parent regarding the use of restraint on the day the restraint is utilized.

Within one school day of the use of restraint, the District employee, volunteer, or

independent contractor utilizing the restraint must also provide written notification of the use of restraint by either placing the notification in the mail or otherwise providing it to the parent. If the student is homeless or in substitute care, the written notice should be provided to the student's educational decision-maker and caseworker. Any written documentation regarding the use of restraint must also be placed in the student's special education eligibility folder in a timely manner for review by the student's ARD Committee when considering the impact of the student's behavior on learning and/or the creation or revision of a BIP. The eligibility folder must include information regarding the method by which the notice was sent to the parent and the contact information of where it was sent.

The written notification to the parent and documentation must include the following:

- Name of the student;
- Name of the staff member(s) administering the restraint;
- Date of the restraint and time the restraint began and ended;
- Location of the restraint;
- Nature of the restraint;
- A description of the activity in which the child was engaged immediately before using restraint;
- The behavior of the student that prompted the restraint;
- The efforts made to de-escalate the situation and alternatives to restraint that were attempted;
- For a student with a behavior intervention plan, whether the plan needs to be revised as a result of the behavior that led to the restraint;
- For a student without a behavior intervention plan, information on the process to request an ARD Committee meeting for discussion of the possibility of conducting a Functional Behavioral Assessment ("FBA") and developing a BIP for the student; and
- Information documenting parent contact and notification.

All cumulative data regarding the use of restraint by District employees, volunteers, independent contractors, as well as any peace officer, must be electronically reported through the Public Education Information Management System ("PEIMS").

## Time-Out

Time-out means a behavior management technique in which, to provide a child with an opportunity to regain self-control, the child is separated from other children for a limited period in a setting that is not locked; and from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object. District employees, volunteers, and independent contractors can utilize time-out under certain circumstances.

Time-out can only be used in conjunction with other positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior. Time-out cannot be used in a way that denies the student the opportunity to be involved in and progress in the general curriculum and advance appropriately toward attaining the student's annual IEP goals. Additionally, physical force or threat of force cannot be used to place a student in time-out.

### **Time-Out Training**

All District employees, volunteers, or independent contractors implementing time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out. Additionally, any newly identified District employees, volunteers, or independent contractors called upon to implement time-out based on requirements in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out. The training must be provided as part of a program addressing a full continuum of positive behavioral intervention strategies, as well as the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the student's annual IEP goals. The training must also include instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

### **Time-Out Documentation**

Any documentation or data collection relating to the use of time-out should be addressed in the student's IEP or BIP. The ARD Committee will use any collected data to determine whether time-out is an effective intervention for the student and make decisions regarding its continued use. For each instance time-out is used for a behavior specified in the student's BIP, the time-out must be documented and the documentation must include a description of the behavior that led to the time-out.

### **Review of Behavior Intervention Plan**

**For a student whose IEP includes a BIP, the BIP must be reviewed annually by the ARD Committee, or more frequently as appropriate to address changes in a student's circumstances that may impact the student's behavior such as the**

**placement of the student in a different educational setting, an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents, a pattern of unexcused absences, or an unauthorized unsupervised departure from an educational setting; or the safety of the student or others. . Additional Procedures**

District employees, volunteers, and independent contractors must be cautious to only use restraint and time-out where necessary, as the repeated use of restraint and time-out could prevent the student from receiving a FAPE. Therefore, where possible, positive behavioral interventions and supports should be implemented prior to implementing restraint or time-out. If Campus Special Education Personnel have reason to believe that the student has been denied FAPE by the use of restraint or time-out, the ARD Committee will convene to determine the extent to which additional or different interventions or supports and services may be needed. The ARD Committee will also discuss if there is a need to remedy the denial of FAPE that resulted from the prior use of restraint or time-out. Campus Special Education Personnel will ensure that all changes are made promptly.

Any documentation regarding the completion of restraint training and/or training regarding the use of time-out should be maintained in each individual's campus personnel file.

## **Restraint**

Restraint should not be used as a routine strategy implemented to address a student's behavior or school safety measure. Rather, restraint should only be used as a last resort to maintain a safe and orderly learning environment where a student's behavior poses a threat of imminent, serious physical harm to the child or others or imminent, serious property destruction. In addition, the restraint should be immediately discontinued after the threat has passed.

Immediately following the use of restraint, both the student and any District employee, volunteer, or independent contract performing the restraint will be assessed by the Campus Nurse. The Campus Nurse will complete an Office Visit form documenting the visit and any observed injuries.

While the use of physical restraint does not need to be included on all BIPs, the ARD Committee may include it on any BIP where the use of physical restraint is anticipated and include the rationale for its use in the ARD minutes. Unlike time-out, restraint should never be utilized as a method or intervention for increasing or decreasing behavior.

Following an incident of restraint, the Campus Administrator will consider whether the ARD Committee should convene to discuss the use of restraint. If it is necessary to restrain the child more than once in a six-week period or if the restraint is severe, the ARD Committee may want to consider if an FBA is necessary and/or to review and revise the IEP or BIP. See [SPECIAL FACTORS – Students with Behavioral Needs]



The District may choose to allow a District employee, volunteer, or independent contractor to attend restraint training offered by an entity other than the District if the training meets District training standards. At a minimum, the trainings, which will be completed annually, will cover Texas Behavior Support Initiative (“TBSI”) online training and nonviolent crisis intervention face-to-face training.

These restraint procedures also apply to the use of restraint towards a student with a disability on the school bus. If the student is restrained on the school bus, the individual utilizing the restraint should notify the Transportation Office of the incident and complete the Restraint Report Form. The Restraint Report Form should be given to the Campus Administrator upon completion of the bus route for a morning route or at the beginning of the following school day for an afternoon route. Where feasible, the individual utilizing the restraint should also verbally communicate with the parent the day of the restraint regarding the use of restraint. The Campus Administrator will verbally notify the student’s parent of the incident and provide the student’s parent a copy of the Restraint Report Form within 24 hours following the incident.

Campus Administration must keep data regarding the total number of incidents of uses of restraint, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant, or a parent, having limited English proficiency, or being a migratory child.

## **Time-Out**

There are two different types of time-out: exclusionary and non-exclusionary. Exclusionary time-out is when the student is removed from the classroom and placed in a separate setting for a period of time. This includes isolated instruction and in-school suspension. Non-exclusionary time-out involves the use of time-out within the classroom setting. For example, separating a student’s desk from other students’ desks within the classroom or instructing a student to utilize a cooling off area within the classroom are both considered methods of non-exclusionary time-out. Exclusionary time-out should only be utilized when non-exclusionary methods are unsuccessful.

Campus Personnel should only utilize time-outs in conjunction with an array of positive behavior intervention strategies and techniques. The use of any time-out method, including time-out or a cooling off area in the classroom, that is used on a recurrent basis to increase or decrease a targeted behavior must be documented in the student’s IEP and/or BIP. Otherwise, the student’s IEP and/or BIP effectively prohibits Campus Personnel from using time-outs. The recurrent use of time-out to discipline a student where it is not listed in the student’s IEP is considered a substantial departure from the student’s IEP and will likely constitute a denial of FAPE.

The District will maintain documentation requirements of compliance associated with

Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

## **Evidence of Implementation**

- Restraint Report Form
- Nurse Office Visit Form
- ARD/IEP
- FBA/BIP
- Communication Logs
- Evidence of Completion of Restraint Trainings
- Evidence of Completion of Time-Out Trainings
- Restraint Data
- Behavior Documentation
- FBA Consent
- Documentation for the state in TSDS, PEIMS, and SPP

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Restraint and Time-Out - Region 18](#)

[Texas Behavior Support \(TBS\) - Region 4](#)

[Positive Behavioral Interventions and Supports \(PBIS\) - Texas Behavior Support](#)

[Written Summary of Restraint Use Sample Form - Texas Education Agency](#)

[Discipline and School Removals - Texas Education Agency](#)

[OSERS Letter to Anonymous \(Dec. 16, 2010\) - U.S. Department of Education](#)

[OCR Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities \(Dec. 28, 2016\) - U.S. Department of Education](#)

[OSERS Dear Colleague Letter: Ensuring Equity and Providing Behavioral Supports to Students with Disabilities \(Aug. 1, 2016\) - Texas Education Agency](#)

[Restraint and Seclusion: Resource Document - U.S. Department of Education](#)

[Students with Disabilities and the Use of Restraint and Seclusion in K-12 Public Schools \(Jan. 2020\) - U.S. Department of Education](#)

[Restraint and Seclusion - Positive Behavioral Interventions & Supports](#)

[House Bill \(HB\) 785: Frequently Asked Questions - Texas Education Agency](#)

## **CITATIONS**

Board Policy EHBA, EHBAB, FO, FOF, and FFB; Texas Education Code 25.007, 29.005, 37.007, 37.0011, 37.0021, 37.0023; Texas Penal Code 46.01, 46.05; 19 Texas Administrative Code 89.1053