

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 19-39**

### **PROCEDURAL HISTORY**

On May 20, 2019, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the Parent of a Student attending the Clover Park School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On May 21, 2019, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On June 12, 2019, OSPI received the District's response to the complaint and forwarded it to the Parent on the same day. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information. The Parent did not provide additional information.

OSPI considered all of the information provided by the Parent and the District as part of its investigation.

### **ISSUE**

1. Did the District use restraint and/or isolation consistent with the requirements of WAC 392-172A-02110 in February of 2019, including:
  - a. Using proper procedures for the use of isolation and restraint (WAC 392-172A-02110(1) – (3));
  - b. Ensuring that any staff member using isolation or restraint was properly trained in the same (WAC 392-172A-02110(1)(f), -02110(2)(c), -02110(3)(d)); and,
  - c. Following the documentation and reporting requirements for any use of isolation and restraint, in accordance with RCW 28A.600.484 (WAC 392-172A-02110(4))?

### **LEGAL STANDARDS**

Isolation: 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 behavioral intervention plan. WAC 392-172A-01107.

Isolation Conditions: Isolation shall be used only when a student's behavior poses an imminent likelihood of serious harm. The use of isolation as defined by RCW 28A.600.485 is subject to each of the following conditions: the isolation must be discontinued as soon as the likelihood of serious harm has dissipated; the isolation enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy; the isolation enclosure shall permit continuous visual monitoring of the student from outside the enclosure; an adult responsible for supervising the student shall remain in visual or auditory range of the student at

all times; 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, and 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. School districts must follow the documentation and reporting requirements for any use of isolation consistent with RCW 28A.600.485. WAC 392-172A-02110.

Restraint: 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. WAC 392-172A-01162.

Restraint Conditions: Restraint shall be used only when a student's behavior poses an imminent likelihood of serious harm. 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; and 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. School districts must follow the documentation and reporting requirements for any use of restraint consistent with RCW 28A.600.485. WAC 392-172A- 02110.

Follow-up and Reporting Requirements: Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include: reviewing the incident with the student and the parent/guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response; and reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents. Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information: the date and time of the incident; the name and job title of the individual who administered the restraint or isolation; a description of the activity that led to the restraint or isolation; the type of restraint or isolation used on the student, including the duration; whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided and any recommendations for changing the nature or amount of resources available to the student and staff members to avoid similar incidents. The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides

the parent or guardian with school- related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language. RCW 28A.600.485.

## **FINDINGS OF FACT**

### **Background**

1. The Student's most recent reevaluation was completed by the District on November 27, 2018.<sup>1</sup> The Student was eligible for special education services under the category autism. The evaluation report noted (in relevant part) significant behavioral concerns, including physical and verbal aggression. Deficits in cognitive abilities, academics, fine motor skills, attention, and self-regulation were also reported. The report additionally stated the Student had significant difficulties in defiance, aggression, peer relations, conduct problems, hyperactivity, and depression. The Student also had significant difficulties in "reading" facial expressions, which caused misinterpretation in social interactions.
2. On November 28, 2018, the District reviewed the Student's functional behavioral assessment (FBA). The FBA discussed aggressive behaviors, such as throwing objects, hitting, kicking, or threatening harm on another, and non-compliance behaviors, including refusal to follow school/classroom rules, telling staff no, refusal to follow an adult direction, arguing, yelling, or threatening action. The FBA noted the Student's challenging behaviors included hitting, kicking, hair pulling, scratching, biting, choking others, spitting, throwing of objects, destruction of property, and elopement.
3. The Student's behavioral intervention plan (BIP), dated November 28, 2018, showed that as of November 28, 2018, on average, the Student engaged in non-compliant behavior during 27% of his school day, and aggressive behavior for 11% of his school day. A target behavior in the Student's BIP was "acts of non-compliance, following directions."
4. On November 28, 2018, the Student's IEP team also revised his BIP (originally developed in December 2016). The BIP included the following antecedent interventions:
  - Encourage Student to ask for breaks or take a personal timeout when he needs it.
  - Access to a visual schedule to include all activities (both preferred and non-preferred) throughout the school day.
  - Provide multiple opportunities to "play" with peers throughout the day.
  - Remind of expectations prior to each activity and transition.
  - Clear, explicit, step-by-step instructions should be given at the beginning of each activity.
  - Provide Student with visual cues to track behavior and give non-verbal feedback.

---

<sup>1</sup> Documentation provided by the District in response to this complaint stated the Student's most recent evaluation had been completed on November 27, 2019 instead of November 27, 2018, and that the IEP was completed on October 22, 2019 instead of October 22, 2018. These 2019 dates are in error, as they have not yet occurred.

The BIP stated the Student required explicit social skills instructions daily and that for desired behavior, verbal reinforcement, earned points on the token economy system, and non-verbal reinforcement should be utilized.

The BIP targeted the following behaviors: acts of aggression and acts of non-compliance: following directions. The BIP included the following for both target behaviors:

- Replacement behaviors: Asking for breaks (but need to make sure he is doing it to calm and not for work avoidance); use choices instead of refusal; use self-regulation strategies; and age-appropriate language to express his wants, needs and concerns.
- Teaching Strategies: Explicit social skills instruction: understanding the perspectives of others, understanding how his behavior impacts himself and others, strategies available when feeling angry/upset, how to engage in appropriate ways to communicate wants/needs; Choice of activities; Token economy; Instruction in self-regulation skills; Clear contingencies for behaviors - avoid power struggles; Use redirection, arguing only reinforces his behavior; When he engages in inappropriate behavior, use it as a teaching opportunity; Goal setting and classroom meetings.
- Reinforcers: Menu of options; DRA - Differential reinforcement of alternative behavior; and Pointing out when he's doing well.
- Consequences: Underreaction - delay response unless immediate safety issue and address in neutral tone; Provide Student with reminders of self-regulation and calming; Fill out Isolation/Restraint form for each incident along with ABC chart; Send home a daily behavior monitoring sheet that is tied to the token economy system.
- Persons Responsible: Special education staff.
- Crisis and Recovery Plan: Support Student in moving to separate area of the classroom; Have one staff member move other students out of the classroom to allow Student space to move through his crisis cycle; Give Student time to return to baseline; Support Student in a reflection of behavior, choices made, consequences to actions, and possible replacement behavior/strategies available to him the next time he is feeling that way.

### **2018-2019 School Year**

5. The 2018-2019 school year commenced for the District on August 29, 2018.
6. During the 2018-2019 school year, the Student was in the second grade at a District elementary school and continued to be eligible to receive special education services under the eligibility category of autism.
7. The Student's October 2018 individualized education program (IEP) provided the Student with specially designed instruction in written expression, behavior, social/emotional skills, math, and reading comprehension, as well as related services in speech therapy, occupational therapy, and Parent consultation by a behavior specialist. The IEP indicated that the special education services were to be provided in a self-contained program and that the Student would spend approximately 15.8% of his time in school in the general education setting.
8. The District was on winter break from December 24, 2018 - January 4, 2019.
9. The Parent's complaint arises from an incident she alleged occurred during the second half of the 2018-2019 District school year.

10. Some time prior to January 28, 2019, the Student's special education teacher went on medical leave. On January 28, 2019, the short-term substitute teacher who had been working in place of the Student's special education teacher became the long-term substitute (substitute teacher).
11. According to the District's response, upon the substitute teacher's assignment, the principal notified her that if a student became escalated in the classroom, "Right Response" trained paraeducators would assist in supporting her in deescalating the student.
12. On February 21, 2019, based on documentation provided by the District in response to this complaint, and gathered through staff statements, the District stated the Student began to get upset during academic work. At the time, the only people in the room were the substitute teacher, the Student, and two other students. The substitute teacher reported to the principal that the Student was yelling, ripping paper, and throwing items. The substitute teacher also reported that the Student began to elope through the classroom door. The substitute teacher reported that she directed one student to block the door and directed another student to guide the Student to the isolation room. The substitute teacher then notified the principal that the Student was in the safety room. The substitute teacher reported that she remained beside the door, monitoring the Student through a window beside the door. The substitute teacher also reported that after a few minutes, the Student began singing and laughing and was released from the safety room.
13. On March 1, 2019, the Parent emailed the principal, copied the special education teacher, special education supervisor, and a parent advocate, and stated:

[Student] told me last week on Thursday 2/21/19 & on Friday 2/22/19 he had escalated in class and had to go into the safety room. [Substitute teacher] did not call me though on either day. I had no missed calls, no voicemails, and no note or email from her. On Friday 2/22/19 I did however receive your email to let me know [Student] went to the safety room that day. As of today, one week after the incident I have yet to receive an Isolation & Restraint Form for Thursday 2/21/19. I have also yet to receive an Isolation & Restraint Form for Friday 2/22/19. When should I expect to receive these required documents?
14. On March 4, 2019, the Student's special education teacher returned from medical leave and resumed teaching the Student's class.
15. Also on March 4, 2019, the principal emailed the Parent, copying the special education teacher, special education supervisor, and parent advocate and stated that she had no record of the Student going into isolation on February 21, 2019, but did know about the incident on February 22, 2019. She apologized for the delayed report and stated she would speak with the special education teacher that day.<sup>2</sup>

---

<sup>2</sup> On March 18, 2019, the principal emailed the Parent and stated that she had determined the incident had actually occurred on February 21, 2019. The District found no record through investigation (witness statements, email review, etc.) that the Student was in the isolation room on Friday, February 22, 2019.

16. On March 6, 2019, the special education teacher emailed the substitute teacher, copying the principal, special education supervisor, behavioral specialist, and consulting teacher, and stated:

I am following up from the email I sent yesterday. Could you please fill out the Restraint and Isolation form for what occurred on 2/21/2019? We need to get a copy to the parent as soon as possible. I am not able to fill it out as I was on medical leave and was not present for the incident. Please email it back once you have filled the form out and have signed it so I can have [principal] sign it and give it to the parent. Please let me know if you have any questions.

17. On March 7, 2019, the principal emailed the substitute teacher, copying the special education supervisor, behavioral specialist, and consulting teacher, and stated, "I know [behavioral specialist] touched base with you yesterday. Sorry to be a pester, but we truly need this form filled out. If you need support, please feel free to ask any of us on this email chain."

18. On March 11, 2019, a consultant teacher drove to the school where the substitute teacher was working and had her complete the restraint and isolation form. Once completed, the form stated on February 21, 2019, a physical restraint/hold and isolation both occurred. The report stated that while in the classroom, the Student's behavior prior to the incident included yelling/calling out, out of seat/wandering, and throwing objects. The report also stated the Student exhibited the following aggressive behaviors prior to the incident: hitting, pushing, running, using objects as weapons, and threatened to hit teacher with a book. The report further stated that prior to the restraint/isolation, the following interventions were attempted to de-escalate the Student: verbal/visual redirection, reinforcement of approximate behaviors, reminder of reward system, offered choices, and planned ignoring. The report did not state the time the restraint began, or when it ended, it only stated the restraint lasted for two minutes and the Right Response mid-section clothing hold was used.<sup>3</sup> The report stated that the Student calmed down a bit during his restraint, stopped throwing things, and calmed down after the restraint. The report stated that the isolation began at 12:00 p.m. and ended at 12:05 p.m. The substitute teacher listed herself as the only staff that administered and observed the restraint/isolation of the Student. The report stated that the principal was notified of the restraint/isolation on February 21, 2019, and that the substitute teacher attempted to call the Parent but "did not get a response."<sup>4</sup>

19. On March 13, 2019, the Parent attended a parent conference with the special education teacher. The teacher signed the restraint/isolation form completed by the substitute teacher, gave a copy to the Parent and documented delivering the form to the Parent during that meeting by writing below her signature, "Teacher given to parent."

---

<sup>3</sup> Based on the substitute teacher's account, and information later provided from the students in the classroom with the substitute and Student on February 21, 2019, if any sort of hold was administered, it was done so by another student, and likely not the "Right Response mid-section clothing hold."

<sup>4</sup> The substitute teacher documented calling the Student's father, not his mother. The report stated there was no answer. It does not appear the Student's mother was called.

20. On March 14, 2019, the behavioral specialist emailed the special education supervisor to touch base prior to meeting with the Parent. She stated that she spoke with the District's director of special education (director) about the restraint and isolation incident that occurred on February 21, 2019, which the students in the classroom reported to the special education teacher upon her return from medical leave. In her email, the behavior specialist additionally noted that the special education teacher had reported the incident to the principal immediately after it occurred. The behavioral specialist said she felt she needed to report the information as well, even though the special education teacher already had, due to her concerns that the substitute teacher involved was still working at other schools.
21. On March 15, 2019, the special education supervisor responded to the behavioral specialist's email and asked for a written statement of the information she learned from staff and students about the isolation of the Student. The behavioral specialist responded that same day and reported the following based on her conversation with the special education teacher:
- [Special education teacher] called [me] on her first day back to work, March 4, 2019. [Special education teacher] will often call me after school when needing guidance or support, and she had met with [principal], earlier in the day, to report what students had relayed to her. According to [special education teacher], she asked students how they felt things had gone while she was out on leave. One student (student A) shared that he was now able to help restrain and isolate students, to support staff, when needed. [Special education teacher] reported that she asked the student to elaborate, and Student A explained that on one occasion, [Student] was alone in the classroom with the substitute teacher, Student A, and another student (Student B). [Student] began to escalate, throw books, and engage in non-compliant and unsafe behavior. [Special education teacher] told me the students then told her the substitute teacher had Student A and Student B block each door. The substitute teacher could not restrain [Student] and then asked Student A to help restrain [Student] and put him in the isolation room. Once in the room the substitute teacher closed the door. During Student A's recollection of what happened to [Student], [Special education teacher] reported to me that Student B was in a panic, telling Student A that they weren't supposed to say anything about what happened. [Special education teacher] stated that she then asked [Student] what happened and he confirmed that Student A restrained him and put him in the isolation room. [Special education teacher] told me she immediately left her classroom to report to administration what was reported to her.
22. On March 19, 2019, the Parent emailed the principal, copying the parent advocate, special education supervisor, behavioral specialist, and the special education teacher and stated (in relevant part):
- The substitute teacher had not called her regarding the February 21, 2019 incident;
  - The day after the restraint/isolation incident, she found bruises on the Student's forearm;
  - Asked that the District elaborate what the proper protocol is when a student is in crisis mode and an isolation is needed;
  - Asked why there were no additional aides in the room to offer support to both the teacher and the students;
  - Asked if proper staffing had been put in place, isn't it possible Student would have possibly deescalated sooner and without the need of restraint and isolation; and,
  - Pointed out that on the Isolation and Restraint Form was not complete, the following information was missing: A) What Methodology was used? B) Whether substitute teacher was

certified [in Right Response]? C) Did substitute teacher receive training prior to restraint/hold or isolation?

23. On March 20, 2019, the principal emailed the Parent and stated that she could not “speak to the level of training a [substitute] teacher has regarding isolation/restraint,” but that she does know “ there is a substitute shortage and that the district is always actively trying to get quality [substitute teachers].”
24. On March 21, 2019, the Parent responded to the principal’s email, copying the behavioral specialist, special education supervisor, and special education teacher and stated that her questions still needed to be answered regarding the incident and asked who would be able to answer them.
25. On March 24, 2019, the principal responded to the Parent’s email, copying the behavioral specialist, special education supervisor, and special education teacher and stated that she had answered all of the questions she could to the best of her ability.
26. On May 16, 2019, the Parent filed this complaint.
27. The District identified in its response that it did not use isolation and restraint consistent with the requirements of the regulations on February 21, 2019. The District stated specifically, that the District requires all permanent staff assigned to work in special education classrooms to complete the advanced certification in Right Response (16 hours of training) and complete annual recertification (8 hours). The District stated the substitute teacher in the classroom did not call other trained staff and conducted a restraint and isolation that was not in compliance with District procedures.

## **CONCLUSIONS**

The Parent alleged that the District failed to use restraint and/or isolation consistent with the requirements of WAC 392-172A-02110 in February of 2019.

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. Isolation means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. Isolation 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 behavioral intervention plan. A district may only use restraint or isolation when a student’s behavior poses an imminent likelihood of serious harm. Likelihood of serious harm means that there is substantial risk that the person will inflict physical harm upon him or herself, another person, or the property of others. Once the likelihood of serious harm has dissipated, any use of restraint or isolation must be discontinued.

**Isolation and Restraint – Procedures:** The Parent alleged that the District failed to follow proper procedures for the use of isolation and restraint. On February 21, 2019, the Student was restrained and isolated when he attempted to elope after yelling, ripping paper, and throwing items in the



classroom. Despite the principal having instructed the substitute teacher to call for paraeducator support in the event of a student escalation, the substitute teacher instead directed other students to intervene in preventing the Student's elopement, having one student block the door, and directing the other student to restrain the Student and take him to the isolation room. A district may only use restraint or isolation when a student's behavior poses a substantial risk that the person will inflict physical harm upon him or herself, another person, or the property of others. There is no indication the Student's attempt to elope and other behaviors (yelling, ripping paper, and throwing items) met the conditions of an imminent likelihood of serious harm. Further, the Student's BIP stated that the Student engaged in non-compliant behavior during 27% of his school day, and aggressive behavior for 11% of his school day. The substitute teacher should have called for paraeducator support as soon as the Student began engaging in non-compliant behaviors.

In response to the Parent's allegation regarding the February 21, 2019 restraint and isolation, the District identified that it did not use isolation and restraint consistent with the requirements of the regulations—specifically, that although the District requires all permanent staff assigned to work in special education classrooms to complete the advanced certification in Right Response (16 hours of training) and complete annual recertification (8 hours), the substitute teacher in the classroom did not call other trained staff and conducted restraint and isolation that was not in compliance with District procedures. OSPI finds the District improperly used restraint and isolation in the absence of an imminent likelihood of harm and did not follow District policy. OSPI finds the District in violation. The District proposed, and OSPI adopted, specific corrective actions, including that it be required to prepare and review written guidance and update its policies/protocols for substitute teaching staff.

**Isolation and Restraint – Training:** The Parent alleged that the District failed to ensure that any staff member using isolation or restraint was properly trained in the same. State regulations require any staff member or other adults using a restraint to 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. Here, the District did not anticipate the substitute teacher would be using restraint and isolation techniques, as District policy was to instruct all substitute teachers who did not have Right Response training to direct trained staff within the classroom (usually paraeducators or the consulting teacher) to respond to all incidents requiring the use of restraint or isolation. Further, District policy provided, and the substitute teacher was told, that if a teacher is alone with students without trained staff, they are instructed to call for assistance from the trained staff in the special education classroom next door.

Here, the District ensured the staff members it intended to potentially perform restraint and isolation were properly trained; instead the issue is whether the District properly ensured substitute staff followed procedures to call for a properly trained staff member to assist with any restraint or isolation. The challenges districts face in trying to find highly trained substitute teachers does not alleviate a districts' obligation to have policies in place to ensure substitute teachers are properly trained in the District restraint and isolation procedures. The substitute

teacher improperly used restraint and isolation contrary to District policy (discussed above) and did not follow the procedure to call for trained staff. While the substitute teacher's actions were problematic, OSPI finds the District in compliance regarding ensuring that necessary staff are trained in the appropriate use of restraint and isolation. OSPI finds no violation related to training, but encourages the District to emphasize the requirement to request help/support to substitute teachers who work in the District.

**Isolation and Restraint – Documentation and Reporting:** The Parent alleged that the District failed to follow the documentation and reporting requirements for any use of isolation and restraint. Following the release of a student from the use of restraint and/or isolation, the school must implement follow-up procedures. Here, the District failed to review the incident with the Student and the Parent to address the behavior. The special education teacher met with the Parent at a parent conference on March 13, 2019, but this was three weeks after the incident and the substitute teacher responsible for the restraint and isolation was not there.

The District also failed to review 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. The principal emailed the Parent on the day of the isolation, but the District provided no evidence that the principal met with the substitute teacher to discuss the restraint and isolation incident. Had she done so, a completed restraint and isolation form would have likely been created. Instead, it was only after the special education teacher returned from medical leave and learned about her students' involvement in the restraint of the Student, that the principal, special education, and consulting teacher attempted to get the substitute teacher to complete the restraint and isolation form. The substitute teacher did call the principal on February 21, 2019, while the Student was still in isolation, and reported the incident, but the District provided no documentation to support that the substitute teacher submitted a written report to the principal regarding the incident. On March 13, 2019, when a District staff member tracked down the substitute teacher and had her complete the restraint and isolation form, the form was filled out but not completed. The report did not mention that students had been involved in the Student's restraint and isolation, stated a Right Response hold technique was used to restrain the Student, although no one in the room was trained in Right Response, and failed to include recommendations to avoid similar incidents.

The principal emailed the Parent the day of the restraint and isolation but failed to send a written notice no later than five business days after the restraint and isolation occurred. Although the District stated substitute teachers are instructed to assist the staff in de-briefing the incident, complete the isolation and restraint form, and notify administrator and parent per District policy, the District failed to enforce this policy. Therefore, OSPI finds the District out of compliance regarding the restraint and isolation documentation and reporting requirements. The District proposed corrective actions, which OSPI adopted, including written guidance on documenting and reporting incidents of restraint and isolation. The District will be required to develop written guidance on this topic, as indicated below, and provide to OSPI for review.

Although OSPI found the District to have violated procedures regarding its use of restraint and isolation of the Student on February 21, 2019, the District has since met with the Parent to discuss

the incident and will be required to complete District level corrective actions to ensure that similar violations do not occur with the Student or other students in the future.

### **CORRECTIVE ACTIONS**

By or before **August 30, 2019** and **October 1, 2019**, the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

None.

#### **DISTRICT SPECIFIC:**

##### Written Guidance

The District will develop written guidance to be provided to the building level principal/building designees, which will address the appropriate use of restraint and isolation, the imminent likelihood of harm requirement, and follow up and reporting requirements. The guidance will include the following:

- Reviewing the incident with the student and the parent/guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response;
- 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; and,
- Protocol for ensuring that 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 guidance must also include the requirements of the written report, which must include, at a minimum:

- The name and job title of the individual who administered the restraint or isolation;
- A description of the activity that led to the restraint or isolation;
- The type of restraint or isolation used on the student, including the duration;
- Whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and,
- Any recommendations for changing the nature or amount of resources available to the student and staff members to avoid similar incidents.

The guidance must also include the principal or principal's designee duty to 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. The guidance will include examples.

By **August 30, 2019**, the District will provide OSPI with a draft of the written guidance. OSPI will approve the written guidance or provide comments by September 14, 2019, and provide additional dates for review, if needed.

By **October 1, 2019**, the District will provide OSPI with documentation showing that prior to October 1, 2019, the required staff members met to review the written guidance and have had an opportunity to ask questions. This will include a 1) sign-in sheet, and 2) a roster of who should have attended so OSPI can verify that staff have reviewed the guidance.

Substitute Protocols: The District proposed the following corrective action regarding substitute protocols, which OSPI has adopted:

By **August 30, 2019**, the District will provide OSPI with a copy of the following protocols and procedures for review.

- 1) Protocol for principals/building designee to ensure that all substitute teachers receive adequate orientation regarding their responsibilities in the procedures, documentation, and reporting of isolation and restraint. This substitute specific protocol will include the following:
  - Prior to absence, lesson plans should be created and distributed to all necessary team members and provided to the building principal.
  - Lesson plans created for substitutes must contain a plan for responding to escalated students (summary of behavior plan and expected staff responses to behavior), as well as IEP information taken from IEP at a glance.
  - Lesson plans will designate a lead paraeducator.
  - If escalation occurs with trained staff present in the classroom: Designated lead paraeducator will determine if restraint or isolation should occur based upon the student's individualized plan and the behaviors being demonstrated at that time.
  - If escalation occurs without trained staff present in the classroom: Substitute will call for assistance from Right Response trained staff in the building. If there is no one available in the building to assist, the building administrator/designee will be contacted.
  - Substitutes will complete the isolation and restraint form, notify the building administrator/designee and parent, and assist in de-briefing the incident per District policy. Building administrator/designee will meet with the substitute teacher personally prior to the start of the school day to review the above protocol.
  
- 2) Provide training to all principals whose schools house special education programs in the use of this protocol.

OSPI will review the protocols and procedures documentation by September 14, 2019 and will provide comments and additional dates for review, if needed.

By **October 1, 2019**, the District will provide OSPI with documentation that the protocols and procedures have been approved and adopted by the administration, including the date of approval. The District will also provide documentation that the protocol and procedures are posted to the District's inter-district website so that District staff members can easily access the information, and documentation that the procedures were provided to all relevant staff (principals/building designees, paraeducators, substitute teacher coordinator). The District will include a roster of the staff who should have received the District adopted procedures so OSPI can cross reference the list with the actual recipients.

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

Dated this \_\_\_\_ day of July, 2019

Glenna Gallo, M.S., M.B.A.  
Assistant Superintendent  
Special Education  
PO BOX 47200  
Olympia, WA 98504-7200

**THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT**

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