

47. On December 13, 2018, following the incident, Student 1 was taken to the hospital. The medical records document that Student 1 presented at the hospital "with concern of head injury. Patient has had frequent outbursts and escalation over the last week as they are trying to manage the child's medications. Patient currently resides at [group home]" and the Student "had an outburst and [was] escorted to seclusion room where patient was slamming her head on a steel door."
48. December 13, 2018 was Student 1's last day of class in the District and on December 17, 2018, the Student was officially unenrolled from the District.
49. The Parent, in his complaint, noted: "To the extent that restraint or isolation might have been warranted under the statute (which I also dispute), had restraint been used instead, that would have prevented the injuries caused by isolation."
50. On December 15, 2018, the Student and the Parent consulted with a social worker regarding potential neglect at the group home, and the Student was examined by a doctor related to injuries potentially sustained at the group home and as a result of being isolated on December 13, 2018.
51. On December 24, 2018, the Parent made a public records request to the District for records related to incidents involving restraint or isolation and Student 1.
52. On January 17, 2019, the District emailed the Parent copies of isolation and restraint reports and Student 1's transfer IEP and October 2018 IEP, pursuant to the Parent's record request.
53. On January 22, 2019, the Parent requested that the District correct errors he identified on the November 19, November 29, and December 13, 2018 restraint/isolation reports.
54. On February 1, 2019, the District provided the Parent with additional records in response to his records request.
55. On February 5, 2019, the Parent requested that the District correct an error he identified on the November 6, 2018 restraint/isolation report. The Parent requested the report "be corrected to say 'Both,' instead of just 'Restraint'. The narrative includes: 'The door was closed from 11:38-11:45.' That is pretty clearly Isolation, in addition to the Restraint that is already listed."
56. On February 12, 2019, the District provided the Parent with "corrected" isolation and restraint reports pursuant to his request on January 22, 2019. The District declined the Parent's February 5, 2019 request that the report state "both" and stated the following: "With respect to your request of February 5, 2019, to amend the reference in the isolation report dated November 6, 2018, from 'Restraint' to 'Both', upon review of the description of the incident, the District agrees to amend this record by replacing the word 'Both' with 'Isolation.'"

57. On February 25 and March 8, 2019, the Parent requested that the District correct further errors or missing information he identified on restraint/isolation reports related to Student 1. The Parent further stated on February 25, that based on the behavior observation forms there were "12 other isolation room incidents which are documented on the [behavior observation form] records provided, but which were NOT reported into the district's Restraint/Isolation Report computer system." The Parent stated that the District should prepare restraint/isolation reports for these incidents and correct reporting sent to OSPI.
58. The Parent provided copies of District work orders for the ABLE classroom's isolation room. The works orders indicated the following:
- December 7, 2018: "Repair bottom of door on time out room in special needs room it is bent."
 - December 7, 2018: "Repair lock on time out room in special needs room it is broken."
 - December 13, 2018: "Time out room is not latching."
 - December 17, 2018: "Time Out Room Doors of [ABLE rooms] need padding installed. Please confirm the current status of the rooms, it is not clear if one or both rooms will require the retrofit."

Isolation and Restraint

59. The District, in its response, stated that "staff consistently use isolation only when they have a reasonable fear of imminent harm."⁸ The District acknowledged that the District's isolation and restraint reporting form previously did not contain all of the required components, but has since been revised.
60. In its response, the District provided examples of training and professional development provided to District staff in October 2014, 2015, 2016, and 2018. These trainings covered topics such as the restraint and isolation regulations, examples from previous special education citizen complaint decisions, and positive behavior and de-escalation techniques. The District also stated, that prior to the end of the 2018-2019 school year all special education staff would receive training regarding the appropriate use of restraint and isolation, proper reporting, and appropriate interventions to reduce the need for restraint and isolation. This training was, in part, order in conjunction with SECC 19-05 and in was, in part, training the District was already planning. The District's training plan includes the following:

⁸ The District response noted one exception with regard to the school at issue in special education citizen complaint (SECC) 19-05. SECC 19-05 was opened for investigation on January 22, 2019 on four issues, including whether the District used isolation and/or restraint consistent with the requirements of WAC 392-172A-02110 during the 2018-2019 school year. A decision in SECC 19-05 was issued on March 19, 2019 and found that the District improperly restrained and isolated the student; the District did not always create a restraint or isolation report; District did not review each incident with the parent, the student, or the staff involved; and, the District's report did not contain all of the required elements. The decision found that the District did provide the parent with verbal notification within 24 hours and a written report within 5 business days, although the written report was missing required elements. OSPI ordered the District to amend its restraint/isolation report, and to develop a District wide training plan and conduct training.

- District is beginning training for all ABE and behavior teachers and staff using “Life Space Crisis Intervention Training” (de-escalation and reintegration training) and “Crisis Prevention Institute⁹ Training.” The District is using a “train the trainers” model, and the trainers have been trained. The trainers will begin training other staff in May 2019.
- District has a training scheduled on May 9, 2019 for ABE and behavior program teachers with a focus on the reduction of the use of restraint and isolation and alternatives. Training will be provided by an OPSI special education program supervisor and will be provided to teachers from the four schools with ABE classrooms and the 23 schools with behavior programs. The focus will be on elementary school teachers, but all secondary teachers are invited to attend.
- As required by SECC 19-05, the District will be conducting in-person training at the high school identified in this complaint and the elementary school identified in SECC 19-05. The District will also be providing written guidance training to all of the schools in the District. The in-person and written trainings will address the restraint and isolation regulations, discussion of imminent likelihood of serious harm, proper follow-up and reporting procedures, and the District’s updated form.

61. Based on the District’s documentation and phone interview with the associate director of special education, the restraint and isolation reports are entered into a central District database by the teacher who was involved in the restraint or isolation. When entering information about a restraint or isolation incident into the District’s database staff are provided the following instructions, in part:

- Enter the student and click “report restraint”;
- Contact “Parent/Guardian **within 24 hours of the incident**”, review the information that has been entered, complete fields for parent/guardian contact;
- “Create/Send a Letter **postmarked within 5 business days of the incident**”; and,
- Finalize the report when complete.

(Emphasis in original).

The written notification that is sent home is generate by the database. The database also generates an email to the District special education administrators, notifying them that a restraint or isolation occurred.

The associate director stated, for the purposes of the requirement that a written report be sent to the District within two business days, once the restraint/isolation report is entered into the database it is considered “sent” to the District. Unlike other districts, the school staff do not print out and send a paper copy of the report to the District office.

62. Regarding the requirement to review an incident with involved staff, the parent, and the student, the associate director stated these debriefs do occur—verbally—therefore, there is not necessarily documentation of the debrief. Staff are expected to discuss the incident with a student’s parent either by phone or in person and discuss the incident, what occurred, and antecedent behavior consequence (ABC) information related to the incident. The associate

⁹ Crisis Prevention Institute (CPI) is a training organization that specializes in the safe management of disruptive and assaultive behavior.

director stated that it is often more challenging to review with students for several reasons, including: a student may be non-verbal or a student may go home after an incident and discussing the incident the following day would re-escalate the student. However, the associate director stated the expectation is that incidents are reviewed with students, with the specifics of the discussion depending on the specific needs of a student.

The associate director stated staff debrief the incident, why it occurred, and what could have been done differently. There is not a set, planned time the staff debriefs occur, as it often depends on the incident, the needs of the student, and the needs of the other students in the classroom. Therefore, the associate director stated the timing of the debrief may often be in the moment, and there often is not documentation of the discussion.

63. In regard to Student 1, the associate director acknowledged the incidents were not reviewed with the Parent, but instead staff were debriefing with the group home. The associate director stated he was there, in person, for at least one conversation with the group home manager.
64. As an example of the District's restraint and isolation statistics, during the 2017-2018 school year the following numbers were reported:
- Elementary School 1: 177 restraint incidents (19 students restrained); 262 isolation incidents (18 students isolated)
 - Elementary School 2: 352 restraint incidents (26 students restrained); 469 isolation incidents (24 students isolated)
 - Elementary School 3: 182 restraint incidents (19 students restrained); 225 isolation incidents (20 students isolated)
 - Middle School: 23 restraint incidents (11 students restrained); 14 isolation incidents (2 students isolated)
 - Student 1's High School: 27 restraint incidents (12 students restrained); 46 isolation incidents (12 students isolated)

One elementary school reported higher numbers of restraints and isolations during the 2017-2018 school year and many schools had fewer or zero incidents. As part of the investigation, OSPI reviewed the District's statistics and requested all of the District's isolation and restraint reporting for two randomly selected months (May and October 2018) at a sample of schools—the three elementary schools and middle school listed above.

Elementary School 1

65. In May 2018, school 1 had 40 reported incidents involving isolation and/or restraint and in October 2018 had 29 reported incidents involving isolation and/or restraint. Some of the incidents involved students who had Section 504 plans.
66. Upon reviewing the incident reports, the following patterns emerged:

Self-Calming: There were several examples of incidents where it appeared a student chose to go to the isolation room or "safety room" to self-calm or per a student's "safety plan." For example:

- A student "per his safety plan put himself in safety room until he was calm."
- A student "ran aggressively into safety room, yelling he felt unsafe. When he calmed, staff opened door."
- A student "put self in safety room several minutes after teacher reminded him he could go there" and after "room cleared of students."
- Teacher asked a student if "he needed the safety room. [The student] yelled that he did and went in on his own, closing the door. When he calmed and said he was ready teacher opened door."
- A student in isolation room for 3 minutes after he "went into safety room, closing the door himself. When he calmed and knocked a few minutes later teacher immediately opened door."

Imminent likelihood of serious harm:¹⁰ There were examples of incidents in which isolation and/or restraint were used when there appeared to be no imminent likelihood of serious harm or where, based on the report, an isolation appeared to last longer than was necessary based on the harm described. For example:

- A student was isolated for 41 minutes after he targeted other students, "escalating them and creating an unsafe environment."
- Two-person restraint and 22-minute isolation after a student "began targeting specific students...creating an unsafe classroom."
- 17-minute isolation after a student "threatened to run when teacher took him to bathroom, came back to classroom targeting, grabbed teacher's arm when she attempted to block him from opening window again. Would not comply with any directions, or be safe."
- 14-minute isolation after a student "created an unsafe situation...screaming at another student for several minutes, escalating several students in the room. Making verbal threats."
- 4-minute restraint and isolation after a student was "wandering room, non-compliant, targeting students verbally escalating student and causing student to leave room."

There were also examples of incidents where restraint or isolation may have been appropriate. For example:

- A 6-minute restraint and isolation after a student "repeated hitting staff and slapped staff in the face."
- A 1-minute restraint as a student "tried to kick peer in the groin and then kicked staff in the crotch. Throwing items from peer desks across room."
- A 2-minute restraint to prevent a student from "eloping...down the hallway."
- A 5-minute restraint and isolation after a student "punched a peer, kicked two other peers. Spitting at staff."

¹⁰ For all the schools reviewed, there was some challenge determining from the incident reports whether some of the restraints and isolations were appropriate. This was largely due to a lack of detailed information and the use of general or vague terms to describe student behavior. Examples have been provided for each school based on what could be determined from the reporting. This will be discussed further in the conclusion.

There were also incidents that involved students throwing chairs, furniture, pencils, "objects," and school supplies.

Continuous visual monitoring or capable of releasing self from isolation: There were isolation reports that indicated the isolation door was closed and reports that indicated the isolation door was open. It is unclear, based on the reports, whether staff were able to visually monitor the student if the door was closed.¹¹

Review with parent, student, and staff: Based on the incident reports, there is no indication the incidents were reviewed with the parent or student to discuss and address the precipitating behavior and appropriateness of the response. There is also no indication the incidents were reviewed with staff members who administered the isolation or restraint to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

Inform building administrator: Based on the reports, the building administrator or administrator's designee appears to have been informed as often the author of the report or person contacting the parent is different than the staff person who administered the restraint or isolation.

Written report to District within two business days: Based on the incident reports, the incident reports were entered into the District's database the same day the incidents occurred. The written report contained the following information:

- Date and time of incident: Consistently included.
- Name, job title: Reports inconsistently included the job title.
- Description of activity that led to restraint or isolation: Consistently included.
- Type of restraint or isolation: Consistently included.
- Duration: Consistently included.
- Injury and medical care provided: Consistently included.
- Recommendations for changing resources available to the student and staff: "Field not available until 1/8/19."

Inform the parent with 24 hours: Based on the incident reports, the District consistently called and spoke with, called and left a message, or spoke with parents in person to verbally notify them of an incident within 24 hours. There were a few incident reports where the District notified group home staff instead of a parent.

Written notification to the parent within 5 business days: Based on the incident reports, the District sent the majority of the written notifications to parents within 5 business days. There were a few reports that indicated written notification was sent more than 5 business days later. Several of the incident reports from October 10, 2018 noted that there was a delay

¹¹ Based on the documentation, the isolation room in the ABLE classroom at the high school had a window in the door which would allow for visual monitoring. It is not clear whether the isolation rooms look the same at all schools in the District.

in reporting due to an unrelated staff emergency absence. The written notification sent to parents was a form letter that stated an incident occurred and the date/time. The written notification provided no other details about the incident.

67. Documentation in the complaint indicates that staff administering restraint or isolation were trained and certified by a qualified provider.

Elementary School 2

68. In May 2018, school 2 had 102 reported incidents involving isolation and/or restraint and in October 2018 had 56 reported incidents involving isolation and/or restraint. A number of the reports were incidents involving students with Section 504 plans, and one incident involved a general education student.

69. Upon reviewing the incident reports, the following patterns emerged:

Imminent likelihood of serious harm: There were examples of incidents in which isolation and/or restraint were used when there appeared to be no imminent likelihood of serious harm or where, based on the report, an isolation appeared to last longer than was necessary based on the harm described. For example:

- An hour and 29-minute restraint and isolation after a student “was repeatedly kicking staff.”
- A 40-minute restraint and isolation because a student was “repeatedly kicking staff and attempting to destroy music materials.”
- A 5-minute restraint and isolation because a student was “threatening other student, posturing.”
- A 20-minute isolation after a student “flipped large table in the direction of others.”
- An 11-minute restraint and isolation because a student was “repeatedly throwing items/materials at staff.”
- A 14-minute isolation because a student was “hitting table, instigating others into arguments.”
- A 13-minute isolation because a student was “antagonizing others, cursing and threatening teachers and staff.”
- A 45-minute isolation because a student was “repeatedly spitting on staff.”
- A 10-minute isolation because a student was “threatening others.”
- A 28-minute isolation because a student “tipped desk [and was] bullying other students.”
- A 23-minute isolation because a student “threw markers in the directions of others, posturing.”
- 15-minute restraint and isolation after a student “broke and threw pencil hitting another student.”
- A 7-minute isolation because a student “had been running around the classroom, not following directions, and disrupting other students.”
- A 2-minute restraint because a student “would not leave the cafeteria, and as he was moved, he kept dragging his feet so a rear 2 person hold was used to escort into the classroom.”

There were examples of restraints and isolations for students who threw glasses, chairs, “objects,” books, pencil box, and markers; and where restraint or isolation may have been appropriate. For example:

- A 2-minute restraint as a student was "jumping on and off furniture and attempting to elope while outside."
- A 5-minute isolation because a student "flipped desk, overhand threw chair in the direction of other students."
- A 12-minute isolation because a student "tipped desk in the direction of other students, tipped multiple desks in the direction of teacher, threatening staff."
- An 11-minute restraint and isolation when a student "repeatedly punching staff with closed fists."
- A 3-minute restraint because a student "wrapped sweatshirt around neck, hitting and kicking at staff, threatening to kill self."
- A 5-minute restraint because a student was "trying to injure self, threatening to kill self."
- A 1-minute restraint because a student was "running around class, banging on cabinets, ripping papers, trying to throw things at teacher. Blocking student, he begins to kick, scratch, and hit the teacher repeatedly. Asked to take a break in safety room. Escort to safety room, door remained open."
- 1-minute restraint as a student "ran off school grounds."

Self-Calming: There were a few examples of incidents where it appears the student chose to go into the isolation room or "safe room," potentially as choice to self-calm. For example: Student "self-selected the safety room."

Continuous visual monitoring or capable of releasing self from isolation: There were isolation reports that indicted the isolation door was closed and reports that indicated the isolation door was open.

Review with parent, student, and staff: Based on the incident reports, there is no indication the incidents were reviewed with the parent or student to discuss and address the precipitating behavior and appropriateness of the response. There is also no indication the incidents were reviewed with staff members who administered the isolation or restraint to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

Inform building administrator: Based on the incident reports, the building administrator or administrator's designee appears to have been informed.

Written report to District within two business days: Based on the incident reports, the incident report was entered into the District's data base the same day the incidents occurred. The written report contained the following information:

- Date and time of incident: Consistently included.
- Name and job title: Almost all the reports included the staff persons job title.
- Description of activity that led to restraint or isolation: Consistently included.
- Type of restraint or isolation: Consistently included.
- Duration: Consistently included.
- Injury and medical care provided: Consistently included.
- Recommendations for changing resources available to the student and staff: "Field not available until 1/8/19."

Inform the parent with 24 hours: Based on the incident reports, the District consistently called and spoke with, called and left a message, or spoke with parents in person to verbally notify them of an incident within 24 hours.

Written notification to the parent within 5 business days: Based on the incident reports, the District sent the majority of the written notifications (form letter) to parents within 5 business days.

70. Documentation in the complaint indicates that staff administering restraint or isolation were trained and certified by a qualified provider.

Elementary School 3

71. In May 2018, school 3 had 53 reported incidents involving isolation and/or restraint and in October 2018 had 75 reported incidents involving isolation and/or restraint.

72. Upon reviewing the incident reports, the following patterns emerged:

Imminent likelihood of serious harm: There were examples of incidents in which isolation and/or restraint were used when there appeared to be no imminent likelihood of serious harm or where, based on the report, an isolation appeared to last longer than was necessary based on the harm described. For example:

- A restraint and 32-minute isolation after a student "tried to stab teacher with a pencil."
- A two-person escort and 45-minute isolation after a student "hit and kicked teacher."
- A two-person escort and 30-minute isolation after a student "ran out of building off campus, kicking staff."
- A three-person escort and a 30-minute isolation after a student "kicked teacher in leg, picked up chair to throw."
- A three-person restraint and 50-minute isolation after a student "threw shoe at another student's head."
- A three-person escort and 56-minute isolation after a student "hit, kicked, pinched, stomped on feet of staff."
- A restraint and hour and 16-minute isolation after a student "was throwing school tools at teachers and running around classroom."
- A 22-minute isolation after a student "entered safe room, then started pounding on door and screaming. Staff closed door."
- A restraint and 25-minute isolation after a student was "running around the room, jumping from table top to table top, over chair."
- A restraint and 44-minute isolation after a student "pushed and kicked teacher."
- A restraint and 28-minute isolation after the student "came up behind teacher and hit teacher."

There were examples of restraints and isolations for students who threw school supplies, such as a binder, books, markers, pencils, food, and a pencil sharpener; and restraints and isolations for students who kicked teachers, kicked "stuff around classroom," hit staff, and pushed staff.

There were also examples of incidents where students threw larger objects such as chairs, desks, and tables; and where restraint or isolation may have been appropriate. For example:

- A restraint and isolation after a student "threw a metal chair, striking staff."
- A 17-minute isolation after a student "attempted to push staff away from exit, then punched the wall and broke drywall."
- A three-person restraint and 44-minute isolation after student "began cussing, biting staff, and slammed teacher hand in door...urinated and defecated, smearing the walls, window and floor."
- A 15-minute two-person escort and isolation after a student "was standing on chairs, kicking walls, tried to elope from classroom, shoved and kicked teacher."
- A 6-minute restraint when a student "pushed staff, kicked staff, came at teacher punching and hitting."
- A 5-minute restraint after a student was "running around school, hitting and kicking staff."
- A restraint and 28-isolation after a student began "tipping over chairs, hitting self in the head with chair forcefully, leaving red marks."
- A restraint and 12-minute isolation after the student "eloped from classroom, pounding hole in the wall with hammer from fire extinguisher."

Self-Calming: There are examples of incidents where it appears the student chose to go into the isolation room or "safe room," potentially as choice to self-calm. For example:

- A student "entered safe room and closed the door" after the student "threw a container of pencils and shoved body into teacher."
- A student "placed self in safe room refused to let staff keep open the door" after the student "refused to follow direction."
- A student "ran into the safe room and closed the door" after the student "attempted to leave classroom and shoved staff backwards causing injury."
- A student "rolling on floor, yelling...slithered over to safe room and entered. He eventually closed the door after 10 minutes."

Continuous visual monitoring or capable of releasing self from isolation: There were isolation reports that indicted the isolation door was closed and reports that indicated the isolation door was open.

Review with parent, student, and staff: Based on the incident reports, there is no indication the incidents were reviewed with the parent or student to discuss and address the precipitating behavior and appropriateness of the response. There is also no indication the incidents were reviewed with staff members who administered the isolation or restraint to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

Inform building administrator: Based on the incident reports, the building administrator or administrator's designee appears to have been informed.

Written report to District within two business days: Based on the incident reports, the incident report was entered into the District's data base the same day the incidents occurred. The written report contained the following information:

- Date and time of incident: Consistently included.

- Name and job title: Reports inconsistently included the staff persons job title.
- Description of activity that led to restraint or isolation: Consistently included.
- Type of restraint or isolation: Consistently included.
- Duration: Consistently included.
- Injury and medical care provided: Consistently included.¹²
- Recommendations for changing resources available to the student and staff: "Field not available until 1/8/19."

Inform the parent with 24 hours: Based on the incident reports, the District consistently called and spoke with, called and left a message, or spoke with parents in person to verbally notify them of an incident within 24 hours. Some incident reports noted that the notification calls were made to a "case manager."

Written notification to the parent within 5 business days: Based on the incident reports, the District sent the majority of the written notifications (form letter) to parents within 5 business days. There were a few reports that indicated written notification was sent more than 5 business days later.

73. Documentation in the complaint indicates that staff administering restraint or isolation were trained and certified by a qualified provider.

Middle School

74. In May 2018, the middle school had 15 reported incidents involving isolation and/or restraint and in October 2018 had 13 reported incidents involving isolation and/or restraint.
75. Upon reviewing the incident reports, the following patterns emerged:

Imminent likelihood of serious harm: There were examples of incidents in which isolation and/or restraint were used when there appeared to be no imminent likelihood of serious harm or where, based on the isolation report, the isolation appeared to last longer than was necessary based on the harm described. For example:

- A 4-minute restraint when a student "became escalated when working on his writing assignment. He physically aggressed towards staff and could not be redirected."
- A 10-minute restraint and isolation when a student was "disrespectful to one of the paras. When asked to come and talk about it, he became aggressive. He was unresponsive to redirection."
- A 4-minute restraint and 13-minute isolation after a student had a "behavioral outburst...tried to run away from the class. I stepped in front of [the student] and he punched me. [Staff] and I took [the student] to the floor using Right Response techniques and restrained [the student] from 1430-1434."
- A 17-minute isolation after a student "convinced another student that they 'didn't need to listen to staff' and the [sic] ran away from class. The SRO escorted them back to class, where [the student] went through my desk, and verbally provoked staff and students."

¹² There was one report for school 3 that indicated a staff person was injured, but does not describe the injury or whether medical care was provided.

- A 10-minute restraint and isolation after a student “put his lunch down in the classroom and ran away from class. [Staff] and I tracked him down and physically escorted him into the timeout room.”
- A restraint and 38-minute isolation after a student “ran away from the rest of the class. [Staff] tracked him down and put him in timeout in accordance with [the Student’s] BIP.”
- A 3-minute isolation after a student was redirected and “threw the iPad, his daily schedule, and other items. [The student] was verbally redirected into the timeout room to settle down and he started kicking people.”
- A 7-minute isolation after a student “became aggressive and was unresponsive to redirect. He was moved to isolation to calm.”

And, there were examples where restraint or isolation may have been appropriate:

- An 8-minute restraint when a student “became escalated when asked to play kickball during PE. He began headbutting, kicking, and scratching at staff.”
- A 2-minute restraint after a student “eloped across the street into a neighbors yard and was unresponsive to redirect. For safety reasons it was necessary to escort him back to campus.”
- A 6-minute isolation after staff “prompted [a Student] again to take a break in an appropriate area he began hitting, biting, scratching, and kicking at staff. Staff then escorted [the Student] back to the safety room for safety purposes. After 6 minutes the door was opened and contingencies were reset.”

Continuous visual monitoring or capable of releasing self from isolation: There were isolation reports that indicted the isolation door was closed and reports that indicated the isolation door was open.

Review with parent, student, and staff: Based on the incident reports, there is no indication the incidents were reviewed with the parent or student to discuss and address the precipitating behavior and appropriateness of the response. There is also no indication the incidents were reviewed with staff members who administered the isolation or restraint to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

Inform building administrator: Based on the incident reports, the building administrator or administrator’s designee appears to have been informed.

Written report to District within two business days: Based on the incident reports, the incident report was entered into the District’s data base the same day the incidents occurred.

The written report contained the following information:

- Date and time of incident: Consistently included.
- Name and job title: Reports inconsistently included the staff persons job title.
- Description of activity that led to restraint or isolation: Consistently included.
- Type of restraint or isolation: Consistently included.
- Duration: Consistently included.
- Injury and medical care provided: Consistently included.
- Recommendations for changing resources available to the student and staff: “Field not available until 1/8/19.”

Inform the parent with 24 hours: Based on the incident reports, the District consistently called and spoke with, called and left a message, or spoke with parents in person to verbally notify them of an incident within 24 hours. Some incident reports noted that the notification calls were made to a “program manager.”

Written notification to the parent within 5 business days: Based on the incident reports, the District sent the majority of the written notifications (form letter) to parents within 5 business days. There were a few reports that indicated written notification was sent more than 5 business days later.

76. The restraint and isolation reports from the middle school indicate that staff administering restraint and isolation had receive “Right Response” training.

CONCLUSIONS

Issue 1: Isolation and Restraint – The Parent alleged the District improperly used isolation and restraint, in that the District: used isolation when there was no imminent likelihood of serious harm; because the District administered isolation in a manner that was harmful to students; and, because the District restrained or isolated Student 1 without the Parent’s written approval. The Parent also alleged that the District failed to follow the required follow-up and reporting procedures.

Isolation means restricting a student alone within a room or enclosure, from which the student may not leave. Restraint is the use of physical intervention or force used to control a student or restrict the student’s freedom of movement.

Appropriate Use of Isolation and Restraint

Imminent Likelihood of Serious Harm: Isolation or restraint may only be used when a student’s behavior poses an imminent likelihood of serious harm. Isolation and restraint must be discontinued as soon as the likelihood of serious harm has dissipated. Likelihood of serious harm means there is a substantial risk physical harm will be inflicted by a person on his or her own person, physical harm will be inflicted upon another person, or physical harm will be inflicted upon property.

After reviewing isolation/restraint reports for several other schools in the District, OSPI notes several points of concern. Here, it appears the District is overusing isolation—both using isolation when there is no serious likelihood of harm and isolating students longer than necessary. All of the schools reviewed had incident reports where the description of what occurred did not support that there was an imminent likelihood of serious harm, for example:

- Vague descriptions of harm: targeting students, creating an unsafe environment, not being safe, being escalated, wandering, or posturing;

separated and calmed the student and Student 1. The incident report stated they would move seats for the other student and Student 1, and the bus attendant recommended that in future the students be on separate bus routes. The next school day, the assistant principal emailed the Parent regarding the incident.

In its response, the District stated it was unaware of the Parent's concerns regarding transportation and safety following the November 16, 2018 incident, and thus did not respond to those safety concerns. The District stated it was not aware of the bus attendant's recommendations until the exhibits were received as part of this complaint.

Here, the Parent did not clearly express concern or request an IEP meeting immediately following the incident on the bus. His email in response to the assistant principal stated he thought he knew who the other student was, and that the following year it would be better to have Student 1 in a different classroom than the other student. It appears the Parent developed concerns about the bus incident, the District's response to the incident, and the assistant principal's email later—perhaps when viewed in context of the other incidents involving Student 1 (isolation incidents). Therefore, OSPI finds that as the Parent did not clearly articulate concerns, the District did not fail to respond to the Parent.

However, despite the fact that the Parent did not initially articulate a concern or request a meeting, OSPI finds it concerning that the District stated it was not aware of the recommendations from the bus attendant until receipt of the Parent's complaint. Here, it likely would have been appropriate to attempt to separate the other student and Student 1 (based on the incident on the bus and incidents in the classroom)—although, this is a discussion that both the other student and Student 1's IEP team should have had. Further, the assistant principal was clearly aware of the details of the incident, so it is unclear why the assistant principal was not aware of the incident report or why he took no further action. OSPI recommends that the District ensure it has a procedure for receiving and reviewing incident reports from the bus company, and then communicating recommendations to the appropriate District staff for potential action.

Issue 5: IEP Amendment Regarding Transportation – The Parent alleged that while Student 1's transfer IEP (October 2017 IEP) included special transportation, the District's October 2018 IEP did not include "a single word about transportation services." The Parent stated, regardless of the alleged failure to amend the IEP, the District did provide transportation services. If an IEP team determines a student needs transportation as a related service, a student's IEP must describe the "special transportation" arrangements.

The Student's October 2017 transfer IEP stated the Student received special transportation, which included "wear safety vest on school bus to and from school" and provided 300 minutes weekly "additional adult support (paraeducator, general education setting) (...provided to latch and unlatch student safety vest to the bus seat and monitor behavior on the bus)" The Student's October 2018 IEP stated the Student "required special transportation" and provided the Student with 1800 minutes of 1:1 paraeducator support per week.

material will be included in the written training required in SECC 19-05. Please refer to OSPI's letter dated May 10, 2019, regarding the SECC 19-05 training plan and required reporting dates.

Reporting Database & Parent Letter

By or before **June 14, 2019**, the District will update its restraint/isolation reporting database to include a field(s) for staff to note in the database that the required review with parent and student has occurred, per the requirement to review 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. OSPI strongly recommends that the database also include a field to note that the review with staff has also occurred, per the requirement to review the incident with the staff member(s) 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 database should allow staff to note when the review discussions occurred, who participated, and any notes. For example, notes from the discussion could be included in the existing "recommendations for change" section.

By or before **June 21, 2019**, the District will provide OSPI with an example of an incident report showing the new reporting fields.

By or before **June 14, 2019**, the District will update its parent written notification letter template to include all of the elements required in RCW 28A.600.485. The District may also choose to retain the existing cover letter template and also include a copy of the report from the District's restraint/isolation database containing all the required elements with each letter sent to parents.

By or before **June 21, 2019**, the District will provide OSPI with a copy of the District's new parent written notification letter, or letter and report.

IEP Language

By or before **June 14, 2019**, as proposed by the District, the District will amend its template IEP language as follows:

Within 24 hours following the use of restraint, isolation, or other forms of reasonable physical force with the student, the administrative designee will make a reasonable effort to verbally inform the student's parent or guardian of the incident. The administrative designee will also send written notification of the incident to the student's parent or guardian as soon as practical, and no later than 5 business days after restraint, isolation, or other forms of reasonable physical force has been used with the student.

By or before **June 21, 2019**, the District will provide OSPI with a copy of one student's IEP *per school* in the District (the District may select the student at each school) reflecting the inclusion of this new language. The District will also provide documentation from each student's IEP meeting

reflecting that the parent was provided a copy of the District's restraint and isolation policy and procedures.

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.

RECOMMENDATION

Based on the incident that occurred on the bus between Student 1 and another student, it is concerning that the District did not know about the incident report and recommendations made by the bus company. It is also concerning that the District took no further action to address the conflict between Student 1 and the other student on the bus, including positive behavior interventions. OSPI strongly recommends that the District ensure it has a procedure for receiving and reviewing incident reports from the bus company, and then communicating recommendations to the appropriate District staff for potential action.

Dated this ____ day of May 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.)