

**SANTA CLARA COUNTY  
NORTH WEST SPECIAL EDUCATION LOCAL PLAN AREA**

**EMERGENCY INTERVENTION BEHAVIOR POLICY**

The Santa Clara County SELPAs recognize that the state has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions. Further, the Santa Clara County SELPAs recognize that some school-age individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both. Research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports to address the learning and behavioral needs of those children, and that procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under the law or those that cause pain or trauma.

It is the intent of this policy that:

1. Children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the Individuals with Disabilities Education Act (IDEA) and its implementing regulations.
2. Assessments and positive behavioral interventions and supports be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education.
3. When behavioral interventions, supports, and other strategies are used, they be used in consideration of the pupil's physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil's right to placement in the least restrictive educational environment.
4. Behavioral intervention plans be developed and used, to the extent possible, in a consistent manner when the pupil is also the responsibility of another agency for residential care or related services.
5. Training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

In the case of a child whose behavior impeded the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the Unified States Code and associated federal regulations.

**Definitions**

- Behavioral restraint includes mechanical restraint or physical restraint used as an intervention when a student presents an immediate danger to self or to others. Behavioral restraint does not include postural restraints or devices used to improve a student's mobility and independent functioning rather than to restrict movement. (Education Code 49005.1)
- Mechanical restraint means the use of a device or equipment to restrict a student's freedom of movement. Mechanical restraint does not include the use of devices as prescribed by an appropriate

medical or related service professional, including, but not limited to, adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment; vehicle safety restraints during the transport of a student; restraints for medical immobilization; or orthopedically prescribed devices which permit a student to participate in activities without risk of harm. Mechanical restraint also does not include the use of devices by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)

- Physical restraint means a personal restriction that immobilizes or reduces the ability of a student to move the torso, arms, legs, or head freely. Physical restraint does not include a physical escort in which a staff member temporarily touches or holds the student's hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location. Physical restraint also does not include the use of force by peace officers or security personnel for detention or for public safety purposes. (Education Code 49005.1)
- Prone restraint means the application of a behavioral restraint on a student in a facedown position. (Education Code 49005.1)
- Seclusion means the involuntary confinement of a student alone in a room or an area from which the student is physically prevented from leaving. Seclusion does not include a timeout involving the monitored separation of the student in an unlocked setting, which is implemented for the purpose of calming the student. (Education Code 49005.1)

### **Emergency Interventions**

Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior. Emergency interventions shall not include an amount of force that exceeds that which is reasonable and necessary under the circumstances.

Emergency interventions, including seclusion and/or a behavioral restraint, may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

No emergency intervention shall be employed for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

Staff shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.

### **Prohibited Interventions**

Staff shall avoid the use of seclusion and behavioral restraint of students whenever possible. Seclusion and behavioral restraint of students shall not be used in any form as a means of coercion, discipline, convenience, or retaliation. (Education Code 49005.8).

A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

1. Administer a drug that is not a standard treatment for a student's medical or psychiatric condition in

order to control the student's behavior or restrict the student's freedom of movement

2. Use locked seclusion unless it is in a facility otherwise licensed or permitted by state law to use as a locked room.
3. Use a physical restraint technique that obstructs a student's respiratory airway or impairs a student's breathing or respiratory capacity, including a technique in which a staff member places pressure on the student's back or places his/her body weight against the student's torso or back
4. Use a behavioral restraint technique that restricts breathing, including, but not limited to, the use of a pillow, blanket, carpet, mat, or other item to cover a student's face
5. Place a student in a facedown position with the student's hands held or restrained behind the student's back
6. Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others.
7. Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.
8. An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.
9. An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.
10. An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.
11. Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment.
12. An intervention that precludes adequate supervision of the individual.
13. An intervention that deprives the individual of one or more of his or her senses.

#### **Limited Use of Seclusion or Restraint**

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

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

If a student is restrained, staff shall afford the student the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the student and others. (Education Code 49005.8) Another staff member who is not involved in the restraint must be present and shall be responsible for monitoring the well-being of the student.

#### **Behavior Emergency Reports**

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention, including seclusion and/or a behavioral restraint is used, or

serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all the following:

1. The name and age of the individual with exceptional needs.
2. The setting and location of the incident.
3. The name of the staff or other persons involved.
4. A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.
5. Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

#### **Use of Board-Certified Behavior Analyst**

A person recognized by the national Behavior Analyst Certification Board as a Board-Certified Behavior Analyst may conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

A district, special education local plan area, or county office is not required to use a Board-Certified Behavior Analyst to conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

Nothing in this policy prohibits a SELPA member Local Education Agency (LEA) from prohibiting additional behavioral interventions through the LEA's own board policies/administrative regulations.

*Approved by Executive Council:*

SELPA I	5/22/2008	10/16/2014	04/22/21
SELPA II	5/23/2008	10/17/2014	04/23/21
SELPA III	5/22/2008	10/16/2014	05/06/21
SELPA IV	5/19/2008	10/15/2014	04/23/21
SELPA VII	5/19/2008	10/15/2014	04/21/21