3301-35-15 Standards for the implementation of positive behavior intervention supports and the use of restraint and seclusion.

(A) Notwithstanding rule 3301-35-01 of the Administrative Code, the following definitions apply for purposes of this rule:

(1) "Aversive behavioral interventions" means an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as application of noxious, painful and/or intrusive stimuli, including any form of noxious, painful or intrusive spray, inhalant or taste or other sensory stimuli such as climate control, lighting and sound.

(2) "Behavior Intervention Plan" means a comprehensive plan for managing problem behavior by changing or removing contextual factors that trigger or maintain it, by strengthening replacement skills, teaching new skills and by providing positive behavior intervention and supports and services to address behavior.

(3) "Chemical restraint" means a drug or medication used to control a student's behavior or restrict freedom of movement. Chemical restraint is prohibited by school districts in accordance with paragraph ~~(D)~~(C) of this rule. Chemical restraint, as used under this rule, does not apply to a drug or medication that is:

(a) Prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under Ohio law, for the standard treatment of a student's medical or psychiatric condition; and

(b) Administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under Ohio law.

(4) "De-escalation techniques" means interventions that are used to prevent violent and aggressive behaviors and reduce the intensity of threatening, violent and disruptive incidents.

(5) "Functional Behavior Assessment" is a school-based process for students with disabilities and students without disabilities that includes the parent and, as appropriate, the child, to determine why a child engages in challenging behaviors and how the behavior relates to the child's environment. Consent from the parent and, as appropriate, the child, is to be obtained at the initial functional behavior assessment.

(6) "Mechanical restraint" means any method of restricting a student's freedom of movement, physical activity, or normal use of the student's body by using an appliance or device manufactured for this purpose; but does not mean a device used by trained student personnel, or used by a student, for the specific and approved therapeutic or safety purpose for which the device was designed and, if applicable, prescribed, including:

(a) Restraints for medical immobilization;

(b) Adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(c) Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

(7) "Parent" means:

(a) A biological or adoptive parent;

(b) A guardian generally authorized to act as the child's parent, or authorized to make decisions for the child (but not the state if the child is a ward of the state);

(c) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare;

(d) A surrogate parent who has been appointed in accordance with paragraph (E) of rule 3301-51-05 of the Administrative Code; or

(e) Any person identified in a judicial decree or order as the parent of a child or the person with authority to make educational decisions on behalf of a child.

(8) "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, waist, hip, or back for the purpose of inducing a student to move to a safe location.

(9) "Physical restraint" means the use of physical contact in a way that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint. Physical restraint does not include brief physical contact for the following or similar purposes:

(a) To break up a fight;

(b) To knock a weapon away from a student's possession;

(c) To calm or comfort;

(d) To assist a student in completing a task/response if the student does not resist the contact; or

(e) To prevent imminent risk of injury to the student or others.

(10) "Positive behavior intervention and supports" has the same meaning as in section 3319.46 of the Revised Code.

~~(11) "Positive Behavior Intervention and Supports leadership team" means the assigned team at the district and building level that plans, coaches and monitors positive behavior intervention and supports implementation in the district and building. Positive behavior intervention and supports leadership teams may include, but are not limited to, school administrators, teacher representatives across grade levels and programs, staff able to provide behavioral expertise, and other representatives identified by the district or school such as bus drivers, food service staff, custodial staff, and paraprofessionals.~~

~~(12)~~ "Prone restraint" means physical or mechanical restraint while the individual is in the face-down position.

~~(13)~~(12) "School district" means a local, exempted village, city, joint vocational or cooperative education school district as defined in Chapter 3311. of the Revised Code; an educational service center that operates a school or educational program; a community school as defined in Chapter 3314. of the Revised Code; a science, technology, engineering, and mathematics school as defined in Chapter 3326. of the Revised Code; or a college-preparatory boarding school as defined in Chapter 3328. of the Revised Code. For purposes of this rule, the term does not include schools operated in facilities under the jurisdiction of the department of rehabilitation and corrections or the department of youth services.

~~(14)~~(13) "Seclusion" means the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.

~~(15)~~(14) "Student" means an individual enrolled in a school district.

~~(16)~~(15) "Student personnel" means teacher, principal, counselor, social worker, school resource officer, ~~teacher's~~ instructional aide, psychologist, bus driver, related services providers, nursing staff, or other school district staff who interact directly with students.

~~(17) "Timeout" means a behavior intervention in which a student, for a limited and specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior. In a timeout, the student is not physically restrained or prevented from leaving the area by physical barriers.~~

(B) Positive behavior intervention and supports framework. Each school district shall implement positive behavior intervention and supports on a system-wide basis in accordance with section 3319.46 of the Revised Code and this rule as part of an integrated multi-tiered system of supports.

(1) The requirements for a district's implementation of ~~a positive behavior intervention and supports framework are as follows~~ an integrated multi-tiered system of supports that include the following student learning components:

(a) ~~Includes a~~ Data-based decision-making ~~framework that guides selection, integration, and implementation of evidence-based academic and behavior practices for improving academic and behavior outcomes for all students~~ through implementation of a proactive, systematic process of collecting, analyzing, and using forms of data such as screening, progress monitoring, and other methods to inform student needs and allocate resources at the individual, classroom, building, and system levels.

~~(b) Includes the following integrated elements:~~

~~(i)~~(b) ~~Data-based decision making (to select, monitor, and evaluate outcomes, practices, and systems)~~ Universal screening;

~~(ii)~~(c) Evidence-based practices along a multi-tiered continuum of supports;

~~(iii)~~(d) ~~Systems that enable accurate and sustainable implementation of practices~~ Team-based problem solving; and

~~(iv)~~(e) Progress monitoring for fidelity and target outcomes.

(2) Standards for a school district's implementation of ~~positive behavior intervention and supports framework~~ an integrated multi-tiered system of supports include the following adult implementation components:

(a) ~~Student personnel to receive professional development in accordance with paragraph (C) of this rule;~~ Shared leadership. A collaborative approach to the implementation of the integrated multi-tiered system of supports including infrastructure, professional development, and processes for monitoring effective positive behavior intervention and supports that include ongoing coaching and refining.

(b) ~~Explicit instruction of school-wide behavior expectations;~~ Professional capacity. The professional knowledge, skills, and practices of all student personnel to understand the rationale for and application of integrated multi-tiered system of supports and implementation of high-quality instructional materials, evidence and research-based positive behavior interventions and supports.

(c) ~~Consistent systems of acknowledging and correcting behaviors;~~ Communication and collaboration. Processes to promote and support engagement and shared responsibility among students, families, and student personnel including explicit communication of school-wide behavior expectations, behavior systems, and ongoing involvement in problem-solving and decision-making.

~~(d) Teaching environments designed to eliminate behavior triggers; and~~

~~(e) Family and community involvement.~~

(C) ~~Professional development for the implementation of positive behavior intervention and supports. The following are requirements for professional development to be received by~~

~~student personnel to implement positive behavior intervention and supports on a system-wide basis:~~

~~(1) Occurs at least every three years;~~

~~(2) Provided by a building or district positive behavior intervention and supports leadership team or an appropriate state, regional, or national source in collaboration with the building or district positive behavior intervention and supports leadership team;~~

~~(3) The trained positive behavior intervention and supports leadership team will provide professional development to the school or district in accordance with a district developed positive behavior intervention and supports training plan. It's the district's responsibility to retain records of completion of the professional development; and~~

~~(4) The professional development under this rule will include the following topics:~~

~~(a) An overview of positive behavior intervention and supports;~~

~~(b) The process for teaching behavioral expectations;~~

~~(c) Data collection;~~

~~(d) Implementation of positive behavior intervention and supports with fidelity;~~

~~(e) Consistent systems of feedback to students for acknowledgment of appropriate behavior and corrections for behavior errors; and~~

~~(f) Consistency in discipline and discipline referrals.~~

~~(5) For the purpose of satisfying the professional development requirements of this rule, the district may accept any professional development or continuing education provided in accordance with division (B) of section 3319.237 of the Revised Code, as long as the professional development or continuing education meets the professional development requirements of paragraph (C)(4) of this rule.~~

~~(6) Districts and schools are to ensure that they have continuous training structures in place to provide ongoing coaching and implementation with fidelity.~~

~~(7) The listed requirements may be appropriately modified for the intended audience.~~

~~(D)~~ General rules for restraint and seclusion.

(1) The following practices are prohibited by student personnel under any circumstance:

(a) Prone restraint;

(b) Any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that:

(i) Involves the use of pinning down a student by placing knees to the torso, head, or neck of the student;

(ii) Uses pressure point, pain compliance, or joint manipulation techniques; or

(iii) Otherwise involves techniques that are used to unnecessarily cause pain.

(c) Corporal punishment as defined in section 3319.41 of the Revised Code;

(d) Child endangerment, as defined in section 2919.22 of the Revised Code;

(e) Deprivation of basic needs;

(f) Seclusion or restraint of preschool children in violation of paragraph (D) of rule 3301-37-10 of the Administrative Code and this rule;

(g) Chemical restraint;

(h) Mechanical restraint;

(i) Aversive behavioral interventions; and

(j) Seclusion in a locked room or area.

(2) A school district may only use physical restraint or seclusion if staff:

(a) Are appropriately trained to protect the care, welfare, dignity, and safety of the student;

(b) Continually observe the student in restraint and seclusion for indications of physical or mental distress and seek immediate medical assistance if there is a concern;

(c) Use communication strategies and research-based de-escalation techniques in an effort to help the student regain control;

(d) Remove the student from physical restraint or seclusion immediately when the immediate risk of physical harm to self or others has dissipated;

(e) Conduct a de-briefing including all involved staff to evaluate the trigger for the incident, staff response, and methods to address the student's behavioral needs; and

(f) Complete all mandatory reports and document staff's observations of the student.

~~(E)~~(D) Physical restraint.

(1) Prone restraint, including any physical restraint that obstructs the airway of the student, or any physical restraint that impacts a student's primary mode of communication, is prohibited. A statement to this effect is to be included in the school district's policy. Student personnel may use physical restraint only as a last

resort and in accordance with local policy and the requirements of this rule.

(2) Physical restraint may be used only:

(a) If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective method of intervention is available;

(b) If the physical restraint does not obstruct the student's ability to breathe;

(c) If the physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication; and

(d) By student personnel who are trained in safe restraint techniques, except in the case of rare and unavoidable emergency situations when trained personnel are not immediately available.

(3) Physical restraint may not be used for punishment or discipline or as a substitute for other less restrictive means of assisting a student in regaining control.

~~(F)~~(E) Seclusion

(1) Seclusion may be used only:

(a) If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective method of intervention is available;

(b) As a last resort to provide an opportunity for the student to regain control of his or her actions;

(c) For the minimum amount of time necessary for the purpose of protecting the student and others from physical harm;

(d) In a room or area that:

(i) Is not locked;

(ii) Does not prevent the student from exiting the area should staff become incapacitated or leave the area; and

(iii) Provides adequate space, lighting, ventilation, and the ability to observe the student; and

(e) If under constant supervision by staff who are trained to be able to detect indications of physical or mental distress that require removal and/or immediate medical assistance and who document their observations of the student.

(2) Seclusion may not be used:

(a) For punishment or discipline;

(b) For the convenience of staff;

(c) As a substitute for an educational program;

(d) As a substitute for inadequate staffing;

(e) As a substitute for staff training in positive behavior intervention and supports framework and crisis management;

(f) As a means to coerce, retaliate, or in a manner that endangers a student; or

(g) As a substitute for other less restrictive means of assisting a student in regaining control, such that it is reflective of the cognitive, social and emotional level of the student.

~~(G)~~(F) Multiple incidents of restraint and seclusion.

(1) After the third ~~incident~~ use of physical restraint and seclusion and after every fifth subsequent use of physical restraint or seclusion in a school year of a student who has been found eligible for special education services or has a 504 plan, the requirements are as follows:

(a) The student's individualized education program or 504 team will meet within ten school days of the third incident;

(b) The individualized education program or 504 team will consider the need to conduct or develop a functional behavior assessment or behavior intervention plan, or amend an existing functional behavior assessment or behavior intervention plan.

(2) For students not described in paragraph ~~(G)(1)~~(F)(1) of this rule, a team, consisting of the parent, an administrator or designee, a teacher of the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members will meet within ten school days of the third incident to discuss the need to conduct or review a functional behavior assessment and/or develop a behavior intervention plan.

(3) Nothing in this section is meant to prevent the completion of a functional behavior assessment or behavior intervention plan for any student who might benefit from these measures, but has fewer than three incidents of restraint or seclusion.

(4) Nothing in this rule is meant to prevent a school district from conducting any evaluations or other obligations they feel appropriate under the Individuals with Disabilities Education Act.

~~(H)~~(G) Training and professional development for the use of crisis management and de-escalation techniques which includes the use of restraint and seclusion.

(1) A school district shall ensure that ~~an appropriate~~ a reasonable number of personnel in each building are trained annually in evidence-based crisis management and de-escalation techniques, as well as the safe use of physical restraint and seclusion.

The minimum training requirements are as follows:

(a) Proactive measures to prevent the use of seclusion or restraint;

(b) Crisis management;

(c) Documentation and communication about the restraint or seclusion with appropriate parties;

(d) The safe use of restraint and seclusion;

(e) Instruction and accommodation for age and body size diversity;

(f) Directions for monitoring signs of distress during and following physical control;

(g) Debriefing practices and procedures;

(h) Face-to-face training;

(i) Allow for a simulated experience of administering and receiving physical restraint; and

(j) Ensure that participants will demonstrate proficiency in items described in paragraphs ~~(H)(1)(a)~~(G)(1)(a) to ~~(H)(1)(i)~~(G)(1)(i) of this rule.

(2) The school district shall maintain written or electronic documentation that includes the following:

(a) The name, position, and building assignment of each person who has completed training;

(b) The name, position, and credentials of each person who has provided the training;

(c) When the training was completed; and

(d) What protocols, techniques, and materials were included in training.

(3) As part of the training under this rule, student personnel are to be trained to perform the following functions:

(a) Identify conditions such as: where, under what conditions, with whom and why specific inappropriate behavior may occur; and

(b) Use preventative assessments that include at least the following:

(i) A review of existing data;

(ii) Input from parents, family members, and students; and

(iii) Examination of previous and existing behavior intervention plans.

~~(I)~~(H) Policies and procedures. A school district shall develop written policies and procedures

for the implementation of positive behavior intervention and supports and the use of seclusion and restraint that are consistent with section 3319.46 of the Revised Code and this rule. A district's complaint procedures shall include:

(1) A written procedure for a parent to present written complaints to the superintendent of the school district to initiate a complaint investigation by the school district regarding an incident of restraint or seclusion. Additionally, the procedure will inform the parent of additional options for complaints to include other public agencies such as law enforcement, the county department of job and family services, or the office of professional conduct within the ~~Ohio department of education~~ state board of education, as defined in paragraph ~~(L)~~(J) of this rule;

(2) Annually, a school district will provide a review regarding the content of this rule and any local policies or procedures related to the use of positive behavior intervention and supports, physical restraint and seclusion;

(3) An annual notice which informs parents of the district's policies or procedures related to the requirements of positive behavior intervention and supports, physical restraint and seclusion, including the local complaint process; and

(4) Within thirty days of the filing of a complaint regarding an incident of restraint and seclusion, it's the district's responsibility to make reasonable efforts to have an in-person follow up meeting with the parent.

(5) Districts are to ensure there is a support plan in place for substitute teachers if they need assistance with positive behavior intervention and supports or crisis management and de-escalation, which includes restraint and seclusion.

~~(J) Monitoring. A school district shall establish a procedure to monitor the implementation of this rule and the district's policy on positive behavior intervention and supports and restraint and seclusion. Each school district shall make its records concerning positive behavior intervention and supports and restraint and seclusion available to staff from the Ohio department of education upon request.~~

~~(K)~~(I) Reporting. Any

~~(1) Any~~ incident of seclusion or restraint shall be immediately reported to building administration and the parent and also be documented in a written report that is issued to the parent immediately or within twenty-four hours. This written report is thereafter maintained by the school district, including the county board of developmental disabilities or the educational service center in the event the district delegates this responsibility.

~~(2) A school district shall annually report information regarding its use of restraint and seclusion to the Ohio department of education in the form and manner as prescribed by the department. Failure to report may subject the school district to a corrective action plan and/or a potential reduction in funding. A school district that chooses to educate its student through a county board of developmental disabilities or to an~~

~~educational service center reports as follows:~~

~~(a) Report all information on the use of restraint and seclusion by the county board of developmental disabilities or educational service center to the department; or~~

~~(b) Authorize the county board of developmental disabilities or the educational service center to report information on the use of restraint and seclusion directly.~~

~~(I)~~(J) Complaint process. A parent may choose to file a complaint with the Ohio department of education and workforce, ~~office of integrated student supports,~~ in accordance with the complaint procedures available and as outlined below. The term "school district" as used in this rule means those entities listed in paragraph (A)(13) of this rule.

(1) The parent forwards a copy of the complaint to the school district serving the child at the same time the party files the complaint with the ~~Ohio~~ department of education and workforce.

(2) A sufficient complaint includes the following:

(a) A statement that a school district has violated a requirement of paragraphs ~~(G) to (K)~~(F) through (I) of this rule;

(b) The facts on which the statement is based; and

(c) The signature and contact information for the parent.

(3) Timeline of the complaint:

(a) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received.

(b) The ~~Ohio~~ department of education and workforce, ~~office of integrated student supports~~ has a time limit of ninety days after the complaint is filed to:

(i) Provide the school district with the opportunity to respond to the parent, including, at the discretion of the school district, a proposal to resolve the complaint;

(ii) Give the parent the opportunity to submit additional information, either orally or in writing, about the allegations of the complaint;

(iii) Review all relevant information and make an independent determination as to whether the school district is violating a requirement;

(iv) Carry out an independent investigation, whether on-site or off-site, if the ~~Ohio~~ department of education and workforce determines that an investigation is needed;

(v) Issue a written decision to the complainant that addresses each allegation in the complaint and contains findings of fact and conclusions and the reasons

for the ~~Ohio~~ department of ~~education's~~ education and workforce's final decision.

(vi) Issue corrective action to a school district for any findings of violations of this rule. Failure to complete the corrective action plan may impact the school district's funding.

(4) This rule does not limit the ability of a parent of a student with a disability to file a complaint under any other provision of law.

Supplemental Information

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