

**Code: JBAB**  
**Adopted: Oct 10, 2013**

**USE OF AVERSIVE INTERVENTIONS AND PHYSICAL AND MECHANICAL  
RESTRAINTS ON STUDENTS WITH DISABILITIES**

This regulation is intended to provide assistance in the implementation of statutory provisions contained in NRS §§388.521-388.5315. This regulation is designed to assist employees with the district expectation for the use and correct reporting of aversive interventions and restraints of students with disabilities.

NRS §§388.521-526 provides detailed definitions of mechanical restraints, physical restraints and aversive interventions. While the use of aversive interventions as defined in the statute always violates the NRS, there are permissible uses of physical and mechanical restraints, including use in emergencies. Other non-permissible uses of physical and mechanical restraints violate the NRS. The definitions for aversive interventions, physical restraints, and mechanical restraints are provided below. Also included are the various reporting requirements contained in the NRS.

**Aversive Interventions:**

Employees of the school district shall not use aversive intervention on a student with a disability. Aversive intervention is defined as any of the following actions if the action is used to punish a student with a disability or to eliminate, reduce or discourage maladaptive behavior of a student with a disability:

- 1) The use of noxious odors and tastes;
- 2) The use of water and other mists or sprays;
- 3) The use of blasts of air;
- 4) The use of corporal punishment;
- 5) The use of verbal or mental abuse;
- 6) The use of electric shock;
- 7) The administration of chemical restraint to a person;
- 8) The placement of a person alone in a room where release from the room is prohibited by a mechanism, including, without limitation, a lock, device or object positioned to hold the door closed or otherwise prevent the person from leaving the room;
- 9) Requiring a person to perform exercise under forced conditions if the:
  - a) Exercise is required because he/she exhibited a behavior that is related to his/her disability;
  - b) Exercise is harmful to the health of the person because of his/her disability;
  - c) Nature of the person's disability prevents him/her from engaging in the exercise;
- 10) The deprivation of necessities needed to sustain the health of a person regardless of the length of deprivation, including, with limitation, the denial or unreasonable delay in the provision of:
  - a) Food or liquid at a time when it is customarily served; or
  - b) Medication

**Penalties for Intentional Use of Aversive Interventions or Non-Permissible Restraints:** Any teacher or administrator who intentionally uses an aversive intervention on a student with a disability or who intentionally violates the prohibitions on the use of physical or mechanical restraints is subject to discipline, including verbal warning, admonition, suspension, demotion, dismissal or non-reemployment under NRS §391.312 or §391.330, or both. All other employees may be disciplined through verbal warning, written reprimand, suspension or dismissal. Discipline will be consistent with the Negotiated Agreements.

**Mechanical Restraints:**

A mechanical restraint involves the use of devices, including, without limitation, mittens, straps and restraint chairs to limit a person's movement or hold a person immobile.

NRS §388.528.2 allows for the permissible use of a mechanical restraint to:

1. Treat the medical needs of the student;
2. Protect a student who is known to be at risk of injury;
3. Provide proper body alignment to a student; or
4. Position a student who has physical disabilities in a manner prescribed in the IEP.

Emergency mechanical restraints are only allowed for the limited purposes defined in NRS §388.528.1, and should only be used by medically trained personnel under the direction of a physician's order. Emergency uses of mechanical restraints in accordance with NRS §388.528.1 are permissible and do not violate the statutes.

**Physical Restraints:**

A physical restraint is the use of physical contact to limit a person's movement or hold a person immobile. Permissible and emergency physical restraints are defined below.

NRS §388.5275.2 allows for a permissible physical restraint to:

1. Assist the student in completing a task;
2. Escort or carry a student to safety if the pupil is in danger; or
3. Conduct medical examinations or treatments.

NRS §388.5275.1 allows for an emergency use of physical restraint for:

1. An emergency\* that necessitates the use of physical restraint;
2. A limited period of use necessary to contain behavior; and
3. A force which does not exceed that which is reasonable and necessary.

*\*Emergency means a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or severe property damage.*

Emergency uses of physical restraints in accordance with NRS §388.5275.1 are permissible and do not violate the statutes.

### **Prohibited Actions:**

The use of an aversive intervention or the use of a non-permissible physical or mechanical restraint violates the NRS. The statutes prohibit any use of aversive interventions if the action is used to punish a student with a disability or to eliminate, reduce or discourage maladaptive behavior of a student with a disability. The statutes also prohibit non-permissible uses of physical or mechanical restraints, which include (1) emergency uses that do not comply with the statutory requirements, and (2) any other uses not specifically defined as permissible.

### **Reporting Requirements:**

The NRS contains specific reporting requirements, with different requirements and timelines for reports of the use of physical or mechanical restraints in emergencies and for reports of the use of aversive interventions or other violations of the statutes. To ensure that the school district complies with the various timelines, staff must adhere to the following consistent procedures for reporting to supervisors and the Director of Special Services.

- Staff who are aware of such use, must notify the site administrator *immediately and in no case more than 24 hours after* the use of an aversive intervention, the use of a nonpermissible restraint, or an emergency use of a restraint, or immediately upon discovery of the use.
- All staff with knowledge of the incident must file an “Incident Summary Report” (ISR) describing the incident *immediately and in no case more than 24 hours after* the use of an intervention, the use of a non-permissible restraint, or an emergency use of a restraint, or immediately upon discovery of the use. ISR(s) must be filed with the site administrator and the Director of Special Services.
- The Director of Special Services, in consultation with the school administration, will review the ISR(s) and make a determination as to the nature of the incident (use of an aversive intervention, non-permissible use of restraint, emergency use of restraint, or otherwise permissible use of restraint). The Director of Special Services will notify the Superintendent/designee immediately upon a finding of violation.
- The ISR(s) must be placed within the student’s cumulative folder, special education folder, and a copy provided to the student’s IEP committee, including the parent/guardians, within *one working day* of the incident.
- The Superintendent/designee will notify the Board of Trustees (or their designee) and Superintendent *within 24 hours* of the use of an aversive intervention or the use of a nonpermissible restraint, or as soon thereafter as the use is discovered.
- In the event of the use of an aversive intervention or the non-permissible use of restraint, the Superintendent/designee will decide if child welfare services or law enforcement must be notified and will direct the appropriate staff to do so.
- The use of an aversive intervention or the use of a non-permissible restraint violates the statutes. When a violation occurs, the Director of Special Services will submit to the Superintendent a corrective action plan as soon as is practicable. The Superintendent and the

Board (or their designee) will refine the corrective action plan and submit it to the Nevada Department of Education (NDE). The corrective plan must provide for appropriate action to be taken within 30 calendar days to prevent future violations.

- Should the corrective action plan require revision at the request of NDE, the Superintendent will so advise the Director of Special Services. The Director of Special Services will be responsible to revise and re-submit the plan.
- After three reports (incidents) of an emergency use of restraint regarding a single student, the school must review the circumstance and submit a report to the Director of Special Services.
- After five reports /incidents, the IEP team must be reconvened and the IEP must be reviewed.
- If the reports/incidents continue, the IEP must be revised to include additional methods appropriate to ensure that restraint does not continue, including such provisions as mentoring, training, conducting a functional behavioral assessment, and/or developing a positive behavior plan and positive behavioral supports.

**Mandatory Education and Training for Staff:**

Appropriate training as described in NRS §388.5285 shall be provided for the members of the staff of the schools within the district who are authorized to carry out and monitor physical restraint and mechanical restraint to ensure that those members of the staff are qualified to carry out the procedures in accordance with NRS §§388.521 to 388.3217.

**Retaliation:**

No employee of the school district shall retaliate against any person for reporting or providing information regarding a violation in the use of aversive interventions or a violation in the use of physical or mechanical restraints.

**Legal Reference(s):**  
NRS 388.521-5315

**End of Policy**