

WEST CHESTER AREA SCHOOL DISTRICT
Pupil Services Committees
January 11, 2021
7:00 p.m.
Livestream - WCASD YouTube Channel

AGENDA

- November 9, 2020 Committee Meeting Minutes Ms. Chester

- Ethos Treatment LLC Contract Dr. Ranieri

- Sweet, Stevens, Katz and Williams Fee Agreement Dr. Ranieri

- Policy Revisions: Dr. Ranieri
 - 113.1 Discipline for Students with Disabilities
 - 113.2 Behavior Intervention
 - 113.4 Confidentiality of Special Education Student Information

Members of the public wishing to provide comments on committee agenda items may submit them electronically using the google form link until 12 noon on the day of the meeting. The link is live once the committee packet has been posted publicly. Please limit your comments to two (2) minutes. Comments duly submitted will be noted and (as practical) read or summarized during the meeting.

Pupil Services Meeting Minutes
November 9, 2020
Pupil Services Committee Meeting

Ms. Chester opened the meeting at 7:03 pm.

Attending Committee Members: Joyce Chester, Sue Tiernan, Daryl Durnell, Kate Shaw

Other Board Members: Chris McCune, Randell Spackman, Karen Hermann

Administration: Tammi Florio, Robert Sokolowski, Sara Missett, Michael Wagman, Jim Scanlon

Items listed on the agenda:

- October 12, 2020 Committee Meeting Minutes
- Brick and Mortar Pupil Services Programs
- JustiCorp Company Nursing Contract
- US Medical Contract Update

Actions and Outcomes:

- Approval of the October 12, 2020 Committee Meeting Minutes Vote: 4-0
- Approval of the JustiCorp Company Nursing Contract Vote: 4-0
- Approval of the US Medical Contract Update Contract Vote: 4-0

Items to be placed on upcoming Board Agenda: none

Items to be placed on the Consent Agenda:

- JustiCorp Company Nursing Contract
- US Medical Contract Update

Items to be discussed at a later date: None

The meeting ended at 7:40 pm.

Next Meeting: Monday, January 11, 2021 – 7:00 pm



Book	Policy Manual
Section	100 Programs
Title	Discipline of Students With Disabilities
Code	113.1
Status	Review
Adopted	August 1, 2015
Last Reviewed	August 24, 2015

Purpose

The district shall develop and implement positive Behavior Support Plans and programs for students with disabilities who require specific interventions to address behaviors that interfere with learning. [1][2][3]

Students with disabilities who violate the Code of Student Conduct/Disciplinary Action Schedule, or engage in inappropriate behavior, disruptive or prohibited activities and/or actions injurious to themselves or others, which would typically result in corrective action or discipline of students without disabilities, shall be disciplined in accordance with state and federal laws and regulations and Board policy and, if applicable, their Individualized Education Program (IEP) and **Positive** Behavior Support Plan. [1][4][5][6][7]

Definitions

Students with disabilities - school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services. [2]

Suspensions from school - disciplinary exclusions from school for a period of one (1) to ten (10) consecutive school days. [7][8]

Expulsions from school - disciplinary exclusions from school by the Board for a period exceeding ten (10) consecutive school days and may include permanent exclusion from school. [7][8]

Interim alternative educational settings - removal of a student with a disability from ~~his/her~~ **the student's** current placement. Interim alternative educational settings may be used by school personnel for up to forty-five (45) school days for certain infractions committed by students with disabilities. The IEP team shall determine the interim alternative educational setting; however, this does not constitute a change in placement for a student with a disability. [5][9]

Authority

The Board directs that the district shall comply with provisions and procedural safeguards of the Individuals With Disabilities Education Act (IDEA) and federal and state regulations when disciplining

students with disabilities for violations of Board policy or district rules or regulations. No student with a disability shall be subjected to a disciplinary change in placement if the student's particular misconduct is a manifestation of his/her **the student's** disability. However, under certain circumstances a student with a disability may be placed in an interim alternative educational setting by school personnel or the IEP team could, if appropriate, change the student's educational placement to one which is more restrictive than the placement where the misconduct occurred. [4][5][9]

Provision of Education During Disciplinary Exclusions

During any period of expulsion, or suspension from school for more than ten (10) cumulative days in a year, or placement in an interim alternative educational setting for disciplinary reasons, a student with a disability shall continue to receive a free and appropriate **public** education (**FAPE**), in accordance with law. [5][8][10]

Guidelines

Suspension From School

A student with a disability may be suspended for ten (10) consecutive and fifteen (15) nonconsecutive, cumulative days of school per school year, for the same reasons and duration as a student without a disability. Such suspension shall not constitute a change in the student's educational placement. [4][5][8][9][11]

Changes in Educational Placement/Manifestation Determinations

For disciplinary exclusions which constitute a change in educational placement, the district shall first determine whether the student's behavior is a manifestation of his/her **the student's** disability. Expulsion, or exclusion from school for more than fifteen (15) cumulative days in a year, or patterns of suspensions for substantially identical behaviors constitute changes in educational placements requiring a manifestation determination. For students with intellectual disability, any disciplinary suspension or expulsion is a change in educational placement. [4][5]

A student with a disability whose behavior is not a manifestation of his/her **the student's** disability may be disciplined in accordance with Board policy and district rules and regulations in the same manner and to the same extent as students without disabilities. [4][5][6][7]

Parent/Guardian Appeals From Disciplinary Actions/Request for Hearing by District for Students Who Are a Danger to Themselves or Others

A due process hearing may be requested by a parent/guardian of a student with a disability who disagrees with a disciplinary placement or manifestation determination, or by the district if the district believes that the current placement is substantially likely to result in injury to the student or others. On parent/guardian appeal, or when the district requests a due process hearing, the hearing officer may return the student to the placement from which s/he **the student's** was removed or order his/her **the student's** removal to an appropriate interim alternative educational setting for up to forty-five (45) school days if the hearing officer determines that maintaining the child's **student's** current placement is substantially likely to result in an injury to the student or others. [9][12]

Placement during appeals of disciplinary actions shall be in the interim alternative educational setting pending the decision of the hearing officer or expiration of the time period set for the disciplinary exclusion from the student's regular placement unless the district and the parent/guardian agree otherwise. [9][13]

Students Not Identified as Disabled/Pending Evaluation

Students who have not been identified as disabled may be subject to the same disciplinary measures applied to students without disabilities if the district did not have knowledge of the disability. If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation shall be expedited. Absent a danger, student placement remains in place until the evaluation is complete.[\[9\]](#)[\[14\]](#)

Administrative Removal to Interim Alternative Educational Setting for Certain Infractions

School personnel may remove a student with a disability, including intellectual disability, to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the student's disability if the student:[\[5\]](#)[\[9\]](#)

1. Carries a weapon to or possesses a weapon at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, **weapon** is defined as a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half (2 ½) inches in length.[\[5\]](#)[\[9\]](#)[\[15\]](#)[\[16\]](#)
2. Knowingly possesses or uses illegal drugs, as defined by law, or sells or solicits the sale of a controlled substance, as defined by law, while at school, on school property, or at school functions under the jurisdiction of the district.[\[5\]](#)[\[9\]](#)[\[17\]](#)[\[18\]](#)
3. Has inflicted serious bodily injury upon another person while at school, on school property, or at school functions under the jurisdiction of the district. For purposes of this provision, **serious bodily injury** means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.[\[5\]](#)[\[9\]](#)[\[19\]](#)

Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term **incident** shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.[\[20\]](#)[\[21\]](#)[\[22\]](#)

The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity, or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement, and Board policies. The Superintendent or designee shall respond to such incidents in accordance with the district's Special Education Plan and, if applicable, the procedures, methods, and techniques defined in the student's **Positive** Behavior Support Plan.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[6\]](#)[\[9\]](#)[\[15\]](#)[\[17\]](#)[\[21\]](#)[\[23\]](#)[\[24\]](#)[\[25\]](#)[\[26\]](#)[\[27\]](#)[\[28\]](#)[\[29\]](#)[\[30\]](#)[\[31\]](#)[\[32\]](#)[\[33\]](#)[\[34\]](#)

For a student with a disability who does not have a **Positive** Behavior Support Plan, subsequent to notification to law enforcement, the district shall convene the student's IEP team to consider whether a **Positive** Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations, and Board policies.[\[1\]](#)[\[3\]](#)[\[26\]](#)[\[31\]](#)

When reporting an incident committed by a student with a disability to the appropriate authorities, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The district shall **ensure compliance with the** transmit copies of

the student’s special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act **when transmitting copies of the student's special education and disciplinary records**.[\[9\]](#)[\[21\]](#)[\[24\]](#)[\[25\]](#)[\[26\]](#)[\[29\]](#)[\[34\]](#)[\[35\]](#)[\[36\]](#)

In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by students with disabilities, including students for whom an evaluation is pending, which occurred on school property, at any school-sponsored activity, or on a conveyance providing transportation to or from a school or school-sponsored activity.[\[20\]](#)[\[34\]](#)

Legal

1. [22 PA Code 14.133](#)
2. Pol. 113
3. Pol. 113.2
4. [22 PA Code 14.143](#)
5. [34 CFR 300.530](#)
6. Pol. 218
7. Pol. 233
8. [22 PA Code 12.6](#)
9. [20 U.S.C. 1415](#)
10. [20 U.S.C. 1412](#)
11. [34 CFR 300.536](#)
12. [34 CFR 300.532](#)
13. [34 CFR 300.533](#)
14. [34 CFR 300.534](#)
15. Pol. 218.1
16. [18 U.S.C. 930](#)
17. Pol. 227
18. [21 U.S.C. 812](#)
19. [18 U.S.C. 1365](#)
20. [24 P.S. 1303-A](#)
21. [22 PA Code 10.2](#)
22. [35 P.S. 780-102](#)
23. [24 P.S. 1302.1-A](#)
24. [22 PA Code 10.21](#)
25. [22 PA Code 10.22](#)
26. [22 PA Code 10.23](#)
27. [22 PA Code 10.25](#)
28. [22 PA Code 14.104](#)
29. [34 CFR 300.535](#)
30. Pol. 103.1
31. Pol. 113.3
32. Pol. 218.2
33. Pol. 222
34. [34 CFR 300.531](#)

34. Pol. 805.1

35. Pol. 113.4

36. Pol. 216

[20 U.S.C. 1400 et seq](#)

[24 P.S. 510](#)

[34 CFR Part 300](#)

Pol. 113.5

Pol. 146.1



Book	Policy Manual
Section	100 Programs
Title	Behavior Intervention
Code	113.2
Status	Review
Adopted	August 1, 2015
Last Reviewed	August 24, 2015

Purpose

Students with disabilities shall be educated in the least restrictive environment (LRE) in accordance with their Individualized Education Program (IEP), and shall only be placed in settings other than the regular education class when the nature or severity of the student’s disability is such that education in the regular education class with the use of appropriate supplementary aids and services cannot be achieved satisfactorily and cannot meet the needs of the student. The IEP team for a student with a disability shall develop a Positive Behavior Support Plan if the student requires specific intervention to address behavior that interferes with learning. The identification, evaluation, and plan or program shall be conducted and implemented in accordance with state and federal laws and regulations.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)

Authority

The Board directs that the district’s behavior support programs shall be based on positive rather than negative behavior techniques to ensure that students shall be free from demeaning treatment and unreasonable use of restraints or other aversive techniques. The use of restraints shall be considered a measure of last resort and shall only be used after other less restrictive measures, including de-escalation techniques. Behavior support programs and plans shall be based on a functional behavioral assessment and shall include a variety of research-based techniques to develop and maintain skills that will enhance students’ opportunity for learning and self-fulfillment.[\[1\]](#)[\[3\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)[\[10\]](#)[\[11\]](#)

Definitions

The following terms shall have these meanings, unless the context clearly indicates otherwise.[\[1\]](#)

Aversive techniques - deliberate activities designed to establish a negative association with a specific behavior.

Behavior support - development, change and maintenance of selected behaviors through the systematic application of behavior change techniques.

Positive Behavior Support Plan or Behavior Intervention Plan - plan for students with disabilities who require specific intervention to address behavior that interferes with learning. A Positive Behavior Support Plan shall be developed by the IEP team, be based on a functional

behavioral assessment, and become part of the individual student's IEP. These plans must include methods that use positive reinforcements, other positive techniques and related services required to assist a student with a disability to benefit from special education.

Positive techniques - methods that utilize positive reinforcement to shape a student's behavior, ranging from the use of positive verbal statements as a reward for good behaviors to specific tangible rewards.

Restraints - application of physical force, with or without the use of any device, designed to restrain free movement of a student's body, excluding the following:

1. Briefly holding a student, without force, to calm or comfort the student.
2. Guiding a student to an appropriate activity.
3. Holding a student's hand to escort the student safely from one area to another.
4. Hand-over-hand assistance with feeding or task completion.
5. Techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents/guardians and specified in the IEP.
6. Mechanical restraints governed by this policy, such as devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices.

Seclusion - confinement of a student in a room, with or without staff supervision in the same room at all times, in order to provide a safe environment to allow the student to regain self-control.

Students with disabilities - school-aged children within the jurisdiction of the district who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services.[9]

Delegation of Responsibility

The Superintendent or designee shall ensure that this Board policy is implemented in accordance with federal and state laws and regulations.

The Superintendent or designee shall develop administrative regulations to implement this policy.

The Superintendent or designee shall provide regular training and retraining of staff in the use of specific procedures, methods and techniques, including de-escalation techniques, emergency responses, restraints and seclusions, that will be used to implement positive behavior supports or interventions in accordance with students' IEPs, Positive Behavior Support Plans and Board policy.[1]

The Superintendent or designee shall maintain and report data on the use of restraints, as required. Such report shall be readily available for review during the state's cyclical compliance monitoring. Procedures shall be established requiring reports to be made to the district by entities educating students with disabilities who attend programs or classes outside the district, including private schools, agencies, intermediate units and career and technical schools.[1]

Guidelines

Development of a separate Positive Behavior Support Plan is not required when appropriate positive behavioral interventions, strategies and supports can be incorporated into a student's IEP.[1][5]

When an intervention is necessary to address problem behavior, the positive techniques and types of intervention chosen for a student shall be the least intrusive necessary.

Physical Restraints

Restraints to control acute or episodic aggressive behavior may be used only when the student is acting in a manner that presents a clear and present danger to the student, other students or employees, and only when less restrictive measures and techniques have proven to be or are less effective.[\[1\]](#)

The Director of Special Education or designee shall notify the parent/guardian as soon as practicable of the use of restraints to control the aggressive behavior of the student and shall convene a meeting of the IEP team within ten (10) school days of the use of restraints, unless the parent/guardian, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student needs a functional behavioral assessment, re-evaluation, a new or revised Positive Behavior Support Plan, or a change of placement to address the inappropriate behavior.[\[1\]](#)

The use of restraints shall not be included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment. Restraints may be included in an IEP with parental consent only if:[\[1\]](#)

1. The restraint is used with specific component elements of a Positive Behavior Support Plan.
2. The restraint is used in conjunction with teaching socially appropriate alternative skills or behaviors.
3. Staff are authorized to use the restraint and have received appropriate training.
4. Positive Behavior Support Plan includes efforts to eliminate the use of restraints.

Mechanical Restraints

Mechanical restraints, which are used to control involuntary movement or lack of muscular control of a student when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents/guardians.[\[1\]](#)

Mechanical restraints shall prevent a student from injuring the student or others, or promote normative body positioning and physical functioning.

Seclusion

The district permits involuntary seclusion of a student for a limited period of time in accordance with the student's IEP or in an emergency to prevent immediate or imminent injury to the student or others, but the seclusion must be the least restrictive alternative. District staff shall provide continuous supervision of students in seclusion, which need not always involve presence of staff within the same room.

The district prohibits the seclusion of students in locked rooms, locked boxes and other structures or spaces from which the student cannot readily exit.[\[1\]](#)

Aversive Techniques

The following aversive techniques of handling behavior are considered inappropriate and shall not be used in educational programs:[\[1\]](#)

1. Corporal punishment.
2. Punishment for a manifestation of a student's disability.
3. Locked rooms, locked boxes, other locked structures or spaces from which the student cannot readily exit.

4. Noxious substances.
5. Deprivation of basic human rights, such as withholding meals, water or fresh air.
6. Suspensions constituting a pattern as defined in state regulations.[\[12\]](#)
7. Treatment of a demeaning nature.
8. Electric shock.
9. Methods implemented by untrained personnel.
10. Prone restraints, which are restraints by which a student is held face down on the floor.

Referral to Law Enforcement

The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on school property, at any school-sponsored activity or on a conveyance providing transportation to or from a school or school-sponsored activity by a student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the school's property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement and Board policies. The Superintendent or designee shall respond to such incidents in accordance with the district's Special Education Plan and, if applicable, the procedures, methods and techniques defined in the student's Positive Behavior Support Plan.[\[1\]](#)[\[6\]](#)[\[9\]](#)[\[10\]](#)[\[13\]](#)[\[14\]](#)[\[15\]](#)[\[16\]](#)[\[17\]](#)[\[18\]](#)[\[19\]](#)[\[20\]](#)[\[21\]](#)[\[22\]](#)[\[23\]](#)[\[24\]](#)[\[25\]](#)[\[26\]](#)[\[27\]](#)

For a student with a disability who has a Positive Behavior Support Plan at the time of referral, subsequent to notification to law enforcement, the district shall convene the student's IEP team and an updated functional behavioral assessment and Positive Behavior Support Plan shall be required.[\[1\]](#)[\[11\]](#)[\[17\]](#)

If, as a result of such referral, the student is detained or otherwise placed in a residential setting located outside the district, the Director of Special Education or designee shall ensure that the responsible school district or intermediate unit is informed of the need to update the student's functional behavioral assessment and Positive Behavior Support Plan.[\[1\]](#)

For a student with a disability who does not have a Positive Behavior Support Plan, subsequent to notification to law enforcement, the district shall convene the student's IEP team to consider whether a Positive Behavior Support Plan should be developed to address the student's behavior, in accordance with law, regulations and Board policy.[\[1\]](#)[\[17\]](#)

Relations With Law Enforcement

The district shall provide a copy of its administrative regulations and procedures for behavior support, developed in accordance with the Special Education Plan, to each local police department that has jurisdiction over school property. Updated copies shall be provided each time the administrative regulations and procedures for behavior support are revised by the district.[\[9\]](#)[\[17\]](#)[\[19\]](#)[\[27\]](#)

The district shall invite representatives of each local police department that has jurisdiction over school property to participate in district training on the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require intervention, as included in the district's Special Education Plan and positive behavior support program.[\[1\]](#)[\[9\]](#)[\[17\]](#)[\[19\]](#)[\[27\]](#)

Purpose

~~To ensure compliance with the requirements of Chapter 14 of the regulations of the Pennsylvania State Board of Education governing behavior interventions and the use of restraints with students identified with disabilities.~~[\[1\]](#)

General Policy

~~The following principles shall govern the use of behavior supports and interventions for children with disabilities:~~[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)

- ~~1. Positive, rather than negative, measures must form the basis of behavior support programs to ensure that all students shall be free from demeaning treatment, the use of adverse techniques, and the unreasonable use of restraints.~~
- ~~2. Behavior support programs and plans must be based on a functional assessment of behavior and use positive behavior techniques.~~
- ~~3. Behavior support programs must include research-based practices and techniques to develop and maintain skills that will enhance an individual student's opportunity for learning and self-fulfillment.~~
- ~~4. When an intervention is needed to address problem behavior, the types of intervention chosen for a particular student shall be the least intrusive necessary.~~
- ~~5. The use of restraints is considered a measure of last resort, only to be used after other less restrictive measures, including de-escalation techniques.~~
- ~~6. Nothing in this policy shall be construed to require the development of a separate behavior support or intervention plan when appropriate positive behavioral interventions, strategies, and supports, consistent with the requirements of this policy, can be incorporated into the body of the IEP.~~

Definitions

~~As used in this policy, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.~~[\[1\]](#)

~~**Aversive techniques** – deliberate activities designed to establish a negative association with a specific behavior.~~

~~**Behavior support** – the development, change, and maintenance of selected behaviors through the systematic application of behavior change techniques.~~

~~**Positive Behavior Support Plans** – a plan for students with disabilities who require specific intervention to address behavior that interferes with learning. A positive Behavior Support Plan shall be developed by the IEP team, be based on a functional behavioral assessment, and become part of the individual student's IEP. These plans must include methods that use positive reinforcement and other positive techniques to shape the behavior of the child with disabilities, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.~~

~~**Restraints** – the application of physical force, with or without the use of any device, for the purpose of restraining the free movement of a student's body, excluding the following:~~

- ~~1. Briefly holding a student, without force, to calm or comfort him/her.~~
- ~~2. Guiding a student to an appropriate activity.~~
- ~~3. Holding a student's hand to escort him/her safely from one area to another.~~

4. Hand-over hand assistance with feeding or task completion.
5. Techniques prescribed by a qualified medical professional for reasons of safety or for therapeutic or medical treatment, as agreed to by the student's parents/guardians and specified in the IEP.
6. Mechanical restraints governed by this policy, such as devices used for physical or occupational therapy, seatbelts in wheelchairs or on toilets used for balance and safety, safety harnesses in buses, and functional positioning devices.

Guidelines

Use of Physical Restraints Other Than Mechanical Restraints

Restraints to control acute or episodic aggressive or self-injurious behavior may be used only when the student is acting in a manner as to be a clear and present danger to him/herself, to other students, or to employees, and only when less restrictive measures and techniques have proven to be or are less effective. The Director of Special Education or his/her designee shall notify the parent/guardian as soon as practicable of the use of restraints to control the aggressive behavior of his/her child and shall convene a meeting of the IEP team within ten (10) school days of the inappropriate behavior causing the use of restraints, unless the parent/guardian, after written notice, agrees in writing to waive the meeting. At this meeting, the IEP team shall consider whether the student needs a functional behavioral assessment, re-evaluation, a new or revised positive Behavior Support Plan, or a change of placement to address the inappropriate behavior.[\[1\]](#)

The use of restraints may only be included in a student's IEP under the following conditions:[\[1\]](#)

1. The restraint is used in conjunction with specific components of positive behavior support.
2. The restraint is used in conjunction with the teaching of socially acceptable alternative skills to replace problem behavior.
3. Staff are authorized, and have received all training required, to use the specific procedure.
4. The positive Behavior Support Plan of the student includes a plan for eliminating the use of restraint through the application of positive behavior support.
5. The use of restraints are not included in the IEP for the convenience of staff, as a substitute for an educational program, or employed as punishment.

Use of Mechanical Restraints

Except in an emergency, or otherwise provided herein, mechanical restraints, which are used to control involuntary movement or lack of muscular control of students when due to organic causes or conditions, may be employed only when specified by an IEP and as determined by a medical professional qualified to make the determination, and as agreed to by the student's parents/guardians. Mechanical restraints shall prevent a student from injuring him/herself or others or promote normative body positioning and physical functioning.[\[1\]](#)

Proscription of Certain Aversive Techniques

The following aversive techniques for addressing behavior are inappropriate and may not be used in educational programs:

1. Corporal punishment.
2. Punishment for a manifestation of a child's disability.

3. ~~Locked rooms, locked boxes, or other locked structures or spaces from which the child cannot readily exit.~~
4. ~~Noxious substances.~~
5. ~~Deprivation of basic human rights, such as withholding meals, water, or fresh air.~~
6. ~~Suspensions constituting a pattern as defined in Section 14.143(a) of the regulations of the State Board of Education, and any other successor regulation.~~[\[10\]](#)
7. ~~Treatment of a reasonably demeaning nature.~~
8. ~~Electric shock.~~
9. ~~The use of prone restraints, which are those by which a student is held face down on the floor.~~

Reporting and Monitoring

~~The Superintendent or his/her designee shall maintain and report data on the use of restraints in a manner prescribed by the Secretary of Education of the Commonwealth of Pennsylvania. Such report shall be readily available for review during cyclical compliance monitoring conducted by the Pennsylvania Department of Education.~~[\[1\]](#)

Referral to Law Enforcement

~~Subsequent to a referral to law enforcement, an updated functional behavioral assessment and positive Behavior Support Plan shall be required for students with disabilities who have positive Behavior Support Plans at the time of such referral. If, as a result of such referral, the student is detained or otherwise placed in a residential setting located outside the district, the Director of Special Education or his/her designee shall ensure that the responsible school district or intermediate unit is informed of the need to update the functional behavioral assessment and the positive Behavior Support Plan of the student.~~[\[1\]](#)[\[9\]](#)[\[11\]](#)

Regular Program of Training

~~The Superintendent or his/her designee shall provide for the regular training and retraining, as needed, of personnel in the use of specific procedures, methods, and techniques, including restraints, that those personnel will be expected to employ in the implementation of positive behavior supports or interventions in accordance with the IEP of the child and this policy.~~[\[1\]](#)

Legal

1. 22 PA Code 14.133
2. 20 U.S.C. 1414
3. 20 U.S.C. 1415
4. 34 CFR 300.324
5. 34 CFR 300.34
6. 34 CFR 300.530
7. Pol. 113
8. Pol. 113.1
9. Pol. 113.3
10. 22 PA Code 14.143
11. 22 PA Code 10.23
- 24 P.S. 1303-A
- 24 P.S. 1302.1-A
- 22 PA Code 10.2
- 22 PA Code 10.21
- 22 PA Code 10.22
- 22 PA Code 10.25
- 22 PA Code 14.104
- 22 PA Code 14.145
- 20 U.S.C. 1400 et seq
- 34 CFR Part 300

Pennsylvania Training and Technical Assistance Network (PaTTAN), Questions and Answers on the Restraint Reporting Requirements and System, June 2009

- Pol. 000
- Pol. 103.1
- Pol. 218
- Pol. 218.1
- Pol. 218.2
- Pol. 222
- Pol. 227
- Pol. 805.1



Book	Policy Manual
Section	100 Programs
Title	Confidentiality of Special Education Student Information
Code	113.4
Status	Review
Adopted	August 1, 2015
Last Reviewed	August 24, 2015

Authority

The Board recognizes the need to protect the confidentiality of personally identifiable information in the education records of students with disabilities.[1]

The district shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, retaining, disclosing, and destroying student special education records, in accordance with Board policy, state requirements, and federal and state law and regulations.[2]

The rights provided by this policy apply to parents/guardians of students who receive special education programming and services from the district or an outside program provided through the district.[3][4]

Definitions

Destruction shall mean the physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.[5]

Disclosure shall mean to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.[6]

Education Records, for purposes of this policy, shall include the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations.[6][7][8]

Personally identifiable information includes, but is not limited to:[6][9]

1. The name of a student, the student's parents/guardians or other family members.
2. The address of the student or student's family.

3. A personal identifier, such as the student's social security number, student number, or biometric record.
4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.
5. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
6. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

Guidelines

Parental Access Rights

The district shall permit parents/guardians to inspect and review any education records relating to their child(ren) that are collected, retained, or used by the district in connection with providing special education services to the student.[\[10\]](#)[\[11\]](#)

The district shall comply with a parental request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a free and appropriate public education (FAPE) to a student; a hearing related to the discipline of the student; or a resolution meeting.

The district shall presume a parent/guardian has authority to inspect and review records relating to his/her **their** child unless it has been provided documentation that the requesting parent/guardian does not have this authority under applicable state law.[\[11\]](#)[\[12\]](#)

The district shall comply with a parental request for review within forty-five (45) days following receipt of the request.[\[10\]](#)[\[11\]](#)

A parent's/guardian's right to inspect and review education records includes the right to:

1. A response from the district to reasonable requests for explanations and interpretations of the records;
2. Request that the district provide copies of the records if failure to provide copies would effectively prevent the parent/guardian from exercising the right to inspect and review the records; and
3. Have a representative inspect and review the records.

If an education record includes information on more than one (1) student, the parents/guardians shall have access only to the information relating to their child or shall be provided a summary of the information in the record related to their child.[\[13\]](#)[\[14\]](#)

The district shall provide parents/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by the district.[\[15\]](#)

Fees

The district may charge a fee for copies of records that are made for parents/guardians so long as the fee does not effectively prevent parents/guardians from exercising their right to inspect and review those records.[\[16\]](#)[\[17\]](#)

The district shall not charge a fee to search for or to retrieve information in response to a parental request. Charging of fees shall be in accordance with Board policy.

Record of Access

The district shall keep a record of parties obtaining access to education records collected, maintained, or used in providing special education **and related services** to students with disabilities, except access by parents/guardians and authorized district employees.[18]

The district's record of access shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Amendment of Records Upon Parental Request

If a parent/guardian believes that information in the student's education records is inaccurate, misleading or violates the privacy or other rights of the student, the parent/guardian may request that the district amend the information.[19][20]

The district shall decide whether to amend the information within a reasonable period of time from receipt of the request.

If the district declines to amend the information in accordance with a parental request, the district shall inform the parent/guardian of the refusal and advise the parent/guardian of the right to a hearing.

Records Hearing

The district shall, on request, provide parents/guardians with an opportunity for a hearing to challenge information in the student's education records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights. The district recognizes that parents/guardians who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing.[21][22][34]

Hearing Procedures

A hearing to challenge information in education records must meet the following requirements:[23][24]

1. ~~The Superintendent or his/her designee shall schedule a hearing within thirty (30) days after receiving the request for a hearing.~~
2. The district shall hold the hearing within a reasonable time after receiving the request for a hearing.
3. The district shall give the parent/guardian ~~five (5) days'~~ **reasonable** advanced written notice of the date, time, and place of the hearing.
4. The hearing may be conducted by any individual, including a district official, who does not have a direct interest in the outcome of the hearing.
5. The district shall give the parent/guardian a full and fair opportunity to present relevant evidence. The parent/guardian may, at ~~his/her~~ **their** own expense, be assisted or represented by one (1) or more individuals of ~~his/her~~ **their** choice, including an attorney.
6. The district shall inform parents/guardians of its decision in writing within thirty (30) days after the hearing.

7. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Result of Hearing

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the district shall amend the information accordingly and inform the parent/guardian in writing.[21][25]

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the district shall inform the parent/guardian of the parent's/guardian's right to place in the student's records a statement commenting on the information and/or providing any reasons for disagreeing with the district's decision.

Any explanation placed in the student's records shall be:

1. Maintained by the district as part of the student's records as long as the record or contested portion is maintained by the district; and
2. Included with the record or contested portion if the record or contested portion are disclosed to any party.

Storage, Retention, and Destruction of Information

The district shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention.[26]

The district shall maintain, for public inspection, a current listing of the names and positions of those district employees who have access to personally identifiable information.[26]

In order to comply with state compliance monitoring requirements, the district shall maintain education records for students receiving special education services for at least six (6) years.[8]

The district shall inform parents/guardians when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. After notice, such information shall be destroyed upon parental request.[27]

No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists.[10]

The district may maintain, among others, a permanent record of the student's name, address, and phone number, his/her grades, attendance record, classes attended, grade level completed, and year completed.[27]

The district shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and his/her **the student's** family.[26]

Disclosure to Third Parties

The district shall obtain parental consent before disclosing personally identifiable information to parties other than school district officials with a legitimate educational interest or other educational institutions that provide special education services to the student for the purposes of meeting a requirement of law or regulation unless the information is contained in education records and the

disclosure is permitted without parental consent under law and regulations.[8][28][29][30][31][32][33]

Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.[31]

If a student is enrolled, or is going to enroll in a private school that is not located in the district of the parent's/guardian's residence, parental consent must be obtained before any personally identifiable information about the student is released between officials in the district where the private school is located and officials in the district of the parent's/guardian's residence.[31]

Disclosure to Law Enforcement

When reporting an incident committed by a student with a disability to the appropriate authorities, in accordance with applicable law, regulations and Board policy, the district shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The district shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.[2][8][33][35][36][37][38][39][40][41][42]

Delegation of Responsibility

In order to maintain the confidentiality of the educational records and personally identifiable information of students with disabilities, the Board designates the Superintendent or designee to coordinate the district's efforts to comply with this policy and applicable laws and regulations.[26]

All district employees collecting or using personally identifiable information shall receive training or instruction regarding Board policy, administrative regulations, and state and federal law and regulations regarding confidentiality of education records and personally identifiable information.[26]

Legal

1. Pol. 113
2. 34 CFR 300.611-300.627
3. 34 CFR 300.520
4. 34 CFR 300.625
5. 34 CFR 300.611
6. 34 CFR 99.3
7. 20 U.S.C. 1232g
8. Pol. 216
9. 34 CFR 300.32
10. 34 CFR 99.10
11. 34 CFR 300.613
12. 34 CFR 99.4
13. 34 CFR 99.12
14. 34 CFR 300.615
15. 34 CFR 300.616
16. 34 CFR 99.11
17. 34 CFR 300.617
18. 34 CFR 300.614
19. 34 CFR 99.20
20. 34 CFR 300.618
21. 34 CFR 99.21
22. 34 CFR 300.619
23. 34 CFR 99.22
24. 34 CFR 300.621
25. 34 CFR 300.620
26. 34 CFR 300.623
27. 34 CFR 300.624
28. 34 CFR 99.30
29. 34 CFR 99.31
30. 34 CFR 300.154
31. 34 CFR 300.622
32. Pol. 113.1
33. Pol. 113.2
34. 34 CFR 300.510-300.516
- 20 U.S.C. 1400 et seq
- 34 CFR 300.101-300.176
- 34 CFR Part 99
- 34 CFR Part 300

Bureau of Special Education Letter to School Entities on Retention Of Records, Dated November 9, 2009

