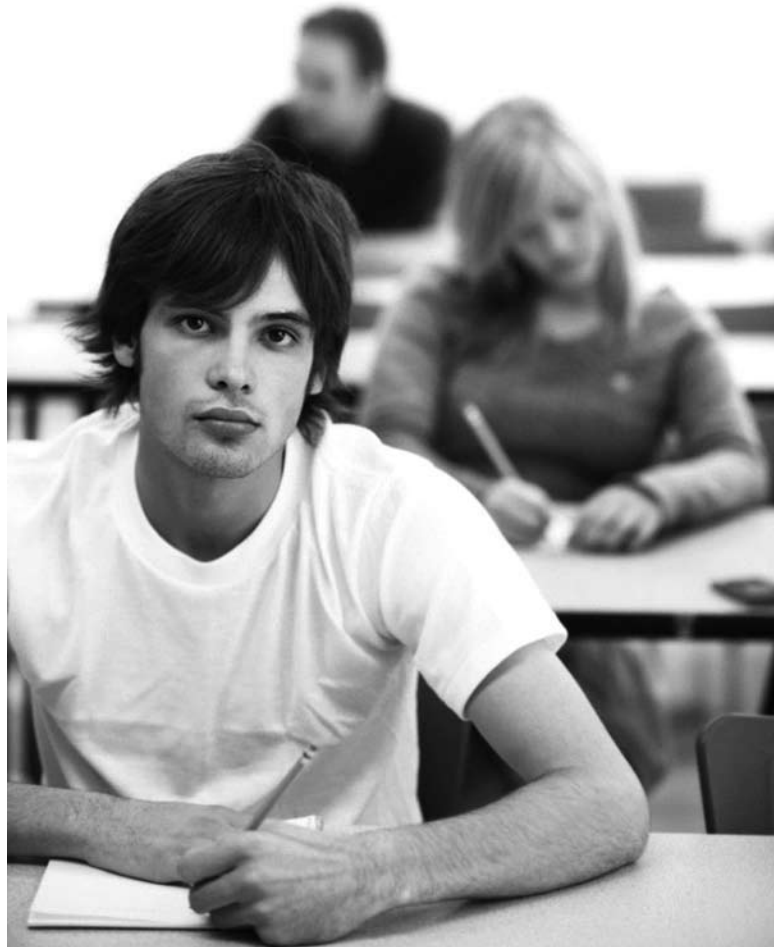


*A Report to the Washington State Legislature
by the School Disciplinary Action Task Force*

Use of reasonable force in schools



Washington State School Directors' Association
November 2008

Washington State School Directors' Association

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Founded in 1922, the Washington State School Directors' Association (WSSDA) is comprised of all 1,477 school board members from the state's 295 school districts. The districts they lead serve more than one million students, have a combined annual budget of \$6 billion, and employ nearly 100,000 people. WSSDA's core mission is focused on promoting student learning by ensuring that school directors have the knowledge, tools and services they need to effectively govern their districts and champion public education.

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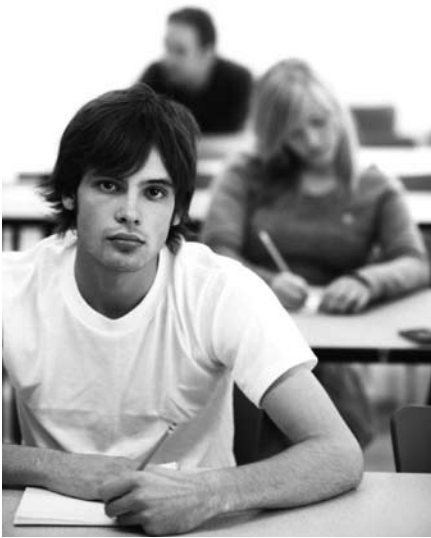


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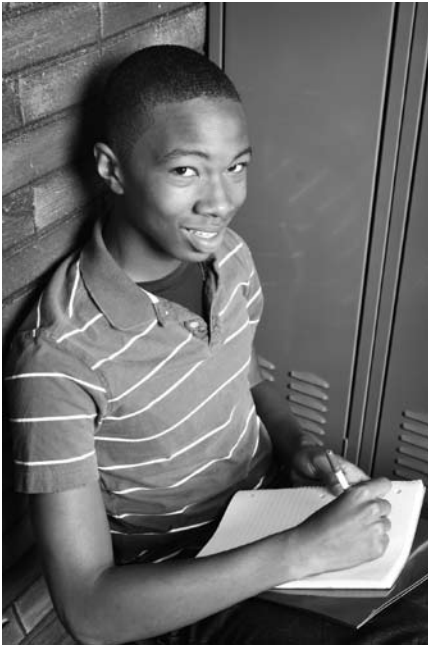
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I. Purpose of Task Force

In the 2008 supplemental operating budget (ESHB 2687) the Legislature provided funding for “the Washington State School Directors' Association (WSSDA) to mediate and facilitate a school disciplinary action task force to review and make recommendations on a model policy regarding the use of physical force in schools. The model policy shall be submitted to the appropriate policy committees of the legislature by November 1, 2008.”

In meeting this legislative request, WSSDA reviewed proposed SSB 6418 which addressed more specific guidelines for a task force. These included developing the following recommendations:

- description of the authorized methods of physical force, including the types of restraints, who is authorized, and when force or restraint should be used;
- training requirements for those authorized to use physical force and training recommendations for de-escalation tactics;
- incident reporting requirements and follow-up procedures, including the timeline and to whom the data should be reported; and
- procedures for notification to parents or guardians.

Although the specific charge of the task force was to produce a model policy and procedure, members of the Task Force believed it was important to record the content of the discussions that occurred during the five month process. In developing the policy and procedure, many topics and issues were discussed that are informative in understanding the complex issue of use of force in schools. Therefore this report outlines the work of the task force and the issues discussed, including an overview of security models, existing policies and procedures, laws governing use of force, training issues, and policy implications in addition to task force recommendations to the Legislature.

Work of the task force

Members of the Task Force represented community groups, state coalitions and commissions, educational service districts and school districts, faith organizations, the Washington State Legislature, professional associations and unions, the American Civil Liberties Union and the Office of Superintendent of Public Instruction (OSPI). Marilee Scarbrough, WSSDA Director of Policy and Legal

Services, chaired the Task Force. The Task Force Membership Roster and Staff are located in the Appendices as Appendix (A). The School Disciplinary Action Task Force met three times from June through August 2008. Over the course of the meetings, the Task Force:

- Reviewed selected “Use of Force” statutes from other states;
- Reviewed a representative sample of discipline policies, procedures and operating guidelines from Washington state school districts, including Kent, Edmonds, Wenatchee, Highline, and Bellevue School Districts;
- Reviewed existing Washington state laws related to the use of force and restraint;
- Discussed issues and reached a common understanding regarding conditions in which reasonable force is used in schools;
- Discussed the need to address this issue from all sides, including alternatives to reasonable force, and the appropriateness of de-escalation techniques;
- Provided input on and reviewed four drafts of a recommended school district policy and procedure on the use of force in schools; and
- Provided input on the topics, issues and recommendations to include in the report to the Washington State Legislature.

In addition to the three facilitated meetings, a smaller representative group of the Task Force met on September 18 and October 16, 2008 to review drafts of the proposed policy and procedure and the legislative report.

II. Overview of policy issue

Educators, law enforcement and our communities work together to ensure safe and healthy schools and have a common expectation that a basic level of school security is in place regardless of a school’s size or location. In addition to security staffing, there is an expectation that effective strategies are in place to address the safety and security of students and staff. It was the consensus of Task Force members that the use of reasonable force through physical, mechanical or chemical means is for safety and security reasons only and clearly is not intended to be used for discipline purposes.

A pro-active approach to violence prevention, the use of evidence-based practices in the use of force, and clear roles and responsibilities for security personnel are the foundations to a model policy. The degree to which there is a common understanding about the use of force and consistency in the application of use of force interventions, the greater the likelihood is that schools will be safe and positive learning environments. Based on a review of literature, federal laws, statutes and regulations from other states, court findings, and existing school district policies and procedures, it appears that, in general, policies and procedures governing the use of force:

- clearly separate use of force from school discipline;
- emphasize the use of positive behavioral interventions and supports as the first intervention for addressing a student’s behavior;

- clarify when use of force and restraints can be used and when they cannot be used;
- identify the conditions and types of force that can be used and by whom;
- specify that only staff trained in the use of force are authorized to do so; and
- require documentation, follow-up and reporting of incidents involving use of force, including timelines for when reporting should be completed.

Prior to embarking on the development of the policy and procedure, the Task Force sought to understand the status of the use of force in Washington schools, existing security staffing and training models, and policies and procedures utilized by school districts.

1. Extent of use of force in Washington state schools

In Washington state, school districts do not routinely collect data on incidents in which use of force has been applied to students so we do not have a clear picture of the extent to which school staff or School Resource Officers use force or restraints. Members of the Task Force shared anecdotal data, and the majority of representatives from school districts reported that situations in which physical force, mechanical restraint devices and chemical spray were used were rare occurrences. These same representatives indicated that situations occurred routinely in which School Resource Officers and school staff, including School Security Officers, used behavioral interventions and de-escalation techniques to address situations in which students or staff could be harmed or property damaged.

2. School security models in Washington state K-12 public school districts

Various school security staffing models are in place across school districts in Washington state. School Security Officers (SSOs) are generally defined as those non-commissioned individuals employed by a school district, either as classified or contracted employees, to manage safety and security programs on school campuses. School Resource Officers (SROs), by contrast, are defined as commissioned law enforcement officers typically employed by law enforcement agencies and assigned to work in schools as part of an agreement with a school district. Appendix (F) outlines the duties, authorities and restrictions of SSOs and SROs. According to OSPI's School Safety Center, several different models exist:

A. District/School Security Officer models:

1. District School Security Program with a Security Program Director and Security Officers placed at individual school sites. These security personnel are classified employees of the district, supervised by the Security Program Director and operate under the authority of the district. Kent School District operates under this model.
2. School Security Officers that have been commissioned police officers and authorized by the district to carry firearms, are employed by the school district and assigned to school campuses. Highline Public Schools employs this model.

3. District Resource Officers are hired by the district and assigned to individual schools or groups of schools and are supervised by a central office administrator. Spokane Public Schools is an example of the DRO model. In the Spokane Public Schools, even though the District Resource Officers are employees of the district, they adhere to the use of force standards of the local law enforcement agency. The DROs have at minimum completed full reserve officer training and many have completed police academy training. DROs in the Spokane School District wear a district designed uniform and do not carry firearms or tasers.
4. One School Security Officer is employed by the district to coordinate school safety and security programs for a small district. Mead School District is an example. School Security Officers are employed by a private security company that contracts with the district to provide school security. Mt. Adams, Wapato and West Valley school districts currently contract with the Phoenix Protective Corporation for services, operating under this model.

B. Law enforcement models:

1. School Resource Officers are employed by the local law enforcement agency and assigned to a school district, or districts, to provide law enforcement and security functions for those schools. The agreement between the Spokane County Sheriff's Office and the Liberty School District is an example.
2. School Resource Officers are special commissioned officers hired and supervised by the school district to serve multiple schools. The commissions of the SROs are held by the local law enforcement agency. In the Auburn School District, the district sends and pays for the SRO Academy training for the SROs and sets their salary. SROs wear the uniform and badge of the local law enforcement agency.

C. Hybrid models:

1. School Security Officers are employed by the district and supervised by district administrators, and work collaboratively with School Resource Officers assigned to the district by the local law enforcement agency. Tacoma Public Schools is putting this model in place this year.
2. Commissioned School Liaison Officers are assigned to provide a proactive resource to a school district, making regular meetings and site visits, provide technical assistance, training, and coordination with school administrators and SSOs. The Kent Police Department employs this approach to supplement the school security officer program of the district.

D. No security or law enforcement presence:

School districts rely on school administrators, classified personnel, teachers, and others to manage safety and security concerns without benefit of professional security or law enforcement personnel. Emergencies prompt such schools to call 911 for assistance when there are injuries, life-safety threats, or crimes committed on school

grounds. Approximately 60 to 70 percent of Washington state's K-12 public schools use this model.

It is important to note that the role, authority and training of security personnel in districts vary greatly from security personnel who function as hall monitors and disciplinarians to highly trained officers who carry weapons. Currently, the job description for a School Security Officer is not standardized and no licensure or certification for this position exists, although security officers employed in the private sector are licensed.

3. Training and supervision

Although training for SSOs is provided through a number of private companies and through OSPI's School Safety Center through a contract with the Criminal Justice Training Commission (CJTC), not every district participates. In each of the last two biennia the Legislature has appropriated \$200,000 for the coordination of regional training courses provided by the CJTC in collaboration with the OSPI. The first formal training for SSOs occurred in 2004 and since then about 400 individuals have been trained. The training provided by OSPI and the Criminal Justice Training Commission is limited in scope, and a recurring training program is not in place. In the basic training only 12 content areas are addressed from the 61 topics recommended and approved by the School Safety Advisory Committee.

Further, concern exists that training has been developed in the absence of standards for the SSO job role. OSPI's School Safety Committee has been working on these issues and exploring the development of a more extensive curriculum along with a pilot SRO training program. Since 2004, the Committee has also been investigating the development of standards and licensure for SSOs.

In addition to training, supervision of school security personnel is an unresolved issue. Currently, supervision of school security personnel, training received by these personnel, and procedures supervisors use to assure accountability vary widely across districts, according to members of the task force. The SSO is employed in an occupation that is potentially high risk in terms of intervention in violent situations. By the very nature of their jobs, SSOs contend with interpersonal boundary and relationship issues that may make them vulnerable to accusations of misconduct if incidents involving interpersonal friction are not successfully resolved. Supervision, along with training, is considered essential for these professionals to mitigate risks. This may also require a training program for those who supervise SSOs.

State guidelines do not exist for establishing written agreements between school districts and local law enforcement agencies regarding placement of SROs in schools. In some cases, no such formal agreements are in place. Special training for SROs related to their work in schools is also not consistently provided. Task Force members addressed the need for SROs to receive training about school district policies and working with youth in schools.

Finally, Task Force members reported anecdotally that estimates are only about one-third of districts have security personnel or SROs in their schools. They expressed the need to have a basic level of security present in every school with a statewide infrastructure in place to support the training of security personnel and to adequately fund this critical school function.

Examples of existing Washington state school district policies and procedures

Currently in Washington, a variety of school district policies and procedures addressing use of force have been adopted by school boards. Task Force members shared examples of existing district policies, including those from Kent, Edmonds, Wenatchee, Highline, and Bellevue school districts. The Bellevue School District policy is an example of a policy used by several districts. The policy is a re-statement of the RCW.

The Bellevue, Wenatchee, and Kent school districts' policies regarding the use of force are modeled after the policy below from the Bellevue School District:

Policy No. 4105 – Student rights and responsibilities: Corporal punishment and physical restraint of students policy

The use of corporal punishment is prohibited. Corporal punishment is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

Corporal punishment does not include:

- a. The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;
- b. Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;
- c. Physical exertion shared by all students in a teacher-directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or
- d. Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

*Reference: WAC 180-40-235
RCW 28A.150.300*

Although these policies are an accurate restatement of the law, the Task Force envisioned a policy and procedure that would provide a greater degree of guidance for districts in implementing their statutory requirements. Therefore to frame the Task Force work, we began by examining state and federal laws.

III. Washington state laws related to use of force and restraints

In Washington state, existing laws related to the use of force and restraints on students are contained in statutes and regulations regarding corporal punishment.

Washington: RCW 28A.150.300 (2008) Corporal punishment prohibited – Adoption of policy.

The use of corporal punishment in the common schools is prohibited. The superintendent of public instruction shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted and implemented in all school districts.

WAC 392-400-235 (2008) Discipline – Conditions and limitations.

Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-400-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240:

... (3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

- a. The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;
- b. Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;
- c. Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or
- d. Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

RCW 9A.16.020 Use of force – When lawful.

The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases:

1. Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting the officer and acting under the officer's direction;

RCW 9A.16.100 Use of force on children – Policy – Actions presumed unreasonable.

It is the policy of the state to protect children from assault and abuse and to encourage parents, teachers, and their authorized agents to use methods of correction and restraint of children that are not dangerous to the children. However, the physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child: (1) Throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive.

Washington state statutes regarding liability of staff

RCW 9A.16.110 Defending against violent crime – Reimbursement.

(1) No person in the state shall be placed in legal jeopardy of any kind whatsoever for protecting by any reasonable means necessary, himself or herself, his or her family, or his or her real or personal property, or for coming to the aid of another who is in imminent danger of or the victim of assault, robbery, kidnapping, arson, burglary, rape, murder, or any other violent crime as defined in RCW 9.94A.030.

IV. Laws and regulations from other states

A number of states regulate the use of force and restraints applied to students and define the circumstances when reasonable force may be used by staff. These laws and/or regulations also address prohibiting the inappropriate use of force and restraints by requiring training, clear supervision guidelines, and follow-up reporting. States such as Massachusetts, North Dakota, Montana, North Carolina, California, Colorado, Illinois, Minnesota and Texas have passed legislation over the past several years addressing the use of force and restraints with students. Many of the statutes use the phrase, "use of force" or "use of reasonable force to restrain a student from hurting himself or others..." and clarify the conditions for the use of restraint in such phrases as "used in self-defense or in defense of others, to obtain possession of weapon or other dangerous object or to protect property..." States such as California also have regulations for security staff training and hiring. Still others (North Carolina) require that districts incorporate the provisions of their legislation on the use of force and restraint and staff training into each school's Safe School Plan and record all incidents related to the use of restraint, seclusion

and isolation. Appendix (E) provides references for state statutes reviewed by the Task Force.

Although state statutes differ, they appear to contain common elements including: a) definitions of terms common to physical restraint; b) required procedures and training for staff; c) conditions when restraint can and cannot be used; d) guidelines for the proper administration of restraint; and e) reporting requirements when restraint is employed.

V. IDEA, Section 504 and ADA

The federal Individual with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act and the American with Disabilities Act (ADA) include protections for students. The IDEA states that “in the case of a child whose behavior impedes his or her learning or that of others, a student’s IEP team must consider strategies, including positive behavioral interventions, strategies and supports to address that behavior.” It is general practice that students with disabilities who require these “strategies” to address their behavior have these described in their IEP. Strategies may include the appropriate and inappropriate use of force.

VI. Court cases

The primary legal case regarding the use of restraints, *Youngberg v. Romeo*, was heard by the U.S. Supreme Court in 1982. The Court ruled that the State had an obligation to provide reasonable training to individuals who perform restraints to ensure the safety of the individual being restrained and to protect the person’s freedom from unnecessary and unreasonable restraints. The Court focused on the use of professional judgment by qualified professionals in determining whether a restraint was unnecessary or unreasonable.

According to the Education Law Resource Center, and its report, *Preventing Physical Restraints in Schools: A Guide for Parents, Educators and Professionals*, “most organizations that have taken positions on restraints, agree on some key components that parallel the legal requirements from the Youngberg decision.” These include:

- Restraints should only be used as a last resort after other methods have failed.
- Staff should be trained in ways to de-escalate situations and avoid the need for restraints.
- Restraints should only be performed by trained individuals.
- The least restrictive or least harmful method of restraint should be used.
- The health and safety of the person being restrained should be monitored during the restraint.
- Restraints must be documented and reported (p. 20-21).

The Task Force relied upon these laws, regulations, and court cases as a foundation for the model policy and procedure.

VII. Considerations for school districts in policy implementation

Policy development and adoption is the primary governance tool for school boards; however, with the adoption of policy, boards must also consider administrative ramifications of their policy decisions. Therefore, along with the adoption of a policy, the Task Force recommends the following implementation considerations.

1. Policy adoption and implementation

The Task Force recommends that every school district adopt either the model Use of Force policy or a customized local Use of Force policy that at a minimum addresses the following:

- a. Describes the authorized use of force;
- b. Defines reasonable physical force, mechanical restraints and chemical spray;
- c. Prohibits use of force as discipline; and
- d. Requires appropriate procedures to implement the policy.

A school district's Use of Force policy should be distinct from student discipline policies and only apply to the use of force with students who are enrolled in the district; however, it is not intended to prevent or limit the use of reasonable force or restraint as necessary with other adults or youth from outside the school as allowed by law.

The Task Force recommends that districts use the model procedure to develop a local procedure for the implementation of the Use of Force policy that at minimum includes the following:

- a. Definition of terms;
- b. A use of force continuum;
- c. Descriptions of the appropriate and inappropriate use of force;
- d. Personnel to be trained and minimum content of training;
- e. Staff use of de-escalation methods;
- f. Follow-up debriefing, reporting and parent notification procedures and forms, including procedures for the resolution of concerns that may occur when parents are notified of the use of force incident; and
- g. Considerations for the use of restraints related to a student's Individualized Education Program (IEP)

The Task Force also recommends that districts provide all staff with the district-established policy and procedure regarding use of force. While efforts should be made to use force only by individuals who have received training, staff may find themselves in emergency situations where use of force is needed. It is, therefore, critical that all staff understand their responsibility under the district's use of force policy. Appendices (B) and (C) are the WSSDA sample policy and procedure.

2. Authorized personnel – clarification of school security roles and authority

The Task Force recommends that every school district identify those school security positions (or other school personnel where there are no SSOs) authorized to use mechanical restraints, chemical sprays or any less than lethal devices as well as lethal weapons. Every district should have established job descriptions for security personnel that specify roles and responsibilities, training required, reporting duties and supervision. The information regarding the positions authorized to use mechanical restraints, chemical spray or any less than lethal devices, as well as lethal weapons, should be disseminated to school staff and parents. Appendices (G) and (H) are sample job descriptions for SROs and SSOs.

3. Assignment, training and supervision of school resource officers

The Task Force recommends that the assignment of School Resource Officers (SROs) to schools be solely by written agreement or contract. That contract should clarify roles and responsibilities and address selection, funding, training, supervision, evaluation, and associated issues. A written agreement or contract between a school district and a law enforcement agency should also address training and supervision of SROs specific to working in a youth culture and with a diverse school population, collaboration with school personnel and the district's policies and procedures on use of force. This training should go beyond that which is required for commissioning and be designed to enhance the effectiveness of SROs as part of a school community.

A cross-site study of 19 SRO programs was conducted in 2005 by Abt Associates. The study found that few of the programs provided training to SROs before placement. SROs funded by COPS in-school grants did receive mandatory training. The study also found that most SROs and school principals agreed that it would be valuable to train principals and assistant principals along with SROs as a team. One of the weakest components of many SRO programs was the lack of consistent or close supervision. In most programs, SROs keep monthly logs for an annual job performance review but this was found to be inadequate supervision. Several sites investigated in the study involved school principals in the supervision process.

The study recommended that SROs receive both pre-service and in-service training. The U.S. Department of Justice, Office of Community Oriented Policing published *A Guide to Developing, Training and Succeeding with your School Resource Officer (SRO) Program*, June 2005. The guide was developed based on in-depth interviews with program supervisors, SROs, law enforcement and school administrators, school board members and local government officials to 28 well-regarded programs and could be used to guide the development of statewide training. Training is also provided by the National Association of School Resource Officers (NASRO). Appendix (K) is a sample SRO contract with a school district.

4. Training of general school personnel

Training of staff who, as a regular part of their job, can be expected to intervene to provide for the safety of a student, other students, staff or self should be required. Without such

training, there may be serious consequences of placing untrained people in positions of danger. The Department of Labor and Industries basic regulations require employers to train staff for workplace safety in areas identified as potentially hazardous. In addition, the WACs governing special education and the use of aversive interventions in a student's IEP require staff implementing those to be trained.

Training is recommended as follows: each principal or director should determine a time and method to provide staff with training within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training should include what to do to de-escalate a situation, what to do during the situation in which reasonable force is used, and what to do after the event occurs. Training should also include the following:

- a. the district's use of force policy;
- b. interventions that may preclude the need for force or restraint, including de-escalation of behaviors;
- c. procedures to follow if use of force becomes necessary including related safety considerations and follow-up procedures;
- d. cultural and race considerations to ensure that use of force is applied fairly; and
- e. identification of program staff who are authorized to carry restraints or chemical sprays and the SRO who will be assigned to the school.

A training program for those school administrators who supervise SSOs should also be considered by school districts. Training should reinforce the school district's Use of Force policy and safety and security practices for collaboration with law enforcement and emergency management agencies.

5. District operations manual

The Task Force recommends that school districts develop and publish school security operations manuals that provide district-wide consistent guidance about security roles and responsibilities, lines of supervision, channels of communication, relationships with local law enforcement and how school security interfaces with other functions of the district, including safe school operations. The manual should be used in the training of school security personnel, SROs, and school administrators. To avoid duplication of effort and minimize costs for the development of these manuals, a statewide work group could be formed to develop generic templates that reflect different district security staffing configurations and operations. These templates could be made widely available to districts through the OSPI Web site.

6. Follow-up and reporting

The Task Force recommends that school districts develop Use of Force reporting that at a minimum includes the following:

- a. name of student, age, gender and race and staff involved in the restraint and any staff witnessing the restraint
- b. student's IEP or 504 status

- c. date, time and location of incident
- d. duration of restraint
- e. description of the environmental factors and emotional factors that may have affected the student
- f. description of the behaviors and factors leading up to the restraint
- g. description of any positive behavioral interventions and de-escalation methods used prior to the restraint and the student's response to the interventions
- h. description of any injuries to student or staff
- i. description of the processing that occurred with the student after the event and the outcome and plan generated from that processing
- j. name and signature of the person completing the report

Appendix (I) is an example of a reporting form that can be used by school districts.

Task Force members also identified debriefing as a key component of the follow-up and reporting process. Steps in debriefing or processing the incident should include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff who administered the restraint to discuss whether proper restraint procedures were followed and consideration of whether any follow-up is appropriate for students who witnessed the incident. A copy of the report should be placed in the student's record.

In addition to this tactical debriefing, school districts should consider putting in place procedures and staff training to conduct a critical incidence stress debrief in situations where an incident or circumstance occurs that impacts significantly on the normal functioning of the school. This stress debrief should occur to (1) help students and staff recover from trauma, (2) reduce the impact of the critical incident on students and staff, (3) assist those affected to deal with the associated acute stress and accelerate their recovery, and (4) minimize disruption to the learning process.

7. Notification to parents

The Task Force recommends that school district's Use of Force policies and procedures require notification to parents or guardians whenever there is a use of force incident. Included in the report should be an opportunity for follow-up communication with a school administrator and procedures a parent can follow in the resolution of a dispute. Appendix (J) is a sample parent notification letter.

8. Students with special needs

Current state statutes and administrative code (WAC 392-400-235) recognize the authority of the IEP team to determine the types of force that may be used as part of a student's IEP which is used with parent consent. However, students with physical conditions, severe learning difficulties, or communication disabilities present a different set of challenges that may require physical intervention that is related much more closely to an individual plan designed specifically for the student. The complexity, range of need and

the consequent support for some special needs students is such that physical intervention may be the norm, not the exception. The Task Force recommends that training for security personnel include these considerations, and security personnel should be knowledgeable about those students who are at special risk for injury due to their disabilities.

9. Community involvement

The community plays a role in ensuring the safety and security of children and in protecting the rights of children and adults. This role should not be overlooked in the implementation of the recommended policy and procedure. The Task Force recommends that districts consider how to involve the community in the development of safe schools policies and how to best keep the community informed on an ongoing basis about safety and security issues.

VIII. Recommendations for legislative consideration

The Task Force respectfully requests that the Legislature consider the following recommendations.

1. School board policy and procedure adoption – optional or mandatory

The policy coordination authority of the Washington State School Directors' Association is defined by RCW 28A.345.040. "It shall be the duty of the school directors' association (1) to take such action as the association deems advisable to effect a coordination of policymaking, control, and management of the school districts of the state." Under that authority, WSSDA prepares and makes available a comprehensive set of Washington-specific sample policies in the areas of strategic planning, board of directors, instruction, students, community relations, personnel, and management support. Through its Policy News, school district subscribers receive analyses of developing issues plus copies of new and amended sample policies which they can then customize to fit their local needs. School boards typically review these sample policies on a routine basis and choose to adopt the WSSDA sample policy as written or make modifications to the sample policy to fit local circumstances. Although WSSDA develops and publishes sample procedures to accompany model policies, districts are encouraged to customize written procedures for policy implementation. In most districts, procedures (developed by the administrative team) are treated by school boards as administrative guidelines and are not formally adopted by boards.

Policy adoption options for the use of force policy:

- a. The Use of Force policy and procedure can be disseminated as a sample policy by WSSDA. As such, districts would have the option of adopting it for their own use, modifying it to fit local needs or to not adopt the sample policy or a locally developed policy. This option does not require legislative action.
- b. Adoption of a Use of Force policy by school districts could be made mandatory as is the case for the policy that prohibits harassment, intimidation or bullying per RCW 28A.300.285 Harassment, intimidation, and bullying prevention poli-

cies. This option, a mandated policy governing use of force, requires legislative action.

2. Training of security personnel – optional or mandatory

School Security Officers (SSOs) are employed to help safeguard the lives of students and staff and the property of public schools. The occupation is potentially high risk in terms of intervention in potentially violent situations as well as in situations in which interpersonal boundary and relationship issues may make them vulnerable to accusations of misconduct if incidents involving interpersonal friction are not successfully resolved. Although Washington state has developed a training program for SSOs, the training is optional.

Legislative options to consider are:

- a. Continue the School Security Officer Optional Training as developed and provided through the Washington State School Safety Advisory Committee. In 2004 the Washington State Legislature supported the state's Criminal Justice Training Commission and the Office of Superintendent of Public Instruction and its Washington State School Safety Advisory Committee's development of a School Security Officer Training Program. According to meeting notes from that committee, the current training is designed as a three-day training focused primarily on providing basic awareness and knowledge.
- b. Expand the current School Security Officer Training Program. The Washington State School Safety Advisory Committee identified the need for more advanced training offerings to balance the decreasing demand for basic training and to provide security personnel with updated, and on-going professional development.
- c. Require pre-service and in-service training in the areas identified in the Use of Force Policy and Procedure, including the use of force continuum. In addition, require security personnel to participate in annual training in the use of any mechanical restraint or chemical spray or weapon they are authorized to carry and use.
- d. Establish a certification or licensing program for School Security Officers that requires state-mandated training prior to hiring and annual continuing education. See discussion that follows.

3. Standards and certification/licensure of school security personnel

In the long term, the issue of School Security Officer certification should be addressed. Certification would structure training around an established set of standards for certification or licensure. This would require SSOs to complete a state-required basic training program before employment. OSPI could certify SSOs who complete the training and also re-certify SSOs who complete required continuing education. Decisions regarding whether workers or the state would pay for the training and certification would need to be made. Many other states have such programs. Virginia, for example, has officially recognized school security as a profession by passing legislation that requires certification or

licensure. Once an officer can demonstrate competence according to a set of standards, they are certified to perform their professional duties. Currently, the state of Washington has no operating standards for School Security Officers or programs. The standards could address certified training and the specific duties and responsibilities of the profession as outlined in an SSO job description.

Role of the OSPI Safety Center

The state can strive to legitimize the school security profession by setting standards and utilizing the Washington State School Safety Advisory Committee to provide technical assistance. OSPI, in collaboration with the Washington State School Safety Advisory Committee, could potentially develop standards and a certification/licensure process.

Role of the private sector

The private sector security providers can play a valuable role in promoting standards-based school security programs and the hiring of staff who are certified or licensed, once the state develops these standards for certification/licensing and the related training program for school security personnel. An additional role for district insurers can be to help ensure that standards of certification are continually upheld and upgraded, as needed, in relationship to their role in limiting risk for school districts.

4. Statewide data collection and reporting

A universal annual reporting system that includes the number of incidents in which physical force, mechanical restraints, chemical spray or less than lethal devices were used in schools is recommended for legislative consideration. The report would track the number of incidents in which use of force was used and the number of incidents in which injuries to students or injuries to staff occurred. The data collection and reporting can be integrated into the existing OSPI Weapons Report as per RCW 28A.320.130:

RCW 28A.320.130 Weapons incidents — Reporting.

Each school district and each private school approved under chapter 28A.195 RCW shall report to the superintendent of public instruction by January 31st of each year all known incidents involving the possession of weapons on school premises, on transportation systems, or in areas of facilities while being used exclusively by public or private schools, in violation of RCW 9A.41.280 in the year preceding the report. The superintendent shall compile the data and report it to the house of representatives, the senate, and the governor.

With this information, OPSI could compile the district-level data into an annual state report that is made available to the state legislature.

5. Funding

Implementation of these legislative recommendations has funding implications. Expanding the training of school security personnel will require new funding. Initially, a fiscal analysis of required training and a certification/licensing program needs to be made. This would include determining costs for a feasibility study, program and curriculum de-

velopment and implementation. Long-term, a cadre of trainers could be established, but they will also require on-going support and training as trainers.

With the implementation of a SSO certification/licensing program, school districts may incur additional costs associated with verification of certification and ongoing compliance with keeping certificates current, covering the cost of continuing education for SSOs and training of SSO supervisors.

School districts may also be faced with additional costs associated with the collection and reporting of statewide data. An assessment of staff time devoted to collecting data and reporting annually to OSPI should be conducted to determine the impact on school districts, prior to implementing the data collection requirement.



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School Disciplinary Action Task Force staffing and membership

Marilee Scarbrough, WSSDA Director of Policy and Legal Services, chaired the Task Force; Greg Welch and Debora Boeck provided consultant services; Dan Steele and Cindy Sands, WSSDA staff, provided additional support. Members of the Task Force were as follows:

Community members:

Reverend Paul Benz, Director, Lutheran Public Policy
Nate Henyan, Valhalla Security Training and Consulting
Christopher Hirst, School Law Attorney, Kirkpatrick & Lockhart Preston Gates Ellis LLP
Reverend Jimmie James, Greater Things Ministries
Chris Ranger, School Security Supervisor, Phoenix Protective Corporation
Steven Seiller, Administrator, Service Alternatives, Inc.
Jennifer Shaw, Deputy Director, ACLU
Steven Strachan, Chief of Police, City of Kent
Reverend Harriet Walden, Mothers for Police Accountability

Representatives from commissions and coalitions:

Bob Graham, Central Sound Regional Training Manager, Criminal Justice Training Commission
Reverend Jerry Hebert, Former Commissioner, Washington State Human Rights Commission
Amy Lindh, Member, Washington State Special Education Coalition
Christie Perkins, Washington State Special Education Coalition
Joe Pope, Chair, Washington State School Safety Center Advisory Committee

Representatives from Educational Service Districts and school districts:

Mary Jane Glaser, School Director, Tahoma School District
Bob King, Director of Safety and Security, Wenatchee School District
Chuck Lind, General Counsel, Kent School District
Diana Seeley, Director of Risk Management and Purchasing, Federal Way Schools and School Director, Puyallup School District
Randy Town, Program Coordinator for School Security Officer Training, ESD 105
Tony Zeman, Director of Security and Safety, Highline Public Schools

Washington state legislators:

Representative Mike Armstrong, Washington House of Representatives

Senator Dale Brandland, Washington State Senate

Senator Claudia Kauffman, Washington State Senate

Office of Superintendent of Public Instruction staff:

Craig Apperson, Director, School Safety Center, OSPI

Peggy Brown, Senior Legal/Policy Analyst, OSPI

Sam Chandler, Policy Analyst, Governmental Relations, OSPI

Tyson Vogeler, Program Supervisor, School Safety and Security Programs, OSPI

Student representatives:

Dan Barkley, Seattle University Law Student Extern

Lorilyn Roller, Student Representative, State Board of Education

Representatives from professional associations and unions:

Joanna Arlow, Policy Director, Washington Association of Sheriff and Police Chiefs

Jerry Bender, Director of Governmental Relations, Association of Washington School Principals

Jim Gasper, General Counsel, Washington Education Association

Bonnie Kayla, Board Member, Parent-Teacher Association

Mary Sue Linville, Director of Risk Management and Operations, Washington Schools Risk Management Pool

Barbara Mertens, Assistant Executive Director, Washington Association of School Administrators

Raymond Roberts, Loss Control Consultant, Washington Schools Risk Management Pool

Mark Sherwood, Firearms Training Specialist, Canfield and Associates

David Westberg, Legislative Representative, Council of Stationary Engineers

Observers:

In addition, several staff from the Washington State Legislature observed the process from: Senate Early Learning & K-12 Education Committee; House Education Committee; Senate Democratic Caucus; Senate Republican Caucus; House Democratic Caucus; and the House Republican Caucus.

Use of Reasonable Force

It is the policy of the _____ board of directors that the district maintain a safe learning environment while treating all students with dignity and respect. All students in the district shall remain free from the unreasonable use of force.

District staff may use reasonable force to maintain order or to prevent a student from harming him/herself, other students and school staff or property.

Physical force is reasonable when needed to prevent or minimize imminent bodily injury or substantial or great bodily harm to self or others. If de-escalation interventions have failed or are inappropriate, reasonable physical force may be used to protect district property.

Mechanical restraint or chemical spray is reasonable only when used by authorized and trained district staff after de-escalation interventions have failed or are inappropriate:
a) if the student's behavior poses a threat of imminent bodily injury or substantial or great harm to self or others; or b) to prevent significant property damage.

Physical force, mechanical restraints, chemical spray or less than lethal devices will not be used as a form of discipline or punishment.

This policy is intended to address students enrolled in the district and not intended to prevent or limit the use of reasonable force or restraint as necessary with other adults or youth from outside the school as allowed by law.

The superintendent will annually report to the board on the use of force. The superintendent or a designee will develop procedures to implement this policy.

Legal references:

RCW	28A.150.300	Corporal Punishment Prohibited
	9A.16.020	Use of Force
	9A.16.100	Use of Force on Children
WAC	392-400-235	Corporal Punishment
	392-172A	Rules for the Provision of Special Education

Adoption date:

School district name:

Revised: 11.08

Classification: Priority

Use of Reasonable Force

I. Definitions:

- A. Physical force: Any use of bodily force or physical restriction that substantially immobilizes or reduces the free movement of a student through physical contact.
- B. Chemical sprays: The use of chemicals, such as OcSpray or similar chemical weapons to control a student or limit a student’s freedom of movement.
- C. Mechanical restraint: The use of a mechanical device including, but not limited to metal handcuffs, plastic ties, ankle restraints, leather cuffs, or other hospital-type restraints, used to control a student or limit a student’s freedom of movement.
- D. School resource officer: A commissioned law enforcement officer who provides law enforcement services and may perform other duties for the district; and is assigned by the employing police department or agency to work in collaboration with the district.
- E. School security officer: A classified or contracted school district employee other than a school resource officer who provides security services in the district under the direction of a school administrator.
- F. De-escalation: The use of strategies to defuse an individual who has lost self control, is non-compliant or is demonstrating unacceptable behavior. These strategies address behavior that is dangerous, disruptive or otherwise impedes the learning of a student or others.
- G. Seclusion: Confinement of a student alone in an enclosed space from which the student may not leave.
- H. Less than Lethal Devices: Physical or mechanical restraint or chemical sprays that are unlikely to cause permanent physical harm, impairment or death. Examples of less than lethal devices are batons and electrical impulse control devices.
- I. Bodily injury, physical injury or bodily harm: Physical pain or injury, illness or an impairment of physical condition.
- J. Substantial bodily harm: Bodily injury which involves a temporary but substantial disfigurement or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ or which causes a fracture of any bodily part.
- K. Great bodily harm: Bodily injury which creates a probability of death or which causes significant serious permanent disfigurement or which causes a significant permanent loss or impairment of the function of any bodily part or organ.

II. Use of force continuum:

Whenever possible and practical, the use of force continuum will be followed. District staff shall only use the degree of force necessary to protect a student, students or staff from imminent bodily injury, substantial bodily harm or great bodily harm.

The generally accepted use of force continuum includes, in order:

1. Staff/School Security Officer presence;
2. Verbal/nonverbal communication, de-escalation;
3. Physical interventions;
4. Mechanical restraints;
5. Sprays or electrical devices; and
6. Other reasonable force as authorized by RCW 9A.16.020.

A. Appropriate use of force:

1. Physical force may be used to prevent or minimize imminent bodily injury, substantial bodily harm or great bodily harm to self or others, or if de-escalation interventions fail or are inappropriate to protect district property.
2. Mechanical restraint or chemical spray may be used when a student's behavior poses a threat of imminent, substantial or great bodily harm to self or others; or will cause significant property damage but shall be used only by personnel trained and authorized by the board to use these tools after de-escalation interventions fail or are inappropriate.
3. Mechanical restraint or chemical spray may be used as needed to obtain possession of a known or reasonably-suspected weapon or other dangerous object on a person or within the control of a person.
4. Less than lethal devices may be used only as necessary to prevent substantial bodily harm or loss of life and only by trained personnel who are authorized by the board to use such level of force. RCW 9A.16.020.
5. Consistent with the provisions found in WAC 392-172A-03120, nothing in this policy and procedure precludes the use of reasonable force to control unpredicted spontaneous behavior by a student with an IEP or 504 plan, when the behavior poses a clear and present danger: of serious harm to the student, to another person, or to property; or of seriously disrupting the educational process.

B. Inappropriate use of force:

1. Physical force, mechanical restraint or chemical spray will not be used as a form of discipline or punishment;
2. Physical force, mechanical restraint or chemical spray will not be used as an initial response to destruction of property, school disruption, refusal of the student to comply with school rules, or a staff directive; or a verbal threat that does not

constitute a threat of imminent bodily injury, unless other forms of de-escalation intervention fail or are inappropriate.

3. Physical force, mechanical restraints or chemical spray should not be used as an intervention, if the school employee, school resource officer or school security officer knows that the student has a health condition or physical problem and the condition or problem would be exacerbated by the use of force.

C. Degree of force:

1. Force shall not be continued if a determination is made by the staff member administering the force that the student is no longer at risk of causing imminent bodily injury to him or herself or others;
2. Force shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during the use of force, the student demonstrates significant physical distress, the force shall be reduced immediately and, if necessary, school staff shall take immediate steps to seek medical assistance;

III. Monitoring:

An adult must continually monitor any student when force is used. The monitoring must be conducted by direct observation of the student. Monitoring must include regularly evaluating the student for signs of physical distress.

IV. Staff training requirements:

All training shall include instruction in positive management of student behavior, cultural sensitivity, effective communication for defusing and de-escalating disruptive or dangerous behavior and safe and appropriate use of force, seclusion and restraint. Annually, administrators will provide all staff with the district established policy and procedure regarding the use of reasonable force.

A. Physical force

All staff should be informed of de-escalation strategies and proper physical intervention procedures. Appropriate staff and those who are required or reasonably anticipated to provide physical force intervention will be trained in the use of physical force intervention.

B. Mechanical restraints or chemical spray

Only staff trained and authorized to use mechanical restraint or chemical spray procedures shall administer it to students. The appropriate personnel shall include those staff members who are most likely to be called upon to use mechanical restraint or chemical spray to prevent or address disruptive or dangerous student behavior.

V. Reporting requirements:

A. Processing the incident:

Following the release of a student from the use of force, the school shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the use of force, reviewing the incident with the staff person(s) who administered the force to discuss whether proper procedures were followed and consideration of whether any follow-up is appropriate for students who witnessed the incident.

B. Incident report:

Any school employee, school resource officer or school security officer who uses any chemical spray, mechanical restraint or physical force as defined in this procedure, shall immediately inform the building administrator or a designee and within two business days submit a written report of the incident to the district office.

The building administrator or a designee shall maintain a log of all instances of use of force, as defined by this procedure, which will be presented to the superintendent annually. The superintendent will provide an annual report to the board regarding the district's use of force, including identifying the individuals authorized and trained to use chemical spray or mechanical restraint.

C. Informing parents:

The principal or a designee shall make a reasonable effort to verbally inform the parents, within twenty four hours, of the incident and send written notification as soon as practical but postmarked no later than five business days after the use of force. If the language of the parents is other than English, the written use-of-force report shall be provided to the parent in the language of the home, if practicable.

VI. Resolution of concerns about the use of force:

A student or his/her parent or guardian who has concerns regarding a specific use of force may seek to resolve the concern by using the district's complaint process which is set forth in _____ (insert district's procedure number).

Summary of law regarding restraint of students

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Washington state authority

RCW 9A.16.100 states the general guidelines for the physical discipline of children:

[T]he physical discipline of a child is not unlawful when it is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child. Any use of force on a child by any other person is unlawful unless it is reasonable and moderate and is authorized in advance by the child's parent or guardian for purposes of restraining or correcting the child.

The following actions are presumed unreasonable when used to correct or restrain a child: (1) Throwing, kicking, burning, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) interfering with a child's breathing; (5) threatening a child with a deadly weapon; or (6) doing any other act that is likely to cause and which does cause bodily harm greater than transient pain or minor temporary marks. The age, size, and condition of the child and the location of the injury shall be considered when determining whether the bodily harm is reasonable or moderate. This list is illustrative of unreasonable actions and is not intended to be exclusive.

RCW 9A.16.100 (emphasis added).

There are no Washington cases construing this statute specifically as to discipline in the school environment.

According to WAC 392-400-235, corporal punishment is generally prohibited, but such prohibitions do not extend to certain types of disciplinary restraint:

Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;

(d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq. (emphasis added)

Washington courts recognize that students attending public school are in the protective custody of the teachers, who act in loco parentis, meaning that their role is substituted for that of the parent. See *Peck v. Siau*, 65 Wn. App. 285, 292 (1992); see also *McLeod v. Grant Cty. Sch. Dist. No. 128*, 42 Wn.2d 316, 319-20 (1953). Similarly, it also is clear

that school districts owe a special duty of care to all of the students they serve. School districts have a duty to protect students in their custody from known dangers occurring while the students are at school or engaged in school activities. In addition, school districts must take precautions to protect the students in their custody from reasonably foreseeable dangers. *Peck*, 65 Wn. App. at 292-93; *Rhea v. Grandview Sch. Dist.*, 39 Wn. App. 557 (1985). A danger is foreseeable when the district knew or in the exercise of reasonable care should have known about the danger. See *J.N. v. Bellingham Sch. Dist.*, 74 Wn.App. 49, 59 (1994). Because school districts have the power to control the conduct of students while they are in school or engaged in school activities, with that power comes the responsibility to exercise reasonable supervision. This includes a duty to protect students from foreseeable dangers posed by their peers, including harassment and bullying. See *J.N. v. Bellingham Sch. Dist.*, 74 Wn.App. 49 (1994).

Recent Washington legislative proposals

In the last few years, the Washington State Legislature has taken up the question of physical and mechanical restraint of students. See H.B. 1792, 59th Leg., 2005 Gen. Sess. (Wash. 2005); and S.S.B. 6418 and E.S.H.B. 2884, 60th Leg., 2008 Gen. Sess. (Wash. 2008). These bills vary somewhat in approach, but generally would expressly limit the situations in which physical or mechanical restraint is permissible.

For example, S.S.B. 6418 stated that “The legislature further finds that use of physical force, including mechanical or chemical restraint as an intervention in the school environment should be used only in emergency situations after other less intensive alternatives have failed or have been deemed inappropriate and, if used, should only be used by appropriately trained personnel.” While none of these bills have become law, S.S.B. will serve as a guidepost for this committee’s work.

Federal authority

At the federal level, analysis of physical restraint of students is closely related to analyses of corporal punishment and detention. All three types of discipline raise questions of Fourth Amendment search and seizure.

Although public school students do not “surrender their constitutional rights at the schoolhouse gates,” *Wallace v. Batavia*, 68 F.3d 1010, 1013 (7th Cir. 1995), and although the Fourth Amendment always requires that searches and seizures be reasonable, “what is reasonable depends on the context within which a search takes place.” *New Jersey v. T.L.O.*, 469 U.S. 325, 337 (1985). And in the school environment, “[a]gainst the child’s interest in privacy must be set the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds.” *Id.* at 339. Thus, the student may have less expectation of freedom from search and seizure than would an adult. *Id.*

In the one Ninth Circuit case on point, *Doe v. Hawaii Dept. of Educ.*, 334 F.3d 906 (9th Cir. 2003), the court adopted the reasoning of the 7th, 5th, and 10th Circuits. *Id.* at 909. Faced with a situation in which a school administrator taped a student’s head to a tree, the court applied a test for constitutionality similar to that used by the other circuits. It stated that “a seizure violates the Fourth Amendment if it is objectively unreasonable under the circumstances. . . [T]he reasonableness of the seizure must be considered in light

of the educational objectives [the administrator] was trying to achieve.” *Id.* In addition, the seizure “must ‘not be excessively intrusive in light of the age and sex of the student and the nature of the infraction.’” *Id.* (quoting *New Jersey*, 469 U.S. at 342). In that case, the Ninth Circuit court noted that the student’s only offense had been “horsing around,” that he posed no danger to other students, and that taping an eight-year-old’s head to a tree was intrusive. *Doe*, 334 F.3d at 909-10. Those circumstances were sufficient for the court to conclude that the administrator had violated the student’s Fourth Amendment rights. *Id.* at 910.

Special considerations: Students with disabilities

Certain other specific issues arise when the student being restrained is in special education or otherwise significantly disabled, as this situation may raise issues under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq. For example, WAC 392-172A-03120 allows district personnel to use reasonable force to restrain unpredicted, spontaneous behaviors of a disabled student when the behaviors present a clear and present danger of serious harm to the student or another person, serious harm to property, or to seriously disrupt the educational process. All other restraints of students in special education must be implemented in accordance with their IEPs. WAC 392-172A-03135. Such students may have unique physical needs and limitations that must be considered when restraining them or when protecting them from dangers from others. *Niece v. Elmview Group Home*, 131 Wn.2d 39, 44 (1997) (entities like school districts that provide care and/or services for the disabled must take reasonable precautions to protect them from the foreseeable consequences of their disabilities).

Selected “use of force” statutes from other states

States:

Washington, p. 33

Wisconsin, p. 34

Michigan, p. 35

Massachusetts, p. 36 (including regulation)

Maine, p. 43

North Dakota, p. 44

Montana, p. 44

California, p. 45

Minnesota, p. 46

North Carolina, p. 46

Colorado, p. 56

Illinois, p. 56

Texas, p. 57

Many of the statutes use the phrase, “use of force” or “use of reasonable force to restrain a student from hurting himself or others...” or “used in self-defense or in defense of others, to obtain possession of weapon or other dangerous object or to protect property...” Many of them are blended into the state’s laws on the use or non-use of corporal punishment.

Washington: RCW 28A.150.300 (2008) Corporal punishment prohibited – Adoption of policy.

The use of corporal punishment in the common schools is prohibited. The superintendent of public instruction shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted and implemented in all school districts.

WAC 392-400-235 (2008) Discipline – Conditions and limitations.

Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC 180-400-225, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240:

... (3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

- (a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;
- (b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;
- (c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or
- (d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

Wisconsin: Wis. Stat. § 118.31 (2007) Corporal punishment.

- (1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions, when used as a means of discipline. "Corporal punishment" does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.
- (2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.
- (3) Subsection (2) does not prohibit an official, employee or agent of a school board from:
 - (a) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person.
 - (b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.
 - (c) Using reasonable and necessary force for the purpose of self-defense or the defense of others under s. 939.48
 - (d) Using reasonable and necessary force for the protection of property under s. 939.49
 - (e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2) (a) 1. and 4., or from school-sponsored activities.
 - (f) Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself.
 - (g) Using reasonable and necessary force to protect the safety of others.
 - (h) Using incidental, minor or reasonable physical contact designed to maintain order and control.

- (4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h) In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.
- (5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.
- (6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.
- (7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

Michigan: MCLS § 380.1312 (2008) Corporal Punishment defined

“Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

- (1) As used in this section, “corporal punishment” means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.
- (2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.
- (3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.
- (4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:
 - (a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.
 - (b) For self-defense or the defense of another.
 - (c) To prevent a pupil from inflicting harm on himself or herself.

- (d) To quell a disturbance that threatens physical injury to any person.
 - (e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.
 - (f) To protect property.
- (5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.
- (6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.
- (7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.
- (8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.
- (9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.
- (10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

Massachusetts: ALM GL ch. 71, § 37G (2008). Corporal Punishment Prohibited; Reasonable Force Allowed for Protection From Assault; Filing of Report.

(a) The power of the school committee or of any teacher or any other employee or agent of the school committee to maintain discipline upon school property shall not include the right to inflict corporal punishment upon any pupil.

(b) The provisions of this section shall not preclude any member of the school committee or any teacher or any employee or agent of the school committee from using such reasonable force as is necessary to protect pupils, other persons, and themselves from an assault by a pupil. When such an assault has occurred, the principal shall file a detailed report of such with the school committee.

(c) The board of education shall promulgate regulations regarding the use of physical restraint for students. Such regulations shall not preclude any teacher or employee or agent of the school from using reasonable force to protect pupils, other persons and themselves from an assault by a pupil as set forth above in section (b). Such regulations shall require training of all personnel authorized to administer any forms of restraint. Such regulations shall provide for procedures for notification to the department and to the parents.

Code of Massachusetts Regulations, Physical Restraint

603 CMR 46.01 (2008). 46.01: Authority, Scope, Purpose and Construction

(1) Authority. 603 CMR 46.00 is promulgated by the Board of Education pursuant to M.G.L. c. 69, § 1B, and c. 71, § 37G.

(2) Scope. 603 CMR 46.00 governs the use of physical restraint on students in publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, collaborative education programs and special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h). Educational programs in facilities operated by the Department of Youth Services shall comply with the restraint requirements of 102 CMR 3.00.

(3) Purpose. The purpose of 603 CMR 46.00 is to ensure that every student participating in a Massachusetts public education program is free from the unreasonable use of physical restraint. Physical restraint shall be used only in emergency situations, after other less intrusive alternatives have failed or been deemed inappropriate, and with extreme caution. School personnel shall use physical restraint with two goals in mind:

(a) To administer a physical restraint only when needed to protect a student and/or a member of the school community from imminent, serious, physical harm; and

(b) To prevent or minimize any harm to the student as a result of the use of physical restraint.

(4) Construction. Nothing in 603 CMR 46.00 shall be construed to limit the protection afforded publicly funded students under other state or federal laws, including those laws that provide for the rights of students who have been found eligible to receive special

education services. Nothing in 603 CMR 46.00 precludes any teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.

46.02: Definitions

As used in 603 CMR 46.00, the following terms shall have the following meanings:

Extended Restraint. A physical restraint the duration of which is more than 20 minutes. Extended restraints increase the risk of injury and, therefore, require additional written documentation as described in 603 CMR 46.06.

Physical Escort. Touching or holding a student without the use of force for the purpose of directing the student.

Physical Restraint. The use of bodily force to limit a student's freedom of movement.

Public Education Programs. Public schools, including charter schools, collaborative education programs, special education schools approved under 603 CMR 28.09, except as provided in 603 CMR 18.05(5)(h), and school events and activities sponsored by such programs.

Restraint – Other. Limiting the physical freedom of an individual student by mechanical means or seclusion in a limited space or location, or temporarily controlling the behavior of a student by chemical means. The use of chemical or mechanical restraint is prohibited unless explicitly authorized by a physician and approved in writing by the parent or guardian. The use of seclusion restraint is prohibited in public education programs.

Mechanical Restraint. The use of a physical device to restrict the movement of a student or the movement or normal function of a portion of his or her body. A protective or stabilizing device ordered by a physician shall not be considered mechanical restraint.

Seclusion Restraint. Physically confining a student alone in a room or limited space without access to school staff. The use of "time out" procedures during which a staff member remains accessible to the student shall not be considered "seclusion restraint."

Chemical Restraint. The administration of medication for the purpose of restraint.

School Working Day. Any day or partial day that students are in attendance at the public education program for instructional purposes.

46.03: Procedures and Training

(1) Procedures. Public education programs shall develop written procedures regarding appropriate responses to student behavior that may require immediate intervention. Such procedures shall be annually reviewed and provided to school staff and made available to parents of enrolled students. Such procedures shall include, but not be limited to:

- (a) Methods for preventing student violence, self-injurious behavior, and suicide, including de-escalation of potentially dangerous behavior occurring among groups of students or with an individual student;
- (b) A school policy regarding restraint that provides a description and explanation of the school's or program's method of physical restraint, a description of the school's or program's training requirements, reporting requirements and follow-up procedures,

and a procedure for receiving and investigating complaints regarding restraint practices.

(2) **Required Training For All Staff.** Each principal or director shall determine a time and method to provide all program staff with training regarding the school's restraint policy. Such training shall occur within the first month of each school year and, for employees hired after the school year begins, within a month of their employment. Training shall include information on the following:

- (a) The program's restraint policy;
- (b) Interventions that may preclude the need for restraint, including de-escalation of problematic behaviors;
- (c) Types of restraints and related safety considerations, including information regarding the increased risk of injury to a student when an extended restraint is used;
- (d) Administering physical restraint in accordance with known medical or psychological limitations and/or behavioral intervention plans applicable to an individual student; and
- (e) Identification of program staff who have received in-depth training pursuant to 603 CMR 46.03(3) in the use of physical restraint.

(3) **In-depth Staff Training in the Use of Physical Restraint.** At the beginning of each school year, the principal or director of each public education program or his or her designee shall identify program staff that are authorized to serve as a school-wide resource to assist in ensuring proper administration of physical restraint. Such staff shall participate in in-depth training in the use of physical restraint. The Department of Education recommends that such training be at least 16 hours in length.

(4) **Content of In-depth Training.** In-depth training in the proper administration of physical restraint shall include, but not be limited to:

- (a) Appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship building and the use of alternatives to restraint;
- (b) A description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
- (c) The simulated experience of administering and receiving physical restraint, instruction regarding the effect(s) on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
- (d) Instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
- (e) Demonstration by participants of proficiency in administering physical restraint.

46.04: Determining When Physical Restraint May Be Used

(1) **Use of Restraint.** Physical restraint may be used only in the following circumstances:

- (a) Non-physical interventions would not be effective; and
 - (b) The student’s behavior poses a threat of imminent, serious, physical harm to self and/or others.
- (2) Limitations on Use of Restraint. Physical restraint in a public education program shall be limited to the use of such reasonable force as is necessary to protect a student or another member of the school community from assault or imminent, serious, physical harm.
- (3) Prohibitions. Physical restraint is prohibited in the following circumstances:
- (a) As a means of punishment; or
 - (b) As a response to property destruction, disruption of school order, a student’s refusal to comply with a school rule or staff directive, or verbal threats that do not constitute a threat of imminent, serious, physical harm.
- (4) Referral to Law Enforcement or Other State Agencies. Nothing in 603 CMR 46.00 prohibits:
- (a) The right of any individual to report to appropriate authorities a crime committed by a student or other individual;
 - (b) Law enforcement, judicial authorities or school security personnel from exercising their responsibilities, including the physical detainment of a student or other person alleged to have committed a crime or posing a security risk; or
 - (c) The exercise of an individual’s responsibilities as a mandated reporter pursuant to M.G.L. c. 119, § 51A. 603 CMR 46.00 shall not be used to deter any individual from reporting neglect or abuse to the appropriate state agency.

46.05: Proper Administration of Physical Restraint

- (1) Trained Personnel. Only school personnel who have received training pursuant to 603 CMR 46.03(2) or 603 CMR 46.03(3) shall administer physical restraint on students. Whenever possible, the administration of a restraint shall be witnessed by at least one adult who does not participate in the restraint. The training requirements contained in 603 CMR 46.00 shall not preclude a teacher, employee or agent of a public education program from using reasonable force to protect students, other persons or themselves from assault or imminent, serious, physical harm.
- (2) Use of Force. A person administering a physical restraint shall use only the amount of force necessary to protect the student or others from physical injury or harm.
- (3) Safest Method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present.
- (4) Duration of Restraint. A person administering physical restraint shall discontinue such restraint as soon as possible. If, due to unusual circumstances, a restraint continues

for more than 20 minutes, it shall be considered an “extended restraint” for purposes of the reporting requirements in 603 CMR 46.06.

(5) Safety Requirements. Additional requirements for the use of physical restraint:

(a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others.

(b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance.

(c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint on an individual student.

(d) Following the release of a student from a restraint, the program shall implement follow-up procedures. These procedures shall include reviewing the incident with the student to address the behavior that precipitated the restraint, reviewing the incident with the staff person(s) who administered the restraint to discuss whether proper restraint procedures were followed, and consideration of whether any follow-up is appropriate for students who witnessed the incident.

46.06: Reporting Requirements

(1) Circumstances Under Which a Physical Restraint Must Be Reported. Program staff shall report the use of physical restraint as specified in 603 CMR 46.06(2) after administration of a physical restraint that results in any injury to a student or staff member, or any physical restraint of a duration longer than five minutes.

(2) Informing School Administration The program staff member who administered the restraint shall verbally inform the program administration of the restraint as soon as possible, and by written report no later than the next school working day. The written report shall be provided to the principal or director of the program or his/her designee, except that the principal or director shall prepare the report if the principal or director has administered the restraint. The principal or director or his/her designee shall maintain an on-going record of all reported instances of physical restraint, which shall be made available for review by the Department of Education, upon request.

(3) Informing Parents. The principal or director of the program or his/her designee shall verbally inform the student’s parents or guardians of the restraint as soon as possible, and by written report postmarked no later than three school working days following the use of restraint. If the school or program customarily provides a parent or guardian of a student with report cards and other necessary school-related information in a language other than English, the written restraint report shall be provided to the parent or guardian in that language.

(4) Contents of Report. The written report required by 603 CMR 46.06(2) and (3) shall include:

- (a) The names and job titles of the staff who administered the restraint, and observers, if any; the date of the restraint; the time the restraint began and ended; and the name of the administrator who was verbally informed following the restraint.
- (b) A description of the activity in which the restrained student and other students and staff in the same room or vicinity were engaged immediately preceding the use of physical restraint; the behavior that prompted the restraint; the efforts made to de-escalate the situation; alternatives to restraint that were attempted; and the justification for initiating physical restraint.
- (c) A description of the administration of the restraint including the holds used and reasons such holds were necessary; the student's behavior and reactions during the restraint; how the restraint ended; and documentation of injury to the student and/or staff, if any, during the restraint and any medical care provided.
- (d) For extended restraints, the written report shall describe the alternatives to extended restraint that were attempted, the outcome of those efforts and the justification for administering the extended restraint.
- (e) Information regarding any further action(s) that the school has taken or may take, including any disciplinary sanctions that may be imposed on the student.
- (f) Information regarding opportunities for the student's parents or guardians to discuss with school officials the administration of the restraint, any disciplinary sanctions that may be imposed on the student and/or any other related matter.

(5) Report to the Department of Education. When a restraint has resulted in a serious injury to a student or program staff member or when an extended restraint has been administered, the program shall provide a copy of the written report required by 603 CMR 46.06(4) to the Department of Education within five school working days of the administration of the restraint. The program shall also provide the Department with a copy of the record of physical restraints maintained by the program administrator pursuant to 603 CMR 46.06(2) for the 30 day period prior to the date of the reported restraint. The Department shall determine if additional action on the part of the public education program is warranted and, if so, shall notify the public education program of any required actions within 30 calendar days of receipt of the required written report(s).

46.07: Special Circumstances

(1) Special Circumstances – Students with Disabilities. Restraint administered to a student with a disability pursuant to an Individualized Education Plan (“IEP”) or other written plan developed in accordance with state and federal law to which the public education program and the student's parent or guardian have agreed shall be deemed to meet the requirements of 603 CMR 46.00, except that the limitations on chemical, mechanical, and seclusion restraint set forth in 603 CMR 46.02(5), the training requirements set forth in 603 CMR 46.03, and the reporting requirements set forth in 603 CMR 46.06 shall apply.

(2) Special Circumstances – Individual Waiver of Reporting Requirements. Public education programs may seek a parent's or guardian's consent to waive the reporting

requirements of 603 CMR 46.06 for restraints administered to an individual student that do not result in serious injury to the student or a program staff member and do not constitute extended restraint. Extended restraints and restraints that result in serious injury to a student or program staff member must be reported in accordance with the requirements of 603 CMR 46.06, regardless of any individual waiver to which the parent or guardian may have consented. Individual waivers should be sought only for students who present a high risk of frequent, dangerous behavior that may require the frequent use of restraint.

(3) Limitations on Individual Waivers.

(a) A public education program may not require a parent's consent to such a waiver as a condition of admission or provision of services.

(b) A parent may withdraw consent to such waiver at any time without penalty.

(4) Individual Waiver – Documentation Required. The program shall maintain the following documentation on site in the student's file and shall make such documentation available for inspection by the Department of Education at its request at any time:

(a) The informed written consent of the parent or guardian to the waiver, which shall specify those reporting requirements(s) in 603 CMR 46.06(1) through (4) that the parent or guardian agrees to waive; and

(b) Specific information regarding when and how the parent or guardian will be informed regarding the administration of all restraints to the individual student.

(5) Prohibition on Program or Classroom Waivers. Nothing herein shall be construed to allow a program or classroom to receive an exemption or waiver from any of the requirements of 603 CMR 46.00 on behalf of all of the students enrolled in a particular program or classroom.

Maine: 20-A M.R.S. § 4009 (2008), Civil liability

The following provisions apply to civil liability.

1. **Reasonable force.** A teacher or other person entrusted with the care or supervision of a person for special or limited purposes may not be held civilly liable for the use of a reasonable degree of force against the person who creates a disturbance if the teacher or other person reasonably believes it is necessary to:

A. Control the disturbing behavior; or

B. Remove the person from the scene of the disturbance.

2. **Exceptions.** Subsection 1 shall not apply to the intentional or reckless use of force that creates a substantial risk of death, serious bodily injury or extraordinary pain.

3. **Effect on civil liability.** This section may not be construed to increase the scope of potential civil liability of a teacher or other person entrusted with the care or supervision of a person for special or limited purposes.

4. **Emergency medical treatment.** Notwithstanding any other provision of any public or private and special law, any nonlicensed agent or employee of a school or school administrative unit who renders first aid, emergency treatment or rescue assistance to a student during a school program may not be held liable for injuries alleged to have been sustained

by that student or for the death of that student alleged to have occurred as a result of an act or omission in rendering such aid, treatment or assistance. This subsection does not apply to injuries or death caused willfully, wantonly or recklessly or by gross negligence on the part of the agent or employee.

North Dakota: N.D. Cent. Code, § 15.1-19-02 (2008).

Corporal punishment – Prohibition.

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.
2. This section does not prohibit a school district employee from using the degree of force necessary:
 - a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
 - b. To quell a verbal disturbance;
 - c. For self-defense;
 - d. For the preservation of order; or
 - e. To obtain possession of a weapon or other dangerous object within the control of a student.
3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment.
4. The board of each school district shall develop policies setting forth standards for student behavior and procedures to be followed if the standards are not met.

Montana: Mont. Code Anno., § 20-4-302 (2007). Discipline and punishment of pupils – definition of corporal punishment – penalty – defense.

- (1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly conduct in school, on the way to or from school, or during intermission or recess.
- (2) For the purposes of this section, “corporal punishment” means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.
- (3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted corporal punishment on a pupil.
- (4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:
 - (i) quell a disturbance;

- (ii) provide self-protection;
 - (iii) protect the pupil or others from physical injury;
 - (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;
 - (v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or
 - (vi) protect property from serious harm.
- (b) Physical pain resulting from the use of physical restraint as defined in subsection (4) (a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.
- (5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.
- (6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district superintendent, the principal, the trustees, or the county superintendent, whichever is applicable.
- (7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.
- (8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

California: Cal Ed Code § 49001 (2007)

§ 49001. “Corporal punishment”; Prohibition

(a) For the purposes of this section “corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

Minnesota: Minn. Stat. § 121A.582 (2007) STUDENT DISCIPLINE; REASONABLE FORCE

Subdivision 1. Reasonable force standard.

(a) A teacher or school principal, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

(b) A school employee, school bus driver, or other agent of a district, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

(c) Paragraphs (a) and (b) do not authorize conduct prohibited under sections 121A.58 and 121A.67.

Subd. 2. Civil liability.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a civil action for damages under section 123B.25.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a civil action for damages under section 123B.25.

Subd. 3. Criminal prosecution.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a criminal prosecution under section 609.06, subdivision 1.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a criminal prosecution under section 609.06, subdivision 1.

Subd. 4. Supplementary rights and defenses.

Any right or defense in this section is supplementary to those specified in section 121A.58, 121A.67, 123B.25, or 609.06, subdivision

North Carolina: Article 27. Discipline.

§ 115C 390. School personnel may use reasonable force.

Except as restricted or prohibited by rules adopted by the local boards of education, principals, teachers, substitute teachers, voluntary teachers, and teacher assistants and student teachers in the public schools of this State may use reasonable force in the exercise of

lawful authority to restrain or correct pupils and maintain order. (1955, c. 1372, art. 17, s. 4; 1959, c. 1016; 1969, c. 638, ss. 2, 3; 1971, c. 434; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 21; 1989, c. 585, s. 6; 1991, c. 269, s. 1.)

§ 115C 391. Corporal punishment, suspension, or expulsion of pupils.

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. Local boards of education shall include a reasonable dress code for students in these policies.

The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

- (1) Corporal punishment shall not be administered in a classroom with other children present;
- (2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;
- (3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and
- (4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

Each local board shall publish all the policies mandated by this subsection and make them available to each student and his parent or guardian at the beginning of each school year. Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

- (1) To quell a disturbance threatening injury to others;
- (2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;
- (3) For self defense;
- (4) For the protection of persons or property; or
- (5) To maintain order on school property, in the classroom, or at a school related activity on or off school property.

(b) The principal of a school, or his or her delegate, shall have authority to suspend for a period of 10 days or less any student who willfully violates policies of conduct established by the local board of education. When a student is suspended under this subsection for a period of 10 days or less, the principal, or his or her delegate, shall give notice to the student's parent or guardian of the student's suspension and the student's rights under this subsection. The notice shall be given by telephone, telefax, e mail, or any other method reasonably designed to achieve actual notice. A student suspended under this subsection shall be provided all of the following:

- (1) The opportunity to take textbooks home for the duration of the suspension.
- (2) The right to inquire about homework assignments for the duration of the suspension.
- (3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

(c) The principal of a school, with the prior approval of the superintendent, shall have the authority to suspend for periods of times in excess of 10 school days but not exceeding the time remaining in the school year, any pupil who willfully violates the policies of conduct established by the local board of education. The pupil or his parents may appeal the decision of the principal to the local board of education.

(d) Notwithstanding G.S. 115C 378, a local board of education may, upon recommendation of the principal and superintendent, expel any student 14 years of age or older whose behavior indicates that the student's continued presence in school constitutes a clear threat to the safety of other students or employees. The local board of education's decision to expel a student under this section shall be based on clear and convincing evidence. Prior to ordering the expulsion of a student pursuant to this subsection, the local board of education shall consider whether there is an alternative program offered by the local school administrative unit that may provide education services for the student who is subject to expulsion. At any time after the first July 1 that is at least six months after the board's decision to expel a student under this subsection, a student may request the local board of education to reconsider that decision. If the student demonstrates to the satisfaction of the local board of education that the student's presence in school no longer constitutes a threat to the safety of other students or employees, the board shall readmit the student to a school in that local school administrative unit on a date the board considers appropriate.

(d1) A local board of education or superintendent shall suspend for 365 calendar days any student who:

- (1) Brings onto educational property or to a school sponsored curricular or extracurricular activity off educational property, or
- (2) Possesses on educational property or at a school sponsored curricular or extracurricular activity off educational property, a weapon, as defined in G.S. 14 269.2(b), 14 269.2(b1), 14 269.2(g), and 14 269.2(h). The local board of education upon recommendation by the superintendent may modify this suspension requirement on a case by case basis that includes, but is not limited to, the procedures established under Article 9 of this Chapter for the discipline of students with disabilities and may also provide, or contract for the provision of,

educational services to any student suspended pursuant to this subsection in an alternative school setting or in another setting that provides educational and other services.

(d2) (1) The superintendent shall, upon recommendation of the principal, remove to an alternative educational setting, as provided in subdivision (4) of this subsection, any student who is at least 13 and who physically assaults and seriously injures a teacher or other school personnel. If no appropriate alternative educational setting is available, then the superintendent shall, upon recommendation of the principal, suspend for no less than 300 days but no more than 365 days any student who is at least 13 and who physically assaults and seriously injures a teacher or other school personnel.

(2) The superintendent may, upon recommendation of the principal, remove to an alternative educational setting any student who is at least 13 and who does one of the following:

- a. Physically assaults a teacher or other adult who is not a student.
- b. Physically assaults another student if the assault is witnessed by school personnel.
- c. Physically assaults and seriously injures another student.

If no appropriate alternative educational setting is available, then the superintendent may, upon recommendation of the principal, suspend this student for up to 365 days.

(3) For purposes of this subsection, the conduct leading to suspension or removal to an alternative educational setting must occur on school property or at a school sponsored or school related activity on or off school property. This subsection shall not apply when the student who is subject to suspension or removal was acting in self defense. If a teacher is assaulted or injured and as a result a student is suspended or removed to an alternative educational setting under this subsection, then the student shall not be returned to that teacher's classroom unless the teacher consents. If a student is suspended under this subsection, the board may assign the student to an alternative educational setting upon the expiration of the period of suspension.

(4) If the superintendent removes the student to an alternative educational setting, as provided in subdivision (1) of this subsection, and the conduct leading to the removal occurred on or before the ninetieth school day, the board shall remove the student to that setting for the remainder of the current school year and the first 90 school days in the following school year. If the superintendent chooses to remove the student to an alternative educational setting, as provided in subdivision (1) of this subsection, and the conduct leading to the removal occurred after the ninetieth school day, the board shall remove the student to that setting for the remainder of the current school year and for the entire subsequent school year. Notwithstanding these requirements, the superintendent may authorize a shorter or longer length of time a student must remain in an alternative educational setting if the superintendent finds this would be more appropriate based upon the recommendations of the principals of the alternative school and the school to which the student will return.

(d3) A local board of education or superintendent shall suspend for 365 calendar days any student who, by any means of communication to any person or group of persons, makes a

report, knowing or having reason to know the report is false, that there is located on educational property or at a school sponsored curricular or extracurricular activity off educational property any device designed to destroy or damage property by explosion, blasting, or burning, or who, with intent to perpetrate a hoax, conceals, places, or displays any device, machine, instrument, or artifact on educational property or at a school sponsored curricular or extracurricular activity off educational property, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property. The local board upon recommendation by the superintendent may modify either suspension requirement on a case by case basis that includes, but is not limited to, the procedures established under Article 9 of this Chapter for the discipline of students with disabilities and may also provide, or contract for the provision of, educational services to any student suspended under this subsection in an alternative school setting or in another setting that provides educational and other services. For purposes of this subsection and subsection (d1) of this section, the term “educational property” has the same definition as in G.S. 14 269.2(a)(1).

(d4) A local board of education or superintendent may suspend for up to 365 days any student who:

- (1) By any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that there is located on educational property or at a school sponsored curricular or extracurricular activity off educational property any device, substance, or material designed to cause harmful or life threatening illness or injury to another person;
- (2) With intent to perpetrate a hoax, conceals, places, disseminates, or displays on educational property or at a school sponsored curricular or extracurricular activity off educational property any device, machine, instrument, artifact, letter, package, material, or substance, so as to cause any person reasonably to believe the same to be a substance or material capable of causing harmful or life threatening illness or injury to another person;
- (3) Threatens to commit on educational property or at a school sponsored curricular or extracurricular activity off educational property an act of terror that is likely to cause serious injury or death, when that threat is intended to cause a significant disruption to the instructional day or a school sponsored activity or causes that disruption;
- (4) Makes a report, knowing or having reason to know the report is false, that there is about to occur or is occurring on educational property or at a school sponsored curricular or extracurricular activity off educational property an act of terror that is likely to cause serious injury or death, when that report is intended to cause a significant disruption to the instructional day or a school sponsored activity or causes that disruption; or
- (5) Conspires to commit any of the acts described in this subsection.

(d5) When a student is expelled or suspended for more than 10 days, the local board shall give notice to the student’s parent or guardian by certified mail, telephone, telefax, e-mail, or any other method reasonably designed to achieve actual notice of the student’s rights under this section. If English is the second language of the parent or guardian,

the notice shall be written in the parent or guardian's first language when the appropriate foreign language resources are readily available and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A decision of a superintendent under subsection (c), (d1), (d2), (d3), or (d4) of this section may be appealed to the local board of education. A decision of the local board upon this appeal or of the local board under subsection (d) or (d1) of this section is final and, except as provided in this subsection, is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision.

(f) Local boards of education shall ensure they have clear policies governing the conduct of students. At a minimum, these policies shall state the consequences of violent or assaultive behavior, possessions of weapons, and criminal acts committed on school property or at school sponsored functions. These policies shall provide that when notice is given to students or parents of a suspension of more than 10 days or expulsion, this notice shall identify what information will be included in the student's official record and the procedure for expungement of this information under G.S. 115C 402. The State Board shall develop guidelines to assist local boards in this process.

(g) Notwithstanding the provisions of this section, the policies and procedures for the discipline of students with disabilities shall be consistent with Article 9 of this Chapter and with federal laws and regulations.

(h) Notwithstanding any other law, no officer or employee of the State Board of Education or of a local board of education shall be civilly liable for using reasonable force, including corporal punishment, in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable. (1955, c. 1372, art. 17, s. 5; 1959, c. 573, s. 12; 1963, c. 1223, s. 5; 1965, c. 584, s. 14; 1971, c. 1158; 1979, c. 874, s. 1; 1981, c. 423, s. 1; 1987, c. 572, ss. 1, 2; c. 827, s. 52; 1989, c. 585, s. 7; 1993, c. 509, s. 4; 1995, c. 293, ss. 1, 2; c. 386, s. 1; 1995 (Reg. Sess., 1996), c. 716, s. 21; 1997 443, s. 8.29(q)(1); 1998 220, ss. 7 9; 1999 257, ss. 6 8; 1999 387, ss. 1 3; 2001 195, s. 2; 2001 244, s. 1; 2001 363, s. 2(c); 2001 487, s. 75; 2001 500, ss. 4, 5, 6.1; 2006 69, s. 3(1); 2007 466, ss. 1, 2.)

§ 115C 391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

- (1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.
- (2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.
- (3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.
- (4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

(5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(b) The following definitions apply in this section:

(1) “Assistive technology device” means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capacities of a child with a disability.

(2) “Aversive procedure” means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

a. Significant physical harm, such as tissue damage, physical illness, or death.

b. Serious, foreseeable long term psychological impairment.

c. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extremely loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one’s own vomit; or denial of reasonable access to toileting facilities.

(3) “Behavioral intervention” means the implementation of strategies to address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.

(4) “IEP” means a student’s Individualized Education Plan.

(5) “Isolation” means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

(6) “Law enforcement officer” means a sworn law enforcement officer with the power to arrest.

(7) “Mechanical restraint” means the use of any device or material attached or adjacent to a student’s body that restricts freedom of movement or normal access to any portion of the student’s body and that the student cannot easily remove.

(8) “Physical restraint” means the use of physical force to restrict the free movement of all or a portion of a student’s body.

(9) “School personnel” means:

a. Employees of a local board of education.

b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.

c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(10) “Seclusion” means the confinement of a student alone in an enclosed space from which the student is:

- a. Physically prevented from leaving by locking hardware or other means.
- b. Not capable of leaving due to physical or intellectual incapacity.

(11) “Time out” means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.

(c) Physical Restraint:

(1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

- a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.
- b. As reasonably needed to maintain order or prevent or break up a fight.
- c. As reasonably needed for self defense.
- d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self injurious behavior.
- e. As reasonably needed to escort a student safely from one area to another.
- f. If used as provided for in a student’s IEP or Section 504 plan or behavior intervention plan.
- g. As reasonably needed to prevent imminent destruction to school or another person’s property.

(2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(d) Mechanical Restraint:

(1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

- a. When properly used as an assistive technology device included in the student’s IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.
- b. When using seat belts or other safety restraints to secure students during transportation.
- c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

- d. As reasonably needed for self defense.
 - e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.
- (2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.
- (3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.
- (e) Seclusion:
- (1) Seclusion of students by school personnel may be used in the following circumstances:
- a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.
 - b. As reasonably needed to maintain order or prevent or break up a fight.
 - c. As reasonably needed for self defense.
 - d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.
 - e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and
 - 1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.
 - 2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.
 - 3. The space in which the student is confined has been approved for such use by the local education agency.
 - 4. The space is appropriately lighted.
 - 5. The space is appropriately ventilated and heated or cooled.
 - 6. The space is free of objects that unreasonably expose the student or others to harm.
- (2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.
- (3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.
- (4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

- (f) Isolation. – Isolation is permitted as a behavior management technique provided that:
- (1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.
 - (2) The duration of the isolation is reasonable in light of the purpose of the isolation.
 - (3) The student is reasonably monitored while in isolation.
 - (4) The isolation space is free of objects that unreasonably expose the student or others to harm.
- (g) Time Out. – Nothing in this section is intended to prohibit or regulate the use of time out as defined in this section.
- (h) Aversive Procedures. – The use of aversive procedures as defined in this section is prohibited in public schools.
- (i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under G.S. 115C 390 or modifies the rules and procedures governing discipline under G.S. 115C 391(a).
- (j) Notice, Reporting, and Documentation.
- (1) Notice of procedures. – Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.
 - (2) Notice of specified incidents:
 - a. School personnel shall promptly notify the principal or principal’s designee of:
 1. Any use of aversive procedures.
 2. Any prohibited use of mechanical restraint.
 3. Any use of physical restraint resulting in observable physical injury to a student.
 4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student’s behavior intervention plan.
 - b. When a principal or principal’s designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal’s designee shall promptly notify the student’s parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.
 - (3) As used in subdivision (2) of this subsection, “promptly notify” means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of following workday.
 - (4) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. The written incident report shall include:

- a. The date, time of day, location, duration, and description of the incident and interventions.
- b. The events or events that led up to the incident.
- c. The nature and extent of any injury to the student.
- d. The name of a school employee the parent or guardian can contact regarding the incident.

(5) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(k) Nothing in this section shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees or to create a criminal offense. (2005 205, s. 2; 2006 264, s. 58.)

§ 115C 392. Appeal of disciplinary measures.

Appeals of disciplinary measures are subject to the provisions of G.S. 115C 45(c). (1981, c. 423, s. 1.)

Colorado: Article 32 School district boards - powers and duties

Section 22-32-109.1 Board of education - specific powers and duties - safe schools

(1) Mission statement. Each school district board of education shall adopt a mission statement for the school district, which statement shall include making safety a priority in each public school of the school district...

(1) General policies on student conduct, safety, and welfare;

...

(IV) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.; ...

Illinois: (105 ILCS 5/10 20.33)

Sec. 10 20.33. Time out and physical restraint. Until rules are adopted under Section 2 3.130 of this Code, the use of any of the following rooms or enclosures for time out purposes is prohibited:

(1) a locked room other than one with a locking mechanism that engages only when a key or handle is being held by a person;

- (2) a confining space such as a closet or box;
- (3) a room where the student cannot be continually observed; or
- (4) any other room or enclosure or time out procedure that is contrary to current guidelines of the State Board of Education.

The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application. For the purposes of this Section, “restraint” does not include momentary periods of physical restriction by direct person to person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area. The use of physical restraints that meet the requirements of this Section may be included in a student’s individualized education plan where deemed appropriate by the student’s individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

(Source: P.A. 91 600, eff. 8 14 99; 92 16, eff. 6 28 01.)

Texas: Title 2, Chapter 37

§ 37.0021. USE OF CONFINEMENT, RESTRAINT, SECLUSION, AND TIME-OUT.

(a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29.

A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

- (1) “Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.
- (2) “Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:
 - (A) is designed solely to seclude a person; and
 - (B) contains less than 50 square feet of space.
- (3) “Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

- (A) that is not locked; and
 - (B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.
- (c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:
- (1) the Children’s Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;
 - (2) 40 T.A.C. Sections 720.1001-720.1013; or
 - (3) 25 T.A.C. Section 412.308(e).
- (d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:
- (1) be consistent with:
 - (A) professionally accepted practices and standards of student discipline and techniques for behavior management; and
 - (B) relevant health and safety standards; and
 - (2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.
- (e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.
- (f) For purposes of this subsection, “weapon” includes any weapon described under Section 37.007(a)(1). This section does not prevent a student’s locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:
- (1) the student possesses a weapon; and
 - (2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.
- (g) This section and any rules or procedures adopted under this section do not apply to:
- (1) a peace officer while performing law enforcement duties;
 - (2) juvenile probation, detention, or corrections personnel; or
 - (3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

Duties, authority and restrictions SSO vs SRO/police-sheriff departments

Abbreviations and definitions:

SRO: School Resource Officer **SSO:** School Security Officer
Agency: Law Enforcement Agency **SD:** School District

	SSO	SRO
Employer:	School district	Police or sheriff department
Funding:	School district budget	School district pays law enforcement agency for services or costs may be split between SD and Agency
Reports to	School district administrator	Agency command structure
Role:	Maintain school discipline and order. Rule enforcement. May take lead on some low level investigations that may be criminal or civil in nature.	Criminal law enforcement
Commissioned?	Can be but remains school district employee. (Example-Spokane SD 81)	Yes
Government agents?	Yes (public school district)	Yes (police or sheriff department)
Crime scene control:	Secondary to SRO or other law enforcement personnel.	Primary. School administration does not have control of campus crime scene.
Search and seizure:	Reasonable Suspicion Standard (See Cautionary notes *)	Probable Cause Standard if acting independent of district. Reasonable Suspicion Standard may apply if minor role in district conducted search (See Cautionary notes ** ***)
Locker and desk search en mass:	Yes. May be conducted without prior notice or reasonable suspicion.	Probable Cause in most circumstances
Individual locker:	Reasonable Suspicion needed	Probable Cause
Drug searches	Reasonable Suspicion to search lockers and automobiles on campus.	Probable Cause restrictions
Weapons policy:	Limited by school district policy and state permitting process.	Yes
Arrest authority:	Yes with limits. Commissioned SSO arrest power may be limited to campus and immediate adjacent areas. SSO can make reasonable attempt to detain. In school this may be done under “in loco parentis”	Yes

Cautionary notes:

* Washington Constitution places greater restriction on search and seizure than the U.S. Constitution. School officials and school related searches are not held to same standards as law enforcement personnel in some circumstances.

** Law enforcement personnel may be very reluctant to engage in Reasonable Suspicion based actions unless immediate action is necessitated due to life safety issues.

*** School search exception: Exception to Probable Cause rule. Police officer or sheriff deputy may conduct a search with “reasonable grounds” if the officer or deputy were conducting the search at the direction of or in conjunction with a school official regarding a school offense or violation of the law. Typically extended to situations where (1) officer’s involvement is minimal in what is otherwise clearly a school search, (2) the search involves a weapon.

This document is not intended as a substitute for having individual School District policies and procedures reviewed by legal counsel.

School Resource Officer Position II Position Description

School Resource Officer

A School Resource Officer (SRO) is a fully commissioned sworn law enforcement officer in the state of Washington who has graduated from a basic law enforcement academy and is currently employed by a municipal police department or county sheriff's office that is contractually assigned to work in a school district or building. An SRO can also be an employee of a school district police department where the department is commissioned by the local police chief, county sheriff or is recognized as a police agency by the state of Washington. The central mission of an SRO is to keep order on campus with the legal authority to arrest, if necessary.

The title of School Resource Officer Level II is granted when a School Law Enforcement Officer I completes an approved course of SRO training and served a minimum of 24 hours of time with an approved School Resource Field Training Officer (SRO III).

Purpose:

The school is simply an extension of the overall community. Crime that affects the community has an impact on schools, while offenses occurring on school property also affect the community. The presence of law enforcement representation within the school community provides for a consistent approach to community public safety. In addition, it provides a model application of community policing principles.

Law enforcement's responsibility to public safety has never been in greater demand than it is in the school community. Escalating concern about student aggression in general and highly publicized school shootings specifically have clearly demonstrated that key school issues are also public safety issues. The responsibility for the safety and welfare of students and school staff has been recognized as too great a burden to be shouldered by school personnel alone; the current school safety challenge is a public safety challenge.

For more than a decade law enforcement officials have moved away from the more traditional role of incident driven policing to the new era of a community policing model. Community policing has now become a welcome addition to the school community. Community policing supports and reinforces good citizenship in students by approaching schools as neighborhoods and students as their citizens.

Through community partnerships and problem oriented policing; School Resource Officers demonstrate how police and students, school officials, parents and the community work together to identify and address crime and disorder problems within their school.

School Resource Officers need to demonstrate knowledge of the following:

School law and policy:

- A. Understand the basic concepts of school law as outlined in RCW 28A and associated WAC and the obligations of the school to adhere to said laws.
- B. Understand the basic concepts of the school system; school board role and function, the role of the superintendent, principals, certified and classified staff and how school law pertains to job function.
- C. Understand that school policy can be more stringent than state law but cannot forgive state law.
- D. Understand school requirements under the Drug Free Schools Act, The Gun Free Schools Act and obligations under state law for weapons and drugs.
- E. Understand the role of the following school policy, procedure and practice:
 - Drug Free School
 - Tobacco Free Campus
 - Dangerous Weapons
 - Gang Activity
 - Search and Seizure
 - Due Process for Students
 - Dress Code
 - Truancy Laws and Enforcement
 - Harassment, Intimidation and Bullying
 - Cyber-bullying
 - Sex Offenders in School
 - Comprehensive Safe School Planning and School Mapping
 - Threat Assessment
 - Crime Prevention Through Environmental Design; (CPTED)
 - Youth Suicide Prevention and Intervention Policy
 - Special Education and 504 Accommodations

Essential duties and functions:

1. Protect lives and property for the public school's students and staffs.
2. Enforce federal, state and local criminal laws and ordinances; assist school officials with the enforcement of board policies and administrative regulations regarding student conduct.
3. Investigate criminal activity committed on or adjacent to school property.
4. Work in cooperatively with school security officers; if applicable.
5. Understand the differences between school security functions and officers and law enforcement duties on school property and activities on or off campus.
6. Provide traffic enforcement before and after school
7. Provide school staff training and development regarding the proper use and function of a school resource officer
8. Provide informational reports to school officials regarding criminal activity in and around the school district that may impact school operation
9. Handle calls for service for schools in the district
10. Provide back-up for other SROs in the district as needed and requested.
11. Participate in school activities, student organizations, and athletic events when invited and when feasible.
12. Respond properly in the investigation of criminal activity.
13. Maintain a uniformed presence to deter criminal activity and provide a positive atmosphere
14. Hold scheduled meetings with district and building administration, district security staff to brief school officials regarding criminal activity, drug trends, observed student behavior, gang activity and other areas of interest. In addition, train school officials and other staff members regarding the obligations of sworn law enforcement officers to uphold the law and how that governs the role of the SRO.
15. Attend regularly scheduled school staff meetings through out the year and brief them on building level activity and trends.
16. Support school officials with the enforcement of student discipline; SROs will refrain from being a student disciplinarian, unless a crime has been committed then the SRO will handle the crime and school officials will provide the discipline.
17. Attend various parent meetings as requested.
18. Demonstrated understanding of youth suicide causes, prevention and intervention practices.
19. Knowledge of area gang trends, prevention and intervention resources for parents and youth.

20. Work with school officials to determine strategies and best practices for the following:
 - A. Characteristics of a safe school
 - B. Effective emergency response strategies
 - C. Proper design and use of security technologies
 - D. Staff development to enhance safe schools
21. Prepare and present monthly activity reports to school administration

Qualifications:

Police department or sheriff's office command staff will select officers who have demonstrated ability, interest and skills necessary to work with youth, school staff, parents and the public. The following criteria will be considered when selecting officers for the program.

- Minimum three years successful experiences as a peace officer
- Demonstrated ability to work with diverse groups
- Knowledge of department resources
- Demonstrated knowledge regarding problem solving
- Knowledge of juvenile laws and the juvenile justice system
- Desire to work as an SRO
- Demonstrate good communication skills with diverse groups of youth and adults and communicate effectively under high stress situations

Supervision and chain of command:

The School Resource Officer will be directly responsible to their police department or sheriff's office command staff unless a different agreement has been reached and is articulated in a Memorandum of Understanding between the law enforcement agency and the school district. The SRO supervisor shall ensure that open lines of communication are in place between the schools and the law enforcement agency. A weekly meeting with the SRO shall be arranged, and the SRO supervisor shall meet with the school principal at least once each semester. To the extent that schedules permit, the initial SRO supervisor/principal meeting should be held prior to the start of the school year and be devoted to reviewing school/police department expectations and clarifying any operational procedures. The second meeting should occur mid-year and involve a preliminary evaluation of the SRO's performance as well as the identification and resolution of any developing issues. The SRO supervisor shall address any concerns regarding the performance of the SRO. Principals are to be consulted prior to selection of a new SRO to determine any special needs or concerns to be taken into consideration in selection of the SRO.

Source: Draft SRO Position Description from School Security Officer Training Program, Washington State Criminal Justice Training Commission

**Your School District
Job Description**

School Security Officer (SSO)

Reports to: Person officer reports to: (principal, administrator, supervisor)

Supervises: SSO supervisors name

Work period: (9 months-annual)

Unit classification: How SSO is classified

Primary purpose:

This position's responsibilities are to patrol school property as assigned with the primary goals of providing a safe and secure learning environment for all student and staff through the use of observation and personal contacts to help prevent and report violations of school rules and polices which may include but are not limited to substance abuse, and other illegal activities; to provide response to incidents pertaining to the safety and protection of district students, staff, and property; to assist with enforcement programs related to drug, alcohol, and tobacco use.

Essential job duties:

Patrols the buildings and grounds during the school day and at school events; observes student activity for substance abuse, theft, vandalism, or other illegal activities; may be required to physically intervene or restrain students and/or non-students in a safe manner when necessary; ensures proper parking regulations are followed and notifies violators; observes students and visitors leaving and entering campus; prevents unauthorized access to school grounds by intruders; greets and assists authorized visitors by providing directions; maintains safety and security in parking lots; provides security services for student activities and events such as dances, sports, and/or other public meetings.

Refers drug, alcohol, and tobacco incidents to proper law enforcement authorities and district administration for discipline and/or intervention:

Completes and submits written and verbal reports of various incidents such as criminal, security, and safety activity in a timely fashion.

Maintains proficient skills in security techniques; attends and successfully completes mandatory training as directed by the district.

Shares information concerning gang/criminal activities with law enforcement and proper school personnel.

Conducts investigations; questions suspects, interviews witnesses, and victims; assists police with criminal investigations as directed; maintains confidential information as appropriate.

Works in close partnership with local law enforcement and school district officials to ensure a safe learning environment for students, staff and visitors; provides information to

staff and students concerning property protection and safety measures; maintains positive working relationships with outside agencies, students, and staff.

Other job duties:

Serves as member of the security team of the district; performs related duties consistent with the scope and intent of the position as assigned.

Working relationships:

Reports to the security supervisor. Interacts daily with students, staff, visitors, and parents. Works with local law enforcement and other agencies as needed.

Working conditions:

Requires visual concentration and physical dexterity. Required to stand or sit for prolonged periods. Required to work outdoors in inclement weather. Required to drive a marked emergency vehicle. Required to respond to emergencies in traffic while operating emergency communication and other devices. Confrontational situations require constant awareness of and attention to personal safety; risk of attack with weapons; required to wear protective gear. Responding to medical emergencies may result in exposure to danger, risk, or infectious disease. Required to represent the district on potentially controversial matters. Required to be accessible during off-hours to return to work for emergencies. Required to work swing shift, graveyard, short turnarounds, extended shifts, and periodically be on call for 24 hours or longer. Required to deal with distraught, angry, or hostile individuals. Required to physically restrain students or adults. May be exposed to high noise levels; may be required to lift heavy objects; may be required to meet deadlines or work extra and irregular hours.

Qualifications:

Knowledge, skills, and abilities

Must demonstrate a successful level of the knowledge, skills, and abilities listed below:

Knowledge of security and safety practices and procedures.

Knowledge of school policies and procedures.

Knowledge of criminal laws, search and seizure procedures, and the legal process.

Knowledge of youth-aged traits and tendencies.

Knowledge of law enforcement procedures.

Ability to maintain control of tense and potentially dangerous situations. Ability to chase, physically control, and apprehend suspects.

Ability to accurately assess emergency situations and prioritize and coordinate responses. Ability to remain calm under pressure.

Ability to operate two-way radios and other communication devices.

Ability to accurately document activities and occurrences.

Ability to operate a computer and learn the use of specific software programs.

Ability to guide and instruct students.

Ability to communicate security and safety procedures to district staff and students.

Ability to use video, camera, and sound equipment.

Ability to coordinate district response to national, natural, or catastrophic emergency.

Ability to evaluate, control and secure crime/fire scenes before arrival of law enforcement/fire department.

Ability to establish and maintain strong and effective working relationships with staff, students, the public, and law enforcement and fire department personnel.

Skill in investigatory techniques.

Skill in monitoring security and safety.

Skill in making effective, quick decisions.

Skill in perceiving possible security and safety breaches and taking appropriate action.

Effective public relations skills.

Skill in communicating with individuals and groups of all ages, backgrounds, and educational levels.

Skill in self-defense.

Skill in recognition, proper handling and storage of different weapons and dangerous devices.

Skill in first aid and CPR.

Sufficient physical agility to perform assigned duties.

Education and experience:

High school graduation or equivalent and two years of experience as a police officer and/or security officer or in a closely-related law enforcement field or two years of youth intervention experience; training or experience in drug/alcohol abuse awareness, prevention, and control preferred; training or experience working with diverse racial, ethnic, sexually oriented, and cultural groups preferred; or any equivalent combination of education, experience, and training that would provide the applicant with the desired knowledge, skills, and abilities required to perform the work.

Licensing and certification:

Valid first aid and CPR certification or ability to obtain within 30 days of hire. Valid Washington State driver's license.

Evaluation:

Evaluation responsibilities are assigned to the security supervisor.

Source: School Security Officer Training Program, Washington State Criminal Justice Training Commission

School District: _____
Address: _____
Phone: _____
Date: _____

Physical Restraint Report

NOTE: This report is required to be submitted to the principal after any physical restraint of a student and/or after administration of a physical restraint that results in serious injury (requiring emergency medical intervention) to a student. This report must be sent to the district office within two (2) business days of the administration of the restraint.

IDENTIFYING INFORMATION:

Name of School District and name of school where incident occurred: _____

Name of Student: _____ Date of Restraint: _____

Does student currently receive special education services? Yes No 504 Plan? Yes No
Gender: Male Female

Ethnicity: Caucasian African American Asian Latino American Indian Other _____

Date of this report: _____ Site of restraint: _____

This report prepared by: _____ Position: _____

Address: _____ Telephone: () _____

Staff administering restraint:

Name: _____ Title: _____ Received prior restraint training: Yes No

Name: _____ Title: _____ Received prior restraint training: Yes No

Observers (if any):

Name: _____ Title: _____

Name: _____ Title: _____

Administrator who was verbally informed following the restraint:

Name: _____ Title: _____

Reported by: _____ Title: _____

Parent who was informed of this restraint:

Name: _____

Name: _____ Telephone: _____

Called by: _____ Title: _____

PRECIPITATING ACTIVITY:

Description of activity in which the restrained or other students were engaged immediately preceding use of physical restraint:

Behavior that prompted restraint:

Efforts made to de-escalate and alternatives to restraint that were attempted:

DESCRIPTION OF PHYSICAL RESTRAINT:

Justification for initiating physical restraint (*check all that apply*):

- Non-physical interventions were not effective
- To protect student from imminent, serious, physical harm
- To protect other student/staff from imminent, serious, physical harm
- To implement necessary restraint in accordance with the student's IEP or other written plan (*describe pertinent provisions of the IEP or other written plan*):

Describe holds used and why such holds were necessary:

Student's behavior and reaction during restraint:

Time restraint began: _____ Time restraint ended: _____

CESSATION OF RESTRAINT:

How restraint ended (*check all that apply*):

- Determination by staff member that student was no longer a risk to himself or others
- Intervention by administrator(s) to facilitate de-escalation
- Law enforcement personnel arrived
- Staff sought medical assistance
- Other (*describe*) _____

Descriptions of any injury to student and/or staff and any medical first aid care provided:

Incident report was filed with the following school district official: _____

FOR EXTENDED RESTRAINTS:

Alternatives to extended restraint that were attempted:

Outcome of those efforts:

Justification for administering extended restraint:

FURTHER ACTION TO BE TAKEN:

The school will take the following action and/or disciplinary sanctions (*check all that apply*)

- Review incident with student to address behavior that precipitated the restraint
- Review incident with staff to discuss whether proper restraint procedures were followed
- Consider whether follow-up is necessary for students who witnessed the incident
- Conduct a local investigation of any complaint regarding this restraint (*describe investigation procedures*):

- Disciplinary action/sanctions taken by program (*describe*)

PARENT/GUARDIAN NOTIFICATION (*required for all reported restraints*):

Verbally informed of physical restraint on _____ by teacher/administrator/other or documented attempts to contact verbally (*describe*):

Written notice sent within 5 business days of administration of restraint to parent/guardian on _____ by _____ (*teacher/administrator/other*) at the following address:

- Sent in native language of the parent/guardian (*language*): _____

Parent/guardian was offered opportunity to discuss the administration of physical restraint and/or disciplinary sanctions with teacher/administrator. Results of discussion: (*Attach separate page if necessary*)

_____ **Public Schools**

Date _____

Dear _____,

This is to inform you that on _____ it was necessary for our staff to intervene and restrain your daughter/son _____.

This intervention took place after all other attempts to de-escalate the behavior either failed, or were deemed inappropriate at the time.

Description of Event:

- 1) Date:
- 2) Time:
- 3) Description of behavior and restraint used:

Please contact _____ at the district office at _____ to discuss this further or to receive information on the process for resolution of your concerns.

Sincerely,

Principal

Interlocal Agreement

Between the _____ School District
and (Name of City) Police Department
for Security at _____ High School

THIS AGREEMENT is made by and between the _____ School District, hereafter referred to as “District”, and the City of (Name of City) a Washington state municipal corporation, hereafter referred to as (Name of City)

RECITALS

WHEREAS, the District and (Name of City) desire to cooperate pursuant to Chapter 39.34 RCW, Interlocal Cooperation Act, in order to make the most efficient use of their respective governmental powers within their jurisdiction; and

WHEREAS, (Name of City) cannot at this time provide a dedicated high school resource officer, but (Name of City) and the District desire to provide security and promote safety and to serve as a positive resource to the District, the participating High School that is named in this agreement and the surrounding neighborhood; and

WHEREAS, (Name of City) is desirous to assign dedicated uniformed police officers to serve as Community-Oriented Policing Agents (hereafter referred to as “officer(s)”) to be assigned to the high school location specified herein in order to provide safety, patrol and assist with certain related duties, in return for a rate of compensation to (Name of City) that is agreed upon by the parties hereto;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual representations and covenants contained herein, the parties agree as follows:

- 1. Purpose.** This Agreement is intended to increase security and safety for students, staff and property at and around the _____ High School, located in the District, through the assignment by (Name of City) of experienced commissioned (Name of City) officers to service that location at the specified rate of compensation herein;
- 2. Term.** This Agreement shall commence on _____ and shall expire on _____, unless otherwise terminated under the provisions of this Agreement. Upon expiration of this Agreement and any extensions, all equipment furnished by (Name of City) shall remain the sole property of (Name of City) and any facilities, office equipment or other material support provided by the District shall remain the sole property of the District.
- 3. Termination.** Either party may terminate this Agreement for any reason upon sixty (60) days written notice to the other party. This Agreement is subject to funding, and either party may terminate with proper written notice due to lack of funding.
- 4. Duties of officers.** (Name of City) shall assign dedicated officers to _____ High School on a rotating basis to promote safety and serve as a

positive resource to the school, District and the surrounding neighborhood. The duties and responsibilities of the officers include, but are not limited to, the following:

- a. Perform the duties enumerated in the (Name of City) Police Officer Job Description;
 - b. Patrol the high school and surrounding areas to identify, investigate, deter and prevent crimes, especially those incidents involving weapons, youth violence, harassment, gang involvement, drugs or similar activities;
 - c. Act as a liaison between the high school administrators and (Name of City);
 - d. Establish and maintain a working rapport with the high school administration, staff and students;
 - e. Provide school-based security during agreed upon hours during the school day and assist in the promotion of a safe and orderly environment at the high school. The officers, however, shall not act as disciplinarians. If officers are confronted with a non-criminal violation, such as a school rule violation, the officers will inform the high school administrators of the same and assist only for the purposes of providing security for school staff member(s) charged with enforcing school rules and providing testimony in a due process hearing. In the absence of a district administrator, the officers may refer the matter to District administration;
 - f. Assist in mediating disputes on campus, including working with students to help solve disputes in a non-violent manner;
 - g. Act as a resource person in the area of law enforcement education at the request of staff, speak to classes on the law, search and seizure, drugs, motor vehicle laws, etc.; and,
 - h. Perform others duties as mutually agreed upon by the principal of the high school and the officers, provided that the duty is legitimately and reasonably related to the program as described in this Agreement and is consistent with federal and state law, local ordinances, District and (Name of City) policies, procedures, rules and regulations.
5. **Office space and supplies.** District shall provide the following for the officers to use at the high school, all at the District cost:
- a. Private space with sufficient lighting and heat at each high school to be used by the officers for general office purposes.
 - b. Necessary office supplies, including but not limited to a four drawer locking cabinet, a desk, a telephone, and a computer/typewriter.
 - c. A portable radio for communication with high school security personnel.
6. **Independent Contractor.** (Name of City) and The District understand and agree that (Name of City) is acting as an independent contractor under the terms of this Agreement, with the following intended results:
- a. Control of personnel, standards of performance, discipline and other aspects of performance of the officers shall be governed solely by (Name of City);
 - b. All persons rendering services hereunder shall be for all purposes employees of (Name of City);
 - c. All liabilities for salaries, wages or any other compensation shall be the responsibility of (Name of City).

7. **Supervision of officers.** The officers shall remain employees of (Name of City) and are not employees of The District. The officers shall remain responsive to the supervision and chain of command of (Name of City). (Name of City) shall be solely responsible for officer training, discipline or dismissal. Any allegation of improper conduct shall be referred by high school or District administration to the immediate supervisor of the officers or directly to the (Name of City) Chief of Police.
8. **Scheduling of officers.** (Name of City) agrees to assign officers to the District during the regularly scheduled school year, for the term of this Agreement. The officers will be assigned to the _____ High School campus throughout the regularly scheduled school day, Monday or Tuesday; 10:00 a.m. to 2:30 p.m., less any scheduled vacation time, sick time, training time, court time, or any other police-related emergencies, such as civil disasters. Officers will be assigned to the High School at each officer's "overtime" rate, as agreed upon and not to exceed \$ _____. When an officer is not on campus, the officer will advise the high school principal in advance of his whereabouts and a number where he can be reached. On scheduled workdays when school is not in session, the officer will work as assigned by (Name of City).
9. **Selection.** (Name of City) will select (Name of City) officers, at (Name of City)'s discretion, to perform the services under this Agreement. Officer assignment vacancies likewise will be filled in accordance with this section. During the selection process (Name of City) may use the following non-exclusive factors:
 - a. Officers should be considered capable of conveying a positive police presence on the high school campus and in the community.
 - b. Officers should have the ability to be a positive resource to the school, staff, students, parents, and residents in the surrounding neighborhood.
10. **Removal.** If District has cause to believe that a particular officer is not effectively performing in accordance with this Agreement, the superintendent may recommend in writing to (Name of City) that the officer(s) be removed from the program. Within ten business days after receiving the recommendation, the Superintendent or the Superintendent's designee will meet with the (Name of City) Chief of Police or the chief of police designee to discuss the recommendation. If in the opinion of the chief or the superintendent, or their designees, the problem cannot be resolved, then the officer(s) shall be removed from the program.
11. **Compensation.** All compensation to the city will be made on a cost reimbursement basis. The rate of reimbursement to the city shall be at each officer's overtime rate of pay not to exceed \$ _____.
 - a. The District shall reimburse the city on a monthly basis, upon receipt of billing for services by the city.
 - b. All requests for reimbursement are subject to approval of the student support and outreach program manager or that official's designee, and the District shall thereafter make payment of the approved amount within thirty days of receipt of the request for reimbursement.
 - c. Monthly billing forms must be submitted by the City for payment by the _____ day of each month following the month in which service was provided and mailed to _____ School District (address).

12. **Payment.** District shall pay (Name of City) within 30 days from the date as specified for invoice above. Payments to (Name of City) that are later than 30 days following the invoice dates shall accrue interest at the rate of 12% per annum on the balance due. All payments shall first be applied to accrued interest.
13. **No third party rights.** The establishment of this program and execution of this Agreement shall create no third party rights. In particular, the parties agree by establishing this program that no past practice has been created with respect to duty assignment, the maintenance of the program, or to otherwise limit the management discretion of (Name of City) under its collective bargaining agreement. This Agreement further shall not create any third party rights to the officer or any other officer of (Name of City), to the citizens of the _____ District, or to any other person.
14. **Insurance and indemnification.** The parties shall separately maintain their own appropriate liability and casualty insurance policies as they, in their sole discretion, deem appropriate. The parties further agree that no indemnification shall be provided for, except as specifically set forth below, and that the respective liability of the parties to each other and to third persons shall be deemed in accordance with the laws of the State of Washington. The District will protect, defend, indemnify, and hold harmless (Name of City), its officers, employees, or agents from any and all costs, claims, judgments or awards of damages arising out of, or in any way resulting from, negligent acts or omissions of the District, its officers, employees or agents. (Name of City) will protect, defend, indemnify and hold harmless the District, its officers, employees, or agents from any and all costs, claims, judgments or awards of damages arising out of, or in any way resulting from, negligent acts or omissions of (Name of City), its officers, employees or agents. In the event of concurrent liability, the parties shall have the right of contribution in proportion to the respective liability of each party. Nothing contained in this section shall be deemed to waive immunities established pursuant to state statutes or to create third party rights or immunities.
15. **District responsibility for safety and security.** The parties understand and agree that the District retains its legal responsibility for the safety and security of the District, its employees, students and property, and this Agreement does not alter that responsibility except as provided by paragraph 17 below.
16. **Interview and arrest procedures.** If an officer plans to interview suspects or victims of crime, the officer, to the extent practicable, will advise and work with the principal to minimize disruption to the high school and other students. District employees will make parental notification of such interviews in accordance with District policies and procedures and applicable laws. The principal or designee may request that she/he or a designee be present during the interview of a student. The presence of a District employee at an interview of a student regarding a criminal matter shall make said employee subject to subpoena as a witness thereto. In the event an officer arrests a student at the high school, the officer shall notify the principal or the principal's designee as soon thereafter as practical. In the event that the arrested student is a juvenile, (Name of City) will notify the parent or legal guardian pursuant to (Name of City) policies and procedures. The District may also make notification as necessary under its own policies and procedures.

- 17. Release of student information.** Upon request by (Name of City), the District will provide directory information relating to its students, which is permitted under District policy and state and federal law.
- 18. Police reports.** The officers shall provide the District with police reports as permitted by state law and (Name of City) policies and procedures.
- 19. Applicable law.** This Agreement shall be governed by the laws of the state of Washington.
- 20. Recording.** This Agreement shall be filed with the _____ County Auditor.
- 21. Notice.** Notices under this Agreement shall be sent to the following:
- (Name of City) Chief of Police
(Address)

Superintendent

School District
(Address)
- 22. Entire Agreement.** This Agreement is the entire agreement between parties and supersedes and merges with any prior agreements of the parties, written or oral, with respect to the Program. This Agreement shall be amended only in writing with the written consent of the parties. This Agreement shall be interpreted in order to implement its central purpose, which is the creation of the program and the underlying understanding that only (Name of City) shall direct the police functions of the officers.

_____ SCHOOL DISTRICT CITY OF (Name of City)

By: _____
Superintendent, _____

By: _____
Mayor/City Manager _____

Dated: _____

Dated: _____

By: _____
City Finance Director
Dated: _____

Attest as to Form

By: _____
City Attorney
Dated: _____