

# SENATE BILL REPORT

## SB 5966

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As of January 22, 2024

**Title:** An act relating to restraint or isolation of students in public schools and educational programs.

**Brief Description:** Concerning restraint or isolation of students in public schools and educational programs.

**Sponsors:** Senators Wilson, C., Wellman, Hasegawa, Hunt, Kuderer, Nobles, Trudeau and Valdez.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/22/24.

### Brief Summary of Bill

- Prohibits certain restraint and isolation of students including chemical restraint and mechanical restraint.
- Allows physical restraint and isolation only when certain requirements are met.
- Expands the procedures following the use of restraint or isolation, including notifications, incident reviews, and incident reports.
- Directs school districts to adopt a restraint and isolation policy and procedure and a professional development plan.
- Directs the Office of the Superintendent of Public Instruction to provide technical assistance, monitor and support compliance, and develop a required training program for school board members.
- Increases staff allocations for paraeducators in the prototypical school funding model.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Ailey Kato (786-7434)

**Background:** Restraint and Isolation. In 2013 the Legislature set out certain requirements when restraint or isolation was used on a student who has an individualized education program (IEP) or a plan developed under section 504 of the Rehabilitation Act of 1973. These requirements included certain follow-up procedures and notification requirements.

In 2015 these requirements were modified and expanded to all students. Current law permits restraint or isolation only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm.

Follow-Up Procedures. Following the use of restraint or isolation the school must implement certain follow-up procedures.

*Notifications.* Staff who used restraint or isolation must inform the building administrator as soon as possible. The principal or designee must make a reasonable effort to verbally inform the parent or guardian within 24 hours of the incident and must send written notification as soon as practical but postmarked no later than five business days.

*Incident Reviews.* The staff member who administered the restraint or isolation must review the incident to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

*Incident Reports.* Staff must submit a written report of the incident to the district office within two business days of the incident with the following information:

- date and time of incident;
- name and job title of the individual who used restraint or isolation;
- a description of the activity that led to the incident;
- type of restraint or isolation used and the duration;
- whether there were physical injuries and if medical care was provided; and
- any recommendations for changing the nature or amount of resources available to avoid similar incidents.

Reports and Monitoring. Annually, by January 1st, each school district superintendent or chief administrator must summarize incident reports and submit to the Office of the Superintendent of Public Instruction (OSPI). The report must include the number of individual incidents of restraint and isolation, the number of students, number of injuries to students and staff, and the types of restraint or isolation used.

OSPI must publish this data to its website. OSPI may use this data to investigate the training, practices, and other efforts to reduce the use of restraint and isolation.

Policies and Procedures. Each school district must adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff.

Work Group Report. In 2022, the Legislature directed OSPI to convene a work group to identify trauma informed strategies, approaches, and curricula for supporting students in distress and with challenging behaviors. The work group developed four categories of recommendations:

- eliminate isolation and chemical restraint from schools;
- improve access to proactive and effective mental health supports and trauma-informed behavior supports;
- increase educator training of de-escalation practices; and
- improve data collection and reporting.

Professional Development and Demonstration Projects. The 2023-25 operating budget provided \$5 million to OSPI to provide statewide professional development and technical assistance and to provide grants for demonstration projects for ten sites. The demonstration projects must build systems that eliminate student isolation, reduce restraint use, and build schoolwide systems to support students in distress and prevent crisis escalation cycles.

Prototypical School Model. The state's public school funding model allocates funding to school districts based on assumed levels of staff and other resources necessary to support a prototypical school serving an assumed number of students at defined elementary, middle, and high schools levels.

The structure of the formula, which appears in statute, provides allocations for classroom teachers at an assumed class size, plus other building-level staff. Based on these staffing ratios, the state uses salary assumptions for each of the different staff types to generate state funding allocations.

The staffing ratios for teaching assistants are as follows:

	Elementary	Middle	High
Teaching assistance, including any aspect of educational instructional services provided by classified employees.	0.936	0.700	0.652

**Summary of Bill: Definitions.** Definitions for various terms are revised or added including definitions for calming space, the various types of restraint, physical escort, physical prompt, and room clears.

The requirements in the bill apply to other providers of public educational services (other providers) such as public schools, educational service districts, institutional education providers, an authorized entity providing special education services.

Prohibited Restraint and Isolation of Students. The staff of any school district or other provider may not subject any student to the following:

- corporal punishment;
- chemical restraint;
- mechanical restraint;
- physical restraint or physical escort that is life-threatening, restricts breathing, or restricts blood flow to the brain, including prone, supine, and wall restraints;
- isolation or physical restraint that is contraindicated based on the student's disability or health care needs or medical or psychiatric condition as documented in certain plans; and
- noxious spray and other aversive intervention.

Students and parents may not consent to the use of prohibited restraint or isolation. This prohibition does not apply to restraint that is prescribed or administered as it relates to a student's health or is documented in a plan.

Nothing prohibits a school resource officer from carrying out the lawful duties of a commissioned law enforcement officer.

Allowable Restraint and Isolation. Staff may use physical restraint or isolation only when:

- the restraint or isolation of the student is closely monitored and ends immediately upon the cessation of the imminent likelihood of serious harm to the student or to others;
- the least amount of force necessary is used to protect the student or another person from an imminent likelihood of serious harm to the student or to others;
- staff reasonably believes the student's behavior poses an imminent likelihood of serious harm to the student or to others; and
- staff reasonably believes that less restrictive interventions would be ineffective in stopping the imminent likelihood of serious harm to the student or to others.

Temporary Physical Restraint. Staff may use temporary physical restraint when:

- the restraint is used to interrupt a student's impulsive behavior that threatens the student's immediate safety or safety of others; or
- the restraint is used to protect oneself or another from an assault, injury, or sexual contact and involves the minimum physical contact necessary for protection.

Follow-Up Procedures. Additional requirements are added to the follow-up procedures.

*Notifications.* Notification requirements remain the same except that staff who uses restraint or isolation must inform the building administrator immediately following release of the student instead of as soon as possible.

*Incident Reviews.* School districts and other providers must develop an incident review process that must be completed after each incident of restraint or isolation. The purpose of this process is to improve future processes and develop appropriate supports for staff and not intended to be used for disciplinary purposes.

The process must include:

- the establishment of an incident review team of staff that focuses on using less restrictive interventions as alternatives to restraint and isolation;
- a requirement that the student and parents have an opportunity within five business days of the submission of the incident report to review and discuss the incident;
- a process for the parents to submit written comments to the team;
- a requirement that the staff who used or directed the use of restraint or isolation meet with the team; and
- a requirement that the team consider whether further support services should be made available to the student.

*Incident Reports.* Within two business days, a written incident report must be submitted to the incident review team and the school district superintendent or chief administrator. The written report must include information that is already required and adds the following information:

- location of the incident;
- any staff who observed the incident;
- relevant events that occurred before, during, and after the incident, including any less restrictive interventions attempted, including any de-escalation attempts;
- any psychological trauma experienced by student or staff and whether staff required or used leave benefits; and
- whether the student has an IEP, and if so, whether it was followed.

Reports. The annual report submitted by school district superintendents and chief administrators must also be disaggregated for purposes of trend analyses and sample categories are specified.

Policies and Procedures. School boards and governing bodies must adopt a student restraint and isolation policy and procedures that:

- includes all of the restraint and isolation requirements;
- ensures that following a student's release from restraint or isolation, the student is provided an opportunity to meet with a counselor, nurse, psychologist, or social worker no later than three days after the incident; and
- is developed with input from staff, students, students' families, advocacy organizations, and other appropriate members of the community.

Professional Development Plans. Beginning August 1, 2027, each school board and governing body must adopt an all-staff professional development plan and timeline for building a school-level and district-level educational system that supports students in distress and helps prevent crisis escalation cycles that may result in restraint or isolation. Plans must be annually submitted to OSPI through August 31, 2032.

The plan must describe the professional development that will be provided the following

school year, and professional development must be selected from an OSPI list.

When there is not sufficient progress on the professional development plan or when disparities are identified, OSPI must place the school district or other providers on a plan of improvement and provide targeted technical assistance, including annual site visits.

School Board Monitoring and Training. On an annual basis, school boards and governing bodies must monitor the impact of the policy and procedures and, at a minimum:

- perform trend analyses using the summary of incident reports; and
- review the professional development plan and updates.

Beginning in the 2026-27 school year, each school board member or member of a governing body must complete a OSPI training program at least once during every four-year term.

The Office of the Superintendent of Public Instruction Duties. By July 1, 2025, OSPI, in partnership with the Washington State School Directors' Association, must develop and periodically update a training program on restraint and isolation for school boards and other governing bodies available at no cost. The training program must include specified content.

By July 1, 2026, OSPI must make available a sample professional development plan, including a recommended timeline, and technical assistance manual. OSPI must use data gathered from demonstration projects and must include a list of available programs and resources on specified topics.

Beginning November 1, 2027, and every odd-numbered year through 2033, OSPI must report to the Legislature on its activities to monitor and support the compliance with restraint and isolation requirements. The report must describe professional development progress and highlight exemplar school districts and other providers.

OSPI must adopt rules to implement the requirements.

Report on Educator Preparation. By December 1, 2025, the Professional Educator Standards Board and the Paraeducator Board must jointly submit to the Legislature a plan for integrating into educator programs and paraeducator certificates restraint and isolation requirements and instruction in de-escalation and positive behavioral intervention strategies.

Prototypical School Model. The term teaching assistance is amended to paraeducators, and the staffing ratio for this category is increased beginning in the 2024-25 school year:

	Elementary	Middle	High
Paraeducators, including any aspect of educational instructional services provided by classified employees	1.292	0.800	0.768

**Appropriation:** None.

**Fiscal Note:** Requested on January 9, 2024.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: The topic of restraint and isolation is complicated and highly charged. Educators are struggling in responding when students have unmet needs. Students and staff both need to be supported in order to reduce the use of restraint and isolation and ensure safety. This bill sets out clear definitions and shifts the focus to being proactive instead of reactive. Isolation should only be used in emergencies and must follow strict guidelines. Restraint may be needed to preserve dignity and to keep students safe. Current law is not clear about when restraint and isolation can be used. The bill starts with educational leaders, so they can develop the policies, tools and resources to implement these requirements. Additional professional development and staffing are needed for implementation.

CON: Isolation should be phased out and completely eliminated, especially for younger children. Students are not predators and should not be punished harshly. Isolation is traumatic for students and staff. No child should be subject to practices that harm their mental health. There are disparities in the use of restraint and isolation, and the waiver option or opt out feature exacerbates disproportionality and highlights privilege. When isolation is used, families lose trust in schools.

OTHER: Paraeducators need additional resources and robust professional development to do the work required in this bill and respond to disruptive students. Isolation should be phased out. Current law has a lack of clarity regarding implementation and reporting. The definitions in the bill are a good step forward. Restraint and isolation should only be used as a last resort. Health care providers should not be the sole decision makers about when isolation or restraint can be used, and they should be part of the IEP team. Adequate funding is needed to implement the requirements in this bill and inclusionary practices.

**Persons Testifying:** PRO: Senator Claire Wilson, Prime Sponsor; ivanova Smith ; Jared Mason-Gere, Washington Education Association; Katie McGrew; Amy Jones; Becky Ramsey , Spokane Public Schools .

CON: Eric Holzapfel, League of Education Voters; Ramona Hattendorf, The Arc of King County; Roxana Gomez, ACLU of Washington; Karen Pillar, TeamChild; Peter Musante, Open Doors for Multicultural Families; Sarah Butcher, Roots of Inclusion.

OTHER: Tawni Barlow, Medical Lake School District; Shannon Hitch, Lake Washington School District; Erin Smelser, paraeducator at LaCenter School District; Rick Chisa, Public School Employees of WA/SEIU 1948; Mikhail Cherniske, Office of Superintendent of

Public Instruction.

**Persons Signed In To Testify But Not Testifying:**

CON: Khalid Sirad, Open Doors for Multicultural Families; Andrea Kadlec, Disability Rights Washington; Marian Chacon; Jeannette Mcchesney; Marshelle Jordan, Treehouse; Heidi Barden, Treehouse; ARZU FOROUGH, Washington Autism Alliance; Leslie Maxwell, Preschool Special Education Paraeducator ; Russ Hamerly; Robert Maxwell, Pullman School District - Pullman, WA.

OTHER: Cheryl Pirozok, Cheryl Pirozok; Howard Bowman.