The State of Nevada has had stringent requirements in place regarding the use of aversive intervention, physical restraint and mechanical restraint (seclusion and restraint) of pupils since 1999. The state statutes governing seclusion and restraint of pupils are comprehensive in nature and apply to both public and private schools operating in Nevada. The statutes governing seclusion and restraint of public school pupils in Nevada (NRS 388.521 through NRS 388.5315) have been provided with this Status Report as Attachment A (private school statutes are identical in wording but not attached). In addition, the public statutes can be viewed electronically at: [http://www.leg.state.nv.us/NRS/NRS-388.html#NRS388Sec521](http://www.leg.state.nv.us/NRS/NRS-388.html#NRS388Sec521).

Specifically, Nevada statutes provide for the following:

- Clear and concise definitions of terms and conditions that apply to aversive intervention and restraint of pupils.
- Conditions under which physical and mechanical restraint may be used on a pupil along with required reporting to the local board of trustees or private school administrators. If a physical or mechanical restraint is used, a report of the procedure must be completed and included in the pupil’s cumulative record along with a copy of the report provided to the board of trustees of the school district, the pupil’s individualized education program team and the parent or guardian of the pupil.
- The development of a model program of education by the Nevada Department of Education for use by school districts and private schools to train staff members who are authorized to carry out and monitor the use of physical or mechanical restraint on pupils. The training is mandatory for these staff members and must include instruction in positive behavioral interventions and positive behavioral supports.
- Disciplinary action against a person who intentionally violates the specific statutes governing aversive intervention and restraint of pupils.
- If a violation occurs within a school, a report must be filed within 24 hours to the board of trustees of the school district and a corrective action plan must be developed within 30 calendar days with appropriate action taken to prevent future violations. The corrective action plan must be submitted to the Nevada Department of Education to ensure compliance with state and federal law and may be modified by the Department to ensure compliance.

Revisions to Statutes Regarding Aversive Intervention and Restraint of Pupils Made by the 2009 Legislature

Although not yet codified and available electronically, the 2009 Nevada Legislature revised and enhanced existing statutes governing aversive intervention and restraint of pupils through the passage of Assembly Bill 56, which became effective July 1, 2009. Assembly Bill 56 can be viewed at the following Web site location: [http://www.leg.state.nv.us/75th2009/Bills/AB/AB56_EN.pdf](http://www.leg.state.nv.us/75th2009/Bills/AB/AB56_EN.pdf)

A Summary of Statute Changes Made by Assembly Bill 56

- Requires the board of trustees of each school district and the administrative head of each private school that provides instruction to pupils with disabilities, on or before August 1 of each year, to prepare a report for each school under their jurisdiction on the use of physical and mechanical restraint on pupils with disabilities. The report must include the number of instances of physical and mechanical restraint used during the previous school year for each school per teacher employed at the school and per pupil and the number of violations of the physical and
mechanical restraint statutes. The bill prohibits personally identifiable information about an individual pupil or teacher from being included in the report.

- Requires the Department of Education to develop the form to be used by the school districts/private schools to report the required information on the use of physical and mechanical restraint on pupils with disabilities.

- Authorizes the board of trustees to develop the form to be used to collect the required information from each school within the school district. Requires the board of trustees to submit the written report to the Department of Education on or before August 15 of each year.

- Requires the Department of Education to compile the reports received from each school district/private school and prepare a written report on or before October 1 of each year. The Department report must be submitted to the Legislative Counsel Bureau to be forwarded to the next regular session of the legislature during even-numbered years. In odd-numbered years, the Department report is to be submitted to the Legislative Committee on Education.

- Modifies the current physical and mechanical restraint reporting requirements for each pupil if there are three reports of restraint in one school year on the pupil. In these cases, the Bill requires the school district/private school to review the circumstances of the use of the restraint and provide a report on its findings.

- Modifies the current physical and mechanical restraint reporting requirements for each pupil if there are five reports of restraint in one school year on the pupil. In these cases, requires a review of the pupil's Individualized Education Plan (IEP). If either physical or mechanical restraint continues after the IEP review, the school district and the parent or legal guardian of the pupil must develop a plan to be included in the IEP that addresses additional methods that are appropriate for the pupil to ensure the restraint does not continue, which could include, but not be limited to, mentoring, training, a functional behavior assessment, a positive behavior plan and positive behavioral supports. The school district must notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint and provide a report to the school district on its findings.

Summary

The State of Nevada has long had a concern with the welfare of students regarding seclusion and restraint of pupils as evidenced by the detailed state statutes that have been in effect since 1999. In addition, enhanced reporting and monitoring requirements were adopted within the state that became effective July 1, 2009, that will ensure all cases of physical or mechanical restraint are dealt with quickly and effectively and are publically reported to the Nevada Legislature. The mandatory training required of all staff within the state who work with students where the possibility of physical or mechanical restraint may occur is additional evidence that the state has been proactive in its dealing with the seclusion and restraint of pupils. The use of positive interventions such as mentoring, a functional behavior assessment, a positive behavior plan and positive behavioral supports have been emphasized within the state to ensure the safety and protection of all students in both public and private schools.
Use of Aversive Intervention, Physical Restraint and Mechanical Restraint on Pupils With Disabilities

NRS 388.521 Definitions. As used in NRS 388.521 to 388.5315, inclusive, unless the context otherwise requires, the words and terms defined in NRS 388.5215 to 388.526, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1999, 3236)

NRS 388.5215 “Aversive intervention” defined. “Aversive intervention” means any of the following actions if the action is used to punish a pupil with a disability or to eliminate, reduce or discourage maladaptive behavior of a pupil with a disability:

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

(Added to NRS by 1999, 3237)

NRS 388.522 “Chemical restraint” defined. “Chemical restraint” means the administration of drugs for the specific and exclusive purpose of controlling an acute or episodic aggressive behavior when alternative intervention techniques have failed to limit or control the behavior. The term does not include the administration of drugs on a regular basis, as prescribed by a physician, to treat the symptoms of mental, physical, emotional or behavioral disorders and for assisting a person in gaining self-control over his impulses.

(Added to NRS by 1999, 3237)
NRS 388.5225 “Corporal punishment” defined. “Corporal punishment” means the intentional infliction of physical pain, including, without limitation, hitting, pinching or striking.

(Added to NRS by 1999, 3237)

NRS 388.523 “Electric shock” defined. “Electric shock” means the application of electric current to a person’s skin or body. The term does not include electroconvulsive therapy.

(Added to NRS by 1999, 3237)

NRS 388.5235 “Emergency” defined. “Emergency” means a situation in which immediate intervention is necessary to protect the physical safety of a person or others from an immediate threat of physical injury or to protect against an immediate threat of severe property damage.

(Added to NRS by 1999, 3237)


(Added to NRS by 1999, 3237)

NRS 388.5245 “Individualized education program team” defined. “Individualized education program team” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

(Added to NRS by 1999, 3237)

NRS 388.525 “Mechanical restraint” defined. "Mechanical restraint" means the use of devices, including, without limitation, mittens, straps and restraint chairs to limit a person’s movement or hold a person immobile.

(Added to NRS by 1999, 3238)

NRS 388.5255 “Physical restraint” defined. “Physical restraint” means the use of physical contact to limit a person’s movement or hold a person immobile.

(Added to NRS by 1999, 3238)

NRS 388.526 “Verbal and mental abuse” defined. “Verbal and mental abuse” means actions or utterances that are intended to cause and actually cause severe emotional distress to a person.

(Added to NRS by 1999, 3238)

NRS 388.5265 Aversive intervention prohibited. A person employed by the board of trustees of a school district or any other person shall not use any aversive intervention on a pupil with a disability.

(Added to NRS by 1999, 3238)

NRS 388.527 Physical restraint and mechanical restraint prohibited; exceptions. A person employed by the board of trustees of a school district or any other person shall not:

1. Except as otherwise provided in NRS 388.5275, use physical restraint on a pupil with a disability.
2. Except as otherwise provided in NRS 388.528, use mechanical restraint on a pupil with a disability.

(Added to NRS by 1999, 3238)
NRS 388.5275 Conditions under which physical restraint may be used; report required.

1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:
   (a) An emergency exists that necessitates the use of physical restraint;
   (b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and
   (c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:
   (a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;
   (b) Escort or carry a pupil to safety if the pupil is in danger in his present location; or
   (c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district, the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees determines that a denial of the pupil's rights has occurred, the board of trustees may submit a report to the Department in accordance with NRS 388.5315.

(Added to NRS by 1999, 3238)

NRS 388.528 Conditions under which mechanical restraint may be used; report required.

1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:
   (a) An emergency exists that necessitates the use of mechanical restraint;
   (b) A medical order authorizing the use of mechanical restraint is obtained from the pupil's treating physician before the application of the mechanical restraint or not later than 15 minutes after the application of the mechanical restraint;
   (c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable;
   (d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;
   (e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;
   (f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop or control his inappropriate behavior without the use of the restraint;
(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage.

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil’s individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil’s cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district, the pupil’s individualized education program team and the parent or guardian of the pupil. If the board of trustees determines that a denial of the pupil’s rights has occurred, the board of trustees may submit a report to the Department in accordance with NRS 388.5315.

(Added to NRS by 1999, 3238)

NRS 388.5285 Mandatory education and training for staff.

1. The Department shall develop a model program of education for use by the school districts to train the members of the staff of the schools within the school districts who are identified in the individualized education programs of pupils with disabilities to provide services to those pupils. The model program of education must provide instruction in positive behavioral interventions and positive behavioral supports that:

(a) Includes positive methods to modify the environment of pupils with disabilities to promote adaptive behavior and reduce the occurrence of inappropriate behavior;

(b) Includes methods to teach skills to pupils with disabilities so that the pupils can replace inappropriate behavior with adaptive behavior;

(c) Includes methods to enhance the independence and quality of life for pupils with disabilities;

(d) Includes the use of the least intrusive methods to respond to and reinforce the behavior of pupils with disabilities; and

(e) Offers a process for designing interventions based upon the pupil that are focused on promoting appropriate changes in behavior as well as enhancing the overall quality of life for the pupil.

2. The board of trustees of each school district shall provide for appropriate training for the members of the staff of the schools within the school district who are authorized to carry out and monitor physical
restraint and mechanical restraint to ensure that those members of the staff are qualified to carry out the procedures in accordance with NRS 388.521 to 388.5315, inclusive.

(Added to NRS by 1999, 3239)

NRS 388.529 Disciplinary action against person for intentional violation. In addition to any penalty prescribed by specific statute, a person who intentionally uses aversive intervention on a pupil with a disability or intentionally violates NRS 388.527 is subject to disciplinary action pursuant to NRS 391.312 or 391.330, or both.

(Added to NRS by 1999, 3240)

NRS 388.5295 Report of violation; corrective plan required; appointment of administrator to oversee school under certain circumstances.

1. A school where a violation of NRS 388.521 to 388.5315, inclusive, occurs shall report the violation to the board of trustees of the school district not later than 24 hours after the violation occurred, or as soon thereafter as the violation is discovered.

2. The board of trustees of the school district where the violation occurred shall develop, in cooperation with the superintendent of schools of the school district, a corrective plan to ensure that within 30 calendar days after the violation occurred, appropriate action is taken by the school and the board of trustees to prevent future violations.

3. The superintendent of schools of the school district shall submit the plan to the Department. The Department shall review the plan to ensure that it complies with applicable federal law and the statutes and regulations of this state. The Department may require appropriate revision of the plan to ensure compliance.

4. If the school where the violation occurred does not meet the requirements of the plan to the satisfaction of the Department, the Department may appoint a licensed administrator to oversee the school to ensure that the school meets the requirements of the plan. An administrator serves at the pleasure of the Superintendent of Public Instruction and is entitled to receive such compensation as may be set by the superintendent. A school district that contains a school for which an administrator is appointed pursuant to this subsection shall reimburse the Department for any expenses incurred by the Department pursuant to this subsection.

(Added to NRS by 1999, 3240)

NRS 388.531 Retaliation for reporting violation prohibited. An officer, administrator or employee of a public school shall not retaliate against any person for having:

1. Reported a violation of NRS 388.521 to 388.5315, inclusive; or

2. Provided information regarding a violation of NRS 388.521 to 388.5315, inclusive, by a public school or a member of the staff of the public school.

(Added to NRS by 1999, 3241)

NRS 388.5315 Reporting of denial of rights; investigation and resolution of disputes by Department.

1. A denial of rights of a pupil with a disability pursuant to NRS 388.521 to 388.5315, inclusive, must be entered in the pupil’s cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district.
2. If the board of trustees of a school district receives notice of a denial of rights pursuant to subsection 1, it shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.

3. The Department:
   (a) Shall receive reports made pursuant to subsection 2;
   (b) May investigate apparent violations of the rights of pupils with disabilities; and
   (c) May act to resolve disputes relating to apparent violations.

(Added to NRS by 1999, 3241)