SOUTH EAST CONSORTIUM FOR SPECIAL EDUCATION
EMERGENCY INTERVENTION BEHAVIOR POLICY

POLICY:
The South East Consortium SELPA recognizes that the state has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions. Further, the South East Consortium SELPA recognizes that some school-age individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both. Research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports to address the learning and behavioral needs of those children, and that procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under the law or those that cause pain or trauma.

It is the intent of this policy that:

(1) Children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the Individuals with Disabilities Education Act (IDEA) and its implementing regulations.

(2) Assessments and positive behavioral interventions and supports be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education.

(3) When behavioral interventions, supports, and other strategies are used, they be used in consideration of the pupil’s physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil’s right to placement in the least restrictive educational environment.

(4) Behavioral intervention plans be developed and used, to the extent possible, in a consistent manner when the pupil is also the responsibility of another agency for residential care or related services.

(5) Training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.
Emergency Interventions

Emergency interventions, including seclusion and/or a behavioral restraint, may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

“Seclusion” means the involuntary confinement of a pupil alone in a room or area from which the pupil is physically prevented from leaving. “Seclusion” does not include a timeout, which is a behavior management technique that is part of an approved program, that involves the monitored separate of the pupil in a nonlocked setting, and is implemented or the purpose of calming. Staff shall keep constant, direct observation of a pupil who is in seclusion, which may be through observation of a pupil through a window, or another barrier, through which the educational provider is able to make direct eye contact with the pupil. This observation shall not be through indirect means, including through a security camera or a closed-circuit television. Whenever possible, seclusion shall be avoided.

“Behavioral restraint” means a “mechanical restraint” or “physical restraint”, defined below. Behavioral restraint does not include postural restraints or devices used to improve a pupil’s mobility and independent functioning rather than to restrict movement. “Mechanical restraint” means the use of a device or equipment to restrict a pupil’s freedom of movement. It does not include the use of devices by peace officers or security personnel for detention or for public safety purposes. It also does not include the use of devices by trained school personnel, or by a pupil, prescribed by an appropriate medical or related services professional, if the device is used for the specific and approved purpose for which the device or equipment was prescribed, which shall include, but not be limited to, all of the following: (1) Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports, (2) vehicle safety restraints when used as intended during the transport of a pupil in a moving vehicle, (3) restraints for medical immobilization and (4) orthopedically prescribed devices that permit a pupil to participate in activities without risk of harm.

“Physical restraint” means a personal restriction that immobilizes or reduces the ability of a pupil to move his or her torso, arms, legs, or head freely. “Physical restraint” does not include (1) a physical escort, which means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a pupil who is acting out to walk to a safe location or (2) the use of force by peace officers or security personnel for detention or for public safety purposes.

A “Prone restraint” is the application of a behavioral restraint on a pupil in a facedown position. Prone restraints are not allowed under this policy.
Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

No emergency intervention shall be employed for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

Staff shall afford to pupils who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the pupil and others.

Emergency interventions shall not include:

(1) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(2) Employment of a device, material, or objects that simultaneously immobilize all four extremities, including any prone containment.

(3) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

Behavior Emergency Reports

To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one school day if an emergency intervention, including seclusion and/or a behavioral restraint is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

(1) The name and age of the individual with exceptional needs.

(2) The setting and location of the incident.

(3) The name of the staff or other persons involved.

(4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

(5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.
All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

**Prohibited Interventions**

A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

1. Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

2. An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

3. An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

4. An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

5. Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment.

6. Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

7. An intervention that precludes adequate supervision of the individual.

8. An intervention that deprives the individual of one or more of his or her senses.
(9) A physical restraint technique that obstructs a pupil’s respiratory airway or impairs the pupil’s breathing or respiratory capacity, including techniques in which a staff member places pressure on a pupil’s back or placed his or her body weight against the pupil’s torso or back.

(10) A behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat or other item to cover a pupil’s face.

(11) Placing a pupil in a facedown position with or without the pupil’s hands held or restrained

(12) Use of seclusion or a behavioral intervention for the purpose of coercion, discipline, convenience or retaliation.

In the case of a child whose behavior impedes the child’s learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

NOTHING IN THIS POLICY PROHIBITS A SELPA MEMBER LOCAL EDUCATIONAL AGENCY (LEA) FROM PROHIBITING ADDITIONAL BEHAVIORAL INTERVENTIONS THROUGH THE LEA’S OWN BOARD POLICIES/ADMINISTRATIVE REGULATIONS. In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

Use of Board Certified Behavior Analyst

A person recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst may conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

This section does not require a district, special education local plan area, or county office to use a Board Certified Behavior Analyst to conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

Approved by South East Consortium SELPA Executive Council March, 2021