

PHYSICAL DISCIPLINE AGAINST A CHILD WITH A DISABILITY—IS IT LEGAL?

If you have a child with a disability, and you believe that your child has been disciplined or restrained in school in an inappropriate or illegal way by school employees, this brochure will give you some guidance on this issue.

WHAT IS CORPORAL PUNISHMENT?

“Corporal punishment” is defined as the intentional infliction of physical pain upon or the physical restraint of a student for disciplinary purposes. (NRS 392.4633) It does not include the use of reasonable and necessary force to: a) quell a disturbance that threatens physical injury to any person or the destruction of property; b) to obtain possession of a weapon or other dangerous object within the student’s control; c) for the purpose of self-defense or the defense of another person; or d) to escort a disruptive student who refuses to go voluntarily with authorities. Corporal punishment is not permitted in schools.

WHAT IS AN AVERSIVE INTERVENTION?

An aversive intervention is the use of something unappealing to punish a student with a disability or to eliminate or reduce or discourage maladaptive behavior of a student with a disability.

Aversive interventions would include:

- Noxious odors or tastes
- Use of water and other mists or sprays
- Blasts of air
- Corporal punishment
- Verbal and mental abuse
- Electric shock
- Chemical restraint
- Placement in a locked room alone
- Forced exercise
- Denial of food or water or medication

Aversive interventions are not permitted in schools (NRS 388.5265). An intentional use of these illegal practices can constitute corporal punishment.

WHAT ABOUT PHYSICAL RESTRAINT?

The law provides that physical restraint of students with disabilities is prohibited unless an emergency exists that necessitates the use of the physical restraint or the physical restraint is used only for the period necessary to contain the behavior of the student so that the student is no longer an immediate threat, and the use of force does not exceed the force that is reasonable and necessary under the circumstances. If these circumstances do not exist, physical restraint is not permitted.

If physical restraint is used on a student with a disability, the use of the procedure must be reported to the school district special education department no later than one day after the restraint was used. A copy of the report is required to be provided to the parent. After five physical restraints, the school must convene an Individualized Education Plan (more commonly called an IEP) meeting to discuss the restraints and the student’s behavior. You can request and IEP immediately to address the situation.

WHAT ABOUT THE USE OF MECHANICAL RESTRAINT?

Mechanical restraints on students with disabilities are also prohibited unless the restraint is used to treat the medical needs of the student; protect the student who is known to be at risk of injury to self due to lack of coordination or frequent loss of consciousness; provide body alignment; or position a student who has physical disabilities in a manner described in the student’s IEP.

WHAT ARE MY OPTIONS IF I FEEL LIKE MY CHILD HAS BEEN ABUSED BY PERSONNEL AT SCHOOL?

If your child describes intentional infliction of pain, aversive techniques or physical restraints for disciplinary purposes, you may report the conduct. If your child tells you that he has been paddled, spanked, slapped, shaken, dragged, shoved, pinched, been put in a box, forced to remain motionless, taunted, denied use of bathroom, banged against a wall, or has suspicious marks or bruises when returning from school, you may call the reporting number listed below in your area.

WHAT IF THINGS ARE NOT GOING WELL AT SCHOOL BUT I DO NOT THINK IT IS ABUSE?

No one knows your child better than you. If you have any concerns about your child's treatment at school, go to the school and set up a meeting to discuss the best way for your child to learn. Discuss any incident that might trigger troublesome conduct by your child and how it should be handled. Ask for a positive behavioral support plan to be developed and placed into your child's IEP. Be proactive and work with the school. Take any concerns up the chain of command: to the principal, area superintendent, superintendent and school board. Do all you can to work with the school to prevent incidents from happening in the first place.

WHO WILL INVESTIGATE?

Pursuant to a recent amendment in the law, the agency providing Child Welfare Services in the county of residence is responsible for investigating allegations of corporal punishment, aversive interventions and restraint as discipline in schools. Call the numbers below to report suspected abuse.

Statewide Toll Free Number: (800) 992-5757
Clark County: (702) 399-0081
Washoe County: (775) 785-8600
Rural Areas: (800) 992-5757

FOR MORE INFORMATION ON SPECIAL EDUCATION LAW OR TO OBTAIN POSITIVE RESULTS IN SCHOOL FOR YOUR CHILD:

Nevada Disability Advocacy Law Center (NDALC)

Southern Office (702) 257-8150; (888) 349-3843
Northern Office (775) 333-7878; (800)-992-5715
Rural Office/Elko (775) 777-1590; (800) 992-5715

Nevada Parents Encouraging Parents (PEP)

Southern Office (702) 388-8899; (800) 216-5188
Northern Office (775) 448-9950

Legal Aid Center of Southern Nevada

(702) 386-1070; (800) 522-1070

Washoe Legal Services

(775) 329-2727

LEGAL AID CENTER¹⁹⁵⁸
■■■■ *of Southern Nevada*