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To: [Yellowlees John - SS](#); [Anita Baisley](#); [Julie Fischer](#); [Kandy Ritter](#); [Kathryn Coleman](#); [Cliff Huenergard](#); [Lorna Nelson](#); [Kyle Weakley](#); [Shelley Langston](#); [Rachel Davenport](#); [Brianna Barrett](#); [Kerry O'Connell](#); [Katie Moravec](#); [Kimberly Shipp](#); [Shelby MacMeekin](#); [Patrick Kane](#); [Bidwell, Debra](#); [Kris Greene](#); [Megan Feeney](#); [Leslie Mraz](#); [Diane Leonetti](#); [Fabian Castilleja](#)
Subject: FW: ERP and parent reporting procedures.
Date: Wednesday, January 20, 2016 12:14:42 PM

FYI

From last week's meeting

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From: John Bresko <John.Bresko@k12.wa.us>
Date: Wednesday, January 20, 2016 at 11:26 AM
To: Jennifer Acuna <jacuna@oesd114.org>
Subject: ERP and parent reporting procedures.

Jennifer, the group discussed the Emergency Response Protocol (ERP) form last Friday and there were some questions about some provisions on the form.

Here are some responses to questions about the form we discussed at our staff meeting yesterday.

The third block of the form contains this statement:

"Specify the staff or contracted positions permitted to use isolation, restraint, and/or restraint device with the student and the required training, updated annually, for the staff or contracted positions permitted to use the isolation, restraint, or restraint device:"

Be sure to indicate the staff by name. Staff involved are required to be trained. Naming staff by position does not connect the required training to a person. The district may wish to include a number of individuals in the list to insure that the appropriate staff are able to perform these specified duties. Under the ERP, staff not named should not be engaging in the designated isolation and/or restraint procedure.

This does not mean that only these staff can intervene in the instance of spontaneous behavior that poses an imminent likelihood of serious harm. HB 12 40 provides for restraint and isolation in these cases **by any school employee in accordance with district policy** and the required reporting process provided for by the bill must be followed.

And the regulation pertaining to IEPs has been modified to include the following.

WAC 392-172A-03090 Definition of individualized education program. (1) The term IEP means a written statement for each student eligible for special education that is developed, reviewed, and revised in a meeting in accordance with WAC 392-172A-03095 through 392-172A-03100, and that must include:

(h) ~~((Aversive interventions, if any, required for the student.~~

(i)) Behavioral intervention plan, if determined necessary by the IEP team for the student to receive FAPE.

(i) Emergency response protocols, if determined necessary by the IEP team for the student to receive FAPE, and the parent provides consent, as defined in WAC 392-172A-01040.

AND

(m) The school district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210.

This is regardless of whether a behavior intervention plan and an emergency response protocol, if determined necessary, is in place.

Pertaining to the question of attaching to the IEP the district's policy for notifying parents of isolation or restraint, [RCW 28A.155.210 Use of restraint or isolation—Requirement for procedures to notify parent or guardian](#) states: "A school that is required to develop an individualized education program as required by federal law must include within the plan procedures for notification of a parent or guardian regarding the use of restraint or isolation." Note that the requirement is that *the procedures for notification* be included in the IEP. See [RCW 28A.600.485](#) for additional information regarding reporting requirements.

Hope this helps. John

The authority for the provision of special education is contained within WAC 392-172A and Public Law 108-446 (IDEA, 2004). This guidance does not impose any requirements beyond those required to comply with applicable law and regulations and is not intended to be a substitute for legal advice.

John R Bresko

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