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EDUCATION LAW IS ALL WE DO



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Physical Restraint and Isolated Seclusion in Schools

The Chicago Tribune article published on November 19, 2019 entitled *The Quiet Rooms* delves into the complexity and controversy surrounding the use of restraint and seclusion in Illinois public schools. This Q&A newsletter is intended to be a resource for educators to help them respond to questions in the wake of the article and in their review and development of best practices moving forward. This newsletter is not intended to provide legal advice. We are grateful to [Micki Moran](#), attorney at Grund & Leavitt, and [Kevin Rubenstein](#), President of the Illinois Alliance of Administrators of Special Education (IAASE) for their insightful contributions to this newsletter.

ISOLATED SECLUSION

Q – How is ‘isolated seclusion’ defined?

A – ‘Isolated seclusion’ (also referred to as ‘isolated time out’) is defined as the “confinement of a student in a time out room or some other enclosure, whether within or outside the classroom, from which the student’s egress is restricted.” 23 Ill.Adm.Code 1.285(a). The use of isolated seclusion is governed by a litany of specific rules that are contained at 23 Ill.Adm.Code 1.280 and 1.285, copies of which are attached for convenience.

Q – What are some examples of the rules governing the construction of seclusion rooms?

A – Although beyond the scope of this newsletter, following are examples of the construction requirements for time out rooms in Illinois schools. If your school district utilizes isolated time out rooms, contact your legal counsel for additional information.

Isolated seclusion rooms must:

- Feature the same ceiling height as the surrounding room(s)
- Be free of electrical outlets, exposed wiring and other similar objects
- Be designed so students are unable to climb up the walls
- Allow for continuous visual monitoring of and communication with the student
- An adult responsible for supervising the student must remain within two feet of the enclosure at all times when a student is present
- If a locking mechanism is used, the lock must only engage when a key, handle or knob is being held in position by a staff member
- Alternatively, the locking mechanism may be electronically controlled, in which case it must be automatically released with the building’s fire alarm system is activated

Physical restraint and isolated seclusion should not be used except in situations where the child’s behavior poses an imminent danger of serious physical harm to self or others. Under no circumstance should physical restraint or isolated time out be used as a form of discipline.

Q – If a time out room requires renovation to comply with these requirements, what are the possible funding sources?

A – In the event a time-out room needs to be updated to comply with the ISBE requirements, it may be possible to use Fire Prevention and Safety funds, depending on the district's safety survey results and inability to pay for this through the Operations and Maintenance fund. School districts can levy taxes or issue bonds through the Fire Prevention and Safety Fund to renovate school buildings to meet building code requirements through the Health/Life Safety Amendment process. If a violation is identified through a district-initiated inspection, an ROE inspection, a 10-year survey by a licensed architect/engineer, the inspection of another agency authorized to enforce the school building code, or an emergency, and a school board determines that Fire Prevention and Safety Funds will be needed, a licensed design professional (architect/engineer) must submit a safety survey

Q – What if students can self-select or are asked to voluntarily go to a quiet room by a staff member? Is this considered isolated time out?

A – Generally speaking, no. The key element that defines an isolated time out for purposes of the law is a space where a student's "egress (exit) is restricted." Ingress (entrance) is not addressed in the statute or regulations. It is commonly understood that situations have a tendency to escalate when direction is given for a student to enter what is otherwise a voluntary quiet space.

Consider this example: staff direction is given for a student to enter the quiet space, the student refuses, the request is repeated, the student continues to refuse and becomes agitated, at which point a staff member requires the student to comply with the directive. This scenario exemplifies how an otherwise voluntary option can quickly (and usually unintentionally) turn into a form of isolated time out.

When quiet spaces become 'mandatory', their purpose becomes confusing for staff, parents and students alike, which leads to problems. If your school allows students to access 'quiet spaces', it is best practice to allow them to be strictly voluntary. Staff can suggest that a student use a quiet space as one option available to them, but it should not be given as a directive.

report containing the recommendations to bring the district into compliance and the estimated cost, which then must be approved first by the school board and then submitted to the regional and state superintendent for final approval. Please see [ISBE's Health/Life Safety Handbook](#) for more information.

Q – If students are allowed to 'self-select' a quiet room, is this considered a form of isolated time out?

A – Generally, no. If students are allowed voluntary egress (the ability to leave the space at any time of their own volition), the use of these types of spaces is generally not considered isolated time out. It is important to note that the name of the setting/room is immaterial to the legal analysis. Whether the space is called a time out room, safe space, quiet room, green room, blue room, meditation room, etc., if a student's egress is restricted, it is legally considered an isolated time out space.

Q – Must isolated time out spaces be video or audio recorded?

A – No. There is no legal requirement that spaces used for isolated time out be either audio or video recorded. School districts may opt to video record time out spaces in a manner that allows for continuous monitoring, as required by ISBE rules.

Q – If isolated time out spaces are video or audio recorded, are these recordings considered student records that parents have access to?

A – Yes. Although recordings that are maintained for law enforcement purposes are specifically *not* considered student records under the *Illinois School Student Records Act*, when school officials use and maintain a video for another reason, the recording is considered a student record. If the recording is made to satisfy the 'continuous monitoring' requirement contained in the law, it becomes a student record that parents are entitled to have access to.

PHYSICAL RESTRAINT

Q – What is the definition of ‘physical restraint’?

A – ‘Physical restraint’ is defined as holding a student or otherwise restricting his or her movements with the use of specific, planned techniques (e.g., a ‘basket hold’ and ‘team control’). Physical restraint may only be used when:

- 1) The student poses a physical risk to self or others *and*
- 2) There is no medical contraindication to its use *and*
- 3) Staff applying the restraint have been trained in its safe application.

Q – Are there any exclusions from the definition of ‘physical restraint’?

A – Yes. Illinois law and its implementing rules specifically state that physical restraint does not include “momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to:

- 1) Prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or
- 2) Remove a disruptive student who is unwilling to leave the area voluntarily.” 105 ILCS 5/10-20.33 and 23 Ill.Adm.Code 1.285(c).

Q – What special considerations apply when students are physically restrained?

- Students may not be physically restrained for using profanity or other verbal statements.
- A verbal threat does not constitute physical danger unless the student also demonstrates a means of or intent to carry out the threat.
- Mechanical or chemical restraints (i.e., the use of a device restricting limbs, head or body) may not be used unless specifically listed in the student’s IEP.
- Medically prescribed devices (e.g., stander, splints, etc.) may not be used to physically restrain a student for purposes of maintaining discipline.
- Physical restraint may never rely upon pain as an intentional method of control.

- A student who is being physically restrained can be removed from the area where the restraint was initiated when the supervising adult considers: 1) the potential for injury to the student or others, 2) the student’s need for privacy, and 3) the emotional well-being of other students in the vicinity.
- If the student being physically restrained uses sign language or an augmentative communication device, the student must be permitted to have his/her hands free of restraint for brief periods to communicate, unless this freedom appears likely to result in harm to the student or others.
- A student must be released from physical restraint immediately when the staff member administering the restraint determines that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.

23 Ill.Adm.Code 1.285(d) and (e).

Q – Can school personnel refuse to restrain a student due to a personal belief, lack of training or medical condition?

A – First and foremost, school districts should proactively manage these issues so as not to experience a crisis situation involving a student without a plan. Second, this is yet another reason why drafting comprehensive employee job descriptions is so critically important.

Assuming that the employee’s job description includes the possibility of physical restraint, employees may generally not refuse to do so as long as the school district has offered or otherwise provided comprehensive training.

The *Americans with Disabilities Act* (“ADA”) prohibits discrimination in the workplace based on an employee’s physical or mental disability. School districts are obligated to provide employees with reasonable accommodations to perform a job’s essential functions. If an employee refuses to restrain a student due to a physical or mental disability, the school district must engage in an interactive dialogue with the staff member in order to determine whether any reasonable accommodations can be provided under the circumstances. Consult with the board’s attorney to discuss in more detail.

GENERAL QUESTIONS

— for both restraint/seclusion

Q – Do the ISBE rules apply to general education and special education students alike?

A – Yes. The ISBE rules governing restraint/seclusion apply to both general and special education students. Students who are eligible to receive special education and related services under the Individuals with Disabilities Education Improvement Act (IDEA) or Section 504 of the Rehabilitation Act can be restrained/secluded consistent with their IEP or Section 504 Plans.

Q – Are boards of education required to adopt policies relating to student restraint/seclusion?

A – Yes. The ISBE rules implementing the *Illinois School Code* [23 Ill. Adm. Code 1.280] require that any use of isolated time out or physical restraint must conform to requirements contained in board policy, which shall include:

- The circumstances under which restraint/seclusion will be used
- A written procedure to be followed by school personnel when restraint/seclusion is used
- A designated school official who will be informed of all incidents of restraint/seclusion
- The process by which serious injury to a student or staff member will be evaluated
- A description of alternative strategies in lieu of restraint/seclusion
- The process for an annual review of all instances of restraint/seclusion, including the location of the incident, identification of staff members involved, any injuries or property damage that results

Q – What if parents obtain a physician's note directing that their child may not be restrained or secluded; must this be honored?

A – The child's IEP team or Section 504 team must meet to consider the medical professional's report and opinion that restraint/seclusion is medically contraindicated for the student. If the child is a general education student, school personnel must hold a meeting with the family. These situations must be addressed on a case-by-case basis. Usually, the team acknowledges receipt of the medical professional's opinion and as a result, recommends a more restrictive educational

placement for the student to ensure the safety of the child and others. School personnel may also decide to request parents' permission for a private evaluator to provide an opinion. School attorneys have experience navigating these situations and can help advise about different options available.

Q – What happens if a student or adult is injured during a physical restraint or isolated time out?

A – The injury must be recorded in the log that is maintained (see question directly above). Immediate medical attention should be sought, if necessary. School personnel who are injured generally qualify for workers' compensation benefits if they are unable to return to work. School personnel are also generally immune from liability under the *Illinois Governmental Tort Immunity Act* in those rare situations when a student is injured as long as they are acting in the scope of their employment and their conduct does not rise to the level of willful or wanton misconduct.

Q – In situations where a student is injured, does this require a hotline call to DCFS?

A – As a blanket rule, no. Accidental injury does not require a mandated call to the Department of Children and Family Services (DCFS). 325 ILCS 5/3. The exact answer to this question requires an analysis of the specific facts of the situation. For example, if a student bites a staff member during a physical restraint and the staff member reflexively or purposefully slaps the child in response, this scenario would require a mandated report to DCFS. This is because the *Abused and Neglected Child Reporting Act* (ANCRA) defines abuse as the infliction of corporal punishment upon a child by school personnel. 325 ILCS 5/3. Board attorneys should be consulted to discuss these requirements on a case-by-case basis.

Q – When restraint/seclusion occurs, when must the student's parents be notified?

A – When a student is physically restrained or placed in isolated time out at school, parents must be notified in writing as soon as possible, but no later than 24 hours after the event, unless the parent has waived this requirement. Parental notification must include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information. 23 Ill. Adm. Code 1.285(g)(2).

Q – When restraint/seclusion occurs, must a student record be created and maintained?

A – Yes. A detailed form/log must be completed each time that isolated time out or physical restraint is used that becomes a temporary student record, which must be maintained for at least five years after the student has graduated, transferred or permanently withdrawn. This form must contain:

✓	Date and description of the incident
✓	The start and end times of the incident
✓	A description of any relevant events and interventions leading up to the incident
✓	A log of the student’s behavior including a description of the techniques used and interactions between the student and staff
✓	A description of any resulting injuries (to students, staff, or others) or property damage
✓	A description of any planned approach to addressing the student’s behavior in the future
✓	A list of the school personnel who participated in the implementation, monitoring, and supervision of the isolated time out or physical restraint
✓	The date when parents were notified in writing

Q – Is either restraint/seclusion subject to time limits?

A – When an isolated time out exceeds 30 minutes or a physical restraint exceeds 15 minutes (or repeated episodes have occurred during any three-hour period), the following requirements apply:

- A licensed educator knowledgeable about the use of isolated time out or trained in the use of physical restraint shall evaluate the situation.
- The evaluation shall consider the student’s need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by crisis team, assistance from police, or transportation by ambulance).
- The results of the evaluation shall be committed to writing and included in the report or log.

Q – If a school resource officer (SRO) restrains a student, must this be reported to parents?

A – Generally, yes. School personnel should report all instances when an SRO restrains a student on school grounds in situations where school personnel are aware that the restraint occurred. It is a good practice to maintain a record and notify parents when these instances occur, as long as the notification does not impede a pending criminal investigation.

Q – When a student experiences increased restraint/seclusion, is this potentially a ‘child find’ issue?

A – Yes. An increase in restraint/seclusion at least suggests that not all of the student’s needs are being met. Although the student is likely already eligible for special education services, the school district’s ‘child find’ obligation still exists. Remember that when restraint/seclusion reach three episodes, special requirements exist, as described further in this newsletter.

Q – Can restraint/seclusion result in discrimination against students identified with disabilities?

A – Yes. Data collected by OCR throughout the country as highlighted in the Chicago Tribune article demonstrates that students with disabilities are restrained and secluded in school at rates that exceed those of their peers. As a result of this disparity, restraint/seclusion that is not based on individual student need can result in discrimination against students with disabilities in violation of Section 504 of the Rehabilitation Act of 1973.

Q – Can restraint/seclusion deny students a free, appropriate, public education (FAPE)?

A – Yes. Courts and hearing officers have recognized that the repeated instances of restraint/seclusion can deny FAPE for a student as a result of missed instruction combined with a failure to make progress on goals/objectives. Another possible denial of FAPE involves the traumatic effect of restraint/seclusion on a student that tends to manifest in new behaviors, impaired concentration or increased absences. Finally, a denial of FAPE can result in situations where school personnel neglect to consider additional supports or services or otherwise fail to consider making a more restrictive placement for a student when instances of restraint/seclusion escalate.

In my 25 years representing families and children, the use of restraint and seclusion at school is definitely increasing. Not all schools are transparent regarding the frequency of these practices, so my sense of this is more anecdotal. It does seem to be increasingly the 'go to' response in some schools.

Insights with attorney Micki Moran at Grund & Leavitt

I attribute the increase in restraint and seclusion to:

- *Overwhelmed and poorly trained staff*
- *The failure to utilize research-based interventions when behavior is an issue*
- *The desire to have a simple solution to complex behavioral problems*

The most common mistakes that schools make in this area include:

- *Over-utilization of these restrictive interventions*
- *Failure to notify parents when the school uses restraint and seclusion or even offer information as to why it was implemented for their child*
- *Failure to train staff in comprehensive behavioral interventions that are not reliant on restraint and seclusion*
- *Fostering a school-wide culture that relies on these practices without appropriate oversight or monitoring*
- *A failure of school leadership on alternatives to restraint and seclusion*

Staff training is essential. This isn't just about training staff how to restrain a child but training on de-escalation, collaborative problem solving and positive behavioral interventions. My advice to school districts moving forward is that they must explore and utilize research-based behavioral interventions to address the issues and train staff in options they can use as alternatives to restraint and seclusion, which should always be a last resort.

Q – Do any specific staff training requirements exist?

A – Yes. To minimize the need to use restraint and seclusion, school staff must be trained in effective behavior management strategies, including the use of positive behavior interventions and supports and de-escalation techniques.

Importantly, only staff members who have received training in how to safely use restraint and seclusion methods should implement them, except in the event of an emergency. Neither federal nor state law contain any direction regarding the specific individuals who must be trained, *i.e.*, special education staff, teachers, aides, etc. These decisions are left to each individual school district to make.

The U.S. Department of Education [resource document](#) on the use of restraint and seclusion contains helpful considerations for training. For instance, training should focus on the principle that restraint and seclusion should only be used as a last resort in cases involving imminent danger of serious physical harm to self or others.

School districts should also be aware that there are different types of restraint and seclusion methods that vary in the level of restrictiveness, and it is critically important to use the least restrictive technique necessary to address the imminent safety concern. Additionally, restraints that restrict breathing, such as prone restraint (*i.e.*, lying face down) should never be used as they may result in injury or death.

School districts should consider these factors when selecting a training program on restraint and seclusion techniques. While there is not one required program, many districts utilize the Crisis Prevention Institute (CPI) and Therapeutic Crisis Intervention (TCI) trainings regarding crisis intervention, both of which are aligned with best practices. Each training program will likely have its own recommendation for how often training must be renewed.

Like any other effective professional development, it is important to provide regular opportunities for review and practice. School administrators should consider reviewing the district's training schedule to include CPI or TCI (or similar) training opportunities.

REPORTING REQUIREMENTS

Q – Is there a reporting requirement to the U.S. Department of Education?

A – Yes. Beginning with the 2009-2010 school year, OCR updated the *Civil Rights Data Collection* (CRDC) to require biennial reporting on even years of the total number of students subjected to 1) mechanical restraint, 2) physical restraint and 3) seclusion disaggregated by race/ethnicity, sex, English language learner status, and disability. This data is available for review at <http://ocrdata.ed.gov>. The data maintained by the CRDC is extensive and complex; a 14-page [User Guide](#) (March 2, 2012) contains detailed instructions for conducting data searches.

Q – What is the CRDC and why does it collect this data?

A – Since 1968, the U.S. Department of Education has conducted the CRDC on a biennial basis to collect data on key education and civil rights issues in our nation’s public schools. As described on the [CRDC website](#):

- The CRDC is the overall enforcement and monitoring strategy used by OCR to ensure that recipients of federal financial assistance do not discriminate on the basis of race, color, national origin, sex, and disability.
- OCR relies on CRDC data during investigations of complaints, initiates proactive compliance reviews to focus on particularly acute or nationwide civil rights compliance problems, and provides policy guidance and technical assistance.
- The CRDC is a valuable resource for other federal agencies, policymakers and researchers, educators and school officials, parents and students, and the public who seek data on student equity and opportunity.

Q – What if my school district was unaware about the CRDC reporting requirements?

A – You are not alone. It is likely that many school districts were unaware of the biennial CRDC reporting requirements. This presents a good opportunity to internally review the CRDC reporting requirements to ensure future compliance. More information can be located [here](#).

Q – Can school districts report previous CRDC data or has the reporting period closed?

A – The 2018 data collection period (for the 2017-2018 school year) ended on June 21, 2019 and thus is now closed. The CRDC does not have a mechanism for reporting data after the reporting period is closed.

Q – When is the next CRDC reporting period open for data entry?

A – The next CRDC compliance period for biennial data entry will begin shortly after the 2019-2020 school year concludes. The CRDC data is collected every other year for the most recent year only. In other words, school districts need only submit data for the 2019-2020 school year.

Q – Is the CRDC data up to date?

A – No. Restraint/Seclusion data is available only for school years 2009-2010, 2011-2012, 2013-2014 and 2015-2016 at <http://ocrdata.ed.gov>. There is no indication when the 2018 data will be available.

Q – Does the CRDC define restraint/seclusion differently than ISBE?

A – Although the definitions are not appreciably different, there are some items to note. The CRDC collects data on mechanical restraint, physical restraint and isolated seclusion. The CRDC does not consider a student who is handcuffed by law enforcement personnel during an arrest as an instance of ‘mechanical restraint’. However, if the student is handcuffed and no arrest is made, then the CRDC considers this a ‘mechanical restraint’ that must be included in the data report.

15 PRINCIPLES

The U.S. Department of Education’s comprehensive [Restraint and Seclusion Resource Guide](#) issued on May 15, 2012, contains 15 principles that each public school district should review relating to the use of restraint and seclusion of students in school:

1. Every effort should be made to avoid the use of restraint/seclusion.
2. Schools should never use mechanical restraints to restrict a student’s freedom of movement and should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a physician).

3. Restraint/seclusion should not be used except in situations where the student's behavior poses imminent danger of serious physical harm to self or others.
4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse.
6. Restraint/seclusion should never be used as punishment or discipline, as a means of coercion or retaliation, or as a convenience.
7. Restraint/seclusion should never be used in a manner that restricts a child's breathing.
8. The use of restraint/seclusion, particularly when there is repeated use for an individual child, should trigger a review and, if appropriate, revision of strategies currently in place.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. School staff should be trained regularly on the appropriate use of restraint/seclusion and alternatives to restraint/seclusion, such as positive behavioral interventions and supports.
11. Every instance in which restraint/seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children and school personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable federal, State, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.

15. Policies regarding the use of restraint/seclusion requires documentation and the collection of specific data allowing teachers, staff, and other personnel to understand and implement the preceding principles.

ILLINOIS LAW

The *Illinois School Code* statute governing time out and physical restraint was first effective on August 14, 1999 and is located at [105 ILCS 5/10-20.33](#). The same statute applicable only to Chicago Public Schools [[105 ILCS 5/34-18.20](#)] was first effective on that same date. The ISBE rules on restraint and seclusion [23 Ill. Adm. Code 1.280 and 1.285, attached] were first effective on January 15, 2002.

The *Illinois School Code* provides [105 ILCS 5/10-20.33]:

Time out and physical restraint. The use of physical restraints is prohibited except when (i) the student poses a physical risk to himself, herself, or others, (ii) there is no medical contraindication to its use, and (iii) the staff applying the restraint have been trained in its safe application.









For the purposes of this Section, "restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and that are designed (i) to prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property or (ii) to remove a disruptive student who is unwilling to voluntarily leave the area.

The use of physical restraints that meet the requirements of this Section may be included in a student's individualized education plan [IEP] where deemed appropriate by the student's individualized education plan team. Whenever physical restraints are used, school personnel shall fully document the incident, including the events leading up to the incident, the type of restraint used, the length of time the student is restrained, and the staff involved. The parents or guardian of a student shall be informed whenever physical restraints are used.

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Section 1.280 Discipline

Section 24-24 of the School Code [105 ILCS 5] provides for teachers, other licensed educational employees (except for individuals employed as a paraprofessional educator) and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

- a) The board of education shall establish and maintain a parent-teacher advisory committee as provided in Section 10-20.14 of the School Code.
- b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code and disseminate that policy as provided in Section 10-20.14 of the School Code.
- c) Any use of isolated time out or physical restraint permitted by a board's policy shall conform to the requirements of Section 1.285. If isolated time out or physical restraint is to be permitted, the policy shall include:
 - 1) the circumstances under which isolated time out or physical restraint will be applied;
 - 2) a written procedure to be followed by staff in cases of isolated time out or physical restraint;
 - 3) designation of a school official who will be informed of incidents and maintain the documentation required pursuant to Section 1.285 when isolated time out or physical restraint is used;
 - 4) the process the district or other administrative entity will use to evaluate any incident that results in an injury that the affected student (or the responsible parent or guardian), staff member, or other individual identifies as serious;
 - 5) a description of the alternative strategies that will be implemented when determined advisable pursuant to Section 1.285(f)(4); and
 - 6) a description of the district's or other administrative entity's annual review of the use of isolated time out or physical restraint, which shall include at least:
 - A) the number of incidents involving the use of these interventions,

- B) the location and duration of each incident,
 - C) identification of the staff members who were involved,
 - D) any injuries or property damage that occurred, and
 - E) the timeliness of parental notification and administrative review.
- d) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities who require intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.05(c) of the School Code.

(Source: Amended at 41 Ill. Reg. 6924, effective June 2, 2017)

Section 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint

Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment. Nothing in this Section or in Section 1.280 of this Part shall be construed as regulating the restriction of students' movement when that restriction is for a purpose other than the maintenance of an orderly environment (e.g., the appropriate use of safety belts in vehicles).

- a) "Isolated time out" means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted. The use of isolated time out shall be subject to the following requirements.
 - 1) Any enclosure used for isolated time out shall:
 - A) have the same ceiling height as the surrounding room or rooms and be large enough to accommodate not only the student being isolated but also any other individual who is required to accompany that student;
 - B) be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls (including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing); and
 - C) be designed to permit continuous visual monitoring of and communication with the student.
 - 2) If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction shall be used. If the door includes a viewing panel, the panel shall be unbreakable.
 - 3) An adult who is responsible for supervising the student shall remain within two feet of the enclosure.
 - 4) The adult responsible for supervising the student must be able to see the student at all times. If a locking mechanism is used on the enclosure, the

mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire alarm system is triggered. Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.

- b) "Physical restraint" means holding a student or otherwise restricting his or her movements. "Physical restraint" as permitted pursuant to this Section includes only the use of specific, planned techniques (e.g., the "basket hold" and "team control").
- c) The requirements set forth in subsections (d) through (h) of this Section shall not apply to the actions described in this subsection (c) because, pursuant to Section 10-20.33 of the School Code [105 ILCS 5/10-20.33], *"restraint" does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to:*
 - 1) *prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or*
 - 2) *remove a disruptive student who is unwilling to leave the area voluntarily.*
- d) The use of physical restraint shall be subject to the following requirements.
 - 1) Pursuant to Section 10-20.33 of the School Code, physical restraint may only be employed when:
 - A) *the student poses a physical risk to himself, herself, or others,*
 - B) *there is no medical contraindication to its use, and*
 - C) *the staff applying the restraint have been trained in its safe application as specified in subsection (h)(2) of this Section.*
 - 2) Students shall not be subjected to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger unless a student also demonstrates a means of or intent to carry out the threat.
 - 3) Except as permitted by the administrative rules of another State agency operating or licensing a facility in which elementary or secondary

educational services are provided (e.g., the Illinois Department of Corrections or the Illinois Department of Human Services), mechanical or chemical restraint (i.e., the use of any device other than personal physical force to restrict the limbs, head, or body) shall not be employed.

- 4) Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as means of physical restraint for purposes of maintaining discipline.
 - 5) Any application of physical restraint shall take into consideration the safety and security of the student. Further, physical restraint shall not rely upon pain as an intentional method of control.
 - 6) In determining whether a student who is being physically restrained should be removed from the area where the restraint was initiated, the supervising adult shall consider the potential for injury to the student, the student's need for privacy, and the educational and emotional well-being of other students in the vicinity.
 - 7) If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, the student shall be permitted to have his or her hands free of restraint for brief periods, unless the supervising adult determines that this freedom appears likely to result in harm to the student or others.
- e) Time Limits
- 1) A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.
 - 2) A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.
- f) Documentation and Evaluation
- 1) A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official

designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of each of these records. Each record shall include:

- A) the student's name;
 - B) the date of the incident;
 - C) the beginning and ending times of the incident;
 - D) a description of any relevant events leading up to the incident;
 - E) a description of any interventions used prior to the implementation of isolated time out or physical restraint;
 - F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;
 - G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff;
 - H) a description of any injuries (whether to students, staff, or others) or property damage;
 - I) a description of any planned approach to dealing with the student's behavior in the future;
 - J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;
 - K) the date on which parental notification took place as required by subsection (g) of this Section.
- 2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.
- 3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.

- 4) The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.
 - A) A licensed educator knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.
 - B) The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance).
 - C) The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this Part.
- 5) When a student has first experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedures used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.
 - A) The district or other entity serving the student shall invite the student's parents or guardians to participate in this review and shall provide ten days' notice of its date, time, and location.
 - B) The notification shall inform the parents or guardians that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.
- g) Notification to Parents
 - 1) A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant

to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].

- 2) Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parents, unless the parent has provided the district or other entity with a written waiver of this requirement for notification. The notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.

h) Requirements for Training

- 1) Isolated Time Out

Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.

- 2) Physical Restraint

A) Physical restraint as defined in this Section shall be applied only by individuals who have received systematic training that includes all the elements described in subsection (h)(2)(B) of this Section and who have received a certificate of completion or other written evidence of participation. An individual who applies physical restraint shall use only techniques in which he or she has received training within the preceding two years, as indicated by written evidence of participation.

B) Training with respect to physical restraint may be provided either by the employer or by an external entity and shall include, but need not be limited to:

- i) appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship-building, and the use of alternatives to restraint;
- ii) a description and identification of dangerous behaviors on the part of students that may indicate the need for physical

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- restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
- iii) the simulated experience of administering and receiving a variety of physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;
 - iv) instruction regarding the effects of physical restraint on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
 - v) instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
 - vi) demonstration by participants of proficiency in administering physical restraint.
- C) An individual may provide training to others in a particular method of physical restraint only if he or she has received written evidence of completing training in that technique that meets the requirements of subsection (h)(2)(B) of this Section within the preceding one-year period.

(Source: Amended at 38 Ill. Reg. 6127, effective February 27, 2014)