

# **Time-Out, Seclusion, and Restraint in Indiana Schools Analysis of Current Policies**

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March 2008

This material was produced with support from Indiana Protection and Advocacy Services, contract # C480442. The information presented herein does not necessarily reflect the position or policy of Indiana Protection and Advocacy Services or Indiana University, Bloomington and no official endorsement should be inferred.

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# **Time-Out, Seclusion, and Restraint Policies in Indiana Public Schools: Analysis of Current Policies**

## ***Report of Findings***

### **Introduction**

#### **SCOPE OF THE PROJECT**

Indiana Protection and Advocacy Services (IPAS) contracted with the Indiana Institute on Disability and Community in the spring of 2007 to conduct an analysis of policies and procedures related to time-out, seclusion, and restraint in Indiana public school corporations. Because of anecdotal reports related to the use of time-outs, seclusion, and restraints, IPAS was interested in collecting data in a more formalized way to determine the extent to which use of these types of interventions was guided by school policies and/or procedures. In addition to the policy analysis, the contract called for a review of current literature and recommendations for best practices.

#### **METHODOLOGY**

##### **Data Collection**

In November 2006, IPAS sent a request for information letter (see Appendix A) to each of the 293 superintendents of Indiana's public school corporations, referring to the Indiana Access to Public Records law (IC §5-14-3). Fifty-five (55) of these corporations serve as the LEA for special education planning districts (18 single-school planning districts and 38 joint services that include other corporations). In addition, letters were directly sent to the 13 special education planning districts that govern themselves as separate entities and are classified as a Local Education Agency (LEA) by the Indiana Department of Education (12 interlocals and one special education cooperative). Lastly, letters were sent to seven career centers, also classified as LEAs. Thus, all of the school corporations, special education planning districts, and career centers in the state were targeted for the study, either directly or indirectly through their superintendents in the case of the special education planning districts. In all, 313 letters were mailed.

The letter requested that the superintendents submit any written policies and procedures concerning the use and application of the following:

1. Time Out
2. Time Out Rooms
3. Seclusion
4. Physical Restraint
5. Mechanical Restraint

The request did not provide definitions of these five items, nor did it specify general or special education policies. The superintendents were given the latitude to define in their own way what policies and procedures might apply. Follow-up letters were sent in August 2007, and again in December 2007, to those individuals who had not responded to the initial letter.

Two hundred seventy-four (274) superintendents, or their designees, responded although eight school corporations did not follow-through with the information they said was forthcoming. This resulted in a direct response rate of 91% of the 293 school corporations in Indiana.

Ten of the 13 special education planning districts designated as LEAs also responded (85%), and their information was appended to the records of all the corporations in their planning district even if their superintendents had not responded. In addition, though unsolicited, whenever other superintendents (those in joint services planning districts) included information from their special education directors, their information was also appended to the other corporations that comprise their planning districts.

In all, the analysis dataset contained information about 280 school corporations, which represents 96% of the targeted 293 corporations.

Six of the seven career centers designated as LEAs submitted data. Their information was analyzed separately.

### **Analysis Process**

The responses to the request for information, with accompanying documents, were submitted to IPAS, and then forwarded to the Institute's research team for analysis. The analysis was limited to the submitted documents; no visitations or interviews were conducted with the school corporations. A database was developed to catalog received documents, track responses, and house the data.

A content analysis was conducted on each response utilizing a team approach to increase coder reliability. Responses were coded for each of the following questions.

- From whom did the response come - superintendent or other administrative staff, special education director, or a legal entity representing the school corporation?
- Who were the targets of the submitted policies - limited only to special education students and/or the entire student population?
- Was the submitted policy primarily a removal, suspension, or expulsion policy?
- Was there some reference or some documentation related to the corporation's special education planning district or department?
- Was the submitted policy written by NEOLA®?
- Did the school corporation include some type of:
  - . time-out policy?
  - . time-out room policy?
  - . seclusion policy?
  - . physical restraint policy?
  - . mechanical restraint policy?
- Were these interventions (time-outs and restraints) only handled on an individual basis through the IEP process?
- Did the response refer to special education guidelines but not include them?

- Was there any reference to crisis intervention training being provided to staff? Was this training provided by special education department or planning district?

Each response was analyzed by at least two members of the research team working together. Whenever there were differences in interpretation, the response and coding criteria were discussed until agreement was reached.

The research team first reviewed and coded school corporation responses that included only a letter, e-mail message, or verbal response without any additional materials. Then the research team reviewed school corporations that exclusively or primarily submitted policies by NEOLA®. The last responses analyzed were those that included more detailed information such as copies of corporation policies and procedures, student handbooks, and/or other corporation documents. Whenever the response included documentation, more detailed checklists were completed (see Appendix B). Information from the analysis was entered into a Microsoft Access Database, including content notes and process notations.

## **FINDINGS**

The purpose of the analysis was to determine the extent to which Indiana school corporations have formal policies or procedures governing the use of time-outs, time-out rooms, seclusion, physical restraints, and mechanical restraints, and the content of those policies.

In analyzing the information submitted about the 280 corporations, 85 of the corporations indicated that they did not have any policies that met the request of IPAS. Of the remaining 195 corporations that did submit policies, NEOLA® policies<sup>1</sup> predominated (40%). These policies relate to detention, suspension, expulsion, corporal punishment, physical force, and school bus restraints. [As reference, samples of the NEOLA® policies referred to in subsequent sections of this report are included in Appendix C.]

Some NEOLA® policies and Indiana's Article 7 specifically address accommodations for students in special education by including exceptions to the general detention, suspension, expulsion, and restraint policies if a causal relationship between the behavior and the disability can be shown (manifestation of disability – see 511 IAC §7-17-50). In such cases, alternatives to the policy are developed within a Behavioral Intervention Plan (BIP) as part of the Individualized Education Plan (IEP) through a case conference process.

The following section of this report will include analysis of both NEOLA® and other corporation-wide policies, as well as special education policies related to the five requested items: time-out, time-out rooms, seclusion, physical restraints, and mechanical restraints.

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<sup>1</sup> NEOLA® is a private business based in Ohio that provides school corporations with the service of creating and managing their corporation policies that may include School Board policies, administrative guidelines and forms, and student and staff handbooks. NEOLA is working with school corporations in the Midwestern states (Indiana, Illinois, Ohio, Michigan, Wisconsin, and West Virginia) as well as Florida. Their service provides the school corporation with an associate who makes an initial assessment of the corporation's artifacts such as minutes and existing policies and procedures, and then identifies gaps that can be supplemented or replaced with NEOLA prepared documents, "templates," that are prepared by "school law firms" located in the state where the school corporation is located. See <http://www.neola.com>.



Other corporations submitted student/parent handbooks or excerpts from them as illustrations of “time-out” policies. Again, these focused on disciplinary procedures for student misconduct and included a range of disciplinary actions such as detention (after-school or Saturday morning), out-of-class suspension, in-school suspension, and other alternatives to suspension. Some schools included documents that were quite specific in describing levels of consequences to behavior where time-out was noted as an acceptable intervention for less severe levels of misconduct. In some of the school handbooks, there were a few examples of time-out as disciplinary action for elementary students (in-class separation or removal to the principal’s office), although detention and in-school suspension were still sanctioned consequences for this age of student.

It was in the third cohort of responses where policies and procedures about time-out were more detailed. However, rather than pertaining to all students in the corporation as in the above two cohorts, these policies and procedures applied only to students receiving special education services. These types of time-out policies were much more detailed about time limits, documentation, staff monitoring, and the like.

There were notable differences in the responses for general compared to special education. First of all, the general education responses were formal, board-approved policies as found in NEOLA® or as implemented in student handbooks. In the special education responses, however, what was submitted was less formal. Their “policies” were more like written guidelines and suggested practices about how behavior was to be handled. Often, individual schools within a corporation, mostly elementary, even developed their own guidelines; many were characterized by levels, rules, and rewards. In contrast to the NEOLA® and handbook policies, the special education policies not only indicated time-out for disciplinary purposes but also that their intent could be therapeutic (e.g., enabling a student to become calm or reducing sensory overload).

<b>Policy Elements for Time-out</b>	<b>Corporations including only General Ed Policies (n=50)</b>		<b>Corporations including Special Ed Policies (n=91)</b>	
Defines types of time-out	4	(8%)	18	(20%)
Includes escalating hierarchy of consequences	7	(14%)	24	(26%)
Includes detention as time-out	35	(70%)	41	(45%)
Specifies duration of time-out	2	(4%)	42	(46%)
Allows teacher discretion for length of time-out	2	(4%)	5	(5%)
Includes monitoring by staff	6	(12%)	47	(52%)
Includes documentation	4	(8%)	27	(30%)
Includes notification of parents	6	(12%)	27	(30%)
Mentions use of time-out and time-out room in the Behavioral Intervention Plan or IEP	3	(6%)	33	(36%)



technique in which a student, for a limited and specified time, is placed in an environment where access to positive reinforcement is unavailable.”

As with time-out, a definition of seclusion was not provided to the corporations in the request for any written policies and procedures. Most of the responses (94%) indicated that either the corporation had no seclusion policy or the superintendents found the term “seclusion” difficult to interpret. Some of these superintendents submitted NEOLA<sup>®</sup> policies related to detention, suspension, and expulsion (5610 Suspension and Expulsion policy, 5610.02 Detention/In school Discipline) in lieu of a policy specific to seclusion. For example, one superintendent wrote, “we do not use seclusion unless you would want to [include] our in-school suspension program... as we do set the students apart from the student body.” Another superintendent commented, “Suspension and expulsion of students could be construed as seclusion, but is not viewed upon or referred to as such.”

Only 18 corporations made reference to any type of seclusion policy, with the majority of the responses coming from the special education planning districts serving the corporations. Of these 18 corporations, ten indicated it is not their policy to seclude students, but did not submit written policies asserting such. Six others have a “Physical Intervention Policy” for students receiving special education services. This policy contains a section listing prohibited actions, one of which is “locked seclusion without adult supervision.” This could be interpreted to mean that “locked seclusion” is permissible if there is “adult supervision.” While the policy does not advocate the use of seclusion as a disciplinary or therapeutic intervention, it does leave seclusion as an option.

One other corporation included a sample IEP addendum that allowed for a “seclusion time-out” where the time-out room “may be locked until the time-out sequence has been completed,” which matches the definitions of seclusion stated above (e.g., locked).

The remaining corporation submitted a policy entitled, “Procedures for the Use of Time-out’s, Isolations, and Physical Restraints.” The policy mentions that “students with ED” may be given “in-school isolation” in accordance with their Behavior Intervention Plan, but the policy neither defines in-school isolation nor indicates how it differs from time-out and the use of time-out rooms and areas in the same policy.

### **Physical Restraints**

Of the 280 corporations, 151 (54%) have some type of policy related to physical restraint, some via NEOLA and others developed by their corporation. However, half interpreted physical restraint within the context of corporal punishment and/or physical force.

Fifty-nine (59) corporations submitted NEOLA<sup>®</sup> policies related to physical restraint, such as NEOLA<sup>®</sup> policies on corporal punishment and physical force (5630 “Corporal Punishment” and 5630B “Use of Physical Force”). Policy 5630 prohibits corporal punishment but also permits physical restraint in extenuating circumstances: for instance, school staff “may use and apply reasonable force and restraint to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon or within the control of the student, in self-defense, or for the protection of persons or property.” Policy 5630B, “Use of

Physical Force,” allows the use of “reasonable physical force upon a student necessary to maintain a safe learning environment.”

Other corporations submitted policies under the umbrella of corporal punishment, but these were generally developed internally or were expressed in documents developed by the corporations, such as in student and/or parent handbooks.

A third type of policy within the physical restraint spectrum were those submitted by school corporations (or by the special education entities serving them) that primarily address physical restraint of students receiving special education services. These types of policies tended to have expanded definitions of physical restraint, similar to those found in crisis intervention training manuals: for example, physical restraint is defined as “physical contact limited to preventing harm to students and others and/or deescalating students in crisis (e.g., keeping students stationary in a safe environment such as on a mat or in a room).”

<b>Policy Elements for Physical Restraint</b>	<b>Corporations including only General Ed Policies (n=47)</b>		<b>Corporations including Special Ed Policies (n=104)</b>	
Refers to corporal punishment	33	(70%)	45	(43%)
Refers to physical force	24	(51%)	46	(44%)
Allows for physical restraint	10	(21%)	48	(38%)
Includes definition of physical restraint	2	(4%)	13	(13%)
Defines types of restraints that are acceptable	3	(6%)	21	(20%)
Requires trained staff to implement the restraint	6	(13%)	52	(50%)
Requires documentation	7	(15%)	55	(53%)
Includes notification and/or consent of parents	4	(9%)	46	(44%)
Refers only to Special Ed	5	(11%)	64	(62%)
Use authorized in the BIP or IEP	7	(15%)	55	(53%)

In the NEOLA<sup>®</sup> and other policies related to corporal punishment, it was common to see that these were mostly concerned with setting limits for staff about how physical force may be used on students. As with seclusion, there was no definition for physical restraint offered to the corporations in the request, nor is there a definition of physical restraint from the Indiana Department of Education. There are several instances where the term “physical restraint” and the more general term “restraint,” which includes physical and other types such as chemical restraint, are defined by Indiana code and statutory language. These terms appear and are defined in the regulations pertaining to health care settings (410 IAC §16.2-1.1-66) and child welfare services (465 IAC §2-9-59).

Forty-nine corporations also provided unsolicited information about their staff training programs regarding the handling of crisis situations which may lead to physically restraining students. In

addition, special education responses for 62 additional corporations indicated they have crisis intervention training programs.

Significantly, of the 49 corporations that directly submitted information, 78% (38) have a policy concerning physical restraint of students in addition to written information about a crisis intervention training program. For the remaining eleven corporations, we presume the training information was submitted as an “indicator” of policy in lieu of official policy.

In most of the above-mentioned 49 corporations (71%), and all of the additional 62, it was the special education planning districts that conducted or arranged for the crisis intervention training. Training on the use of crisis prevention strategies is predominantly targeted to special education staff working directly with the students or to those who might be responders in a crisis situation, such as custodians, principals, or bus drivers. Only one corporation specifically noted in their response that its staff is trained in the use of crisis intervention strategies for all students that attend their schools.

Many of the corporations indicated their use of specific training programs, such as Bridges, Crisis Prevention Institute (CPI), Nonviolent Crisis Intervention (NVC), Therapeutic Crisis Intervention (TCI), and Akito Control Training (ACT). These same programs are also frequently used by mental health and residential service providers. The curriculum of these programs focuses on similar training components: verbal control techniques, de-escalation skills, nonverbal communication, and physical restraint techniques that are to be used as a last resort.

### **Mechanical Restraints**

Of the 280 corporations, information about their approach to mechanical restraint was available for 79 (28%) corporations. Predominantly, the greater majority of school corporations do not allow use of mechanical restraints, or if they do, it is only within the area of transportation. Forty-seven corporations indicated this anecdotally, but submitted no documents that defined mechanical restraint and its use in school settings, and thus, presumably have no written policies.

Twenty-five other corporations submitted NEOLA® Policy 5630A, “Alternatives to Corporal Punishment” as their interpretation to the request for policies regarding use of mechanical restraints. Policy 5630A disallows staff from “restrict[ing] a student's movement by binding or tying him/her, unless specified in an IEP.” The addition of the language, “unless specified in an IEP,” suggests that a corporation may consider binding or tying to be an acceptable intervention in a school setting as long as the intervention is written into the student’s IEP.

Policy 5630A does not make reference to any other limited use of such intervention in specific contexts, such as in the transportation of the student where safety may be the issue. However, three corporations also submitted NEOLA® policy 8606, “Transportation for Special Education Students,” in response to the request. Policy 8606 allows that “more restrictive means of control may be necessary” to insure safety during transportation. Two other corporations submitted only Policy 8606 regarding mechanical restraints.

Five other corporations that use NEOLA® policies for the other areas of interest did not submit any policy pertaining to mechanical restraints. However, their directors of special education

provided information about mechanical restraints for students with disabilities; namely, that mechanical restraints for punishment were not permitted, but were allowable to maintain safety during transportation to and from school, and if agreed to in the IEP.

There are Indiana regulations that define “mechanical restraints,” such the definition for the Indiana Department of Child Services: “Mechanical restraints means any objects that restrict a child's mobility or ability to use his/her hands, arms, or legs. Medical and therapeutic equipment for the prevention and treatment of physical injury that are used and applied by order of a licensed physician are not mechanical restraints” (465 IAC §2-9-17). However, none of the policies submitted, even NEOLA®, contained any similar definitions or references.

## **CAREER CENTERS**

Data from the Career Centers regarding the requested information was similar to the responses of the school corporations. Three of the six centers have time-out policies that relate to school discipline and detention. One of the six has a physical restraint policy that provides for the use of corporal punishment as a last resort; another stated they do not use physical restraints. None volunteered information about training about the use of physical restraints. None have policies for mechanical restraints; however one specifically stated that mechanical restraints are not used. One director, whose center serves three school corporations, indicated that there are no policies per se but that the center follows the policies and procedures of the participating schools.

## **SUMMARY AND CONCLUSIONS**

Several important themes were evident from this analysis:

1. A great many corporations do not have written policies specific to use of time-out, seclusion, physical restraints, and mechanical restraints, according to the responses received in this study. Only half of the corporations submitted policies related to time-out but broadly interpreted to include policies related to detention, and other related discipline procedures. Similarly, only slightly more than half indicated they had physical restraint policies, again, broadly interpreted to include policies related to physical force and corporal punishment. Nearly all indicated they did not have a seclusion policy, or that they did not understand the term. With regards to mechanical restraints policy, corporations stated they do not allow mechanical restraints, but no policies were submitted; others submitted policies contained within the broader NEOLA® policy, Alternatives to Corporal Punishment, or within transportation policy.
2. Most of the superintendents submitted school-wide policies that applied to the entire student body, generally referencing NEOLA® policies and/or student handbooks. These policies tended to fall within the area of school discipline (detention, suspension, and expulsion).
3. In the absence of definitions in the request for policies, and further, given the lack of definitions in Indiana education rules and regulations, a great many of superintendents interpreted time-out as “being sent to the principal’s office” or “detention.” Likewise, a great many interpreted physical restraint within the rubric of “corporal punishment.” Seclusion was a more problematic concept and when information was submitted, it primarily was concerned with “detention, suspension, and expulsion.”

4. Whenever special education information was included in the response, the information became more specific and more in line with professional definitions of the terms for the five requested items. Additionally, the special education policies usually included more specific information such as actual definitions, time specifications, documentation procedures and forms, more parental involvement, and/or the like.
5. The positive aspect of the NEOLA<sup>®</sup> policies and the student handbooks was that these types of policies apply to all the students in the corporation, with exceptions noted, though not elaborated upon, for students who may qualify for or are receiving special education services. The special education information, while more specific, applies only to students receiving special education services.
6. Many superintendents handle the application of their policies to students receiving special education services by deferring to the case conference and IEP process. This is often reflected in NEOLA<sup>®</sup> and other school policies related to corporal punishment and manifestation of disability. As a result, interventions for special education students are determined in an individualized manner that may differ from school-wide policy. There may be few written policies in special education to govern procedures for how the behavior is to be addressed. For example, one response from a corporation indicated that students could be placed in a chair that included a seat belt to help them settle down to complete a task, but the school did not have an overall policy that defined and allowed, or disallowed, use of mechanical restraints.
7. Though not large, a number of responses (40%) contained unsolicited information about training programs for the handling of crisis situations that may require the use of physical restraint. Thus, an acknowledgement of the need to provide training for personnel was evident. However, in some of these instances, it appeared that the training curriculum was used in lieu of any formal written policies.
8. Virtually none of the school responses included references to the use of Positive Behavior Support. Based on the submissions for this study, it appears that there is still a general tendency to deal with behavior problems with punitive, reactive approaches, rather than the proactive approaches found in Positive Behavior Support programs.
9. Even though the five requested items would have been recognized by special educators, and even given that the request was sent on IPAS stationery, it was surprising that many of the responses did not contain information from the corporation's special education planning district. In fact, there were instances when the superintendent's response indicated the corporation had no such policies and yet when cross-referenced with special education information, there were policies in place for special education that covered at least some of the requested items.

## **CONSIDERATIONS FOR BEST PRACTICES**

As a result of this study, it is clear that school corporations could benefit from information and technical assistance related to policies about their use of the five items: time-out, time-out rooms, seclusion, physical restraint, and mechanical restraint. Based on the data submitted, the following recommendations are advanced for consideration.

1. Corporations should have written policies for the five items. While NEOLA<sup>®</sup> and other corporation policies reflected in student/parent handbooks may address these issues within concepts of detention, suspension, and/or expulsion, they do so only in a general sense. As such, these types of policies are not sufficient for the five items. Corporation policies and procedures should also include definitions and other specifics, such as when the procedure is to be used, limitations or exclusions to its use, time restrictions as applicable, documentation, parental notification, and the like.
2. Definitions of what the five items are, and are not, are essential components of sound policy whether for a state or for school corporations. Other service systems, especially mental health and child welfare systems, already have and use such definitions for Indiana and they are useful guides for education agencies (for example, see Appendix E, Indiana Code for Mental Health and Child Welfare Services). Further, State Education Agencies of other states have promulgated such definitions (for example, see Michigan State Department of Education's "Standards for Emergency Use of Seclusion and Restraint," (Appendix F).
3. It appears that when written policies directly addressing the five items are available, they reside primarily in special education, and thus apply only to students receiving special education services. Corporations should be inclusive in developing their policies related to the five items – special education policies should not be separate, but included in corporation-wide policies that apply to all students. For instance, given increasing behavioral disturbances in schools, it is likely that general education students in behavioral crises would need the same protections as special education students. A further example, given increasing numbers of students in mainstream classrooms: elementary teachers would presumably use time-out techniques for both general and special education students in their classrooms.
4. The terminology, "...unless specified in an IEP," is often found in corporation policies. While this does allow for flexibility in addressing individual needs, there are possibilities for misuse when there are no other accompanying policies to safeguard the student. For instance, in NEOLA<sup>®</sup> 5630A, Alternatives to Corporal Punishment, the policy prohibits binding or tying of students "unless specified in an IEP." In the absence of any other written policy related to the use of mechanical restraints (e.g., whether or not a school allows use of mechanical restraints), the student receiving special education services may be at risk. Similarly, the same situation arises when school policy defers to the case conference process ("this is handled by the case conference committee") without accompanying policies specific to the five items.
5. If a corporation determines that it will not permit use of any of the five items, (e.g., locked time-out room, mechanical restraints), then such a statement should be included as part of the corporation's formal policy. Omission does not presume policy.
6. All teachers and staff should be trained in crisis intervention strategies, not just special education personnel. General education teachers would find this training helpful with their

mainstreamed classrooms. Further, because of the growing incidents of aggression and disruptive behavior in schools, all school staff should have the skills to appropriately intervene in crisis situations.

7. Policy can and should make reference to training, but a training manual in and of itself does not and should not take the place of policy. Most corporations do provide some type of training around physical restraints, but they may lack specific and formal policies about the use of physical restraint.
8. Given that school-wide Positive Behavior Support approaches are considered to be today's "best practices," none of the five items should be used as first choice in dealing problems behaviors that interfere with learning. Rather, their use should be couched within the context of Positive Behavior Support. An excellent explanation of this is found in the Iowa State Department of Education's 2007 guide for educators entitled, "Using Timeout in an Effective and Ethical Manner" by Tim Knoster, Tricia Wells, and Kevin C. McDowell [General Counsel, Indiana Department of Education]. While Iowa's statement is related only to time-out, it could easily be applied to all five items as well:

*"The use of timeout procedures may be appropriate with particular students in your classroom, given that its use is paired with both prevention and teaching approaches associated with the PBS approach. Before consideration is given to using timeout as a reductive technique for the problem, behavior practitioners should consider the broader context in which the behavior occurs."*
9. It may be advantageous for Indiana to consider developing state-level standards related to the five items. Currently, Indiana has no policies, guidelines, or rules regarding the use of physical, mechanical, or medical restraints, or aversive therapies/techniques at a state level. With regards to time-out, the only statewide policy that currently exists is the Indiana Fire Code, which states that exit doors shall be capable of being opened from the inside without the use of a key or any special knowledge or effort. The Indiana State Fire Marshall has applied this to the use of time-out rooms, prohibiting locked time-out rooms, even if an adult is present immediately outside the door.

An excellent example of a state-level standards is found in the Michigan Department of Education's policy on seclusion and restraint (see Appendix F). It is significant to note that, given the existence of such state-level standards, NEOLA<sup>®</sup> can then create templates for use by local education agencies. As a result, in Michigan, a corporation's use of these NEOLA<sup>®</sup> templates creates policies that are inclusive and applied to all its students (see Appendix G).

It is our hope that this analysis of Indiana school corporation policies and our subsequent policy considerations regarding the use of time-out, seclusion, and restraint in Indiana schools will stimulate discussion, review, and expansion of current policy.

Appendix A

Letter from Indiana Protection and Advocacy Services (IPAS)

sent to Indiana LEAs

MITCHELL E. DANIELS, JR.  
GOVERNOR

**COMMISSION MEMBERS**

KRISTIE M. CARTER  
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Superintendent James Compton  
North Adams Community Schools  
625 Stadium Dr PO Box 670  
Decatur, Indiana 46733-0670

November 30, 2006

Dear Superintendent Compton:

Pursuant to the Indiana Access to Public Records Act (IC 5-14-3), I would like to *obtain a copy of* the following public records:

Any and all Policies and Procedures of **North Adams Community Schools** concerning the use and the application on students in the classroom of 1) Time Out, 2) Time Out Room, 3) Seclusion, 4) Physical Restraint and 5) Mechanical Restraint(s).

If you choose to deny the request, then you are required to respond in writing and state the statutory exception authorizing the withholding of all or part of the public record and the name and title or position of the person responsible for the denial.

Thank you for your assistance on this matter.

Respectfully,

David Boes  
Assistant Director of Client Services  
Indiana Protection and Advocacy Services  
4701 N. Keystone Ave., Suite 222  
Indianapolis, Indiana 46205  
800-622-4845 ext. 229

PAMI, PADD

Appendix B  
Policy Analysis Checklists

*Time-Out Policy (includes Time-Out and Time-Out Rooms)*

1. Discusses escalating hierarchy of consequences
2. Time specified for time-out
3. Specified “discretion of teacher” for length of time-out (until behavior is appropriate)
4. Monitoring by staff
5. Documentation
6. Only for Special Ed
7. Specifically mentions a time-out “room”
8. Some mention of the use of time-out and time-out room in the Behavioral Intervention Plan or IEP
9. Mention of sending student to principal’s office, resource room as a “time-out room or area”
10. Notification of parents
11. Types of Time-outs
12. Indicates locks on doors of time-out rooms are not allowed
13. Includes mention of detention

*Physical Restraint Policy*

1. Includes overall definition of physical restraint
2. Defines the types of restraints that are acceptable
3. Allows for physical restraint
4. Refers to corporal punishment
5. Refers to physical force
6. Requires or indicates trained staff who implement the restraint
7. Documentation
8. Only for Special Ed
9. Some indication of use in the Behavioral Intervention Plan or IEP
10. Notification and/or consent of parents

*Mechanical Restraint Policy*

1. Includes overall definition of mechanical restraint
2. Defines the types of restraints that are acceptable
3. Allows for mechanical restraints (exclude bus safety restraints)
4. For mechanical restraints only mentions bus safety
5. Notification and/or consent of parents
6. Requires or indicates trained staff who implement the restraint
7. Defines the types of restraints that are acceptable
8. Documentation
9. Only for Special Ed
10. Some indication of use in the Behavioral Intervention Plan or IEP

Appendix C  
Samples of NEOLA<sup>®</sup> Policies and  
Administrative Guidelines from various Indiana School Corporations





## **5610.02- IN-SCHOOL DISCIPLINE (CONTINUED)**

Students who have violated any section of the Code of Conduct may be assigned to in-school restriction, in-school suspension, and detention.

### **Detention**

#### **A. Lunch-Time Detention**

The principal (or faculty member) may designate an area in which the student must remain during the lunch period. Failure to report to or remain in the area may lead to in-school restriction, Saturday school, or out-of-school suspension.

#### **B. After-School Detention and Early Arrival**

The principal (or faculty member) may require a student to come to school early or remain after school providing the parents have been given at least one (1) day's notice and have agreed to be responsible for their child's transportation at the end of the detention period. If the student is a bus rider and the principal cannot verify that the parents agree to be responsible for the student's transportation, after-school detention should not be used. The principal shall also ensure that there is adequate supervision of the student until such time as transportation arrives. The student is to be given definite assignments or duties to complete during the detention period. Failure to report for or to complete the detention may result in:

1. an in-school restriction;
2. an out-of-school suspension.

### **In-School Restriction**

Assignment to in-school restriction means that the student is removed from the classroom but not from the educational program. S/He will report to the assigned location where the student will work on classroom tasks assigned by the teacher(s) all of which are related to a course of study in which the student is currently enrolled. When completed, the assignments are to be turned in to the teacher(s) for review and grading. Thus, the student continues his/her academic program albeit in a different setting and receives full credit for the completed work.

Attendance is to be taken from the attendance sheet and recorded by the supervising personnel. Any discrepancy noted should be promptly reported to the administrative personnel.

The rules and procedures regarding participation are to be published in the student handbooks.

Students are to have sufficient learning activities and materials for the period of their restriction.

Since there has been no denial of rights to an education, due-process can be limited to notification of the student's parents with no right of appeal.



## **5630A - ALTERNATIVES TO CORPORAL PUNISHMENT**

School Board policy defines corporal punishment as the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as means of discipline. Corporation personnel shall not threaten to inflict, or cause to be inflicted corporal punishment on any student.

Staff members shall not:

- A. hit, strike, grab, punch, or inflict other bodily pain on a student;
- B. restrict a student's movement by binding or tying him/her, unless specified in an I.E.P.;
- C. deprive a student of meals, snack, rest, or necessary toilet use;
- D. confine a student in an enclosed area such as a closet, locked room, box, or similar cubicle.

Staff may, however, provide for a "time-out" area as a disciplinary procedure. (See also AG **5630B**.)

The following alternatives to the use of corporal punishment are recommended. As formerly with corporal punishment, this partial list of alternatives should also be viewed as last resort options when well-executed school and classroom management practices have not been effective. The principal has the authority to:

- A. deny participation in special school and/or noncurricular-related activities;
- B. assign to alternative center or program;
- C. assign before or after school detention with twenty-four (24) hour notice to parents;
- D. assign in-school restriction;
- E. assign out-of-school suspension;
- F. confer with parents on sanctions which will be established both at school and at home or contractual agreements whereby the student commits to self-controlling behavior;
- G. refer the student to Corporation: counselor, a social worker, psychologist, and/or clinical specialists;
- H. coordinate Corporation services with social-service agencies such as Public Health, Social Services, Mental Health, etc., and/or with private institutions or agencies offering related appropriate services, providing there is no cost to the Corporation;
- I. arrange for a proper evaluation under IDEA, if there is reason to believe the student's behavior is related to a disability. If the student does not qualify under IDEA, then Section 504 may be appropriate.

It is essential that any of the above alternatives that involve disciplinary actions be conducted in accordance with due process. (See Policy **5611**)



## **8606 - TRANSPORTATION FOR SPECIAL EDUCATION STUDENTS (CONTINUED)**

To teach bus-riding skills, a limited number of simple rules defining what the student is to do, feedback on how well it is done, and positive, backup consequences are necessary. In teaching bus-riding skills, it is necessary to work on a small number of behaviors at a time (one or two). As a student learns a behavior, another behavior can be taught.

Behaviors that present a potentially dangerous risk of harm to the student or others on the bus require special attention. An attack on another person or running from the bus are two examples of behaviors that present high risk of harm and require documentation and follow-up with appropriate school staff. If students are unable to control their behavior through training in bus-riding skills, more restrictive means of control may be necessary.

### **Communication Between School/Transportation Staffs**

- A. The school staff will advise the transportation staff by memo or through the school secretary if a student has had a particularly difficult day and may require special attention on the bus.
- B. The primary daily contact between the transportation staff and the school staff will be the bus driver (with the transportation aide as an alternate) and the principal.
- C. Both the school staff and the transportation staff are expected to maintain confidentiality and protect the students' rights. Except for positive statements, information given by the drivers to the building staff should not be relayed to the student; nor should drivers relay information received from the building staff. Bus behavior should never be a subject of general conversation.
- D. Communication with parents is encouraged, particularly positive comments that are honest and sincere. It is important to develop means to maximize this effort.

### **Stopping Unacceptable Behavior**

It is the Corporation's intent to stop unacceptable behavior by using the minimum intervention necessary.

When necessary, a staff member may use reasonable physical intervention to stop an action that presents the risk of harm to the student or to others. Use of physical intervention should at all times be temperate and not excessive.

### **Significant Incidents**

#### **A. First Occurrence**

If a "significant incident" - one that creates a potentially dangerous risk of harm - occurs, the driver shall submit a written report to the principal for appropriate action. Within five (5) days, a meeting should be held with driver, transportation aide(s), and parent/guardian, at the discretion of the principal to discuss the specific incident and whether an intervention program is needed.

#### **B. Subsequent Incidents**

If the same type of behavior is recurring, the principal is to consider the advisability of calling for a meeting of the Case Conference to discuss alternatives.

- C. The principal or a parent may request a meeting of the Case Conference at any time to address behavioral difficulties and appropriate intervention strategies.

## **8606 - TRANSPORTATION FOR SPECIAL EDUCATION STUDENTS (CONTINUED)**

### **Suspension from Transportation**

- A. The principal may suspend a student from transportation, in accordance with Corporation policies and guidelines related to suspension of disabled students. Incidents that may result in suspension include but are not limited to:
  - 1. fighting on the bus;
  - 2. hitting, kicking, or biting others on the bus;
  - 3. smoking, drugs, alcohol;
  - 4. destruction of school property.
- B. When a student's behavior is unmanageable in spite of restraints and behavior management techniques, the suspension procedure may be initiated. This procedure may be initiated as a natural consequence of inappropriate behavior: to protect the student, other students, the driver or Corporation equipment, or to provide time to help the student make the adjustment to transportation services. A Case Conference should be convened for any behavior that does or may lead to frequent suspension.

### **Restoration of Riding Privileges**

If a student is suspended from transportation, a meeting will be held prior to the student's resuming transportation. The meeting should include the principal, social worker, transportation director, bus driver, aide, and the parent. The meeting should address:

- A. the behavior that caused the suspension;
- B. development of a written plan to address the behavior.

This will require a well-defined follow-up schedule, beginning within ten (10) days, to determine if the plan is working.

### **SPECIAL EQUIPMENT USE AND OPERATION**

There is a wide variety of equipment that may need to be used to accommodate the Corporation's special education students. The transportation director is responsible for ensuring that appropriate members of the transportation staff understand the design and operating procedures for special equipment assigned to their use. They should also be able to conduct a proper inspection of the equipment and make simple adjustments in the field in case of breakdowns.

### **MEDICAL/HEALTH CONCERNS**

It may be necessary for members of the transportation staff to be able to provide emergency and routine health care to students during the transportation process. They may also become exposed to communicable diseases which could be debilitating, and in extreme circumstances, fatal.

It is the responsibility of the transportation director to ensure that training is provided in two (2) major areas -- precautionary procedures; and care, intervention, and management.

## Appendix D

### Sample Policy on Time-out from an Indiana School Corporation







Appendix E  
Indiana Code on Seclusion, Physical Restraints,  
and Mechanical Restraints

## **Indiana Code and Administrative Code on Seclusion and Restraint**

This list is not meant to be an all-inclusive listing of all statutes and administrative rules pertaining to seclusion and restraints within Indiana law, but rather a list of examples.

### **Indiana Code**

**IC 12-27-4** Chapter 4. Seclusion and Restraint of Patients

#### **IC 12-27-4-1**

##### **Cases in which seclusion or restraint may be used**

Sec. 1. A service provider may use seclusion or restraint of a patient only in the following cases:

- (1) When necessary to prevent danger of abuse or injury to the patient or others.
- (2) As a measure of therapeutic treatment.

As added by P.L.2-1992, SEC.21.

#### **IC 12-27-4-2**

##### **Recording instances of and reasons for use of seclusion or restraint**

Sec. 2. A service provider shall record all instances of restraint or seclusion and detailed reasons for the restraint or seclusion in the patient's habilitation or treatment record.

As added by P.L.2-1992, SEC.21.

#### **IC 12-27-4-3**

##### **Observation of restrained or secluded patient; recording**

Sec. 3. A service provider shall do the following:

- (1) Frequently observe a patient who is restrained or secluded.
- (2) Enter written notification of the observation in the patient's treatment or habilitation record.

As added by P.L.2-1992, SEC.21.

SOURCE: <http://www.in.gov/legislative/ic/code/title12/ar27/ch4.html>

## Indiana Administrative Code

Title 410 Indiana State Department of Health

Article 16.2. Health Facilities; Licensing and Operational Standards

*SOURCE DOCUMENT: <http://www.in.gov/legislative/iac/T04100/A00162.PDF?>*

### **410 IAC 16.2-1.1-20 "Discipline" defined [page 11 of source document]**

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28

Sec. 20. "Discipline" means any action taken by the facility for the express purpose of punishing or penalizing residents.

*(Indiana State Department of Health; 410 IAC 16.2-1.1-20; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

### **410 IAC 16.2-1.1-66 "Restraint" defined [page 20 of source document]**

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28

Sec. 66. "Restraint" means a device or method, including chemical means, used to limit the activity or aggressiveness of a resident where such activity or aggressiveness could be harmful to the resident or others.

*(Indiana State Department of Health; 410 IAC 16.2-1.1-66; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

### **410 IAC 16.2-1.1-67 "Seclusion" defined [page 20 of source document]**

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28

Sec. 67. "Seclusion" means any circumscribed area in which a person is maintained alone and under surveillance, with the area so equipped that the person may not leave without assistance.

*(Indiana State Department of Health; 410 IAC 16.2-1.1-67; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

### **410 IAC 16.2-3.1-26 Resident behavior and facility practices [page 54 of source document ]**

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1

Sec. 26. (a) Less restrictive measures must have been tried by the interdisciplinary team and shown to be ineffective before restraints are applied.

(b) Restraint or seclusion shall be employed only by order of a physician, and the type of restraint or seclusion shall be specified in the order.

(c) Per required need (PRN) restraint or seclusion shall only be employed upon the authorization of a licensed nurse. All contacts with a nurse or physician not on the premises for authorization to administer PRN restraints shall be documented in the nursing notes indicating the time and date of the contact.

(d) The facility policy manual shall designate who is authorized to apply restraints. The facility shall have written procedures in which the persons authorized to apply restraints have been properly trained.

(e) In emergencies when immediate physical restraint or seclusion is needed for the protection of the resident or others, restraint or seclusion may be authorized by a licensed nurse for a period not to exceed twelve (12) hours. A physician's order to continue restraint or seclusion must be obtained in order to continue the restraint beyond the twelve (12) hour period.

(f) A record of physical restraint and seclusion of a resident shall be kept in accordance with this rule.

(g) Each resident under restraint and seclusion shall be visited by a member of the nursing staff at least once every hour and more frequently if the resident's condition requires.

(h) Each physically restrained or secluded individual shall be temporarily released from restraint or seclusion at least every two (2) hours or more often if necessary except when the resident is asleep. When

the resident in restraint is temporarily released, the resident shall be assisted to ambulate, toileted, or changed in position as the resident's physical condition permits.

(i) A resident shall not be placed alone in a room with a full, solid locked door.

(j) Key lock restraints shall not be used or available in the facility.

(k) Chemical restraint shall be authorized in writing by a physician.

(l) An order for chemical restraints shall specify the dosage and the interval of and reasons for the use of chemical restraint.

(m) Administration of chemical restraints shall be documented in accordance with this rule.

(n) Restraints and seclusion shall be used in such a way as not to cause physical injury to the resident.

(o) Restraints of any type or seclusion shall only be used for the protection and safety of residents or others as required by medical symptoms that warrant the restraint, or safety issues that warrant the seclusion, and shall not be used as a punishment.

Restraints and seclusion shall be used in such a way as to minimize discomfort to the resident.

(p) Restraints or seclusion shall be applied in a manner that permits rapid removal in case of fire or other emergency.

(q) The resident's legal representative shall be notified of the need for restraint or seclusion at the time of the physician's initial order or within twenty-four (24) hours after emergency restraint or seclusion is applied. Such notification shall be documented in the nursing notes. After the physician's order for restraint or seclusion is initially written, the legal representative may request in writing not to be notified.

(r) The least restrictive restraint must be used. The continued use of the restraint or seclusion must be reviewed at each care plan conference. Least or lesser restrictive measures must be considered at each meeting.

(s) The use of restraints must be reviewed by the interdisciplinary team within one (1) month after the application of the restraint, and every thirty (30) days for the first ninety (90) days of the restraints, and at least quarterly thereafter.

(t) For purposes of IC 16-28-5-1, a breach of:

(1) subsection (j) or (n) is an offense;

(2) subsection (a), (b), (c), (d), (e), (g), (h), (i), (k), (l), (o), (p), or (r) is a deficiency; and

(3) subsection (f), (m), (q), or (s) is a noncompliance.

*(Indiana State Department of Health; 410 IAC 16.2-3.1-26; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1550, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3996; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

## **Title 440 Division of Mental Health and Addiction**

### **Article 1.5. Licensure of Private Mental Health Institutions**

*Source Document: <http://www.in.gov/legislative/iac/T04400/A00015.PDF>?*

#### **440 IAC 1.5-3-12 Plan for special procedures [page 15 of source document]**

Authority: IC 12-8-8-4; IC 12-21-2-3; IC 12-25-1-2

Affected: IC 12-25

Sec. 12. (a) The facility shall have policies and a written plan in place that shall include clinical justification for any of the following special procedures:

(1) The use of restraint or seclusion, or both.

(2) The use electro-convulsive therapy.

(3) The use of investigational and experimental drugs.

(b) If any procedure in this section is utilized, the rationale for the use shall be clearly stated in the consumer record.

(c) The use of restraint or seclusion shall be limited through plans, priorities, human resource planning, staff orientation and education, assessment process that identify and prevent behavioral risk factors. The process shall involve the consumer and, with the consent of the consumer, the family.

(d) Restraint or seclusion use within the facility is limited to incidents and those situations, with adequate appropriate clinical justification, that are required due to dangerousness to the consumer or others.

- (e) The use of restraint or seclusion shall be utilized using the least restrictive alternative.
- (f) A licensed independent practitioner shall conduct a clinical assessment of the consumer prior to writing an order for seclusion or restraint or within one (1) hour of the initiation of the seclusion or restraint.
- (g) The licensed independent practitioner's orders should be limited to four (4) hours for individuals eighteen (18) years of age and older, two (2) hours for individuals nine (9) years of age through seventeen (17) years of age and one (1) hour for individuals under the nine (9) years of age. The orders shall contain behavioral criteria for release.
- (h) In an emergency, restraint or seclusion, or both, may only be utilized by trained, clinically privileged staff, and shall be documented in the consumer's record and an order obtained. The licensed independent practitioner must complete a face-to-face evaluation within one (1) hour.
- (i) PRN orders shall not be used to authorize seclusion or restraint.
- (j) A consumer in restraint or seclusion shall be assessed and monitored continuously through face-to-face observation by an assigned staff member who is trained in correct procedures and competent.
- (k) After the first hour, an individual in seclusion only may be monitored by video and audio equipment.
- (l) If the individual is put in a physical hold a second staff member shall be assigned to observe.
- (m) Documentation shall occur every fifteen (15) minutes in the consumer's record, consistent with the organizational policies.
- (n) The use of restraint and seclusion shall be discontinued when the individual meets the behavior criteria set forth in the orders.
- (o) Staff and the consumer will participate in debriefing about the restraint and seclusion episode.
- (p) The organization shall collect data on the use of restraint and seclusion in order to monitor and improve its performance.
- (q) When electro-convulsive therapy or investigational or experimental drugs are used, the written informed consent of the consumer or legal guardian shall be obtained. The consumer or legal guardian may withdraw consent at any time.
- (r) The facility shall comply with all federal regulations regarding any of the following special procedures:
  - (1) The use of restraint or seclusion, or both.
  - (2) The use electro-convulsive therapy.
  - (3) The use of investigational and experimental drugs.

*(Division of Mental Health and Addiction; 440 IAC 1.5-3-12; filed Oct 11, 2002, 11:26 a.m.: 26 IR 744)*

**Title 465 Department of Child Services**  
**Article 2. Child Welfare Services**

**SOURCE DOCUMENT:** <http://www.in.gov/legislative/iac/T04650/A00020.PDF?>

**465 IAC 2-9-5 “Children's home” or “child caring institution” defined [page 29 of source document]**

Authority: IC 12-13-5-3

Affected: IC 12-17.4

Sec. 5. As used in this rule, “children's home” or “child caring institution” means a children's home, an orphanage, an institution, a shelter care facility, a private secure facility, or other place maintained or conducted by any group of individuals, or political subdivision engaged in:

- (1) receiving and caring for dependent children, children in need of services, or delinquent children; or
  - (2) operating for gain a private business of boarding children who are unattended by a parent, guardian, or custodian.
- (Department of Child Services; 465 IAC 2-9-5; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1959; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-5) to the Department of Child Services (465 IAC 2-9-5) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

**465 IAC 2-9-7 “Confinement room” defined [page 30 of source document]**

Authority: IC 12-13-5-3

Affected: IC 12-17.4

Sec. 7. As used in this rule, “confinement room” means a locked room which is used for the exclusive purpose of isolating a child in order to help the child control his or her behavior.

*(Department of Child Services; 465 IAC 2-9-7; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1960; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-7) to the Department of Child Services (465 IAC 2-9-7) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

**465 IAC 2-9-8 “Corporal punishment” defined [page 30 of source document]**

Authority: IC 12-13-5-3

Affected: IC 12-17.4

Sec. 8. As used in this rule, “corporal punishment” means any kind of punishment inflicted upon the body. Corporal punishment includes, but is not limited to, slapping, hitting, spanking, pinching, and pushing. *(Department of Child Services; 465 IAC 2-9-8; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1960; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-8) to the Department of Child Services (465 IAC 2-9-8) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

**465 IAC 2-9-17 “Mechanical restraints” defined [page 32 of source document]**

Authority: IC 12-13-5-3

Affected: IC 12-17.4

Sec. 17. As used in this rule, “mechanical restraints” means any objects that restrict a child's mobility or ability to use his/her hands, arms, or legs. Medical and therapeutic equipment for the prevention and treatment of physical injury that are used and applied by order of a licensed physician are not mechanical restraints.

*(Department of Child Services; 465 IAC 2-9-17; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1961; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-17) to the Department of Child Services (465 IAC 2-9-17) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

**465 IAC 2-9-57 Discipline and guidance [page 44-45 of source document]**

Authority: IC 31-33-1.5-11; P.L.234-2005, SECTION 194

Affected: IC 12-17.4

Sec. 57. (a) The child caring institution shall:

- (1) have a written discipline policy; and
- (2) make the policy available to:
  - (A) placement agencies;
  - (B) staff;
  - (C) parents; and

- (D) children in care.
- (b) Discipline and guidance shall be as follows:
  - (1) Consistent.
  - (2) Based on an understanding of individual needs and development.
  - (3) Promote self-discipline and acceptable social behavior.
- (c) Children shall be treated kindly and humanely at all times.
- (d) The administrator shall not use, or permit any person to use, any of the following:
  - (1) Cruel, harsh, or unusual punishment.
  - (2) Treatment that is mentally, physically, or emotionally abusive or neglectful.
  - (3) Any humiliating or frightening method to control the actions of any child or group of children.
- (e) Children shall not be humiliated or subjected to degrading, abusive, or profane language.
- (f) The child caring institution shall prohibit, as a method of discipline, the following:
  - (1) Confinement to a locked or dark room.
  - (2) Use of mechanical restraints.
  - (3) Undue confinement to bed.
  - (4) Deprivation of meals or snacks.
  - (5) Inappropriate assignment of work.
  - (6) Group discipline for an offense by an individual child.
  - (7) Any child or group of children punishing another child.
  - (8) Deprivation of visits or contact with:
    - (A) parents;
    - (B) guardian ad litem;
    - (C) court appointed special advocate; or
    - (D) placing worker.

*(Department of Child Services; 465 IAC 2-9-57; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1969; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-465040316FRA) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-57) to the Department of Child Services (465 IAC 2-9-57) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

**465 IAC 2-9-58 Confinement rooms [page 45-46 of source document]**

Authority: IC 31-33-1.5-11; P.L.234-2005, SECTION 194

Affected: IC 12-17.4

- Sec. 58. (a) Prior to the establishment of a confinement room, the institution shall have written approval from the SDPW.
- (b) A confinement room shall be used only when a child:
    - (1) is in danger of harming himself or herself or others; and
    - (2) has not responded to any other treatment approaches.
  - (c) A confinement room shall be used for treatment purposes only, not as a disciplinary measure nor as a substitute for supervision.
  - (d) The institution shall have and use written policies for the use of a locked confinement room. The policies shall include the following:
    - (1) A definition of the circumstances that justify the use of confinement.
    - (2) A maximum time period for each episode of confinement not to exceed:
      - (A) fifteen (15) minutes for a child less than ten (10) years of age; or
      - (B) one (1) hour for a child ten (10) years of age and over.
    - (3) Record keeping of each confinement episode as noted in subsection (h).
    - (4) A clear designation of persons who have authority to approve the confinement period.
    - (5) Directions for removal of all dangerous items from the child, such as:
      - (A) belts;
      - (B) shoelaces;
      - (C) jewelry;
      - (D) items in pockets;
      - (E) matches; and
      - (F) any other items; that represent a potential hazard during confinement.

- (e) Written policies for the use of confinement shall be distributed to staff, and there shall be documented orientation provided to staff in the policies and use of confinement.
- (f) An awake staff member trained in emergency interventions shall continuously maintain direct observation of the child during the confinement to assess the child's physical and emotional well-being.
- (g) A review of the use of confinement shall be made quarterly by the administrator or the program director to analyze the following:
  - (1) The therapeutic value of each confinement episode.
  - (2) Safety considerations.
  - (3) Appropriate utilization of confinement.
  - (4) Adherence to the general policy of confinement as established in subsection (d).
- (h) An entry shall be made in a log or record book of each confinement episode. Recording shall include the following information:
  - (1) The circumstances leading to confinement.
  - (2) The period of time a child was confined.
  - (3) The name of the staff person observing the child's confinement.
  - (4) Behavioral observations of the child.
- (i) Notation of each confinement shall be placed in the individual case record of the child.
- (j) Confinement rooms shall be constructed and maintained in the following manner:
  - (1) In compliance with Group I, Division 3 occupancy under 675 IAC 13, the Indiana Building Code.
  - (2) Equipped and sized for therapeutic use with at least:
    - (A) thirty-six (36) feet of floor space; and
    - (B) eight (8) feet high ceilings.
  - (3) All doors, ceilings, and walls are constructed of such strength and material that no harm can come to the occupant.
  - (4) All switches controlling lights, ventilation, or other mechanical systems are on the outside of the room.
  - (5) No functional electrical outlets are located in the room.
  - (6) A window is provided to allow for a visual check of the child without entering the room.
  - (7) Windows are secured and protected so as to prevent harm to the occupant.
  - (8) Ceiling lights are provided, protected, and recessed.
  - (9) The room is heated, cooled, and ventilated as required under 675 IAC.
  - (10) A smoke detector is located in a position adequate to detect any smoke or fume hazard to the person confined.

*(Department of Child Services; 465 IAC 2-9-58; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1969; errata, 14 IR 2259; readopted filed July 12, 2001, 1:40 p.m.: 24 IR 4235; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-465040316FRA) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-58) to the Department of Child Services (465 IAC 2-9-58) by P.L.234-2005, SECTION 195 effective July 1, 2005.*

**465 IAC 2-9-59 Physical restraints [page 46-47 of source document]**

Authority: IC 31-33-1.5-11; P.L.234-2005, SECTION 194

Affected: IC 12-17.4

- Sec. 59. (a) Physical restraint shall be used only if:
- (1) the child is a clear and present danger to himself or herself or others; and
  - (2) therapeutic crisis intervention techniques:
    - (A) have been attempted and failed; or
    - (B) are diagnostically eliminated prior to use.

Under no circumstance shall mechanical restraints be utilized to control a child's behavior.

- (b) An awake staff member uninvolved in the restraint and trained in emergency interventions shall continuously maintain direct observation of the child during the restraint.
- (c) If an institution uses physical restraints, the institution shall develop policies and procedures on their usage that include the following:
  - (1) A description of the types of physical restraints used.
  - (2) The criteria for use.
  - (3) Staff authorized to approve use.
  - (4) Staff authorized and trained to apply restraints.
  - (5) Procedures for application.

- (6) Staff training requirements.
- (7) Time limitations on use.
- (8) Monitoring requirements while child is in restraints.
- (d) Documentation of physical restraint training shall be in each employee's personnel record.
- (e) An institution shall not use any form of restraint until the policies and procedures in subsection (c) have been approved by the SDPW.
- (f) A record shall be maintained of each incident of physical restraint and placed in the child's record that includes the following information:
  - (1) The date and time of the incident.
  - (2) The name of the child.
  - (3) The form of restraint used.
  - (4) The length of time in restraint.
  - (5) The name and title of the person who authorized use of restraint.
  - (6) The name and title of the person applying the restraint.
  - (7) The name of the person responsible for monitoring the child while in restraints.
  - (8) A description of the child's behavior prior to, during, and after use of restraints.
  - (9) A treatment team assessment of the effectiveness of the restraint and future alternatives.

*(Department of Child Services; 465 IAC 2-9-59; filed Jun 27, 1991, 12:00 p.m.: 14 IR 1970; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235; filed Jun 23, 2006, 2:24 p.m.: 20060719-IR-465040316FRA) NOTE: Transferred from the Division of Family Resources (470 IAC 3-11-59) to the Department of Child Services (465 IAC 2-9-59) by P.L.234-2005, SECTION 195, effective July 1, 2005.*

*The following rules also contain the same definition for "mechanical restraints" and "physical restraints".*

**Rule 10. Emergency Shelter Care Children's Homes and Child Caring Institutions**

- 465 IAC 2-10-7 "Confinement room" defined
- 465 IAC 2-10-8 "Corporal punishment" defined
- 465 IAC 2-10-17 "Mechanical restraints" defined
- 465 IAC 2-10-29 "Staff development" defined
- 465 IAC 2-10-57 Discipline and guidance
- 465 IAC 2-10-58 Confinement rooms
- 465 IAC 2-10-59 Physical restraints

**Rule 11. Private Secure Facilities**

- 465 IAC 2-11-7 "Confinement room" defined
- 465 IAC 2-11-8 "Corporal punishment" defined
- 465 IAC 2-11-17 "Mechanical restraints" defined
- 465 IAC 2-11-29 "Staff development" defined
- 465 IAC 2-11-54 Staff development
- 465 IAC 2-11-57 Discipline and guidance
- 465 IAC 2-11-58 Confinement rooms
- 465 IAC 2-11-59 Mechanical restraints

**Rule 12. Children's Homes and Child Caring Institutions Defined as Group Homes**

- 465 IAC 2-12-7 "Confinement room" defined
- 465 IAC 2-12-8 "Corporal punishment" defined
- 465 IAC 2-12-17 "Mechanical restraints" defined
- 465 IAC 2-12-29 "Staff development" defined
- 465 IAC 2-12-54 Staff development
- 465 IAC 2-12-57 Discipline and guidance

**Rule 13. Children's Homes and Child Caring Institutions Defined as Emergency Shelter Care Group Homes**

- 465 IAC 2-13-7 "Confinement room" defined
- 465 IAC 2-13-8 "Corporal punishment" defined

**465 IAC 2-13-17 “Mechanical restraints” defined**  
**465 IAC 2-13-29 “Staff development” defined**  
**465 IAC 2-13-54 Staff development**  
**465 IAC 2-13-57 Discipline and guidance**

Appendix F  
Michigan State Board of Education's  
Standards for the Emergency Use of Seclusion and Restraint



**SUPPORTING STUDENT BEHAVIOR: STANDARDS FOR THE  
EMERGENCY USE OF SECLUSION AND RESTRAINT**

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The *Supporting Student Behavior: Standards for the Emergency Use of Seclusion and Restraint (Supporting Student Behavior)* document:

- summarizes how a positive behavior support approach uses proactive strategies to reduce or eliminate the use of seclusion and restraint;
- defines the terms "seclusion" and "restraint";
- outlines procedures for emergency use of seclusion and restraint; and
- provides a framework for training.

The *Supporting Student Behavior* document is rooted in best practices and drafted in the belief that:

- the most effective strategies for supporting positive student behavior begin with meaningful instruction provided by highly trained professionals in a safe environment which promotes dignity for all students;
- school-wide systems of positive behavioral support to address challenging behavior will increase instructional time for all; and
- seclusion or restraint should be used only in an emergency and require diligent assessment, monitoring, documentation, and reporting by trained personnel.

## **II. School-wide Systems of Behavioral Support**

It is the policy of the SBE that each school district in Michigan implement a system of school-wide positive behavior support (PBS) strategies (Adopted September 12, 2006. See Appendix A). An effective school-wide system provides a full continuum of methods to support appropriate behavior, to promote safety, and to discourage violations of a school's Student Code of Conduct. The use of positive interventions support adaptive and pro-social behavior and foster dignity and self-esteem in students. Implementation of a school-wide systematic approach will ensure that seclusion and restraint are used only as a last resort method.

PBS is an example of an effective, research-based system that addresses challenging behaviors in a collaborative, comprehensive, research-validated, and humane manner.

## **III. Positive Behavior Support (PBS)**

PBS is not a new intervention package, nor a new theory of behavior. PBS applies a behaviorally-based approach that enhances the capability of educators and parents to design effective environments that support student learning and behavior.

PBS emphasizes behavior that encourages learning by:

- building relationships;



2. approximately 15% of all students exhibit behaviors that benefit from targeted interventions (e.g., anger management group, social skills training, or adult mentor); and
3. approximately 5% of all students have challenges that require specialized and intensive interventions, including an individualized plan of support.

The above percentages reflect the effect of properly implemented school-wide PBS approaches. Schools that do NOT have a school-wide PBS approach in place typically:

- have significantly larger percentages of students receiving individualized attention (usually disciplinary in nature) at the tertiary prevention level;
- do not use the secondary prevention approach that targets at-risk groups of students efficiently and/or effectively; and
- have significantly smaller percentages of students within the universal level.

In February 2000, the MDE created a comprehensive manual for implementation of PBS for all students. The manual includes strategies for self-assessing a school's PBS status, resources and references, and computer-accessible materials.

*Supporting Student Behavior* is a document that will be effective only when it is used with the companion manual, *Positive Behavior Support for ALL Michigan Students: Creating Environments That Assure Learning (February 2000)* and its supplement, *Positive Behavior Support for Young Children (June 2001)*.

As part of a PBS system, attention must be given to emergency situations. School personnel need guidelines as to what is and is not appropriate in an emergency situation. Any use of seclusion or restraint must be viewed as a last resort and undertaken only by trained personnel who are familiar with this policy and the *Positive Behavior Support for ALL Michigan Students: Creating Environments That Assure Learning (February 2000)* manual.

## IV. Training

### A. Training Framework

A comprehensive training framework includes:

- awareness training for the broader educational community, including pre-service training for all teachers;
- awareness training for substitute teachers; and
- comprehensive training for key identified personnel.

### B. Training Components

All training must include:

- proactive practices and strategies that ensure the dignity of students;
- conflict resolution;
- mediation;
- social skills training;
- de-escalation techniques;
- positive behavior support strategies;
- techniques to identify student behaviors that may trigger emergency safety situations;
- related safety considerations, including information regarding the increased risk of injury to students and staff when seclusion or restraint is used;
- instruction in the use of seclusion and restraint;
- identification of events and environmental factors that may trigger emergency safety situations; and
- instruction on the State Board of Education policy on *Supporting Student Behavior: The Emergency Use of Seclusion and Restraint*.

### C. Comprehensive Training for Key Identified Personnel

A Local Educational Agency (LEA) will identify sufficient key personnel to ensure that trained personnel are available for an emergency situation.

Before using seclusion or restraint with students, key identified personnel who may have to respond to an emergency safety situation must be trained in:

- proactive practices and strategies that ensure the dignity of students;
- conflict resolution;
- mediation;
- social skills training;
- de-escalation techniques;
- positive behavior support strategies;
- techniques to identify student behaviors that may trigger emergency safety situations;
- related safety considerations, including information regarding the increased risk of injury to students and staff when seclusion or restraint is used;

- instruction in the use of seclusion and restraint;
- identification of events and environmental factors that may trigger emergency safety situations;
- instruction on the State Board of Education policy on *Supporting Student Behavior: The Emergency Use of Seclusion and Restraint*;
- description and identification of dangerous behaviors;
- methods for evaluating the risk of harm to determine whether the use of seclusion or restraint is warranted;
- types of seclusion;
- types of restraint;
- the risk of using seclusion and restraint in consideration of a student's known and unknown medical or psychological limitations;
- instruction in the use of seclusion and restraint;
- the effects of seclusion and restraint on ALL students;
- how to monitor the physical signs of distress; and
- how to obtain medical assistance.

## V. Seclusion

### A. Definition of Emergency Seclusion

Seclusion is a last resort emergency safety intervention that provides an opportunity for the student to regain self-control. Seclusion is the confinement of a student in a room or other space from which the student is physically prevented from leaving and which provides for continuous adult observation of the student. A room or area used for seclusion:

- must not be locked;
- must not prevent the student from exiting the area should staff become incapacitated or leave that area; and
- must provide for adequate space, lighting, ventilation, viewing, and the safety of the student.

### B. Limitations in Use

1. Seclusion shall not be used:

- for the convenience of staff;
- as a substitute for an educational program;
- as a form of discipline/punishment;
- as a substitute for less restrictive alternatives;
- as a substitute for adequate staffing; or
- as a substitute for staff training in positive behavior supports and crisis prevention and intervention.

2. Seclusion is inappropriate for students who are severely self-injurious or suicidal.

### C. Definition of Timeout

Timeout is a behavior intervention in which a student, for a limited and specified time, is placed in an environment where access to positive reinforcement is unavailable. Timeout should not be confused with seclusion because in a timeout setting a student's movement is not physically restricted.

Timeout lies within a continuum of procedures that help students self-regulate and control their behavior. The timeout continuum is:

- planned ignoring\*
- withdrawal of materials\*
- contingent observation\*
- exclusionary timeout\*

(\* See Glossary in Appendix C)

#### **D. Use of Emergency Seclusion**

A behavior that requires immediate intervention constitutes an emergency. Emergency seclusion must be used only under emergency situations and if essential. An emergency that may require the use of seclusion includes behavior that:

- poses an imminent risk to the safety of an individual student; or
- poses an imminent risk to the safety of others.

#### **E. General Procedures for Emergency Seclusion**

- 1.** An emergency seclusion may not be used in place of appropriate less restrictive interventions.
- 2.** Emergency seclusion shall be performed in a manner that is:
  - safe;
  - appropriate; and
  - proportionate to and sensitive to the student's:
    - severity of behavior;
    - chronological and developmental age;
    - physical size;
    - gender;
    - physical condition;
    - medical condition;
    - psychiatric condition; and
    - personal history, including any history of physical or sexual abuse.
- 3. Staff shall** immediately call for help from within the building at the onset of an emergency.
  - An LEA must ensure that substitute teachers are informed of all local emergency procedures, including the emergency use of seclusion and restraint.
- 4. Time and Duration** – Emergency seclusion should not be used any longer than necessary to allow a student to regain control of his/her behavior, but generally:
  - Elementary school students – no longer than 15 minutes; and
  - Middle and high school students – no longer than 20 minutes.
  - If an emergency seclusion lasts longer than the suggested maximum time, the following are required:
    - additional support (e.g., change of staff, introducing a nurse or specialist, obtaining additional expertise); and
    - documentation to explain the extension beyond the time limit.

- 5. Staff Requirements** – While using seclusion, staff must:
  - involve appropriately-trained key identified personnel to protect the care, welfare, dignity, and safety of the student;
  - continually observe the student in seclusion for indications of physical distress and seek medical assistance if there is a concern; and
  - document observations.
  
- 6. Documentation and Reporting** – Each use of an emergency seclusion and the reason for each use shall be:
  - documented in writing and reported to the building administration immediately;
  - reported to the parent or guardian immediately or as soon as possible; and
  - documented in a written report for each use of seclusion (including multiple uses within a given day) and given to the parent or guardian within 24 hours.
  
- 7. Debrief** – After any use of an emergency seclusion, staff must debrief and consult with parents and students (as appropriate) regarding the determination of future actions. Questions to address include:
  - What precipitated the behavior that required emergency intervention?
  - Is there any anticipation that the behavior will occur again?
  - Is there a need for follow-up action?
  - What is the specific follow-up action?
  
- 8. Reoccurring Behavior** – Should a pattern of behavior emerge, or be anticipated, which may require the use of emergency seclusion, the school personnel must:
  - conduct a functional behavioral assessment;
  - develop or revise a positive behavior support plan (PBSP) to facilitate the reduction or elimination of the use of seclusion;
  - develop an assessment and planning process conducted by a team knowledgeable about the student, including:
    - the parent;
    - the student (if appropriate);
    - people who are responsible for implementation of the PBSP; and
    - people who are knowledgeable in PBS.
  
- 9.** It is essential to this policy that seclusion be used only in response to an emergency as defined in this document, and not as a planned response for the convenience of staff, discipline or punishment, or as a substitute for an appropriate educational program.

**Emergency Intervention Plan** – Should a pattern of behavior which requires the use of emergency seclusion emerge, or be anticipated, an emergency intervention plan should be developed in addition to the PBSP to protect the health, safety, and dignity of the student. The emergency intervention plan should be developed in partnership with the parent by a team that includes a person knowledgeable about seclusion. The emergency intervention plan should be developed and implemented by taking the following documented steps:

- describe in detail the emergency intervention procedures;
- inquire of the student’s medical personnel (with parent consent) regarding any known medical or health contraindications for the use of seclusion;
- conduct a peer review by knowledgeable staff; and
- gain informed consent from the parent after providing the following:
  - an explanation of emergency procedures to be followed and the purpose for the emergency seclusion;
  - a description of possible discomforts or risks;
  - a discussion of possible alternative strategies with advantages and disadvantages;
  - answers to any questions; and
  - information on freedom to withdraw consent at any time;

When seclusion is included in an emergency intervention plan, the student should be told or shown the circumstances under which the emergency seclusion will be used. If concerns arise regarding humaneness or social acceptability, a human rights’ committee should be convened to review the emergency intervention plan. As defined in the emergency intervention plan:

- provide periodic review of the plan and related data;
- ensure that responsible staff are trained in the specific techniques described in the emergency intervention plan; and
- maintain necessary staffing at all times.

**10. Data Collection** – The school district shall develop a system of data collection regarding the use of seclusion. The data should:

- be analyzed to determine the efficacy of the school’s school-wide system of behavioral support;
- be analyzed in the context of suspension, expulsion, and dropout data;
- be analyzed for the purposes of continuous improvement of training and technical assistance toward the reduction or elimination of seclusion;
- be analyzed on a schedule determined by the MDE;

- be reported to the MDE; and
- include a list of appropriately-trained key identified personnel and their levels of:
  - education;
  - training; and
  - knowledge.

**F. Prohibited Practices**

The following are prohibited under all circumstances, including emergency situations:

- corporal punishment as defined in §380.1312(1) of The Revised School Code, 1976 PA 451;
- the deprivation of basic needs;
- anything constituting child abuse;
- seclusion of preschool children; and
- the intentional application of any noxious substance(s) or stimuli which results in physical pain or extreme discomfort. A noxious substance or stimuli can either be generally acknowledged or specific to the student.

# VI. Restraint

## A. Definitions

There are three types of restraint: physical, chemical, and mechanical.

- 1. Physical restraint** involves direct physical contact that prevents or significantly restricts a student's movement. Restraint is a last resort emergency safety intervention. Restraint is an opportunity for the student to regain self-control. This policy on physical restraint is not intended to forbid actions undertaken:
  - to break up a fight
  - to take a weapon away from a student
  - the brief holding by an adult in order to calm or comfort
  - the minimum contact necessary to physically escort a student from one area to another
  - assisting a student in completing a task/response if the student does not resist or resistance is minimal in intensity or duration.
  - to hold a student for a brief time in order to prevent an impulsive behavior that threatens the student's immediate safety (e.g., running in front of a car).
- 2. Chemical Restraint** is the administration of medication for the purpose of restraint. Chemical Restraint does not apply to medication prescribed by and administered in accordance with the directions of a physician.
- 3. Mechanical restraint** means the use of any device or material attached to or adjacent to a student's body that restricts normal freedom of movement and which cannot be easily removed by a student. Mechanical restraint does not include:
  - an adaptive or protective device recommended by a physician or therapist (when it is used as recommended).
  - safety equipment used by the general student population as intended (for example, seat belts, safety harness on school transportation).

## B. Limitations in Use

Restraint shall not be used for:

- the convenience of staff;
- as a substitute for an educational program;
- as a form of discipline/punishment;
- as a substitute for less restrictive alternatives;
- as a substitute for adequate staffing; or
- as a substitute for staff training in positive behavior supports and crisis prevention and intervention.

### **C. Use of Emergency Restraint**

A behavior that requires immediate intervention constitutes an emergency. Emergency restraint must be used only under emergency situations and if essential. An emergency that may require the use of restraint includes behavior that:

- poses an imminent risk to the safety of an individual student;
- poses an imminent risk to the safety of others; or
- is otherwise governed by The Revised School Code, 1976 PA 451, otherwise known as the Corporal Punishment Act.

### **D. General Procedures for Emergency Restraint**

- 1.** An emergency restraint procedure may not be used in place of appropriate less restrictive interventions.
- 2.** Emergency restraint shall be performed in a manner that is:
  - safe;
  - appropriate;
  - proportionate to and sensitive to the student's:
    - severity of behavior
    - chronological and developmental age
    - physical size
    - gender
    - physical condition
    - medical condition
    - psychiatric condition
    - personal history, including any history of physical or sexual abuse.
- 3. Staff shall** immediately call for help from within the building at the onset of an emergency.
  - An LEA must ensure that substitute teachers are informed of all local emergency procedures, including the emergency use of seclusion and restraint.
- 4. Time and Duration** – Restraint should not be used:
  - any longer than necessary to allow students to regain control of their behavior; and
  - generally no longer than ten minutes.

If an emergency restraint lasts longer than ten minutes, the following are required:

- additional support (e.g., change of staff, introducing a nurse or specialist, obtaining additional expertise); and
- documentation to explain the extension beyond the time limit.

- 5. Staff Requirements** – While using restraint, staff must:
  - involve appropriately-trained key identified personnel to protect the care, welfare, dignity, and safety of the student;
  - continually observe the student in restraint for indications of physical distress and seek medical assistance if there is a concern; and
  - document observations.
  
- 6. Documentation and Reporting** – Each use of an emergency restraint and the reason for each use shall be:
  - documented in writing and reported to the building administration immediately;
  - reported to the parent or guardian immediately or as soon as possible; and
  - documented in a written report for each use of physical restraint (including multiple uses within a given day) and given to the parent or guardian within 24 hours.
  
- 7. Debrief** – After any use of an emergency seclusion, staff must debrief and consult with parents and students (as appropriate) regarding the determination of future actions. Questions to address include:
  - What precipitated the behavior that required emergency intervention?
  - Is there any anticipation that the behavior will occur again?
  - Is there a need for follow-up action?
  - What is the specific follow-up action?
  
- 8. Reoccurring Behavior** – Should a pattern of behavior emerge, or be anticipated, which may require the use of emergency restraint, the school personnel must:
  - conduct a functional behavioral assessment;
  - develop or revise a PBSP to facilitate the reduction or elimination of the use of restraint;
  - develop an assessment and planning process conducted by a team knowledgeable about the student, including:
    - the parent
    - the student (if appropriate)
    - people who are responsible for implementation of the PBSP
    - people who are knowledgeable in PBS.
  
- 11.** It is essential to this policy that restraint be used only in response to an emergency as defined in this document, and not as a planned response for the convenience of staff, discipline or punishment, or as a substitute for an appropriate educational program.

**Emergency Intervention Plan** – Should a pattern of behavior which requires the use of emergency restraint emerge, or be anticipated, an emergency intervention plan should be developed in addition to the PBSP to protect the health, safety, and dignity of the student. The emergency intervention plan should be developed in partnership with the parent by a team that includes a person knowledgeable about restraint. The emergency intervention plan should be developed and implemented by taking the following documented steps:

- describe in detail the emergency intervention procedures;
- inquire of the student’s medical personnel (with parent consent) regarding any known medical or health contraindications for the use of restraint;
- conduct a peer review by knowledgeable staff;
- gain informed consent from the parent after providing the following:
  - an explanation of emergency procedures to be followed and the purpose for the emergency restraint;
  - a description of possible discomforts or risks;
  - a discussion of possible alternative strategies with advantages and disadvantages;
  - answers to any questions; and
  - information on freedom to withdraw consent at any time;

When restraint is included in an emergency intervention plan, the student should be told or shown the circumstances under which the emergency restraint will be used. If concerns arise regarding humaneness or social acceptability, a human rights’ committee should be convened to review the emergency intervention plan. As defined in the emergency intervention plan:

- provide periodic review of the plan and related data;
- ensure that responsible staff are trained in the specific techniques described in the emergency intervention plan; and
- maintain necessary staffing at all times.

**9. Data Collection** – The school district shall develop a system of data collection regarding the use of restraint. The data should:

- be analyzed to determine the efficacy of the school’s school-wide system of behavioral support;
- be analyzed in the context of suspension, expulsion, and dropout data;
- be analyzed for the purposes of continuous improvement of training and technical assistance toward the reduction or elimination of restraint;
- be analyzed on a schedule determined by the MDE;
- be reported to the MDE;

- include a list of appropriately-trained key identified personnel and their levels of:
  - education
  - training
  - knowledge.

#### **E. Prohibited Practices**

The following procedures are prohibited under all circumstances, including emergency situations:

- mechanical restraint;
- chemical restraint;
- corporal punishment as defined in §380.1312(1) of The Revised School Code, 1976 PA 451, otherwise known as the Corporal Punishment Act;
- the deprivation of basic needs;
- anything constituting child abuse;
- any restraint that negatively impacts breathing
- prone restraint\* (See Glossary in Appendix C)
  - school personnel who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint
- the intentional application of any noxious substance(s) or stimuli which results in physical pain or extreme discomfort. A noxious substance or stimuli can either be generally acknowledged or specific to the student.

Michigan  
State Board of Education

**POSITIVE BEHAVIOR SUPPORT POLICY**

The vision of the State Board of Education is to create learning environments that prepare students to be successful citizens in the 21<sup>st</sup> Century. The educational community must provide a system that will support students' efforts to manage their own behavior and assure academic achievement. An effective behavior support system is a proactive, positive, skill-building approach for the teaching and learning of successful student behavior. Positive behavior support systems ensure effective strategies that promote pro-social behavior and respectful learning environments. Research-based positive behavior support systems are appropriate for all students, regardless of age.

The principles of Universal Education reflect the beliefs that each person deserves and needs a positive, concerned, accepting educational community that values diversity and provides a comprehensive system of individual supports from birth to adulthood. A positive behavior support policy incorporates the demonstration and teaching of positive, proactive social behaviors throughout the school environment.

A positive behavior support system is a data-based effort that concentrates on adjusting the system that supports the student. Such a system is implemented by collaborative, school-based teams using person-centered planning. School-wide expectations for behavior are clearly stated, widely promoted, and frequently referenced. Both individual and school-wide learning and behavior problems are assessed comprehensively. Functional assessment of learning and behavior challenges is linked to an intervention that focuses on skill building. The effectiveness of the selected intervention is evaluated and reviewed, leading to data-based revisions. Positive interventions that support adaptive and pro-social behavior and build on the strengths of the student lead to an improved learning environment. Students are offered a continuum of methods that help them learn and maintain appropriate behavior and discourage violation of codes of student conduct.

In keeping with this vision, it is the policy of the State Board of Education that each school district in Michigan implement a system of school-wide positive behavior support strategies.

Adopted September 12, 2006

**THE REVISED SCHOOL CODE (EXCERPT)  
Act 451 of 1976**

**380.1312 “Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.**

Sec. 1312.

(1) As used in this section, “corporal punishment” means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.

(3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) For self-defense or the defense of another.

(c) To prevent a pupil from inflicting harm on himself or herself.

(d) To quell a disturbance that threatens physical injury to any person.

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

(f) To protect property.

(5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of

school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force

and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.

(6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy.

This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.

(7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.

(8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

(10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

**History:** 1976, Act 451, Imd. Eff. Jan. 13, 1977 ;-- Am. 1988, Act 521, Eff. Mar. 30, 1989 ;-- Am. 1992, Act 6, Imd. Eff. Mar. 10, 1992 ;-- Am. 1995, Act 289, Eff. July 1, 1996 ;-- Am. 2000, Act 461, Imd. Eff. Jan. 10, 2001

**Popular Name:** Act 451

## Glossary

**Behavior Intervention** is a systematic implementation of procedures that result in lasting positive changes in an individual's behavior. Interventions may include positive strategies, program or curricular modifications, and supplementary aids and supports required to address the disruptive behaviors in question. It is helpful to use data collected during a functional behavioral assessment to develop the plan and to determine the discrepancy between the student's actual and expected behavior. (Manual of Recommended Practice, Project REST, June 2004)

**De-Escalation Techniques** are strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs. (Manual of Recommended Practice, Project REST, June 2004)

**Emergency** is a situation in which a student's behavior poses imminent risk to the safety of an individual student or to the safety of others. An emergency requires an immediate intervention.

**Emergency Safety Intervention** is the use of seclusion or restraint to de-escalate student behavior that poses an imminent risk to the safety of an individual student and others.

**Functional Behavior Assessment** is a systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A Functional Behavior Assessment will describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur, and identify the factors that are maintaining the behaviors over time. (Manual of Recommended Practice, Project REST, June 2004)

**Informed Consent** is when a parent or guardian has been fully informed of all information relevant to the activity for which consent is sought. The parent or guardian agrees in writing to the carrying out of the activity and that granting of consent is voluntary and may be revoked.

**Physical Escort** is the touching or holding a student with a minimum use of contact for the purpose of directing movement from one place to another.

**Positive Behavior Support** is a research-based system that addresses challenging behaviors in a collaborative, comprehensive, research-validated, and humane manner.

**Positive Behavior Support Plan** is the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.

### **Restraint**

**Chemical** restraint is the administration of medication for the purpose of reducing or restricting an individual's freedom of movement.

**Physical Restraint** is the application of physical force by one or more individuals that reduces or restricts a student's freedom of movement. Physical restraint of a student may only be used for the purpose of providing safety and support.

**Mechanical Restraint** is the use of any device, article, garment, or material attached or adjacent to the student's body, which the student cannot easily remove, and that restricts freedom of movement.

**Prone Restraint** is the restraint of a person face down.

**Restraints that negatively impact breathing** include floor restraints, facedown position, or any position in which a person is bent over in such a way that it is difficult to breathe. This includes a seated or kneeling position in which a person being restrained is bent over at the waist. Sitting or lying across a person's back or stomach can interfere with breathing. When a person is lying facedown, even pressure to the arms and legs can interfere with a person's ability to move their chest or abdomen in order to breathe effectively.

**Seclusion** means the confinement of a student alone in a secured room or other space from which the student is physically prevented from leaving.

**Timeout** means a behavior management technique in which a student, for a limited and specified time, is placed in an environment where access to positive reinforcement is unavailable. Timeout should not be confused with seclusion because in a timeout setting a student's movement is not physically restricted. (Manual of Recommended Practice, Project REST, June 2004)

### **Timeout Continuum**

**Planned Ignoring** – is the systematic withdrawal of social attention for a predetermined time period upon the onset of mild levels of problem behavior.

**Withdrawal of Materials** – materials that the student is using are removed upon the occurrence of the inappropriate behavior.

**Contingent Observation** – student remains in a position to observe the group without participating or receiving reinforcement for a specified period of time.

**Exclusionary Timeout** – student is removed from the immediate instructional setting in response to behavior that requires immediate and direct cessation. This form of timeout can take place within the same classroom or in a nearby location that can be supervised by an adult.  
(Using Timeout in an Effective and Ethical Manner)

## **References**

Crisis Prevention Institute, Inc., "Risks of Restraints," 2002, Brookfield, WI

Iowa Department of Education, "Using Timeout in an Effective and Ethical Manner," September 2003, Des Moines, IA

Family Resource Center for Disabilities and Special Needs, "Manual of Recommended Practice: Project REST," June 2004, South Carolina

## Appendix G

Michigan School Corporation's NEOLA<sup>®</sup> Seclusion and Restraint Policy



This study and publication was made possible by funding support from the Administration for Children and Families, Administration on Developmental Disabilities, and The Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, all within the U.S. Department of Health and Human Services.

These contents are solely the responsibility of the grantee and do not necessarily represent the official views of state or federal government

Indiana Protection and Advocacy Services Commission The Protection and Advocacy System for Indiana