

Next Steps

Upon Board authorization, agency staff will submit the proposed amendments to the Administrative Code Division for publication in the *Illinois Register* to elicit public comment. Additional means, such as *ISBE's Weekly Message* and the agency's website, will be used to inform interested parties of the opportunity to comment on this rulemaking. Agency staff will inform bill sponsors of pending rulemaking.

Date of Board Action: Feb. 18, 2020

ILLINOIS REGISTER

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 255 REGISTERED APPRENTICESHIP PROGRAM

Section

255.100 Definitions

255.200 Registered Apprenticeship Program

AUTHORITY: Implementing Section 2-3.175 of the School Code

Source: Adopted at 44 Ill. Reg. _____, effective _____.

Section 255.100 Definitions

"Registered apprenticeship program" means an industry-based occupational training program of study with standards reviewed and approved by the United States Department of Labor that meets each of the following characteristics:

- 1) Apprentices in the program are at all times employed by a company participating in the program.
- 2) The program features a structured combination of on-the-job learning supported by related technical classroom instruction, delivered either by a high school or a public community college.
- 3) Apprentices in the program are paid a training wage of not less than the State minimum wage, which escalates throughout the life of the apprenticeship, and employment is continued with the company following conclusion of the apprenticeship for a period of not less than 2 years.
- 4) Apprentices in the program earn an industry-related occupational skills certificate and a high school diploma.
- 5) Apprentices in the program may earn postsecondary credit toward a certificate or degree, as applicable.

"Registered apprenticeship program" does not include an apprenticeship program related to construction, as defined under the Employee Classification Act.

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“School Code” or “Code” means 105 ILCS 5.

“State Board” means the State Board of Education.

Section 255.200 Registered Apprenticeship Program

- a) Each school district that maintains any of grades 9 through 12 may adopt a policy to allow a student of any high school who is 16 years of age or older to participate in a registered apprenticeship program.
- b) A school district that adopts a policy under this Section must include all of the following in the policy:
 - 1) Allowing a student enrolled in a registered apprenticeship program to satisfy one or more high school course or academic graduation requirements by:
 - A) successfully completing the program; or
 - B) by substituting for and successfully completing in place of a high school course or academic graduation requirement, a related career and technical education course which contains at least 50% of the content of the required course or academic graduation requirement for which it is substituted.
 - 2) A definition of an apprenticeship program that meets the criteria outlined in Section 255.100.
 - 3) Opportunities for students enrolled in a registered apprenticeship program to earn postsecondary credit toward a certificate or degree, as applicable.
 - 4) Language confirming that no career and technical education course may be substituted for a required course or academic graduation requirement under any policy adopted by a school board under this Section unless the student's parent or guardian approves the substitution in writing on a form that the school district makes available on its website.
 - 5) *A waiver of all non-academic requirements mandated for graduation from high school under the School Code that would otherwise prohibit or*

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prevent a student from participating in the registered apprenticeship program (Section 2-3.175 of the Code).

- c) A school district that adopts a policy under this Section must do all of the following:
 - 1) Post the policy on its website visible for students, parents, and members of the business and industry community to locate.
 - 2) Notify students and parents of the opportunities for registered apprenticeships. At a minimum, a school district must provide this notification through the school district's website and the school handbook. This notification must include all of the following:
 - A) a statement that a student may participate in the school district's apprenticeship program; and
 - B) a statement that a student may find an apprenticeship program with a business or organization, if a registered apprenticeship program is not offered in the school district.
- d) A school district must identify and submit to the State Board through the Student Information System under Section 1.75 data on those students who are participating in a registered apprenticeship program.
- e) A school district must identify and attempt to eliminate any barriers to student participation in a registered apprenticeship.
- f) If a school district awards endorsements under the Postsecondary and Workforce Readiness Act, the registered apprenticeship program must be included in the Career Pathway Endorsement.

ILLINOIS STATE BOARD OF EDUCATION MEETING
February 18, 2020

TO: Illinois State Board of Education

FROM: Dr. Carmen I. Ayala, State Superintendent of Education 
Irma Snopek, Policy and Communications Officer 
Dr. Ernesto Matias, Education Officer 

Agenda Topic: Part 1 (Public Schools Evaluation, Recognition and Supervision)

Expected Outcome: Approval to submit Part 1 (Public Schools Evaluation, Recognition and Supervision) rules to JCAR for second notice

Materials: Appendix A: Part 1 (Public Schools Evaluation, Recognition and Supervision) Proposed Rules
Appendix B: Public Comment Summary and Analysis

Staff Contact(s): Barbara Moore, Director, Special Education
Amanda Elliott, Executive Director, Legislative Affairs
Azita Kakvand, Agency Rules Coordinator, Legislative Affairs

Purpose of Agenda Item

The Special Education Department requests the Board to authorize the State Superintendent to submit the proposed rulemaking to the Joint Committee on Administrative Rules (JCAR) for second notice.

Background Information/History

The State Board of Education was appalled and deeply saddened by the horrifying instances of isolated time out, time out, and physical restraint revealed in the ProPublica and Chicago Tribune investigations last fall. Based on these reports, ISBE took immediate action on Nov. 20, 2019, to institute emergency rules to provide greater restrictions on the use time out and restraint to ensure the safety of students in Illinois schools. The agency proposed permanent rules on Dec. 9, 2019, that ban the use of restrictive measures that are not necessary to safely de-escalate crisis situations, including prone physical restraint and, except for very limited circumstances, the placement of students in isolated time out. The rules clarify the narrow and strict parameters under which restraint and time out are allowed to protect the safety of students and staff under threat of imminent physical danger. The rules also institute stronger requirements for staff training and greater oversight, accountability, and transparency for these practices going forward, including increased documentation and parental notification.

The 45-day public comment period for these rules ended on Feb. 3, 2020. The agency received 310 letters of public comment.

Analysis and Implications for Policy, Budget, Legislative Action, and Communications

Policy Implications: None.

Budget Implications: None.

Legislative Action: Bill sponsors will be notified of pending rulemaking.

Communications: Rule changes will be communicated with stakeholders and published in the *Illinois Register* and on the ISBE website.

Pros and Cons of Various Actions

Pros: The proposed changes incorporate agency policy and practices, as is required under the Illinois Administrative Procedure Act (IAPA).

Cons: Not proceeding with the rulemaking will cause the agency's rules to conflict with certain provisions of the IAPA, which requires that the policies of state agencies be set forth in administrative rules.

Board Member(s) Who Will Abstain: None.

Superintendent's Recommendation:

I recommend that the following motion be adopted

The State Board of Education hereby authorizes the State Superintendent to submit the proposed rulemaking for Part 1 (Public Schools Evaluation, Recognition and Supervision) Proposed Rules to JCAR for second notice.

Further, the Board authorizes the State Superintendent of Education to make such technical and non-substantive changes as the State Superintendent may deem necessary in response to suggestions or objections of the Joint Committee on Administrative Rules.

Next Steps

Upon Board authorization, agency staff will submit the proposed rulemaking to the Joint Committee on Administrative Rules for a second notice hearing and, upon issuance of a Certification of No Objection, will submit the proposed rulemaking to the Administrative Code Division for publication in the *Illinois Register*.

Date of Board Action: Feb. 18, 2020

Summary and Analysis of Public Comments

The agency received 310 letters of public comment. A summary and analysis of the comments, delineated by subject matter, are below.

PHYSICAL RESTRAINT

Comment:

83 commenters suggest allowing prone physical restraint with the same exceptions as supine physical restraint under subsection (d)(7). The commenters note that a ban on both prone physical restraint and supine physical restraint would have severe consequences that include increased intervention by police, increased injury to students and staff, and increased disruptions to the educational environment. Some commenters suggest additional criteria for the use of prone physical restraint. One commenter, Giant Steps, submitted language that may be used to allow for the use of both prone physical restraint and supine physical restraint.

Comments were received from the following individuals and organizations:

Kristena Adamo
Ashley Arsenault
Kelsey Arsenault
Jennifer Bell
Sherry Bochenek
Claire Boyd
Cheryl Bransford
Diana Calvillo
Ashley Casey
Amanda Clay
Lucy D'Avanzo
Alice Dean
Don Dean
LynnZee Debnar
Sarah Dillon
Sarah Donnelly
Juan Jose Sanchez Escobar
Ramon Esparza
Catherine Fitzgerald
Catherine Fitzgerald
Michelle Fitzgerald
Charles and Margaret Galey
Alfonso Galvez
Coco Galvez
Emilia Galvez
Gabriela Galvez
Marisela Galvez
Martha Galvez
Giant Steps, submitted by Sylvia Smith
Christine Gillespie
Maribel Gonzalez
Javier Guijosa
Kevin Guijosa
Michelle Guijosa
Jimmy Gunnell

Summary and Analysis of Public Comments

James W. Gunnell
Elizabeth Jain
Becky Kaufman
Kearsti-Rae Knowles
Becky Joy Kristula
Tina Kubes
Joy Lazzara
Katelyn Leid
Abby Lynch
Katherine Manetas
Gretchen Mann
Jason Mann
Candace Meneou
Suzanne Mitchell
Kristina Neville
Tara Oetting
Hiral Patel
Lily Paterno
Brooke Pawlak
Guy Pearson
Abigail Picinich
Alec Picinich
Leslie Picinich
Leslie Picinich
Amy Prchal
Sarah Puhr
Ashik Rahman
Holly Reinagel
Mary Reinagel
Sue Rossetti
Giselle Sandi-Tapia
Ragan Shaffer
Robyn Shareef
Jennifer Slawski
Kaitlin Smith
John Smits
Southwest Cook County Association for Special Education, submitted by Dr. Gineen O'Neil and Dr. Jeff Stawick
Angelina Strum
Mandie Taylor
Unidentified commenter
Tricia Urbanowski
Cletus Van Damme
John Whittington
Laura Whittington
Liz Woodin
Shannon Woolley
Anne Zircher

Analysis:

Summary and Analysis of Public Comments

ISBE believes it is best practice to prohibit prone physical restraint completely and to only narrowly allow supine physical restraint.

Recommendation:

No changes will be made in response to this comment.

Comment:

17 commenters expressed concerns over using a supine hold over a prone restraint. The commenters noted that the number of staff members required to use a supine restraint is almost double that of using a prone restraint. The commenters also noted two safety concerns with utilizing a supine restraint. First, the position requires the student to face the staff member utilizing the restraint, which has various safety issues. Second, the supine restraint increases the chances of aspiration because the students are laying down.

Comments were received from the following individuals and organizations:

Dirk Aardsma
Kristin Aardsma
Mr. Jon Baricovich
Mary Blake
Amanda Deaton
Esperanza School & Esperanza Learning Center, submitted by Anne Hellmer
Holly Forsyth
Rebecca Hernandez
M. Janociak
Kathy Johnson
Margaret Joyce
Jamie Mahalik
Marklund Day School, submitted by Paula Bodzioch
Mary Meehan
Christine M. Smith
Dr. Troy J. Whalen
Nancy Wojcik

Analysis:

ISBE feels it's best practice to prohibit prone physical restraint and narrowly allow supine physical restraint.

Recommendation:

No changes will be made in response to this comment.

Comment:

38 commenters suggest allowing the use of prone and supine physical restraint if the criteria in Section 1.285(b)(1)-(7) of the Part 1 emergency amendment to the emergency rules (effective Dec. 4, 2019) is met.

Comments were received by the following individuals and organizations:

Jennifer Atterberry
Karin Behrendt

Summary and Analysis of Public Comments

Anna Belcia
Madeline Bennett
Cassie Bieberstein
Charity Bothwell
Brianna Brodeur
Kelly Brodeur
Lawrence Brodeur
Joanna Champagne
Giuseppe Fiduccia
Joanne Hall
Amanda Hlavaty
Lauren Humphries
Jourdan Hunt
David Hurlbert
Heather Johnson
Liz Karnik
Katie Keller
Angela Kopulos
Barbara Lechowicz
Marklund Day School, submitted by Paula Bodzioch
Anna Mersereau
Maja Mijatovic
Sarah Milligan
Brittany Nguyen
Emily Olberding
Lisa M. Oros
Amy and Paul Padavana
Christina Pallack
Jessica Redmund
Lara Rufenacht
Adam Schulz
Diane Stoner
Gabrielle Ulanski
Edel Vaca
Nancy Vincej
Terrence Wilkinson

Analysis:

ISBE feels it's best practice to prohibit prone physical restraint and only narrowly allow supine physical restraint.

Recommendation:

No changes will be made in response to this comment.

Comment:

11 commenters suggest allowing the use of prone restraint because it may be the only safe way to contain the extreme physicality of certain children's emotions so that they do not hurt themselves or those around them. The commenters note that a prone restraint, when done properly by trained staff, is safe and supportive of someone who has lost control.

Summary and Analysis of Public Comments

Comments were received from the following individuals:

Stacie Daley

Vicki Daviau

Stella DeGenova

Kathleen Gleeson

Jessica Lambert

Proficio Consulting Group

Christine Putlak

Tamara Simpson

Turning Pointe Autism Foundation, submitted by Bernadette Bassett

Brian Weems

Kelsey Wladyka

Analysis:

ISBE maintains that a ban on prone physical restraint is best practice.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Association of Private Special Education Centers, submitted by Sally Sover, suggests allowing prone physical restraint and other physical restraints in very limited circumstances, including when the student's medical or psychological limitations contraindicate the use of other restraint options and the situation is deemed an emergency. The commenter provides language that may be used to achieve this suggestion.

Analysis:

ISBE feels it's best practice to prohibit prone physical restraint and narrowly allow supine physical restraint.

Recommendation:

No changes will be made in response to this comment.

Comment:

11 commenters suggest ISBE to prohibit supine physical restraint completely and not make the restraint subject to the exceptions under Section 1.285(d)(7). Some commenters note that there are other permissible forms of physical restraint outside of prone or supine and that the exceptions under subsection (d)(7) should apply to those other types of physical restraint.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Arc of Illinois, submitted by Meg Cooch

Dawn Albanese

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Michael Heinrich

Summary and Analysis of Public Comments

Mary Fahey Hughes
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen
National Council on Independent Living, submitted by Kelly Buckland

Analysis:

ISBE believes it's best practice to narrowly allow supine physical restraint.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Kristal LeRette, suggests that the rules allow for time out or physical restraint if a student presents a danger of emotional harm to the student or others.

Analysis:

ISBE believes that the determination of emotional harm is too subjective and does not pose an imminent danger of physical harm to others.

Recommendation:

No changes will be made in response to this comment.

Comment:

Two commenters, Arc of Illinois, submitted by Meg Cooch, and the National Council on Independent Living, submitted by Kelly Buckland, are concerned with the exception to ending a physical restraint if the student is observed to be in severe distress under subsection (d)(2)(C) ["if ending the restraint would cause serious physical harm"]. The commenters request ISBE to elaborate on the exception and define "severe distress" and "serious physical harm".

Analysis:

Because of a response to another comment, this subsection no longer exists.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Gerardo Moreno, submitted the Illinois Council for Children with Behavioral Disorders' recommendations regarding physical restraint procedures in schools. These recommendations include all of the following:

- 1) Prohibiting the use of mechanical or chemical restraints for the purpose of managing or addressing a student's behavior.
- 2) Physical restraints should rarely be used in a school setting and only if the following are met:

Summary and Analysis of Public Comments

- a) The restraint is conducted by persons who are trained in the use of physical restraint procedures.
 - b) A restraint to control behavior should only be used if (i) the student poses a clear, present, and imminent physical danger to him/her or to others, (ii) less restrictive measures have not effectively de-escalated the risk of injury, (iii) the restraint lasts only as long as necessary to resolve the actual risk of danger, and (iv) the degree of force applied may not exceed what is necessary to protect the student or others.
 - c) Prone or supine restraint should never be used. No restraint should be administered in such a manner that prevents a student from breathing or speaking.
 - d) Restraints are never used as punishment, to force compliance, or as a substitute for appropriate educational support.
 - e) There is documentation of the restraint included in the student's record and provided to the student's parent.
 - f) A staff de-briefing occurs as soon as possible, but no later than 48 hours, after the incident.
 - g) Repeated use of physical restraints for any one student or multiple physical restraints across different students is viewed as a failure of educational programming and supports, educational methodologies, and other interventions need to be modified.
 - h) School wide or general safety plans or policies clearly identify when a restraint can be employed.
 - i) If applicable, the use of restraint should not be included in the student's Individualized Education Program (IEP) or Behavior Intervention Plan (BIP).
- 3) State rules on physical restraint should apply to all students and all schools and should specifically identify how the standards will be monitored.
 - 4) Each school that uses physical restraint should have a set of written policies.

Analysis:

ISBE appreciates the commenter's submission regarding the use of physical restraints in schools. We feel that all of the commenter's concerns are either addressed specifically or generally in the proposed rules or changes have been made based on other public comments. We are happy to work with the commenter to further discuss the issue of physical restraints in schools.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Southwest Cook County Association for Special Education, submitted by Dr. Gineen O'Neil and Dr. Jeff Stawick, suggests adding language to the rules that allows "cooperatives, private day schools, and residential schools" to utilize prone restraints when students are in danger to themselves or others.

Analysis:

ISBE believes it's best practice to prohibit the use of prone physical restraint in all instances.

Summary and Analysis of Public Comments

Recommendation:

No changes will be made in response to this comment.

Comment:

Two commenters, James W. Gunnell and Jimmy Gunnell, suggest changing the term “physical restraint” to “physical management” throughout the rules. The commenters also note that a momentary hands-on escort to separate a student from classmates should not be considered physical restraint and should not be reported on the ISBE form.

Analysis:

ISBE believes it’s best to continue the use of the phrase “physical restraint” because it is a widely understood industry standard term. Also, the proposed rules clarify that a momentary hands-on escort is not a physical restraint and ISBE will be providing instructions on form completion to the field.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Val Donnan, suggests using terms such as “therapeutic de-escalation” and “therapeutic holds” rather than “time out” and “physical restraint.”

Analysis:

ISBE believes it is best to use the terms “time out” and “physical restraint” because they are industry standard terms.

Recommendation:

No changes will be made in response to this comment.

Comment:

Turning Pointe Autism Foundation, submitted by Bernadette Bassett, suggests carving out the use of physical restraint and isolated time out for schools that meet best practice standards with clinical training, site visits, and reporting requirements.

Analysis:

ISBE is making changes for use of isolated time out in limited circumstances.

Recommendation:

No changes will be made in response to this comment.

Comment:

Legal Council for Health Justice, submitted by Barb Cohen, recommends that, because “momentary” is too vague to be an objective standard, momentary restriction should not be allowed to prevent damage to property and that ISBE provide this feedback to legislatures.

Analysis:

Summary and Analysis of Public Comments

ISBE believes that the language regarding momentary restriction is clear.

Recommendation:

No changes will be made in response to this comment.

Comment:

The National Council on Independent Living, submitted by Kelly Buckland, opposes the use of physical intervention to prevent damage to property under subsection (c)(1). The commenter also notes that, for subsection (d)(4), if a student uses a device of communication, the rule must explicitly state that the student must have access to their communication device.

Analysis:

ISBE believes subsection (c)(1) appropriately addresses the use of physical interventions for momentary periods. The proposed rules also address the commenters concern regarding access to their augmentative mode of communication

Recommendation:

No changes will be made in response to this comment.

TIME OUT

Comment:

89 commenters agree that the misuse of isolated time out or restraint needs to end, but note that the use of isolated time out, seclusion, or restraint is still necessary for therapeutic reasons and to help students with “severe disabilities in crisis” who will be further traumatized by their removal. The commenters note that taking away isolated time out or seclusion would put students and staff in harm. Some of those commenters also noted that students would have no way to de-escalate in a quiet and safe place, and that these places are needed for students who are unable to stay regulated or demonstrate aggression.

Comments were received by the following individuals and organizations:

Jan Altman

Rachel Aumiller

Tammy Beckham

Ms. Julia R. Beer

Belleville Area Special Services Cooperative, submitted by Jeff Daugherty

Kari Bierman

Melynda Blue

Emily Boldt

Kylee Booth

Erin Bowman

Kris Cannon-Hunt

Cheryl Charlton

Jennifer Chedister

Adam Clavey

Jordan Coleman

Community Consolidated School District 59, submitted by Dr. Elizabeth deGruy

Dawn Cook

Mrs. Jodi Cooper

**Summary and Analysis of
Public Comments**

Jamie Cullen
Mary Current
Laura Dill
Sarah Donnelly
Elm Christian School, submitted by Mike Otte
Karen Ewing
Holly Forsyth
Ellie Giacobbe
Bruce Gibbons
L. Mercedes Gillett
Dawn Grubb
Jill Hall
Richard Harp
Barb Hartseil
Ms. Stephanie Hedgespeth
Louis A. Herrin
Tracy Hitchins
Kathy Horath
Daniel Huffman
Abbie Hummel
Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein
Illinois Education Association, submitted by Sean Denney
Tarin Kendrick
Jennifer Kiesewetter
Michele Kinley
Kam Knox
Chuck Lane
Joy Lazzara
Cassie Lee
Kristal LeRette
Emily Lewis
Alexis Maciarz
Allison Malcom
Nikki Maurer
Tammy McCollum
Samantha Medland
Mary Meehan
Mount Vernon City Schools, District 80, submitted by Aletta Lawrence
Susan Murray
Jordan Newton-Gonzalez
Susan Nicklas
Tammy Nieman
Ali Nordin
Dr. Joshua R. Olsen
Missy Peters
Cathy Piehl
Jera Pieper
Christine Putlak
Karen Rennels
Ms. Rachel Reule

Summary and Analysis of Public Comments

Mrs. Jayne Runyon
Sandra Scoma
Jennifer Scott
Kristin Smith
Ms. Jill Steffes
Wayne Stone
Brenda Sushka
Hillary Tanner
Mariellen Taylor
Megan Thomas
Justin Thorsen
Mrs. Sydney Tipton
Linda Tudor
Diana Vissering
Dana Waggoner
Benay Walker
Jeanne Ward
Rhonda Walsh
Karen Widdowson
Jane Widmer
Leah Williams

Analysis:

ISBE has reconsidered the use of isolated time out in limited circumstances. ISBE believes that both staff and student safety are important. When the adult in the time out room or enclosure is in imminent danger of serious physical harm because the student is unable to cease actively engaging in extreme physical aggression, it may be necessary to remove the adult because students may need space and time to de-escalate without the adult in the room.

Recommendation:

Changes will be made throughout the proposed rules to allow for the use of isolated time out in limited circumstances.

Comment:

45 commenters stated that the rules need to allow trained staff to utilize time out rooms without requiring an adult to remain in the room with a student who is highly aggressive. Some commenters suggest allowing continuous visual and auditory contact with a student and require that an enclosure used for time out permit continuous visual monitoring and communication with the student. Some commenters note that having a staff member present may cause the student more stress rather than de-escalate.

Comments were received from the following individuals and organizations:

Dirk Aardsma
Kristin Aardsma
Mr. Jon Baricovich
Debra L. Barton
Belleville Area Special Services Cooperative, submitted by Jeff Daugherty
Mary Blake
Jim Carver
Centralia High School #200, submitted by Chuck Lane

Summary and Analysis of Public Comments

Amanda Deaton
Four Rivers Special Education District, submitted by Christiane Pennell
Travis Friedrich
Giant Steps, submitted by Sylvia Smith
James W. Gunnell
Jimmy Gunnell
Brenda J. Huber
Illinois Council of School Attorneys, submitted by Bridget Trojan
Illinois Education Association, submitted by Sean Denney
Illinois Statewide School Management Alliance, submitted by Brian D. Schwartz
M. Janociak
Kathy Johnson
Margaret Joyce
Laura Kartsounes
Kaskaskia Special Education District #801, submitted by Cassie Clark
Jeanne Kross
Krista Lafferty
Jessica Lambert
Andrew Larson
Alexis Maciarz
Jamie Mahalik
Mid-State Special Education, submitted by Angela K. Armour and Lyn Becker
Kristina Neville
Proficio Consulting Group
Salem Elementary District No. 111, submitted by Dr. Leslie Foppe
Sangamon Area Special Education District, submitted by Mark Strawn
Jennifer Scott
Christine M. Smith
Kristin Smith
Janah Sudduth-Mottola
Megan Thomas
Tolono CUSD 7, submitted by Lanee Reichert
Linda Tudor
Turning Pointe Autism Foundation, submitted by Bernadette Bassett
Brian Weems
Dr. Troy J. Whalen
Nancy Wojcik

Analysis:

ISBE agrees that both staff and student safety are important and has reconsidered that there may be limited times when it is appropriate for the staff member to not remain in a time out room, but remain in continuous visual and auditory contact of the student for the safety of the student and the staff member.

Recommendation:

Changes will be made throughout the proposed rules to allow for the use of isolated time out in limited circumstances.

Comment:

Summary and Analysis of Public Comments

82 commenters suggest allowing variances or deviations to time outs or restraints for children on a case-by-case basis. The commenters note that some students benefit from the low stimulation environment provided by isolated time out. One commenter, Giant Steps, submitted language that may be used to achieve this suggestion. One commenter also suggests allowing parents and caregivers the option to be consulted when their child is being restrained or in a time out so that they can have input into the de-escalation process and be given the choice to go to the school and pick up their child from the educational program.

Comments were received by the following individuals and organizations:

Doris (unidentified last name)

Kristena Adamo

Natalie Amato-Zech

Ashley Arsenault

Kelsey Arsenault

Jennifer Bell

Sherry Bochenek

Claire Boyd

Cheryl Bransford

Diana Calvillo

Ashley Casey

Amanda Clay

Community and Residential Services Authority, submitted by Dr. Robert Bloom and Debbi Smith

Lucy D'Avanzo

Alice Dean

Don Dean

LynnZee Debnar

Sarah Dillon

Sarah Donnelly

Juan Jose Sanchez Escobar

Ramon Esparza

Catherine Fitzgerald

Catherine Fitzgerald

Michelle Fitzgerald

Charles and Margaret Gale

Alfonso Galvez

Coco Galvez

Emilia Galvez

Gabriela Galvez

Marisela Galvez

Martha Galvez

Giant Steps, submitted by Sylvia Smith

Christine Gillespie

Maribel Gonzalez

Javier Guijosa

Kevin Guijosa

Michelle Guijosa

Wendy Jacoby

Elizabeth Jain

Becky Kaufman

Kearsti-Rae Knowles

Summary and Analysis of Public Comments

Becky Joy Kristula
Tina Kubes
Joy Lazzara
Katelyn Leid
Abby Lynch
Katherine Manetas
Gretchen Mann
Jason Mann
Candace Meneou
Suzanne Mitchell
Tara Oetting
Hiral Patel
Lily Paterno
Brooke Pawlak
Guy Pearson
Abigail Picinich
Alec Picinich
Amy Prchal
Sarah Puhr
Ashik Rahman
Holly Reinagel
Mary Reinagel
Sue Rossetti
Juan Sanchez
Giselle Sandi-Tapia
Ragan Shaffer
Robyn Shareef
Jennifer Slawski
Erica Slusher
Kaitlin Smith
John Smits
Angelina Strum
Mandie Taylor
Unidentified commenter
Tricia Urbanowski
Cletus Van Damme
John Whittington
Laura Whittington
Liz Woodin
Shannon Woolley
Anne Zircher

Analysis:

ISBE has reconsidered that there may be limited times when it is appropriate for the staff member to not remain in the room but remain in continuous visual and auditory contact of the student for the safety of the student and the staff member. As for a commenter's concerns over parental involvement, we feel this is included in subsection (f)(4)(a) and believe that parents always have the option to pick their child up from school.

Recommendation:

Summary and Analysis of Public Comments

Changes will be made throughout the rules to allow for the use of isolated time out in limited circumstances.

Comment:

12 commenters suggest that the use of non-isolated time out and restraint be strictly limited to emergencies when (i) the student's behavior presents an imminent danger of serious physical harm to the student or others, (ii) less restrictive and intrusive measures have been tried and proven ineffective, and (iii) there is no medical, emotional, psychological, or other contraindication to its use, as verified by a qualified professional.

Comments were received from the following organizations:

Access Living, submitted by Chris Yun

Arc of Illinois, submitted by Meg Cooch

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Dawn Albanese

Equip for Equality, submitted by Cheryl R. Jansen

Illinois Association of School Social Workers, submitted by Tom Tebbe

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Michael Heinrich

Mary Fahey Hughes

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

National Council on Independent Living, submitted by Kelly Buckland

Analysis:

ISBE believes the commenters' concerns are already addressed in the proposed rules.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Association of Private Special Education Centers, submitted by Sally Sover, suggests allowing exceptions to the prohibition of isolated time out only if certain conditions are met, including a requirement that the enclosed space remain unlocked and that trained personnel have ongoing and continuous visual and auditory contact with the student. The commenter provides language that may be used to achieve this suggestion.

Analysis:

ISBE agrees that both staff and student safety are important and has reconsidered that there may be limited times when it is appropriate for the staff member to not remain in the room but remain in continuous visual and auditory contact of the student for the safety of the student and the staff member.

Recommendation:

Changes will be made throughout the proposed rules to allow for the use of isolated time out in limited circumstances.

Comment:

Summary and Analysis of Public Comments

Four commenters suggest ISBE require that when a student is accompanied in the same room by a trained staff member under Section 1.285(a), the staff member be qualified in therapeutic practices to assist the student in calming and de-escalating and learn skills to prevent future occurrences of time out.

Comments were received from the following organizations:

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider,

Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE believes that the training requirements in the proposed rules already accomplishes this goal.

Recommendation:

No changes will be made in response to this comment.

Comment:

Two commenters, Jenny Holliday and Kim Woolridge, suggest banning any type of seclusion or restraint that is damaging to a child.

Analysis:

ISBE believes the changes made to the proposed rules already ensure the safety of students.

Recommendation:

No changes will be made in response to this comment.

Comment:

Two commenters, Margaret Howard and an unidentified commenter, believe the rules should ban seclusion in all rooms, not just locked rooms.

Analysis:

Except for very limited circumstances, the proposed rules already ban seclusion in all rooms.

Recommendation:

No changes will be made in response to this comment.

Comment:

ED-RED, submitted by Sarah Hartwick, expressed concern over the use of the term "involuntary" in subsection (a) because teachers and paraprofessionals often need to prompt students as to appropriate ways to de-escalate, which may include suggesting a "break." The commenter asks for more clarification on this issue.

Analysis:

ISBE believes the commenter's concerns are already addressed in subsection (a).

Recommendation:

No changes will be made in response to this comment.

Summary and Analysis of Public Comments

Comment:

Two commenters, Cathy Piehl and Kristin Smith, note the difficulty of having time out rooms that comply with the requirements in Section 1.285(a)(1)(C), including the difficulty of finding a room with no electrical outlets, wires for laptops, etc.

Analysis:

ISBE believes that it is important for schools to not have these objects in a time out room to maintain a safe environment with students.

Recommendation:

No changes will be made in response to this comment.

Comment:

Six commenters recommend specifying the minimum size of a time out room in accordance with Department of Children and Family Services (DCFS) guidance. The commenters also suggest requiring an adult in a time out room to be a staff person qualified in therapeutic practices to assist the student in calming and de-escalating his or her behavior and learning skills to prevent future occurrences of time out.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Dawn Albanese

Michael Heinrich

Mary Fahey Hughes

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE feels it is best practice to keep the standard as “large enough” because schools may not be able to find rooms of a specific dimensions. As to the commenters’ second suggestion, we believe the training requirements in the proposed rules are sufficient to carry out this suggestion.

Recommendation:

No changes will be made in response to this comment.

Comment:

The National Council on Independent Living, submitted by Kelly Buckland, suggests the following about time out rooms:

- (1) Because time out areas are inherently traumatic to students, no single-purpose time out area should be maintained and all rooms in each school should have routine, non-traumatizing purposes.
- (2) Add “water” to the list in subsection (a)(4).

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- (3) The second sentence in subsection (a)(4) should read: "Except in circumstances where a student in time out is actively attempting to use their clothing, including, but not limited to, a belt, shoes, or shoelaces, for the purpose of self-injury, and in which there is imminent risk of significant injury, clothing shall not be removed. If clothing is removed, the justification for the removal of each garment shall be clearly documented."

Analysis:

ISBE believes use of time out rooms may be necessary in cases of imminent danger and we believe trauma-related factors are addressed through the proposed rules' requirements for training. ISBE agrees with adding "water," "shoes," and "shoe laces" to subsection (a)(4).

Recommendation:

Subsection (a)(4) [which has been renumbered to (a)(7)] will be changed to include "water," "shoes," and "shoe laces."

Comment:

One commenter, Val Donnan, suggests that subsection (a)(4) include "injury to staff and others" after "self-injury" and removing shoes/boots in addition to clothing.

Analysis:

ISBE agrees with the commenter's suggestions.

Recommendation:

The second sentence in subsection (a)(4) [which has been renumbered to (a)(7)] will read: "Except in circumstances in which there is a risk of self-injury or injury to staff or others, a student in time out shall not have his or her clothing removed, including, but not limited to, shoes, shoelaces, boots, or a belts".

DOCUMENTATION/EVALUATION

Comment:

22 commenters expressed concerns with requiring a meeting to review a student's IEP and inviting the student's parent or guardian to participate in this review every time the student experiences three instances of time out or physical restraint as it would put a burden on the school district, parents or guardians, and school staff. Commenters expressed concerns over the frequency of the meetings and note that it is unclear if the three restraints need to occur within a specific timeframe (i.e., days, months, years). Commenters also suggest the review meeting be required only after the first three instances of time out or physical restraint, but only if the student is a general education student. One commenter suggests a waiver in instances when the entire IEP has agreed.

Comments were received by the following individuals and organizations:
Belleville Area Special Services Cooperative, submitted by Jeff Daugherty
Jim Carver
Centralia High School #200, submitted by Chuck Lane
Val Donnan
Four Rivers Special Education District, submitted by Christiane Pennell
Travis Friedrich
Kathy Horath
Illinois Council of School Attorneys, submitted by Bridget Trojan

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Illinois Federation of Teachers, submitted by Daniel J. Montgomery
Kaskaskia Special Education District #801, submitted by Cassie Clark
Jessica Lambert
Andrew Larson
Mid-State Special Education, submitted by Angela K. Armour and Lyn Becker
Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips
Proficio Consulting Group
Christine Putlak
Salem Elementary District No. 111, submitted by Dr. Leslie Foppe
Sangamon Area Special Education District, submitted by Mark Strawn
Kristin Smith
Janah Sudduth-Mottola
Tolono CUSD 7, submitted by Lanee Reichert
Jeanne Ward

Analysis:

ISBE agrees that clarification is warranted over the frequency of meetings under Section 1.285(f)(4). A 30-day time period is a good indicator of a pattern of behavior.

Recommendation:

Section 1.285(f)(4) will read: "When a student experiences instances of isolated time out, time out, or physical restraint on three days within a 30-day period..."

Comment:

17 commenters expressed that the new paperwork is challenging, extensive, time-consuming, and takes away from instructional and therapy time. One commenter notes that the previous documentation monitored time out and restraint easily.

Comments were received from the following individuals:

Dirk Aardsma
Kristin Aardsma
Mr. Jon Baricovich
Mary Blake
Amanda Deaton
Holly Forsyth
M. Janociak
Kathy Johnson
Jessica Lambert
Alexis Maciarz
Jamie Mahalik
Mary Meehan
Cathy Piehl
Christine M. Smith
Linda Tudor
Dr. Troy J. Whalen
Nancy Wojcik

Analysis:

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ISBE believes that the new documentation requirements have minimal changes compared to the prior documentation requirements.

Recommendation:

No changes will be made in response to this comment.

Comment:

Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips, suggests that the form submitted by an educational institution to parents and ISBE have no character limit and a spell check feature, and that ISBE should clarify how the agency is going to compile and analyze the information on the form.

Analysis:

ISBE will take this commenter's suggestions into consideration as it is currently reviewing and revising these forms. However, the specifics of these forms are not addressed in the proposed rules.

Recommendation:

No changes will be made in response to this comment in the proposed rules, but ISBE will consider them when reviewing and revising its forms.

Comment:

80 commenters suggest changing the forms submitted by schools to reflect the unique needs of the student, including de-escalation strategies used, post crisis strategies, and re-integration strategies.

Comments were received from the following individuals:

Kristena Adamo
Ashley Arsenault
Kelsey Arsenault
Jennifer Bell
Sherry Bochenek
Claire Boyd
Cheryl Bransford
Diana Calvillo
Ashley Casey
Amanda Clay
Lucy D'Avanzo
Alice Dean
Don Dean
LynnZee Debnar
Sarah Dillon
Sarah Donnelly
Juan Jose Sanchez Escobar
Ramon Esparza
Catherine Fitzgerald
Catherine Fitzgerald
Michelle Fitzgerald
Charles and Margaret Galey
Alfonso Galvez

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Coco Galvez
Emilia Galvez
Gabriela Galvez
Marisela Galvez
Martha Galvez
Christine Gillespie
Maribel Gonzalez
Javier Guijosa
Kevin Guijosa
Michelle Guijosa
Illinois State Advisory Council on the Education of Children with Disabilities, submitted by Dr. Jennifer Naddeo
Wendy Jacoby
Elizabeth Jain
Becky Kaufman
Kearsti-Rae Knowles
Becky Joy Kristula
Tina Kubes
Joy Lazzara
Katelyn Leid
Abby Lynch
Katherine Manetas
Gretchen Mann
Jason Mann
Candace Meneou
Suzanne Mitchell
Tara Oetting
Hiral Patel
Lily Paterno
Brooke Pawlak
Guy Pearson
Abigail Picinich
Alec Picinich
Leslie Picinich
Leslie Picinich
Amy Prchal
Sarah Puhr
Ashik Rahman
Holly Reinagel
Mary Reinagel
Sue Rossetti
Juan Sanchez
Giselle Sandi-Tapia
Ragan Shaffer
Robyn Shareef
Jennifer Slawski
Kaitlin Smith
John Smits
Angelina Strum
Mandi Taylor

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Unidentified commenter
Tricia Urbanowski
Cletus Van Damme
John Whittington
Laura Whittington
Liz Woodin
Shannon Woolley
Anne Zircher

Analysis:

ISBE will take these commenters' suggestions into consideration as it is currently reviewing and revising these forms. However, the specifics of these forms are not addressed in the proposed rules.

Recommendation:

No changes will be made in response to this comment in the proposed rules, but ISBE will consider them when reviewing and revising its forms.

Comment:

One commenter, Jan Altman, notes that the paperwork is challenging, and the documentation is not user friendly. The commenter suggests a place to copy and paste or attach the log of the incident.

Analysis:

ISBE is looking into the technological capacity of the agency to receive information and will make updates to the system as economical and appropriate.

Recommendation:

No changes will be made in response to this comment.

Comment:

Nine commenters suggest that the proposed rules require the written documentation to include why less restrictive and intrusive measures failed or were determined by staff to be inappropriate or impractical. The commenters also suggest that the review under subsection (f)(4) include a review of the events that led up to the use of time out or physical restraint, whether other less restrictive and intrusive interventions were utilized before using time out or physical restraint and, if so, why those alternative interventions were not successful, and what types of supports and services are needed to prevent their future use.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yum
Arc of Illinois, submitted by Meg Cooch
Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek
Dawn Albanese
Equip for Equality, submitted by Cheryl R. Jansen
Michael Heinrich
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

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ISBE will continue to revise and update the forms as necessary to achieve our needs of monitoring. ISBE agrees that increased documentation on the events leading up to the restraint and whether lesser restrictive forms are needed and will adjust the form accordingly. The proposed rules already address the documentation of the planned approach to address the behavior in the future.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Tarin Kendrick, notes that the data collection forms should not have more information than the law requires and should be on a form that uploads directly to the State.

Analysis:

ISBE requires the information to be submitted on these forms so the agency can adequately conduct its monitoring functions. These forms are also already uploaded directly to ISBE.

Recommendation:

No changes will be made in response to this comment.

Comment:

Allendale Association, submitted by Jennifer Stiemsma, requests that any licensed practitioner, rather than only a licensed educator, be able to evaluate situations under subsection (f)(3)(A), including clinical licensed staff.

Analysis:

ISBE agrees to use the terms licensed educator or licensed clinical practitioner.

Recommendation:

The beginning of subsection (f)(3)(A) will read as: "A licensed educator or licensed clinical practitioner..."

Comment:

Two commenters, Jordan Coleman and Proficio Consulting Group, seek clarity in subsection (f)(4)(A). Specifically, the commenter is unclear as to what would happen if a student needs to be restrained again within the 10-day period of notice to his or her parent or guardian. Is restraint permitted under this situation?

Analysis:

Nothing would prohibit the use of a restraint in the commenter's scenario if all other requirements for that restraint are satisfied.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Association of School Social Workers, submitted by Tom Tebbe, believes it's more appropriate and effective to have schools monitor the number of instances of time out or physical restraint within a one-month period and to review behavior plans for those students with the highest instance

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levels (rather than require a review after a student experiences three instances of time out or physical restraint).

Analysis:

ISBE prefers review after three instances of time out or restraint over a monthly review because the agency does not feel it is best practice for schools to wait a month to review plans and make changes when changes can be made after three instances.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Kristin Smith, notes the reality of a crisis is that seclusion or restraint may be required for brief moments or for a longer period of time depending on the intensity and duration of the behavior, and that the current documentation does not allow for this to be recorded in a meaningful way.

Analysis:

ISBE is in the process of revising the form to better meet documentation needs and will keep the comment in consideration while revising the form.

Recommendation:

No changes to the rules will be made in response to this comment, but ISBE will consider the commenter's concerns when reviewing and revising its forms.

Comment:

The National Council on Independent Living, submitted by Kelly Buckland, suggests providing a copy of the written documentation to Equip for Equality and DCFS, as well as the notification under subsection (g)(1) to Equip for Equality. The commenter also suggests that the review under subsection (f)(4) should be triggered after each occurrence of time out or physical restraint, rather than after three instances.

Analysis:

For the commenter's first suggestion, ISBE believes our processes for reporting to the State Superintendent is sufficient. For the commenter's second suggestion, ISBE believes that review after three instances is sufficient because documentation requirements include a description of a planned approach to dealing with the student's behavior in the future.

Recommendation:

No changes will be made in response to this comment.

Comment:

Three commenters believe the rules should require a debriefing following each incident of time out or physical restraint no later than 48 hours after the incident, unless the student's parent or guardian requests an extension. The commenters note that the school's principal should convene this meeting and a separate meeting with school staff.

Comments were received from the following organizations:

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

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Equip for Equality, submitted by Cheryl R. Jansen
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Analysis:

ISBE believes that our notification requirements are already adequate in ensuring parents are informed in time out and restraint incidents, and that the requirement of additional meetings would put too great of a burden on schools.

Recommendation:

No changes will be made in response to this comment.

Comment:

Two commenters, Loyola ChildLaw Center, submitted by Jackie Ross, and the National Council on Independent Living, submitted by Kelly Buckland, note that, with regard to the meeting requirement under subsection (f)(4), it is critical that the parent and student be involved as equal participants. The commenters add that it should be made clear that the parent is able to bring an attorney or advocate to the meeting. Also, one commenter notes that it should be made clear that for a student who does not have an IEP or Section 504 Plan, the parent has the same stay-put rights available to students under the Individuals with Disabilities Education Act (IDEA) or Section 504.

Analysis:

ISBE believes the commenters concerns regarding parent involvement are addressed in the proposed rules.

Recommendation:

No changes will be made in response to this comment

REPORTING/NOTIFICATION REQUIREMENTS

Comment:

Three commenters note that the 24-hour timeline under Section 1.285(g)(3) is a difficult timeline and that a timeline of one school day, two school days, 48 hours, or 72 hours is more reasonable due to the “written notification” requirement.

Comments were received from the following individuals or organizations:

Illinois Council of School Attorneys, submitted by Bridget Trojan
Southwest Cook County Association for Special Education, submitted by Dr. Gineen O’Neil and Dr. Jeff Stawick
Brian Weems

Analysis:

We appreciate the commenters’ concerns on the timeline and the need to address situations when schools are not open. ISBE recognizes that the 24-hour timeline is a difficult timeline to meet and believes a change to one business day would address the commenters’ concerns.

Recommendation:

The beginning of Section 1.285(g)(3) will read: “Within one business day 24 hours...”

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Comment:

10 commenters suggest that the proposed rules require schools to notify a student's parent or guardian on the same day that time out or physical restraint is used (rather than make a "reasonable attempt" to do so), and that this notification requirement should be deemed satisfied if the school attempts to contact the parent or guardian using at least two methods of contact. The commenters further note that the rules should require schools to provide the following information to parents or guardians upon request and after each incident physical restraint or time out: (i) a copy of the standards for when time out or physical restraint can be used, (ii) information about student or parental or guardian rights, (iii) information about the parent's or guardian's right to file a complaint with the State Superintendent and the complaint procedure, and (iv) the contact information for Equip for Equality.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Arc of Illinois, submitted by Meg Cooch

Dawn Albanese

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Michael Heinrich

Mary Fahey Hughes

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE feels it's best practice to keep the "reasonable attempt" standard because schools are not able to control a parent's availability. For the commenters' other concerns, ISBE believes the requirement of sending home the form is sufficient and that policy and procedural safeguards are available online. The contact information for Equip for Equality is also available online.

Recommendation:

No changes will be made in response to this comment.

Comment:

Six commenters expressed that the 48-hour window for reporting incidents to the State is a difficult timeline to meet and suggest changing the requirement to 48 school hours or a weekly submission. One commenter recommends requiring those reports to be submitted via the Student Information System.

Comments were received from the following individuals and organizations:

Esperanza School & Esperanza Learning Center, submitted by Anne Hellmer

Jimmy Gunnell

James W. Gunnell

Illinois Council of School Attorneys, submitted by Bridget Trojan

Ms. Jill Steffes

Brian Weems

Analysis:

Under Section 1.285(h), the reporting requirement to the State Superintendent of Education is within a two-school day period, which would satisfy the commenters' suggestion to changing the requirement to

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48 school hours. ISBE will review capacity to have these reports submitted in the most efficient and economical method possible.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Leadership Education in Neurodevelopmental and Related Disabilities (LEND) organization, submitted by Peg Agnos, expressed concern over the reporting requirements to the State Superintendent and recommends the information remain local. The commenter also recommends that the form be standardized.

Analysis:

ISBE agrees that forms shall be maintained at the local level, but believes that State oversight is warranted. ISBE has standardized its form.

Recommendation:

No changes will be made in response to this comment.

Comment:

Loyola ChildLaw Center, submitted by Jackie Ross, suggests adding to the parental notification under subsection (g): (i) a diagram depicting the type of restraint used, if applicable; (ii) information about a parent's right to file a complaint; (iii) a copy of standards for when time out or physical restraint can be lawfully used; and (iv) contact information for Equip for Equality.

Analysis:

ISBE appreciates the comment and will add information on how to file a complaint to the ISBE Physical Restraint and Time Out form that parents are given after an incident.

Recommendation:

No changes will be made to the proposed rules in response to this comment

IEPs, BIPs, and Federal Section 504 Plans

Comment:

Ten commenters believe that allowing the use of time out or physical restraint to be included in a student's IEP, BIP, or federal Section 504 Plan will "only serve to legitimize and perpetuate the use of these high risk interventions, rather than promote a shift in school culture aimed at reducing their use", and suggest that ISBE prohibit its inclusion as a component of those plans.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Dawn Albanese

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Michael Heinrich

Mary Fahey Hughes

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Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

National Council on Independent Living, submitted by Kelly Buckland

Analysis:

ISBE believes the best utilization of those plans is to address students' individualized needs with the most appropriate student information available.

Recommendation:

No changes will be made in response to this comment.

Comment:

Arc of Illinois, submitted by Meg Cooch, suggests the form include whether or not the student who was placed in time out or physically restrained has a BIP, and that all information required on the form be included in the proposed rules.

Analysis:

ISBE believes that the requirements for documentation are adequately stated. ISBE will make revisions to the form based on any changes in rule. ISBE believes that the information required on the form is addressed in the rules.

Recommendation:

No changes will be made in response to this comment.

Comment:

37 commenters suggest allowing for the continuation of IEP teams to individualize plans to meet students' needs.

Comments were received by the following individuals and organizations:

Jennifer Atterberry

Karin Behrendt

Anna Belcia

Madeline Bennett

Cassie Bieberstein

Charity Bothwell

Brianna Brodeur

Kelly Brodeur

Lawrence Brodeur

Joanna Champagne

Giuseppe Fiduccia

Amanda Hlavaty

Lauren Humphries

Jourdan Hunt

David Hurlbert

Heather Johnson

Liz Karnik

Katie Keller

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Angela Kopulos
Barbara Lechowicz
Marklund Day School, submitted by Paula Bodzioch
Anna Mersereau
Maja Mijatovic
Sarah Milligan
Brittany Nguyen
Emily Olberding
Lisa M. Oros
Amy and Paul Padavana
Christina Pallack
Jessica Redmund
Lara Rufenacht
Adam Schulz
Diane Stoner
Gabrielle Ulanski
Edel Vaca
Nancy Vincej
Terrence Wilkinson

Analysis:

ISBE agrees that IEP teams must continue to develop individualized education programs and decisions on inclusion of the use of restraint and time out in the IEP, but that such use of time out and restraint should conform with any rules promulgated by the agency.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Cathy Hoyda, notes that properly trained staff are currently allowed to use seclusion or restraint if allowed by the student's IEP and that federal law guides an IEP.

Analysis:

ISBE agrees that IEP teams must continue to develop individualized education programs and decisions on inclusion of the use of restraint and time out in the IEP, but that such use of time out and restraint should conform with any rules promulgated by the agency.

Recommendation:

No changes will be made in response to this comment.

TRAINING REQUIREMENTS

Comment:

Two commenters, Kathy Horath and Kristina Neville, believe that training should be required, but that individual districts should be able to determine the nature and time requirements of that training.

Analysis:

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ISBE believes that all of the components outlined in our proposed rules in regard to requirements for training are necessary to ensure adequate training for staff.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Tami Meer, believes that school staff need to be trained in the most current, proactive methods and not methods that may cause students to become escalated. The commenter notes that there are “evidence-based alternative strategies” available to accomplish this training.

Analysis:

ISBE believes that all of the components outlined in the proposed rules in regard to training include the most proactive methods and alternative strategies.

Recommendation:

No changes will be made in response to this comment.

Comment:

Four commenters believe all staff in schools need systematic training on how to address mental health concerns and mechanisms in schools to assist students.

Comments were received from the following individuals:

Kylee Booth
Jordan Coleman
Jennifer Scott
Rhonda Walsh

Analysis:

ISBE believes that training in trauma-informed practices addresses mental health concerns in schools.

Recommendation:

No changes will be made in response to this comment.

Comment:

18 commenters suggest some or all of the following:

- (1) Clarify if training is required for staff who are using time out and physical restraint or if these training requirements are required only for staff members utilizing physical restraint.
- (2) Align training requirements to the length of the actual evidence-based training programs.
- (3) Define terms and procedures that may be unfamiliar to schools and practitioners and provide examples of what might meet these training requirements.
- (4) Determine if online training will be allowed under the rules.

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- (5) Determine if these topics must be covered in one specific training or if several trainings together would be sufficient.
- (6) Add a requirement that the staff member will receive a copy of the applicable State, federal, or local policy on physical restraint and time out.

Comments were received by the following individuals and organizations:

Tammy Beckham

Community Consolidated School District 59, submitted by Dr. Elizabeth DeGruy

Mrs. Jodi Cooper

Karen Ewing

Jill Hall

Richard Harp

Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein

Tarin Kendrick

Tammy McCollum

Mount Vernon City Schools, District 80, submitted by Aletta Lawrence

Kristina Neville

Ali Nordin

Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips

Jera Pieper

Wayne Stone

Dana Waggoner

Benay Walker

Leah Williams

Analysis:

For the commenters' suggestion in (1), ISBE feels this is already clarified in the proposed rules. For (2), because there are a lot of evidence-based training programs, ISBE does not feel it is best to align to just one and the eight-hour standard in the proposed rules is just a minimum. For (3), terms will be clarified in the revised guidance document. For (4), ISBE agrees that online training should be permissible, except for physical management training. For (5), the eight hours can be broken up as seen fit but that remains a local decision. ISBE agrees with the commenter's suggestion in (6).

Recommendation:

ISBE will clarify that online training is not permissible for physical restraint training. ISBE will change subsection (i) to include that trained staff members will receive copy of the district policies that cover isolated time out, time out, and physical restraint.

Comment:

The Community and Residential Services Authority, submitted by Dr. Robert Bloom and Debbi Smith, suggests more training hours than those in the proposed rules and extending the training throughout the school year. The commenter also suggests incorporating trauma-informed practices as part of the required training and that ISBE create a professional line staff for the employees who are on the front line and are involved with the restraints.

Analysis:

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The proposed rules have an eight-hour minimum of annual training; however, schools are able to provide additional training hours.

Recommendation:

No changes will be made in response to this comment.

Comment:

Four commenters note that the training should not be limited to the “safe application” of time out or physical restraint. The commenters also believe ISBE should determine and specify in the rules which type and level of training should be required for all staff and whether the type and level of training should be different for staff involved in imposing time out and physical restraint. Lastly, the commenter suggests that the rules require that as soon as is practicable, but no later than 60 days after the incident, all staff involved in the decision or implementation of physical restraint be retrained in the process of effective de-escalation, less restrictive interventions, and effective debriefing and strategies.

Comments were received from the following organizations:

Arc of Illinois, submitted by Meg Cooch

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Analysis:

ISBE believes that no differentiation should be made between time out and physical restraint because instances of time out can also turn into instances of physical restraint. ISBE also believes that our training requirements are sufficient.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Jan Altman, notes that the requirement of training eight hours every year to use a time out room is infeasible and providing two-year cycles for all five trainings would be more effective.

Analysis:

ISBE believes that annual training is important to ensure the safety of students and staff and the maintenance of staff knowledge.

Recommendation:

No changes will be made in response to this comment.

Comment:

14 commenters believe the eight hours of annual training requirement is not feasible without the allocation of additional funding. Some commenters suggest removing the eight-hour requirement until ISBE is prepared to fund the training and further recommends ISBE to maintain on its website a list of approved training programs.

Comments were received from the following individuals and organizations:

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Belleville Area Special Services Cooperative, submitted by Jeff Daugherty
Jim Carver
Centralia High School #200, submitted by Chuck Lane
Val Donnan
Four Rivers Special Education District, submitted by Christiane Pennell
Travis Friedrich
Illinois Council of School Attorneys, submitted by Bridget Trojan
Kaskaskia Special Education District #801, submitted by Cassie Clark
Andrew Larson
Mid-State Special Education, submitted by Angela K. Armour and Lyn Becker
Janah Sudduth-Mottola
Salem Elementary District No. 111, submitted by Dr. Leslie Foppe
Sangamon Area Special Education District, submitted by Mark Strawn
Tolono CUSD 7, submitted by Lanee Reichert

Analysis:

ISBE understands the need to fund educational programming and advocates for full funding every year.

Recommendation:

No changes will be made in response to this comment.

Comment:

Eight commenters note that a minimum of eight hours of annual training is inadequate to prepare school personnel for exercising best practices on the use of time out or physical restraint. The commenters recommend ISBE to increase the initial training hours and provide a list of approved programs and vendors.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun
Arc of Illinois, submitted by Meg Cooch
Dawn Albanese
Michael Heinrich
Mary Fahey Hughes
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen
Kim Woolridge

Analysis:

The proposed rules have an eight-hour minimum of annual training; however, schools are able to provide additional training hours, and ISBE expects schools to provide more training hours. ISBE appreciates the second comment and will look into maintaining that sort of list.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Education Association, submitted by Sean Denney, notes that the number of school personnel who are trained in physical, hands-on, crisis management should be limited and that, post-training,

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everyone in the building should know who those employees are. The commenter notes that only these employees should be asked to intervene when students are behaving in a way that is a danger to themselves or others.

Analysis:

ISBE believes that local school teams should determine how many people are trained in hands-on, crisis management and the protocol should include knowledge of who those people are.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Association of School Social Workers, submitted by Tom Tebbe, recommends requiring at least three trained staff members in each building and that all building administrators receive initial training with further training based on the needs of their building. The commenter also notes that schools serving the highest need students should take an annual refresher course.

Analysis:

ISBE believes the commenter's first concern is a local matter to be determined by the schools, and that the commenter's second concern is already addressed through the annual training.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Kristina Neville, believes both in-person and online training should be allowable for the specific training topics.

Analysis:

ISBE believes that the method of training is a local matter to be determined by the schools.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Statewide School Management Alliance, submitted by Brian D. Schwartz, recommends removing the requirement of eight hours of training and recommends an initial training with a refresher training every two years (rather than annually).

Analysis:

ISBE believes that annual training is necessary for those supervising a student in time out or involved in a physical restraint.

Recommendation:

No changes will be made in response to this comment.

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Comment:

The Crisis Prevention Institute Inc., submitted by Erik Dahlberg, suggests a formal refresher program every six to 12 months.

Analysis:

ISBE believes its eight-hour minimum for training covers the necessary components as described in our proposed rules.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Association of Private Special Education Centers, submitted by Sally Sover, suggests expanding the training requirements to any adult who has contact with a student for purposes of education, treatment, supervision, or support.

Analysis:

ISBE believes its minimum training requirements are adequate, and that decisions on expanding training requirements can be made at the local level.

Recommendation:

No changes will be made in response to this comment.

Comment:

The LEND organization, submitted by Peg Agnos, recommends ISBE to review training practices already in place, review who is receiving training, and determine efforts are not duplicated. The commenter notes that, because of the statewide staff shortage, individuals who are available in a therapeutic and highly specialized area are difficult to find.

Analysis:

ISBE believes its requirements for training are necessary. ISBE remains concerned about the teacher shortage, but believes adequately trained personnel are more likely to remain in the field.

Recommendation:

No changes will be made in response to this comment.

Comment:

The National Council on Independent Living, submitted by Kelly Buckland, suggests an additional eight hours of training annually on ways to build positive relationships with students who exhibit challenging behavior.

Analysis:

ISBE believes that building positive relationships with students is covered in our requirements for training on crisis de-escalation, restorative practices, and trauma-informed practices.

Recommendation:

No changes will be made in response to this comment.

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Comment:

One commenter, Alexandra Mroz, who is a paraprofessional at Marklund Day school, noted that she has undergone training to be certified in Professional Crisis Management (PCM), with a written and physical exam, and is trained immediately after a protocol is changed. She also notes that she undergoes PCM trainings monthly with physical practice.

Analysis:

ISBE appreciates the comment and information.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Kristine Jones, expressed the need for schools to have more trained staff members to implement the proposed rules, including a school social worker to work with parents and students, and that students need more therapeutic minutes at school. The commenter also suggests that the proposed rules include a requirement for school administrators to consult with a psychologist, social worker, nurse, or behavioral specialist to assess the need and effectiveness of physical restraint or time out as an intervention for a student that is at risk of harming himself or herself or others.

Analysis:

ISBE agrees with the commenter that there needs to be an appropriate amount of trained staff members in schools, which is why the proposed rules address training requirements. ISBE believes it's appropriate to have trained school service personnel, but that this is a local matter for school districts to address directly.

Recommendation:

No changes will be made in response to this comment.

Comment:

Arc of Illinois, submitted by Meg Cooch, notes that accessibility and communication concerns should be addressed in strategies of de-escalation.

Analysis:

ISBE appreciate the comment and will clarify these topics in our guidance documents.

Recommendation:

No changes will made to the proposed rules in response to this comment, but will be considered for guidance documents.

STATE COMPLAINT PROCEDURES

Comment:

12 commenters believe the rules should make clear that filing a complaint will not impact the student's or his or her parent's or guardian's ability to pursue other remedies, "such as due process," and the rules

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should permit the filing of anonymous complaints to alleviate the fear of retaliation. Some commenters suggest that the one-year limitation for filing a complaint with the State Superintendent should be tolled or extended if the parent or guardian does not receive timely notification of an incident of time out or physical restraint. Those commenters believe the parent or guardian should be able to file a complaint within one year of receiving proper notification.

Comments were received from the following organizations:

Access Living, submitted by Chris Yun

Arc of Illinois, submitted by Meg Cooch

Dawn Albanese

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Michael Heinrich

Mary Fahey Hughes

Illinois Association of School Social Workers, submitted by Tom Tebbe

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

National Council on Independent Living, submitted by Kelly Buckland

Analysis:

As policy, ISBE does not accept anonymous complaints because the agency cannot fully investigate the complaints in a fair and equitable manner. ISBE will maintain the one-year filing limitation to remain consistent with federal regulations.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, note that the complaint procedures lack detail regarding what happens once a complaint is filed and do not ensure that due process is provided to the parties involved. The commenter suggests mirroring the procedures to the special education State Complaint Procedures under Section 226.570.

Analysis:

ISBE agrees that greater clarity is needed regarding general education State complaint procedures.

Recommendation:

ISBE will add general education complaint procedures to subsection (k).

Comment:

The Illinois Association of Private Special Education Centers, submitted by Sally Sover, suggests that a school subject to the complaint be given the opportunity to respond to the complaint and provide information to the State Superintendent that should be considered as part of the complaint review. The commenter offers language that can be used to achieve this suggestion.

Analysis:

ISBE agrees that greater clarity is needed regarding general education state complaint procedures.

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Recommendation:

ISBE will add general education complaint procedures to subsection (k).

SCHOOL BOARD POLICY

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, suggests changing the first sentence of subsection (j) to: "Any use of time out or physical restraint permitted by a board's policy shall be implemented in accordance with written procedures that include":

Analysis:

ISBE agrees with the change because it ensures policies will be followed.

Recommendation:

The first sentence of subsection (j) will read: "Any use of isolated time out, time out, or physical restraint permitted by a board's policy shall be implemented in accordance with written procedures that include:"

Comment:

Nine commenters suggest the rules require ISBE to develop a standardized policy on the use of time and physical restraint that contains core language and principals that must be included in a board's policy under Section 1.285(j).

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Dawn Albanese

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Michael Heinrich

Mary Fahey Hughes

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE appreciates the comment and will reach out to the Illinois Association for School Boards to develop proposed standardized policies.

Recommendation:

No changes will be made in response to this comment.

Comment:

Proficio Consulting Group believes the board policy requirement should also apply to serving schools/other school entities that may not specifically have a "board".

Analysis:

ISBE believes all students are covered by their respective home school board policies.

Summary and Analysis of Public Comments

Recommendation:

No changes will be made in response to this comment.

DEFINITIONS

Comment:

42 commenters suggest defining various key terms throughout the rules, including “physical restraint,” “seclusion,” “restorative practices,” and “severe distress.”

Comments were received from the following individuals and organizations:

Dirk Aardsma

Karen Aardsma

Access Living, submitted by Chris Yun

Allendale Association, submitted by Jennifer Stiemsma

Arc of Illinois, submitted by Meg Cooch

Dawn Albanese

Mr. Jon Baricovich

Tammy Beckham

Mary Blake

Ellie Britton

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Community Consolidated School District 59, submitted by Dr. Elizabeth DeGruy

Community and Residential Services Authority, submitted by Dr. Robert Bloom and Debbi Smith,

Mrs. Jodi Cooper

Amanda Deaton

Equip for Equality, submitted by Cheryl R. Jansen

Karen Ewing

Jill Hall

Richard Harp

Michael Heinrich

Mary Fahey Hughes

Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Bev Johns

Kathy Johnson

Laurel Kaish

Tarin Kendrik

Legal Council for Health Justice, submitted by Barb Cohen

Kristal LeRette

Tammy McCollum

Mount Vernon City Schools, District 80, submitted by Aletta Lawrence

Ali Nordin

Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips

Jera Pieper

Christine Putlak

Christine M. Smith

Wayne Stone

Dana Waggoner

Summary and Analysis of Public Comments

Benay Walker
Dr. Troy J. Whalen
Leah Williams
Nancy Wojcik

Analysis:

ISBE agrees that more terms need clarification, but believes the clarity is better suited for our guidance documents rather than a change in the rules.

Recommendation:

No changes will be made in response to this comment in the proposed rules, but guidance documents will be updated.

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, suggests changing the definition of “physical restraint” to the following:

“Physical restraint” means holding a student or otherwise restricting a student's his or her movements. “Physical restraint” as permitted pursuant to this section includes only the use of specific, planned techniques ~~(e.g., the “basket hold” and “team control”).~~

1) “Prone physical restraint” means physical restraint in which a student is held face down on the floor or other surface and physical pressure is applied to the student’s body to keep the student in the prone position.

2) “Supine physical restraint” means physical restraint in which a student is held face up on the floor or other surface and physical pressure is applied to the student’s body to keep the student in the supine position.

Analysis:

ISBE agrees with the comment to change “his or her” to “student” for consistency and agrees to delete the examples. ISBE also agrees to add definitions for prone and supine restraints.

Recommendation:

Changes will be made to use the term “student” throughout the rules. Deletion of examples will be made. Definitions will be added.

Comment:

One commenter, Tricia Giron, expressed that the term “sensory break” would still allow a school to legally place a student in a locked seclusion room with no other person present and that schools will use this term as a loophole to the requirements in the rules. The commenter suggests adding language that better defines what is a valid reason for restraint or seclusion.

Analysis:

ISBE appreciates this comment and the commenter’s concern, but believes this issue is already addressed by the ban of locked seclusion rooms.

Recommendation:

No changes will be made in response in this comment.

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Comment:

Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips, notes that the definition of “time out” is confusing and vague. Specifically, the commenter wants to know the type of room that can be used for time out, its proximity to classmates, and if there can be blocking of egress by an adult.

Analysis:

ISBE believes the proposed rules already address the commenter’s concerns.

Recommendation:

No changes will be made in response to this comment.

Comment:

The National Council on Independent Living, submitted by Kelly Buckland, notes that “time out” must be defined as an emergency response, and that the definition should specify what constitutes a break or a sensory break.

Analysis:

ISBE believes the proposed rule changes address the time out definition. Definitions will be further clarified in revisions to the guidance document.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, suggests that the last sentence in subsection (a) should read: “Interventions that will not be considered a time out include, but are not limited to: a student-initiated or teacher-initiated break; a student-initiated for teacher-initiated sensory break, including a sensory room containing sensory tools to assist a student to calm and de-escalate; a student-initiated or teacher-initiated calming break; the use of study carrels or other similar, non-enclosed partitions within the classroom; or an in-school suspension or detention, or any other appropriate disciplinary measure that is imposed outside of the student’s classroom, including a student’s removal to the hallway or other environment.”.

Analysis:

ISBE believes its definition of “time out” in subsection (a) is adequate, but may provide further clarification of the term in its guidance documents.

Recommendation:

No changes will be made in response to this comment.

SUBSECTION (d)

Comment:

Summary and Analysis of Public Comments

12 commenters note that subsection (d)(1)(A) uses the language “the student poses a physical risk to himself, herself, or others” rather than “the student’s behavior presents an imminent danger of serious physical harm to the student or others,” which is the language that is used elsewhere throughout the proposed rules.

Comments were received from the following organizations:

Access Living, submitted by Chris Yun
Arc of Illinois, submitted by Meg Cooch
Dawn Albanese
Chicago Lawyers’ Committee for Civil Rights, submitted by Amy Meek
Equip for Equality, submitted by Cheryl R. Jansen
Illinois Association of School Social Workers, submitted by Tom Tebbe
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider
Michael Heinrich
Mary Fahey Hughes
National Council on Independent Living, submitted by Kelly Buckland
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

The language in this particular subsection cannot be changed because it is quoted directly from the Illinois School Code.

Recommendation:

No changes will be made in response to this comment.

Comment:

17 commenters suggest changing subsection (d)(2)(B) so that a staff member supervising the restraint must also end the restraint if he or she recognizes that the student may be in respiratory distress. As a conforming change, the commenters also suggest deleting (d)(2)(C).

Comments were received from the following individuals and organizations:

Tammy Beckham
Community Consolidated School District 59, submitted by Dr. Elizabeth DeGruy
Mrs. Jodi Cooper
Karen Ewing
Jill Hall
Richard Harp
Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein
Tammy McCollum
Mount Vernon City Schools, District 80, submitted by Aletta Lawrence
Ali Nordin
Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips
Jera Pieper
Wayne Stone
Dana Waggoner
Benay Walker
Brian Weems

Summary and Analysis of Public Comments

Leah Williams

Analysis:

ISBE agrees to this addition to the proposed language because it is more inclusive and better effectuates the intent of the rules. Because of this change, ISBE also agrees with the deletion of (d)(2)(C).

Recommendation:

Subsection (d)(2)(B) will state: “the student indicates that he or she cannot breathe or staff supervising the restraint recognizes that the student may be in respiratory distress.”. Subsection (d)(2)(C) will be deleted.

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, recommends moving subsection (d)(5)(A)-(F) to the first paragraph of the Section. The commenter also suggests adding the phrase “Section 504 plan” to subsection (d)(7)(G)(i) and (ii), (f)(4), and (f)(4)(B).

Analysis:

ISBE agrees with moving the language to the beginning of Section 1.285. ISBE also agrees with the addition of “Section 504 Plan” and “other plan of care,” but “other plan of care” in subsection (d), but feels it is not appropriate for subsection (f).

Recommendation:

The language from subsection (d)(5) will be moved and “federal Section 504” and “other plan of care” will be added to subsection (d)(7)(G)(i) and (ii).

Comment:

One commenter, Brian Weems, notes that in subsection (d)(7)(G), the use of the phrase “review the effectiveness of the procedures used” assumes that physical management is a teaching tool. The commenter suggests changing the language so that if a student requires a floor restraint, it is listed and reviewed as part of the student’s Crisis Plan in his or her BIP or, for a general education student, another domain.

Analysis:

This recommended change is already addressed in the proposed rules.

Recommendation:

No changes will be made in response to this comment.

Comment:

16 commenters suggest changing subsection (d)(3) to read: “The staff involved in physically restraining a student must periodically (at least every five minutes) assess the situation and the student to evaluate if the imminent danger of serious physical harm continues to exist. If the imminent danger of serious physical harm continues to exist, staff may continue to use the physical restraint.”

Comments were received from the following individuals and organizations:

Tammy Beckham

**Summary and Analysis of
Public Comments**

Community Consolidated School District 59, submitted by Dr. Elizabeth DeGruy
Mrs. Jodi Cooper
Karen Ewing
Jill Hall
Richard Harp
Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein
Tammy McCollum
Mount Vernon City Schools, District 80, submitted by Aletta Lawrence
Ali Nordin
Park Ridge-Niles School District #64, submitted by Dr. Lea Anne Frost and Ms. Angela Phillips
Jera Pieper
Wayne Stone
Dana Waggoner
Benay Walker
Leah Williams

Analysis:

ISBE believes “periodically”, without the inclusion of “at least every five minutes,” is more beneficial because staff must determine what is the best practice in each scenario of physical restraint. Five minutes may be too long or too short for certain scenarios.

Recommendation:

No changes will be made in response to this comment.

Comment:

10 commenters note that the Supine Review under Section 1.258(d)(7)(G) should also occur when a student is placed in time out on at least two separate instances within a 30-day school period. Those commenters note that that “if applicable” and “as appropriate” should be deleted from subsection (d)(7)(G)(i) and (ii).

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun
Arc of Illinois, submitted by Meg Cooch
Dawn Albanese
Chicago Lawyers’ Committee for Civil Rights, submitted by Amy Meek
Equip for Equality, submitted by Cheryl R. Jansen
Legal Council for Health Justice, submitted by Barb Cohen
Michael Heinrich
Mary Fahey Hughes
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider
Laurel Kaish

Analysis:

ISBE believes that the additional review requested by the commenters would put an undue burden on schools and school districts, and that the use of “if applicable” and “as appropriate” are necessary because the proposed rules apply to all students, not solely special education students.

Recommendation:

No changes will be made in response to this comment.

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Comment:

ED-RED, submitted by Sarah Hartwick, noted that, for the review under subsection (d)(7)(G), there is a possibility that the school personnel involved are two separate individuals and clarification is needed as to the appropriate individual to initiate this review. The commenter also notes that the language needs to be amended to better reflect the intent of the subsection, which is for school personnel to consider changes to future practices or if different interventions and supports may be needed. The commenter is also concerned with an overlap of documentation under subsections (g)(3) and (f)(3)(C) and recommends the use of one document. The commenter suggests that, under subsections (g) and (h), school districts have five school days to complete and submit the form to parents or the State Superintendent.

Analysis:

ISBE believes that schools can determine the specifics for this review at a local level, and the agency believes that the language addresses the intent of the Supreme Review. ISBE appreciates the commenter's comment on our documentation and will consider it as reviewing our forms.

Recommendation:

No changes will be made in response to this comment.

Comment:

Six commenters suggest adding the word "immediately" before "carry out" in subsection (d)(8).

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Dawn Albanese

Michael Heinrich

Mary Fahey Hughes

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE agrees the addition of the word "immediately" is appropriate.

Recommendation:

The applicable portion of subsection (d)(8) [which has been changed to (d)(7)] will state: "unless a student also demonstrates a means of or intent to immediately carry out the threat."

SUBSECTION (e)

Comment:

10 commenters suggest that in subsection (e)(1), a student should not be kept in time out for no longer than 30 minutes, rather than no longer than is reasonably necessary.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Arc of Illinois, submitted by Meg Cooch

Dawn Albanese

Summary and Analysis of Public Comments

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek
Equip for Equality, submitted by Cheryl R. Jansen
Legal Council for Health Justice, submitted by Barb Cohen
Michael Heinrich
Mary Fahey Hughes
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider
Laurel Kaish

Analysis:

ISBE feels that the "reasonably necessary" standard is best because it allows for variances between each student and scenario.

Recommendation:

No changes will be made in response to this comment.

Comment:

The National Council on Independent Living, submitted by Kelly Buckland, suggests that, given the subjective nature of "reasonably necessary" under subsection (e), the standard should be changed to if a student continues the presenting behavior for 45 minutes after the time out or restraint has been initiated, the student should be suspected of being in a medical or psychological crisis, and medical assistance should be summoned.

Analysis:

ISBE believes the proposed rules address appropriate actions for a supervising adult.

Recommendation:

No changes will be made in response to the comment.

IMMINENT DANGER OF SERIOUS PHYSICAL HARM

Comment:

13 commenters are concerned with the use of the word "serious" in the phrase "imminent danger of serious physical harm" because it may have unintended consequences when used elsewhere in IDEA. Also, the commenters note that the word is subject to interpretation and will put educators in an untenable position. The commenters suggest deleting the word each time it appears in that phrase.

Comments were received from the following individuals and organizations:

Belleville Area Special Services Cooperative, submitted by Jeff Daugherty
Jim Carver
Centralia High School #200, submitted by Chuck Lane
Four Rivers Special Education District, submitted by Christiane Pennell
Illinois Council of School Attorneys, submitted by Bridget Trojan
Illinois Statewide School Management Alliance, submitted by Brian D. Schwartz
Kaskaskia Special Education District #801, submitted by Cassie Clark
Andres Larson
Mid-State Special Education, submitted by Angela K. Armour and Lyn Becker
Salem Elementary District No. 111, submitted by Dr. Leslie Foppe
Sangamon Area Special Education District, submitted by Mark Strawn

Summary and Analysis of Public Comments

Janah Sudduth-Mottola
Tolono CUSD 7, submitted by Lanee Reichert

Analysis:

Because of the serious nature of the topic of these behavioral interventions, ISBE believes it is important to ensure that the application of those behavioral interventions is only utilized in instances of serious physical harm.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, suggests that, for consistency, the phrase “imminent danger of physical harm” should be added to the following subsections: (d)(2)(A), (d)(7)(B), (d)(7)(F), (d)(8), (e)(1), and (e)(2).

Analysis:

ISBE appreciates the comment, however, to establish a consistent standard throughout the rules, the rules will use the phrase “imminent danger of serious physical harm.”

Recommendation:

No changes will be made in response to this comment.

Comment:

Legal Council for Health Justice, submitted by Barb Cohen, recommends making the standard of “imminent danger of causing physical harm to the student or others” for both physical restraint and time out, rather than just time out. The commenter also notes that there should be a requirement of calling medical personnel or any other qualified individual to attend and end the restraint once the maximum duration of physical restraint is up.

Analysis:

ISBE notes that the proposed rules are clear in that it applies to both time out and physical restraint. ISBE also believes that the provisions regarding the duration of physical restraint are adequate.

Recommendation:

No changes will be made in response to this comment.

THREAT ASSESSMENT

Comment:

Six commenters suggest adding a threat assessment requirement even if a student is deemed to demonstrate an intent to carry out a threat.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun
Dawn Albanese
Michael Heinrich

Summary and Analysis of Public Comments

Mary Fahey Hughes
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE is unclear as to what a threat assessment means.

Recommendation:

No changes will be made in response to this comment.

OVERSIGHT/ACCOUNTABILITY

Comment:

15 commenters suggest setting up a panel to review time out rooms on school-by-school basis before issuing a State-wide mandate.

Comments were made by the following individuals and organizations:

Tammy Beckham
Community Consolidated School District 59, submitted by Dr. Elizabeth deGruy
Cheryl Charlton
Mrs. Jodi Cooper
Karen Ewing
Jill Hall
Richard Harp
Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein
Tammy McCollum
Mount Vernon City Schools, District 80, submitted by Aletta Lawrence
Jera Pieper
Wayne Stone
Dana Waggoner
Benay Walker
Leah Williams

Analysis:

ISBE believes that the proposed rules provide the appropriate specifications for time out rooms to ensure the safety of students and staff.

Recommendation:

No changes will be made in response to this comment.

Comment:

17 commenters suggest creating a permanent committee to provide oversight and monitoring on the use of physical restraint and time out in schools. Some commenters offer suggestions on who should comprise the committee and what the committee should accomplish.

Comments were received by the following individuals and organizations:

Tammy Beckham
Community Consolidated School District 59, submitted by Dr. Elizabeth DeGruy

Summary and Analysis of Public Comments

Mrs. Jodi Cooper
Val Donnan
Karen Ewing
Jill Hall
Richard Harp
Illinois Alliance of Administrators of Special Education, submitted by Dr. Kevin Rubenstein
Tammy McCollum
Mount Vernon City Schools, District 80, submitted by Aletta Lawrence
Ali Nordin
Jera Pieper
Wayne Stone
Dana Waggoner
Benay Walker
Leah Williams
Kim Woolridge

Analysis:

ISBE understands the need to monitor the effectiveness of regulations and intends to monitor this issue through making continued internal stakeholder communications and further regulatory changes.

Recommendation:

No changes will be made in response to this comment.

Comment:

78 commenters suggest increasing State-level accountability regarding the use of time out or restraint by (i) clarifying the rules' use of "last resort," (ii) putting an emphasis on proactive behavior supports for students, and (iii) requiring staff training in a nationally accredited crisis management system.

Comments were received from the following individuals:

Kristena Adamo
Ashley Arsenault
Kelsey Arsenault
Jennifer Bell
Shery Bochenek
Claire Boyd
Cheryl Bransford
Diana Calvillo
Ashley Casey
Amanda Clay
Lucy D'Avanzo
Alice Dean
Don Dean
LynnZee Debnar
Sarah Dillon
Sarah Donnelly
Juan Jose Sanchez Escobar
Ramon Esparza
Catherine Fitzgerald
Catherine Fitzgerald

Summary and Analysis of Public Comments

Michelle Fitzgerald
Charles and Margaret Galey
Alfonso Galvez
Coco Galvez
Emilia Galvez
Gabriela Galvez
Marisela Galvez
Christine Gillespie
Maribel Gonzalez
Javier Guijosa
Kevin Guijosa
Michelle Guijosa
Wendy Jacoby
Elizabeth Jain
Becky Kaufman
Kearsti-Rae Knowles
Becky Joy Kristula
Tina Kubes
Joy Lazzara
Katelyn Leid
Abby Lynch
Katherine Manetas
Gretchen Mann
Jason Mann
Candace Meneou
Suzanne Mitchell
Tara Oetting
Hiral Patel
Lily Paterno
Brooke Pawlak
Guy Pearson
Abigail Picinich
Alec Picinich
Leslie Picinich
Leslie Picinich
Amy Prchal
Sarah Puhr
Ashik Rahman
Holly Reinagel
Mary Reinagel
Sue Rossetti
Juan Sanchez
Giselle Sandi-Tapia
Ragan Shaffer
Robyn Shareef
Jennifer Slawski
Kaitlin Smith
John Smits
Angelina Strum
Mandie Taylor

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Unidentified commenter
Tricia Urbanowski
Cletus Van Damme
John Whittington
Laura Whittington
Liz Woodin
Shannon Woolley
Anne Zircher

Analysis:

ISBE believes that the additional training requirements are already addressed in the proposed rules and does not believe that nationally accredited crisis management necessary. ISBE also maintains that the proposed rules are already clear on the use of last resort.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois State Advisory Council on the Education of Children with Disabilities, submitted by Dr. Jennifer Naddeo, suggests ISBE to provide leadership to ensure that districts and joint agreements examine and address their professional development needs. The commenter notes that school staff must be self-regulated and highly skilled in their interactions with students to avoid escalation and use of time out or restraint as punishment or retaliation. Finally, the commenter highlights that schools needs more money to secure the personnel, training, and other resources to make substantive progress toward offering a safe and healthy learning environment for all students.

Analysis:

ISBE believes the training requirements in the proposed rules are adequate, and understands the need to fully fund educational programs and advocates for appropriate school funding every year.

Recommendation:

No changes will be made in response to this comment.

Comment:

12 commenters suggest the rules require ISBE to develop and maintain a centralized database for the information reported to the State Superintendent under Section 1.285(h) so that aggregate data can be analyzed and trends and practices can be identified. The commenters suggest making this data available annually on ISBE's website, to the Governor, and to the Committees on Education in the Senate and the House of Representatives. The commenters suggest adding specific information to this report that is also required in other states.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun
Dawn Albanese
Arc of Illinois, submitted by Meg Cooch
Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek
Equip for Equality, submitted by Cheryl R. Jansen
Loyola ChildLaw Center, submitted by Jackie Ross

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Michael Heinrich
Mary Fahey Hughes
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen
National Council on Independent Living, submitted by Kelly Buckland

Analysis:

ISBE acknowledges the benefit of aggregating data and analyzing trends of this information. ISBE is reviewing capacity to develop and maintain a database as described.

Recommendation:

No changes will be made in response to this comment.

Comment:

The Illinois Council of School Attorneys, submitted by Bridget Trojan, suggests requiring ISBE to publicly report data on the use time out and physical restraint annually. The commenter provides language that may be used for the reporting requirement.

Analysis:

ISBE acknowledges the benefit of reporting this information publicly and will determine the appropriate manner for doing so.

Recommendation:

No changes recommended for this comment

Comment:

12 commenters suggest the rules require ISBE to establish a process for ongoing review, monitoring, including independent monitoring, and auditing of the use of time out or physical restraint to ensure that the misuse of these practices is identified and stopped. The commenters also suggest requiring ISBE to establish enforcement methods and procedures to ensure schools fully comply with reporting requirements, with consequences for a failure to report.

Comments were received from the following organizations:

Access Living, submitted by Chris Yun
Dawn Albanese
Arc of Illinois, submitted by Meg Cooch
Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek
Equip for Equality, submitted by Cheryl R. Jansen
Michael Heinrich
Mary Fahey Hughes
Illinois Association of School Social Workers, submitted by Tom Tebbe
Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider
Laurel Kaish
Legal Council for Health Justice, submitted by Barb Cohen
National Council on Independent Living, submitted by Kelly Buckland

Analysis:

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ISBE believes these requirements are already included under ISBE's general supervision responsibilities.

Recommendation:

No changes will be made in response to this comment.

Comment:

10 commenters suggest requiring ISBE to establish improvement goals for schools to reduce and eventually eliminate the use of time out or physical restraint. The commenters suggest that schools be required to develop a plan and that these plans be submitted to ISBE for review, analysis, and ongoing monitoring for compliance.

Comments were received from the following individuals and organizations:

Access Living, submitted by Chris Yun

Dawn Albanese

Arc of Illinois, submitted by Meg Cooch

Chicago Lawyers' Committee for Civil Rights, submitted by Amy Meek

Equip for Equality, submitted by Cheryl R. Jansen

Michael Heinrich

Mary Fahey Hughes

Illinois Council on Developmental Disabilities, submitted by Kimberly Mercer-Schleider

Laurel Kaish

Legal Council for Health Justice, submitted by Barb Cohen

Analysis:

ISBE appreciates the comment and will discuss the subject matter internally.

Recommendation:

No changes will be made to the proposed rules in response to this comment.

Comment:

Allendale Association, submitted by Jennifer Stiemsma, requests to include consideration for guidelines for working in cooperation with DCFS, the Department of Human Services, and the Joint Commission. The commenter also requests that, rather than prescribing the type of meeting within the rules, the rules allow for other types of meetings to satisfy the meeting requirement.

Analysis:

ISBE appreciates the comment and will continue to work with our interagency departments. ISBE believes its meeting requirements are appropriate.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Bev Johns, suggests the following:

- (1) A hotline for calls when students are being abused and a thorough investigation of complaints.

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- (2) While ISBE collects forms about the use of time out and physical restraint, it should look at patterns of behavior that are occurring, preventative strategies that were implemented prior to its use, and the person supervising the interventions.
- (3) Mental health support services for students that is not dependent on parental insurance.
- (4) Supportive services for staff members who are working with students with the most significant behavioral challenges.
- (5) Ongoing review of laws and regulation.

Analysis:

ISBE maintains that all staff working in an educational setting are mandated reporters and must report suspected abuse through DCFS. ISBE agrees that all forms will be reviewed for the information stated in the above comments. ISBE believes training for staff members is sufficiently addressed in the proposed rules and will continue to review laws and regulations.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Donna M. Gruber, notes that there is nothing in the proposed rules that mandates by law that school districts and staff have to take steps to prevent these behaviors using interventions appropriate to the specific disability of the child, and no accountability or audit procedures from ISBE or outside of the State.

Analysis:

ISBE believes that the training requirements include appropriate preventative measures that take into account various disability categories. ISBE is also addressing accountability through its data collection system.

Recommendation:

No changes will be made in response to this comment.

Comment:

Loyola ChildLaw Center, submitted by Jackie Ross, suggests adding a provision that states, within three months of the rules being adopted, ISBE must form a statewide, multi-stakeholder task force to oversee and monitor the rollout of the new rules and policies. The commenter offers details on the membership of the task force and its duties.

Analysis:

ISBE believes its additional reporting requirements will increase oversight.

Recommendation:

No changes will be made in response to this comment.

Comment:

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Loyola ChildLaw Center, submitted by Jackie Ross, suggests that either ISBE, the referring district, or an independent monitor tour/observe any therapeutic day school or residential school to which it refers its students to ensure compliance to ISBE's rules.

Analysis:

ISBE already conducts evaluations and monitoring of non-public facilities under Part 401.

Comments:

No changes will be made in the response to this comment.

ILLINOIS FEDERATION OF TEACHERS

The Illinois Federation of Teachers, submitted by Daniel J. Montgomery, suggests the following:

- 1) Because the term "imminent danger" in the phrase "student's behavior presents an imminent danger of serious physical harm to the student or others" is subjective, ISBE should allocate funding for mandatory training on race, the history of race relations in the U.S., and implicit and explicit bias.
- 2) Clarification on "less restrictive and intrusive measures."
- 3) Clarification on what classifies a time out vs. "a brief removal" of a student to some different environment.
- 4) Clarifying whether one trained adult can supervise more than student in time out and what precautions will be developed to protect the safety of the adult.
- 5) Allocate funding for all staff to be thoroughly trained in physical restraint strategies and procedures to ensure they are applied, observed, and evaluated properly.
- 6) Clarifying how an administrator must take action under subsection (d)(7) if a school does not have a psychologist, social worker, nurse, or behavior specialist.
- 7) All staff be trained so that multiple individuals can serve as supervisors or evaluators of time out or physical restraint.
- 8) Results of the evaluation and any recommendations be shared with parents/caregivers of the student subjected to time out or physical restraint.
- 9) In subsection (h), add that an evaluation of the incident and recommended changes/adjustments be reported to ISBE within seven school days from the date of the incident. The commenter also suggests requiring ISBE to provide detailed feedback to the school district within 14 calendar days of the reported incident.
- 10) At least 30 hours of initial training with no less than 15 hours being face-to-face instruction. Also, at least 10 hours of re-training and continual development provided to all staff annually.

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- 11) ISBE convene education stakeholders to review, develop criteria, or create a high-quality training that districts can utilize.

Analysis:

- 1) The term “imminent danger” will be clarified in the ISBE guidance document. ISBE also believes that the training requirements in the proposed rules are sufficient.
- 2) This will be clarified in the ISBE guidance document.
- 3) ISBE believes this definition is clear.
- 4) ISBE believes that our rules are clear in that one trained adult cannot supervise more than one student.
- 5) ISBE understands the need to fully fund educational programs and advocates for appropriate school funding every year.
- 6) ISBE believes that best practice would be to consult with the personnel listed above.
- 7) ISBE believes that schools/districts must determine how many staff must be trained.
- 8) ISBE believes this information is included on the form.
- 9) ISBE will be developing a system for monitoring.
- 10) ISBE believes the eight-hour minimum is sufficient.
- 11) ISBE will be engaging stakeholder input in areas for professional development

Recommendation:

No changes will be made in response to this comment.

PROFICIO CONSULTING GROUP

Proficio Consulting Group seeks clarification for the following items:

- 1) The term “clearly defined area” in the first paragraph of Section 1.285. *This term was removed in response to another commenter.*
- 2) The terms “teacher-initiated sensory breaks” and “including a student’s brief removal to the hallway or similar environment” under subsection (a). *These terms will be defined in ISBE’s guidance document as a glossary item.*
- 3) Whether momentary periods of physical restriction for the purpose of removing a disruptive student would include escorts/transports that are approved by the Crisis Prevention Institute, Therapeutic Crisis Intervention, PCM, etc., and defining “momentary.” *This is addressed in the current guidance document.*
- 4) Ending a restraint when it appears to be causing a student severe “distress” because most students participating in a restraint are in severe distress. *Severe distress means that a student is having difficulty breathing, etc.*
- 5) Under subsection (d)(7)(A), where would the entity find this information? *If known, this would be in the student’s record.*
- 6) Who is a “school staff person trained in identifying the signs of distress” and what is the appropriate course of action if the particular restraint used in accordance with the school-wide approved system doesn’t have the fewest points of contact on a student during

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restraint? *The staff person is defined in training requirements in subsection (i). Restraints should comply with all requirements and not be used if unable to meet those requirements.*

- 7) Can supine restraint go longer 30 minutes? *Yes, if the conditions under subsection (d) are met.*
- 8) Will there be an online system by which the form will be submitted that will allow for the aggregation and analysis of data? *ISBE is considering methods for data collection that allow for the aggregation and analysis of data.*
- 9) Subsection (f)(3) seems to conflict with subsection (e)(1) for time outs. *Per a previous comment, we have removed subsection (f)(3).*
- 10) Under subsection (f)(4)(B), does a serving school have to also invite the referring school district for a full IEP meeting since a change in placement could be discussed? *Yes, if an IEP is held, the LEA representative would be required to participate.*
- 11) How much of the form under subsection (g)(3) must be sent to parents and guardians? *The entire form must be sent to parents/guardians.*
- 12) Is the eight-hour training requirement for each subparagraph and would training for a de-escalation system qualify? *The eight-hour minimum requirement pertains to all sections in their entirety. Training requirements include a component of crisis de-escalation.*
- 13) The use of spaces larger than isolated time out cells that may not be completely empty or may contain outlets. *Current rules clarify the requirements of enclosures.*

Analysis:

See the italicized responses above.

Recommendation:

No changes will be made in response to this comment.

MISCELLANEOUS

Comment:

Turning Pointe Autism Foundation, submitted by Bernadette Bassett, suggests defining an emergency use clause for when a student with a disability is in crisis and at imminent risk of harming self or others.

Analysis:

This comment is unclear.

Recommendation:

No changes will be made in response to this comment.

Comment:

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One commenter, Sarah Donnelly, expressed that the agency failed to address the possibility that the rules may require parents to make difficult decisions regarding administering medication or increasing medication levels for their children.

Analysis:

ISBE believes that the administration of medication is at parental discretion. The agency does not have a stance on the administration of medication.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Melanie Conley, suggests that the agency put out guidelines for “students with special education who have destructive outbursts that don’t necessarily qualify as a danger to self or others. For instance, students who destroy classroom property and continue to do so after being given multiple intervention options.”

Analysis:

ISBE will continue to review its guidance documents and will consider this commenter’s suggestion.

Recommendation:

No changes will be made to the proposed rules in response to this comment, but will the comment in review of the agency’s guidance documents.

Comment:

One commenter, Egan Hicks, believes visits and communication with professionals and school districts from members of the agency, the Governor’s Office, and the General Assembly should be a priority before making any changes to the rules regarding time out and physical restraints.

Analysis:

The agency has communicated and maintains communication with professionals and school districts on the use of time out and physical restraints.

Recommendation:

No changes will be made in response to this comment.

Comment:

One commenter, Marilyn Fawell, expressed concern over allowing special education students in the same classroom as regular education students.

Analysis:

ISBE appreciates the comment, but federal regulations require special education students to be educated in the general education environment to the greatest extent possible.

Recommendation:

No changes will be made in response to this comment.