

**COMMISSION ON SECLUSION & RESTRAINT IN
SCHOOLS**

November 17th, 2017
IDOE Offices, 6th Floor, PNC Building
115 W. Washington Street
Virgil Grissom Conference Room
1:30 P.M.

Commission Member Name	Title	Organization	Present (Y/N); note if by phone
Kelly Wittman	Chair	Indiana Department of Education	Y
Dr. Denis Ward	Co-Chair	Assoc. of Public School Superintendents	Y
Julie Burk	Member	Autism Society of Indiana	Y
Kim Dodson	Member	The Arc of Indiana	Y
Joan McCormick	Member	ICASE	Y
Stephen McCaffrey	Member	Mental Health America	Y
John Elcesser	Member	Nonpublic Education Association	Y
Nicole Hicks	Member	Parent	Y
Jean Renk	Member	Parent	N
Mike Johnson	Member	Indiana School Resource Officer Association (INSROA)	Y

Attendance: (Non-commission members):

Michael Moore	Director of Legal Affairs
Leslie-Ann James	Public Records Officer
Paris Walton	Legal Assistant

Meeting Minutes

I. Call To Order

- a. Chair, Kelly Wittman, called the Commission on Seclusion and Restraint in Schools to order at 1:38 PM, November 17th, 2017 at the Indiana Department of Education.

Motion to Approve Agenda- Joan McCormick

2nd by: John Elcesser

Motion to Approve Agenda: 8Y-0N

Motion to Approve 10.05.17 Minutes as Amended- John Elcesser

2nd by: Joan McCormick

Motion to Approve 10.05.17 Minutes as Amended: 8Y-0N

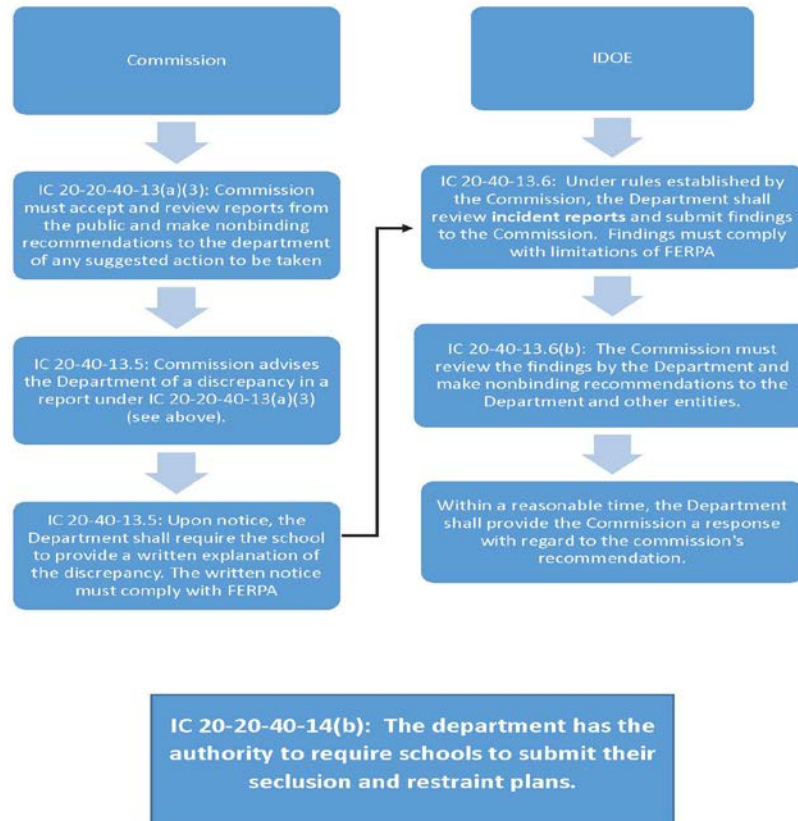
II. Revisiting Reporting Discussion per IC 20-20-40-13(a)(3), IC 20-20-40-13.5, IC 20-20-40-13.6

Michael Moore reviewed the incident reporting mechanism between the Commission and the Indiana Department of Education established in Senate Enrolled Act 61.

- a. *Section 2.3:* Requires the Commission to accept and review discrepancy reports from the public and make non-binding recommendations to the Department.
- b. *Section 3:* The Department for advising of a discrepancy, shall require a school to submit a written summary explaining the discrepancy, in which must be in compliance with FERPA.
- c. *Section 4:* The Department is required to review incident reports under rules established by the Commission, and submit findings to the Commission in a manner that does not violate FERPA. The Commission shall review an executive summary of the findings the Department provides and can make non-binding recommendations to the Department or to other entities (school). The Department can then share the Commission's recommendations with the entities.
 - i. The Department has the authority to require a school to submit their seclusion and restraint model plan

The Commission was provided a graphical summary of the reporting mechanism as outlined in SEA 61.

SEA 61 Reporting Tracks



The Commission agreed to receive high-level incident reports. The pending reported categories under the Commission's consideration:

- a. Not able to find the school's seclusion and restraint model plan
- b. A school reporting no incident reports, but seclusion and restraint did occur
- c. A school's seclusion and restraint model plan does not comply with the law

Based on the reports received by the Commission, the Department will reach out to schools and request further information such as a written explanation regarding the incident or provide professional development informed by the Commission's recommendations.

Joan McCormick asked Michael to explain the term incident report and wanted to know whether the Department has the ability to request incident reports since they are not currently received. Michael noted that although incident report is not defined in statute, the rules require that an incident be reported following the use of either seclusion or restraint. When used in SEA 61, it is assumed from the language used that it is the report after an incident of seclusion and restraint has occurred.

The Commission was then presented with new draft rules in response to SEA 61. The language in bold within the subsections are changes the Commission has agreed on and the language in purple are proposed changes to the current rules for the Commission to review and edit.

TITLE 513 COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

Rule 1. Definitions

513 IAC 1-1-1 Applicability

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 1. The definitions in this rule apply throughout this article. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-1; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-2 "Behavioral intervention plan" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-18-2-9

Sec. 2. (a) "Behavioral intervention plan" means a plan that is agreed upon by the case conference committee (as defined in IC 20-35-7-2 [*IC 20-35-7 was repealed by P.L.233-2015, SECTION 286, effective July 1, 2015.*]) and incorporated into a student's IEP (as defined in IC 20-18-2-9) and that describes the following:

- (1) The pattern of behavior that impedes the student's learning or the learning of others.
- (2) The purpose or function of the behavior as identified in a functional behavioral assessment.
- (3) The positive interventions and supports, and other strategies, to:
 - (A) address the behavior; and
 - (B) maximize consistency of implementation across people and settings in which the student is involved.
- (4) If applicable, the skills that will be taught and monitored in an effort to change a specific pattern of behavior of the student.

(b) The behavioral intervention plan seeks to maximize consistency of implementation across people and settings in which the student is involved. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-2; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-3 "Chemical restraint" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 3. "Chemical restraint" means the administration of a drug or medication to manage a student's behavior or restrict a student's freedom of movement that is not a standard treatment or dosage, or both, for the student's medical or psychiatric condition. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-3; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-4 "Commission" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40-11

Sec. 4. "Commission" refers to the commission on seclusion and restraint in schools established by IC 20-20-40-11. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-4; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-5 "Crisis intervention training" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 5. "Crisis intervention training" refers to training provided to selected staff members that addresses how to deal with aggressive, violent, or out of control behaviors. The term includes specific techniques for seclusion and restraint. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-5; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-6 "Deescalation" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 6. "Deescalation" means causing a situation to become more controlled, calm, and less dangerous, thus lessening the risk for injury to someone. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-6; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-7 "Functional behavior assessment" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40; IC 20-35

Sec. 7. "Functional behavior assessment" has the meaning set forth in 511 IAC 7-32-41. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-7; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-8 "Imminent" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 8. "Imminent" means likely to happen right away, within a matter of minutes. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-8; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-9 "Individualized education program" or "IEP" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40; IC 20-35

Sec. 9. "Individualized education program" or "IEP" has the meaning set forth in 511 IAC 7-32-48. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-9; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-10 "Mechanical restraint" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 10. (a) "Mechanical restraint" means the use of:

- (1) a mechanical device;
- (2) a material; or
- (3) equipment;

attached or adjacent to a student's body that the student cannot remove and that restricts the freedom of movement of all or part of the student's body or restricts normal access to the student's body.

(b) The term does not include:

- (1) a mechanical device;
- (2) a material; or
- (3) equipment;

that is used as authorized by a licensed physician or other qualified health care professional.

(c) The term does not include a bus harness or other safety equipment that is used to restrain a student during transport when the harness or safety equipment is necessary for safety purposes as provided under 575 IAC 1. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-10; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; errata filed Sep 30, 2014, 9:10 a.m.: 20141022-IR-513140385ACA*)

513 IAC 1-1-11 "Parent or guardian" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-18-2-13

Sec. 11. "Parent or guardian" has the same meaning set forth in IC 20-18-2-13. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-11; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-12 "Physical restraint" defined

Sec. 12. (a) "Physical restraint" means physical contact between a school employee, **including a school resource officer (as defined in this article)**, and a student:

- (1) in which the student unwillingly participates; and
- (2) that involves the use of a manual hold to restrict freedom of movement of all or part of a student's body or to restrict normal access to the student's body.

(b) The term does not include:

- (1) briefly holding a student without undue force in order to calm or comfort the student, or to prevent

unsafe behavior, such as running into traffic or engaging in a physical altercation;

(2) physical escort; or

(3) physical contact intended to gently assist or prompt a student in performing a task or to guide or assist a student from one (1) area to another.

(c) The term does not include the use of a bus harness or other safety equipment that is used to restrain a student during transport when the harness or safety equipment is necessary for safety purposes as provided under [575 IAC 1](#).

513 IAC 1-1-13 "Positive behavior intervention and support" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 13. "Positive behavior intervention and support" means a systematic approach that:

(1) uses evidence based practices and data driven decision making to improve school climate and culture; and

(2) includes a range of systematic and individualized strategies to reinforce desired behavior and diminish reoccurrence of problem behavior;

to achieve improved academic and social outcomes and increase learning for all students. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-13; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-14 "Prevention and conflict deescalation training" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 14. "Prevention and conflict deescalation training" means training that is provided broadly to school staff on how to prevent, defuse, and deescalate potential behavioral crisis situations without physical contact between a school employee and a student. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-14; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-15 "Prone physical restraint" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 15. "Prone physical restraint" refers to when a person is being held face down on a horizontal surface such as the floor. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-15; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-16 "Restraint" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 16. "Restraint" encompasses chemical restraint, physical restraint, and mechanical restraint. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-16; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-17 "School" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40-7

Sec. 17. "School" includes public, charter, and accredited nonpublic schools. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-17; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-18 "School employee" defined

Sec. 18. (a) "School employee" means any paid staff, contract employee, consultant, or any other agent of a school corporation, charter school, or an accredited nonpublic school;

(b) **For purposes of this article, the term "school employee" includes a school resource officer.**

Dr. Ward asked does the definition of contract employee change when a school district hires a police officer to act as security and the school does not provide the funding through the school resource grant but through athletic department funds. Michael answered that the funding does not change the definition or application of the rule. If a contract employee restrains or secludes they may be acting as an agent of the school if they do so while providing services to the school. The term agent is defined as "staff" under 513 IAC 1-1-20. Conversely, if a police officer entered a building, spotted illegal activity and restrained a student it would not be reported because they are not an agent of the school.

513 IAC 1-1-19 "Seclusion" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 19. "Seclusion" means the confinement of a student alone in a room or area from which the student physically is prevented from leaving. The term does not include a supervised time-out or scheduled break, as described in a student's IEP and during which an adult is continuously present in the room with the student. (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-19; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-1-20 "Staff" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 20. (a) "Staff" means any person with regular direct contact with a student, including:

- (1) paid staff school employee;
- (2) volunteer;
- (3) contract employee, **including any law enforcement employed by a school or providing services through a school's subcontractor;**
- (4) consultant; or
- (5) any other agent;

of a school corporation, charter school, or an accredited nonpublic school.

(b) The classifications in subsection (a) that meet the definitions shall be determined by the school/local plan.

(c) For purposes of this subsection (a)(5) of this rule, an agency relationship exists when there is:

- (1) a manifestation of consent by the school to the agent,
- (2) an acceptance of the authority by the agent, and
- (3) control exerted by the school over the agent.

513 IAC 1-1-21 "Substantial risk" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 21. "Substantial risk" means a situation where there is:

- (1) serious, imminent threat of bodily harm; and
- (2) the immediate ability to enact such harm.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-21; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)

513 IAC 1-1-22 "Supine physical restraint" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 22. "Supine physical restraint" refers to a person being held face up on a horizontal surface such as the floor. *(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-22; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-1-23 "Time-out" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 23. "Time-out" means a behavior reduction procedure in which access to reinforcement is withdrawn for a certain period of time. Time-out occurs when the ability of a student to receive normal reinforcement in the school environment is restricted. *(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-23; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-1-24 "Volunteer" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 24. "Volunteer" means a person who is eighteen (18) years of age or older, has regular and direct contact with students, and donates time, energy, or talent to various phases of school programs under the direction and permission of school district personnel for which the person does not receive monetary compensation. *(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-24; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-1-25 "School resource officer" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 25. "School resource officer" has the same meaning as IC 20-26-18.2-1.

Rule 2. General Provisions

513 IAC 1-2-1 Scope

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 1. (a) This article applies to the following:

- (1) All public school corporations, charter schools, or accredited nonpublic schools.
- (2) All public school corporations, charter schools, or accredited nonpublic schools students regardless of whether student has been identified as eligible for special education services.
- (3) All programs and services subject to the supervision of the state educational agency, including before and after school extracurricular activities programs conducted by or through the following:
 - (A) Public school corporations.
 - (B) Charter schools.
 - (C) Special education planning districts.
 - (D) State agencies.
 - (E) Other public agencies.

(b) *[Voided by P.L.227-2017, SECTION 8, effective July 1, 2017.] (Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-1; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-2-2 Commission's principles

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 2. (a) Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.

(b) Any behavioral intervention must be consistent with the student's rights to be treated with dignity and to be free from abuse.

(c) Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.

(d) Physical restraint or seclusion should not be used except in situations where the student's behavior poses imminent risk of injury to self or others and other interventions are ineffective and should be discontinued as soon as imminent risk of injury to self or others has dissipated. *(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-2; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-2-3 Use of behavior intervention and support

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 3. A school shall use prevention, positive behavior intervention and support, and conflict deescalation strategies to eliminate or minimize the need for the use of any of the following:

- (1) Seclusion.
- (2) Chemical restraint.
- (3) Mechanical restraint.
- (4) Physical restraint.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-3; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)

513 IAC 1-2-4 Prevention

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 4. (a) Every effort shall be made to prevent the need for the use of restraint or for the use of seclusion on a student.

(b) Seclusion or physical restraint shall not be used except when used as a last resort in situations where:

- (1) the student's behavior poses imminent risk of injury to self or others; and
- (2) other less restrictive interventions are ineffective.

(c) Any use of seclusion or restraint:

- (1) may only be used for a short period of time; and
- (2) shall be discontinued as soon as the imminent risk of injury to self or others has dissipated.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-4; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)

513 IAC 1-2-5 Mechanical and chemical restraints prohibited

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 5. (a) Except as provided in subsection (d), the use of mechanical restraints to restrict a student's freedom of movement is prohibited.

(b) The use of any drug, medication, or other chemical to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health care professional) is prohibited.

(c) Schools shall never give a student any drug or medication that is not a standard treatment or dosage, or both, for the student's medical or psychiatric condition unless otherwise prescribed by a physician.

(d) While transporting a student on a moving vehicle, a bus harness or other safety equipment may be required and is permissible for safety purposes. The use of any bus harness or safety equipment that is used to restrain a student during transportation must be documented. *(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-5; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-2-6 Training

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 6. (a) Staff shall be trained according to the school's adopted plan on the appropriate use of effective alternatives to physical seclusion and restraint, such as positive behavioral interventions and supports, and, only for cases involving imminent risk of injury, on the safe use of physical seclusion and restraint.

(b) Each school shall identify appropriate school staff to be trained on the safe use of effective alternatives to physical seclusion and restraint. Recurrent training of staff should be done in accordance with the school's plan.

(c) Each school shall choose a training protocol that includes the following:

- (1) Positive supports and behavioral interventions techniques.

- (2) Conflict deescalation techniques.
- (3) The safe use of seclusion and restraint.
- (4) Steps to avoid the use of seclusion or restraint.
- (5) Debriefing practices and procedures.

(d) Training programs shall differentiate for levels of school personnel and training needs.

(e) Each school must maintain documentation that includes the following information:

- (1) The name and position of each person who has completed training.
- (2) Who provided the training.
- (3) When the training was completed.
- (4) What protocols and techniques were included in the training.

(f) Training may be provided by any person who is trained in the current best practices of the protocols listed in subsection (c). (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-6; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-2-7 Monitoring and reporting

Sec. 7. (a) Every ~~instance~~ **incident** in which seclusion or restraint is used shall be carefully and continuously visually monitored to ensure the safety of the following:

- (1) The student.
- (2) Other students.
- (3) Teachers.
- (4) Staff.

(b) Immediately after the student has restored emotional and behavioral control following the use of restraint or seclusion, or both, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the seclusion or restraint.

(c) The building administrator or designee shall attempt to report every ~~instance~~ **incident, including every incident involving a school resource officer (as defined in this article)**, in which seclusion or restraint is used on a student to the student's parent or guardian:

- (1) no later than the end of the school day or as soon as practical;
- (2) verbally; and
- (3) in accordance with the seclusion and restraint plan adopted by a school.

(d) **In addition to the verbal notice described in subsection (c),** ~~W~~ritten notification, as described in the school's adopted plan, must also be sent to the student's parent or guardian after every ~~instance~~ **incident** in which seclusion or restraint is used on a student. **Such notice** ~~and~~ shall be provided as soon as practical.

(e) Public school corporations **and charter schools** shall report the number of ~~instances~~ **incidents, including the number of incidents involving a school resource officer (as defined in this article)**, in which either seclusion or restraint is used in its annual performance report required by [IC 20-20-8-3](#).

(f) **A school resource officer is "involved" in an incident of restraint or seclusion of a student, when the school resource officer:**

- 1. directs the restraint or the seclusion of a student;**
- 2. assists with the restraint or seclusion of a student; or,**
- 3. initiates the seclusion or restraint of a student.**

~~(f) Each charter school shall report the number of instances, including instances involving school resource officers, in which either seclusion or restraint is used in its school to its sponsor. A charter school's sponsor shall report the number of instances in which a charter school has reported the use of either seclusion or restraint in its annual report, described in [IC 20-24-9-1](#).~~

- (g) Each accredited nonpublic school shall report, in writing, the number of instances **incidents** in which either seclusion or restraint is used in its school to its governing authority.
- (h) Each school must conduct an annual review of its plan for the purposes of improvement and revision.

513 IAC 1-2-8 Distribution of school seclusion and restraint policy or plan to parents and the public

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 8. (a) Each school shall make available a copy of the school's seclusion and restraint plan to the student's parents or guardians, or to the student if the student is at least eighteen (18) years of age and the provisions of 511 IAC 7-43-5(b) do not apply.

(b) Including the location of the plan in the student handbook satisfies subsection (a). (*Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-8; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA*)

513 IAC 1-2-9 Incident documentation

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 9. (a) Every ~~instance~~ **incident** which seclusion or restraint is used on a student shall be documented in order to memorialize the events that led up the use of either seclusion or restraint.

(b) Documentation may include the following:

- (1) The student's name.
- (2) The date and time of the incident.
- (3) The duration of any seclusion or restraint or the beginning and ending times of the restraint or seclusion, or both.
- (4) A description of any relevant events leading up to the incident.
- (5) A description of the incident or student behavior that resulted in implementation of seclusion or restraint including a description of the danger of injury which resulted in the seclusion or restraint.
- (6) A description of relevant interventions used immediately prior to the implementation of seclusion or restraint.
- (7) A summary of the student's behavior during seclusion or restraint, including a description of the restraint technique or techniques used and any other interaction between the student and staff.
- (8) A description of any injuries to students, staff, or others or property damage.
- (9) A list of the school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint.
- (10) If applicable, a statement that the intervention used was consistent with the student's most current behavioral intervention plan or IEP.

(c) **The department shall, annually, review incident reports from not more than three percent (3%) of schools, which schools shall be chosen at random by the department.**

The Commission discussed how they will determine the type of schools and percentage of incident reports that will be subject for review by the IDOE. Members suggested randomly selecting schools through an algorithm to looking at the total seclusion and restraint submitted through the yearly data collection. It is the discretion of the Commission to determine whether Department will review a sample of incident reports from selected schools or review all incident and seclusion incident reports. The Commission reiterated that the purpose of this review is to provide positive feedback to schools in regards to seclusion and restraint to reduce the amount of seclusion and restraints used in schools.

(d) Upon request, each school selected for review under subsection (c) shall provide the department, in a manner prescribed by the department, with a copy any incident report involving the use of seclusion or restraint of a students.

(e) Upon request by the department, each school shall provide a copy of the school's seclusion and restraint plan under section 11 of this rule.

(f) The Department shall provide the Commission with a summary report of the Department's annual review. The summary report shall be in a manner and form prescribed by the Commission.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-9; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; errata filed Sep 30, 2014, 9:10 a.m.: 20141022-IR-513140385ACA)

513 IAC 1-2-10 Debriefing session

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 10. (a) As soon as practical, and consistent with the school's plan, after every ~~instance~~ **incident** in which seclusion or restraint is used on a student, the school administrator or designee shall do the following:

(1) Meet with at least one (1) school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint to discuss whether proper restraint or seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion.

(2) Direct a proper staff person, including the administrator himself or herself, to debrief the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior or behaviors, if any, that precipitated the use of restraint or seclusion.

(3) In accordance with the school's plan, provide a copy of an incident report and offer the parent or parents or guardian or guardians the opportunity to request a meeting regarding the incident of restraint or seclusion.

(b) When applicable, the procedures described in 511 IAC 7-44-5 should be followed. *(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-10; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)*

513 IAC 1-2-11 Seclusion and restraint plan

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 11. (a) No later than July 1, 2014, each Indiana school corporation, charter school, and accredited nonpublic school must adopt a seclusion and restraint plan. At a minimum, each seclusion and restraint plan shall include the following:

(1) A statement on how:

(A) students will be treated with dignity and respect; and

(B) appropriate student behavior will be promoted and taught.

(2) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to eliminate or minimize the need for use of any of the following:

(A) Seclusion.

(B) Chemical restraint.

(C) Mechanical restraint.

(D) Physical restraint.

(3) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or IEP, if applicable.

(4) Definitions for restraint and seclusion, as defined in this article.

(5) A statement ensuring that if a procedure listed in subdivision (2) is used, the procedure will be used:

(A) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and

(B) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.

(6) An indication that restraint or seclusion may be used only for a short time period or until the imminent risk of injury has passed.

(7) A documentation and recording requirement governing ~~instance~~ **incident** in which procedures listed in subdivision (2) are used, including:

(A) how every incident will be documented and debriefed;

(B) how responsibilities will be assigned to designated employees for evaluation and oversight; and

(C) designation of a school employee to be the keeper of such documents.

(8) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in subdivision (2).

(9) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in subdivision (2).

(10) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others. Consideration must be given to available school resources and the time commitments of school employees.

(b) The Department shall accept reports from the public regarding school restraint and seclusion plans, which reports shall be limited to:

(1) lack of compliance between a school's seclusion and restraint plans and the requirements of Indiana code 20-20-40-1 et seq. and the requirements of subsection (a);

(2) the availability of a school's plan as described in 513 IAC 1-2-8; and

(3) the reporting of incidents of seclusion or restraint, including the reporting of the use of seclusion or restraint by a school's resource officer.

- (c) The department shall provide the Commission with a summary of the reports received.
- (d) The summary report must comply with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99).
- (e) The Commission, after reviewing the summary from the department, may instruct the department to require a school to provide a written explanation regarding a report.
- (f) Upon request, each school shall provide to the department with a written explanation and response to any questions posed by the Department. The school shall provide the explanation in a manner prescribed by the Department.
- (g) After review of the explanation by the school and any supporting documentation, the department shall provide a summary of the department's findings.
- (h) Based on the department's finding, the Commission may make recommendations to the department may make nonbinding recommendations to the department or other entities related to professional development to the school related to the use of seclusion or restraint, these rules or IC 20-20-40-1 et. seq.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-11; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA)

III. Reports Related to the Use of Seclusion & Restraint Form

The incident report form will be changed to reflect that the Department and not the Commission would be the recipient. The language will make it clear that the Department under the direction of the Commission will be the recipient of the incident report forms and share high level concerns with the Commission. The report will be downloadable and fillable form available on the Commission site.

IV. Closing Comments

- a. Kim Dodson spoke with Representative Behning in regards to the Commission's voting structure. Currently, only the representatives of Autism Society of Indiana, Arc of Indiana, Indiana Council of Administrators of Special Education, Mental Health America, and the Superintendent's designee can nominate and vote for the parent representatives.
- b. Kelly Wittman put forward the suggestion of possibly adding a building principal or teacher as a member to the Commission on the Seclusion and Restraint. This chosen prospective member could be selected by the Indiana Association of School Principals.
- c. The next Commission meeting will take place at the Indiana Department of Education on December 19th, 2017 at 2:00 pm. Commission members have the option of attending the meeting via telephone.

Motion to Adjourn Meeting- Mike Johnson

2nd by: John Elcesser

Meeting adjourned Approved: 9Y-0N