USOE R277-608 Proposed Changes & LRBI Update

R277-608-Prohibition of Corporal Punishment in Utah's Public Schools

Purpose:

The purpose of this rule is to direct LEAs to have policies in place that prohibit corporal punishment consistent with the law, and develop, implement, and monitor written policies to govern the use of emergency safety interventions for all schools and all students within its jurisdiction.

Key Changes:

- "Emergency Safety Interventions" means the use of seclusion or physical restraint when a student presents an immediate danger to self or others, and are not for disciplinary purposes.
- "Emergency" means the imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm.
- "Seclusion", when used with a student, means that all the following conditions are met:
- (1) The student is placed in an enclosed area by school personnel;
  (2) The student is purposefully isolated from adults and peers, and
  (3) The student is prevented from leaving or reasonably believes that he or she will be prevented from leaving, the enclosed area.
- "Physical restraint" Personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely.
- "Program" means instructional or behavioral programs including those provided by contract private providers under public schools, that receive public funding or for which the USOE has regulatory authority.
- School Resource Officers (SROs) when an emergency situation occurs on school property that requires the immediate use of an emergency safety intervention to protect the student or others from harm; SRO must follow rule and reporting requirements.
- An LEA's student code of conduct policies regarding corporal punishment and the use of emergency safety interventions shall be made available to the public. Written policies shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, or student handbook, or any combination of these.
- The LEA will form a local Emergency Safety Intervention Committee. The Emergency Safety Intervention Committee will meet:
  1) Meet Often enough to monitor the use of emergency safety interventions in the LEA;
  (2) Determine and implement training needs; and
  (3) Develop policies for local dispute resolution processes to address concerns regarding disciplinary actions.
- When an emergency situation occurs that requires the immediate use of an emergency safety intervention to protect the student or others from harm, a school shall:
  (1) Notify LEA and the student's parent or guardian within 24 hours.
  (2) An incident review committee shall convene within five days of an incident. The committee shall include at a minimum the adult witnesses, a school administration representative, a school mental health professional, at least one family member of the student, and the student when appropriate. The committee will determine what assessments are needed, what positive behavior interventions should be implemented, and ways to prevent emergency safety interventions in the future.
- The school will maintain documentation of any incident requiring the use of an emergency safety intervention, which shall include the date and time of the intervention, the type of intervention, the length of time the intervention was used, the school personnel who participated in or supervised the intervention, any injuries to student or staff which may have occurred as a result of the intervention, and how the parent/guardian was notified.

- The LEA shall have procedures for the collection, maintenance, and periodic review of the use of emergency safety intervention at each school, which shall include the documentation described in (4)(G).
- Information maintained by the school or program shall be compiled and submitted at least biannually to the LEA superintendent or LEA designee.
- Documentation of any school, program or LEA's use of emergency safety interventions shall be provided to the USOE upon written request of the USOE.
- LEAs shall have in place, as part of their LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions in accordance with state and federal law.
- In accordance with Utah's Program Improvement and Planning System (UPIPS) a periodic review of special education behavior plans, procedures or manuals, and emergency safety intervention data as related to IDEA eligible students will occur.

Points of Interest:

Misuse & Abuse of Seclusion and Restraint Practices:

- Allegations of death and abuse between 1990 and 2009 due to the use of seclusion and restraints (the United State Government Accounting Office, 2009).
- Great potential for misuse and abuse if staff are untrained or if implementation is inconsistent (Jenson & Reavis, 1996).
  - Assuming timeout will work for every student, for all types of behaviors, in all settings and not changing timeout procedures or parameters if the data indicates it is not working (Jenson & Reavis, 1996).
- Effects of professional staff training (Ryan, Peterson, Tetreault, and Vander Hagen, 2007).
  - Staff training reduces injury (Benedictis et al., 2011; Stewert, 2001; Yankouski, 2012).
- Treatment integrity & function of a student behavior problem related to timeout success or failure (Taylor and Miller, 1997).

Regulations of Seclusion and Restraints:

- 30 states have statute/regulation protecting against seclusion and restraint; 13 have laws covering all students while others only protect students with disabilities (Vaillancourt & Klotz, 2012).
- Secretary Duncan encouraged the review and publication of policies and guidelines for each state (United States Department of Education Restraint and Seclusion Resource Document, 2012).
- Limited focus on effective implementation & training with children (Warzak, Floress, Kellen, Kazmerski, and Chopko, 2012).

Legal Issues:

- Seclusion and restraint frequently used despite lack of research, controversy, lawsuits and due process hearings (Marquez, 2009-2010; Rozalski, Yell, & Boreson, 2006).
- Cases based on violation of IDEA or under Section 504 and/or fourth, eighth, fourteenth Amendments (Rozalski, Yell, & Boreson, 2006).
  - 10 key principles in policies regarding timeout in school settings.
- Children's Health Act 2000 protects children against abusive seclusion and restraint practices in facilities receiving Medicaid (Vaillancourt & Klotz, 2012).

Confusion and Differences with Timeout vs. Seclusion Practices

	Time Out	Seclusion
Use	Behavior management technique	Protection technique
Duration	Short periods of time	Generally at maximum 55 minutes
Materials	Separation gradient	Shut and locked door
Effectiveness	Needs a reinforcing environment	Needs only a separate room to be successful
Implemented	Mostly by parents and educators	Generally physician ordered
Procedure	Generally planned and listed on an IEP	Generally an emergency procedure
Restrictiveness	Generally does not restrict the movement of the person	Under law (Children's Health Care Act, 2000) it is defined as physically restricting or immobilizing the person
Involvement	May be unnecessary to obtain parent agreement if used within the classroom	Should always be discussed and agreed to by the parent before implementation
Prior to Use	Not always necessary to provide a formal explanation prior to sue	Requires a concise explanation prior to use

Stakeholder Input Process

Stakeholder Meeting Held:
March 31st, 2014
1:00PM to 3:00PM
USOE

Goggle Doc Link:
https://docs.google.com/forms/d/1kWtti7pfVB6oUatEjDtkXP-_uIGFmxSutMNMA8YSxXs/viewform
Deadline 5/30/14

LRBI Updates:

I. Standards for Student Conduct and Discipline Policies		
53A-11-901	R277-609	*Public school discipline policies. Basis of the policies. Enforcement.*
53A-11-902	R277-609	*Conduct and discipline policies and procedures.*
53A-11-910		*Disruptive student behavior.*
53A-15-301		*Education programs for students with disabilities.*
	R277-613	*Bullying and Hazing; Bullying, cyber-bullying, harassment, hazing, and retaliation policy.*
I. Prevention		
53A-11-906		*Alternatives to suspension and expulsion.*
	R277-609	*Standards for discipline plan.*
	R277-609-3	*Responsibility for plan development.*
		Utah Effective Teaching Standards
II. Interventions		
	R277-609-4	*Plan implementation.*
		Least Restrictive Behavior Interventions Guidelines (LRBI)
53A-11-902		*Conduct and discipline policies.*
53A-11-906		*Alternatives to suspension and expulsion.*
III. Grounds for Removal from School		
53A-11-904	R277-609	*Grounds for suspension or expulsion from a public school.*
	R277-609-3	*Disruptive student behavior.*
	R277-607	*Truancy.*
53A-15-301	R277-613	*Bullying, cyber-bullying, harassment, hazing, and retaliation policy.*
IV. Consequences of Misconduct		
53A-11-402		*Criminal consequences of bullying.*
53A-11-903	R277-609-5	*Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.*
53A-11-904		*Weapons violations.*
53A-11-905	R277-609	*Delegation of authority to suspend or expel. Procedure for suspension. Readmission.*
53A-11-906	R277-609-3	*Alternatives to suspension and expulsion.*
53A-11-907	R277-609-3	*Student suspended or expelled. Responsibility of parent or guardian. Application for students with disabilities.*
53A-11-802	R277-608	*Prohibition of corporal punishment. Use of reasonable and necessary physical restraint or force.*
V. Parental Notification		
	R277-609-4	*Notice of conduct and discipline policies*
53A-11a-203		*Parental notification of suicide threat or bullying.*
53A-11-903	R277-609-5	*Notice to parents of suspension or expulsion.*
	R277-483-4	*Persistently dangerous schools.* (Title IX.E.2. Section 9532)
VI. Training for staff, students, and parents		
53A-11a-401		*Bullying prevention training.*
53A-11-301-2	R277-613	*Bullying and Hazing; Bullying, cyber-bullying, harassment, hazing, and*

		retaliation..
53A-11-908	R277-609-3	*Extracurricular activities. Prohibited conduct. Reporting of violations. Limitation of liability.*
53A-15-1302	R277-411	*Youth protection–related issues.*
VII. Evaluation and Reporting		
53A-3-602.5		*School performance report. Student discipline and actions taken.*
	R277-609-3	*Conduct and discipline plan effectiveness.*
	R277-607-3	*Truancy and attendance.*
Public Law 107-110		*No Child Left Behind-Elementary and Secondary Education Act 2002*

LRBI Discussion Group

May 29th, 2014
1:00-3:30
USOE – South Boardroom
Register to Attend: Aileen.Pace@schools.utah.gov

Please share with your staff members that would be interested in attending this meeting participation is critical to the LRBI revision process

Questions or concerns please contact: Carol.Anderson@schools.utah.gov