

EXHIBIT 1

Proposed Revisions to 281 IAC Chapter 103 Iowa Department of Education Administrative Rules

Chapter 103 Corporal Punishment, Restraint, Seclusion, and Other Contact with Students

281–103.1(256B, 280) Purpose and Objectives. The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, chemical restraint, prone restraint, and material restraint are prohibited, explain the parameters and protocols for the use of physical restraint and seclusion in emergency situations, and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions, does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to promote the care, safety, welfare, and security of the school community and the dignity of each child; encourage the use of proactive, effective, evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors, and increase meaningful instructional time for all students; ensure that seclusion and physical restraint are used only as a last resort in an emergency situation and are subject to diligent assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or to be used only in emergencies.

281–103.2 (256B, 280) Definitions. For the purposes of this Chapter:

1. “Corporal Punishment” means the intentional physical punishment of a student. It includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.
2. “Chemical Restraint” means the use of a drug or medication to control behavior or restrict freedom of movement which is not:
 - a. prescribed by a licensed physician or other qualified health professional acting under the profession’s scope of practice for standard treatment of the child’s medical or psychiatric condition; and
 - b. administered as prescribed by a licensed physician or other qualified health professional acting under the professional’s scope of practice.
3. “Emergency Situation” means a situation in which a child’s behavior poses an immediate threat of serious bodily injury to the child or others.
4. “Employee” includes paid or unpaid individuals, including contract personnel who provide services or supports to a school, and have contact with students.
5. “Material Restraint” means the use of a device or object to restrict the movement of a child or the movement or normal function of a portion of the child’s body. Material restraint does

not include a protective or stabilizing device ordered by a licensed physician, or a vehicle safety restraint when used as intended during the transport of a child in a moving vehicle.

6. “Physical Restraint” means a personal restriction that immobilizes or reduces the ability of a child to move the child’s arms, legs, body, or head freely. Physical restraint does not include material restraint or chemical restraint. Physical restraint does not include the touching or holding of a child for the purpose of directing the child or assisting the child in completing a task or activity.
7. “Prone Restraint” means any restraint in which the child is held face down on the floor.
8. “School” includes public school districts, accredited nonpublic schools, and area education agencies.
9. “Seclusion” means the involuntary confinement of a child alone in a room or area from which the child is prevented from leaving. Seclusion does not include time outs, which are behavior management techniques that involve the monitored separation of the child in a non-locked setting, and are implemented for the purpose of calming. Seclusion does not include reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility, unless the detention takes place in a seclusion room or amounts to seclusion or physical restraint;
10. “Seclusion Room” means a room or other enclosure, whether within or outside the classroom, designated for the use of seclusion. In order to qualify as a seclusion room, the room or enclosure can only be used in emergency situations and must meet or exceed the requirements of this chapter.

281–103.3 (256B, 280) Ban on corporal punishment. An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student.

281–103.4 (256B, 280) Activities that are not considered corporal punishment. Corporal punishment does not include the following:

- Verbal recrimination or chastisement directed toward a student;
- Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
- Actions consistent with and included in an individualized education program developed under the Individuals with Disabilities Education Act, as reauthorized, Iowa Code chapter 256B, and 281–Chapter 41; however, under no circumstance shall an individualized education program violate the provisions of this chapter;
- Reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility, unless the detention is accomplished through the use of materials restraints as defined in this chapter, takes place in a seclusion room, or amounts to seclusion or physical restraint;

- Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of a school employing or utilizing the services of the employee.

281–103.5 (256B, 280) Use of Reasonable and Necessary Force. Notwithstanding the ban on corporal punishment in rule 103.3, no employee subject to these rules is prohibited from:

1. Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the following:
 - To quell a disturbance or prevent an act that threatens physical harm to any person.
 - To obtain possession of a weapon or other dangerous object within a student’s control.
 - For the purposes of self-defense as provided for in Iowa Code section 704.3.
 - To remove a student whose behavior poses an immediate threat of serious bodily injury to the student or others from class or any area of the school’s premises, or from school-sponsored activities off school premises.
 - To prevent a student from the self-infliction of harm.
 - To protect the safety of others.
2. Using incidental, minor, or reasonable physical contact to maintain order and control.

An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

281–103.6 (256B, 280) Reasonable force. In determining the reasonableness of the physical force used with a student, the following factors shall be applied:

1. The size and physical, mental, and psychological condition of the student;
2. The nature of the student’s behavior or misconduct provoking the use of physical force;
3. The instrumentality used in applying the physical force;
4. The extent and nature of resulting injury to the student, if any, including mental and psychological injury;
5. The motivation of the employee using the physical force.

Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

281–103.7 (256B, 280) Ban on the use of chemical, prone and material restraints. The use of chemical restraints, prone restraints, and material restraints are prohibited, including during emergency situations.

281–103.8 (256B, 280) Use of physical restraint or seclusion in emergency situations.

1. Physical restraint or seclusion may be utilized only when:
 - a. doing so is necessary to prevent or terminate an emergency situation; and
 - b. less restrictive alternatives to seclusion or physical restraint would not be effective, or have failed, in preventing or terminating the emergency situation; and
 - c. the physical restraint or seclusion complies with all of the rules of this chapter.
2. If seclusion or physical restraint is utilized, the following provisions shall apply:
 - a. The seclusion or physical restraint must be imposed by an employee who is:
 - i. trained in accordance with rule 103.9; or
 - ii. otherwise available in the case of an emergency situation in which a trained employee is not immediately available due to the unforeseeable nature of the emergency situation.
 - b. An employee must immediately attempt to verbally or electronically notify the student's parent or guardian upon both the commencement and conclusion of the seclusion or physical restraint;
 - c. The seclusion or physical restraint must only be used for as long as is necessary, based on research and evidence, to allow the student to regain control of the student's behavior to the point that the emergency situation necessitating the use of the seclusion or physical restraint has ended. If the seclusion or physical restraint continues for more than 15 minutes:
 - i. The student shall be provided with a reasonable break period to attend to bodily needs. Such break periods must be provided to the student every 15 minutes thereafter.
 - ii. An employee shall obtain written approval from an administrator to continue the seclusion or physical restraint. An employee must obtain such written approval every 15 minutes thereafter for the continuation of the seclusion or physical restraint. All written approval must be based on evidence-based practices and standards, and documented in accordance with rule 103.9.
 - iii. An employee shall immediately attempt to verbally or electronically notify the student's parent or guardian. The student's parent or guardian must be notified every 15 minutes thereafter for as long as the seclusion or physical restraint continues.
 - d. The area of seclusion shall be a designated seclusion room that complies with the seclusion room requirements of rule 103.10, unless the nature of the emergency situation makes the use of the designated seclusion room impossible;
 - e. An employee must continually monitor the student for the duration of the seclusion or physical restraint;

- f. An employee shall not use any restraint that obstructs the airway of the student;
 - g. If an employee restrains a student who uses sign language or an augmentative mode of communication as the student’s primary mode of communication, the student shall be permitted to have the student’s hands free of restraint, unless doing so appears likely to result in an emergency situation;
3. An employee must document the use of the seclusion or physical restraint in accordance with rule 103.9;
 4. Nothing in this section shall be construed as limiting or eliminating any immunity conferred by Iowa Code Section 280.21 or any other provision of law.
 5. An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit to parents of the student the results of its investigation, including, to the extent permitted by law, any required corrective action.
 6. If a child’s Individualized Education Program (IEP), Behavior Intervention Plan (BIP), Individual Health Plan (IHP) or safety plan includes either or both restraint or seclusion measures, those measures must be individualized to the child, described with specificity in the child’s IEP, BIP, IHP, or safety plan, and be reasonably calculated to enable the child to make progress appropriate in light of the child’s circumstances.
 7. These rules must be complied with whether or not a parent consents to the use of restraint or seclusion for their child.
 8. If any alleged violation of this chapter is also an allegation of “abuse” as defined in rule 281–102.2(280), the procedures in 281–Chapter 102 shall be applicable.

281–103.9 (256B, 280) Training, documentation, debriefing, and reporting requirements.

1. Training. An employee must receive training prior to using any form of restraint or seclusion. Training shall cover the following topics:
 - The rules of this chapter;
 - The school’s specific policies and procedures regarding the rules of this chapter;
 - Student and staff debriefing requirements;
 - Positive behavior interventions and supports;
 - Research-based disciplinary alternatives to restraint and seclusion;
 - Crisis prevention, crisis intervention, and crisis de-escalation techniques; and
 - Trauma-informed, safe, and effective use of physical restraint and seclusion.

2. Documentation. Schools must maintain documentation for each occurrence of restraint and seclusion. Documentation shall contain at least the following information:
 - The date, time, and total duration of the occurrence.
 - The names of all parties involved in the occurrence, including those involved in events precipitating the emergency situation, those involved in the emergency situation, and all relevant administrators;
 - Descriptions of the training status of the employee who administered the restraint or seclusion;
 - The actions of the student before, during, and after the emergency situation and the seclusion or restraint;
 - The actions of the employee involved in the emergency situation before, during, and after the seclusion or restraint;
 - Copies of all written approval for the extension of the seclusion or restraint period generated in accordance with paragraph “2” of rule 103.8.
 - The less restrictive means attempted as alternatives to seclusion or restraint;
 - A description of any injuries, whether to the student or others, and any property damage;
 - A description of future approaches to address the student’s behavior; and
 - Any other relevant information.
3. Debriefing. Schools must hold a debriefing meeting related to the use of physical restraint or seclusion within two school days of the occurrence, and must include all employees who were involved and any other appropriate employees. Written notes must be taken of the debriefing meeting and a copy of the written notes must be filed with the school.
4. Reporting. The school must provide the student’s parent or guardian with written copies of all documentation generated in accordance with paragraphs “2” and “3” of this section within three school days of the restraint or seclusion. The student’s parent or guardian may elect, in writing, to receive the communication via electronic mail or facsimile transmission.
5. Student Evaluation. If a student is subjected to five or more instances of physical restraint or seclusion in the same one-year period, a team consisting of relevant school employees and the student’s parent or guardian must be formed for the purposes of evaluating the causes of the student’s behavior, reviewing and revising the student’s behavior plan or developing a behavior plan for the student if none exists, and ensuring the provision of any necessary behavioral supports, in order to improve the student’s safety and continued access to education.
6. Individuals and Entities Who are Not Employees. A school must provide a copy of its Chapter 103 policies and procedures and training materials to any individual who is not an employee who is regularly present on school grounds or at school events. School Resource Officers and other safety or health personnel who are present at or participate in the seclusion or physical restraint of a student are subject to and must comply with these rules.

281–103.10 (256B, 280) Seclusion room requirements.

Schools must meet the following standards for the structural and physical requirements for rooms designated by the school to be used for seclusion:

1. Any wall that is part of the room used for seclusion must be part of the structural integrity of the room (not free standing cells or portable units attached to the existing wall or floor).
2. The room must have the same ceiling height as the surrounding room or rooms.
3. The interior of the room must be no less than 64 square feet, and the distance between opposing walls must be no less than 7 feet across.
4. The room must not be isolated from school employees or the facility.
5. Doors must not be locked and be incapable of being locked. The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.
6. The door must open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside; half doors are acceptable options as well where direct visual monitoring can occur.
7. The room must contain no protruding, exposed, or sharp objects.
8. The room must contain no free standing furniture
9. Windows must be transparent for both staff and the student to see in and out, and made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass must be protected by adequate climb-proof screening.
10. There must be no curtains or blinds, door knobs or latches, exposed pipes, electrical wiring, or other objects in the room that could be used by students to harm themselves or others. Electrical outlets must be permanently capped or covered with a metal shield secured by tamper-proof screws. The room must contain lights which must be recessed or covered with screening, safety glass or unbreakable plastic. Any cover, cap or shield must be secured by tamper-proof screws.
11. The room must meet applicable building code and fire, safety, and health standards. If sprinklers are installed, they must be recessed and/or covered with a cage. If pop-down type, sprinklers must have breakaway strength of less than 80 pounds. In lieu of sprinklers, combined smoke and heat detector must be used with similar protective design or installation.
12. The room must be ventilated; heating and cooling vents must be secure and out of reach.
13. The room must be designed and equipped in a manner that would not allow a child to climb up a wall.
14. Walls, floor and ceiling must be solidly and smoothly constructed, easily cleaned, and have no rough or jagged portions. Floors must be carpeted and interior walls must be covered by at least one inch of padding to prevent injury.