

PETRARCA, GLEASON,
BOYLE & IZZO, LLC
ATTORNEYS AT LAW

ISBE SUBMITS REVISED TIME OUT AND PHYSICAL RESTRAINT REGULATIONS TO THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

The Illinois State Board of Education made a few significant revisions to its proposed regulations regarding isolated time-out, time-out and physical restraint (the “Proposed Rules”), in response to 310 letters of public comments. *The Proposed Rules are not yet effective, but will be submitted for a Second Hearing and publication in the Illinois Register after the ISBE’s February 18 meeting.*

**ISOLATED TIME-OUT ALLOWED IN LIMITED
CIRCUMSTANCES.**

In response to comments, the Proposed Rules now allow for isolated time-out, when all other requirements for time-out are satisfied, but only when the adult in the time-out area with the student is in imminent danger of serious physical harm because the student is unable to cease actively engaging in extreme physical aggression.

In an isolated time-out, the supervising adult must remain within two feet of the enclosure and must always be able to see, hear and communicate with the student. Supervision may not be through a camera, audio recording or other electronic monitoring device. Any door must be steel or wood and of solid-core construction and cannot be fitted with a locking mechanism or be physically blocked by furniture or any other object. If the door contains a viewing panel, the panel must be unbreakable.

As noted in ISBE's December 2019, guidance, isolated time-out and time-out do not include a student initiated or student requested break, a student or teacher initiated sensory break, an in-school detention or suspension, or a student's brief



removal to the hallway or similar environment.

NO PRONE RESTRAINT ALLOWED

Despite numerous commenters requesting that ISBE reconsider its ban on prone restraint, ISBE indicated that best practice is to prohibit prone restraint completely and to only narrowly allow supine physical restraint, under the circumstances set forth in the Amendment to ISBE's Emergency Rules. (See our previous Priority Briefing, *ISBE Issues Amendment to Emergency Rules on Physical Restraint*) The Proposed Rules define prone restraint as the student being held face down on the floor and supine restraint as the student held face up on the floor.

PARENT NOTIFICATION EXTENDED TO ONE BUSINESS DAY

ISBE has recognized that the requirement to send the parent the

ISBE Time-out and Physical Restraint Form within 24 hours of the incident is a difficult timeline to meet and has changed the requirement to one business day. The school district or facility is required to make a reasonable attempt to notify the student's parent of the intervention on the same day that it occurs, but may deliver the required form to the parent by mail, email or in person within one business day of the incident.

REVIEW MEETING AFTER THREE INCIDENTS CLARIFIED

In response to concerns about the frequency of meeting after every three time-outs or physical restraints, ISBE has revised its rules such that the team must meet to review interventions, the need for a case study evaluation, or the need for a placement change after a student experiences time-out or physical restraint on *three days within a thirty day period*.

OTHER REVISIONS TO



PHYSICAL RESTRAINT REQUIREMENTS

According to the Proposed Rules, physical restraint must end immediately when the threat of imminent danger of serious physical harm ends, and, without exception, when the student indicates that he or she cannot breathe or staff supervising the student recognize that the student may be in respiratory distress. Physical restraint may not be used in response to a student's verbal threat unless the student also demonstrates a means of, or intent to *immediately* carry out the threat.

REVISIONS TO ISBE TIME-OUT AND PHYSICAL RESTRAINT FORM

ISBE will be revising its required reporting form to require a description of the *specific imminent danger of serious physical harm to the student or others* that



required the use of time-out or physical restraint, and for isolated time-out, a description of the reason why the student's needs could not be met by a lesser restrictive intervention and why an adult could not be present in the time-out room. ISBE will also include on the form information for the parent about how to file an ISBE complaint.

OTHER REVISIONS TO THE PROPOSED REGULATIONS

In response to public comment, ISBE also made the following revisions:

- A requirement that none of the student's clothing be removed during time-out,

including, but not limited to shoes, boots, shoelaces, and belts

- Clarification

that, except for training on physical restraint, online training may be utilized

(e.g., for restorative practices, trauma informed practices, behavior

management practices) and that trained staff members must receive a copy of the

district's policies on isolated time-out, time -out and physical restraint

- Clarification

that upon receipt of a complaint, the district or facility will prepare a

written response to the complaint and that ISBE may do an on-site investigation.

ISBE plans to issue additional guidance that explains various key terms in the Proposed Rules, such as "imminent danger" and "restorative practices," and will be providing instructions about how to complete the ISBE Time-Out and Physical Restraint



form.

For further information on the Isolated Time-Out, Time-Out and Physical Restraint Rules, please call one of our attorneys at 708-700-6766 (Flossmoor Office) or 630-928-1200 (Oak Brook office).