



Illinois State Board of Education

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State Superintendent of Education

January 20, 2020

Christian Schrader
Director of Special Education
Black Hawk Area Special Education District
4670 11th Street
East Moline, IL 61244-4432

Re: Systemic Complaint
Case Number 2020-CO-0042
Black Hawk Area Education Center

Dear Ms. Schrader:

The Illinois State Board of Education (ISBE), Special Education Department, has completed its investigation of the November 20, 2019, complaint lodged by Jesse Ruiz, a representative of the Office of the Governor, in regard to the special education services for students with disabilities enrolled in The Center which is operated by Black Hawk Area Special Education District (BHASED). Authority for conducting this investigation is the Individuals with Disabilities Education Act, P.L. 108-446, 34 CFR §§ 300.151 - 300.153.

The review focused on the following requirements:

23 Illinois Administrative Code, 1.285, which states in part

Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment. Nothing in this Section or in Section 1.280 of this Part shall be construed as regulating the restriction of students' movement when that restriction is for a purpose other than the maintenance of an orderly environment (e.g., the appropriate use of safety belts in vehicles).

a) *"Isolated time out" means the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted. The use of isolated time out shall be subject to the following requirements.*

1) *Any enclosure used for isolated time out shall:*

A) *have the same ceiling height as the surrounding room or rooms and be large enough to accommodate not only the student being isolated but also any other individual who is required to accompany that student;*

B) *be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls*

(including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing); and

- C) be designed to permit continuous visual monitoring of and communication with the student.*
- 2) If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction shall be used. If the door includes a viewing panel, the panel shall be unbreakable.*
- 3) An adult who is responsible for supervising the student shall remain within two feet of the enclosure.*
- 4) The adult responsible for supervising the student must be able to see the student at all times. If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire alarm system is triggered. Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.*
- e) Time Limits*
 - 1) A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.*
- f) Documentation and Evaluation*
 - 1) A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of these records. Each record shall include:*
 - A) the student's name;*
 - B) the date of the incident;*
 - C) the beginning and ending times of the incident;*
 - D) a description of any relevant events leading up to the incident;*
 - E) a description of any interventions used prior to the implementation of isolated time out or physical restraint;*
 - F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;*
 - G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff;*
 - H) a description of any injuries (whether to students, staff, or others) or property damage;*
 - I) a description of any planned approach to dealing with the student's behavior in the future;*
 - J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;*
 - K) the date on which parental notification took place as required by subsection (g) of this Section.*
 - 2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.*
 - 3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.*
 - 4) The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.*
 - A) A licensed educator knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.*

- B) *The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance).*
- C) *The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this Part.*
- 5) *When a student has first experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedures used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.*
 - A) *The district or other entity serving the student shall invite the student's parents or guardians to participate in this review and shall provide ten days' notice of its date, time, and location.*
 - B) *The notification shall inform the parents or guardians that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.*
- g) *Notification to Parents*
 - 1) *A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].*
 - 2) *Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parents, unless the parent has provided the district or other entity with a written waiver of this requirement for notification. The notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.*
- h) *Requirements for Training*
 - 1) *Isolated Time Out*
Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.

Background and Summary of Allegations

The complainant referenced a November 19, 2019, article that addressed the use of isolated time out in schools within the State. Specifically, the article addressed

¶ Since the isolated time outs occurred more than one year prior to the date of the receipt of the complaint, our agency has determined that a systemic investigation will be opened to address the school's practices regarding the use of isolated time out.

The following issue was raised:

1. Whether the school's practices regarding the use of isolated time out (ITO) from November 20, 2018, through November 19, 2019, were consistent with 23 IAC § 1.285 in relevant part.

Action Taken in Response to the Complaint

During the course of the investigation, email communication, an on-site visit and a face-to-face interview occurred with the state approved director of special education for the cooperative and the principal of the identified school. Also present during the on-site visit and interview was the cooperative's attorney.

The on-site visit of the facility, specifically, the isolated time out rooms and interviews were conducted on December 18, 2019. Moreover, each administrator was interviewed separately. In addition, a written summary and supporting documentation was provided by the state approved special education director for the cooperative.

This investigator will use the term "school" rather than cooperative because my investigation is of one school within the cooperative and not the cooperative as a whole.

School Information

1. According to the Black Hawk Area Special Education District (BHASED) website, BHASED is a special education joint agreement between fourteen local school districts in the Illinois counties of Henry, Mercer and Rock Island. They cover approximately 1,200 square miles and serve parents and school staff that work with approximately 30,000 public, private and parochial school students.
2. Black Hawk Area Education Center or "The Center" is a school that is part of the BHASED cooperative. According to the BHASED website, the school is designed for students who require a highly structured and supportive environment. The programs incorporate academic, behavior and emotional support, functional life skills, and vocational training in a comprehensive learning environment to help each student achieve new skills and confidence.
3. During the on-site visit, I was informed that the school services 151 students which are referred from the local school districts in the cooperative. The school provides resources and support for students, ages 3-22, whose needs are best served in a separate public day school. In addition, the school employs 93 teachers, and the support staff at the school comprises of two full-time nurses, two full-time psychologists, two full-time social workers (SSW), two full-time occupational therapists (OT), 2 full-time and one part-time speech therapist (ST), and two part-time physical therapists (PT).
4. The facility consists of a gymnasium/lunchroom, approximately three life-skills rooms, a vocational education workroom, four sensory rooms (two rooms were formally ITO rooms), an OT/PT therapy room, staff offices, and several classrooms.
5. Outside the facility is a walking path, a garden, and a new state-of-the-art playground designed specifically for students with special needs. It is equipped with handicap accessible ramps for students in wheelchairs, cushioned ground for walking/crawling, and playground equipment that incorporates educational elements.
6. Upon request, the school submitted 539 forms documenting each incident of isolated time out and/or physical restraint from August 17, 2018 through November 19, 2019. ISBE staff within the

special education department were assigned to review and record the raw data into a spreadsheet.

7. Of the 539 ITO and restraint documents, 351 documents fell within the one year time frame. Of the 351 documents, 274 pertained to ITO only, 67 included both ITO and restraint, 8 applied to restraint only and two documents were left blank. The complaint addressed ITO; and therefore, this report addresses ITO. ISBE reserves the opportunity to review the school for restraint-related documents. The total germane documents reviewed were 343.
8. In review of the 343 documented ITOs, 33 students were identified as being placed in an ITO. The investigator reviewed raw and aggregate data for this report.
9. According to the school's annual review of ITO data, 46 of 162 students were placed in time out from August to May during the 2018-19 school year. The school identified a total of 647 time outs that school year. The total amount of time students spent in time out equaled 15,305 minutes with an average of 24 minutes per time out. The school day consisted of 1,955 minutes.

Findings/Conclusions

Issue 1 Requirement for the Use of Isolated Timeout {23 IAC Section 1.285}

The following violation is found as explained below:

Response from District

The cooperative's attorney submitted a written response stating the following in part, "The Cooperative has complied with all State laws and regulations regarding isolated time out, including, but not limited to Section 1.285 of the ISBE regulations on physical restraint and isolated time out...the cooperative consistently utilized isolated time out as a means of maintaining a safe and orderly environment for learning when necessary to preserve the safety of students and others."

Review of Relevant Information

Use of Isolated Time Out	Documentation
	<p>Interview:</p> <p><i>How are staff made aware of the circumstances in which isolated time out should be used?</i></p> <ol style="list-style-type: none"> 1) The director stated that a whole staff meeting is held at the start of the school year to review regulations and the documentation form. Then, certified staff are provided more details in another meeting. 2) In a separate interview, the principal reiterated the director's response and added that daily conversations take place. In addition, the principal reminds staff of the 30 minute requirement.

	<p>Isolated Time-out/Restraint Documentation Form:</p> <p>In review of the 343 ITO documents submitted, all documents had the same format. One section of the form states, “[b]rief description of the antecedent (what happened prior to the behavior) and dangerous behaviors: include any interventions used prior to isolated time-out/physical restraint and specifics regarding injury to student, peers, staff, or property damage.”</p> <p>In review of the raw data of 24 students, the following behaviors were identified as unsafe and deemed a danger to self and/or others: kicking objects, throwing objects, tipping chairs over, throwing chairs, hitting, fighting, headbutting, attempting to run away, grabbing staff, pushing staff, and scratching.</p> <p>The reviewers of the ITO form were directed to determine whether the description section identified the following, “The incident or student behavior that resulted in physical restraint or time out is described and posed an imminent threat to self or others.”</p> <p>According to the reviewers the following observations were made:</p> <ul style="list-style-type: none"> • 265 incidents were described and deemed imminent threats; • 12 incidents were described but were not imminent threats; • 52 incidents were not described; • 1 incident was left blank; and • 13 incidents for one student were missing/not provided according to one reviewer. <p>The school’s annual review from the 2018-19 school year identified 646 of 647 incidents as an imminent danger to staff and/or imminent danger to students. One entry only identified property damage as a cause for time out/restraint on September 26, 2018.</p>
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Summary and Discussion

The complainant alleged that the school’s practices for administering ITO may merit a possible violation to 23 IAC § 1.285. The law states, “*Isolated time out and physical restraint shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment.*” 23 IAC § 1.285. The school claims that at all times it utilized ITOs to maintain a safe and orderly environment for learning in accordance with the law. Moreover, the school cited 646 incidents that threatened the safety of the staff and students during the 2018-19 school year.

ISBE personnel compared the information cited by the school against a review of raw data on this issue and observed inconsistencies. There was no way to resolve the inconsistencies, and therefore the raw

data provided to ISBE is the authority for this finding. Based on the raw data reviewed by ISBE staff, it is determined that on twelve occasions ITO was utilized in the absence of an imminent threat and 66 incidents were not described at all. Thus, 78 of 343 documented incidents did not comply with the law.

Issue 2 – Isolated Time Out Room {23 IAC § 1.285(a) (1-4)}

No violation is found as explained below:

Response from District

Due to an on-site investigation to view the ITO rooms, the school gave no response concerning the ITO enclosures.

Review of Relevant Information

Documentation is based on an on-site walk-through of the facility, follow-up interviews conducted on December 18, 2019, email correspondence with the special education director and review of the ITO documentation.

In addition, since the emergency rules went into effect, the two isolated time out rooms have been converted to sensory rooms resulting in a total of four sensory rooms. All doors have been removed and rooms have been painted. The school was in the process of changing the lights in the sensory rooms from halogen to LEDs. Sensory strategies, such as sensory diets, were posted outside the rooms.

At the beginning of the school year, before the emergency regulations went into effect, the school purchased handheld radios and analog clocks. The analog clocks have been attached outside of each sensory room eliminating the need for staff to use cell phones to monitor time thus increasing attention to students.

Isolated Time Out Room 23 IAC § 1.285(a) (1-4)	Documentation
<i>Location of isolated time out room.</i>	The isolated time out room is located outside of the classroom.
<i>Isolated time out room has the same ceiling height as the surrounding room or rooms.</i>	The dimensions of the two rooms that were ITO rooms are: 7' 7" x 9' and 8' x 10'. The ceiling height appeared to be the same height as surrounding rooms and hallways.
<i>Isolated time out room is large enough to accommodate not only the student being isolated but also any other individual who is required to accompany that student.</i>	The dimensions of the two rooms that were ITO rooms are: 7' 7" x 9' and 8' x 10'. Rooms appear large enough for one student and a support team of two to three adults.
<i>Isolated time out room is constructed of materials that cannot be used by students to harm themselves or others.</i>	All rooms are constructed of materials that cannot be used by students to harm themselves or others. Since converting to sensory rooms, the rooms have mats, therapy ball(s), and drive-thru activities posted outside the room.

<i>Isolated time out room is free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others.</i>	No electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others are evident.
<i>Student cannot climb up the walls (including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing).</i>	The walls are spaced far enough apart to prohibit a student from climbing.
<i>Isolated time out room is designed to permit continuous visual monitoring of and communication with the student.</i>	Isolated time out rooms had an unbreakable viewing panel.
<i>If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction has been used.</i>	Before rooms were converted to sensory rooms, the doors were made of steel. Since the emergency rules went into effect, all doors have been removed.
<i>If the door includes a viewing panel, the panel is unbreakable.</i>	The doors were equipped with unbreakable viewing panels.
<i>Evidence that supervising adult is within 2 ft. of the enclosure.</i>	The principal has posited that their procedures ensure that someone is outside the door and recording every 2 minutes. In review of 24 documented ITOs, all documents supported the principal's claim.
<i>If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire alarm system is triggered. Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.</i>	The isolated time out doors did not have locks.

Summary and Discussion

The issue is whether the school complied with 23 IAC § 1.285(a) (1-4) before converting the two ITO rooms into sensory rooms. In review of the relevant data, the location, ceiling height, and size of the room meet the legal standards. In fact, the room size is such that the child cannot climb the walls. Also, there are no electrical outlets, exposed wiring, or harmful objects. Before the steel doors were removed, they were equipped with unbreakable viewing panels. ITO documentation suggests that staff was present and able to view the child while placed in ITO. Specifically, documents viewed by this investigator recorded the student's behavior every 2 minutes. Additionally, the ITO doors were never equipped with locks. Therefore, based on the on-site walkthrough and review of 24 student documents, the school did comply with 23 IAC § 1.285(a) (1-4) before converting its ITO rooms to sensory rooms.

Issue 3 Time Limits {23 IAC § 1.285(e)(1)}

The following violation is found as explained below:

Response from District

The state approved special education director for the school provided an additional document titled *Procedures for Leaving an Isolated Time-Out* which communicates the expectation that staff will implement the procedures in the event a student is placed in an ITO.

Review of Relevant Information

In review of the document *Procedures for Leaving an Isolated Time-Out*, the ITO behavior logs, the ISBE reviewed spreadsheet, and the data collected from the December 18, 2019 on-site interviews, the following information was gathered:

Time Limits	Documentation
<p>1) <i>A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.</i></p>	<p>Interview: <i>How do you determine when a student is ready to exit isolated time out and what is the procedure?</i></p> <ol style="list-style-type: none"> 1) The director referred to the packet they provided upon arrival. It is a one-page document titled <i>Procedures for Leaving an Isolated Time-Out</i>. 2) The director stated that an administrator will check on the student at 15 minutes. Another staff member will assess the situation every 15 minutes. At least one staff member is assigned to document the safety of the student every 2 minutes. In addition, a crisis situation may involve many staff members. One incident may include a teacher, three paraprofessionals, a social worker and an administrator. 3) The principal, in a separate interview, supported the director's statements. In addition, with a parent's permission, an emergency-based mental health care facilitator qualified in providing emergency care known as SASS may be called. However, a student may wait 2 hours before SASS arrives on-site. 4) The principal stated that an administrator is required to check every 15 minutes on a student placed in ITO to ensure the immediate physical safety of the student and to ensure that if the student's behavior is safe, that he or she is transitioned back to the classroom as soon as possible. 5) Staff are required to document the safety of the student every two minutes. When the student has completed a therapeutic activity of the student's choice, is no longer a harm to self or others and shows compliance, the student will be transitioned back to the classroom or alternate location, such as the sensory room, as soon as possible.

	<p>6) Once the student shows compliance, the staff is expected to talk with the student about making safer choices when faced with a similar setback, stressor, or situation in the future. In addition, a social worker, speech therapist, or occupational therapist may be consulted depending on the student's need.</p> <p>7) Staff are trained that students should remain in the isolated time out rooms for no longer than 30 minutes after the behavior discontinues.</p> <p>8) Staff are directed to transition a student out of ITO once deemed safe enough to eat lunch or work on a task.</p> <p>Documentation provided:</p> <p>9) The <i>Procedures for Leaving an Isolated Time-Out</i> document supported the claims made by the director and the principal of the school. In addition, it directed staff to document whether a student fell asleep or refused to leave the room every two minutes.</p> <p>10) <i>The Center: Isolated Time-out/Restraint Documentation</i> forms were used consistently to document and log student behaviors in isolated time out.</p> <p>11) ISBE staff documented 90 ITO incidents that lasted more than 30 minutes, 4 ITO incident times were not provided, and 2 ITO times were marked blank.</p> <p>12) Of the raw data reports reviewed by this investigator, 64 ITO incidents lasted more than 30 minutes.</p> <p>13) In review of the behavior logs that coincided with the 64 ITO incidents, the following documentation was gathered:</p> <ul style="list-style-type: none"> • The 62 students who were kept in ITO longer than 30 minutes were still exhibiting aggressive, noncompliant behavior. • One student on 2 occasions was sent to class because he was deemed safe even though he was not in compliance. • Two students were picked up by the parent. • One staff member on 5 occasions did not keep track of the behavior log every two minutes per one specific student, but the ITO did not exceed 30 minutes according to the start and stop time. Chiefly, there is no regulation requiring staff to maintain a 2-minute behavior log. • On two separate occasions the log page showed that the student was still in crisis, yet
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	the front page showed the crisis time as the end time.
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Summary and Discussion

The issue was whether the school violated 23 IAC § 1.285(e)(1) which states in relevant part, *a student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.* According to the behavior logs provided by the school, the students in ITO were not kept longer than the regulated 30 minutes once they were calm and in compliance. The school's detailed 2 minute record keeping shows that students who were in an ITO for longer than 30 minutes were still a danger to self or others. In addition, of the 64 incidents no student remained in an ITO longer than 30 minutes after calming down. Some students were released as early as 2 minutes from calming down. One student was deemed safe and allowed to return to class even though he was not fully complying with the staff.

The school consistently transitioned students out of ITO anywhere between 2 minutes and 30 minutes after staff determined they were safe. However, on two separate occasions, November 27, 2018, and April 9, 2019, the log page showed that the student was still in crisis, yet the front page showed the crisis time as the end time. Thus, a violation of 23 IAC § 1.285(e)(1) occurred, but there is no requirement for any substantive remedy because the situation appears to be an anomaly and the district overall has substantively complied.

Issue 4 Documentation and Evaluation {23 IAC § 1.285(f) (1-5)}

The following violation is found as explained below:

Response from District

The school makes the following statement, "During each instance of isolated time out, Cooperative personnel completed paperwork to appropriately document each incident. Cooperative forms that are completed during and after each incident of physical restraint or isolated time out include spaces for (1) information regarding the student's name, (2) the date of the incident, (3) beginning and end times of the incident, (4) antecedents to the behavior, (5) interventions used prior to the implementation of isolated time out or physical restraint, (6) a description of the incident, (7) a description of any injuries, (8) a description of planned approaches to work with the student behaviors in the future, (9) the date of parental notification, and (10) Cooperative personnel involved, pursuant to Section 1.285(f) of the ISBE regulations."

Review of Relevant Information

Documentation and Evaluation 23 IAC § 1.285(f)(1-5)	Documentation
1) <i>A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official designated pursuant</i>	Interview: The respondents stated that the written records of each episode of isolated time out are maintained in the student's temporary record.

<p>to Section 1.280(c)(3) of this Part shall also maintain a copy of these records. Each record shall include:</p>	
<p>A) the student's name; B) the date of the incident; C) the beginning and ending times of the incident; D) a description of any relevant events leading up to the incident; E) a description of any interventions used prior to the implementation of isolated time out or physical restraint; F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint; G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff; H) a description of any injuries (whether to students, staff, or others) or property damage; I) a description of any planned approach to dealing with the student's behavior in the future; J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint; K) the date on which parental notification took place as required by subsection (g) of this Section.</p>	<p>Documentation provided:</p> <p>A template of <i>The Center: Isolated Time-out/Restraint Documentation</i> form included:</p> <ul style="list-style-type: none"> • Student name; • Reporting staff member involved; • Physical restraint start and end time; • Isolated Time-out start and end time; • location of behavior; • Persons involved; • Brief description of the antecedent (what happened prior to the behavior) and dangerous behaviors: included any interventions used prior to isolated time-out/physical restraint and specifics regarding injury to student, peers, staff, or property damage; • Intensity of behavior; • Function of behavior; • Administration's initials after 15 minutes; • Staff's initials after 15 minutes; • Brief description changes to approaching similar behaviors with the student in the future; • Parent notified; • Date parent is notified; • Reviewed by classroom teacher; • Reviewed by assistant principal date and initials; and • Behavior log divided into five columns titled: Time, Person checking, Student safe? Yes, Student safe? No, and If no, description of observed behavior.
<p>2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.</p>	<p>Interview:</p> <ul style="list-style-type: none"> • The respondents stated that the assistant principal is the main official designated as the individual who will be informed of incidents and maintain documentation when isolated time out is used. The individual is notified immediately every time through a two-way handheld radio. When a student has three ITO/physical

	<p>restraints, a team will meet and the behavior intervention plan (BIP) is modified.</p> <ul style="list-style-type: none"> • In review of the incident logs, the assistant principal's initials are documented.
<p>3) <i>The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> • The director admitted that when the principal resigned in January of 2019, incident reports during the spring of 2019 were not reviewed by the following day. <p>Documentation provided:</p> <ul style="list-style-type: none"> • In review of 77 ITO incident logs dated November 2018 through November 2019, 13 were completed by the next school day. Fifty-six reports were completed up to 45 days later, and eight forms were not completed at all.
<p>4) <i>The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.</i></p>	
<p>A) <i>A licensed educator knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.</i></p>	<p>Interview:</p> <p><i>Does the school have an official designated [pursuant to 1.280(c)(3)] as the individual who will be informed of incidents and maintain documentation when isolated time out is used?</i></p> <ol style="list-style-type: none"> 1) The director stated that traditionally the assistant principal (AP) monitors behavior intervention plans BIP and ITO data. The assistant principal is notified of the 15-minute mark. If the ITO is less than 15 minutes, the AP is notified at the end of the day. The AP is responsible for completing the 24-hour review. However, the principal for the 2018-19 school year resigned in January 2019. The AP became the interim principal. The new AP worked two days a week and got behind on the 24-hour reviews. 2) The principal supported the director's statement. The AP is responsible for making sure forms are correct and documentation complete. In addition, two-way handheld radios are utilized so that administration is aware of crisis situations. <p>Written summary, in relevant part:</p> <p>3) "Additionally, Cooperative documentation notes whether staff or administration was called after 30 minutes to assess the situation, in accordance with Section 1.285(a)(3) of the ISBE regulations."</p> <p>Documentation provided:</p> <p>4) <i>The Procedures for Leaving an Isolated Time-Out form includes a check box for administration to initial after</i></p>

	<p>fifteen minutes. Also, there is a check box for staff to initial who assess the situation after 15 minutes.</p> <p>5) According to ISBE staff who compiled this data, 36 of 78 ITO incidents were not evaluated by a licensed and trained staff member. However, in review of those documents, initials were frequently present. Therefore, it is possible that the reviewer did not know whether the individual initialing the document was a licensed educator or not.</p> <p>6) Of the 64 ITO incidents this investigator reviewed, 64 ITO incidents were initialed by either an administrator or staff member at the 15-minute mark. Some administrators/staff noted the time. However, the majority just initialed the form.</p>
<p><i>B) The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance)</i></p>	<p>Interview: <i>What are the cooperative's policies and procedures for evaluating students in isolated time out for an extended period of time?</i></p> <ol style="list-style-type: none"> 1) The director referred to the <i>Procedures for Leaving an Isolated Time-Out</i> document. 2) The principal stressed that each situation is evaluated case-by-case. Administration checks in at the 15-minute mark. It is preferred that the principal is contacted at the 30-minute mark. Some parents request to speak to their child at this point. Also, staff is directed to document any student who is told they can leave but wants to stay. <p>Documentation provided:</p> <ol style="list-style-type: none"> 3) A template of <i>The Center: Isolated Time-out/Restraint Documentation</i> form provides a space to answer the prompt "[b]rief description of the antecedent (what happened prior to the behavior) and dangerous behaviors: include any interventions used prior to isolated time-out/physical restraint and specifics regarding injury to student, peers, staff, or property damage." 4) The form does not prompt staff to evaluate medication needs, nourishment, or use of the restroom. As a result, the ISBE staff reviewers collected the following data: 13 yes, the staff did evaluate, 160 no the staff did not evaluate, 14 not applicable, 14 missing or not provided, and 39 were left blank. 5) It is noted that in review of the 64 ITO incidents, two situations recorded that one student urinated on one occasion and defecated on another occasion. One female reportedly vomited on purpose during the ITO.

	<p>No more information was provided other than the female did clean it up.</p> <p>6) The director provided a CARES and SASS emergency call list that identified 19 incidents in which the administrator assessed the ITO/restraint situation and determined that the student was experiencing a mental health emergency. However, there is no place for this information to be documented on the form.</p>
<p>C) <i>The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this Part.</i></p>	<p>Interview: <i>Are detailed records kept regarding each episode of isolated time out? Are these maintained in the student's temporary record?</i></p> <ol style="list-style-type: none"> 1) The director stated that detailed records are kept of each incident and maintained in the student's temporary record. 2) The principal stated that very detailed records are kept and that it is their practice to err on the side of documenting more. <p>Documentation provided: <i>The Center: Isolated Time-out/Restraint Documentation Form was provided for 539 ITO/restraint incidents from the students' temporary records from August 2018 to November 2019.</i></p>
<p>5) <i>When a student has first experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedures used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.</i></p> <p>A) <i>The district or other entity serving the student shall invite the student's parents or guardians to participate in this review and shall provide</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> • The principal stated that when a student requires three ITO/physical restraints a STARS (multidisciplinary problem-solving team) meeting is held and the BIP is modified as needed so that the interventions can be adjusted and reviewed for their effectiveness of the procedures. The staff engages in daily conversations to evaluate if they are doing things in the most effective way to assist students. • The director provided several examples of alternative strategies in use in the school. Such alternate strategies consist of but are not limited to: calm classroom curriculum, forced choice, Fusion behavior program, sensory room, interest inventory, candle breathing program, walking, weighted blankets, and snacks. <p>Documentation provided:</p> <ul style="list-style-type: none"> • November 28, 2018, STARS Team Meeting • January 25, 2019, team meetings were held to review BIPs • January 31, 2019, STARS Team Meeting • September 13, 2019, STARS Team Meeting • September 19, 2019, STARS Team Meeting • September 20, 2019, STARS Team Meeting

<p><i>ten days' notice of its date, time, and location.</i></p> <p><i>B) The notification shall inform the parents or guardians that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.</i></p>	<ul style="list-style-type: none"> • October 14, 2019, STARS Team Meeting held for an aggressive student. • October 24, 2019, STARS Team Meeting held for a struggling student.
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Summary and Discussion

The school provided approximately 539 ITO incident forms pulled from students' temporary records in accordance with 23 IAC § 1.285(4)(c). In addition, all forms were in compliance with 23 IAC § 1.285(f)(1)(a-k). The school's principal invested in handheld radios as an effective means of immediate communication in a crises situation in accordance with 23 IAC § 1.285(2). Also, staff is expected to check in every 15 minutes to ensure the student is safe.

It is evident that the school has a system in place to ensure that licensed staff review all ITO forms in accordance with 23 IAC § 1.285(4)(A). Of the 56 ITO forms that were not completed by the next school day, a teacher's signature and the assistant principal's initials showed that two certified staff reviewed the ITO incident form. Nevertheless, the school committed a procedural violation when it failed to review 56 ITO incidents by the following school day during the 2018-19 school year. In addition, the small sample of evidence showed that 8 of 77 incidents were not reviewed at all. Thus, a violation occurred.

In relation to 23 IAC § 1.285(4)(b), the ITO incident form does not prompt staff to evaluate medication needs, nourishment, or use of the restroom. As a result, the evidence showed that 160 of 240 responses were marked no, the staff did not evaluate medication needs, nourishment, or use of the restroom in accordance with the law. Therefore, it is more probable than not that the staff did not address these needs. As a result, a violation to 23 IAC § 1.285(4)(b) occurred.

The school posits that it does review BIP plans and/or hold team meetings for students who experience frequent ITO/physical restraint incidents. The principal provided documentation citing 8 team problem-solving meetings to support this claim. However, in review of the raw data, the ratio of ITO documented incidents in relation to the number of team meetings suggests that more than 8 meetings should have taken place in accordance with 23 IAC § 1.285(f)(5). Thus, a violation of 23 IAC § 1.285(f)(5) is evident.

Issue 5 Notification to Parents {23 IAC § 1.285(g) (1-2)}

The following violation is found as explained below:

Response from District

The school makes the following statement in its written response, "Parents are contacted after each instance of isolated time out or physical restraint in accordance with Section 1.285(g)(1). The Cooperative

does not allow parents to waive the opportunity to waive the notification requirement as provided by Section 1.285(g)(2)."

Review of Relevant Information

Notification to Parents 23 IAC § 1.285(g) (1-2)	Documentation
<p>1.) <i>A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> • The director stated that parents are notified upon entry to the program, at annual reviews and BIP meetings. Also, the school honors all parents request not to use ITO or physical restraints. • The principal supported the director's statement and included change of placement. She also added that it is documented in the BIP crisis plan.
<p>2) <i>Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parents, unless the parent has provided the district or other entity with a written waiver of this requirement for notification. The notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> • The director posited that parents are notified by phone, text or email if the student spends 30 minutes in time out. In addition, notification is documented in daily notes or communication notebook. Director stated that now parents receive the required state form. • The principal stated that parents are called or sent a text message. Written records were not as effective because students would destroy them. Additionally, contact is made in every instance even when the parent said it was not necessary to notify them. <p>Documentation provided:</p> <ul style="list-style-type: none"> • The school did not provide any primary sources of evidence. • According to 346 ITO incidents reviewed by the ISBE staff, 233 parents were notified, 93 were not notified, and 20 forms were left blank.

Summary and Discussion

The issue is to determine whether parents are contacted after each ITO incident in accordance with 23 IAC § 1.285. It is evident that the school has provisions in place for notifying parents on the ITO incident forms. Moreover, two certified staff members review the document to ensure that is complete and accurate. Nevertheless, 113 ITO incidents did not show evidence that parent was notified. Therefore, the district did violate 23 IAC § 1.285(g)(1). However, the school does not allow parents to waive the opportunity to waive the notification requirement as provided by 23 IAC § 1.285(g)(2). Therefore, no violation of this section has occurred.

Issue 6 Requirements for Training {23 IAC § 1.285(h)(1)}

No violation is found as explained below:

Response from District

The Cooperative posits that personnel meet regularly and attend trainings regarding the use of ITO and physical restraints, trauma-informed practices, alternate intervention strategies, and appropriate Crisis Prevention Institution (CPI) techniques.

Review of Relevant Information

Requirements for Training 23 IAC § 1.285(h)(1)	Documentation
<p><i>Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.</i></p>	<p>Documentation provided:</p> <p>The Cooperative provided documentation titled <i>Summary of Staff Trainings and Meetings</i> in regard to Seclusion and Restraint. The following is a compilation of trainings and meetings:</p> <ol style="list-style-type: none"> 1) During the 2018-19 school year, the Cooperative held a total of 16 trainings/meetings regarding seclusion and restraint as follows: <ol style="list-style-type: none"> a. November 14, 2018, the principal trained two new staff on ITO/physical restraint procedures, including a review of the administrative code and school documentation form b. November 20, 2018, ITO/physical restraint forms were reviewed. The principal analyzed all ITO/physical restraint data c. November 28, 2018, STARS Team Meeting d. January 4, 2019, the emotional disability (ED) department met e. January 7, 2019, Trauma Aware Educator Training f. January 18, 2019, the review of ITO data leads to a team meeting to discuss a particular student g. January 25, 2019, team meetings were held to review BIPs h. January 30, 2019, Trauma-informed all staff meeting occurs i. January 31, 2019, STARS Team Meeting j. March 6, 2019, CPI refresher with CPI certified trainer k. March 20, 2019, Trauma-informed staff training l. March 27, 2019, CPI Training for new staff m. April 3, 2019, staff reviewed administrative code, required documentation, and ITO/restraint training n. April 24, 2019, Trauma-informed training o. May 15, 2019, Trauma-informed training p. May 21, 2019, ED department meeting 2) During the 2019-20 school year, the school held a total of 14 trainings/meetings regarding seclusion and restraint as follows:

	<ul style="list-style-type: none"> a. August 13, 2019, CPI staff training by certified CPI trainer b. August 14, 2019, all staff meeting c. August 28, 2019, Behavior intervention IEP training d. September 13, 2019, STARS team meeting e. September 19, 2019, STARS team meeting f. September 20, 2019, STARS team meeting g. October 2, 2019, Advanced CPI training h. October 8, 2019, Follow up STARS meeting i. October 9, 2019, all staff meet to review the ITO/physical restraint form j. October 14, 2019, STARS team meeting held for aggressive student k. October 24, 2019, STARS team meeting held for a struggling student l. November 6, 2019, all staff meet to review the administrative code regarding seclusion and restraint m. November 20, 2019, all staff meet to review the new state emergency regulations n. December 4, 2019, all staff meet to review the new state emergency regulations
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Summary and Discussion

The staff met to review the administrative code and the written procedure for documenting ITO and physical restraint incidents on November 14, 2018, April 3, 2019, October 9, 2019, November 6, 2019, November 20, 2019 and December 4, 2019 in accordance with 23 IAC § 1.285(h)(1). Thus, school is in compliance with 23 IAC § 1.285(h)(1).

Additionally, personnel met regularly to evaluate the effectiveness of ITO procedures. Also, staff attended trainings regarding the implementation of ITO and physical restraints. From November 2018 to November 2019, 10 meetings and trainings occurred to address ITO and physical restraint policies and procedures. More importantly, staff attended a CPI refresher course on March 6, 2019 and at the beginning of the 2019-20 school year. Also, the school has implemented trauma-informed training and practices on five occasions to equip staff in recognizing trauma induced behaviors.

Corrective Action

The cooperative must:

1. Provide training to all staff at the identified school on the following requirements in 23 IAC 1.285:
 - a. Use of time shall be used only to the extent necessary to preserve the safety of students and others;
 - b. The evaluation requirements, specifically medication needs, nourishment, or the use of restroom that apply whenever an episode of time out exceeds 30 minutes;
 - c. The documentation requirements in accordance with the applicable rules; and
 - d. Sending written notification of each incident of time out to the parent within 24 hours.

2. Participate in quarterly meetings for the next calendar year with ISBE personnel for monitoring and support purposes.

The following materials will serve as verification of compliance with all parts of the corrective action order:

1. Documentation of the training provided to all staff within the four identified programs on the procedures for the use of time out in the state rules at 23 IAC § 1.285, including date(s) of training, materials utilized, and staff who participated.

The above listed materials should be sent to my attention, Special Education Department, no later than **February 21, 2020**.

In accordance with the requirements of the 105 Illinois Compiled Statutes, 5/14-8.02e, the district/cooperative will be required to provide a copy of the corrective action compliance documentation to the complainant simultaneously with the submission of those materials to the investigator. In the event of a complaint filed by an individual other than the parent/guardian, the district must secure an appropriate written and signed release prior to the issuance of any child specific documentation.

Cooperation from both parties is appreciated.

Respectfully Submitted,



Barbara A. Moore
Director, Special Education

cc: Jesse Ruiz, Office of the Governor