



Illinois State Board of Education

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Dr. Carmen I. Ayala
State Superintendent of Education

January 21, 2020

Ms. Jan Pearcy
Director of Special Education
Tri-County Special Education Joint Agreement
1725 Shomaker Drive
Murphysboro, IL 62966

Re: Systemic Complaint
Case Number 2020-CO-0048
Tri-County Special Education Joint Agreement

Dear Ms. Pearcy:

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 programs operated by the Tri-County Special Education Joint Agreement. Authority for conducting this investigation is the Illinois Administrative Code, 23 IAC 1.285(k).

The review focused on the following requirements:

23 Illinois Administrative Code, 1.285 (IN EFFECT PRIOR TO NOVEMBER 20, 2019), 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 complaint referenced a November 19, 2019, newspaper article, which addressed the use of time out in schools within the state. Per the article, records showed that the cooperative routinely made children write sentences as a condition of release from time out. Further, the article stated that students were often kept in isolation long after the safety threat was over, sometimes even starting the next school day in a time out room.

Response from Cooperative

According to the written response submitted by the cooperative, the director of special education ("director") personally reviewed 409 time out forms from November 2018 through December 2019 and concluded that there were 14 instances in which a student was required to write sentences as a condition

of release from isolated time out. Twelve of those 14 instances were assigned by a specific teacher, who subsequently retired at the end of the 2018-19 school year.

Based upon this review, the cooperative also concluded that the criteria for release from isolated time out was defined as the student presenting as calm for a specified number of minutes, ranging from 2 minutes to 15 minutes. The cooperative reported that the duration of 409 incidents ranged from 2 minutes to 340 minutes. Specifically, the cooperative reported the following information:

- 110 incidents lasted from 2 to 15 minutes (26.9%)
- 132 incidents lasted from 16 to 30 minutes (32.3%)
- 79 incidents lasted from 31 to 45 minutes (19.3%)
- 38 incidents lasted from 46 to 60 minutes (9.3%)
- 50 incidents lasted over 60 minutes (12.2%)

The cooperative further reported that, in most cases, students were released from isolated time out as the result of remaining calm for the specified period of time. According to the cooperative, almost 90% of time outs lasted less than an hour, but of those lasting over 60 minutes, the cooperative found that in several instances, students were completing classroom assignments or “essays” that related to the issue that caused them to be in time out. The cooperative explained that essays are occasionally assigned to help the student reflect on their behavior and identify alternate replacement behaviors. Per the cooperative, essays are only assigned to students with the ability to complete the assignment. The cooperative stated that when students are completing seatwork in time out, the door remains open and staff sit by the door. As such, time spent completing work should not have been recorded on the time out form because students were calm, and the door was open.

Cooperative Information

The cooperative reported that it operates the following programs, which have isolated time out rooms that were utilized during the time frame of this complaint investigation (November 20, 2018-November 20, 2019):

- Cooperative Program A is a public therapeutic day school that houses two Communication Development Classrooms for students with disabilities in first through sixth grade. Students in this program are typically eligible for special education and related services under the autism disability category. This program also houses four special needs classrooms for students with multiple disabilities and/or severe intellectual disabilities in first grade through age 22. There are also three classrooms at this school for students with emotional disabilities in kindergarten through sixth grade.
- Cooperative Program B is a public therapeutic day school with six classrooms serving students with emotional disabilities in sixth through 12th grade.
- Cooperative Program C is located in a public school building that houses four cooperative classrooms. Two of the classrooms serve students with emotional disabilities in kindergarten through eighth grade. Students in these classrooms typically exhibit less severe behavioral concerns and integrate into the school’s general education classrooms throughout the day. An early childhood special education classroom and a cross-categorical classroom for students with significant reading and math disabilities are also housed at Cooperative Program C.
- Cooperative Program D serves students in prekindergarten through 12th grade and focuses specifically on behavior. Students enrolled in this separate public day school are eligible for special

education and related services under the emotional disability or other health impairment categories.

Action Taken in Response to the Complaint

Communications

Telephone and email communications regarding the issues in the complaint occurred between the director and the principal consultant assigned as the complaint investigator.

On-Site Visit

The principal consultant assigned as the complaint investigator conducted an on-site visit of Cooperative Program D on December 18, 2019, which included a tour of the facility and interviews with the principal of Cooperative Program D, the director, and the assistant director of the special education cooperative.

Telephone Interviews

The principal consultant assigned as the complaint investigator conducted telephone interviews with administrators from Cooperative Programs A, B, and C on January 10, 2020. Specifically, two building principals and one special education administrator were interviewed.

Documentation Review

A review of the cooperative's response to the allegations and supporting documentation was conducted by the principal consultant assigned as the complaint investigator.

Review of Records

A total of 984 records were reviewed by principal consultants in the Special Education Department. Of those records, 371 records addressed episodes of isolated time out that occurred during the time frame applicable to this complaint investigation (November 20, 2018-November 20, 2019).

Findings/Conclusions

Issue 1: Requirements for the Use of Isolated Time Out

A. Use of Isolated Time Out {23 IAC §1.285}

The following violation is found as explained below:

Review of Relevant Information

Use of Isolated Time Out 23 IAC §1.285	Documentation
<i>Isolated time out and physical restraint as defined in this Section shall be used</i>	Interviews: <ul style="list-style-type: none">• Each respondent reported that the cooperative has specific written policies describing the use of isolated time out that are

<p><i>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.</i></p>	<p>accessible to staff. The written policies are accessible on the cooperative’s website and each staff member is provided a copy of the student handbook, which outlines these policies.</p> <ul style="list-style-type: none"> • Each of the respondents reported that staff are made aware of the circumstances in which isolated time out should be used. Specifically, the information is addressed with staff at meetings held at the beginning of the year and at non-violent crisis intervention initial/recertification training. <p>Documentation Review:</p> <ul style="list-style-type: none"> • The Student/Parent Handbook states the following: <p><i>“Isolated time out is used only as a means of maintaining a safe and orderly environment for learning. It shall be used only to the extent necessary to preserve the safety of students and staff and to ensure the maintenance of an environment conducive to learning. A student may be placed in the time-out room if he/she is extremely disruptive or for verbally aggressive and/or physically aggressive behavior. The time out area provides social isolation to allow a child to regain control of his/her behavior before re-entering the classroom...”</i></p> <p>Review of Records:</p> <p>In reviewing time out records, principal consultants considered whether the incident or student behavior that resulted in time out was described <u>and</u> posed an imminent threat to self or others. The following was determined:</p> <ul style="list-style-type: none"> • In 60.1% of records, the incident was described and was an imminent threat to self or others. • In 39.1% of records, the incident was described, but was not an imminent threat to self or others. • In less than 1% of records, the incident was either not described or the information was not available to the complaint investigator (e.g., field on data spreadsheet provided to complaint investigator was blank).
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Summary and Discussion

Based upon the information provided, the cooperative’s policies regarding the use of isolated time out complied with the state rules in effect during the time frame of this investigation (November 20, 2018- November 20, 2019). However, based upon a review of records conducted by staff in the Special Education Department, it was determined that, in 39.1% of the records, the incident or student’s behavior did not constitute an imminent threat to self or others. This information suggests that isolated time out was used in situations that may not have warranted such intervention.

B. Isolated Time Out Room {23 IAC §1.285(a) (1-4)}

The following violation is found as explained below:

Review of Relevant Information

Interviews:

The following information was reported in telephone interviews on January 10, 2020:

- The isolated time out rooms utilized at Cooperative Program A are located inside the classroom and there are three classrooms that each contain one isolated time out room.
- Cooperative Program B has four isolated time out rooms that are located outside the classroom.
- Cooperative Program C has one isolated time out room that is located inside a classroom.

On-Site Visit:

The following was observed during an on-site visit on December 18, 2019:

- Cooperative Program D has three isolated time out rooms that are located outside the classroom.

Documentation Review:

The information documented in the following table is based upon evidence obtained by the principal consultant assigned as the complaint investigator through interviews, an on-site visit, and a review of documentation submitted by the cooperative in response to the complaint, including photographs of isolated time out rooms and time out forms/behavior logs.

Isolated Time Out Room 23 IAC § 1.285(a) (1-4)	Documentation
<i>Isolated time out room has the same ceiling height as the surrounding room or rooms.</i>	All isolated time out rooms have the same ceiling height as the surrounding room or rooms.
<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>	All isolated time out rooms are large enough to accommodate at least two individuals.
<i>Isolated time out room is constructed of materials that cannot be used by students to harm themselves or others.</i>	All isolated time out rooms are constructed of materials that cannot be used by students to harm themselves or others.
<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>	All isolated time out rooms are free of electrical outlets and exposed wiring. It was observed that two of the three isolated time out rooms at Cooperative Program D contained boiler pipes that were covered with metal. Some of the metal pieces used to cover the pipes were observed to have sharp edges. When asked about this, the principal reported that no students had injured themselves on the metal used to cover the boiler pipes.

<p><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></p>	<p>The walls are spaced far enough apart to prohibit a student from climbing.</p> <p>However, based upon photographs, at least one of the isolated time out rooms at Cooperative Program B has a window. It was noted in one time out form/behavior log from Cooperative Program B, dated November 8, 2019, that the student was "...walking on window sill..."</p> <p>Further, the metal covering of the pipes observed in two of Cooperative Program D's isolated time out rooms creates a ledge that a student can climb, as evidenced by information documented in time out forms/behavior logs from Cooperative Program D. Specifically, it was noted in a March 6, 2019, time out form/behavior log that the student was "...kicking heater, climbing on heater..." It was also noted in a September 25, 2019, time out form/behavior log that the student was "...climbing on heater..."</p>
<p><i>Isolated time out room is designed to permit continuous visual monitoring of and communication with the student.</i></p>	<p>It was reported that all isolated time out rooms are designed to permit continuous visual monitoring and communication with the student.</p> <p>The use of time out was not observed during the on-site visit. However, based upon the tour of the rooms utilized for isolated time out at Cooperative Program D, it could not be determined that all of the isolated time out rooms allowed for continuous visual monitoring of and communication with a student, as evidenced by the following information taken from a review of time out forms/behavior logs from Cooperative Program D:</p> <p>February 6, 2019—"...Informed to sit in corner where I can see her..."</p> <p>March 6, 2019—"...Staff instructed student to move where he can be seen..."</p> <p>April 10, 2019—"...Student refused to move where staff could see him..."</p> <p>April 15, 2019—"...Refusing to sit in viewable corner..."</p>

<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>	The doors on each isolated time out room are made of either metal or wood.
<i>If the door includes a viewing panel, the panel is unbreakable.</i>	Each door includes a viewing panel made of safety glass.
<i>Evidence that supervising adult is within 2 ft. of the enclosure.</i>	It was reported that a supervising adult was within 2 feet of the enclosure when isolated time out was utilized.
<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>	It was reported that each time out room had a magnetic locking mechanism that was engaged by pressing a button located outside the room. If the button was released, the door would unlock. Since the emergency rules went into effect on November 20, 2019, it was reported that each program has disarmed the locking mechanisms on the doors of the isolated time out rooms.

Summary and Discussion

Based upon this information, the rooms utilized for isolated time out may not have complied with the state requirements. Specifically, the time out rooms at Cooperative Program D may not be free of objects that could harm a student (e.g., metal covering on boiler pipes). Additionally, the documentation suggests that the isolated time out rooms at Cooperative Program B and Cooperative Program D include objects that offer sufficient leverage for climbing (e.g., window sill, metal covering on boiler pipes/heater).

C. Time Limits {23 IAC § 1.285(e)(1); 23 IAC §1.285 (f)(4) (A-C)}

The following violation is found as explained below:

Review of Relevant Information

Time Limits 23 IAC § 1.285(e)(1) 23 IAC §1.285 (f)(4) (A-C)	Documentation
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>Interviews:</p> <ul style="list-style-type: none"> • Respondents reported that, in the past, students were released from isolated time out when they met the release criteria. • Respondents also reported that, based on the emergency regulations, students are now released when they demonstrate that they are calm. <p>Documentation Review:</p> <ul style="list-style-type: none"> • The time out form utilized by the cooperative between November 20, 2018, and November 20, 2019, included a checklist for staff to document the

	<p>release criteria, which included calm for a specified number of minutes, accepts redirection, and "other."</p> <ul style="list-style-type: none"> • Examples of "other" release criteria documented on completed time out forms included writing sentences, completing work/assignments, essays, and "think sheets."
<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>Interviews:</p> <ul style="list-style-type: none"> • The respondents reported that, when isolated time out exceeds 30 minutes, a licensed staff member assesses the situation. <p>Documentation Review:</p> <ul style="list-style-type: none"> • The time out form utilized by the cooperative between November 20, 2018, and November 20, 2019 included a signature and date line to document that the evaluation was conducted. <p>Review of Records: In reviewing time out records, principal consultants considered whether the episode exceeded 30 minutes and/or physical restraint exceeded 15 minutes and whether a licensed and trained staff member evaluated the situation. The following was determined:</p> <p><u>Length of Episode</u></p> <ul style="list-style-type: none"> • Of the 371 records reviewed, 152 or 41.0% indicated that the episode of isolated time out exceeded 30 minutes, or the episode of physical restraint exceeded 15 minutes. • Of those 152 records, it was documented on 123 records (80.9%) that a licensed and trained staff member evaluated the situation. <p><u>Repeated Episodes</u></p> <ul style="list-style-type: none"> • Of the 371 records reviewed, 64 records (17.3%) indicated that repeated episodes occurred during any three-hour period. • Of those 64 records, it was documented on 18 records (28.1%) that a licensed and trained staff member evaluated the situation.
<p>B) <i>The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for</i></p>	<p>Interviews:</p> <ul style="list-style-type: none"> • The respondents stated that the evaluation included consideration of the student's needs for such things as food, water, or a restroom break.

<p><i>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>Documentation Review:</p> <ul style="list-style-type: none"> The time out form utilized by the cooperative between November 20, 2018, and November 20, 2019 included instructions for staff regarding the requirements for episodes of isolated time out that exceeded 30 minutes. Specifically, the form states that if time out exceeds 30 minutes, certified staff must sign to indicate that they (1) evaluated the situation, including the student's potential need for nourishment, restroom, etc.; (2) considered the appropriateness of the time out; and (3) considered the possibility of a need for alternative strategies
<p><i>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.</i></p>	<p>Interviews:</p> <ul style="list-style-type: none"> Respondents reported that the results of the evaluation are documented in the behavior log that accompanies the time out form. <p>Review of Records: In reviewing time out records, principal consultants considered whether the results of the evaluation were committed to writing. The following was determined:</p> <p><u>Length of Episodes</u></p> <ul style="list-style-type: none"> The results of the evaluation were committed to writing in only 3 records (2.0%) of isolated time out that exceeded 30 minutes or physical restraint that exceeded 15 minutes. <p><u>Repeated Episodes</u></p> <ul style="list-style-type: none"> The results of the evaluation were only committed to writing in 1 record (1.6%) repeated episodes of isolated time out and/or physical restraint.

Summary and Discussion

The cooperative acknowledged that students may have remained in the isolated time out room for more than 30 minutes after he or she ceased presenting the specific behavior for which isolated time out was imposed. According to the cooperative's review of time out forms, it was determined that students remained in the isolated time out room to complete assignments or essays.

Additionally, based upon a review of the data, students may not have been evaluated as required. The review of records conducted by principal consultants in the Special Education Department indicates that evaluations by a licensed educator may not have been conducted in all cases when isolated time out exceeded thirty minutes or when repeated episodes occurred within any three-hour period. Further, the data indicates that very few of the evaluations that were conducted were committed to writing, as required.

D. Documentation and Evaluation {23 IAC 1.285(f)}

The following violation is found as explained below:

Review of Relevant Information

Documentation and Evaluation 23 IAC § 1.285(f) (1-3,5)	Documentation
<p>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 to Section 1.280(c)(3) of this Part shall also maintain a copy of these records. Each record shall include:</i></p>	<p>Interviews:</p> <ul style="list-style-type: none"> The respondents stated that the written records of each episode of isolated time out are maintained in the student's temporary record. The forms are completed and then logged into a computer system. <p>Documentation Review:</p> <ul style="list-style-type: none"> The cooperative reported that it submitted 409 written records of each incident of isolated time out that occurred between November 2018 and December 2019. <p>Review of Records:</p> <ul style="list-style-type: none"> A total of 371 records that addressed the use of isolated time out between November 20, 2018, and November 20, 2019 were reviewed by principal consultants in the Special Education Department.
<p>A) <i>the student's name;</i> B) <i>the date of the incident;</i> C) <i>the beginning and ending times of the incident;</i> D) <i>a description of any relevant events leading up to the incident;</i> E) <i>a description of any interventions used prior to the implementation of isolated time out or physical restraint;</i> F) <i>a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;</i> G) <i>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;</i></p>	<p>Documentation Review:</p> <ul style="list-style-type: none"> A review of the form utilized by the cooperative to document the use of isolated time out indicates that it included all of the components required by the Illinois Administrative Code, except for a description of any planned approach to dealing with the student's behavior in the future. The form utilized by the cooperative had a section for the individual completing the form to check if the student's Behavior Intervention Plan (BIP) required revision, but no other information regarding a planned approach to dealing with the student's behavior in the future was included on the form. Subsequent to the implementation of the Emergency Rules, the cooperative reported that it has since adopted the ISBE Physical Restraint and Time Out Form (ISBE 11-01). <p>Review of Records:</p>

<p>H) a description of any injuries (whether to students, staff, or others) or property damage;</p> <p>I) a description of any planned approach to dealing with the student's behavior in the future;</p> <p>J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;</p> <p>K) the date on which parental notification took place as required by subsection (g) of this Section.</p>	<p>In reviewing time out records, principal consultants considered whether the results of the following information were documented:</p> <ul style="list-style-type: none"> • 99.7% of records included the student's name. • 98.6% of records included the date of the incident. • 99.1% of records included the beginning time of the incident. • 98.6% of records included the ending time of the incident. • 98.9% of records included a description of any relevant events leading up to the incident. • 99.2% of records included a description of the incident and/or student behavior that resulted in isolated time out and/or physical restraint. • 95.1% of records included a log of the student's behavior. • 90.3% of records included a description of any injuries. • 11.0% of records included a description of property damage. • 76.5% of records included a description of any planned approach to dealing with the student's behavior in the future. • 97.8% of records included a list of the school personnel who participated in the implementation, monitoring, and supervision. • 74.6% of records included the date on which parental notification took place.
<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>Interviews:</p> <ul style="list-style-type: none"> • The respondents stated that the principal or special education administrator is the official designated as the individual who will be informed of incidents and maintain documentation when isolated time out is used. The respondents reported that this individual is notified by the end of the day on which the incident occurs. <p>Documentation Review:</p> <ul style="list-style-type: none"> • The form utilized by the cooperative includes a section for the school official to sign and date. However, the rules in effect for the time period of this complaint investigation did not require that such information be documented in the record.
<p>3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode</p>	<p>Interviews:</p> <ul style="list-style-type: none"> • Respondents reported that the form utilized by the cooperative is completed and sent home with the student or mailed home on the day the incident occurs.

<p><i>of isolated time out or physical restraint.</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 ten days' notice of its date, time, and location.</i></p> <p>B) <i>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>	<p>Interviews:</p> <ul style="list-style-type: none"> • The respondents stated that when a student first experienced three instances of isolated time out, a student of concern meeting is convened. The purpose of these meetings is to brainstorm additional intervention strategies to address the student's behavior. Team members review the effectiveness of the procedures and determine what, if any changes need to be made.

Summary and Discussion

The information provided indicates that the cooperative maintained a written record of each episode of isolated time out that occurred between November 20, 2018, and November 20, 2019. However, based upon a review of records completed by principal consultants in the Special Education Department, the time out records submitted by the cooperative did not meet the documentation requirements with 100% compliance.

E. Notification to Parents {23 IAC § 1.285(g) (1-2)}

The following violation is found as explained below:

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>Interviews:</p> <ul style="list-style-type: none"> • Respondents stated that parents are provided with a copy of the Student Parent Handbook at the beginning of each school year or upon enrollment. In addition, parents are notified of the cooperative’s discipline policies annually at the students’ Individualized Education Program (IEP) meetings. <p>Documentation Review:</p> <ul style="list-style-type: none"> • The cooperative’s Student Parent Handbook for the 2019-20 school year includes a section that addresses the use of isolated time out. • The handbook also includes an agreement page, which both the student and the parent are required to sign and return to school. The form requires the parent and the student to acknowledge that they have reviewed the handbook requirements.
<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>Interviews:</p> <ul style="list-style-type: none"> • Each respondent reported that the cooperative does not ask parents to waive the notification requirement. Rather, parents are notified of each incident of isolated time out. • Respondents indicated that the time out forms were also utilized as the written notice provided to the parent. • Respondents reported that written forms are either sent home with the student on the day of the incident or the written forms are mailed home on the same day. In situations in which staff had concerns that the form would not be shared with the parent(s)/guardian(s) by the student, staff would also call home to discuss the incident on the same day. • Respondents stated that teachers/case managers are responsible for sending the forms home within 24 hours of each incident of isolated time out. <p>Documentation Review:</p> <ul style="list-style-type: none"> • The form utilized by the cooperative included a section for the individual completing the form to document

	<p>the date on which the written form was sent to the parent.</p> <ul style="list-style-type: none"> The form also included a section to document 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. <p>Review of Records:</p> <ul style="list-style-type: none"> 82.7% of records indicated that the parent was notified in writing within 24 hours after the use of time out.
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Summary and Discussion

The information provided indicates that parents are notified annually and/or upon enrollment that the cooperative's policies on the maintenance of discipline include the use of isolated time out or physical restraint. Further, the information indicates that the cooperative has procedures in place for notifying parents when time out is utilized. However, the review of records conducted by principal consultants in the Special Education Department indicates that parents were not notified in writing within 24 hours of the use of isolated time out with 100% compliance.

F. Requirements for Training {23 IAC § 1.285(h)(1)}

No violation is found as explained below:

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>Interviews:</p> <ul style="list-style-type: none"> Respondents reported that staff members are provided orientation on the cooperative's written procedures for the use of isolated time out at staff meetings convened at the beginning of each year. It was reported that, at these beginning of the year meetings, a review of the Illinois School Code and state rules is conducted, as well as a discussion regarding when it is appropriate to use time out and when it is not appropriate. Respondents further reported that, upon the filing of emergency rules, the cooperative convened meetings with staff to review the new procedures. <p>Documentation provided:</p> <ul style="list-style-type: none"> The cooperative provided an example of a "Beginning of the Year Information for Certified Staff" document for the 2019-20 school year. The contents of this document indicate that staff are reminded to

	<p>review time out forms before signing them and turning them in and staff are directed to review the Illinois School Code.</p> <ul style="list-style-type: none"> ○ The cooperative provided a staff sign in sheet and email communications form November 2019 as verification that the emergency rules were reviewed with staff.
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Summary and Discussion

Based upon the information provided, the cooperative provided the required orientation to its staff members regarding its written procedures for the use of isolated time out.

Corrective Action

The cooperative must:

1. Provide training to staff on the following topics:
 - a. The appropriate use of time out in accordance with the applicable rules.
 - b. The time limits associated with the use of time out in accordance with the applicable rules.
 - c. The evaluation requirements that apply whenever an episode of time out exceeds 30 minutes.
 - d. The documentation requirements in accordance with the applicable rules.
 - e. The parent notification requirements in accordance with the applicable rules.
2. Ensure the following:
 - a. Any enclosure utilized for time out by the cooperative meets the requirements outlined in the applicable rules (i.e., free of objects that could be used by students to harm themselves or others, be designed so that students cannot climb up the walls, etc.).
 - b. The cooperative will discontinue the practice of requiring students to meet specific criteria as the basis for their release from time out, including the completion of sentences or writing essays.
 - c. Students will be kept in time out for no longer than is necessary in accordance with the applicable rules.
 - d. Evaluations will be conducted, and the results will be documented whenever an episode of time out exceeds 30 minutes in accordance with the applicable rules.
 - e. Parents will be notified of the use of time out within 24 hours of the incident.
3. Develop and implement a plan for administrative oversight to ensure that time out documentation is completed in accordance with the requirements of the applicable rules. This plan should, at a minimum, specify the procedures established to ensure that time out forms are completed in accordance with applicable rules and the steps that will be initiated to ensure implementation.
4. Participate in quarterly meetings for the next calendar year with ISBE personnel for monitoring and review purposes.

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

1. Documentation to verify the provision of the identified training to all cooperative staff that work in programs that allow for the use of time out, including participant sign-in sheets (with title) and a copy of any training materials utilized.

2. The above-referenced statements of assurance.
3. A copy of the plan identified above to include the name/title of the administrator(s) responsible for oversight.

The above listed materials should be sent to the Special Education Department no later than **March 20, 2020**. Cooperation from both parties during this investigation is appreciated.

Respectfully submitted,



Barbara A. Moore
Director, Special Education

cc: Mr. Jesse Ruiz, Office of the Governor

Appendix A: Cooperative Programs

Cooperative Program A—Center School

Cooperative Program B—Dewey School

Cooperative Program C—Jonesboro Elementary School

Cooperative Program D—Ward School