

Members

Rep. Robert Heaton, Chairman
Rep. Kathleen Heuer
Rep. Vanessa Summers
Rep. Michael White
Sen. Randall Head
Sen. Brent Waltz
Sen. Jean Breaux
Sen. Timothy Skinner
John Taylor
Dr. Robin Murphy
Mary Rosswurm
Hugh Beebe
Michael Carmin
Kylee Bassett Hope



INDIANA COMMISSION ON AUTISM

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Authority: IC 12-11-7-2

MEETING MINUTES¹

Meeting Date: October 10, 2012
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St.,
House Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Robert Heaton, Chairman; Rep. Kathleen Heuer; Rep. Vanessa Summers; Rep. Michael White; Sen. Randall Head; Sen. Brent Waltz; Sen. Jean Breaux; Sen. Timothy Skinner; John Taylor; Hugh Beebe; Kylee Bassett Hope.

Members Absent: Dr. Robin Murphy; Mary Rosswurm; Michael Carmin.

Chairman Representative Robert Heaton called the meeting to order at 1:17 P.M. Chairman Heaton recognized Senator Head to go through Preliminary Draft (PD) 3329 (Exhibit A).

Senator Head outlined the changes between PD 3329 and previous drafts. He said that this PD with the changes was much better than previous versions. He said that the effort was made to carefully define restraint. He also mentioned that PD 3329 clearly would allow each school district to adopt a policy best suited to their needs. He then explained key sections of PD 3329.

He began by saying that Section 1 through 9 clearly describes the legislative intent of the draft. He said Section 2 includes definitions, including a behavioral intervention plan (BIP), time out, chemical restraint, and other definitions.

Senator Head said Section 11 was designed to protect both students and school faculty. He said the BIP was to be used only as a last resort if all other options to correct student behavior had been exhausted.

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

He said PD 3329 would require the schools to document and record each incidence of seclusion and restraint used on a student. He continued that the PD would require training for appropriate school employees on the appropriate use of alternatives to physical restraint and seclusion. He said it was his intent by saying that appropriate staff would receive training would respect and minimize the use of staff time for training. He said a school's policy would be required to be printed in the student handbook and available to the public.

Senator Breaux asked if PD 3329 would require a central depository for the data collected on use of physical seclusion and restraint. She said that oversight by a central collection point could be necessary to insure that schools collect the data.

Senator Head replied to Senator Breaux's question that he understood her concern. He said that a central repository was not included in this PD, because no agency was willing to become the repository for the data at this time. He said in order to get agreement, the central repository language had to come out. He concluded that the policy requirement that the draft would set is more important to establish first. He said that his hope would be to approach the issue of the central repository in the future.

Seeing no further comment or question, Chairman Heaton asked for the Commission to recommend PD 3329 to the full General Assembly for consideration during the 2013 legislative session.

The Commission recommended PD 3329 to the General Assembly by unanimous consent.

Chairman Heaton asked for Commission staff to pass out the 2012 interim final report for the Commission.

After allowing time for review, Chairman Heaton asked for a motion to adopt the final report with changes incorporated from the third meeting of the Commission. A motion was made and seconded. The final report was adopted by a vote of 11-0.

Following the adoption of the final report, Chairman Heaton thanked the membership and all who had participated and assisted with the Commission during the 2012 interim. He adjourned the meeting at 1:47 P.M.



PRELIMINARY DRAFT
No. 3329

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2013 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 20-34-8.

Synopsis: Use of restraints and seclusion in schools. Requires each school corporation to develop a policy on restraint and seclusion that includes certain provisions. Requires restraint and seclusion policies to be published in a student handbook, made available to the public, and distributed at each initial case conference committee within the school corporation.

Effective: July 1, 2013.



A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-34-8 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO BE READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]:

4 **Chapter 8. Restraint and Seclusion**

5 **Sec. 1. The purpose of this chapter is to do the following:**

6 (1) Prevent and reduce the use of physical restraint and
7 seclusion in schools.

8 (2) Ensure the safety of all students and school employees in
9 schools and promote a positive school culture and climate.

10 (3) Protect students from:

11 (A) physical or mental abuse;

12 (B) aversive behavioral interventions that compromise
13 health and safety; and

14 (C) any physical restraint or seclusion imposed solely for
15 purposes of discipline or convenience.

16 (4) Ensure that physical restraint and seclusion are imposed
17 in school only when a student's behavior poses an imminent
18 danger of physical injury to the student, school employee, or
19 others.

20 **Sec. 2. As used in this chapter, "behavioral intervention plan"**
21 **means a plan agreed upon by the case conference committee (as**
22 **defined in IC 20-35-7-2) and incorporated into a student's**
23 **individualized education program (as defined in IC 20-18-2-9) that**
24 **describes the following:**

25 (1) The pattern of behavior that impedes the student's
26 learning or the learning of others.

27 (2) The purpose or function of the behavior as identified in a
28 functional behavioral assessment.

29 (3) The positive interventions and supports, and other
30 strategies, to:

31 (A) address the behavior; and



- 1 (B) maximize consistency of implementation across people
 2 and settings in which the student is involved.
 3 (4) If applicable, the skills that will be taught and monitored
 4 in an effort to change a specific pattern of behavior of the
 5 student.

6 The behavioral intervention plan seeks to maximize consistency of
 7 implementation across people and settings in which the student is
 8 involved.

9 Sec. 3. As used in this chapter, "chemical restraint" means the
 10 administration of a drug or medication to manage a student's
 11 behavior or restrict a student's freedom of movement that is not a
 12 standard treatment and dosage for the student's medical or
 13 psychiatric condition.

14 Sec. 4. As used in this chapter, "isolated time-out" means the
 15 confinement of a student in a time out room or some other
 16 enclosure, whether within or outside the classroom, from which the
 17 student's egress is restricted. The use of isolated time-out is subject
 18 to the following requirements:

- 19 (1) Any enclosure used for isolated time out shall:
 20 (A) have the same ceiling height as the surrounding room
 21 or rooms and be large enough to accommodate not only the
 22 student being isolated but also any other individual who is
 23 required to accompany that student;
 24 (B) be constructed of materials or objects that cannot be
 25 used by students to harm themselves or others, and be
 26 designed so that students cannot climb up the walls;
 27 (C) be designed to allow continuous visual monitoring of
 28 and communication with the student;
 29 (D) not use any device that requires the use of a key or
 30 special knowledge on any required exit from the room; and
 31 (E) comply with all applicable health and safety
 32 requirements.
 33 (2) An adult must supervise the student while confined and
 34 must be able to see the student at all times.
 35 (3) A student must not be kept in isolated time out for more
 36 than thirty (30) minutes after the student stops exhibiting the
 37 specific behavior for which isolated time out was imposed or
 38 any other behavior for which it would be an appropriate
 39 intervention.

40 If a student is placed in isolated time out pursuant to a behavioral
 41 intervention plan or individualized education program, any time
 42 limitations identified in the behavioral intervention plan or
 43 individualized education program will control.

44 Sec. 5. (a) As used in this chapter, "mechanical restraint" means
 45 the use of:

- 46 (1) a mechanical device;



1 (2) a material; or
 2 (3) equipment;
 3 attached or adjacent to a student's body that the student cannot
 4 easily remove that restricts the freedom of movement of all or part
 5 of the student's body or restricts normal access to the student's
 6 body.

7 (b) The term does not include:

8 (1) mechanical devices;

9 (2) a material; or

10 (3) equipment;

11 used as prescribed by a doctor.

12 Sec. 6. As used in this chapter, "physical restraint" means
 13 physical contact between a school employee and a student:

14 (1) in which the student unwillingly participates; and

15 (2) that involves the use of a manual hold to restrict freedom
 16 of movement of all or part of a student's body or to restrict
 17 normal access to the student's body.

18 The term does not include briefly holding a student without undue
 19 force in order to calm, comfort, or prevent unsafe behavior, such
 20 as running into traffic or engaging in a physical altercation,
 21 physical escort, or physical contact intended to gently assist or
 22 prompt a student in performing a task or to guide or assist a
 23 student from one (1) area to another.

24 Sec. 7. As used in this chapter, "positive behavior intervention
 25 and support" means a systematic approach that:

26 (1) uses evidence based practices and data driven decision
 27 making to improve school climate and culture; and

28 (2) includes a range of systematic and individualized
 29 strategies to reinforce desired behavior and diminish
 30 reoccurrence of problem behavior;

31 to achieve improved academic and social outcomes and increase
 32 learning for all students.

33 Sec. 8. As used in this chapter, "school employee" means an
 34 individual employed by:

35 (1) a public school, including a charter school; or

36 (2) an accredited nonpublic school.

37 Sec. 9. As used in this chapter, "seclusion" means the
 38 involuntary confinement of a student alone in a room or area from
 39 which the student physically is prevented from leaving. The term
 40 does not include a supervised timeout or scheduled break as
 41 described in a student's individualized education program in which
 42 an adult is continuously present in the room with the student.

43 Sec. 10. As used in this chapter, "time-out" means a behavior
 44 reduction procedure in which access to reinforcement is withdrawn
 45 for a certain period of time. Time-out occurs when the ability of a
 46 student to receive normal reinforcement in the school environment



1 is restricted.

2 Sec. 11. Each school corporation, including a charter school,
3 shall develop a policy regarding seclusion and restraint. The policy
4 must include at a minimum all the following:

5 (1) A statement on how students will be treated with dignity
6 and respect and how appropriate student behavior will be
7 promoted and taught.

8 (2) A statement ensuring that the school will use prevention,
9 positive behavior intervention and support, and conflict
10 de-escalation to preclude the need for use of any of the
11 following:

12 (A) Seclusion.

13 (B) Chemical restraint.

14 (C) Mechanical restraint.

15 (D) Physical restraint.

16 (3) A statement ensuring that any behavioral intervention
17 used will be consistent with the student's most current
18 behavioral intervention plan, or individualized education
19 program, if applicable.

20 (4) Definitions for restraint and seclusion, as defined in this
21 chapter.

22 (5) A statement ensuring that if a procedure listed in
23 subdivision 2 is used, the procedure will be used:

24 (A) as a last resort safety procedure employed only after
25 another less restrictive procedure has been implemented
26 without success; and

27 (B) in a situation where there is an imminent risk of injury
28 to the student, other students, school employees, or visitors
29 to the school.

30 (6) A documentation and recording requirement when
31 procedures listed in subdivision (2) are used, including:

32 (A) how every incident will be documented and debriefed;

33 (B) how responsibilities will be assigned to designated
34 employees for evaluation and oversight; and

35 (C) designation of a school employee to be the keeper of
36 such documents.

37 (7) A notification requirement to notify the student's parent
38 as soon as possible when incidents occur that include
39 procedures listed in subdivision (2).

40 (8) A requirement that a copy of an incident report will be
41 sent to the student's parent after any procedure listed in
42 subdivision (2) occurs.

43 (9) Required training for appropriate school employees on the
44 appropriate use of effective alternatives to physical restraint
45 and seclusion, including the use of positive behavioral
46 intervention and support and conflict de-escalation. The



1 training must include the safe use of physical restraint and
2 seclusion involving incidents of imminent danger or serious
3 harm to the student, school employees, or others.

4 Sec. 12. A restraint and seclusion policy developed under section
5 11 of this chapter must be published in the student handbook,
6 made available to the public, and distributed at each initial case
7 conference committee within the school corporation.

