TITLE 513 COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

Final Rule
LSA Document #18-63(F)

DIGEST

Adds 513 IAC 1-0.5 to add a preamble to the article. Amends 513 IAC 1-1-12 to modify definition of "physical restraint". Adds 513 IAC 1-1-18.5 to add a definition for "school resource officer". Amends 513 IAC 1-1-20 to modify definition of "staff". Amends 513 IAC 1-2-5 to clarify when a bus harness or other safety equipment may be used to restrain a student when transporting. Amends 513 IAC 1-2-7 to clarify those provisions and to add the requirement to report the use of seclusion or restraint by school resource officers. Amends 513 IAC 1-2-9 to add provisions requiring the Indiana department of education to review a sampling of incident reports by schools. Amends 513 IAC 1-2-11 to add provisions requiring the department to receive, on behalf of the commission, reports from the public regarding school restraint and seclusion plans. Effective 30 days after filing with the Publisher.

513 IAC 1-0.5; 513 IAC 1-1-12; 513 IAC 1-1-18.5; 513 IAC 1-1-20; 513 IAC 1-2-5; 513 IAC 1-2-7; 513 IAC 1-2-9; 513 IAC 1-2-11

SECTION 1. 513 IAC 1-0.5 IS ADDED TO READ AS FOLLOWS:

Rule 0.5. Preamble

513 IAC 1-0.5-1 Preamble

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40

Sec. 1. (a) The purpose of this article is to:
(1) prevent and reduce the use of restraint and seclusion in schools;
(2) ensure the safety and dignity of all students and personnel in schools;
(3) promote a positive school culture and climate;
(4) protect students from:
(A) physical or mental abuse;
(B) aversive behavioral interventions that compromise health and safety; and
(C) any restraint or seclusion imposed solely for purposes of discipline or convenience;
(5) ensure that restraint and seclusion are imposed in school only when a student's behavior poses an imminent danger of physical injury to the student, school personnel, or others; and
(6) assist public, charter, and accredited nonpublic schools in:
(A) establishing policies and procedures to keep all students and school personnel safe, including students with the most complex and intensive behavioral needs;
(B) providing school personnel with the necessary tools, training, and support to ensure the safety of all students and all school personnel; and
(C) collecting and analyzing data on restraint and seclusion in schools, including data on the use of restraint and seclusion by school resource officers.

(b) The following beliefs and principles have guided the commission's work in drafting this article:
(1) Safe, effective, evidence-based strategies are available to support children who display challenging behaviors in school settings.
(2) The effective implementation of school-wide positive behavior supports is linked to greater academic achievement, significantly fewer disciplinary problems, increased instruction time, and staff perception of a safer teaching environment.
(3) The use of restraint or seclusion should be seen as an extraordinary event and should never be used as a:
(A) routine strategy implemented to address instructional problems or inappropriate behavior (e.g., disrespect, noncompliance, insubordination, out of seat);
(B) means of coercion or retaliation; or
(C) convenience.
(4) School personnel have the right to work in a safe environment and should be provided training and

support to prevent injury and trauma to themselves and others.
(5) Staff training focused on the dangers of restraint and seclusion as well as training in evidence-based positive behavior supports, deescalation techniques, and restraint and seclusion prevention can reduce the incidence of injury, trauma, and death.
(6) School resource officers, as well as other law enforcement officers who provide services to schools, are important partners in the implementation of school safety.
(7) Schools should never request or encourage a school resource officer, or any other law enforcement officer who provides services to schools, to initiate the restraint or seclusion of a student.
(8) The collection of complete and accurate data related to the use of restraint or seclusion of a student is important to the state of Indiana in order to determine the areas where training and education may be needed.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-0.5-1; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 2. 513 IAC 1-1-12 IS AMENDED TO READ AS FOLLOWS:

513 IAC 1-1-12 "Physical restraint" defined

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40

Sec. 12. (a) "Physical restraint" means physical contact between a school employee, **including a school resource officer (as defined in section 18.5 of this rule),** and a student:
(1) in which the student unwillingly participates; and
(2) that involves the use of a manual hold to restrict freedom of movement of all or part of a student's body or to restrict normal access to the student's body.

(b) The term does not include:
(1) briefly holding a student without undue force in order to calm or comfort the student, or to prevent unsafe behavior, such as running into traffic or engaging in a physical altercation;
(2) physical escort; or
(3) physical contact intended to gently assist or prompt a student in performing a task or to guide or assist a student from one (1) area to another.

(c) The term does not include the use of a bus harness or other safety equipment that is used to restrain a student during transport when the harness or safety equipment is necessary for safety purposes as provided under 575 IAC 1.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-12; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 3. 513 IAC 1-1-18.5 IS ADDED TO READ AS FOLLOWS:

513 IAC 1-1-18.5 "School resource officer" defined

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40; IC 20-26-18.2-1

Sec. 18.5. "School resource officer" has the meaning set forth in IC 20-26-18.2-1.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-18.5; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 4. 513 IAC 1-1-20 IS AMENDED TO READ AS FOLLOWS:

513 IAC 1-1-20 "Staff" defined

Authority: IC 20-20-40-13; IC 20-20-40-16

Affected: IC 20-20-40

Sec. 20. (a) "Staff" means any person, ~~with~~ **working within a school, who has** regular **and** direct contact with ~~a student,~~ **students,** including:

(1) ~~paid staff;~~ **a school employee;**
(2) **a** volunteer;
(3) **a** contract employee;
(4) **a** consultant; ~~or~~
(5) a school resource officer or any law enforcement employed by a school or providing services through a school's subcontractor; or
~~(5)~~ **(6)** any other agent;

of a school corporation, charter school, or an accredited nonpublic school.

~~(b) The classifications in subsection (a) that meet the definitions shall be determined by the school/local plan.~~

~~(c) For purposes of subsection (a)(5),~~ **(b)** An agency relationship exists when there is:

(1) a manifestation of consent by the school to the agent;
(2) an acceptance of the authority by the agent; and
(3) control exerted by the school over the agent.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-1-20; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; errata filed Sep 30, 2014, 9:10 a.m.: 20141022-IR-513140385ACA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 5. 513 IAC 1-2-5 IS AMENDED TO READ AS FOLLOWS:

513 IAC 1-2-5 Mechanical and chemical restraints prohibited

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40

Sec. 5. (a) Except as provided in subsection (d), the use of mechanical restraints to restrict a student's freedom of movement is prohibited.

(b) The use of any drug, medication, or other chemical to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health care professional) is prohibited.

(c) Schools shall never give a student any drug or medication that is not a standard treatment or dosage, or both, for the student's medical or psychiatric condition unless otherwise prescribed by a physician.

(d) While transporting a student on a moving vehicle, a bus harness or other safety equipment may be required and is permissible for safety purposes. **However,** the use of any bus harness or safety equipment, **as described in 513 IAC 1-1-10,** that is used to restrain a student during transportation must be documented.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-5; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 6. 513 IAC 1-2-7 IS AMENDED TO READ AS FOLLOWS:

513 IAC 1-2-7 Monitoring and reporting

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40

Sec. 7. (a) Every ~~instance~~ **incident** in which seclusion or restraint is used shall be carefully and continuously visually monitored to ensure the safety of the following:

(1) The student.
(2) Other students.

(3) Teachers.
(4) Staff.

(b) Immediately after the student has restored emotional and behavioral control following the use of restraint or seclusion, or both, a staff member not involved with the incident shall examine the student to ascertain if any injury has been sustained during the seclusion or restraint.

(c) The building administrator or designee shall attempt to report every ~~instance~~ **incident, including every incident involving a school resource officer (as defined in 513 IAC 1-1-18.5),** in which seclusion or restraint is used on a student to the student's parent or guardian:
(1) no later than the end of the school day or as soon as practical;
(2) verbally; and
(3) in accordance with the seclusion and restraint plan adopted by a school.

(d) **In addition to the verbal notice described in subsection (c),** written notification, as described in the school's adopted plan, must also be sent to the student's parent or guardian after every ~~instance~~ **incident** in which seclusion or restraint is used on a student. ~~and~~ **Such notice** shall be provided as soon as practical.

(e) Public school corporations **and charter schools** shall report the number of ~~instances~~ **incidents, including the number of incidents involving a school resource officer (as defined in 513 IAC 1-1-18.5),** in which either seclusion or restraint is used in its annual performance report. ~~required by IC 20-20-8-3.~~

~~(f) Each charter school shall report the number of instances in which either seclusion or restraint is used in its school to its sponsor. A charter school's sponsor shall report the number of instances in which a charter school has reported the use of either seclusion or restraint in its annual report, described in IC 20-24-9-1.~~

(f) A school resource officer is involved in an incident of restraint or seclusion of a student when the school resource officer:
(1) directs the restraint or seclusion of a student;
(2) assists with the restraint or seclusion of a student; or
(3) initiates the seclusion or restraint of a student.

(g) Each accredited nonpublic school shall report, in writing, the number of ~~instances~~ **incidents** in which either seclusion or restraint is used in its school to its governing authority.

(h) Each school must conduct an annual review of its plan for the purposes of improvement and revision.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-7; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 7. 513 IAC 1-2-9 IS AMENDED TO READ AS FOLLOWS:

513 IAC 1-2-9 Incident documentation

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40

Sec. 9. (a) Every ~~instance~~ **incident** in which seclusion or restraint is used on a student shall be documented in order to memorialize the events that led up **to** the use of either seclusion or restraint.

(b) Documentation may include the following:
(1) The student's name.
(2) The date and time of the incident.
(3) The duration of any seclusion or restraint or the beginning and ending times of the restraint or seclusion, or both.
(4) A description of any relevant events leading up to the incident.
(5) A description of the incident or student behavior that resulted in implementation of seclusion or restraint

including a description of the danger of injury which resulted in the seclusion or restraint.
(6) A description of relevant interventions used immediately prior to the implementation of seclusion or restraint.
(7) A summary of the student's behavior during seclusion or restraint, including a description of the restraint technique or techniques used and any other interaction between the student and staff.
(8) A description of any injuries to students, staff, or others or property damage.
(9) A list of the school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint.
(10) If applicable, a statement that the intervention used was consistent with the student's most current behavioral intervention plan or IEP.

(c) The department shall, annually, review incident reports from not less than three percent (3%) of public schools, which schools shall be chosen at random by the department.

(d) Upon request, each school selected for review under subsection (c) shall provide the department, in a manner prescribed by the department, with a copy of any incident report involving the use of seclusion or restraint of a student.

(e) Upon request by the department, each school shall provide a copy of the school's seclusion and restraint plan under section 11 of this rule.

(f) The department shall provide the commission with a summary report of the department's annual review. The summary report shall be in a manner and form prescribed by the commission.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-9; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; errata filed Sep 30, 2014, 9:10 a.m.: 20141022-IR-513140385ACA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

SECTION 8. 513 IAC 1-2-11 IS AMENDED TO READ AS FOLLOWS:

513 IAC 1-2-11 Seclusion and restraint plan

Authority: IC 20-20-40-13; IC 20-20-40-16
Affected: IC 20-20-40

Sec. 11. **(a)** No later than July 1, 2014, each Indiana school corporation, charter school, and accredited nonpublic school must adopt a seclusion and restraint plan. At a minimum, each seclusion and restraint plan shall include the following:
(1) A statement on how:
(A) students will be treated with dignity and respect; and
(B) appropriate student behavior will be promoted and taught.
(2) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to eliminate or minimize the need for use of any of the following:
(A) Seclusion.
(B) Chemical restraint.
(C) Mechanical restraint.
(D) Physical restraint.
(3) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or IEP, if applicable.
(4) Definitions for restraint and seclusion, as defined in this article.
(5) A statement ensuring that if a procedure listed in subdivision (2) is used, the procedure will be used:
(A) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and
(B) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.
(6) An indication that restraint or seclusion may be used only for a short time period or until the imminent risk of injury has passed.
(7) A documentation and recording requirement governing ~~instances~~ **incidents** in which procedures listed in subdivision (2) are used, including:

(A) how every incident will be documented and debriefed;
(B) how responsibilities will be assigned to designated employees for evaluation and oversight; and
(C) designation of a school employee to be the keeper of such documents.
(8) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in subdivision (2).
(9) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a procedure listed in subdivision (2).
(10) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others. Consideration must be given to available school resources and the time commitments of school employees.

(b) The department shall accept reports from the public regarding school restraint and seclusion plans, which reports shall be limited to:
(1) lack of compliance between a school's seclusion and restraint plan and the requirements of IC 20-20-40 and the requirements of subsection (a);
(2) the availability of a school's plan as described in section 8 of this rule; and
(3) the reporting of incidents of seclusion or restraint, including the reporting of the use of seclusion or restraint by a school's resource officer.

(c) The department shall provide the commission with a summary of the reports received.

(d) The summary report must comply with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99).

(e) The commission, after reviewing the summary from the department, may instruct the department to require a school to provide a written explanation regarding a report.

(f) Upon request, each school shall provide the department with a written explanation and response to any questions posed by the department. The school shall provide the explanation in a manner prescribed by the department.

(g) After review of the explanation by the school and any supporting documentation, the department shall provide a summary of the department's findings.

(h) Based on the department's findings, the commission may make nonbinding recommendations to the department or to the school related to professional development for the school related to the use of seclusion or restraint, this article, or IC 20-20-40.

(Commission on Seclusion and Restraint in Schools; 513 IAC 1-2-11; filed Aug 5, 2014, 1:32 p.m.: 20140903-IR-513130408FRA; filed Dec 21, 2018, 3:05 p.m.: 20190116-IR-513180063FRA)

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Small Business Regulatory Coordinator: Michael G. Moore, Indiana Department of Education, Room 229, State House, Indianapolis, IN 46204, (317) 232-9001, mmoore@doe.in.gov

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