



## **Joint Testimony on Senate Bill 2315 – Isolated Time Out, Time Out, Physical Restraint**

Our organizations have appreciated the continued dialogue with Senator Gillespie and Representative Carroll on this legislation, but significant concerns remain with the final draft of an amendment to SB 2315, received by stakeholders on May 18, 2020.

While our individual organizations may have different ideas about the regulation and use of isolated time out, time out, and physical restraint, we agree that the permanent rules, developed through a collaborative effort of stakeholders led by ISBE, and approved by the bipartisan Joint Committee on Administrative Rules last month, consider the needs of students; address safety concerns; recognize the time and resource constraints of staff and administrators; provide timely and thorough notification to parents, guardians, and the State Superintendent; and require timely review when isolated time out, time out, or physical restraint are used.

Our organizations also agree that Senate Bill 2315 creates new concerns related to staff and student safety, student privacy, burdensome time constraints for staff and families, and possible sanctions that will exacerbate a personnel and resource shortage. This legislation does little to provide additional support to those who serve students, and instead creates unnecessary mandates and unclear expectations for the reduction of isolated time out, time out, and physical restraint.

### **Concerns with Amendments to Senate Bill 2315**

#### **Burdensome Debriefing Meetings**

Following each incident of isolated time out, time out, or physical restraint, but no later than 2 school days, the amendment requires a principal to convene a debriefing meeting with the student, school personnel not involved in the incident, and the student's parent or guardian. The principal must also convene a separate meeting with the staff that were involved in the incident to review the incident within the same 2-day period.

- Convening two separate review meetings of each incident of time out or restraint within 2 school days of the incident is unduly burdensome for school administrators, school support personnel, teachers, students, and families.
- Permanent rules require the following notification and debriefing. We feel these requirements inform families more clearly than before and require staff to review their methods in a manageable timeframe for staff and families.

- Schools must make a reasonable attempt to notify parents or guardians on the same day the time out or restraint occurred.
- Within one business day of an incident, the district or entity shall send the ISBE-developed time out/restraint form to the student’s parents or guardians.
- No later than 2 school days after an incident, the district or entity must send the time out/restraint form to the State Superintendent.
- **Time Out & Restraint Review** – When a student experiences instances of isolated time out, time out, or physical restraint on 3 days within a 30-day period, school personnel shall review the effectiveness of the procedures and prepare an individual behavior plan for the student.
  - District or other entity must invite the parents or guardians to participate in the review and shall provide 10-day notice of the date, time, and location.
  - Notification shall inform the parents/guardians of potential need for special education services.
- **Physical Restraint Review** – If a student is restrained in at least 2 separate instances within a 30-school day period, the school personnel must initiate a Restraint Review with staff.

### **ISBE Goal Setting and District/Facility Plans**

The amendment requires ISBE to develop goals within 90 days of the effective date for the reduction of isolated time out, time out, and physical restraint within 3 years.

The amendment also requires districts and special education providers to develop and submit plans to meet these goals, including individualized behavior plans for what appears to be applicable to each student, and ensuring that “appropriate school personnel are fully informed of a student’s history, including any history of physical or sexual abuse, and other relevant medical and mental health information.”

- A student’s history of physical or sexual abuse, or other relevant medical and mental health information is confidential and governed by applicable privacy laws. This information should not be shared with school personnel without appropriate consent.
- Developing individual behavior plans for each student in a school is a burdensome mandate. While this may be appropriate for providers that work primarily with students with unique behavioral needs, this is not necessary for most schools.
- We believe that goals should be developed using the following criteria:
  - Goal development should consider data from the 2019-2020 school year as a baseline. Prior to the Rules that were adopted this school year, school districts and special education cooperatives were reporting these incidents quite differently. The Rules clarify definitions and reporting requirements. This will provide a uniform look at the use of isolated time out, time out, and restraint than was previously available.
  - Goal development should include explicit consultation with all stakeholders, including school administrators, board members, special education

administrators, teachers, school support personnel, parents, and disability advocates. 90-days may not be enough time to compile and review data and collaborate among stakeholders.

- School districts, cooperatives or private facilities that prohibit time out or restraint through policy should not be required to submit a plan for reducing the practice.
- Goals, benchmarks, and any related audits, should be aligned with funding and support for staffing and training needs. This work comes at a significant financial expense. We do not support placing unattainable goals on schools without adequate financial and staffing support.

### **Third-Party Contracting for Monitoring and Review**

The amendment allows ISBE to contract with a third party to assist with oversight and monitoring of the use of isolated time out, time out, and physical restraint, subject to provisions of the Procurement Code.

- Any third-party contracting/contractor must also be subject to applicable laws to protect student privacy, school and medical records.

### **Definitions Inconsistent with Rule**

- The definition of “restraint” in the amendment (Sec. 10-20.33(b)) omits an important part of the definition included in rule to allow staff to momentarily have person-to-person contact to “remove a disruptive student who is unwilling to leave the area voluntarily.” With this omission, the bill categorizes these momentary acts as physical restraints, requiring documentation, debriefings, notification, and training.
- The amendment includes prerequisites intended for the use of restraint and applies them to time out as well. The two measures are different and the precondition for their use need to be separate in statute as well.

In conclusion, we again appreciate the opportunity to share our concerns with SB 2315. We support the effort by the Illinois State Board of Education and their permanent rules to help provide more transparency, notification, regulation, and review of isolated time out, time out, and physical restraint. Our organizations stand ready to continue discussions but have serious concerns about the bill language as outlined above.

Thank you for your time and consideration of this matter.



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