

Testimony before House Education and Labor Committee
Elizabeth Hanselman, Illinois
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Mr. Chairman and Members of the Committee:

Thank you for the opportunity to speak to you on this important topic.

In 2001, Illinois enacted legislation (P.A. 91-600) to specifically address the issues of seclusion (known as “isolated time out” in IL) and physical restraint in public schools. The Illinois State Board of Education, in collaboration with stakeholders around the State, developed rules governing the use of isolated time out and physical restraint. We relied upon information from research and evidence-based practices. We also reviewed information from other State agencies and a couple of other states with existing rules. Illinois’ rules became effective in January of 2002. Those rules:

- Apply to all students in Illinois, not only those with disabilities
- Limit the employment of isolated time out and physical restraint to be used only to preserve the safety of self or others, and
- Prohibit the use of seclusion or restraint for the purpose of punishment or exclusion

In the case of isolated time out, Illinois rules

- Impose time limits, and
- Require continuing visual monitoring of and communication with the student

In the case of physical restraint, Illinois rules only allow the use of physical restraint when

- The student poses a physical risk to self or others
- There is no medical contraindication to its use, and
- Staff applying the restraint have been trained in safe application in accordance with the rules, within the past 2 years, as indicated by written evidence

Further restrictions on the use of physical restraint include

- Time limits
- Prohibiting the use of chemical or mechanical restraints, and
- Requiring that students who communicate via sign language or augmentative devices be allowed to have their hands free of restraint

Our rules further require

- Specific documentation of each incident of seclusion or restraint
- Written notification to parents or guardians within 24 hours, and
- Review of, or development of, the student’s individual behavioral intervention plan

Seclusion and restraint procedures should only be implemented as safety measures. The need for seclusion and restraint is in part the result of insufficient knowledge, skills and systems of prevention and behavior support. The majority of behaviors which result in the use of seclusion or restraint can be prevented by early identification and intensive interventions – implemented within a school-wide system of behavioral support.

For the past ten years, the Illinois State Board of Education has invested in the implementation of School-wide Positive Behavior and Intervention Supports (PBIS). PBIS is a systems approach to establishing the social culture needed for schools to achieve social and academic gains while minimizing problem behavior for all students. PBIS is not a curriculum, but rather a framework for decision making that guides the implementation of evidence-based academic and behavioral practices. Key to the implementation of PBIS is the recognition that we must teach and acknowledge behavioral and social skills, just as we teach academic skills. School-wide PBIS emphasizes:

- The implementation of evidence-based practices,
- School, district and state systems that support the implementation of these practices, and
- Ongoing collection and use of data for decision-making.

Drs. Robert Horner and George Sugai of the National PBIS Center note that these elements are operationalized by five guiding principles:

- Invest first in prevention to establish a foundation intervention that is empirically validated to be effective, efficient and sustainable.
- Teach and acknowledge appropriate behavior before relying on negative consequences.
- Use regular “universal screening” to identify students who need more intense support and provide that support as early as possible, and with the intensity needed to meet the student’s need.
- Establish a continuum of behavioral and academic interventions for use when students are identified as needing more intense support.
- Use progress monitoring to assess (a) the fidelity with which support is provided and (b) the impact of support on student academic and social outcomes. Use data for continuous improvement of support.

Over 1,000 schools in Illinois now implement PBIS as part of a statewide network under the direction of Dr. Lucille Eber. This includes elementary schools, middle schools, high schools, alternative schools, residential schools and even juvenile correction centers. Data collection over these past 10 years shows significant reductions in office disciplinary referrals, suspensions and expulsions – resulting in increased time for academic instruction and learning. Staff and students alike at schools that implement PBIS experience improved measures of school safety. And, in Illinois, schools that implement PBIS with fidelity show improved academic outcomes as measured by our Illinois Standards Achievement Test.

Illinois schools which have achieved full implementation of PBIS also show greater capacity to support students with the most complex emotional/behavioral needs. Data indicates that these schools have a reduction in the number of instances which require intensive interventions (including seclusion and restraint), increased effectiveness of individual behavior support plans, and improvement in the maintenance of behavior support gains achieved through these individual support plans.

Illinois data shows that implementation of school-wide PBIS can have a positive impact in all programs, including:

- Reduction of the use of restraint in a separate facility for students with emotional disorders by more than 50% in the first year of implementing PBIS
- Reduction in the occurrence of critical incidents by more than 60% following implementation in a youth correctional center

Illinois is now working with the National Scaling Up effort to build the statewide infrastructure to support the expansion of integrated evidence-based practices – which includes PBIS - to every one of the more than 4,100 schools in our state.

Illinois is committed to supporting not only the academic, but also the social and emotional development of all students. To that end, Illinois became the first state to establish Social and Emotional Learning Standards in 2004. We continue to support training and technical assistance to schools in the effective implementation of those standards.

Based on our experience in Illinois, we urge the adoption of a national model policy on the use of seclusion and restraint. This can only be effective when coupled with a strong commitment and investment in the training and ongoing support of staff in the use of evidence-based prevention strategies.

Respectfully submitted,

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Section 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint

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.
- b) "Physical restraint" means holding a student or otherwise restricting his or her movements. "Physical restraint" as permitted pursuant to this Section includes only the use of specific, planned techniques (e.g., the "basket hold" and "team control").

- c) The requirements set forth in subsections (d) through (h) of this Section shall not apply to the actions described in this subsection (c) because, pursuant to Section 10-20.33 of the School Code [105 ILCS 5/10-20.33], "RESTRAINT" DOES NOT INCLUDE MOMENTARY PERIODS OF PHYSICAL RESTRICTION BY DIRECT PERSON-TO-PERSON CONTACT, WITHOUT THE AID OF MATERIAL OR MECHANICAL DEVICES, ACCOMPLISHED WITH LIMITED FORCE AND DESIGNED TO:
- 1) PREVENT A STUDENT FROM COMPLETING AN ACT THAT WOULD RESULT IN POTENTIAL PHYSICAL HARM TO HIMSELF, HERSELF, OR ANOTHER OR DAMAGE TO PROPERTY; OR
 - 2) REMOVE A DISRUPTIVE STUDENT WHO IS UNWILLING TO LEAVE THE AREA VOLUNTARILY.
- d) The use of physical restraint shall be subject to the following requirements.
- 1) Pursuant to Section 10-20.33 of the School Code, physical restraint may only be employed when:
 - A) THE STUDENT POSES A PHYSICAL RISK TO HIMSELF, HERSELF, OR OTHERS,
 - B) THERE IS NO MEDICAL CONTRAINDICATION TO ITS USE, AND
 - C) THE STAFF APPLYING THE RESTRAINT HAVE BEEN TRAINED IN ITS SAFE APPLICATION as specified in subsection (h)(2) of this Section.
 - 2) Students shall not be subjected to physical restraint for using profanity or other verbal displays of disrespect for themselves or others. A verbal threat shall not be considered as constituting a physical danger

unless a student also demonstrates a means of or intent to carry out the threat.

- 3) Except as permitted by the administrative rules of another State agency operating or licensing a facility in which elementary or secondary educational services are provided (e.g., the Illinois Department of Corrections or the Illinois Department of Human Services), mechanical or chemical restraint (i.e., the use of any device other than personal physical force to restrict the limbs, head, or body) shall not be employed.
- 4) Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as means of physical restraint for purposes of maintaining discipline.
- 5) Any application of physical restraint shall take into consideration the safety and security of the student. Further, physical restraint shall not rely upon pain as an intentional method of control.
- 6) In determining whether a student who is being physically restrained should be removed from the area where such restraint was initiated, the supervising adult(s) shall consider the potential for injury to the student, the student's need for privacy, and the educational and emotional well-being of other students in the vicinity.
- 7) If physical restraint is imposed upon a student whose primary mode of communication is sign language or an augmentative mode, the student shall be permitted to have his or her hands free of restraint for brief

periods, unless the supervising adult determines that such freedom appears likely to result in harm to the student or others.

e) Time Limits

- 1) A student shall not be kept in isolated time out 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.
- 2) A student shall be released from physical restraint immediately upon a determination by the staff member administering the restraint that the student is no longer in imminent danger of causing physical harm to himself, herself, or others.

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 each such record. Each such 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 technique(s) 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 certified staff person 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 procedure(s) 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 parent(s) or guardian(s) to participate in this review and shall provide ten days' notice of its date, time, and location.
- B) The notification shall inform the parent(s) or guardian(s) 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 parent(s), unless the parent has provided the district or other entity with a written waiver of this requirement for notification. Such 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.

2) Physical Restraint

A) Physical restraint as defined in this Section shall be applied only by individuals who have received systematic training that includes all the elements described in subsection (h)(2)(B) of this Section and who have received a certificate of completion or other written evidence of participation. An individual who applies physical restraint shall use only techniques in which he or she has received such training within the preceding two years, as indicated by written evidence of participation.

B) Training with respect to physical restraint may be provided either by the employer or by an external entity and shall include, but need not be limited to:

- i) appropriate procedures for preventing the need for physical restraint, including the de-escalation of problematic behavior, relationship-building, and the use of alternatives to restraint;
 - ii) a description and identification of dangerous behaviors on the part of students that may indicate the need for physical restraint and methods for evaluating the risk of harm in individual situations in order to determine whether the use of restraint is warranted;
 - iii) the simulated experience of administering and receiving a variety of physical restraint techniques, ranging from minimal physical involvement to very controlling interventions;
 - iv) instruction regarding the effects of physical restraint on the person restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance;
 - v) instruction regarding documentation and reporting requirements and investigation of injuries and complaints; and
 - vi) demonstration by participants of proficiency in administering physical restraint.
- C) An individual may provide training to others in a particular method of physical restraint only if he or she

has received written evidence of completing training in that technique that meets the requirements of subsection (h)(2)(B) of this Section within the preceding one-year period.

(Source: Added at 26 Ill. Reg. 1157, effective January 16, 2002)