

**COMMISSION ON SECLUSION & RESTRAINT IN
SCHOOLS**

October 5th, 2017
 IDOE Offices, 6th Floor, PNC Building
 115 W. Washington Street
 Virgil Grissom Conference Room
 1:30 P.M.

Commission Member Name	Title	Organization	Present (Y/N); note if by phone
Kelly Whitman	Chair	Indiana Department of Education	N
Dr. Denis Ward	Co-Chair	Assoc. of Public School Superintendents	Y
Mary Roth	Member	Autism Society of Indiana	Y
Kim Dodson	Member	The Arc of Indiana	Y
Joan McCormick	Member	ICASE	Y
Stephen McCaffrey	Member	Mental Health America	Y
John Elcesser	Member	Indiana Nonpublic Education Association	Y
Nicole Hicks	Member	Parent	Y
Jean Renk	Member	Parent	Y
Mike Johnson	Member	Indiana School Resource Officer Association	Y

Attendance: (Non-commission members):

Michael Moore	Director of Legal Affairs
Leslie-Ann James	Public Records Officer
Lesa Paddack	Insource Rep.

Meeting Minutes

I. Introduction of Members

The Commission welcomes Jean Renk. Ms. Renk works for Schmidt Associates and is the mother of a young child.

II. Emergency Rule Update

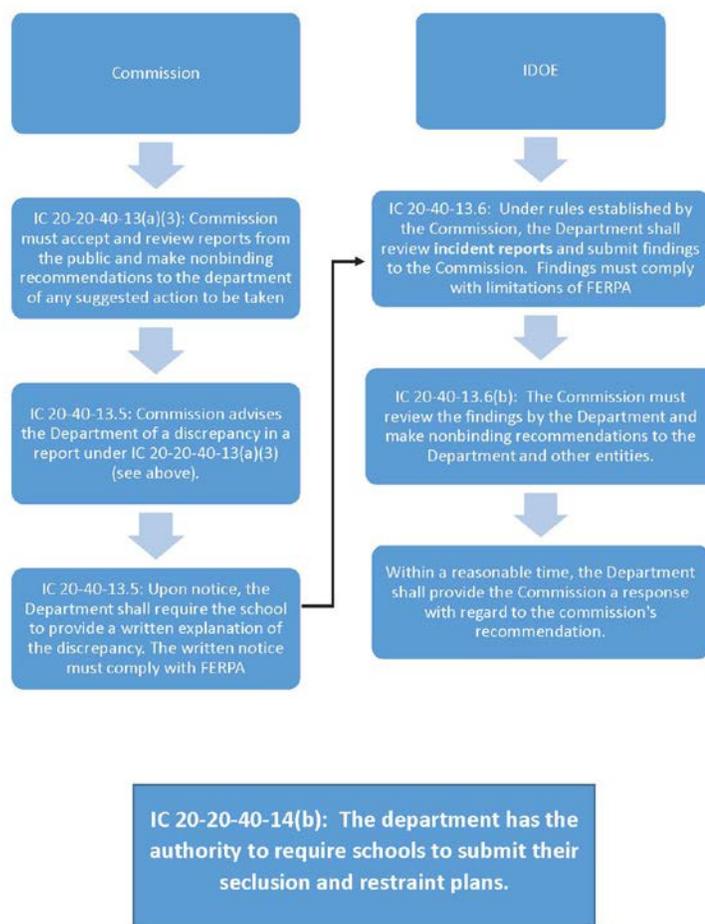
- a. On September 29th, Michael Moore and Leslie-Ann James filed the Commission's emergency rules LSA #17-444 (E) dealing with seclusion and restraint by a school resource officer. The emergency rules can now be seen online in two locations:
 - i. <https://www.doe.in.gov/sites/default/files/legal/emergency-rule-seclusion-and-restraint-commission-9-27-2017.pdf>
 - ii. <http://www.in.gov/legislative/iac/20171004-IR-513170444ERA.xml.pdf>
- b. The Commission's emergency rules powers are active until the rules proposed are finalized or upon its expiration of November 2018, expiration is dependent on whichever event occurs first.

III. Revisiting Reporting Discussion per IC 20-20-40-13(a)(3), IC 20-20-40-13.5, IC 20-20-40-13.6

Michael Moore reviewed the incident reporting mechanism between the Commission and the Indiana Department of Education established in Senate Enrolled Act 61.

- a. *Section 1:* In addition to the rulemaking, the Commission needs to review the model policy. The Commission is charged with accepting and reviewing incident reports from the public and make non-binding recommendations of any suggested action that should be taken by the Department.
- b. *Section 3:* Upon notice from the Commission of a discrepancy report, the Department is required to have a school to submit a written summary explaining discrepancy.
- c. *Section 4:* The Department is required to review incident reports under rules established by the Commission, and submit findings to the Commission in a manner that does not violate FERPA or personally identifiable information (student level data that would allow a student to be identified). The Commission shall review a summary of the findings the Department provides and can make non-binding recommendations to the Department or to other entities (school).
 - i. If the Department receives a recommendation under Subsection (b): the Department will provide a response with a follow-up from the recommendation.
 - ii. The Department has the authority to require a school to submit their seclusion and restraint plan.

The Commission was provided a graphical summary of the reporting mechanism as outlined in SEA 61.



The Commission was then presented with draft rules in response to SEA 61. The language in bold within the subsections are suggested changes to the current rules for the Commission to review and edit.

TITLE 513 COMMISSION ON SECLUSION AND RESTRAINT IN SCHOOLS

Rule 1. Definitions

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

Sec. 12. (a) "Physical restraint" means physical contact between a school employee, **including a school resource officer (as defined in this article)**, 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](#).

[513 IAC 1-1-18](#) "School employee" defined

Sec. 18. (a) "School employee" means any paid staff, contract employee, consultant, or any other agent of a school corporation, charter school, or an accredited nonpublic school;

(b) For purposes of this article, the term "school employee" includes a school resource officer.

[513 IAC 1-1-XX](#) "School resource officer" defined

Sec. XX. "School resource officer" has the same meaning as IC 20-26-18.2-1.

[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 regular direct contact with a student, including:

- (1) paid staff **school employee**;
- (2) volunteer;
- (3) contract employee, including a law enforcement officer employed by contract agreement.
– Suggestion to include the following to ensure the following -
- (4) consultant; or
- (5) 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 this subsection (a)(5) of this rule, 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.

- **The Commission members asked for a definition to cover Police Officers who are not SRO's.**

[513 IAC 1-2-7](#) Monitoring and reporting

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 this article)**, 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. **Such notice** and 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 this article)**, in which either seclusion or restraint is used in its annual performance report required by [IC 20-20-8-3](#).

(f) **A school resource officer is “involved” in an incident of restraint or seclusion of a student, when the school resource officer:**

1. **is present when the incident of restraint or seclusion of a student occurs;**
2. **directs the restraint or the seclusion of a student;**
3. **assists with the restraint or seclusion of a student; or,**
4. **initiates the seclusion or restraint of a student.**

(f) Each charter school shall report the number of instances, including instances involving school resource officers, 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](#).

(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.

[513 IAC 1-2-8](#) Distribution of school seclusion and restraint policy or plan to parents and the public

Sec. 8. (a) Each school shall make available a copy of the school's seclusion and restraint plan to the student's parents or guardians, or to the student if the student is at least eighteen (18) years of age and the provisions of [511 IAC 7-43-5](#)(b) do not apply.

(b) Including the location of the plan in the student handbook satisfies subsection (a).

[513 IAC 1-2-9](#) **Incident documentation**

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 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 review incident reports from at least ____ percent (____%) of 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 any incident report involving the use of seclusion or restraint of a students.

(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.

[513 IAC 1-2-10](#) **Debriefing session**

Authority: [IC 20-20-40-13](#); [IC 20-20-40-16](#)

Affected: [IC 20-20-40](#)

Sec. 10. (a) As soon as practical, and consistent with the school's plan, after every instance **incident** in which seclusion or restraint is used on a student, the school administrator or designee shall do the following:

- (1) Meet with at least one (1) school personnel who participated in the implementation, monitoring, and supervision of seclusion or restraint to discuss whether proper restraint or

seclusion procedures were followed, including the use of proper procedures to prevent the need for restraint or seclusion.

(2) Direct a proper staff person, including the administrator himself or herself, to debrief the incident with the student in a manner appropriate to the student's age and developmental ability, to discuss the behavior or behaviors, if any, that precipitated the use of restraint or seclusion.

(3) In accordance with the school's plan, provide a copy of an incident report and offer the parent or parents or guardian or guardians the opportunity to request a meeting regarding the incident of restraint or seclusion.

(b) When applicable, the procedures described in [511 IAC 7-44-5](#) should be followed.

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. Reports shall be limited to:

(1) lack of compliance between a school's seclusion and restraint plans and the requirements of Indiana code 20-20-40-1 et seq. and the requirements of subsection (a);

(2) the availability of a school's plan as described in 513 IAC 1-2-8; 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 Commission, after reviewing the summary from the department, may instruct the department to require a school to provide a written explanation regarding a report.

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

(f) Based on the department's finding, the Commission may make recommendations to the department may make nonbinding recommendations to the department or other entities related to professional development to the school related to the use of seclusion or restraint, these rules or IC 20-20-40-1 et. seq.

IV. How Will Reporting Take Place?

- a. SEA 61 establishes two separate reporting tracks:
 - i. The Department will receive incident reports from schools.
 - ii. The Commission will spot check reports or review incident issues such as plan compliance or reporting information not relevant to seclusion and restraint.

V. The Form

- a. The Department recommends they receive reports on behalf of the Commission so there is one central location for the public to submit complaints. It is the discretion of the Commission on what information should be provided by complainant, type of form, and how often the reports should be provided to the Commission.

i. Suggestions:

1. Add a disclaimer near the top of the form explaining what is considered a proper report.
2. Add the Commission is supported through the Department.
3. Add this a Confidential Report to form.
4. Also, next to personal information, add another memo in regards to confidentiality.
5. Add the outcome of reporting to the form, to help understand why the solution was deemed satisfactory or unsatisfactory.
6. Add a Drop-Down box with School Name and Corporations.

7. Add a page including a statement regarding reporting allegations of abuse to DCS.
 8. It is recommended by the Department that the form involves high-level issues such as: plan compliance or a plan that cannot be found when requested by a parent or a community member.
- ii. Suggested Categories:*
1. Plan Compliance
 2. Statute Compliance
 3. Data Reporting
 - a. Parent-friendly terms recommended*
- b. An email, fax number, and contact information will be provided on form. An auto-response will be provide once the email has been submitted. (ex: “thank you for submitting”)*
- c. The department will not take action on anonymous reports or reports without sufficient detail.*

VI. Investigations:

- a. According to statute, it is the discretion of the Commission if the Department will investigate individual reports.*
 - i. There was a suggestion to add to the rule that: if a high-volume of incident reports are received from a particular school/corporation or if there is a public safety risk present, an investigation can then be initiated by the IDOE or referred to another agency such as DCS.*

VII. The Department’s Recommended Role

- a. The Department is recommending the following be added to the Commission’s rules: The Department is the recipient of the incident reports and will provide the Commission an aggregated summary.*
- b. Based on the findings, the Commission may make non-binding recommendations to the Department or other entities such as providing guidance or offering professional development for schools regarding the use of seclusion and restraint.*
 - i. It is the assumption that the Department will bring a summary of review for incident reports and the reports received from the public along with actions taken.*
 - ii. The Commission suggested that the language should say: At each Commission meeting, where a quorum is present, a summary of incidents and action taken by the Department will be provided.*
 - 1. The Commission will need to determine how often the summary will be provided.*
 - a. Monthly or quarterly? Electronic or Physical?*
 - iii. Report summaries will not include student information, but may include school’s information.*
 - 1. Can school district be included?*
- c. Timeline*

- i. The Commission discussed: How can the Commission figure out a timeline? The Commission is bound to meet annually. How can the Commission ensure timely action? Michael suggested the rule regarding summary notification could state: The Department shall provide the summary in a manner scheduled prescribed by the Commission.

VIII. School Resource Officer Discussion

- a. **Concern:** Two categories of seclusion and restraint being reported.
 - 1. **School:** Restraint and seclusions are submitted to IDOE.
 - 2. **Police Officer:** Restraints and detentions are reported to the particular law enforcement agency.
- ii. The Commission discussed in a prior meeting that some schools were not reporting restraints or seclusions that were conducted by law enforcement. It was further explained that when a SRO is making an arrest it would not be considered a form of seclusion and restraint so that would not be reported by the school. To address this reporting issue, the Commission will have next year's data collection have the following categories: seclusion by school, seclusion by SRO, restraint by school, and restraint by SRO.

IX. Suggestion for the Commission's webpage

- b. Under School Resource Officer add a tab to include the following:
 - i. Common Language
 - ii. Best Practices
 - iii. FAQ

Motion to Approve 9.5. 17 Minutes

Motion made by: John Elcesser

2nd by: Joan McCormick

Meeting adjourned Approved: 8Y-0N

X. Closing Comments:

- a. Next Commission Meeting: November 17, 2017 at 1:30 PM
- b. Kim Dodson asked for the previous meeting minutes to be posted online.
- c. Michael asked that the Commission please bring any recommendations for webpage to the next Commission meeting.
- d. Suggestion to include Commission updates in the Superintendent's Weekly Update

Motion to Adjourn Meeting

Motion made by: Joan McCormick

2nd by: Mike Johnson

Meeting adjourned Approved: 8Y-0N