

COMMISSION ON SECLUSION & RESTRAINT IN SCHOOLS

July 31, 2017
 IDOE Offices, 6th Floor, PNC Building
 115 W. Washington Street
 Virgil Grissom Conference Room
 2:00 p.m.

Meeting Minutes

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

Attendance: (Non-commission members):

Mike Moore-Director of Legal Affairs
 Leslie-Ann James - Public Records Officer (Minute taker)
 Paris Walton - Office of Legal Affairs (Legal Assistant)
 Lesa Paddack – Indiana Department of Education

Agenda:

- Statement of The Chair
- **July 13, 2017 Meeting Notes Approval**
Motion to Approve by: John Elcesser
2nd By: Steve McCaffrey

Approved: 8Y – 0N

- **Introduction of newest member**

The Commission welcomes Mary Roth (ASI) she is replacing Dana Renay who is no longer with ASI. Ms. Roth manages the family support program for Autism Society of Indiana. Ms. Roth has been with the ASI since 2009.

- **Non-disabled parent representative/nomination**

Holly Stachler has withdrawn her name from consideration due to pending employment with the IDOE. Joan McCormick, John Elcesser, and Denis Ward informed the Commission were waiting to hear back from individuals they contacted regarding the position. Consequently, that leaves Jean Renk as the sole nominee for the parent with a non-disabled student representative for the Commission to vote on at the July 31st meeting. The other course of action the Commission has before it is to table the vote until the next meeting. For either course of action, Mike Johnson is unable to vote on the parent representative due to statute.

Motion to table vote until next meeting made by: Joan McCormick

2nd by: Dr. Denis Ward

Motion Fails: 4Y-4N

Commission members discussed the purpose of the Commission and concern with parent nominee's connections to organizations represented on the Commission. The Commission has some aspects to decide on the parent representative. Does the commission strictly want a parent or a parent who happens to be in the education field?

Motion to accept Jean Renk as the parent rep made by: Kim Dodson

2nd by: **Mary Roth**

Motion Fails: 4Y – 4N

Non-disabled parent representative has been tabled until the next meeting on September 5, 2017.

- **513 IAC 1-2-1(b) SROs: SEA 61 removed this rule, Commission needs to draft new rule related to SROs; (1b)**

Michael Moore presented to the Commission recommended draft rules that addressed the addition of school resource officers. He noted that anything in the document that appears in bold is the new/proposed language.

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.

Mike Johnson asked about the difference between (2) and (3). There is conflating of two worlds here the education and law enforcement world. The physical escort in the education environment may be in reference to administration walking with a student to the main office or another location to cool down. Physical escort/force via handcuffs placed on a student in the law enforcement world becomes use of force.

The Commission reiterated the need for clarity when asking schools to collecting the data. How data is being collected is important because law enforcement data will be in the school data but the law enforcement data may not include the school data. The data the schools are collecting are currently only representing the education world.

(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](#).

The Commission asked what does briefly mean in regards to "briefly & restraint" (513 IAC 1-1-12 (b)(1)- You can use restraint to the point that the child is no longer a harm to themselves or another individual. Statute also defines what briefly means in regards to this situation. This caveat only applies physical restraint.

Commission members asked

[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.

Michael noted that 513 IAC School Employee definition now includes school resource officer and section (b) reiterates that it only applies to Title 513.

Commission members asked what does agent mean Mike referred to the Indiana Code definition of agent. He also explained that it would be an individual would have to be under a control of the school; Depends on the individual and what they are doing at the school. An example that was provided was staff for a 21st Century Aftercare Center – the individual would be using a school building, state funds for payment/resources, and staffed by school employees would be considered an agent.

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;
- (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.

Michael also noted that for consistence purposes that instance has been replaced with incident for clarity and to be in accordance with statute, included SRO definition, and replaced paid staff with school employee.

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.

Motion that there should be four categories of data collected by John Elcesser

2nd by Kim Dodson

Seclusion w/ SRO

Seclusion w/o SRO

Restraint w/ SRO

Restraint w/o SRO

No vote on motion but Commission suggested including use of force as part of the count. The Commission needs to decide whether they want to include the law enforcement perspective with the data.

(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),** ~~W~~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](#).~~

Mike provided a broad definition for involved for the Commission to narrow down. The Commission decided that (1) seemed redundant and unnecessary. Ultimately, the Commission wants to know if staff and law enforcement are secluding and restraining so the suggestion is to keep the involved definition limited to (2), (3), and (4) and this doesn't include (1) – becoming subsection (a).

(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.

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. 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.

- **NASRO Position Statement**

Mike Johnson shared with the Commission NASRO's position statement on Seclusion & Restraint. The link was sent to all commission members during the meeting. There was discussion to include some of the NASRO language demonstrating the Commission's position. The position will not be binding but it will assist with guidance.

<https://nasro.org/news/nasro-updates/nasro-position-statement-police-involvement-student-discipline/>

- **Discrepancy Flowchart**

Michael Moore then discussed the discrepancy issues regarding the public complaints about reporting discrepancies in IC 20-20-40-13(a)(3). The statute does not line up between the Commission and the IDOE to review the discrepancy. Mike shared the flowchart that demonstrates the Commission receiving public complaints for discrepancy reports and then will determine the guidelines for incident reports and reviewing for the IDOE.

- **Additional Changes**

Mike will also add SRO language regarding mechanical and chemical restraint. The Commission will need to review that language again in regards to taser, pepper spray and other type of chemicals and how to report it.

Next Meeting Agenda

The Commission determined that they would start to review the model plan, how to address reporting incidences of seclusion or restraint, including incidents involving school resource officers, and the definition for involved at the September 5th meeting.

No Commission Comments

Meeting Adjourned

Motion to end meeting: John Elcesser

2nd by: Denis Ward

Approved: 8Y-0N