

January 31, 2019

Public Comment Chapter 103: Seclusion and Restraint

ASK Resource Center has served as the state of Iowa's Parent Training and Information Center under The Individuals with Disabilities Education Act (IDEA) for more than 20 years. Helping families to know what laws are impacting their child with a disability is one of our primary roles. Many calls that we receive at ASK are from parents who have a student who has been secluded or restrained at school.

There are several changes we consider improvements that we would be excited to share with families. ASK supports changes that provide increased opportunities for parents to be notified and involved in debriefings. We support changes for increased training for staff and documentation of incidents involving seclusion and restraint. We support the inclusion of standard seclusion room requirements. We support all efforts to analyze and attempt to prevent further instances of seclusion and restraint.

ASK has some concerns and suggestions related to the proposed changes. Please consider each of the suggestions below:

- **103.7(1) Use of restraint. Concern with the definition.** ASK supports raising, not lowering the bar for Chapter 103 by requiring the definition to include the recommended language from the US Department of Education's Seclusion and Restraint Resource Document. The document suggests, "Physical restraint or seclusion should not be used except in situations where the child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated." (U.S. Department of Education Restraint and Seclusion: Resource Document, 2012)

The current proposal includes "103.7b.) to prevent serious damage to property of significant monetary value or significant non-monetary value or importance, when the student's actions seriously disrupt the learning environment" and 103.5(1) "Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the following: to remove a disruptive student from class or any area of the school's premises, or from school sponsored activities off school premises". These definitions seem to be a much lower bar than what is considered best practice.

- **103.7(2)(c) Suggestion for increased emphasis on when the use of restraint should end and when it should not be used.**
"The use of physical restraint shall end as soon as:
-The student's behavior no longer poses an imminent danger of physical harm to self or others; or a medical condition occurs putting the student at risk of harm.
Seclusion shall not be used:
-As punishment or discipline;
-To force compliance or to retaliate;
-As a substitute for appropriate educational or behavioral support;

- To prevent property damage in the absence of imminent danger of physical harm to self or others,
- As a routine school safety measure;
- As a convenience for staff;"

- **103.7(5) Although this proposes a requirement for an agency to investigate complaints related to this chapter, there currently is no formal procedural requirements outlined for complaints at the state or district level.** Propose to outline a procedure by which parents may submit a complaint regarding the physical restraint or seclusion of their child, which shall require the district and school to investigate the circumstances surrounding the physical restraint or seclusion, make written findings, and if appropriate, take action. We suggest an additional procedure to make a complaint which would be investigated at the state level.
- **103.7(6) Proposal for seclusion and restraint practices written into the IEP to be individualized.** We would like to suggest that if an IEP contains seclusion and restraint measures it must also include how the school will use positive behavior interventions and supports.
- **103.8(1) Suggestions for training requirements to include:**
 - Simulated experience of administering and receiving physical restraint, and instruction regarding the effect on the person physically restrained, including instruction on monitoring physical signs of distress and obtaining medical assistance.
 - Demonstration by core team members of proficiency in the prevention and use of physical restraint.
 - Instruction regarding documentation and notification requirements and investigation of injuries.
- **103.8(2) Suggestion for additional reporting requirement on the following information:**
 - A description of any events leading up to the use of physical restraint or seclusion including possible factors contributing to the dangerous behavior;
 - A description of the specific techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;
 - A description of techniques used in physically restraining or secluding the student and any other interactions between the student and school personnel during the use of physical restraint or seclusion;
 - A description of any behavioral interventions used immediately prior to the implementation of physical restraint or seclusion;
 - A description as to how the student's behavior posed an imminent danger of physical harm to self or others;
 - A description of the effectiveness of physical restraint or seclusion in de-escalating the situation;
 - A detailed explanation of the legal limits on the use of seclusion, including examples of legally permissible and prohibited use;
 - A description of the planned positive behavioral interventions which shall be used to reduce the future need for physical restraint or seclusion of the student; and
 - For any student not identified as eligible for services under either Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act, documentation of a referral under either law or documentation of the basis for declining to refer the student.
 - Data should be reported to the Iowa Department of Education and analyzed as determined by the IA DE

- **103.8 (2) Recommendation for additional procedural requirements:** ASK supports the proposal for increased training for school resource officers and other law enforcement on Chapter 103 requirements. We propose an addition to the rules that would require all adults who become involved with a behavioral incident in the school setting, including law enforcement officials, to be in compliance with Chapter 103 and the student’s behavior plan.

Schools should be required to outline a procedure to regularly review data on physical restraint and seclusion usage and revise policies as needed including the aggregate number of instances in which a school resource officer or other sworn law enforcement officer is involved in the physical restraint or seclusion of a student.

Due to the disproportionate representation of students with disabilities in the juvenile justice system as a result of the school to prison pipeline, we request that data be collected on the number of students with disabilities who become involved with law enforcement as a result of a behavioral incident at school. This data should also be reported to the Iowa Department of Education.

- **103.8(4) Request for further definition and identification** of who in the school systems would meet the definition of “expert in behavioral health, mental health or another appropriate discipline” under this requirement. The proposed rules include a requirement for a meeting when the student has exhibited a pattern of behavior that has resulted in multiple instances of seclusion or restraint. ASK supports this change but would like further description of what role or qualifications would meet the definition of an “expert in behavioral health, mental health or another appropriate discipline”?
- **103.9(1) Recommendation for a requirement for at least an annual fire/ safety inspection of a seclusion room.**