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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: May 7-8, 2015

ACTION: R277-609 *Standards for LEA Discipline Plans* (Amendment)

Background:

R277-609 *Standards for LEA Discipline Plans* is amended to include protections for all Utah students regarding the use of emergency safety interventions (e.g., restraint and seclusion) by school personnel. Previously, only students with disabilities were provided these written protections. The rule was previously continued in the February Board meeting consistent with the Administrative Rules five-year review requirement.

Key Points:

The amendments to R277-609 provide clarification for current rule and require additional LEA and USOE action regarding:

1. LEA changes to existing written policies containing standards for discipline plans.
2. A requirement for LEA oversight of the use of emergency safety interventions for all students.
3. Clarification of the requirement for LEAs to implement positive behavior supports and interventions.
4. A requirement for each LEA to establish an Emergency Safety Intervention Committee (if not already in place) and notify parent/guardian and LEA of the use of restraint and/or seclusion for any student.
5. A requirement for the USOE to develop model policies regarding standards for LEA discipline plans and emergency safety interventions.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving R277-609, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-609, as amended, on second reading.

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Utah State Board of Education

Recommendations: Work Group R277-609 & LRBI

May 7th, 2015



Dates of R277-609 & LRBI Work Group Meetings:

2/24/15, 3/10/15, 3/27/15, and 4/6/15

Work Group Membership:

Carol Anderson (USOE), Jessica Bowman (USOE), Leslie Castle (USBE), Glenna Gallo (USOE), LauraLee Gillespie (DLC), Linda Hansen (USBE), Dr. William Jenson (University of Utah) J. Lynn Jones (Nebo School District), Doug Larson (Granite School District), Dr. Rob O'Neill (University of Utah), Helen Post (UPC), Lillian Tsosie Jensen (USOE)

Recommendations:

- Proposed changes to USBE rule ***R277-609 Standards for LEA Discipline Plans and Emergency Safety Interventions*** in order to provide procedural safeguards for the use of emergency safety interventions (ESI) for all Utah students, further define time limits for use of seclusion and restraint, and require parent access to records when restraint and seclusion is used with their child.
- Proposed Least Restrictive Behavioral Interventions Technical Assistance Manual to USBE as USOE technical assistance on behavioral supports for all student within Utah educational systems.
- Considered needed additional resources for USOE and LEA (e.g., professional development opportunities related to Positive Behavioral Interventions and Supports (PBIS) and ESI procedures) as outlined in R277-609.
- Identified the need for additional resources to ensure that the following gaps related to school discipline, student success indicators, and guidance and oversight on the USBE rules regarding student discipline and PBIS can be accomplished:
 - Absenteeism
 - Truancy
 - Dropout Prevention
 - School Discipline & PBIS
 - USBE Rules: R277-607, R277-608, R277-609, & R277-613
 - School Climate & Student Connectedness
 - Law Enforcement Involvements in Schools
 - School Generated Court Referrals
 - School Crisis & Safety

1 **R277. Education, Administration.**

2 **R277-609. Standards for LEA Discipline Plans and Emergency**
3 **Safety Interventions.**

4 **R277-609-1. Definitions.**

5 A. "Board" means the Utah State Board of Education.

6 B. "Discipline" ~~[means]~~includes:

7 (1) imposed discipline; and

8 (2) self-discipline.

9 ~~[(1) Imposed discipline: Code of conduct prescribed for~~
10 ~~the highest welfare of the individual and of the society in~~
11 ~~which the individual lives; and~~

12 ~~— (2) Self-Discipline: A personal system of organized~~
13 ~~behavior designed to promote self-interest while contributing~~
14 ~~to the welfare of others.]~~

15 C. "Disruptive student behavior" includes:

16 (1) the grounds for suspension or expulsion described in
17 Section 53A-11-904; and

18 (2) the conduct described in Section 53A-11-908(2)(b).

19 D. "Emergency safety intervention" means the use of
20 seclusionary time out or physical restraint when a student
21 presents an immediate danger to self or others, and the
22 intervention is not for disciplinary purposes.

23 E. "Functional Behavior Assessment (FBA)" means a
24 systematic process of identifying problem behaviors and the
25 events that reliably predict occurrence and non-occurrence of
26 those behaviors and maintain the behaviors across time.

27 F. "Immediate danger" means the imminent danger of
28 physical violence/aggression towards self or others likely to
29 cause serious physical harm.

30 G. "Imposed discipline" means a code of conduct
31 prescribed for the highest welfare of the individual and of
32 the society in which the individual lives.

33 ~~[D]~~H. "LEA" or "local education agency" means a [local
34 education agency, including local school boards/public]~~school~~
35 ~~district[s,] or a charter school[s,]~~ and, for purposes of this

36 rule, the Utah Schools for the Deaf and the Blind.

37 I. "Physical restraint" means personal restriction that
38 immobilizes or reduces the ability of an individual to move
39 the individual's arms, legs, body, or head freely.

40 [F]J. "Plan" means a school district-wide and school-
41 wide written model for prevention and intervention for student
42 behavior management and discipline procedures for students who
43 habitually disrupt school environments and processes.

44 K. "Program" means instructional or behavioral programs
45 including those provided by contract private providers under
46 the direct supervision of public school staff, that receives
47 public funding or for which the USOE has regulatory authority.

48 [F]L. "Policy" means standards and procedures that
49 include the provisions of Section 53A-11-901 and additional
50 standards, procedures, and training adopted in an open meeting
51 by a local board of education or charter school board that
52 defines hazing, bullying, cyber-bullying, and harassment,
53 prohibits hazing and bullying, requires annual discussion and
54 training designed to prevent hazing, bullying, cyber-bullying,
55 and harassment among school employees and students, and
56 provides for enforcement through employment action or student
57 discipline.

58 [G]M. "Qualifying minor" means a school-age minor who:
59 (1) is at least nine years old; or
60 (2) turns nine years old at any time during the school
61 year.

62 [H]N. "School" means any public elementary or secondary
63 school or charter school.

64 [I]O. "School board" means:
65 (1) a local school board; or
66 (2) a local charter board.

67 [J]P. "School employee" means:
68 (1) a school teacher[~~s~~];
69 (2) a school staff member;
70 (3) a school administrators; [~~and~~]or

71 (4) ~~[all]~~any other~~[s]~~ person employed, directly or
72 indirectly, by ~~[the]~~an LEA.

73 Q. "Seclusionary time out" means that:

74 (1) a student is placed in an enclosed area by school
75 personnel;

76 (2) a student is purposefully isolated from adults and
77 peers; and

78 (3) a student is prevented from leaving, or reasonably
79 believes that he will be prevented from leaving, the enclosed
80 area.

81 R. "Section 504 accommodation plan," required by Section
82 504 of the Rehabilitation Act of 1973, means a plan designed
83 to accommodate an individual who has been determined, as a
84 result of an evaluation, to have a physical or mental
85 impairment that substantially limits one or more major life
86 activities.

87 S. "Self-Discipline" means a personal system of organized
88 behavior designed to promote self-interest while contributing
89 to the welfare of others.

90 ~~[K. "USOE" means the Utah State Office of Education.]~~

91 T. "Superintendent" means the State Superintendent of
92 Public Instruction or the Superintendent's designee.

93 **R277-609-2. Authority and Purpose.**

94 A. This rule is authorized by Utah Constitution Article
95 X, Section 3 which vests general control and supervision of
96 public education in the Board, Section 53A-1-401(3) which
97 allows the Board to adopt rules in accordance with its
98 responsibilities, Section 53A-1-402(1)(b) which requires the
99 Board to establish rules concerning discipline and control,
100 Section 53A-15-603 which requires the Board to adopt rules
101 that require a local school board or governing board of a
102 charter school to enact gang prevention and intervention
103 policies for all schools within the board's jurisdiction, and
104 Section 53A-11-901 which directs local school boards and

105 charter school governing boards to adopt conduct and
106 discipline policies and directs the Board to develop model
107 policies to assist local school boards and charter school
108 governing boards.

109 B. The purpose of this rule is to outline requirements
110 for school discipline plans and policies. The written policies
111 shall include direction to [which]LEAs [shall meet]to
112 develop, implement, and monitor the policies for the use of
113 emergency safety interventions in all schools and for all
114 students within each LEA's jurisdiction.

115 **R277-609-3. LEA Responsibility to Develop Plans.**

116 A. Each LEA or school shall develop and implement a
117 board approved comprehensive LEA plan or policy for student
118 and classroom management, and school discipline.

119 B. The plan described in R277-609-3A shall include:

120 (1) the definitions of Section 53A-11-910;

121 (2) written standards for student behavior expectations,
122 including school and classroom management;

123 (3) effective instructional practices for teaching
124 student expectations, including self-discipline, citizenship,
125 civic skills, and social skills;

126 (4) systematic methods for reinforcement of expected
127 behaviors and uniform methods for correction of student
128 behavior;

129 (5) uniform methods for at least annual school level
130 data-based evaluations of efficiency and effectiveness;

131 (6) an ongoing staff development program related to
132 development of:

133 (a) student behavior expectations[7];

134 (b) effective instructional practices for teaching and
135 reinforcing behavior expectations[7];

136 (c) effective intervention strategies[7]; and

137 (d) effective strategies for evaluation of the efficiency
138 and effectiveness of interventions;

139 (7) procedures for training appropriate school personnel
140 in crisis intervention training and LEA policies related to
141 emergency safety interventions;

142 ([7]8) policies and procedures relating to the use and
143 abuse of alcohol and controlled substances by students;[~~and~~]

144 ([8]9) policies and procedures related to bullying,
145 cyber-bullying, harassment, hazing, and retaliation consistent
146 with requirements of R277-613[~~-~~]; and

147 (10) policies and procedures for the use of emergency
148 safety interventions for all students consistent with
149 research-based best practices including prohibition of:

150 (a) subject to the requirements of R277-609C, physical
151 restraint except when a student presents a danger of serious
152 physical harm to self or others;

153 (b) prone, or face-down, physical restraint; supine, or
154 face-up, physical restraint; physical restraint that obstructs
155 the airway of a student, or any physical restraint that
156 adversely affects a student's primary mode of communication;

157 (c) mechanical restraint, except those protective,
158 stabilizing or required by law, any device used by a law
159 enforcement officer in carrying out law enforcement duties,
160 seatbelts and any other safety equipment when used to secure
161 students during transportation;

162 (d) chemical restraint, except as:

163 (i) prescribed by a licensed physician, or other
164 qualified health professional acting under the scope of the
165 professional's authority under State law, for the standard
166 treatment of a student's medical or psychiatric condition; and

167 (ii) administered as prescribed by the licensed physician
168 or other qualified health professional acting under the scope
169 of the professional's authority under state law;

170 (e) subject to the requirements of R277-609, seclusionary
171 time out, except when a student presents a danger of serious
172 physical harm to self or others.

173 (f) emergency safety interventions written into a

174 student's individualized education program, Section 504
175 accommodation plan or any other planning document as a planned
176 intervention, unless school personnel, the family, and the
177 individualized education program team agrees less restrictive
178 means which meet circumstances described in R277-608-4 have
179 been attempted and a FBA has been conducted and positive
180 behavior intervention plan based on data analysis has been
181 written into the plan and implemented.

182 C(1) All physical restraint must be immediately
183 terminated when student is no longer an immediate danger to
184 self or others, or if student is in severe distress.

185 (2) The use of physical restraint should be for the
186 minimum time necessary to ensure safety and a release criteria
187 (as outlined in LEA policies) must be implemented.

188 (3) If a public education employee physically restrains
189 a student for more than fifteen minutes, the public education
190 employee:

191 (a) shall immediately notify the student's parent or
192 guardian and school administration; and

193 (b) may not use physical restraint on a student for more
194 than 30 minutes.

195 (4) An LEA may not use physical restraint as a means of
196 discipline or punishment.

197 D(1) If a public education employee uses seclusionary
198 time out, the public education employee shall use the minimum
199 time necessary to ensure safety and a release criteria (as
200 outlined in LEA policies) must be implemented.

201 (2) If a student is placed in seclusionary time out for
202 more than fifteen minutes, the public education employee:

203 (a) shall immediately notify:

204 (i) the student's parent or guardian; and

205 (ii) school administration; and

206 (b) may not place a student in a seclusionary timeout for
207 more than 30 minutes.

208 (3) Staff must maintain the student within line of sight

209 during the use of seclusionary time out.

210 (4) Seclusionary time may only be used for maintaining
211 safety and a public education employee may not use
212 seclusionary time out as a means of discipline or punishment;

213 ~~[B]E. [The]~~A plan described in R277-609-3A shall also:

214 (1) provide direction for dealing with bullying and
215 disruptive students[. ~~This part of the plan shall~~];

216 (~~1~~)2) direct schools to determine the range of behaviors
217 and establish the continuum of administrative procedures that
218 may be used by school personnel to address the behavior of
219 habitually disruptive students;

220 (~~2~~)3) provide for identification, by position[~~(s)~~], of
221 an individual[~~(s)~~] designated to issue notices of disruptive
222 and bullying student behavior;

223 (~~3~~)4) designate to whom notices of disruptive and
224 bullying student behavior shall be provided;

225 (~~4~~)5) provide for documentation of disruptive student
226 behavior prior to referral of disruptive students to juvenile
227 court;

228 (~~5~~)6) include strategies to provide for necessary adult
229 supervision;

230 (~~6~~)7) require that policies be clearly written and
231 consistently enforced;~~[and]~~

232 (~~7~~)8) include administration, instruction and support
233 staff, students, parents, community council and other
234 community members in policy development, training and
235 prevention implementation so as to create a community sense of
236 participation, ownership, support and responsibility; and

237 (~~8~~)9) provide notice to employees that violation of this
238 rule may result in employee discipline or action.

239 ~~[C]F. A [P]plan[~~s~~] required under this R277-609-3:~~

240 (1) shall include gang prevention and intervention
241 policies[.];

242 (~~1~~)2) [~~The required plans~~]shall account for an
243 individual LEA's or school's unique needs or circumstances

244 including the role of law enforcement and emergency medical
245 services (EMS);~~[-]~~

246 ~~([2]3) [The required plans]~~ may include the provisions of
247 Section 53A-15-603(2)~~[-]~~; and

248 ~~([3]4) [The required plans may]~~ shall provide for
249 publication of notice to parents and school employees of
250 policies by reasonable means.

251 **R277-609-4. Implementation.**

252 A. An LEA~~[s]~~ shall implement strategies and policies
253 consistent with ~~[their plans]~~ the LEA's plan required in R277-
254 609-3A.

255 B. An LEA~~[s]~~ shall develop, use and monitor a continuum
256 of intervention strategies to assist students, including
257 students whose behavior in school falls repeatedly short of
258 reasonable expectations, ~~[including]~~ by teaching student
259 behavior expectations, reinforcing student behavior
260 expectations, re-teaching behavior expectations, followed by
261 effective, evidence-based interventions matched to student
262 needs prior to administrative referral.

263 C. An LEA shall implement positive behavior interventions
264 and supports as part of the LEA's continuum of behavior
265 interventions strategies. (Least Restricted Behavioral
266 Interventions Technical Assistance Manual).

267 ~~[C.]D(1) [As]~~ An LEA shall provide a formal written
268 assessment of a habitually disruptive student as part of
269 ~~[any]~~ a student's suspension or expulsion process that results
270 in court involvement, once an LEA receives information from
271 the court~~[s]~~ that disruptive student behavior will result in
272 court action~~[, the LEA shall provide a formal written~~
273 ~~assessment of habitually disruptive students]~~.

274 (2) An LEA shall use ~~[A]~~ assessment information~~[shall be~~
275 ~~used]~~ to connect parents and students with supportive school
276 and community resources.

277 ~~[D]~~ E. Nothing in state law or this rule restricts an

278 LEA[§] from implementing policies to allow for suspension of
279 students of any age consistent with due process requirements
280 and consistent with all requirements of the Individuals with
281 Disabilities Education Act 2004.

282 F. An LEA shall establish an Emergency Safety
283 Intervention (ESI) Committee before September 1, 2015.

284 G. The LEA ESI Committee:

285 (1) shall include:

286 (a) two administrators;

287 (b) at least one parent or guardian or a student enrolled
288 in the LEA, appointed by the LEA; and

289 (c) two certified educational professionals with behavior
290 training and knowledge in both state rules and LEA discipline
291 policies;

292 (2) shall meet often enough to monitor the use of
293 emergency safety intervention in the LEA;

294 (3) shall determine and recommend professional
295 development needs; and

296 (4) shall develop policies for local dispute resolution
297 processes to address concerns regarding disciplinary actions.

298 H. An LEA shall have procedures for the collection,
299 maintenance, and periodic review of documentation or records
300 of the use of emergency safety interventions at schools within
301 the LEA.

302 I. An LEA shall provide documentation of any school,
303 program or LEA's use of emergency safety interventions to the
304 Superintendent annually.

305 **R277-609-5. Special Education Exception(s) to this Rule.**

306 A. An LEA shall have in place, as part of its LEA special
307 education policies, procedures, or practices, criteria and
308 steps for using emergency safety interventions consistent with
309 state and federal law.

310 B. The Superintendent shall periodically review:

311 (1) all LEA special education behavior intervention

312 plans, procedures, or manuals; and
313 (2) emergency safety intervention data as related to IDEA
314 eligible students in accordance with Utah's Program
315 Improvement and Planning System (UPIPS).

316 **R277-609-[5]6. Parent/Guardian Notification and Court**
317 **Referral.**

318 A. Through school administrative and juvenile court
319 referral consequences, LEA policies shall provide procedures
320 for qualifying minors and their parents to participate in
321 decisions regarding consequences for disruptive student
322 behavior.

323 B. An LEA shall establish [P]olicies [shall]that:

324 (1) provide[-for] notice to parents and information about
325 resources available to assist_a parent[s] in resolving_the
326 parent's school-age minors' disruptive behavior[-];

327 [E-](2) [~~Policies shall~~]provide for notices of
328 disruptive behavior to be issued by schools to qualifying
329 minor(s) and parent(s) consistent with:

330 ([1]a) numbers of disruptions and timelines in
331 accordance with Section 53A-11-910;

332 ([2]b) school resources available;[-and]

333 ([3]c) cooperation from the appropriate juvenile court
334 in accessing student school records, including attendance,
335 grades, behavioral reports and other available student school
336 data[-]; and

337 [D-](d) [~~Policies shall~~]provide due process procedures
338 for minors and parents to contest allegations and citations of
339 disruptive student behavior.

340 C(1) When an emergency situation occurs that requires
341 the use of an emergency safety intervention to protect the
342 student or others from harm, a school shall notify the LEA and
343 the student's parent or guardian as soon as possible and no
344 later than the end of the school day.

345 (2) If an emergency crisis situation exceeds 15 minutes,

346 a school shall immediately notify:

347 (a) a students parent or guardian; and

348 (b) school administration.

349 (3) A notice described in R277-609-6C2 shall be
350 documented with in student information systems (SIS) records.

351 D(1) A school shall provide a parent or guardian with a
352 copy of any notes or additional documentation taken during the
353 emergency situation upon request of the parent or guardian.

354 (2) A parent or guardian may request a time to meet with
355 school staff and administration to discuss the emergency
356 crisis situation.

357 **R277-609-[6]7. [USOE]Model Policies.**

358 A. The [USOE]Superintendent shall develop, review
359 regularly, and provide to LEA boards model policies to address
360 disruptive student behavior and appropriate consequences.

361 B. The Superintendent shall develop model policies
362 required under R277-609-3A(10) to assist LEAs.

363 C. The Superintendent shall provide technical assistance
364 to LEAs in developing and implementing policies and training
365 employees in the appropriate use of physical force and
366 emergency safety interventions to the extent of resources
367 available.

368 **KEY: disciplinary actions, disruptive students, emergency**
369 **safety interventions**

370 **Date of Enactment or Last Substantive Amendment: [~~October 8,~~**
371 **2013]2015**

372 **Notice of Continuation: [~~August 2, 2013~~]2015**

373 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
374 **53A-1-401(3); 53A-1-402(1)(b); 53A-15-603; 53A-11-901**