



August 1, 2019

UEN Comments Regarding Proposed Rules: Chapter 103 Seclusion and Restraint

Thank you for the opportunity to provide comment regarding proposed rules to Chapter 103 Corporal Punishment Ban; Restraint; Physical Confinement and Detention. We appreciate the inclusive process and hard work of the Department staff and involved and caring stakeholders that have been meeting, discussing, researching and reviewing these proposed rules. The very serious nature of these situations, both very individual and infrequent in occurrence, with student and staff safety at-risk, while protecting student's rights, are at the very intersection of difficult public policy-making. That task of striking balance between those individual rights, protecting staff and students, and practically administering training and procedures, is daunting.

Many comments made along the way have been seriously considered and incorporated into this latest draft and we are grateful for these many revisions. While the use of seclusion and restraint is infrequent, there are situations where the practices are necessary. We would ask that the State Board amend the proposed rules as follows and short of amendment, would request that the State Board delay implementation to allow for continued dialogue about the practicality of successful implementation:

1. 281-103.6(1) Reasonable Force – strike (e) regarding staff motivation. It is difficult to prove what motivated someone's action, the appropriate motivation to protect staff and students is clearly stated throughout the chapter, and others such as imposing discipline are prohibited.
2. 281-103.7(1) Reasonable Force – Use of Physical Restraint or Seclusion –amend subparagraph (a) and remove the term "serious." We are concerned that teachers will hesitate to take necessary safety precautions at times due to their uncertainty as to whether a student's action will cause "serious" physical injury. Such hesitation may indeed allow a situation to escalate to what we all know is serious physical injury.
3. 281-103.7(2) Reasonable Force – Use of Physical Restraint or Seclusion –amend the proposed rules subparagraph (b) to read that the school must attempt to notify a student's parents "as soon as reasonably practicable but no later than three hours from both the commencement and conclusion of the seclusion or physical restraint". As currently proposed, the ten-minute requirement is unrealistic and overly burdensome to schools. The primary consideration during a seclusion or restraint event must be the safety of the student and staff. Training of best practice and setting local policies and procedures may certainly set a shorter time frame for implementation.
4. 281-103.8 Training, documentation, debriefing, and reporting requirements – Subsection (1) Training requirements – although some of this might be imbedded in ACES and Mental Health training, we anticipate that additional training for all staff will be costly for schools. We also request amending subparagraph 16 to grandfather into compliance those seclusion rooms that were built since the adoption of the current rules and met those rules, as well as meet all other provisions of the proposed rules, except subrule 103.9(2), concerning room dimension. We agree that rooms should be large enough for the student to move around and avoid the potential of scalability, but the immediate cost necessary to bring existing rooms into compliance will create an enormous financial burden to the school district and disrupt construction and renovation cycles that are many times planned out over ten or more years.

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