



# Illinois State Board of Education

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Barren Helsberg  
Chairman

Dr. Carmen I. Ayala  
State Superintendent of Education

January 21, 2020

ion

and

Re: [REDACTED] Complaint

Dear [REDACTED]

The Illinois State Board of Education (ISBE), Special Education Department, has completed its investigation of the November 20, 2019, complaint lodged by Jesse Ruiz, a representative of the Office of the Governor, in regard to the special education services for a student attending a [REDACTED].

Authority for conducting this investigation is the Individuals with Disabilities Education Act, P.L. 108-446, 34 CFR, 300.151 - 300.153.

The review focused on the following requirements:

**23 Illinois Administrative Code, 1.285 (IN EFFECT PRIOR TO NOVEMBER 20, 2019), which states in relevant part**

*Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students (i.e., as a form of punishment). Nothing in this Section or in Section 1.280 of this Part shall be construed as regulating the restriction of students' movement when that restriction is for a purpose other than the maintenance of an orderly environment (e.g., the appropriate use of safety belts in vehicles).*

- a) *"Isolated time out" means the confinement of a student in a time out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted. The use of isolated time out shall be subject to the following requirements.*
- 1) *Any enclosure used for isolated time out shall:*
    - A) *have the same ceiling height as the surrounding room or rooms and be large enough to accommodate not only the student being isolated but also any other individual who is required to accompany that student;*
    - B) *be constructed of materials that cannot be used by students to harm themselves or others, be free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others, and be designed so that students cannot climb up the walls (including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing); and*
    - C) *be designed to permit continuous visual monitoring of and communication with the student.*
  - 2) *If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction shall be used. If the door includes a viewing panel, the panel shall be unbreakable.*
  - 3) *An adult who is responsible for supervising the student shall remain within two feet of the enclosure.*
  - 4) *The adult responsible for supervising the student must be able to see the student at all times. If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire alarm system is triggered. Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.*
- e) *Time Limits*
- 1) *A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.*
- f) *Documentation and Evaluation*
- 1) *A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of these records. Each record shall include:*
    - A) *the student's name;*
    - B) *the date of the incident;*
    - C) *the beginning and ending times of the incident;*
    - D) *a description of any relevant events leading up to the incident;*
    - E) *a description of any interventions used prior to the implementation of isolated time out or physical restraint;*
    - F) *a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;*
    - G) *a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff;*
    - H) *a description of any injuries (whether to students, staff, or others) or property damage;*
    - I) *a description of any planned approach to dealing with the student's behavior in the future;*
    - J) *a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;*
    - K) *the date on which parental notification took place as required by subsection (g) of this Section.*

- 2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.
- 3) The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.
- 4) The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.
  - A) A licensed educator knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.
  - B) The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance).
  - C) The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this Part.
- 5) When a student has first experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedures used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.
  - A) The district or other entity serving the student shall invite the student's parents or guardians to participate in this review and shall provide ten days' notice of its date, time, and location.
  - B) The notification shall inform the parents or guardians that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.
- g) Notification to Parents
  - 1) A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].
  - 2) Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parents, unless the parent has provided the district or other entity with a written waiver of this requirement for notification. The notification shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.
- h) Requirements for Training
  - 1) Isolated Time Out  
Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.

**34 Code of Federal Regulations, §300.101, which states**

- a) General. A free appropriate public education must be available to all children residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in § 300.530(d).

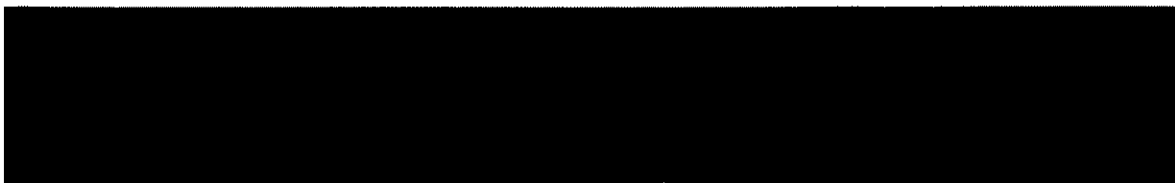
**Issue 1(a): Use of Isolated Time Out {23 IAC §1.285}**

The following violation is found as explained below:

**Background and Summary of Allegation**

The complaint referenced a November 19, 2019, newspaper article, which addressed the use of time out in schools within the state. The article reported that, according to records, the child had been in isolated time out for

**Student Information**



**Response from Cooperative**

The [redacted] response asserted that the child was not in isolated time out for [redacted]. They stated that, although isolated time out restrictive intervention forms were completed by [redacted] staff members, "most of the interventions involved a trained staff member present with the student at all times, such that the student was not isolated." They continued by adding that [redacted] staff "counted the entire episode, including the student's behavior, interventions used prior to time out, and the period of time out, on the intervention form, and therefore, the actual period of time out is overstated." In conclusion, the [redacted] asserted that they have complied with all of the ISBE regulations regarding time out, noting the following: school staff have been appropriately trained, all related documentation was completed, the parent was informed of the restrictive intervention in a timely manner, the child was removed to time out only for behavior that could result in potential physical harm to [redacted] or others, the child was monitored and released from time out as soon as possible, the child was evaluated in accordance with ISBE regulations, and the time out space satisfied ISBE regulations.

**Action Taken in Response to the Complaint**

In addition to the review of all requested documentation (e.g., [redacted] written response to the complaint, student IEPs, verification of staff training on the requirements of isolated time out, student attendance, disciplinary and progress reports, documentation regarding each use of isolated time out, policies and procedures for using isolated time out, etc.), a December 26, 2019, interview was completed with the state-approved special education director for the [redacted] ("director"). A site visit was conducted on December 26, 2019, which included an examination of the room utilized for isolated time out. Additionally, a January 7, 2020, telephone interview was completed with the student's parent.

**Review of Relevant Information**

**Issue 1(a) – Use of Isolated Time Out {23 IAC §1.285}**

Use of Isolated Time Out	Documentation
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23 IAC §1.285	
<p><i>Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others.</i></p>	<p>Written response to complaint:</p> <ul style="list-style-type: none"> <li>The following was documented in the written response: "The student was removed to time out only for behavior that could result in potential physical harm to or others."</li> </ul> <p>Interviews:</p> <ul style="list-style-type: none"> <li>The director stated that time out was only utilized when it was necessary, and that staff serving the student had received training regarding the appropriate use of behavioral strategies.</li> <li>The parent commented that she had observed in the classroom and "saw the student taken to isolated time out for non-compliance." The parent added that after "five times being non-compliant, [redacted] was forced to time out."</li> </ul> <p>Documentation:</p> <ul style="list-style-type: none"> <li>The [redacted] provided 41 individual student records which were used to document each incident of isolated time out. The date range for when the incidents occurred was from August 21, 2019, through September 25, 2019. The forms were titled "Student Documentation-Restrictive Intervention." Each form had a section to record a description of the behavior that resulted in the use of isolated time out. A review of the information recorded on the forms found that in 29 of the 41 incidents (71%), isolated time out was utilized in order to ensure a safe and orderly environment for learning and was necessary to preserve the safety of students and others. Regarding the other 12 forms (29%), documentation was not present to support that isolated time out was utilized as a means to maintain a safe and orderly environment for learning and necessary to preserve the safety of student and others. In total, the individual records from August 21, 2019, to September 25, 2019, documented the student was in isolated time out for [redacted]</li> <li>Trainings for staff, including those that serve the student, were completed in August and September 2019. Documentation shared with the investigator supported that the trainings included information on the rules and regulations related to physical restraint and isolated time out.</li> <li>The [redacted] provided a copy of its policies and procedures regarding the use of isolated time out. Included was a 2016 version of its policies and procedures, and one from 2019. Both versions included a section addressing the use of isolated time out.</li> </ul> <p>2016 version, in relevant part:</p> <p><i>"This administrative procedure applies to all students. Isolated time out and physical restraint shall be used only as a means of maintaining discipline in schools, that is, as a means of maintaining a safe and orderly environment for learning and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline</i></p>

	<p><i>to individual students (i.e., as a form of punishment). The use of isolated time out and physical restraint by any staff member shall comply with the Illinois State Board of Education (ISBE) rules, Section 1.285, Requirements for the Use of Isolated Time Out and Physical Restraint."</i></p> <p>2019 version, in relevant part:  <i>"Isolated time out and physical restraint shall be used only as a means of maintaining discipline in the school, to maintain a safe and orderly environment for learning and only to the extent that their use is necessary to preserve the safety of students and others. Neither isolated time out or physical restraint shall be used as a form of punishment. The use of isolated time out and physical restraint shall comply with the Illinois State Board of Education rules, Section 1.285. The Illinois State Board of Education rules are adopted as the written procedures to be followed by staff for the use of isolated time out and physical restraint."</i></p>
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### Summary and Discussion

According to the Illinois Administrative Code, at 23 IAC 1.285, isolated time out "shall be used only as a means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that it is necessary to preserve the safety of students and others." The cooperative shared policies and procedures regarding the use of isolated time out which are aligned with the requirements of 23 IAC 1.285. They provided documentation regarding staff training related to the requirements of the use of isolated time out. In an interview, the director stated that time out was only utilized when it was necessary. In reviewing the 41 forms which documented each incident of isolated time out, it was found that 29 (71%) of the incidents which were documented in the referenced timeframe, included documentation to support that isolated time out was used in accordance with 23 IAC 1.285. However, 12 (29%) of the forms did not include documentation to support that isolated time out was utilized as a means of maintaining discipline in schools and only to the extent that it was necessary to preserve the safety of students and others. Based upon the above, a violation is found.

### **Issue 1(b) – Isolated Time Out Room {23 IAC §1.285(a) (1-4)}**

No violation is found as explained below:

### Review of Relevant Information

Documentation was based on a school site visit, including inspection of the one room utilized for isolated time out, and a follow up interview with the director, conducted December 26, 2019. During the interview it was indicated that there have been no changes in the space or enclosure utilized for isolated time out within the past year. A January 7, 2020, telephone interview was also completed with the parent of the student.

Isolated Time Out Room 23 IAC § 1.285(a) (1-4)	Documentation
<i>Isolated time out room has the same ceiling height as the surrounding room or rooms.</i>	The isolated time out room was observed to have the same ceiling height as surrounding rooms.

<i>Isolated time out room is large enough to accommodate not only the student being isolated but also any other individual who is required to accompany that student.</i>	The room was large enough to accommodate at least two individuals.
<i>Isolated time out room is constructed of materials that cannot be used by students to harm themselves or others.</i>	The room was not constructed of materials that could be used by the student to harm themselves or others.
<i>Isolated time out room is free of electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others.</i>	No electrical outlets, exposed wiring, and other objects that could be used by students to harm themselves or others were present.
<i>Student cannot climb up the walls (including walls far enough apart so as not to offer the student being isolated sufficient leverage for climbing).</i>	The walls were spaced far enough apart to prohibit a student from climbing.
<i>Isolated time out room is designed to permit continuous visual monitoring of and communication with the student.</i>	The door of the room had a window which could allow for continuous visual monitoring of, and communication with, the student. Interview: The director commented that the individual that accompanied the student always remained in the room, therefore was able to continuously visually monitor and communicate with the student.
<i>If an enclosure used for isolated time out is fitted with a door, either a steel door or a wooden door of solid-core construction has been used.</i>	The room used for isolated time out was fitted with a door of solid-core construction.
<i>If the door includes a viewing panel, the panel is unbreakable.</i>	The door included a window for viewing the student, which was unbreakable.
<i>Evidence that supervising adult is within 2 ft. of the enclosure.</i>	The director expressed that the adult who accompanied the student to isolated time out always remained in the room with the student.  Parent Interview: The parent reported that she was in the school on numerous occasions and there was not always someone within two feet of the time out room. Additionally, the parent reported there "was not always someone in the room with the student," noting that "the adult was often across the hall."
<i>If a locking mechanism is used on the enclosure, the mechanism shall be constructed so that it will engage only when a key, handle, knob, or other similar device is being held in position by a person, unless the mechanism is an electrically or electronically controlled one that is automatically released when the building's fire</i>	The door to the room did not have a locking mechanism.

alarm system is triggered. Upon release of the locking mechanism by the supervising adult, the door must be able to be opened readily.	
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### Summary and Discussion

During a December 26, 2019, on-site visit, the one room which is utilized for isolated time out was examined. The Illinois Administrative Code, at 23 IAC 1.285(a)(1-4), specifies the requirements for any enclosure used for isolated time out. An examination of the room used for isolated time out found that the room meets all of the requirements related to the cited regulation.

### **Issue 1(c) – Time Limits {23 IAC § 1.285(e)(1); 23 IAC §1.285 (f)(4) (A-C)}**

The following violation is found as explained below:

### Review of Relevant Information

Time Limits 23 IAC § 1.285(e)(1) 23 IAC §1.285 (f)(4) (A-C)	Documentation
1) <i>A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.</i>	<p>Interview:</p> <ul style="list-style-type: none"> <li>The director stated that they know a student is ready to exit isolated time out when the student is calm and ready to comply. She commented that a team approach is often used to assess whether the student is ready to re-enter the classroom. This approach often involves a school psychologist, board-certified behavior analyst, classroom teacher(s), and an administrator. Furthermore, she commented that they want the student to be calm for five minutes before returning to class.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>The provided 41 individual student records which were used to document each incident of isolated time out. The forms included the start time and the end time of the intervention for each incident. Documentation showed that eight (20%) times the isolated time out intervention lasted more than 30 minutes. Each log included a description of the student's behavior during the use of isolated time out. It was clearly documented in five of the eight descriptions, that the student had not ceased presenting the specific behavior for which isolated time out was imposed within 30 minutes of the end time of the intervention. However, in two of the eight incidents, documentation showed the student had calmed at a specific time but was kept at least 30 minutes after that. In</li> </ul>



	<p>one case it was unclear in the documentation when the student had ceased presenting the behavior.</p> <ul style="list-style-type: none"> <li>• A copy of the presentation from an August 16, 2019, staff training was provided. One portion of the training related to isolated time out was titled "Time Limits." Information included the following: "a student shall not be kept in isolated time out for more than 30 minutes after he/she ceases presenting the specific behavior for which it would be an appropriate intervention."</li> <li>• policies and procedures, referenced above in Issue #1(a), were in alignment with 23 IAC 1.285(e)(1).</li> </ul>
<p>4) <i>The requirements of this subsection (f)(4) shall apply whenever an episode of isolated time out exceeds 30 minutes, an episode of physical restraint exceeds 15 minutes, or repeated episodes have occurred during any three-hour period.</i></p>	
<p>A) <i>A licensed educator knowledgeable about the use of isolated time out or trained in the use of physical restraint, as applicable, shall evaluate the situation.</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>• The director stated that a certified staff member evaluated situations of isolated time out which exceeded 30 minutes or when repeated episodes of isolated time out occurred during any three-hour period. Additionally, it was added that all staff members that worked with the student were licensed and were trained on the rules and regulations related to isolated time out.</li> </ul> <p>Documentation Provided:</p> <ul style="list-style-type: none"> <li>• The provided 41 individual student records which were used to document each incident of isolated time out. Documentation in the records indicated that eight (20%) times the isolated time out intervention lasted more than 30 minutes and nine (22%) instances involved repeated episodes occurring within a three-hour period. It was documented that an evaluation by a licensed and knowledgeable educator occurred in five of the instances. An evaluation was not documented in three of the eight instances in which repeated episodes of isolated time out occurred within a three-hour period.</li> <li>• A copy of the presentation from an August 16, 2019, staff training was provided. The presentation included information on the requirement for conducting an evaluation whenever an episode of isolated time out exceeds 30 minutes or whenever repeated episodes have occurred during any three-hour period.</li> <li>• policies and procedures, referenced in Issue #1(a), are in alignment with 23 IAC 1.285(4)(A).</li> </ul>
<p>B) <i>The evaluation shall consider the appropriateness of continuing the procedure in use, including the student's potential need for medication, nourishment, or use of</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>• The director stated that the evaluation of the situation by certified staff includes a look at medications, nourishment, and the student's need to use the restroom.</li> </ul>

<p><i>a restroom, and the need for alternate strategies (e.g., assessment by a mental health crisis team, assistance from police, or transportation by ambulance)</i></p>	<ul style="list-style-type: none"> <li>The parent stated that the student was "denied the use of the restroom while in isolated time out," which led to having an accident.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>In the five instances in which an evaluation of the situation was documented, the following information was recorded: the name of the certified staff member knowledgeable about the use of isolated time out who completed the evaluation, a determination of the appropriateness of continuing the isolated time out, and check-boxes to indicate the need for medication, nourishment, use of restroom, assistance from building administration, assessment by the mental health crisis team, transportation by ambulance, assistance from the police, and other.</li> <li>A copy of the presentation from an August 16, 2019, staff training was provided. Under a section titled "What are the requirements for an evaluation?", the following is noted: "An evaluation should consider the appropriateness of continuing the procedure in use, including the need for medication, nourishment, use of restroom, and the need for alternative strategies."</li> </ul>
<p><i>C) The results of the evaluation shall be committed to writing and copies of this documentation shall be placed into the student's temporary student record and provided to the official designated pursuant to Section 1.280(c)(3) of this Part.</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>The director referred to forms within the packet of documentation that the cooperative shared with the investigator. Specifically, the director noted that part of the August 16, 2019, presentation, reinforced that the results of the evaluation were to be placed in the student's temporary file and given to the appropriate administrator.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>Each of the 41 individual forms used to document each incident of time out indicated at the bottom that it was to be carbon copied to the student's temporary file, the director, the principal, the pupil personnel supervisor, and the program supervisor.</li> <li>A copy of the presentation from an August 16, 2019, staff training was provided. Under a section titled "What are the requirements for an evaluation?", it is noted that "the results of the evaluation shall be committed to writing and a copy put in the student's temporary file and given to the designated school official."</li> </ul>

### Summary and Discussion

The cited regulation includes requirements regarding time limits when utilizing isolated time out. One requirement is that a student not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after the student ceases presenting the specific behavior for which isolated time out was imposed. Documentation from the cooperative indicated that in two of the eight

incidences in which isolated time out lasted more than 30 minutes, the student had ceased presenting the behavior at a specific time and was kept at least 30 minutes after that time. In one case, it was not clearly documented when the specific behavior had ceased. The cited regulation also includes requirements which apply whenever an episode of isolated time out exceeds 30 minutes or repeated episodes have occurred during any three-hour period. One of these requirements is that an evaluation of the situation by a licensed educator knowledgeable about the use of isolated time out shall occur. Documentation presented by the showed that an evaluation only occurred in five of the eight instances required. Each evaluation that was completed did meet the required components (i.e., consideration of appropriateness of continuing the procedure, the student's need for medication, nourishment, use of restroom, etc.). Additionally, each evaluation was committed to writing and copies placed in the student's temporary record and provided to the appropriately designated official. Compliance with all parts of the cited regulation was noted, except section (f)(4)(A). Documentation showed that twice, the student remained in isolated time out for more than 30 minutes after ceasing presentation of the behavior for which the time out was imposed. Based upon the above, a violation is found.

**Issue 1(d)–Documentation and Evaluation {23 IAC § 1.285(f) (1-3,5)}**

No violation is found as explained below:

**Review of Relevant Information**

Documentation and Evaluation 23 IAC § 1.285(f) (1-3,5)	Documentation
1) <i>A written record of each episode of isolated time out or physical restraint shall be maintained in the student's temporary record. The official designated pursuant to Section 1.280(c)(3) of this Part shall also maintain a copy of these records. Each record shall include:</i>	<p>Interview:</p> <ul style="list-style-type: none"> <li>The director of special education commented that detailed records regarding each episode of isolated time out are kept and that these are maintained in the student's temporary record.</li> </ul> <p>Written response to complaint, in relevant part:</p> <ul style="list-style-type: none"> <li>The written response from the cooperative referred to documentation they provided regarding all restrictive interventions since November 20, 2018. They also refer to a spreadsheet summarizing information about each of the student's restrictive interventions for the 2019-20 school year.</li> </ul> <p>Documentation:</p> <ul style="list-style-type: none"> <li>The cooperative shared a total of 41 individual student records for the date range of August 21, 2019, through September 25, 2019. Each form documented an episode of isolated time out. Each form indicated that it was carbon copied to the student's temporary record and to the appropriately designated official.</li> </ul>
<p>A) <i>the student's name;</i></p> <p>B) <i>the date of the incident;</i></p> <p>C) <i>the beginning and ending times of the incident;</i></p> <p>D) <i>a description of any relevant events leading up to the incident;</i></p>	<p>Documentation provided:</p> <ul style="list-style-type: none"> <li>The 41 individual student records used to document each incident of isolated time out were reviewed. The forms were titled "<i>Student Documentation- Restrictive Intervention.</i>"</li> <li>All 41 of the individual student records/forms contained the following required information: student name, date of the</li> </ul>

<p>E) a description of any interventions used prior to the implementation of isolated time out or physical restraint;</p> <p>F) a description of the incident and/or student behavior that resulted in isolated time out or physical restraint;</p> <p>G) a log of the student's behavior in isolated time out or during physical restraint, including a description of the restraint techniques used and any other interaction between the student and staff;</p> <p>H) a description of any injuries (whether to students, staff, or others) or property damage;</p> <p>I) a description of any planned approach to dealing with the student's behavior in the future;</p> <p>J) a list of the school personnel who participated in the implementation, monitoring, and supervision of isolated time out or physical restraint;</p> <p>K) the date on which parental notification took place as required by subsection (g) of this Section.</p>	<p>incident, start and end time of intervention, and a description of interventions used prior to restrictive intervention.</p> <ul style="list-style-type: none"> <li>Each form also included a section for a description of the behavior that resulted in the use of restricted intervention and any relevant events leading up to the incident, description of the student's behavior during the use of the restrictive intervention, a description of any injuries to student or staff, or damage to property, a description of a plan to remediate the student's behavior in the future, and the name of personnel who participated, observed or supervised the restrictive intervention.</li> <li>Each form included a section to indicate the date of parent/guardian notification of restrictive intervention implementation, the name and title of the staff who notified the parent/guardian, and the date and time the supervisory staff member was notified.</li> <li>All 41 of the forms included a section to be completed when an episode of isolated time out exceeded 30 minutes. This section of the form required the name of the staff who was identified as the person knowledgeable about the use of isolated time out or trained in the use of physical restraint who evaluated the situation. This section also had a space for the staff member who evaluated the situation to mark whether the continuation of isolated time was determined appropriate. It also had eight check boxes for the staff person identified above to mark the need for medication, nourishment, use of restroom, assistance from the building administrator, assessment by the mental health crisis team, transportation by ambulance, assistance from the police, or other.</li> <li>Each form had a space to indicate when the written documentation was mailed to the parents, and the name, title, and phone number of the staff member to contact with questions concerning the process or to get further information. Also, the bottom of each form indicated that the form was to be carbon copied to the student's temporary file, director, principal, pupil personnel services director, and the program supervisor.</li> </ul>
<p>2) The school official designated pursuant to Section 1.280(c)(3) of this Part shall be notified of the incident as soon as possible, but no later than the end of the school day on which it occurred.</p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>The director indicated that she was the official designated to be notified of each incident, and that this was done the same day as the incident and often as the incident was occurring. She commented that the principal of the building/program was the person that notified her.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>Each <i>Student Documentation-Restrictive Intervention</i> log had a section to document when the supervisor of the program</li> </ul>

	<p>was notified, including the date and time. Each of the 41 logs (100%) documented that the designated official was notified by the end of the day on which the incident occurred.</p>
<p>3) <i>The record described in subsection (f)(1) of this Section shall be completed by the beginning of the school day following the episode of isolated time out or physical restraint.</i></p>	<p>Documentation provided:</p> <ul style="list-style-type: none"> <li>A review of the 41 individual student records found that each of the 41 records (100%) were completed by the beginning of the school day following the episode of isolated time out.</li> </ul>
<p>5) <i>When a student has first experienced three instances of isolated time out or physical restraint, the school personnel who initiated, monitored, and supervised the incidents shall initiate a review of the effectiveness of the procedures used and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other, specified interventions. The plan shall be placed into the student's temporary student record. The review shall also consider the student's potential need for an alternative program or for special education.</i></p> <p>A) <i>The district or other entity serving the student shall invite the student's parents or guardians to participate in this review and shall provide ten days' notice of its date, time, and location.</i></p> <p>B) <i>The notification shall inform the parents or guardians that the student's potential need for special education or an alternative program will be considered and that the results of the review will be entered into the temporary student record.</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>During the interview the director commented that the student had first experienced three instances of isolated time out prior to the timeframe referenced in this investigation.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>A copy of the presentation from an August 16, 2019, staff training was shared with the investigator. This presentation had a section titled "when a student has first experienced three instances of isolated time out..."</li> </ul> <p>This section of the presentation included the following information:</p> <ul style="list-style-type: none"> <li>❖ "School personnel should initiate a review of the effectiveness of the procedure and prepare an individual behavior plan for the student that provides either for continued use of these interventions or for the use of other specified interventions. The plan should be placed in the student's temporary records."</li> <li>❖ "The review should consider the student's potential need for an alternative or special education program (typically, when a student is not disabled). The district shall invite the parent/guardian to participate in the review and provide 10-day notice of its date, time and location. The notification shall inform the parent/guardian that the student's potential need for special education or an alternative program will be considered and the results of the review will be entered into the temporary record."</li> </ul>

#### Summary and Discussion

The cited regulation specifies the requirements related to documentation and evaluation of instances of isolated time out. It was noted that in all incidents related to the student, all documentation was maintained by an appropriately designated individual, copies were placed in the student's temporary record, each individual log of the use of isolated time out included all information required by the cited regulation, a school official was notified prior to the end of the day in which the episode of time out occurred, and the documentation was completed by the beginning of school the day following the episode of time out. The student had first experienced three episodes of the use of isolated time out prior to the timeframe referenced in the complaint, therefore subsection (f)(5) of the referenced regulation is not applicable. While findings were noted on Issues 1(a) and 1(c), regarding the lack of specific documentation that was required, that same documentation is not a required component of this cited regulation. The cooperative did meet all required documentation and evaluation components required by 23 IAC § 1.285(f) (1-3,5).

**Issue 1(e) – Notification to Parents {23 IAC § 1.285(g) (1-2)}**

A violation is found as explained below:

**Review of Relevant Information**

Notification to Parents 23 IAC § 1.285(g) (1-2)	Documentation
<p>1) <i>A district whose policies on the maintenance of discipline include the use of isolated time out or physical restraint shall notify parents to this effect as part of the information distributed annually or upon enrollment pursuant to Sections 10-20.14 and 14-8.05(c) of the School Code [105 ILCS 5/10-20.14 and 14-8.05(c)].</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>The director of special education stated that parents are notified of discipline policies during annual registration, through information shared in the parent handbook, and during Individualized Education Program (IEP) meetings, as applicable. It was noted that for this student, the policies and procedures were shared at each IEP meeting.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>The [redacted] provided a copy of its policies and procedures regarding the use of isolated time out. Included was a 2016 version of its policies and procedures, and one from 2019. Both versions indicated that "the policy and procedures will be provided to parents or guardians, upon request, within 15 days after the policy has been amended or adopted, or at the time the IEP is first implemented for the student." It was further stated that "parent(s)/guardian(s) of children with disabilities having an IEP are hereby informed that they can request a copy of this policy and its procedures."</li> </ul>
<p>2) <i>Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parents, unless the parent has provided the district or other entity with a written waiver of this requirement for notification. The notification</i></p>	<p>Interview:</p> <ul style="list-style-type: none"> <li>The director stated that parents are notified during the incident if possible, and if not during, then they are notified by the end of the day. She commented that sometimes the written notification is sent home via the student's backpack.</li> <li>Additionally, the director stated that she is not aware of any situations in the past year in which parents have waived the right to be notified within 24 hours.</li> </ul>

shall include the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.	<p>Documentation provided:</p> <ul style="list-style-type: none"> <li>• <i>Student Documentation-Restrictive Intervention</i> logs were reviewed for 41 incidents of isolated time out. This review found that in 37 (90%) of the incidents, it was documented that the parent was notified within 24 hours of the incident. On three (7%) occasions, it was found that the parent was not notified within 24 hours of the incident. On one of those occasions the parent was notified two days after the incident and on two occasions was notified 3 days after the incident. On one occasion, the form documented parent notification was made the day prior to the incident.</li> <li>• In each case, the notification to the parent included the student's name, the date of the incident, a description of the intervention used, and the name of a contact person with a telephone number to be called for further information.</li> </ul>
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#### Summary and Discussion

Documentation obtained found that the shared its policies and procedures annually with parents and did so for this student at each IEP meeting. Documentation reviewed showed that in 90% of incidents of the use of isolated time out, the parent was notified within 24 hours. However, there were three instances (7%) in which the parent was notified later than 24 hours after the incident. Each notification included all information required in the cited regulation. Based upon the above, a violation is found.

#### **Issue 1(f) – Requirements for Training {23 IAC § 1.285(h)(1)}**

No violation is found as explained below:

#### Review of Relevant Information

Requirements for Training 23 IAC § 1.285(h)(1)	Documentation
<i>Each district, cooperative, or joint agreement whose policy permits the use of isolated time out shall provide orientation to its staff members covering at least the written procedure established pursuant to Section 1.280(c)(2) of this Part.</i>	<p>Interview:</p> <ul style="list-style-type: none"> <li>• The director explained that orientation is provided to its staff members at least annually, and at times throughout the year as well. She stated that all staff members that worked with the student received training on a specific model that included crisis prevention, de-escalation, and intervention. Additionally, she commented that all staff that worked with the student attended an August 16, 2019, training.</li> </ul> <p>Documentation provided:</p> <ul style="list-style-type: none"> <li>• The cooperative shared "Certificates of Completion" for each staff member that worked with the student. These were provided as evidence of completing training on the specific model utilized in the cooperative programs.</li> <li>• Furthermore, documentation from the August 16, 2019, staff training indicated that the written procedures regarding the use of isolated time out were reviewed.</li> </ul>

### Summary and Discussion

Documentation supported that the cooperative provided orientation to its staff members covering at least the written procedures required by 23 IAC 1.280(c)(2).

### **Issue 2- Free Appropriate Public Education {34 CFR 300.101}**

The following violation is found as explained below:

#### *Allegation by Complainant*

The complaint referenced a November 19, 2019, newspaper article, which addressed the use of time out in schools within the state. The article reported that, according to records, the child had been in isolated time out fo. at the start of the 2019-20 school year. Furthermore, in the article, the parent of the child reported as a result of the use of isolated time out.

#### *Response from Cooperative*

The esponse asserted that the parent of the child has provided neither the district nor the with documentation that a physician or mental health professional has evaluated the student or has discovered any such response, the stated that "the parent was asked in early September 2019 if she would like to look at other placement options for the student," and she "declined the opportunity." Additionally, the cooperative asserted that the child was not in any time and that they have followed all related ISBE regulations.

#### *Review of Relevant Information*

<b>IEP Meetings</b>	<p><b>April 2, 2019, IEP meeting, in summary:</b></p> <ul style="list-style-type: none"><li>• The purpose of the meeting was noted as IEP, Functional Behavior Analysis (FBA)/Behavioral Intervention Plan (BIP), and 30-day check-in/annual review.</li><li>• Parent was noted as in attendance at the meeting.</li><li>• The <i>Parental Concerns</i> portion of the IEP documented that "mom doesn't have any academic concerns and dad shared concerns for</li><li>• The</li><li>• The <i>Goals and Instructional Objectives/Benchmarks</i> portion included six goals. Each of the six goals contained related present levels of academic achievement and functional performance information, a goal statement, instructional objectives/benchmarks, the title(s) of the implementer(s), how progress would be reviewed, and the criteria, procedure, and schedule for monitoring progress.</li><li>• The <i>Educational Services and Placement</i> portion of the IEP documented participation in general education classes for lunch/recess and physical education/music/art. Instruction in a special education setting was noted for all other subject areas, within</li></ul>
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	<p>the Social Emotional Learning Foundations (SELF) program. Related services were also noted, including</p> <p style="padding-left: 40px;">and a classroom aide. <i>Education Environment</i> was noted as 22.37% in general education and 77.63% in special education.</p> <ul style="list-style-type: none"> <li>• The <i>Educational Placement Considerations</i> portion documented the consideration of three placement options, the potential harmful effects of each, which placement was chosen, and the rationale for accepting or rejecting each placement option. The SELF program was the accepted placement, noting that this placement provides [student] with the support and related services he needs to make progress toward stated goals and objectives. It was noted that the student requires special transportation and Extended School Year (ESY). A transportation plan was included.</li> <li>• A <i>FBA and BIP</i> were completed and documented in the IEP. The BIP documented "<i>Restrictive Disciplinary Measures</i>" including the following, in part: precision requesting, withholding preferred item or activity, planned ignoring, loss of reinforcers or privileges, detentions or in-school suspension, and physical escort using [planned method] from classroom to alternate location for an isolated time out and processing.</li> <li>• A <i>Conference Notes</i> section was not included with the IEP.</li> </ul> <p><b>September 11, 2019, IEP meeting in summary:</b></p> <ul style="list-style-type: none"> <li>• The purpose of the meeting was noted as IEP, FBA/BIP, and 30-day check-in/annual review.</li> <li>• Parent was noted as in attendance at the meeting.</li> <li>• The <i>Parental Concerns</i> portion of the IEP documented the following: <ul style="list-style-type: none"> <li>◦ It was noted that the parent has concerns regarding program and classroom inconsistencies in responding to the student. Parent requested regular communication home on progress of intervention and new plan. Parent is concerned with the number of incident reports she has received that involves time outs and physical intervention.</li> </ul> </li> <li>• The <i>Goals and Instructional Objectives/Benchmarks</i> portion included six goals. Each of the six goals contained related present levels of academic achievement and functional performance information, a goal statement, instructional objectives/benchmarks, the title(s) of the implementer(s), how progress would be reviewed, and the criteria, procedure, and schedule for monitoring progress.</li> <li>• The <i>Educational Services and Placement</i> portion of the IEP were not changed from the [REDACTED] IEP.</li> <li>• The <i>Educational Placement Considerations</i> portion documented the consideration of three placement options, the potential harmful effects of each, which placement was chosen, and the rationale for accepting or rejecting each placement option. The SELF program was</li> </ul>
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	<p>the accepted placement, noting that this placement provides [student] with the support and related services he needs to make progress toward stated goals and objectives. It was noted that the student requires _____ was included.</p> <ul style="list-style-type: none"> <li>• A <i>FBA and BIP</i> was completed and documented in the IEP. The BIP included the same "<i>Restrictive Disciplinary Measures</i>" as referenced in the _____ IEP. This included _____ using [planned method] from classroom to alternate location for an isolated time out and processing.</li> <li>• <i>Conference Notes</i> portion of the IEP, in-part summary: <ul style="list-style-type: none"> <li>○ The student's difficulty with transitions was discussed.</li> <li>○ The parent voiced the following concerns: no academic work had come home this year, student may be bored due to historic issues with behaviors being triggered due to boredom, lack of regulation and structure in the classroom, the lack of clear data regarding antecedents, behaviors and consequences on the student's point sheet, the lack of regular communication, the crisis intervention behavior stabilization (CIBS) room is being used for both in-school suspension and isolated time out, and with the longest amount of time the student was in the CIBS room.</li> <li>○ Parental concern was also discussed regarding the student being removed from the classroom for being a disruption or being non-compliant. The team discussed the difference between a break and requesting a break, versus isolated time out. Parent was concerned with how the differences were documented and how it lacked clarity.</li> <li>○ Discussion was documented regarding the student being in _____ to _____.</li> </ul> </li> </ul> <p>_____, <i>IEP meeting in summary:</i></p> <ul style="list-style-type: none"> <li>• The purpose was noted as IEP meeting.</li> <li>• Parent was noted as in attendance at the meeting.</li> <li>• The <i>Parental Concerns</i> portion of the IEP documented the following: <ul style="list-style-type: none"> <li>○ Parent has been seeing a lot of _____ home and would like the new team to recognize that this might be an issue for _____ as _____ transitions. The parent further expressed that the student has been struggling _____</li> </ul> </li> <li>• _____</li> <li>• The <i>Goals and Instructional Objectives/Benchmarks</i> section did not change from the _____ IEP.</li> <li>• The <i>Educational Services and Placement</i> portion of the IEP documented all instruction within a special education setting in a _____</li> </ul>
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	<p>therapeutic day school. Related services were also noted, including</p> <ul style="list-style-type: none"> <li>• <i>Education Environment</i> was noted as 100% special education.</li> <li>• The <i>Educational Placement Considerations</i> portion documented the consideration of three placement options, the potential harmful effects of each, which placement was chosen, and the rationale for accepting or rejecting each placement option. A therapeutic day school was the placement accepted by the team, noting that placement provides the student with the integrated support and related services he needs to make progress toward stated goals and objectives. It was noted that the student requires</li> <li>• The IEP included a FBA and BIP. The BIP included the same "<i>Restrictive Disciplinary Measures</i>" as referenced in the [REDACTED] IEP. This included a [REDACTED] : using [planned method] from classroom to alternate location for an isolated time out and processing.</li> <li>• <i>The Conference Notes</i> portion of the IEP, in-part summary: <ul style="list-style-type: none"> <li>◦ The team is meeting to discuss [student's] needs and to review placement. Representatives from a therapeutic day school were present. The team determined that this particular therapeutic day school was the best placement for the student at this time. The team planned to transition the student as soon as possible.</li> <li>◦ Notes from the [REDACTED], IEP were included.</li> </ul> </li> </ul>
<b>Attendance Records</b>	<p>Student attendance records, in summary:</p> <p><u>2018-19 school year</u></p> <ul style="list-style-type: none"> <li>• The student was present [REDACTED] days and absent [REDACTED] days. All absences were noted as excused.</li> </ul> <p><u>2019-20 School year</u></p> <ul style="list-style-type: none"> <li>• The student was present [REDACTED] days and absent [REDACTED] days. All absences were noted as excused.</li> </ul>
<b>Disciplinary Records</b>	<p><u>Suspensions</u></p> <ul style="list-style-type: none"> <li>• No suspensions were noted during the timeframe noted in the complaint.</li> </ul> <p><u>Bus Incident Reports (2019-20)</u></p> <ul style="list-style-type: none"> <li>• [REDACTED]</li> <li>• [REDACTED]</li> </ul> <p><u>Restrictive Intervention Documentation</u></p> <ul style="list-style-type: none"> <li>• Forty-one incidents of time out were documented from the time frame of [REDACTED] through [REDACTED]. Some of the incidents also included the use of physical restraint.</li> </ul>
<b>Isolated Time out Documentation</b>	<p><u>Time Out/Restraint Log ([REDACTED])</u></p> <ul style="list-style-type: none"> <li>• The log recorded the following information related to each incident of the use of time out: date, time, type of incident (time out, physical restraint, or both), location/building/program, date parent notified, date parent sent documents, isolated time out yes/no, actual time in</li> </ul>

	<p>time out, total time in minutes of restrictive intervention, total time in minutes recorded on the document, and the antecedent.</p> <ul style="list-style-type: none"> <li>A total of 41 incidents of time out were recorded during this timeframe, with 26 of those also involving physical restraint. A review of the individual logs used to document isolated time out, found that the student was in isolated time out for a total of _____ ites during these 41 incidents. Documentation also showed that the student was in isolated time out for more than 30 minutes on eight occasions.</li> </ul>
<b>Student Goal Progress Reports</b>	<ul style="list-style-type: none"> <li>Student goal progress reports were provided for the 2018-19 school year, however, none were available for the timeframe ("the first few weeks of the 2019-20 school year") referenced in the complaint.</li> </ul>
<b>Relevant Communications</b>	<p><u>Email correspondence, in summary:</u></p> <ul style="list-style-type: none"> <li>_____, a series of emails including the district director of special education, the _____ director of special education, and the parent occurred. The messages included discussion of the appropriateness of placement options outside the student's school, including therapeutic day schools. The messages included back and forth questions from the parent to the district director of special education.</li> <li>_____, an email from the deputy superintendent of the therapeutic day school where the student was attending to the district director of special education. The message was to inform the public school that the student's placement at the therapeutic day school was being terminated, "effective as soon as possible." The student had been placed at the therapeutic day school by the _____ IEP team.</li> </ul>

### Summary and Discussion

The timeframe referenced in the complaint was "in a period of less than three weeks at the start of the 2019-20 school year." The \_\_\_\_\_, IEP, was the one in effect at the beginning of the 2019-20 school year. This IEP meeting included a FBA and BIP. The student's IEP team met on \_\_\_\_\_, to address behavioral concerns. The *Conference Notes* portion of both IEPs, documented parental concern with removal of the student from the classroom for being "a disruption or being non-compliant." Additionally, it was documented in those IEPs, that the parent was concerned that the student had been "in isolated time out \_\_\_\_\_ to \_\_\_\_\_." Student disciplinary records documented no suspensions and four bus incident reports during the timeframe in question. Attendance records documented that the student was absent \_\_\_\_\_ days through \_\_\_\_\_, with all noted as "excused." Student goal progress reports were provided however none were available for the timeframe referenced in the complaint. The cooperative director of special education, district director of special education and the parent exchanged a series of emails on and around \_\_\_\_\_. The emails documented a sharing of information and questions regarding possible placement options for the student, including placement at a therapeutic day school. It was documented that 41 incidents of isolated time out were recorded from \_\_\_\_\_ to \_\_\_\_\_. Additionally, these 41 incidents resulted in isolated time out. On \_\_\_\_\_, the IEP team met and recommended a change of placement to a therapeutic day school, and planned to transition the student "as soon as possible." Documentation supported that the student did not have a significant number of absences or suspensions

from school during the timeframe in question, and there was no documentation to suggest that the IEP was not implemented as written. Furthermore, the IEP team met on several occasions to document and address concerns, including a change of placement to a therapeutic day school. However, as indicated in relation to issues 1(a-f), the district did not meet all requirements of 23 IAC 1.285. Specifically, it was noted that in 12 of the 41 incidents of isolated time out, documentation did not support that the purpose was for maintaining a safe and orderly learning environment and only to the extent it was necessary to preserve the safety of students and others. Additionally, documentation did not support that the student was not kept in isolated time out for longer than was therapeutically necessary (i.e., 30 minutes after they cease presenting the specific behavior for which isolated time out was imposed). Furthermore, when an episode of isolated time out did exceed 30 minutes or repeated episodes occurred during any three-hour period, an evaluation of the situation by a licensed educator knowledgeable about the use of isolated time out, occurred in only five of the eight instances. These instances of non-compliance with the referenced subparts of 23 IAC 1.285, result in a finding of non-compliance regarding the provision of a free appropriate public education.

#### Corrective Action

The district must:

1. Provide a statement of assurance confirming that in the event of any future use of time out, as defined in the state regulation in effect, the following requirements will be met:
  - a. *Isolated time out shall be used only at times allowed by the relevant regulation.*
  - b. *All time limit and related evaluation requirements of the relevant regulation will be met.*
  - c. *Within 24 hours after any use of isolated time out or physical restraint, the school district or other entity serving the student shall send written notice of the incident to the student's parents.*
2. Provide training to all special education personnel (i.e., administrators, teachers, related service providers, etc.) within the cooperative regarding the requirements of the following:
  - a. Using isolated time out only at times allowed by the relevant regulation.
  - b. The time limits, evaluation, and parent notification components related to the use of isolated time out in accordance with 23 IAC § 1.285(e)(1), 23 IAC § 1.285(f)(4) (A-C), and 23 IAC § 1.285(g) (2).

The following materials will serve as verification of compliance with all parts of the corrective action order:


1. A copy of the identified statement of assurance.
2. Documentation specific to the referenced in-service training(s), including documentation of the scheduled date(s), sign-in sheets (with titles noted), and a copy of materials disseminated to the participants.

The above listed materials should be sent to my attention, Special Education Department, no later than March 20, 2020.


In accordance with the requirements of the 105 Illinois Compiled Statutes, 5/14-8.02e, the cooperative will be required to provide a copy of the corrective action compliance documentation to the complainant simultaneously with the submission of those materials to the investigator. In the event of a complaint filed by an individual other than the parent/guardian, the district must secure an appropriate written and signed release prior to the issuance of any child specific documentation.

Cooperation from both parties during this investigation is appreciated. Use of this complaint process does not preclude an eligible party, such as a parent, school district, or a student, from requesting a special education due process hearing. If you have any questions regarding this response, I can be reached at 217-782-5589 or [lfairban@isbe.net](mailto:lfairban@isbe.net).

Sincerely,



Barbara A. Moore  
Director of Special Education



Larry D. Fairbanks  
Principal Education Consultant  
Special Education Department

cc: Mr. Jesse Ruiz, Illinois Deputy Governor