



Illinois State Board of Education

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Darren Hebbert
Chairman

Dr. Carmen I. Ayala
State Superintendent of Education

January 17, 2020

Education

and

Unit School District

Re:

Dear Mr. and Mrs. [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, regarding the special education services for [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 in relevant part

- 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).

Background and Summary of Allegations

The complaint referenced a November 19, 2019, newspaper article, which addressed the use of time out in schools within the state. According to the article, the child repeatedly [REDACTED] when placed in isolated time out while [REDACTED] attended the identified school. The parent did not receive documentation of isolated time out and never met with district/cooperative representatives to discuss other behavioral interventions.

Action Taken in Response to the Complaint

During the investigation, telephone communications regarding the issues in the complaint occurred with the parent of the identified child and the director of special education ("director"). ISBE staff conducted an on-site visit on [REDACTED] to observe the identified school, including the enclosures used for time out. ISBE staff also interviewed the director and principal of the identified school during the on-site visit.

Student Information

[REDACTED]

Findings/Conclusions

Issue 1- Isolated Time Out {23 IAC 1.285}

Allegation by Complainant

The complaint referenced a November 19, 2019, newspaper article, which addressed the use of time out in schools within the state. According to the article, the child repeatedly [REDACTED] when placed in isolated time out while [REDACTED] attended the identified school. The parent did not receive documentation of isolated time out and never met with district/cooperative representatives to discuss other behavioral interventions.

Response from Cooperative

The child's Behavior Intervention Plan (BIP) stated staff would avoid using time out with the child when possible. Instead, other students would be removed from the classroom, or staff would escort the child to another location in the school to process the situation and calm down.

The cooperative acknowledged the documentation indicated the child did [REDACTED] when in time out, but [REDACTED] also [REDACTED] in other locations in school and in settings outside of school. The child reportedly told the school social worker (SSW) that he [REDACTED] to feel in control. The cooperative asserted the issue of [REDACTED] as addressed during the child's [REDACTED] IEP meeting.

The cooperative identified eight examples when documentation indicated the child _____ in the classroom or in the hallway between _____ and _____. The director also observed the child _____ on a table during home instruction on _____.

The cooperative asserted the parent of the identified child knew through verbal and written notifications that the child frequently went to isolated time out. The parent received notification by telephone or text message, as well as a "Notification of Incident" form with the date and notification of the use of time out. The parent requested the school not send text messages at the _____ IEP meeting, so staff continued to notify the parent through phone calls and in writing. The cooperative noted the newspaper article stated _____. However, the cooperative reported that state regulations did not require the provision of detailed incident reports to the parent during the period applicable to this complaint (_____).

The cooperative also reported the occurrence of multiple IEP meetings while the child attended the public therapeutic day school, which included regular updates of _____ BIP. The school also arranged a parent/teacher conference on _____, when the parent requested to meet following a hospitalization of the child but did not want an IEP meeting. According to the cooperative, the parent later declined a parent/teacher conference in spring 2019. In addition, school staff participated in "wraparound" meetings held at the school. The cooperative also reported the use of both school-wide and individualized interventions. The child received an individual paraprofessional when _____ behavior escalated during the 2018-19 school year, and a change in assignment was made to provide the child with a paraprofessional possessing better training to assist _____. The school's Crisis Intervention Team (CIT) also met after each incident of time out to discuss interventions.

A. Use of Time Out {23 IAC 1.285}

No violation is found as explained below:

Review of Relevant Information

1. Interview with director- Students only placed in time out when due to imminent danger to self and others.

Nurse always observed child when _____ occurred. Parent indicated staff should allow child to _____ but nurse believed child needed protection from _____. Staff used crisis intervention protocol, _____ parent sent _____ to school, but child t _____.

Discussed parent's concern that time out room triggered child's behavior in _____ IEP meeting. Staff agreed to avoid using time out room with child. Child removed to different location in school during spring 2019 but continued to _____. Director believed time out room did not trigger _____ reporting that independent occupational therapy evaluation noted child _____ during assessment. Director also noted same behavior during homebound instruction when child received a work demand.

2. Interview with principal- Child frequently _____ at school. Parent claimed child only _____ in that setting. Parent indicated school should let child _____ but school would not allow. School's primary concern was child safety, school nurse recommended _____ protocol when children _____. Principal indicated school did not want to _____.

place child in time out but tried to protect child's safety. School attempted taking child to empty classroom. Child would [redacted] into lockers. Staff suffered numerous [redacted] and [redacted] from child.

3. Interview with parent- [redacted] behavior began in school setting, then child began displaying in home setting. [redacted] in school seeking attention.
4. [redacted] Incident Report- Child began to [redacted] table. Staff asked child to go for walk but child became more aggressive. Went to time out.
5. [redacted] Incident Report (1)- Child [redacted] in classroom. Escorted to time out. [redacted] time out.
6. [redacted] Incident Report (2)- [redacted] while under desk, escorted to time out by two staff. Continued [redacted] then responded to verbal commands from staff.
7. [redacted] Incident Report (1)- [redacted] ems off desk, and [redacted] Escorted to time out. [redacted] in time out. Child chose to return to class but then sent back to time out for [redacted] in class. [redacted] in time out while staff attempted to block.
8. [redacted] Incident Report (2)- Escorted to time out by two staff after [redacted] cross room at student. [redacted] wall in time out.
9. [redacted] Incident Report- Escorted by staff to time out after [redacted] at staff. Child tried to [redacted] staff attempted to block.
10. [redacted] Incident Report- Escorted to time out due to [redacted] at staff. [redacted] during time out.
11. [redacted] Incident Report- Child disturbing others. Directed to stop behavior or leave class. [redacted] toward other student. [redacted] on [redacted] and [redacted] and staff. Child calmed. Did not respond to choices from staff. Escorted to time out room, where he i
12. [redacted] Incident Report- Escorted to time out after [redacted] at another Physical Education class [redacted] in time out.
13. [redacted] Incident Report- Threw [redacted] and hit another child in [redacted]. Taken to time out room. Intermittent [redacted] in time out.
14. [redacted] Incident Report- Child [redacted] Escorted to time out. [redacted] noted. Parent came to school. Child [redacted] on wall and [redacted] when she attempted to escort [redacted] from school.
15. [redacted] Incident Report- Child began [redacted] lockers in hallway, staff attempted to block. [redacted] Escort to time out. [redacted] all in time out.
16. [redacted] Incident Report- Child [redacted] Hands-on escort to time out by two staff, where child

Summary and Discussion

The documentation provided by the cooperative indicated that the child typically engaged in [redacted] behavior while in time out, but also indicated that staff tried to physically block this behavior.

The state rule at 23 IAC 1.285 in effect during the period relevant to the complaint stated that isolated time out "... 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." Documentation provided by the cooperative recorded 14 instances of isolated time out with the child between [redacted] [redacted].

With one exception, the documentation indicated the child engaged in unsafe behavior immediately prior to each instance, such as

or

or lockers.

The only exception indicated in the documentation occurred on [REDACTED]. The documentation of this incident indicated the child engaged in similar unsafe behavior to that described above. However, the log of the incident indicated the child then calmed down, although [REDACTED] did not respond to staff directives. According to the documentation, staff removed the child to the time out setting at that point.

The documentation substantially indicated the use of time out during the period applicable to this complaint occurred only to preserve the safety of other students, staff, or the child.

B. Time Out Enclosure {23 IAC 1.285(a)}

No violation is found as explained below:

Review of Relevant Information

1. On-site observation- Three separate time out rooms located in school but outside classrooms, two for elementary/intermediate students and one for high school students. All time out rooms had same ceiling height as surrounding rooms and were large enough to accommodate another person in addition to student. No visible materials that could be used to harm self or others, including electrical outlets or exposed wiring. Rooms designed so students unable to climb walls. Doors equipped with windows to permit continuous visual monitoring. Steel doors on all rooms with no locks.
2. Interview with director- Locks on time out rooms de-activated on date emergency rules enacted in [REDACTED] and removed the following day. School maintaining doors on time out rooms at present. New door in one of the time out rooms installed around [REDACTED] or [REDACTED] due to damage from 2017-18 school year. Same time out room received new flooring, scheduled to receive floor-to-ceiling padding in [REDACTED]. Staff debated about padding because students can be creative about putting things in mouth. School seeks materials children will be unable to puncture.
3. Interview with principal- Staff try to identify any items students could scratch, grab, pull, or tear to ensure the enclosures safe. Noted damage to mirrors in room.
4. Interview with parent- Believed size of time out room sufficient. Questioned why time out rooms did not have padding, observed torn linoleum.

Summary and Discussion

Observations of the three rooms used for time out at the identified school during the [REDACTED] on-site visit indicated each room had the same ceiling height as surrounding rooms, were large enough to accommodate another individual, were constructed of materials that cannot be used by students to harm themselves or others and included doors of solid-core construction. The cooperative reported the time out room doors previously had locking mechanisms, which were allowed by state administrative rules in effect at the time. Those locking mechanisms have since been removed in accordance with current emergency rules at 23 IAC 1.285(a)(2).

C. Time Limits {23 IAC 1.285(e)}

No violation is found as explained below:

Review of Relevant Information

1. Interview with director- Students can leave time out when they are no longer a threat to themselves or others and can demonstrate calm behavior. Paraprofessional typically makes determination. Nurse may be present to observe child's breathing, assigned SSW may also be involved in decision. Child sometimes chose to stay in time out space even after incident completed.
2. Interview with principal- Goal to return child to class from time out as soon as possible. Staff note physical signs that students are calming and able to follow an expectation. Staff talk continuously to students to evaluate their readiness and determine whether they can follow simple prompts. Readiness signs individualized based on child. Principal, teacher, or paraprofessional can determine when a student is ready to leave. Paraprofessionals at school are experienced and know children well. SSW often processes incident with child following time out.
3. [REDACTED] Incident Report- Went to time out at 9:15 AM. [REDACTED] staff at 9:44 AM. [REDACTED] at 9:55 AM. Parent arrived at 10:20 AM, child attempted to [REDACTED] on wall at 10:50 AM. [REDACTED] arrived at 11:10 AM. Documentation ended when child calm at 11:15 AM.
4. [REDACTED], Incident Report (1)- Time out from 10:35-10:45 AM.
5. [REDACTED], Incident Report (2)- Time out from 11:45 AM to 12:15 PM.
6. [REDACTED], Incident Report (1)- Time out from 10:33-10:39 AM. Returned to class, then placed back in time out from 10:47-10:55 AM.
7. [REDACTED], Incident Report (2)- Time out from 11:10-11:40 AM.
8. [REDACTED] Incident Report- Time out from 11:05-11:40 AM. Talked with [REDACTED] about incident at 11:23 AM. Answering questions from staff at 11:37 AM. Went to lunch at 11:40 AM.
9. [REDACTED], Incident Report- Time out from 9:10-10:35 AM. [REDACTED] at 9:38 AM. Tried [REDACTED] at 9:48 AM. [REDACTED] at 10:08 AM. [REDACTED] arrive at 10:29 AM. Left school at 10:35 AM.
10. [REDACTED], Incident Report- Placed in time out room at 9:55 AM. Left time out room for sensory room at 10:10 AM.
11. [REDACTED], Incident Report- Child escorted from gym at 10:27 AM. Documentation indicated child in time out room. Heading to sensory room at 10:56 AM.
12. [REDACTED], Incident Report- Time out room at 9:20 AM [REDACTED] at 9:47 AM. More [REDACTED] at 10:15 AM. Refused staff directive at 10:45 AM. Documentation of incident ended.
13. [REDACTED], Incident Report- Time out at 12:20 PM. Child left school with parent at 12:50 PM.
14. [REDACTED], Incident Report- Time out at 8:52 AM. Attempting to [REDACTED] at 9:21 AM. Attempted to [REDACTED] 9:33 AM. Left time out for sensory room at 10:01 AM.
15. [REDACTED], Incident Report- Time out at 10:05 AM. Attempting to [REDACTED] at 10:37 AM. Paramedics arrived at 10:40 AM. Left school with paramedics at 10:50 AM.

Summary and Discussion

The state rule at 23 IAC 1.285(e) in effect during the period relevant to the complaint stated that students should not remain in time out "... for more than 30 minutes after ■ or ■ ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention." The incident reports provided by the district documented eight instances of isolated time out with the child between ■ and the end of the 2018-19 school year of 30 minutes or less.

The documentation indicated six instances of isolated time out lasting longer than 30 minutes during the period applicable to the complaint. The documentation indicated the child continued the behavior for which the child received time out or engaged in other unsafe behaviors during five of the six instances.

According to the documentation, the child was in isolated time out on ■, from 11:05-11:40 AM, or a total of 35 minutes. It was unclear from the documentation the reason the child remained in time out for that length of time. The child was able to answer questions from staff about the incident at 11:23 AM. ■ responded to questions from staff at 11:37 AM and returned to regular activities at 11:40 AM.

The documentation did not indicate a pattern in which the child remained in isolated time out beyond the time limits prescribed by state administrative rules.

D. Documentation and Evaluation {23 IAC 1.285(f)}

The following violation is found as explained below:

Review of Relevant Information

1. Interview with director- School's procedure to document incidents of time out. School secretary maintains documentation of incidents. Director reported cooperative intends to improve process, including new written policies. Previously, school used phone calls and journals for documentation. In some instances, paraprofessionals sent documentation to parent instead of secretary. New procedure involves secretary using checklist to ensure all documentation completed. Staff place documentation in specific location and secretary processes within 24 hours. Administrator signs form. Secretary documents information by hand, then enters in electronic system school uses. Secretary responsible for notifying ISBE of incidents of time out. Records maintained in individual file in secretary's office with copy sent to resident district of child.

School nurse takes lead role when available or lead paraprofessional evaluates students in time out for extended periods. Staff use procedures in accordance with cooperative's crisis intervention system and determine whether intervention should continue. School does not use a specific evaluation form but staff document evaluation within time out log. Nurse uses checklist to identify potential symptoms of concussion if needed. School crisis team meets the day after each incident of time out.

2. Interview with principal- Indicated time out documentation school could have better described incidents and safety concerns. Believed school has improved documenting incidents since ■.

Principal notified of each incident of time out, typically within 10 to 15 minutes of incident. Often receives text messages about incidents when out of building. Principal reviews and signs documentation. School secretary manages documentation by maintaining copy at school and sending to home district of child. Parents now receive same form school uses to document time out.

Principal often observes time out incidents. Staff try to develop plan for future incidents during current incident. School previously evaluated use of time out after 30 minutes but now evaluates use every 15 minutes. Staff identify potential strategies to calm child and project continued length of time out, including need for evaluation. Staff sometimes consider changing locations in school, which students may view more positively. Parent of identified child did not want involved.

3. Interview with parent- Documentation parent received did not indicate child's resident district received reports.

4. [REDACTED] Incident Reports- 12 of 13 reports (all but [REDACTED]) documented the following:

- Name of student
- Date of incident
- Beginning and ending times of incident
- Description of relevant events leading up to incident
- Description of any interventions used prior to time out
- Description of incident or student behavior that resulted in time out
- Log of student's behavior in time out
- Description of any injuries or property damage
- List of staff who participated in time out • Date on which parental notification occurred.

[REDACTED] Incident Report documented the following:

- Name of student
- Date of incident
- Beginning and ending times of incident
- Description of relevant events leading up to incident
- Description of incident or student behavior that resulted in time out
- Log of student's behavior in time out
- List of staff who participated in time out

[REDACTED] Incident Report did not include the following:

- Description of any interventions used prior to time out • Description of any injuries or property damage
- Date on which parental notification occurred.

None of the 13 incident reports included description of any planned approach to dealing with student's behavior in future. [REDACTED] Incident Report did state "Intervention Team" would meet [REDACTED].

Principal signed incident reports but documentation did not indicate when principal notified of each instance of time out. Incident reports did not indicate when each form

was completed, though note attached to each form indicated date school entered the information into its electronic database. According to that information, electronic data entry completed on same date of incident three times; on the following school day seven times; three days after the incident once; six days later once; and seven days later once.

Incident reports for six instances of isolated time out lasting longer than 30 minutes noted involvement of multiple staff members. Principal, nurse, teacher, crisis intervention instructor, and three paraprofessionals present on [REDACTED]. Multiple physical restraints and releases of hold documented. [REDACTED] arrived to evaluate child almost two hours after time out began. Teacher, [REDACTED] two paraprofessionals present on [REDACTED]. Multiple staff members present, including principal, crisis intervention instructor, and teacher on [REDACTED]. Principal directed staff to contact [REDACTED] 25 minutes after time out began. Staff also contacted parent. [REDACTED] present to evaluate child's breathing before [REDACTED]. Teacher, nurse, three paraprofessionals present on [REDACTED]. Documentation noted staff waiting for parent or [REDACTED] to come to school 75 minutes after time out began. Teacher, [REDACTED] paraprofessional present on [REDACTED]. Multiple physical restraints and releases of hold documented. Three paraprofessionals present on [REDACTED]. [REDACTED] arrived 20 minutes after time out began, [REDACTED] arrived 35 minutes after time out started.

5. [REDACTED] "CIT Notes"- Documentation summarized previous incident and included "CIT Plan for next time." Staff met on following seven dates:

- December 5, 2018, for December 4, 2018, incident
- April 3, 2019, for April 2, 2019, incident
- April 11, 2019, for April 9, 2019, incident
- April 24, 2019, for April 23, 2019, incident
- May 1, 2019, for April 30, 2019, incident
- May 13, 2019, for May 10, 2019, incident
- May 14, 2019, for May 13, 2019, incident

"CIT Notes" did not accompany uses of isolated time out on [REDACTED]; [REDACTED]; and [REDACTED].

Summary and Discussion

In 12 of the 13 incident reports applicable to this complaint, the written record included all the required components described in 23 IAC 1.285(f)(1)(A-K) of the state regulation in effect at the time, except for "a description of any planned approach to dealing with the student's behavior in the future." The cooperative did provide "CIT Notes" from meetings held following seven of the 11 dates on which the child received isolated time out during the period in question. The "CIT Notes" notes included a plan for addressing future behaviors of the child.

The written records of isolated time out with the identified child did not indicate when the principal was informed of each incident. The documentation indicated the principal was present during at least two of the 13 instances. The principal reported in an interview that staff typically notify her of an instance of time out within 10 to 15 minutes of the incident.

The written records of isolated time out for the identified child did not clearly indicate whether each handwritten report was completed by the beginning of the school day following the episode. Handwritten notes on the form indicated staff entered information into the school's electronic

system by the following school day for 10 of the 13 incident reports. The director stated the school's procedure involves the secretary completing the written and electronic documentation of instances of isolated time out within 24 hours.

The director indicated the school does not use a specific evaluation form when episodes of time out last longer than 30 minutes but does document the evaluation within the written record of the time out. 23 IAC 1.285(f)(4)(A-C) of the state regulation in effect during the period applicable to the complaint required the licensed educator knowledgeable about the use of isolated time out who conducts the evaluation to consider the appropriateness of continuing the procedure and to commit the results of the evaluation to writing. Although the logs of the child's behavior in time out included information about the sequence of events that occurred, the information did not meet the requirements of this section of the state administrative rule.

The review of information related to the documentation and evaluation of isolated time out indicated the cooperative inconsistently documented its approach to addressing the child's behavior in the future following each episode of isolated time out and did not clearly demonstrate a licensed educator evaluated the intervention when an episode of time out exceeded 30 minutes. Based on the above, a violation is found.

E. Notification to Parents {23 IAC 1.285(g)}

The following violation is found as explained below:

Review of Relevant Information

1. Interview with director- Parents notified of policies on maintenance of discipline through student handbook provided to families at annual registration. Families register both at home district and at public day school.

Teachers responsible for calling or text messaging parents after incidents of time out. Parents received one page documentation form prior to November 2019 within 24 hours. School did not provide detailed logs of incidents to parents during period applicable to complaint. Parent of identified child did not request time out logs until meeting with reporters developing newspaper article. Since November 2019, parents receive required state form plus log/journal by staff within 24 hours, but typically the same day. Cooperative has never offered parents the right to waive notification of instances of time out.

2. Interview with principal- Parents notified of policies on maintenance of discipline at beginning of school year or when they start program through student handbook, which parents sign to acknowledge receipt. Information also on school webpage.

Principal reported school attempts to provide written record of time out to parent on date of incident. Principal noted importance of parent receiving written documentation to maintain positive relationship with parent. Parents also receive phone call to communicate information about incident. Parent of identified child received standard form school used to notify parents of time out.

3. Interview with parent- School frequently called or texted about incidents of time out but did not provide detailed information. Parent received form letter by mail typically one or two days after incident that lacked detailed information. Never received logs of time out

incidents, which parent believed regulations required. Believed receiving additional information about incidents would have assisted medical professionals and specialists working with child.

4. District/cooperative written policies/procedures on isolated time out- Stated "(e)very effort should be made to prevent the need for the use of seclusion." Seclusion only used when "... child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated." Policies restricting use of seclusion apply to all children. "Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free of abuse."

Seclusion should not be used for punishment or discipline, coercion/retaliation, or convenience. Should not be used to harm child. Repeated uses should trigger review and revision of behavioral strategies, if appropriate. Behavioral strategies to address dangerous behavior resulting in seclusion should address underlying cause or purpose of behavior. Staff should receive regular training on alternative strategies. Each use should be carefully, continuously and visually monitored to ensure appropriate use. Parents should be informed of policies, which should be reviewed regularly and updated as needed. Each incident should be documented in writing and provide for collection of specific data for staff.

5. [REDACTED], Incident Report- Date of parent notification not indicated.
6. [REDACTED], Incident Report (1)- Date of parent notification not indicated. 7. [REDACTED], Incident Report (2)- Date of parent notification not indicated. 8. [REDACTED], Incident Report (1)- Date of parent notification not indicated.
9. [REDACTED], Incident Report (2)- Date of parent notification not indicated.
10. [REDACTED], Notification of Incident- Physical restraint documented, but not time out. Form included definition of both terms. Form mailed to parent with principal's name and phone number.
11. [REDACTED], Incident Report- Date of parent notification not indicated.
12. [REDACTED], Incident Report- Date of parent notification not indicated.
13. [REDACTED], Incident Report- Date of parent notification not indicated.
14. [REDACTED], Notification of Incident- Documented use of physical restraint but not isolated time out. Form mailed to parent with principal's name and phone number.
15. [REDACTED], Incident Report- Date of parent notification not indicated.
16. [REDACTED], Notification of Incident- Documented use of isolated time out and physical restraint on that date. Form mailed to parent with principal's name and phone number.
17. [REDACTED], Incident Report- Notification mailed to parent.
18. [REDACTED], Notification of Incident- Noted physical restraint used on that date. Form mailed to parent with principal's name and phone number.
19. [REDACTED], Incident Report- Date of parent notification not indicated.
20. [REDACTED], Notification of Incident- Noted isolated time out and physical restraint used on that date. Form mailed to parent May 1 with principal's name and phone number.
21. [REDACTED], Incident Report- Date of parent notification not indicated.
22. [REDACTED], (date apparently in error), Notification of Incident- Form attached to Incident Report in #14 above. Noted isolated time out and physical restraint used on that date. Form mailed to parent with principal's name and phone number, date not legible.
23. [REDACTED], Incident Report- Date of parent notification not indicated.

24. [REDACTED], Notification of Incident- Noted isolated time out and physical restraint used on that date. Form mailed to parent with principal's name and phone number.
25. 2019-2020 Parent/Student Handbook- Section in school handbook on behavioral expectations states time out room is an intervention used for students exhibiting unsafe behavior to help them de-escalate.

Summary and Discussion

Both the director and principal reported that parents receive the district/cooperative's policies on the maintenance of discipline annually or when students enroll at the school. The district provided its written policies and procedures on the use of "seclusion", which the director stated were in effect prior to the passage of updated board policies on December 9, 2019. The school's current handbook includes the time out room as an intervention for students exhibiting unsafe behavior.

The "Notification of Incident" form used by the child's school during the period applicable to the complaint included minimal information. However, during the period applicable to this complaint, 23 IAC 1.285(g)(2) only required the written notice to parents to include the student's name, date of the incident, a description of the intervention used, and the name and phone number of a contact person. The state rules in effect at the time did not require parents to receive the log of the child's behavior during time out.

The cooperative provided documentation that the parent received seven "Notification of Incident" forms within one day of the use of isolated time out. This included one notice dated [REDACTED] after the child was in isolated time out three times the previous day. The cooperative did not provide written notification confirming the parent received written notice of isolated time out in five instances. Further, three of the "Notification of Incident" forms provided to the parent only noted the use of physical restraint, even though the accompanying incident reports documented the use of both restraint and time out. Based on the above, a violation is found.

F. Requirements for Training {23 IAC 1.285(h)}

No violation is found as explained below:

Review of Relevant Information

1. Interview with director- Returning staff participate in a six to eight hour crisis intervention training at end of school year in which certified trainer reviews policies. New staff participate in training at beginning of school year. "Imminent danger" consideration for using isolated time out added to training at end of 2018-19 school year. Components of policies, including de-escalation strategies, reviewed with staff during weekly trainings. Cooperative revised practices to add sign-in sheets for documenting staff attendance at trainings.
2. Interview with principal- Staff receive written procedures on first day of school year, participate in annual crisis intervention training and ongoing review of accompanying materials. School recently refined procedures to review documentation for time out.
3. Interview with parent- Questioned training paraprofessionals at school receive, believed one paraprofessional assigned to child not trained for first few months of employment. Child often had substitute paraprofessionals, which negatively impacted his behavior.

4. May 29, 2018, crisis intervention re-certification- 27 staff participated in six hour training addressing crisis intervention philosophy, tension reduction cycle, verbal and nonverbal interventions, and policies on use of force. Training materials included suggestions for writing incident reports, to be given to certified crisis intervention trainer when completed. Materials stated time out rooms should be one of last behavior interventions used. Time out room doors closed only if serious threat of bodily harm. Evaluation form completed by certified staff member if time out longer than 30 minutes. Parent notification mailed within 24 hours. CIT team, consisting of all staff involved in incident, must review "closed door" time outs within 24 hours. Case manager should participate and SSW should also be invited to CIT meeting. Attached materials included multiple forms, including "Time Out/Restraint Evaluation" form for time outs lasting more than 30 minutes.
5. May 29, 2018, crisis intervention training- Eight hour training, participants included one of paraprofessionals assigned to child during 2018-19 school year. Training materials addressed verbal interventions.
6. May 30, 2018, crisis intervention training- Eight hour training, participants included one of paraprofessionals assigned to child during 2018-19 school year. Training materials addressed physical interventions, including restraint.
7. May 31, 2018, crisis intervention instructor certification- Eight hour training, participants included certified crisis intervention trainer and one of paraprofessionals assigned to child during 2018-19 school year. Training materials addressed physical interventions, including restraint.
8. August 15, 2018, crisis intervention training- Nine participants in six hour training on verbal interventions, including de-escalation, and physical restraint techniques. Included specific procedures for identified school. One participant was one of paraprofessionals assigned to child during 2018-19 school year.
9. August 21, 2018-March 12, 2019, staff trainings- 11 separate trainings addressing topics such as behavior de-escalation, physical escorts, restraint, blocking techniques, and incident reports. Trainings typically included 10 to 20 staff members.
10. September 28, 2018, crisis intervention training- Two employees of cooperative participated in five hour training provided by certified crisis intervention trainer addressing verbal and physical interventions. Training materials included specific procedures and forms for school.
11. May 29, 2019, crisis intervention re-certification training- 28 staff, including both paraprofessionals assigned to child during 2018-19 school year, participated in four hour training addressing policies, definition of "imminent danger", documentation, tension reduction cycle, verbal and non-verbal interventions, role plays, physical restraint techniques, and school procedures/forms.
12. August 6, 2019, crisis intervention re-certification training- Two employees of cooperative, including certified crisis intervention trainer, participated in eight hour training addressing verbal interventions.

Summary and Discussion

The information provided indicated that the cooperative has provided orientation to staff on the procedures for the use of isolated time out, as required in accordance with 23 IAC 1.285(h)(1) of the state's administrative rules in effect during the period applicable to this complaint.

Issue 2- Free Appropriate Public Education (FAPE) {34 CFR §300.101}

The following violation is found as explained below:

Review of Relevant Information

1. [REDACTED] Individualized Education Program (IEP) -

Three annual goals to: improve production of [REDACTED] low teacher directive and refrain from object aggression; and complete graphic organizer with writing prompt. Supplementary aids included visual schedule; frequent breaks when behavior heightened; extra time to respond; notifying child of change of activity; break lessons or directions into smaller units; written note home daily; social stories; ratio of three positive to one corrective statement; and personal aide. 1675 minutes per week (mpw) SE services outside general education (GE) for all core academics and electives, 30 mpw [REDACTED], 30 mpw. [REDACTED] placed in special public school 100 percent of day.

BIP targeted object aggression, defined as

[REDACTED] intimidation. Replacement behavior to leave for break as directed by adult. Behavioral intervention strategies included desk seated close to door but facing group/board; combine preferred activity breaks with tasks; extended warning for changes (10, five, three minutes); and explain expectations each morning. Restrictive disciplinary measures included ISS, time-for-time makeup for enjoyable times; and lunch away from peers. Crisis plan included use of time out room, physical restraint, removal/escort from class, and SASS calls. Staff to complete daily behavior chart and send to parent.

2. [REDACTED] daily points chart- Documented child's receipt of zero, one, or two points for following eight separate expectations in each of 13 separate periods of day. Expectations were: voice volume appropriate to task; hands, feet, objects to self; raise hand and wait to be called on; complete work to best of ability; safe body- no [REDACTED] safe work and play- no object aggression; respect peers-no aggression; and following directions. Students at gold level for earning 95-100 percent of points; silver level for 85-94 percent of points; bronze level for 75 to 84 percent of points. Child's typical daily performance declined from silver to bronze level during school year.

3. [REDACTED] IEP- Present Levels of Academic Achievement and Functional Performance (PLAAPF) section indicated parent concerned about increase in aggressive behaviors and child's relations with peers. Parent expressed preference for phone calls and voice messages from school rather than text messages. Child had history of [REDACTED] when angry or frustrated. Parent awaiting private [REDACTED] to assess child's aggressive behaviors. Child able to participate well with [REDACTED] when in good mood. Often refused to begin work, hid under desk or engaged in more aggressive behaviors. [REDACTED] wanting to participate. Object aggression averaged one to three times per day. Hair [REDACTED] required very structured small group setting with highly focused social-emotional and behavioral supports.

Three annual goals to: increase recognition and familiarity with range of feelings and emotions and how they lead to safe/unsafe behaviors; use correct [REDACTED]

[REDACTED]; and reduce non-compliant behaviors from multiple occurrences daily to three or fewer weekly. Supplementary aids included daily color coded schedule; frequent breaks when behavior heightened; extra response time; notifying child of change of activity; break lessons or directions into smaller units; written note home daily; ratio of three positive to one corrective statement; personal aide; and access to [REDACTED] when noise level high; and

when tension high. "Supports for School Personnel" section stated staff would be trained in specific crisis intervention method to help child from harming self or others in crisis. 1675 mpw SE services outside GE, 30 mpw 0 mpw aced in special public school 100 percent of day.

BIP targeted object/physical aggression. Summary of previous interventions included time out in classroom; "Take 2s" outside classroom; chart system in class; modeling; : check-in check-out; behavior reflections; breaks; and warnings before changing activities. Replacement behavior to leave area when directed by staff. Positive supports were three positive reinforcement statements to one correction; extended warning for changes (10, five, three minutes); and explain expectations each morning. Crisis plan included use of a time out room, physical restraint, removal/escort from class, and SASS calls. Parent to receive binder with behavior percentage daily.

4. [REDACTED] weekly log- Documented points child earned for each day of week and percentage, homework in each subject, with opportunity for teacher and parent comments, and parent signature.
5. [REDACTED], emails between parent and cooperative- Parent requested meeting to discuss child's needs at school. Director replied and proposed IEP meeting on January 16. Parent replied that [REDACTED] wanted to meet but not a formal IEP meeting. Director replied and indicated school could hold parent/teacher conference on January 16.
6. [REDACTED] Eligibility Determination/IEP- ED eligible. "Documentation of Evaluation Results" section included observations from school psychologist regarding how child performed optimally. Child [REDACTED] approximately 10 days after incident at school on [REDACTED]. Parent reported

Functional Behavioral Assessment (FBA) included noted 59 occurrences of during three-week period in January 2019, with 46 identified as low intensity, 11 moderate intensity, and two high intensity. Setting, antecedents, consequences, hypothesis of function of behaviors documented. BIP documented previous interventions as preferential seating; break cards; scheduled break; modified schedule to allow more movement; "choice" language; all materials kept by individual paraprofessional unless needed for task; change to desk with attached chair; proximity; and hands-on instructional activities. Replacement behavior for child to use "I" statements to express needs and communicate frustrations. Child could use classroom "safe place" to calm down with sensory beads or other calming tools. Social stories to help child with replacement behavior. Use of time out room avoided whenever possible. Staff would remove other students from room when safe, otherwise child would go to another room/location in building to calm down. School's crisis intervention model part of plan to ensure safety. Parent to receive daily communication through binder sent home.

One annual goal revised to address improved production of various blends in conversational speech. "Additional Notes/Information" section included discussion of behavioral incident involving child previous day. Child was able to write down angry feelings and avoid time out. Team discussed interventions in BIP, time out to be avoided if possible. Parent requested team meet again in six to eight weeks.

7. [REDACTED] "Scatter Plot Data Form"- Used to record frequency and intensity of target behavior (throwing) during each daily class or scheduled activity. Also documented staff involved with child during each activity.
8. [REDACTED] Problem Solving Team Meeting- Six staff members participated. Child's behaviors improved in January. "Plan for intervention" included walks, sensory room, redirection, choice

language, positive and negative consequences, proximity. Staff made parent contacts through multiple phone calls, daily binder.

9. [REDACTED] *Parent/Guardian Notification of Individualized Education Program Amendment form*- Parent and SE teacher exchanged emails and agreed to add individual paraprofessional services to "Educational Services and Placement" section of IEP. Updated "Educational Services and Placement" section stated 1675 mpw of paraprofessional services. Remainder of SE services unchanged from [REDACTED] IEP.
10. [REDACTED] Problem Solving Team Meeting- Six staff members participated. Added interventions from previous meeting (#5 above) were to call parent early, call [REDACTED] f child remove other students from room, if possible. Staff made parent contacts through multiple phone calls.
11. [REDACTED] "Goal Progress Report"- Child made "sufficient progress" on goal from [REDACTED] IEP addressing [REDACTED]. Child approached but did not meet accompanying objectives addressed during previous quarter. "Insufficient progress" on goal in [REDACTED] IEP to increase recognition and familiarity with range of feelings and emotions and how they lead to safe/unsafe behaviors. Child started to name some [REDACTED] Able to write one emotion felt during school day with adult support.

No statement of progress toward annual goal in [REDACTED] IEP to reduce non-compliant behaviors from multiple occurrences daily to three or fewer weekly. Child used appropriate coping skill when given directive causing frustration in two of five trials, objective related to above goal required use in four of five trials to meet. Followed academic directive that caused frustration with two or fewer prompts in one of five trials, objective related to above goal required skill in four of five trials to meet criteria.

12. [REDACTED] Problem Solving Team Meeting- Six staff members participated. Child's behaviors increasing. [REDACTED] toward specific peers. [REDACTED] to interventions from previous meeting (#7 above).
13. [REDACTED] Problem Solving Team Meeting- Discussed incident and staff response when child [REDACTED]
14. [REDACTED] emails between parent and director- Parent indicated child had behavioral issue at school and needed to go home for third time because individual paraprofessional not present. Director replied and asserted child had substitute paraprofessional as typical.
15. [REDACTED] IEP- "Additional Notes/Information" stated meeting held at parental request. Child showing some progress in expressing feelings. Parent concerned about intensity of behavioral incidents, though frequency of incidents decreasing. Parent also concerned about [REDACTED] calls, but director explained school's process to contact [REDACTED] when child [REDACTED]. Parent requested incident reports dating to May 6, which director agreed to provide. Parent expressed that school treated child differently than other children. Placement options for remainder of school year discussed. Parent did not want child to attend identified school any longer. Director to contact a private placement regarding openings for 2019-20 school year.
16. [REDACTED] "Goal Progress Report"- "Insufficient progress" on annual goal in [REDACTED] IEP to increase recognition and familiarity with range of feelings and emotions and how they lead to safe/unsafe behaviors. Child making inconsistent progress, expressed feelings twice during fourth quarter of school year related to [REDACTED] No statement of progress toward annual goal in [REDACTED] IEP to reduce non-compliant behaviors from multiple occurrences daily to three or fewer weekly. Child used appropriate coping skill when given directive causing frustration in one of five trials, objective related to above goal required use in four of five trials to meet. Followed academic directive

- that caused frustration with two or fewer prompts in one of five trials, objective related to above goal required skill in four of five trials to meet criteria.
17. [REDACTED] IEP- Meeting held to document placement to private therapeutic day school. Child needed highly structured environment to address academic and behavioral concerns. 1800 mpw SE services, with all core and elective courses outside GE. Individual paraprofessional services 1800 mpw, 30 mpw, 30 mpw.
 18. 2018-19 "Detailed Service Report"- Documented related services child received. Personal health aide assigned to child administration by school services
 19. 2018-19 "Attendance Profile"- two excused absences from November 20, 2018, through end of school year.
 20. 2018-19 "Discipline Report"-

Summary and Discussion

The complaint indicated the child suffered a denial of FAPE due to the alleged violations noted in the November 19, 2019, newspaper article. One of the allegations in the article stated

The cooperative held four IEP meetings for the child between November 20, 2018, and the end of the 2018-19 school year. The BIPs included in the IEPs in effect for the child during this period documented time out as part of his crisis plan. The district conducted a FBA and revised the child's existing BIP in conjunction with a [REDACTED] eligibility determination/IEP meeting. According to the "Additional Notes/Information" section in this IEP, the team discussed the interventions in the BIP and documented that the school would avoid using time out if possible. The information provided showed the school did not use isolated time out with the child between December 2018 and April 2019, a reflection of the child engaging in fewer unsafe behaviors and the school's use of interventions other than isolated time out to address his behaviors.

At the parent's request, the IEP team also met on [REDACTED] to discuss the child's progress. This led to a [REDACTED] IEP meeting and an agreement to change the child's placement for the 2019-20 school year.

In addition to the four IEP meetings during this period, the district also offered a parent/teacher conference in January 2019 in response to the parent's request to meet outside of a formal IEP meeting. Four "Problem Solving Team Meetings" to discuss the child's behavior and interventions also occurred during this period, although these did not include the parent.

Another specific allegation in the newspaper article noted the child repeatedly isolated time out, which the incident reports clearly confirmed. The incident reports also documented attempts by staff members to block the child from [REDACTED] on many of these instances. The documentation also indicated [REDACTED] was not limited to the isolated time out room but occurred in other settings like the hallway and classroom when the child was upset.

The other allegation in the newspaper article was that [REDACTED]. The parent indicated in the interview that [REDACTED]. The "Notification of Incident" form used by the child's school during the period applicable to the complaint included minimal information. However, during the period

applicable to this complaint, 23 IAC 1.285(g)(2) only required the written notice to parents to include the student's name, date of the incident, a description of the intervention used, and the name and phone number of a contact person. The state rules in effect at the time did not require parents to receive the log of the child's behavior during time out.

As noted above in Issue 1D, though, the cooperative did not provide written notification confirming the parent received written notice of isolated time out in five instances. Further, three of the "Notification of Incident" forms provided to the parent only noted the use of physical restraint, even though the accompanying incident reports documented the use of both restraint and time out.

As explained above in Issue 1E, the review of information related to the documentation and evaluation of isolated time out indicated the cooperative inconsistently documented its approach to addressing the child's behavior in the future following each episode of isolated time out and did not clearly demonstrate a licensed educator evaluated the intervention when an episode of time out exceeded 30 minutes.

During the period applicable to this complaint, multiple IEP meetings, Problem Solving Team Meetings, and Crisis Intervention Team meetings were held on behalf of the child. The meetings held on behalf of the child included discussion of behavioral interventions. The information provided indicated the cooperative implemented interventions other than isolated time out during this period. However, based upon the instances of non-compliance with the referenced subparts of 23 IAC 1.285, ISBE has determined a finding of non-compliance regarding the provision of a FAPE to the child.

Corrective Action

Based upon the findings of violations described above, the cooperative must:

1. Provide training to all staff at the identified school on the following requirements in 23 IAC 1.285:
 - a. Describing "any planned approach to dealing with the student's behavior in the future";
 - b. Evaluating episodes of time out lasting more than 30 minutes; and
 - c. Sending written notice of incidents of time out to the parent within 24 hours after any use.

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

1. Documentation of the training provided to all staff at the identified school on the requirements described above, including the date(s) of training, materials utilized, and staff who participated.

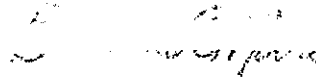
The above listed materials should be sent to my attention, Special Education Department, no later than February 21, 2020.

In accordance with the requirements of the 105 Illinois Compiled Statutes, 5/14-8.02e, the district/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

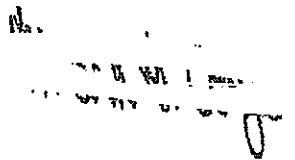
education due process hearing. If you have any questions regarding this response, I can be reached at 217-782-5589 or mconyer@isbe.net.

Sincerely,



Barbara Moore
Director of Special Education

Sincerely,



Mark Conyer
Principal Education Consultant
Special Education Department

cc: Mr. Jesse Ruiz, Office of the Governor

