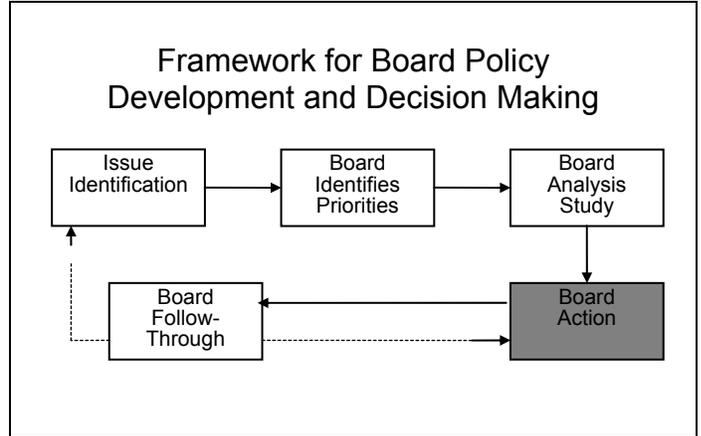


Iowa State Board of Education

Executive Summary

May 14, 2008



Agenda Item: Chapter 103 rules, Corporal Punishment (Notice)

Iowa Goal: (2) All K-12 students will achieve at high levels, prepared for success beyond high school.

Equity Impact Statement: All school districts, accredited nonpublic schools, and area education agencies are governed by the law banning corporal punishment and its rules.

Presenter: Carol Greta, Thomas Mayes

Attachments: 1

Recommendation: It is recommended that the State Board give public notice of its intent to amend this chapter.

Background: Iowa Code section 280.21 requires the State Board of Education to adopt rules to implement the general statutory ban on corporal punishment and the exceptions. The chapter has not been reviewed since 1991. In recent years there has been much research regarding seclusion (“time out” rooms) and restraint of students. These proposed amendments provide more detail than is presently in the current rule (103.6) regarding allowable parameters when a student is physically confined or detained.

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 103, "Corporal Punishment Ban," Iowa Administrative Code.

Iowa Code section 280.21 requires the State Board of Education to adopt rules to implement the general statutory ban on corporal punishment and the exceptions. The chapter has not been reviewed since 1991. In recent years there has been much research regarding seclusion ("time out" rooms) and restraint of students. These proposed amendments provide more detail than is presently in the current rule (103.6) regarding allowable parameters when a student is physically confined or detained.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before July 8, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Thomas Mayes, Legal Consultant, Bureau of Student and Family Support Services, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319–0146; telephone (515) 242–5614; E–mail Thomas.Mayes@iowa.gov; or fax (515) 242-6019.

A public hearing will be held on July 8, 2008, from 1 to 3 p.m., originating in the ICN Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281–5295. The remote ICN sites are as follows:

Keystone Area Education Agency 1
1400 2ND Street NW
Elkader 52043

North Iowa Area Community College
Room Number: 106
Room Location: Activity Center
500 College Drive
Mason City 50401

Department of Education
Grimes State Office Building, 2nd Floor
400 East 14th Street
Des Moines 50314

Green Valley Area Education Agency 14
Room Location: Turner Room
1405 N Lincoln
Creston 50801

Northwest Area Education Agency 12
Room Number: 206
1520 Morningside Avenue
Sioux City 51106

Grant Wood Area Education Agency 10
Room Location: Revere Room
4401 6TH Street SW
Cedar Rapids 52404

Loess Hills Area Education Agency 13
24997 Hwy 92
Council Bluffs 51502

Pocahontas Area High School
205 2nd Avenue NW
Room Number: 101
Pocahontas 50574

Southern Prairie Area Education Agency 15
2814 N Court Street
Ottumwa 52501

Mississippi Bend AEA 9
Room Location: Louisa Room
729 21st Street
Bettendorf 52722

These amendments are intended to implement Iowa Code sections 256B.3 and 280.21.

The following amendments are proposed.

Item 1. Amend 281—Chapter 103, title, as follows:

CHAPTER 103
CORPORAL PUNISHMENT BAN; RESTRAINT; PHYSICAL CONFINEMENT & DETENTION

Item 2. Amend rule 281—103.1(280), as follows:

281—103.1(280) Purpose. In conjunction with Iowa Code ~~Supplement~~ section 280.21, the purpose of this chapter is to define and exemplify generally the limitations placed on employees of public schools, accredited nonpublic schools, and area education agencies in applying physical contact or force to enrolled students, and to require that any such force or contact is reasonable and necessary under the circumstances. These rules also provide requirements for administrators and staff of public schools, accredited nonpublic schools, and area education agencies regarding the use of physical restraints and physical confinement and detention. The applicability of this chapter to physical restraint or physical confinement or detention does not depend on the terminology employed by the organization to describe physical restraint or physical confinement or detention.

Item 3. Amend rule 281—103.3(280), as follows:

281—103.3(280) Exclusions. Corporal punishment does not include the following:

1. Verbal recrimination or chastisement directed toward a student;
2. Reasonable requests or requirements of a student engaged in activities associated with physical education class or extracurricular athletics;
3. Actions consistent with and included in an individualized ~~educational~~ education program developed under the ~~Education for All Handicapped Children Act~~ Individuals with Disabilities Education Act, as reauthorized, and Iowa Code chapter 256B, and 281—chapter 41; however, under no circumstance shall an individualized education program violate the provisions of this chapter;
4. Detention in a seat, classroom or other part of a school facility, unless the detention is accomplished by the use of material restraints applied to the person (For purposes of this chapter, “material restraints” do not include devices, objects, or techniques required or ordered for reasons of safety (e.g., safety harnesses on school buses) or for therapeutic or medical treatment (e.g., devices used for physical or occupational therapy), provided those devices, objects, or techniques are so used, and used for no other purpose.);
5. Actions by an employee subject to these rules toward a person who is not a student of the school or receiving the services of an area education agency employing or utilizing the services of the employee.

Item 4. Amend rule 281—103.6(280), as follows:

281—103.6(280) Physical confinement and detention. If a student is physically confined or detained in a portion of a school facility, the following conditions shall be observed:

1. The area of confinement shall be of reasonable dimensions, considering the age, size, and physical and mental condition of the student subject to confinement and detention, and shall be free from hazards and dangerous objects or instrumentalities;

2. There shall be sufficient light and adequate ventilation for human habitation;

3. A comfortable temperature shall be maintained, consistent with the facility that includes the detention or confinement area;

4. Reasonable break periods shall be afforded the student to attend to bodily needs. However, sleep shall not be considered a “bodily need” for purposes of this subrule;

5. The period of detention or confinement is reasonable, considering the age, size, and physical and mental condition of the student subject to confinement and detention, and not in excess of the hours in a school day as defined by local board policy or rule; however, reasonable periods of before- and after-school detention are permissible. If a period of physical confinement or detention exceeds the shorter of sixty minutes or the school’s typical class period, staff members shall evaluate the continued need for physical confinement and detention, shall obtain administrator (or designee) approval for any continued confinement and detention beyond the initial periodic reevaluation, and shall comply with any administrator (or designee) directives concerning any continued confinement and detention;

6. Adequate and continuous adult supervision is provided;

7. Material restraints applied to the person are not used to effect confinement;

8. If a room or enclosure used for physical confinement or detention has a locking mechanism, such room and mechanism shall comply with all applicable building code requirements and the following additional requirements:

- If a locking mechanism is used, it shall be constructed so it will engage only when a key, handle, knob, or other device is held in position by a person, unless the mechanism is electrically or electronically controlled and automatically releases when the building’s fire alarm system is activated, the building’s severe weather warning system is activated, or electrical power to the mechanism is interrupted.

- When the locking mechanism is released, the door must be able to be readily opened from the inside.

- If a locking mechanism requires a key, handle, knob, or other device to be held in position by a person before the mechanism is engaged, no person shall take any action, or cause such action to be taken, or employ any object, device, or instrumentality, or cause such to be employed, that disables the key, handle, knob or other device such that the locking mechanism engages or remains engaged without the key, handle, knob, or other device being held in position by a person.

Item 5. Adopt the following new rule.

281—103.7(280) Additional Minimum Mandatory Procedures. If a public school, accredited nonpublic school, or area education agency seeks to use physical restraint, physical confinement or detention, or both, it shall do so in compliance with the minimum requirements of this chapter. The board of a public school, accredited nonpublic school, or area education agency may adopt policies and procedures regarding use of physical restraint, physical confinement or detention, or both, that exceed the minimum requirements contained in this chapter. Additional minimum mandatory procedures are as follows:

1. That physical restraint and physical confinement or detention shall not be used as discipline for minor infractions and may be used only after other disciplinary techniques have been attempted, if reasonable under the circumstances;

2. That all school employees, before using physical restraint or physical confinement and detention, shall receive adequate and periodic training, which shall be documented and which shall include training on these rules and the employer’s policies and procedures; positive

behavior interventions and supports; disciplinary alternatives to seclusion and restraint; crisis prevention, crisis intervention, and crisis de-escalation techniques; and the safe and effective use of physical restraint and physical confinement or detention;

3. That parents and students are notified at least annually of this chapter and of any additional policies and procedures of the public school, accredited nonpublic school, or area education agency on physical restraint and physical confinement or detention;

4. That any physical restraint shall be reasonable and necessary in duration, in light of the provisions of this chapter;

5. That if a student is subjected to physical restraint or physical confinement or detention, the public school, accredited nonpublic school, or area education agency shall maintain documentation for each such occurrence, which shall contain at least the following information:

- The names of the student and the employees involved in the restraint, confinement, as well as the administrator who authorizes any additional periods of confinement or detention pursuant to subrule 103.6(5);

- The date, time, and duration of the occurrence;

- The actions of the student before, during, and after the occurrence;

- The actions of the employees involved in the occurrence before, during, and after the occurrence;

- The alternatives to physical restraint or physical confinement or detention attempted before the occurrence;

- A description of any injuries (whether to the student or others) and any property damage;

- A description of future approaches to the student's behavior; and

6. That the student's parent or guardian must be provided a written copy of the documentation required by subrule 103.7(6), which shall be postmarked within three school days of the occurrence. The student's parent or guardian may elect, in writing, to receive the communication required by this subrule via electronic mail or facsimile transmission.

Item 6. Adopt the following new rule.

281—103.8(280) Additional Provisions Concerning Physical Restraint. If an employee of a school district, accredited nonpublic school, or area education agency employs physical restraint, the following provisions apply:

1. Under no circumstance shall any employee use any restraint or other technique that places a child face down or places pressure on the child's back;

2. Under no circumstance shall any employee use any restraint that obstructs the airway of any child or otherwise impairs breathing;

3. If an employee physically restrains a student who uses sign language or an augmentative mode of communication as the student's primary mode of communication, the student shall be permitted to have the student's hands free of restraint for brief periods, unless an employee determines that such freedom appears likely to result in harm to self or others.

These rules are intended to implement Iowa Code ~~Supplement section~~ sections 256B.3 and 280.21 and ~~1990 Iowa Acts, chapter 1218.~~