

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rulemaking related to physical contact with students
and providing an opportunity for public comment**

The State Board of Education hereby proposes to rescind Chapter 103, “Corporal Punishment, Physical Restraint, Seclusion, and Other Physical Contact With Students,” Iowa Administrative Code, and to adopt a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 280.21.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 280.21.

Purpose and Summary

Pursuant to Executive Order 10, existing Chapter 103 was recently revised through negotiated rulemaking and a consensus process. The Department of Education proposes to remove unduly restrictive language. The Department has determined that remaining rules are critical to maintain student and staff safety.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department no later than 4:30 p.m. on February 28, 2024. Comments should be directed to:

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Department of Education
Grimes State Office Building, Second Floor
400 East 14th Street
Des Moines, Iowa 50319-0146
Phone: 515.281.8661
Email: thomas.mayes@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 27, 2024
10 to 11 a.m.

Room B100
Grimes State Office Building
Des Moines, Iowa

February 27, 2024
2 to 3 p.m.

Room B50
Grimes State Office Building
Des Moines, Iowa

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by calling 515.281.5295.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 281—Chapter 103 and adopt the following **new** chapter in lieu thereof:

CHAPTER 103

CORPORAL PUNISHMENT, PHYSICAL RESTRAINT, SECLUSION, AND OTHER
PHYSICAL CONTACT WITH STUDENTS

281—103.1(256B,280) Purpose and objectives. The purpose of this chapter is to provide uniform definitions and policies for public school districts, accredited nonpublic schools, and area education agencies regarding the application of physical contact or force to enrolled students. These rules clarify that corporal punishment, prone restraint, and mechanical restraint are prohibited; explain the parameters and protocols for the use of physical restraint and seclusion; and describe other limits on physical contact with students. The applicability of this chapter to physical restraint, seclusion, or behavior management interventions does not depend on the terminology employed by the organization to describe the activity or space. These rules are intended to promote the dignity, care, safety, welfare, and security of each child and the school community; encourage the use of proactive, effective, and evidence- and research-based strategies and best practices to reduce the occurrence of challenging behaviors; increase meaningful instructional time for all students; ensure that seclusion and physical restraint are used only in specified circumstances and are subject to assessment, monitoring, documentation, and reporting by trained employees; and give clear guidance on whether a disciplinary or behavioral management technique is prohibited or may be used.

281—103.2(256B,280) Definitions. For the purposes of this chapter:

“*Bodily injury*” means physical pain, illness, or any impairment of physical condition.

“*Corporal punishment*” means the intentional physical punishment of a student. “Corporal punishment” includes the use of unreasonable or unnecessary physical force, or physical contact made with the intent to harm or cause pain.

“*Debriefings*” means meetings to collaboratively examine and determine what caused an incident or incidents resulting in the use of physical restraints or seclusion, how the incident or the use of physical restraints or seclusion or both could have been avoided and how future incidents could be avoided, and to plan for and implement positive and preventative supports. The debriefing process is intended to

improve future outcomes by reducing the likelihood of future problem behavior and the subsequent use of physical restraint or seclusion.

“Mechanical restraint” means the use of a device as a means of restricting a student’s freedom of movement. “Mechanical restraint” does not mean a device used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a device was designed and, if applicable, prescribed, including restraints for medical immobilization, adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports, and vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

“Parent” means an individual included in the definition of “parent” in rule 281—41.30(256B,34CFR300), and also includes an individual authorized to make decisions for the child pursuant to a power of attorney for temporary delegation of custody or for making educational decisions.

“Physical restraint” means a personal restriction that immobilizes or reduces the ability of a child to move the child’s arms, legs, body, or head freely. “Physical restraint” does not mean a technique used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such a technique was designed and, if applicable, prescribed. “Physical restraint” does not include instructional strategies, such as physically guiding a student during an educational task, hand-shaking, hugging, or other nondisciplinary physical contact.

“Prone restraint” means any restraint in which the child is held face down on the floor.

“Reasonable and necessary force” means that force, and no more, that a reasonable person would judge to be necessary under the circumstances that existed at the time, that is not intended to cause pain, and that does not exceed the degree or duration required to accomplish the purposes set forth in rule 281—103.5(256B,280).

“School” includes public school districts, accredited nonpublic schools, and area education agencies.

“Seclusion” means the involuntary confinement of a child in a seclusion room or area from which the child is prevented or prohibited from leaving; however, preventing a child from leaving a classroom or school building is not considered seclusion. “Seclusion” does not include instances when a school employee is present within the room and providing services to the child, such as crisis intervention or instruction.

“Seclusion room” means a room, area, or enclosure, whether within or outside the classroom, used for seclusion.

281—103.3(256B,280) Ban on corporal punishment and prone and mechanical restraints. An employee shall not inflict, or cause to be inflicted, corporal punishment upon a student or use prone restraints or mechanical restraints upon a student.

281—103.4(256B,280) Activities that are not considered corporal punishment. 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 education program (IEP) developed under the Individuals with Disabilities Education Act, as reauthorized, Iowa Code chapter 256B, and 281—Chapter 41; a behavior intervention plan (BIP); an individual health plan (IHP); or a safety plan. However, under no circumstance may an IEP, BIP, IHP, or safety plan violate the provisions of this chapter;
4. Reasonable periods of detention, not in excess of school hours, or brief periods of detention before or after school, in a seat, classroom, or other part of a school facility;
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 a school employing or utilizing the services of the employee.

281—103.5(256B,280) Use of reasonable and necessary force.

103.5(1) Notwithstanding the ban on corporal punishment in rule 281—103.3(256B,280), no employee subject to these rules is prohibited from:

- a.* Using reasonable and necessary force, not designed or intended to cause pain, in order to accomplish any of the purposes listed in Iowa Code section 280.21(2).
- b.* Using incidental, minor, or reasonable physical contact to maintain order and control.

103.5(2) An employee subject to these rules is not privileged to use unreasonable force to accomplish any of the purposes listed above.

281—103.6(256B,280) Reasonable force.

103.6(1) In determining the reasonableness of the physical force used by a school employee, the following factors will be applied:

- a.* The size and physical, mental, and psychological condition of the student;
- b.* The nature of the student's behavior or misconduct resulting in the use of physical force;
- c.* The instrumentality used in applying the physical force;
- d.* The extent and nature of resulting injury to the student, if any, including mental and psychological injury;
- e.* The motivation of the school employee using the physical force.

103.6(2) Reasonable physical force, privileged at its inception, does not lose its privileged status by reasons of an injury to the student, not reasonably foreseeable or otherwise caused by intervening acts of another, including the student.

281—103.7(256B,280) Reasonable and necessary force—use of physical restraint or seclusion.

103.7(1) Physical restraint or seclusion is reasonable and necessary only:

- a.* To prevent or terminate an imminent threat of bodily injury to the student or others; or
- b.* To prevent serious damage to property of significant monetary value or significant nonmonetary value or importance; or
- c.* When the student's actions seriously disrupt the learning environment or when physical restraint or seclusion is necessary to ensure the safety of the student and others; and
- d.* When less restrictive alternatives to seclusion or physical restraint would not be effective, would not be feasible under the circumstances, or have failed in preventing or terminating the imminent threat or behavior; and
- e.* When the physical restraint or seclusion complies with all the rules of this chapter.

103.7(2) If seclusion or physical restraint is utilized, the following provisions apply:

- a.* The seclusion or physical restraint must be imposed by an employee who:
 - (1) Is trained in accordance with rule 281—103.8(256B,280); or
 - (2) Is otherwise available and a trained employee is not immediately available due to the unforeseeable nature of the occurrence.
- b.* A school will attempt to notify the student's parent using the school's emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.
- c.* The seclusion or physical restraint must only be used for as long as is necessary, based on research and evidence, to allow the student to regain control of the student's behavior to the point that the threat or behavior necessitating the use of the seclusion or physical restraint has ended, or when a medical condition occurs that puts the student at risk of harm.

Unless otherwise provided for in the student's written, approved IEP, BIP, IHP, or safety plan, if the seclusion or physical restraint continues for more than 15 minutes:

- (1) The student shall be provided with any necessary breaks to attend to personal and bodily needs, unless doing so would endanger the child or others.
- (2) An employee shall obtain approval from an administrator or administrator's designee to continue the seclusion or physical restraint beyond 15 minutes. After the initial approval, an employee

must obtain additional approval every 30 minutes thereafter for the continuation of the seclusion or physical restraint. Approval will be documented in accordance with rule 281—103.8(256B,280).

(3) The student’s parent and the school may agree to more frequent notifications than is provided by this subrule.

(4) Schools and employees will document and explain in writing, as provided by subrule 103.8(2), the reasons why it was not possible for them to obtain approval, notify parents, or take action under paragraphs 103.7(2) “b” and “c” within the prescribed time limits.

(5) Schools and employees who initiate and then end the use of nonapproved restraints must document and explain in writing the reasons why they had no other option but to use this type of behavioral intervention. This subparagraph is not intended to excuse or condone the use of nonapproved restraints.

d. The area of seclusion shall be a designated seclusion room that complies with the seclusion room requirements of rule 281—103.9(256B,280), unless the nature of the occurrence makes the use of the designated seclusion room impossible, clearly impractical, or clearly contrary to the safety of the student, others, or both; in that event, the school must document and explain in writing the reasons why a designated seclusion room was not used.

e. An employee must continually visually monitor the student for the duration of the seclusion or physical restraint.

f. An employee shall not use any physical restraint that obstructs the airway of the student.

g. If an employee 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 physical restraint, unless doing so is not feasible in view of the threat posed.

h. Seclusion or physical restraint shall not be used:

- (1) As punishment or discipline;
- (2) To force compliance or to retaliate;
- (3) As a substitute for appropriate educational or behavioral support;
- (4) To prevent property damage except as described in paragraph 103.7(1) “b”;
- (5) As a routine school safety measure; or
- (6) As a convenience to staff.

103.7(3) An employee must document the use of the seclusion or physical restraint in accordance with rule 281—103.8(256B,280).

103.7(4) Nothing in this rule will be construed as limiting or eliminating any immunity conferred by Iowa Code section 280.21, rule 281—103.11(256B,280), or any other provision of law.

103.7(5) An agency covered by this chapter will investigate any complaint or allegation that one or more of its employees violated one or more provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency will take appropriate corrective action. If any allegation involves a specific student, the agency will transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any ordered corrective action.

103.7(6) If a child’s IEP, BIP, IHP, or safety plan includes either or both physical restraint or seclusion measures, those measures will be individualized to the child; described with specificity in the child’s IEP, BIP, IHP, or safety plan; and be reasonably calculated to enable the child to make progress appropriate in light of the child’s circumstances.

103.7(7) These rules are binding whether or not a parent consents to the use of physical restraint or seclusion for the child.

103.7(8) If any alleged violation of this chapter is also an allegation of “abuse” as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 are applicable.

103.7(9) Schools must provide a copy of this chapter and any school-adopted or school-used related policies, procedures and training materials to any individual who is not an employee but whose duties could require the individual to participate in or be present when physical restraints are or seclusion is being used. Schools must invite these individuals to participate in training offered to employees pursuant to this chapter.

103.7(10) The provisions of Iowa Code section 280.21(3) and 280.21(4) apply to proceedings under this chapter.

281—103.8(256B,280) Training, documentation, debriefing, and reporting requirements.

103.8(1) *Training.* An employee must receive training prior to using any form of physical restraint or seclusion. Training will cover the following topics:

- a. The rules of this chapter;
- b. The school’s specific policies and procedures regarding the rules of this chapter;
- c. Student and staff debriefing requirements;
- d. Positive behavior interventions and supports, and evidence-based approaches to student discipline and classroom management;
- e. Research-based alternatives to physical restraint and seclusion;
- f. Crisis prevention, crisis intervention, and crisis de-escalation techniques;
- g. Duties and responsibilities of school resource officers and other responders, and the techniques, strategies and procedures used by responders; and
- h. Safe and effective use of physical restraint and seclusion.

103.8(2) *Documentation and reporting.* Schools must maintain documentation for each occurrence of physical restraint and seclusion. Documentation will contain at least the following information:

- a. The name of the student;
- b. The names and job titles of employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints, including the administrator or individual who approved continuation of the seclusion or physical restraint pursuant to subparagraph 103.7(2) “c”(2);
- c. The date of the occurrence;
- d. The beginning and ending times of the occurrence;
- e. The date the employees who observed, implemented, or were involved in administering or monitoring the use of seclusion or physical restraints last completed training necessary under subrule 103.8(1);
- f. A description of the actions of the student before, during, and after the seclusion or physical restraint;
- g. A description of the actions of the employee(s) involved before, during, and after the seclusion or physical restraint, including the use of a nonapproved restraint (subparagraph 103.7(2) “c”(5)) or the use of other than a designated seclusion room (paragraph 103.7(2) “d”);
- h. Documentation of approvals for continuation of the seclusion or physical restraint period generated in accordance with subrule 103.7(2), including why it was not possible to obtain approval;
- i. A description of the less restrictive means attempted as alternatives to seclusion or physical restraint;
- j. A description of any injuries, whether to the student or others, and any property damage;
- k. A description of future approaches to address the student’s behavior, including any consequences or disciplinary actions that may be imposed on the student; and
- l. The time and manner by which the school notified the student’s parent of the use of physical restraint or seclusion, including why it was not possible to attempt to give notice within the time specified by paragraph 103.7(2) “b.”

Schools must provide the student’s parent with a written copy of the report by the end of the third school day following the occurrence. The report will be accompanied by a letter inviting the parent to participate in a debriefing meeting, if necessary under subrule 103.8(3), to be held within five school days of the day the report and letter are mailed to or provided to the parent. The letter will include the date, time and place of the meeting and the names and titles of employees and other individuals who will attend the meeting. The parent may elect to receive the report and the letter via electronic mail or facsimile or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must

mail the letter and report to the parent by first-class mail, postage prepaid, postmarked by end of the third school day after the occurrence.

103.8(3) Debriefing.

a. Schools must hold a debriefing meeting as soon as practicable whenever provided by paragraph 103.8(3) “*f*,” but within five school days of the day the report and letter are mailed or provided to the parent, unless a parent who wants to participate personally or through a representative asks for an extension of time, or the parent and school agree to an alternate date and time. The student may attend the meeting with the parent’s consent. The parent may elect to be accompanied by other individuals or representatives. The meeting must include employees who administered the physical restraint or seclusion, an administrator or employee who was not involved in the occurrence, the individual or administrator who approved continuation of the physical restraint or seclusion, other relevant personnel designated by the school (such as principal, counselor, classroom teacher, special education teacher), and, if indicated by the student’s behavior in the instances prompting the debriefing, an expert in behavioral health, mental health, or another appropriate discipline. The meeting, and the debriefing report that is to be provided to the parent after the meeting, will include the following information and subjects:

- (1) The date and location of the meeting, and the names and titles of the participants;
- (2) The documentation and report completed in compliance with subrule 103.8(2);
- (3) A review of the student’s BIP, IHP, safety plan, and IEP as applicable;
- (4) Identification of patterns of behavior and proportionate response, if any, in the student and the employees involved;
- (5) Determination of possible alternative responses to the incident/less restrictive means, if any;
- (6) Identification of additional resources that could facilitate those alternative responses in the future;
- (7) Planning for follow-up actions, such as behavior assessments, revisions of school intervention plans, medical consultations, and reintroduction plans.

b. Schools must complete the debriefing report and provide a copy of the report to the parent of the student within three school days of the debriefing meeting. The parent may elect to receive the report via electronic mail, or facsimile, or by obtaining a copy at the school. If the parent does not provide instructions to the school or enter into an agreement with the school for alternate dates and methods of delivery, the school must mail the debriefing report to the parent by first-class mail, postage prepaid, postmarked no later than three school days after the debriefing meeting.

c. If the debriefing session results in a recommendation that a child might be eligible for a BIP, IHP, safety plan, or IEP, the public agencies will promptly determine the child’s eligibility in accordance with the procedures for determining eligibility, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

d. Any recommended change to a student’s BIP, IHP, safety plan, or IEP, or a student’s educational placement, will be made in accordance with the procedures for amending said plan or changing said placement, including rules contained in 281—Chapter 14 and 281—Chapter 41, as applicable.

e. Nothing in this subrule will be construed to require employers to include information about employees that would be legally protected personnel information, including employee disciplinary information under Iowa Code chapters 279 and 284, or to allow discussion of that personnel information, in debriefing meetings.

f. For purposes of this subrule, a debriefing session is necessary:

- (1) Upon the first instance of seclusion or physical restraint during a school year;
- (2) Whenever any personal injury occurs as a part of the use of seclusion or physical restraint;
- (3) Whenever a reasonable educator would determine a debriefing session is necessary;
- (4) Whenever suggested by a student’s IEP team (if any);
- (5) Whenever agreed by the parent and the school officials.

However, in any case a debriefing session will occur after seven instances of seclusion or physical restraint. Nothing in this paragraph will be construed to prevent a school from offering more debriefing meetings.

103.8(4) Confidentiality. Schools are governed by the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99); Iowa Code chapter 22, “Examination of Public Records (Open Records)””; and other applicable federal and state laws, when taking action pursuant to this rule.

103.8(5) Reporting to department. Schools will report to the Iowa department of education, in a manner prescribed by the department, an annual count of all instances of seclusion or restraint, an annual count of the number of students who were subjected to seclusion or restraint, and any other data required for the department to implement the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, Public Law 114-95.

281—103.9(256B,280) Seclusion room requirements. Schools must meet the following standards for the structural and physical requirements for rooms used for seclusion:

103.9(1) The room meets and complies with all applicable building, fire, safety, and health codes and standards and with the other provisions of this rule.

103.9(2) The dimensions of the room are of adequate width, length, and height to allow the student to move about and recline safely and comfortably, considering the age, size, and physical and mental condition of the student being secluded. The interior of the room is to be no less than 56 square feet, and the distance between opposing walls is to be no less than 7 feet across.

103.9(3) The room is not isolated from school employees or the facility.

103.9(4) Any wall that is part of the room is part of the structural integrity of the room (not free-standing cells or portable units attached to the existing wall or floor).

103.9(5) The room provides a means of continuous visual and auditory monitoring of the student.

103.9(6) The room is adequately lighted with switches to control lighting located outside the room.

103.9(7) The room is adequately ventilated with switches to control fans or other ventilation devices located outside the room.

103.9(8) The room maintains a temperature within the normal human comfort range and consistent with the rest of the building with temperature controls located outside of the room.

103.9(9) The room is clean and free of objects and fixtures that could be potentially dangerous to a student, including protruding, exposed, or sharp objects, exposed pipes, electrical wiring, or other objects in the room that could be used by students to harm themselves or to climb up a wall.

103.9(10) The room contains no free-standing furniture.

103.9(11) The room is constructed of materials safe for its intended use, including wall and floor coverings designed to prevent injury to the student. Interior finish of the seclusion room will comply with the state and local building and fire codes and standards.

103.9(12) Doors will open outward. The door will not be fitted with a lock unless it releases automatically when not physically held in the locked position by personnel on the outside of the door and permits the door to be opened from the inside. Doors, when fully open, do not reduce the required corridor width by more than seven inches. Doors in any position do not reduce the required width by more than one-half.

103.9(13) The room is able to be opened from the inside immediately upon the release of a security mechanism held in place by constant human contact.

103.9(14) Windows, if any, are transparent and made of unbreakable or shatterproof glass or plastic.

103.9(15) By July 1, 2021, schools will consult with appropriate state and local building, fire, safety, and health officials to ensure the room complies with all applicable codes and standards (for example, heating, ventilation, lighting, accessibility, dimensions, access, entry and exit, fire suppression, etc.), and maintain documentation of such consultation and compliance and approval.

103.9(16) Assuming approval pursuant to subrule 103.9(15), a school may continue to use a room that otherwise complies with this rule but for subrule 103.9(2) for a period of five years from January 20, 2021, or whenever the portion of the school containing the room is renovated or remodeled, whichever occurs first.

281—103.10(256B,280) Department responsibilities. The department will develop, establish, and distribute to all school districts evidence-based standards, guidelines, and expectations for the appropriate and inappropriate responses to behavior in the classroom that presents an imminent threat of bodily injury to a student or another person and for the reasonable, necessary, and appropriate physical restraint of a student, consistent with these rules.

The director of the department will consult with the area education agencies to create comprehensive and consistent standards and guidance for professional development relating to successfully educating individuals in the least restrictive environment, and for evidence-based interventions consistent with the standards established pursuant to this rule.

These rules are intended to implement Iowa Code section 280.21.