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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Brad C. Smith
Chief Executive Officer

DATE: February 5-6, 2015

ACTION: R277-609 *Standards for LEA Discipline Plans* (Amendment and Continuation)

Background:

R277-609 is amended to include protections for all Utah students regarding the use of emergency safety interventions by school personnel. Previously, only students with disabilities were provided these written protections. In addition to the amendments, the rule is continued consistent with Board policy and the Utah Administrative Rulemaking Act.

Key Points:

1. The amendments to R277-609 provide clarification for current rule and require additional LEA and USOE action regarding:
 - LEA oversight of the use of emergency safety interventions for all students;
 - LEA establishment of an Emergency Safety Intervention Committee and notification of parents/guardians and LEAs within 24 hours of the use of restraint and/or seclusion for any student; and
 - USOE development of model policies regarding standards for LEA discipline plans and emergency safety interventions.
2. R277-609 continues to be necessary because it outlines requirements for school discipline plans and policies that LEAs need to meet.

Anticipated Action:

1. It is proposed that the Law and Policy Committee consider approving R277-609, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-609, as amended, on second reading.
2. It is proposed that the Law and Policy Committee consider approving R277-609 for continuation on first reading and, if approved by the Committee, the Board consider approving R277-609 for continuation on second reading.

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1 **R277. Education, Administration.**

2 **R277-609. Standards for LEA Discipline Plans and Emergency**
3 **Safety Interventions.**

4 **R277-609-1. Definitions.**

5 A. "Board" means the Utah State Board of Education.

6 B. "Discipline" means:

7 (1) Imposed discipline: Code of conduct prescribed for
8 the highest welfare of the individual and of the society in
9 which the individual lives; and

10 (2) Self-Discipline: A personal system of organized
11 behavior designed to promote self-interest while contributing
12 to the welfare of others.

13 C. "Disruptive student behavior" includes:

14 (1) the grounds for suspension or expulsion described in
15 Section 53A-11-904; and

16 (2) the conduct described in Section 53A-11-908(2)(b).

17 D. "Emergency safety intervention" means the use of
18 seclusionary time out or physical restraint when a student
19 presents an immediate danger to self or others, and the
20 intervention is not for disciplinary purposes.

21 E. "Functional Behavior Assessment (FBA)" means a
22 systematic process of identifying problem behaviors and the
23 events that reliably predict occurrence and non-occurrence of
24 those behaviors and maintain the behaviors across time.

25 F. "Immediate danger" means the imminent danger of
26 physical violence/aggression towards self or others likely to
27 cause serious physical harm.

28 [D]G. "LEA" means a local education agency, including
29 local school boards/public school districts, charter schools,
30 and, for purposes of this rule, the Utah Schools for the Deaf
31 and the Blind.

32 H. "Physical restraint" means personal restriction that
33 immobilizes or reduces the ability of an individual to move
34 the individual's arms, legs, body, or head freely.

35 [E]I. "Plan" means a school district-wide and school-

36 wide written model for prevention and intervention for student
37 behavior management and discipline procedures for students who
38 habitually disrupt school environments and processes.

39 J. "Program" means instructional or behavioral programs
40 including those provided by contract private providers under
41 the direct supervision of public school staff, that receives
42 public funding or for which the USOE has regulatory authority.

43 [F]K. "Policy" means standards and procedures that
44 include the provisions of Section 53A-11-901 and additional
45 standards, procedures, and training adopted in an open meeting
46 by a local board of education or charter school board that
47 defines hazing, bullying, cyber-bullying, and harassment,
48 prohibits hazing and bullying, requires annual discussion and
49 training designed to prevent hazing, bullying, cyber-bullying,
50 and harassment among school employees and students, and
51 provides for enforcement through employment action or student
52 discipline.

53 [G]L. "Qualifying minor" means a school-age minor who:
54 (1) is at least nine years old; or
55 (2) turns nine years old at any time during the school
56 year.

57 [H]M. "School" means any public elementary or secondary
58 school or charter school.

59 [I]N. "School board" means:

- 60 (1) a local school board; or
61 (2) a local charter board.

62 [J]O. "School employee" means:

- 63 (1) school teachers;
64 (2) school staff;
65 (3) school administrators; and
66 (4) all others employed, directly or indirectly, by the
67 LEA.

68 P. "Seclusionary time out" means that:

- 69 (1) a student is placed in an enclosed area by school
70 personnel;

71 (2) a student is purposefully isolated from adults and
72 peers; and

73 (3) a student is prevented from leaving, or reasonably
74 believes that he will be prevented from leaving, the enclosed
75 area.

76 Q. "Section 504 accommodation plan," required by Section
77 504 of the Rehabilitation Act of 1973, means a plan designed
78 to accommodate an individual who has been determined, as a
79 result of an evaluation, to have a physical or mental
80 impairment that substantially limits one or more major life
81 activities.

82 [K]R. "USOE" means the Utah State Office of Education.

83 **R277-609-2. Authority and Purpose.**

84 A. This rule is authorized by Utah Constitution Article
85 X, Section 3 which vests general control and supervision of
86 public education in the Board, Section 53A-1-401(3) which
87 allows the Board to adopt rules in accordance with its
88 responsibilities, Section 53A-1-402(1)(b) which requires the
89 Board to establish rules concerning discipline and control,
90 Section 53A-15-603 which requires the Board to adopt rules
91 that require a local school board or governing board of a
92 charter school to enact gang prevention and intervention
93 policies for all schools within the board's jurisdiction, and
94 Section 53A-11-901 which directs local school boards and
95 charter school governing boards to adopt conduct and
96 discipline policies and directs the Board to develop model
97 policies to assist local school boards and charter school
98 governing boards.

99 B. The purpose of this rule is to outline requirements
100 for school discipline plans and policies. The written policies
101 shall include direction to [which]LEAs [shall meet]to
102 develop, implement, and monitor the policies for the use of
103 emergency safety interventions in all schools and for all
104 students within each LEA's jurisdiction.

105 **R277-609-3. LEA Responsibility to Develop Plans.**

106 A. Each LEA or school shall develop and implement a
107 board approved comprehensive LEA plan or policy for student
108 and classroom management, and school discipline. The plan
109 shall include:

110 (1) the definitions of Section 53A-11-910;

111 (2) written standards for student behavior expectations,
112 including school and classroom management;

113 (3) effective instructional practices for teaching
114 student expectations, including self-discipline, citizenship,
115 civic skills, and social skills;

116 (4) systematic methods for reinforcement of expected
117 behaviors and uniform methods for correction of student
118 behavior;

119 (5) uniform methods for at least annual school level
120 data-based evaluations of efficiency and effectiveness;

121 (6) an ongoing staff development program related to
122 development of student behavior expectations, effective
123 instructional practices for teaching and reinforcing behavior
124 expectations, effective intervention strategies, and effective
125 strategies for evaluation of the efficiency and effectiveness
126 of interventions;

127 (7) procedures for training appropriate school personnel
128 in crisis intervention training and LEA policies related to
129 emergency safety interventions;

130 (~~7~~8) policies and procedures relating to the use and
131 abuse of alcohol and controlled substances by students;~~and~~

132 (~~8~~9) policies and procedures related to bullying,
133 cyber-bullying, harassment, hazing, and retaliation consistent
134 with requirements of R277-613~~(-)~~; and

135 (10) policies and procedures for the use of emergency
136 safety interventions for all students consistent with
137 research-based best practices including prohibition of:

138 (a) physical restraint except when a student presents a
139 danger of serious physical harm to self or others;

140 (b) prone, or face-down, physical restraint; supine, or
141 face-up, physical restraint; physical restraint that obstructs
142 the airway of a student, or any physical restraint that
143 adversely affects a student's primary mode of communication;

144 (c) mechanical restraint, except those protective,
145 stabilizing or required by law, any device used by a law
146 enforcement officer in carrying out law enforcement duties,
147 seatbelts and any other safety equipment when used to secure
148 students during transportation;

149 (d) chemical restraint, except as:

150 (i) prescribed by a licensed physician, or other
151 qualified health professional acting under the scope of the
152 professional's authority under State law, for the standard
153 treatment of a student's medical or psychiatric condition; and

154 (ii) administered as prescribed by the licensed physician
155 or other qualified health professional acting under the scope
156 of the professional's authority under state law;

157 (e) seclusionary time out, except when a student presents
158 a danger of serious physical harm to self or others; if a
159 public education employee uses seclusionary time out, the use
160 should include time limitations not to exceed sixty minutes;

161 (f) emergency safety interventions written into a
162 student's individualized education program, Section 504
163 accommodation plan or any other planning document as a planned
164 intervention, unless school personnel, the family, and the
165 individualized education program team agrees less restrictive
166 means which meet circumstances described in R277-608-4 have
167 been attempted and a FBA has been conducted and positive
168 behavior intervention plan based on data analysis has been
169 written into the plan and implemented.

170 B. The plan shall also provide direction for dealing
171 with bullying and disruptive students. This part of the plan
172 shall:

173 (1) direct schools to determine the range of behaviors
174 and establish the continuum of administrative procedures that

175 may be used by school personnel to address the behavior of
176 habitually disruptive students;

177 (2) provide for identification, by position(s), of
178 individual(s) designated to issue notices of disruptive and
179 bullying student behavior;

180 (3) designate to whom notices shall be provided;

181 (4) provide for documentation of disruptive student
182 behavior prior to referral of disruptive students to juvenile
183 court;

184 (5) include strategies to provide for necessary adult
185 supervision;

186 (6) require that policies be clearly written and
187 consistently enforced; and

188 (7) include administration, instruction and support
189 staff, students, parents, community council and other
190 community members in policy development, training and
191 prevention implementation so as to create a community sense of
192 participation, ownership, support and responsibility; and

193 (8) provide notice to employees that violation of this
194 rule may result in employee discipline or action.

195 C. Plans required under R277-609-3 shall include gang
196 prevention and intervention policies.

197 (1) The required plans shall account for an individual
198 LEA's or school's unique needs or circumstances.

199 (2) The required plans may include the provisions of
200 Section 53A-15-603(2).

201 (3) The required plans may provide for publication of
202 notice to parents and school employees of policies by
203 reasonable means.

204 **R277-609-4. Implementation.**

205 A. LEAs shall implement strategies and policies
206 consistent with their plans.

207 B. LEAs shall develop, use and monitor a continuum of
208 intervention strategies to assist students whose behavior in

209 school falls repeatedly short of reasonable expectations,
210 including teaching student behavior expectations, reinforcing
211 student behavior expectations, re-teaching behavior
212 expectations, followed by effective, evidence-based
213 interventions matched to student needs prior to administrative
214 referral.

215 C. LEAs shall implement positive behavior interventions
216 and supports.

217 [E]D. As part of any suspension or expulsion process
218 that results in court involvement, once an LEA receives
219 information from the courts that disruptive student behavior
220 will result in court action, the LEA shall provide a formal
221 written assessment of habitually disruptive students.
222 Assessment information shall be used to connect parents and
223 students with supportive school and community resources.

224 [D]E. Nothing in state law or this rule restricts LEAs
225 from implementing policies to allow for suspension of students
226 of any age consistent with due process and with all
227 requirements of Individuals with Disabilities Education Act
228 2004.

229 F. An LEA shall establish an Emergency Safety
230 Intervention (ESI) Committee before September 1, 2015.

231 G. The LEA ESI Committee:

232 (1) shall include two administrators and at least one
233 parent appointed by the LEA, and two professionals with
234 behavior training and knowledge;

235 (2) shall meet often enough to monitor the use of
236 emergency safety intervention in the LEA;

237 (3) shall determine and recommend professional
238 development needs; and

239 (4) shall develop policies for local dispute resolution
240 processes to address concerns regarding disciplinary actions.

241 H. The LEA shall have procedures for the collection,
242 maintenance, and periodic review of documentation or records
243 of the use of emergency safety interventions at schools with

244 the LEA.

245 I. An LEA shall provide documentation of any school,
246 program or LEA's use of emergency safety interventions to the
247 USOE upon request.

248 **R277-609-5. Special Education Exception(s) to this Rule.**

249 A. An LEA shall have in place, as part of its LEA special
250 education policies, procedures, or practices, criteria and
251 steps for using emergency safety interventions consistent with
252 state and federal law.

253 B. The USOE shall periodically review all LEA special
254 education behavior intervention plans, procedures or manuals
255 and emergency safety intervention data as related to IDEA
256 eligible students in accordance with Utah's Program
257 Improvement and Planning System (UPIPS).

258 **R277-609-[5]6. Parent/Guardian Notification and Court**
259 **Referral.**

260 A. Through school administrative and juvenile court
261 referral consequences, LEA policies shall provide procedures
262 for qualifying minors and their parents to participate in
263 decisions regarding consequences for disruptive student
264 behavior.

265 B. Policies shall provide for notice to parents and
266 information about resources available to assist parents in
267 resolving school-age minors' disruptive behavior.

268 C. Policies shall provide for notices of disruptive
269 behavior to be issued by schools to qualifying minor(s) and
270 parent(s) consistent with:

271 (1) numbers of disruptions and timelines in accordance
272 with Section 53A-11-910;

273 (2) school resources available; and

274 (3) cooperation from the appropriate juvenile court in
275 accessing student school records, including attendance,
276 grades, behavioral reports and other available student school

277 data.

278 D. Policies shall provide due process procedures for
279 minors and parents to contest allegations and citations of
280 disruptive student behavior.

281 E. When an emergency situation occurs that requires the
282 use of an emergency safety intervention to protect the student
283 or others from harm, a school shall notify the LEA and the
284 student's parent or guardian as soon as possible (within 24
285 hours).

286 **R277-609-[6]7. USOE Model Policies.**

287 A. The USOE shall develop, review regularly, and provide
288 to LEA boards model policies to address disruptive student
289 behavior and appropriate consequences.

290 B. The USOE shall develop model policies required under
291 R277-609-3A(10) to assist LEAs.

292 C. The USOE shall provide technical assistance to LEAs in
293 developing and implementing policies and training employees in
294 the appropriate use of physical force and emergency safety
295 interventions to the extent of resources available.

296 **KEY: disciplinary actions, disruptive students, emergency**
297 **safety interventions**

298 **Date of Enactment or Last Substantive Amendment: [~~October 8,~~**
299 **~~2013]~~2015**

300 **Notice of Continuation: [~~August 2, 2013]~~2015**

301 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
302 **53A-1-401 (3); 53A-1-402 (1) (b); 53A-15-603; 53A-11-901**