

R277-609 received final approval by the Utah State Board of Education on April 6, 2023. R277-609 will be published in the May 1, 2023, Utah State Bulletin, subject to a 30-day comment period, with a planned effective date of June 7, 2023.

## **R277. Education, Administration.**

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

#### **R277-609-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection 53E-3-501(1)(b)(v), which requires the Board to establish rules concerning discipline and control;

(d) Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction;

(e) Section 53G-8-702, which requires the Board to adopt rules regarding training programs for school principals and school resource officers;

(f) Section 53G-8-202, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards; and

(g) Section 53G-8-302, which describes the instances when a school employee may use reasonable and necessary physical restraint.

(2)(a) The purpose of this rule is to outline requirements for school discipline plans, restorative practices, and related policies.

(b) An LEA's written policies shall include provisions to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

#### **R277-609-2. Definitions.**

(1) "Discipline" includes:

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(a) imposed discipline; and

(b) self-discipline.

(2) "Disruptive student behavior" includes:

(a) the grounds for suspension or expulsion described in Section 53G-8-205;

and

(b) the conduct described in Subsection 53G-8-209(2)(b).

(3) "Electronic cigarette product" has the same meaning as that term is defined in Section 76-10-101.

(4)(a) "Emergency safety intervention" or "ESI" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others.

(b) An "emergency safety intervention" is not for disciplinary purposes.

(5) "Emergency safety intervention committee" or "ESI Committee" means an emergency safety intervention committee described in Section R277-609-7.

(6) "Evidence-based" means the same as defined in Section 53G-8-211.

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

(8) "Harassment and discrimination free learning" means a learning environment in which a student is treated fairly regardless of the student's characteristics including race, color, religion or sex, and in which a student's ability to participate in or benefit from the services, activities, or opportunities offered is not limited or interfered with by conduct that is physically threatening, harmful, or humiliating.

(9) "Immediate danger" means the imminent danger of physical violence or aggression towards self or others, which is likely to cause serious physical harm.

(10) "Imposed discipline" means a code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives.

(11) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

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(12) "Physical restraint" has the same meaning as the defined in Section 53G-8-301.

(13) "Plan" means an LEA and school-wide written model for prevention and intervention addressing:

- (a) student behavior management;
- (b) restorative practices;
- (c) harassment and discrimination free learning; and
- (d) discipline procedures for students.

(14) "Positive behavior interventions and support" means an implementation framework for maximizing the selection and use of evidence-based prevention practices along a multi-tiered continuum that supports the academic, social, emotional, and behavioral competence of a student.

(15) "Program" means an instructional or behavioral program including:

- (a) contracted services offered by private providers under the direct supervision of public school staff;
- (b) a program that receives public funding; or
- (c) a program for which the Board has regulatory authority.

(16) "Policy" means standards and procedures that include:

(a) Section 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:

- (i) defines hazing, bullying, and cyber-bullying;
- (ii) prohibits hazing and bullying;
- (iii) requires training regarding:
  - (A) the prevention of hazing, bullying, cyber-bullying, and discipline among school employees and students; and
  - (B) the use of restorative practices, positive behavior interventions and supports, and emergency safety interventions;
- (iv) provides for enforcement through employment action or student discipline;
- (v) are informed and updated by data obtained by any regular safety or health related survey including a school's climate survey as described in Rule R277-623; and

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(vi) other appropriate measurements.

(17) "Qualifying minor" means a school-age minor who:

(a) is at least nine years old; or

(b) turns nine years old at any time during the school year.

(18) "Restorative justice program" means the same as that term is defined in Section 53G-8-211.

(19) "Restorative practice" means the building and sustaining of relationships among students, school personnel, families and community members to build and strengthen social connections within communities and hold individuals accountable to restore relationships when harm has occurred.

(20) "School" means any public elementary or secondary school or charter school.

(21) "School employee" means:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) any other person employed, directly or indirectly, by an LEA.

(22) "Seclusionary time out" means that a student is:

(a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4;

(b) purposefully isolated from adults and peers; and

(c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

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

(24) "Self-Discipline" means developing the ability to take personal responsibility for one's actions.

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(25) "Student with a qualifying offense" means a qualifying minor who committed an alleged class C misdemeanor, infraction, status offense on school property, or truancy.

### **R277-609-3. Incorporation of Least Restricted Behavioral Interventions (LRBI) Technical Assistance Manual by Reference.**

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, [~~dated September 2015~~2023 Edition], which provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

- (a) promote positive behaviors while preventing negative or risky behaviors; and
- (b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

(a)

[<https://www.schools.utah.gov/safehealthyschools/programs/behaviorsupport?mid=5333&tid=2>]<https://www.schools.utah.gov/administrativerules/documentsincorporated>; and

(b) the Utah State Board of Education.

### **R277-609-4. LEA Responsibility to Develop Plans.**

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, school discipline, and restorative practices.

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) An LEA shall include as part of the plan, parental outreach and education regarding the plan and how it can provide a discrimination and harassment free environment, through strategies promoting positive engagement between staff, students, and parents.

(4) A plan described in Subsection (1) shall include:

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- (a) the definitions of Section 53G-8-210;
- (b) written standards for student behavior expectations, including school and classroom management;
- (c) effective instructional practices for teaching student expectations, including:
  - (i) self-discipline;
  - (ii) citizenship;
  - (iii) civic skills; and
  - (iv) social emotional skills;
- (d) systematic methods for reinforcement of expected behaviors;
- (e) uniform and equitable methods for correction of student behavior;
- (f) consistent processes to collect student discipline data and incident or infraction data, including collection of the number of days of student suspensions and data collected from the school's climate survey as described in Rule R277-623;
- (g) uniform and equitable methods for at least annual school level data-based evaluations of efficiency and effectiveness;
- (h) an ongoing staff development program related to development of:
  - (i) student behavior expectations;
  - (ii) effective instructional practices for teaching and reinforcing behavior expectations;
  - (iii) effective intervention strategies; and
  - (iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;
- (i) procedures for ongoing training of appropriate school personnel in:
  - (i) crisis management;
  - (ii) emergency safety interventions; and
  - (iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;
- (j) policies and procedures relating to the use and abuse of alcohol, controlled substances, electronic cigarette products, and other harmful trends by students;

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(k) policies and procedures for responding to possession or use of electronic cigarette products by a student on school property as required by Subsection 53G-8-203(3);

(k) policies and procedures, consistent with requirements of Rule R277-613, related to:

(i) bullying;

(ii) cyber-bullying;

(iv) hazing; and

(v) retaliation;

(l) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:

(i) physical restraint, subject to the requirements of Section R277-609-5, except when the physical restraint is allowed as described in Subsection 53G-8-302(2);

(ii) prone, or face-down, physical restraint;

(iii) supine, or face-up, physical restraint;

(iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;

(v) mechanical restraint, except:

(A) protective or stabilizing restraints;

(B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and

(C) any device used by a law enforcement officer in carrying out law enforcement duties;

(vi) chemical restraint, except as:

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

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

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(vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and

(viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:

(A) school personnel, the family, and the IEP team agree less restrictive means have been attempted;

(B) a FBA has been conducted; and

(C) a positive behavior intervention, based on data analysis has been written into the plan and implemented;

(m) direction for dealing with bullying and disruptive students;

(n) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address student behavior, including students who engage in disruptive student behaviors as described in Section 53G-8-210;

(o) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;

(p) identification of individuals who shall receive notices of disruptive and bullying student behavior;

(q) a requirement to provide for documentation of an alleged class B misdemeanor or a nonperson class A misdemeanor before referral of students with an alleged class B misdemeanor or a nonperson class A misdemeanor to juvenile court;

(r) strategies to provide for necessary adult supervision;

(s) a requirement that policies be clearly written and consistently enforced;

(t) notice to employees that violation of this rule may result in employee discipline or action;

(u) gang prevention and intervention policies in accordance with Subsection 53E-3-509(1);

(v) provisions that account for an individual LEA's or school's unique needs or circumstances, including:



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- (i) the role of law enforcement;
- (ii) emergency medical services; and
- (iii) a provision for publication of notice to parents and school employees of policies by reasonable means; and
- (iv) a plan for referral for a student with a qualifying office to alternative school-related interventions, including:
  - (A) a mobile crisis outreach team, as defined in Section 80-1-102;
  - (B) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 80-5-102;
  - (C) a youth court; or
  - (w) a comparable restorative justice program.
- (4) A plan described in Subsection (1) may include:
  - (a) Subsection 53E-3-509(2); and
  - (b) a plan for training administrators and school resource officers in accordance with Section 53G-8-702.

**R277-609-5. Physical Restraint and Seclusionary Time Out.**

- (1) When used consistently with an LEA plan under Subsection R277-609-4(1):
  - (a) a physical restraint must be immediately terminated when:
    - (i) a student is no longer an immediate danger to self or others; or
    - (ii) a student is in severe distress; and
  - (b) the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA policies, must be implemented.
- (2) If a public education employee physically restrains a student, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school as described in Section R277-609-10 to the student's parent.
- (3) A public education employee may not use physical restraint on a student for more than the shortest of the following before stopping, releasing, and reassessing the intervention used:

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(a) the amount of time described in the LEA's emergency intervention training program;

(b) 30 minutes; or

(c) when law enforcement arrives.

(4) A public education employee may not use physical restraint as a means of discipline or punishment.

(5) If a public education employee uses seclusionary time out, the public education employee shall:

(a) use the minimum time necessary to ensure safety;

(b) use release criteria as outlined in LEA policies;

(c) ensure that any door remains unlocked consistent with the fire and public safety requirements described in Rules R392-200 and R710-4;

(d) maintain the student within line of sight of the public education employee;

(e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and

(f) ensure that the enclosed area meets the fire and public safety requirements described in Rules R392-200 and R710-4.

(6) If a student is placed in seclusionary time out, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school to:

(a) the student's parent; and

(b) school administration.

(7) A public education employee may not place a student in a seclusionary time out for more than 30 minutes.

(8) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than 15 minutes, the school or the public education employee shall immediately provide notice to:

(a) the student's parent or guardian; and

(b) school administration.

(9) Seclusionary time out may only be used for maintaining safety.

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(10) A public education employee may not use seclusionary time out as a means of discipline or punishment.

#### **R277-609-6. Implementation.**

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs before suspension or court referral.

(3) An LEA shall implement positive behavior interventions, supports, and restorative practices as part of the LEA's continuum of behavior interventions strategies.

#### **R277-609-7. LEA Emergency Safety Intervention (ESI) Committees.**

(1) An LEA shall establish an Emergency Safety Intervention (ESI) Committee.

(2) An LEA's ESI Committee:

(a) shall include:

(i) at least two administrators;

(ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and

(iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;

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

(c) shall determine and recommend professional development needs; and

(d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions; and

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(e) shall ensure that each emergency incident where a school employee uses an emergency safety intervention is documented in the LEA's student information system and reported to the Superintendent through the Board's Utah Transcript and Record Exchange (UTREx) system.

#### **R277-609-8. LEA Reporting.**

(1) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.

(2) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (1).

(3) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

(4)(a) An LEA shall submit all required UTREx discipline data and incident or infraction data elements, and suspensions to the Superintendent no later than June 30 of each year.

(b) Beginning in the 2018-19 school year, an LEA shall submit all required UTREx discipline data and incident or infraction data elements as part of the LEA's daily UTREx submission.

#### **R277-609-9. Special Education Exceptions to this Rule.**

(1) An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.

(2) The Superintendent shall periodically review:

(a) all LEA special education behavior intervention, procedures, and manuals;  
and

(b) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System.

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**R277-609-10. Parent Notification and Court Referral.**

(1) LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

(2) An LEA shall establish policies that:

(a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;

(b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:

(i) numbers of disruptions, suspensions, and timelines in accordance with Section 53G-8-210;

(ii) school resources available;

(iii) cooperation from the appropriate juvenile court in accessing student school records, including:

(A) attendance;

(B) grades;

(C) behavioral reports; and

(D) other available student school data; and

(iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When an emergency safety intervention is used to protect a student or others from harm, a school shall:

(i) provide notice to the student's parent as soon as reasonably possibly and before the student leaves the school;

(ii) provide notice to school administration; and

(iii) provide documentation of the emergency safety intervention to the LEA's ESI Committee described in Section R277-609-7.

(b) In addition to the notice described in Subsection (3)(a), if the use of an emergency safety intervention occurs for more than 15 minutes, the school shall immediately provide a second notification to:

(i) the student's parent or guardian; and

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(ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during the use of the emergency safety intervention upon request of the parent or guardian.

(b) Within 24 hours of the school using an emergency safety intervention with a student, a school shall provide notice to a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during the use of the emergency safety intervention.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss the use of an emergency safety intervention.

#### **R277-609-11. Model Policies.**

(1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

(2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

#### **R277-609-12. LEA Compliance.**

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

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

**Date of Last Change: [February 8,] 2023**

**Notice of Continuation: November 14, 2019**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(b)(v); 53E-3-509; 53G-8-202; 53G-8-702; 53G-8-302**

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