

1 **R277. Education, Administration.**

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

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

4 (1) This rule is authorized by:

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

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

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

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

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

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

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

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

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

26

27 **R277-609-2. Definitions.**

- 28 (1) "Discipline" includes:
- 29 (a) imposed discipline; and
- 30 (b) self-discipline.
- 31 (2) "Disruptive student behavior" includes:
- 32 (a) the grounds for suspension or expulsion described in Section 53G-8-205; and
- 33 (b) the conduct described in Subsection 53G-8-209(2)(b).
- 34 (3)(a) "Emergency safety intervention" or "ESI" means the use of seclusionary time
- 35 out or physical restraint when a student presents an immediate danger to self or others.
- 36 (b) An "emergency safety intervention" is not for disciplinary purposes.
- 37 (4) "Emergency safety intervention committee" or "ESI Committee" means an
- 38 emergency safety intervention committee described in Section R277-609-7.
- 39 (5) "Evidence-based" means the same as defined in Section 53G-8-211.
- 40 ~~[(4)](6)~~ "Functional Behavior Assessment" or "FBA" means a systematic process of
- 41 identifying problem behaviors and the events that reliably predict occurrence and non-
- 42 occurrence of those behaviors and maintain the behaviors across time.
- 43 ~~[(4)](7)~~ "Immediate danger" means the imminent danger of physical violence or
- 44 aggression towards self or others, which is likely to cause serious physical harm.
- 45 ~~[(5)](8)~~ "Imposed discipline" means a code of conduct prescribed for the highest
- 46 welfare of the individual and of the society in which the individual lives.
- 47 ~~[(7)](9)~~ "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and
- 48 the Blind.
- 49 ~~[(8)](10)~~ "Physical restraint" has the same meaning as the defined in Section 53G-
- 50 8-301~~[means personal restriction that immobilizes or reduces the ability of an individual to~~
- 51 ~~move the individual's arms, legs, body, or head freely.]~~
- 52 ~~[(9)](12)~~ "Plan" means an LEA and school-wide written model for prevention and
- 53 intervention addressing student behavior management, restorative practices, and discipline
- 54 procedures for students.

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

59 ~~[(10)]~~(13) "Program" means an instructional or behavioral program~~[,] including[—a~~
60 ~~program]:~~

61 (a) ~~[provided by]~~ contracted services offered by private providers under the direct
62 supervision of public school staff;

63 (b) a program that receives public funding; or

64 (c) a program for which the Board has regulatory authority.

65 ~~[(11)]~~(14) "Policy" means standards and procedures that include:

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

69 (i) defines hazing, bullying, and cyber-bullying;

70 (ii) prohibits hazing and bullying;

71 (iii) requires ~~[annual discussion and]~~ training regarding~~:[—designed to]~~

72 (A) the prevention of hazing, bullying, cyber-bullying, and discipline,~~—and~~
73 ~~emergency safety interventions,]~~ among school employees and students; and

74 (B) the use of restorative practices, positive behavior interventions and supports,
75 and emergency safety interventions; and

76 (iv) provides for enforcement through employment action or student discipline.

77 ~~[(12)]~~(15) "Qualifying minor" means a school-age minor who:

78 (a) is at least nine years old; or

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

80 ~~[(13)]~~(16) "Restorative justice program" means the same as that term is defined in
81 Section 53G-8-211.

82 (17) "Restorative practice" means ~~[a practice that emphasize the importance]~~ the
83 building and sustaining of relationships among students, school personnel, families and
84 community members to build and strengthen social connections within communities and
85 hold individuals accountable to restore relationships when harm has occurred.

86 ~~[(14)](18)~~ "School" means any public elementary or secondary school or charter
87 school.

88 ~~[(15)](19)~~ "School board" means:

89 ~~— (a) a local school board; or~~

90 ~~— (b) a local charter board.]~~

91 ~~[(16)](20)~~ "School employee" means:

92 (a) a school teacher;

93 (b) a school staff member;

94 (c) a school administrator; or

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

96 ~~[(17)](21)~~ "Seclusionary time out" means that a student is:

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

99 (b) purposefully isolated from adults and peers; and

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

102 ~~[(18)](22)~~ "Section 504 accommodation plan," required by Section 504 of the
103 Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has
104 been determined, as a result of an evaluation, to have a physical or mental impairment that
105 substantially limits one or more major life activities.

106 ~~[(19)](23)~~ "Self-Discipline" means a personal system of organized behavior designed
107 to promote self-interest while contributing to the welfare of others.

108 ~~[(20)](24)~~ "Student with a qualifying offense" means a qualifying minor who

109 committed an alleged class C misdemeanor, infraction, status offense on school property,
110 or truancy.

111 ~~[(25) “Suspension” means the temporary removal, in or out of school, of a student~~
112 ~~from the student’s regular educational setting for a violation of school policies or rules for~~
113 ~~any length of time.]~~

114

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

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

120 (a) promote positive behaviors while preventing negative or risky behaviors; and

121 (b) create a safe learning environment that enhances all student outcomes.

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

123 (a) <https://www.schools.utah.gov/file/d6715b0b-9125-4132-86d3-179d8629a895>;

124 and

125 (b) the Utah State Board of Education.

126

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

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

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

135 (3) A plan described in Subsection (1) shall include:

- 136 (a) the definitions of Section 53G-8-210;
- 137 (b) written standards for student behavior expectations, including school and
138 classroom management;
- 139 (c) effective instructional practices for teaching student expectations, including:
- 140 (i) self-discipline;
- 141 (ii) citizenship;
- 142 (iii) civic skills; and
- 143 (iv) ~~[social skills]~~social emotional skills~~[including social emotional learning]~~;
- 144 (d) systematic methods for reinforcement of expected behaviors;
- 145 (e) uniform and equitable methods for correction of student behavior;
- 146 (f) consistent processes to collect student discipline data and incident or infraction
147 data, including collection of the number of days of student suspensions;
- 148 ~~[(f)](g)~~ uniform and equitable methods for at least annual school level data-based
149 evaluations of efficiency and effectiveness;
- 150 ~~[(g)](h)~~ an ongoing staff development program related to development of:
- 151 (i) student behavior expectations;
- 152 (ii) effective instructional practices for teaching and reinforcing behavior
153 expectations;
- 154 (iii) effective intervention strategies; and
- 155 (iv) effective strategies for evaluation of the efficiency and effectiveness of
156 interventions;
- 157 ~~[(h)](i)~~ procedures for ongoing training of appropriate school personnel in:
- 158 (i) crisis ~~[intervention]~~management~~[training]~~;
- 159 (ii) emergency safety interventions ~~[professional development]~~; and
- 160 (iii) LEA policies related to emergency safety interventions consistent with
161 evidence-based practice;
- 162 ~~[(i)](j)~~ policies and procedures relating to the use and abuse of alcohol, ~~[and]~~

163 controlled substances, and other harmful trends by students;

164 ~~(j)~~(k) policies and procedures, consistent with requirements of Rule R277-613,

165 related to:

166 (i) bullying;

167 (ii) cyber-bullying;

168 (iv) hazing; and

169 (v) retaliation;

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

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

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

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

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

178 (v) mechanical restraint, except:

179 (A) protective or stabilizing restraints;

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

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

184 (vi) chemical restraint, except as:

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

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

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

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

195 (A) school personnel, the family, and the IEP team agree less restrictive means
196 ~~[which meet circumstances described in Section R277-608-5]~~ have been attempted;

197 (B) a FBA has been conducted; and

198 (C) a positive behavior intervention, ~~[plan]~~ based on data analysis has been written
199 into the plan and implemented[.](;)

200 ~~[(+)](m)~~ direction for dealing with bullying and disruptive students;

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

205 ~~[(+)](o)~~ identification, by position, of an individual designated to issue notices of
206 disruptive and bullying student behavior;

207 ~~[(+)](p)~~ identification of individuals who shall receive notices of disruptive and
208 bullying student behavior;

209 ~~[(+)](q)~~ a requirement to provide for documentation of an alleged class B
210 misdemeanor or a nonperson class A misdemeanor prior to referral of students with an
211 alleged class B misdemeanor or a nonperson class A misdemeanor to juvenile court;

212 ~~[(+)](r)~~ strategies to provide for necessary adult supervision;

213 ~~[(R)](s)~~ a requirement that policies be clearly written and consistently enforced;

214 ~~[(+)](t)~~ notice to employees that violation of this rule may result in employee
215 discipline or action;

216 ~~[(+)](u)~~ gang prevention and intervention policies in accordance with Subsection

217 53E-3-509(1);

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

220 (i) the role of law enforcement;

221 (ii) emergency medical services; and

222 (iii) a provision for publication of notice to parents and school employees of policies
223 by reasonable means; and

224 (iv) a plan for referral for a student with a qualifying office to alternative school-
225 related interventions, including:

226 (A) a mobile crisis outreach team, as defined in Section 78A-6-105;

227 (B) a receiving center operated by the Division of Juvenile Justice Services in
228 accordance with Section 62A-7-104;

229 (C) a youth court; or

230 ~~(v)~~(w) a comparable restorative justice program.

231 (4) A plan described in Subsection (1) may include:

232 (a) the provisions of Subsection 53E-3-509(2); and

233 (b) a plan for training administrators and school resource officers in accordance with
234 Section 53G-8-702.

235

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

237 (1) When used consistently with an LEA plan under Subsection R277-609-4(1)~~];~~];

238 (a) a physical restraint must be immediately terminated when:

239 (i) a student is no longer an immediate danger to self or others; or

240 (ii) a student is in severe distress; and

241 (b) the use of physical restraint shall be for the minimum time necessary to ensure
242 safety and a release criteria, as outlined in LEA policies, must be implemented.

243 (2) If a public education employee physically restrains a student, the school or the

244 public education employee shall ~~[immediately] [notify]~~ provide notice as soon as reasonably
245 possible and before the student leaves the school as described in Section R277-609-10 to[

246 ~~——(a)] the student's parent[or guardian; and~~

247 ~~——(b) school administration].~~

248 (3) A public education employee may not use physical restraint on a student for
249 more than the shortest of the following before stopping, releasing, and reassessing the
250 intervention used:

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

253 (b) 30 minutes[.]; or

254 (c) when law enforcement arrives.

255 ~~[(4) In addition to the notice described in Subsection (2), if a public education~~
256 ~~employee physically restrains a student for more than fifteen minutes, the school or the~~
257 ~~public education employee shall immediately notify:~~

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

259 ~~——(b) school administration.]~~

260 ~~[(5)](4) A[~~n~~ LEA]public education employee may not use physical restraint as a~~
261 ~~means of discipline or punishment.~~

262 ~~[(6)](5) If a public education employee uses seclusionary time out, the public~~
263 ~~education employee shall:~~

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

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

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

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

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

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

273 ~~[(7)]~~(6) If a student is placed in seclusionary time out, the school or the public
274 education employee shall ~~[immediately]~~ ~~[notify]~~provide notice as soon as reasonably
275 possible and before the student leaves the school to:

276 (a) the student's parent ~~[or guardian]~~; and

277 (b) school administration.

278 ~~[(8)]~~(7) A public education employee may not place a student in a seclusionary time
279 out for more than 30 minutes.

280 ~~[(9)]~~(8) In addition to the notice described in Subsection (7), if a public education
281 employee places a student in seclusionary time out for more than fifteen minutes, the school
282 or the public education employee shall immediately ~~[notify]~~provide notice to:

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

284 (b) school administration.

285 ~~[(10)]~~(9) Seclusionary time out may only be used for maintaining safety.

286 ~~[(11)]~~(10) A public education employee may not use seclusionary time out as a
287 means of discipline or punishment.

288

289 **R277-609-6. Implementation.**

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

292 (2) An LEA shall develop, use and monitor a continuum of intervention strategies to
293 assist students, including students whose behavior in school falls repeatedly short of
294 reasonable expectations, by teaching student behavior expectations, reinforcing student
295 behavior expectations, re-teaching behavior expectations, followed by effective, evidence-
296 based interventions matched to student needs prior to ~~[administrative]~~ suspension or court
297 referral.

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

300 ~~[(4) Nothing in state law or this rule restricts an LEA from implementing policies to~~
301 ~~allow for suspension of students of any age consistent with due process requirements and~~
302 ~~consistent with all requirements of the Individuals with Disabilities Education Act 2004.]~~

303

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

305 (1) An LEA shall establish an Emergency Safety Intervention (ESI) Committee
306 ~~[before September 1, 2015].~~

307 (2) ~~[The]~~An LEA's ESI Committee:

308 (a) shall include:

309 (i) at least two administrators;

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

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

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

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

317 (d) shall develop policies for local dispute resolution processes to address concerns
318 regarding disciplinary actions~~[-];~~ and

319 (e) shall ensure that each emergency incident where a school employee [of the
320 school] uses an emergency safety intervention is documented in the LEA's student
321 information system and reported to the Superintendent through the Board's UTREx system.

322

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

324 (1) An LEA shall have procedures for the collection, maintenance, and periodic

325 review of documentation or records of the use of emergency safety interventions at schools
326 within the LEA.

327 (2) The Superintendent shall define the procedures for the collection, maintenance,
328 and review of records described in Subsection (~~[8]~~1).

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

331 (4)(a) An LEA shall submit all required UTREx discipline data and incident or
332 infraction data elements, and suspensions to the Superintendent no later than June 30[
333 ~~2018~~] of each year.

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

337

338 **R277-609-9. Special Education Exception(s) to this Rule.**

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

342 (2) The Superintendent shall periodically review:

343 (a) all LEA special education behavior intervention [~~plans~~], procedures, [~~or~~]and
344 manuals; and

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

347

348 **R277-609-10. Parent[~~/Guardian~~] Notification and Court Referral.**

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

351 (2) An LEA shall establish policies that:

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

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

356 (i) numbers of disruptions, suspensions, and timelines in accordance with Section
357 53G-8-210;

358 (ii) school resources available;

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

361 (A) attendance;

362 (B) grades;

363 (C) behavioral reports; and

364 (D) other available student school data; and

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

367 (3)(a) When ~~[a crisis situation occurs that requires the use of]~~ an emergency safety
368 intervention is used to protect ~~[the]~~ a student or others from harm, a school shall: ~~[notify the~~
369 ~~LEA and]~~

370 (i) provide notice to the student's parent as soon as reasonably possibly and before
371 the student leaves the school; ~~[or guardian as soon as possible and no later than the end of~~
372 ~~the school day.]~~

373 (ii) provide notice to school administration; and

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

376 (b) In addition to the notice described in Subsection (3)(a), if ~~[a crisis situation]~~ the
377 use of an emergency safety intervention occurs for more than fifteen minutes, the school
378 shall immediately ~~[notify]~~ provide a second notification to:

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

380 (ii) school administration.

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

383 (4)(a) A school shall provide a parent or guardian with a copy of any notes or
384 additional documentation taken during ~~[a crisis situation]~~the use of the emergency safety
385 intervention upon request of the parent or guardian.

386 (b) Within 24 hours of ~~[crisis situation]~~the school using an emergency safety
387 intervention with a student, a school shall ~~[notify]~~provide notice to a parent or guardian that
388 the parent or guardian may request a copy of any notes or additional documentation taken
389 during ~~[a crisis situation]~~the use of the emergency safety intervention.

390 (c) A parent or guardian may request a time to meet with school staff and
391 administration to ~~[a crisis situation]~~discuss the use of an emergency safety intervention.

392 ~~[(5)(a) A school shall notify a parent of a student who has been restrained by a law~~
393 ~~enforcement officer on school grounds by the end of the day that the student was restrained~~
394 ~~by a law enforcement officer, including the circumstances leading up to the incident.~~

395 ~~_____ (b) In addition to notifying a parent as required in Subsection (5)(a), the school shall~~
396 ~~report a law enforcement restraint described in Subsection (5)(a) to the LEA's ESI~~
397 ~~Committee described in R277-609-7.]~~

398

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

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

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

405

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

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

409

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

411 **Date of Enactment or Last Substantive Amendment: May 8, 2018**

412 **Notice of Continuation: October 14, 2016**

413 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-**

414 **501(1)(b)(v); 53E-3-509; 53G-8-202; 53G-8-702, 53G-8-302**