

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 61

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AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 20-20-40-11, AS ADDED BY P.L.122-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) The commission on seclusion and restraint in schools is established.

- (b) The commission has the following ~~nine (9)~~ **ten (10)** members:
- (1) The designee of the state superintendent, who serves at the pleasure of the state superintendent.
  - (2) A representative of the Autism Society of Indiana, chosen by the organization, who serves a two (2) year term.
  - (3) A representative of the Arc of Indiana, chosen by the organization, who serves a two (2) year term.
  - (4) A representative of the Indiana Council of Administrators of Special Education, chosen by the organization, who serves a two (2) year term.
  - (5) A representative of Mental Health America of Indiana, chosen by the organization, who serves a two (2) year term.
  - (6) A parent of a student with a disability, nominated by a member described in subdivisions (1) through (5) and approved by a majority of the members described in subdivisions (1) through (5), who serves a two (2) year term.
  - (7) A parent of a student who does not have a disability, nominated by a member described in subdivisions (1) through (5)



and approved by a majority of the members described in subdivisions (1) through (5), who serves a two (2) year term.

(8) One (1) accredited nonpublic school administrator nominated by the Indiana Non-public Education Association, who serves a two (2) year term.

(9) One (1) public school superintendent nominated by the Indiana Association of Public School Superintendents, who serves a two (2) year term.

**(10) One (1) member of the Indiana School Resource Officers Association chosen by the organization, who serves a two (2) year term.**

(c) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member who is not a state employee is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 2. IC 20-20-40-13, AS ADDED BY P.L.122-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) The commission has the following duties:

- (1) To adopt rules concerning the following:
  - (A) The use of restraint and seclusion in a school corporation or an accredited nonpublic school, with an emphasis on eliminating or minimizing the use of restraint and seclusion.
  - (B) The prevention of the use of types of restraint or seclusion that may harm a student, a school employee, a school volunteer, or the educational environment of the school.
  - (C) Requirements for notifying parents.
  - (D) Training regarding the use of restraint and seclusion, including the frequency of training and what employees must be trained.
  - (E) The distribution of the seclusion and restraint policy to parents and the public.
  - (F) Requirements for the reporting of incidents of restraint and seclusion in the annual school performance report, **including incidents of restraint and seclusion involving school resource officers (as defined in IC 20-26-18.2-1).**
  - (G) **Circumstances that may require more timely incident reporting and the requirements for such reporting.**
- (2) ~~Before August 1, 2013, to develop~~ **To develop, maintain, and revise** a model restraint and seclusion plan for schools that



includes the following elements:

- (A) A statement on how students will be treated with dignity and respect and how appropriate student behavior will be promoted and taught.
- (B) A statement ensuring that the school will use prevention, positive behavior intervention and support, and conflict deescalation to eliminate or minimize the need for use of any of the following:
  - (i) Seclusion.
  - (ii) Chemical restraint.
  - (iii) Mechanical restraint.
  - (iv) Physical restraint.
- (C) A statement ensuring that any behavioral intervention used will be consistent with the student's most current behavioral intervention plan, or individualized education program, if applicable.
- (D) Definitions for restraint and seclusion, as defined in this chapter.
- (E) A statement ensuring that if a procedure listed in clause (B) is used, the procedure will be used:
  - (i) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and
  - (ii) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.
- (F) An indication that restraint or seclusion may be used only for a short time period, or until the imminent risk of injury has passed.
- (G) A documentation and recording requirement governing instances in which procedures listed in clause (B) are used, including:
  - (i) how every incident will be documented and debriefed;
  - (ii) how responsibilities will be assigned to designated employees for evaluation and oversight; and
  - (iii) designation of a school employee to be the keeper of such documents.
- (H) A requirement that the student's parent must be notified as soon as possible when an incident involving the student occurs that includes use of procedures listed in clause (B).
- (I) A requirement that a copy of an incident report must be sent to the student's parent after the student is subject to a



procedure listed in clause (B).

(J) Required recurrent training for appropriate school employees on the appropriate use of effective alternatives to physical restraint and seclusion, including the use of positive behavioral intervention and support and conflict deescalation. The training must include the safe use of physical restraint and seclusion in incidents involving imminent danger or serious harm to the student, school employees, or others. Consideration must be given to available school resources and the time commitments of school employees.

**(3) To accept and review reports from the public and make nonbinding recommendations to the department of any suggested action to be taken.**

(b) The model policy developed by the commission must take into consideration that implementation and reporting requirements for accredited nonpublic schools may vary, and the model plan must provide accredited nonpublic schools flexibility with regards to accountability under and implementation of the plan adopted by an accredited nonpublic school under section 14 of this chapter.

SECTION 3. IC 20-20-40-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 13.5. If the department has been advised of a discrepancy in a report under section 13(a)(3) of this chapter, the department shall require the school to provide a written explanation of the discrepancy to the department which must comply with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99).**

SECTION 4. IC 20-20-40-13.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 13.6. (a) The department shall review incident reports under rules established by the commission under IC 4-22-2 and submit summary findings to the commission in compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g and 34 CFR Part 99).**

(b) The commission shall review summary findings submitted by the department under subsection (a) and may make nonbinding recommendations to the department or other entities.

(c) If the department receives a recommendation from the commission under subsection (b), the department shall provide the commission a response with regard to the commission's recommendation in a manner prescribed by the department within a reasonable time after the department receives the



**recommendation from the commission.**

SECTION 5. IC 20-20-40-14, AS ADDED BY P.L.122-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. **(a)** A school corporation or accredited nonpublic school shall adopt a restraint and seclusion plan that incorporates, at a minimum, the elements of the model plan developed under section 13 of this chapter. The school corporation's or accredited nonpublic school's plan must become effective not later than July 1, 2014.

**(b) The department has the authority to require schools to submit plans developed in accordance with section 13 of this chapter.**

SECTION 6. IC 20-20-40-16, AS ADDED BY P.L.122-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. **(a)** The commission:

- (1) shall adopt rules under IC 4-22-2; to carry out the purposes of this chapter: and**
- (2) may adopt emergency rules in the manner provided under IC 4-22-2-37.1;**

**to carry out the purposes of this chapter.**

**(b) An emergency rule adopted under subsection (a)(2) expires on the earlier of:**

- (1) November 15, 2018; or**
- (2) the effective date of a rule adopted under IC 4-22-2-22.5 through IC 4-22-2-36 that supersedes the emergency rule.**

SECTION 7. IC 20-26-18.2-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. **A school corporation, an accredited nonpublic school, or a charter school shall report all instances of:**

- (1) seclusion (as defined in IC 20-20-40-9);**
- (2) chemical restraint (as defined in IC 20-20-40-2);**
- (3) mechanical restraint (as defined in IC 20-20-40-4); and**
- (4) physical restraint (as defined in IC 20-20-40-5);**

**involving a school resource officer in accordance with the restraint and seclusion plan adopted by the school corporation, accredited nonpublic school, or charter school under IC 20-20-40-14.**

SECTION 8. [EFFECTIVE JULY 1, 2017] **(a) 513 IAC 1-2-1(b) is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this provision from the Indiana Administrative Code.**

**(b) This SECTION expires July 1, 2018.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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