# MEMORANDUM

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| **To:** | Board of Elementary and Secondary Education |
| **From:**  | Russell D. Johnston, Acting Commissioner |
| **Date:**  | March 18, 2025 |
| **Subject:** | Proposed Amendments to 603 CMR 46.00 and 603 CMR 18.00 (Use of Time-Out Practices) |

At the meeting of the Board of Elementary and Secondary Education (Board) on January 28, 2025, we discussed the use of time-out practices in educational settings and considerations on reducing or eliminating the use of time-out and safeguarding the well-being of students and school staff. This month, I will present to the Board proposed amendments to 603 CMR 46.00, the regulations for Prevention of Physical Restraint and Requirements If Used, and 603 CMR 18.00, the regulations for Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs, for initial discussion and a vote to solicit public comment. With the Board’s approval, the Department of Elementary and Secondary Education (DESE) will invite public comment on the proposed regulations and then present the comments and any recommended revisions to the Board in June 2025 for final action.

In general, the proposed amendments to 603 CMR 46.00 seek to:

* Update the definition of seclusion in 603 CMR 46.02​ to align it more closely with the definition used by the U.S. Department of Education’s Office for Civil Rights for data collection purposes.
* Update the definition of time-out to specifically include "in an unlocked setting from which the student is permitted to leave." ​
* Add requirements for any room or area that is used for time-out to specify that it must be of appropriate size for the age and the needs of the student; appropriately lighted, ventilated, and heated or cooled, consistent with the remainder of the building; free of objects or fixtures that are inherently dangerous to the student; ​in compliance with any applicable local fire and building code requirements; and in compliance with any other standards listed by DESE in guidance. ​
* Add emergency circumstances under which a type of seclusion, where an adult is present and monitoring the student, may be used as a last resort and list specific conditions that must be met before its use. Among other conditions, the proposed regulations would require that:
	+ This emergency intervention may only be used on an individual student basis, when there is an imminent threat of assault or imminent serious physical harm to the student or others;​
	+ There is documentation from a licensed mental health professional and physician;​
	+ There is consent from the student’s parent and, if appropriate, the student, and such use has been approved in writing by the principal; and
	+ At all times during the emergency, a staff member is continuously and actively monitoring and observing the student and is immediately available to the student.
* The proposed amendments build in various safeguards when such an emergency intervention is used, such as parental notification​, conducting weekly and monthly review of data relating to the use of such an emergency intervention, and documenting and reporting such use to DESE.
* Any schools or programs that utilize such an emergency intervention must examine alternatives and strategies for reducing and eliminating its use no later than 3 years from the effective date of the proposed regulations​.
* The proposed regulations would take effect on September 2, 2025.

In general, the proposed amendments to 603 CMR 18.00 (regulations applicable to approved special education programs) seek to:

* Require approved special education day programs, including the day component of special education residential programs, to comply with the updated version of 603 CMR 46​.
* More closely align documentation requirements currently applicable to special education programs to the proposed documentation requirements in 603 CMR 46.
* The proposed regulations would take effect on September 2, 2025.

A redlined version of the regulations is attached, along with a motion to solicit public comment on the proposed amendments. With the Board’s approval, DESE will solicit public comment on the proposed amendments. After reviewing comments that are received and determining whether further changes are needed, DESE plans to bring the amended regulations back to the Board in the June 2025 for final adoption.

Iraida J. Álvarez, Acting Executive Director of Special Education, Jamie Camacho, Acting State Director of Special Education, and Janelle Roberts, Director of the Office of Approved Special Education Schools, and Johanna Wakelin, Associate General Counsel, will join us for the discussion at the Board meeting on March 25, 2025.

A redlined version of the regulations is enclosed, along with a motion to solicit public comment on the proposed amendments.

Enclosures:

        603 CMR 46.00 Strikethrough version of the regulations showing proposed

        amendments

 603 CMR 18.00 Strikethrough version of the regulations showing proposed

 amendments

        Motion