Understanding RTO Compliance: Preventing Common Errors Before They Lead to Complaints

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The 4 Legal Requirements to Use RTO

RTO may **only** be used when:

- There is imminent danger or serious physical harm.
- Less restrictive interventions were tried and proven ineffective.
- There are no medical contraindications for the use of these interventions.
- Staff are properly trained to use these interventions.

Biggest Compliance Failure

Using physical restraint, time out or isolated time out when the student is not in imminent danger of serious physical harm.

What Imminent Danger Actually Requires:

Immediate: The harm is about to occur now, not eventually

Serious: The risk of significant physical injury, **not** discomfort, disruption or offense

Scenario # 1

A 7th grade student with autism becomes dysregulated during a group activity. The student begins yelling loudly and crying, pushing materials off their desk and forcefully kicking the desk and adjacent wall.

As the escalation continues the student pulls their desk away from the group and towards the back wall, tips the desk onto its side and briefly lifts one end of the desk before dropping it back onto the ground. Staff direct peers nearby to move across the room, and all but two students comply with this directive. The two students remain seated 12 feet away. The student with autism does not move towards anyone but he is breathing heavily and yelling “leave me alone” and “you better not come near me, or I will do something about it.” Two staff members trained in physical intervention techniques approach and implement a standing physical restraint.

Imminent Danger Analysis: A Continuum Approach



- **Level 1 – Possible Risk**
  - Student has the capacity to cause harm
  - The situation is unstable
  - Harm at this point is hypothetical
- **Examples:**
  - Holding a desk
  - Yelling threats while near others
  - Knocking over furniture

A Continuum Approach (continued) Level 2



- **Level 2: Emerging Risk**
  - Behavior is escalating
  - There are indicators of potential movement
  - Staff are anticipating what might come next
- **Examples:**
  - Turning towards staff or peers while holding an object such as a desk or a chair
  - Student is gripping an object tightly or swinging the object
  - There seems to be an increasing agitation in the student

A Continuum Approach (continued) Level 3

- Level 3 – Imminent Danger
  - Concrete, observable steps towards harm
  - Harm is likely and about to occur
- Examples:
  - Arm drawn back in a throwing motion
  - Advancing towards a peer with and object and it is about to be thrown and if the object is thrown it will cause serious physical harm
  - Swinging or initiating a strike

The Resolution

- Dysregulation, intensity and even property destruction **do not** equal imminent danger.
- Key Takeaways:
  - Out of control does not mean the legal threshold is met
  - Could have hurt someone is speculative not imminent

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Less Restrictive Interventions Were Tried and Proven Ineffective

- What the requirement actually demands
- It requires alignment between past efforts and present conditions
- Past interventions must be:
  - Relevant to the current behavior
  - Implemented with fidelity
- In the moment staff must still consider:
  - What is feasible right now
  - What will effectively address the specific risk

Scenario #2

- Facts: A high school student with an ED eligibility begins escalating during a transition. He is pacing, swearing loudly, knocking over chairs, and has previously (twice in the last month) escalated from this behavior to pushing a student out of his way.
- Your staff attempt the following:
  - Verbal Redirection
  - Offering a Break
- Student then picks up a metal stool but has not swung it or made contact. Two trained staff immediately place the student in a standing physical restraint hold to prevent harm.

How Does ISBE Analyze This?

- Step 1: Acknowledge the reality of the moments
- Principal Consultants generally recognize:
  - Staff are making real-time decisions in dynamic situations
  - The law does not require perfection
  - There is some deference to reasonable professional judgement
- So the question is not: Was there a less restrictive option?
- It is: Was there a clearly feasible and effective less restrictive option that staff unreasonably failed to use.

How Does ISBE Analyze This? (continued)

- The requirement that less restrictive interventions be tried and proven ineffective operates at both:
  - A programmatic level (what has been tried historically), and
  - A moment specific level (what options were available to staff in real time)
- Even when a student's history supports escalation to use physical restraint or time out interventions staff must still consider whether a more targeted, less restrictive response could safely resolve the immediate risk.

How Does ISBE Analyze This? (continued) District Level

- Even if the district can demonstrate that deescalation strategies have historically been ineffective in stopping the imminent danger the investigator may still ask:
  - At the moment that the stool was raised, was a more limited intervention – like removing the stool from the student – available instead of restraining the student.

The Answer

Scenario #2

The requirement that less restrictive interventions be tried and proven ineffective does not end the analysis.

Principal Consultants will still evaluate whether, in the moment of imminent risk, staff bypassed an available, less restrictive method of addressing that risk.

If removing the stool was a clearly feasible and effective option, and staff instead used a physical restraint, that may support a finding that the physical restraint was not compliant.

If staff can articulate why object removal was not safe or would not have effectively controlled the risk, physical restraint was appropriate.

Medical Contraindications: The Most Overlooked Prong

- Before using an RTO intervention, staff must determine that there are no known medical contraindications.
- It requires affirmative knowledge and consideration

What is the Problem?

- **Passive Knowledge** -You have access to student health records, but a contraindication discussion was never held.
- **System Failure** -Some school staff may be aware of the health issues, but that is not communicated to the staff that are trained to use these interventions.
- **Specific Risks** -Staff may know about a condition, but do not know what should be done differently to ensure student safety.

Medical Contraindication Examples

Medical Contraindication Examples
Asthma/Respiratory Issues
Seizure Disorders
Cardiac Conditions
Obesity (this impacts breathing or positioning)
Recent Injury or Recovery from Surgery
Medication affecting breathing or stability
Pregnancy

Scenario #3

A 6th-grade student with an IEP for OHI and ADHD becomes physically aggressive following a denied request. Student is audibly breathing heavily while throwing a binder across the room and attempts to hit a staff member. Two trained staff members implement a standing physical restraint to prevent further aggression. The restraint lasts approximately one minute. No staff reference the student's heavy breathing during or after the incident.

Student Information (From Records)

- Diagnosed with asthma
- Uses a rescue inhaler
- Health plan notes: staff should monitor respiratory distress during physical exertion or agitation

Things to Consider

Considerations		
1. What Does "No Known Medical Consideration" Require?	Is it enough that: • Staff did not personally recall the asthma diagnosis?	Or does the standard require: • Awareness of information reasonable available to them?
2. Condition vs. Contraindication	Does the presence of asthma automatically make restraint impermissible?	Or does the analysis depend on: • The interaction between the condition and the intervention?
3. Real-Time Risk Assessment	Given: • Heavy breathing • Physical exertion • Emotional escalation	Should staff have considered whether restraint posed a respiratory risk?

What To Do

- The presence of asthma does not automatically establish a medical contraindication to physical restraint. However, the student's documented respiratory condition, combined with observable heavy breathing during escalation, is directly relevant to the safety of the intervention.
- The absence of any indication that staff considered this condition prior to or during the restraint raises significant concerns regarding whether the 'no known medical contraindications' requirement was met.
- A conclusory statement that no contraindications were known, without evidence of awareness or consideration of available medical information supports a finding of noncompliance.

Training Requirements: All or Nothing

- An RTO intervention is compliant only if every individual involved meets the training requirements of 23 Illinois Administrative Code §1.285(h) **at the time of the intervention**.
- This is not about whether staff are "generally trained"

It is about whether staff are:		
Currently trained	Trained in the specific intervention used	Trained through a compliant training structure

Are Staff Properly Trained?

To be properly trained ALL of the following must be true:

- **Annual Training**-Minimum 8 hours per year
- **Content Requirements**- Includes all required topics (de-escalation, trauma-informed, etc.)
- **Method Requirements**- Physical restraint training must be in-person
- **Technique-Specific Training**- Staff may only use techniques they were specifically trained on
- **Proof of Training-**Must have certificate or written evidence of completion
- **Trainer Validity-**Trainer must also be trained within the past year

Where ISBE Sees the Training Gaps

- Training is incomplete
- Training is not current
- Staff did not train for the intervention that they are using. (Staff only had physical restraint training, but they used a time out intervention on a student.)
- Only some staff that participated are trained.
- Invalid training chain

Scenario #4

A middle school student becomes physically aggressive at lunch and pushes a student and then attempts to strike staff. A two-person standing restraint is implemented. The staff that used the intervention on the student are a lunchroom monitor and a paraprofessional assigned to lunch duty that day.

Training Records ISBE receives are as follows:

Lunchroom Monitor:

- Completed 8-hour training
- Includes in-person physical restraint component
- Completed 10 months prior

Paraprofessional:

- Completed the 6-hour online training modules
- Covered de-escalation and behavior strategies
- Did not include in-person physical restraint training

Scenario #4 Answer

- Because the paraprofessional participated in the physical restraint but did not receive in-person training in physical restraint techniques, the training requirements of §1.285(h) were not met.
- The fact that another staff member was properly trained does not cure the deficiency, as the regulation applies to all individuals involved in the intervention.
- Accordingly, the use of physical restraint in this instance would likely be found noncompliant.

Questions?



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