

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 786

(Senator Zucker, *et al.*)

Education, Health, and Environmental Affairs

Ways and Means

Education - Restraint and Seclusion - Consideration and Reporting

This bill requires the Maryland State Department of Education (MSDE) to convene a task force to examine policies and practices related to behavioral interventions in schools, including the use of restraint, seclusion, and trauma-informed interventions. The task force must report to the State Board of Education and the General Assembly by October 1, 2017, on specified findings and recommendations related to seclusion. MSDE must propose regulations to the State board by December 1, 2017. The bill also requires public agencies, as defined by the bill, and nonpublic schools to report annually on the use of physical restraint and seclusion, as well as on professional development provided to school personnel related to positive behavior interventions, strategies, and supports and trauma-informed interventions. MSDE must provide guidance to public agencies and nonpublic schools and also report to the General Assembly on related matters.

The bill takes effect July 1, 2017; statutory provisions related to the task force are repealed June 30, 2019.

Fiscal Summary

State Effect: None. MSDE can convene the task force, propose regulations, provide guidance to public agencies and nonpublic schools, and submit reports using existing resources. No effect on revenues.

Local Effect: None. Local school systems can provide annual reports to MSDE with existing resources. No effect on local revenues.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines a “public agency” to be MSDE, a local school system, the Maryland School for the Deaf, and the Maryland School for the Blind. It also defines seclusion to be confinement of a student alone in a room, enclosure, or any other space from which the student is physically prevented from leaving.

The task force must consider specified items and must review existing regulations related to seclusion and make recommendations to the State Board of Education and the General Assembly by October 1, 2017, regarding the use of seclusion. Specifically, if the task force determines that there are circumstances under which seclusion may be used, it must report findings and recommendations regarding (1) the types of doors and locking mechanisms that may be used; (2) the safety of the rooms used for seclusion; (3) the requirements for observation of the rooms used for seclusion; (4) the period of time for the use of seclusion; and (5) the requirements for the discontinuation of seclusion. The task force must also recommend changes that are needed to update regulations to be consistent with current law and other findings and recommendations by the task force. MSDE must submit proposed regulations to the State Board of Education by December 1, 2017.

In consulting with representatives of institutions of higher education and the Professional Standards and Teacher Education Board, the State Superintendent must ensure that sufficient training is available for teachers and administrators regarding evidence-based positive behavioral interventions, strategies, and supports.

Beginning with the 2018-2019 school year, each public agency and nonpublic school must submit to MSDE by December 1 of each year a report on the number of physical restraint and seclusion incidents in a specified format. The same entities must also submit annual reports to MSDE on the professional development that was provided to designated school personnel related to positive behavioral interventions, strategies, and supports and trauma-informed interventions. They must (1) personally observe and review seclusion rooms; (2) review training plans for the use of seclusion; and (3) report to MSDE regarding findings from the first two activities. MSDE must provide guidance to public agencies and nonpublic schools regarding the requirements of the use of seclusion and rooms for seclusion. MSDE must also report to the General Assembly regarding findings and recommendations reported to MSDE by public agencies and nonpublic schools.

The bill repeals definitions of “exclusionary time out,” “functional behavior assessment,” and “mechanical restraint” from statute.

Current Law: Physical restraint means the use of physical force, without the use of any device or material, to restrict the free movement of all or a portion of a student’s body.

Seclusion means the confinement of a student in a locked room, closet, box, or other space from which the student is physically prevented from leaving.

The State Superintendent must consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board with respect to training requirements for teachers to ensure that sufficient training is available regarding positive behavioral interventions and strategies, consistent with professionally accepted practices and standards for persons entering the field of education.

Chapter 230 of 2002 required MSDE to appoint a task force to propose regulations to the State Board of Education regarding student behavior intervention practices. MSDE was required to submit regulations proposed by the task force by December 31, 2002. Chapter 230 also required local school systems, State-operated programs, and nonpublic schools to develop policies and procedures in compliance with the regulations adopted by MSDE. Finally, it required the State Superintendent to consult with representatives of institutions of higher education and the Professional Standards and Teacher Education Board to ensure that sufficient training in positive behavior interventions is available to persons entering the field of education.

The Code of Maryland Regulations (COMAR) prohibits the use of physical restraint and seclusion by public agencies and nonpublic schools except in specified circumstances. Physical restraint and seclusion may be used only when (1) there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive nonphysical interventions have failed or been determined to be inappropriate; (2) the student's behavioral intervention plan or individualized education plan (IEP) describes specific behaviors and circumstances in which physical restraint may be used; or (3) the parents of a nondisabled student have otherwise given written consent for the use of physical restraint while a behavior intervention plan is being developed.

Physical restraint and seclusion may be applied only by school personnel who are trained in their appropriate use. Regulations include specific guidelines about the form and duration of physical restraint and seclusion that may be used, and they require that each instance be documented and reported to parents. They also specify the specific follow-up interventions that public agencies and nonpublic schools must take after the use of physical restraint or seclusion for students with and without IEPs.

Additional Information

Prior Introductions: None.

Cross File: Although identified as a cross file, HB 331 (Delegates Luedtke and Ebersole)
- Ways and Means is different.

Information Source(s): Baltimore, Charles, and Montgomery counties; Maryland State
Department of Education; Department of Health and Mental Hygiene; Department of
Legislative Services

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