

# Education Advocacy Coalition For Students with Disabilities

## HOUSE WAYS AND MEANS COMMITTEE

### HOUSE BILL 1166: EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—REQUIREMENTS, REPORTING, AND TRAINING FEBRUARY 24, 2021

The Education Advocacy Coalition for Students with Disabilities (EAC), a coalition of more than 30 organizations and individuals concerned with education policy for students with disabilities in Maryland, strongly supports House Bill 1166, which would 1) require the Maryland State Department of Education (MSDE) to develop an accountability system to measure compliance by local school systems and nonpublic schools with state regulations regarding the use of restraint and seclusion and to analyze data collected about the use of restraint and seclusion to determine trends and patterns; 2) impose additional requirements if seclusion is used in schools, and 3) increase the ability of school staff to better meet the needs of their students by addressing gaps in teacher preparation and professional development, thereby reducing the reliance on restraint and seclusion as a tool of classroom management. As was discussed at length during the hearings on Senate Bill 786 and its companion House Bill in 2017, restraint and seclusion can be aversive, trauma-inducing and dangerous, often resulting in injury to students and sometimes to school staff as well.

Senate Bill 786, which was enacted and became effective on July 1, 2017, required, for the first time, collection and reporting of data regarding the use of restraint and seclusion in public and nonpublic schools throughout the state. By December 1<sup>st</sup> of each year, MSDE must issue a report to the General Assembly with data, disaggregated by a number of categories including age, race and ethnicity, disability, placement, gender and jurisdiction. The legislation also required the appointment of a workgroup to make recommendations to the Maryland State Department of Education (MSDE) regarding revisions to the Code of Maryland Regulations. The workgroup issued its report; MSDE adopted some, but not all, of the recommendations, and new regulations were finalized in 2018, strengthening the protections in place for students. Subsequently, MSDE issued strong guidance clearly reiterating that restraint and seclusion may be used only when a student poses “imminent serious physical harm to self or others” and that this term means “[a] substantial risk of death; [e]xtreme physical pain; [p]rotracted and obvious disfigurement; or [p]rotracted loss or impairment of the function of a bodily member, organ or mental faculty.” Because all students--those with and without disabilities--are covered by the legislation and regulations, MSDE lodged responsibility for implementation and oversight of the legislation and regulations with its Division of Student Support, Academic Enrichment & Educational Policy. EAC members and many others hoped and expected that with stronger regulations and strong guidance from MSDE, and with the training requirements also included in Senate Bill 786, the incidence of restraint and seclusion would decrease.

Unfortunately, that has not been the case. The General Assembly has now received three reports from MSDE covering the 2017-18, 2018-19 and 2019-20 school years. The incidence of restraint and seclusion remains extremely high in many jurisdictions. For example, during the 2019-20 school year, which was cut short by school building closures in mid-March because of the coronavirus pandemic, Harford County reported 547 restraint incidents, an *increase* over the previous full school year's total of 486

restraint incidents. Harford County reported a total of 1153 seclusion incidents during the 2018-19 school year and seemed likely to surpass that number during the 2019-20 school year, having reached a total of 817 incidents when school buildings closed. Similarly, Baltimore County reported 926 restraint incidents during the abbreviated in-person 2019-20 school year, close to the previous full school year's total of 1053 incidents. Baltimore County reported 330 incidents of seclusion during the 2019-20 school year, substantially *more* than the 2018-19 total of 218. Other local school systems also reported increased numbers.

Many local school systems disproportionately restrain and seclude students of color. For example, during the 2019-20 school year in Baltimore County, 665 of the 926 restraint incidents (72%) and 225 of the 330 seclusion incidents (68%) involved students of color and in Howard County, 515 of the 616 restraint incidents (84%) and 116 of the 132 seclusion incidents (88%) involved students of color.

Across all districts, the vast majority of students who are restrained and placed in seclusion are students with disabilities, the majority are in elementary school, and the majority are boys.

Despite strong regulations and policy, many Maryland local school systems and many of its nonpublic schools simply rely too heavily on restraint and seclusion as routine ways of attempting to manage student behavior instead of treating them as the truly rare, emergency interventions they are meant to be. House Bill 1166 addresses this problem by imposing additional requirements before seclusion can be used and by addressing some of the gaps that have been illuminated by three years of the Senate Bill 786 Implementation process. MSDE's Division of Student Support, Academic Enrichment & Educational Policy collects the data required by Senate Bill 786 but does no analysis of the data and makes no effort to identify school districts or nonpublic schools that may be violating the regulations. The Division makes no attempt to identify trends or to target districts with a high use of restraint and seclusion for support, professional development or enforcement. House Bill 1166 would require the Department to analyze the data collected to determine trends and patterns, verify data and make recommendations.

Part of the reason there has been no data analysis or follow up with districts is because MSDE's Division of Student Support, Academic Enrichment & Educational Policy, unlike the Division of Early Intervention and Special Education, has no accountability structure in place to ensure compliance with the regulations. House Bill 1166 would require MSDE to develop an accountability structure and to take responsibility for reducing the use of restraint and seclusion in public and nonpublic schools.

Finally, although the importance of teacher preparation and professional development were recognized with a limited attempt to address these critical issues even in the initial 2003 legislation enacted by the General Assembly, it has become increasingly evident that many teachers enter their classrooms unprepared to meet the academic and behavioral needs of their students. By requiring MSDE to work with higher education institutions and by requiring additional professional development, House Bill 1166 recognizes and makes a more robust effort to address this issue.

For these reasons, the EAC supports House Bill 1166. For more information, please contact Leslie Seid Margolis, Chairperson, at [lesliem@disabilityrightsmd.org](mailto:lesliem@disabilityrightsmd.org) or 410-370-5730.

Respectfully submitted,

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