



SB705 EDUCATION – PHYSICAL RESTRAINT AND SECLUSION – LIMITATIONS, REPORTING, AND TRAINING

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EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE

OPPOSE

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Anne Arundel County Public Schools (AACPS) opposes **SB705 Education – Physical Restraint and Seclusion – Limitations, Reporting, and Training**. This bill prohibits a public agency from using seclusion as a behavioral health intervention for a student. It also prohibits a public agency from using physical restraint and a nonpublic school from using physical restraint or seclusion as a behavioral health intervention for a student, except under certain circumstances. The bill requires MSDE to develop an accountability system to measure compliance with regulations adopted on the use of physical restraint and seclusion.

AACPS supports the basic tenets of this legislation – the need to reduce restraint and seclusion, and the benefits of implementing trauma-informed decision-making, as appropriate. AACPS does not utilize seclusion within AACPS schools. However, nonpublic schools serving AACPS students use seclusion as necessary. Accordingly, the restriction on nonpublic schools will impact these schools. In addition, the district has concerns with the proposed changes to seclusion practices, which are significant, as well as some of the IEP requirements set forth in the bill. One particular area of concern is the requirement to conduct a review of a student’s seclusion during a change of placement meeting or during an annual review as these meetings may not be timely. Another concern is the requirement that a health care practitioner – defined as a physician, psychologist, or social worker – be on site when a student has been secluded. It is not clear how a physician would be in a school setting on a regular basis to observe a student during a seclusion.

AACPS has concerns with and does not support the extensive reporting requirements outlined in the legislation, the additional training requirements, or the need for State intervention into local practices. While well intentioned, this bill includes a heavy documentation and accountability process regarding restraint and seclusion reporting, practices, professional development, data, and changes to practice that are burdensome and overreaching. While AACPS supports any practices that decrease the need for restraint and seclusion as well as trauma-informed interventions, this bill proposes analysis of data that is reported annually without defining what that analysis would look like, the purpose of the analysis, or who would conduct the analysis. The bill further requires changes based on the undefined analysis regardless of whether the undefined analysis is even needed. It also requires State intervention regarding the sufficiency of current training and requires that a local school system remedy any gaps identified by MSDE without providing the standards that would be required to make such a determination. Accordingly, we recommend that these provisions be stricken from the bill.

It is important to note that a 2017 task force studied this issue and released a report with recommendations on the use of restraint and seclusion. The task force, which consisted of experts on this subject matter from around the State, reached two overarching conclusions. First, it determined that the regulatory framework at

the time should be maintained except in those areas where specific revisions have been recommended. Second, the task force determined that while some areas required regulatory enhancement, others could be addressed through additional guidance from MSDE. State regulations on restraint and seclusion were amended as a result. The requirements set forth in the amended State regulations limit the use of restraint and seclusion and more clearly defined the term “seclusion”, among other things. Under current regulations, physical restraint may only be used if 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 inappropriate; 2) the student’s behavioral intervention plan or 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. The regulations also specify when and how seclusion may be used. It is also important to note that physical restraint and seclusion may only be used by school personnel who are trained in their appropriate use.

Finally, this legislation also creates an unfunded mandate. AACPS will likely be required to hire additional staff to fulfill the various reporting and training requirements set forth in the bill.

Accordingly, AACPS respectfully requests an **UNFAVORABLE** committee report on SB705.