

BILL: Senate Bill 705
TITLE: Education - Physical Restraint and Seclusion - Limitations, Reporting, and Training
POSITION: SUPPORT WITH AMENDMENTS
DATE: March 31, 2022
COMMITTEE: Ways and Means
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports Senate Bill 705 with amendments to address concerns with the scope and timing of certain provisions, including the elimination of seclusion as an allowable behavioral intervention in public schools. MABE appreciates the amendments adopted to House Bill 1255 regarding the definition of seclusion and requests a similar amendment to Senate Bill 705.

MABE's primary concerns, proposed to be addressed in amendments, is that if enacted this bill would prohibit services currently included in student Individualized Education Programs (IEPs) and Behavioral Intervention Plans (BIPs). Under current law and regulations: "[O]nce seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with §B(1) of this regulation, seclusion may be included in a student's behavioral intervention plan or IEP to address the student's behavior in an emergency situation" (COMAR 13A.08.04.05.B.3). The regulations also require parental consent and stipulate the requirements for the use of seclusion rooms.

Under Senate Bill 705, these regulations governing the use of seclusion could continue to be applied based on a student's IEP or BIP, but only in nonpublic schools. Therefore, MABE is requesting amendments to allow for a reasonable amount of time to continue to administer existing IEPs and BIPs as any new regulations are promulgated and guidance is provided on the transition away from practices now allowed in both public and private schools.

MABE recognizes and respects the work of advocates and legislators calling not only for strict limitations on the use of restraint and seclusion, but also for the absolute, or near absolute, prohibition on the use of seclusion in public schools. As introduced, Senate Bill 705 would enact such reforms. However, MABE believes that even if these reforms are to be enacted in 2022, local school systems should be provided with a reasonable amount of time to implement them. School systems, under this legislation, would be required to review the placements of any student for whom seclusion is now a component of their IEP. Presumably many students would, as a result of this review, be reassigned to a placement in a nonpublic special education school. Similarly, local school system programs in which seclusion is used would need to be reformed, involving staff training and facilities modifications.

MSDE has announced an initiative to review and recommend reforms to the use of restrain and seclusion in public schools, and is supporting this legislation with amendments. In this context, beyond the effective date of the bill, MABE requests an amendment to ensure that the new and dramatically different standards and prohibitions contained in this legislation take effect only once MSDE has provided revised guidance and the regulations to conform COMAR to this new law have been finalized.

For these reasons, MABE requests a favorable report on Senate Bill 705 with the amendments described above.