



Mohammed Choudhury
State Superintendent of Schools

BILL:	Senate Bill 705	DATE:	March 31, 2022
SUBJECT:	Education – Physical Restraint and Seclusion – Limitations	COMMITTEE:	Ways and Means
POSITION:	Support with Amendments		
CONTACT:	Ary Amerikaner 410-767-0090 ary.amerikaner@maryland.gov		

EXPLANATION:

The Maryland State Department of Education (MSDE) supports with amendments **Senate Bill (SB) 705 – Education – Physical Restraint and Seclusion – Limitations**, which prohibits the use of physical restraint and seclusion as behavioral interventions, except in specific circumstances. The bill adds data requirements to a current report, and adds a duty to investigate instances when one student is physically restrained or secluded more than 10 times in a school year.

The MSDE supports the amendments adopted in the Senate and appreciated working with the Education, Health, and Environmental Affairs committee to have them included in the current version of the bill.

Research consistently shows that there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.¹ It also shows that students of color are disproportionately subjected to the use of restraint and seclusion. For example, nationally, Black students made up 18% of students with disabilities served under the Individuals with Disabilities Act (IDEA) but 26% of students with disabilities served under IDEA who were subjected to physical restraint, and 22% of the students subjected to seclusion.² This pattern is exacerbated by disproportionate identification of Black students as “emotionally disturbed” and disproportionate use of restraint and seclusion on students identified as emotionally disturbed. For example, in Maryland, Black students make up 50% of students who are labeled “emotionally disturbed” despite making up roughly 30% of the overall student population.³ And in Maryland, a full one third of the incidents of restraint are inflicted upon students who are “emotionally disturbed.”⁴

¹ U.S. Gov't Accountability Office, GAO-09-719T, *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*, page iii

² 2017-2018 Civil Rights Data Collection The Use of Restraint and Seclusion on Children With Disabilities in K-12 Schools, <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>

³ <https://www.marylandpublicschools.org/stateboard/Documents/2021/1026/SpotlightOnStudentsWithDisabilitiesPresentation.pdf>

⁴ http://dlslibrary.state.md.us/publications/Exec/MSDE/ED7-1102_2021.pdf

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The MSDE supports the provisions of this bill that will reduce the use of the techniques, but expresses a strong request to the committee to strengthen the proposal in critical ways.

There is no place in Maryland's schools for the use of seclusion. MSDE supports the provisions of this bill that eliminate the practice in local school systems, but the bill does not go far enough. By excluding non-public schools from this ban on seclusion, the State will leave students in those schools vulnerable to abuse. If eliminating the use of seclusion in non-public schools requires a phased approach over the course of two or three years, the state can work on an implementation timeline. However, we should make a decision this year and make clear that these ineffective and often abusive practices are no longer going to be allowed in Maryland by a date-certain. Therefore, MSDE requests an amendment that will:

1. Ensure that nonpublic schools are included in all references where seclusion is prohibited, beginning with the references on page 3, line 13.
2. Strike all provisions in the bill that describe conditions where seclusion is permissible; and
3. Add to the definition of seclusion, "except that such term does not include a time out" and add the definition of "time out" found on page 9-10 of a relevant federal proposal.⁵

All but the most limited forms of restraint, in the most extreme and rare situations, should also be banned in Maryland's schools. MSDE appreciates the portion of the bill that codifies existing regulations⁶ by limiting the situations in which restraint can be used to those in which it is necessary to protect the student or another individual from imminent serious physical harm and other, less intrusive nonphysical interventions have failed or been demonstrated to be inappropriate for the student. **The MSDE supports the amendments adopted in the Senate to define physical restraint** as "a personal restriction that immobilizes a student or reduces the ability of a student to move their torso, arms, legs, or head freely that occurs during school hours."

Accountability and corrective action is important in making progress on this issue. As a first step, the MSDE supports the bill's provisions to add to the current collection of data in ways that will enable further disaggregation, require local school systems to review student cases in public and nonpublic schools if a student is physically restrained more than 10 times in a school year, and increase MSDE involvement in the provision of training and professional development regarding positive behavioral interventions. **The MSDE supports the amendment adopted in the Senate for a corrective action plan** to be submitted to the Department if the public agency or nonpublic school fails to comply with any provision in the bill, or if a student has been restrained or secluded 10 times or more in a school year.

This bill takes an important initial step to move towards eliminating the use of restraint and seclusion techniques in Maryland's schools. However, MSDE believes that the research indicates a more complete effort is appropriate and necessary at this time.

We respectfully request that you consider this information as you deliberate **Senate Bill 705**. Please contact Ary Amerikaner, at 410-767-0090, or ary.amerikaner@maryland.gov, for any additional information.

⁵ www.murphy.senate.gov/imo/media/doc/kassa.pdf

⁶ <http://mdrules.elaws.us/comar/13a.08.04.05>