

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 592
Ways and Means

(Delegate Kaiser, *et al.*)

Education - Student Behavior Interventions - Use of Time Out, Restraint, and
Seclusion

This bill modifies requirements for student behavior interventions and the use of exclusionary time outs, mechanical restraint, physical restraint, and seclusion.

Fiscal Summary

State Effect: The Maryland State Department of Education could make any necessary changes to existing regulations with existing personnel and resources and could provide technical support and assistance to schools and school systems implementing the modified interventions.

Local Effect: Any additional training and reporting requirements for local school systems would not materially impact local school system budgets.

Small Business Effect: Minimal. Nonpublic schools serving students with disabilities would incur minimal training costs to ensure compliance with the bill.

Analysis

Bill Summary: The bill alters the definitions of “physical restraint” and “seclusion” in order to limit the acceptable use of these interventions by local school systems, state-operated programs, and nonpublic schools. In addition, the bill prohibits a local school system, state-operated program, or nonpublic school from using a method of physical restraint that places a student face down with pressure applied to the student’s back, impairs a student’s ability to breathe, obstructs a staff member’s view of a student’s

face, or restricts a student's ability to communicate distress. School personnel must notify a student's parent every third time that an exclusionary time out, mechanical restraint, physical restraint, or seclusion is used with the student. If a student does not have a behavior intervention plan or an individualized education plan (IEP), the student must be referred to the school's pupil personnel team immediately following a third incident involving one of these interventions.

Each local school system, state-operated program, and nonpublic school must provide copies of their policies and procedures for the use of exclusionary time outs, mechanical restraint, physical restraint, and seclusion to the parents of all students who are subject to these interventions. The entities must also have written policies that specify the methods used to ensure that students whose primary method of communication is nonverbal are able to communicate distress effectively during a physical restraint or hold. Each local school system, state-operated program, and nonpublic school must annually submit its staff training curriculum for positive behavioral interventions and the use of exclusionary time outs, mechanical restraint, physical restraint, and seclusion.

With the consent of a student's parent or the consent of a student who has reached the age of majority, a local school system must invite a representative from a residential program where the student resides when the purpose of a meeting is to consider the behavior needs of a student. If an invited representative does not attend the meeting, the local school system must take other steps to obtain and share information about strategies used to address the student's behavior.

Current Law: Subject to guidelines established by the State Board of Education, each local board of education must adopt regulations to create and maintain the discipline necessary for effective learning in public schools. The policies adopted by a local board must provide for educational and behavioral interventions, counseling, and student and parent conferencing.

By regulation, school personnel may only use exclusion, restraint, or seclusion • after less restrictive or alternative approaches have been considered; • in a humane, safe, and effective manner; • without intent to harm or create undue discomfort; and • consistent with known medical or psychological limitations and the student's behavioral intervention plan. The regulations require a student's parents to be notified within 24 hours each time restraint or exclusion are used, unless otherwise required by a student's behavior intervention plan or IEP. Students in seclusion must be reassessed every 30 minutes at a minimum.

Local school systems, State-operated programs, and nonpublic schools must develop policies and procedures in compliance with the regulations. The State Superintendent

must 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.

Background: Chapter 230 of 2002 established statutory definitions for exclusionary time out, mechanical restraint, physical restraint, and seclusion and required the State Superintendent of Schools to appoint a task force to propose regulations to the State Board of Education regarding student behavior intervention practices. Following the work of the task force, the Maryland State Department of Education was required to submit proposed regulations to the State board by December 31, 2002. In compliance with this requirement, new regulations were adopted by the State Board of Education in 2003.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education, Department of Legislative Services

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Analysis by: Mark W. Collins

Direct Inquiries to:
(410) 946-5510
(301) 970-5510