
MARYLAND COALITION TO REFORM SCHOOL DISCIPLINE

HOUSE WAYS AND MEANS COMMITTEE **HOUSE BILL 1166: Education – Physical Restraint and Seclusion – Requirements, Reporting, and Training**

FEBRUARY 22, 2021

POSITION: SUPPORT

The Maryland Coalition to Reform School Discipline (“CRSD”) brings together advocates, service providers, and community members dedicated to transforming school discipline practices within Maryland’s public school systems. We are committed to making discipline responsive to students’ behavioral needs, fair, appropriate to the infraction, and designed to keep youth on track to graduate. CRSD supports House Bill 1166 to increase accountability and oversight related to the use of restraint and seclusion while reducing the use of these interventions in public and non-public schools across the state of Maryland. The bill requires that the State Superintendent consults with higher education institutions to ensure that new teachers are getting appropriate instruction in evidence-based, trauma-informed, positive behavioral interventions, strategies, and supports.

In accordance with COMAR 13A.08.04.05 except as provided in the regulation, the use of restraint and seclusion is prohibited in public agencies and nonpublic schools until there is an emergency situation and restraint and/or seclusion are 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. Imminent, serious, physical harm has the same meaning as serious bodily injury as used in the Individuals with Disabilities Education Act (IDEA). It means bodily injury which involves:

- i) A substantial risk of death;
- ii) Extreme physical pain;
- iii) Protracted and obvious disfigurement; or
- iv) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Unfortunately, despite a high threshold for usage, a life or death situation, restraint and seclusion are often used in schools across the state for criteria that do not meet the legal requirements as outlined in COMAR. These interventions are used in situations where a student might become non-compliant, disrespectful, use offensive language, or for minor behaviors. These interventions are used disproportionately on students with disabilities as well as Black and Brown students. According to recent data, 93% of restraint instances and 98% of seclusion

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instances in Maryland schools involved a student with a disability. The use of restraint and/or seclusion can lead to significant trauma and injuries to students, teachers, and staff. Hundreds of students have even died being restrained in schools across the nation as has been documented by the Government Accountability Office (GAO) in the 2009 report *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*.

In 2017, Maryland Senate Bill 786 was enacted which required the collection and reporting of data regarding the use of restraint and seclusion in public and nonpublic schools throughout the state of Maryland. The first report was published in December 2018 for the 2017/18 school year. According to the initial report, 18,222 instances of restraint and 8,048 instances of seclusion were reported. In the next reporting cycle, 2018/19, there were 19,713 instances of restraints and 9,532 instances of seclusion reported during the 2018/19 reporting period. Looking at these numbers we see the total number of instances of restraint and seclusion of 29,245 in the latest reporting cycle as opposed to 26,270 in the previous reporting cycle. This represents about an 11% increase in the use of restraint and seclusion in Maryland year over year. As of December 2020, the General Assembly has received three reports from the Maryland State Department of Education covering the 2017-18, 2018-19, and 2019-20 school years. The usage of these dangerous crisis management techniques is not decreasing, more must be done.

We believe that House Bill 1166 will help reduce the use of restraint and seclusion in Maryland public and non-public schools. House Bill 1166 builds on the 2017 restraint and seclusion reporting legislation and requires data verification, analysis, and an accountability system. The bill requires that the Maryland State Department of Education would be required to make recommendations to reduce the use of restraint and seclusion across the state. Finally, the use of seclusion would be limited to facilities that have an onsite licensed physician, a licensed clinical psychologist, or a licensed clinical social worker.

For the foregoing reasons, the Maryland Coalition to Reform School Discipline supports HB 1166.

CRSD Members

Organizations

ACLU of Maryland
Alliance Against Seclusion and Restraint
The Arc, Maryland
Attendance Works
BMore Awesome, Inc.
The Choice Program at UMBC
Community Law in Action

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Disability Rights Maryland
Family League of Baltimore
NARAL-Pro-Choice Maryland
Maryland Office of the Public Defender
Open Society Institute – Baltimore,
Project HEAL at Kennedy Krieger Institute
Public Justice Center
Restorative Counseling Services
Schools Not Jails
The Maryland Developmental Disabilities Council
Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law

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