



DATE: February 24, 2021 **COMMITTEE:** House Ways & Means
BILL NO: House Bill 1166
BILL TITLE: Education – Physical Restraint and Seclusion – Guidelines and Reporting
POSITION: Support

Kennedy Krieger Institute supports House Bill 1166 – Physical Restraint and Seclusion –Requirements, Reporting and Training.

Bill Summary:

House Bill 1166 restricts the use of physical restraint and seclusion within a public agency or nonpublic school. An entity may only utilize physical restraint and seclusion after all other methods are determined ineffective, including less intrusive, nonphysical interventions, and when the restraint or seclusion is necessary to protect the student or another individual from serious harm. It requires the assessment of students by licensed health professionals if the students may be subject to these interventions. Additionally, the bill outlines observation, time limitations and parameters for physical restraint or seclusion. The bill requires the Maryland State Department of Education (MSDE) to analyze data reporting the use of physical restraint and seclusion in schools and make recommendations on policy changes and professional development opportunities. Lastly the bill requires public agencies and nonpublic schools to conduct annual review of policy and professional development in an ongoing effort to reduce the use of physical restraint and seclusion.

Background:

Section 7-1102.1 of the Education Article of the Annotated Code of Maryland requires the MSDE to report annually on the findings and recommendations of data collected by public and nonpublic schools on the use of physical restraint and seclusion.

Data are currently collected using an online survey for reporting: (1) Number of physical restraints and seclusion incidents, disaggregated by the student's jurisdiction, disability, race, gender, age, and type of placement; and (2) Professional development provided to designated school personnel related to positive behavioral interventions, strategies, supports, and trauma-informed interventions.

While these reports are welcome in providing transparency in school use of physical restraint and seclusion, they do not provide for an analysis which MSDE can use to formulate guidance, professional development, and accountability, which would result in a decrease in the use of these interventions. Further these reports do not include critical information including the type of physical restraint, which can range very broadly in restrictiveness or durations, which is essential in understanding any use of physical restraint. Duration of seclusion, also a crucial portion of data, is also not included.

Rationale:

Kennedy Krieger Institute is home to a nationally recognized “Blue Ribbon School of Excellence” comprehensively committed to providing innovative special education and clinical services for children, adolescents and young adults with a wide range of learning, emotional, physical, neurological and developmental disabilities.

Our mission is to enable students to reach their potential academically, socially and behaviorally. We are committed to protecting all students and staff, ensuring that they share a safe environment to learn and grow. It is this commitment that requires us to provide our support in the effort to adequately and carefully regulate the use of physical restraint and seclusion.

Physical restraint and seclusion are serious, last-resort techniques for ensuring safety. Each must be carefully designed and implemented by highly trained staff. The use of these interventions must be immediately balanced against the risk of failing to intervene in the presence of imminent danger to a person. Efforts to improve safety for students, when the balance of risk requires this use, must be supported. In that effort we support the necessity of oversight in the use of restraint and seclusion by licensed health care professionals, trained to assess students' physical, behavioral, and mental health. These professionals must be familiar with the interventions being applied and with the students involved.

The enhanced collection and use of data to increase student safety is also critical in the effort to reduce these procedures. It is essential that MSDE's division of Student Support, Academic Enrichment and Educational Policy be provided the resources, financial and structural, to support this mission. Expanded data collection and the beginning of meaningful analysis will allow MSDE to develop guidance, professional development opportunities, and accountability regarding restraint and seclusion. Kennedy Krieger has met with the highly committed professionals in this agency, critical to student safety, and we understand they must be given the tools, both in personnel and infrastructure they request. An unfunded mandate will not provide what all students need.

Lastly, requiring public agencies and nonpublic schools to review, improve, and report efforts to reduce the use of physical restraint and seclusion is the logical next step in any effort improving services. Kennedy Krieger employs an internal Continuous Quality Improvement (CQI) process, based on literature from clinical settings using physical restraint and seclusion, to review all aspects of the use of restraint and seclusion in our schools. This review includes types of physical restraints, durations of interventions, as well as the comparison of trends within and across years both for individual students and student cohorts. This process is critical in understanding our success or failure in treating and educating our students. A state-wide process with the initial steps required for the analysis of these interventions should not be envisioned as a punishment for schools serving students who may present behavior requiring restraint and seclusion. Rather, it must be envisioned and supported as a state-wide CQI effort to reduce the use of physical restraint and seclusion with each individual student. Every program in Maryland would benefit from the discussion and dissemination of this work.

In consideration of all these critical issues Kennedy Krieger Institute requests a favorable report on House Bill 1166.