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House Ways and Means Committee

March 10, 2022

HB1255: Education - Physical Restraint and Seclusion - Limitations, Reporting, and Training

Position: Support

The Arc Maryland is the largest statewide advocacy organization dedicated to protecting and advancing the rights and quality of life of people with intellectual and developmental disabilities and we support HB1255 as we believe a full and active life supported by caring relationships can reduce the occurrence of challenging behaviors in people with intellectual and/or developmental disabilitiesⁱ.

However, if such behaviors occur, people with intellectual and/or developmental disabilities and those who support them **must have access to positive behavioral supports** that focus on improved quality of life as well as reductions in the behaviors.

Research-based positive behavioral supports should be readily available in school settings. Educators, other professionals, and paraprofessionals should be provided with training and support in implementing effective positive behavioral interventions and supports in the school environment. Behavioral supports should be individually designed and positive, emphasize learning, offer choice and social integration, be culturally appropriate, and include modifying environments as needed.

Restraint and seclusion cause physical and/or psychological pain or result in humiliation or discomfort. Inevitably, students experience a trauma that will follow them and shape their views of themselves, others, and the world for their lifetimes. Physical restraints should only be used as a last resort to eliminate the danger of physical injury to self or others.ⁱⁱ

In 2017, SB 786 (Ch. 611) passed requiring the development of a task force to look at restraint and seclusion and also requiring that each public agency, public school system, and nonpublic special education school in Maryland submit annual data on physical restraint and seclusion to the Maryland State Department of Education. These data points are then compiled into a report that is shared with the General Assembly.ⁱⁱⁱ

State data from the 2019-2020 school year shows that restraint and seclusion continued to be used disproportionately with students who have disabilities. This is a consistent finding from previous Maryland school restraint and seclusion data sets.

In Maryland, restraint was used over 12,000 times and close to 60% of all students involved were students with disabilities. Seclusion was used over 6000 times and 57% of those incidents involved students with disabilities. **Almost all of the seclusion incidents and almost 90% of all restraint incidents happen to students in special education settings** to include self-contained, special education classrooms, public/private separate day schools, and child residential settings.



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Despite regulations, policy, and known national best practices, many Maryland local school systems and many of its nonpublic schools use restraint and seclusion routinely to manage student behavior.

HB1255 will prohibit seclusion in public schools and create specific requirements for nonpublic special education schools before seclusion may be years. It will also require clearer data requirements to disaggregate students in the report, include demographics, and require details on length of seclusions.

The bill will also require MSDE to develop an accountability structure and measurable plan to reduce the use of restraint and seclusion in schools. Lastly, to ensure teachers are equipped with the tools they need to successfully support and educate students, educators will receive professional development training and support on evidence-based positive behavior interventions and trauma-informed care.

The time to take action to protect students from the harms of restraint and seclusion is now! It is the right thing to do for our children and teachers. If we do not act, it is very possible that the recent Department of Justice settlement with Frederick County Public Schools^{iv} will be only the first in a long line of investigations and lawsuits that rock Maryland. It is our hope that state and county resources are put into improving training and positive behavioral supports for educators as opposed to settling lawsuits that could have been avoided with our expeditious action.

We urge a favorable report on HB1255.

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ⁱ Intellectual Disability (ID) is a lifelong condition where significant limitations in both intellectual functioning and adaptive behavior emerge during the developmental period (before adulthood). Developmental Disabilities (DD), first defined in 1975 federal legislation now known as “The DD Act”, are a group of lifelong conditions that emerge during the developmental period and result in some level of functional limitation in learning, language, communication, cognition, behavior, socialization, or mobility. The most common DD conditions are intellectual disability, Down syndrome, autism, cerebral palsy, spina bifida, fetal alcohol syndrome, and fragile X syndrome. The acronym “IDD” is used to describe a group that includes either people with both ID and another DD or a group that includes people with ID or another DD. The supports that people with IDD need to meet their goals vary in intensity from intermittent to pervasive.

ⁱⁱ <https://www.copaa.org/blogpost/895540/234517/Trauma-Informed-Care-Child-Safety-Without-Seclusion-and-Restraint>

ⁱⁱⁱ The Annotated Code of Maryland Education Article 7-1102. https://marylandpublicschools.org/programs/Documents/TFRS/Ch_611_sb0786T.pdf

^{iv} <https://www.justice.gov/opa/pr/justice-department-reaches-settlement-maryland-school-district-protect-students-disabilities>