

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 283

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO PUBLIC SCHOOLS; LIMITING THE USE OF RESTRAINT AND
SECLUSION; PROVIDING FOR NOTICE TO PARENTS; PROVIDING FOR
ANNUAL REPORTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is
enacted to read:

"~~NEW MATERIAL~~ LIMITATION ON USE OF RESTRAINT AND
SECLUSION--INFORMATION TO BE PROVIDED TO PARENTS--PRIVATE RIGHT
OF ACTION--REPORTING REQUIREMENTS.--

A. As used in this section:

(1) "aversive intervention" means any device
or intervention, consequences or procedure intended to cause
pain or unpleasant sensations, including interventions causing
physical pain, tissue damage, physical illness or injury;

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underscored material = new
[bracketed material] = delete

1 electric shock; isolation; forced exercise; withholding of
2 food, water or sleep; humiliation; water mist; noxious taste,
3 smell or skin agents; and overcorrection;

4 (2) "chemical restraint" means the
5 administration of a medication that is not standard treatment
6 for the student's medical or psychiatric condition that is used
7 to control behavior or to restrict a student's freedom of
8 movement and does not include medical restraint prescribed by a
9 doctor as a health-related protective measure in a specific
10 circumstance as outlined by the doctor and administered by
11 trained medical personnel;

12 (3) "mechanical restraint" means the use of
13 any device or material attached or adjacent to the student's
14 body that restricts freedom of movement or normal access to any
15 portion of the student's body and that the student cannot
16 easily remove, but "mechanical restraint" does not include
17 mechanical supports or protective devices;

18 (4) "mechanical support" means a device used
19 to achieve proper body position, designed by a physical
20 therapist and approved by a physician or designed by an
21 occupational therapist, such as braces, standers or gait belts,
22 but not including protective devices;

23 (5) "physical escort" means the brief, gentle
24 touching or holding of a hand, wrist, arm, shoulder, waist, hip
25 or back for the purpose of inducing a student to move to a safe

1 location;

2 (6) "physical restraint" means the use of
3 physical force without the use of any device or material that
4 restricts the free movement of all or a portion of a student's
5 body, but "physical restraint" does not include physical
6 escort;

7 (7) "prone restraint" means to restrain a
8 student in a face-down position;

9 (8) "protective devices" means helmets, safety
10 goggles or glasses, guards, mitts, gloves, pads and other
11 common safety devices that are normally used or recommended for
12 use by persons without disabilities while engaged in a sport or
13 occupation or during transportation. If atypical use of a
14 protective device is planned for a student with a disability,
15 it must be recommended by a physician;

16 (9) "restraint" when not otherwise modified
17 means chemical, mechanical or physical restraint;

18 (10) "seclusion" means the confinement of a
19 student alone in a room from which the student is physically
20 prevented from leaving, but "seclusion" does not include time
21 out; and

22 (11) "time out" means a behavior management
23 technique that may involve allowing a student to voluntarily
24 separate from the group for the purpose of calming, if there is
25 no restriction on the student's ability to rejoin the group at

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1 will and such separation is not to a location from which the
2 student cannot voluntarily rejoin the group.

3 B. All school districts and charter schools shall
4 adopt policies and procedures with respect to the use of
5 restraints and seclusion that provide, at a minimum, that:

6 (1) aversive interventions are prohibited;

7 (2) chemical restraint is prohibited;

8 (3) mechanical restraint is prohibited;

9 (4) physical restraint and seclusion are

10 prohibited, except in the event of emergency situations, and
11 shall not:

12 (a) be used as planned educational
13 interventions;

14 (b) be included in individual education
15 program documents for individual students;

16 (c) be included in emergency plan
17 documents for individual students except as necessary to
18 document when restraint and seclusion are prohibited even in
19 emergency situations for individual students; or

20 (d) be used as disciplinary measures;

21 (5) restraint and seclusion may be used in an
22 emergency situation only to the extent necessary to protect a
23 student or another person from imminent, serious physical harm,
24 and using the least amount of force necessary to protect the
25 student or another person from harm, and only when another less

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1 intrusive, nonphysical intervention has failed or been
2 determined ineffective;

3 (6) the use of prone physical restraint and
4 any life-threatening restraints are strictly prohibited even in
5 emergency situations;

6 (7) physical restraint and seclusion in
7 emergency situations must be administered by staff trained in
8 evidence-based crisis intervention training that provides de-
9 escalation training and first aid, including how to identify
10 signs of medical distress;

11 (8) when a student is placed in seclusion, the
12 student shall be visually monitored on a continual basis. Any
13 room or structure used for the purpose of seclusion shall meet
14 all applicable building, fire and safety codes and any
15 applicable rules promulgated by the department;

16 (9) an emergency situation no longer exists
17 when:

18 (a) a medical condition occurs that puts
19 the student at equal or greater risk of harm;

20 (b) the student's behavior no longer
21 poses immediate danger of serious physical harm to the student
22 or others; or

23 (c) less restrictive interventions would
24 be effective in preventing such immediate danger of serious
25 physical harm; and

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