
A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Prevent and reduce the use of physical restraint and
- 3 seclusion in schools;
- 4 (2) Ensure the safety of all students and personnel in
- 5 schools and promote a positive school culture and
- 6 climate;
- 7 (3) Protect students from:
- 8 (A) Physical or mental abuse;
- 9 (B) Aversive behavioral interventions that compromise
- 10 health and safety; and
- 11 (C) Any physical restraint or seclusion imposed
- 12 solely for purposes of discipline or convenience;
- 13 (4) Ensure that physical restraint and seclusion are
- 14 imposed in school only when a student's behavior poses
- 15 an imminent danger of physical injury to the student,
- 16 school personnel, or others; and
- 17 (5) Assist schools in:



- 1 (A) Establishing policies and procedures to keep all
- 2 students and school personnel safe, including
- 3 students with the most complex and intensive
- 4 behavioral needs;
- 5 (B) Providing school personnel with the necessary
- 6 tools, training, and support to ensure the safety
- 7 of all students and all school personnel;
- 8 (C) Collecting and analyzing data on physical
- 9 restraint and seclusion in schools; and
- 10 (D) Identifying and implementing effective evidence-
- 11 based models to prevent and reduce physical
- 12 restraint and seclusion in schools.

13 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 **"§302A- Use of restraint or seclusion limited; parent**
17 **notification; procedures; training; policies and procedures**
18 **review.** (a) The use of restraint or seclusion is prohibited in
19 schools unless:

- 20 (1) There is an emergency situation and restraint or
- 21 seclusion is necessary to protect a student or another



1 person after other less intrusive interventions have
2 failed or been determined to be inappropriate; or

3 (2) The parents of a student have otherwise provided
4 written consent for the use of restraint or seclusion
5 while a behavioral intervention plan is being
6 developed.

7 (b) At a minimum, any room or structure used for seclusion
8 shall:

9 (1) Be free of objects and fixtures with which a student
10 could self-inflict bodily harm;

11 (2) Provide a teacher an unobstructed view of the student
12 from an adjacent area; and

13 (3) Provide adequate lighting and ventilation.

14 (c) All parents of students shall receive, at least
15 annually, written information about the policies and procedures
16 for restraint or seclusion issued by the department. This
17 written information shall include:

18 (1) Evidence-based techniques shown to be effective in
19 keeping school personnel and students safe when
20 imposing restraint or seclusion;

21 (2) Evidence-based skills related to positive behavior
22 supports, safe physical escort, conflict prevention,



- 1 understanding antecedents, de-escalation, and conflict
- 2 management;
- 3 (3) First aid and cardiopulmonary resuscitation;
- 4 (4) Information describing state policies and procedures
- 5 that meet the minimum standards established by
- 6 regulations;
- 7 (5) Communication skills, whether verbal or written, to be
- 8 able to explain the use of restraint or seclusion to a
- 9 student who is subject to restraint or seclusion and
- 10 to the student's family;
- 11 (6) Information on the procedures for determining when
- 12 restraint or seclusion can and cannot be properly used
- 13 in school settings;
- 14 (7) Definitions of restraint and seclusion;
- 15 (8) Information on the procedural safeguards that are in
- 16 place to protect the rights of children and their
- 17 parents;
- 18 (9) A description of the alignment of the department's and
- 19 school's policies and procedures with applicable state
- 20 laws or department rules;



1 (10) Information on the procedures for notifying parents
2 when restraint or seclusion has been used with their
3 child; and

4 (11) Information on the procedures for notifying parents
5 about any changes to policies and procedures on
6 restraint or seclusion.

7 (d) If policy or procedural changes related to restraint
8 or seclusion are made during the school year, staff and family
9 members shall be notified immediately.

10 (e) Schools shall establish procedures to be followed
11 after each incident involving the imposition of physical
12 restraint or seclusion upon a student, including:

13 (1) Procedures to provide to the parent of the student
14 with respect to each such incident the following:

15 (A) An immediate verbal or electronic communication
16 on the same day as each such incident; and

17 (B) Within twenty-four hours of each such incident,
18 written notification; and

19 (2) Any other procedures the State determines appropriate.

20 (f) All schools shall ensure that staff utilizing
21 restraint or seclusion in facilities or programs are trained and
22 certified on a periodic basis. Training shall include:



- 1 (1) Evidence-based techniques shown to be effective in the
2 prevention of restraint and seclusion;
- 3 (2) Evidence-based techniques shown to be effective in
4 keeping school personnel and students safe when
5 imposing restraint or seclusion;
- 6 (3) Evidence-based skills related to positive behavior
7 supports, safe physical escort, conflict prevention,
8 understanding antecedents, de-escalation, and conflict
9 management;
- 10 (4) First aid and cardiopulmonary resuscitation; and
- 11 (5) Information describing state policies and procedures
12 that meet the minimum standards established by
13 regulations.
- 14 (g) The state quality assurance team shall review policies
15 and procedures on the use of restraint and seclusion and update
16 them annually as appropriate. The state quality assurance team
17 shall comprise members, including parents, with expertise
18 related to positive behavioral interventions and supports and
19 educating and supporting students with dangerous behaviors in
20 schools and community settings. The state quality assurance
21 team shall consider and examine:



- 1 (1) Available data on the use of these practices and their
2 outcomes, settings, individual staff, and programs,
3 including:
4 (A) The frequency of the use of restraint and
5 seclusion across:
6 (i) Individual children;
7 (ii) Groups of children;
8 (iii) Gender;
9 (iv) Race;
10 (v) National origin;
11 (vi) Disability status and type of disability;
12 and
13 (vii) Limited English proficiency;
14 (2) Whether policies for restraint and seclusion are being
15 applied consistently;
16 (3) The accuracy and consistency that restraint and
17 seclusion data is being collected, as well as the
18 extent to which this data is being used to plan
19 behavioral interventions and staff training;
20 (4) Whether procedures for using these practices are being
21 implemented with fidelity;



1 (5) Whether procedures continue to protect children and
2 adults; and

3 (6) Whether existing policies and procedures for restraint
4 and seclusion remain properly aligned with applicable
5 state law and consistent with privacy laws.

6 (h) Each school shall maintain records of its review of
7 restraint and seclusion data and any resulting decisions or
8 actions regarding the use of restraint and seclusion.

9 (i) No less than quarterly, the department shall review
10 data on students involved in restraint or seclusion. The review
11 shall be conducted by a team, including parents, with expertise
12 related to positive behavioral interventions and supports and
13 educating and supporting students with dangerous behaviors in
14 schools and community settings. The department shall determine
15 whether:

16 (1) There are strategies in place to address the students
17 with dangerous behaviors at issue;

18 (2) The strategies in place are effective in increasing
19 appropriate behaviors of students with dangerous
20 behaviors; and



1 (3) New strategies need to be developed or current
2 strategies need to be revised or changed to prevent
3 reoccurrences of the dangerous behaviors.

4 Patterns and trends in the data that are identified by the
5 department shall be reported to the state quality assurance
6 team.

7 (j) The department shall review policies and procedures on
8 the use of restraint and seclusion, including:

9 (1) Available data on the use of these practices and their
10 outcomes, settings, individual staff, and programs,
11 including:

12 (A) The frequency of the use of restraint and
13 seclusion across:

14 (i) Individual children;

15 (ii) Groups of children;

16 (iii) Gender;

17 (iv) Race;

18 (v) National origin;

19 (vi) Disability status and type of disability;

20 and

21 (vii) Limited English proficiency;



1 (2) Whether policies for restraint and seclusion are being
2 applied consistently;

3 (3) The accuracy and consistency with which restraint and
4 seclusion data is being collected, as well as the
5 extent to which this data is being used to plan
6 behavioral interventions and staff training;

7 (4) Whether procedures for using these practices are being
8 implemented with fidelity;

9 (5) Whether procedures continue to protect children and
10 adults; and

11 (6) Whether existing policies and procedures for restraint
12 and seclusion remain properly aligned with applicable
13 state law and consistent with privacy laws.

14 (k) For purposes of this section:

15 "Behavioral intervention plan" means a proactive plan
16 designed to address problem behaviors exhibited by a student in
17 the educational setting through the use of positive behavioral
18 interventions, strategies, and supports.

19 "Individualized education program" means a written
20 statement about the educational program for a child with a
21 disability that serves as:



1 (1) A management tool to ensure that the child receives
2 the needed special education and related services; and

3 (2) An evaluation device when used to determine the extent
4 of the child's progress toward accomplishing projected
5 goals.

6 "Positive behavior supports" means a systematic approach to
7 embed evidence-based practices and data-driven decision making
8 to improve school climate and culture, including a range of
9 systemic and individualized strategies to reinforce desired
10 behaviors and diminish reoccurrence of problem behaviors, in
11 order to achieve improved academic and social outcomes and
12 increase learning for all students, including students with the
13 most complex and intensive behavioral needs.

14 "Restraint" means:

15 (1) The use of a drug or medication on a student to
16 control behavior or restrict freedom of movement that
17 is not prescribed or administered by a licensed
18 physician, or other qualified health professional
19 acting under the scope of the professional's authority
20 under state law, for the regular or ongoing treatment
21 of a student's medical or psychiatric condition;



1 (2) The use of devices as a means of restricting a
2 student's freedom of movement; or

3 (3) The use of personal restriction that immobilizes or
4 reduces the ability of a student to move the student's
5 arms, legs, or head freely.

6 "Seclusion" means the confinement of a student alone in a
7 room or structure from which the student is physically prevented
8 from leaving."

9 SECTION 3. Section 302A-1141, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"[+]§302A-1141[+] Punishment of pupils limited.** No
12 physical punishment of any kind may be inflicted upon any pupil,
13 [~~but reasonable~~] except that:

14 (1) Reasonable force may be used by a teacher in order to
15 restrain a pupil in attendance at school from hurting
16 oneself or any other person or property[~~, and~~
17 ~~reasonable~~];

18 (2) Reasonable force may be used as defined in section
19 703-309(2) by a principal or the principal's agent
20 only with another teacher present and out of the
21 presence of any other student but only for the
22 purposes outlined in section 703-309(2)(a) [~~;~~]; and



1 (3) Use of restraint or seclusion shall be permitted only
2 in accordance with section 302A- ."

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2014.

6

INTRODUCED BY: *Francis Chung (absent)*

Michael R.

J



S.B. NO. 2371

Report Title:

Restraint of Children in School; Seclusion

Description:

Establishes conditions and procedures for the use of restraint and seclusion in schools.

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