

1 seclusion, physical restraint, and mechanical restraint of students with
2 exceptionalities as defined in R.S. 17:1942, in accordance with the Administrative
3 Procedure Act.

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5 §416.21. Student behavior; use of seclusion and physical restraint

6 A. As used in this Section:

7 (1) "Imminent risk of harm" means an immediate and impending threat
8 of a person causing substantial physical injury to self or others.

9 (2)(a) "Mechanical restraint" means the application of any device or
10 object used to limit a person's movement.

11 (b) Mechanical restraint does not include:

12 (i) A protective or stabilizing device used in strict accordance with the
13 manufacturer's instructions for proper use and which is used in compliance
14 with orders issued by an appropriately licensed health care provider.

15 (ii) Any device used by a duly licensed law enforcement officer in the
16 execution of his official duties.

17 (3)(a) "Physical restraint" means bodily force used to limit a person's
18 movement.

19 (b) Physical restraint does not include:

20 (i) Consensual, solicited, or unintentional contact.

21 (ii) Holding a student for less than five minutes in any given hour or
22 class period for the protection of the student or others.

23 (iii) Brief holding of a student, by one adult, for the purpose of calming
24 or comforting the student, provided the student's freedom of movement or
25 normal access to his or her body is not restricted.

26 (iv) Minimal physical contact for the purpose of safely escorting a
27 student from one area to another.

28 (v) Minimal physical contact for the purpose of assisting the student in
29 completing a task or response.

1 **(4) "Positive behavior interventions and support" means a systematic**
2 **approach to embed evidence-based practices and data-driven decision making**
3 **when addressing student behavior in order to improve school climate and**
4 **culture.**

5 **(5) "Seclusion" means a procedure that isolates and confines a student**
6 **in a separate room or area until he or she is no longer an immediate danger to**
7 **self or others.**

8 **(6) "Seclusion room" means a room or other confined area, used on an**
9 **individual basis, in which a student is removed from the regular classroom**
10 **setting for a limited time to allow the student the opportunity to regain control**
11 **in a private setting and from which the student is involuntarily prevented from**
12 **leaving.**

13 **(7) "School employee" means a teacher, paraprofessional,**
14 **administrator, support staff member, or a provider of related services.**

15 **(8) "Written guidelines and procedures" means the written guidelines**
16 **and procedures adopted by a school's governing authority regarding**
17 **appropriate responses to student behavior that may require immediate**
18 **intervention.**

19 **B. (1) Seclusion shall only be used:**

20 **(a) For behaviors that involve an imminent risk of harm.**

21 **(b) As a last resort when de-escalation attempts have failed and the**
22 **student continues to pose an imminent threat to self or others.**

23 **(2) Seclusion shall not be used to address behaviors such as general**
24 **noncompliance, self-stimulation, and academic refusal. Such behaviors shall be**
25 **responded to with less stringent and less restrictive techniques.**

26 **(3)(a) A seclusion room shall only be used as a last resort if and when**
27 **less restrictive measures, such as positive behavioral supports, constructive and**
28 **non-physical de-escalation, and restructuring of a student's environment, have**
29 **failed to stop a student's actions that pose an imminent risk of harm.**

1 **(b) A student shall only be placed in a seclusion room by a school**
2 **employee who has been trained in the appropriate use of seclusion rooms,**
3 **including the accepted methods of escorting a student to a seclusion room,**
4 **placing a student in a seclusion room, and supervising a student while he or she**
5 **is in the seclusion room.**

6 **(c) Only one student may be placed in a seclusion room at any given**
7 **time, and the school employee supervising the student must be able to see and**
8 **hear the student the entire time the student is placed in the seclusion room.**

9 **(4) A seclusion room shall:**

10 **(a) Be free of any object that poses a danger to the student placed in the**
11 **room.**

12 **(b) Have an observation window and be of a size that is appropriate for**
13 **the student's size, behavior, and chronological and developmental age.**

14 **(c) Have a ceiling height and heating, cooling, ventilation, and lighting**
15 **systems comparable to operating classrooms in the school.**

16 **(d) Remain unlocked for the entire time a student is placed in the room.**
17 **Additional staff shall be called to provide assistance if the school employee**
18 **supervising a student cannot prevent a student from escaping from the room**
19 **and the student is considered a serious threat.**

20 **C. (1) Physical restraint shall only be used:**

21 **(a) When a student's behavior presents a threat of imminent risk of**
22 **harm to self or others and only as a last resort to protect the safety of self and**
23 **others.**

24 **(b) To the degree necessary to stop dangerous behavior.**

25 **(c) In a manner that causes no physical injury to the student, results in**
26 **the least possible discomfort, and does not interfere in any way with a student's**
27 **breathing or ability to communicate with others.**

28 **(2) No student shall be subjected to any form of mechanical restraint.**

29 **(3) The use of prone restraint is strictly prohibited.**

1 **(4) A student may only be physically restrained by a school employee**
2 **who has been trained in the appropriate use of physical restraint measures.**

3 **(5) A school employee applying physical restraint shall only use a**
4 **method of physical restraint in which he or she has been trained and shall apply**
5 **such physical restraint in a manner that is directly proportionate to the**
6 **circumstances and to the student's size, age, and severity of behavior.**

7 **D. Seclusion and physical restraint shall not be used as a form of**
8 **discipline or punishment, as a threat to control, bully, or obtain behavioral**
9 **compliance, or for the convenience of school personnel.**

10 **E. No student shall be subjected to unreasonable, unsafe, or**
11 **unwarranted use of seclusion or physical restraint.**

12 **F. A student shall not be placed in seclusion or physically restrained if**
13 **he or she is known to have any medical or psychological condition that**
14 **precludes such action, as certified by a licensed health care provider in a written**
15 **statement provided the school in which the student is enrolled.**

16 **G. A student who has been placed in seclusion or has been physically**
17 **restrained shall be monitored continuously. Such monitoring shall be**
18 **documented at least every fifteen minutes and adjustments made accordingly,**
19 **based upon observations of the student's behavior.**

20 **H.(1) A student shall be removed from seclusion or released from**
21 **physical restraint as soon as the reasons for justifying such action have**
22 **subsided.**

23 **(2) A student shall not be kept in seclusion or physically restrained for**
24 **more than fifteen minutes after the initiation of the physical restraint or**
25 **seclusion, except in extraordinary circumstances where an imminent risk of**
26 **harm still exists as determined by appropriately trained school personnel.**

27 **I.(1) The parent or other legal guardian of a student who has been**
28 **placed in seclusion or physically restrained shall be notified as soon as possible.**
29 **The student's parent or other legal guardian shall also be notified in writing,**

1 within twenty-four hours, of each incident of seclusion or physical restraint.
2 such notice shall include the reason for such seclusion or physical restraint, the
3 procedures used, the length of time of the student's seclusion or physical
4 restraint, and the names and titles of any school employee involved.

5 (2) The director or supervisor of special education shall be notified any
6 time a student is placed in seclusion or is physically restrained.

7 J. A school employee who has placed a student in seclusion or who has
8 physically restrained a student shall document and report each incident in
9 accordance with the policies adopted by the school's governing authority. Such
10 report shall be submitted to the school principal not later than the school day
11 immediately following the day on which the student was placed in seclusion or
12 physically restrained and a copy shall be provided to the student's parent or
13 legal guardian.

14 K. A functional behavior assessment shall be considered whenever a
15 student who has been identified with or is suspected of having a disability is
16 placed in seclusion or physically restrained.

17 L.(1) The documentation compiled for a student who has been placed in
18 seclusion or has been physically restrained and whose behavior continues or
19 escalates shall be reviewed at least once every three weeks.

20 (2) If a student's functional behavior assessment already includes the
21 target behavior for which the student has been physically restrained or placed
22 in seclusion, the functional behavior assessment shall be updated.

23 (3) If a student's behavioral incidents are of high frequency and high
24 intensity, the student's behavioral support/intervention plan shall be updated
25 to reflect that adequate levels of intervention are being appropriately
26 implemented.

27 M. The principal of each public elementary and secondary school shall
28 assign one school employee to oversee the use of seclusion and physical restraint
29 within the school.

1 **N. The governing authority of each public elementary and secondary**
2 **school shall:**

3 **(1)(a) Adopt written guidelines and procedures regarding:**

4 **(i) Reporting requirements and follow-up procedures.**

5 **(ii) Notification requirements for school officials and a student's parent**
6 **or other legal guardian.**

7 **(iii) An explanation of the methods of physical restraint and the school**
8 **employee training requirements relative to the use of restraint.**

9 **(b) These guidelines and procedures shall be provided to all school**
10 **employees and shall be included in the school handbook.**

11 **(2) Provide intensive, nationally recognized training in the use of**
12 **seclusion and physical restraint to all school employees authorized to employ**
13 **these actions to address student behavior at prescribed intervals. Such training**
14 **shall include:**

15 **(a) A continuum of prevention techniques shown to be effective in**
16 **eliminating the need for physical restraint.**

17 **(b) Evidence-based techniques proven effective in keeping students and**
18 **school employees safe when applying physical restraint measures with a student.**

19 **(c) Evidence-based skills training that involves positive behavioral**
20 **interventions and supports, safe physical escort, conflict prevention,**
21 **understanding antecedents, a continuum of de-escalation techniques, and**
22 **conflict management.**

23 **(d) First aid and cardiopulmonary resuscitation techniques.**

24 **(e) Environmental management techniques.**

25 **(f) Nationally recognized physical management and restraint practices,**
26 **including techniques that allow restraint in an upright or sitting position, and**
27 **information regarding the dangers of utilizing prone restraint measures.**

28 **(g) Methods of explaining the use of restraint to the student who is to be**
29 **restrained and to the student's parent or other legal guardian.**

Proposed law instead requires BESE to prepare and adopt rules and guidelines, in accordance with the Administrative Procedure Act, for the appropriate use of seclusion, physical restraint, and mechanical restraint with all students.

Proposed law provides with respect to the use of seclusion and physical restraint in response to student behavior as follows:

Defined terms:

1. "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others.
2. "Mechanical restraint" means the application of any device or object used to limit a person's movement. Further provides that "mechanical restraint" does not include:
 - (a) A protective or stabilizing device used in strict accordance with the manufacturer's instructions for proper use and which is used in compliance with orders issued by an appropriately licensed health care provider.
 - (b) Any device used by a duly licensed law enforcement officer in the execution of his official duties.
3. "Physical restraint" means bodily force used to limit a person's movement. Further provides that "physical restraint" does not include:
 - (a) Consensual, solicited, or unintentional contact.
 - (b) Holding a student for less than five minutes in any given hour or class period for the protection of the student or others.
 - (c) Brief holding of a student, by one adult, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted.
 - (d) Minimal physical contact for the purpose of safely escorting a student from one area to another.
 - (e) Minimal physical contact for the purpose of assisting the student in completing a task or response.
4. "Positive behavior interventions and support" means a systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate and culture.
5. "Seclusion" means a procedure that isolates and confines a student in a separate room or area until no longer an immediate danger to self or others.
6. "Seclusion room" means a room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a private setting and from which the student is involuntarily prevented from leaving.
7. "School employee" means a teacher, paraprofessional, administrator, support staff member, or a provider of related services.
8. "Written guidelines and procedures" means the written guidelines and procedures adopted by a school's governing authority regarding appropriate responses to student behavior that may require immediate intervention.

Restricts the use of seclusion to behaviors that involve an imminent risk of harm and as a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.

Prohibits the use of seclusion to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Specifies that such behaviors be responded to with less stringent and less restrictive techniques.

With respect to the use of seclusion rooms:

1. A seclusion room may only be used as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.
2. A student may only be placed in a seclusion room by a school employee who has received the appropriate training, including the accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while he or she is in the seclusion room.
3. Only one student may be placed in a seclusion room at a time, and the school employee supervising the student must be able to see and hear the student the entire time the student is in the seclusion room.
4. A seclusion room must be:
 - (a) Free of any object that poses a danger to the student placed in the room.
 - (b) Have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age.
 - (c) Have a ceiling height and heating, cooling, ventilation, and lighting systems comparable to operating classrooms in the school.
 - (d) Remain unlocked for the entire time a student is placed in the room. Further provides that additional staff must be called to provide assistance if the school employee supervising a student cannot prevent a student from escaping from the room and the student is considered a serious threat.

Specifies that physical restraint may only be used:

1. When a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others.
2. To the degree necessary to stop dangerous behavior.
3. In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others.

Prohibits the use of mechanical restraint and prone restraint.

Specifies that a student may only be physically restrained by a school employee who has been trained in the appropriate use of physical restraint measures.

Requires a school employee applying physical restraint to only use a method of physical restraint in which he or she has been trained and apply such physical restraint in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity

of behavior.

Prohibits the use of seclusion and physical restraint as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.

Prohibits unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.

Prohibits seclusion or physical restraint of a student known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.

Requires continuous monitoring of a student who has been placed in seclusion or has been physically restrained which is documented at least every fifteen minutes and adjustments made accordingly, based upon observations of the student's behavior.

Requires removal of a student from seclusion or released from physical restraint as soon as the reasons for justifying such action have subsided.

Prohibits the seclusion or physical restraint of a student for more than fifteen minutes, except in extraordinary circumstances where an imminent risk of harm still exists as determined by appropriately trained school personnel.

Requires that the parent or legal guardian of a student who has been placed in seclusion or physically restrained be notified as soon as possible. Further provides that such notification be made in writing within twenty-four hours of each incident of seclusion or physical restraint and include the reason for the seclusion or physical restraint, the procedures used, the length of time of the student's seclusion or physical restraint, and the names and titles of any school employee involved.

Requires that the director or supervisor of special education must be notified any time a student is placed in seclusion or is physically restrained.

Requires a school employee who places a student in seclusion or who physically restrains a student to document and report each incident in accordance with the policies adopted by the school's governing authority. Such report must be submitted to the school principal not later than the school day immediately following the day on which the student was placed in seclusion or was physically restrained and a copy must be provided to the student's parent or legal guardian.

Requires that a functional behavior assessment be considered whenever a student who has been identified with or is suspected of having a disability is placed in seclusion or physically restrained.

Requires a review, at least once every three weeks, of the documentation compiled for a student who has been placed in seclusion or has been physically restrained and whose behavior continues or escalates.

Requires the update of the functional behavior assessment of a student whose assessment already includes the target behavior for which the student has been physically restrained or placed in seclusion.

Requires that the behavioral support/intervention plan for a student whose behavioral incidents are of high frequency and high intensity be updated to reflect that adequate levels of intervention are being appropriately implemented.

Requires the principal of each public elementary and secondary school to assign one school employee to oversee the use of seclusion and physical restraint within the school.

Requires the governing authority of each public elementary and secondary school to:

1. Adopt written guidelines and procedures regarding:
 - (a) Reporting requirements and follow-up procedures.
 - (b) Notification requirements for school officials and the student's parent or other legal guardian.
 - (c) An explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.
2. Provide such guidelines to all school employees and include such in the school handbook.
3. Provide intensive, nationally recognized training in the use of seclusion and physical restraint to all school employees authorized to employ these actions to address student behavior which shall include:
 - (a) A continuum of prevention techniques shown to be effective in eliminating the need for physical restraint.
 - (b) Evidence-based techniques proven effective in keeping students and school employees safe when applying physical restraint measures with a student.
 - (c) Evidence-based skills training that involves positive behavioral interventions and supports, safe physical escort, conflict prevention, understanding antecedents, a continuum of de-escalation techniques, and conflict management.
 - (d) First aid and cardiopulmonary resuscitation techniques.
 - (e) Environmental management techniques.
 - (f) Nationally recognized physical management and restraint practices, including techniques that allow restraint in an upright or sitting position, and information regarding the dangers of utilizing prone restraint measures.
 - (g) Methods of explaining the use of restraint to the student who is to be restrained and to the student's parent or other legal guardian.
4. Report all instances where seclusion or physical restraint is used to address student behavior to the Dept. of Education.

Requires the Dept. of Education to maintain a database of all reported incidents of seclusion and physical restraint of a student and to disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employee.

Present law (R.S. 17:3996(B)) provides relative to the laws applicable to public schools from which charter schools are not exempt.

Proposed law adds proposed law to the list of statutory requirements that apply to charter schools.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:7(5)(b); adds R.S. 17:416.21 and 3996(B)(28))