

SENATE BILL NO. 59

BY SENATORS DONAHUE, ALARIO, APPEL, BROOME, CHABERT, CHEEK, CROWE, DORSEY, GUILLORY, HEITMEIER, JACKSON, LAFLEUR, LONG, MARTINY, MURRAY, NEVERS, PETERSON, QUINN, RISER, WALSWORTH AND WILLARD-LEWIS AND REPRESENTATIVES AUBERT, BARRAS, BARROW, BURRELL, CARTER, FOIL, GUILLORY, HARDY, MICHAEL JACKSON, LAFONTA, LORUSSO, NORTON, PEARSON, SCHRODER, SIMON, ST. GERMAIN, TALBOT AND THIBAUT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 17:7(5)(b) and to enact R.S. 17:416.21 and 3996(B)(28), relative to student behavior; to provide with respect to the appropriate use of seclusion and physical restraint in response to the behavior of students with exceptionalities; to provide for definitions; to provide relative to rules, guidelines, and procedures; to provide for reporting and documentation; to provide for parental notification; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:7(5)(b) is hereby amended and reenacted and R.S. 17:416.21 and 3996(B)(28) are hereby enacted to read as follows:

§7. Duties, functions, and responsibilities of board

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

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(b) Prepare and adopt **rules and** guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities as defined in R.S. 17:1942, **in accordance with the Administrative**

1 Procedure Act.

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3 §416.21. Behavior of students with exceptionalities; use of seclusion and
 4 physical restraint

5 A. As used in this Section:

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

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

10 (b) Mechanical restraint does not include:

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

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

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

18 (b) Physical restraint does not include:

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

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

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

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

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

29 (4) "Positive behavior interventions and support" means a systematic
 30 approach to embed evidence-based practices and data-driven decision making

1 when addressing student behavior in order to improve school climate and
2 culture.

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

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

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

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

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

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

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

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

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

28 (b) A student shall be placed in a seclusion room only by a school
29 employee who uses accepted methods of escorting a student to a seclusion room,
30 placing a student in a seclusion room, and supervising a student while he or she

1 is in the seclusion room.

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

5 (4) A seclusion room shall:

6 (a) Be free of any object that poses a danger to the student placed in the
7 room.

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

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

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

13 (a) When a student's behavior presents a threat of imminent risk of
14 harm to self or others and only as a last resort to protect the safety of self and
15 others.

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

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

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

21 (3) No student shall be physically restrained in a manner that places
22 excessive pressure on the student's chest or back or that causes asphyxia.

23 (4) A student shall be physically restrained only in a manner that is
24 directly proportionate to the circumstances and to the student's size, age, and
25 severity of behavior.

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

29 E. No student shall be subjected to unreasonable, unsafe, or
30 unwarranted use of seclusion or physical restraint.

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

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

9 **H. A student shall be removed from seclusion or released from physical**
10 **restraint as soon as the reasons for justifying such action have subsided.**

11 **I.(1) The parent or other legal guardian of a student who has been**
12 **placed in seclusion or physically restrained shall be notified as soon as possible.**
13 **The student's parent or other legal guardian shall also be notified in writing,**
14 **within twenty-four hours, of each incident of seclusion or physical restraint.**
15 **Such notice shall include the reason for such seclusion or physical restraint, the**
16 **procedures used, the length of time of the student's seclusion or physical**
17 **restraint, and the names and titles of any school employee involved.**

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

20 **J. A school employee who has placed a student in seclusion or who has**
21 **physically restrained a student shall document and report each incident in**
22 **accordance with the policies adopted by the school's governing authority. Such**
23 **report shall be submitted to the school principal not later than the school day**
24 **immediately following the day on which the student was placed in seclusion or**
25 **physically restrained and a copy shall be provided to the student's parent or**
26 **legal guardian.**

27 **K. If a student is involved in five incidents in a single school year**
28 **involving the use of physical restraint or seclusion, the student's Individualized**
29 **Education Plan team shall review and revise the student's behavior intervention**
30 **plan to include any appropriate and necessary behavioral supports.**

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

4 M.(1) The governing authority of each public elementary and secondary
5 school shall adopt written guidelines and procedures regarding:

6 (a) Reporting requirements and follow-up procedures.

7 (b) Notification requirements for school officials and a student's parent
8 or other legal guardian.

9 (c) An explanation of the methods of physical restraint and the school
10 employee training requirements relative to the use of restraint.

11 (2) These guidelines and procedures shall be provided to all school
12 employees and every parent of a child with an exceptionality.

13 N.(1) The governing authority of each public elementary and secondary
14 school shall report all instances where seclusion or physical restraint is used to
15 address student behavior to the Department of Education.

16 (2) The Department of Education shall maintain a database of all
17 reported incidents of seclusion and physical restraint of students with
18 exceptionalities and shall disaggregate the data for analysis by school; student
19 age, race, ethnicity, and gender; student disability, where applicable; and any
20 involved school employees.

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22 §3996. Charter schools; exemptions; requirements

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24 B. Notwithstanding any state law, rule, or regulation to the contrary and
25 except as may be otherwise specifically provided for in an approved charter, a
26 charter school established and operated in accordance with the provisions of this
27 Chapter and its approved charter and the school's officers and employees shall be
28 exempt from all statutory mandates or other statutory requirements that are
29 applicable to public schools and to public school officers and employees except for
30 the following laws otherwise applicable to public schools with the same grades:

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(28) Seclusion and physical restraint of students with exceptionalities,
R.S. 17:416.21.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____