

RESUME DIGEST

If no change is necessary for keyword and summary, circle "NO Change" in that area.

SIGN NAME AS COMPLETED

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REVIEWER _____

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(KEYWORD. Summary) **NO Change**:

DIGEST

Donahue (SB 59)

Act No. 328

Prior law (R.S. 17:7(5)(b)) required BESE to prepare and adopt guidelines for the appropriate use of seclusion, physical restraint, and mechanical restraint of students with exceptionalities.

New law additionally requires BESE to prepare and adopt rules, in accordance with the APA, for the appropriate use of seclusion and restraint for such students.

New law provides with respect to the use of seclusion and physical restraint in response to the behavior of students with exceptionalities as follows:

Defines 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 by a school employee for less than five minutes in any given hour or class period for the protection of the student or others.
 - (c) Holding of a student, by one school employee, 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 uses 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 shall:
 - (a) Be 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.

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 any student from being physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.

Provides that a student shall be physically restrained only 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.

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.

Provides that if a student is involved in five incidents in a single school year that involve the use of physical restraint or seclusion, the student's Individualized Education Plan team must review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports.

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 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 every parent of a child with an exceptionality.
3. 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 students with exceptionalities and to disaggregate the data for analysis by school; student age, race, ethnicity, and gender; student disability, where applicable; and any involved school employee.

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

New law adds new law to the list of statutory requirements that apply to charter schools.

Effective June 29, 2011.

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