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2 93rd General Assembly
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4

As Engrossed: H3/29/21

A Bill

HOUSE BILL 1610

5 By: Representative Gazaway
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE USE OF STUDENT RESTRAINTS IN
9 PUBLIC SCHOOLS OR EDUCATIONAL SETTINGS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 CONCERNING THE USE OF STUDENT RESTRAINTS
14 IN PUBLIC SCHOOLS OR EDUCATIONAL
15 SETTINGS.
16
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 6, Chapter 18, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 22 – Student Restraints in Public Schools or Educational
24 Settings

25 6-18-2201. Legislative findings.

26 The General Assembly finds that:

27 (1) It is the responsibility of each school district in Arkansas
28 to ensure the safety of all students and school personnel;

29 (2) It is the responsibility of each school district in Arkansas
30 to ensure that every student in Arkansas is safe and protected from being
31 unnecessarily or inappropriately restrained;

32 (3) Safe, effective, evidence-based strategies should be the
33 basis for protocols in public schools and educational settings to support
34 every student who displays challenging behavior in a public school or
35 educational setting;

36 (4) Providing school personnel with training that is focused on



1 evidence-based positive behavior support, de-escalation techniques, and
2 physical restraint prevention can reduce the incidence of injury, trauma, and
3 death;

4 (5) The effective implementation of school-wide positive
5 behavioral support is linked to greater academic achievement, significantly
6 fewer disciplinary problems, increased instruction time, and the perception
7 of a safer teaching environment by school personnel;

8 (6) Positive behavioral support involves school-wide approaches
9 that result in:

10 (A) Positive classroom and school climates;

11 (B) Prosocial student and school personnel interactions;

12 (C) Teaching a student academic, social, emotional,
13 behavioral engagement, and achievement skills; and

14 (D) Reinforcing the academic, social, emotional,
15 behavioral engagement, and achievement skills of a student;

16 (7) The use of effective positive behavioral support in public
17 schools and educational settings can prevent an emergency situation that
18 requires the use of physical restraint on a student; and

19 (8) Every effort should be made to:

20 (A) Prevent the need for secluding a student or using a
21 physical restraint on a student;

22 (B) Ensure that behavioral intervention is consistent with
23 the right of a student to be free from abuse and treated with dignity;

24 (C) Avoid the use of physical restraint on a student to
25 the greatest extent possible without endangering the safety of other students
26 and school personnel;

27 (D) Avoid the use of a physical restraint on a student
28 except in a situation where the behavior of the student poses an imminent
29 danger of serious physical harm to the student or others;

30 (E) Discontinue the use of a physical restraint on a
31 student as soon as the imminent danger of serious physical harm to the
32 student or others dissipates; and

33 (F) Refrain from using chemical restraint or mechanical
34 restraint in a public school or educational setting.

35
36 6-18-2202. Applicability – Relation to other laws.

1 (a) This subchapter applies to any school-aged and enrolled student
2 regardless of whether the student has an identified disability.

3 (b)(1) This subchapter does not supersede federal or state law.

4 (2) A school district shall follow all relevant federal and
5 state law, including without limitation the Individuals with Disabilities
6 Education Act, 20 U.S.C. § 1400 et seq., the Americans with Disabilities Act
7 of 1990, as amended, 42 U.S.C. § 12101 et seq., and section 504 of the
8 Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 et seq., when a
9 student with a disability is restrained or secluded or whenever restraining
10 or secluding a student with a disability is contemplated.

11 (c) Each school district shall:

12 (1) Adopt policies and procedures that are consistent with the
13 provisions of this subchapter;

14 (2) Review the Department of Education Special Education and
15 Related Services Guidelines, § 20.00 Time-Out Seclusion Room; and

16 (3) Provide its school personnel with the training, tools, and
17 support needed to ensure the safety of all students and school personnel.

18
19 6-18-2203. Definitions.

20 As used in this subchapter:

21 (1)(A) "Aversive behavioral intervention" means a physical or
22 sensory intervention program that is intended to modify behavior through the
23 use of a substance or stimulus that the intervention implementer knows will
24 cause physical trauma, emotional trauma, or both, to a student, even when the
25 substance or stimulus appears to be pleasant or neutral to others.

26 (B) "Aversive behavioral intervention" includes without
27 limitation the following:

28 (i) Hitting;

29 (ii) Pinching;

30 (iii) Slapping;

31 (iv) Using a water spray;

32 (v) Using noxious fumes;

33 (vi) Requiring extreme physical exercise;

34 (vii) Using loud auditory stimulus;

35 (viii) Withholding meals; and

36 (ix) Denying reasonable access to toileting

1 facilities;

2 (2) "Behavioral intervention" means the implementation of a
3 service, support, or strategy to teach and increase appropriate behavior or
4 substantially decrease or eliminate behavior that is dangerous,
5 inappropriate, or otherwise impedes the learning of a student;

6 (3) "Behavior Intervention Plan" means a written plan that:

7 (A) Is developed by a problem-solving and intervention
8 team and delineates emotional, social, or behavioral goals for a student and
9 the steps that the school, student, parent of the student, and others will
10 take to positively support the progress of the student towards his or her
11 emotional, social, or behavioral goals;

12 (B) Is comprised of practical and specific strategies to
13 increase or reduce a defined behavior or one (1) or more patterns of behavior
14 exhibited by a student; and

15 (C) Includes the following:

16 (i) A definition or description of the desired
17 target behavior or outcome in specific measurable terms;

18 (ii) A plan for preventing and eliminating
19 inappropriate student behavior by changing a condition that is triggering,
20 motivating, underlying, or supporting that behavior as determined through a
21 Functional Behavior Assessment;

22 (iii) A plan for teaching a student to demonstrate
23 appropriate social, emotional, or behavioral self-management, or a new method
24 to address or meet his or her needs;

25 (iv) A description of how a specific incentive or
26 consequence will be used as needed to decrease or eliminate inappropriate
27 student behavior and increase appropriate behavior;

28 (v) A plan for managing a crisis situation;

29 (vi) A system to collect, analyze, and evaluate data
30 about the student;

31 (vii) The school personnel, resources, and training
32 needed before implementation of the Behavior Intervention Plan; and

33 (viii) The timeline for implementing different
34 facets of an intervention, including without limitation when the intervention
35 will be formally reviewed;

36 (4)(A) "Chemical restraint" means the use of a drug or

1 medication to control the behavior of a student or restrict the free movement
2 of the student.

3 (B) "Chemical restraint" does not include the use of
4 medication that is:

5 (i) Prescribed by a licensed physician, or other
6 qualified health professional acting within the scope of his or her
7 professional authority under state law, for the standard treatment of a
8 medical or psychiatric condition of a student; and

9 (ii) Administered as prescribed by the licensed
10 physician or other qualified health professional acting within the scope of
11 his or her professional authority under state law;

12 (5) "Consequence" means an event that occurs immediately after a
13 behavior, behavioral response, or a planned action in response to an
14 inappropriate student behavior and with the purpose of motivating the student
15 to demonstrate an appropriate behavior the next time;

16 (6) "Crisis" means a situation in which a student engages in a
17 behavior that threatens the health and safety of the student or others and
18 includes without limitation a situation in which the student becomes
19 aggressive or violent at school and is unable to regain self-control without
20 posing a danger of injury to himself or herself or others;

21 (7) "Crisis intervention" means the implementation of a service,
22 support, or strategy to:

23 (A) Immediately stabilize a crisis; and

24 (B) Prevent the crisis from reoccurring after the crisis
25 ends;

26 (8) "Crisis Intervention Training Program" means a program that:

27 (A) Provides training using effective evidence-based
28 practices in:

29 (i) The prevention of the use of physical restraint
30 on a student;

31 (ii) Keeping school personnel and students safe when
32 using physical restraint on a student in accordance with the law;

33 (iii) The use of data-based decision-making,
34 evidence-based positive behavioral intervention and support, safe physical
35 escort, conflict prevention, behavioral antecedents, a Functional Behavior
36 Assessment, challenging behavior de-escalation, and conflict management; and

1 (iv) First aid, including without limitation
2 recognizing the signs of medical distress and administering cardiopulmonary
3 resuscitation; and

4 (B) Requires certification, including without limitation
5 periodic renewal of certification in the practices and skills necessary for
6 school personnel to properly implement the Crisis Intervention Training
7 Program;

8 (9)(A) "Dangerous behavior" means the behavior of a student that
9 presents an imminent danger of serious physical harm to the student or
10 others.

11 (B) "Dangerous behavior" does not include the following
12 types of inappropriate behavior:

13 (i) Disrespect;

14 (ii) Noncompliance;

15 (iii) Insubordination; or

16 (iv) Destruction of property that does not create an
17 imminent danger;

18 (10) "Day" means a calendar day unless otherwise indicated as a
19 school day;

20 (11) "De-escalation" means the use of a behavior management
21 technique that helps a student increase his or her control over his or her
22 emotions and behavior and results in a reduction of a present or potential
23 level of danger that in turn reduces the level of imminent danger of serious
24 physical harm to the student or others;

25 (12) "Emergency" means a serious and unexpected situation that
26 requires immediate action and which may be dangerous;

27 (13) "Functional Behavior Assessment" means a problem analysis
28 step that:

29 (A) Occurs within the context of data-based problem-
30 solving and involves:

31 (i) The review of existing records and other sources
32 of information;

33 (ii) Diagnostic or historical interviews;

34 (iii) Structured academic or behavioral
35 observations; and

36 (iv) Authentic, criterion-referenced, or norm-

1 referenced tests; and

2 (B) Is performed with the goal of determining why a
3 specific problem or situation is occurring in order to directly link a
4 strategic intervention to an assessment and solve or resolve the specific
5 problem or situation;

6 (14) "Imminent danger" means an existing dangerous situation
7 that could reasonably be expected to immediately cause death or serious
8 physical harm;

9 (15) "Incident" means an event or occurrence;

10 (16) "Individualized Education Program" means a written plan for
11 a student with a disability that is developed, reviewed, and revised in
12 accordance with federal and state laws and regulations;

13 (17)(A) "Mechanical restraint" means the use of a device or
14 equipment to restrict the free movement of a student.

15 (B) "Mechanical restraint" does not include a:

16 (i) Device that is used by trained school personnel
17 or a student for a specific and approved therapeutic purpose or safety
18 purpose for which the device was designed or prescribed; or

19 (ii) Vehicle safety restraint that is appropriately
20 used in the manner for which it was designed during the transport of a
21 student in a moving vehicle;

22 (18)(A) "Member of school personnel" means a person who works
23 with a student in an elementary or secondary public school, public charter
24 school, school district, education service cooperative, and includes without
25 limitation a:

26 (i) School or school district administrator;

27 (ii) Teacher;

28 (iii) Coach for a school athletics program;

29 (iv) School counselor;

30 (v) School social worker;

31 (vi) School psychologist;

32 (vii) School nurse; and

33 (viii) Paraprofessional.

34 (B) "Member of School personnel" does not include a person
35 who is:

36 (i) A volunteer at a school district; or

1 (ii) Not an employee of a school district;

2
3 (19) "Parent" means one (1) of the following:

4 (A) The biological, foster, or adoptive parent of a
5 student;

6 (B) The guardian of a student who is:

7 (i) Not acting in his or her official capacity as an
8 employee or other representative of the state; and

9 (ii) Authorized to act as the parent of the student
10 or to make educational decisions for the student;

11 (C) A person who:

12 (i) Lives with a student and is acting in the place
13 of a biological or adoptive parent of the student, including without
14 limitation a grandparent or stepparent, or other relative of the student; or

15 (ii) Is legally responsible for the welfare of the
16 student; or

17 (D) A surrogate parent of a student who has been appointed
18 in accordance with 30 C.F.R. § 300.519;

19 (20) "Physical escort" means a temporary touching or holding of
20 the hand, wrist, arm, shoulder, or back of a student for the purpose of
21 redirecting or inducing the student to move to a safe location;

22 (21)(A) "Physical restraint" means a personal restriction that
23 immobilizes or reduces the ability of a student to move his or her torso,
24 arm, leg, or head freely.

25 (B) "Physical restraint" does not include a physical
26 escort;

27 (22) "Positive behavioral support" means the application of
28 behavior analysis that:

29 (A) Is used to achieve socially important behavior change;

30 (B) Occurs at the:

31 (i) Prevention level for all students in a school;

32 (ii) Strategic intervention level for a student who
33 is not responding, from a social-emotional and behavioral perspective, to the
34 prevention level; and

35 (iii) Intensive service or crisis-management level
36 for a student who needs multifaceted or comprehensive behavioral or mental

1 health services; and

2 (C) Involves a planned and collaborative school-wide
3 approach that is implemented with a goal:

4 (i) Of establishing a positive and supportive school
5 environment that:

6 (a) Teaches and reinforces prosocial behavior
7 in a student;

8 (b) Holds a student positively accountable for
9 meeting an established behavioral expectation; and

10 (c) Maintains a level of consistency
11 throughout the implementation process; and

12 (ii) That is accomplished by using positive
13 behavioral programs, strategies, or approaches;

14 (23) "Prone restraint" means restraining a student in a face-
15 down position on the floor or another surface and applying physical pressure
16 to the body of the student to keep the student in the prone position;

17 (24) "Punishment" means an action that:

18 (A) May follow an inappropriate behavior of a student;

19 (B) Is taken with the goal of decreasing, stopping, or
20 eliminating the future reoccurrence of the inappropriate behavior of the
21 student; and

22 (C) Is not taken with the goal of replacing the
23 inappropriate behavior of the student with future appropriate behavior by the
24 student;

25 (25) "School day" means any day, including without limitation a
26 partial day, that a student is in attendance at school for instructional
27 purposes;

28 (26) "Serious physical harm" means bodily injury that involves a
29 substantial risk of death, extreme physical pain, protracted and obvious
30 disfigurement, or protracted loss or impairment of the function of a bodily
31 member, organ, or mental faculty;

32 (27) "Student" means a person who is legally enrolled in a
33 school district in Arkansas and receives services in Arkansas under § 619 or
34 Part C of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400
35 et seq.;

36 (28) "Student with a disability" means a student who is:

1 (A) Evaluated in accordance with 34. C.F.R. §§ 300.304 –
2 300.311 and section 6 of Special Education and Related Services: Procedural
3 Requirements and Program Standards (ADE 2000) of the Division of Elementary
4 and Secondary Education as having one (1) or more of the following:

5 (i) A cognitive or developmental disability;

6 (ii) A hearing impairment, including without
7 limitation deafness;

8 (iii) A speech or language impairment;

9 (iv) A visual impairment, including without
10 limitation blindness;

11 (v) Serious emotional disturbance;

12 (vi) Orthopedic impairment;

13 (vii) Autism;

14 (viii) Traumatic brain injury;

15 (ix) A health impairment;

16 (x) A specific learning disability; or

17 (xi) Deaf-blindness; and

18 (B) By reason of his or her evaluation in accordance with
19 34. C.F.R. §§ 300.304 – 300.311 and § 6 of the Special Education and Related
20 Services: Procedural Requirements and Program Standards (ADE 2000) from the
21 Division of Elementary and Secondary Education is in need of special
22 education and related services; and

23 (29) "Supine restraint" means the restraint of a student in a
24 face-up position on his or her back on the floor or another surface and with
25 physical pressure applied to the body of the student to keep the student in
26 the supine position.

27
28 6-18-2204. Prevention.

29 (a) School districts shall implement positive behavioral supports that
30 shall be used at the:

31 (1) Prevention level for each student in a school;

32 (2) Strategic intervention level for a student who is not
33 responding, from a social, emotional, or behavioral perspective, to the
34 prevention level; and

35 (3) Intensive service or crisis-management level for a student
36 who needs multifaceted or comprehensive behavioral or mental health services.

1 (b) Positive behavioral support implemented by a school district shall
2 include:

3 (1) The teaching and reinforcing of interpersonal, social,
4 problem solving, conflict resolution, and coping skills to a student;

5 (2) Holding a student positively accountable for meeting an
6 established behavioral expectation;

7 (3) Maintaining a high level of consistency through the
8 implementation process; and

9 (4) The following interrelated activities:

10 (A) Providing a school-wide approach to the discipline and
11 safety of each student rather than an approach to only the behavior problem
12 of a student;

13 (B) Focusing on preventing the development and occurrence
14 of problem behavior;

15 (C) Regularly reviewing behavior data to adapt the
16 procedures of a school to meet the needs of every student; and

17 (D) Providing a multitiered approach to academic and
18 behavioral services and support to meet the academic and behavioral
19 achievement needs of each student.

20 (c) A positive behavioral support system and conflict resolution or
21 de-escalation approach implemented by a school district shall be based on the
22 following principles:

23 (1) A school should promote the right of a student to be treated
24 with dignity;

25 (2) A student should receive necessary academic, social,
26 emotional, and behavioral support that is provided in a safe and least-
27 restrictive environment possible;

28 (3) Positive and appropriate academic, social, emotional, or
29 behavioral intervention, as well as mental health support, should be provided
30 routinely to each student who needs the intervention or support;

31 (4) School personnel should be trained to provide routinely
32 positive and appropriate academic, social, emotional, or behavioral
33 intervention, as well as mental health support, to each student who needs the
34 intervention or support;

35 (5) Behavioral intervention should emphasize prevention and
36 should be a part of a school's system of positive behavioral support;

1 (6) A school should have the school personnel necessary to
2 effectively provide positive support to a student;

3 (7) A school should appropriately train its school personnel to
4 be able to address the needs of each student;

5 (8) All relevant school personnel, as determined by each public
6 school district, should receive training in:

7 (A) The use of positive behavior support for student
8 behavior and in preventive techniques for teaching and motivating prosocial
9 student behavior; and

10 (B) Conflict de-escalation and resolution techniques, and
11 these techniques should be employed by all school personnel to prevent,
12 defuse, evaluate, and debrief a crisis and conflict situation; and

13 (9) Each student who exhibits an ongoing behavior that
14 interferes with his or her learning or the learning of others, and who is
15 nonresponsive to effectively implemented classroom or administrative
16 intervention, should receive additional intensive behavioral intervention
17 that is based on a Functional Behavior Assessment and data-based problem
18 solving.

19 (d)(1) A school shall establish a problem-solving and intervention
20 team for each student who exhibits social, emotional, or behavioral
21 difficulty that may escalate, if not addressed, to potentially dangerous
22 behavior.

23 (2) A problem-solving and intervention team shall include a team
24 member who is an academic and behavioral assessment and intervention
25 professional.

26 (3) A problem-solving and intervention team shall:

27 (A) Work with the teachers of a student to complete:

28 (i) A Functional Behavior Assessment of the student;
29 and

30 (ii) An assessment of any problematic situations
31 involving the student; and

32 (B) Consider the need for a Behavior Intervention Plan
33 with the goal of preventing or resolving the social, emotional, or behavioral
34 difficulty of the student and developing a response that will de-escalate and
35 stabilize a potential emergency situation that approaches the danger level.

36 (4) If a student is suspected of having a disability that

1 relates to behavioral concerns, the school shall follow school district,
2 state, and federal special education procedures.

3
4 6-18-2205. Physical restraint.

5 (a)(1) Physical restraint of a student shall be used only by a member
6 of school personnel who is appropriately trained to administer physical
7 restraint except in the case of a clearly unavoidable emergency situation in
8 which a trained member of school personnel is not immediately available due
9 to the unforeseeable nature of the emergency situation.

10 (2) If an incident occurs in which a trained member of school
11 personnel is not immediately available due to the unforeseeable nature of the
12 emergency situation, a school district shall:

13 (A) Reevaluate the training needs of school personnel in
14 the school district;

15 (B) Reevaluate the physical restraint policy and practices
16 of the school district; and

17 (C) Develop a plan to prevent a future incident.

18 (3) School personnel who administer physical restraint may be
19 trained:

20 (A) By a person who is certified by a training program
21 that meets the criteria specified in § 6-18-2209; and

22 (B) In-state guidelines and the policies and procedures of
23 the school district concerning the physical restraint of a student.

24 (b)(1) School personnel shall use the least restrictive technique
25 necessary to end imminent danger or serious physical harm to a student and
26 others.

27 (2) The ability of a student to communicate shall not be
28 restricted unless the use of a less restrictive technique by school personnel
29 will not prevent imminent danger of serious physical harm to the student or
30 others.

31 (c) When using a crisis intervention procedure or technique, school
32 personnel shall consider the health and safety of a student, including
33 without limitation whether the student has an existing medical condition that
34 makes the use of physical restraint inadvisable.

35 (d) Supine restraint shall not be used unless:

36 (1) The school personnel administering the supine restraint has

1 been trained by a person who is certified by a training program that meets
2 the criteria specified in § 6-18-2209; and

3 (2) A person who is certified by a training program that meets
4 the criteria specified in § 6-18-2209 determines that supine restraint is
5 required to provide safety for the student and others.

6 (e) If physical restraint is used on a student, the student shall be
7 continuously and visually observed and monitored while he or she is under
8 physical restraint.

9 (f) When using physical restraint on a student, school personnel
10 shall:

11 (1) Use the safest method available and appropriate to the
12 situation;

13 (2) Use the amount of force that is reasonably necessary to
14 protect a student or others from imminent danger of serious physical harm to
15 the student or others; and

16 (3) Not verbally abuse, ridicule, humiliate, taunt, or engage in
17 any other similar action towards the student.

18 (g) Physical restraint of a student shall:

19 (1) Be used for a limited period of time; and

20 (2) Not be used:

21 (A) When imminent danger or serious physical harm to the
22 student or others dissipates or a medical condition occurs that puts the
23 student at risk of harm;

24 (B) Unless the behavior of the student poses an imminent
25 danger of serious physical harm to the student or others;

26 (C) After the threat of imminent danger of serious
27 physical harm to the student or others dissipates; or

28 (D) In the following manner:

29 (i) To punish or discipline the student;

30 (ii) To coerce the student;

31 (iii) To force the student to comply;

32 (iv) To retaliate against the student;

33 (v) To replace the use of an appropriate educational
34 or behavioral support;

35 (vi) As a routine safety measure;

36 (vii) As a planned behavioral intervention in

1 response to behavior of the student that does not pose an imminent danger of
2 serious physical harm to the student or others;

3 (viii) As a convenience for school personnel; or

4 (ix) To prevent property damage unless the act of
5 damaging property committed by the student poses an imminent danger or
6 serious physical harm to the student and others.

7 (h) School personnel shall not use the following on a student:

8 (1) Mechanical restraint;

9 (2) Chemical restraint;

10 (3) Aversive behavioral interventions that compromise health and
11 safety;

12 (4) Physical restraint that is:

13 (A) Life-threatening; or

14 (B) Medically contraindicated unless the behavior of the
15 student poses an imminent danger of serious physical harm to the student or
16 others; or

17 (5) Prone restraint or other restraint that restricts the
18 breathing of a student.

19 (i)(1) The use of physical restraint on a student as a planned
20 behavioral intervention shall not be included in a student's Individualized
21 Education Program, 504 Plan, Behavior Intervention Plan, individual safety
22 plan, or other individual planning document.

23 (2) However, if appropriate, physical restraint of a student may
24 be considered as a crisis intervention for the student.

25 (j) A Functional Behavior Assessment shall be conducted following the
26 first incident of physical restraint used on a student unless a previous
27 Functional Behavior Assessment was conducted for the same behavior that was
28 at issue when the physical restraint was used.

29 (k) The use of a technique that is abusive shall be reported to the
30 Child Abuse Hotline and law enforcement.

31
32 6-18-2206. Responsibilities of school districts.

33 A school district shall develop policies and procedures:

34 (1) To ensure that school personnel are aware of how to access
35 state and local policies and procedures regarding the use of physical
36 restraint on a student;

1 (2) To ensure that parents are notified of how to access state
2 and local policies and procedures regarding the use of physical restraint on
3 a student;

4 (3) To ensure the safety of all school personnel, visitors, and
5 students, including without limitation students with complex and intensive
6 behavioral needs;

7 (4) To require appropriate school personnel to be trained in
8 accordance with the provisions of this subchapter;

9 (5)(A) That shall be implemented during and after an incident
10 involving the use of physical restraint on a student.

11 (B) The policies and procedures under this section shall
12 include without limitation a requirement:

13 (i) That a parent of student shall be notified in
14 writing of an incident involving the use of physical restraint on the
15 student;

16 (ii) To document an incident involving the use of
17 physical restraint on a student; and

18 (iii) To conduct a debriefing as provided under § 6-
19 18-2207 when an incident involving the use of physical restraint on a student
20 occurs;

21 (6)(A) For the acceptance and disposition of a complaint from a
22 parent of a student regarding an incident involving the use of physical
23 restraint on the student.

24 (B)(i) A complaint received by a school district
25 concerning the use of physical restraint on a student shall be referred to
26 the appropriate school personnel and the student's Individualized Education
27 Program team or the student's 504 Plan team for review.

28 (ii) If a student has an Individualized Education
29 Program or a 504 Plan, the student's Individualized Education Program team or
30 504 Plan team shall consider whether:

31 (a) A Functional Behavior Assessment should be
32 performed;

33 (b) A Behavior Intervention Plan should be
34 developed or revised; and

35 (c) Additional behavioral goals and
36 interventions should be included in the student's existing Individualized

1 Education Program or 504 Plan; and

2 (7) To require the regular review of data on incidents involving
3 the use of physical restraint on a student and the adjustment of procedures,
4 as needed, concerning the use of physical restraint on a student.

5
6 6-18-2207. Documentation – Notification – Debriefing.

7 After the occurrence of an incident involving physical restraint of a
8 student, school personnel involved in the incident shall:

9 (1)(A) Document the incident in a written report within twenty-
10 four (24) hours after the incident occurred.

11 (B) A written report of the incident shall:

12 (i) Include all information contained in the
13 Physical Restraint or Seclusion Incident Record and Debriefing Report
14 provided by the Division of Elementary and Secondary Education; and

15 (ii) Be maintained in the education record of the
16 student on whom physical restraint was used.

17 (C) A copy of the report shall be provided to the parent
18 of the student on whom physical restraint was used within one (1) school day
19 of the completion of the report;

20 (2) Notify the:

21 (A) Principal of the school or another designated building
22 administrator of the incident as soon as possible but no later than the end
23 of the school day on which the incident occurred;

24 (B)(i) Parent of the student on whom physical restraint
25 was used via verbal or electronic communication as soon as possible but no
26 later than the end of the school day on which the incident occurred.

27 (ii) If the parent of the student on whom physical
28 restraint was used cannot be notified via verbal or electronic communication
29 within twenty-four (24) hours after the incident occurred, the parent shall
30 be mailed written notification of the incident within forty-eight (48) hours
31 after the incident occurred; and

32 (3)(A) Hold a debriefing meeting within two (2) school days
33 after the incident occurred.

34 (B) The following school personnel shall be present at a
35 debriefing meeting:

36 (i) A member of school personnel who was present

1 during the incident;

2 (ii) A member of school personnel who was in the
3 proximity of the student on whom physical restraint was used immediately
4 before and during the time of the incident;

5 (iii) A school administrator; and

6 (iv) Any other member of school personnel determined
7 to be appropriate by the school district.

8 (C) The purpose of the debriefing meeting shall be to:

9 (i) Determine whether the procedures used during the
10 incident were necessary;

11 (ii) Evaluate the use of any behavioral supports and
12 de-escalation techniques by school personnel before and during the incident;
13 and

14 (iii) Evaluate the school district's positive
15 behavioral supports system and prevention techniques in order to minimize
16 future use of physical restraint.

17 (D) At a debriefing meeting, school personnel shall:

18 (i) Consider relevant information in the education
19 record of the student on whom physical restraint was used, including without
20 limitation the concerns of the parent of the student and the student's social
21 and medical history, Functional Behavior Assessment, and Behavior
22 Intervention Plan;

23 (ii) Consider relevant information from the
24 teachers, parents, and other professionals employed with the school district;

25 (iii) Discuss whether positive behavior supports
26 were appropriately implemented;

27 (iv) Discuss the duration and frequency of the use
28 of physical restraint on the student;

29 (v) Discuss appropriate action that may be taken to
30 prevent and reduce the need for physical restraint;

31 (vi) Consider whether additional intervention and
32 support is necessary for the student on whom physical restraint was used;

33 (vii) Consider whether additional intervention and
34 support is necessary for school personnel; and

35 (viii) Consider how and when to debrief a person who
36 was not present at the debriefing meeting, including without limitation the

1 student on whom physical restraint was used, the parent of the student on
2 whom physical restraint was used, and any other school personnel or students
3 who witnessed the incident.

4 (E)(i) The Physical Restraint or Seclusion Incident Record
5 and Debriefing Report provided by the division or an alternative report that
6 includes the same information in the Physical Restraint or Seclusion Incident
7 Record and Debriefing Report shall be completed during the debriefing meeting
8 and filed with a designated administrator of the school district.

9 (ii) A copy of the report completed under
10 subdivision (3)(E)(i) of this section shall be mailed to the parent of the
11 student on whom physical restraint was used within two (2) days of the date
12 on which the debriefing meeting was held.

13 (F) All documentation used during the debriefing meeting
14 shall be maintained as part of the education record of the student on whom
15 physical restraint was used.

16
17 6-18-2208. Training – School personnel.

18 (a) A school district may conduct the following training for school
19 personnel:

20 (1) Training on the use of an array of positive behavior
21 interventions, strategies, and supports to increase appropriate student
22 behavior and decrease inappropriate or dangerous student behavior;

23 (2)(A) Annual training on responding to a student in behavioral
24 crisis and preventing a behavioral crisis.

25 (B) The training described under subdivision (a)(2)(A) of
26 this section may be delivered using a web-based application and may include
27 training on:

28 (i) The appropriate procedures that may be used to
29 prevent the need for physical restraint and crisis intervention, including
30 without limitation positive behavior management and support strategies;

31 (ii) The proper use of positive reinforcement;

32 (iii) The continuum of alternative behavioral
33 interventions;

34 (iv) Crisis prevention techniques; and

35 (v) De-escalation strategies for problematic
36 behavior, including without limitation verbal de-escalation and relationship

1 building; and

2 (3)(A) Training for school personnel who are selected to
3 participate in a core team that is designated to respond to crisis and
4 emergency situations that may require the physical restraint of a student.

5 (B) The core team may receive training annually in the
6 following areas:

7 (i) Appropriate procedures for preventing the need
8 for physical restraint or crisis intervention that includes the de-escalation
9 of problematic behavior, relationship building skills, and the use of
10 alternatives to physical restraint;

11 (ii) Describing and identifying dangerous behaviors
12 on the part of a student that may indicate the need for physical restraint or
13 crisis intervention;

14 (iii) The methods for evaluating the risk of harm in
15 individual situations in order to determine whether the use of physical
16 restraint or crisis intervention is safe and warranted;

17 (iv) Simulated experience of administering and
18 receiving physical restraint and crisis intervention;

19 (v) Instruction regarding the effect of using
20 physical restraint on a student, including without limitation instruction on
21 monitoring physical signs of distress and obtaining medical assistance;

22 (vi) Instruction on documentation and reporting
23 requirements and the investigation of injuries; and

24 (vii) Demonstration by participants of proficiency
25 in administering physical restraint and crisis intervention.

26 (b) A school district shall notify all school personnel of each member
27 of school personnel who has been trained in the use of physical restraint
28 procedures.

29
30 6-18-2209. Crisis Intervention Training Program – Criteria.

31 A program used by a school district to train school personnel on the
32 use of physical restraint on a student shall:

33 (1) Teach evidence-based techniques that are shown to be
34 effective in the prevention and safe use of physical restraint;

35 (2) Provide evidence-based skills training relating to positive
36 support, conflict prevention, de-escalation, and crisis response techniques.

1 including without limitation:

2 (A) Guidelines on understanding when there is an imminent
3 danger of serious physical harm to a student or others;

4 (B) Guidelines on when to intervene when there is an
5 imminent danger of serious physical harm to a student or others;

6 (C) An emphasis on safety and the respect for the rights
7 and dignity of each person involved in an incident that involves the use of
8 physical restraint on a student;

9 (D) An emphasis on using the least restrictive form of
10 intervention and taking incremental steps in an intervention;

11 (E) The provision of updates on information concerning
12 alternatives to the use of restrictive interventions;

13 (F) Strategies for the safe implementation of restrictive
14 interventions;

15 (G) The use of emergency safety interventions that include
16 without limitation continuous assessment and monitoring of the physical well-
17 being of a student and the safe use of physical restraint throughout the
18 duration of a restrictive intervention;

19 (H) Prohibited procedures;

20 (I) Debriefing strategies, including without limitation
21 the importance and purpose of debriefing; and

22 (J) Documentation of methods and procedures concerning the
23 use of physical restraint on a student;

24 (3) Be competency-based and include measurable learning
25 objectives, measurable testing using written documentation of behavior and
26 observation of behavior on the objectives of the testing, and measurable
27 methods to determine passing or failing the program;

28 (4) Require recertification at least biennially; and

29 (5) Be consistent with the philosophies, practices, and
30 techniques for physical restraint provided under this subchapter.

31
32 */s/Gazaway*

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35 **APPROVED: 4/30/21**