

Regular Session, 2011

HOUSE CONCURRENT RESOLUTION NO. 31

BY REPRESENTATIVE STIAES

BESE: Requests that the State Board of Elementary and Secondary Education make certain revisions to guidelines for the use of seclusion rooms and restraint of students with exceptionalities

1 A CONCURRENT RESOLUTION

2 To urge and request the State Board of Elementary and Secondary Education to make certain
3 revisions to guidelines for the use of seclusion rooms and restraint of students with
4 exceptionalities.

5 WHEREAS, as stated in the Constitution of Louisiana, it is the goal of the public
6 educational system to provide learning environments and experiences at all stages of human
7 development that are humane, just, and designed to promote excellence in order that every
8 individual may be afforded an equal opportunity to develop to his full potential; and

9 WHEREAS, R.S. 17:7(5)(b), as enacted by Act No. 698 of the 2010 Regular Session
10 of the Legislature, requires the State Board of Elementary and Secondary Education (BESE)
11 to prepare and adopt guidelines for the appropriate use of seclusion, physical restraint, and
12 mechanical restraint of students with exceptionalities; and

13 WHEREAS, pursuant to R.S. 17:7(5)(b), BESE prepared "Guidelines for the Use of
14 Seclusion Rooms and Restraint of Students with Exceptionalities", and these guidelines are
15 posted on the website of the state Department of Education; and

16 WHEREAS, certain changes should be made to these guidelines in order to fulfill the
17 state's constitutional duty of affording every student an equal opportunity to develop to his
18 full potential.

1 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
2 urge and request the State Board of Elementary and Secondary Education to make the
3 following revisions to the "Guidelines for the Use of Seclusion Rooms and Restraint of
4 Students with Exceptionalities", as posted on the state Department of Education website as
5 of April 18, 2011:

6 **Guidelines for the Use of Seclusion Rooms and Restraint**
7 **of Students with Exceptionalities**

8 **Act No. 698**
9 **Regular Session, 2010**

10 **Guideline 1.**

11 **Definitions.** As used in these guidelines, the following terms shall have the
12 meanings specified herein:

13 (a) "Imminent risk of harm" means an immediate and impending threat of a
14 person causing substantial physical injury to self or others. Violent action
15 that is destructive of property may involve a substantial risk of injury to a
16 person.

17 (b) "Mechanical restraint" means any device or object used to limit a person's
18 movement, except that a protective or stabilizing device used exclusively in
19 accordance with the device manufacturer's intended purposes either ordered
20 by a person appropriately licensed to issue the order for the device or
21 required by law shall not be considered to be a mechanical restraint. This
22 term does not include any device used by a law enforcement officer, campus
23 police officer, or school security officer in carrying out law enforcement
24 duties.

25 (c) "Physical restraint" means bodily force used to substantially limit a
26 person's movement, except that consensual, solicited, ~~or unintentional contact~~
27 ~~and contact to provide comfort, assistance, or instruction shall~~ the holding of
28 a student for less than five minutes in any given hour or class period by a
29 staff person for the protection of the student or others; the brief holding of a
30 student by one adult for the purpose of calming or comforting the student that
31 does not prevent the student's freedom of movement or normal access to his
32 body; minimal physical contact for the purpose of safely escorting a student
33 from one area to another; and minimal physical contact for the purpose of
34 assisting the student in completing a task or response should not be deemed
35 to be physical restraint.

36 (d) "Positive Behavior Interventions and Support" means a systemic
37 approach to embed evidence based practices and data driven decision making
38 to improve school climate and culture.

39 (e) "School employees" means teachers, paraprofessionals, providers of
40 related services, administrators, and support staff.

41 (f) "Seclusion room" means a room or other confined area used on an
42 individual basis in which a student with an exceptionality is removed from
43 the regular setting for a limited time as a behavior intervention strategy to
44 allow the student the opportunity to regain control in a private setting and
45 from which the student is prevented from leaving the area.

1 (g) "Student with an exceptionality" including a student with a disability, is
 2 any student who is evaluated according to state and federal regulation or
 3 policy and is deemed to have a mental disability, hearing impairment
 4 (including deafness), multiple disabilities, deaf-blindness, speech or language
 5 impairment, visual impairment (including blindness), emotional disturbance,
 6 orthopedic impairment, other health impairment, specific learning disability,
 7 traumatic brain injury, autism, or as deemed to be gifted or talented, and as
 8 a result requires special education and related services. A student with an
 9 exceptionality may include, as determined by the local education agency
 10 (LEA), a student experiencing developmental delay ages three through eight.

11 (h) "Written Procedures" The LEA should develop written procedures
 12 regarding appropriate responses to student behavior that may require
 13 immediate intervention. Such procedures should be provided to school staff
 14 and made available to parents of enrolled students. Such procedures should
 15 include, but not be limited to, methods for preventing student violence,
 16 self-injurious behavior, and suicide, including de-escalation of potentially
 17 dangerous behavior occurring among groups of students or with an individual
 18 student.

19 **Guideline 2.**
 20 **Seclusion room (or "Quiet Room" or "Cool Down Room")**

21 Purpose:

22 A professional educator understands the importance of a safe and orderly
 23 environment conducive to teaching and learning. Seclusion is ineffective
 24 when used as a form of discipline or punishment, ~~but can be effective as a~~
 25 ~~planned behavior strategy. A behavior intervention strategy is one that is~~
 26 ~~planned to support an individual through a targeted behavior change-not to~~
 27 ~~punish the individual until they comply. and it should not be used as a threat~~
 28 to control, bully, or gain compliance of a student's behavior. Seclusion
 29 should only be used as a last resort when de-escalation attempts have failed
 30 and the student continues to pose an imminent threat to self or others.

31 Procedures:

32 The LEA should develop written procedures so that the use of seclusion is
 33 consistent and planned in advance. Such procedures should include, but need
 34 not be limited to, what behaviors trigger the use of seclusion, which staff can
 35 make a determination that a particular student should be secluded, how
 36 parents will be notified, what data is are to be kept and where, and how the
 37 building principal and/or other administrators will be notified.

38 Use/Restrictions:

- 39 • Seclusion should be used only for behaviors that are destructive to
 40 property and may involve a substantial risk of injury to ~~a person,~~
 41 ~~aggressive toward others or severely disruptive to the class~~
 42 ~~environment. self or others.~~ Such behaviors as general
 43 noncompliance, self-stimulation, and academic refusal ~~can~~ should be
 44 responded to with less stringent and restrictive techniques. The
 45 seclusion room should be used only as a last resort if and when less
 46 restrictive means ~~of controlling behavior~~ have ~~proven ineffective~~
 47 failed to stop the dangerous or violent actions of the student (such as
 48 Positive Behavior Supports, constructive and non-physical
 49 de-escalation, and re-structuring the environment). Seclusion or
 50 physical restraint should never be used as a punitive form of

1 discipline or as a threat to control, bully, or gain compliance of a
2 student's behavior.

3 • No student with an exceptionality should be subjected to
4 unreasonable, unsafe, or unwarranted use of seclusion rooms.
5 Therefore, a child should be placed in a seclusion room only as a
6 behavior intervention strategy and not for purposes of discipline or
7 punishment, or for the convenience of staff.

8 • A student with an exceptionality should not be placed in a seclusion
9 room if the child is known to have any medical or psychological
10 condition that a licensed health care provider has indicated, in a
11 written statement that is provided to the school and that is on file with
12 the school, precludes this action.

13 • A student with an exceptionality should not be placed in a seclusion
14 room except by a school employee who has had training in the
15 appropriate use of seclusion rooms, including getting a student to a
16 seclusion room, placing a student in a seclusion room, and
17 supervising a student while the student is in the room.

18 • While a student with a disability is in a seclusion room, the school
19 employee who is supervising the student should have the ability to
20 see and hear the student at all times.

21 • Not more than one student with an exceptionality should be placed
22 in the same seclusion room at the same time.

23 • ~~A If a student shall not be~~ is ~~is~~ secluded or restrained, for more than the
24 student should be continuously monitored, after the initiation of the
25 seclusion except in extraordinary circumstances where an imminent
26 threat of serious physical injury or death still exists as determined by
27 trained school staff. Such monitoring shall be documented at least
28 every fifteen minutes, and actions should be adjusted accordingly
29 based on such monitoring.

30 • Students with an exceptionality ~~shall~~ should be removed from
31 seclusion as soon as the reasons justifying the use of seclusion
32 subside.

33 Notification: If a student is secluded, the parent ~~must~~ should be notified as
34 soon as possible and in writing within 24 hours, and such notification should
35 include along with the reason for seclusion, the seclusion procedures, the
36 names and titles of staff involved, and the length of time for seclusion.

37 Size and characteristics

38 • Each seclusion room to be used for any particular child should be of
39 a size that is appropriate to the student's chronological and
40 developmental age, size, and behavior.

41 • Each seclusion room should have a ceiling height that is comparable
42 to the ceiling height of the other rooms in the building in which it is
43 located and should be equipped with heating, cooling, ventilation,
44 and lighting systems that are comparable to the systems that are in
45 use in the other rooms of the building in which it is located.

- 1 • Each seclusion room should be free of any object that poses a danger
2 to the student with an exceptionality who is being placed in the room.
- 3 • Any seclusion room should not be locked while in use with a student
4 with an exceptionality. In the event that a student and staff person
5 struggle to the point of a student escaping the room and being
6 considered a serious threat, additional staff persons should be called
7 for assistance.
- 8 • A seclusion room should have an observation window.

Guideline 3.**Physical restraint and mechanical restraint**

Purpose:

12 Restraint should be used only if a student presents a threat of imminent risk
13 of harm to self or others and *only* as a last resort to protect the safety of all
14 involved.

Written Policy:

16 The LEA should develop policy regarding restraint that provides a
17 description and explanation of the method(s) of physical restraint, a
18 description of training requirements, reporting requirements and follow-up
19 procedures, and a procedure for receiving and investigating complaints
20 regarding restraint practices.

Use/Restrictions:

- 22 • A student with an exceptionality should not be subjected to any form
23 of mechanical restraint.
- 24 • No school employee should use physical restraint on any student with
25 an exceptionality except in accordance with the written policy of the
26 LEA.
- 27 • No student with an exceptionality should be subjected to
28 unreasonable, unsafe, or unwarranted use of physical restraint. Only
29 the degree of restraint necessary to stop dangerous behavior should
30 be used.
- 31 • Physical restraint should not be used for discipline, punishment, or
32 the convenience of staff.
- 33 • A school employee should use physical restraint on a student with an
34 exceptionality only if the student's behavior presents an imminent
35 risk of harm.
- 36 • Each school employee applying physical restraint should use a
37 method of physical restraint in which the employee has received
38 training and should apply the physical restraint in a manner that is
39 proportionate to the circumstances and to the student's size and age
40 and the severity of the student's behavior.
- 41 • A student with an exceptionality should not be physically restrained
42 if the child is known to have any medical or psychological condition
43 that a licensed health care provider has indicated, in a written

1 statement that is provided to the school and that is on file with the
2 school, precludes this action.

3 • A student with an exceptionality should not be physically restrained
4 except by a school employee who has had training in the appropriate
5 use of physical restraint.

6 • ~~School employees should be provided training in crisis intervention
7 methods that include verbal de-escalation procedures, using an
8 appropriate method of physical restraint and in determining the
9 circumstances in which the use of physical restraint is appropriate.~~
10 Staff utilizing restraints should receive intensive, nationally
11 recognized training in the use of seclusion or physical restraints.
12 Training should include:

13 (1) A continuum of prevention techniques, including
14 evidence-based techniques shown to be effective in the prevention of
15 physical restraint.

16 (2) Evidence-based techniques shown to be effective
17 in keeping both school personnel and students safe when
18 imposing physical restraint.

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

23 (4) First aid and cardiopulmonary resuscitation.

24 (5) Environmental management.

25 (6) A continuum of de-escalation techniques.

26 (7) Nationally recognized physical management and
27 restraint practices, including but not limited to techniques that
28 allow restraint in an upright or sitting position and
29 information about the dangers created by prone restraint.

30 (8) Methods to explain the use of restraint to the
31 student who is to be restrained and to his family.

32 (9) Appropriate documentation and notification
33 procedures.

34 (10) Training and certification for school personnel
35 in these techniques and skills which shall occur at a frequency
36 determined by the local school district or the program
37 utilized.

38 • A student ~~shall~~ should not be secluded or restrained for more than
39 fifteen minutes after the initiation of the restraint except in
40 extraordinary circumstances where an imminent threat of serious
41 physical injury or death still exists as determined by trained school
42 staff.

43 • Students with an exceptionality ~~shall~~ should be released from
44 physical restraint as soon as the reasons justifying the use of physical
45 restraint subside.

46 • Physical restraints ~~shall~~ should be used so as not to cause physical
47 injury to the student and so as to cause the least possible discomfort.
48 Restraints should not be used in a way that interferes with breathing
49 or communicating. Caution should be used when using prone
50 restraints.

51 Notification:

1 If a child is physically restrained, the parent ~~must~~ should be notified as soon
2 as possible and in writing within 24 hours, and such notification should
3 include along with the reason for using physical restraint, the restraint
4 procedures, the names and titles of the staff involved, and the length of time
5 the child was physically restrained. The director or supervisor of special
6 education should be notified when a child is restrained.

7 **Guideline 4.**
8 **Revision of a Student's Functional Behavioral Assessment (FBA) and**
9 **Behavior Intervention Plan (BIP)**

10 An FBA should be considered whenever a student is secluded or restrained.
11 ~~Any~~ For any student subject to the use of seclusion or physical restraint ~~on~~
12 ~~more than one occasion in a semester shall have a new FBA conducted~~
13 ~~within ten days and a BIP written or modified within days of the completion~~
14 ~~of the FBA that specifically prioritizes the use positive behavior~~
15 ~~interventions and supports.~~ Progress monitoring at regular, frequent
16 intervals shall be a specific component of the new or revised BIP. The PBIS
17 team leader and behavior specialist assigned at the student's school shall
18 actively participate in the FBA and drafting of the BIP. and whose behavior
19 continues or escalates, the data should be reviewed at least every three
20 weeks. If the FBA already includes the target behavior for which the student
21 has been secluded or restrained, the FBA should be updated. If the behaviors
22 are of high frequency and serious intensity, the Behavioral
23 Support/Intervention Plan should be updated to reflect that adequate levels
24 of intervention are occurring and being appropriately implemented. Data
25 should reflect adequate progress monitoring.

26 **Guideline 5.**
27 **Seclusion rooms and physical restraint---** reports and notification.

- 28 • When any student with an exceptionality is placed in a seclusion
29 room or is subjected to physical restraint, the procedures for parental
30 notification should be implemented.

- 31 • As soon as possible after use of the seclusion room or physical
32 restraint, the school employee who used the seclusion room or
33 physical restraint, or an employee who witnessed its use, should
34 document the use of the seclusion room or the physical restraint.
35 This documentation should be completed no later than the school day
36 following the day on which the seclusion room or physical restraint
37 is used, and a copy of the documentation provided to the parent of the
38 student when the documentation is completed.

- 39 • Notification: If a child is secluded or restrained, the parent should be
40 notified as soon as possible and in writing within 24 hours, and such
41 notification should include the reason for using seclusion or physical
42 restraint, the seclusion or restraint procedures, the names and titles of
43 the staff involved, and the length of time the child was secluded or
44 physically restrained. The director or supervisor of special education
45 should be notified when seclusion or restraint is used.

46 **Guideline 6.**
47 **Oversight**

- 48 • The LEA should develop an oversight policy to implement the
49 restraint and seclusion guidelines. The policy may include forming
50 a school or district committee to review restraint and seclusion data,

1 such as frequency of use of restraint and seclusion, and to review
2 interventions and their effectiveness.

3 • The committee should include a central office administrator such as
4 the director/supervisor of special education, the LEA's PBIS
5 coordinator, the students and parents (when confidentiality is not an
6 issue), the school principal, mental health professionals who work
7 with the child, regular and special education teachers, and other
8 members of IEP teams.

9 • The state Department of Education will develop and implement a
10 technical assistance and training program to be offered to all LEA
11 staff, parents, advocates, and other appropriate groups.

12 BE IT FURTHER RESOLVED that copies of this Resolution be transmitted to the
13 president of the State Board of Elementary and Secondary Education and to the state
14 superintendent of education.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Stiaes

HCR No. 31

Requests that the State Bd. of Elementary and Secondary Education make certain revisions to guidelines for the use of seclusion rooms and restraint of students with exceptionalities.