

CHAPTER 2021-140

Committee Substitute for House Bill No. 149

An act relating to students with disabilities in public schools; amending s. 1003.573, F.S.; providing definitions; requiring school districts to prohibit the use of seclusion; providing requirements for the use of restraint; prohibiting specified restraint techniques or devices; revising school district policies and procedures relating to restraint; requiring school districts to adopt positive behavior interventions and supports and certain policies and procedures; requiring school districts to publicly post specified policies and procedures; requiring school districts to provide training on certain interventions and supports to specified personnel; providing requirements for such training; requiring school districts to publish training procedures; requiring a school to develop a crisis intervention plan for certain students; providing requirements for such plans; providing requirements for documenting, reporting, and monitoring the use of restraint; conforming provisions to changes made by the act; requiring the department to make certain information available to the public by a specified date; creating s. 1003.574, F.S.; creating the Video Cameras in Public School Classrooms Pilot Program; providing definitions; requiring a video camera be placed in specified classrooms upon the request of a parent; requiring a video camera to be operational within a specified time period; providing requirements for the discontinuation of such video cameras; providing requirements for such video cameras; requiring a written explanation if the operation of such cameras is interrupted; requiring district school boards to maintain such explanation for a specified time period; requiring a school to provide written notice of the placement of a video camera to certain individuals; providing requirements for retaining and deleting video recordings; providing prohibitions for the use of such video cameras and recordings; providing that a school principal is the custodian of such video cameras and recordings; providing requirements for school principals and video recordings; providing requirements relating to student privacy; providing requirements for the viewing of such video recordings; providing for an appeal process for actions of a school or school district; providing that incidental viewings of video recordings by specified individuals are not a violation of certain provisions; providing construction; requiring the Department of Education to collect specified information; authorizing the State Board of Education to adopt rules; amending s. 1012.582, F.S.; requiring continuing education and inservice training for teaching students with emotional or behavioral disabilities; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1003.573, Florida Statutes, is amended to read:

1003.573 Seclusion and Use of restraint of and seclusion on students with disabilities in public schools.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Crisis Intervention Plan” means an individualized action plan for school personnel to implement when a student exhibits dangerous behavior that may lead to imminent risk of serious injury.

(b) “Imminent risk of serious injury” means the threat posed by dangerous behavior that may cause serious physical harm to self or others.

(c) “Restraint” means the use of a mechanical or physical restraint.

1. “Mechanical restraint” means the use of a device that restricts a student’s freedom of movement. The term does not include the use of devices prescribed or recommended by physical or behavioral health professionals when used for indicated purposes.

2. “Physical restraint” means the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part of a student’s body. The term does not include briefly holding a student in order to calm or comfort the student or physically escorting a student to a safe location.

(d) “Positive behavior interventions and supports” means the use of behavioral interventions to prevent dangerous behaviors that may cause serious physical harm to the student or others.

(e) “Seclusion” means the involuntary confinement of a student in a room or area alone and preventing the student from leaving the room or area. The term does not include time-out used as a behavior management technique intended to calm a student.

(f) “Student” means a child with an individual education plan enrolled in grades kindergarten through 12 in a school, as defined in s. 1003.01(2), or the Florida School for the Deaf and Blind. The term does not include students in prekindergarten, students who reside in residential care facilities under s. 1003.58, or students participating in a Department of Juvenile Justice education program under s. 1003.52.

(2) SECLUSION.—Each school district shall prohibit school personnel from using seclusion.

(3) RESTRAINT.—

(a) Authorized school personnel may use restraint only when all positive behavior interventions and supports have been exhausted. Restraint may be used only when there is an imminent risk of serious injury and shall be discontinued as soon as the threat posed by the dangerous behavior has dissipated. Techniques or devices such as straightjackets, zip ties,

handcuffs, or tie downs may not be used in ways that may obstruct or restrict breathing or blood flow or that place a student in a facedown position with the student's hands restrained behind the student's back. Restraint techniques may not be used to inflict pain to induce compliance.

(b) Notwithstanding the authority provided in s. 1003.32, restraint shall be used only to protect the safety of students, school personnel, or others and may not be used for student discipline or to correct student noncompliance.

(c) The degree of force applied during physical restraint must be only that degree of force necessary to protect the student or others from imminent risk of serious injury.

(4)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

(a) Each school district shall adopt positive behavior interventions and supports and identify all school personnel authorized to use the interventions and supports. Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.
2. Data collection and monitoring, including when, where, and why students are restrained and ~~or secluded~~; the frequency of occurrences of such restraint ~~or seclusion~~; and the prone or mechanical restraint that is most used.
3. Monitoring and reporting of data collected.
4. Training programs and procedures relating to ~~manual or physical restraint as described in subsection (3) and seclusion.~~
5. The district's plan for selecting personnel to be trained pursuant to this subsection.
6. The district's plan for reducing the use of restraint, ~~and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint.~~ The plan must include a goal for reducing the use of restraint ~~and seclusion~~ and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:
 - a. Additional training in positive behavior interventions and supports. ~~behavioral support and crisis management;~~
 - b. Parental involvement.;
 - c. Data review.;
 - d. Updates of students' functional behavioral analysis and positive behavior intervention plans.;

- e. Additional student evaluations;
- f. Debriefing with staff;
- g. Use of schoolwide positive behavior support; ~~and~~
- h. Changes to the school environment.
- i. Analysis of data to determine trends.
- j. Ongoing reduction of the use of restraint.

(b) ~~Any revisions a school district makes to its to the district's policies and procedures pursuant to this section, which must be prepared as part of its special policies and procedures, must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services within 90 days after the revision no later than January 31, 2012.~~

(c) At the beginning of each school year, each school district shall publicly post its policies and procedures on positive behavior interventions and supports as adopted by the school district.

(5) TRAINING.—Each school district shall provide training to all school personnel authorized to use positive behavior interventions and supports pursuant to school district policy. Training shall be provided annually and must include:

- (a) The use of positive behavior interventions and supports.
- (b) Risk assessment procedures to identify when restraint may be used.
- (c) Examples of when positive behavior interventions and support techniques have failed to reduce the imminent risk of serious injury.
- (d) Examples of safe and appropriate restraint techniques and how to use these techniques with multiple staff members working as a team.
- (e) Instruction in the district's documentation and reporting requirements.
- (f) Procedures to identify and deal with possible medical emergencies arising during the use of restraint.
- (g) Cardiopulmonary resuscitation.

Each school district shall publish the procedures for the training required under this subsection in the district's special policies and procedures manual.

(6) Crisis intervention plan.—

(a) Upon the second time a student is restrained during a semester, the school shall develop a crisis intervention plan for the student. The crisis intervention plan shall be developed by a team comprised of the student's parent or guardian, school personnel, and applicable physical and behavioral health professionals.

(b) The crisis intervention plan must include:

1. Specific positive behavior interventions and supports to use in response to dangerous behaviors that create a threat of imminent risk of serious injury.

2. Known physical and behavioral health concerns that will limit the use of restraint for the student.

3. A timetable for the review and, if necessary, revision of the crisis intervention plan.

(c) The school must provide a copy of the crisis intervention plan to the student's parent or guardian.

(7)(4) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint ~~or seclusion~~. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained ~~or secluded~~.

2. The age, grade, ethnicity, and disability of the student restrained ~~or secluded~~.

3. The date and time of the event and the duration of the restraint ~~or seclusion~~.

4. The location at which the restraint ~~or seclusion~~ occurred.

5. A description of the type of restraint used in terms established by the department of Education.

6. The name of the person using or assisting in the restraint ~~or seclusion~~ of the student and the date the person was last trained in the use of positive behavior interventions and supports.

7. The name of any nonstudent who was present to witness the restraint ~~or seclusion~~.

8. A description of the incident, including all of the following:

- a. The context in which the restraint ~~or seclusion~~ occurred.
- b. The student's behavior leading up to and precipitating the decision to use ~~manual or physical~~ restraint ~~or seclusion~~, including an indication as to why there was an imminent risk of serious injury ~~or death~~ to the student or others.
- c. The ~~specific~~ positive behavior interventions and supports ~~behavioral strategies~~ used to prevent and deescalate the behavior.
- d. What occurred with the student immediately after the termination of the restraint ~~or seclusion~~.
- e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint ~~or seclusion~~, documented according to district policies.
- f. Evidence of steps taken to notify the student's parent or guardian.
- g. The date the crisis intervention plan was last reviewed and whether changes were recommended.

(c) A school shall notify the parent or guardian of a student each time ~~manual or physical~~ restraint ~~or seclusion~~ is used. Such notification must be in writing and provided before the end of the school day on which the restraint ~~or seclusion~~ occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or ~~computer~~ e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint ~~or seclusion~~.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was ~~manually or physically~~ restrained ~~or secluded~~. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(8)(2) MONITORING.—

(a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint ~~or seclusion~~ on students shall be monitored ~~occur~~ at the classroom, building, district, and state levels.

(b) Any documentation prepared by a school pursuant to as required in subsection (7) (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that the school is in session.

(c) The department shall maintain aggregate data of incidents of ~~manual or physical~~ restraint and ~~seclusion~~ and disaggregate the data for analysis by

county, school, student exceptionality, and other variables, including the type and method of restraint ~~or seclusion~~ used. This information shall be updated monthly, de-identified, and made available to the public through the department's website no later than October 1, 2021.

(d) The department shall establish standards for documenting, reporting, and monitoring the incident reports related to the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion. These standards shall be provided to school districts by October 1, 2011.

~~(4) PROHIBITED RESTRAINT.—School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student's breathing.~~

~~(5) SECLUSION.—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.~~

Section 2. Section 1003.574, Florida Statutes, is created to read:

1003.574 Video cameras in public school classrooms; pilot program.—Beginning with the 2021-2022 school year, the Video Cameras in Public School Classrooms Pilot Program is created for a period of 3 school years.

(1) As used in this section, the term:

(a) "Incident" means an event, a circumstance, an act, or an omission that results in the abuse or neglect of a student by:

1. An employee of a public school or school district; or
2. Another student.

(b) "School district" means the Broward County Public Schools.

(c) "Self-contained classroom" means a classroom at a public school in which a majority of the students in regular attendance are provided special education services and are assigned to one or more such classrooms for at least 50 percent of the instructional day.

(2)(a) A school district shall provide a video camera to any school with a self-contained classroom upon the written request of a parent of a student in the classroom.

(b) Within 30 days after receipt of the request from a parent, a video camera shall be operational in each self-contained classroom in which the parent's student is in regular attendance for the remainder of the school year, unless the parent withdraws his or her request in writing.

(3) If the student who is the subject of the initial request is no longer in attendance in the classroom and a school discontinues operation of a video camera during a school year, no later than the 5th school day before the date

the operation of the video camera is discontinued, the school must notify the parents of each student in regular attendance in the classroom that operation of the video camera will cease unless the continued use of the camera is requested by a parent. No later than the 10th school day before the end of each school year, the school must notify the parents of each student in regular attendance in the classroom that operation of the video camera will not continue during the following school year unless a written request is submitted by a parent for the next school year.

(4)(a) A video camera placed in a self-contained classroom must be capable of all of the following:

1. Monitoring all areas of the self-contained classroom, including, without limitation, any room attached to the self-contained classroom which is used for other purposes.

2. Recording audio from all areas of the self-contained classroom, including, without limitation, any room attached to the self-contained classroom which is used for other purposes.

(b) A video camera placed in a self-contained classroom may not monitor a restroom or any other area in the self-contained classroom where a student changes his or her clothes, except for the entryway, exitway, or hallway outside a restroom or other area where a student changes his or her clothes because of the layout of the self-contained classroom.

(c) A video camera placed in a self-contained classroom is not required to be in operation when students are not present in the self-contained classroom.

(d) If there is an interruption in the operation of the video camera for any reason, an explanation must be submitted in writing to the school principal and the district school board which explains the reason for and duration of the interruption. The written explanation must be maintained at the district school board office for at least 1 year.

(5) Before a school initially places a video camera in a self-contained classroom pursuant to this section, the school shall provide written notice of the placement of such video camera to all of the following:

(a) The parent of each student who is assigned to the self-contained classroom.

(b) Each student who is assigned to the self-contained classroom.

(c) The school district.

(d) Each school employee who is assigned to work with one or more students in the self-contained classroom.

(6) A school shall:

(a) Retain video recorded from a video camera placed pursuant to this section for at least 3 months after the date the video was recorded, after which the recording shall be deleted or otherwise made unretrievable; or

(b) Retain the recording until the conclusion of any investigation or any administrative or legal proceedings that result from the recording have been completed, including, without limitation, the exhaustion of all appeals.

(7) A school or school district may not:

(a) Allow regular, continuous, or continual monitoring of video recorded under this section; or

(b) Use video recorded under this section for teacher evaluations or any purpose other than for ensuring the health, safety, and well-being of students receiving special education services in a self-contained classroom.

(8) The principal of the school is the custodian of a video camera operated pursuant to this section, all recordings generated by that video camera, and access to such recordings.

(a) The release or viewing of any video recording under this section must comply with s. 1002.22.

(b) A school or school district shall:

1. Conceal the identity of any student who appears in a video recording, but is not involved in the alleged incident documented by the video recording, which the school allows to be viewed under subsection (9), including, without limitation, blurring the face of the uninvolved student.

2. Protect the confidentiality of all student records contained in a video recording in accordance with s. 1002.22.

(9)(a) Within 7 days after receiving a request to view a video recording, a school or school district shall allow the following individuals to view a video recording made under this section:

1. A school or school district employee who is involved in an alleged incident that is documented by the video recording as part of the investigative process;

2. A parent of a student who is involved in an alleged incident that is documented by the video recording and has been reported to the school or school district;

3. A school or school district employee as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the school or school district;

4. A law enforcement officer as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the law enforcement agency; or

5. The Department of Children and Families as part of a child abuse or neglect investigation.

(b) A person who requests to view a recording shall make himself or herself available for viewing the recording within 30 days after being notified by the school or school district that the person's request has been granted.

(c) A person who views the recording and suspects that child abuse has occurred must report the suspected child abuse to the Department of Children and Families.

(10)(a) Any individual may appeal to the State Board of Education an action by a school or school district which the individual alleges to be in violation of this section.

(b) The state board shall grant a hearing on an appeal under this subsection within 45 days after receiving the appeal.

(11) A school or school district does not violate subsection (8) if a contractor or other employee of the school or school district incidentally views a video recording made under this section in connection with the performance of his or her duties related to either of the following:

(a) The installation, operation, or maintenance of video equipment; or

(b) The retention of video recordings.

(12) This section does not:

(a) Limit the access of the parent of a student, under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, or any other law, to a video recording regarding his or her student.

(b) Waive any immunity from liability of a school district or an employee of a school district.

(c) Create any liability for a cause of action against a school or school district or an employee of a school or school district carrying out the duties and responsibilities required by this section.

(d) Apply to self-contained classrooms in which the only students receiving special education services are those who have been deemed gifted.

(13) The department shall collect information relating to the installation and maintenance of video cameras under this section.

(14) The State Board of Education may adopt rules to implement this section.

Section 3. Subsections (1) and (2) of section 1012.582, Florida Statutes, are amended to read:

1012.582 Continuing education and inservice training for teaching students with developmental and emotional or behavioral disabilities.—

(1) The Commissioner of Education shall develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities, and emotional or behavioral disabilities into continuing education or inservice training requirements for instructional personnel. These recommendations shall address:

(a) Early identification of, and intervention for, students who have autism spectrum disorder, Down syndrome, or other developmental disabilities, or emotional or behavioral disabilities.

(b) Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques.

(c) The use of available state and local resources.

(d) The use of positive behavior interventions and behavioral supports to deescalate problem behaviors.

(e) The appropriate use of manual physical restraint and seclusion techniques, positive behavior interventions and supports, and effective classroom behavior management strategies.

(2) In developing the recommendations, the commissioner shall consult with the State Surgeon General, the Director of the Agency for Persons with Disabilities, representatives from the education community in the state, and representatives from entities that promote awareness about autism spectrum disorder, Down syndrome, and other developmental disabilities, and emotional or behavioral disabilities and provide programs and services to persons with developmental disabilities, including, but not limited to, regional autism centers pursuant to s. 1004.55.

Section 4. This act shall take effect July 1, 2021.

Approved by the Governor June 21, 2021.

Filed in Office Secretary of State June 21, 2021.