SENATE, No. 187

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Senator KRISTIN M. CORRADO
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Provides that entities which train educational personnel in use of physical restraints be approved by DOE; requires annual report on incidents of use of techniques.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the use of physical restraints in public schools and amending P.L.2017, c.291.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2017, c.291 (C.18A:46-13.5) is amended to read as follows:

2. a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes physical restraint on students with disabilities shall ensure that:

(1) physical restraint is used only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

(2) a student is not restrained in the prone position, unless the student's primary care physician authorizes, in writing, the use of this restraint technique;

(3) staff members who are involved in the restraint of a student receive training in safe techniques for physical restraint from an entity **[**determined by the board of education to be**]** approved by the Department of Education as qualified to provide such training, and that the training is updated at least annually;

(4) the parent or guardian of a student is immediately notified when physical restraint is used on that student, which notification may be by telephone or electronic communication. A full written report of the incident of physical restraint shall be provided to the parent or guardian within 48 hours of the occurrence of the incident;

(5) each incident in which a physical restraint is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity approved by the department that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(6) each incident in which physical restraint is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of physical restraints through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan team.

(cf: P.L.2017, c.291, s.2)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

2. Section 3 of P.L.2017, c.291 (C.18A:46-13.6) is amended to read as follows:

3. a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes seclusion techniques on students with disabilities shall ensure that :

(1) a seclusion technique is used on a student with disabilities only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

(2) each incident in which a seclusion technique is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity approved by the department that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(3) each incident in which a seclusion technique is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of seclusion techniques through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan team.

(cf: P.L.2017, c.291, s.3)

3. Section 4 of P.L.2017, c.291 (C.18A:46-13.7) is amended to read as follows:

4. a. The department shall establish guidelines for school districts, educational services commissions, and approved private schools for students with disabilities to ensure that a review process is in place to examine the use of physical restraints or seclusion techniques in emergency situations, and for the repeated use of these methods for an individual child, within the same classroom, or by a single individual. The review process shall include educational, clinical, and administrative personnel. Pursuant to the review process the student's individualized education plan team may, as deemed appropriate, determine to revise the behavior intervention plan or classroom supports, and a school district, educational services commission, or approved private school for students with disabilities may determine to revise a staff member's professional development plan.

b. Each school district, educational services commission, and approved private school for students with disabilities shall file with the department by September 1 of each school year, a report that details the number of incidents in the prior school year in which a physical restraint, seclusion technique, or timeout was used on a

student with disabilities. The report shall be in such form and contain such additional information as determined by the department, and upon its receipt the department shall make the report available to the public on its Internet website in an easily accessible location.

(cf: P.L.2017, c.291, s.4)

4. This act shall take effect in the first full school year following the date of enactment.

STATEMENT

In January of 2018, legislation was enacted, P.L.2017, c.291 (C.18A:46-13.4 et seq.), to require that school districts, educational services commissions, and private schools for students with disabilities follow certain procedures in the use of physical restraints, seclusion techniques, and timeouts on students with disabilities. Under that law, staff members who are involved in the restraint of students must receive training in safe techniques for physical restraint from an entity determined by the board of education as qualified to provide such training. This bill provides that an entity selected to provide the training must be approved by the Department of Education.

The bill also requires a school district, educational services commission, or private school for students with disabilities to file a report with the department by September 1 of each school year that details the number of incidents in the prior school year in which a physical restraint, seclusion technique, or timeout was used on a student with disabilities. The report will include any other information the department determines to be necessary, and the report will be made available to the public on the department's Internet website in an easily accessible location.