

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
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.  
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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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34  
35  
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