
A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Prevent and reduce the use of restraint or seclusion
- 3 in public schools;
- 4 (2) Ensure the safety of all students and personnel in
- 5 public schools and promote a positive school culture
- 6 and climate;
- 7 (3) Protect students from:
- 8 (A) Physical and mental abuse;
- 9 (B) Aversive behavioral interventions that compromise
- 10 health and safety; and
- 11 (C) Any restraint or seclusion imposed solely for
- 12 purposes of discipline or convenience;
- 13 (4) Ensure that restraint or seclusion are imposed in
- 14 public schools only when a student's behavior poses an
- 15 imminent danger of physical injury to the student,
- 16 school personnel, or others; and
- 17 (5) Assist public schools in:



1 (A) Establishing policies and procedures to keep all
2 students and school personnel safe, including
3 students with the most complex and intense
4 behavioral needs;

5 (B) Providing school personnel with the necessary
6 tools, training, and support to ensure the safety
7 of all students and all school personnel;

8 (C) Collecting and analyzing data on the use of
9 restraint or seclusion in schools; and

10 (D) Identifying and implementing effective evidence-
11 based models to prevent and reduce restraint or
12 seclusion in schools.

13 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§302A- Use of restraint or seclusion limited;
17 notification; policies and procedures; training; review. (a)
18 The use of restraint or seclusion shall be prohibited in public
19 schools unless:

20 (1) There is an emergency situation, and restraint or
21 seclusion is necessary to protect a student or other
22 person; provided that other less intrusive

1 interventions have failed or been determined to be
2 inappropriate; or

3 (2) The parent or legal guardian of a student has
4 otherwise provided written consent for the use of
5 restraint or seclusion while a behavioral intervention
6 plan is being developed.

7 (b) At a minimum, any room or structure used for seclusion
8 shall:

9 (1) Be free of objects and fixtures with which the student
10 could self-inflict bodily harm;

11 (2) Provide a teacher with an unobstructed view of the
12 student from an adjacent area; and

13 (3) Provide adequate lighting and ventilation.

14 (c) All parents and legal guardians of students shall
15 receive, at least annually, written information about the
16 policies and procedures for restraint or seclusion issued by the
17 department. This written information shall include:

18 (1) A brief summary describing the training received by
19 public school staff in using restraint or seclusion in
20 facilities or programs;



- 1 (2) Information describing state policies and procedures
2 that meet the minimum standards established by state
3 statutes and administrative rules;
- 4 (3) Information on the procedures for determining when
5 restraint or seclusion can and cannot be properly used
6 in public school settings;
- 7 (4) Definitions of restraint and seclusion;
- 8 (5) Information on the procedural safeguards that are in
9 place to protect the rights of children and their
10 parents or legal guardians;
- 11 (6) A description of the alignment of the department's and
12 public school's policies and procedures with
13 applicable state laws or department rules;
- 14 (7) Information on the procedures for notifying parents
15 and legal guardians when restraint or seclusion has
16 been used with their child; and
- 17 (8) Information on the procedures for notifying parents
18 and legal guardians about any changes to policies and
19 procedures on restraint or seclusion.
- 20 (d) If policy or procedural changes related to restraint
21 or seclusion are made during the school year, staff and parents
22 or legal guardians shall be notified immediately.



1 (e) The board shall establish a policy regarding the use
2 of restraint or seclusion in public schools. The department
3 shall establish procedures to be followed after each incident
4 involving the imposition of restraint or seclusion upon a
5 student, including procedures to provide to the parent or legal
6 guardian of the student with respect to each such incident the
7 following:

- 8 (1) An immediate verbal or electronic communication on the
9 same day as each incident; and
10 (2) Written notification within twenty-four hours of each
11 incident.

12 (f) All public schools shall ensure that staff who use
13 restraint or seclusion in facilities or programs are trained and
14 certified on a periodic basis. Training shall include:

- 15 (1) Evidence-based techniques shown to be effective in the
16 prevention of restraint or seclusion;
17 (2) Evidence-based techniques shown to be effective in
18 keeping school personnel and students safe when
19 imposing restraint or seclusion;
20 (3) Evidence-based skills related to positive behavioral
21 supports and interventions, safe physical escort,



1 conflict prevention, understanding antecedents, de-
2 escalation, and conflict management;

3 (4) A wide array of prevention and intervention
4 modalities;

5 (5) First aid and cardiopulmonary resuscitation; and

6 (6) Information describing state policies and procedures
7 that meet the minimum standards established by state
8 statute and administrative rules.

9 (g) Each public school shall maintain records of its
10 review of restraint and seclusion data and any resulting
11 decisions or actions regarding the use of restraint or
12 seclusion.

13 (h) No less than quarterly, there shall be a review of
14 data on students who were restrained or secluded conducted as
15 directed by each complex area superintendent. The complex area
16 superintendent shall determine whether:

17 (1) There are strategies in place to address the students
18 with dangerous behaviors at issue;

19 (2) The strategies in place are effective in increasing
20 appropriate behaviors of students with dangerous
21 behaviors; and



1 (3) New strategies need to be developed or current
2 strategies need to be revised or changed to prevent
3 the reoccurrence of dangerous behaviors.

4 Patterns and trends in the data that are identified by the
5 department shall be reported to the department.

6 (i) The department shall review policies and procedures on
7 the use of restraint or seclusion, including:

8 (1) Available data on the use of these practices and their
9 outcomes, settings, individual staff, and programs,
10 including the frequency of the use of restraint or
11 seclusion across:

12 (A) Individual children;

13 (B) Groups of children;

14 (C) Gender;

15 (D) Race;

16 (E) National origin;

17 (F) Disability status and type of disability; and

18 (G) Students with limited English proficiency;

19 (2) Whether policies for restraint and seclusion are being
20 applied consistently;

21 (3) The accuracy and consistency with which restraint and
22 seclusion data is being collected, as well as the



- 1 extent to which this data is being used to plan
2 behavioral interventions and staff training;
- 3 (4) Whether policies and procedures for using these
4 practices are being implemented with fidelity;
- 5 (5) Whether the policies and procedures continue to
6 protect children and adults; and
- 7 (6) Whether the policies and procedures remain properly
8 aligned with applicable state statutes and
9 administrative rules and consistent with privacy laws.
- 10 (j) As used in this section:
- 11 "Behavioral intervention plan" means a proactive plan
12 designed to address problem behaviors exhibited by a student in
13 the educational setting through the use of positive behavioral
14 supports and interventions.
- 15 "Positive behavioral supports and interventions" means a
16 systematic approach to embed evidence-based practices and data-
17 driven decision making to improve public school climate and
18 culture, including a range of systemic and individualized
19 strategies to reinforce desired behaviors and diminish the
20 reoccurrence of problem behaviors, in order to achieve improved
21 academic and social outcomes and increase learning for all



1 students, including students with the most complex and intense
2 behavioral needs.

3 "Restraint" means all of the following:

4 (1) A chemical restraint, which means a drug or medication
5 used on a student to control behavior or restrict
6 freedom of movement that is not:

7 (A) Prescribed by a licensed physician or other
8 qualified health professional acting under the
9 scope of the professional's authority under state
10 law for the standard treatment of a student's
11 medical or psychiatric condition; and

12 (B) Administered as prescribed by the licensed
13 physician or other qualified health professional
14 acting under the scope of the professional's
15 authority under state law;

16 (2) A mechanical restraint, which means the use of devices
17 as a means of restricting a student's freedom of
18 movement; or

19 (3) A physical restraint, which means a personal
20 restriction that immobilizes or reduces the ability of
21 an individual to move the individual's arms, legs, or
22 head freely.



1 "Seclusion" means the confinement of a student alone in a
2 room or structure from which the student is physically prevented
3 from leaving."

4 SECTION 3. Section 302A-1141, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~[\S302A-1141]~~ **Punishment of pupils limited.** No
7 physical punishment of any kind may be inflicted upon any pupil,
8 ~~[but reasonable force may be used by a teacher in order to~~
9 ~~restrain a pupil in attendance at school from hurting oneself or~~
10 ~~any other person or property, and reasonable force may be used~~
11 ~~as defined in section 703-309(2) by a principal or the~~
12 ~~principal's agent only with another teacher present and out of~~
13 ~~the presence of any other student but only for the purposes~~
14 ~~outlined in section 703-309(2)(a).]~~ except as provided for under
15 sections 302A- and 703-309(2)."

16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2014.



Report Title:

Restraint and Seclusion; Public Schools

Description:

Establishes conditions and procedures for the use of restraint or seclusion in public schools. Effective July 1, 2014.

(HB1796 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

