

BILL: House Bill 1255
TITLE: Education - Physical Restraint and Seclusion - Limitations, Reporting, and Training
POSITION: SUPPORT WITH AMENDMENTS
DATE: March 10, 2022
COMMITTEE: Ways and Means
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) supports House Bill 1255 with amendments to address concerns with the scope and timing of certain provisions, including the elimination of seclusion as an allowable behavioral intervention in public schools.

MABE’s primary concerns, proposed to be addressed in amendments, is that if enacted this bill would prohibit services currently included in student Individualized Education Programs (IEPs) and Behavioral Intervention Plans (BIPs). Under current law and regulations: “[O]nce seclusion has been used or school personnel have made a student-specific determination that it may need to be used consistent with §B(1) of this regulation, seclusion may be included in a student’s behavioral intervention plan or IEP to address the student’s behavior in an emergency situation” (COMAR 13A.08.04.05.B.3). The regulations also require parental consent and stipulate the requirements for the use of seclusion rooms.

Under House Bill 1255, these regulations governing the use of seclusion could continue to be applied based on a student’s IEP or BIP, but only in nonpublic schools. Therefore, MABE is requesting amendments to allow for a reasonable amount of time to continue to administer existing IEPs and BIPs as any new regulations are promulgated and guidance is provided on the transition away from practices now allowed in both public and private schools.

MABE’s position on House Bill 1255 is informed by the comprehensive reforms enacted in 2017 and the corresponding overhaul of the state regulations governing the use of restraint and seclusion. These comprehensive regulations were the work product of a task force established by the General Assembly which was charged with examining all practices and procedures related to behavioral interventions in schools, inclusion the use of restraint, seclusion, and trauma-informed interventions. MABE appreciates and supports the objective of House Bill 1255 to enhance reporting and accountability measures relating to this framework.

The Task force convened in 2017 made recommendations on the following: (1) the circumstances under which, and the types of schools in which, restraint and seclusion shall be prohibited; (2) contraindications for restraint and seclusion and who may authorize restraint and seclusion; (3) definitions of “positive behavior interventions, strategies, and supports” “behavior intervention plan”, and “trauma informed interventions”; (4) professional development requirements for school staff regarding behavioral interventions; (5) minimum requirements for policies and procedures to be developed by local school systems, public agencies, and nonpublic schools; and (6) standards for monitoring compliance by local school systems, public agencies, and nonpublic schools.

The final [Report of the Task Force on Restraint and Seclusion](#) (MSDE, Sept. 19, 2017) recommended comprehensive reforms to state regulations which were adopted under COMAR 13A.08.04. MABE endorses the thorough approach taken by the task force in crafting the current state regulations, including clearly defined terms, student-oriented safety measures, parental consent, and professional development. Attached is the departmental guidance issued in July of 2019 accompanying the regulations.

MABE recognizes and respects the work of advocates and legislators calling not only for strict limitations on the use of restraint and seclusion, but also for the absolute, or near absolute, prohibition on the use of seclusion in public schools. As introduced, House Bill 1255 would enact such reforms. However, MABE believes that even if these reforms are to be enacted in 2022, local school systems should be provided with a reasonable amount of time to implement them. School systems, under this legislation, would be required to review the placements of any student for whom seclusion is now a component of their IEP. Presumably many students would, as a result of this review, be reassigned to a placement in a nonpublic special education school. Similarly, local school system programs in which seclusion is used would need to be reformed, involving staff training and facilities modifications.

In addition, MSDE has announced an initiative to review and recommend reforms to the use of restraint and seclusion in public schools. This review is, in large part, in response to a recent federal investigation and enforcement action against the Frederick County Public School System. MABE recognizes the magnitude of this federal action, and requests that MSDE be allowed to conduct its review and issue its recommendations for the legislature's consideration in the 2023 session. MABE wholeheartedly endorses a strong state role in regulating, monitoring, and holding school systems accountable for approving and administering the use of restraint and seclusion. MABE believes that with amendments this legislation can strengthen accountability for the strict limitations that are now clearly set forth in regulations.

For these reasons, MABE requests a favorable report on House Bill 1255 with the amendments described above.

