

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 228

101ST GENERAL ASSEMBLY

0691S.03C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 160.263, RSMo, and to enact in lieu thereof two new sections relating to school district policies addressing the treatment of parents and students in special circumstances, with an emergency clause for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 160.263, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 160.263 and 162.686, to read as follows:

160.263. 1. **As used in this section, the following**
2 **terms mean:**

3 (1) **"Mechanical restraint", the use of any device or**
4 **equipment to restrict a student's freedom of movement.**
5 **"Mechanical restraint" shall not include devices implemented**
6 **by trained personnel or used by a student with a**
7 **prescription for such devices from an appropriate medical or**
8 **related services professional and that are used for specific**
9 **and approved purposes for which such devices were designed,**
10 **such as the following:**

11 (a) **Adaptive devices or mechanical supports used to**
12 **achieve proper body position, balance, or alignment to allow**
13 **greater freedom of mobility than would be possible without**
14 **the use of such devices or mechanical supports;**

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

15 (b) Vehicle safety restraints when used as intended
16 during the transport of a student in a moving vehicle;

17 (c) Restraints for medical immobilization; or

18 (d) Orthopedically prescribed devices that permit a
19 student to participate in activities without risk;

20 (2) "Physical restraint", a personal restriction such
21 as person-to-person physical contact that immobilizes,
22 reduces, or restricts the ability of a student to move the
23 student's torso, arms, legs, or head freely. "Physical
24 restraint" shall not include:

25 (a) A physical escort, which is a temporary touching
26 or holding of the hand, wrist, arm, shoulder, or back for
27 the purpose of inducing a student to walk to a safe location;

28 (b) Comforting or calming a student;

29 (c) Holding a student's hand to transport the student
30 for safety purposes;

31 (d) Intervening in a fight; or

32 (e) Using an assistive or protective device prescribed
33 by an appropriately trained professional or professional
34 team;

35 (3) "Prone restraint", using mechanical or physical
36 restraint or both to restrict a student's movement while the
37 student is lying with the student's front or face downward;

38 (4) "Restraint" includes, but is not limited to,
39 mechanical restraint, physical restraint, and prone
40 restraint;

41 (5) "Seclusion", the involuntary confinement of a
42 student alone in a room or area that the student is
43 physically prevented from leaving and that complies with the
44 building code in effect in the school district. "Seclusion"
45 shall not include the following:

46 (a) A timeout, which is a behavior management
47 technique that is part of an approved program, involves the
48 monitored separation of the student in a nonlocked setting,
49 and is implemented for the purpose of calming;

50 (b) In-school suspension;

51 (c) Detention; or

52 (d) Other appropriate disciplinary measures.

53 2. The school discipline policy under section 160.261
54 shall [~~prohibit~~] **reserve** confining a student in [an
55 unattended, locked space except for an emergency situation
56 while awaiting the arrival of law enforcement personnel]
57 **seclusion for situations or conditions in which there is**
58 **imminent danger of physical harm to self or others.**

59 3. For all school years beginning on or after July 1,
60 2022, no school district, charter school, or publicly
61 contracted private provider shall use any mechanical,
62 physical, or prone restraint technique that:

63 (1) Obstructs views of the student's face;

64 (2) Obstructs the student's respiratory airway,
65 impairs the student's breathing or respiratory capacity, or
66 restricts the movement required for normal breathing to
67 cause positional or postural asphyxia;

68 (3) Places pressure or weight on or causes the
69 compression of the student's chest, lungs, sternum,
70 diaphragm, back, abdomen, or genitals;

71 (4) Obstructs the student's circulation of blood;

72 (5) Involves pushing on or into the student's mouth,
73 nose, eyes, or any part of the face or involves covering the
74 face or body with anything including, but not limited to,
75 soft objects such as pillows, blankets, or washcloths;

76 (6) Endangers the student's life or significantly
77 exacerbates the student's medical condition;

- 78 (7) Is purposely designed to inflict pain;
- 79 (8) Restricts the student from communicating. If an
80 employee physically restrains a student who uses sign
81 language or an augmentative mode of communication as the
82 student's primary mode of communication, the student shall
83 be permitted to have the student's hands free of restraint
84 for brief periods unless an employee determines that such
85 freedom appears likely to result in harm to self or others.

86 [2.] 4. (1) By July 1, 2011, the local board of
87 education of each school district shall adopt a written
88 policy that comprehensively addresses the use of restrictive
89 behavioral interventions as a form of discipline or behavior
90 management technique. The policy shall be consistent with
91 professionally accepted practices and standards of student
92 discipline, behavior management, health and safety,
93 including the safe schools act. The policy shall include
94 but not be limited to:

95 [(1)] (a) Definitions of restraint, seclusion, and
96 time-out and any other terminology necessary to describe the
97 continuum of restrictive behavioral interventions available
98 for use or prohibited in the district, **consistent with the**
99 **provisions of this section;**

100 [(2)] (b) Description of circumstances under which a
101 restrictive behavioral intervention is allowed and
102 prohibited, **consistent with the provisions of this section,**
103 and any unique application requirements for specific groups
104 of students such as differences based on age, disability, or
105 environment in which the educational services are provided;

106 [(3)] (c) Specific implementation requirements
107 associated with a restrictive behavioral intervention such
108 as time limits, facility specifications, training
109 requirements or supervision requirements; and

110 [(4)] (d) Documentation, notice and permission
111 requirements associated with use of a restrictive behavioral
112 intervention.

113 (2) Before July 1, 2022, each written policy adopted
114 under this subsection shall be updated to prohibit the
115 school district, charter school, or publicly contracted
116 private provider from using any restraint that employs any
117 technique listed in subsection 3 of this section.

118 (3) Before July 1, 2022, each written policy adopted
119 under this subsection shall be updated to state that the
120 school district, charter school, or publicly contracted
121 private provider shall reserve restraint or seclusion for
122 situations or conditions in which there is imminent danger
123 of physical harm to self or others.

124 5. Before July 1, 2022, each school district, charter
125 school, and publicly contracted private provider shall
126 ensure that the policy adopted under subsection 4 of this
127 section requires the following:

128 (1) Any student placed in seclusion or restraint shall
129 be removed from such seclusion or restraint as soon as the
130 school district, charter school, or publicly contracted
131 private provider determines that the student is no longer an
132 imminent danger of physical harm to self or others;

133 (2) All school district, charter school, and publicly
134 contracted private provider personnel shall annually review
135 the policy and procedures involving the use of seclusion and
136 restraint. Personnel who use seclusion or restraint shall
137 annually complete mandatory training in the specific
138 seclusion and restraint techniques the school district,
139 charter school, or publicly contracted private provider uses
140 under this section;

141 (3) (a) Each time seclusion or restraint is used for
142 a student, the incident shall be monitored by a member of
143 the school district, charter school, or publicly contracted
144 private provider personnel, and a report shall be completed
145 by the school district, charter school, or publicly
146 contracted private provider that contains, at a minimum, the
147 following:

148 a. The date, time of day, location, duration, and
149 description of the incident and interventions;

150 b. Any event leading to the incident and the reason
151 for using seclusion or restraint;

152 c. A description of the methods of seclusion or
153 restraint used;

154 d. The nature and extent of any injury to the student;

155 e. The names, roles, and certifications of each
156 employee involved in the use of seclusion or restraint;

157 f. The name, role, and signature of the person who
158 prepared the report;

159 g. The name of an employee whom the parent or guardian
160 can contact regarding the incident and use of seclusion or
161 restraint;

162 h. The name of an employee to contact if the parent or
163 guardian wishes to file a complaint; and

164 i. A statement directing parents and legal guardians
165 to a sociological, emotional, or behavioral support
166 organization and a hotline number to report child abuse and
167 neglect.

168 (b) The school district, charter school, or publicly
169 contracted private provider shall maintain the report as an
170 education record of the student, provide a copy to the
171 parent or legal guardian within five school days, and a copy
172 of each incident report shall be given to the department of

173 elementary and secondary education within thirty days of the
174 incident;

175 (4) The school district, charter school, or publicly
176 contracted private provider shall attempt to notify the
177 parents or legal guardians as soon as possible but no later
178 than one hour after the end of the school day on which the
179 use of seclusion or restraint occurred. Notification shall
180 be oral or electronic and shall include a statement
181 indicating that the school district, charter school, or
182 publicly contracted private provider will provide the
183 parents or legal guardians a copy of the report described in
184 subdivision (3) of this subsection within five school days;

185 (5) An officer, administrator, or employee of a public
186 school district or charter school shall not retaliate
187 against any person for having:

188 (a) Reported a violation of any policy established
189 under this section or failure of a district or charter
190 school to follow any provisions of this section in relation
191 to incidents of seclusion and restraint; or

192 (b) Provided information regarding a violation of this
193 section by a public school district or charter school or a
194 member of the staff of the public school district or charter
195 school.

196 6. The department of elementary and secondary
197 education shall compile and maintain all incidents reported
198 under this section in the department's core data system and
199 make such data available on the Missouri comprehensive data
200 system. No personally identifiable data shall be accessible
201 on the database.

202 [3.] 7. The department of elementary and secondary
203 education shall, in cooperation with appropriate
204 associations, organizations, agencies and individuals with

205 specialized expertise in behavior management, develop a
206 model policy that satisfies the requirements of subsection 2
207 of this section **as it existed on August 28, 2009**, by July 1,
208 2010, **and shall update such model policy to include the**
209 **requirements of subdivisions (2) and (3) of subsection 4 and**
210 **subsection 5 of this section by July 1, 2022.**

162.686. 1. No school district or charter school
2 shall prohibit a parent or legal guardian of a student from
3 recording by audio any meeting held under the federal
4 Individuals with Disabilities Education Act (IDEA), 20
5 U.S.C. Section 1400, et seq., as amended, or Section 504 of
6 the federal Rehabilitation Act of 1973, 29 U.S.C. Section
7 794, as amended.

8 2. Any recording made by a parent or legal guardian
9 under this section shall be the property of the parent or
10 legal guardian creating the recording. No recording made
11 under this section shall be construed to be a public record
12 made by or prepared for any public governmental body under
13 chapter 610.

14 3. No school district or charter school shall impose
15 pre-meeting notification requirements of recording by a
16 parent or legal guardian of more than twenty-four hours.

17 4. No school district or charter school employee who
18 reports any violations under this section shall be subject
19 to discharge, retaliation, or any other adverse employment
20 action for making such report.

Section B. Because immediate action is necessary to
2 ensure that a parent or legal guardian has the ability to
3 provide the best educational opportunity for their student
4 by providing them with the opportunity to record meetings
5 scheduled prior to the start of the school term, the
6 enactment of section 162.686 of this act is deemed necessary

7 for the immediate preservation of the public health,
8 welfare, peace, and safety, and is hereby declared to be an
9 emergency act within the meaning of the constitution, and
10 the enactment of section 162.686 of this act shall be in
11 full force and effect upon its passage and approval.

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