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Bill: HB 1255 – Education – Physical Restraint and Seclusions – Requirements, Reporting and Training
Date: March 10, 2022
Position: Oppose
Committee: House Ways and Means Committee
Contact: Mary Pat Fannon, Executive Director

This bill prohibits specified public agencies, and nonpublic schools with specified exceptions, from using seclusion and physical restraint as a behavioral health intervention for a student. Before using seclusion as a behavioral health intervention for a student in a nonpublic school, a health care practitioner must possess specified credentials, have received relevant training, and be clinically familiar with the student. If a student in a public school, or placed in a nonpublic school by the local school system, is physically restrained 10 or more times in a school year, the school must notify the local school system and the Maryland State Department of Education (MSDE) at the earliest opportunity. If a student enrolled in a public agency that is not a public school is physically restrained 10 or more times in a school year, the public agency must notify MSDE at the earliest opportunity. Among other reporting requirements is a report on the number of physical restraints incidents each student who had at least one incident disaggregated by multiple factors.

The Public School Superintendents’ Association of Maryland (PSSAM), representing all twenty-four local school superintendents, **opposes HB 1255**; however, we are interested in working with the sponsor and the committee to address these concerns and work towards potential solutions.

The goal of every educator, especially special educators, is to use the least restrictive form of discipline. The use of restraint and seclusion has significantly diminished over the years, with many systems reporting that they do not use seclusion at all except in an emergency situation. Additionally, many of our special education directors indicate that many elements of the bill reflect current operations and procedures.

In 2017 the General Assembly created a task force and convened a group of experts charged with examining all practices and procedures related to behavioral interventions in school including the use of restraint and seclusion. The task force recommended comprehensive reforms that were adopted under COMAR 13A.08.04. These regulations limit the use of restraint and seclusion and more clearly defined the term “seclusion,” among other things. Under the regulations restraint may only be used if there is an emergency situation and physical restraint is necessary to protect a student or other person from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate. Second, physical restraint may only be used if the student’s behavioral intervention plan or IEP describes specific behaviors and circumstances where it is necessary. Lastly, physical restraint may only be used if the parents of a nondisabled student have otherwise given written consent for its use while a behavior intervention plan is being developed. The regulations also specify when and how seclusion may be used, and that it may only be used by school personnel who are trained in their appropriate use.

These fairly recent reforms that include safety measures, parental consent, and professional development have been implemented and are having success in school systems since their enactment. They allow for the good judgement of teachers to provide the safest environment for ALL students in a classroom. Again, while the use of restraint and seclusion is extremely limited, there are situations where it is necessary. For instance, it is not uncommon that entire classes are removed from a classroom if one student is having an episode where he/she is not only a danger to themselves, but also creates an unsafe situation for the rest of the students. Not only is this a traumatic situation to witness and experience, it also is a major disruption to the delivery of education to all students.

Finally, MSDE has announced their intention to conduct a thorough review and recommend changes to the use of restraint and seclusion in schools in the coming month. We welcome this review and are happy to work with the Department by engaging some of our special education leaders to discuss current practices and identify any gaps in current practices that prompted this legislation. We strongly urge the committee to let the Department conduct their expert review without predetermined legislative mandates.

For the reasons stated above, PSSAM **OPPOSES HB 1255** and requests an **unfavorable** committee report.