



SPONSOR: Rep. Morrison & Sen. Lockman
Reps. Griffith, Burns, Ross Levin, Gorman, S. Moore,
Lambert; Sen. Sokola

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 79
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LIMITATIONS ON THE USE OF
SECLUSION AND RESTRAINT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4112F, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating Delaware Code provisions accordingly:

§ 4112F. Limitations on use of seclusion and restraint.

(a) *Definitions.* — ~~The following words, terms, and phrases when used in this section, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:~~ For purposes of this section:

(2) “Mechanical restraint” means the application of any device or object that restricts a student’s freedom of movement or normal access to a portion of the body that the student cannot easily remove. “Mechanical restraint” does not include devices or objects used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which they were designed and, if applicable, prescribed, including any of the following:

- a. Restraints for medical ~~immobilization;~~ immobilization.
- b. Adaptive devices or mechanical supports used to allow greater freedom of movement stability than would be possible without use of such devices or mechanical ~~supports;~~ supports.
- c. Vehicle safety restraints when used as intended during the transport of a student in a moving ~~vehicle;~~ vehicle.
- d. Instruction and use of restraints as part of a criminal justice or other ~~course;~~ or course.
- e. Notwithstanding their design for other purposes, adaptive use of benign devices or objects, including mittens and caps, to deter self-injury.

(3) “Physical restraint” means a restriction imposed by a person that immobilizes or reduces the ability of a student to freely move arms, legs, body, or head. “Physical restraint” does not include physical contact ~~that;~~ that satisfies any of the following:

- a. Helps a student respond or complete a ~~task~~; task.
- b. Is needed to administer an authorized health-related service or ~~procedure~~; or procedure.
- c. Is needed to physically escort a student when the student does not resist or the student's resistance is minimal.

(4) "Public school personnel" means an employee or contractor of a ~~public~~ school district or charter school.

"Public school personnel" does not include any of the following:

- a. A law-enforcement officer as defined in § 9200(b) of Title ~~11~~; or 11, including an SRO.
- b. An employee or contractor providing educational services within a Department of Correction or Division of Youth Rehabilitative Services facility.

(5) "School resource officer" or "SRO" means a law-enforcement officer, as defined in § 9200(b) of Title 11, who is stationed in a school district or charter school.

(b) *Prohibition and restriction on use.* — (1) Public school personnel are prohibited from imposing on any student any of the following:

- a. Chemical ~~restraint~~; and restraint.
- b. Subject to waiver authorized pursuant to paragraph (c)(4) of this section, mechanical restraint and seclusion.

(2) Public school personnel may impose physical restraint only in conformity with all of the following standards:

- a. The student's behavior presents a significant and imminent risk of bodily harm to self or ~~others~~; others.
- b. The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of ~~communication~~; communication.
- c. The physical restraint does not ~~interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck~~; do either of the following:

- 1. Interfere with the student's ability to breathe.
- 2. Place weight or pressure on the student's head, throat, or neck.

d. The physical restraint does not recklessly exacerbate a medical or physical condition of the ~~student~~; student.

e. Less restrictive interventions have been ineffective in stopping the significant and imminent risk of bodily harm to the student or others, except in case of a rare and clearly unavoidable emergency circumstance

posing imminent risk of bodily harm, ~~including, without limitation,~~ including intervening in a ~~student-initiated~~ student-initiated physical assault or ~~alteration;~~ altercation.

f. For a student with a disability as defined in Chapter 31 of this title or 34 C.F.R. Part 104, the physical restraint does not contravene provisions in an individualized education program (IEP), behavior intervention plan, accommodation plan, or any other planning document for the individual ~~student;~~ student.

g. Personnel use only the amount of force necessary to protect the student or others from the threatened ~~harm;~~ harm.

h. The physical restraint ends when a medical condition occurs putting the student at risk of harm or the student's behavior no longer presents ~~an~~ a significant and imminent risk of bodily harm to the student or ~~others;~~ others.

i. The physical restraint is within the scope of force authorized by § 468 of Title ~~44;~~ and 11.

j. The physical restraint conforms to applicable regulations promulgated by the Department of Education.

(c) *Department of Education role; regulations.* — (1) The Department of Education shall promulgate regulations implementing this section. ~~Such regulations shall include, but not be limited to, the following:~~ These regulations must include all of the following:

a. Requirement of uniform public school data ~~collection on each use of physical restraint,~~ collection, by school, which includes demographic information on affected students such as age, gender, race, ethnicity, and disability category, if ~~any;~~ any, about all of the following:

1. Each use of physical restraint.

2. Each use of mechanical restraint.

3. Each use of seclusion.

b. Requirement of timely parental notice in event of use of physical ~~restraint;~~ restraint, mechanical restraint, or seclusion.

c. Special procedures and safeguards applicable to use of physical ~~restraint~~ restraint, mechanical restraint, and seclusion for students with disabilities as defined in Chapter 31 of this title or 34 C.F.R. Part ~~104;~~ and 104.

d. Recommended or required training of public school personnel in implementing this section.

(2)a. To facilitate data collection and analysis, the Department of Education may adopt a uniform reporting document and may require reporting of data in a standardized electronic or nonelectronic format.

b. The Department of Education shall request from the Police Officer Standards and Training Commission (POST), any data related to law-enforcement officer use of physical restraint, mechanical restraint, or seclusion on a student in a public school collected by POST.

c.1. POST shall provide the requested data under paragraph (c)(2)b. of this section to the Department of Education.

2. For the mechanical restraint data, POST shall provide the Department of Education the total number of mechanical restraints that occurred disaggregated by whether the law-enforcement officer was required to use mechanical restraint in that situation, and if so, why that restraint was required.

(3)a. The Department of Education shall issue an annual report by November 30 of each year on use of physical ~~restraint~~ restraint, mechanical restraint, and seclusion, which includes rates of usage by school and by subcategories identified in paragraph (c)(1)a. of this section, identifies trends, and analyzes significant results. The Department of Education shall incorporate the data received from POST under paragraph (c)(2) of this section into the annual report.

b. The Department of Education shall submit the report to all of the following:

1. The Secretary of the Senate, for distribution to all Senators.

2. The Chief Clerk of the House of Representatives, for distribution to all Representatives.

3. The Librarian and the Director of the Division of Legislative Services.

4. The President of the Delaware School Boards Association.

5. The president of each board of education of a school district under Subchapter III of Chapter 10 of this title and the president of each board of directors of a charter school under § 504 of this title.

(4) Unless proscribed by federal law, the Secretary of the Department of Education may issue a waiver of the prohibition on mechanical restraint and seclusion for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.

(d) School resource officer training. —

Training and reporting related to ~~employees, contractors, or subcontractors excluded from the definition of “public school personnel” under paragraph (a)(4) of this section shall be~~ SROs is governed by this subsection. This subsection shall be limited to those ~~employees, contractors, or subcontractors~~ is limited to SROs who will assist with or independently intervene with students with disabilities, which ~~shall include~~ includes all students eligible to be identified as students with

disabilities under Individuals with Disabilities Education Act (IDEA) [20 U.S.C. § 1401 et seq.], § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794] and The Americans with Disabilities Act (ADA) [42 U.S.C. § 12101 et seq.].

(1) ~~Employees, contractors, and subcontractors~~ School resource officers governed by this subsection shall annually receive the following awareness training from their school district or charter school:

d. ~~Such other~~ Other training as is necessary to protect the health and well-being of students with disabilities as promulgated in implementing regulation, which ~~shall~~ must include basic awareness training specific to individualized education programs (IEP), functional behavior ~~assessments~~ assessments, and behavior support plans.

e. This training ~~shall~~ must include references as to how it relates to ~~school resource officer (SRO)~~ SRO duties and responsibilities outlined in their employment contract and school district or charter school memorandum of agreement (MOA). This training ~~shall~~ must be consistent with the annual training already provided to school district or charter school educators.

(2) ~~Employees, contractors, and subcontractors~~, School resource officers governed by this subsection shall annually participate in the SRO training provided by the State Police or equivalent training provided by the police department employing the SRO in the school district or ~~charter~~, charter school.

(4) Reporting and notification practices for incidents involving ~~employees, contractors, or subcontractors~~ SROs covered by this subsection ~~shall~~ must be consistent with reporting and notification requirements for school personnel, and ~~shall~~ must include a police report identification number ~~where~~ if a police report exists.

(6) School districts or charter schools ~~shall not contract with or employ individuals~~ may not use SROs who are covered by this subsection, but do not comply with the training requirements set out herein. This paragraph does not prohibit a school district or charter school from using a law-enforcement officer who is not trained as an SRO to fill in for an SRO who is temporarily absent.

Section 2. The Department of Education shall amend its regulations in accordance with the definitions in this Act.

Section 3. This Act takes effect on August 1, 2026.