LAWS OF DELAWARE
VOLUME 81
CHAPTER 189
149th GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 142

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 Section 4112F, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4112F Limitations on use of seclusion and restraint.

(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 governed by this subsection. This subsection shall be limited to those employees, contractors, or subcontractors who will assist with or independently intervene with students with disabilities, which shall include all students eligible to be identified as students with disabilities under Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 and The Americans with Disabilities Act (ADA).

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

a. Training which is consistent with that which is required of other public school personnel for disability awareness and behaviors that may manifest as a result of disabilities.

b. Best practices for de-escalation techniques in a school setting.

c. Information on intervention decisions and techniques used by school personnel in a school setting.

d. Such other training as is necessary to protect the health and well-being of students with disabilities as promulgated in implementing regulation, which shall include basic awareness training specific to Individualized Education Programs (IEP), functional behavior assessments and Behavior Support Plans.

e. This training shall include references as to how it relates to School Resource Officer (SRO) duties and responsibilities outlined in their employment contract and school district or charter school Memorandum of Agreement (MOA). This training shall be consistent with the annual training already provided to school district or charter school educators.

(2) Employees, contractors, and subcontractors, 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.

(3) Prior to the start of each school year, or as soon as practical, an SRO shall meet with a representative of each building in which they are assigned to be familiarized with behaviors related to disabilities that may occur in the school and typical responses that may be taken by school personnel in that school.

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

(5) Each school district or charter school which contracts with SROs shall have a MOA consistent with the MOA template as required by Department of Education regulation with the agency which employs or manages those sworn officers.

(6) School districts or charter schools shall not contract with or employ individuals who are covered by this subsection, but do not comply with the training requirements set out herein.

(7) Department of Education role and regulations.

a. The Department of Education shall develop, promulgate, and update regulations for this subsection in collaboration with the Governor's Advisory Council for Exceptional Citizens (GACEC).

b. Timelines for implementation and training shall be primarily based on protecting the health and welfare of children with disabilities.

c. To the greatest extent practical and appropriate, such regulations shall be consistent with and integrated with the regulations for the remainder of this section.

(8) Funding for training and implementation shall be derived from existing resources.

(9) Nothing in this subsection shall be interpreted as creating any additional restriction on the sworn authority of law enforcement officers or their ability to carry out their required sworn duty.

~~(d)~~ (e) Effect on other laws. — The limitations and prohibitions described in this section are in addition to, and not in derogation of, any other constitutional, statutory, or regulatory rights otherwise conferred by federal or state law or regulation.

Section 2. This Act shall take effect July 1, 2018.

Approved September 29, 2017