

CHAPTER 291

AN ACT concerning the use of physical restraint and seclusion techniques on students with disabilities and supplementing chapter 46 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:46-13.4 Definitions relative to use of physical restraint, seclusion techniques on students with disabilities.

1. As used in this act:

“Physical restraint” means the use of a personal restriction that immobilizes or reduces the ability of a student to move all or a portion of his or her body.

“Seclusion technique” means the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, but does not include a timeout.

“Timeout” means a behavior management technique that involves the monitored separation of a student in a non-locked setting, and is implemented for the purpose of calming.

C.18A:46-13.5 Use of physical restraint on students with disabilities.

2. a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes physical restraint on students with disabilities shall ensure that:

(1) physical restraint is used only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

(2) a student is not restrained in the prone position, unless the student’s primary care physician authorizes, in writing, the use of this restraint technique;

(3) staff members who are involved in the restraint of a student receive training in safe techniques for physical restraint from an entity determined by the board of education to be qualified to provide such training, and that the training is updated at least annually;

(4) the parent or guardian of a student is immediately notified when physical restraint is used on that student, which notification may be by telephone or electronic communication. A full written report of the incident of physical restraint shall be provided to the parent or guardian within 48 hours of the occurrence of the incident;

(5) each incident in which a physical restraint is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(6) each incident in which physical restraint is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of physical restraints through inclusion of positive behavior supports in the student’s behavior intervention plans developed by the individualized education plan team.

C.18A:46-13.6 Use of seclusion techniques on students with disabilities.

3. a. A school district, an educational services commission, or an approved private school for students with disabilities that utilizes seclusion techniques on students with disabilities shall ensure that :

(1) a seclusion technique is used on a student with disabilities only in an emergency in which the student is exhibiting behavior that places the student or others in immediate physical danger;

(2) each incident in which a seclusion technique is used is carefully and continuously visually monitored to ensure that it was used in accordance with established procedures set forth in a board policy developed in conjunction with the entity that trains staff in safe techniques for physical restraint, in order to protect the safety of the child and others; and

(3) each incident in which a seclusion technique is used is documented in writing in sufficient detail to enable the staff to use this information to develop or improve the behavior intervention plan at the next individualized education plan meeting.

b. A school district, an educational services commission, and an approved private school for students with disabilities shall attempt to minimize the use of seclusion techniques through inclusion of positive behavior supports in the student's behavior intervention plans developed by the individualized education plan team.

C.18A:46-13.7 Guidelines, review process.

4. The department shall establish guidelines for school districts, educational services commissions, and approved private schools for students with disabilities to ensure that a review process is in place to examine the use of physical restraints or seclusion techniques in emergency situations, and for the repeated use of these methods for an individual child, within the same classroom, or by a single individual. The review process shall include educational, clinical, and administrative personnel. Pursuant to the review process the student's individualized education plan team may, as deemed appropriate, determine to revise the behavior intervention plan or classroom supports, and a school district, educational services commission, or approved private school for students with disabilities may determine to revise a staff member's professional development plan.

5. This act shall take effect immediately.

Approved January 16, 2018.