

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number	<u>HB260/aHGEIC</u>	Sponsor	<u>Gurrola/Chávez</u>
Tracking Number	<u>.229346.1</u>	Committee Referrals	<u>HEC/HGEIC</u>
Short Title	<u>Allowable Responses to Student Behavior</u>		
Analyst	<u>Andrews</u>	Original Date	<u>2/6/2025</u>
		Last Updated	<u>2/21/2025</u>

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

BILL SUMMARY

Synopsis of HGEIC Amendment

The House Government, Elections, and Indian Affairs Committee Amendment to HB260 (HB260/aHGEIC) clarifies that the use of seclusion in schools is prohibited while providing clarity on allowable staff responses as a result of this change. HB260/aHGEIC specifies that seclusion does not mean supervised confinement with continuous line-of-sight supervision in the case of imminent serious physical harm by the student to self or others, and that supervised confinement must end immediately when the student's behavior no longer presents an imminent danger of serious physical harm to the student or others. HB260/aHGEIC also clarifies that instances of supervised confinement are subject to all the requirements and limitations applied to physical restraint, including reporting and documentation requirements.

HB260/aHGEIC also clarifies a process for parents to request a meeting if they have reasonable grounds to believe that restraint or seclusion may have occurred.

Synopsis of Original Bill

House Bill 260 (HB260) would amend existing law to clearly define what constitutes restraint and seclusion, including which actions are allowed, and which are prohibited in public schools. HB260 would amend and add definitions such as elopement and physical escort. HB260 would prohibit chemical restraint, mechanical restraint, prone restraint, and seclusion without continuous line-of-sight supervision. The bill also adds specificity on the use of timeouts.

HB260 would amend existing law regarding school safety plans. The bill would add one person trained and certified in positive behavior interventions and supports, de-escalation, and restraint techniques to existing school safety planning teams. HB260 specifies school safety plans must address supports and strategies to successfully reintegrate a student who has been physically restrained. School safety plans would have to address elopement, including elopement requiring physical restraint, and elopement requiring interventions less than physical restraint.

HB260 would also clarify existing training requirements on the use of restraint, including specific training requirements for administrators and at least one designated school employee. Schools would be required to specify school employees to be trained in their school safety plans for approval by the Public Education Department (PED). The bill would require each public school to designate an administrator to receive biannual training in less restrictive interventions, including positive behavior interventions and supports, and de-escalation; hypothetical situation training for less restrictive interventions or physical restraint; and monitoring, documenting, and reporting when restraint is used. HB260 would also require schools to designate at least one school employee to receive training on practice sessions on restraint techniques, and restraint techniques in proportion to the student's age or physical condition.

Finally, HB260 would also clarify reporting requirements on the use of restraint, follow-up requirements and procedures after a student has been restrained, including but not limited to parental notification, and the creation of a PED-issued form for written parental notification within three days following an incident of restraint.

FISCAL IMPACT

This bill does not contain an appropriation.

The LESC public school support recommendation for FY26 includes \$5 million in nonrecurring funding from the general fund for behavioral health supports. PED could use this funding to support school districts and charter schools in meeting the training requirements specified in the proposed bill. Although current law specifies restraint or seclusion techniques must only be used by school employees trained in the use of restraint and seclusion techniques, some schools may need to add additional training to meet the specific training requirements in this bill such as requiring an administrator to be trained in positive behavior interventions, supports, and de-escalation.

SUBSTANTIVE ISSUES

Schools' use of restraint and seclusion as disciplinary practices has garnered increased attention as a school safety issue in the last 15 years; allegations of abuse in school settings have increased from advocates and families of students with disabilities, both in New Mexico and nationally. Restraint, defined as the physical or mechanical restriction of all or a portion of a student's body, and seclusion, defined as the involuntary confinement of a student alone in a room they cannot leave, are usually implemented in an attempt to keep students safe from themselves or others.

Despite widespread use of restraint and seclusion techniques in schools, the U.S. Department of Education (ED) [reports](#) there is no evidence restraint or seclusion is effective in reducing the occurrence of problem behaviors that frequently precipitate the use of such techniques. ED recommends less restrictive techniques and de-escalation practices should always be prioritized. On January 8, 2025, [ED Secretary Cardona sent a Dear Colleague letter](#) stressing that the use of restraint and seclusion practices is "inconsistent with our shared goal to ensure every child is treated with dignity and free from abuse" and commended states and districts that have prohibited the use of seclusion and limited the use of restraint in schools.

[Data](#) from the federal Office of Civil Rights illustrates students with disabilities experience restraint and seclusion at higher rates than their general education peers; while students with

disabilities comprised 17 percent of students in the 2020-2021 school year, they comprised 58 percent of restraint and seclusion incidents.

In the absence of federal legislation addressing the use of restraint and seclusion in schools, many states (29) have passed laws to provide protections against the use of restraint and seclusion for all students and provide guardrails to keep students and staff safe. Improper use of restraints and seclusion can have lasting and damaging effects on students, teachers, and school staff.

Senate Memorial 68 Working Group. In the 2023 legislative session, Senate Memorial 68 (SM68) proposed to create a working group to review the use of restraint and seclusion in New Mexico public schools and issue a report with findings and recommendations for consideration by LESC. The SM68 working group was facilitated by the Developmental Disabilities Council (DDC) and included a wide range of stakeholders, including school board members, superintendents, administrators, teachers, parents, advocates, LESC staff, and PED staff. The working group met monthly beginning in August 2023 and worked together to develop the working group report.

One key focus of the working group was clearly defining restraint and seclusion. Stakeholders agreed defining what is restraint or seclusion, what is not, and what actions are allowed was necessary to provide guidance schools need to take decisive action in dangerous situations and avoid the harmful effects of improper use of restraints and seclusion. There was broad consensus among members of the working group established by SM68 that clearer definitions were needed to keep all students and staff safe. For example, some school staff explained that lack of clarity in definitions fostered a culture of fear and schools and made staff afraid to physically intervene with students, even to stop fights or prevent an eloping student from running into traffic.

The SM68 working group [report](#) was presented to LESC at the committee's July 2024 meeting, alongside the staff brief [Building Safer Schools: Policy Measures and Considerations on Restraint and Seclusion](#). In addition, school use of restraint and seclusion was included in the LESC staff brief [Fostering Comprehensive School Safety](#) presented to LESC at their November 2024 meeting.

ADMINISTRATIVE IMPLICATIONS

PED noted If HB260 is enacted, the department would need to amend NMAC 6.11.2, Rights and Responsibilities of the Public Schools and Public School Students; and NMAC 6.12.6, School District Wellness Policy to conform to the provisions of the bill.

PED would also have to create a form to provide written documentation to students' parents following incidents of restraint.

Schools would be required to train at least one administrator biannually in less restrictive interventions, including positive behavior interventions and supports, and de-escalation; hypothetical situation training for less restrictive interventions or physical restraint; and monitoring, documenting, and reporting when restraint is used. The bill would also require schools to designate at least one school employee to receive training on practice sessions on restraint techniques, and restraint techniques in proportion to the student's age or physical condition. Schools would also have to update their school safety plans to establish policies for these trainings.

Schools would also have to adhere to more specific time requirements regarding parental notification of restraint or supervised confinement, for example, ensuring student's parents are

provided with written documentation on a PED-issued form within three school days (as opposed to the current requirement of “within a reasonable time”).

OTHER SIGNIFICANT ISSUES

Martinez-Yazzie Consolidated Lawsuit. Restraint and seclusion disproportionately impacts students with disabilities, one of the named student groups in the *Martinez-Yazzie* consolidated lawsuit. In 2019, the 1st Judicial Court issued a final judgement and order on the consolidated *Martinez-Yazzie* education sufficiency lawsuit, finding New Mexico’s public education system failed to provide a constitutionally sufficient and adequate education for at-risk students, defined as English learners, Native American students, students with disabilities, and students from low-income families. The court pointed to high school graduation rates, student test proficiencies, and college remediation rates as indicators of how the state is not meeting its constitutional obligation to ensure all students are college, career, and civics ready.

The court’s findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students. Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided the opportunity for a sound basic education and to assure that local school districts spent funds provided in a way that efficiently and effectively met the needs of at-risk students. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branch instead.

More clearly defining restraint and seclusion, and reducing the harmful impacts of improper use of restraints and seclusion, could help keep all students and staff safe, and would particularly benefit students with disabilities, who disproportionately experience restraint and seclusion. [Research](#) shows students must feel safe to maximize learning.

RELATED BILLS

Relates to SB38, Special Education Act, which proposes to create the Office of Special Education (OSE) in the PED and consolidates special education functions and oversight under the OSE, and requires duplicative and contrasting reporting of restraint and seclusion.

Relates to SB307, Child Ombud Act, which proposes to create the Child Ombud Office, administratively attached to the Administrative Office of the Courts, and to which the Children, Youth and Families Department must report within 72 hours the restraint or seclusion of any child in its custody.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Public Schools Insurance Agency (NMPSIA)
- Developmental Disabilities Council (DDC)
- Department of Public Safety (DPS)
- Public Education Department (PED)
- New Mexico Regional Cooperatives (NMRECA)
- New Mexico School for the Blind and Visually Impaired (NMSBVI)

MCA/tb/jkh