

1 HOUSE BILL 260

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE
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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; ADDRESSING ALLOWABLE RESPONSES TO
12 STUDENT BEHAVIOR; LIMITING THE USE OF PHYSICAL RESTRAINT;
13 PROHIBITING OTHER TYPES OF RESTRAINT AND SECLUSION; REQUIRING
14 TRAINING; REQUIRING DOCUMENTATION OF BEHAVIORS AND TECHNIQUES.
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 **SECTION 1.** Section 22-5-4.12 NMSA 1978 (being Laws 2017,
18 Chapter 33, Section 1) is amended to read:

19 "22-5-4.12. USE OF PHYSICAL RESTRAINT [~~AND SECLUSION~~]
20 PROHIBITED ACTIVITIES--TECHNIQUES--REQUIREMENTS.--

21 A. As used in this section:

22 (1) "chemical restraint" means a medication
23 used to control behavior or movement; provided that "chemical
24 restraint" does not include the administration of medication
25 prescribed by a health care provider as standard treatment for

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1 the mental or physical condition of a student;

2 (2) "de-escalation" means a process that
3 involves using communication or other techniques to reduce the
4 intensity of a potentially violent situation or conflict;

5 (3) "elopement" means a student leaving an
6 assigned area without permission from or knowledge of a school
7 employee;

8 (4) "first responder" means a person based
9 outside of a public school who functions within the emergency
10 medical services system and who is dispatched to a public
11 school to provide initial emergency aid;

12 (5) "less restrictive intervention" includes
13 positive behavior interventions and supports and de-escalation;

14 (6) "mechanical restraint" means applying a
15 device or an object to the student's body that restricts the
16 student's free movement; provided that "mechanical restraint"
17 does not include adaptive devices, mechanical supports, vehicle
18 safety restraints or other devices or objects that are
19 prescribed by a health care provider or authorized by parental
20 consent for a student;

21 (7) "physical escort" means touching or
22 holding of the hand, wrist, arm, shoulder or back to induce a
23 student to walk to a safe location;

24 (8) "physical restraint" means the use of
25 physical force without the use of any device or material that

1 restricts the free movement of all or a portion of the
2 student's body but does not include physical escort;

3 (9) "prone restraint" means a method of
4 intervention in which a student's face and frontal part of the
5 body are placed in a downward position touching a surface for
6 any amount of time;

7 (10) "restraint", when not otherwise modified,
8 means physical restraint;

9 (11) "seclusion" means the involuntary
10 confinement of a student alone in a room or area from which
11 egress is prevented and without continuous line-of-sight
12 supervision; provided that "seclusion" does not mean the use of
13 voluntary behavior management techniques, including a time-out
14 location, as part of a student's education plan, individual
15 safety plan, behavioral plan or individualized education
16 program that involves the student's separation from a larger
17 group for purposes of calming the student; and

18 (12) "time-out" means a continuum of behavior
19 management techniques designed to address inappropriate student
20 behavior that begin with minimally intrusive strategies up to
21 separation of the student from classmates for some amount of
22 time before a return to the classroom.

23 B. The following activities are prohibited in
24 public schools:

25 (1) seclusion;

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1 (2) chemical restraint;

2 (3) mechanical restraint; and

3 (4) prone restraint.

4 ~~[A.]~~ C. A public school may ~~[permit]~~ allow the use
5 of physical restraint ~~[or seclusion]~~ techniques on ~~[any]~~ a
6 student only if ~~[both of the following apply]~~:

7 (1) the student's behavior presents an
8 imminent danger of serious physical harm to the student or
9 others; and

10 (2) less restrictive interventions ~~[appear]~~
11 are insufficient to mitigate the imminent danger of serious
12 physical harm;

13 ~~[B. If a restraint or seclusion technique is used~~
14 ~~on a student:~~

15 ~~(1) school employees shall maintain continuous~~
16 ~~visual observation and monitoring of the student while the~~
17 ~~restraint or seclusion technique is in use;~~

18 ~~(2) the restraint or seclusion technique shall~~
19 ~~end when the student's behavior no longer presents an imminent~~
20 ~~danger of serious physical harm to the student or others;~~

21 ~~(3) the restraint or seclusion technique shall~~
22 ~~be used only by school employees who are trained in the safe~~
23 ~~and effective use of restraint and seclusion techniques unless~~
24 ~~an emergency situation does not allow sufficient time to summon~~
25 ~~those trained school employees;~~

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1 ~~(4) the restraint technique employed shall not~~
2 ~~impede the student's ability to breathe or speak; and~~

3 ~~(5) the restraint technique shall not be out~~
4 ~~of proportion to the student's age or physical condition] or~~

5 (3) the student is eloping and the conditions
6 in Paragraphs (1) and (2) of this subsection are also met. For
7 elopement that falls short of conditions in Paragraph (1) or
8 (2) of this subsection, physical restraint is not authorized,
9 but physical escort may be appropriate.

10 [~~E.~~] D. Schools shall establish policies and
11 procedures for the training and use of positive behavior
12 interventions and supports, de-escalation and physical
13 restraint [~~or seclusion~~] techniques in a school safety plan;
14 provided that the school safety plan shall:

15 (1) be in accordance with guidance issued by
16 the department;

17 [~~(1) the school safety plan shall~~] (2) not be
18 specific to [~~any~~] an individual student; [~~and~~

19 ~~(2) any school safety plan shall~~] (3) be
20 drafted by a planning team that includes at least one person
21 trained and certified in positive behavior interventions and
22 supports, de-escalation and restraint techniques and at least
23 one special education expert;

24 (4) address school district supports and
25 strategies applicable to physical restraint for school

1 employees to successfully reintegrate a student who has been
2 physically restrained back into the school or classroom;

3 (5) address elopement in a separate section
4 and shall have procedures for elopement that requires physical
5 restraint and elopement that requires interventions less than
6 restraint; and

7 (6) be approved by the department.

8 E. Training of school employees designated in the
9 school safety plan shall occur biannually and in the same year
10 as hiring for a new school employee. All training shall be
11 approved by the department. At least one administrator at each
12 public school shall receive training addressing Paragraphs (1),
13 (2) and (5) of this subsection, and other school employees
14 shall be designated to receive training as necessary to carry
15 out the provisions of this section, as approved by the
16 department. Training shall include:

17 (1) less restrictive interventions, including
18 positive behavior interventions and supports and de-escalation;

19 (2) hypothetical-situation training for
20 triaging use of less restrictive interventions or physical
21 restraint;

22 (3) practice sessions on physical restraint
23 techniques;

24 (4) physical restraint techniques in
25 proportion to the student's age or physical condition; and

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1 (5) monitoring, documenting and reporting when
2 physical restraint is used.

3 F. If a physical restraint technique is used on a
4 student:

5 (1) school employees shall maintain continuous
6 visual observation and monitoring of the student while the
7 restraint technique is in use;

8 (2) the physical restraint technique shall end
9 immediately when the student's behavior no longer presents an
10 imminent danger of serious physical harm to the student or
11 others;

12 (3) the physical restraint technique shall be
13 used only by school employees who are trained in the safe and
14 effective use of restraint techniques unless an emergency
15 situation does not allow sufficient time to summon those
16 trained school employees and the imminent danger to the student
17 or others is greater than the risk of harm of the physical
18 restraint to the student;

19 (4) the physical restraint technique employed
20 shall not impede the student's ability to breathe or
21 communicate; and

22 (5) the physical restraint technique shall not
23 be out of proportion to the student's age or physical condition
24 and should be consistent with the medical or other needs of the
25 student known to the person applying the restraint.

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1 G. Time-out shall not be used as a punishment.

2 [~~D.~~] H. Schools shall establish reporting and
3 documentation procedures to be followed when a physical
4 restraint [~~or seclusion~~] technique has been used on a student.
5 The procedures shall include the following provisions:

6 (1) a school employee shall provide the
7 student's parent [~~or guardian~~] with written or oral notice on
8 the same day that the incident occurred, unless circumstances
9 prevent same-day notification. If the notice is not provided
10 on the same day of the incident, notice shall be given within
11 twenty-four hours after the incident;

12 (2) within [~~a reasonable time~~] three school
13 days following the incident, a school employee shall provide
14 the student's parent [~~or guardian~~] with written documentation
15 [~~that includes information about any persons, locations or~~
16 ~~activities that may have triggered the behavior, if known, and~~
17 ~~specific information about the behavior and its precursors, the~~
18 ~~type of restraint or seclusion technique used and the duration~~
19 ~~of its use; and] on a department-issued form that includes:~~

20 (a) any known precursors that may have
21 triggered the behavior, such as specific persons, locations or
22 activities;

23 (b) a description of the behavior;

24 (c) the reason for physical restraint;

25 (d) any less restrictive interventions

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1 attempted or, if none were attempted, why;

2 (e) the duration of the physical
3 restraint;

4 (f) the location of the physical
5 restraint;

6 (g) the techniques used;

7 (h) the staff involved in the physical
8 restraint; and

9 (i) the date of the involved staff's
10 last training pursuant to this section;

11 (3) schools shall review strategies used to
12 address a student's dangerous behavior with a person trained
13 and certified in de-escalation and restraint techniques if use
14 of restraint [~~or seclusion~~] techniques for an individual
15 student has occurred [~~two or more times~~] more than one time
16 during any [~~thirty-calendar-day period~~] school year. The
17 review shall include:

18 (a) a review of the incidents in which
19 restraint [~~or seclusion~~] techniques were used and an analysis
20 of how future incidents may be avoided, including whether the
21 student may be eligible for special education or requires a
22 functional behavioral assessment; and

23 (b) [~~a meeting of the student's~~] if the
24 student has an individualized education program team,
25 behavioral intervention plan team or student assistance team, a

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1 requirement that the team must meet within two weeks of each
2 use of restraint [~~or seclusion after the second~~] when more than
3 one use occurs within a [~~thirty-calendar-day period~~] school
4 year to provide written recommendations for avoiding future
5 incidents requiring the use of physical restraint [~~or~~
6 ~~seclusion~~]; and

7 (4) a parent has a right to request an
8 individualized education program team, behavioral intervention
9 plan team or student assistance team meeting after an instance
10 of physical restraint.

11 [~~E.~~] I. If a school summons law enforcement instead
12 of using a physical restraint [~~or seclusion~~] technique on a
13 student, the school shall comply with the reporting,
14 documentation and review procedures established pursuant to
15 [~~Subsection D of~~] this section.

16 [~~F. Policies regarding restraint and seclusion~~
17 ~~shall consider school district support and strategies for~~
18 ~~school employees to successfully reintegrate a student who has~~
19 ~~been restrained or secluded back into the school or classroom~~
20 ~~environment.~~

21 [~~G.~~] J. The provisions of this section shall not be
22 interpreted as addressing the conduct of law enforcement or
23 first responders.

24 [~~H.~~] K. The provisions of this section do not apply
25 to any school located within a county juvenile detention center

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1 or a state-operated juvenile facility.

2 [~~I. For the purposes of this section:~~

3 ~~(1) "first responder" means a person based~~
4 ~~outside of a school who functions within the emergency medical~~
5 ~~services system and who is dispatched to a school to provide~~
6 ~~initial emergency aid;~~

7 ~~(2) "mechanical restraint" means the use of~~
8 ~~any device or material attached or adjacent to the student's~~
9 ~~body that restricts freedom of movement or normal access to any~~
10 ~~portion of the student's body and that the student cannot~~
11 ~~easily remove, but "mechanical restraint" does not include~~
12 ~~mechanical supports or protective devices;~~

13 ~~(3) "physical restraint" means the use of~~
14 ~~physical force without the use of any device or material that~~
15 ~~restricts the free movement of all or a portion of a student's~~
16 ~~body, but "physical restraint" does not include physical~~
17 ~~escort;~~

18 ~~(4) "restraint" when not otherwise modified~~
19 ~~means mechanical or physical restraint; and~~

20 ~~(5) "seclusion" means the involuntary~~
21 ~~confinement of a student alone in a room from which egress is~~
22 ~~prevented. "Seclusion" does not mean the use of a voluntary~~
23 ~~behavior management technique, including a timeout location, as~~
24 ~~part of a student's education plan, individual safety plan,~~
25 ~~behavioral plan or individualized education program that~~

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~~involves the student's separation from a larger group for
purposes of calming.]"~~