

CHAPTER 814e*

PHYSICAL RESTRAINT, MEDICATION AND SECLUSION OF PERSONS RECEIVING CARE, EDUCATION OR SUPERVISION IN AN INSTITUTION OR FACILITY

*See Sec. 17a-3a re Connecticut Juvenile Training School.

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Sec. 46a-150. Definitions: For purposes of this section and sections 46a-151 to 46a-154, inclusive:

- (1) "Provider of care, education or supervision of a person at risk" and "provider" mean a person who provides direct care, education or supervision of a person at risk.
- (2) "Assistant provider of care, education or supervision of a person at risk" and "assistant" mean a person assigned to provide, or who may be called upon in an emergency to provide, assistance or security to a provider of care, education or supervision of a person at risk.
- (3) "Person at risk" means a person receiving care, education or supervision in an institution or facility (A) operated by, licensed or authorized to operate by or operating pursuant to a contract with the Departments of Public Health, Mental Retardation, Children and Families, Mental Health and Addiction Services or a regional education service center established under section 10-66a, or (B) operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d. The term does not include (i) a person in the custody of the Commissioner of Correction, or (ii) a resident or patient of a nursing home subject to federal regulations concerning restraint of residents or patients.
- (4) "Life-threatening physical restraint" means any physical restraint or hold of a person that restricts the flow of air into a person's lungs, whether by chest compression or any other means.
- (5) "Physical restraint" means any mechanical or personal restriction that immobilizes or reduces

the free movement of a person's arms, legs or head. The term does not include (a) briefly holding a person in order to calm or comfort the person; (b) restraint involving the minimum contact

necessary to safely escort a person from one area to another; (c) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; (D) helmets or other protective gear used to protect a person from injuries due to a fall; or (E) helmets, mitts and similar devices used to prevent self-injury when the device is part of a documented treatment plan and is the least restrictive means available to prevent such self-injury.

(6) "Psychopharmacologic agent" means any medication that affects the central nervous system, influencing thinking, emotion or behavior.

(7) "Seclusion" means the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving, except that in the case of seclusion at Long Lane School, the term does not include the placing of a single child or youth in a secure room for the purpose of sleeping.

(P.A. 99-210, S. 1, 6.)

History: P.A. 99-210 effective June 29, 1999.

Sec. 46a-151. Life-threatening physical restraint prohibited: No provider of care, education or supervision of a person at risk and no assistant provider may use a life-threatening physical restraint on a person at risk. This section shall not be construed as limiting any defense to criminal prosecution for the use of deadly physical force that may be available under sections 53a-18 to 53a-22, inclusive.

(P.A. 99-210, S. 2, 6.)

History: P.A. 99-210 effective June 29, 1999.

See Sec. 17a-3a re Connecticut Juvenile Training School

Sec. 46a-152. Physical restraint, seclusion and use of psychopharmacologic agents restricted. Monitoring and documentation required: (a) No provider or assistant may use involuntary physical restraint on a person at risk except (1) as an emergency intervention to prevent immediate or imminent injury to the person at risk or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative, (2) as necessary and appropriate, as determined on an individual basis by the person's treatment team and consistent with sections 17a-540 to 17a-550, inclusive, for the transportation of a person under the jurisdiction of the Whiting Forensic Division of the Department of Mental Health and Addiction Services (DMHAS).

(b) No provider or assistant may involuntarily place a person at risk in seclusion except (1) as an emergency intervention to prevent immediate or imminent injury to the person or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative, or (2) as specifically provided for in an individual education plan developed pursuant to section 10-76d.

(c) No provider or assistant may use a psychopharmacologic agent on a person at risk without that person's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the person or to others, or (2) as an integral part of the person's established medical or behavioral support or educational plan, as developed consistent with section 17a-543 or, if no such

plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

(d) Any use of physical restraint or seclusion on a person at risk shall be documented in the person's medical or educational record. The documentation shall include (1) in the case of emergency use, the nature of the emergency and what other steps, including attempts at verbal de-escalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise, and (2) a detailed description of the nature of the restraint or seclusion, its duration and its effect on the person's established medical or behavioral support or educational plan.

(e) Any person at risk who is physically restrained shall be continually monitored by a provider or assistant. Any person at risk who is involuntarily placed in seclusion shall be frequently monitored by a provider or assistant. Each person so restrained or in seclusion shall be regularly evaluated by a provider or assistant for indications of physical distress. The provider or assistant conducting the evaluation shall enter each evaluation in the person's medical or educational record. For purposes of this subsection, "monitor" means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.

(f) Nothing in this section shall be construed as limiting any rights a person may have under sections 17a-540 to 17a-550, inclusive, section 17a-566 or section 54-56d.

(g) Nothing in this section shall be construed as limiting the justified use of physical force by a local, state or federal law enforcement official or an employee of the Board of Pardons and Paroles or the Department of Correction responsible for the supervision of persons released on parole while in the performance of such official's or employee's duties.

(h) (1) Nothing in this section shall be construed as prohibiting the use of mechanical physical restraint in transporting any person (A) who is receiving services from the DMHAS pursuant to sections 17a-513 to 17a-517, inclusive, 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d, or (B) who is committed to the department by a court of competent jurisdiction and has a pending criminal charge for which bail or a bond has not been posted, from a department facility to another location and, if applicable, back to such facility. Any such use of mechanical physical restraint shall be determined on an individualized basis by the head of the facility, or by a designee of the head of the facility, to be necessary and appropriate to protect the public safety. (2) Any use of mechanical physical restraint under this subsection shall be documented in the medical record of the person who is transported. Such documentation shall include, but not be limited to, (A) the reason for the use of such restraint, including the risk of flight, the risk to public safety and the person's clinical condition, and (B) a detailed description of the nature of such restraint and its duration. If the use of any such restraint results in serious physical injury or death to such person, the head of the facility shall report such injury or death to the Commissioner of Mental Health and Addiction Services. The commissioner, upon receiving any such report, shall inform the director of the Office of Protection and Advocacy for Persons with Disabilities of such injury or death.

(P.A. 99-210, S. 3; P.A. 00-55; P.A. 04-257, S. 117; P.A. 05-108, S. 4.)

History: P.A. 00-55 added new Subsection (h) re use of mechanical physical restraint in transporting persons receiving services from or committed to the DMHAS; P.A. 04-257 amended Subsection (g) to replace "an employee of the Board of Parole" with "an employee of the Department of Correction responsible for the supervision of persons released on parole", effective June 14, 2004; P.A. 05-108 amended Subsection (g) to include "an employee of the Board of Pardons and Paroles" responsible for the supervision of persons released on parole, effective June 7, 2005.

See Sec. 17a-3a re Connecticut Juvenile Training School

Sec. 46a-153. Recording of use of restraint and seclusion required. Review of records by state agencies. Reviewing state agency to report serious injury or death to Office of

Protection and Advocacy for Persons with Disabilities and to Office of Child Advocate: Each institution or facility that provides direct care, education or supervision of persons at risk shall (1) record each instance of the use of physical restraint or seclusion on a person at risk and the nature of the emergency that necessitated its use, and (2) include such information in an annual compilation on its use of such restraint and seclusion. The commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility shall review the annual compilation prior to renewing a license for or a contract with such institution or facility. If the use of such restraint or seclusion results in physical injury to the person, the institution or facility shall report the incident to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility. The commissioner receiving a report of such an incident shall report any incidence of serious injury or death to the director of the Office of Protection and Advocacy for Persons with Disabilities and, if appropriate, to the Child Advocate of the Office of Child Advocate.

(P.A. 99-210, S. 4.)

See Sec. 17a-3a re Connecticut Juvenile Training School.

Sec. 46a-154. Internal monitoring, training and development of policies and procedures required and subject to state agency inspection:

(a) Each institution or facility that provides direct care, education or supervision of a person at risk shall develop policies and procedures that (1) establish monitoring and internal reporting of the use of physical restraint and seclusion on persons at risk, and (2) require training of all providers and assistant providers of care, education or supervision of persons at risk in the use of physical restraint and seclusion on persons at risk. Such training shall include, but not be limited to: Verbal defusing or deescalation; prevention strategies; types of physical restraint; the differences between life-threatening physical restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques; monitoring to prevent harm to a person physically restrained or in seclusion and recording and reporting procedures on the use of restraints and seclusion.

(b) Each institution or facility required to develop policies and procedures under subsection (a) of this section shall make such policies and procedures available upon request to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility.

(P.A. 99-210, S. 5.)

See Sec. 17a-3a re Connecticut Juvenile Training School.

PA 12-88—sHB 5347

Select Committee on Children

Education Committee

Appropriations Committee

AN ACT CONCERNING THE REPORTING OF CHILDREN PLACED IN SECLUSION

SUMMARY: This act requires local school boards and other entities providing special education to children, when recording instances in which a child was physically restrained or placed in seclusion, to indicate whether the seclusion was in accordance with the child's individualized education program (IEP) or either action was an emergency. The act provides that this reporting requirement does not apply to instances of in-school suspensions, as defined in the state's education law.

The act also requires, rather than allows, the State Board of Education (SBE) to review and summarize the information the entities provided on seclusion and restraints, including whether such actions resulted in physical injuries to the child. The SBE must provide these summaries annually to the Children's Committee for inclusion in the children's report card. By law, the committee maintains an annual report card on the progress of state policies and programs promoting the well being of children.

EFFECTIVE DATE: July 1, 2012

USE OF RESTRAINTS AND SECLUSION WITH CHILDREN RECEIVING SPECIAL EDUCATION SERVICES

Local Compilation of Data

By law, each local or regional school board, institution, and facility that provides special education to a child must record (1) each instance when a child is placed in seclusion or physical restraints are used on him or her and (2) the nature of the emergency that necessitated the action. The entities must include the information in an annual compilation for the state. Under the act, they must also specify whether (1) placing the child in seclusion was in accordance with the child's IEP or (2) the seclusion or use of restraints was an emergency.

The act requires, rather than allows, the entities to report to the SBE any instance in which placing a child in restraints or seclusion results in the child's physical injury.

SBE to Issue Summary Report

The act requires, rather than allows, the SBE to review the compilations the entities submit and annually summarize the frequency with which children were physically restrained or placed in

seclusion. It requires the board to include in the summaries (1) the instances in which such actions resulted in physical injuries to children and (2) whether (a) either action was an emergency or (b) seclusion was part of an IEP.

The SBE must submit the summary report, by February 15, 2013, and by December 15 of each year thereafter, to the Select Committee on Children for inclusion in the committee's annual report card on children's well-being.

BACKGROUND

Use of Seclusion or Restraints on Children

By law, special education children generally may not be involuntarily placed in seclusion except (1) as an emergency to prevent immediate or imminent injury to the child or others or (2) their IEP provides for such placement. The special education providers listed above must notify the child's parents or guardians of each incident in which a child is placed in seclusion or physical restraints (CGS § 46a-152(b)).

In-School Suspension

The law defines an in-school suspension as exclusion from regular classroom activity for no more than 10 consecutive days, but not exclusion from school, provided such exclusion does not extend beyond the end of the school year in which the suspension is imposed (CGS §10-233a(c)).

OLR Tracking: RC: JKL: VR: ts

STATE OF CONNECTICUT REGULATION of State Board of Education

The R.C.S.A. are amended by adding Sections 10-76b-5 to 10-76b-11, inclusive, as follows:

(New) Section 10-76b-5. Use of physical restraint and seclusion in public schools.

Definitions.

For the purposes of sections 10-76b-6 to 10-76b-11, inclusive, of the R.C.S.A.:

- (1) “Assistant” means “assistant” as defined in section 46a-150 of the C.G.S.;
- (2) “Behavior intervention” means supports and other strategies developed by the planning and placement team to address the behavior of a person at risk which impedes the learning of the person at risk or the learning of others;
- (3) “Business day” means “business day” as defined in subsection (a) of section 10-76h-1 of the R.C.S.A.;
- (4) “Individualized education plan” or “IEP” means “individualized education plan” as defined in section 10-76a-1 of the R.C.S.A.;
- (5) “Parent” or “parents,” means “parents” as defined in section 10-76a-1 of the R.C.S.A.;
- (6) “Person at risk” means “person at risk” as defined in subparagraph (A) of subdivision (3) of section 46a-150 of the C.G.S.;
- (7) “Physical restraint” means “physical restraint” as defined in section 46a-150 of the C.G.S.;
- (8) “Planning and placement team” or “PPT” means “planning and placement team” as defined in section 10-76a-1 of the R.C.S.A.;
- (9) “Provider” means “provider” as defined in section 46a-150 of the C.G.S.; and
- (10) “Seclusion” means “seclusion” as defined in section 46a-150 of the C.G.S., provided seclusion does not include any confinement of a person at risk in which the person is physically able to leave the area of confinement including, but not limited to, in-school suspension and time-out.

(New) Section 10-76b-6. Use of physical restraint and seclusion in public schools.

No provider or assistant shall (1) use involuntary physical restraint on a person at risk or (2) involuntarily place a person at risk in seclusion, unless such use conforms to the requirements of sections 46a-150 to 46a-154, inclusive, of the C.G.S. and the requirements of sections 10-76b-5 to 10-76b-11, inclusive, of the R.C.S.A.

(New) Section 10-76b-7. Use of physical restraint and seclusion in public schools, exceptions.

Nothing in sections 46a-150 to 46a-154, inclusive, of the C.G.S. or sections 10-76b-5 to 10-76b-11, inclusive, of the R.C.S.A. shall be construed to interfere with the responsibility of local or regional boards of education to maintain a safe school setting in accordance with section 10-220 of the C.G.S. or to supersede the provisions of subdivision (6) of section 53a-18 of the C.G.S. concerning the use of reasonable physical force.

(New) Section 10-76b-8. Use of seclusion in public schools, requirements.

(a) Except for an emergency intervention to prevent immediate or imminent injury to the person or to others conforming to the requirements of subsection (b) of section 46a-152 of the C.G.S., seclusion may only be used if (1) this action is specified in the IEP of the person at risk and (2) if other less restrictive, positive behavior interventions appropriate to the behavior exhibited by the person at risk have been implemented but were ineffective.

(b) If the PPT of a person at risk determines, based upon the results of a functional assessment of behavior and other information determined relevant by the PPT, that use of seclusion is an appropriate behavior intervention, the PPT shall include the assessment data and other relevant information in the IEP of the person at risk as the basis upon which a decision was made to include the use of seclusion as a behavior intervention. In such a case, the IEP shall specify (1) the location of seclusion, which may be multiple locations within a school building, (2) the maximum length of any period of seclusion, in accordance with subsection (d) of this section,

(3) the number of times during a single day that the person at risk may be placed in seclusion,

(4) the frequency of monitoring required for the person at risk while in seclusion, and

(5) any other relevant matter agreed to by the PPT taking into consideration the age, disability and behaviors of the child that might subject the child to the use of seclusion.

(c) In the event the parent disagrees with the use of seclusion in the IEP of the person at risk, the parent shall have a right to the hearing and appeal process provided for in section 10-76h of the C.G.S.

(d) Any period of seclusion

(1) shall be limited to that time necessary to allow the person at risk to compose him or herself and return to the educational environment and

(2) shall not exceed one hour. The use of seclusion may be continued with written authorization of the building principal or designee to prevent immediate or imminent injury to the person at risk or to others. In the case where transportation of the person at risk is necessary, the written authorization to continue the use of seclusion is not required if immediate or imminent injury to the person at risk or to others is a concern.

(e) The PPT shall, at least annually, review the continued use of seclusion as a behavior intervention for the person at risk. When the use of seclusion as a behavior intervention is repeated more than two times in any school quarter, the PPT

(1) shall convene to review the use of seclusion as a behavior intervention,

(2) may consider additional evaluations or assessments to address the child's behaviors, and

(3) may revise the child's IEP, as appropriate.

(f) The PPT shall inquire as to whether there are any known medical or psychological conditions that would be directly and adversely impacted by the use of seclusion as a behavior intervention. A person at risk shall not be placed in seclusion if such person is known to have any medical or psychological condition that a licensed health care provider has indicated will be directly and

adversely impacted by the use of seclusion. For purposes of this subsection, a “licensed health care provider” means

(1) a legally qualified practitioner of medicine,

(2) an advanced practice registered nurse,

(3) a registered nurse licensed pursuant to chapter 378 of the C.G.S., or

(4) a physician assistant licensed pursuant to chapter 370 of the C.G.S. Such licensed health care provider may be the person at risk’s licensed health care provider or a licensed health care provider utilized by the public schools to provide an evaluation of the person at risk for purposes of determining the appropriate use of seclusion as a behavior intervention in the person at risk’s IEP. As part of the assessments described in subsection (b) of this section, the PPT may request a medical or psychological evaluation of the child for purposes of determining whether there is a medical or psychological condition that will be directly and adversely impacted by the use of seclusion as a behavior intervention. The parent may provide that information to the PPT. Any written statement provided by a licensed health care provider shall be included in the educational record of the person at risk.

(g) A person at risk in seclusion shall be monitored as described in the child’s IEP by a provider or assistant specifically trained in physical management, physical restraint and seclusion procedures including, but not limited to, training to recognize health and safety issues for children placed in seclusion to ensure the safe use of seclusion as a behavior intervention.

(h) Any room used for the seclusion of a person at risk shall:

(1) Be of a size that is appropriate to the chronological and developmental age, size and behavior of the person at risk;

(2) Have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which it is located;

(3) Be equipped with heating, cooling, ventilation and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located;

(4) Be free of any object that poses a danger to the person at risk who is being placed in the room;

(5) Have a door with a lock only if that lock is equipped with a device that automatically disengages the lock in case of an emergency. Not later than January 1, 2014, the locking mechanism of any room in a public school specifically designated for use as a seclusion room shall be a pressure sensitive plate. Any latching or securing of the door, whether by mechanical means or by a provider or assistant holding the door in place to prevent the person at risk from leaving the room, shall be able to be removed in the case of any emergency. An “emergency” for purposes of this subdivision includes, but is not limited to,

(A) the need to provide direct and immediate medical attention to the person at risk,

(B) fire,

(C) the need to remove the person at risk to a safe location during a building lockdown, or

(D) other critical situations that may require immediate removal of the person at risk from seclusion to a safe location; and

(6) Have an unbreakable observation window located in a wall or door to permit frequent visual monitoring of the person at risk and any provider or assistant in such room. The requirement for an unbreakable observation window does not apply if it is necessary to clear and use a classroom or other room in the school building as a seclusion room for a person at risk.

(New) Section 10-76b-9. Parental notification of physical restraint, seclusion.

(a) If a person at risk is physically restrained or placed in seclusion, an attempt shall be made to notify the parent on the day of, or within twenty-four hours after, physical restraint or seclusion is used with the child as an emergency intervention to prevent immediate or imminent injury to the person or others, as permitted under sections 46a-150 to 46a-154, inclusive, of the C.G.S. Such notification shall be made by phone, e-mail or other method, which may include, but is not limited to, sending a note home with the child. The parent of such child, regardless of whether he or she received such notification, shall be sent a copy of the incident report no later than two business days after the emergency use of physical restraint or seclusion. The incident report shall contain, at a minimum, the information required under subsection (d) of section 46a-152 of the C.G.S.

(b) Where seclusion is included in the IEP of a person at risk, the PPT and the parents shall determine a timeframe and manner of notification of each incident of seclusion.

(c) The Department of Education shall develop a plain language notice for use in the public schools to advise parents of the laws and regulations concerning the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child's IEP. On and after October 1, 2009, this notice shall be provided to the child's parent at the first PPT meeting following the child's referral for special education. For children who were eligible for special education prior to October 1, 2009, the notice shall be provided to the parent at the first PPT meeting convened after October 1, 2009. The notice shall also be provided to a child's parent at the first PPT meeting at which the use of seclusion as a behavior intervention is included in the child's IEP.

(New) Section 10-76b-10. Required training for providers or assistants on the use of physical restraint or seclusion.

A person at risk may be physically restrained or removed to seclusion only by a provider or assistant who has received training in physical management, physical restraint and seclusion procedures. Providers or assistants shall also be provided with training as described in subdivision (2) of subsection (a) of section 46a-154 of the C.G.S.

(New) Section 10-76b-11. Reports of physical restraint, seclusion.

The recording and reporting of instances of physical restraint or seclusion and the compilation of this information shall be in accordance with section 46a-153 of the C.G.S. The recording of such instances shall be done on a standardized incident report developed by the Department of Education. Such reports shall be completed no later than the school day following the incident.

EFFECTIVE DATE: Upon filing with the Secretary of the State.

STATEMENT OF PURPOSE:

(A) **Purpose of regulation:** To address the use of physical restraint or seclusion in the public schools for children who are or may be eligible for special education consistent with the requirements of Public Act 07-147.

(B) Summary of the main provisions of the regulation: This regulation adopts definitions contained in Public Act 07-147 concerning what is seclusion and restraint and who may perform such; requires that the use of physical restraint or seclusion conforms to the requirements of Public Act 07-147; provides exceptions to the restrictions on the use of physical restraint or seclusion as emergency interventions to allow districts to maintain a safe school setting and to use reasonable physical force consistent with the requirements of Section 53a-18 of the general statutes; details under what conditions seclusion may be used as a behavioral intervention strategy for a child eligible for special education; provides for parental notification in the event physical restraint or seclusion must be used as an emergency intervention, allows the PPT to determine the appropriate method of notification if seclusion is used as a behavior intervention and provides clarification on how school districts are to notify parents regarding the laws and regulations on the use of restraint and seclusion in the public schools; provides that providers or assistants be provided with training as required pursuant to subdivision (2) of subsection (a) of section 46a-154 of the general statutes; and requires that the Department of Education create a standardized incident report form for reporting incidents of physical restraint or seclusion.

(C) Legal effects of the regulation: The proposed regulation adds to the regulatory requirements for the provision of special education and related services to children who are eligible or whose eligibility for special education is being determined. The development of the IEP, including the conducting of any assessment or evaluation would follow the procedural requirements contained in the federal IDEA and the state special education regulations.