

STATE OF NEW YORK

5011

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

Introduced by M. of A. McDONOUGH -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to prohibiting the use of corporal punishment in an educational setting and defines corporal punishment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1125 of the education law is amended by adding
2 three new subdivisions 11, 12 and 13 to read as follows:

3 11. "Corporal punishment" shall mean any act of physical force upon a
4 pupil for the purpose of punishing that pupil, including the use of
5 aversive interventions and time out rooms, except in accordance with
6 subdivision thirteen of this section. Corporal punishment shall not
7 include the use of reasonable physical force to: (a) protect oneself or
8 another pupil, teacher, or other person from physical injury; (b) to
9 protect the property of the school, school district or others; or (c) to
10 restrain or remove a pupil whose behavior is interfering with the order-
11 ly exercise and performance of school or school district functions,
12 powers and duties if such pupil has refused to comply with a request to
13 refrain from further disruptive acts.

14 12. "Aversive intervention" shall mean an intervention that is
15 intended to induce pain or discomfort to a student for the purpose of
16 eliminating or reducing maladaptive behaviors, including such inter-
17 ventions as: (a) contingent application of noxious, painful, intrusive
18 stimuli or activities; (b) any form of noxious, painful or intrusive
19 spray, inhalant or tastes; (c) contingent food programs that include the
20 denial or delay of the provision of meals or intentionally altering
21 staple food or drink in order to make it distasteful; (d) movement limi-
22 tation used as a punishment, including but not limited to helmets and
23 mechanical restraint devices; or (e) other stimuli or actions similar to
24 the interventions described herein. Provided, however, that aversive

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 intervention shall not include: voice control, limited to loud, firm
2 commands; time-limited ignoring of a specific behavior; token fines as
3 part of a token economy system; brief physical prompts to interrupt or
4 prevent a specific behavior; interventions medically necessary for the
5 treatment or protection of the student; or other similar interventions.

6 13. "Time out room" shall mean an area for a student to safely deesca-
7 late, regain control and prepare to meet expectations to return to his
8 or her education program. Except for unanticipated situations that pose
9 an immediate concern for the physical safety of a student or others,
10 time out rooms shall only be used in conjunction with a behavioral
11 intervention plan that is designed to teach and reinforce alternative
12 appropriate behaviors.

13 (a) Each school which uses a time out room shall establish policies
14 and procedures on the use of the time out room and such policies or
15 procedures shall, at a minimum, include:

16 (i) prohibiting placing a student in a locked room or space or in a
17 room where the student cannot be continuously observed and supervised;

18 (ii) factors which may precipitate the use of the time out room;

19 (iii) time limitations for the use of the time out room;

20 (iv) staff training on the policies and procedures related to the use
21 of the time out room;

22 (v) data collection to monitor the effectiveness of the use of time
23 out rooms; and

24 (vi) information to be provided to parents, including a requirement
25 that parents be given an opportunity to see the physical space that will
26 be used as a time out room prior to placing a student in such room.

27 (b) Time out rooms shall be unlocked, able to be opened from the
28 inside, and staff shall be assigned to continuously monitor the student
29 in the time out room. The physical space used as a time out room shall:

30 (i) provide a means for continuous visual and auditory monitoring of
31 the student and be of adequate width, length and height to allow the
32 student to move about and recline comfortably;

33 (ii) have wall and floor coverings designed to prevent injury to the
34 student and have adequate lighting and ventilation;

35 (iii) have a temperature within the normal comfort range and consist-
36 ent with the rest of the building;

37 (iv) be clean and free of objects and fixtures that could be poten-
38 tially dangerous to a student; and

39 (v) meet all local fire and safety codes.

40 § 2. Subdivision 1 of section 1125 of the education law, as added by
41 chapter 180 of the laws of 2000, is amended to read as follows:

42 1. "Child abuse" shall mean any of the following acts committed in an
43 educational setting by an employee or volunteer against a child: (a)
44 intentionally or recklessly inflicting physical injury, serious physical
45 injury or death, or (b) intentionally or recklessly engaging in conduct
46 which creates a substantial risk of such physical injury, serious phys-
47 ical injury or death, or (c) any child sexual abuse as defined in this
48 section, or (d) the commission or attempted commission against a child
49 of the crime of disseminating indecent materials to minors pursuant to
50 article two hundred thirty-five of the penal law; or (e) corporal
51 punishment as defined in this section.

52 § 3. This act shall take effect immediately.