

# STATE OF NEW YORK

10644

## IN ASSEMBLY

July 22, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Solages) --  
read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to prohibiting certain  
punishments and interventions in schools

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

1 Section 1. The education law is amended by adding a new article 2-A to  
2 read as follows:

### ARTICLE 2-A

#### PROHIBITION OF CERTAIN PUNISHMENTS AND INTERVENTIONS

##### Section 20. Purpose of article.

##### 21. Definitions.

##### 22. Prohibition of certain punishments and interventions.

##### 23. Authorized limited use of timeouts and physical restraints.

##### 24. Annual reporting.

##### 25. Private right of action.

11 § 20. Purpose of article. The purpose of this article shall be to  
12 establish uniform guidelines that prohibit the use of corporal punish-  
13 ment, chemical restraints, aversive interventions, and seclusion and to  
14 authorize limited use of timeout and physical restraint in schools to  
15 address student behaviors.

16 § 21. Definitions. For the purposes of this article, the following  
17 terms shall have the following meanings:

18 1. (a) "Aversive intervention" means an intervention that is intended  
19 to induce pain or discomfort for the purpose of eliminating or reducing  
20 student behavior, including but not limited to the following:

21 (i) contingent application of noxious, painful, intrusive stimuli or  
22 activities, or strangling, shoving, deep muscle squeezes, or other stim-  
23 uli;

24 (ii) any form of noxious, painful or intrusive spray, inhalant or  
25 tastes;

26 (iii) contingent food programs that include the denial or delay of the  
27 provision of meals or intentionally altering staple food or drink in  
28 order to make it distasteful;

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

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1 (iv) movement limitation used as a punishment, including, but not  
2 limited to, helmets and mechanical restraints;

3 (v) chemical restraints; or

4 (vi) other similar stimuli or actions.

5 (b) The term "aversive intervention" shall not include interventions  
6 such as voice control, limited to loud, firm commands; time-limited  
7 ignoring of a specific behavior; token fines as part of a token economy  
8 system; brief physical prompts to interrupt or prevent a specific behav-  
9 ior; interventions medically necessary for the treatment or protection  
10 of a student; or other similar interventions.

11 2. "Corporal punishment" means any act of physical force upon a  
12 student for the purpose of punishing such student.

13 3. "Chemical restraint" means a drug or medication used on a student  
14 to control behavior or restrict freedom of movement that is not:

15 (a) prescribed by a licensed physician, or other qualified health  
16 professional acting under the scope of the professional's authority  
17 under state law, for the standard treatment of a student's medical or  
18 psychiatric condition; and

19 (b) administered as prescribed by the licensed physician or other  
20 qualified health professional acting under the scope of the profes-  
21 sional's authority under state law.

22 4. "De-escalation" means the use of a behavior management technique  
23 that helps a student increase control over their emotions and behavior  
24 and results in a reduction of a present or potential level of danger to  
25 such student or others.

26 5. "Mechanical restraint" means the use of any device or equipment to  
27 restrict a student's freedom of movement. The term "mechanical  
28 restraint" shall not include devices implemented by trained school  
29 personnel, or utilized by a student, that have been prescribed by an  
30 appropriate medical or related services professional and are used for  
31 the specific and approved purposes for which such devices were designed,  
32 such as:

33 (a) adaptive devices or mechanical supports used to achieve proper  
34 body position, balance, or alignment to allow greater freedom of mobili-  
35 ty than would be possible without the use of such devices or mechanical  
36 supports;

37 (b) vehicle safety restraints when used as intended during the trans-  
38 port of a student in a moving vehicle;

39 (c) restraints for medical immobilization; or

40 (d) orthopedically prescribed devices that permit a student to partic-  
41 ipate in activities without risk of harm.

42 6. "Multi-tiered system of supports" means a proactive and preventa-  
43 tive framework that utilizes data to inform instruction and the allo-  
44 cation of services to maximize achievement for all students and support  
45 students' social, emotional and behavioral needs from a culturally  
46 responsive and strength-based perspective.

47 7. "Physical escort" means a temporary, voluntary touching or holding  
48 of the hand, wrist, arm, shoulder or back to induce a student to walk to  
49 a safe location.

50 8. "Physical restraint" means a personal restriction that immobilizes  
51 or reduces the ability of a student to move their arms, legs, body, or  
52 head freely. The term "physical restraint" shall not include a physical  
53 escort or brief physical contact and/or redirection to promote student  
54 safety, calm or comfort a student, prompt or guide a student when teach-  
55 ing a skill or assisting a student in completing a task, or for other  
56 similar purposes.

1 9. "Prone restraint" means physical or mechanical restraint while the  
2 student is in the face down position.

3 10. "School" means a public school district, board of cooperative  
4 educational services, charter school, state-operated and state-supported  
5 school pursuant to articles eighty-five, eighty-seven and eighty-eight  
6 of this chapter, in-state and out-of-state private residential or non-  
7 residential school for the education of students with disabilities  
8 approved pursuant to article eighty-nine of this chapter or operating  
9 under article eighty-one of this chapter, state-administered prekindergarten  
10 program directly operated by a school district, board of cooperative  
11 educational services, or an eligible agency, as defined by the  
12 commissioner, or operated by a school district in collaboration with an  
13 eligible agency, preschool special education program approved pursuant  
14 to section forty-four hundred ten of this chapter, and registered  
15 nonpublic nursery school, kindergarten, and high school, and a nonpublic  
16 school serving grades one through eight that has a registered high  
17 school, in this state. Such term as used in this article shall also  
18 include school buses, as defined by section one hundred forty-two of the  
19 vehicle and traffic law.

20 11. "Seclusion" means the involuntary confinement of a student alone  
21 in a room or space that they are physically prevented from leaving or  
22 they may perceive that they cannot leave at will. The term "seclusion"  
23 shall not include timeout.

24 12. "Timeout" means a behavior management technique that involves the  
25 monitored separation of a student in a non-locked setting, accompanied  
26 by school staff, where the student complies with a request to leave and  
27 is implemented for the purpose of de-escalating, regaining control, and  
28 preparing the student to meet expectations to return to their education  
29 program in accordance with section twenty-three of this article. The  
30 term "timeout" shall not include:

31 (a) a student-initiated or student-requested break to utilize coping  
32 skills, sensory input, or self-regulation strategies;

33 (b) use of a room or space containing coping tools or activities to  
34 assist a student to calm and self-regulate, or the use of such inter-  
35 vention strategies consistent with a student with a disability's behav-  
36 ioral intervention plan as defined by the commissioner; or

37 (c) a teacher removal, in-school suspension, or any other appropriate  
38 disciplinary action.

39 § 22. Prohibition of certain punishments and interventions. 1. No  
40 teacher, administrator, officer, employee or agent of a school shall use  
41 the following against a student:

42 (a) corporal punishment;

43 (b) aversive interventions; or

44 (c) seclusion.

45 2. For purposes of this section the term "agent" shall include, but  
46 not be limited to, school resource officers, except when a student is  
47 under arrest and handcuffs are necessary for the safety of such student  
48 and others.

49 § 23. Authorized limited use of timeouts and physical restraints. 1.  
50 Multi-tiered systems of supports. Positive, proactive, evidence- and  
51 research-based strategies through a multi-tiered system of supports  
52 shall be used to reduce the occurrence of challenging behaviors, elimi-  
53 nate the need for the use of timeout and physical restraint, and improve  
54 school climate and the safety of all students. Problem-solving inter-  
55 ventions, proactive, evidence- and research-based models that are prob-  
56 lem-solving focused and work collaboratively with the student shall be

1 used to eliminate the need for the use of timeout and physical  
2 restraint. Timeout and physical restraint shall be used only when:  
3 other less restrictive and intrusive interventions and de-escalation  
4 techniques would not prevent imminent danger of serious physical harm to  
5 a student or others; there is no known medical contraindication to its  
6 use on a student; and school staff using such interventions have been  
7 trained in its safe and appropriate application in accordance with the  
8 requirements of subdivision eight of this section. Timeout and physical  
9 restraints shall not be used as discipline or punishment, retaliation,  
10 or as a substitute for positive, proactive intervention strategies that  
11 are designed to eliminate the need for the use of timeout and physical  
12 restraint.

13 2. Use of timeout. (a) Except as otherwise specifically provided by  
14 the commissioner pursuant to rule or regulation, timeout shall only be  
15 used in a situation that poses an immediate concern for the physical  
16 safety of a student or others. Staff shall return such student to their  
17 educational program as soon as such student has safely de-escalated,  
18 regained control and is prepared to meet expectations.

19 (b) A room or physical space used for purposes of timeout shall be  
20 located within a classroom or outside of such classroom and shall comply  
21 with the following requirements:

22 (i) Such room or physical space shall:

23 (1) be unlocked, and any door shall be able to be opened from the  
24 inside. The use of locked rooms or physical spaces is prohibited;

25 (2) provide a means for continuous visual and auditory monitoring of  
26 the student;

27 (3) be of adequate width, length and height to allow the student to  
28 move about and recline comfortably;

29 (4) be clean and free of objects and fixtures that could be potential-  
30 ly dangerous to a student; and

31 (5) meet all local fire and safety codes;

32 (ii) Wall and floor coverings shall, to the extent practicable, be  
33 designed to prevent injury to the student and there shall be adequate  
34 lighting and ventilation; and

35 (iii) The temperature of the room or physical space shall be within  
36 the normal comfort range and consistent with the rest of the building.

37 (c) Staff shall continuously monitor a student in a timeout room or  
38 space. Staff functioning as timeout monitors shall be trained in accord-  
39 ance with subdivision eight of this section, and shall be physically  
40 present in the timeout room or space for the entirety of a student's  
41 time in such room or space.

42 3. Use of physical restraint. (a) Physical restraint shall only be  
43 used in a situation in which immediate intervention involving the use of  
44 reasonable physical force is necessary to prevent imminent danger of  
45 serious physical harm to the student or others.

46 (b) The type of physical restraint used shall be the least restrictive  
47 technique necessary and be discontinued as soon as the imminent danger  
48 of serious physical harm has resolved.

49 (c) Physical restraint shall never be used in a manner that restricts  
50 the student's ability to breathe or communicate or harms the student.

51 (d) The use of prone restraint is prohibited.

52 (e) Physical restraint shall not be used as a planned intervention on  
53 a student's individualized education program, accommodation plan, behav-  
54 ioral intervention plan, or other plan developed for a student by the  
55 school.

1 (f) Physical restraint shall not be used to prevent property damage  
2 except in situations where there is imminent danger of serious physical  
3 harm to the student or others and the student has not responded to posi-  
4 tive, proactive intervention strategies.

5 (g) Physical restraint shall be administered only by staff who have  
6 received training in accordance with subdivision eight of this section.

7 (h) Following a physical restraint, if an injury has been sustained or  
8 believed to have been sustained, the school nurse, pursuant to section  
9 nine hundred two of this chapter or other medical personnel shall evalu-  
10 ate the student to determine and document if any injuries were sustained  
11 during the incident.

12 4. Parental notification. Each school shall develop a procedure to:

13 (a) ensure same day notification to a parent or person in parental  
14 relation to a student following the use of timeout, including timeout  
15 used in conjunction with such student's behavioral intervention plan, or  
16 use of a physical restraint. When the student's parent or person in  
17 parental relation cannot be contacted, after reasonable attempts are  
18 made, the school principal or building administrator shall record such  
19 attempts. For students with disabilities, the school principal or build-  
20 ing administrator shall report such attempts to the student's committee  
21 on preschool special education or committee on special education. Such  
22 notification shall offer the parent or person in parental relation the  
23 opportunity to meet regarding the incident; and

24 (b) provide the parent or person in parental relation to the student a  
25 copy of the documentation of the incident within three school days of  
26 the use of timeout or a physical restraint.

27 5. Documentation. (a) A school shall maintain documentation of each  
28 incident involving the use of timeout, including timeout used in  
29 conjunction with a student's behavioral intervention plan consistent  
30 with rules or regulations promulgated by the commissioner, and/or phys-  
31 ical restraint on each student, which shall include:

32 (i) the name and date of birth of the student;

33 (ii) the setting and location of the incident;

34 (iii) the name of the staff who participated in the implementation,  
35 monitoring and supervision of the use of timeout and/or physical  
36 restraint and any other persons involved;

37 (iv) a description of the incident including duration, and for a phys-  
38 ical restraint, the type of restraint used;

39 (v) whether the student has an individualized education program,  
40 accommodation plan, behavioral intervention plan, or other plan devel-  
41 oped for the student by the school;

42 (vi) a list of all positive, proactive intervention strategies  
43 utilized prior to the use of timeout and/or physical restraint; and for  
44 students with disabilities, whether those strategies were consistent  
45 with a student's behavioral intervention plan, if applicable;

46 (vii) the details of any injuries sustained by the student or staff  
47 during the incident and whether the student was evaluated by the school  
48 nurse or other medical personnel;

49 (viii) the date and method of notification to the parent or person in  
50 parental relation pursuant to subdivision four of this section and  
51 whether a meeting was held; and

52 (ix) the date of the debriefing held consistent with the requirements  
53 of subdivision six of this section.

54 (b) Documentation of the incident shall be reviewed by supervisory  
55 personnel and, as necessary, the school nurse or other medical person-  
56 nel.

1 (c) Documentation of each incident shall be maintained by the school  
2 and made available for review by the department upon request.

3 6. Debriefing. As soon as practicable, and after every incident in  
4 which timeout and/or physical restraint is used on a student, a school  
5 administrator or designee shall:

6 (a) meet with the school staff who participated in the use of timeout  
7 and/or physical restraint to discuss:

8 (i) the circumstances leading to the use of timeout and/or physical  
9 restraint;

10 (ii) the positive, proactive intervention strategies that were  
11 utilized prior to the use of timeout and/or physical restraint; and

12 (iii) planning for the prevention and reduction of the future need for  
13 timeout and/or physical restraint with the student including, if appli-  
14 cable, whether a referral should be made for special education programs  
15 and/or other support services or, for a student with a disability,  
16 whether a referral for review of the student's individualized education  
17 program and/or behavioral intervention plan is needed; and

18 (b) direct a school staff member to debrief the incident with the  
19 student in a manner appropriate to the student's age and developmental  
20 ability and to discuss the behavior or behaviors, if any, that precipi-  
21 tated the use of timeout and/or physical restraint.

22 7. Review of documentation. The school administrator or designee shall  
23 regularly review documentation on the use of timeout and physical  
24 restraint to ensure compliance with a school's policy and procedures.  
25 When there are multiple incidents within the same classroom or involving  
26 the same staff, the school administrator or designee shall take appro-  
27 priate steps to address the frequency and pattern of use.

28 8. Staff training. (a) All staff shall receive annual training on the  
29 school's policies and procedures related to the use of timeout and phys-  
30 ical restraint; evidence-based positive, proactive problem-solving  
31 interventions; crisis intervention and prevention procedures and de-es-  
32 calation techniques.

33 (b) In addition to the training requirements for all staff in para-  
34 graph (a) of this subdivision, any staff who may be called upon to  
35 implement timeout or physical restraint, shall receive annual,  
36 evidence-based training in safe and effective developmentally appropri-  
37 ate timeout and physical restraint procedures.

38 9. Written policy. (a) Each school shall adopt a written policy that  
39 establishes administrative practices and procedures regarding the use of  
40 timeout and physical restraint consistent with this subdivision. Such  
41 policy and procedures shall at a minimum include:

42 (i) factors which may precipitate the use of the timeout or physical  
43 restraint;

44 (ii) developmentally appropriate time limitations for the use of time-  
45 out and physical restraint;

46 (iii) prohibiting placing a student in a locked room or space or in a  
47 room where the student cannot be continuously observed and supervised;

48 (iv) prohibiting the use of prone restraint;

49 (v) any requirements promulgated by the commissioner relating to  
50 students with disabilities whose behavioral intervention plan includes  
51 the use of timeout as a behavioral consequence;

52 (vi) staff training provided in accordance with the requirements of  
53 subdivision eight of this section;

54 (vii) information to be provided to the parent or person in parental  
55 relation, including a copy of the timeout and physical restraint policy;

1 (viii) notifying the parent or person in parental relation on the same  
2 day when a student is placed in a timeout or a physical restraint is  
3 used in accordance with the requirements of subdivision four of this  
4 section; and

5 (ix) data collection to monitor patterns of use of timeout and phys-  
6 ical restraint.

7 (b) The written policy shall be made publicly available for review at  
8 the district or school administrative office or offices and each school  
9 building, and posted on the school's website, if one exists.

10 § 24. Annual reporting. Beginning with the two thousand twenty-five --  
11 two thousand twenty-six school year, each public school district, board  
12 of cooperative educational services, charter school, state-operated  
13 school pursuant to articles eighty-seven and eighty-eight of this chap-  
14 ter, and private residential school operated pursuant to article eight-  
15 y-one of this chapter, shall submit an annual report on the use of phys-  
16 ical restraint and timeout and substantiated and unsubstantiated  
17 allegations of use of corporal punishment, mechanical restraint and  
18 other aversive interventions, prone physical restraint, and seclusion to  
19 the department, on a form and at a time prescribed by the commissioner  
20 by rule or regulation. In addition, public school districts shall report  
21 such data for students for whom they are the district of residence, and  
22 who are otherwise not reported, including students attending a state-  
23 supported school pursuant to article eighty-five of this chapter,  
24 in-state and out-of-state private residential or non-residential school  
25 for the education of students with disabilities approved pursuant to  
26 article eighty-nine of this chapter, or preschool special education  
27 program approved pursuant to section forty-four hundred ten of this  
28 chapter.

29 § 25. Private right of action. The parent or person in parental  
30 relation of any student who is injured resulting from a violation of  
31 this article may bring an action to recover damages suffered by reason  
32 of such violation.

33 § 2. Subdivision 1 of section 1125 of the education law, as amended by  
34 chapter 551 of the laws of 2023, is amended to read as follows:

35 1. "Child abuse" shall mean any of the following acts committed in an  
36 educational setting by an employee or volunteer against a child: (a)  
37 intentionally or recklessly inflicting physical injury, serious physical  
38 injury or death, or (b) intentionally or recklessly engaging in conduct  
39 which creates a substantial risk of such physical injury, serious phys-  
40 ical injury or death, or (c) any child sexual abuse as defined in this  
41 section, or (d) the commission or attempted commission against a child  
42 of the crime of disseminating indecent materials to minors pursuant to  
43 article two hundred thirty-five of the penal law, or (e) using corporal  
44 punishment as defined by [~~the commissioner~~] section twenty-one of this  
45 chapter.

46 § 3. This act shall take effect immediately.