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:

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

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

12. "Aversive intervention" shall mean an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as: (a) contingent application of noxious, painful, intrusive stimuli or activities; (b) any form of noxious, painful or intrusive spray, inhalant or tastes; (c) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful; (d) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or (e) other stimuli or actions similar to 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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intervention shall not include: voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

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

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

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

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

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

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

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

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

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

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

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

(iii) have a temperature within the normal comfort range and consistent with the rest of the building;

(iv) be clean and free of objects and fixtures that could be potentially dangerous to a student; and

(v) meet all local fire and safety codes.

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

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

§ 3. This act shall take effect immediately.