

CLIENT NEWS BRIEF

New Law Limits the Use of Seclusion and Restraints in Schools, Requires Annual Data Report

The California Legislature recently passed a new law aiming to promote student rights and safety by imposing limits on the use of behavioral restraints and seclusion in schools. Assembly Bill (AB) 2657, which prohibits the use of restraint or seclusion for any student except in specified circumstances, becomes effective on January 1, 2019.

Current Law

Existing law limits the use of seclusion and restraints in schools for students with exceptional needs. Specifically, California school districts and nonpublic schools or agencies serving individuals with exceptional needs are prohibited from authorizing, ordering, consenting to, or paying for certain types of behavior interventions, including electric shock, the release of toxic or noxious sprays or mists, mechanical restraints, except when mechanical restraints are used by trained personnel as a limited emergency intervention, or locked seclusion, except when seclusion is used as specified. Additionally, California law authorizes the use of emergency interventions for students with exceptional needs in limited circumstances. (See 2013 [Client News Brief No. 39](#).)

California law also prohibits persons employed by or engaged in a public school from inflicting, or causing to be inflicted, corporal punishment upon a student. However, there are currently no other limitations on the use of seclusion or restraints for general education students.

New Law

AB 2657 establishes a student's right "to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff." The legislation limits the use of seclusion and behavioral restraints, which include both mechanical and physical restraints, for all students and establishes parameters for situations in which behavioral restraints or seclusion may be used. Specifically, school districts and nonpublic schools or agencies may use a behavioral restraint or seclusion "only to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive."

The legislation also provides statutory definitions for behavioral restraint, mechanical restraint, physical restraint, and seclusion for the first time in the Education Code, adopted from the [Office for Civil Rights' guidance on the use of restraint and seclusion](#). Notably, it states vehicle safety restraints when used as intended during the transport of a student in a moving vehicle are not mechanical restraints, and physical escorts are not physical restraints.

School districts and nonpublic schools or agencies are prohibited from using a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm. The legislation

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clarifies what types of interventions are not allowed, and emphasizes the need to avoid restraints and seclusion whenever possible. Specifically, it bans the use of locked seclusion unless the facility is otherwise licensed or permitted to use a locked room, physical restraint techniques that obstruct the student's respiratory airway or impairs the student's breathing or respiratory capacity, behavioral restraints that restrict breathing, and placing a student in a facedown position with the student's hands held or restrained behind the student's back. A student placed in seclusion must be under constant, direct observation at all times.

AB 2657 also requires school districts and nonpublic schools or agencies to collect and report data on the use of restraints and seclusion to the California Department of Education (CDE) annually, no later than three months after the end of the school year. The report must include the number of students subjected to mechanical restraint and the number of times it was used, the number of students subjected to physical restraint and the number of times it was used, and the number of students subjected to seclusion and the number of times it was used. The information must be disaggregated by race or ethnicity, and gender, with separate counts for students with an individualized education program (IEP), students with a 504 plan, and students without an IEP or 504 plan. The legislation requires CDE to annually post the data from the report on its website within three months after the report is due to CDE.

Takeaways

School districts should note the new limitations on the use of restraints and seclusion for all students, effective January 1, 2019. This legislation does not repeal or replace existing laws that provide parameters and procedures for the use of seclusion and restraint for students with exceptional needs. School districts should consider updating their policies and procedures relating to pupil discipline, in light of the new rules for general education students, while continuing compliance with existing law related to seclusion or restraint that applies only to students with exceptional needs.

If you have any questions about AB 2657 or restraint and seclusion laws applicable to California school districts, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).