

AMENDED IN ASSEMBLY AUGUST 15, 2008

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN ASSEMBLY JUNE 16, 2008

AMENDED IN SENATE MAY 27, 2008

**SENATE BILL**

**No. 1515**

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**Introduced by Senator Kuehl**

February 21, 2008

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An act to amend Section 32282 of, and to add Article 5.5 (commencing with Section 49010) to Chapter 6 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to pupil discipline.

LEGISLATIVE COUNSEL'S DIGEST

SB 1515, as amended, Kuehl. Pupil discipline: restraint and seclusion.

Existing law prohibits a person employed by or engaged in a public school to inflict, or cause to be inflicted, corporal punishment upon a pupil.

This bill would prohibit an educational provider from using chemical restraint, *as defined*, mechanical restraint, *as defined*, physical restraint, *as defined*, or seclusion, *as defined*, for the purpose of coercion, discipline, convenience, or retaliation by staff. The bill would limit the use of behavioral, physical, and mechanical restraint, *as defined*. ~~This bill, and~~ would specify conditions under which an educational provider would be authorized to use behavioral physical restraint. *The bill would allow, until January 1, 2012, nonpublic, nonsectarian schools, and certain district-designated alternative programs to use seclusion if specified conditions are met.*

*Existing law requires a schoolsite council to write and develop a comprehensive school safety plan, except in the case of a small school*

*district, as defined, that develops a districtwide comprehensive school safety plan that is applicable to each schoolsite in the district. The comprehensive school safety plan is required to include the rules and procedures on school discipline.*

*This bill would authorize the comprehensive school safety plan also to include the rules and procedures regarding the use of restraint and seclusion.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 32282 of the Education Code is amended  
 2     to read:  
 3     32282. (a) The comprehensive school safety plan shall include,  
 4     but not be limited to, both of the following:  
 5         (1) Assessing the current status of school crime committed on  
 6     school campuses and at school-related functions.  
 7         (2) Identifying appropriate strategies and programs that will  
 8     provide or maintain a high level of school safety and address the  
 9     school’s procedures for complying with existing laws related to  
 10    school safety, which shall include the development of all of the  
 11    following:  
 12         (A) Child abuse reporting procedures consistent with Article  
 13     2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of  
 14     Part 4 of the Penal Code.  
 15         (B) Disaster procedures, routine and emergency, including  
 16     adaptations for pupils with disabilities in accordance with the  
 17     Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101  
 18     et seq.). The disaster procedures ~~shall~~ also shall include, but not  
 19     be limited to, both of the following:  
 20             (i) Establishing an earthquake emergency procedure system in  
 21     every public school building having an occupant capacity of 50  
 22     or more pupils or more than one classroom. A district or county  
 23     office may work with the Office of Emergency Services and the  
 24     Seismic Safety Commission to develop and establish the earthquake  
 25     emergency procedure system. The system shall include, but not  
 26     be limited to, all of the following:  
 27             (I) A school building disaster plan, ready for implementation  
 28     at any time, for maintaining the safety and care of pupils and staff.

1 (II) A drop procedure whereby each pupil and staff member  
2 takes cover under a table or desk, dropping to his or her knees,  
3 with the head protected by the arms, and the back to the windows.  
4 A drop procedure practice shall be held at least once each school  
5 quarter in elementary schools and at least once a semester in  
6 secondary schools.

7 (III) Protective measures to be taken before, during, and  
8 following an earthquake.

9 (IV) A program to ensure that pupils and both the certificated  
10 and classified staff are aware of, and properly trained in, the  
11 earthquake emergency procedure system.

12 (ii) Establishing a procedure to allow a public agency, including  
13 the American Red Cross, to use school buildings, grounds, and  
14 equipment for mass care and welfare shelters during disasters or  
15 other emergencies affecting the public health and welfare. The  
16 district or county office shall cooperate with the public agency in  
17 furnishing and maintaining the services as the district or county  
18 office may deem necessary to meet the needs of the community.

19 (C) Policies pursuant to subdivision (d) of Section 48915 for  
20 pupils who committed an act listed in subdivision (c) of Section  
21 48915 and other school-designated serious acts which would lead  
22 to suspension, expulsion, or mandatory expulsion recommendations  
23 pursuant to Article 1 (commencing with Section 48900) of Chapter  
24 6 of Part 27 of Division 4 of Title 2.

25 (D) Procedures to notify teachers of dangerous pupils pursuant  
26 to Section 49079.

27 (E) A discrimination and harassment policy consistent with the  
28 prohibition against discrimination contained in Chapter 2  
29 (commencing with Section 200) of Part 1.

30 (F) The provisions of any schoolwide dress code, pursuant to  
31 Section 35183, that prohibits pupils from wearing “gang-related  
32 apparel,” if the school has adopted that type of a dress code. For  
33 those purposes, the comprehensive school safety plan shall define  
34 “gang-related apparel.” The definition shall be limited to apparel  
35 that, if worn or displayed on a school campus, reasonably could  
36 be determined to threaten the health and safety of the school  
37 environment. Any schoolwide dress code established pursuant to  
38 this section and Section 35183 shall be enforced on the school  
39 campus and at any school-sponsored activity by the principal of  
40 the school or the person designated by the principal. For the

1 purposes of this paragraph, “gang-related apparel” shall not be  
2 considered a protected form of speech pursuant to Section 48950.

3 (G) Procedures for safe ingress and egress of pupils, parents,  
4 and school employees to and from school.

5 (H) A safe and orderly environment conducive to learning at  
6 the school.

7 (I) The rules and procedures on school discipline adopted  
8 pursuant to Sections 35291 and 35291.5.

9 (J) Hate crime reporting procedures pursuant to Chapter 1.2  
10 (commencing with Section 628) of Title 15 of Part 1 of the Penal  
11 Code.

12 *(b) The comprehensive school safety plan may include the rules  
13 and procedures regarding the use of restraint and seclusion  
14 pursuant to Article 5.5 (commencing with Section 49010) of  
15 Chapter 27 of Division 4 of Title 2.*

16 ~~(b)~~

17 (c) It is the intent of the Legislature that schools develop  
18 comprehensive school safety plans using existing resources,  
19 including the materials and services of the partnership, pursuant  
20 to this chapter. It is also the intent of the Legislature that schools  
21 use the handbook developed and distributed by the School/Law  
22 Enforcement Partnership Program entitled “Safe Schools: A  
23 Planning Guide for Action” in conjunction with developing their  
24 plan for school safety.

25 ~~(c)~~

26 (d) Grants to assist schools in implementing their comprehensive  
27 school safety plan shall be made available through the partnership  
28 as authorized by Section 32285.

29 ~~(d)~~

30 (e) Each schoolsite council or school safety planning committee  
31 in developing and updating a comprehensive school safety plan  
32 shall, where practical, shall consult, cooperate, and coordinate  
33 with other schoolsite councils or school safety planning  
34 committees.

35 ~~(e)~~

36 (f) The comprehensive school safety plan may be evaluated and  
37 amended, as needed, by the school safety planning committee, but  
38 shall be evaluated at least once a year, to ensure that the  
39 comprehensive school safety plan is properly implemented. An

1 updated file of all safety-related plans and materials shall be readily  
2 available for inspection by the public.

3 (f)

4 (g) The comprehensive school safety plan, as written and  
5 updated by the schoolsite council or school safety planning  
6 committee, shall be submitted for approval under subdivision (a)  
7 of Section 32288.

8 **SECTION 1.**

9 *SEC. 2.* Article 5.5 (commencing with Section 49010) is added  
10 to Chapter 6 of Part 27 of Division 4 of Title 2 of the Education  
11 Code, to read:

12  
13 Article 5.5. Restraint and Seclusion

14  
15 49010. The Legislature finds and declares all of the following:

16 (a) Seclusion and restraint ~~are known to~~ *may* cause trauma and  
17 injury to both the individual subjected to these techniques and the  
18 personnel executing them.

19 (b) The use of seclusion and ~~behavioral~~ *restraint as interventions*  
20 *when a pupil poses an imminent risk of serious physical harm to*  
21 *self or others* are not therapeutic or ~~educational, and their~~  
22 *educational. Their* use does not positively change behavior *and is*  
23 *limited to emergency interventions.*

24 49011. For purposes of this article, the following definitions  
25 apply:

26 (a) ~~“Behavioral restraint” means mechanical restraint or physical~~  
27 ~~restraint used as an intervention when a pupil presents an imminent~~  
28 ~~risk of serious physical harm to self or others. Behavioral restraint~~  
29 ~~does not include restraints used for postural support or devices~~  
30 ~~used to improve a pupil’s mobility and independent functioning~~  
31 ~~rather than to restrict movement.~~

32 (b)

33 (a) “Chemical restraint” means the administration of a drug or  
34 medication to manage a pupil’s behavior or restrict a pupil’s  
35 freedom of movement that is not a standard treatment and dosage  
36 for the pupil’s medical or psychiatric condition.

37 (c)

38 (b) “Department” means the State Department of Education.

39 (d)

1 (c) “Educational provider” means an entity or a person that does  
2 both of the following:

3 (1) Receives support in any form from a program supported in  
4 whole or in part with funds appropriated by the department.

5 (2) Provides educational or related services, supports, or other  
6 assistance to individuals in a public or private elementary or  
7 secondary school.

8 Educational provider includes all local educational agencies,  
9 including charter schools, the California School for the Deaf, the  
10 California School for the Blind, nonpublic schools, and nonpublic  
11 agencies, including both in-state and out-of-state nonpublic schools  
12 and nonpublic agencies.

13 (e)

14 (d) “Mechanical restraint” means the use of a mechanical device,  
15 material, or equipment attached or adjacent to the pupil’s body  
16 that he or she cannot easily remove that restricts the freedom of  
17 movement of all or part of a pupil’s body, or restricts normal access  
18 to the pupil’s body, ~~and that is used as a behavioral restraint.~~

19 *Mechanical restraint does not include mechanical devices,*  
20 *material, or equipment used for postural support, during*  
21 *transportation, or used to improve the mobility and independent*  
22 *functioning of a pupil rather than to restrict movement.*

23 (f)

24 (e) “Physical restraint” means the use of a manual hold to restrict  
25 freedom of movement of all or part of a pupil’s body, or to restrict  
26 normal access to the pupil’s body, ~~that is used as a behavioral~~  
27 ~~restraint.~~ Physical restraint is a staff-to-pupil physical contact in  
28 which the pupil unwillingly participates. Physical restraint does  
29 not include briefly holding a pupil without undue force in order  
30 to calm or comfort or to prevent ~~an isolated incident of~~  
31 ~~unpredictable and spontaneous~~ unsafe behavior, such as running  
32 into traffic or engaging in a physical altercation, or physical contact  
33 intended to gently assist or prompt a pupil in performing a task or  
34 to guide or assist a pupil from one area to another.

35 (g)

36 (f) “Seclusion” means the involuntary confinement of a pupil  
37 alone in a room or area from which the pupil physically is  
38 prevented from leaving. “Seclusion” does not mean a supervised  
39 timeout, *in which an adult is continuously present in the room with*  
40 *the pupil.*

1 ~~49012. An educational provider may use behavioral restraint~~  
2 ~~only if all of the following conditions are met:~~

3 ~~(a) It is an emergency situation and behavioral restraint is~~  
4 ~~required to prevent imminent serious physical harm to the pupil,~~  
5 ~~staff, or others.~~

6 ~~(b) The educational provider has determined that less restrictive~~  
7 ~~alternatives and positive behavioral supports are ineffective.~~

8 ~~(c) A staff member is continuously present and keeps the pupil~~  
9 ~~under constant face-to-face observation for signs of distress or~~  
10 ~~respiratory compromise.~~

11 ~~49013. (a) An educational provider shall not use seclusion or~~  
12 ~~chemical restraint.~~

13 ~~(b) An educational provider shall not use behavioral restraint~~  
14 ~~for the purpose of coercion, discipline, convenience, or retaliation~~  
15 ~~by staff.~~

16 ~~(c) An educational provider shall not use any of the following:~~

17 ~~(1) A physical restraint technique that obstructs a pupil's~~  
18 ~~respiratory airway or impairs the pupil's breathing or respiratory~~  
19 ~~capacity, including techniques in which a staff member places~~  
20 ~~pressure on a pupil's back or places his or her body weight against~~  
21 ~~the pupil's torso or back.~~

22 ~~(2) A pillow, blanket, or other item covering the pupil's face as~~  
23 ~~part of a physical or mechanical restraint.~~

24 ~~(3) An improvised restraint device, such as a sheet or belt.~~

25 ~~(4) A physical or mechanical restraint on a pupil who has a~~  
26 ~~known medical, psychological, or physical condition, and where~~  
27 ~~there is reason to believe that the use would endanger the pupil's~~  
28 ~~life or seriously exacerbate the medical, psychological, or physical~~  
29 ~~condition of the pupil. Known risk factors include a history of~~  
30 ~~trauma or abuse, obesity, agitated or excited syndromes, preexisting~~  
31 ~~heart disease, and respiratory conditions, including bronchitis or~~  
32 ~~asthma.~~

33 ~~(5) Placement of a pupil in a facedown position with the pupil's~~  
34 ~~hands held or restrained behind his or her back.~~

35 ~~(6) Physical or mechanical restraint as an extended procedure.~~

36 ~~(d) An educational provider shall avoid the deliberate use of~~  
37 ~~prone restraint techniques whenever possible.~~

38 ~~49012. An educational provider shall not use seclusion,~~  
39 ~~chemical restraint, mechanical restraint, or physical restraint for~~

1 *the purpose of coercion, discipline, convenience, or retaliation by*  
2 *staff.*

3 49013. (a) *An educational provider shall not use any of the*  
4 *following:*

5 (1) *A physical restraint technique that obstructs a pupil's*  
6 *respiratory airway or impairs the pupil's breathing or respiratory*  
7 *capacity, including techniques in which a staff member places*  
8 *pressure on a pupil's back or places his or her body weight against*  
9 *the pupil's torso or back.*

10 (2) *A pillow, blanket, or other item covering the pupil's face as*  
11 *part of a physical restraint.*

12 (3) *An improvised restraint device, such as a sheet or belt.*

13 (4) *A physical restraint on a pupil who has a known medical,*  
14 *psychological, or physical condition, and where there is reason*  
15 *to believe that the use would endanger the pupil's life or seriously*  
16 *exacerbate the medical, psychological, or physical condition of*  
17 *the pupil. Known risk factors include a history of trauma or abuse,*  
18 *obesity, agitated or excited syndromes, preexisting heart disease,*  
19 *and respiratory conditions, including bronchitis or asthma.*

20 (5) *Placement of a pupil in a facedown position with the pupil's*  
21 *hands held or restrained behind his or her back.*

22 (6) *Physical restraint as an extended procedure beyond the*  
23 *immediate emergency.*

24 (b) *An educational provider shall avoid the use of prone*  
25 *restraint techniques whenever possible.*

26 (c) *An educational provider may use physical restraint only if*  
27 *all of the following conditions are met:*

28 (1) *It is an emergency situation and physical restraint is required*  
29 *to prevent imminent serious physical harm to the pupil, staff, or*  
30 *others.*

31 (2) *The educational provider has determined that less restrictive*  
32 *alternatives and positive behavioral supports are ineffective.*

33 (3) *A staff member is continuously present and keeps the pupil*  
34 *under constant face-to-face observation for signs of distress or*  
35 *difficulty breathing.*

36 49014. *An educational provider shall not use chemical*  
37 *restraint, except as otherwise licensed to prescribe and administer*  
38 *medication.*

39 49015. *An educational provider shall not use mechanical*  
40 *restraint.*

1 49016. *It is the intent of the Legislature to completely phase*  
2 *out the use of seclusion by all educational providers by January*  
3 *1, 2012 and until that time to limit the use of seclusion as specified*  
4 *in Section 49017.*

5 49017. (a) *Beginning January 1, 2012, an educational provider*  
6 *shall not use seclusion.*

7 (b) *Until January 1, 2012, an educational provider shall not*  
8 *use seclusion unless all of the following conditions are met:*

9 (1) *The educational provider is a nonpublic, nonsectarian*  
10 *school, as defined in Section 56034, with intensive behavioral*  
11 *supports or a district-designated alternative program with intensive*  
12 *behavioral supports that is an alternative to a nonpublic,*  
13 *nonsectarian school.*

14 (2) *The pupil placed in seclusion is an individual with*  
15 *exceptional needs, as defined in Section 56026, has a current*  
16 *individualized education program, and has the ability to*  
17 *understand the purpose of seclusion and the directives given by*  
18 *the school personnel regarding the seclusion.*

19 (3) *The pupil has a behavioral intervention plan or interim*  
20 *behavioral intervention plan, while a functional analysis*  
21 *assessment, pursuant to Section 3052(b) of Title 5 of the California*  
22 *Code of Regulations, is being completed, and that plan takes into*  
23 *account a pupil's developmental level and individual history of*  
24 *trauma and abuse and includes the pupil's expressed preference*  
25 *of emergency intervention. The plan shall be reviewed after every*  
26 *incident of seclusion.*

27 (4) *The pupil placed in seclusion exhibits behavior that poses*  
28 *an imminent risk of serious physical harm to school personnel, or*  
29 *is in a facility otherwise licensed or permitted by the state to use*  
30 *seclusion when the pupil poses an imminent risk of serious physical*  
31 *harm to school personnel or others, and the behavior cannot be*  
32 *addressed by a less restrict intervention.*

33 (5) *During the use of seclusion a staff member, who is free from*  
34 *other responsibilities at the time, is continually present and keeps*  
35 *the pupil under constant direct visual observation. A pupil cannot*  
36 *be deprived of sleep, food, water, shelter, physical comfort, or*  
37 *access to bathroom facilities.*

38 (6) *The period of seclusion shall not exceed 15 minutes except*  
39 *as indicated below:*

1 (A) A behavioral intervention case manager or, in the absence  
2 of the behavioral intervention case manager, a site administrator  
3 with training in behavioral intervention may approve continuation  
4 of seclusion for a total duration not to exceed 30 minutes for any  
5 one continuous seclusion event, after observing the pupil's  
6 behavior while secluded and determining that the pupil continues  
7 to exhibit behavior consistent with the conditions described in  
8 paragraph (4).

9 (B) A qualified mental health professional, as defined in Section  
10 60020 of Title 2 of the California Code of Regulations, may  
11 approve continuation of seclusion in a facility otherwise licensed  
12 to use seclusion under Title 22 for a total duration not to exceed  
13 60 minutes for any one continuous seclusion event, after observing  
14 the pupil's behavior while secluded and determining that the pupil  
15 continues to exhibit behavior consistent with the conditions  
16 described in paragraph (4).

17 (7) The seclusion room meets all of the following requirements:

18 (A) It is not used for another purpose, including use as a storage  
19 room, bathroom, or utility room.

20 (B) It is not used without a fire clearance from the local fire  
21 authority.

22 (C) It does not prevent exiting by the use of locking or jamming  
23 devices, including devices that allow for immediate release upon  
24 removal of a staff member's foot, hand, or body from a magnetic  
25 engagement pad or button, unless in a facility otherwise licensed  
26 or permitted by state law to use a locked room.

27 (D) It is safe and free of hazards, including objects or fixtures  
28 that can be broken or used by a pupil to inflict injury.

29 ~~49014.~~

30 49018. (a) It is the intent of the Legislature that, except where  
31 this article may grant more protections, this article shall be  
32 interpreted as being consistent with Chapter 5.5 (commencing with  
33 Section 56520) of Part 30 and its implementing regulations  
34 commencing with Section 3052 of Title 5 of the California Code  
35 of Regulations.

36 (b) It is also the intent of the Legislature to monitor the  
37 implementation of this article and to encourage stakeholders,  
38 including, but not limited to, disability rights advocacy groups,  
39 representatives of education providers, and education  
40 organizations to voluntarily make recommendations for future

1 *legislation and budget augmentations on the topic of seclusion*  
2 *and restraint.*

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5 **CORRECTIONS:**

6 **Text—Page 5.**

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