

2016 Regular Session

SENATE BILL NO. 317

BY SENATOR DONAHUE

STUDENTS. Provides relative to student behavior and discipline, including the use of seclusion and physical restraint to address the behavior of students with exceptionalities. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:252(A)(2)(h) and 416.21(A)(3)(b), (K), (M) and (N), to enact
3 R.S. 17:253, and to repeal R.S. 17:416.21(L), relative to student behavior and
4 discipline; to provide with respect to school master plans for student behavior and
5 discipline; to create and provide with respect to the Advisory Council on Student
6 Behavior and Discipline and its membership, duties, and responsibilities; to provide
7 with respect to the appropriate use of seclusion and physical restraint to address the
8 behavior of students with exceptionalities; to provide for the collection and reporting
9 of certain data regarding incidents of seclusion and physical restraint; and to provide
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 17:252(A)(2)(h) and 416.21(A)(3)(b), (K), (M) and (N) are hereby
13 amended and reenacted and R.S. 17:253 is hereby enacted to read as follows:

14 §252. School master plans for supporting student behavior and discipline

15 A.

16 * * *

17 (2)

* * *

(h) Improving methods and procedures for the handling of school suspensions, ~~and the referral of students to alternative schools,~~ **and the use of seclusion and physical restraint in addressing challenging student behavior.**

* * *

§253. Advisory Council on Student Behavior and Discipline

A. There is hereby established the Advisory Council on Student Behavior and Discipline to provide advice and guidance to the State Board of Elementary and Secondary Education and the state Department of Education regarding best practices in providing support to public school governing authorities in the adoption and implementation of each school's master plan for student behavior and discipline as provided in R.S. 17:252.

B. The advisory council shall be composed of twenty members as follows:

(1) The state superintendent of education, or his designee.

(2) Three members shall be appointed by the Louisiana Association of Principals. The association shall appoint one principal or assistant principal from the elementary, middle school, and high school levels.

(3) One member shall be a local school superintendent, appointed by the Louisiana Association of School Superintendents.

(4) One member shall be a child welfare and attendance officer, appointed by the Louisiana Association of School Superintendents.

(5) One member shall be a safe and drug free schools coordinator, appointed by the Louisiana Association of School Superintendents.

(6) One member shall be a director of special education, appointed by the Louisiana Association of Special Education Administrators.

(7) One member shall be a pupil appraisal coordinator, appointed by the Louisiana Association of School Superintendents.

(8) Three members shall be the parent of a child who presents challenging behavior, two of whom shall be the parent of a child with

1 exceptionalities, other than gifted and talented, all of whom shall be appointed
2 by the Louisiana Developmental Disabilities Council.

3 (9) One member appointed by the Louisiana Developmental Disabilities
4 Council.

5 (10) One member appointed by the Louisiana Advocacy Center.

6 (11) One member appointed by the Louisiana School Boards Association.

7 (12) One member appointed by the Louisiana Council of Juvenile and
8 Family Court Judges.

9 (13) The secretary of the Department of Health and Hospitals, or his
10 designee.

11 (14) One member shall be a classroom teacher appointed by the
12 Louisiana Federation of Teachers.

13 (15) One member shall be a classroom teacher appointed by the
14 Louisiana Association of Educators.

15 (16) One member shall be a classroom teacher appointed by the
16 Associated Professional Educators of Louisiana.

17 C. The state superintendent of education shall convene the first meeting
18 of the advisory council not later than September 1, 2016, and the Department
19 of Education shall provide staff support to the council.

20 D. The council shall serve in an advisory capacity and shall comply with
21 the Open Meetings Law.

22 E. The chair shall be elected by the members of the council.

23 F. The council shall meet at least three times annually. Meetings shall be
24 called by the chair, who shall set the agenda.

25 G. The advisory council shall annually submit a written report to the
26 Senate Committee on Education, the House Committee on Education, and the
27 State Board of Elementary and Secondary Education regarding its findings
28 and recommendations with respect to the implementation of school master
29 plans for improving student behavior and discipline as provided in R.S. 17:252.

* * *

§416.21. Behavior of students with exceptionalities; use of seclusion and physical

restraint

A. As used in this Section:

* * *

(3)

* * *

(b) Physical restraint does not include:

(i) Consensual, solicited, or unintentional contact.

(ii) Holding of a student, by a school employee, ~~for less than five minutes in any given hour or class period~~ for the protection of the student or others, **for a time period that is reasonable under the prevailing circumstances.**

(iii) Holding of a student, by one school employee, for the purpose of calming or comforting the student, provided the student's freedom of movement or normal access to his or her body is not restricted.

~~(iv) Minimal physical contact for the purpose of safely escorting a student from one area to another.~~

~~(v) Minimal physical contact for the purpose of assisting the student in completing a task or response.~~

* * *

K. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's Individualized Education Plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. **Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.**

* * *

M.(1) The governing authority of each public elementary and secondary

1 school shall adopt written guidelines and procedures regarding:

2 (a) Reporting requirements and follow-up procedures.

3 (b) Notification requirements for school officials and a student's parent or
4 other legal guardian.

5 (c) An explanation of the methods of physical restraint and the school
6 employee training requirements relative to the use of restraint.

7 (2)(a) These guidelines and procedures shall be provided to **the Louisiana**
8 **Department of Education**, all school employees and every parent of a student with
9 an exceptionality. **The guidelines and procedures shall also be posted on each**
10 **school and each school system's website.**

11 (b) The provisions of Subparagraph (a) of this Paragraph shall not be
12 applicable to the parent of a student who has been deemed to be gifted or talented
13 unless the student has been identified as also having a disability.

14 N.(1) **The State Board of Elementary and Secondary Education shall**
15 **adopt rules establishing guidelines and procedures for public school systems to**
16 **follow regarding the reporting of incidents of seclusion and physical restraint,**
17 **including specific data elements to be included in such reporting.**

18 (2) The governing authority of each public elementary and secondary school,
19 **in accordance with state board policy**, shall report all instances where seclusion
20 or physical restraint is used to address student behavior to the Department of
21 Education.

22 (2)(3)(a) The Department of Education shall maintain a database of all
23 reported incidents of seclusion and physical restraint of students with
24 exceptionalities and shall disaggregate the data for analysis by school; student age,
25 race, ethnicity, and gender; student disability, where applicable; and any involved
26 school employees.

27 (b)(i) **Based upon the data collected, the department shall annually**
28 **compile a comprehensive report regarding the use of seclusion and physical**
29 **restraint of students with exceptionalities, which shall at a minimum include the**

1 following:

2 (aa) The number of incidents of physical restraint disaggregated by
 3 school system; student age, race, ethnicity, gender, and student disability
 4 classification.

5 (bb) The number of incidents of seclusion disaggregated by school
 6 system; student age, race, ethnicity, gender, and student disability classification.

7 (cc) A list of the school systems and charter schools that have complied
 8 with the reporting requirements pursuant to Paragraph (2) of this Subsection.

9 (ii) The department shall post the annual report on its website and
 10 submit a written copy to the Senate and House committees on education and the
 11 Advisory Council on Student Behavior and Discipline established pursuant to
 12 R.S. 17:253.

13 Section 2. R.S. 17:416.21(L) is hereby repealed.

14 Section 3. This Act shall become effective upon signature by the governor or, if not
 15 signed by the governor, upon expiration of the time for bills to become law without signature
 16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 17 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 18 effective on the day following such approval.

The original instrument was prepared by Jeanne Johnston. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl M. Serrett.

DIGEST

SB 317 Engrossed

2016 Regular Session

Donahue

Present law (R.S. 17:252) requires each local public school board to develop a master plan for each school under its jurisdiction for improving student behavior and discipline.

Proposed law retains present law.

Proposed law creates the Advisory Council on Student Behavior and Discipline to provide advice and guidance to the State Board of Elementary and Secondary Education (BESE) and the state Department of Education (DOE) regarding best practices in providing support to public school governing authorities in the adoption and implementation of school student behavior and discipline plans. Provides that the council be composed of 20 members as follows:

- (1) The state superintendent of education, or his designee.

- (2) Three members shall be appointed by the Louisiana Association of Principals. The association shall appoint one principal or assistant principal from the elementary, middle school and high school levels.
- (3) One member shall be a local school superintendent, appointed by the Louisiana Association of School Superintendents.
- (4) One member shall be a child welfare and attendance officer, appointed by the Louisiana Association of School Superintendents.
- (5) One member shall be a safe and drug free schools coordinator, appointed by the Louisiana Association of School Superintendents.
- (6) One member shall be a director of special education, appointed by the Louisiana Association of Special Education Administrators.
- (7) One member shall be a pupil appraisal coordinator, appointed by the Louisiana Association of School Superintendents.
- (8) Three members shall be the parent of a child who presents challenging behavior, two of whom shall be the parent of a child with exceptionalities, other than gifted and talented, all of whom shall be appointed by the Louisiana Developmental Disabilities Council.
- (9) One member appointed by the Louisiana Developmental Disabilities Council.
- (10) One member appointed by the Louisiana Advocacy Center.
- (11) One member appointed by the Louisiana School Boards Association.
- (12) One member appointed by the Louisiana Council of Juvenile and Family Court Judges.
- (13) The secretary of the Department of Health and Hospitals, or his designee.
- (14) One classroom teacher appointed by the Louisiana Federation of Teachers.
- (15) One classroom teacher appointed by the Louisiana Association of Educators.
- (16) One classroom teacher appointed by the Associated Professional Educators of Louisiana.

Further provides that:

- (1) The state superintendent of education shall convene the first meeting of the advisory council not later than September 1, 2016, and the Department of Education shall provide staff support to the council.
- (2) The council shall serve in an advisory capacity and shall comply with the Open Meetings Law.
- (3) The chair shall be elected by the members of the council.
- (4) The council shall meet at least three times annually. Meetings shall be called by the chair, who shall set the agenda.
- (5) The advisory council shall annually submit a written report to the Senate and House education committees and BESE regarding its findings and recommendations.

Present law (R.S. 17:416.21) exempts certain discipline practices from the definition of "physical restraint".

Proposed law revises the exemptions to the definition by:

- (1) Replacing the time limit of less than five minutes in an hour or class period with a period of time that is reasonable under the circumstances.
- (2) Deleting from those exclusions minimal physical contact for the purpose of safely escorting a student from one area to another.

Present law provides that if a student is involved in five incidents involving seclusion or physical restraint in a school year, the student's Individualized Education Plan team must review and revise the student's intervention plan.

Proposed law retains present law and additionally provides that after five such incidents, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint, the special education director, or his designee, shall review the student's plans every three weeks.

Present law requires each public school governing authority to adopt written guidelines and procedures regarding the use of seclusion and physical restraint of students with exceptionalities and provide such to all school employees and parents of students with an exceptionality.

Proposed law retains present law and additionally requires that the school governing authority submit such guidelines and procedures to the state Dept. of Education.

Proposed law requires BESE to adopt rules establishing guidelines and procedures for public school systems to follow regarding the reporting of incidents of seclusion and physical restraint, including specific data elements to be included in such reporting.

Present law requires school governing authorities to report all instances of the use of seclusion or physical restraint to DOE and requires the department to maintain a database of all such reported incidents and disaggregate the data by specified data elements.

Proposed law retains present law and additionally requires DOE to annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities including the specified data elements and a list of the school systems and charter schools that have complied with the prescribed reporting requirements. Requires DOE to post a copy of the report on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:252(A)(2)(h) and 416.21(A)(3)(b), (K), (M), and (N); adds R.S. 17:253; repeals R.S. 17:416.21(L))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Expands the membership of the advisory committee from 17 to 20 and specifies that the additional members shall be teachers appointed by specific teacher groups.

2. Requires the advisory council to submit a report on its findings and recommendations to the legislative committees on education and BESE.
3. Retains the exemption for students restrained for their own protection or the protection of others, but removes the specific time limit.