

DRAFT 4

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1307, 1307a, 1307b, 1307c, 1307d, 1307e,
1307f, 1307g, and 1307h (MCL 380.1307, 380.1307a, 380.1307b,
380.1307c, 380.1307d, 380.1307e, 380.1307f, 380.1307g, and
380.1307h), section 1307 as added by 2016 PA 394, section 1307a as
added by 2016 PA 395, section 1307b as added by 2016 PA 396,
section 1307c as added by 2016 PA 397, section 1307d as added by
2016 PA 398, section 1307e as added by 2016 PA 399, section 1307f
as added by 2016 PA 400, section 1307g as added by 2016 PA 401, and
section 1307h as amended by 2017 PA 260.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1307. (1) It is the intent of the legislature that
2 sections 1307 to 1307h ~~shall~~ provide for a uniform policy regarding
3 the use of seclusion and restraint in ~~the~~ public schools that
4 accomplishes the following objectives:

5 (a) Promotes the care, safety, welfare, and security of the
6 school community and the dignity of each pupil.

7 (b) Encourages the use of proactive, effective, evidence- and
8 research-based strategies and best practices to reduce the
9 occurrence of challenging behaviors, eliminate the use of seclusion
10 and restraint, and increase meaningful instructional time for all
11 pupils.

12 (c) Ensures that seclusion **is not used**, and **that** physical
13 restraint ~~are~~**is** used only as a last resort in an emergency
14 situation and ~~are~~**is** subject to diligent assessment, monitoring,
15 documentation, and reporting by trained personnel.

16 (d) Clearly defines the terms "seclusion", "restraint",
17 ~~"emergency seclusion", and "emergency"~~ "physical restraint" and
18 clearly states the procedures for the ~~use of emergency seclusion~~
19 ~~and emergency~~ **use of** physical restraint.

20 (2) Sections 1307 to 1307h do not limit any right or remedy of
21 an individual under state or federal law.

22 **(3) This state acknowledges all of the following:**

23 **(a) That the use of seclusion and restraint is inherently**
24 **dangerous and includes the potential for physical and mental harm,**
25 **including lifelong trauma and death.**

26 **(b) That the use of seclusion and restraint can deteriorate**
27 **relationships between pupils and school personnel, make it more**
28 **difficult for pupils to feel welcome and safe in school, and lead**



1 to increased behavioral problems, all of which are barriers to
2 pupils' ability to access education.

3 (c) The use of seclusion or restraint, even once, can result
4 in the denial of a free appropriate public education.

5 (d) Extreme effort must be put into creating school
6 environments in which pupils and school personnel feel safe and
7 their physical, psychological, social, emotional, and educational
8 needs are met in order to prevent crisis situations that tend to
9 lead to the use of seclusion, restraint, and other forms of
10 exclusionary discipline.

11 Sec. 1307a. ~~(1) Not later than December 1, 2016, the~~ **The**
12 department shall ~~develop a~~ **update the** state policy regarding the
13 use of ~~seclusion and restraint~~ **and prohibition of seclusion** in the
14 public schools that includes all of the elements under sections
15 1307b to 1307h, along with ~~guidelines~~ **guidance** as the department
16 considers appropriate, **including at least all of the following:**

17 (a) A statement of shared values and facts about seclusion and
18 restraint based on research.

19 (b) A list of appropriate less restrictive interventions.

20 (c) An explanation of what constitutes an emergency situation,
21 as defined in section 1307h, including examples of situations that
22 would fall within the definition and situations that would fall
23 outside the definition.

24 (d) Examples of what is and what is not considered seclusion,
25 as defined in section 1307h.

26 (e) Examples of what is and what is not considered restraint,
27 as defined in section 1307h.

28 (2) Not later than the beginning of the ~~2017-2018~~ school year
29 following the update of the policy under this section, the board of



1 a school district or intermediate school district or board of
 2 directors of a public school academy shall adopt and implement a
 3 local policy that is consistent with the state policy under this
 4 section. A person ~~who~~**or public school that** fails to comply with
 5 this section or ~~who~~**that** fails to comply with any of the
 6 requirements of the state policy developed under this section is
 7 considered to have failed to comply with and to have violated this
 8 act.

9 Sec. 1307b. The state policy under section 1307a ~~shall~~**must**
 10 include a clear statement that all of the following practices are
 11 prohibited ~~for school personnel~~ in the public schools of this state
 12 under all circumstances, including emergency situations:

13 (a) Corporal punishment, as defined in section 1312.

14 (b) The deprivation of basic needs.

15 (c) Child abuse.

16 (d) Seclusion. ~~, other than emergency seclusion.~~

17 (e) The intentional application of any noxious substance or
 18 stimulus that results in physical pain or extreme discomfort. A
 19 noxious substance or stimulus is prohibited whether it is generally
 20 acknowledged or is specific to the pupil.

21 (f) Mechanical restraint.

22 (g) Chemical restraint.

23 (h) Any restraint that negatively impacts breathing.

24 (i) Prone restraint.

25 (j) Physical restraint, other than **the** emergency **use of**
 26 physical restraint.

27 (k) Any other type of restraint.

28 Sec. 1307c. The state policy under section 1307a ~~shall~~**must**
 29 include at least all of the following provisions concerning ~~use of~~



~~emergency~~ seclusion and **the emergency use of** physical restraint:

(a) ~~Emergency seclusion and emergency physical~~ restraint may be used only under emergency situations and only if essential to ~~providing for the safety of~~ **prevent imminent serious bodily harm to** the pupil or ~~safety of another~~ **individual**.

(b) ~~Emergency seclusion and emergency physical~~ **Physical** restraint ~~may~~ **must** not be used in place of appropriate less restrictive interventions, **and must not be used for any of the following purposes:**

(i) **The convenience of a school personnel.**

(ii) **As a form of discipline or punishment.**

(iii) **As a substitute for school personnel receiving training in positive behavioral intervention and support.**

(iv) **As a substitute for an educational program.**

(v) **As a substitute for adequate staffing.**

(c) ~~Emergency seclusion and emergency physical~~ **Physical** restraint ~~shall~~ **must** be performed in a manner that, based on research and evidence, ~~is safe,~~ **maximizes safety,** ~~is~~ appropriate, and **is** proportionate to and sensitive to the pupil's severity of behavior, chronological and developmental age, physical size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse or other trauma.

(d) ~~A requirement that school~~ **School** personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the

1 safety of others, as soon as possible once the circumstances no
2 longer support such a belief.

3 (e) A ~~requirement that the~~ school district, intermediate
4 school district, or public school academy ~~must~~ **shall** ensure that
5 substitute teachers are informed of and understand the procedures
6 regarding ~~use of emergency seclusion and the~~ emergency **use of**
7 physical restraint **and the prohibition of seclusion**. This
8 requirement may be satisfied using online training and an online
9 acknowledgment of understanding developed or approved by the
10 department and completed by the substitute teacher.

11 (f) ~~Emergency seclusion should not be used any longer than~~
12 ~~necessary, based on research and evidence, to allow a pupil to~~
13 ~~regain control of his or her behavior to the point that the~~
14 ~~emergency situation necessitating the use of emergency seclusion is~~
15 ~~ended and generally no longer than 15 minutes for an elementary~~
16 ~~school pupil or 20 minutes for a middle school or high school~~
17 ~~pupil. If an emergency seclusion lasts longer than 15 minutes for~~
18 ~~an elementary school pupil or 20 minutes for a middle school or~~
19 ~~high school pupil, all of the following are required:~~ **Seclusion is**
20 **prohibited in all situations, including emergency situations.**

21 ~~(i) Additional support, which may include a change of staff, or~~
22 ~~introducing a nurse, specialist, or additional key identified~~
23 ~~personnel.~~

24 ~~(ii) Documentation to explain the extension beyond the time~~
25 ~~limit.~~

26 (g) ~~Emergency physical~~ **Physical** restraint ~~should~~ **must** not be
27 used any longer than necessary, based on research and evidence, **to**
28 **prevent imminent serious bodily harm to the pupil or another**
29 **individual or** to allow a pupil to regain control of ~~his or her the~~



pupil's behavior to the point that the emergency situation necessitating the use of ~~emergency~~ physical restraint is ended and generally no longer than 10 minutes. If ~~an~~**the** emergency **use of** physical restraint lasts longer than 10 minutes, all of the following are required:

(i) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.

(ii) Documentation to explain the extension beyond the time limit.

(h) ~~While using emergency seclusion or~~**During the** emergency **use of** physical restraint, school personnel must do all of the following:

(i) Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.

(ii) Continually observe the pupil in ~~emergency seclusion or~~
~~emergency~~ physical restraint for indications of physical distress and seek medical assistance if there is a concern.

(iii) Document observations.

(iv) Ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency **use of** physical restraint does not interfere with the pupil's ability to communicate using the pupil's primary mode of communication.

(v) Ensure that at all times during the ~~use of emergency~~
~~seclusion or~~ emergency **use of** physical restraint there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.

(i) Physical restraint must not be used if it involves a practice prohibited under section 1307b.

(j) Physical restraint must not be used if contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the pupil's school.

Sec. 1307d. The state policy under section 1307a ~~shall~~**must** include at least all of the following provisions concerning documentation and reporting of seclusion and restraint:

(a) Each use of seclusion or restraint and the reason for each use ~~shall~~**must** be documented in writing and reported in writing or orally to the school building administration and the pupil's parent or **legal** guardian immediately and documented in a written report for each use of seclusion or restraint, including multiple uses within a given day. ~~, with this~~**A written report described in this subdivision must be** provided to the **pupil's** parent or **legal** guardian within the earlier of 1 school day or 7 calendar days.

(b) After any use of seclusion or restraint, school personnel must make reasonable efforts to debrief and consult with the parent or **legal** guardian, or with the parent or **legal** guardian and the pupil, as appropriate, regarding the determination of future actions. The debriefing and consultation ~~shall~~**must** be done in accordance with department ~~guidelines~~**guidance** and documented on forms developed by the department.

(c) ~~If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency~~
school personnel use physical restraint on an individual pupil more than 2 times in 60 school days, school personnel are encouraged to must do all of the following:

(i) Conduct a functional behavioral assessment.



(ii) Develop or revise a positive behavioral intervention and support plan to facilitate the elimination of the use of ~~seclusion and restraint~~.

(iii) Develop an assessment and planning process conducted by a team knowledgeable about the pupil, including at least the **pupil's** parent or **legal** guardian; the pupil, if appropriate; the individuals responsible for implementation of the positive behavioral intervention and support plan; and individuals knowledgeable in positive behavioral intervention and support.

Sec. 1307e. The state policy under section 1307a ~~shall~~ **must** include at least all of the following provisions concerning development and implementation of an emergency intervention plan:

(a) ~~If a pupil exhibits a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion or emergency~~ **school personnel use physical restraint on an individual pupil more than 2 times in 60 school days,** school personnel ~~should~~ **must** develop a written emergency intervention plan to protect the health, safety, and dignity of the pupil. The emergency intervention plan ~~should~~ **must** be developed ~~in partnership with the parent or guardian~~ by a team that includes a teacher, an individual knowledgeable about the **prohibition of seclusion and the** legally permissible ~~use of emergency seclusion and emergency~~ **uses of** physical restraint, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint. **To the extent practicable, school personnel shall attempt to involve the pupil's parent or legal guardian in the development of the emergency intervention plan.** The emergency intervention plan ~~should~~ **must** be developed and

implemented by taking all of the following documented steps:

(i) Describe in detail the emergency intervention procedures.

(ii) Describe in detail the legal limits on the ~~use of~~
~~emergency seclusion and emergency~~ **use of** physical restraint,
including examples of legally permissible and prohibited use.

(iii) Make inquiry to the pupil's medical personnel, with
parental consent, regarding any known medical or health
contraindications for the ~~use of emergency seclusion or emergency~~
use of physical restraint.

(iv) Conduct a peer review by knowledgeable school personnel.

(v) Provide the parent or **legal** guardian with all of the
following, in writing and orally:

(A) A detailed explanation of the positive behavioral
intervention and support strategies that will be ~~utilized~~**used** to
reduce the risk of the pupil's behavior creating an emergency
situation.

(B) An explanation of what constitutes an emergency situation
as defined in section 1307h, including examples of situations that
would fall within the definition and situations that would fall
outside the definition.

(C) A detailed explanation of the intervention procedures to
be followed in an emergency situation, including the potential ~~use~~
~~of emergency seclusion and emergency~~ **use of** physical restraint.

(D) A detailed explanation of the legal limits on the ~~use of~~
~~emergency seclusion and emergency~~ **use of** physical restraint,
including examples of legally permissible and prohibited use.

(E) A description of possible discomforts or risks.

(F) Answers to any questions.

(b) A pupil who is the subject of an emergency intervention

1 plan ~~should~~**must** be told or shown the circumstances under which
 2 ~~emergency seclusion or the~~ emergency **use of** physical restraint
 3 could be used.

4 (c) Emergency ~~seclusion or emergency~~ physical restraint must
 5 only be used in response to an ongoing emergency situation and not
 6 as a planned response for the convenience of school personnel ~~, or~~
 7 as discipline or punishment. ~~, or as a substitute for an~~
 8 ~~appropriate educational program.~~ The development of an emergency
 9 intervention plan ~~shall~~**must** be solely for the purpose of
 10 protecting the health, safety, and dignity of the pupil and does
 11 not expand the legally permissible use of ~~emergency seclusion or~~
 12 **the** emergency **use of** physical restraint.

13 Sec. 1307f. The state policy under section 1307a ~~shall~~**must**
 14 include at least all of the following provisions concerning data
 15 collection:

16 (a) A school district or public school academy, or an
 17 intermediate school district program in which pupils are enrolled,
 18 in accordance with department ~~guidelines,~~**guidance,** shall collect
 19 and report data on and related to the use of restraint and
 20 seclusion in the school district, public school academy, or
 21 intermediate school district program. In collecting and reporting
 22 this data, a school district, public school academy, or
 23 intermediate school district program shall use existing data
 24 collection and reporting systems whenever possible. Incidents of
 25 use ~~shall,~~**must,** at a minimum, be reported by race, age, grade,
 26 gender, disability status, medical condition, identity of the
 27 school personnel initiating the use of the restraint or seclusion,
 28 and identity of the school or program where the use occurred.

29 (b) All of the following ~~should~~**must** occur with respect to the



1 data collected under subdivision (a):

2 (i) The data ~~should~~**must** be analyzed by the school and school
3 district, public school academy, or intermediate school district in
4 which the pupil is enrolled to determine the efficacy of the
5 school's schoolwide system of behavioral support.

6 (ii) The data ~~should~~**must** be analyzed by the school and school
7 district, public school academy, or intermediate school district in
8 the context of attendance, suspension, expulsion, and dropout data.

9 (iii) The data ~~should~~**must** be analyzed by the school and school
10 district, public school academy, or intermediate school district
11 for the purposes of continuous improvement of training and
12 technical assistance toward the elimination of seclusion and
13 restraint.

14 (iv) The data ~~should~~**must** be analyzed **at least annually** by the
15 school and school district, public school academy, or intermediate
16 school district. ~~on a schedule determined by the department.~~

17 (v) The data ~~should~~**must** be reported electronically to the
18 department in accordance with department ~~guidelines~~**guidance** by the
19 school district, public school academy, or intermediate school
20 district.

21 (vi) **A summary and analysis of the data described in**
22 **subparagraphs (i) to (iv) must be presented annually to the board of**
23 **the school district or intermediate school district or board of**
24 **directors of the public school academy.**

25 (c) The department shall make available redacted, aggregate
26 data on the reported use of seclusion and restraint, compiled by
27 school district, public school academy, and intermediate school
28 district on a quarterly basis. **The information made available by**
29 **the department under this subdivision must include race, grade,**



1 gender, and disability status of pupils on whom seclusion or
2 restraint is used.

3 (d) The department shall establish a finite number of uses of
4 physical restraint in the form of a number per capita. Any use of
5 physical restraint by a school district, public school academy, or
6 intermediate school district program in an amount that exceeds the
7 number established by the department is considered excessive. If
8 the department determines that a school district, public school
9 academy, or intermediate school district program is using seclusion
10 or excessive physical restraint, all of the following apply:

11 (i) Not later than 2 weeks after the department determines that
12 a school district, public school academy, or intermediate school
13 district program is using seclusion or excessive physical
14 restraint, the department shall send a written notice to the school
15 district, public school academy, or intermediate school district
16 program informing them of their use of seclusion or excessive use
17 of physical restraint. The notice must contain information on
18 existing resources for reducing the use of physical restraint and
19 eliminating the use of seclusion.

20 (ii) By not later than 20 days after receiving a notice under
21 subdivision (a), a school district, public school academy, or
22 intermediate school district program shall submit a plan to the
23 department detailing how the school district, public school
24 academy, or intermediate school district program will reduce the
25 use of physical restraint to a number that is not excessive.

26 (iii) If, following submission of a plan under subparagraph (ii),
27 a school district, public school academy, or intermediate school
28 district program is unable to reduce its use of physical restraint
29 to a number that is not excessive in successive quarters, the

department may do any of the following:

(A) Request additional documents or data.

(B) Tour the school district, public school academy, or intermediate school district program.

(C) Monitor any trainings provided to school personnel for quality and substance.

(D) Conduct any other activities that the department determines are necessary to ensure compliance with sections 1307 to 1307h.

Sec. 1307g. The state policy under section 1307a ~~shall~~**must** include at least all of the following provisions concerning training, which may include online training that is developed or approved by the department:

(a) In accordance with department ~~guidelines~~**, guidance**, a school district, intermediate school district, or public school academy shall implement a comprehensive training framework that includes awareness training for all school personnel who have regular contact with pupils and comprehensive training for key identified personnel as described in subdivision (b).

(b) A school district, intermediate school district, or public school academy shall identify sufficient key personnel to ensure that trained personnel are generally available for an emergency situation. ~~Before using emergency seclusion or~~**the emergency use of** physical restraint with pupils, key identified personnel who may have to respond to an emergency situation ~~shall~~**must** be trained in all of ~~subparagraphs (i) to (xvi) as follows and should be trained in~~ all of ~~subparagraphs (xvii) to (xx) as follows~~**the following**:

(i) Proactive practices and strategies that ensure the dignity of pupils.



(ii) De-escalation techniques.

(iii) Techniques to identify pupil behaviors that may trigger emergency situations.

(iv) Related safety considerations, including information regarding the increased risk of injury to pupils and school personnel when seclusion or restraint is used.

(v) Instruction in the ~~use of emergency seclusion and~~ emergency **use of** physical restraint.

(vi) Identification of events and environmental factors that may trigger emergency situations.

(vii) Instruction on the state policy on the use of seclusion and restraint.

(viii) Description and identification of dangerous behaviors.

(ix) Methods for evaluating the risk of harm to determine whether the ~~use of emergency seclusion or~~ emergency **use of** physical restraint is warranted.

(x) Types of seclusion.

(xi) Types of restraint.

(xii) The risk of using seclusion or restraint in consideration of a pupil's known and unknown physical or mental health conditions or psychological limitations.

(xiii) The effects of seclusion and restraint on all pupils.

(xiv) How to monitor for and identify the physical signs of distress and the implications for pupils generally and for pupils with particular physical or mental health conditions or psychological limitations.

(xv) How to obtain appropriate medical assistance.

(xvi) Cardiopulmonary resuscitation and first aid.



(xvii) Conflict resolution.

(xviii) Mediation.

(xix) Social skills training.

(xx) Positive behavioral intervention and support strategies.

(xxi) Trauma and the physiological, mental, and emotional effects of trauma on the body.

(xxii) How traumatic experiences impact learning.

Sec. 1307h. As used in sections 1307 to 1307h:

(a) "Chemical restraint" means the administration of medication for the purpose of restraint. **Chemical restraint does not include the administration of medication prescribed by and administered in accordance with the directions of a physician.**

(b) "De-escalation techniques" means evidence- and research-based strategically employed verbal or nonverbal interventions used to reduce the intensity of threatening behavior before, during, and after a crisis situation occurs.

(c) "Documentation" means documentation developed by the department that is uniform across the state.

~~(d) "Emergency physical restraint" means a last resort emergency safety intervention involving physical restraint that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others. Emergency physical restraint does not include physical restraint that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support. Emergency physical~~

1 ~~restraint does not include a practice prohibited under section~~
2 ~~1307b. Emergency physical restraint does not include physical~~
3 ~~restraint when contraindicated based on a pupil's disability,~~
4 ~~health care needs, or medical or psychiatric condition, as~~
5 ~~documented in a record or records made available to the school.~~

6 ~~(c) "Emergency seclusion" means a last resort emergency safety~~
7 ~~intervention involving seclusion that is necessitated by an ongoing~~
8 ~~emergency situation and that provides an opportunity for the pupil~~
9 ~~to regain self-control while maintaining the safety of the pupil~~
10 ~~and others. To qualify as emergency seclusion, there must be~~
11 ~~continuous observation by school personnel of the pupil in~~
12 ~~seclusion, and the room or area used for confinement must comply~~
13 ~~with state and local fire and building codes; must not be locked;~~
14 ~~must not prevent the pupil from exiting the area if school~~
15 ~~personnel become incapacitated or leave that area; and must provide~~
16 ~~for adequate space, lighting, ventilation, viewing, and the safety~~
17 ~~and dignity of the pupil and others, in accordance with department~~
18 ~~guidelines. Emergency seclusion does not include the confinement of~~
19 ~~preschool children or of pupils who are severely self-injurious or~~
20 ~~suicidal; seclusion that is used for the convenience of school~~
21 ~~personnel, as a substitute for an educational program, as a form of~~
22 ~~discipline or punishment, as a substitute for less restrictive~~
23 ~~alternatives, as a substitute for adequate staffing, or as a~~
24 ~~substitute for school personnel training in positive behavioral~~
25 ~~intervention and support; or a practice prohibited under section~~
26 ~~1307b. Emergency seclusion does not include seclusion when~~
27 ~~contraindicated based on a pupil's disability, health care needs,~~
28 ~~or medical or psychiatric condition, as documented in a record or~~
29 ~~records made available to the school.~~



(d) ~~(f)~~ "Emergency situation" means a situation in which a pupil's behavior poses imminent risk ~~to the safety of the individual pupil or to the safety of others.~~ **of serious bodily harm to the pupil or to another individual.** An emergency situation requires an immediate intervention.

(e) ~~(g)~~ "Functional behavioral assessment" means an evidence- and research-based systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A functional behavioral assessment ~~shall~~ **must** describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur, and identify the factors that are maintaining the behaviors over time.

(f) ~~(h)~~ "Key identified personnel" means those individuals who have received the mandatory training described in section 1307g(b) (i) to ~~(xvi)~~ **(xxii)**.

(g) ~~(i)~~ "Law enforcement officer" means an individual licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(h) ~~(j)~~ "Mechanical restraint" means the use of any device, article, garment, or material attached to or adjacent to a pupil's body to perform restraint. **Mechanical restraint does not include an adaptive or protective device recommended by a physician or therapist when it is used as recommended, or safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation.**

(i) ~~(k)~~ "Physical restraint" means ~~restraint involving direct physical contact.~~ **a personal restriction imposed by school personnel or another individual that immobilizes or reduces the ability of a**



pupil to move their torso, arms, legs, or head freely. Both of the following apply to the definition of physical restraint under this subdivision:

(i) Physical restraint does not include any of the following:

(A) A physical escort. As used in this sub-subparagraph, "physical escort" includes a touching or holding of the hand, wrist, arm, shoulder, or back of a pupil for the purpose of inducing a pupil to walk to a safe location when the contact does not continue after arriving at the safe location. Encouraging, inducing, or forcing a pupil to walk to a safe location in a way that involves methods used to maintain physical control of a pupil is considered a physical restraint.

(B) The brief holding of a pupil in order to calm or comfort the pupil.

(C) The minimum contact necessary to assist a pupil in completing a task or response, if the pupil does not resist or resistance is minimal in intensity or duration.

(D) Actions that are an integral part of a sporting event, such as a referee pulling football players off of a pile or a similar action.

(ii) "Physical restraint" includes restraints that are necessitated by an ongoing emergency situation and are permitted only when used in accordance with all sections of this act and only if required to prevent imminent serious bodily harm to the pupil or to another individual, including, but not limited to, the actions taken to do any of the following:

(A) Break up a fight

(B) Stop a physical assault, as that term is defined in section 1310.



1 **(C) Take a weapon from a pupil.**

2 **(D) Prevent an impulsive behavior, such as running in front of**
 3 **a car.**

4 **(j) ~~(l)~~**—"Positive behavioral intervention and support" means a
 5 framework to assist school personnel in adopting and organizing
 6 evidence-based behavioral interventions into an integrated
 7 continuum of intensifying supports based on pupil need that unites
 8 examination of the function of the problem behavior and the
 9 teaching of alternative skill repertoires to enhance academic and
 10 social behavior outcomes for all pupils.

11 **(k) ~~(m)~~**—"Positive behavioral intervention and support plan"
 12 means a pupil-specific support plan composed of individualized,
 13 functional behavioral assessment-based intervention strategies,
 14 including, as appropriate to the pupil, guidance or instruction for
 15 the pupil to use new skills as a replacement for problem behaviors,
 16 some rearrangement of the antecedent environment so that problems
 17 can be prevented and desirable behaviors can be encouraged, and
 18 procedures for monitoring, evaluating, and modifying the plan as
 19 necessary.

20 **(l) ~~(n)~~**—"Prone restraint" means the restraint of an individual
 21 facedown.

22 **(m) ~~(o)~~**—"Regularly and continuously work under contract" means
 23 that term as defined in section 1230.

24 ~~**(p)** "Restraint" means an action that prevents or significantly~~
 25 ~~restricts a pupil's movement. Restraint does not include the brief~~
 26 ~~holding of a pupil in order to calm or comfort, the minimum contact~~
 27 ~~necessary to physically escort a pupil from 1 area to another, the~~
 28 ~~minimum contact necessary to assist a pupil in completing a task or~~
 29 ~~response if the pupil does not resist or resistance is minimal in~~



~~intensity or duration, or the holding of a pupil for a brief time in order to prevent an impulsive behavior that threatens the pupil's immediate safety, such as running in front of a car. Restraint does not include the administration of medication prescribed by and administered in accordance with the directions of a physician, an adaptive or protective device recommended by a physician or therapist when it is used as recommended, or safety equipment used by the general pupil population as intended, such as a seat belt or safety harness on school transportation. Restraint does not include necessary actions taken to break up a fight, to stop a physical assault, as defined in section 1310, or to take a weapon from a pupil. Restraint does not include actions that are an integral part of a sporting event, such as a referee pulling football players off of a pile or a similar action.~~

(n) ~~(q)~~ "Restraint that negatively impacts breathing" means any restraint that inhibits breathing, including floor restraints, facedown position, or any position in which an individual is bent over in such a way that it is difficult to breathe. This includes a seated or kneeling position in which an individual being restrained is bent over at the waist and restraint that involves sitting or lying across an individual's back or stomach.

(o) ~~(r)~~ "School personnel" includes all individuals employed in a public school or assigned to regularly and continuously work under contract or under agreement in a public school, or public school personnel providing service at a nonpublic school. Except for sections 1307d and 1307f, school personnel does not include a law enforcement officer assigned to regularly and continuously work under contract or under agreement in a public school.

(p) ~~(s)~~ "Seclusion" means the ~~confinement of a pupil in a room~~



~~or other space from which the pupil is physically prevented from leaving. Seclusion does not include the general confinement of pupils if that confinement is an integral part of an emergency lockdown drill required under section 19(5) of the fire prevention code, 1941 PA 207, MCL 29.19, or of another emergency security procedure that is necessary to protect the safety of pupils.~~ **involuntary confinement of a pupil in a room or area, with or without adult supervision, from which the pupil is not permitted to leave, or believes or is told by school personnel that the pupil is not permitted to leave. Seclusion does not include any of the following:**

(i) A classroom or school environment where, as a general rule, all pupils need to obtain permission to leave the room or area, such as to use the restroom.

(ii) A behavioral management technique that is part of an approved program that involves the monitored separation of a pupil in an unlocked area that the pupil is allowed to leave.

(iii) Placing a pupil in a separate location within a classroom or with an instructor in which the pupil has the same opportunity to receive and engage in instruction.

(iv) The general confinement of pupils if that confinement is part of an emergency lockdown drill under section 19 of the fire prevention code, 1941 PA 207, MCL 29.19, or part of another emergency security procedure that is necessary to protect the safety of pupils.

Enacting section 1. This amendatory act takes effect 180 days after the date it is enacted into law.

