
connecticut association for behavior analysis

Restraint, Time Out, and Other New Laws

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Agenda 
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- Legislative Committee
- Other New Acts
- School Safety Act
- Restraint & Time Out Changes

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Legislative Committee 
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- Melissa Olive, Chair
- Michael Weinberg
- Melissa Hunsinger-Harris
- Rob Davis
- Plus 1 Representative from each organizational member


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Organizational Members 


<ul style="list-style-type: none">• ACES• Applied Behavioral Strategies• Assumption College• Beacon Services of CT• Behavioral Development Solutions• Bierman ABA Autism Center• Center for Children with Special Needs• Connecticut Behavioral Health	<ul style="list-style-type: none">• CORE ABA• Creative Interventions• Educational Hope Center• The SEED Center• University of St. Joseph• ZABA Therapy
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New Acts 


- Now Public Act No. 18-23
 - Was HB 5255: autism advisory council
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00023-R00HB-05255-PA.htm>
 - We submitted a letter, Commissioner for Dept of Social Services, Director of ARC, Director of ASRC, and The Alliance

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New Acts 


- Now Public Act No. 18-183
 - Was HB 5447: auditor's recommendations for private providers of special education
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00183-R00HB-05447-PA.htm>
 - Will most likely affect places like ACES, Meliora, Milestones
- Now Public Act No. 18-71
 - Was SB 312: An act concerning the needs of children with intellectual and developmental disabilities.
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00071-R00SB-00312-PA.htm>
- Now Special Act 18-2
 - Was SB 463: Development of facilities and resources
 - <https://www.cga.ct.gov/2018/ACT/sa/2018SA-00002-R00SB-00463-SA.htm>

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Mandated Reporter 


- Now Public Act No. 18-17
 - Was SB 244: LBAs to become mandated reporters
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00017-R00SB-00244-PA.htm>
 - We submitted a letter, Office of Child Advocate, and "various behavioral analysts"
- Public Act No. 18-96
 - Was HB 5257: reduces the time to report abuse/neglect for individuals with ID and ASD from 72 hours to 48 hours
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00096-R00HB-05257-PA.htm>

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Mandated Reporter 


- We are now on the long list of mandated reporters
- The Commissioner of Children and Families shall develop an educational training program and refresher training program for the accurate and prompt identification and reporting of child abuse and neglect.
 - Such training program and refresher training program shall be made available to all persons mandated to report child abuse and neglect at various times and locations throughout the state as determined by the Commissioner of Children and Families.
 - Such training program shall be provided to all new school employees, as defined in section 53a-65, within available appropriations.

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Mandated Reporter 


- (d) On or before October 1, 2011, the Department of Children and Families, in consultation with the Department of Education, shall develop a model mandated reporting policy for use by local and regional boards of education.
 - Such policy shall state applicable state law regarding mandated reporting and any relevant information that may assist school districts in the performance of mandated reporting.
 - Such policy shall include, but not be limited to, the following information:
 - (1) Those persons employed by the local or regional board of education who are required pursuant to this section to be mandated reporters,
 - (2) the type of information that is to be reported,
 - (3) the time frame for both written and verbal mandated reports,
 - (4) a statement that the school district may conduct its own investigation into an allegation of abuse or neglect by a school employee, provided such investigation does not impede an investigation by the Department of Children and Families, and
 - (5) a statement that retaliation against mandated reporters is prohibited. Such policy shall be updated and revised as necessary.

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Mandated Reporter 


- (a) An oral report shall be made by a mandated reporter as soon as practicable but not later than **twelve hours** after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm, by telephone or in person to the Commissioner of Children and Families or a law enforcement agency.
- (b) If the commissioner or the commissioner's designee suspects or knows that such person has knowingly made a false report, the identity of such person shall be disclosed to the appropriate law enforcement agency and to the perpetrator of the alleged abuse.
- Private schools, private institution or facility:
 - The Commissioner of Children and Families or the commissioner's designee shall notify the principal, headmaster, executive director or other person in charge of such institution, facility or school, or the person's designee, unless such person is the alleged perpetrator of the abuse or neglect of such child.
- In the case of a public school, the commissioner shall also notify the person's employing superintendent.
 - Such person in charge, or such person's designee, shall then immediately notify the child's parent or other person responsible for the child's care that a report has been made.

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Mandated Reporter 


- Not later than forty-eight hours after making an oral report, a mandated reporter shall submit a **written report** to the Commissioner of Children and Families or the commissioner's designee.
- When a mandated reporter is a member of the staff of a public or private institution or facility that provides care for such child or public or private school the reporter shall also submit a copy of the written report to the person in charge of such institution, school or facility or the person's designee.
- In the case of a report concerning a school employee holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144a to 10-146b, inclusive, and 10-149, a copy of the written report shall also be sent by the Commissioner of Children and Families or the commissioner's designee to the Commissioner of Education or the commissioner's designee.
- In the case of an employee of a facility or institution that provides care for a child which is licensed by the state, a copy of the written report shall also be sent by the Commissioner of Children and Families to the executive head of the state licensing agency.

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Mandated Reporter 


- All oral and written reports required in sections 17a-101a to 17a-101c, inclusive, and section 17a-103, shall contain, if known:
 - (1) The names and addresses of the child and his parents or other person responsible for his care;
 - (2) The age of the child;
 - (3) The gender of the child;
 - (4) The nature and extent of the child's injury or injuries, maltreatment or neglect;
 - (5) The approximate date and time the injury or injuries, maltreatment or neglect occurred;
 - (6) Information concerning any previous injury or injuries to, or maltreatment or neglect of, the child or his siblings;
 - (7) The circumstances in which the injury or injuries, maltreatment or neglect came to be known to the reporter;
 - (8) The name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect;
 - (9) The reasons such person or persons are suspected of causing such injury or injuries, maltreatment or neglect;
 - (10) Any information concerning any prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child; and
 - (11) Whatever action, if any, was taken to treat, provide shelter or otherwise assist the child.

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Mandated Reporter 


- (a) If the Commissioner of Children and Families suspects or knows that a mandated reporter, as defined in section 17a-101, employed by a local or regional board of education, has failed to make a report that a child has been abused or neglected or placed in immediate risk of serious harm within the time period prescribed in sections 17a-101a to 17a-101d, inclusive, and section 17a-103, the commissioner shall make a record of such delay and develop and maintain a database of such records.
- The commissioner shall investigate such delayed reporting. Such investigation shall be conducted in accordance with the policy developed in subsection (b) of this section, and include the actions taken by the employing local or regional board of education or superintendent of schools for the district in response to such employee's failure to report.
- (b) The Department of Children and Families shall develop a policy for the investigation of delayed reports by mandated reporters.
 - Such policy shall include, but not be limited to, when referrals to the appropriate law enforcement agency for delayed reporting are required and when the department shall require mandated reporters who have been found to have delayed making a report to participate in the educational and training program pursuant to subsection (b) of section 17a-101a.

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Mandated Reporter 


- For individuals with intellectual disability or autism,
- Report as soon as practicable but not later than forty-eight hours after
- An unsuccessful attempt to make an initial report to the commissioner, or the commissioner's designee, on a weekend, holiday or after normal business hours shall not be construed as a violation of this section if reasonable attempts are made by a person required to report under this subsection to reach the commissioner, or the commissioner's designee, as soon as practicable after the initial attempt.
- The initial report shall be followed up by a written report not later than five calendar days after the initial report was made.
- Any person required to report under this subsection who fails to make such report shall be fined not more than five hundred dollars.
- For purposes of this subsection, "reasonable manner" and "reasonable attempts" mean efforts that include, but are not limited to, efforts to reach the commissioner, or the commissioner's designee, by phone, in person or by electronic mail.

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ABA in the IEP 


- In our licensing law
- <https://www.cga.ct.gov/2017/act/pa/pdf/2017PA-00002-R005B-01502SS1-PA.pdf>
- Sec. 194. Subdivision (6) of section 20-413 of the general statutes is repealed and the following is substituted in lieu thereof:
- (Effective July 1, 2018); (6) The provision of applied behavior analysis services by a licensed behavior analyst or a board certified assistant behavior analyst, as such terms are defined in section 20-185i, in accordance with section 10-76ii.

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ABA in the IEP 


- Since 2012, schools shall provide ABA services to any child with ASD if the IEP or 504 plan requires such services. Those services must be supervised by:
 - Someone licensed by the Department of Public Health or certified by the Department of Education and such services are within the scope of practice of such license or certificate, or
 - BCABA, provided such assistant behavior analyst is working under the supervision of a licensed behavior analyst
- A teacher or paraprofessional may implement the services in the IEP or 504 plan provided such teacher or paraprofessional is under the supervision of a person described in subdivision (1) of this subsection.
- For purposes of this section, "applied behavior analysis" means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, including the use of direct observation, measurement and functional analysis of the relationship between the environment and behavior, to produce socially significant improvement in human behavior.

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ABA in the IEP 


- (b) If the Commissioner of Education determines that there are insufficient certified or licensed personnel available to provide applied behavior analysis services in accordance with the provisions of subsection (a) of this section, the commissioner may authorize the provision of such services by persons who:
 - (1) Hold a bachelor's degree in a related field;
 - (2) have completed (A) a minimum of nine credit hours of coursework from a course sequence approved by the Behavior Analyst Certification Board, or (B) coursework that meets the eligibility requirement to sit for the board certified behavior analyst examination; and
 - (3) are supervised by a board certified behavior analyst.

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ABA in the IEP 


- (c) Nothing in this section shall be construed to require the inclusion of applied behavior analysis services in an individualized education program or plan pursuant to Section 504 of the Rehabilitation Act of 1973.
- (a) For purposes of this section, "school support staff" means any person employed by a local or regional board of education as a [board certified] behavior analyst or [board certified] assistant behavior analyst, as such terms are defined in section 20-185i, athletic coach, as defined in section 10-149d, or school paraprofessional

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Insurance Law Changed Too!

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Classroom Safety 
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- Public Act No. 18-89
 - Was SB 453; Classroom safety and disruptive behavior
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00089-R0058-00453-PA.htm>
- Defined
 - Bullying, cyberbullying, teen dating violence, mobile electronic device, electronic communication, hostile environment, outside of school setting, school employee, school climate
 - "Daily classroom safety" means a classroom environment in which students and school employees are not physically injured by other students, school employees or parents, or exposed to such physical injury to others.

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Classroom Safety 
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- Schools instructed to revise the plan (including parental notification)
- (b) If a teacher refers a student out of such teacher's classroom for a violation of daily classroom safety, the administrator may place such student in another educational setting that is best suited to meet such student's needs.
- The administrator may return such student to such teacher's classroom if
 - (1) such teacher consents to such student's return, or
 - (2) the crisis intervention team for the school, identified pursuant to section 10-236b of the general statutes, or a team of teachers and administrators of the school, designated by the school principal to assess whether such student should return to such teacher's classroom, determines that such return is warranted because such student has received appropriate intervention and support and there are adequate protections in the classroom for the safety of the teacher and other students.

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Classroom Safety 


- Department to provide annual training
- Schools will appoint school climate coordinator
- Identify school climate specialists
- Schools will develop school climate committees (including parents)
- Committee will review reports
- For the purposes of section 10-222d, as amended by this act, the term "prevention and intervention strategy" may include, but is not limited to, (1) implementation of a positive behavioral interventions and supports process or another evidence-based model approach for safe school climate or for ensuring daily classroom safety and the prevention of bullying and teen dating violence identified by the Department of Education.....

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History 

- SB 453
- Strongly supported by teachers' union
- Hearing for bill during CT ABA conference
- Became Public Act
- Governor Vetoes!
- Special Session on June 25th
- Senate sustained Governor's veto!


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Restraint & Time Out 

- Now Public Act No. 18-51
 - Was SB 183: Implementing Regulations of DOE
 - <https://www.cga.ct.gov/2018/ACT/pa/2018PA-00051-R005B-00183-PA.htm>
- Slipped in
- No hearing (that we were aware of)
- Tried to make changes last year
- CT ABA submitted written and oral testimony last year


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Restraint Time Out and Other New Laws (various dates in June and July, 2018)

Restraint & Time Out 


- Sec. 4, Section 10-236b of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):
- (1) "Life-threatening physical restraint" means any physical restraint or hold of a person that (A) restricts the flow of air into a person's lungs, whether by chest compression or any other means, or (B) immobilizes or reduces the free movement of a person's arms, legs or head while the person is in the prone position;
- (2) "Psychopharmacologic agent" means any medication that affects the central nervous system, influencing thinking, emotion or behavior;
- (3) "Physical restraint" means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head, including, but not limited to, carrying or forcibly moving a person from one location to another.
 - The term does not include:
 - (A) briefly holding a person in order to calm or comfort the person;
 - (B) restraint involving the minimum contact necessary to safely escort a person from one area to another;
 - (C) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance;
 - (D) helmets or other protective gear used to protect a person from injuries due to a fall; [or]
 - (E) helmets, mitts and similar devices used to prevent self-injury when the device is (i) part of a documented treatment plan or individualized education program pursuant to section 10-76d, or (ii) prescribed or recommended by a medical professional, as defined in section 38a-97c, and is the least restrictive means available to prevent such self-injury;
 - or (F) an exclusionary time out.

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Restraint & Time Out 


- (5) "Seclusion" means the involuntary confinement of a student in a room [, whether alone or with supervision, in a manner that prevents the student from leaving; and] from which the student is physically prevented from leaving. "Seclusion" does not include an exclusionary time out.
- (7) "Exclusionary time out" means a temporary, continuously monitored separation of a student from an ongoing activity in a non-locked setting, for the purpose of calming such student or deescalating such student's behavior.

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Restraint & Time Out 


- (b) No school employee shall use a physical restraint on a student except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the restraint is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.
- (c) No school employee shall use a life-threatening physical restraint on a student. This section shall not be construed as limiting any defense to criminal prosecution for the use of deadly physical force that may be available under sections 53a-18 to 53a-22, inclusive.
- (d) (1) No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.
- (2) No student shall be placed in seclusion unless [(1)]
 - (A) such student is monitored by a school employee during the period of such student's seclusion pursuant to subsection (m) of this section, and [(2)]
 - (B) the area in which such student is secluded is equipped with a window or other fixture allowing such student a clear line of sight beyond the area of seclusion.
- (3) Seclusion shall not be utilized as a planned intervention in a student's behavioral intervention plan, individualized education program or plan pursuant to Section 504 of the Rehabilitation Act of 1973, as amended from time to time.

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Restraint & Time Out 


- (s) Not later than January 1, 2019, each local or regional board of education shall establish a policy regarding the use of an exclusionary time out. Such policy shall include, but need not be limited to, a requirement that
 - (1) exclusionary time outs are not to be used as a form of discipline,
 - (2) at least one school employee remain with the student, or be immediately available to the student such that the student and school employee are able to communicate verbally, throughout the exclusionary time out,
 - (3) the space used for an exclusionary time out is clean, safe, sanitary and appropriate for the purpose of calming such student or deescalating such student's behavior,
 - (4) the exclusionary time out period terminate as soon as possible, and
 - (5) if such student is a child requiring special education, as defined in section 10-76a, or a child being evaluated for special education, pursuant to section 10-76d, and awaiting a determination, and the interventions or strategies are unsuccessful in addressing such student's problematic behavior, such student's planning and placement team shall convene as soon as is practicable to determine alternative interventions or strategies.

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Make Sure You are Licensed!

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Questions?

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