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## SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

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<b>Bill No:</b>	AB 1466	<b>Hearing Date:</b>	June 21, 2023
<b>Author:</b>	Weber		
<b>Version:</b>	February 17, 2023		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
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**Subject:** Pupil discipline: restraint and seclusion: reporting.

### SUMMARY

This bill requires each Local Educational Agency (LEA), as specified by federal law, to post the same data that LEAs are currently required to share with the California Department of Education (CDE) on their websites related to restraint and seclusion.

### BACKGROUND

Existing Law:

#### *Federal Law*

- 1) LEA means a public board of education or other public authority legally constituted within a [State](#) for either administrative control or direction of, or to perform a service function for, public elementary or [secondary schools](#) in a city, county, township, school district, or other political subdivision of a [State](#), or for a combination of school districts or counties as are recognized in a [State](#) as an administrative agency for its public [elementary schools](#) or [secondary schools](#). (34 Code of Federal Regulation (CFR) 300.28)

#### *State law*

- 2) Requires LEAs that meet the definition of a “local educational agency” specified in Section 300.28 of Title 34 of the CFR to collect and, no later than three months after the end of a school year, report to the CDE annually on the use of behavioral restraints and seclusion for students enrolled in or served by the LEA for all or part of the prior school year. (Education Code (EC) 49006)
- 3) Permits an educational provider from using seclusion or behavioral restraint only to control behavior that poses a clear and present danger of serious physical harm to the student or others that a less restrictive response cannot immediately prevent. (EC 49005.4)
- 4) Requires the information reported to CDE to be disaggregated by race or ethnicity and gender, with separate counts for students with Section 504 plans, Individualized Education Programs (IEPs), and those without IEPs and includes the following:

- a) The number of students subjected to mechanical restraint;
  - b) The number of students subjected to physical restraint;
  - c) The number of students subjected to seclusion;
  - d) The number of times mechanical restraint was used on students;
  - e) The number of times physical restraint was used on students; and
  - f) The number of times seclusion was used on students. (EC 49006)
- 5) States that the data collection and reporting is in compliance with federal data reporting requirements and shall not be construed to impose a new program or higher level of service on LEAs or non-public, nonsectarian schools (NPSs) or nonpublic agencies (NPAs). (EC 49006.2)

## ANALYSIS

Requires each LEA, as specified by federal law, to post the same data that LEAs must share with the CDE on their websites related to restraint and seclusion.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Current state law requires local educational agencies to submit their restraint and seclusion data to the California Department of Education annually. AB 1466 strengthens that provision by requiring local educational agencies to post that same data on their website. Increasing transparency and allowing all families to easily access critical data relevant to their children’s school environment.”
- 2) ***When Are Restraint and Seclusion of a Student Permissible?*** According to the the U.S. Department of Education Office (USDOE’s), *Restraint and Seclusion: Resource Document*, “Physical restraint or seclusion should not be used except in situations where the child’s behavior poses an imminent danger of serious physical harm to self or others and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. In addition, schools should never use a drug or medication to control behavior or restrict freedom of movement unless it is (1) prescribed by a licensed physician or other qualified health professional acting under the scope of the professional’s authority under State law; and (2) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional’s authority under State law.”
- 3) ***Current Reporting Requirement to CDE.*** AB 2657 (Shirley Weber), Chapter 998, Statutes of 2018, requires the CDE to collect and report the data outlined in the statute. This data collection is based, in part, on a similar data collection conducted by the USDOE of Civil Rights (OCR) in which schools are required to report aggregate data to the OCR about the use of restraint and seclusion through the biannual Civil Rights Data Collection (CRDC). The data collection authorized by

AB 2657 differs from the federal CRDC in that it is an annual collection of information about the use of restraint and seclusion in both traditional and NPS settings. While the law did not specify the exact collection methodology, the CDE decided to collect these data at the student level through the California Longitudinal Pupil Achievement Data System (CALPADS). The following information is collected:

- a) The number of students subjected to mechanical restraint;
- b) The number of students subjected to physical restraint;
- c) The number of students subjected to seclusion;
- d) The number of times mechanical restraint was used on students;
- e) The number of times physical restraint was used on students; and
- f) The number of times seclusion was used on students.

Restraint and seclusion data are required to be disaggregated with separate counts for pupils with a plan under Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils with an individualized education program, and pupils who do not have a plan under Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) or an individualized education program. While not required by law, the CDE reports these data separately for English learners, socioeconomically disadvantaged students, and migrant, foster, and homeless students.

*This bill would require LEAs to post similar information currently submitted to CDE on their website.*

- 4) ***Students Restrained or Secluded in California.*** In the 2021-22 school year, the data showed 44881 unduplicated students restrained and 5,137 unduplicated students secluded in all educational environments (public school, NPS, etc.). Some data was redacted for several LEAs to comply with privacy protections in state and federal law.

*It is important to note that some data may be redacted to comply with existing privacy requirements to prevent individual students from being identifiable.*

#### 5) ***Related Legislation***

AB 2657 (Shirley Weber), Chapter 998, Statutes of 2018, prohibits the use of restraint or seclusion on any student, except in specified circumstances; establishes parameters and procedures for situations in which restraint or seclusion may be used; requires data collection and reporting to the CDE.

SB 483 (Cortese, 2023) would prohibit the use of prone restraint for any period by LEAs, charter schools, the State Special Schools for the Blind and the Deaf, and NPS/A. *This bill is in Senate Education Committee.*

AB 611 (Akilah Weber, 2023) would require that a contracting LEA inform parents and guardians of students who attend a NPS/Aof the change in its certification status within 14 days of becoming aware of any change to the certification status.

AB 1172 (Frazier), Chapter 454, Statutes of 2019, requires that LEAs that send students to non-public NPSs conduct on-site monitoring visits; requires that NPSs notify the CDE of any student-involved incident in which law enforcement is contacted; requires the CDE if an investigation conducted by the CDE results in a finding that student health or safety has been compromised, to suspend or revoke the school's certification immediately; requires that an NPS serving students with significant behavioral needs to have an individual on site who is qualified to implement behavior interventions, and requires that administrators of NPSs hold or be working toward specified credentials or licenses; requires that NPSs train specified staff in evidence-based practices and interventions specific to students' unique behavioral needs.

**SUPPORT**

Association of Regional Center Agencies  
California Association for Behavior Analysis  
California Health Coalition Advocacy

**OPPOSITION**

None received

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