

ADMINISTRATIVE REGULATIONS

Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.

A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated July 1, 2008.

STATE BOARD OF EDUCATION

Notice of Intent to Adopt Regulations and Public Hearing

In accordance with the provisions of Subsection (a) of Section 4-168 of the Connecticut General Statutes and pursuant to the authority prescribed in Subsection (a) of Section 10-76b of the general statutes, as amended by section 4 of Public Act 07-147, notice is hereby given that the State Board of Education intends to adopt regulations to address the use of physical restraint and seclusion in the public schools for children who are or may be eligible for special education as follows:

(New) Sec. 10-76b-5. Use of physical restraint and seclusion in public schools. Definitions

For the purposes of sections 10-76b-6 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies:

(a) "Provider," "assistant," "person at risk," "physical restraint" and "seclusion" shall be as defined in Section 46a-150 of the Connecticut General Statutes, as amended by Section 1 of Public Act 07-147, provided seclusion does not include disciplinary detention or in-school suspension.

(b) "Individualized education plan" or "IEP" shall be as defined in Subsection (10) of Section 10-76a-1 of the Regulations of Connecticut State Agencies.

(c) "Parent" or "parents" shall be as defined in Subsection (13) of Section 10-76a-1 of the Regulations of Connecticut State Agencies.

(d) "Planning and placement team" or "PPT" shall be as defined in Subsection (15) of Section 10-76a-1 of the Regulations of Connecticut State Agencies.

(New) Sec. 10-76b-6. Use of physical restraint and seclusion in public schools

No provider or assistant may (1) use involuntary physical restraint on a person at risk or (2) involuntarily place a person at risk in seclusion unless such use conforms to the requirements of Sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes, as amended by Public Act 07-147, and the requirements of Sections 10-76b-5 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies.

(New) Sec. 10-76b-7. Use of physical restraint and seclusion in public schools, exceptions

Nothing in Sections 46a-150 to 46a-154, inclusive, of the Connecticut General Statutes, as amended by Public Act 07-147, or Sections 10-76b-5 to 10-76b-11, inclusive, of the Regulations of Connecticut State Agencies shall be construed to interfere with the responsibility of local or regional boards of education to maintain

a safe school setting in accordance with Section 10-220 of the Connecticut General Statutes or to supersede the provisions of Subdivision (6) of Section 53a-18 of the Connecticut General Statutes concerning the use of reasonable physical force.

(New) Sec. 10-76b-8. Use of seclusion in public schools, requirements

(a) Except for an emergency intervention to prevent immediate or imminent injury to the person or to others conforming to the requirements of Subsection (b) of Section 46a-152 of the Connecticut General Statutes, as amended by Section 2 of Public Act 07-147, seclusion may only be used if this action is specified in the IEP of the person at risk and if other less restrictive, positive behavior intervention strategies specified in the IEP of the person at risk appropriate to the behavior exhibited by the person at risk have been implemented but were ineffective.

(b) If the PPT of a person at risk determines, based upon the results of a functional assessment of behavior and other relevant information, that use of seclusion is an appropriate behavioral intervention strategy, the PPT shall include this information in the IEP of the person at risk and specify the location of seclusion, the maximum length of any period of seclusion, the number of times during a single day that the person at risk may be placed in seclusion and any other relevant matter agreed to by the PPT.

(c) In the event the parent disagrees with the use of seclusion in the IEP of the person at risk, the parent may file for due process in accordance with Section 10-76h of the Connecticut General Statutes.

(d) Use of seclusion shall be limited to that time necessary to allow the person at risk to compose him or herself and return to the educational environment and shall not exceed one hour. If the person at risk is presenting dangerous behaviors after this period, the use of seclusion may be continued with written authorization of the building principal or designee. In the case where transportation of the person at risk is being arranged, the written authorization to continue the use of seclusion is not required in the event the person at risk is presenting dangerous behaviors.

(e) The PPT shall, at least annually, review the continued use of seclusion as a behavioral intervention strategy for the person at risk.

(f) A person at risk shall not be placed in seclusion if such person is known to have any medical condition that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion. The health care provider shall submit to the local or regional board of education a written statement which shall be included in the educational record of the person at risk.

(g) The person at risk in seclusion shall be frequently monitored by a provider or assistant specifically trained in physical management, physical restraint and seclusion procedures to ensure the safe use of seclusion as a behavior intervention strategy.

(h) Any room used for the seclusion of a person at risk shall be of a size that is appropriate to the chronological and developmental age, size and behavior of the person at risk. Each such room shall have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which it is located and shall be equipped with heating, cooling, ventilation and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located. Each such room shall be free of any object that poses a danger to the person at risk who is being placed in the room. Any lock used on the door must be equipped with a device that automatically disengages the lock in case of an emergency. Any latching or securing of the door, whether by mechanical means or by a provider or assistant holding the door in place to prevent the person at risk from leaving the room, must be able to be removed in the case of any emergency. An emergency for these purposes includes but is not limited to, the need to provide direct and

immediate medical attention to the person at risk, fire, the need to remove the person at risk to a safe location during a building lockdown and other critical situations that may require immediate removal of the person at risk from seclusion to a safe location. An unbreakable observation window shall be located in a wall or door to permit frequent visual monitoring of the person at risk and any provider or assistant in such room.

(New) Sec. 10-76b-9. Parental notification of physical restraint, seclusion

(a) An attempt shall be made to notify the parent by phone within twenty-four hours after the use of physical restraint or seclusion as an emergency intervention to prevent immediate or imminent injury to the person or to others. If the parent cannot be contacted by phone, the parent shall receive a copy of the incident report no later than five school days after the emergency use of physical restraint or seclusion.

(b) Where seclusion is included in the IEP of a person at risk, the PPT and the parents shall determine a mutually agreeable timeframe and manner of notification of each incident of seclusion.

(New) Sec. 10-76b-10. Required training for providers or assistants on the use of physical restraint or seclusion

A person at risk may be physically restrained or removed to seclusion only by a provider or assistant who has received training in physical management, physical restraint and seclusion procedures.

(New) Sec. 10-76b-11. Reports of physical restraint, seclusion

The recording and reporting of instances of physical restraint or seclusion and the compilation of this information shall be in accordance with Section 46a-153 of the Connecticut General Statutes, as amended by Section 3 of Public Act 07-147. The recording of such instances shall be done on a standardized incident report developed by the State Department of Education. Such reports shall be completed no later than the school day following the incident.

Statement of purpose: To adopt regulations addressing the use of physical restraint or seclusion in the public schools for children who are or may be eligible for special education consistent with the requirements of Public Act 07-147.

Within thirty (30) days of the date of the publication of this notice, interested persons may submit views and arguments, in writing, to Attorney Theresa C. DeFrancis, Education Consultant, Bureau of Special Education, P.O. Box 2219, Hartford, CT 06145.

A public hearing on the proposed regulations will be held on Tuesday, August 19, 2008 from 9:30 a.m. to 3:30 p.m., in the SERC Classroom, located at 25 Industrial Park Road, Middletown, CT. Interested persons may submit view and arguments, in writing or orally, at this hearing.

All submissions and testimony concerning the proposed regulations will be considered fully. Copies of the proposed regulations and fiscal note may be obtained from Attorney Theresa C. DeFrancis, Bureau of Special Education, by e-mail to theresa.defrancis@ct.gov or by mail to PO Box 2219, Hartford, CT 06145.

Mark K. McQuillan
Commissioner
