



Substitute Senate Bill No. 927

Public Act No. 15-141

AN ACT CONCERNING SECLUSION AND RESTRAINT IN SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2015*) (a) For purposes of this section:

(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. 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

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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 of the general statutes, as amended by this act, or (ii) prescribed or recommended by a medical professional, as defined in section 38a-976 of the general statutes, and is the least restrictive means available to prevent such self-injury;

(4) "School employee" shall have the same meaning as provided in subsection (b) of section 10-221o of the general statutes;

(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

(6) "Student" means a child (A) enrolled in grades kindergarten to twelve, inclusive, in a public school under the jurisdiction of a local or regional board of education, (B) receiving special education and related services in an institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d of the general statutes, (C) enrolled in a program or school administered by a regional education service center established pursuant to section 10-66a of the general statutes, or (D) receiving special education and related services from an approved private special education program, but shall not include any child receiving educational services from (i) Unified School District #2, established pursuant to section 17a-37 of the general statutes, or (ii) the Department of Mental Health and Addiction Services.

(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.

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(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, of the general statutes.

(d) 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. No student shall be placed in seclusion unless (1) 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) 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.

(e) No school employee may use a psychopharmacologic agent on a student without that student's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the student or to others, or (2) as an integral part of the student's established medical or behavioral support or educational plan, as developed consistent with section 17a-543 of the general statutes or, if no such plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

(f) If any instance of physical restraint or seclusion of a student otherwise permissible under subsection (b) or (d) of this section exceeds fifteen minutes, (1) an administrator, as defined in section 10-144e of the general statutes, or such administrator's designee, (2) a school health or mental health personnel, as defined in subsection (a) of section 10-212b of the general statutes, or (3) a board certified

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behavioral analyst, who has received training in the use of physical restraint and seclusion pursuant to subsection (o) of this section, shall determine whether continued physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such continued physical restraint or seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such physical restraint or seclusion is necessary to prevent immediate or imminent injury to the student or to others.

(g) In the event that physical restraint or seclusion is used on a student four or more times within twenty school days:

(1) An administrator, one or more of such student's teachers, a parent or guardian of such student and, if any, a mental health professional, as defined in section 10-76t of the general statutes, shall convene for the purpose of (A) conducting or revising a behavioral assessment of the student, (B) creating or revising any applicable behavioral intervention plan, and (C) determining whether such student may require special education pursuant to section 10-76ff of the general statutes; or

(2) If such student is a child requiring special education, as described in subparagraph (A) of subdivision (5) of section 10-76a of the general statutes, or a child being evaluated for eligibility for special education pursuant to section 10-76d of the general statutes, as amended by this act, and awaiting a determination, such student's planning and placement team shall convene for the purpose of (A) conducting or revising a behavioral assessment of the student, and (B) creating or revising any applicable behavioral intervention plan, including, but not limited to, such student's individualized education plan.

(h) Each local or regional board of education shall notify a parent or

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guardian of a student who is placed in physical restraint or seclusion not later than twenty-four hours after the student was placed in physical restraint or seclusion and shall make a reasonable effort to provide such notification immediately after such physical restraint or seclusion is initiated.

(i) No school employee shall use a physical restraint on a student or place a student in seclusion unless such school employee has received training on the proper means for performing such physical restraint or seclusion pursuant to subsection (o) of this section.

(j) (1) On and after July 1, 2016, each local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d of the general statutes that provides special education for children, including any approved private special education program, shall (A) record each instance of the use of physical restraint or seclusion on a student, (B) specify whether the use of seclusion was in accordance with an individualized education program, (C) specify the nature of the emergency that necessitated the use of such physical restraint or seclusion, and (D) include such information in an annual compilation on its use of such restraint and seclusion on students. Each local or regional board of education and such institutions or facilities operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d of the general statutes that provides special education for children, including any approved private special education program shall provide such annual compilation to the Department of Education for the purposes of the pilot program established pursuant to subdivision (2) of this subsection to examine incidents of physical restraint and seclusion in schools and to the State Board of Education for the purposes of subsection (k) of this section. Local or regional boards of education and such institutions and facilities that provide special education for

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children shall not be required to report instances of in-school suspensions, as defined in subsection (c) of section 10-233a of the general statutes.

(2) The Department of Education shall establish a pilot program for the school year commencing July 1, 2015. Such pilot program shall be implemented in various districts, including, but not limited to, an alliance district, a regional school district and a regional education service center. Under the pilot program, the Department of Education shall examine incidents of physical restraint and seclusion in schools and shall compile and analyze data regarding such incidents to enable the department to better understand and respond to incidents of physical restraint and seclusion on students in the state.

(k) The State Board of Education shall review the annual compilation of each local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d of the general statutes that provides special education for children, including any approved private special education program, and shall produce an annual summary report specifying (1) the frequency of use of physical restraint or seclusion on students, (2) whether any student subjected to such restraint or seclusion was a special education student, and (3) if any such student was a special education student, whether the use of such seclusion was in accordance with an individualized education program or whether the use of such seclusion was an emergency intervention to prevent immediate or imminent injury to the student or to others. Such report shall be submitted not later than January 15, 2017, and annually thereafter, to the joint standing committees of the General Assembly having cognizance of matters relating to children and education for inclusion in the annual report card prepared pursuant to section 2-53m of the general statutes.

(l) Any use of physical restraint or seclusion on a student shall be

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documented in the student's educational record. The documentation shall include (1) the nature of the emergency and what other steps, including attempts at verbal deescalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise, and (2) a detailed description of the nature of the restraint or seclusion, the duration of such restraint or seclusion and the effect of such restraint or seclusion on the student's established educational plan.

(m) Any student who is physically restrained shall be continually monitored by a school employee. Any student who is involuntarily placed in seclusion shall be frequently monitored by a school employee. Each student so restrained or in seclusion shall be regularly evaluated by a school employee for indications of physical distress. The school employee conducting the evaluation shall enter each evaluation in the student's educational record. For purposes of this subsection, "monitor" means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.

(n) If the use of such restraint or seclusion results in physical injury to the student, the local or regional board of education, and each institution or facility operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d of the general statutes that provides special education for children, including any approved private special education program, shall report the incident to the State Board of Education, which shall include such incident in the report required pursuant to subsection (k) of this section. The State Board of Education shall report any incidence of serious injury or death to the director of the Office of Protection and Advocacy for Persons with Disabilities and, if appropriate, to the Child Advocate of the Office of Child Advocate.

(o) (1) Each local or regional school district shall provide training to

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school professionals, paraprofessional staff members and administrators regarding physical restraint and seclusion of students. Such training shall be phased in over a period of three years beginning with the school year commencing July 1, 2015, and shall include, but not be limited to:

(A) An overview of the relevant laws and regulations regarding the use of physical restraint and seclusion on students. Such overview shall be provided by the Department of Education to all school professionals, paraprofessional staff members and administrators on or after July 1, 2015, and annually thereafter, in a manner and form as prescribed by the Commissioner of Education;

(B) The creation of a plan by which each local or regional board of education shall provide school professionals, paraprofessional staff members and administrators with training and professional development regarding the prevention of incidents requiring physical restraint or seclusion of students. Such plan shall be implemented not later than July 1, 2017, and shall include a provision to require the training of all school professionals, paraprofessional staff members and administrators in the prevention of such incidents not later than July 1, 2019. The Department of Education may, within available appropriations, provide ongoing monitoring and support to local or regional boards of education regarding the formulation and implementation of the plan; and

(C) The creation of a plan by which each local or regional board of education shall provide school professionals, paraprofessional staff members and administrators with training and professional development regarding the proper means of physically restraining or secluding a student, including, but not limited to, (i) various types of physical restraint and seclusion; (ii) the differences between life-threatening physical restraint and other varying levels of physical restraint; (iii) the differences between permissible physical restraint

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and pain compliance techniques; and (iv) monitoring methods to prevent harm to a student who is physically restrained or in seclusion. Such plan shall be implemented not later than July 1, 2017, and shall include a provision to require the training of all school professionals, paraprofessional staff members and administrators in the proper means of physically restraining or secluding a student not later than July 1, 2019 and periodically thereafter as prescribed by the Commissioner of Education;

(2) Not later than July 1, 2015, and each school year thereafter, each local or regional board of education shall require each school in the district to identify a crisis intervention team consisting of school professionals, paraprofessional staff members and administrators who have been trained in the use of physical restraint and seclusion pursuant to subparagraph (C) of subdivision (1) of this subsection or chapter 814e of the general statutes. Such teams shall respond to any incident in which the use of physical restraint or seclusion may be necessary as an emergency intervention to prevent immediate or imminent injury to a student or to others. Each member of the crisis intervention team shall be recertified in the use of physical restraint and seclusion pursuant to subparagraph (C) of subdivision (1) of this subsection or chapter 814e of the general statutes on an annual basis.

(p) Each local or regional board of education shall develop policies and procedures that establish monitoring and internal reporting of the use of physical restraint and seclusion on students and shall make such policies and procedures available on such local or regional board of education's Internet web site and in such local or regional board of education's procedures manual.

(q) Nothing in this section shall be construed as limiting the justified use of physical force by a local, state or federal law enforcement official while in the performance of such official's duties.

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(r) The State Board of Education shall adopt or revise regulations, in accordance with the provisions of chapter 54 of the general statutes, concerning the use of physical restraint and seclusion pursuant to this section. Not later than sixty days after the adoption or revision of such regulations, each local or regional board of education shall update any applicable policies and procedures regarding the physical restraint and seclusion of students and shall make such updated policies and procedures available in a manner consistent with the provisions of subsection (p) of this section.

Sec. 2. Section 46a-150 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

For purposes of this section and sections 46a-151 to 46a-154, inclusive, as amended by this act:

(1) ["Provider of care, education or supervision of a person at risk"] "Provider of care or supervision of a person at risk" and "provider" mean a person who provides direct care [, education] or supervision of a person at risk.

(2) ["Assistant provider of care, education or supervision of a person at risk"] "Assistant provider of care or supervision of a person at risk" and "assistant" mean a person assigned to provide, or who may be called upon in an emergency to provide, assistance or security to a provider of care [, education] or supervision of a person at risk.

(3) "Person at risk" means [(A) a child requiring special education described in subparagraph (A) of subdivision (5) of section 10-76a, who is receiving special education by a local or regional board of education, or a child being evaluated for eligibility for special education pursuant to section 10-76d and awaiting a determination, or (B)] a person receiving care [, education] or supervision in an institution or facility [(i)] operated by, licensed or authorized to

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operate by or operating pursuant to a contract with the Departments of Public Health, Developmental Services, Children and Families, or Mental Health and Addiction Services, [or a regional education service center established under section 10-66a, or (ii) operating under contract with a local or regional board of education pursuant to subsection (d) of section 10-76d.] The term does not include a person in the custody of the Commissioner of Correction, or a resident or patient of a nursing home subject to federal regulations concerning restraint of residents or patients.

(4) "Life-threatening physical restraint" means any physical restraint or hold of a person that restricts the flow of air into a person's lungs, whether by chest compression or any other means.

(5) "Physical restraint" means any mechanical or personal restriction that immobilizes or reduces the free movement of a person's arms, legs or head. 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 part of a documented treatment plan [or individualized education program pursuant to section 10-76d] and is the least restrictive means available to prevent such self-injury.

(6) "Psychopharmacologic agent" means any medication that affects the central nervous system, influencing thinking, emotion or behavior.

(7) "Seclusion" means the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving, except that in the case of seclusion at Long Lane

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School, the term does not include the placing of a single child or youth in a secure room for the purpose of sleeping.

Sec. 3. Section 46a-151 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

No provider of care [, education] or supervision of a person at risk and no assistant provider may use a life-threatening physical restraint on a person at risk. 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.

Sec. 4. Section 46a-152 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) No provider or assistant may use involuntary physical restraint on a person at risk except (1) as an emergency intervention to prevent immediate or imminent injury to the person at risk 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, (2) as necessary and appropriate, as determined on an individual basis by the person's treatment team and consistent with sections 17a-540 to 17a-550, inclusive, for the transportation of a person under the jurisdiction of the Whiting Forensic Division of the Department of Mental Health and Addiction Services.

(b) No provider or assistant may involuntarily place a person at risk in seclusion except [(1)] as an emergency intervention to prevent immediate or imminent injury to the person 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, [, or (2) as specifically provided for in an individualized education program developed pursuant to section 10-76d. Each local or regional board of education, institution or facility providing special education for a child shall

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notify the parent or guardian of each incident in which such child is placed in physical restraint or seclusion.]

(c) No provider or assistant may use a psychopharmacologic agent on a person at risk without that person's consent except (1) as an emergency intervention to prevent immediate or imminent injury to the person or to others, or (2) as an integral part of the person's established medical or behavioral support [or educational] plan, as developed consistent with section 17a-543 or, if no such plan has been developed, as part of a licensed practitioner's initial orders. The use of psychopharmacologic agents, alone or in combination, may be used only in doses that are therapeutically appropriate and not as a substitute for other appropriate treatment.

(d) Any use of physical restraint or seclusion on a person at risk shall be documented in the person's medical [or educational] record. The documentation shall include (1) in the case of emergency use, the nature of the emergency and what other steps, including attempts at verbal deescalation, were taken to prevent the emergency from arising if there were indications that such an emergency was likely to arise, and (2) a detailed description of the nature of the restraint or seclusion, its duration and its effect on the person's established medical or behavioral support [or educational] plan.

(e) Any person at risk who is physically restrained shall be continually monitored by a provider or assistant. Any person at risk who is involuntarily placed in seclusion shall be frequently monitored by a provider or assistant. Each person so restrained or in seclusion shall be regularly evaluated by a provider or assistant for indications of physical distress. The provider or assistant conducting the evaluation shall enter each evaluation in the person's medical [or educational] record. For purposes of this subsection, "monitor" means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.

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(f) Nothing in this section shall be construed as limiting any rights a person may have under sections 17a-540 to 17a-550, inclusive, section 17a-566 or section 54-56d.

(g) Nothing in this section shall be construed as limiting the justified use of physical force by a local, state or federal law enforcement official or an employee of the Board of Pardons and Paroles or the Department of Correction responsible for the supervision of persons released on parole while in the performance of such official's or employee's duties.

(h) (1) Nothing in this section shall be construed as prohibiting the use of mechanical physical restraint in transporting any person (A) who is receiving services from the Department of Mental Health and Addiction Services pursuant to sections 17a-513 to 17a-517, inclusive, 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d, or (B) who is committed to the department by a court of competent jurisdiction and has a pending criminal charge for which bail or a bond has not been posted, from a department facility to another location and, if applicable, back to such facility. Any such use of mechanical physical restraint shall be determined on an individualized basis by the head of the facility, or by a designee of the head of the facility, to be necessary and appropriate to protect the public safety.

(2) Any use of mechanical physical restraint under this subsection shall be documented in the medical record of the person who is transported. Such documentation shall include, but not be limited to, (A) the reason for the use of such restraint, including the risk of flight, the risk to public safety and the person's clinical condition, and (B) a detailed description of the nature of such restraint and its duration. If the use of any such restraint results in serious physical injury or death to such person, the head of the facility shall report such injury or death to the Commissioner of Mental Health and Addiction Services. The commissioner, upon receiving any such report, shall inform the director of the Office of Protection and Advocacy for Persons with

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Disabilities of such injury or death.

Sec. 5. Section 46a-153 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) Each institution or facility that provides direct care [, education] or supervision of persons at risk shall (1) record each instance of the use of physical restraint or seclusion on a person at risk and the nature of the emergency that necessitated its use, and (2) include such information in an annual compilation on its use of such restraint and seclusion. The commissioner of the state agency that has jurisdiction or supervisory control over each institution or facility shall review the annual compilation prior to renewing a license for or a contract with such institution or facility.

[(b) Each local and regional board of education, institution and facility that provides special education for a child shall (1) record each instance of the use of physical restraint or seclusion on a child, (2) specify whether the use of seclusion was in accordance with an individualized education program or whether the use of physical restraint or seclusion was an emergency, including the nature of the emergency that necessitated its use, and (3) include such information in an annual compilation on its use of such restraint and seclusion on children. Under this section, local and regional boards of education, institutions and facilities that provide special education for children shall not be required to report instances of in-school suspensions, as defined in subsection (c) of section 10-233a.

(c) The State Board of Education shall review the annual compilation of each local and regional board of education, institution and facility that provides special education for children and shall produce an annual summary report identifying the frequency of use of physical restraint or seclusion on such children and specifying whether the use of such seclusion was in accordance with an individualized

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education program or whether the use of such physical restraint or such seclusion was an emergency. Such report shall be submitted on an annual basis not later than February 15, 2013, and December fifteenth of each year thereafter to the joint standing committee of the General Assembly having cognizance of matters relating to children for inclusion in the annual report card prepared pursuant to section 2-53m.]

[(d)] (b) If the use of such restraint or seclusion results in physical injury to the person, [(1) the local or regional board of education, institution or facility that provides special education for a child shall report the incident to the State Board of Education, which shall include such incident in the report required pursuant to subsection (c) of this section, and (2)] the institution or facility shall report the incident to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility. The [State Board of Education and the] commissioner receiving a report of such an incident shall report any incidence of serious injury or death to the director of the Office of Protection and Advocacy for Persons with Disabilities and, if appropriate, to the Child Advocate of the Office of Child Advocate.

Sec. 6. Section 46a-154 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) Each institution or facility that provides direct care [, education] or supervision of a person at risk shall develop policies and procedures that (1) establish monitoring and internal reporting of the use of physical restraint and seclusion on persons at risk, and (2) require training of all providers and assistant providers of care [, education] or supervision of persons at risk in the use of physical restraint and seclusion on persons at risk. Such training shall include, but not be limited to: Verbal defusing or deescalation; prevention strategies; types of physical restraint; the differences between life-threatening physical

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restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques; monitoring to prevent harm to a person physically restrained or in seclusion and recording and reporting procedures on the use of restraints and seclusion.

(b) Each institution or facility required to develop policies and procedures under subsection (a) of this section shall make such policies and procedures available upon request to the commissioner of the state agency that has jurisdiction or supervisory control over the institution or facility.

Sec. 7. Section 10-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) The State Board of Education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, including the use of physical restraint and seclusion pursuant to [chapter 814e] section 1 of this act, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by local and regional boards of education. [The State Board of Education shall adopt regulations, in accordance with the provisions of chapter 54, concerning the use of physical restraint and seclusion pursuant to chapter 814e.] The educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the approval and supervision of the commissioner in accordance with regulations adopted by the State Board of Education concerning requirements for such programs and accommodations.

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(b) The commissioner shall designate by regulation, subject to the approval of the State Board of Education, the procedures which shall be used to identify exceptional children.

(c) Said board shall be the agency for cooperation and consultation with federal agencies, other state agencies and private bodies on matters of public school education of children requiring special education, provided the full responsibilities for other aspects of the care of such children shall be reserved to such other agencies.

Sec. 8. Subsection (a) of section 10-76d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) (1) In accordance with the regulations and procedures established by the Commissioner of Education and approved by the State Board of Education, each local or regional board of education shall provide the professional services requisite to identification of children requiring special education, identify each such child within its jurisdiction, determine the eligibility of such children for special education pursuant to sections 10-76a to 10-76h, inclusive, prescribe appropriate educational programs for eligible children, maintain a record thereof and make such reports as the commissioner may require. No child may be required to obtain a prescription for a substance covered by the Controlled Substances Act, 21 USC 801 et seq., as amended from time to time, as a condition of attending school, receiving an evaluation under section 10-76ff or receiving services pursuant to sections 10-76a to 10-76h, inclusive, or the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time to time.

(2) Any local or regional board of education, through the planning and placement team established in accordance with regulations adopted by the State Board of Education under this section, may

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determine a child's Medicaid enrollment status. In determining Medicaid enrollment status, the planning and placement team shall: (A) Inquire of the parents or guardians of each such child whether the child is enrolled in or may be eligible for Medicaid; and (B) if the child may be eligible for Medicaid, request that the parent or guardian of the child apply for Medicaid. For the purpose of determining Medicaid rates for Medicaid eligible special education and related services based on a representative cost sampling method, the board of education shall make available documentation of the provision and costs of Medicaid eligible special education and related services for any students receiving such services, regardless of an individual student's Medicaid enrollment status, to the Commissioner of Social Services or to the commissioner's authorized agent at such time and in such manner as prescribed. For the purpose of determining Medicaid rates for Medicaid eligible special education and related services based on an actual cost method, the local or regional board of education shall submit documentation of the costs and utilization of Medicaid eligible special education and related services for all students receiving such services to the Commissioner of Social Services or to the commissioner's authorized agent at such time and in such manner as prescribed. The commissioner or such agent may use information received from local or regional boards of education for the purposes of (i) ascertaining students' Medicaid eligibility status, (ii) submitting Medicaid claims, (iii) complying with state and federal audit requirements, and (iv) determining Medicaid rates for Medicaid eligible special education and related services. No child shall be denied special education and related services in the event the parent or guardian refuses to apply for Medicaid.

(3) Beginning with the fiscal year ending June 30, 2004, the Commissioner of Social Services shall make grant payments to local or regional boards of education in amounts representing fifty per cent of the federal portion of Medicaid claims processed for Medicaid eligible

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special education and related services provided to Medicaid eligible students in the school district. Beginning with the fiscal year ending June 30, 2009, the commissioner shall exclude any enhanced federal medical assistance percentages in calculating the federal portion of such Medicaid claims processed. Such grant payments shall be made on at least a quarterly basis and may represent estimates of amounts due to local or regional boards of education. Any grant payments made on an estimated basis, including payments made by the Department of Education for the fiscal years prior to the fiscal year ending June 30, 2000, shall be subsequently reconciled to grant amounts due based upon filed and accepted Medicaid claims and Medicaid rates. If, upon review, it is determined that a grant payment or portion of a grant payment was made for ineligible or disallowed Medicaid claims, the local or regional board of education shall reimburse the Department of Social Services for any grant payment amount received based upon ineligible or disallowed Medicaid claims.

(4) Pursuant to federal law, the Commissioner of Social Services, as the state's Medicaid agent, shall determine rates for Medicaid eligible special education and related services pursuant to subdivision (2) of this subsection. The Commissioner of Social Services may request and the Commissioner of Education and towns and regional school districts shall provide information as may be necessary to set such rates.

(5) Based on school district special education and related services expenditures, the state's Medicaid agent shall report and certify to the federal Medicaid authority the state match required by federal law to obtain Medicaid reimbursement of eligible special education and related services costs.

(6) Payments received pursuant to this section shall be paid to the local or regional board of education which has incurred such costs in addition to the funds appropriated by the town to such board for the

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current fiscal year.

(7) The planning and placement team shall, in accordance with the provisions of the Individuals With Disabilities Education Act, 20 USC 1400, et seq., as amended from time to time, develop and update annually a statement of transition service needs for each child requiring special education.

(8) (A) Each local and regional board of education responsible for providing special education and related services to a child or pupil shall notify the parent or guardian of a child who requires or who may require special education, a pupil if such pupil is an emancipated minor or eighteen years of age or older who requires or who may require special education or a surrogate parent appointed pursuant to section 10-94g, in writing, at least five school days before such board proposes to, or refuses to, initiate or change the child's or pupil's identification, evaluation or educational placement or the provision of a free appropriate public education to the child or pupil.

(B) Upon request by a parent, guardian, pupil or surrogate parent, the responsible local or regional board of education shall provide such parent, guardian, pupil or surrogate parent an opportunity to meet with a member of the planning and placement team designated by such board prior to the referral planning and placement team meeting at which the assessments and evaluations of the child or pupil who requires or may require special education is presented to such parent, guardian, pupil or surrogate parent for the first time. Such meeting shall be for the sole purpose of discussing the planning and placement team process and any concerns such parent, guardian, pupil or surrogate parent has regarding the child or pupil who requires or may require special education.

(C) Such parent, guardian, pupil or surrogate parent shall be given at least five school days' prior notice of any planning and placement

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team meeting conducted for such child or pupil and shall have the right to be present at and participate in and to have advisors of such person's own choosing and at such person's own expense to be present at and to participate in all portions of such meeting at which an educational program for such child or pupil is developed, reviewed or revised.

(D) Immediately upon the formal identification of any child as a child requiring special education and at each planning and placement team meeting for such child, the responsible local or regional board of education shall inform the parent or guardian of such child or surrogate parent or, in the case of a pupil who is an emancipated minor or eighteen years of age or older, the pupil of (i) the laws relating to special education, (ii) the rights of such parent, guardian, surrogate parent or pupil under such laws and the regulations adopted by the State Board of Education relating to special education, including the right of a parent, guardian or surrogate parent to withhold from enrolling such child in kindergarten, in accordance with the provisions of section 10-184, and (iii) any relevant information and resources relating to individualized education programs created by the Department of Education. If such parent, guardian, surrogate parent or pupil does not attend a planning and placement team meeting, the responsible local or regional board of education shall mail such information to such person.

(E) Each local and regional board of education shall have in effect at the beginning of each school year an educational program for each child or pupil who has been identified as eligible for special education.

(F) At each initial planning and placement team meeting for a child or pupil, the responsible local or regional board of education shall inform the parent, guardian, surrogate parent or pupil of the laws relating to physical restraint and seclusion pursuant to [chapter 814e] section 1 of this act and the rights of such parent, guardian, surrogate

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parent or pupil under such laws and the regulations adopted by the State Board of Education relating to physical restraint and seclusion.

(G) Upon request by a parent, guardian, pupil or surrogate parent, the responsible local or regional board of education shall provide the results of the assessments and evaluations used in the determination of eligibility for special education for a child or pupil to such parent, guardian, surrogate parent or pupil at least three school days before the referral planning and placement team meeting at which such results of the assessments and evaluations will be discussed for the first time.

(9) Notwithstanding any provision of the general statutes, for purposes of Medicaid reimbursement, when recommended by the planning and placement team and specified on the individualized education program, a service eligible for reimbursement under the Medicaid program shall be deemed to be authorized by a practitioner of the healing arts under 42 CFR 440.130, provided such service is recommended by an appropriately licensed or certified individual and is within the individual's scope of practice. Certain items of durable medical equipment, recommended pursuant to the provisions of this subdivision, may be subject to prior authorization requirements established by the Commissioner of Social Services. Diagnostic and evaluation services eligible for reimbursement under the Medicaid program and recommended by the planning and placement team shall also be deemed to be authorized by a practitioner of the healing arts under 42 CFR 440.130 provided such services are recommended by an appropriately licensed or certified individual and are within the individual's scope of practice.

(10) The Commissioner of Social Services shall implement the policies and procedures necessary for the purposes of this subsection while in the process of adopting such policies and procedures in regulation form, provided notice of intent to adopt the regulations is

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published in the Connecticut Law Journal within twenty days of implementing the policies and procedures. Such policies and procedures shall be valid until the time final regulations are effective.