



General Assembly

Amendment

January Session, 2015

LCO No. 6945



Offered by:
SEN. BARTOLOMEO, 13th Dist.

To: Subst. Senate Bill No. 927

File No. 72

Cal. No. 96

"AN ACT CONCERNING SECLUSION AND RESTRAINT IN SCHOOLS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

5 (1) "Life-threatening physical restraint" means any physical restraint
6 or hold of a person that (A) restricts the flow of air into a person's
7 lungs, whether by chest compression or any other means, or (B)
8 immobilizes or reduces the free movement of a person's arms, legs or
9 head while the person is in the prone position;

10 (2) "Psychopharmacologic agent" means any medication that affects
11 the central nervous system, influencing thinking, emotion or behavior;

12 (3) "Physical restraint" means any mechanical or personal restriction
13 that immobilizes or reduces the free movement of a person's arms, legs

14 or head. The term does not include: (A) Briefly holding a person in
15 order to calm or comfort the person; (B) restraint involving the
16 minimum contact necessary to safely escort a person from one area to
17 another; (C) medical devices, including, but not limited to, supports
18 prescribed by a health care provider to achieve proper body position
19 or balance; (D) helmets or other protective gear used to protect a
20 person from injuries due to a fall; or (E) helmets, mitts and similar
21 devices used to prevent self-injury when the device is (i) part of a
22 documented treatment plan or individualized education program
23 pursuant to section 10-76d of the general statutes, as amended by this
24 act, or (ii) prescribed or recommended by a medical professional, as
25 defined in section 38a-976 of the general statutes, and is the least
26 restrictive means available to prevent such self-injury;

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

29 (5) "Seclusion" means the involuntary confinement of a student in a
30 room, whether alone or with supervision, in a manner that prevents
31 the student from leaving; and

32 (6) "Student" means a child enrolled in grades kindergarten to
33 twelve, inclusive, in a public school under the jurisdiction of a local or
34 regional board of education or a child receiving special education and
35 related services in an institution or facility operating under contract
36 with a local or regional board of education pursuant to subsection (d)
37 of section 10-76d of the general statutes, but shall not include any child
38 receiving educational services from (A) Unified School District #2,
39 established pursuant to section 17a-37 of the general statutes, or (B) the
40 Department of Mental Health and Addiction Services.

41 (b) No school employee shall use a physical restraint on a student
42 except as an emergency intervention to prevent immediate or
43 imminent injury to the student or to others, provided the restraint is
44 not used for discipline or convenience and is not used as a substitute
45 for a less restrictive alternative.

46 (c) No school employee shall use a life-threatening physical restraint
47 on a student. This section shall not be construed as limiting any
48 defense to criminal prosecution for the use of deadly physical force
49 that may be available under sections 53a-18 to 53a-22, inclusive, of the
50 general statutes.

51 (d) No school employee shall place a student in seclusion except as
52 an emergency intervention to prevent immediate or imminent injury to
53 the student or to others, provided the seclusion is not used for
54 discipline or convenience and is not used as a substitute for a less
55 restrictive alternative. No student shall be placed in seclusion unless
56 (1) such student is monitored by a school employee during the period
57 of such student's seclusion pursuant to subsection (m) of this section,
58 and (2) the area in which such student is secluded is equipped with a
59 window or other fixture allowing such student a clear line of sight
60 beyond the area of seclusion.

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

71 (f) Any instance of physical restraint or seclusion of a student
72 otherwise permissible under subsections (b) and (d) of this section
73 shall not exceed fifteen minutes, except such restraint or seclusion may
74 be extended for additional periods of not more than thirty minutes
75 each, provided (1) an administrator, as defined in section 10-144e of
76 the general statutes, or (2) a school health or mental health personnel,
77 as defined in subsection (a) of section 10-212b of the general statutes,
78 determines that continued restraint or seclusion of the student is

79 necessary to prevent immediate or imminent injury to the student or to
80 others. Any student who is physically restrained or placed in seclusion
81 shall be immediately released from such physical restraint or seclusion
82 upon a determination by the school employee who originated such
83 physical restraint or seclusion, or an administrator or school health or
84 mental health professional, that the emergency intervention to prevent
85 immediate or imminent injury to the student or to others is no longer
86 necessary.

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

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

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

106 (h) Each local or regional board of education shall notify a parent or
107 guardian of a student who is placed in physical restraint or seclusion
108 not later than twenty-four hours after the student was placed in
109 physical restraint or seclusion and shall make a reasonable effort to
110 provide such notification immediately after such physical restraint or

111 seclusion is initiated.

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

116 (j) Each local or regional board of education, and each institution or
117 facility operating under contract with a local or regional board of
118 education pursuant to subsection (d) of section 10-76d of the general
119 statutes that provides special education for children, shall (1) record
120 each instance of the use of physical restraint or seclusion on a student,
121 (2) specify whether the use of seclusion was in accordance with an
122 individualized education program, if applicable, or whether the use of
123 physical restraint or seclusion was an emergency, including the nature
124 of the emergency that necessitated its use, and (3) include such
125 information in an annual compilation on its use of such restraint and
126 seclusion on students. Local or regional boards of education and such
127 institutions and facilities that provide special education for children
128 shall not be required to report instances of in-school suspensions, as
129 defined in subsection (c) of section 10-233a of the general statutes.

130 (k) The State Board of Education shall review the annual
131 compilation of each local or regional board of education, and each
132 institution or facility operating under contract with a local or regional
133 board of education pursuant to subsection (d) of section 10-76d of the
134 general statutes that provides special education for children, and shall
135 produce an annual summary report specifying (1) the frequency of use
136 of physical restraint or seclusion on students, (2) whether any student
137 subjected to such restraint or seclusion was a special education
138 student, and (3) if any such student was a special education student,
139 whether the use of such restraint or seclusion was in accordance with
140 an individualized education program or whether the use of such
141 physical restraint or such seclusion was an emergency. Such report
142 shall be submitted not later than July 1, 2016, and annually thereafter,
143 to the joint standing committees of the General Assembly having

144 cognizance of matters relating to children and education for inclusion
145 in the annual report card prepared pursuant to section 2-53m of the
146 general statutes.

147 (l) Any use of physical restraint or seclusion on a student shall be
148 documented in the student's educational record. The documentation
149 shall include (1) in the case of emergency use, the nature of the
150 emergency and what other steps, including attempts at verbal
151 deescalation, were taken to prevent the emergency from arising if there
152 were indications that such an emergency was likely to arise, and (2) a
153 detailed description of the nature of the restraint or seclusion, the
154 duration of such restraint or seclusion and the effect of such restraint
155 or seclusion on the student's established educational plan.

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

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

177 (o) Each local or regional board of education shall develop policies
178 and procedures that (1) establish monitoring and internal reporting of
179 the use of physical restraint and seclusion on students, and (2) provide
180 for the training of all school employees in the use of physical restraint
181 and seclusion on students. Such training shall include, but not be
182 limited to: (A) Verbal defusing or deescalation; (B) prevention
183 strategies; (C) types of physical restraint; (D) the differences between
184 life-threatening physical restraint and other varying levels of physical
185 restraint; (E) the differences between permissible physical restraint and
186 pain compliance techniques; (F) monitoring to prevent harm to a
187 person physically restrained or in seclusion; and (G) recording and
188 reporting procedures on the use of restraints and seclusion.

189 (p) Each local or regional board of education required to develop
190 policies and procedures under subsection (o) of this section shall make
191 such policies and procedures available on such local or regional board
192 of education's Internet web site and in such local or regional board of
193 education's procedures manual.

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

197 (r) The State Board of Education shall adopt or revise regulations, in
198 accordance with the provisions of chapter 54 of the general statutes,
199 concerning the use of physical restraint and seclusion pursuant to this
200 section.

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

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

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

208 a person at risk.

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

214 (3) "Person at risk" means [(A) a child requiring special education
215 described in subparagraph (A) of subdivision (5) of section 10-76a,
216 who is receiving special education by a local or regional board of
217 education, or a child being evaluated for eligibility for special
218 education pursuant to section 10-76d and awaiting a determination, or
219 (B)] a person receiving care [, education] or supervision in an
220 institution or facility [(i)] operated by, licensed or authorized to
221 operate by or operating pursuant to a contract with the Departments of
222 Public Health, Developmental Services, Children and Families, or
223 Mental Health and Addiction Services. [or a regional education service
224 center established under section 10-66a, or (ii) operating under contract
225 with a local or regional board of education pursuant to subsection (d)
226 of section 10-76d.] The term does not include a person in the custody of
227 the Commissioner of Correction, or a resident or patient of a nursing
228 home subject to federal regulations concerning restraint of residents or
229 patients.

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

233 (5) "Physical restraint" means any mechanical or personal restriction
234 that immobilizes or reduces the free movement of a person's arms, legs
235 or head. The term does not include: (A) Briefly holding a person in
236 order to calm or comfort the person; (B) restraint involving the
237 minimum contact necessary to safely escort a person from one area to
238 another; (C) medical devices, including, but not limited to, supports
239 prescribed by a health care provider to achieve proper body position

240 or balance; (D) helmets or other protective gear used to protect a
241 person from injuries due to a fall; or (E) helmets, mitts and similar
242 devices used to prevent self injury when the device is part of a
243 documented treatment plan [or individualized education program
244 pursuant to section 10-76d] and is the least restrictive means available
245 to prevent such self-injury.

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

248 (7) "Seclusion" means the confinement of a person in a room,
249 whether alone or with staff supervision, in a manner that prevents the
250 person from leaving, except that in the case of seclusion at Long Lane
251 School, the term does not include the placing of a single child or youth
252 in a secure room for the purpose of sleeping.

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

255 No provider of care [, education] or supervision of a person at risk
256 and no assistant provider may use a life-threatening physical restraint
257 on a person at risk. This section shall not be construed as limiting any
258 defense to criminal prosecution for the use of deadly physical force
259 that may be available under sections 53a-18 to 53a-22, inclusive.

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

262 (a) No provider or assistant may use involuntary physical restraint
263 on a person at risk except (1) as an emergency intervention to prevent
264 immediate or imminent injury to the person at risk or to others,
265 provided the restraint is not used for discipline or convenience and is
266 not used as a substitute for a less restrictive alternative, (2) as
267 necessary and appropriate, as determined on an individual basis by
268 the person's treatment team and consistent with sections 17a-540 to
269 17a-550, inclusive, for the transportation of a person under the
270 jurisdiction of the Whiting Forensic Division of the Department of

271 Mental Health and Addiction Services.

272 (b) No provider or assistant may involuntarily place a person at risk
273 in seclusion except [(1)] as an emergency intervention to prevent
274 immediate or imminent injury to the person or to others, provided the
275 seclusion is not used for discipline or convenience and is not used as a
276 substitute for a less restrictive alternative, [or (2) as specifically
277 provided for in an individualized education program developed
278 pursuant to section 10-76d. Each local or regional board of education,
279 institution or facility providing special education for a child shall
280 notify the parent or guardian of each incident in which such child is
281 placed in physical restraint or seclusion.]

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

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

301 (e) Any person at risk who is physically restrained shall be
302 continually monitored by a provider or assistant. Any person at risk

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

311 (f) Nothing in this section shall be construed as limiting any rights a
312 person may have under sections 17a-540 to 17a-550, inclusive, section
313 17a-566 or section 54-56d.

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

319 (h) (1) Nothing in this section shall be construed as prohibiting the
320 use of mechanical physical restraint in transporting any person (A)
321 who is receiving services from the Department of Mental Health and
322 Addiction Services pursuant to sections 17a-513 to 17a-517, inclusive,
323 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d,
324 or (B) who is committed to the department by a court of competent
325 jurisdiction and has a pending criminal charge for which bail or a bond
326 has not been posted, from a department facility to another location
327 and, if applicable, back to such facility. Any such use of mechanical
328 physical restraint shall be determined on an individualized basis by
329 the head of the facility, or by a designee of the head of the facility, to be
330 necessary and appropriate to protect the public safety.

331 (2) Any use of mechanical physical restraint under this subsection
332 shall be documented in the medical record of the person who is
333 transported. Such documentation shall include, but not be limited to,
334 (A) the reason for the use of such restraint, including the risk of flight,

335 the risk to public safety and the person's clinical condition, and (B) a
336 detailed description of the nature of such restraint and its duration. If
337 the use of any such restraint results in serious physical injury or death
338 to such person, the head of the facility shall report such injury or death
339 to the Commissioner of Mental Health and Addiction Services. The
340 commissioner, upon receiving any such report, shall inform the
341 director of the Office of Protection and Advocacy for Persons with
342 Disabilities of such injury or death.

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

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

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

366 (c) The State Board of Education shall review the annual

367 compilation of each local and regional board of education, institution
368 and facility that provides special education for children and shall
369 produce an annual summary report identifying the frequency of use of
370 physical restraint or seclusion on such children and specifying whether
371 the use of such seclusion was in accordance with an individualized
372 education program or whether the use of such physical restraint or
373 such seclusion was an emergency. Such report shall be submitted on
374 an annual basis not later than February 15, 2013, and December
375 fifteenth of each year thereafter to the joint standing committee of the
376 General Assembly having cognizance of matters relating to children
377 for inclusion in the annual report card prepared pursuant to section 2-
378 53m.]

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

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

394 (a) Each institution or facility that provides direct care [, education]
395 or supervision of a person at risk shall develop policies and procedures
396 that (1) establish monitoring and internal reporting of the use of
397 physical restraint and seclusion on persons at risk, and (2) require
398 training of all providers and assistant providers of care [, education] or
399 supervision of persons at risk in the use of physical restraint and

400 seclusion on persons at risk. Such training shall include, but not be
401 limited to: Verbal defusing or deescalation; prevention strategies; types
402 of physical restraint; the differences between life-threatening physical
403 restraint and other varying levels of physical restraint; the differences
404 between permissible physical restraint and pain compliance
405 techniques; monitoring to prevent harm to a person physically
406 restrained or in seclusion and recording and reporting procedures on
407 the use of restraints and seclusion.

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

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

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

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

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

441 Sec. 8. Subsection (a) of section 10-76d of the general statutes is
442 repealed and the following is substituted in lieu thereof (*Effective July*
443 *1, 2015*):

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

460 (2) Any local or regional board of education, through the planning
461 and placement team established in accordance with regulations
462 adopted by the State Board of Education under this section, may
463 determine a child's Medicaid enrollment status. In determining
464 Medicaid enrollment status, the planning and placement team shall:

465 (A) Inquire of the parents or guardians of each such child whether the
466 child is enrolled in or may be eligible for Medicaid; and (B) if the child
467 may be eligible for Medicaid, request that the parent or guardian of the
468 child apply for Medicaid. For the purpose of determining Medicaid
469 rates for Medicaid eligible special education and related services based
470 on a representative cost sampling method, the board of education shall
471 make available documentation of the provision and costs of Medicaid
472 eligible special education and related services for any students
473 receiving such services, regardless of an individual student's Medicaid
474 enrollment status, to the Commissioner of Social Services or to the
475 commissioner's authorized agent at such time and in such manner as
476 prescribed. For the purpose of determining Medicaid rates for
477 Medicaid eligible special education and related services based on an
478 actual cost method, the local or regional board of education shall
479 submit documentation of the costs and utilization of Medicaid eligible
480 special education and related services for all students receiving such
481 services to the Commissioner of Social Services or to the
482 commissioner's authorized agent at such time and in such manner as
483 prescribed. The commissioner or such agent may use information
484 received from local or regional boards of education for the purposes of
485 (i) ascertaining students' Medicaid eligibility status, (ii) submitting
486 Medicaid claims, (iii) complying with state and federal audit
487 requirements, and (iv) determining Medicaid rates for Medicaid
488 eligible special education and related services. No child shall be denied
489 special education and related services in the event the parent or
490 guardian refuses to apply for Medicaid.

491 (3) Beginning with the fiscal year ending June 30, 2004, the
492 Commissioner of Social Services shall make grant payments to local or
493 regional boards of education in amounts representing fifty per cent of
494 the federal portion of Medicaid claims processed for Medicaid eligible
495 special education and related services provided to Medicaid eligible
496 students in the school district. Beginning with the fiscal year ending
497 June 30, 2009, the commissioner shall exclude any enhanced federal
498 medical assistance percentages in calculating the federal portion of

499 such Medicaid claims processed. Such grant payments shall be made
500 on at least a quarterly basis and may represent estimates of amounts
501 due to local or regional boards of education. Any grant payments
502 made on an estimated basis, including payments made by the
503 Department of Education for the fiscal years prior to the fiscal year
504 ending June 30, 2000, shall be subsequently reconciled to grant
505 amounts due based upon filed and accepted Medicaid claims and
506 Medicaid rates. If, upon review, it is determined that a grant payment
507 or portion of a grant payment was made for ineligible or disallowed
508 Medicaid claims, the local or regional board of education shall
509 reimburse the Department of Social Services for any grant payment
510 amount received based upon ineligible or disallowed Medicaid claims.

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

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

523 (6) Payments received pursuant to this section shall be paid to the
524 local or regional board of education which has incurred such costs in
525 addition to the funds appropriated by the town to such board for the
526 current fiscal year.

527 (7) The planning and placement team shall, in accordance with the
528 provisions of the Individuals With Disabilities Education Act, 20 USC
529 1400, et seq., as amended from time to time, develop and update
530 annually a statement of transition service needs for each child

531 requiring special education.

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

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

554 (C) Such parent, guardian, pupil or surrogate parent shall be given
555 at least five school days' prior notice of any planning and placement
556 team meeting conducted for such child or pupil and shall have the
557 right to be present at and participate in and to have advisors of such
558 person's own choosing and at such person's own expense to be present
559 at and to participate in all portions of such meeting at which an
560 educational program for such child or pupil is developed, reviewed or
561 revised.

562 (D) Immediately upon the formal identification of any child as a

563 child requiring special education and at each planning and placement
564 team meeting for such child, the responsible local or regional board of
565 education shall inform the parent or guardian of such child or
566 surrogate parent or, in the case of a pupil who is an emancipated
567 minor or eighteen years of age or older, the pupil of (i) the laws
568 relating to special education, (ii) the rights of such parent, guardian,
569 surrogate parent or pupil under such laws and the regulations adopted
570 by the State Board of Education relating to special education, including
571 the right of a parent, guardian or surrogate parent to withhold from
572 enrolling such child in kindergarten, in accordance with the provisions
573 of section 10-184, and (iii) any relevant information and resources
574 relating to individualized education programs created by the
575 Department of Education. If such parent, guardian, surrogate parent or
576 pupil does not attend a planning and placement team meeting, the
577 responsible local or regional board of education shall mail such
578 information to such person.

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

582 (F) At each initial planning and placement team meeting for a child
583 or pupil, the responsible local or regional board of education shall
584 inform the parent, guardian, surrogate parent or pupil of the laws
585 relating to physical restraint and seclusion pursuant to [chapter 814e]
586 section 1 of this act and the rights of such parent, guardian, surrogate
587 parent or pupil under such laws and the regulations adopted by the
588 State Board of Education relating to physical restraint and seclusion.

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

596 first time.

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

614 (10) The Commissioner of Social Services shall implement the
 615 policies and procedures necessary for the purposes of this subsection
 616 while in the process of adopting such policies and procedures in
 617 regulation form, provided notice of intent to adopt the regulations is
 618 published in the Connecticut Law Journal within twenty days of
 619 implementing the policies and procedures. Such policies and
 620 procedures shall be valid until the time final regulations are effective."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	New section
Sec. 2	<i>July 1, 2015</i>	46a-150
Sec. 3	<i>July 1, 2015</i>	46a-151
Sec. 4	<i>July 1, 2015</i>	46a-152
Sec. 5	<i>July 1, 2015</i>	46a-153
Sec. 6	<i>July 1, 2015</i>	46a-154

Sec. 7	<i>July 1, 2015</i>	10-76b
Sec. 8	<i>July 1, 2015</i>	10-76d(a)