

Questions (AB 2657, California's new law limiting restraint and seclusion of students)

1. How are other Districts in California handling this so far?
2. Does it include all kids (like breaking up fights with campus security) for both special education and general education students?
3. Is the District required to submit one single report to the state annually for all groups?
4. Is the District's Police Department subject to this new law, including the reporting requirements?

Question 1: As to the first question,- school districts around the state are just now beginning to grapple with California's new law in detail. That said, please note, dating back to the 2015-2016 year, the federal Civil Rights Data Collection (CRDC) has required the collection and reporting of this data in one degree or another. If you would like to discuss the CRDC in this regard, in further detail, please let us know.

Question 2: As to your second question, the new law provides that **all** students (including special and general education) have a right to be free from the use of seclusion and behavior restraints of any form imposed as a means of "coercion, discipline, convenience, or retaliation by staff." (Ed. Code, § 49005.2.) The law governs the use of behavior restraints by an "educational provider" which is defined in statute as "a person who provides educational or related services, support, or other assistance to a pupil enrolled in an educational program provided by a local educational agency or nonpublic school or agency." (Ed. Code, § 49005, subd. (b).) And the law prohibits the use of seclusion or behavioral restraints except "to control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive." (Ed. Code, § 49005.4.)

Question 3: As to your third question, the District is required to annually report to the CDE the number of times that seclusion, mechanical restraint and behavioral restraint were used on students, disaggregated by race or ethnicity, and gender, with separate counts for students with IEPs, 504 plans, and all other students. With AB 2657 just recently taking effect on January 1, 2019, and the first deadline to submit the annual report will not occur until end of September 2019.

Question 4: As to your fourth question, AB 2657 does not include a school district's police department in the definition of "educational provider" and thus it does not appear that the District is required to collect data from the District Police Department on the use of restraints by peace officers in performing their duties on campus. However, even if the District's Police Department was considered an "educational provider," the statute expressly excludes certain actions by police officers and/or security personnel from the definitions of behavioral restraints. For example, the definition of "mechanical restraint" excludes "the use of devices by peace officers or security personnel for detention or for public safety purposes." (Ed. Code, § 49005.1, subd. (d)(2)(A).) Further, the term "physical restraint" excludes "the use of force by peace officers or security personnel for detention or for public safety purposes." (Ed. Code, § 49005.1, subd. (f)(2).) Therefore, the use of mechanical and/or physical restraints by peace officers for public safety purposes is not required to be collected and included in the annual report. In addition, the use of mechanical and/or physical restraints by campus security would not be part of the reporting requirement, as "campus personnel" are expressly excluded from the definitions of mechanical and physical restraints, when used for "detention or for public safety purposes." (See Ed. Code, § 49005.1, subds. (d)(2)(A) and (f)(2).)