

Act No. 397
Public Acts of 2016
Approved by the Governor
December 28, 2016
Filed with the Secretary of State
December 29, 2016
EFFECTIVE DATE: March 29, 2017

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Rep. Price

ENROLLED HOUSE BILL No. 5412

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to make appropriations for certain purposes; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1307c.

The People of the State of Michigan enact:

Sec. 1307c. The state policy under section 1307a shall include at least all of the following provisions concerning use of emergency seclusion and emergency physical restraint:

(a) Emergency seclusion and emergency physical restraint may be used only under emergency situations and only if essential to providing for the safety of the pupil or safety of another.

(b) Emergency seclusion and emergency physical restraint may not be used in place of appropriate less restrictive interventions.

(c) Emergency seclusion and emergency physical restraint shall be performed in a manner that, based on research and evidence, is safe, appropriate, and proportionate to and sensitive to the pupil’s severity of behavior, chronological and developmental age, physical size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse or other trauma.

(d) A requirement that school personnel shall call key identified personnel for help from within the school building either immediately at the onset of an emergency situation or, if it is reasonable under the particular circumstances for school personnel to believe that diverting their attention to calling for help would increase the risk to the safety of the pupil or to the safety of others, as soon as possible once the circumstances no longer support such a belief.

(e) A requirement that the school district, intermediate school district, or public school academy must ensure that substitute teachers are informed of and understand the procedures regarding use of emergency seclusion and emergency physical restraint. This requirement may be satisfied using online training and an online acknowledgment of understanding developed or approved by the department and completed by the substitute teacher.

(f) Emergency seclusion should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency seclusion is ended and generally no longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil. If an emergency seclusion lasts longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil, all of the following are required:

(i) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.

(ii) Documentation to explain the extension beyond the time limit.

(g) Emergency physical restraint should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency physical restraint is ended and generally no longer than 10 minutes. If an emergency physical restraint lasts longer than 10 minutes, all of the following are required:

(i) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.

(ii) Documentation to explain the extension beyond the time limit.

(h) While using emergency seclusion or emergency physical restraint, school personnel must do all of the following:

(i) Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.

(ii) Continually observe the pupil in emergency seclusion or emergency physical restraint for indications of physical distress and seek medical assistance if there is a concern.

(iii) Document observations.

(iv) Ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency physical restraint does not interfere with the pupil's ability to communicate using the pupil's primary mode of communication.

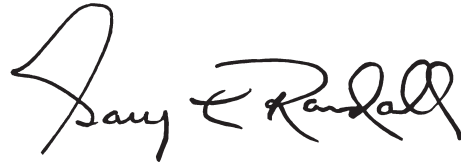
(v) Ensure that at all times during the use of emergency seclusion or emergency physical restraint there are school personnel present who can communicate with the pupil using the pupil's primary mode of communication.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

(a) House Bill No. 5410.

(b) House Bill No. 5417.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor