



General Assembly

**Amendment**

January Session, 2015

LCO No. 6711



Offered by:  
SEN. BARTOLOMEO, 13<sup>th</sup> 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 student 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.

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

43 (c) No school employee shall use a life-threatening physical restraint  
44 on a student. This section shall not be construed as limiting any

45 defense to criminal prosecution for the use of deadly physical force  
46 that may be available under sections 53a-18 to 53a-22, inclusive, of the  
47 general statutes.

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

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

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

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

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

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

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

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

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

113 (j) Each local or regional board of education shall (1) record each  
114 instance of the use of physical restraint or seclusion on a student, (2)  
115 specify whether the use of seclusion was in accordance with an  
116 individualized education program, if applicable, or whether the use of  
117 physical restraint or seclusion was an emergency, including the nature  
118 of the emergency that necessitated its use, and (3) include such  
119 information in an annual compilation on its use of such restraint and  
120 seclusion on students. Local or regional boards of education shall not  
121 be required to report instances of in-school suspensions, as defined in  
122 subsection (c) of section 10-233a of the general statutes.

123 (k) The State Board of Education shall review the annual  
124 compilation of each local or regional board of education and shall  
125 produce an annual summary report specifying (1) the frequency of use  
126 of physical restraint or seclusion on students, (2) whether any student  
127 subjected to such restraint or seclusion was a special education  
128 student, and (3) if any such student was a special education student,  
129 whether the use of such restraint or seclusion was in accordance with  
130 an individualized education program or whether the use of such  
131 physical restraint or such seclusion was an emergency. Such report  
132 shall be submitted not later than July 1, 2016, and annually thereafter,  
133 to the joint standing committees of the General Assembly having  
134 cognizance of matters relating to children and education for inclusion  
135 in the annual report card prepared pursuant to section 2-53m of the  
136 general statutes.

137 (l) Any use of physical restraint or seclusion on a student shall be  
138 documented in the student's educational record. The documentation  
139 shall include (1) in the case of emergency use, the nature of the  
140 emergency and what other steps, including attempts at verbal  
141 deescalation, were taken to prevent the emergency from arising if there

142 were indications that such an emergency was likely to arise, and (2) a  
143 detailed description of the nature of the restraint or seclusion, the  
144 duration of such restraint or seclusion and the effect of such restraint  
145 or seclusion on the student's established educational plan.

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

156 (n) If the use of such restraint or seclusion results in physical injury  
157 to the student, the local or regional board of education shall report the  
158 incident to the State Board of Education, which shall include such  
159 incident in the report required pursuant to subsection (k) of this  
160 section. The State Board of Education shall report any incidence of  
161 serious injury or death to the director of the Office of Protection and  
162 Advocacy for Persons with Disabilities and, if appropriate, to the Child  
163 Advocate of the Office of Child Advocate.

164 (o) Each local or regional board of education shall develop policies  
165 and procedures that (1) establish monitoring and internal reporting of  
166 the use of physical restraint and seclusion on students, and (2) provide  
167 for the training of all school employees in the use of physical restraint  
168 and seclusion on students. Such training shall include, but not be  
169 limited to: (A) Verbal defusing or deescalation; (B) prevention  
170 strategies; (C) types of physical restraint; (D) the differences between  
171 life-threatening physical restraint and other varying levels of physical  
172 restraint; (E) the differences between permissible physical restraint and  
173 pain compliance techniques; (F) monitoring to prevent harm to a  
174 person physically restrained or in seclusion; and (G) recording and

175 reporting procedures on the use of restraints and seclusion.

176 (p) Each local or regional board of education required to develop  
177 policies and procedures under subsection (o) of this section shall make  
178 such policies and procedures available on such local or regional board  
179 of education's Internet web site and in such local or regional board of  
180 education's procedures manual.

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

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

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

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

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

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

201 (3) "Person at risk" means [(A) a child requiring special education  
202 described in subparagraph (A) of subdivision (5) of section 10-76a,  
203 who is receiving special education by a local or regional board of

204 education, or a child being evaluated for eligibility for special  
205 education pursuant to section 10-76d and awaiting a determination, or  
206 (B)] a person receiving care [, education] or supervision in an  
207 institution or facility [(i)] operated by, licensed or authorized to  
208 operate by or operating pursuant to a contract with the Departments of  
209 Public Health, Developmental Services, Children and Families, or  
210 Mental Health and Addiction Services. [or a regional education service  
211 center established under section 10-66a, or (ii) operating under contract  
212 with a local or regional board of education pursuant to subsection (d)  
213 of section 10-76d.] The term does not include a person in the custody of  
214 the Commissioner of Correction, or a resident or patient of a nursing  
215 home subject to federal regulations concerning restraint of residents or  
216 patients.

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

220 (5) "Physical restraint" means any mechanical or personal restriction  
221 that immobilizes or reduces the free movement of a person's arms, legs  
222 or head. The term does not include: (A) Briefly holding a person in  
223 order to calm or comfort the person; (B) restraint involving the  
224 minimum contact necessary to safely escort a person from one area to  
225 another; (C) medical devices, including, but not limited to, supports  
226 prescribed by a health care provider to achieve proper body position  
227 or balance; (D) helmets or other protective gear used to protect a  
228 person from injuries due to a fall; or (E) helmets, mitts and similar  
229 devices used to prevent self injury when the device is part of a  
230 documented treatment plan [or individualized education program  
231 pursuant to section 10-76d] and is the least restrictive means available  
232 to prevent such self-injury.

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

235 (7) "Seclusion" means the confinement of a person in a room,

236 whether alone or with staff supervision, in a manner that prevents the  
237 person from leaving, except that in the case of seclusion at Long Lane  
238 School, the term does not include the placing of a single child or youth  
239 in a secure room for the purpose of sleeping.

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

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

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

249 (a) No provider or assistant may use involuntary physical restraint  
250 on a person at risk except (1) as an emergency intervention to prevent  
251 immediate or imminent injury to the person at risk or to others,  
252 provided the restraint is not used for discipline or convenience and is  
253 not used as a substitute for a less restrictive alternative, (2) as  
254 necessary and appropriate, as determined on an individual basis by  
255 the person's treatment team and consistent with sections 17a-540 to  
256 17a-550, inclusive, for the transportation of a person under the  
257 jurisdiction of the Whiting Forensic Division of the Department of  
258 Mental Health and Addiction Services.

259 (b) No provider or assistant may involuntarily place a person at risk  
260 in seclusion except [(1)] as an emergency intervention to prevent  
261 immediate or imminent injury to the person or to others, provided the  
262 seclusion is not used for discipline or convenience and is not used as a  
263 substitute for a less restrictive alternative, [, or (2) as specifically  
264 provided for in an individualized education program developed  
265 pursuant to section 10-76d. Each local or regional board of education,  
266 institution or facility providing special education for a child shall

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

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

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

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

298 (f) Nothing in this section shall be construed as limiting any rights a

299 person may have under sections 17a-540 to 17a-550, inclusive, section  
300 17a-566 or section 54-56d.

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

306 (h) (1) Nothing in this section shall be construed as prohibiting the  
307 use of mechanical physical restraint in transporting any person (A)  
308 who is receiving services from the Department of Mental Health and  
309 Addiction Services pursuant to sections 17a-513 to 17a-517, inclusive,  
310 17a-566 to 17a-567, inclusive, 17a-582 to 17a-603, inclusive, or 54-56d,  
311 or (B) who is committed to the department by a court of competent  
312 jurisdiction and has a pending criminal charge for which bail or a bond  
313 has not been posted, from a department facility to another location  
314 and, if applicable, back to such facility. Any such use of mechanical  
315 physical restraint shall be determined on an individualized basis by  
316 the head of the facility, or by a designee of the head of the facility, to be  
317 necessary and appropriate to protect the public safety.

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

330 Sec. 5. Section 46a-153 of the general statutes is repealed and the

331 following is substituted in lieu thereof (*Effective July 1, 2015*):

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

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

353 (c) The State Board of Education shall review the annual  
354 compilation of each local and regional board of education, institution  
355 and facility that provides special education for children and shall  
356 produce an annual summary report identifying the frequency of use of  
357 physical restraint or seclusion on such children and specifying whether  
358 the use of such seclusion was in accordance with an individualized  
359 education program or whether the use of such physical restraint or  
360 such seclusion was an emergency. Such report shall be submitted on  
361 an annual basis not later than February 15, 2013, and December  
362 fifteenth of each year thereafter to the joint standing committee of the  
363 General Assembly having cognizance of matters relating to children

364 for inclusion in the annual report card prepared pursuant to section 2-  
365 53m.]

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

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

381 (a) Each institution or facility that provides direct care [, education]  
382 or supervision of a person at risk shall develop policies and procedures  
383 that (1) establish monitoring and internal reporting of the use of  
384 physical restraint and seclusion on persons at risk, and (2) require  
385 training of all providers and assistant providers of care [, education] or  
386 supervision of persons at risk in the use of physical restraint and  
387 seclusion on persons at risk. Such training shall include, but not be  
388 limited to: Verbal defusing or deescalation; prevention strategies; types  
389 of physical restraint; the differences between life-threatening physical  
390 restraint and other varying levels of physical restraint; the differences  
391 between permissible physical restraint and pain compliance  
392 techniques; monitoring to prevent harm to a person physically  
393 restrained or in seclusion and recording and reporting procedures on  
394 the use of restraints and seclusion.

395 (b) Each institution or facility required to develop policies and

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

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

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

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

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

428 Sec. 8. Subsection (a) of section 10-76d of the general statutes is  
429 repealed and the following is substituted in lieu thereof (*Effective July*  
430 *1, 2015*):

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

447 (2) Any local or regional board of education, through the planning  
448 and placement team established in accordance with regulations  
449 adopted by the State Board of Education under this section, may  
450 determine a child's Medicaid enrollment status. In determining  
451 Medicaid enrollment status, the planning and placement team shall:  
452 (A) Inquire of the parents or guardians of each such child whether the  
453 child is enrolled in or may be eligible for Medicaid; and (B) if the child  
454 may be eligible for Medicaid, request that the parent or guardian of the  
455 child apply for Medicaid. For the purpose of determining Medicaid  
456 rates for Medicaid eligible special education and related services based  
457 on a representative cost sampling method, the board of education shall  
458 make available documentation of the provision and costs of Medicaid  
459 eligible special education and related services for any students  
460 receiving such services, regardless of an individual student's Medicaid

461 enrollment status, to the Commissioner of Social Services or to the  
462 commissioner's authorized agent at such time and in such manner as  
463 prescribed. For the purpose of determining Medicaid rates for  
464 Medicaid eligible special education and related services based on an  
465 actual cost method, the local or regional board of education shall  
466 submit documentation of the costs and utilization of Medicaid eligible  
467 special education and related services for all students receiving such  
468 services to the Commissioner of Social Services or to the  
469 commissioner's authorized agent at such time and in such manner as  
470 prescribed. The commissioner or such agent may use information  
471 received from local or regional boards of education for the purposes of  
472 (i) ascertaining students' Medicaid eligibility status, (ii) submitting  
473 Medicaid claims, (iii) complying with state and federal audit  
474 requirements, and (iv) determining Medicaid rates for Medicaid  
475 eligible special education and related services. No child shall be denied  
476 special education and related services in the event the parent or  
477 guardian refuses to apply for Medicaid.

478 (3) Beginning with the fiscal year ending June 30, 2004, the  
479 Commissioner of Social Services shall make grant payments to local or  
480 regional boards of education in amounts representing fifty per cent of  
481 the federal portion of Medicaid claims processed for Medicaid eligible  
482 special education and related services provided to Medicaid eligible  
483 students in the school district. Beginning with the fiscal year ending  
484 June 30, 2009, the commissioner shall exclude any enhanced federal  
485 medical assistance percentages in calculating the federal portion of  
486 such Medicaid claims processed. Such grant payments shall be made  
487 on at least a quarterly basis and may represent estimates of amounts  
488 due to local or regional boards of education. Any grant payments  
489 made on an estimated basis, including payments made by the  
490 Department of Education for the fiscal years prior to the fiscal year  
491 ending June 30, 2000, shall be subsequently reconciled to grant  
492 amounts due based upon filed and accepted Medicaid claims and  
493 Medicaid rates. If, upon review, it is determined that a grant payment  
494 or portion of a grant payment was made for ineligible or disallowed

495 Medicaid claims, the local or regional board of education shall  
496 reimburse the Department of Social Services for any grant payment  
497 amount received based upon ineligible or disallowed Medicaid claims.

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

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

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

514 (7) The planning and placement team shall, in accordance with the  
515 provisions of the Individuals With Disabilities Education Act, 20 USC  
516 1400, et seq., as amended from time to time, develop and update  
517 annually a statement of transition service needs for each child  
518 requiring special education.

519 (8) (A) Each local and regional board of education responsible for  
520 providing special education and related services to a child or pupil  
521 shall notify the parent or guardian of a child who requires or who may  
522 require special education, a pupil if such pupil is an emancipated  
523 minor or eighteen years of age or older who requires or who may  
524 require special education or a surrogate parent appointed pursuant to  
525 section 10-94g, in writing, at least five school days before such board

526 proposes to, or refuses to, initiate or change the child's or pupil's  
527 identification, evaluation or educational placement or the provision of  
528 a free appropriate public education to the child or pupil.

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

541 (C) Such parent, guardian, pupil or surrogate parent shall be given  
542 at least five school days' prior notice of any planning and placement  
543 team meeting conducted for such child or pupil and shall have the  
544 right to be present at and participate in and to have advisors of such  
545 person's own choosing and at such person's own expense to be present  
546 at and to participate in all portions of such meeting at which an  
547 educational program for such child or pupil is developed, reviewed or  
548 revised.

549 (D) Immediately upon the formal identification of any child as a  
550 child requiring special education and at each planning and placement  
551 team meeting for such child, the responsible local or regional board of  
552 education shall inform the parent or guardian of such child or  
553 surrogate parent or, in the case of a pupil who is an emancipated  
554 minor or eighteen years of age or older, the pupil of (i) the laws  
555 relating to special education, (ii) the rights of such parent, guardian,  
556 surrogate parent or pupil under such laws and the regulations adopted  
557 by the State Board of Education relating to special education, including  
558 the right of a parent, guardian or surrogate parent to withhold from

559 enrolling such child in kindergarten, in accordance with the provisions  
560 of section 10-184, and (iii) any relevant information and resources  
561 relating to individualized education programs created by the  
562 Department of Education. If such parent, guardian, surrogate parent or  
563 pupil does not attend a planning and placement team meeting, the  
564 responsible local or regional board of education shall mail such  
565 information to such person.

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

569 (F) At each initial planning and placement team meeting for a child  
570 or pupil, the responsible local or regional board of education shall  
571 inform the parent, guardian, surrogate parent or pupil of the laws  
572 relating to physical restraint and seclusion pursuant to [chapter 814e]  
573 section 1 of this act and the rights of such parent, guardian, surrogate  
574 parent or pupil under such laws and the regulations adopted by the  
575 State Board of Education relating to physical restraint and seclusion.

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

584 (9) Notwithstanding any provision of the general statutes, for  
585 purposes of Medicaid reimbursement, when recommended by the  
586 planning and placement team and specified on the individualized  
587 education program, a service eligible for reimbursement under the  
588 Medicaid program shall be deemed to be authorized by a practitioner  
589 of the healing arts under 42 CFR 440.130, provided such service is  
590 recommended by an appropriately licensed or certified individual and

591 is within the individual's scope of practice. Certain items of durable  
 592 medical equipment, recommended pursuant to the provisions of this  
 593 subdivision, may be subject to prior authorization requirements  
 594 established by the Commissioner of Social Services. Diagnostic and  
 595 evaluation services eligible for reimbursement under the Medicaid  
 596 program and recommended by the planning and placement team shall  
 597 also be deemed to be authorized by a practitioner of the healing arts  
 598 under 42 CFR 440.130 provided such services are recommended by an  
 599 appropriately licensed or certified individual and are within the  
 600 individual's scope of practice.

601 (10) The Commissioner of Social Services shall implement the  
 602 policies and procedures necessary for the purposes of this subsection  
 603 while in the process of adopting such policies and procedures in  
 604 regulation form, provided notice of intent to adopt the regulations is  
 605 published in the Connecticut Law Journal within twenty days of  
 606 implementing the policies and procedures. Such policies and  
 607 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)