

SB2323



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2323

Introduced 1/8/2020, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-8.05

from Ch. 122, par. 14-8.05

Amends the Children with Disabilities Article of the School Code. Removes obsolete language in provisions concerning behavioral interventions for students with disabilities who require behavioral intervention. Makes changes concerning a school board's policies and procedures on the use of behavioral interventions, including requirements related to the use of time outs and physical restraint. Allows for complaints to be filed with the State Superintendent of Education. Effective immediately.

LRB101 15669 NHT 65018 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 14-8.05 as follows:

6 (105 ILCS 5/14-8.05) (from Ch. 122, par. 14-8.05)
7 Sec. 14-8.05. Behavioral intervention.

8 (a) The General Assembly finds and declares that principals
9 and teachers of students with disabilities require training and
10 guidance that provide ways for working successfully with
11 children who have difficulties conforming to acceptable
12 behavioral patterns in order to provide an environment in which
13 learning can occur. It is the intent of the General Assembly:

14 (1) That when behavioral interventions are used, they
15 be used in consideration of the pupil's physical freedom
16 and social interaction, and be administered in a manner
17 that respects human dignity and personal privacy and that
18 ensures a pupil's right to placement in the least
19 restrictive educational environment.

20 (2) That behavioral management plans be developed and
21 used, to the extent possible, in a consistent manner when a
22 local educational agency has placed the pupil in a day or
23 residential setting for education purposes.

1 (3) (Blank). ~~That a statewide study be conducted of the~~
2 ~~use of behavioral interventions with students with~~
3 ~~disabilities receiving special education and related~~
4 ~~services.~~

5 (4) That training programs be developed and
6 implemented in institutions of higher education that train
7 teachers, and that in-service training programs be made
8 available as necessary in school districts, in educational
9 service centers, and by regional superintendents of
10 schools to ensure ~~assure~~ that adequately trained staff are
11 available to work effectively with the behavioral
12 intervention needs of students with disabilities.

13 (b) ~~On or before September 30, 1993, the State~~
14 ~~Superintendent of Education shall conduct a statewide study of~~
15 ~~the use of behavioral interventions with students with~~
16 ~~disabilities receiving special education and related services.~~
17 ~~The study shall include, but not necessarily be limited to~~
18 ~~identification of the frequency in the use of behavioral~~
19 ~~interventions; the number of districts with policies in place~~
20 ~~for working with children exhibiting continuous serious~~
21 ~~behavioral problems; how policies, rules, or regulations~~
22 ~~within districts differ between emergency and routine~~
23 ~~behavioral interventions commonly practiced; the nature and~~
24 ~~extent of costs for training provided to personnel for~~
25 ~~implementing a program of nonaversive behavioral~~
26 ~~interventions; and the nature and extent of costs for training~~

1 ~~provided to parents of students with disabilities who would be~~
2 ~~receiving behavioral interventions. The scope of the study~~
3 ~~shall be developed by the State Board of Education, in~~
4 ~~consultation with individuals and groups representing parents,~~
5 ~~teachers, administrators, and advocates.~~ On or before June 30,
6 1994, the State Board of Education shall issue guidelines ~~based~~
7 on the use of behavioral interventions with students with
8 disabilities receiving special education and related services
9 ~~study's findings~~. The guidelines shall address, but not be
10 limited to, the following: (i) appropriate behavioral
11 interventions, and (ii) how to properly document the need for
12 and use of behavioral interventions in the process of
13 developing individualized education programs ~~plans~~ for
14 students with disabilities. The guidelines shall be used as a
15 reference to assist school boards in developing local policies
16 and procedures in accordance with this Section. The State Board
17 of Education, with the advice of parents of students with
18 disabilities and other parents, teachers, administrators,
19 advocates for persons with disabilities, and individuals with
20 knowledge or expertise in the development and implementation of
21 behavioral interventions for persons with disabilities, shall
22 review its behavioral intervention guidelines at least once
23 every 3 years to determine their continuing appropriateness and
24 effectiveness and shall make such modifications in the
25 guidelines as it deems necessary.

26 (c) Each school board must establish and maintain a

1 ~~committee to develop~~ policies and procedures on the use of
2 behavioral interventions for students with disabilities who
3 require behavioral intervention. The policies and procedures
4 shall require that a student's individualized education
5 program be followed with respect to any behavioral intervention
6 ~~be adopted and implemented by school boards by January 1, 1996,~~
7 shall be consistent with and amended as necessary to comply
8 with the rules established by the State Board of Education
9 under Section 2-3.130 of this Code ~~not later than one month~~
10 ~~after commencement of the school year after the State Board of~~
11 ~~Education's rules are adopted,~~ and shall: (i) be developed with
12 the advice of parents with students with disabilities and other
13 parents, teachers, administrators, advocates for persons with
14 disabilities, and individuals with knowledge or expertise in
15 the development and implementation of behavioral interventions
16 for persons with disabilities; (ii) emphasize positive
17 interventions that are designed to develop and strengthen
18 desirable behaviors; (iii) incorporate procedures and methods
19 consistent with generally accepted practice in the field of
20 behavioral intervention; (iv) include criteria for determining
21 when a student with disabilities may require a behavioral
22 intervention plan, including the performance a functional
23 behavioral analysis; (v) reflect that the guidelines of the
24 State Board of Education have been reviewed and considered and
25 provide the address of the State Board of Education so that
26 copies of the State Board of Education behavioral guidelines

1 may be requested; and (vi) include procedures for monitoring
2 the use of restrictive behavioral interventions.

3 The policies and procedures shall comply with all of the
4 following:

5 (1) Time outs and physical restraint may be used only
6 as a behavioral intervention technique, not as a
7 punishment, and may be used only in accordance with this
8 Code and rules adopted by the State Board of Education.

9 (2) If an enclosure with a door is used for a time out,
10 the door must be unlocked for the duration of the time out.

11 (3) For the duration of any time out, the student must
12 be supervised by an adult trained in the use of time out as
13 a behavioral intervention technique.

14 (4) Any use of a time out or physical restraint on a
15 student must be reported to the State Board of Education
16 within 48 hours after its use, along with student
17 demographic information, including the student's gender
18 and race or ethnicity, and any other information required
19 by rule.

20 (c-5) Each school board shall (i) furnish a copy of its
21 local policies and procedures under subsection (c) to parents
22 and guardians of all students with individualized education
23 programs ~~plans~~ within 15 days after the policies and procedures
24 have been adopted by the school board, or within 15 days after
25 the school board has amended its policies and procedures, or at
26 the time an individualized education program ~~plan~~ is first

1 implemented for the student, and (ii) require that each school
2 inform its students of the existence of the policies and
3 procedures annually. However ~~Provided~~, at the annual
4 individualized education program plan review, the school board
5 shall (1) explain the local policies and procedures, (2)
6 furnish a copy of the local policies to parents and guardians,
7 and (3) make available, upon request of any parents and
8 guardians, a copy of local procedures.

9 (c-10) Information collected under paragraph (4) of
10 subsection (c) and compiled by the State Board of Education
11 must be disaggregated by gender and by race or ethnicity.

12 (c-15) If an entity serving a student with disabilities
13 violates this Section or applicable rules of the State Board of
14 Education, a person may file a complaint with the State
15 Superintendent of Education.

16 (d) The State Superintendent of Education shall consult
17 with representatives of institutions of higher education and
18 the State Educator Preparation and Licensure ~~Teacher~~
19 ~~Certification~~ Board in regard to the current training
20 requirements for teachers to ensure that sufficient training is
21 available in appropriate behavioral interventions consistent
22 with professionally accepted practices and standards for
23 people entering the field of education.

24 (Source: P.A. 91-600, eff. 8-14-99; 92-16, eff. 6-28-01.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.