




OFFICE OF SPECIAL EDUCATION
ASSISTANT COMMISSIONER

December 2022

TO: BOCES District Superintendents
School District Superintendents
Superintendents of Special Act School Districts
Superintendents of State-Operated Schools
Superintendents of State-Supported Schools
Public School Administrators
Charter School Leaders
Special Education Directors
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Administrators of Nonpublic Schools with Approved Special Education Programs
Nonpublic School Administrators
Organizations, Parents, and Individuals Concerned with Special Education

FROM: Christopher Suriano 

SUBJECT: Chapter 516 of the Laws of 2022 Relating to Same-Day Notification to a Parent or Person in Parental Relation of a Student with a Disability Where Certain Behavioral Interventions are Used

On **August 17, 2022**, Governor Hochul signed Chapter 516 of the Laws of 2022 (“Chapter 516”), which, effective immediately, amended New York State Education Law section 4402 to add a new subdivision (9) relating to same day notification to a parent or guardian of a student with a disability where certain behavioral interventions are used. Chapter 516 requires the board of education or trustees of each school district to develop a procedure to notify a student with a disability’s parent or person in parental relation on the same day a physical¹ or mechanical restraint² is used on the student or the student is placed in a time out room³. When the student’s parent or person in parental relation cannot be contacted after reasonable attempts are made, the principal

¹ NYSED limits the use of reasonable physical force in schools, including the use of physical restraints, only to emergency situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed [section [200.22\(d\)](#) of the Commissioner’s Regulations (8 NYCRR)].

² Any movement limitation used as a punishment in schools, including but not limited to helmets and mechanical restraint devices, is considered an aversive intervention under 8 NYCRR section [19.5](#) and is **prohibited**. The previous limited use of aversive interventions through a child-specific exception granted in certain years by NYSED under 8 NYCRR section [200.22\(e\)](#) has expired. Aversive interventions do not include interventions that are medically necessary for the treatment or protection of the student (e.g., soft helmet for a student with a seizure disorder), or devices needed to address special transportation needs of the student (e.g., safety harness), when used as intended and as recommended on a student’s individualized education program.

³ 8 NYCRR [section 200.22\(c\)](#) defines a time out room as an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program. Time out rooms are to be used in conjunction with a behavioral intervention plan in which a student is removed to a supervised area in order to facilitate self-control or to remove a student from a potentially dangerous situation. 8 NYCRR [section 200.22\(c\)](#) also allows for the limited use of a time out room as an emergency intervention, consistent with the requirements in 8 NYCRR [section 200.22\(d\)](#), in unanticipated situations that pose an immediate concern for the physical safety of a student or others.

shall record and report such attempts to the committee on special education (CSE). A copy of the full text of [Chapter 516](#) is attached.

School districts should review and, as necessary, revise their policies, procedures and practices for notification of a parent or person in parental relation where physical restraints are used as an emergency intervention, and a time out room is used as either an emergency intervention or in conjunction with a behavioral intervention plan (BIP), to ensure that they are in compliance with the requirements of Chapter 516 and 8 NYCRR [sections 200.22\(c\) and \(d\)](#). School districts should also work collaboratively with any school or program where resident preschool or school-age students with disabilities are receiving services pursuant to an individualized education program or individualized education services program to ensure the Chapter 516 notification requirements are met. The specific procedures used to comply with Chapter 516 should be determined at the local level.

The New York State Education Department (NYSED) is committed to limiting, to the greatest extent possible, the use of hands-on physical interventions and time out rooms as a means of managing behaviors of students with disabilities, except as may be necessary for the health and safety of the student(s) and/or others. NYSED's program standards for behavioral interventions in 8 NYCRR [section 200.22](#) focus on prevention and proactively addressing behavioral concerns that impede student learning. Schools should be taking steps to implement school-wide, classroom, small group and individualized systems of positive behavioral interventions and supports for responding to classroom and individual student behaviors. Schools that establish systems of positive behavioral supports and interventions have teaching and learning environments that are less reactive and that maximize academic engagement and achievement for all students. All schools are strongly encouraged to review the requirements of 8 NYCRR section 200.22 to ensure they are in compliance and that teachers and other school personnel have the skills and tools to proactively address behaviors and prevent the need for physical restraints and use of time out rooms.

Technical assistance resources to promote safe and healthy educational environments and implementation of positive behavioral interventions and supports to address behavior are available through the United States Department of Education (USDE) and NYSED's Office of Special Education (OSE). In July 2022, USDE's Office for Civil Rights and Office of Special Education and Rehabilitative Services released [new guidance](#) to help public elementary and secondary schools fulfill their responsibilities to meet the needs of students with disabilities and avoid the discriminatory use of student discipline, including [Positive, Proactive Approaches to Supporting the Needs of Children with Disabilities: A Guide for Stakeholders](#). NYSED's [OSE Educational Partnership](#), a coordinated and cohesive network of support focused on enhancing services and supports for students with disabilities from early childhood and school-age education to engagement in post-school opportunities, offers assistance and training on a variety of topics relating to behavior, including functional behavioral assessments, BIPs, and positive behavioral interventions and supports. A comprehensive list of the approved professional development training packages are posted on NYSED's [OSE Educational Partnership webpage](#).

Thank you for your attention to this important matter. Questions regarding this memorandum may be directed to speced@nysed.gov.

Attachment - [Chapter 516 of the Laws of 2022](#)