

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1073 & HB 81

Education of Children with Disabilities

SPONSOR(S): Llorente, Hukill

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	13 Y, 0 N, As CS	Duncan	Ahearn
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Training Requirements for Child Care Personnel

The bill adds training in developmental disabilities, including autism spectrum disorder (autism), and early identification, use of available state and local resources, classroom integration, and positive behavioral supports to the general subjects that must be covered by the introductory child care course required for all child care personnel. The bill also adds training in the recognition and care of infants and toddlers with developmental disabilities, including autism.

Regional Autism Centers

In addition to current responsibilities, the bill requires regional autism centers to coordinate and disseminate local and regional information regarding available services for children with developmental disabilities; and to support state agencies in developing training for early child care providers and educators regarding developmental disabilities.

Continuing Education and Inservice Training for Teaching Students with Developmental Disabilities

The bill requires the Commissioner of Education (COE) to develop recommendations for incorporating training related to autism and other developmental disabilities into continuing education or inservice training requirements for instructional personnel. The recommendations must address specific topics and beginning with the 2010-2011 school year, the Department of Education (DOE) must incorporate the course curricula recommended by the COE into existing requirements for the continuing education and inservice training of instructional personnel. The State Board of Education is granted rulemaking authority for the continuing education and inservice requirements related to teaching students with developmental disabilities.

Use of Seclusion and Restraint on Students with Disabilities

The bill establishes standards and procedures regarding the use, monitoring, and reduction of unnecessary seclusion and restraint on students with disabilities. The bill defines terms and authorizes school personnel to use manual physical restraint and seclusion on a student with disabilities under certain circumstances. School personnel are prohibited from using a mechanical physical restraint on a student or manual physical restraint that restricts a student's breathing. A school must prepare an incident report by the close of the second business day after a student is released from a manual physical restraint. Incident reports must be provided to the DOE each month that the school is in session. School districts must develop policies and procedures regarding the prohibition of the use of mechanical restraints on students, the appropriate use of manual physical restraints and seclusion on students, personnel authorized to use manual physical restraints, and incident-reporting procedures. Each school district is required to provide the required policies and procedures to DOE no later than January 31, 2011, and the required policies and procedures must be published in the school district's special policies and procedures manual. The manual must be provided to parents at the beginning of each school year.

See DRAFTING ISSUES OR OTHER COMMENTS section of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Training Requirements for Child Care Personnel

###### Current Law

In 1985, the Legislature passed a law requiring introductory child care training for all child care personnel in child care facilities.<sup>1</sup> The minimum training standards for all child care personnel must include a 40-clock-hour introductory course in child care which covers at least the following topics:

- State and local child care facility rules and regulations.
- Health, safety, and nutrition.
- Identifying and reporting child abuse and neglect.
- Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.
- Behavioral development observation and screening.
- Specialized areas, including computer technology for professional and classroom use and early literacy and language development of children from birth to 5 years of age.<sup>2</sup>

The introductory child care course must also cover the recognition and prevention of shaken baby syndrome, prevention of sudden infant death syndrome, and early childhood brain development.<sup>3</sup>

###### Effect of Proposed Changes

The bill adds training in developmental disabilities, including autism spectrum disorder (autism), and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities to the general subjects that must be covered by the introductory child care course. The bill also adds training in the recognition and care of infants and toddlers with developmental disabilities, including autism.

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<sup>1</sup> Chapter 85-54, L.O.F.

<sup>2</sup> s. 402.305(2)(d), F.S.

<sup>3</sup> s. 402.305(2)(d)3., F.S.

## Regional Autism Centers

### Current Law

Florida has seven regional autism centers<sup>4</sup> (Centers for Autism and Related Disabilities or CARDs) that have been established to provide nonresidential resource and training services for persons of all ages and of all levels of intellectual functioning who have: autism;<sup>5</sup> a pervasive developmental disorder that is not otherwise specified; an autistic-like disability; a dual sensory impairment; or a sensory impairment with other handicapping conditions.<sup>6</sup> Each CARD provides services within a specific geographic area<sup>7</sup> and must provide:

- A staff with expertise in autism, autistic-like behaviors, and sensory impairments.
- Individual and direct family assistance in the home, community, and school; however, center assistance should not supplant the responsibilities of local and state agencies. School districts are responsible for providing an appropriate education program for school age clients.
- Technical assistance and consultation services, including specific intervention and assistance for a client of the center, the client's family, and the school district, and any other services that are appropriate.
- Professional training programs for personnel who work with the populations served by the centers and their families.
- Public education programs.<sup>8</sup>

In addition to the services provided by CARDs, the Florida Diagnostic and Learning Resources System<sup>9</sup> (FDLRS) provides diagnostic and instructional support services to school district exceptional student education programs and families of students with exceptionalities statewide. FDLRS includes 19 Associate Centers that serve from one to nine school districts. The Associate Centers collaborate with districts, agencies, communities and other personnel and educational entities, to provide education and support for teachers, parents, therapists, school administrators, and students with exceptionalities.<sup>10</sup>

### Effect of Proposed Changes

In addition to current responsibilities, the bill requires regional autism centers or CARDs to coordinate and disseminate local and regional information regarding available services for children with developmental disabilities and to support state agencies in developing training for early child care providers and educators regarding developmental disabilities.

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<sup>4</sup> The seven regional autism centers are located at the College of Medicine at Florida State University, the College of Medicine at the University of Florida, the University of Florida Health Science Center at Jacksonville, the Mailman Center for Child Development and the Department of Psychology at the University of Miami, the College of Health and Public Affairs at the University of Central Florida, and the Department of Exceptional Student Education at Florida Atlantic University. s. 1004.55(1) (a)-(g), F.S.

<sup>5</sup> "Autism" means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests. s. 393.063(3), F.S.

<sup>6</sup> s. 1004.55(1), F.S.

<sup>7</sup> s. 1004.55(1)(a)-(g), F.S.

<sup>8</sup> s. 1004.55(4), F.S.

<sup>9</sup> The Florida Diagnostic and Learning Resources System (FDLRS) provides diagnostic and instructional support services to district exceptional student education programs and families of students with exceptionalities statewide. Federal and state funds support FDLRS through the Bureau of Exceptional Education and Student Services in the Florida Department of Education.

<http://www.paec.org/fdlrsweb/>.

<sup>10</sup> Department of Education Analysis of HB 1073, February 28, 2010 and <http://www.paec.org/fdlrsweb/>.

## Continuing Education and Inservice Training for Teaching Students with Developmental Disabilities

### Current Law

#### *School Community Professional Development Act*

The School Community Professional Development Act (Act) directs the Department of Education (DOE), public postsecondary educational institutions, public school districts, public schools, and professional organizations to establish a coordinated system of professional development.<sup>11</sup> Each school district is required to develop a professional development system which must include inservice activities for instructional personnel focused on:<sup>12</sup>

- Analysis of student achievement data.
- Ongoing formal and informal assessments of student achievement.
- Identification and use of instructional strategies that emphasize rigor, relevance, and reading in the content areas.
- Enhancement of subject content expertise.
- Integrated use of classroom technology that enhances teaching and learning.
- Classroom management, parent involvement, and school safety.

The school district's professional development system must include a master plan for inservice activities for all district employees pursuant to the rules of the State Board of Education (SBE). The district school board must update and approve the plan annually to be in compliance with the Act. The district school board must submit the verification of its approval to the Commissioner of Education (COE) annually.<sup>13</sup>

The DOE is required to approve a school district's development system, but does not approve or recommend specific inservice programs or courses to satisfy local inservice needs. Each school district and developmental research school has staff development directors who supervise and direct district inservice activities for instructional and non-instructional personnel.<sup>14</sup>

Current inservice or continuing education for instructional personnel does not require instruction for students with developmental disabilities. Select Exceptional Student Education (ESE)<sup>15</sup> teachers are required to obtain an Autism Spectrum Disorder Endorsement as stipulated in the Course Code Directory.<sup>16</sup> Courses leading to the Autism Spectrum Disorder Endorsement are available through Florida's universities as well as through the Virtual ESE Program which is supported through resources provided by the Bureau of Exceptional Education and Student Services. In addition, six school districts have an approved add-on program for the Autism Spectrum Disorder Endorsement.<sup>17</sup>

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<sup>11</sup> s. 1012.98(1), F.S.

<sup>12</sup> s. 1012.98(4)(b)3., F.S., and Rule 6A-5.071, F.A.C.

<sup>13</sup> s. 1012.98(4)(b)4., F.S., and Rule 6A-5.071, F.A.C.

<sup>14</sup> s. 1012.98(4)(b)1., F.S. See <http://www.fldoe.org/profdev/inserv.asp>.

<sup>15</sup> District school boards are statutorily required to provide exceptional students in grades K-12 with special education services, also known as exceptional student education (ESE), which include related services such as transportation, appropriate diagnosis, evaluation, special instruction, facilities, and services such as physical and occupational therapy. s. 1003.01(3)(b), F.S. Special instruction, classes, and services may be provided within the district school system, in cooperation with other district school systems, or through contractual arrangements with approved private schools or community facilities that meet certain standards. s. 1003.57(1), F.S.

<sup>16</sup> The Course Code Directory contains a list of programs and courses that are funded through the Florida Education Finance Program and for which a student may earn credit towards high school graduation. The directory identifies the appropriate educator certification required for specified courses. The directory is updated annually. s 1012.55(1), F.S. and Rule 6A-1.09441, F.A.C.

<sup>17</sup> Department of Education Analysis of HB 1073, February 28, 2010.

## Effect of Proposed Changes

The bill requires the COE to develop recommendations for incorporating training related to autism and other developmental disabilities into continuing education or inservice training requirements for instructional personnel. The recommendations must address:

- Early identification of, and intervention for, students who have autism or other developmental disabilities.
- Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques.
- Use of available state and local resources.
- Use of positive behavioral supports used to deescalate problem behaviors.
- Appropriate use of manual physical restraint and seclusion techniques.

In developing the recommendations, the COE must consult with the State Surgeon General, the Director of the Agency for Persons with Disabilities, representatives from Florida's education community, and representatives from entities that promote awareness about autism and other developmental disabilities, including, but not limited to regional autism centers.

Beginning with the 2010-2011 school year, the DOE must incorporate the course curricula recommended by the COE into existing requirements for the continuing education and inservice training of instructional personnel. Current hourly requirements for continuing education and inservice training may not be increased to accommodate the inclusion of the required course content. The SBE is granted rulemaking authority for the continuing education and inservice requirements related to teaching students with developmental disabilities.

## Use of Seclusion and Restraint on Students with Disabilities

### Current Law

#### *State Board of Education (SBE)*

The SBE is required to adopt standards for the use of reasonable force by district school board personnel to maintain a safe and orderly learning environment. Such standards must be distributed to each school in the state and must provide guidance to district school board personnel in receiving the limitations on liability.<sup>18</sup>

#### *School Districts*

As authorized by law and the rules of the district school board, each teacher or other member of the staff of any school has the authority to control and discipline students as assigned to him or her by the principal or the principal's designated representative. Teachers are also required to keep order in the classroom and in other places in which he or she is assigned to be in charge of students.<sup>19</sup>

In accordance with the law and within the framework of the district school board's code of student conduct, teachers and other instructional personnel are authorized to undertake certain actions in order to manage student behavior and to ensure the safety of all students in their classes and school and their opportunity to learn in an orderly and disciplined classroom.<sup>20</sup>

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<sup>18</sup> s. 1006.11(1), F.S. and s. 1012.75, F.S.

<sup>19</sup> s. 1003.32, F.S.

<sup>20</sup> *Id.*

## Teachers and Other Instructional Personnel

Teachers and other instructional personnel are required to:

- Remove students from class if their behavior interferes with the teacher's ability to communicate or if they are disobedient, disrespectful, violent, abusive, uncontrollable, or disruptive.<sup>21</sup>
- Use reasonable force, according to standards adopted by the SBE, to protect the teacher or others from injury.<sup>22</sup>
- Request and receive immediate assistance in classroom management if a student becomes uncontrollable or in case of emergency.<sup>23</sup>
- Recommend an appropriate consequence consistent with the code of student conduct when sending a student to the principal's office.<sup>24</sup>
- Use corporal punishment according to school district and statutory procedures. Such procedures include requirements for teachers to receive approval from the school principal before administering corporal punishment and for another adult to be present during the administration of such punishment.<sup>25</sup>
- Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution, and related areas.<sup>26</sup>

Further, teachers and other instructional personnel are authorized to:

- Set and enforce reasonable classroom rules that treat all students equitably.<sup>27</sup>
- Maintain an orderly and disciplined classroom with a positive learning environment that maximizes learning and minimizes disruption.<sup>28</sup>
- Seek professional development to improve classroom management skills if data shows they are ineffective in handling minor classroom disruptions.<sup>29</sup>
- Work with parents and other school personnel to solve discipline problems in their classrooms.<sup>30</sup>

If a teacher determines that a student's behavior is interfering with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn, then the teacher may remove the student from class. Each district school board, superintendent and principal must support the authority of teachers to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.<sup>31</sup> If a teacher removes a student from the class for one of these reasons, the principal may not return the student to that teacher's classroom without the teacher's consent unless the placement review committee<sup>32</sup> determines that such placement is the best or only available alternative.<sup>33</sup>

The principal must submit quarterly reports to the district school superintendent and district school board describing each incidence of a teacher's withholding consent for a removed student to return to the teacher's class and the disposition of the incident, and the superintendent must submit an annual report to DOE.<sup>34</sup>

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<sup>21</sup> s. 1003.32(1)(c) and (3), F.S.

<sup>22</sup> s. 1003.32(1)(j), F.S.

<sup>23</sup> s. 1003.32(1)(g), F.S.

<sup>24</sup> s. 1003.32(3), F.S.

<sup>25</sup> s. 1003.32(1)(k), F.S.

<sup>26</sup> s. 1003.32(1)(h), F.S.

<sup>27</sup> s. 1003.32(2)(a), F.S.

<sup>28</sup> s. 1003.32(2)(c), F.S.

<sup>29</sup> s. 1003.32(2)(b), F.S.

<sup>30</sup> s. 1003.32(2)(d), F.S.

<sup>31</sup> s. 1003.32(4), F.S.

<sup>32</sup> Each school is required to establish a placement review committee to determine the placement of a student when a teacher withholds consent to the return of a student to the teacher's class. s. 1003.32(6)(a), F.S.

<sup>33</sup> s. 1003.32(5), F.S.

<sup>34</sup> s. 1003.32(6)(b), F.S.

In 2008, DOE conducted six rule development workshops on standards for the use of reasonable force throughout the state.<sup>35</sup> This effort did not, however, result in the adoption of a rule (6A-6.05271 Standards for Use of Reasonable Force). The last public hearing was held on July 20, 2009. As a result of that hearing, the public comment period was extended to September 15, 2009. However, on August 21, 2009, the proposed rule was withdrawn.<sup>36</sup>

In June 2007, DOE's Bureau of Exceptional Education and Student Services (BEES) convened a workgroup composed of school officials, agency representatives, parents, advocates, and other interested parties to provide information and make recommendations to the BEES to address the use of physical restraint with students in special education programs. The discussion included the definition of manual physical restraint, procedures for documentation, and communication, training, and local and state monitoring protocols. The information gathered during the meeting and from other related resources was used to develop a technical assistance paper issued on June 3, 2008.

Technical Assistance Paper K12: 2008-67, June 2008, Guidelines for the Use of Manual Physical Restraint in Special Education Programs, addresses:

- When manual physical restraint is used.
- Who should use physical restraint.
- The type of training needed for the correct usage of physical restraint.
- Considerations when selecting a training program.
- What should be documented.
- Parent notification and reporting.
- Monitoring its use.<sup>37</sup>

#### *Federal Legislation*

In December 2009, U.S. Reps. George Miller and Cathy McMorris Rodgers filed H.R. 4247 addressing restraint and seclusion. On February 4, 2010, an amendment in the Nature of a Substitute to H.R. 4247 (Preventing Harmful Restraint and Seclusion in School Act) was passed in the House Committee on Education and Labor.<sup>38</sup> The amendment:

- Contains definitions, establishes findings and lists the purposes for the legislation.
- Creates a State-Approved Intervention Training Program that must be approved by the U.S. Department of Education (USDOE) Secretary.
- Requires the USDOE Secretary to promulgate regulations establishing minimum standards no later than 180 days after enactment.
- Requires states to submit a plan to the USDOE no later than two years after enactment that includes assurances that the state has:
  - Policies and procedures that meet the minimum standards, including the standards with respect to the state-approved crisis intervention training program.
  - A mechanism to effectively monitor and enforce minimum standards.
  - A description of the state plan to ensure school personnel and parents, including private school personnel and parents, are aware of the state policies and procedures.

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<sup>35</sup> Florida Administrative Weekly, Notice 6749859, Volume 35/05, February 6, 2009 available at <https://www.flrules.org/gateway/ruleno.asp?id=6A-6.05271&PDate=2/6/2009&Section=2>.

<sup>36</sup> Florida Administrative Weekly, 6A-6.05271, Standards for the Use of Reasonable Force, Volume 35/33, August 21, 2009 available at <https://www.flrules.org/gateway/ruleNo.asp?ID=6A-6.05271>.

<sup>37</sup> Florida Department of Education, Technical Assistance Paper K12: 2008-67, Guidelines for the Use of Manual Physical Restraint in Special Education Programs, available at <http://www.fldoe.org/ese/tap-home.asp>.

<sup>38</sup> <http://edlabor.house.gov/markups/2010/02/preventing-harmful-restraint-a.shtml>.

- Requires states to report the total number of incidents in which physical restraint was imposed upon a student; the total number of incidents in which seclusion was imposed upon a student; the total number of incidents in which physical restraint resulted in injury or resulted in death and in which the school personnel imposing physical restraint or seclusion were not trained and certified; and demographics and disability status.
- Authorizes the USDOE to award grants to states to establish, implement, and enforce the policies and procedures to meet the minimum standards. The grant will be awarded to the state for a 3-year period. The state may use the funds to award subgrants. Grants may be used to provide professional development, training, and certification; and researching, developing, and evaluating strategies, policies, and procedures to prevent and reduce physical restraint and seclusion.
- Requires the USDOE Secretary to carry out a national assessment to determine the effectiveness of the Preventing Harmful Restraint and Seclusion in School Act.<sup>39</sup>

H.R. 4247, as amended, passed the full U.S. House of Representatives on March 3, 2010.<sup>40</sup>

### Effect of Proposed Changes

The bill establishes procedures regarding the use, monitoring, and reduction of unnecessary seclusion and restraint on students with disabilities. The bill defines the following terms:

- “Imminent risk of injury to the student or others” means a high probability of injury, such as a laceration, bone fracture, hematoma, bruise, or injury to internal organs.
- “Imminent risk of disruption or damage to the environment” means a high probability of disruption or damage to property which is likely to endanger the safety of others.
- “Manual physical restraint” means use of a physical restraint technique that involves physical force applied to restrict the movement of all or part of a student’s body for purposes of protecting the student.
- “Mechanical restraint” means a physical device used to restrict a student’s movement or restrict the normal function of a student’s body for purposes of protecting the student. This term includes, but is not limited to, belts, vests, helmets, padded mittens, tie-downs, chairs with straps, and seatbelts. This term does not include:
  - Medical protective equipment prescribed by a physician or dentist;
  - Physical equipment or orthopedic appliances, surgical dressings or bandages, or supportive body bands or other restraints necessary for medical treatment that is ongoing in the educational setting;
  - Devices used only for supporting functional body position or proper balance, or preventing a person from falling out of a bed or a wheelchair; or
  - Equipment used for safety during transportation, such as seatbelts or wheelchair tie-downs.
- “Seclusion” means removing a student from an educational environment, confining the student in a room, and preventing the student from leaving the room by locking or otherwise physically blocking the student’s exit from the room. This term does not include the use of a time-out. The term “time-out” means a procedure in which access to varied sources of reinforcement is removed or reduced for a particular time period, contingent on a response from the student.
- “Student” means a student with a disability.

<sup>39</sup> Amendment #1 to H.R. 4247 by Mr. Miller (CA). <http://edlabor.house.gov/markups/2010/02/preventing-harmful-restraint-a.shtml>.

<sup>40</sup> [http://edlabor.house.gov/legislation\\_chart/](http://edlabor.house.gov/legislation_chart/).

## *Use of Manual Physical Restraint*

The bill authorizes school personnel to use manual physical restraint on a student under the following circumstances:

- When there is an imminent risk of bodily injury to the student or others.
- When there is an imminent risk of disruption or damage to the environment.
- When authorized by a comprehensive behavior intervention plan<sup>41</sup> developed by a certified behavior analyst and approved by an Individual Education Plan (IEP)<sup>42</sup> team.

The use of manual physical restraint by school personnel is limited to the amount of time required to eliminate the need for the use of the restraint. The school is required to have a student evaluated by staff trained to monitor the physical condition of a student as soon as possible after the student has been manually physically restrained by school personnel. Before the end of the school day on which the restraint occurs, the school must attempt to notify the student's parent each time a manual physical restraint is used.

## *Prohibited Restraint*

School personnel, are prohibited from using a mechanical physical restraint on a student or manual physical restraint that restricts a student's breathing.

## *Seclusion*

Seclusion may only be used when a manual physical restraint is highly likely to injure a student and:

- There is an imminent risk of injury to the student or others, imminent risk of disruption or damage to the environment, or the seclusion is authorized by a comprehensive behavior intervention plan developed by a certified behavior analyst and approved by an IEP team.
- School personnel have unsuccessfully tried other interventions.
- School personnel constantly observe the student during the time of the seclusion.

The seclusion must end immediately when the student is sufficiently calm to return to his or her educational environment. Seclusion may not be used as a punishment for a student's behavior.

## *Reporting an Incident*

A school must prepare an incident report by the close of the second business day after a student is released from a manual physical restraint, which must include:

- The name of the student restrained.
- The date, time, and location of the incident and the duration and type of the restraint.
- The names of the persons restraining or assisting in the restraint of the student.
- The specific positive behavioral strategies used to prevent and deescalate the behavior.
- Steps taken to notify the parent.

Incident reports must be provided to the DOE each month that the school is in session.

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<sup>41</sup> A "behavioral intervention program" is a type of accommodation in the learning environment that involves positive behavioral supports or a specialized behavior management system. The intervention may include predictable routines for daily activities, clear rules, consistent enforcement, and regular consultation. A plan developed for an individual student or a group of students in which rules and expectations are clearly identified. Procedures are described that will help the student(s) learn to manage their own behavior. This may include a level system and clearly defined reinforcements and consequences. <http://www.cpt.fsu.edu/ese/glossary.html>.

<sup>42</sup> An "individual educational plan" (IEP) describes the current performance of the student, a statement of goals and objectives or benchmarks for the student, and a statement of the specially designed instruction and related services, including supplemental aides and services, to be provided. The plans are designed to meet the individual needs of the student. Rules 6A-6.03028(7), 6A-6.03029(3), and 6A-6.030191(4), F.A.C.

## *District Policies and Procedures*

School districts must develop policies and procedures regarding:

- The prohibition of the use of mechanical restraints on students.
- The use of manual physical restraints and seclusion on students.
- The identification of personnel authorized to use manual physical restraints.
- Incident-reporting procedures.

Each school district is required to:

- Provide the required policies and procedures to DOE no later than January 31, 2011.
- Publish the required policies and procedures in the district's special policies and procedures manual.
- Make available to the parents of its students, at the beginning of each school year, school district policies regarding the use of manual physical restraint and seclusion. Such policies may be provided by mail or electronic mail or published on the school district's website.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 402.305, F.S., Licensing standards; child care facilities.

**Section 2:** Creates s. 1003.573, F.S., Use, monitoring, and reduction of unnecessary seclusion and restraint on students with disabilities in public schools.

**Section 3:** Amends s. 1004.55, Regional autism centers.

**Section 4:** Creates s. 1012.582, Continuing education and inservice training for teaching students with developmental disabilities.

**Section 5:** Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

#### 2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

#### 2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill grants rule-making authority to the SBE to implement the provisions relating to the continuing education and inservice training for teaching students with developmental disabilities.

The State Board of Education may need to amend Rule 6A-7.0335, Florida Administrative Code (F.A.C.), *Regional Centers for Implementing Services to Individual with Autism, Pervasive Developmental Disorders, Autistic-like Disabilities Dual Sensory Impairments or Sensory Impairment with Other Disabling Conditions*.<sup>43</sup>

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### DOE COMMENTS:

##### **Training Requirements for Child Care Personnel**

While the bill expands the required content of the child care introductory training course, it does not add additional hours to the 40-clock-hour training. This will likely mean that the existing course regarding special needs developmentally appropriate practice, which is currently optional, will become required.

##### **Regional Autism Centers**

Through the requirements of Rule 6A-7.0335, F.A.C., CARD centers are already charged with the responsibility of coordinating services with other regional centers, state agencies, and school districts. Additionally, the centers are required by rule to disseminate referral and resource information.

##### **Continuing Education and Inservice Training for Teaching Students with Developmental Disabilities**

There are existing professional development resources that have been developed and are available that could be used in the design of in-service/continuing education course materials.<sup>44</sup>

##### **Use of Seclusion and Restraint on Students with Disabilities**

As an outcome of passage of this bill, the Department of Education would need to review and revise existing policies and technical assistance documents and create procedures to receive and analyze data to align with new legislation.

The bill would require school districts to develop policies regarding the use of physical restraint and seclusion. Districts with such policies would have to

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<sup>43</sup> Department of Education Analysis of HB 1073, February 28, 2010.

<sup>44</sup> *Id.*

conduct reviews of policies and practices to ensure alignment with bill requirements.

Training on and implementation of school-wide general behavioral interventions and techniques is in place in many school districts. The Bureau funds the Positive Behavior Support (PBS) project at the University of South Florida. The PBS project provides training and support to many districts.

Many districts train staff on behavioral crisis intervention techniques. Two commonly used training programs include Professional Crisis Management (PCM), and Crisis Prevention Intervention (CPI). Districts that use PCM and CPI have certification training and annual recertification in program specific procedures for the use of safe techniques for physical restraint. For some small and rural districts, training on such procedures is provided through the Florida Diagnostic and Learning Resources System.

Department of Children and Family Services COMMENTS:

**Training Requirements for Child Care Personnel**

The *Child Growth and Development* and *Special Needs Appropriate Practices* components of the Department's required 40 hour Introductory to Child Care Training currently addresses autism spectrum disorders.

The six (6) clock-hour *Child Growth and Development* course is currently mandatory for all child care facility and home staff pursuant to Section 402.305(2)(d)1.d, F.S., which includes in the minimum training requirements for child care personnel, "Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development."

The Department's 10 clock-hour training course entitled *Special Needs Appropriate Practices* is currently mandatory for child care directors, and available for all child care personnel to complete for in-service training. Section 402.305(2)(d)1.f., F.S, provides direction to the Department in the development of "Specialized areas..." within 40 hours of minimum training requirements for child care personnel. 65C-22.003(2)(a), F.A.C., is pursuant to this section of Statute and includes in its listing of specialized training areas training specific to children with special needs, which includes awareness instruction and methods for teaching students with developmental disabilities.

In addition, special needs issues, including autism, are also addressed in both the *Health, Safety, and Nutrition* and *Behavioral Observation and Screening* components of the 40 hour Introductory to Child Care Training, as cited in ss. 402.305(2)(d)1.b. and e., F.S., respectively, although to a lesser extent. Both of these components are required for all child care facility and home staff.<sup>45</sup>

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 25, 2010, the PreK-12 Policy Committee reported the Proposed Committee Substitute for HB 1073 and HB 81 favorably with no amendments.

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<sup>45</sup> Department of Children and Family Services Analysis of HB 1073, February 17, 2010.