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No. 1376

H.P. 997

House of Representatives, March 26, 2019

An Act To Direct the Department of Education To Amend Its Rules To Ensure That Physical Restraint and Seclusion Policies Are Followed for Special Education Students and Make Biennial Reports on the Use of Physical Restraint and Seclusion

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

ROBERT B. HUNT

R(+ B. Hunt

Clerk

Presented by Representative FARNSWORTH of Portland. Cosponsored by Representatives: CRAVEN of Lewiston, CROCKETT of Portland, HANDY of Lewiston, MADIGAN of Waterville, McCREIGHT of Harpswell, PERRY of Calais, WARREN of Hallowell.

	PART A
	Sec. A-1. 20-A MRSA §7008 is enacted to read:
<u>§70</u>	008. Report on data regarding the use of physical restraint and seclusion
anc	The commissioner shall submit a report on data regarding the use of physical restraint seclusion collected pursuant to the department's rules governing physical restraint seclusion and special education. Each covered entity shall submit to the department annual report on incidents of physical restraint and seclusion that includes:
<u>res</u>	1. Number of uses; physical restraint. The aggregate number of uses of physical traint;
pla	2. Number of students; physical restraint. The aggregate number of students ced in physical restraint;
	3. Number of uses; seclusion. The aggregate number of uses of seclusion;
sec	4. Number of students; seclusion. The aggregate number of students placed in lusion;
to s	5. Number of injuries to students. The aggregate number of serious bodily injuries students related to physical restraint and seclusion; and
<u>sta</u>	6. Number of injuries to staff. The aggregate number of serious bodily injuries to ff related to physical restraint and seclusion.
<u>sut</u> jur	The commissioner's report must also include aggregate data gathered through a formance review system and subsequent compliance plans. The report must be smitted to the Governor and the joint standing committee of the Legislature having isdiction over educational and cultural affairs no later than January 15th of every odd-mbered year.
inc sch pri	As used in this section, "covered entity" means an entity that owns, operates or atrols a school or educational program that receives public funds from the department, luding, but not limited to, public schools, public regional programs, public charter tools, private schools, private schools approved for tuition purposes, special purpose vate schools, career and technical education programs, public prekindergarten grams and the Child Development Services System.
	PART B
	Sec. B-1. Physical restraint and seclusion policies for special education idents. The Department of Education shall amend its rule Chapter 101: Maine ified Special Education Regulation Birth to Age Twenty to:

Be it enacted by the People of the State of Maine as follows:

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- 1. In Chapter 101, Section II, Definitions: include from its rule Chapter 33: Rule Governing Physical Restraint and Seclusion definitions regarding behavior intervention plans, physical escort, physical prompt, physical restraint and seclusion;
- 2. In Chapter 101, Section VI, Individualized Plan Team Membership, subsection 2, Individualized Family Service Plan (IFSP) Team or Individualized Education Program (IEP) Team for Children Three to Twenty, paragraph C, IEP Team Meetings Transition Services, subparagraph (2), Transition from Regional CDS site to Public School, in that portion regarding Child Development Services System staff's preparing information to share with a school administrative unit: add instructions to share documentation related to Chapter 33, Section 8 with school administrative units;
- 3. In Chapter 101, Section VI, Individualized Plan Team Membership, subsection 2, Individualized Family Service Plan (IFSP) Team or Individualized Education Program (IEP) Team for Children Three to Twenty, paragraph J, Major IEP Team Responsibilities: add language setting out the responsibility to meet and review pursuant to Chapter 33, Section 9.2;
- 4. In Chapter 101, Section XVI, Dispute Resolution Procedures: (Mediations, Complaints and Hearings), subsection 1, Right to Dispute Resolution, Generally, paragraph A, regarding children from birth to 2 years of age, and paragraph B, regarding children from 3 to 20 years of age, in the provisions regarding complaints, requests for mediation and requests for due process hearings: add references to Chapter 33 to allow parents or school administrative units to make complaints and submit requests for mediation and due process hearings with regard to the rule when physical restraint or seclusion has been used on a student eligible for special education; and
- 5. In Chapter 101, Appendix 1, Notice of Procedural Safeguards, in the provision regarding communication of procedural safeguards, 34 Code of Federal Regulations, Section 300.504, division (a): add a requirement that a copy of procedural safeguards available to the parents of a child with a disability or an adult student with a disability must be accompanied with the incident report provided under Chapter 33, Section 8.2 and a requirement that the school administrative unit provide the parent with a guide that explains Chapter 33.

31 PART C

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Sec. C-1. Performance review system. The Department of Education shall adopt major substantive rules that develop a performance review system to define and monitor school administrative units' and special purpose programs' use of physical restraint and seclusion. The performance review system must monitor compliance with the department's rule Chapter 33, including the requirement of submitting data to the department. The performance review system must identify accountability standards and identify when a school administrative unit's or special purpose program's level of incidents of physical restraint and seclusion exceeds average levels. The performance review system must include a compliance plan program to require the school administrative unit or special purpose program to reduce use of physical restraint and seclusion with specific targets and time frames. Rules adopted pursuant to this section must be submitted for legislative review no later than December 5, 2019.

Sec. C-2. Guide for information regarding rule. The Commissioner of Education shall develop and provide information about rules adopted under section 1, including a guide that includes a template for a school administrative unit or special purpose program to use to explain any additional local policies or local complaint processes.

6 SUMMARY

This bill directs the Department of Education to amend its rule Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty to include concepts from and references to the department's rule Chapter 33: Rule Governing Physical Restraint and Seclusion.

It directs schools to make annual reports to the department regarding incidents of physical restraint and seclusion and directs the Commissioner of Education to report biennially to the Governor and the Legislature on data regarding the use of physical restraint and seclusion.