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2021 Legislature

1  
2 An act relating to students with disabilities in  
3 public schools; amending s. 1003.573, F.S.; providing  
4 definitions; requiring school districts to prohibit  
5 the use of seclusion; providing requirements for the  
6 use of restraint; prohibiting specified restraint  
7 techniques or devices; revising school district  
8 policies and procedures relating to restraint;  
9 requiring school districts to adopt positive behavior  
10 interventions and supports and certain policies and  
11 procedures; requiring school districts to publicly  
12 post specified policies and procedures; requiring  
13 school districts to provide training on certain  
14 interventions and supports to specified personnel;  
15 providing requirements for such training; requiring  
16 school districts to publish training procedures;  
17 requiring a school to develop a crisis intervention  
18 plan for certain students; providing requirements for  
19 such plans; providing requirements for documenting,  
20 reporting, and monitoring the use of restraint;  
21 conforming provisions to changes made by the act;  
22 requiring the department to make certain information  
23 available to the public by a specified date; creating  
24 s. 1003.574, F.S.; creating the Video Cameras in  
25 Public School Classrooms Pilot Program; providing

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26 | definitions; requiring a video camera be placed in  
27 | specified classrooms upon the request of a parent;  
28 | requiring a video camera to be operational within a  
29 | specified time period; providing requirements for the  
30 | discontinuation of such video cameras; providing  
31 | requirements for such video cameras; requiring a  
32 | written explanation if the operation of such cameras  
33 | is interrupted; requiring district school boards to  
34 | maintain such explanation for a specified time period;  
35 | requiring a school to provide written notice of the  
36 | placement of a video camera to certain individuals;  
37 | providing requirements for retaining and deleting  
38 | video recordings; providing prohibitions for the use  
39 | of such video cameras and recordings; providing that a  
40 | school principal is the custodian of such video  
41 | cameras and recordings; providing requirements for  
42 | school principals and video recordings; providing  
43 | requirements relating to student privacy; providing  
44 | requirements for the viewing of such video recordings;  
45 | providing for an appeal process for actions of a  
46 | school or school district; providing that incidental  
47 | viewings of video recordings by specified individuals  
48 | are not a violation of certain provisions; providing  
49 | construction; requiring the Department of Education to  
50 | collect specified information; authorizing the State

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51 Board of Education to adopt rules; amending s.  
 52 1012.582, F.S.; requiring continuing education and  
 53 inservice training for teaching students with  
 54 emotional or behavioral disabilities; conforming  
 55 provisions to changes made by the act; providing an  
 56 effective date.

57  
 58 Be It Enacted by the Legislature of the State of Florida:

59  
 60 Section 1. Section 1003.573, Florida Statutes, is amended  
 61 to read:

62 1003.573 Seclusion and Use of restraint of and seclusion  
 63 ~~on~~ students with disabilities in public schools.-

64 (1) DEFINITIONS.-As used in this section, the term:

65 (a) "Crisis Intervention Plan" means an individualized  
 66 action plan for school personnel to implement when a student  
 67 exhibits dangerous behavior that may lead to imminent risk of  
 68 serious injury.

69 (b) "Imminent risk of serious injury" means the threat  
 70 posed by dangerous behavior that may cause serious physical harm  
 71 to self or others.

72 (c) "Restraint" means the use of a mechanical or physical  
 73 restraint.

74 1. "Mechanical restraint" means the use of a device that  
 75 restricts a student's freedom of movement. The term does not

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76 | include the use of devices prescribed or recommended by physical  
 77 | or behavioral health professionals when used for indicated  
 78 | purposes.

79 | 2. "Physical restraint" means the use of manual restraint  
 80 | techniques that involve significant physical force applied by a  
 81 | teacher or other staff member to restrict the movement of all or  
 82 | part of a student's body. The term does not include briefly  
 83 | holding a student in order to calm or comfort the student or  
 84 | physically escorting a student to a safe location.

85 | (d) "Positive behavior interventions and supports" means  
 86 | the use of behavioral interventions to prevent dangerous  
 87 | behaviors that may cause serious physical harm to the student or  
 88 | others.

89 | (e) "Seclusion" means the involuntary confinement of a  
 90 | student in a room or area alone and preventing the student from  
 91 | leaving the room or area. The term does not include time-out  
 92 | used as a behavior management technique intended to calm a  
 93 | student.

94 | (f) "Student" means a child with an individual education  
 95 | plan enrolled in grades kindergarten through 12 in a school, as  
 96 | defined in s. 1003.01(2), or the Florida School for the Deaf and  
 97 | Blind. The term does not include students in prekindergarten,  
 98 | students who reside in residential care facilities under s.  
 99 | 1003.58, or students participating in a Department of Juvenile  
 100 | Justice education program under s. 1003.52.

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101        (2) SECLUSION.—Each school district shall prohibit school  
 102 personnel from using seclusion.

103        (3) RESTRAINT.—

104        (a) Authorized school personnel may use restraint only  
 105 when all positive behavior interventions and supports have been  
 106 exhausted. Restraint may be used only when there is an imminent  
 107 risk of serious injury and shall be discontinued as soon as the  
 108 threat posed by the dangerous behavior has dissipated.

109 Techniques or devices such as straightjackets, zip ties,  
 110 handcuffs, or tie downs may not be used in ways that may  
 111 obstruct or restrict breathing or blood flow or that place a  
 112 student in a facedown position with the student's hands  
 113 restrained behind the student's back. Restraint techniques may  
 114 not be used to inflict pain to induce compliance.

115        (b) Notwithstanding the authority provided in s. 1003.32,  
 116 restraint shall be used only to protect the safety of students,  
 117 school personnel, or others and may not be used for student  
 118 discipline or to correct student noncompliance.

119        (c) The degree of force applied during physical restraint  
 120 must be only that degree of force necessary to protect the  
 121 student or others from imminent risk of serious injury.

122        (4) ~~(3)~~ SCHOOL DISTRICT POLICIES AND PROCEDURES.—

123        (a) Each school district shall adopt positive behavior  
 124 interventions and supports and identify all school personnel  
 125 authorized to use the interventions and supports. Each school

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126 | district shall develop policies and procedures ~~that are~~  
 127 | consistent with this section and that govern the following:  
 128 |       1. Incident-reporting procedures.  
 129 |       2. Data collection and monitoring, including when, where,  
 130 | and why students are restrained and ~~or secluded;~~ the frequency  
 131 | of occurrences of such restraint ~~or seclusion;~~ and the prone or  
 132 | mechanical restraint that is most used.  
 133 |       3. Monitoring and reporting of data collected.  
 134 |       4. Training programs and procedures relating to ~~manual or~~  
 135 | ~~physical~~ restraint as described in subsection (3) and seclusion.  
 136 |       5. The district's plan for selecting personnel to be  
 137 | trained pursuant to this subsection.  
 138 |       6. The district's plan for reducing the use of restraint,  
 139 | ~~and seclusion~~ particularly in settings in which it occurs  
 140 | frequently or with students who are restrained repeatedly, ~~and~~  
 141 | ~~for reducing the use of prone restraint and mechanical~~  
 142 | ~~restraint.~~ The plan must include a goal for reducing the use of  
 143 | restraint ~~and seclusion~~ and must include activities, skills, and  
 144 | resources needed to achieve that goal. Activities may include,  
 145 | but are not limited to:  
 146 |           a. Additional training in positive behavior interventions  
 147 | and supports. ~~behavioral support and crisis management;~~  
 148 |           b. Parental involvement. ~~†~~  
 149 |           c. Data review. ~~†~~  
 150 |           d. Updates of students' functional behavioral analysis and

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151 positive behavior intervention plans.†  
 152 e. Additional student evaluations.†  
 153 f. Debriefing with staff.†  
 154 g. Use of schoolwide positive behavior support.† and  
 155 h. Changes to the school environment.  
 156 i. Analysis of data to determine trends.  
 157 j. Ongoing reduction of the use of restraint.  
 158 (b) Any revisions a school district makes to its ~~to the~~  
 159 ~~district's~~ policies and procedures pursuant to this section~~,~~  
 160 ~~which must be prepared as part of its special policies and~~  
 161 ~~procedures~~~~,~~ must be filed with the bureau chief of the Bureau of  
 162 Exceptional Education and Student Services within 90 days after  
 163 the revision ~~no later than January 31, 2012.~~  
 164 (c) At the beginning of each school year, each school  
 165 district shall publicly post its policies and procedures on  
 166 positive behavior interventions and supports as adopted by the  
 167 school district.  
 168 (5) TRAINING.—Each school district shall provide training  
 169 to all school personnel authorized to use positive behavior  
 170 interventions and supports pursuant to school district policy.  
 171 Training shall be provided annually and must include:  
 172 (a) The use of positive behavior interventions and  
 173 supports.  
 174 (b) Risk assessment procedures to identify when restraint  
 175 may be used.

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176 (c) Examples of when positive behavior interventions and  
 177 support techniques have failed to reduce the imminent risk of  
 178 serious injury.

179 (d) Examples of safe and appropriate restraint techniques  
 180 and how to use these techniques with multiple staff members  
 181 working as a team.

182 (e) Instruction in the district's documentation and  
 183 reporting requirements.

184 (f) Procedures to identify and deal with possible medical  
 185 emergencies arising during the use of restraint.

186 (g) Cardiopulmonary resuscitation.

187

188 Each school district shall publish the procedures for the  
 189 training required under this subsection in the district's  
 190 special policies and procedures manual.

191 (6) Crisis intervention plan.—

192 (a) Upon the second time a student is restrained during a  
 193 semester, the school shall develop a crisis intervention plan  
 194 for the student. The crisis intervention plan shall be developed  
 195 by a team comprised of the student's parent or guardian, school  
 196 personnel, and applicable physical and behavioral health  
 197 professionals.

198 (b) The crisis intervention plan must include:

199 1. Specific positive behavior interventions and supports  
 200 to use in response to dangerous behaviors that create a threat



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201 of imminent risk of serious injury.

202 2. Known physical and behavioral health concerns that will  
 203 limit the use of restraint for the student.

204 3. A timetable for the review and, if necessary, revision  
 205 of the crisis intervention plan.

206 (c) The school must provide a copy of the crisis  
 207 intervention plan to the student's parent or guardian.

208 (7)(1) DOCUMENTATION AND REPORTING.-

209 (a) A school shall prepare an incident report within 24  
 210 hours after a student is released from restraint ~~or seclusion~~.  
 211 If the student's release occurs on a day before the school  
 212 closes for the weekend, a holiday, or another reason, the  
 213 incident report must be completed by the end of the school day  
 214 on the day the school reopens.

215 (b) The following must be included in the incident report:

216 1. The name of the student restrained ~~or secluded~~.

217 2. The age, grade, ethnicity, and disability of the  
 218 student restrained ~~or secluded~~.

219 3. The date and time of the event and the duration of the  
 220 restraint ~~or seclusion~~.

221 4. The location at which the restraint ~~or seclusion~~  
 222 occurred.

223 5. A description of the type of restraint used in terms  
 224 established by the department ~~of Education~~.

225 6. The name of the person using or assisting in the

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226 | restraint ~~or seclusion~~ of the student and the date the person  
227 | was last trained in the use of positive behavior interventions  
228 | and supports.

229 |         7. The name of any nonstudent who was present to witness  
230 | the restraint ~~or seclusion~~.

231 |         8. A description of the incident, including all of the  
232 | following:

233 |             a. The context in which the restraint ~~or seclusion~~  
234 | occurred.

235 |             b. The student's behavior leading up to and precipitating  
236 | the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,  
237 | including an indication as to why there was an imminent risk of  
238 | serious injury ~~or death~~ to the student or others.

239 |             c. The ~~specific~~ positive behavior interventions and  
240 | supports ~~behavioral strategies~~ used to prevent and deescalate  
241 | the behavior.

242 |             d. What occurred with the student immediately after the  
243 | termination of the restraint ~~or seclusion~~.

244 |             e. Any injuries, visible marks, or possible medical  
245 | emergencies that may have occurred during the restraint ~~or~~  
246 | ~~seclusion~~, documented according to district policies.

247 |             f. Evidence of steps taken to notify the student's parent  
248 | or guardian.

249 |             g. The date the crisis intervention plan was last reviewed  
250 | and whether changes were recommended.

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251 (c) A school shall notify the parent or guardian of a  
 252 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is  
 253 used. Such notification must be in writing and provided before  
 254 the end of the school day on which the restraint ~~or seclusion~~  
 255 occurs. Reasonable efforts must also be taken to notify the  
 256 parent or guardian by telephone or ~~computer~~ e-mail, or both, and  
 257 these efforts must be documented. The school shall obtain, and  
 258 keep in its records, the parent's or guardian's signed  
 259 acknowledgment that he or she was notified of his or her child's  
 260 restraint ~~or seclusion~~.

261 (d) A school shall also provide the parent or guardian  
 262 with the completed incident report in writing by mail within 3  
 263 school days after a student was ~~manually or physically~~  
 264 restrained ~~or secluded~~. The school shall obtain, and keep in its  
 265 records, the parent's or guardian's signed acknowledgment that  
 266 he or she received a copy of the incident report.

267 (8) ~~(2)~~ MONITORING.—

268 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint  
 269 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the  
 270 classroom, building, district, and state levels.

271 (b) Any documentation prepared by a school pursuant to ~~as~~  
 272 ~~required in~~ subsection (7) ~~(1)~~ shall be provided to the school  
 273 principal, the district director of Exceptional Student  
 274 Education, and the bureau chief of the Bureau of Exceptional  
 275 Education and Student Services electronically each month that

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276 | the school is in session.

277 |       (c) The department shall maintain aggregate data of  
278 | incidents of ~~manual or physical~~ restraint and ~~seclusion~~ and  
279 | disaggregate the data for analysis by county, school, student  
280 | exceptionality, and other variables, including the type and  
281 | method of restraint ~~or seclusion~~ used. This information shall be  
282 | updated monthly, de-identified, and made available to the public  
283 | through the department's website no later than October 1, 2021.

284 |       (d) The department shall establish standards for  
285 | documenting, reporting, and monitoring the incident reports  
286 | related to the use of manual or physical restraint or mechanical  
287 | restraint, and occurrences of seclusion. These standards shall  
288 | be provided to school districts ~~by October 1, 2011.~~

289 |       ~~(4) PROHIBITED RESTRAINT.—School personnel may not use a~~  
290 | ~~mechanical restraint or a manual or physical restraint that~~  
291 | ~~restricts a student's breathing.~~

292 |       ~~(5) SECLUSION.—School personnel may not close, lock, or~~  
293 | ~~physically block a student in a room that is unlit and does not~~  
294 | ~~meet the rules of the State Fire Marshal for seclusion time-out~~  
295 | ~~rooms.~~

296 |       Section 2. Section 1003.574, Florida Statutes, is created  
297 | to read:

298 |       1003.574 Video cameras in public school classrooms; pilot  
299 | program.—Beginning with the 2021-2022 school year, the Video  
300 | Cameras in Public School Classrooms Pilot Program is created for

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301 a period of 3 school years.

302 (1) As used in this section, the term:

303 (a) "Incident" means an event, a circumstance, an act, or  
 304 an omission that results in the abuse or neglect of a student  
 305 by:

- 306 1. An employee of a public school or school district; or
- 307 2. Another student.

308 (b) "School district" means the Broward County Public  
 309 Schools.

310 (c) "Self-contained classroom" means a classroom at a  
 311 public school in which a majority of the students in regular  
 312 attendance are provided special education services and are  
 313 assigned to one or more such classrooms for at least 50 percent  
 314 of the instructional day.

315 (2)(a) A school district shall provide a video camera to  
 316 any school with a self-contained classroom upon the written  
 317 request of a parent of a student in the classroom.

318 (b) Within 30 days after receipt of the request from a  
 319 parent, a video camera shall be operational in each self-  
 320 contained classroom in which the parent's student is in regular  
 321 attendance for the remainder of the school year, unless the  
 322 parent withdraws his or her request in writing.

323 (3) If the student who is the subject of the initial  
 324 request is no longer in attendance in the classroom and a school  
 325 discontinues operation of a video camera during a school year,

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326 no later than the 5th school day before the date the operation  
 327 of the video camera is discontinued, the school must notify the  
 328 parents of each student in regular attendance in the classroom  
 329 that operation of the video camera will cease unless the  
 330 continued use of the camera is requested by a parent. No later  
 331 than the 10th school day before the end of each school year, the  
 332 school must notify the parents of each student in regular  
 333 attendance in the classroom that operation of the video camera  
 334 will not continue during the following school year unless a  
 335 written request is submitted by a parent for the next school  
 336 year.

337 (4) (a) A video camera placed in a self-contained classroom  
 338 must be capable of all of the following:

339 1. Monitoring all areas of the self-contained classroom,  
 340 including, without limitation, any room attached to the self-  
 341 contained classroom which is used for other purposes.

342 2. Recording audio from all areas of the self-contained  
 343 classroom, including, without limitation, any room attached to  
 344 the self-contained classroom which is used for other purposes.

345 (b) A video camera placed in a self-contained classroom  
 346 may not monitor a restroom or any other area in the self-  
 347 contained classroom where a student changes his or her clothes,  
 348 except for the entryway, exitway, or hallway outside a restroom  
 349 or other area where a student changes his or her clothes because  
 350 of the layout of the self-contained classroom.

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351 (c) A video camera placed in a self-contained classroom is  
 352 not required to be in operation when students are not present in  
 353 the self-contained classroom.

354 (d) If there is an interruption in the operation of the  
 355 video camera for any reason, an explanation must be submitted in  
 356 writing to the school principal and the district school board  
 357 which explains the reason for and duration of the interruption.  
 358 The written explanation must be maintained at the district  
 359 school board office for at least 1 year.

360 (5) Before a school initially places a video camera in a  
 361 self-contained classroom pursuant to this section, the school  
 362 shall provide written notice of the placement of such video  
 363 camera to all of the following:

364 (a) The parent of each student who is assigned to the  
 365 self-contained classroom.

366 (b) Each student who is assigned to the self-contained  
 367 classroom.

368 (c) The school district.

369 (d) Each school employee who is assigned to work with one  
 370 or more students in the self-contained classroom.

371 (6) A school shall:

372 (a) Retain video recorded from a video camera placed  
 373 pursuant to this section for at least 3 months after the date  
 374 the video was recorded, after which the recording shall be  
 375 deleted or otherwise made unretrievable; or

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376       (b) Retain the recording until the conclusion of any  
 377 investigation or any administrative or legal proceedings that  
 378 result from the recording have been completed, including,  
 379 without limitation, the exhaustion of all appeals.

380       (7) A school or school district may not:

381       (a) Allow regular, continuous, or continual monitoring of  
 382 video recorded under this section; or

383       (b) Use video recorded under this section for teacher  
 384 evaluations or any purpose other than for ensuring the health,  
 385 safety, and well-being of students receiving special education  
 386 services in a self-contained classroom.

387       (8) The principal of the school is the custodian of a  
 388 video camera operated pursuant to this section, all recordings  
 389 generated by that video camera, and access to such recordings.

390       (a) The release or viewing of any video recording under  
 391 this section must comply with s. 1002.22.

392       (b) A school or school district shall:

393       1. Conceal the identity of any student who appears in a  
 394 video recording, but is not involved in the alleged incident  
 395 documented by the video recording, which the school allows to be  
 396 viewed under subsection (9), including, without limitation,  
 397 blurring the face of the uninvolved student.

398       2. Protect the confidentiality of all student records  
 399 contained in a video recording in accordance with s. 1002.22.

400       (9) (a) Within 7 days after receiving a request to view a



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401 video recording, a school or school district shall allow the  
402 following individuals to view a video recording made under this  
403 section:

404 1. A school or school district employee who is involved in  
405 an alleged incident that is documented by the video recording as  
406 part of the investigative process;

407 2. A parent of a student who is involved in an alleged  
408 incident that is documented by the video recording and has been  
409 reported to the school or school district;

410 3. A school or school district employee as part of an  
411 investigation into an alleged incident that is documented by the  
412 video recording and has been reported to the school or school  
413 district;

414 4. A law enforcement officer as part of an investigation  
415 into an alleged incident that is documented by the video  
416 recording and has been reported to the law enforcement agency;  
417 or

418 5. The Department of Children and Families as part of a  
419 child abuse or neglect investigation.

420 (b) A person who requests to view a recording shall make  
421 himself or herself available for viewing the recording within 30  
422 days after being notified by the school or school district that  
423 the person's request has been granted.

424 (c) A person who views the recording and suspects that  
425 child abuse has occurred must report the suspected child abuse

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426 | to the Department of Children and Families.

427 | (10) (a) Any individual may appeal to the State Board of  
 428 | Education an action by a school or school district which the  
 429 | individual alleges to be in violation of this section.

430 | (b) The state board shall grant a hearing on an appeal  
 431 | under this subsection within 45 days after receiving the appeal.

432 | (11) A school or school district does not violate  
 433 | subsection (8) if a contractor or other employee of the school  
 434 | or school district incidentally views a video recording made  
 435 | under this section in connection with the performance of his or  
 436 | her duties related to either of the following:

437 | (a) The installation, operation, or maintenance of video  
 438 | equipment; or

439 | (b) The retention of video recordings.

440 | (12) This section does not:

441 | (a) Limit the access of the parent of a student, under the  
 442 | Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.  
 443 | 1232g, or any other law, to a video recording regarding his or  
 444 | her student.

445 | (b) Waive any immunity from liability of a school district  
 446 | or an employee of a school district.

447 | (c) Create any liability for a cause of action against a  
 448 | school or school district or an employee of a school or school  
 449 | district carrying out the duties and responsibilities required  
 450 | by this section.

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451 (d) Apply to self-contained classrooms in which the only  
 452 students receiving special education services are those who have  
 453 been deemed gifted.

454 (13) The department shall collect information relating to  
 455 the installation and maintenance of video cameras under this  
 456 section.

457 (14) The State Board of Education may adopt rules to  
 458 implement this section.

459 Section 3. Subsections (1) and (2) of section 1012.582,  
 460 Florida Statutes, are amended to read:

461 1012.582 Continuing education and inservice training for  
 462 teaching students with developmental and emotional or behavioral  
 463 disabilities.—

464 (1) The Commissioner of Education shall develop  
 465 recommendations to incorporate instruction regarding autism  
 466 spectrum disorder, Down syndrome, ~~and~~ other developmental  
 467 disabilities, and emotional or behavioral disabilities into  
 468 continuing education or inservice training requirements for  
 469 instructional personnel. These recommendations shall address:

470 (a) Early identification of, and intervention for,  
 471 students who have autism spectrum disorder, Down syndrome, ~~or~~  
 472 other developmental disabilities, or emotional or behavioral  
 473 disabilities.

474 (b) Curriculum planning and curricular and instructional  
 475 modifications, adaptations, and specialized strategies and

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476 techniques.

477 (c) The use of available state and local resources.

478 (d) The use of positive behavior interventions and  
 479 ~~behavioral~~ supports to deescalate problem behaviors.

480 (e) The ~~Appropriate~~ use of ~~manual physical~~ restraint and  
 481 ~~seclusion~~ techniques, positive behavior interventions and  
 482 supports, and effective classroom behavior management  
 483 strategies.

484 (2) In developing the recommendations, the commissioner  
 485 shall consult with the State Surgeon General, the Director of  
 486 the Agency for Persons with Disabilities, representatives from  
 487 the education community in the state, and representatives from  
 488 entities that promote awareness about autism spectrum disorder,  
 489 Down syndrome, ~~and~~ other developmental disabilities, and  
 490 emotional or behavioral disabilities and provide programs and  
 491 services to persons with ~~developmental~~ disabilities, including,  
 492 but not limited to, regional autism centers pursuant to s.  
 493 1004.55.

494 Section 4. This act shall take effect July 1, 2021.