LEGISLATIVE REPORT

SUBJECT: Relating to Restraint and Seclusion

REFERENCE: Act 206, SLH 2014 HB 1796 HD2, SD1, CD1

ACTION REQUESTED: Report to the Legislature, Regular Session 2015

DOE REPORT:
Introduction: Act 206 requires the Department of Education to report on the status of: 1) The Department of Education’s plan to phase in the implementation of Sections 2 and 3 of this Act; 2) Any budgetary needs of the Department of Education in implementing Sections 2 and 3 of this Act; and, 3) Any proposed legislation necessary to implement sections 2 and 3 of this Act. Refer to the attachment entitled "Status Report on Act 206 Relating to Restraints and Seclusion in Hawaii Public Schools - 2015."

Findings: See attached

RECOMMENDATIONS: See attached

Kathryn S. Matayoshi
Superintendent
Department of Education

1-13-15 Date

Introduction:

Governor Neil Abercrombie signed Act 206 into law on July 2, 2014. This Act prohibits the use of seclusion and establishes conditions and procedures for the use of restraint in Hawaii public schools. The Department of Education (Department) has been tasked with examining its policies and procedures to ensure the proper use of restraints and make available annual trainings for employees. Further, the law calls for recordkeeping and accountability protocols to support the safety of all students and personnel in public schools and the promotion of a positive school culture and climate.

The following section provides updates related to the action items iterated in the aforementioned Act.

1. The Department of Education’s plan to phase in the implementation of section 2 and 3 of the Act.

   • Review of Board of Education Policies

   The Department’s Office of Curriculum, Instruction and Student Support (OCISS) has begun the process of reviewing current Board of Education policies. In consultation with a collaborative workgroup, OCISS will formally recommend the revision of current policy to incorporate specific language regarding the use of restraint in public schools or draft a new policy for the Board’s review and consideration.

   • Establish Department Procedures Following Use of Restraint

   OCISS is soliciting input from state and complex area personnel to develop a protocol to document all incidents involving the use of restraint, and procedures to ensure appropriate and immediate communication/notification to parents or legal guardians. Once a protocol is drafted, meetings will be scheduled with parent and community groups to solicit input and feedback, and collaboratively finalize a procedural document.

   The incident documentation will be incorporated as part of the Department’s current electronic Comprehensive Student Support Services (eCSSS) database. In addition to periodic and annual state, school, and complex level reports, OCISS is exploring database generated written and electronic communication to parents and legal guardians. Due to the delayed release of funds for this measure, OCISS has adjusted its timeline for the building and implementation of desired information technology requirements.
An instructional brochure based on the adoption of the revised or new Board policy and the comprehensive protocol will be produced and distributed to parents and legal guardians upon a student's entry to any Hawaii public school. Information will also be made available on the Department's website.

- **Implement Training, Certification and Recertification**

The Department is prepared and ready to issue a Request for Proposal (RFP) upon receipt of funding provided via Act 206. The RFP will identify potential vendors who are able to provide training in non-violent crisis intervention whose techniques are founded on the premise of positive behavioral interventions and supports. Training would also include the proper use of restraints and a comprehensive array of evidenced-based prevention and intervention techniques.

The Department's long-term goal is to build a cadre of certified trainers in all 15 complex areas. These certified trainers would be responsible for annual training and certification/recertification needs in complex area schools.

An electronic database to track training and certification of state/complex/school personnel in the schools will need to be built or purchased.

- **Review of Data on Students Who Were Restrained**

The collection of data via incident documentation at each school will allow for active monitoring and periodic reviews. Reviews will assist schools to ensure appropriate strategies are in place or make warranted adjustments to ensure the safety of students and personnel. Additionally, the data review will allow school personnel to adjust student programs to address any trends and patterns identified in student behaviors over a period of time.

- **Examine Policies and Procedures on the Use of Restraints**

A state-level workgroup will be convened to conduct a yearly review of incident data and policies and procedures on the use of restraint. This team of volunteers will also ascertain whether policies and procedures are being implemented with fidelity, verify proper alignment with applicable state statutes and administrative rules, and propose recommended changes.
2. Any budgetary needs of the Department of Education in implementing sections 2 and 3 of the Act.

- Identify Budgetary Needs

The Department has identified budgetary needs to support the ongoing implementation of this measure, as follows:

- **Staff training/certification/recertification**: Support for statewide training of complex/school personnel and training materials. During the initial three years (FY15, FY16, FY17), the Department will establish a cadre of trainers in each complex area. Thereafter, estimated costs are related to recertification and training of new staff.

- **Database development and maintenance**: Year 1 funding (FY15) is to identify specifications and requirements to create the database infrastructure within the Department’s existing eCSSS database. Following the launch of the fully-functional database and reports, projected costs are associated with periodic maintenance and enhancements to the existing infrastructure.

The Department’s budgetary funding projections to support the implementation of this initiative, as follows:

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<th></th>
<th>FY15</th>
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*As of this report issuance date, funds appropriated by the 2014 Legislature have yet to be released to the Department.

3. Any proposed legislation necessary to implement sections 2 and 3 of the Act.

- **Proposed Legislation**

The Department anticipates that proposed changes to Act 206 may be offered during the 2016 legislative session.

The full implementation of the Act’s provisions will improve the system’s capacity to create and enhance educational settings to better support and sustain student safety and well-being, with the primary goal of enhancing learning for all students.