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FISCAL IMPACT REPORT

	LAST UPDATED	02/23/2025
SPONSOR <u>Gurrola/Chávez, E./Torres-Velasquez</u>	ORIGINAL DATE	02/06/2025
	BILL	House Bill
SHORT TITLE <u>Allowable Responses to Student Behavior</u>	NUMBER	260/aHGEIC
	ANALYST	Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
School Districts	Up to \$1,000.0	Up to \$1,000.0	Up to \$1,000.0	Up to \$3,000.0	Recurring	School District Funds and General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

School for the Blind and Visually Impaired (SBVI)
 New Mexico School for the Deaf (NMSD)
 Department of Public Safety (DPS)
 Public Education Department (PED)
 Public Schools Insurance authority (PSIA)

Agency Analysis was Solicited but Not Received From

Albuquerque Public Schools (APS)
 Regional Education Cooperatives (RECA)
 Developmental Disability Council (DDC)

SUMMARY

Synopsis of HGEIC Amendment to House Bill 260

The House Government, Elections and Indian Affairs Committee amendment to House Bill 260 makes the following changes:

- The definition of seclusion, a means of punishment, allows for use of seclusion if direct line-of-sight visibility is maintained and the seclusion is terminated as soon as the child is no longer a danger to himself or others.
- When seclusion is used, it is subject to the same constraints as physical restraint (listed in Section H of the bill).
- A parent is given the right to request an individualized education program team, behavioral intervention plan team, or student assistance team meeting after an instance of physical restraint or, according to the amendment, if a parent has reasonable grounds to

believe that restraint or seclusion may have occurred.

Synopsis of House Bill 260

House Bill 260 (HB260) would expand and change many aspects of Section 22-5-4.12 NMSA 1978, which deals with allowable and prohibited types of responses that school personnel might use when dealing with student behavior.

Subsection A defines terms, replacing definitions previously at the end of this section of statute. Definitions include chemical restraint, (use of a medication not prescribed by the student's medical provider), mechanical restraint, physical restraint and physical escort, prone restraint, seclusion, time out, and de-escalation.

Subsection B specifically prohibits the use of seclusion, chemical restraint, mechanical restraint, and prone restraint in public schools.

Subsection C indicates that a public school may allow physical restraint only if the student is endangering themselves or others and lesser interventions are insufficient. If the student is eloping (leaving the scene without permission) but the two previous criteria for the use of physical restraint are not met, physical escort (moving with the student with a hand on their back, arm, or shoulder) may be appropriate.

Subsection D indicates that schools should plan in advance for disruptive behavior, using guidance provided by the Public Education Department (PED), and should train schools specifically in positive behavior interventions such as physical restraint and de-escalation. The school plan is to be drafted by a team including at least one person trained and certified in positive reinforcement techniques and at least one special education expert. The plan must include techniques to return a student to the classroom, and strategies to deal with elopement. The plan must be approved by PED.

Subsection E discusses the required components of training for designated school personnel and requires that it be done biannually.

Subsection F makes the following specifications regarding the use of physical restraint:

- 1) Students must be observed by school employees throughout the restraint application,
- 2) Restraint should end as soon as the danger of physical harm to the student or others is over,
- 3) Restraint should be used only by personnel trained in its safe use,
- 4) There can be no interference with a student's breathing or communication, and
- 5) The intervention should be proportional to the student's age and condition.

Subsection G prohibits the use of time-out as a punishment; Subsection H requires reporting of physical restraint used the same day or within 24 hours to parents/guardians, and, using a PED-issued form within three days, including precursors to and a description of the behavior, the reasons physical restraint was used and its techniques and duration, and the staff person's name and most recent training in the technique. Schools must review the record of the event if it has happened more than once with a given student and determine methods of avoiding similar incidents, including evaluation for special education if appropriate. If the student has an individualized educational plan (IEP), his/her IEP team must meet within two weeks to write out

recommendations. Parents can request an IEP team, behavioral intervention plan team, or student assistance team meeting after physical restraint has been used.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 260. Costs for training school personnel and for meetings to determine policy both before and after incidents had occurred are likely to be substantial. This analysis assumes these costs could be up to \$1 million annually.

On the other hand, as PED points out, “The proposed new training requirements may result in additional expenditures for public schools. However, regular professional training, as well as the additional restrictions proposed by the bill, may result in lower potential insurance or liability costs for school districts and charter schools arising from misapplication of restraint or seclusion.”

SIGNIFICANT ISSUES

Although techniques to prevent or to treat improper behavior may need to be used with all types of students, they are especially likely to be used with children with developmental disabilities and African-American students, as indicated in statistics presented by PED.

PED commented on a similar previous bill, 2023 Senate Bill 387:

A 2018 report by the [Education Commission of the States](#) noted that, though practices of restraint and seclusion are “typically utilized as tools for addressing imminent safety concerns, the use of restraint or seclusion on students who are exhibiting problematic behaviors has been prone to misapplication and abuse—possibly placing students in even more unsafe situations.” New Mexico legislation, such as [2017 House Bill 75](#) (HB75), which was enacted and codified as Section 22-5-4.12 NMSA 1978, has followed national trends in the past decade to limit the use of these procedures except in cases of immediate danger, to mandate reporting when restraint and seclusion are used, and to ensure school personnel are properly trained.

Provisions of SB387 would better align statute to the 15 principles outlined by the United States Department of Education (USDE) in 2012 guiding the use of restraint and seclusion in schools. Those 15 principles, detailed in a report from the federal DOE (The entire report is available as an attachment to this FIR), are as follows:

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Schools should never use mechanical restraints to restrict a child’s freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).

3. Physical restraint or seclusion should not be used except in situations where the child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.
4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse.
6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.
7. Restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child.
8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.
11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable Federal, State, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.

According to the USDE¹:

These principles stress that every effort should be made to prevent the need for the use of restraint and seclusion and that any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse. The principles make clear that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the

¹ <https://www.ed.gov/sites/ed/files/policy/seclusion/restraints-and-seclusion-resources.pdf>

safety of students and staff.

As noted by PED, “This amended bill reinforces proper training requirements for school staff to be able to more effectively address student behavior and de-escalation strategies benefiting students who require immediate intervention. By eliminating the practice of ‘seclusion’ in schools, students would benefit by remaining in the classroom setting without removal and loss of instructional time.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to 2023 Senate Memorial 68, which would have asked the Developmental Disabilities Council to set up a working group to address seclusion and restraint techniques used in New Mexico schools. Similar to many parts of 2023 Senate Bill 387. Neither of these pieces of legislation passed, nor did 2020 House Bill 354, 2021 Senate Bill 233, or 2021 Senate Bill 319, all of which dealt with similar issues.

AMENDMENTS

The Public Schools Insurance authority recommends the following change:

Current state law allows for mechanical restraint (at the discretion of the school district) by trained school staff or law enforcement officers, if necessary. HB260 should be amended to include use by school security staff and School Resources Officers under the same restrictions if the student's behavior presents an imminent danger of serious physical harm to the student or others.

LAC/hj/SL2



RESTRAINT AND SECLUSION: RESOURCE DOCUMENT

U.S. Department of Education



This document was produced under U.S. Department of Education Contract No. ED-OSE-09-O-0058 with the American Institutes for Research. Renee Bradley served as the contracting officer's representative. This resource document contains websites and resources created by a variety of organizations. These websites and resources are provided for the user's convenience. No official endorsement by the U.S. Department of Education of any product, commodity, service or enterprise mentioned in this report or on websites referred to in this report is intended or should be inferred. The views expressed herein do not necessarily represent the positions or policies of the Department of Education and no official endorsement of them by the Department is intended or should be inferred.

U.S. Department of Education

Arne Duncan

Secretary

May 2012

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This resource is available on the Department's Web site at: www.ed.gov/policy/restraintseclusion

On request, this publication is available in alternate formats, such as Braille, large print or compact disc. For more information, contact the Department's Alternate Format Center at 202-260-0852 or 202-260-0818.

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THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

May 15, 2012

As education leaders, our first responsibility must be to ensure that schools foster learning in a safe and healthy environment for all our children, teachers, and staff. To support schools in fulfilling that responsibility, the U.S. Department of Education has developed this document that describes 15 principles for States, school districts, schools, parents, and other stakeholders to consider when developing or revising policies and procedures on the use of restraint and seclusion. These principles stress that every effort should be made to prevent the need for the use of restraint and seclusion and that any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse. The principles make clear that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. The goal in presenting these principles is to help ensure that all schools and learning environments are safe for all children and adults.

As many reports have documented, the use of restraint and seclusion can have very serious consequences, including, most tragically, death. Furthermore, there continues to be no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques. Schools must do everything possible to ensure all children can learn, develop, and participate in instructional programs that promote high levels of academic achievement. To accomplish this, schools must make every effort to structure safe environments and provide a behavioral framework, such as the use of positive behavior interventions and supports, that applies to all children, all staff, and all places in the school so that restraint and seclusion techniques are unnecessary.

I hope you find this document helpful in your efforts to provide a world-class education to America's children. Thank you for all you do to support our schools, families, and communities and for your work on behalf of our nation's children.

Arne Duncan

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Restraint and Seclusion: Resource Document¹



School should be a safe and healthy environment in which America's children can learn, develop, and participate in instructional programs that promote high levels of academic achievement.



The foundation of any discussion about the use of restraint and seclusion is that every effort should be made to structure environments and provide supports so that restraint and seclusion are unnecessary. As many reports have documented, the use of restraint and seclusion can, in some cases, have very serious consequences, including, most tragically, death. There is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.

Physical restraint or seclusion should not be used except in situations where the child’s behavior poses imminent danger of serious physical harm to self or others and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. Schools should never use mechanical restraints to restrict a child’s



freedom of movement.² In addition, schools should never use a drug or medication to control behavior or restrict freedom of movement unless it is (1) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional’s authority under State law; and (2) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional’s authority under State law. Teachers, administrators, and staff understand that students’ social behavior can affect their academic learning. In many high-performing schools effective academic instruction is combined with effective behavior supports to maximize academic engagement and, thus, student achievement. Students are more likely to achieve when they are (1) directly taught school and classroom routines and social expectations that are predictable and contextually relevant; (2) acknowledged clearly and consistently for their displays of positive academic and social behavior; and (3) treated by

1 The U.S. Department of Education issues this Resource Document to provide guidance, and describe fifteen principles that States, school districts, school staff, parents, and other stakeholders may find helpful to consider when States, localities, and districts develop practices, policies, and procedures on the use of restraint and seclusion in schools. Our goal in providing this information is to inform States and school districts about how they can help to ensure that schools are safe learning environments for all students. As guidance, the extent to which States and school districts implement these principles in furtherance of that goal is a matter for State and local school officials to decide using their professional judgment, especially in applying this information to specific situations and circumstances. This document does not set forth any new requirements, does not create or confer any rights for or on any person or require specific actions by any State, locality, or school district.

We are interested in making this document as informative and useful as possible. If you are interested in commenting on this document, please e-mail your comments to Restraint_Secclusion@ed.gov or write to us at the following address: US Department of Education, 550 12th Street SW, PCP Room 4160, Washington, DC 20202-2600.

2 As the definition on page six of this document makes clear, “mechanical restraint” as used in this document does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed.

others with respect. (Algozzine, R., Wang, C., and Violette, C., 2011; McIntosh, K., Chard, D., Boland, J., and horner, R., 2006). Building effective behavioral supports in schools also involves several ongoing interrelated activities, including (1) investing in the whole school rather than just students with problem behavior; (2) focusing on preventing the development and occurrence of problem behavior; (3) reviewing behavioral data regularly to adapt school procedures to the needs of all students and their families; and (4) providing additional academic and social behavioral supports for students who are not making expected progress (Sugai, g., horner, R., Algozzine, R., Barrett, S., Lewis, T., Anderson, C., Bradley, R., Choi, J. h., Dunlap, g., Eber, L., george, h., Kincaid, D., McCart, A., Nelson, M., Newcomer, L., Putnam, R., Riffel, L., Rovins, M., Sailor, W., Simonsen, B. (2010)).

Positive behavior interventions and supports (PBIS) is a multi-tiered school-wide approach to establishing the social culture that is helpful for schools to achieve social and academic gains while minimizing problem behavior for all children. Over 17,000 schools across the country are implementing PBIS, which provides a framework for decision-making that guides the implementation of evidence-based academic and behavioral practices throughout the entire school, frequently resulting in significant



Restraint or seclusion should not be used as routine school safety measures; that is, they should not be implemented except in situations where a child’s behavior poses imminent danger of serious physical harm to self or others and not as a routine strategy implemented to address instructional problems or inappropriate behavior (e.g., disrespect, noncompliance, insubordination, out of seat), as a means of coercion or retaliation, or as a convenience.

reductions in the behaviors that lead to office disciplinary referrals, suspensions, and expulsions. While the successful implementation of PBIS typically results in improved social and academic outcomes, it will not eliminate all behavior incidents in a school (Bradshaw, C., Mitchell, M., and Leaf, P. (2010); Muscott, h., and Mann, E. (in press); Lassen, S., Steele, M., and Sailor, W. (2006)). however, PBIS is an important preventive framework that can increase the capacity of school staff to support all children, including children with the most complex behavioral needs, thus reducing the instances that require intensive interventions.



Background



On July 31, 2009, Secretary of Education Arne Duncan sent a letter to Chief State School Officers stating that he was deeply troubled about the current use and effects of restraint and seclusion, which were the subject of testimony before the Education and Labor Committee in the U.S. House of Representatives' hearing examining the abusive and potentially deadly application of restraint and seclusion techniques in schools.

In his letter, Secretary Duncan encouraged each State to review its current policies and guidelines on the use of restraint and seclusion in schools to help ensure that every student is safe and protected, and, if appropriate, to develop or revise its policies and guidelines. In addition, Secretary Duncan urged the Chiefs to publicize these policies and guidelines so that administrators, teachers, and parents understand and consent to the limited circumstances under which these techniques may be used; ensure that parents are notified when these interventions occur; provide the resources needed to successfully implement the policies; and hold school districts accountable for adhering to the guidelines. The letter went on to highlight the use of PBIS as an important preventive approach that can increase the capacity of the school staff to support children with the most complex behavioral needs, thus reducing the instances that require intensive interventions.

Subsequently, the U.S. Department of Education (the Department) asked its regional Comprehensive Centers to collect each State’s statutes, regulations, policies, and guidelines regarding the use of restraint and seclusion, and posted that information on the Department’s Web site.³ Additionally, the Department’s Office for Civil Rights revised the *Civil Rights Data Collection* beginning with school year 2009-2010 to require reporting of the total number of students subjected to restraint or seclusion disaggregated by race/ethnicity, sex, limited English proficiency status, and disability, and to collect the total number of times that restraint or seclusion occurred.⁴



Additionally, in 2009, the Substance Abuse and Mental health Services Administration (SAMhSA) of the U.S. Department of Health and Human Services (DhhS), asked the Department’s Office of Special Education Programs (OSEP) to review a paper commissioned by SAMHSA (with the assistance of an expert work group) addressing the issue of restraint and seclusion in schools. Based on Secretary Duncan’s letter to the Chief State School Officers and the experiences of SAMhSA with reducing, and in some cases eliminating, the use of restraint and seclusion in mental health facilities, the Department determined that it would be beneficial to all children if information and technical assistance were provided to State departments of education, local school districts, and preschool, elementary, and secondary schools regarding limiting the use of restraint and seclusion to situations involving imminent danger of serious physical harm to children or others.⁵

3 A revised version of that information is included in this document as Attachment A.

4 These data are available at <http://ocrdata.ed.gov>.

5 More detail about these efforts is included later in this document.

The purpose of this Resource Document is to present and describe 15 principles for State, district, and school staff; parents; and other stakeholders to consider when States, localities, and districts develop policies and procedures, which should be in writing on the use of restraint and seclusion. The principles are based on the nine principles that Secretary of Education Arne Duncan articulated in a 2009 letter to Chairman Christopher Dodd, Chairman George Miller, and Representative Cathy McMorris Rodgers in response to proposed legislation on restraint and seclusion. In his letter, the Secretary affirmed the Department's position that restraint and seclusion should not be used except when necessary to protect a child or others from imminent danger of serious physical harm. Since the Secretary issued his 2009 letter, the Department, working with the Department of Health and Human Services, further developed

and refined the principles. The Department and the Department of Health and Human Services urge States, local districts, and schools to adopt policies that consider these 15 principles as the framework for the development and implementation of policies and procedures related to restraint and seclusion to help ensure that any use of restraint or seclusion in schools does not occur, except when there is a threat of imminent danger of serious physical harm to the student or others, and occurs in a manner that protects the safety of all children and adults at a school. The goal in presenting these principles is to help ensure that all schools and all learning environments are safe for all children and adults. This Resource Document discusses the context within which these principles were developed, lists the principles, and highlights the current state of practice and implementation considerations for each principle. Additionally, this document provides a synopsis of ongoing efforts by Federal agencies to address national concerns about using restraint and seclusion in schools. Two attachments at the end of this document provide information about State policies on the use of restraint and seclusion in our nation's public schools and an annotated resource guide on the use of restraint and seclusion in schools.

In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school should have a plan for: (1) teaching and supporting more appropriate behavior; and (2) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion.

Other Significant Federal Activity Regarding the Use of Restraint and Seclusion in Schools

U.S. government accountability Office Report

The U.S. house of Representatives' Committee on Education and Labor requested the U.S. Government Accountability Office (GAO) to review the available evidence on the use of restraint and seclusion

that resulted in death and abuse at public and private schools and treatment centers. The GAO reviewed applicable Federal and State laws, interviewed knowledgeable State officials and recognized experts, and examined available evidence of abuse allegations from parents, advocacy organizations, and the media for the period between 1990 and 2009. These evidence reviews also involved the examination of selected closed cases, including police and autopsy reports and school policies on restraint or seclusion related to these cases.

The gAO report, titled *Examining the Abusive and Deadly Use of Seclusion and Restraint in Schools* (issued May 19, 2009), included three sets of findings. First, the gAO found that there were no current Federal regulations, but a wide variety of divergent State regulations, governing the use of restraint and seclusion in public and private schools. Second, the



GAO reported that there were no reliable national data on when and how often restraint and seclusion are being used in schools, or on the extent of abuse resulting from the use of these practices in educational settings nationally. However, the gAO identified several hundred cases of alleged abuse, including deaths that were related to the use of restraint or seclusion of children in public and private schools. Finally, the gAO provided detailed documentation of the abuse of restraint or seclusion in a sample of 10 closed cases that resulted in criminal convictions, findings of civil or administrative liability, or a large financial settlement. The gAO further observed that problems with untrained or poorly trained staff were often related to many instances of alleged abuse.

Congressional hearings and Proposed legislation

The GAO report was presented to the U.S. House of Representatives' Committee on Education and Labor at a hearing on restraint and seclusion on May 19, 2009. Testimony at this and other hearings, together with related work by the Committee, led to the drafting of proposed Federal legislation on the use of restraint and seclusion in schools.

The 111th Congress considered legislation on the use of restraint and seclusion in schools. The House bill (h.R. 4247) was titled *Keeping All Students Safe Act*, and two Senate bills were introduced, *Preventing Harmful Restraint and Seclusion in Schools Act* (S. 2860) and *Keeping All Students Safe Act* (S. 3895). In April, 2011, h.R. 4247 was reintroduced in the 112th Congress as h.R. 1381. And in December, 2011, S. 2020, *Keeping All Students Safe Act*, was introduced in the 112th Congress. The shared purposes of these bills were to (1) limit the use of restraint and seclusion in schools to cases where there

First, the GAO found that there were no current Federal regulations, but a wide variety of divergent State regulations, governing the use of restraint and seclusion in public and private schools.



Congressional Research Service Report

In October, 2010, the Congressional Research Service issued a report to Congress titled *The Use of Seclusion and Restraint in Public Schools: The Legal Issues*. The report focused on the legal issues regarding the use of seclusion and restraint in schools, including their use with children covered by the Individuals with Disabilities Education Act (IDEA) and with children not covered by IDEA. The report addressed (1) definitions (*Civil Rights Data Collection* definitions); (2) constitutional issues; (3) IDEA judicial decisions related to seclusion and restraint; (4) State laws and policies; and (5) Federal legislation.

is imminent danger of physical injury to the student or others at school; (2) provide criteria and steps for the proper use of restraint or seclusion; and (3) promote the use of positive reinforcement and other, less restrictive behavioral interventions in school. These measures also would have authorized support to States and localities in adopting more stringent oversight of the use of restraint and seclusion in schools, and would have established requirements for collecting data on the use of these practices in schools. Both the House and Senate bills were introduced and debated by their respective chambers in the 111th Congress, but only the House bill had passed when the Congressional session ended in December 2010. Therefore, no legislation related to restraint and seclusion in schools was enacted by the 111th Congress, nor has action on such legislation been taken, to date, in the 112th Congress.



terms Used in this Document



The Department's Office for Civil Rights (OCR) began collecting data on the use of restraint and seclusion in schools as part of the Department's 2009-2010 *Civil Rights Data Collection (CRDC)* and defined key terms related to restraint and seclusion.



References in this document to “restraint” encompass the terms “physical restraint” and “mechanical restraint” as defined in the CRDC. References to “seclusion” encompass “seclusion” as defined in the CRDC. According to the GAO report, each of these types of restraint is currently being used in schools.

the CRDC defines *physical restraint* as:

- A personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

the CRDC defines *mechanical restraint* as:

- The use of any device or equipment to restrict a student’s freedom of movement. This term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:
 - Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
 - Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
 - Restraints for medical immobilization; or
 - Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

the CRDC defines *seclusion* as:

- The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

A copy of the 2009-2010 CRDC and the OCR definitions of restraint and seclusion can be found at the following Web site: <http://www2.ed.gov/about/offices/list/ocr/whatsnew.html>. Restraint and seclusion data are available at <http://ocrdata.ed.gov>.⁶

⁶ As these terms are used in this document, “restraint” does not include behavioral interventions used as a response to calm and comfort (e.g., proximity control, verbal soothing) an upset student and “seclusion” does not include classroom timeouts, supervised in-school detentions, or out-of-school suspensions.



fifteen Principles⁷

The Department, in collaboration with SAMHSA, has identified 15 principles that we believe States, local school districts, preschool, elementary, and secondary schools, parents, and other stakeholders should consider as the framework for when States, localities, and districts develop and implement policies and procedures, which should be in writing related to restraint and seclusion to ensure that any use of restraint or seclusion in schools does not occur, except when there is a threat of imminent danger of serious physical harm to the student or others, and occurs in a manner that protects the safety of all children and adults at school.

The Department recognizes that States, localities, and districts may choose to exceed the framework set by the 15 principles by providing additional protections from restraint and seclusion.

fifTEEn PRInCIPIES

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Schools should never use mechanical restraints to restrict a child’s freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).
3. Physical restraint or seclusion should not be used except in situations where the child’s behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.
4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child’s rights to be treated with dignity and to be free from abuse.
6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.
7. Restraint or seclusion should never be used in a manner that restricts a child’s breathing or harms the child.
8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior;⁸ if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.

Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.

⁷ This Resource Document addresses the restraint or seclusion of any student regardless of whether the student has a disability. Federal laws, including the IDEA, the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended, must be followed in any instance in which a student with a disability is restrained or secluded, or where such action is contemplated. This Resource Document does not, however, address the legal requirements contained in those laws.

⁸ As used in this document, the phrase “dangerous behavior” refers to behavior that poses imminent danger of serious physical harm to self or others.

11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable Federal, State, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.



Following is additional information about each of the 15 principles.

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.

All children should be educated in safe, respectful, and non-restrictive environments where they can receive the instruction and other supports they need to learn and achieve at high levels. Environments can be structured to greatly reduce, and in many cases eliminate, the need to use restraint or seclusion. SAMHSA notes in its *Issue Brief #1: Promoting Alternatives to the Use of Seclusion and Restraint*, that with leadership and policy and programmatic change, the use of seclusion and restraint can be prevented and in some facilities has been eliminated. One primary method is to structure the environment using a non-aversive effective behavioral system such as PBIS. Effective positive behavioral systems are comprehensive, in that they are comprised of a framework or approach for assisting school personnel in adopting and organizing evidence-based behavioral interventions into an integrated continuum that enhances academic and social behavioral outcomes for all students. The PBIS prevention-oriented framework or approach applies to all students, all staff, and all settings. When integrated with effective academic instruction, such systems can help provide the supports children need to become actively engaged in their own learning and academic success. Schools successfully implementing comprehensive behavioral systems create school-wide environments that reinforce appropriate behaviors while reducing instances of dangerous behaviors that may lead to the need to use restraint or seclusion. In

schools implementing comprehensive behavioral systems, trained school staff use preventive assessments to identify where, under what conditions, with whom, and why specific inappropriate behavior may occur, as well as implement de-escalation techniques to defuse potentially violent dangerous behavior. Preventive assessments should include (1) a review of existing records; (2) interviews with parents, family members, and students; and (3) examination of previous and existing behavioral intervention plans. Using these data from such assessments helps schools identify the conditions when inappropriate behavior is likely to occur and the factors that lead to the occurrence of these behaviors; and develop and implement preventive behavioral interventions that teach appropriate behavior and modify the environmental factors that escalate the inappropriate behavior. The use of comprehensive behavioral systems significantly decreases the likelihood that restraint or seclusion would be used, supports the attainment of more appropriate behavior, and, when implemented as described, can help to improve academic achievement and behavior.

2. Schools should never use mechanical restraints to restrict a child’s freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).

Schools should never use mechanical restraints to restrict a child’s freedom of movement. In addition, schools should never use a drug or medication to control behavior or restrict freedom of movement unless it is (1) prescribed by a licensed physician, or other qualified health

Schools should never use mechanical restraints to restrict a child’s freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).

professional acting under the scope of the professional’s authority under State law; and (2) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional’s authority under State law.

3. Physical restraint or seclusion should not be used except in situations where the child’s behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.

Physical restraint or seclusion should be reserved for situations or conditions where

there is imminent danger of serious physical harm to the child, other children, or school or program staff. These procedures should not be used except to protect the child and others from serious harm and to defuse imminently dangerous situations in the classroom or other non-classroom school settings (e.g., hallways, cafeteria, playground, sports field), and only should be used by trained personnel. Physical restraint or seclusion should not be used as a response to inappropriate behavior (e.g., disrespect, noncompliance, insubordination, out of seat) that does not pose imminent danger of serious physical harm to self or others, nor should a child be restrained and secluded simultaneously as this could endanger the child. In addition, planned behavioral strategies should be in place and used to: (1) de-escalate potentially violent dangerous behavior; (2) identify and support competing positive behavior to replace dangerous behavior; and (3) support appropriate behavior in class and throughout the school, especially if a student has a history of escalating dangerous behavior.

4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.

Behavior that results in the rare use of restraint or seclusion -- that posing imminent danger of serious physical harm to self or others -- is not limited to children with disabilities, children with a particular disability, or specific groups of children (e.g., gender, race, national origin, limited English proficiency, etc.) without disabilities. Thus, to the extent that State and local policies address the use of restraint or seclusion, those policies, including assessment and prevention strategies, should apply to all children



in the school, all staff who work directly or indirectly with children, and across all settings under the responsibility of the school.

5. Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse.

Every child deserves to be treated with dignity, be free from abuse, and treated as a unique individual with individual needs, strengths, and circumstances (e.g., age, developmental level, medical needs). *The use of any technique that is abusive is illegal and should be reported to the appropriate authorities.* Schools should consider implementing an evidence-based school-wide system or framework of positive behavioral interventions and supports. Key elements of a school-wide system or framework include (1) universal screening to identify children at risk for behavioral problems; (2) use of a continuum of increasingly intensive behavioral and academic interventions for children identified as being at risk; (3) an emphasis on teaching and acknowledging school-wide and individual expected behaviors and social skills; and (4) systems to monitor the responsiveness of

individual children to behavioral and academic interventions. Increases in children’s academic achievement and reductions in the frequency of disciplinary incidents can be realized when school-wide frameworks are implemented as designed and are customized to match the needs, resources, context, and culture of students and staff.

6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in restraint for out-of-seat behavior), as a means of coercion, or retaliation, or as a convenience.

Restraint or seclusion should not be used as routine school safety measures; that is, they should not be implemented except in situations where a child’s behavior poses imminent danger of serious physical harm to self or others and not as a routine strategy implemented to address instructional problems or inappropriate behavior (e.g., disrespect, noncompliance, insubordination, out of seat), as a means of coercion or retaliation, or as a convenience. Restraint or seclusion should only be used for limited periods of time and should cease immediately when the imminent danger of serious physical harm to self or others has dissipated. Restraint or seclusion should not be used (1) as a form of punishment or discipline (e.g., for out-of-seat behavior); (2) as a means to coerce, retaliate, or as a convenience for staff; (3) as a planned behavioral intervention in response to behavior that does not pose imminent danger of serious physical harm to self or others; or (4) in a manner that endangers the child. For example, it would be inappropriate to use restraint or seclusion for (1) failure to follow expected classroom or



school rules; (2) noncompliance with staff directions; (3) the use of inappropriate language; (4) to “punish” a child for inappropriate behavior; or (5) staff to have an uninterrupted time together to discuss school issues.

7. Restraint or seclusion should never be used in a manner that restricts a child’s breathing or harms the child.

Prone (i.e., lying face down) restraints or other restraints that restrict breathing should never be used because they can cause serious injury or death. Breathing can also be restricted if loose clothing becomes entangled or tightened or if the child’s face is covered by a staff member’s body part (e.g., hand, arm, or torso) or through pressure to the abdomen or chest. Any restraint or seclusion technique should be consistent with known medical or other special needs of a child. School districts should be cognizant that certain restraint and seclusion techniques are more restrictive than others, and use the least restrictive technique necessary to end the threat of imminent danger of serious physical harm. A child’s ability to communicate (including for those children who use only sign language or other

forms of manual communication or assistive technology) also should not be restricted unless less restrictive techniques would not prevent imminent danger of serious physical harm to the student or others. In all circumstances, the use of restraint or seclusion should never harm a child.

- 8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, a revision of behavioral strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.**

In cases where a student has a history of dangerous behavior for which restraint or seclusion was considered or used, a school should have a plan for (1) teaching and supporting more appropriate behavior; and (2) determining positive methods to prevent behavioral escalations that have previously resulted in the use of restraint or seclusion. Trained personnel should develop this plan in concert with parents and relevant professionals by using practices such as functional behavioral assessments (FBAs) and behavioral intervention plans (BIPs). An FBA is used to analyze environmental factors, including any history of trauma (e.g., physical abuse), that contribute to a child's inappropriate (e.g., disrespect, noncompliance, insubordination, out-of-seat) behaviors. FBA data are used to develop positive behavioral strategies that emphasize redesigning environmental conditions, which may include changes in staff approaches and

techniques, so that appropriate behavior is more likely to occur and inappropriate and dangerous behavior is less likely to occur.

When restraint or seclusion is repeatedly used with a child, used multiple times within the same classroom, or used multiple times by the same individual, a review of the student's BIP should occur, the prescribed behavioral strategies should be modified, if needed; and staff training and skills should be re-evaluated. The need for the review is based on the individual needs of the child and the determination should include input from the family; a review could be necessitated by a single application of restraint or seclusion. This review may entail conducting another FBA to refine the BIP or examining the implementation of the current plan. If the student has a history of dangerous behavior and has been subjected to restraint or seclusion, a review and plan should be conducted prior to the student entering any program, classroom, or school. In all cases the reviews should consider not only the effectiveness of the plan, but also the capability of school staff to carry out the plan. Furthermore, if restraint or seclusion was used with a child who does not have an FBA and BIP, an FBA should be conducted and, if needed, a BIP developed and implemented that incorporates positive behavioral strategies for that child, including teaching positive behaviors. The long-term goal of FBAs and BIPs is to develop and implement preventive behavioral interventions, including increasing appropriate positive behaviors, that reduce the likelihood that restraint or seclusion will be used with a child in the future.

9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.

Behavioral strategies, particularly when implemented as part of a school-wide program of positive behavioral supports, can be used to address the underlying causes of dangerous behavior and reduce the likelihood that restraint or seclusion will need to be used. Behavior does not occur in a vacuum but is associated with conditions, events, requirements, and characteristics of a given situation or setting. An FBA can identify the combination of antecedent factors (factors that immediately precede behavior)



and consequences (factors that immediately follow behavior) that are associated with the occurrence of inappropriate behavior. Information collected through direct observations, interviews, and record reviews help to identify the function of the dangerous behavior and guide the development of BIPs. A complete BIP should describe strategies for (1) addressing the characteristics of the setting and events; (2) removing antecedents that trigger dangerous

behavior; (3) adding antecedents that maintain appropriate behavior; (4) removing consequences that maintain or escalate dangerous behaviors; (5) adding consequences that maintain appropriate behavior; and (6) teaching alternative appropriate behaviors, including self regulation techniques, to replace the dangerous behaviors.

10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.

Positive behavioral strategies should be in place in schools and training in physical restraint and seclusion should first emphasize that every effort should be made to use positive behavioral strategies to prevent the need for the use of restraint and seclusion. School personnel working directly with children should know the school's policies and procedures for the safe use of physical restraint and seclusion, including both proper uses (e.g., as safety measures to address imminent danger of physical harm) and improper uses (e.g., as punishment or to manage behavior) of these procedures. In addition, school personnel should be trained in how to safely implement procedures for physical restraint and seclusion and only trained personnel should employ these interventions; as well as how to collect and analyze individual child data to determine the effectiveness of these procedures in increasing appropriate behavior and decreasing inappropriate behavior. These data

should inform the need for additional training, staff support, or policy change, particularly when data indicate repeated use of these interventions by staff.

School personnel also should receive training on the school's policies and procedures for the timely reporting and documentation of all instances in which restraint or seclusion are used. At a minimum, training on the use of physical restraint and seclusion and effective alternatives should be provided at the beginning and middle of each school year. However, such training should be conducted more often if there are enrolled students with a history or high incidence of dangerous behavior who may be subjected to physical restraint or seclusion procedures. In addition, school administrators should evaluate whether staff who engage in multiple uses of restraint or seclusion need additional training. All school personnel should receive comprehensive training on school-wide programs of positive behavioral supports and other strategies, including de-escalation techniques, for preventing dangerous behavior that leads to the use of restraint or seclusion. Training for principals and other school administrators should cover how to develop, implement, and evaluate the effectiveness of school-wide behavioral programs. Training for teachers, paraprofessionals, and other personnel who work directly with children should be ongoing and include refreshers on positive behavior management strategies, proper use of positive reinforcement, the continuum of alternative behavioral interventions, crisis prevention, de-escalation strategies, and the safe use of physical restraint and seclusion.

Behavioral strategies, particularly when implemented as part of a school-wide program of positive behavioral supports, can be used to address the underlying causes of dangerous behavior and reduce the likelihood that restraint or seclusion will need to be used.

Use and prevention training should be accompanied by regular supervised practice. Like quarterly fire drills, all staff members should be expected to regularly and frequently review and practice approaches to prevent the conditions that result in the use of restraint or seclusion and in the use of specific and planned physical restraint or seclusion procedures. A team of trained personnel should monitor practice sessions to check for adherence to and documentation of planned procedures.

- 11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and the safety of the child, other children, teachers, and other personnel.**

If restraint or seclusion is used, the child should be continuously and visually observed and monitored while he or she is restrained or placed in seclusion. Only school personnel who

have received the required training on the use of restraint and seclusion should be engaged in observing and monitoring these children. Monitoring should include a procedural checklist and recordkeeping procedures. School staff engaged in monitoring should be knowledgeable regarding (1) restraint and seclusion procedures and effective alternatives; (2) emergency and crisis procedures; (3) strategies to guide and prompt staff members engaged in restraint or seclusion procedures; and (4) procedures and processes for working as a team to implement, monitor, and debrief uses of restraint or seclusion. Monitoring staff should receive training to ensure that the use of physical restraint or seclusion does not harm the child or others, and that procedures are implemented as planned. For example, those observing the application of a restraint should confirm that the restraint does not cause harm to the child, such as restricting the child's breathing. Continuous monitoring of restraint includes, for example: (1) continuous assessment of staff and student status, including potential physical injuries; (2) termination of restraint or seclusion when imminent danger of serious physical harm to self or others has dissipated; (3) evaluation of how procedures are being implemented; and (4) consideration of opportunities for redirection and defusing the dangerous behavior. In developing procedures, States, districts, and schools should consider having school health personnel promptly assess the child after the imposition of restraints or seclusion.

Trained school staff should also inspect and prepare the seclusion area before a child is placed in seclusion. For example, the area should be free of any objects a child could use

to injure him- or herself or others. School staff should either be inside the area or outside by a window or another adjacent location where staff can continuously observe the child and confirm that the child is not engaging in self-injurious behavior. When a child is in seclusion, trained school staff should constantly watch the child. Such observation and monitoring is critical in determining when the imminent danger of serious physical harm to self or others has dissipated so that the restraint or seclusion can be immediately discontinued. Proper observation and monitoring and written documentation of the use of restraint or seclusion helps to ensure the continued safety of the child being restrained or secluded as well as the safety of other children and school personnel.

12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable Federal, State or local laws.

All parents should receive, at least annually, written information about the policies and procedures for restraint and seclusion issued by the State, district, or school. This information should be included, for example, in the district's or school's handbook of policies and procedures or other appropriate and widely distributed school publications. Schools, districts, and States are encouraged to involve parents when developing policies and procedures on restraint and seclusion. These written descriptions should include the following: (1) a statement that mechanical restraint should not be used, that schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed

In addition, preventive strategies to reduce the likelihood that restraint or seclusion will need to be used with a child should be established, documented, and communicated to the child's parents.

physician or other qualified health professional), and physical restraint and seclusion should not be used except in situations where the child's behavior poses an imminent danger of serious physical harm to self or others and should be discontinued as soon as the imminent danger of serious physical harm to self or others has dissipated; (2) definitions of restraint and seclusion; (3) information on the procedures for determining when restraint or seclusion can and cannot be properly used in school settings; (4) information on the procedural safeguards that are in place to protect the rights of children and their parents; (5) a description of the alignment of a district's and school's policies and procedures with applicable State or local laws or regulations; (6) procedures for notifying parents when restraint or seclusion has been used with their child; and (7) procedures for notifying parents about any changes to policies and procedures on restraint or seclusion. If policy or procedural changes are made during the school year staff

and family members should be notified immediately. In addition, preventive strategies to reduce the likelihood that restraint or seclusion will need to be used with a child should be established, documented, and communicated to the child's parents. Parents also should be encouraged to work with schools and districts to ensure planned behavioral strategies are in place and used to (1) de-escalate potentially violent dangerous behavior; (2) identify and support competing positive behavior to replace dangerous behavior; and (3) support appropriate behavior in class and throughout the school, especially if a student has a history of escalating dangerous behavior.

13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.

Parents should be informed about the school's procedures for promptly notifying parents and documenting each time that restraint or seclusion is used with their child. The meaning of "as soon as possible" notification should be determined by the State, district, or school and included in the information on restraint and seclusion that is provided to parents. Documenting that parents have been notified as soon as possible, ideally on the same school day, when restraint or seclusion has been used ensures that parents are fully informed about their child's behavior and the school's response and helps parents participate as informed team members who can work with their child's teachers and other school staff to determine whether the behavioral supports at school and at home, including prevention and de-escalation strategies, are effective.

14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.

States, districts, and schools should not only establish and publish policies and procedures on the use of restraint and seclusion, but also should periodically review and update them as appropriate. This review should be conducted by a team (that includes parents) with expertise related to PBIS, and educating and supporting students with dangerous behaviors in schools and community settings. The review should consider and examine (1) available data on the use of these practices and their outcomes (i.e., the review should examine the frequency of the use of restraint and the use of seclusion across individual children, groups of children (e.g., gender, race, national origin, disability status and type of disability, limited English proficiency, etc.)), settings, individual staff, and programs and consider whether policies for restraint and seclusion are being applied consistently; (2) the accuracy and consistency with which restraint and seclusion data are being collected, as well as the extent to which these data are being used to plan behavioral interventions and staff training; (3) whether procedures for using these practices are being implemented with fidelity; (4) whether procedures continue to protect children and adults; and (5) whether existing policies and procedures for restraint and seclusion remain properly aligned with applicable State and local laws. The school should maintain records of its review of restraint and seclusion data and any resulting decisions or actions regarding the use of restraint and seclusion.



15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.

Each incident of the use of restraint and of the use of seclusion should be properly documented for the main purposes of preventing future need for the use of restraint or seclusion and creating a record for consideration when developing a plan to address the student's needs and staff training needs. For example, a school should maintain a written log of incidents when restraint or seclusion is used. Appropriate school staff should prepare a written log entry describing each incident, including details of the child's dangerous behavior, why this behavior posed an imminent danger of serious physical harm to self or others, possible factors contributing to the dangerous behavior, the effectiveness of restraint or seclusion in de-escalating the situation and staff response to such behavior. Best practices and existing State policies and

procedures indicate that documentation of each use of restraint or seclusion frequently includes (1) start and end times of the restraint or seclusion; (2) location of the incident; (3) persons involved in the restraint or seclusion; (4) the time and date the parents were notified; (5) possible events that triggered the behavior that led to the restraint or seclusion; (6) prevention, redirection, or pre-correction strategies that were used during the incident; (7) a description of the restraint or seclusion strategies that were used during the incident; (8) a description of any injuries or physical damage that occurred during the incident; (9) how the child was monitored during and after the incident; (10) the debriefing that occurred with staff following the incident; (11) the extent to which staff adhered to the procedural implementation guidelines (if established by the State, district, or school); and (12) follow-up that will occur to review or develop the student's BIP.

For individual children, these data should be periodically reviewed to determine whether (1) there are strategies in place to address the dangerous behavior at issue; (2) the strategies in place are effective in increasing appropriate behaviors; and (3) new strategies need to be developed, or current strategies need to be revised or changed to prevent reoccurrences of the dangerous behavior(s).

Data on the frequency of use of restraint and seclusion for all children should be periodically reviewed at school leadership meetings, grade-level meetings, and other meetings of school staff. Data to be reviewed at these meetings should include information, consistent with privacy laws, about the frequency and duration

of restraint and seclusion incidents across individual children, groups of children (e.g., gender, race, national origin, disability status and type of disability, limited English proficiency, etc.), settings, individual staff, and programs, as well as the number and proportion of children who were restrained or placed in seclusion since the last meeting and for the year to date. Such

States, districts, and schools should not only establish and publish policies and procedures on the use of restraint and seclusion, but also should periodically review and update them as appropriate.

reviews should be used to determine whether state, district, and school policies are being properly followed, whether procedures are being implemented as intended, and whether the school staff should receive additional training on the proper use of restraint and seclusion or PBIS. States, districts, and schools should consider making these data public, ensuring that personally identifiable information is protected.



federal agency Efforts to address Concerns



To date, Federal efforts to address concerns about the use of restraint and seclusion in schools have included the following four interrelated policy initiatives: (1) articulating principles to emphasize that physical restraint and seclusion should not be used except to protect a child or others from imminent danger of serious physical harm; (2) developing a dear colleague letter and this Resource Document that will be used to provide States, districts, and schools with information related to the proper and improper use of restraint and seclusion; (3) collecting, analyzing, and publishing restraint and seclusion incident data from every State; and (4) publishing State regulations, policies, and guidance on the use of restraint and seclusion.

A summary of these Federal efforts is presented below.

DEPaRtmEnt Of EDUCatiOn EffORTs

letters from the Secretary

Secretary of Education Arne Duncan issued two letters articulating the Department's position on the use of restraint and seclusion.

The first letter was sent to Chief State School Officers on July 31, 2009 urging each State to review its current policies and guidelines on the use of restraint and seclusion in schools, and, if appropriate, to develop or revise them to ensure the safety of students. The letter highlighted a school-wide system of PBIS as an important preventive approach that can increase the capacity of school staff to support children with complex behavioral needs, thus reducing the instances that require the use of restraint and seclusion. The letter also explained that the Department would be contacting each State to discuss the State's plans to ensure the proper use of restraint and seclusion to protect the safety of children and others at school.

On December 8, 2009, the Secretary sent a letter to Chairman Dodd, Chairman Miller, and Representative McMorris Rodgers. This letter expressed the Department's appreciation of Congressional efforts to limit the use of restraint and seclusion. The letter also articulated a list of nine principles that the Secretary believed would be useful for Congress to consider in the context of any legislation on restraint and seclusion. Additionally, the letter informed Congress that the Department was reviewing information about each State's laws, regulations, policies, and guidance on restraint and seclusion.

Review of State Policies and Procedures

The Department's Regional Comprehensive Technical Assistance Centers collected information on the policies and procedures on restraint and seclusion in each of the 50 States, eight territories, Bureau of Indian Education, and District of Columbia. These data were summarized and presented in a public report released in February 2010 and updated through a review of State Web sites in August 2011.

The first letter was sent to Chief State School Officers on July 31, 2009 urging each State to review its current policies and guidelines on the use of restraint and seclusion in schools, and, if appropriate, to develop or revise them to ensure the safety of students.

Office for Civil Rights

The Department's OCR enforces certain civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, and disability by recipients of Federal financial assistance from the Department and certain public entities. In September 2009, OCR announced in the *Federal Register* that it would include, for the first time, questions on restraint and seclusion in the *Civil Rights Data Collection (CRDC)*. The CRDC now collects school- and district-level information about students in public schools that includes (1) the number of

students by race/ethnicity, sex, Limited English Proficiency (LEP) status, and disability status subjected to physical restraint; (2) the number of students by race/ethnicity, sex, LEP status, and disability status subjected to mechanical restraint; (3) the number of students by race/ethnicity, sex, LEP status, and disability status subjected to seclusion; and (4) the total number of incidents of physical restraint, mechanical restraint, and seclusion by disability status. The data collection tables can be found at <http://ocrdata.ed.gov/Downloads.aspx>. The CRDC restraint and seclusion data are available at <http://ocrdata.ed.gov>. The data were released in two parts, in September 2011 and March 2012.

Office of Special Education Programs

OSEP has a long history of investments in national centers and projects that support school-wide behavioral frameworks in schools. Notably, in 1997, OSEP began funding the Technical Assistance Center on Positive Behavioral Interventions and Supports. The ongoing work of this center has led to the development and implementation of School-wide Positive Behavioral Interventions and Supports (SWPBIS). Now widely used throughout the country, SWPBIS is a framework for organizing evidence-based behavioral interventions into an integrated, multi-tiered continuum that maximizes academic and behavioral outcomes for all students.

SWPBIS is organized around six core principles:

(1) invest first in the prevention of the social behavior that impedes student academic and social success in schools; (2) build a positive whole-school social culture by defining, teaching, and acknowledging clearly defined behavioral expectations for all students; (3) establish and apply consistently a continuum of consequences for problem behavior that prevents the inadvertent

reward of problem behavior; (4) establish and apply consistently a multi-tiered continuum of evidence-based behavioral practices that supports behavioral success for all students, especially those students with more complex behavior support challenges; (5) collect and use data continuously to screen and monitor progress of all students, make instructional and behavioral decisions, and solve problems; and (6) invest in the organizational infrastructure and capacity to enable effective, efficient, and relevant implementation of evidence-based practices. These six core principles offer school administrators, teachers, and other school staff practical guidelines for implementing comprehensive behavioral systems that help prevent the need to use restraint and seclusion in school.



A growing body of evaluation and experimental research supports the following conclusions about the impact of SWPBIS implementation. Schools throughout the country are able to adopt and implement SWPBIS practices. When SWPBIS is implemented as intended, schools experienced reductions in problem behaviors (e.g., behavior that results in office referrals, suspensions). SWPBIS implementation enhances the impact of effective instruction on

academic outcomes. When SWPBIS is implemented as intended, students and staff members report improved school safety and organizational health. Furthermore, SWPBIS is sustainable when initial implementation is done as intended.



OSEP’s Technical Assistance Center on PBIS has assisted States and local districts with the implementation of SWPBIS in over 17,000 schools across the United States. Each of these schools has a team that has gone through, or is going through, formal training on SWPBIS practices. Teams benefit from local coaching provided by district school psychologists, social workers, counselors, administrators, and special educators. States and districts have been successful in implementing and sustaining SWPBIS by actively and formally developing State, local, and school capacity for coordination, training, coaching, and evaluation. This capacity building, in turn, supports continual improvement, effective outcomes, and efficient and accurate implementation, and maximizes student academic and behavior outcomes for all students. The center’s technical assistance supports participating local districts and schools in identifying, adopting, and sustaining SWPBIS effectively.

DEPaRtmEnt Of hEalth and hUman SERvICES EffORTs

Children’s health act

Although restraint and seclusion have been used in mental health settings and other medical facilities for many years, these practices have become more controversial because of tragic outcomes such as deaths and serious injuries. In 2000, Congress passed the Children’s health Act, which required DHHS to draft regulations under Title V of the Public Health Service Act for the use of restraint and seclusion in medical facilities and in residential non-medical community-based facilities for children and youth. The Act set minimum standards for the use of restraint and seclusion, which stipulate that (1) restraint and seclusion are crisis response interventions and may not be used except to ensure immediate physical safety and only after less restrictive interventions have been found to be ineffective; (2) restraint and seclusion may not be used for discipline or convenience; (3) mechanical restraints are prohibited; (4) restraint or seclusion may be imposed only by individuals trained and certified in their application; and (5) children being restrained or secluded must be continuously monitored during the procedure. The Children’s health Act also required DHHS to draft regulations for States to use in training individuals in facilities covered under the Federal law.⁹

⁹ Regulations implementing Part H (Requirements Relating to the Rights of Residents of Certain Facilities) of Title V of the Public Health Service (PHS) Act have been promulgated, although regulations implementing Part I (Requirements relating to the rights of Residents of Certain Non-Medical, Community-Based Facilities for Children and Youth) of Title V of the PHS Act have not yet been promulgated. Moreover, regulations have not been issued regarding training of facility staff.

The Children’s health Act of 2000 (ChA) (Pub. L. 106-310) amended title V of the PhS Act to add two new parts (Parts h and I) that established minimum requirements for the protection and the promotion of rights of residents of certain facilities to be free from the improper use of seclusion or restraint. Consistent with section 3207 of the Children’s health Act, the Centers for Medicare and Medicaid Services (CMS) issued regulations setting forth patient rights to be free of medically unnecessary restraint and seclusion in several types of health care facilities and programs, including: hospitals, in a final rule published at 71 Fed. Reg. 71378 (Dec. 8, 2006) that also applies to critical access hospitals; hospices, in a final rule published at 73 Fed. Reg. 32088 (June 5, 2008); Medicaid managed care, in a final rule published at 67 Fed. Reg. 40989 (June 14, 2002); programs of all-inclusive care for the elderly (PACE), in a final rule published at 71 Fed. Reg. 71244 (Dec. 8, 2006); and psychiatric residential treatment facilities for individuals under age 21, in an interim final rule published at 66 Fed. Reg. 7148 (Jan. 22, 2001). CMS has also proposed regulations governing the use of restraint and seclusion in Community Mental Health Centers, at 76 Fed. Reg. 35684 (June 17, 2011).

SamhSa

As part of SAMhSA’s continuing efforts to provide guidance on the Children’s health Act, in 2002, the agency developed the Six Core Strategies¹⁰ model, which defines specific interventions to prevent or reduce the use of restraint and seclusion in health-care settings. This model curriculum includes the following six core components:

- Leadership toward organizational change
- The use of data to inform practice
- Workforce Development: In-service training, supervision, and mentoring
- Use of primary prevention tools
- Supporting roles for persons served and advocates in programs
- Debriefing tools

While mainly used for training in healthcare settings, these six components have been found to be applicable in school settings. Furthermore, the policy concerns exemplified in these core components have contributed to the Department’s interagency collaboration with SAMHSA to address the use of restraint and seclusion in school settings across the country.



10 NASMhPD published the first training curriculum on *Six Core Strategies*® to Reduce the Use of Seclusion and Restraint in Inpatient Facilities in 2002. Since then, the Six Core Strategies® have been formally evaluated, and the evidence indicates they likely meet criteria for inclusion on SAMhSA’s National Registry of Evidence-Based Programs and Practices. <http://www.grafton.org/Newsletter/art%20lebel.pdf>

LeBel, J; huckshorn, K.A.; Caldwell, B. (2010). *Restraint use in residential programs: Why are the best practices ignored?* Child Welfare 89(2), 169-187.



attachment a



Revised Summary of Restraint and Seclusion Statutes, Regulations, Policies and Guidance, by State: Information as Reported to the Regional Comprehensive Centers and Gathered from Other Sources



This attachment is intended to be accessed through the Internet. If this document is being printed, pages 30-32 will not contain URLs.

State or District	Statutes and Regulations Addressing Restraint and Seclusion*	Policies and Guidance Addressing Restraint and Seclusion ^x
Alabama	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Alaska	Please see State Web site for further information.	No policies or guidance addressing seclusion and restraint.
Arizona	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Arkansas	Please see State Web site for further information.	Please see State Web site for further information.
California	Please see State Web site for further information.	Please see State Web site for further information.
Colorado	Please see State Web site for further information.	Please see State Web site for further information.
Connecticut	Please see State Web site for further information.	Please see State Web site for further information.
Delaware	Please see State Web site for further information.	Please see State Web site for further information.
District of Columbia	Please see District Web site for further information.	Please see District Web site for further information.
Florida	Please see State Web site for further information.	Please see State Web site for further information.
Georgia	Please see State Web site for further information.	Please see State Web site for further information.
Hawaii	Please see State Web site for further information.	Please see State Web site for further information.
Idaho*	Please see State Web site for further information.	Please see State Web site for further information.
Illinois	Please see State Web site for further information.	Please see State Web site for further information.
Indiana	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Iowa	Please see State Web site for further information.	Please see State Web site for further information.
Kansas	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Kentucky	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Louisiana*	Please see State Web site for further information.	No policies or guidance addressing seclusion and restraint.

State or District	Statutes and Regulations Addressing Restraint and Seclusion [†]	Policies and Guidance Addressing Restraint and Seclusion ^x
Maine	Please see State Web site for further information.	Please see State Web site for further information.
Maryland	Please see State Web site for further information.	Please see State Web site for further information.
Massachusetts	Please see State Web site for further information.	Please see State Web site for further information.
Michigan	Please see State Web site for further information.	Please see State Web site for further information.
Minnesota	Please see State Web site for further information.	Please see State Web site for further information.
Mississippi	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Missouri	Please see State Web site for further information.	Please see State Web site for further information.
Montana	Please see State Web site for further information.	Please see State Web site for further information.
Nebraska	Please see State Web site for further information.	Please see State Web site for further information.
Nevada	Please see State Web site for further information.	No policies or guidance addressing seclusion and restraint.
New Hampshire	Please see State Web site for further information.	Please see State Web site for further information.
New Jersey*	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
New Mexico	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
New York	Please see State Web site for further information.	Please see State Web site for further information.
North Carolina	Please see State Web site for further information.	Please see State Web site for further information.
North Dakota	Please see State Web site for further information.	No policies or guidance addressing seclusion and restraint.
Ohio	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Oklahoma*	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Oregon	Please see State Web site for further information.	Please see State Web site for further information.

State or District	Statutes and Regulations Addressing Restraint and Seclusion ⁺	Policies and Guidance Addressing Restraint and Seclusion ^x
Pennsylvania	Please see State Web site for further information.	Please see State Web site for further information.
Rhode Island	Please see State Web site for further information.	Please see State Web site for further information.
South Carolina	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
South Dakota*	No state statute or regulations addressing seclusion and restraint.	No policies or guidance addressing seclusion and restraint.
Tennessee	Please see State Web site for further information.	Please see State Web site for further information.
Texas	Please see State Web site for further information.	Please see State Web site for further information.
Utah	Please see State Web site for further information.	No policies or guidance addressing seclusion and restraint.
Vermont	Please see State Web site for further information.	Please see State Web site for further information.
Virginia	Please see State Web site for further information.	Please see State Web site for further information.
Washington	Please see State Web site for further information.	Please see State Web site for further information.
West Virginia	No state statute or regulations addressing seclusion and restraint.	Please see State Web site for further information.
Wisconsin	Please see State Web site for further information.	Please see State Web site for further information.
Wyoming*	Please see State Web site for further information.	No policies or guidance addressing seclusion and restraint.

NOTE: In August 2009, the Regional Comprehensive Centers conducted research on each state’s laws, regulations, guidance, and policies regarding the use of restraint and seclusion in schools and confirmed the information obtained with the states. The information in this report was updated by researchers at the American Institutes for Research in May 2012 and was current as of this date.

⁺ Proposed or enacted laws and supporting regulations describing the implementation of the laws, originating from the State legislature.

^x Statements or documents that set out the state views and expectations related to school district duties and responsibilities, originating from the State executive office.

* State restraint and seclusion statutes, regulations, policies, or guidance are still in development.



attachment B



Restraint and Seclusion: Resource Document Resources with Annotations

This document contains links to Web sites and information created and maintained by public and private organizations other than the U.S. Department of Education. This information is provided for the reader's convenience. The U.S. Department of Education does not control or guarantee the accuracy, relevance, timeliness, or completeness of this outside information. Some of this information is presented as examples of information that may be relevant. Further, the inclusion of information or addresses, or Web sites for particular items does not reflect their importance, nor is it intended to endorse any views expressed, or products or services offered.

Federal Resources

Duncan, A. (2009, July 31). Letter from Education Secretary Arne Duncan to the Council of Chief State School Officers (CCSSO). Retrieved from <http://www2.ed.gov/policy/elsec/guid/secletter/090731.html>

In this letter to the CCSSO, Education Secretary Arne Duncan responds to the testimony issued by the Government Accountability Office on “Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers.” He encourages the CCSSO to develop or review and, if appropriate, revise their State policies and guidelines to ensure that every student in every school under their jurisdiction is safe and protected from being unnecessarily or inappropriately restrained or secluded. He also urges them to publicize these policies and guidelines so that administrators, teachers, and parents understand and consent to the limited circumstances under which these techniques may be used; ensure that parents are notified when these interventions do occur; provide the resources needed to successfully implement the policies and hold school districts accountable for adhering to the guidelines; and to have the revised policies and guidance in place prior to the start of the 2009–2010 school year.

Duncan, A. (2009, December 8). Letter from Education Secretary Arne Duncan to Chairman Christopher J. Dodd, Chairman George Miller, and Representative Cathy McMorris Rodgers. Retrieved from <http://www2.ed.gov/policy/gen/guid/secletter/091211.html>

In this letter, Education Secretary Arne Duncan applauds the efforts of Chairman Christopher J.

Dodd, Chairman George Miller, and Representative Cathy McMorris Rodgers to develop legislation to limit the use of physical restraint and seclusion in schools and other educational settings that receive Federal funds, except when it is necessary to protect a child or others from imminent danger. He reports that the U.S. Department of Education has identified a number of principles that may be useful for Congress to consider in the context of any legislation on this issue. These principles are listed in the letter.

The following legislation was introduced in the 111th and 112th Congresses, concerning limitations on the use of restraint and seclusion in schools and other educational settings:

- S. 2020, 112th Congress
- H.R. 1381, 112th Congress
- S. 3895, 111th Congress
- H.R. 4247, 111th Congress
- S. 2860, 111th Congress

Jones, N. L. & Feder, J. (2010). *The use of seclusion and restraint in public schools: The legal issues*. Washington, DC: Congressional Research Service. Retrieved from http://assets.opencrs.com/rpts/R40522_20101014.pdf

This research report was prepared by the Congressional Research Service for the members and committees of Congress. It was prepared because of congressional interest in the use of seclusion and restraint in schools, including passage of H.R. 4247 and the introduction of S. 2860, 111th Congress, first session. This report focuses on the legal issues concerning the use of seclusion and restraint in schools, including their application both to children covered by the

Individuals with Disabilities Education Act (IDEA) and to those not covered by IDEA. It refers to reports that document instances of deaths and injuries resulting from the use of seclusion or restraints in schools. This report notes that the IDEA requires a free appropriate public education for children with disabilities, and an argument could be made that some uses of seclusion and restraint would violate this requirement. The passage of S. 2860 in the Senate would establish minimum safety standards in schools to prevent and reduce the inappropriate use of restraint and seclusion.

Kutz, G. D. (2009). *Seclusions and restraints: Selected cases of death and abuse at public and private schools and treatment centers.* (GAO-09-719T). Washington, DC: U.S. Government Accountability Office, Forensic Audits and Special Investigations. Retrieved from <http://www.gao.gov/new.items/d09719t.pdf>

This report addresses the recent testimony of the Government Accountability Office (GAO) before the Congressional Committee on Education and Labor regarding allegations of death and abuse at residential programs for troubled teens. It cites other reports that indicate that vulnerable children are being abused in other settings, through the use of restraint and seclusion in schools. This report provides an overview of seclusion and restraint laws applicable to children in public and private schools, discusses whether allegations of student death and abuse from the use of these methods are widespread, and examines the facts and circumstances surrounding cases in which a student died or suffered abuse as a result of being secluded or restrained. The report is a review of Federal and State laws and abuse

allegations from advocacy groups, parents, and the media from the past two decades. The report found no Federal law restricting the use of seclusion and restraint, and found hundreds of cases of alleged abuse and death related to the use of these methods on school children; examples are provided.

U.S. Department of Education. (2010) *Summary of seclusion and restraint statutes, regulations, policies and guidance, by State and territory: Information as reported to the regional Comprehensive Centers and gathered from other sources.* Washington, DC: Author. Retrieved from <http://www2.ed.gov/policy/seclusion/seclusion-state-summary.html>

This summary documents the results of the Department of Education's 2009 request that the States report on their laws, regulations, guidance, and policies regarding the use of seclusion and restraints in schools. The document includes the descriptive information as verified by each State and territory, and a summary of this information.

U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration Jan Lebel (2011) *The business case for preventing and reducing restraint and seclusion use.* Washington, DC: Retrieved from <http://store.samhsa.gov/shin/content//SMA11-4632/SMA11-4632.pdf>

This document asserts that restraint and seclusion are violent, expensive, largely preventable, adverse events. The document also makes a number of claims, including the following: (1) the rationale for the use of restraint and seclusion is inconsistently understood and contribute to a cycle of workplace violence that can reportedly claim as much as 23 to

50 percent of staff time, account for 50 percent of staff injuries, increase the risk of injury to consumers and staff by 60 percent, and increase the length of stay, potentially setting recovery back at least 6 months with each occurrence; (2) restraint and seclusion increases the daily cost of care and contributes to significant workforce turnover reportedly ranging from 18 to 62 percent, costing hundreds of thousands of dollars to several million; (3) restraint and seclusion procedures raise the risk profile to an organization and incur liability expenses that can adversely impact the viability of the service; (4) many hospitals and residential programs, serving different ages and populations, have successfully reduced their use and redirected existing resources to support additional staff training, implement prevention-oriented alternatives, and enhance the environment of care; and (5) significant savings result from reduced staff turnover, hiring and replacement costs, sick time, and liability-related costs.

Associated Resources

American Association of School Administrators. (2010, March 2). Letter to U.S. House of Representatives. Retrieved from http://www.aasa.org/uploadedFiles/Policy_and_Advocacy/files/HR4247LetterMarch2010.pdf

In this letter to the U.S. House of Representatives, the American Association of School Administrators (AASA) urges the House not to pass restraint and seclusion measure H.R. 4247. The AASA states that the need to establish these particular Federal regulations for seclusion and restraint has not been established by objective, carefully gathered and analyzed data, and that the voices of teachers and administrators have not been heard. The letter notes that the Office for Civil Rights within the U.S.

Department of Education is preparing to gather more objective information, and asks the House to wait for these objective results. The AASA also describes the report recently released by the U.S. Department of Education, which confirms that 31 States already have policies in place to oversee the use of seclusion and restraint and 15 more are in the process of adopting policies and protections. Given this substantial State action, AASA questions the need for Federal involvement on this issue. Finally, the letter protests the tone of H.R. 4247, which it describes as relentlessly negative toward teachers and administrators.

The Council for Children with Behavioral Disorders. (2009). *Physical restraint and seclusion procedures in school settings*. Arlington, VA: Council for Exceptional Children. Retrieved from <http://www.ccbd.net/sites/default/files/CCBD%20Summary%20on%20Restraint%20and%20Seclusion%207-8-09.pdf>

This document is a summary of policy recommendations from two longer and more detailed documents available from the Council for Children with Behavioral Disorders (CCBD) regarding the use of physical restraint and seclusion procedures in schools. CCBD is the division of the Council for Exceptional Children (CEC) committed to promoting and facilitating the education and general welfare of children and youth with emotional or behavioral disorders. In this document, CCBD states that while restraint and seclusion can be effective when dealing with children with behavioral issues, they should not be implemented except as a last resort when a child or others are in immediate danger. CCBD further recommends that new legislation or regulations be established to formally require that data on restraint and seclusion be reported to outside agencies, such as State or provincial departments of education.

The document also notes that additional research is needed on the use of physical restraint and seclusion with children or youth across all settings.

Dunlap, G., Ostry, C., & Fox, L. (2011). *Preventing the Use of Restraint and Seclusion with Young Children: "The Role of Effective, Positive Practices"*. Issue Brief. Technical Assistance Center on Social Emotional Intervention for Young Children. University of South Florida, 13301 North Bruce B Downs Boulevard MHC2-1134, Tampa, FL 33612. Web site: <http://www.challengingbehavior.org>. Retrieved from <http://www.eric.ed.gov/ERICWebPortal/contentdelivery/servlet/ERICServlet?accno=ED526387>

The purpose of this document is to review what constitutes restraint and seclusion, what should be done as an alternative, and discuss positive strategies that can be used to prevent behaviors that could lead to considerations of these invasive and potentially-dangerous practices.

Hague, B. (2010, February 18). *Stricter standards sought for use of seclusion and restraint by schools*. (Recording). Wisconsin Radio Network. Retrieved from <http://www.wrn.com/2010/02/stricter-standards-sought-for-use-of-seclusion-and-restraint-by-schools/>

This interview discusses a Wisconsin State capitol hearing on how best to deal with students with special needs who become disruptive. The organization, Disability Rights Wisconsin, claims that the State's department of education is not doing enough to curtail excessive use of restraint and seclusion; the State department of education

disagrees. The interview reports that the State Senate is discussing legislation to restrict the use of restraint and seclusion, but the department of education is arguing that this legislation will go too far and prevent teachers and administrators from maintaining a safe classroom. The Senate intends to require that all teachers and other personnel be required to receive training in PBIS to reduce the need for seclusion and restraint, and claims that this will make schools safer and improve academic performance. The piece also notes concerns about the costs to districts of implementing additional training, as well as potential lawsuits.

Horner, R. & Sugai, G. (2009). *Considerations for seclusion and restraint use in school-wide positive behavior supports*. Eugene, OR: OSEP Technical Assistance Center on Positive Behavioral Interventions and Support. Retrieved from http://www.pbis.org/common/pbisresources/publications/Seclusion_Restraint_inBehaviorSupport.pdf

The PBIS Center defines seclusion and restraint as safety procedures in which a student is isolated from others (seclusion) or physically held (restraint) in response to serious problem behavior that places the student or others at risk of injury or harm. This document expresses concern regarding these procedures being prone to misapplication and abuse, potentially placing students at equal or more risk than their problem behavior. The specific concerns are listed and recommendations are made to promote effective policies. School-wide positive behavior support (SWPBS) is one of the major recommendations, defined as a systems approach to establishing the whole-school social culture and intensive individual behavior supports needed for schools to achieve social and academic gains while minimizing problem

behavior for all students. SWPBS emphasizes four integrated elements: socially valued and measurable outcomes, empirically validated and practical practices, systems that efficiently and effectively support implementation of these practices, and continuous collection and use of data for decision-making. These elements are described in detail along with supporting research.

The Legal Center for People with Disabilities and Older People. (2007). *Public report of an investigation into the improper use of restraint and/or seclusion of students with disabilities at Will Rogers elementary school*. Denver, CO: Author. Retrieved from http://66.147.244.209/~tashorg/wp-content/uploads/2011/01/The-Legal-Center_PA-Investigation.pdf

The Legal Center for People with Disabilities and Older People (the Legal Center) is the Protection and Advocacy System for Colorado. This report presents the results of the investigation conducted by the Legal Center into the circumstances surrounding the use of seclusion and restraint of five elementary school students. The Legal Center received complaints that students with a range of emotional, mental health, and developmental disabilities were subjected to improper use of restraint and seclusion by school staff at Will Rogers Elementary School. The information produced in the course of this investigation supports the conclusion that the five students were repeatedly subjected to improper restraint and seclusion in violation of the Colorado Department of Education restraint/seclusion rules. Based on this, the Legal Center recommends a number of actions be taken by District 11 and staff at Will Rogers Elementary school.

Morrison, L. & Moore, C. (2007). *Restraint and seclusion in California schools: A failing grade*. Oakland, CA: Protection & Advocacy, Inc. (PAI). Retrieved from <http://www.disabilityrightsca.org/pubs/702301.htm>

PAI conducted an in-depth investigation into allegations of abusive restraint and seclusion practices involving seven students in five public schools and one non-public school in California. The investigations revealed both the failure of school personnel to comply with existing regulations and the inability of current law to sufficiently regulate the use of these dangerous practices. PAI released this report to reinforce compliance with current regulatory requirements and to challenge schools and the education system to bring standards regarding behavioral restraint and seclusion of students into line with current practices in all other settings. The report notes that there are strict guidelines limiting the use of restraint and seclusion to extreme situations where there is an imminent risk of serious physical harm to an individual and only for the duration and to the extent necessary to protect the individual.

National Association of State Mental Health Program Directors (NASMHPD): Huckshorn, K. (2005). *Six core strategies to reduce the use of seclusion and restraint planning tool*. Retrieved from http://www.hogg.utexas.edu/uploads/documents/SR_Plan_Template.pdf

This planning tool guides the design of a seclusion and restraint reduction plan that incorporates the use of a prevention approach, includes six core strategies to reduce the use of seclusion and restraint described in the NASMHPD curriculum, and ascribes to the principles of continuous quality improvement. It

may also be used as a monitoring tool to supervise implementation of a reduction plan and identify problems, issues barriers and successes.

National Disability Rights Network. (2009, January). *School is not supposed to hurt: Investigative report on abusive restraint and seclusion in schools*. Retrieved from <http://www.napas.org/images/Documents/Resources/Publications/Reports/SR-Report2009.pdf> (Updated in 2010)

This report is divided into two sections. The first identifies the problems attributed to restraint or seclusion. It includes a “Chronicle of Harm” detailing treatment of children of all ages and in every corner of the nation – urban, suburban, and rural, in wealthy and poor school districts, as well as in private schools. It outlines the problems associated with the use of restraint or seclusion, and details the proven risks to children associated with the use of these aversive techniques. Contributing factors are identified, such as the lack of appropriate training for teachers and other school personnel in the use of positive behavioral supports that address children’s behavioral and other issues in a humane and effective way.

The second section of this report proposes solutions to the use of restraint or seclusion by highlighting the best practices in education and the use of positive behavioral supports. Included is a catalogue of advocacy activities that have been undertaken by P&As to protect children with disabilities. These activities range from educating parents, students, and school personnel, to investigating and litigating when abuses occur, to working for strong State and federal laws to protect these vulnerable children. An update to this report and follow-up letter are available at: National Disability Rights Network,

Not Supposed to Hurt: Update on Progress in 2009, at <http://ndrn.org/images/Documents/Resources/Publications/Reports/School-is-Not-Supposed-to-Hurt-NDRN.pdf>

National Disability Rights Network, School Is Not Supposed to Hurt: The U.S. Department of Education Must Do More to Protect School Children from Restraint and Seclusion, March 2012, at http://ndrn.org/images/Documents/Resources/Publications/Reports/School_is_Not_Supposed_to_Hurt_3_v7.pdf

Samuels, C. A. (2009). Use of seclusion, restraints on students at issue: Watchdog agency preparing report on practices. *Education Week*, 28(29), 6. Retrieved from <http://www.edweek.org/ew/articles/2009/04/17/29restrain.h28.html>

This article reports that many States lack policies related to seclusion or restraint in schools, and that the Federal government does not require record-keeping on the practices. The article details the efforts of advocacy groups for people with disabilities to keep the issue of restraint and seclusion as a priority for the Federal government and the national media. Organizations are trying to get Federal economic stimulus funds as a source of money to pay for the professional development that they say would foster a positive school environment. Advocates believe that such training for educators would prevent problems from escalating to the point that secluding students or physically restraining them is needed. Advocates, as well as educational organizations, agree that more training is necessary to reduce the use of restraint and seclusion in school. The article presents a discussion by several organizations’ representatives on ways to provide this training.

Shank, C., Greenberg, J., & Lebens, M. (2011). *Keep school safe for everyone: A report on the restraint and seclusion of children with disabilities in Oregon schools*. Portland, OR: Disability Rights Oregon is the Protection & Advocacy System for Oregon. Retrieved from <http://www.disabilityrightsoregon.org/results/DRO-Keep%20School%20Safe%20for%20Everyone%20Report.pdf>

The Disability Rights Oregon (DRO) gathered information from parents and schools about the use of physical restraint and seclusion in Oregon and provided policy recommendations on the use of these practices in the State. The DRO report found that the use of physical restraint and seclusion varied considerably across Oregon school districts. For example, some Oregon districts had adopted appropriate policies and were trying to follow them. Other districts, however, had not adopted any policies at all. Furthermore, many Oregon districts were found to have policies that were inconsistent with their own administrative rules. This report also details stories of Oregon children who were restrained and secluded and had experienced psychological and physical injuries resulting from the use of these practices at school. In addition, the report provides a list of policy recommendations on physical restraint and seclusion. The report notes that its recommended policies are generally consistent with policies contained in Federal legislation. The DRO concludes that its recommended policies will provide enforceable minimum safety standards, provide administrative review and independent oversight, and help make Oregon's schools safe for all students and staff.

Southern Tier Independence Center, Disabled Abuse Coalition. (2009). *Abuse and neglect of children with disabilities in New York non-residential public schools*. Binghamton, NY: Author. Retrieved from http://www.ndrn.org/images/Documents/Issues/Restraint_and_Seclusions/NDRN_Children_with_Disabilities_2009.pdf

This document responds to reports by families and advocates indicating a pattern of discriminatory treatment toward children with disabilities who are neglected or abused in non-residential public schools in New York. The document notes that, under New York law, these schools are allowed to use physical restraints, including straps, “take-downs,” and “time-out rooms,” for unlimited periods of time as punishment for minor infractions, including any behavior that may “disrupt the order of the school.” However, such restraints are often used by poorly trained staff, and the potential for serious injury is high. The document states that experts in special education universally agree that restraints should not be used except as emergency measures for children who are immediately and seriously dangerous to themselves or others, and that use of restraints under those circumstances should trigger an immediate comprehensive response to investigate antecedents to the problem behavior and develop proactive plans to address it. Thus, the STIC argues that New York State needs to enact stringent legislation to regulate the use of physical restraint, provide training requirements for public non-residential school aides that are strictly enforced, and empower State and local police and child-protective authorities to immediately accept and promptly investigate all complaints of abuse and neglect and to file criminal charges when warranted.



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