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July 16, 2014

The Honorable John Kline
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Kline:

We write to urge immediate consideration of H.R. 1893, The Keeping All Students Safe Act, and request your leadership to swiftly move this much-needed legislation through regular order and final passage. As we've discussed previously, the pervasive use of seclusion and restraint in our nation's schools is threatening the safety, well-being, and academic achievement of thousands of students. This pressing issue demands federal action, and we stand ready to work with you to address this injustice and prioritize the safety of our nation's students before the close of the 113th Congress.

Recent investigative reporting by National Public Radio in partnership with ProPublica¹ points, once again, to an ongoing and deeply disturbing phenomenon: legal abuse and torture of students in schools across the country. These harmful practices, referred to as seclusion and restraint, are commonly used as disciplinary measures, most frequently on students of color and those with disabilities.

Since you were last contacted, urging action on this issue, newly released federal data from the U.S. Department of Education Office of Civil Rights show that use of seclusion and restraint is widespread, with more than 267,000 incidents reported nationwide in the 2012 school year alone. While that number is alarming in itself, what's even more concerning is the fact that many of our largest school districts failed to report on their use of seclusion and restraint at all—indicating that the actual rate of use is likely much higher. Despite the fact that IDEA-eligible students comprise only 12 percent of the total student population, this data show that nearly 60 percent of all incidents of seclusion or involuntary confinement involve students with physical, emotional, or intellectual disabilities, and that these students make up 75 percent of

¹ Vogell, Heather, Violent and Legal: The Shocking Ways School Kids are Being Pinned Down, Isolated Against Their Will (ProPublica with NPR, 2014), <http://www.propublica.org/article/schools-restraints-seclusions>.

The Honorable John Kline
July 16, 2014
Page 2

those subjected to restraints.² We are confident you will agree that the pervasive use of these practices is unacceptable and must be stopped. There is no excuse for the abuse of a student, and in light of this new data, we seek committee action under your leadership.

As you know, a patchwork of largely lackluster state laws and regulations leaves thousands of students vulnerable to abuse each school year. Despite federal laws limiting use of seclusion and restraint in hospitals, psychiatric facilities, community-based facilities, and even prisons, no such federal law exists to restrict this abuse in schools. Few states provide protections for all children by law, and many states have weak legal protections or no protections at all. Fewer than 15 states limit restraint and seclusion of all students to emergencies threatening physical danger. Furthermore, only 22 states require parental notification when seclusion or restraint is used on any student, with an additional 11 states requiring parental notification only when the student subjected to the practice has a disability.³ Research shows nearly 50 percent of students on whom seclusion or restraint is practiced have limited or no ability to communicate and that 65 percent of all incidents go unreported to parents.⁴

In 2009, an investigation conducted by the Government Accountability Office (GAO) found hundreds of allegations that schoolchildren had been abused, with some instances resulting in the student's death, as a result of inappropriate uses of seclusion and restraint in classrooms—often at the hands of untrained staff.⁵ The report found that these abusive practices were used disproportionately on children with disabilities and students of color, consistent with the new federal data, and were inflicted on some children as young as three and four years old.

You may recall that, prompted by the disturbing findings of this report, during the 111th Congress, our committee held a hearing and considered bipartisan legislation to address this issue. Following committee action, the Keeping All Students Safe Act passed the full House of Representatives on March 2, 2010, with bipartisan support. Unfortunately, the bill failed to become law, and recent data show that the need for federal legislation persists.

Last Congress, committee Democrats reintroduced the Keeping All Students Safe Act. And I, Senior Democratic Member Miller, wrote to you to respectfully request that the committee consider the legislation. Regrettably, I never received any response to affirm receipt of the request for committee action, and the 112th Congress came and went without your party's

² U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection (June 2014), <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>.

³ Butler, J., My State's Seclusion & Restraint Laws: Brief Summaries of State Seclusion and Restraint Laws and Policies (Autism National Committee 2013), <file:///F:/Seclusion%20and%20Restraint/MyStateRestraintSeclusionLaws.pdf>.

⁴ Westling, D., B. Trader, C. Smith, and D. Stile Marshal, Use of Restraints, Seclusion, and Aversive Procedures on Students with Disabilities (Research & Practice for Persons with Severe Disabilities 2010), <http://stophurtingkids.com/wp-content/uploads/2013/05/Use-of-Restraints-Seclusion-and-Aversive-Procedures-on-Students-with-Disabilities.pdf>.

⁵ United States Government Accountability Office, Seclusions and Restraints, Selected Cases of Death and Abuse and Public and Private Schools and Treatment Centers (2009), <http://www.gao.gov/products/GAO-09-719T>.

The Honorable John Kline
July 16, 2014
Page 3

leadership to address this issue of national importance. Again, I have reintroduced the Keeping All Students Safe Act this Congress. And I join with Representative Scott to respectfully request that the committee consider this bipartisan legislation.

Specifically, this legislation would:

- Prevent and reduce inappropriate seclusion and restraint by establishing minimum safety standards in schools, similar to protections already in place in hospitals, psychiatric facilities, and non-medical community-based facilities that receive federal funds;
- Ask states to provide support and training to better protect students and staff and prevent the need for emergency behavioral interventions; and
- Increase transparency, oversight, and enforcement to prevent future abuse of our nation's students.

Seclusion and restraint practices outside of an emergency context are widely recognized to be dangerous and dehumanizing for all involved (H.R. 1893 continues to allow practices within the context of an emergency). Numerous reports have shown that these practices can, and often do, result in emotional and physical trauma, serious injury to students and staff, and as noted by GAO, even student death.⁶ There is no evidence of either the therapeutic or educational value of seclusion or restraint and there is no excuse for these abusive practices in our nation's schools.

Now is the time for congressional action to prioritize student safety and student learning by uniformly restricting the use of seclusion and restraint in schools. We look forward to working with you to schedule committee action on H.R. 1893, The Keeping All Students Safe Act, in a timely manner. Thank you for your consideration of this request, and we look forward to hearing from you.

Sincerely,



GEORGE MILLER
Senior Democratic Member



ROBERT C. "BOBBY" SCOTT
Member of Congress

⁶ National Disability Rights Network, *School Is Not Supposed to Hurt* (2009); Butler, J., *Unsafe in the Schoolhouse: Abuse of Children with Disabilities* (Council of Parent Attorneys & Advocates 2009); TASH and the Alliance to Prevent Restraint, Aversive Interventions, and Seclusion, *In The Name of Treatment* (2005).