

**ALLIANCE
AGAINST**

**SECLUSION
RESTRAINT**

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Committee on Education and Labor
U.S. House of Representatives
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Chairman Sablan, Ranking Member Owens, Chairman Scott and members of the committee,

Thank you for the opportunity to share my story with you. My name is Guy Stephens. I am a father and the founder and executive director of the Alliance Against Seclusion and Restraint. I am a member of the Alliance to Prevent Restraint, Aversive Interventions, and Seclusion (APRAIS) coalition and the Council of Parent Attorneys and Advocates (COPAA). Today, I am writing to you on behalf of my autistic son Cooper and the countless parents and individuals who have shared their stories with me. I want to discuss the impact of restraint and seclusion on students, families, teachers, and staff. We must protect students' civil rights and human rights and keep them safe from dangerous restraints and the use of seclusion.

The first time I heard the terms restraint and seclusion in the context of a school setting, I was pretty shocked. I would not have imagined that children are routinely physically restrained and forced into school seclusion rooms. Unfortunately, today I know that children are often physically restrained, secluded, and traumatized in schools nationwide because my family experienced it. I know this from my son Cooper's experience and through the hundreds of parents that have shared their stories with me.

Restraint and seclusion are outdated crisis management strategies used in many schools across the nation. Physical restraint is a personal restriction that immobilizes

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or reduces the ability of a student to move their torso, arms, legs, or head freely. Seclusion is the involuntary confinement of a student alone in a room or area where the student is physically prevented from leaving. These interventions are dangerous and have led to serious injuries and even death in students, teachers, and staff.

According to federal guidance, restraint and seclusion should not be used except in situations where a child's behavior poses an imminent danger of serious physical injury to themselves or others. The 2012 Restraint and Seclusion Resource Document¹, produced by the Department of Education, says that physical restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff. The critical wording here is "serious physical injury" ; these measures are not intended merely for unsafe situations, noncompliance, disrespect, or punishment but for situations that could result in death or serious bodily injury. As such, based on federal guidance, restraint and seclusion should be exceedingly rare. However, restraint and seclusion are occurring far more frequently in schools across the nation and are not always limited to situations that involve imminent serious physical injury. The inappropriate use of restraint and seclusion leads to significant harm to students, teachers, and staff.

Let me share with you a bit about my family's personal experience. My son Cooper is 16 years old. He loves science, nature, and spending time exploring the Chesapeake Bay. Cooper is autistic and has ADHD. He also has an individualized education plan (IEP).

The first time staff restrained and secluded Cooper occurred when he was in the first grade and didn't want to come in after recess. He was physically restrained and carried back into the school, where staff put him into an empty office. The words restraint and seclusion were not used by school staff, nor was the incident reported as it should have been according to state law. He was traumatized by this event. He was restrained again at the end of the fifth grade school year. He became overwhelmed in class and ran off and hid in the bathroom on two occasions. When he came out of the bathroom, he was

¹ *Restraint and seclusion: Resource document. (PDF)*. U.S. Department of Education. (2012, May 15). Retrieved February 13, 2022, from <https://sites.ed.gov/idea/files/restraints-and-seclusion-resources.pdf>

physically restrained, pulled down a hallway, and placed in an empty classroom. These two events were so traumatic that Cooper did not feel safe returning to school. Subsequently, we homeschooled my son for the next two years, not by choice but because it was necessary. No parent should feel that this is their only choice. Every child should have access to a free and safe public education.

Before the 8th grade school year, Cooper decided to return to the public school because he wanted to be with his friends. Cooper was again inappropriately restrained, secluded, and traumatized despite our best efforts to ensure he would be accommodated appropriately. My son was restrained and secluded at least four times over the first 15 days of the 2018/19 school year. The last instance was particularly traumatic and left him afraid to return to school. Cooper completed the remainder of the school year at home as he could not return to school. Cooper also met weekly with a therapist to help him heal. Maryland law² was not enough to save my son from a traumatic experience that will be with him for the rest of his life, despite Maryland having followed much of the federal guidance³. Cooper was not restrained and secluded because he posed a danger of serious physical injury to himself or anyone else. Cooper was restrained and secluded because of the training and culture in his school. As I will discuss below, there are far better ways to support children while eliminating the use of restraint and seclusion. Since 2019 Cooper has been attending a school that uses trauma-informed approaches and has implemented Collaborative and Proactive Solutions. His current school does not use restraint and seclusion, and they have never encountered a situation with Cooper that it would be necessary.

I spoke to Cooper about what happened to him. I told him that what happened to him should never have happened. I made a promise to Cooper that I would do anything in my power to make sure it never happened to him again. That promise has completely changed my life. I never intended to become a children's civil rights advocate, but that is where my journey has taken me. After making that promise to Cooper, I immersed

² Sec. 13a.08.04.05. General Requirements for the Use of Restraint or Seclusion. (2021, April 6). eLaws US. Retrieved February 13, 2022, from <http://mdrules.elaws.us/comar/13a.08.04.05>

³ *Restraint and seclusion: Resource document. (PDF)*. U.S. Department of Education. (2012, May 15). Retrieved February 13, 2022, from <https://sites.ed.gov/idea/files/restraints-and-seclusion-resources.pdf>

myself in research. I wanted to understand why this was happening and its impact on children, teachers, and staff.

Since my son was restrained and secluded, I've had the opportunity to talk to parents from all over the country. Jennifer Tidd's autistic son Quentin was restrained and/or secluded at least 745 times. This despite the fact that the Department of Education Office for Civil Rights (OCR) has said in a Dear Colleague letter⁴ (2016) that OCR would likely not find the repeated use of restraint and seclusion to be a justified response where alternative methods also could prevent imminent danger to self or others. Ultimately Ms. Tidd joined a lawsuit with the Autistic Self Advocacy Network (ASAN), the Council of Parent Attorneys and Advocates (COPAA), CommunicationFirst, and several other families against Fairfax County Public Schools in Virginia for unlawful restraint and seclusion practices. The lawsuit was settled, and as part of the agreement, seclusion practices will be banned in all Fairfax County Public Schools and private schools that have contracts with the school system by the start of the 2022-2023 school year. Kristi Kimmel's son Zeke, who is autistic and nonspeaking, was secluded 206 times and restrained 71 times in less than one school year in the Frederick County School system. In 2021, the Department of Justice investigated Frederick County Public Schools, which found that the school district unnecessarily and repeatedly secluded and restrained students as young as five years old in violation of Title II of the Americans with Disabilities Act (ADA). Under the settlement, Frederick County will end the use of seclusion, overhaul its restraint practices, and train staff on the use of appropriate behavioral interventions for students with disabilities. These are just two of hundreds of stories I've heard from parents whose children have been restrained, secluded, and traumatized.

Let me share I learned from my research and advocacy work. Children with disabilities, Black and brown children, and children with a trauma history are most restrained and secluded. Many assume it is more common with older students, and it

⁴ Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities. (2016, December 28). U.S. Department of Education's Office for Civil Rights. Retrieved February 13, 2022, from <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>

is not. It is most often children as young as 5,6,7 and 8 years old. According to OCR⁵, students with disabilities make up around 13% of the enrollment in public schools yet account for 80% of physical restraints and 77% of seclusions. Reflecting on these numbers, it is clear that this is a civil rights issue, and we must do something to protect the civil rights and human rights of our most vulnerable children. I'm sure that many of you have someone you love with a disability, consider the potential impact.

In my extensive research, the next thing I wanted to understand was the impact of restraint and seclusion. I found that restraint and seclusion result in trauma, injuries, and even death. Trauma can impact students, teachers, and staff. The very act of physically restraining or secluding a child will trigger a fight or flight response in the brain. Being held to the ground or forced into a seclusion room is traumatizing. Trauma can lead to changes in the brain that lead children to be fearful and hypervigilant, often leading to an increase in distress behaviors, which may have been what caused them to be restrained and secluded in the first place. It is also traumatic for the other children who may be witnessing a classmate being physically restrained or secluded.

Injuries are common in restraint and seclusion instances. Children and educators have suffered from broken bones, head trauma, scratches, bruises, seizures, brain injuries, and other injuries⁶⁷. Children, teachers, and staff are more likely to be injured⁸ performing a physical restraint or seclusion. While we often hear proponents of restraint and seclusion say that they feel it is necessary to keep everyone safe, the truth is the most significant opportunity for injuries occurs during the events. Sadly there have been many deaths over the last several decades due to physical restraint

⁵ *2017–18 Civil Rights Data Collection Report*. (2019, December 15). Department of Education Office of Civil Rights. Retrieved February 13, 2022, from <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>

⁶ *Our History*. (2021, April 22). Ukeru Systems. Retrieved February 13, 2022, from <https://www.ukerusystems.com/who-we-are/our-history/>

⁷ *Understanding the Risks of Physical Restraints*. (2022, January 1). Crisis Prevention Institute. Retrieved February 13, 2022, from https://www.crisisprevention.com/CPI/media/Media/elearning/flex/PDF_NCI-Risk-of-Restraints.pdf

⁸ *A National Strategy to Prevent Seclusion and Restraint in Behavioral Health Services*. (2010, March 1). Substance Abuse and Mental Health Services Administration. Retrieved February 13, 2022, from https://www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf

and seclusion in our schools. Cornelius Frederick, a student in Michigan, died in May of 2021 after being placed in a prone restraint because he threw a sandwich in a cafeteria. Max Benson, a young autistic student in California, died in November 2018 after being placed in a prone restraint in his school. These are lives that should not have ended this way.

I wanted to address some common misinformation about the use of restraint and seclusion. One of the things we often hear is that physical restraint is safe. Some might even tell you that it is therapeutic. Physical restraint is intended as a crisis intervention only intended for life-threatening situations; it is not a therapeutic intervention⁹. The only safe restraint is when all parties willingly participate, such as occurs in training. In real-life situations, physical contact leads individuals into a fight or flight response, where children will do all they can to escape. The staff is also likely to enter into a fight or flight response, increasing the chance that someone will be injured or worse.

We also hear the myth that seclusion is a safe and calming intervention. Nothing could be further from the truth. Nothing is calming about being thrown into a room against your will, alone, while someone holds the door shut. Initially, children may respond by kicking, screaming, and beating on the walls to escape. Eventually, lacking the developmental capacity to self-regulate, children's brains will begin to shut down, and they may enter a survival state - this is not calm.

The final myth I would like to address is that there are no other choices, that restraint and seclusion are necessary. This belief is not valid. There are many alternative approaches to better support our children. Grafton Integrated Health in Virginia developed a method called Ukeru¹⁰, a trauma-informed alternative to restraint and seclusion. Grafton eliminated seclusion in all the schools and residential facilities it

⁹ Stephens, G. (2021, February 1). Prone restraint is neither safe nor is it therapeutic. Alliance Against Seclusion and Restraint. Retrieved February 13, 2022, from <https://endseclusion.org/2021/02/01/prone-restraint-is-neither-safe-nor-is-it-therapeutic/>

¹⁰ Home. (2021, October 14). Ukeru Systems. Retrieved February 13, 2022, from <https://www.ukerusystems.com>

manages and now teaches the approach to other schools. Dr. Bruce Perry, a leading trauma expert, developed the Neurosequential Model¹¹, proven to reduce the use of restraint in trauma-exposed youth¹². Dr. Ross Greene developed the Collaborative and Proactive Solutions Model¹³, an evidence-based approach to minimize restraint, seclusion, suspensions, expulsions, and corporal punishment. We need the training and support provided by the Keeping All Students Safe Act (H.R.3474) to help teachers and school districts move to better ways to support children.

Over the past forty years, there has been a tremendous increase in the knowledge base about the brain, nervous system, human development, and behavior. Our knowledge now includes understanding the role of toxic stress and trauma on the structure of the developing brain and brain functioning. State-dependent functioning, the polyvagal theory, bottom-up versus top-down learning and control, and the differences between intentional behaviors and stress behaviors (flight, fight, freeze) are all part of this new understanding¹⁴. However, despite all this progress, students with disabilities and Black and brown students who cannot meet the behavioral expectations are often not supported or accommodated; instead routinely punished.

Today, we know the brain areas implicated in the stress response include the amygdala, hippocampus, and prefrontal cortex¹⁵. We also know that traumatic stress can be associated with lasting changes in these brain areas. The amygdala detects threats in the environment and activates the "fight or flight" response. The use of

¹¹ The Neurosequential Model in Education. (2020, August 26). Sussex Psychology. Retrieved February 13, 2022, from <https://sussexpsychology.co.uk/the-neurosequential-model-in-education/>

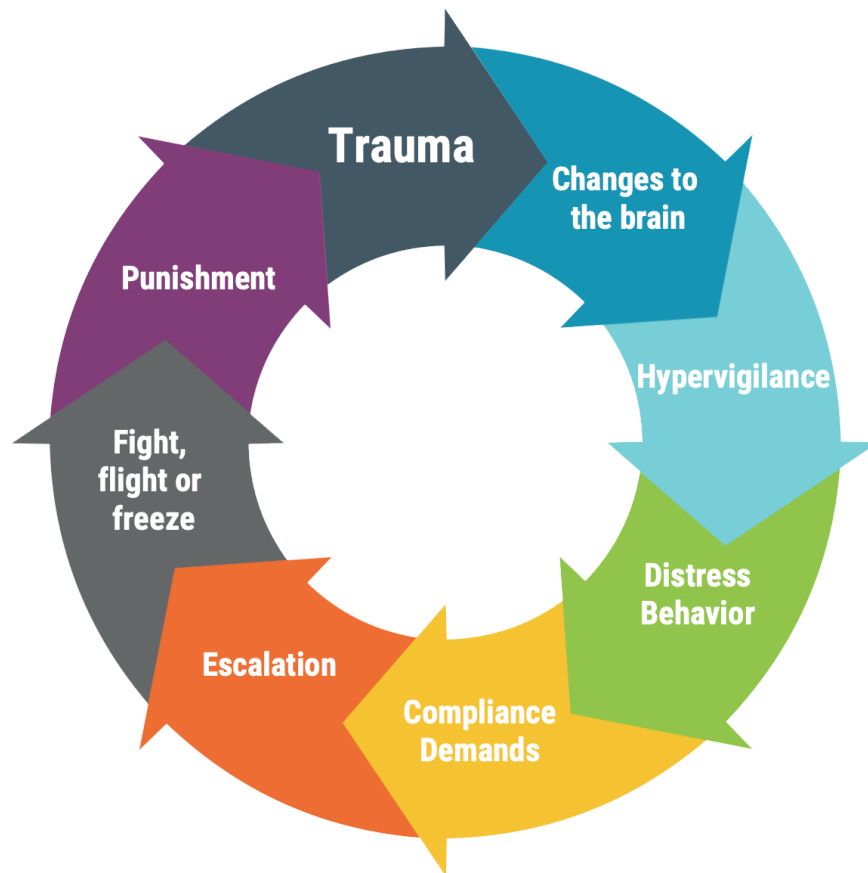
¹² Hambrick, E. P., Brawner, T. W., Perry, B. D., Wang, E. Y., Griffin, G., DeMarco, T., Capparelli, C., Grove, T., Maikoetter, M., O'Malley, D., Paxton, D., Freedle, L., Friedman, J., Mackenzie, J., Perry, K. M., Cudney, P., Hartman, J., Kuh, E., Morris, J., . . . Strother, M. (2018). Restraint and Critical Incident Reduction Following Introduction of the Neurosequential Model of Therapeutics (NMT). *Residential Treatment for Children & Youth*, 35(1), 2–23. <https://doi.org/10.1080/0886571x.2018.1425651>

¹³ Greene, R., & Winkler, J. (2019). Collaborative & Proactive Solutions (CPS): A Review of Research Findings in Families, Schools, and Treatment Facilities. *Clinical Child and Family Psychology Review*, 22(4), 549–561. <https://doi.org/10.1007/s10567-019-00295-z>

¹⁴ Tolley, B. (2022, January 19). A twenty-first century approach to supporting all students. Alliance Against Seclusion and Restraint. Retrieved February 13, 2022, from <https://endseclusion.org/research/a-twenty-first-century-approach-to-supporting-all-students/>

¹⁵ Andrewes, D. G., & Jenkins, L. M. (2019). The Role of the Amygdala and the Ventromedial Prefrontal Cortex in Emotional Regulation: Implications for Post-traumatic Stress Disorder. *Neuropsychology Review*, 29(2), 220–243. <https://doi.org/10.1007/s11065-019-09398-4>

restraint and seclusion can lead to actual changes in the brain. Children who have been traumatized may not feel safe and may enter a hypervigilant state, leading to distress behaviors when the child becomes overwhelmed or triggered. When demands on a child are made that they cannot meet, the situation may escalate. The current approach in many classrooms that focuses on compliance may lead to a fight, flight, or freeze response, leading to punishment and retraumatization, feeding the classroom trauma cycle.



It is time to shift to approaches that are relationship-based, trauma-informed, neuroscience-aligned, developmentally appropriate, individualized, biologically respectful, and collaborative to support all children, teachers, and staff in schools across the nation. This is a critical moment in time for moving forward. We need to base safer schools around current neuroscience to help us face the challenges that currently face the nation. The COVID-19 pandemic has increased stress and led to significant trauma for many as families suffered from loss and a changing world. Due

to the increased stress and trauma, our teachers and staff are likely to face more children in distress that need connection, not compliance and safety, not consequences. So many children face nothing but consequences, and the outcomes are devastating.

When I said to you that what happened to my son has changed my life, it was no exaggeration. Three years ago, I started a national organization called the Alliance Against Seclusion and Restraint. I have volunteered thousands of hours to research this issue and promote positive change to make our schools safer for students, teachers, and staff. We have advocated for changes to local policy and state and federal law. We have produced hundreds of hours of educational content related to reducing and eliminating the use of restraint and seclusion. Today we have over 17,000 members from across the world in the Alliance Against Seclusion and Restraint community. Our community includes parents, self-advocates, teachers, administrators, paraprofessionals, and others dedicated to finding better ways to support children and educators.

In the name of behavior, children are restrained, secluded, suspended, expelled, and subjected to corporal punishment. We can make classrooms across the nation safer for students, teachers, and staff by reducing and eliminating restraint and seclusion. We have reviewed the research and what we have found is that there is no data to support the use of seclusion in a school setting (perhaps any setting). Seclusion leads to increased aggression and more frequent challenging behaviors. Seclusion should be prohibited across the nation as it has been in several states, including Hawaii, Georgia, Nevada, Texas, and Pennsylvania. Like the Government Accountability Office¹⁶ (GAO), we are concerned the use of seclusion and restraint is often underreported by school districts and poses a significant danger to children. We agree with the United Nations¹⁷ that the use of seclusion and restraint violates fundamental human rights.

¹⁶ K-12 Education: Education Should Take Immediate Action to Address Inaccuracies in Federal Restraint and Seclusion Data [Reissued with revisions on July 11, 2019.]. (2019, November 26). U.S. GAO. Retrieved February 13, 2022, from <https://www.gao.gov/products/gao-19-551r>

¹⁷ OHCHR | Convention on the Rights of the Child. (89–11-20). United Nations Human Rights. Retrieved February 12, 2022, from <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

I am very passionate about the need for the Keeping All Students Safe Act. We need standard definitions and safeguards to prevent the abuse and death of vulnerable students. The Keeping All Students Safe Act currently has over 100 cosponsors in this Congress and is supported by many civil rights, disability rights, and education organizations. These are a few of the reasons that I think we must pass this important legislation it would:

- prohibit seclusion and most harmful forms of restraint - and only allow restraint for when there is imminent danger of serious physical injury to self and others;
- require parental notification when restraint occurs - so many times restraint and seclusion go unreported;
- provide grants to states to support districts who need support and training to all school personnel, which does not include law enforcement or school resource officers; and
- provide a private right of action for parents that also provides immunity to teachers.

In 2009, the GAO¹⁸ published a report titled "Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers." Let that title sink in for a moment. The report found hundreds of cases of death and abuse related to the use of restraint and seclusion. Had federal legislation been passed following this report, I might not be sharing my story with you today, and my son and so many others may have avoided lifelong trauma.

The fact that I am writing to you today should be evidence that our state laws have not been enough to end the abuse and death due to restraint and seclusion. Laws vary significantly across the nation. In Colorado, a restraint is only reported if it exceeds

¹⁸ Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers. (2009, May 19). U.S. GAO. Retrieved February 12, 2022, from <https://www.gao.gov/products/gao-09-719t>

five minutes¹⁹. In five minutes, a child can die. I believe that this is a civil rights issue, a disability rights issue, and a human rights issue. Our fundamental rights should not change as we cross state lines.

Thank you for taking the time to read my testimony. I hope that together we can make a positive change. Please support this critical legislation and improve the outcomes for our students, teachers, and staff.

Respectfully,



Guy Stephens
Founder and Executive Director
Alliance Against Seclusion and Restraint

¹⁹ Rules for the administration of the protection of persons from restraint act. (2009, December 31). Colorado State Board of Education. Retrieved February 13, 2022, from <https://www.cde.state.co.us/spedlaw/1ccr301-45sbeapproved-0>