

**Testimony of
Reece L. Peterson, University of Nebraska-Lincoln
Committee on Education and Labor, May 19, 2009**

**Chairman Miller, Ranking member McKeon and Distinguished
Committee members,**

My role is that of a researcher who along with other colleagues from around the country are attempting to understand the use of restraint and seclusion procedures in school settings. I have been a researcher and teacher educator in special education for more than 30 years. My purpose is to share with you what we know, or perhaps more accurately what we don't know about the use of restraint and seclusion in schools.

Research on Restraint and Seclusion

There is virtually no research about the number of situations which occur in schools where student behavior poses danger of physical injury to themselves, other students or staff. Similarly, there is no information about these situations are addressed- whether physical restraint (where an adult physically hold the student and prevents the student from moving) or seclusion procedures (where a student is placed in a special environment by themselves and prevented from leaving) – whether these were employed.

Purpose and Use of Restraint and Seclusion

I believe that there is agreement among knowledgeable professional educators that physical restraint and seclusion

procedures should only be used rarely in school settings to prevent injuries- when there is immediate danger of physical injury to someone- in “emergency situations.” While some have suggested that both restraint and seclusion can be used to change student behavior, there is virtually no evidence to support their effectiveness for that purpose. (Seclusion should be distinguished from “time out from positive reinforcement” which does have evidence of potential value in changing behavior but which need not entail seclusion.) There is controversy regarding whether these procedures should also be employed when students may be causing serious damage to the school environment. Most would say that they should not be used in such situations because of the risks for injury from these procedures may be larger than the risks without such strategies.

Nevertheless there are some isolated studies and anecdotal evidence that these procedures are being used in a variety of other situations. In one study my colleagues and I found that the use of these procedures occurred for “student non-compliance”, “leaving the learning environment”, and other student behaviors which did not apparently entail danger of physical injury to anyone.¹ Similar instances of non-emergency use have occurred in many of the numerous news media reports.

¹ Ryan, J. B., Peterson, R. L., Tetreault, G. & van der Hagen, E. (2007). Reducing the use of seclusion and restraint in a day school program. In M. A. Nunno, L. Bullard, & D. M. Day eds. *For our own good: Examining the Safety of High-Risk Interventions for Children and Young People*. (pp. 201-216) Washington, DC: Child Welfare League of America.

According to anecdotal reports, these procedures have also been implemented inappropriately in other respects. Restraints have been conducted by people not trained to do so, without recognition of the physiological symptoms of distress such as restricted breathing, or they were conducted well past the time when the student has regained control. Seclusion has been employed in environments which are unsafe, without close monitoring of the student, and for extended (and inappropriate) lengths of time, etc. All of these situations defy commonly accepted professional guidelines for the use of these procedures.

How Many?

Since these reports are often the result of parent complaints or media reports, we do not know how many times these procedures are inappropriately employed with students. Yet there does appear to be a substantial number of these situations, and they appear to be scattered across the United States. It should be acknowledged that there may also be many situations across the US where these procedures are being used much more appropriately, and there may be little or no adverse affects because of their use in those situations.

State Policies

States have varied substantially in their supervision of these procedures in the schools. In recent studies my colleagues and I conducted we found that there are 21 states which have policies & 10 more with guidelines in place which address the use of physical

restraint. Fourteen states reported no policies or guidelines.² For seclusion, there are about 17 states which have policies & 7 more with guidelines we could identify.³ Most of the time both types of policies and guidelines were included in special education policies for those states, but all of these policies varied widely in their terminology, definitions, content.

Disability

It is important to note that the use of these procedures is not strictly an issue related to students with disabilities. While most of the instances of use of these procedures have apparently been for students with disabilities, some have not. School staff members who engage in restraint or seclusion may not be special education staff - we currently do not know. Nor do we know their level of training on these topics.

Recommendations

There is concern among knowledgeable professionals regarding the deaths and injuries resulting from these procedures, concern that reasonable guidelines for their use are apparently not being followed, and concern for violation of human rights. Here are just a few key recommendations:

² Ryan, J.B., Robbins, K., Peterson, R.L. & Rozalski, M. (in press). Review of State Policies Concerning the Use of Physical Restraint Procedures in Schools. *Education and Treatment of Children*.

³ Ryan, J. B., Peterson, R. L., & Rozalski, M. E. (2007). State policies concerning the use of seclusion timeout in schools. *Education and Treatment of Children*, 30(3), 215-239.

- Schools should focus on the prevention of behavior problems. To do that implementation of “Positive Behavior Supports”, and conflict de-escalation procedures may lessen the need for the use of restraint and seclusion procedures. Preventing the occurrence of dangerous student behavior should be a top priority.
- Adequate staffing in programs serving students where serious behavior issues could be reasonably predicted.
- Appropriate and specific training for staff members on these topics, tailored to the specific setting, students and behaviors.
- A common framework across states and schools which specifies the situations where these procedures could be appropriate, and where they are inappropriate and how they should be used.
- More consistent emergency or safety planning which involves parents and students when difficult behaviors can be anticipated. Improved communication with parents would be helpful.
- Common debriefing and reporting procedures to some outside of district agency, such as State Departments of Education, which is directed to provide oversight and watch for excessive use of these procedures, and investigate and take corrective action where guidelines are not followed.

Currently a more comprehensive set of recommendations is being developed by the Council for Children with Behavior Disorders,

a Division of the Council for Exceptional Children which address many of these issues. (See attachment #1 and related documents). Implementation of recommendations like these would be very helpful.

Respectfully,

Reece L. Peterson

Attachment #1

CCBD Position Summary on

Physical Restraint & Seclusion Procedures in School Settings

May 2009

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.

Declaration of Principles:

- CCBD supports the following principles as related to the use of restraint or seclusion procedures:
 - Behavioral interventions for children must promote the right of all children to be treated with dignity.
 - All children should receive necessary educational and mental health supports and programming in a safe and least-restrictive environment.
 - Positive and appropriate educational interventions, as well as mental health supports, should be provided routinely to all children who need them.
 - Behavioral interventions should emphasize prevention and creating positive behavioral supports.
 - Schools should have adequate staffing levels to effectively provide positive supports to student and should be staffed with appropriately trained personnel.
 - All staff in schools should have mandatory conflict de-escalation training, and conflict de-escalation techniques should be employed by all school staff to avoid and defuse crisis and conflict situations.
 - All children whose pattern of behavior impedes their learning or the learning of others should receive appropriate educational assessment, including Functional Behavioral Assessments followed by Behavioral Intervention Plans which incorporate appropriate positive behavioral interventions, including instruction in appropriate behavior and strategies to de-escalate their own behavior.

Recommendations:

- CCBD believes that physical restraint or seclusion procedures should be used in school settings only when the physical safety of the student or others is in immediate danger.
- Mechanical or chemical restraints should never be used in school settings when their purpose is simply to manage or address student behavior (other than their use by law endorsement or when students in travel restraints in vehicles). Their use for other instructional related purposes should be supervised by qualified and trained individuals and in accord with professional standards for their use.
- Neither restraints nor seclusion should be used as a punishment to force compliance or as a substitute for appropriate educational support.

- CCBD calls for any school which employs physical restraint or seclusion procedures to have a written positive behavior support plan specific to that program, pre-established emergency procedures, specific procedures and training related to the use of restraint and seclusion, and data to support the implementation of the principles of positive behavior supports in that environment as well as data regarding the specific uses of restraint and seclusion.
- All seclusion environments should be safe and humane and should be inspected at least annually, not only by fire or safety inspectors but for programmatic implementation of guidelines and data related to its use.
- Any student in seclusion must be continuously observed by an adult both visually and aurally for the entire period of the seclusion. Occasional checks are not acceptable.
- CCBD calls for federal, state, and provincial legislation or regulation which would require the implementation of:
 - Recognition that restraint and seclusion procedures are emergency, not treatment, procedures.
 - Requirement that preventive measures such as conflict de-escalation procedures be in place in schools where restraints or seclusion will be employed.
 - Requirements that individualized safety plans are created for students whose behavior could reasonably be predicted to pose a danger. Those safety plans for students with disabilities must be created by the student's IEP team and included as a part of the IEP. These plans can also be created for students without disabilities.
 - Requirements that comprehensive debriefings occur after each use of restraint or seclusion and that reports of the incident are created.
 - Requirement that data on restraints and seclusion are reported to an outside agency such as the state or provincial department of education.
- CCBD does not believe that “guidelines” or “technical assistance documents” are generally adequate to regulate the use of these procedures since abuses continue to occur in states or provinces where guidelines are in place and these guidelines have few mechanisms for providing oversight or correction of abuses.
- CCBD calls for additional research regarding the use of physical restraint and seclusion with students across all settings.

White Papers* from which these recommendations are drawn:

Council for Children with Behavior Disorders (May, 2009). *CCBD Position on the Use of Physical Restraint Procedures in School Settings*. Reston, VA: Author.

Council for Children with Behavior Disorders (May, 2009). *CCBD Position on the Use of Seclusion Procedures in School Settings*. Reston, VA: Author.

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