



As a leading member of The Alliance to Prevent Restraint, Aversive Interventions, and Seclusion (APRAIS, a coalition of 18 leading advocacy organizations), TASH is proud to announce the introduction of legislation to protect ALL children (ESPECIALLY children with disabilities who stand at greater risk) in schools from abuse, restraint, and seclusion (H.R. 4247, S. 2860).

APRAIS' dedication to informing key legislative leaders and the general public on thousands of cases of abuse, restraint, and seclusion in classrooms across the country spurred a Government Accountability Office (GAO) investigation. In May 2009, the release of the GAO report, *Seclusions and Restraints; Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*, confirmed what APRAIS had long been advocating, that children with and without treatment were being subjected to shocking abuse, restraint, and seclusion measures as "punishment" in schools. The GAO report further confirmed that there were "no federal regulations related to seclusions and restraints in public and private schools and widely divergent laws at the state level."

Thanks to Representatives George Miller (D-CA) and Cathy McMorris Rodgers (R-WA) in the House of Representatives and Senator Dodd (D-CT) in the Senate, TASH's dream of federal legislation to protect ALL schoolchildren from abuse, restraint, and seclusion in classrooms and foster a safe and healthy classroom environment where students can experience the excitement of learning is not so far off! But, we need YOUR support.

Contact your Senators and Representatives and encourage them to co-sponsor this legislation (H.R. 4247, S. 2860)! You can visit <https://writerep.house.gov/writerep/welcome.shtml> to get contact information for your representative.

Let's do what we can to ensure that children are safe and happy in our schools! See below for additional information and talking points.

Debunking the Myths of Restraint and Seclusion

Myth: Restraint and seclusion keeps students who are out of control safe, as well as others. Restraint and seclusion can escalate a student's agitation. Physical restraint or seclusion can cause students to act more aggressively, increasing the possibility for harm to themselves, teachers, and others. Struggles during physical restraint have led to injury and even death of students by asphyxia. Students secluded for disruptive behavior have suffered further emotional distress, and have inflicted harm on themselves while in seclusion, some cases leading to death. This can hardly be categorized as "safe."

Myth: Teachers use restraint and seclusion to protect themselves and others.

Teachers have restrained and secluded students for offenses as minor as not staying seated or blowing bubbles in milk at lunchtime. In specific cases, both of these offenses have resulted in death. In a recently released General Accountability Report, nowhere does it point to teacher self-defense as a motivation for using restraint or seclusion on a student.

Myth: There are no alternatives to restraint and seclusion.

There are numerous alternatives to restraint and seclusion, including positive behavioral interventions and supports and other de-escalation techniques. The Individuals with Disabilities Education Act (IDEA) recommends positive reinforcement techniques such as positive behavioral support for students with challenging behaviors. Not only has this method proven effective in reducing incidents of problem behaviors, but it has also contributed to increased classroom learning.

Myth: Parents think their children need to be restrained or secluded in certain scenarios.

Most parents of children who are routinely restrained or secluded in school admit that they agreed to the techniques in their child's individualized education plan. However, they report they were misled about the frequency and circumstances under which these practices were used and found they were used beyond the intended level in the child's education plan.

Myth: Property damage needs to be prevented.

No child's safety is as important as protecting property. Protection of property has led to violent restraints in response to offenses as simple as a student breaking a pencil in an act of defiance.

Myth: There is no funding for adequate teacher training of positive behavior supports and other alternative behavioral management methods.

The Individuals with Disabilities Education Act (IDEA) includes funds for teacher development. In its memo about acceptable uses for the American Recovery and Reinvestment Act funding, the Office of Special Education Programs specifically listed that teacher training in positive behavioral interventions and supports is an acceptable use of funding. Additionally, school districts can use up to fifteen percent of their IDEA funding for early intervening services, part of which can be directed at teacher training to deliver scientifically based academic instruction and behavioral interventions.

Myth: Children who are out of control should not be in regular education classrooms.

Studies have proven that children with special needs learn and perform better in integrated classrooms.

Myth: States, not the federal government, should be regulating restraint and seclusion in schools.

While individual states have the ability to strengthen any existing federal law, there should be an existing baseline that protects the safety of all American children.

Myth: Schools, not governments, should determine behavior management policy, because they know the children best.

A federal baseline that protects the safety of all American children will prevent individual schools or districts from using abusive practices on the students in their charge. Schools do know their children, and will have the autonomy to create best practices for behavior management.

Myth: Laws should be developed for public schools but not private schools.

All children have the right to be protected from abusive restraint and seclusion, regardless of the setting. Private schools should not be exempt.

Urgent Action Needed to Prevent Abusive Practices in Schools

Seclusion, restraint and other aversive interventions in schools causes trauma, injury and the death to America's children. Research, recent reports, and a GAO investigation clearly establish that because restraints, seclusion and aversive interventions are so harmful, they must be prohibited except in the rarest of circumstances; and then only after intense training, under rigorous supervision, and after specified preconditions have been met. Abusive interventions are neither educational nor effective.

Schools are significantly out of step with professionally accepted practice and jurisprudence on the use of restraint, seclusion, and other aversive interventions. Restraint or seclusion in education is often unregulated and reportedly all too common for behaviors that do not pose danger or threat of harm. A recent Texas Tribune review of state data shows public school educators used physical restraints roughly 100 times a day during the 2007-08 school year; with school staff restraining four of every 100 special education students for a total of 18,000 times, with some students being restrained dozens of times. More than 40 percent of restrained youth suffered emotional distress, including post-traumatic stress disorder.¹ No child should be subject to such abuse at school. Furthermore, evidence shows a disproportionate use of these techniques on students with disabilities, violating their right to nondiscrimination in accessing education. The fact that Texas has a fairly strong law on the use of restraint and seclusion indicates the need for minimal Federal protection and allocation of resources and assistance to States to assist in developing plans to reduce the use of these dangerous techniques.

Findings

- **Significant Dangers and Risks to All Involved:** The use of restraint or seclusion poses an inherent risk to the physical safety and psychological health of everyone involved; it is never risk-free. In addition to producing anxiety, fear and a decreased ability to learn; death, trauma, and injuries can and have resulted from the use of these techniques. All children experience trauma from the use of restraint and seclusion; however, children with significant disabilities are at increased risk if they are not able to fully understand or communicate what happened, how they feel, or report injury or pain as a result of restraint or seclusion. They may acquire post-traumatic stress syndrome or exhibit new challenging or dangerous behaviors.

¹ <http://www.texastribune.org/stories/2009/nov/02/disabled-students-restrained-public-schools/>

- **Lack of Protection:** Because there is not a Federal statute that protects children from inappropriate use of or abuse from restraint or seclusion in school, governing the use of these practices has been left to the States. Some states have strong, effective laws that do much to protect children. But many states have no laws, and others have weak ones. State lines should not determine whether a child is protected. America needs a strong federal statute and at the same time, needs to ensure that protection under strong state laws remain in place. This becomes painfully clear each time a child dies or is injured or traumatized through the use of restraint or seclusion.
- **No scientific support:** There is a strong and non-controversial body of research outlining the dangers of restraint and seclusion and amply documenting their harmful effects. The concern about these techniques and the national call for prevention of the use of restraint and seclusion stand uncontested. Education and clinical professionals must use only interventions that are both evidence and values based.
- **Positive and preventative school-wide models:** Efforts to reduce restraint and seclusion should be part of a strategy for school-wide safety and should include the development of district-wide policies, training for all educational staff, crisis preparation, interagency cooperation and student/parent participation. Proactive approaches need to be used, e.g., positive behavior interventions and supports that are safe, effective, and evidence-based. Research demonstrates that the use of preventative and positive approaches is a cost-saving approach that changes how schools respond to students, improving student behavior by promoting and reinforcing desired behaviors and eliminating the unintended reinforcement of and need to respond to problem behaviors.

Recommendations - In light of the findings of fact above, we make the following major policy recommendations:

- **Significantly restrict the use of restraint and seclusion:** Passage of federal legislation that prohibits the use of restraint, seclusion or aversive interventions except under the narrowest, most emergent circumstances. Every child has the right to be free from restraint and seclusion unless he or she poses a clear and imminent physical danger to him or herself or others. Restraint/Seclusion must cease when the emergency ceases and no more force may be used than is necessary to contain the danger. Restraint and Seclusion may not be used to force compliance, manage behavior, for staff convenience, or as discipline.
- **Prevent the need for such techniques:** Ensure that school personnel are trained annually in positive behavior supports; proactive approaches to learning, social, and behavioral needs, school-wide emergency and crisis prevention procedures, and CPR and First Aid.. Require standards for such training.
- **Ensure parents as meaningful partners.** Shore up parents' rights by ensuring they are quickly and fully informed of all emergency interventions used on their children and ensure their right to meaningfully participate in the development of safe and positive interventions and supports for their children. Make sure that parents receive written notice if techniques were used or the law was violated within 24 hours of the event. Parents must be able to watch for concussions, other injuries, and trauma.
- **Protect rights.** The law must protect all children; and, ensure the safety of children and school personnel. Parents must be aware of and have access to all available legal remedies, including the

right to seek legal redress. Any Federal restraint/seclusion statute must protect parents' existing rights of action, including those under State and Federal law. Do not allow IEP's, individual behavioral support plans, or individual student safety plans to be used as escape hatches to circumvent the law.

- **Collect data:** Require State Education Agencies to collect and make public detailed data on the emergency use of these interventions. In addition, the Department of Education should use this data to target training, technical assistance and corrective action regarding the inappropriate use of seclusion and restraint.

<http://aprais.tash.org/>

<http://www.gao.gov/new.items/d09719t.pdf>

http://www.copaa.org/pdf/UnsafeCOPAAMay_27_2009.pdf

<http://www.napas.org/sr/SR-Report.pdf>