

Keeping All Students Safe

**The Council of Parent Attorneys and
Advocates, Inc.**

Denise Marshall, Executive Director

email: denise@copaa.org

Restraint and Seclusion

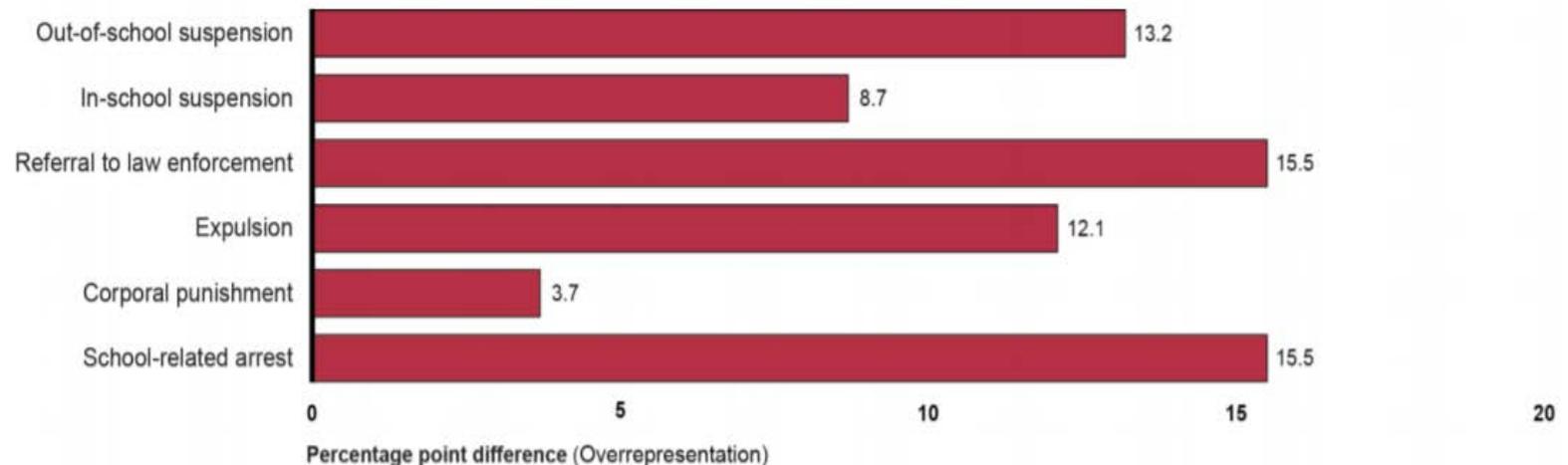
- ▶ Aversive Interventions
- ▶ Used alongside other exclusionary discipline practices

Students With Disabilities Subjected Overall to Discipline at Higher Rates

<https://www.gao.gov/assets/700/690828.pdf>

Figure 5: Students with Disabilities' Overrepresentation Among Students Who Received Disciplinary Actions, School Year 2013-14

This chart shows that students with disabilities were overrepresented among students who received six types of discipline. For example, students with disabilities were overrepresented among students suspended out of school by approximately 13 percentage points, as shown in the chart, because they made up about 12% of the overall K-12 student population, but 25% of the students suspended out of school.



Source: GAO analysis of Department of Education, Civil Rights Data Collection. | GAO-18-258

Note: In contrast, students without disabilities were underrepresented among students who received each disciplinary action. For example, students without disabilities were underrepresented among students suspended from school by the same amount that students with disabilities were overrepresented, i.e., 13.2 percentage points. Disparities in student discipline such as those presented in this figure may support a finding of discrimination, but taken alone, do not establish whether unlawful discrimination has occurred.

- ▶ Students with disabilities represented approximately 12 percent of all public school students and accounted *for nearly 25 percent or more* of students that were:
 - referred to law enforcement -- an overrepresentation of 15.5 percentage points,
 - arrested for a school-related incident -- an overrepresentation of 15.5 percentage points, or
 - suspended from school – an overrepresentation of 13 percentage points.

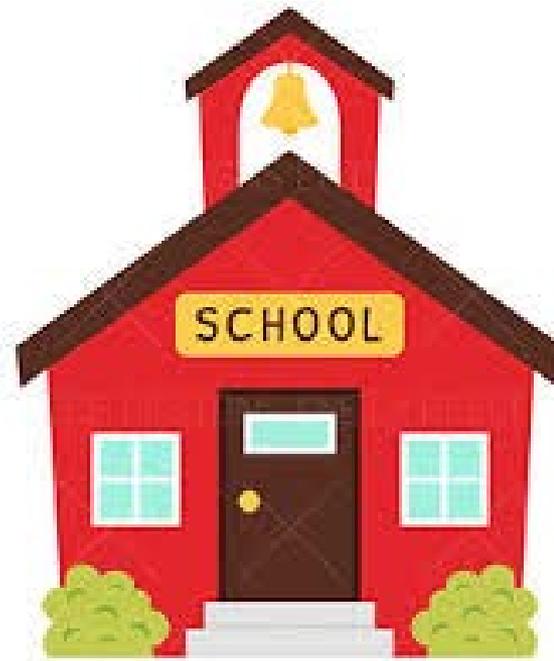
 - ▶ Black students with disabilities and boys with disabilities were disproportionately disciplined across all six actions.
- 

2013-2014 R/S CRDC data

- ▶ Disproportionate impact on students with disabilities.
- ▶ Students with disabilities make up 12% of all public school students but account for 67% of students subjected to restraint or seclusion.
- ▶ More than 100,000 students— including more than 67,000 students with disabilities served by IDEA

By race..

- ▶ American Indian or Alaska Native and multiracial boys - 2% of all students, but 5% of students subject to restraint or seclusion.
- ▶ Black boys and white boys - 8% and 26% of all students, respectively, but 18% and 43% of students subject to restraint or seclusion.
- ▶ Asian, Latino, and Native Hawaiian or other Pacific Islander boys are not disproportionately subject to restraint or seclusion; neither are girls of any race or ethnicity.



**Schools are only environment in
which children are not protected
from dangers of
Seclusion and Restraint**

“In most mental health settings, the use of restraints and seclusion has plummeted due to federal regulations, staff education, and concerted effort of national and local leadership.” ~ W. Mohr, Tied Up and Isolated in the Schoolhouse (2012)

The school paradigm needs to shift from reactive punitive strategy – to preventative, constructive, evidence-based strategies that support students to be safe and remain in the least restrictive environment to receive maximum educational benefit.



What exactly are we talking about?

- ▶ **Seclusion**

- ▶ **Restraint**

Seclusion

Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.



NOT Talking about Timeout



Inclusion

in the classroom
(Not generally a problem)



Exclusion

outside
the classroom



Risks Associated with Seclusion

- ❖ **Potential Death, Trauma, Injury:**
 - ❖ Lack of Supervision
 - ❖ Inadequate Safety of environment
 - ❖ **No evidence Therapeutic & many times actually Escalate Behavior**
 - ❖ **Students consistently perceive seclusion as punishment**
 - ❖ **Overuse results in lack of access to instruction, denial of FAPE**
 - ❖ **Potential for Disparate Treatment**
- 

Physical Restraint

A physical restraint is defined as any method of one or more persons restricting another person's freedom of movement, or physical activity. It is a means for regaining behavioral control so as to prevent injury to that person or others.



What are Restraints?

Mechanical



Use of any device (tape, tie downs) to limit an individual's body movement.

Chemical



Use of medication to control behavior or restrict a patient's freedom of movement

Physical

(Ambulatory)



Use of one or more people using their bodies to restrict another's movement.

Risks Associated with Restraint

Positional Asphyxia

Predisposed when in prone (face down) position

Aspiration

Predisposed when in supine (face up) position

Blunt Trauma to the Chest

Cardiac arrhythmia leading to sudden death

Catecholamine Rush

Result of escalating agitation producing heart rhythm disturbances

Rhabdomyolysis

Break down in muscle cells due to strenuous exertion.

Psychotropic Medications

Neuroleptics increase risk of sudden death (2.39 times)

Antidepressants increase QT interval associated with Sudden Death

Many medications inhibit body's cooling mechanisms

Thrombosis

Fatal pulmonary embolism due to being immobile for long periods of time

Psychological Trauma

Physical Injury (Staff & Students)

(Moore, Petti & Mohr, 2003)

No evidence, Ample Harm

- ▶ Restraint and seclusion have resulted in physical injury, psychological trauma and death to children in public and private schools.
- ▶ Children are **subject to physical restraint and seclusion at higher rates** than adults.
- ▶ Research shows that physical restraints and seclusion are **not** therapeutic nor are they an effective means to calm a child or teach a child; often having the opposite effect which decreases a child's ability to learn.

Ample Reports

- ▶ COPAA collected reports from parents and advocates about incidents in which children with disabilities were subjected to restraints, seclusion, and the use of aversives in 2009.
 - ▶ COPAA has collected information on 188 incidents to date. Our report shows that the use of restraints, seclusion, and aversives is extensive; and the consequences immense.
 - ▶ Our colleagues at the National Disability Rights Network, the GAO, and the Civil Rights Division have similarly documented the extensive use of restraints and seclusion.
- 

Boy's parents seek ban on restraining children



Tanner Wilson, of Mason City, is shown in this undated photo who had autism, died Feb. 11 at Gerard Treatment Center in Mason City, where he was held. His anxiety and a lack of communication were the best of him," said his mother, Karen Wilson. Workers were holding Tanner for the floor in what they described as a "routine physical holding" when he stopped breathing.

Mason City child died when treatment center workers allegedly held boy face down on the floor

By MELANIE S. WELTE
Associated Press

DES MOINES — The parents of an 11-year-old boy who died while in residential care in northern Iowa want laws to ban workers from using prone restraints on children.

The technique involves putting a child on his or her stomach and

Karen Wilson. Workers allegedly were holding Tanner face down on the floor in what they described as a "routine physical holding" when he stopped breathing.

"What I would like to see is 'Tanner's Law' be passed to ban the use of lethal prone restraints on children," Karen Wilson said.

Under current law, children can be subjected to mechanical restraints, such as a straitjacket, or physical force, said Laurel Stine, physical force, said Laurel Stine, director of federal relations with the Bazelon Center for Mental Health Law, a Washington, D.C.-based advocacy group for people with mental disabilities.

"For years, kids with psychiatric disorders have been most at risk, more so than adults ... and there have been numerous deaths

"Tanner Wilson unfortunately, of which the country. In the and restraining h

executive director of Protectio

Wilson said. She and her husband, hoped their only child v ready to come home in N. Then something went w "Tanner didn't have day," Karen Wilson sai Since Tanner's Wilson's have been son's story, advocati on the use of prone

be increasing
"We're hearing, which is some-
... hearing, that schools are
... how to do

DIOWA

Des Moines Register

Sunday, July 11, 2004 Page 5B

Parents ask why runaway who died wasn't stopped

ASSOCIATED PRESS

Cedar Rapids, Ia. — A 15-year-old boy who died after falling into the Cedar River in May should have been restrained because he posed a danger to himself, his parents said.

Russell Jankowski had run away from Tanager Place — the private home for children with

stop him. Police records show Russell was a threat to himself and others before he left, and should have been restrained, Richard Menadue said. Tanager Place staff use physical restraints only in emergency "that endanger

was a danger. Estle declined to comment on the Jankowski case specifically. He said every case is different, and it comes down to a judgment. "It doesn't

MiddletownPatch

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Updates: Mayor Drew Will Speak at 4 p.m. on Proposed Washington Street Development. Check Back With Middletown Patch For Updates

Common Schools

'Scream Rooms' Violate Children's Rights, Behavior Consultant Says

An elementary school may have a problem that is unacceptable for using seclusionary time-out rooms as a method of discipline



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APRAIS SURVEY (2009)

Parents had no knowledge in many cases; positive approaches were not tried; the impact the interventions had on the children. In almost all cases (92.9%), the respondents said the treatments resulted in emotional trauma.

If those who used the procedures did so with any intention of improving behavior, quite often an opposite effect occurred with an increase in emotionally-induced challenging behavior such as self-injury, stereotypy, and running away.

Published: Westling, DL., Trader, BR., Smith CS., Marshall, DS (2010) Use of Restraints, Seclusion, and Aversive Procedures on Students with Disabilities Research & Practice for Persons with Severe Disabilities 2010, Vol. 35, No. 3Y4, 116-127



COPAA Members report...

Effects on the Child

- ▶ It is the child who gets the blame.
- ▶ May develop new behaviors (*aggression, stereotypical behavior, running away, ripping clothes, self-injury, or tics*)
- ▶ Afraid of school
- ▶ Afraid of touch
- ▶ Terrified of new people who enter their lives because they are afraid of the unknown.
- ▶ Stripped of his or her dignity and the essence of who they are or might have been. (*71% of children 3–10 years old*)
 - *“This child will now require extensive therapeutic intervention to try to remediate and reverse the effects of these ill-conceived and damaging behavioral interventions. Who knows if we can locate the right mix of intervention to turn this around? This child's record is now nothing but red flags to any potential appropriate educational program.”*

Other Individuals in the Classroom or Witnessing

- ▶ Guilt for not being able to do something to help or protect
- ▶ Confused about why a child is subject abusive treatment
- ▶ Fear of common places and items that have been used inappropriately (bathrooms, old locker room, closets, kitchens, “sensory rooms,” storage areas, janitor’s closet, mats and the hallway.

“How do I explain to my other children why their sister keeps coming home hurt from school.”

“I was the teacher in charge of said ED/BD classroom and I was traumatized.. I left my job mid year and will never work in a public school again! I just feel horrendous about how the children were abused - and those individuals promoting are still in charge.”

Parents Lose Jobs or Experience Economic Affects

- ▶ Required to pick up child or be in school
- ▶ Home schooling
- ▶ Pay for private schooling

“It's a crime I to this day feel I need to observe at least 3–4 times per week, meetings, endless IEP's-- writing letters, you name it, I've done it- including litigation. All for?-- To keep my son's safe and educated. Something which most parents take for granted.”

Relationships Harmed

- ▶ Retaliation
- ▶ Lack of trust
 - parents of school
 - school of parents and students
 - Students of everyone who failed to protect
- ▶ Relationships are irrefutably harmed.

“Consider living in fear every day of your life because you have to send your child to school.”



The school staff had me convinced for a while that my son would learn in the "safe room" (closet!) to better anticipate the consequences of his actions.

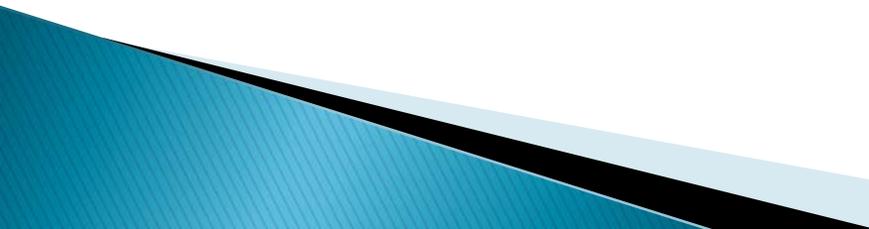
I feel very guilty about what happened (several times, no less!)



“What happened to my daughter has brutally and needlessly devastated her life and our family.”

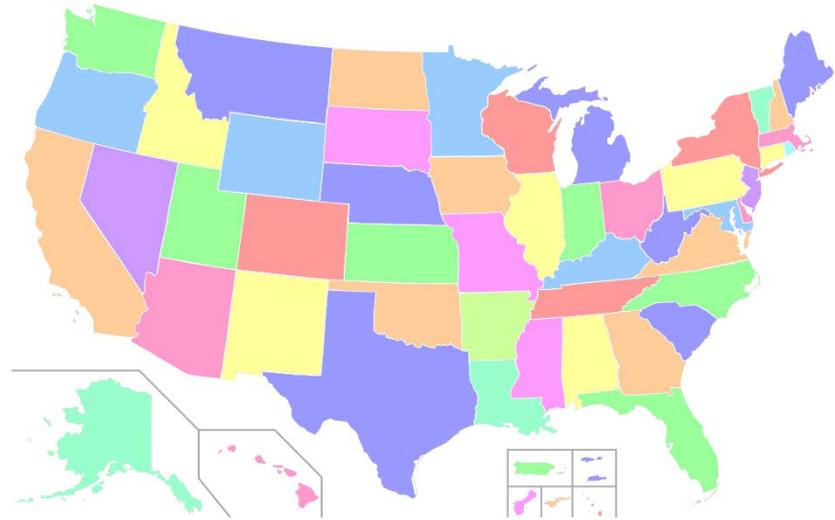


“Every breath of air we have is contingent on not seeing our principal roll her eyes at our son or other children with disabilities in the school or giving us messages, such as when she suspended our son, that we're just not giving him enough consequences.”



- ▶ *“I cannot trust the public school system in any district anymore. We moved away from our former district that did this to our son, only to find the new district uses “quiet rooms” as well.*
- ▶ *There are no legal regulations for these seclusion rooms, so the opportunity for abuse is HUGE.”*

State level



- ▶ Patchwork of protection in **states and territories**
- ▶ Despite state policies, lack of evidence, and known danger – restraint and seclusion remain common in schools.

Every Student Succeeds Act of 2015

- ▶ **State Plans – Seclusion and Restraint:** States must indicate in plan how they will support districts:
to improve school conditions for student learning, including through reducing—“(i) incidences of bullying and harassment;“(ii) the overuse of discipline practices that remove students from the classroom; and“(iii) the use of aversive behavioral interventions that compromise student health and safety.

The conference report clarifies that the term *aversives* means seclusion and restraint.

Federal Legislation

- ▶ Prohibits K–12 school personnel/contractors from subjecting students to:
 - Seclusion
 - Mechanical or chemical restraint
 - aversive behavioral intervention that compromises student health and safety
 - physical restraint that is life–threatening or contraindicated based on the student's health or disability status and limits use of physical restraint.

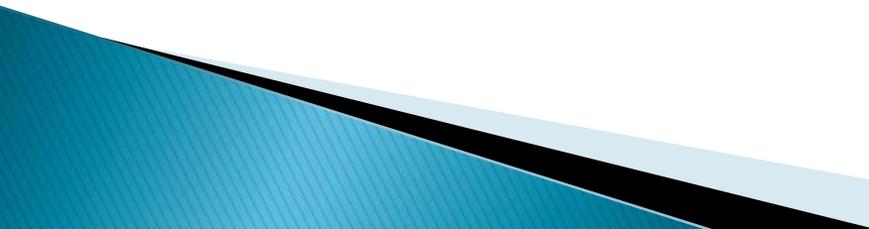
Federal Legislation (continued)

- ▶ Only be used when imminent danger of serious physical injury or less restrictive ineffective
- ▶ Face-to-face monitoring to quickly detect physical or psychological distress, excepting circumstances where staff safety is significantly compromised , requiring direct visual monitoring;
- ▶ Prohibition against placement of restraint in a child's IEP behavioral plan, or other educational planning doc
- ▶ Restraint implemented only by trained personnel and cease when there is no longer a threat of harm;

Federal Legislation (continued)

- ▶ Requirement that notice be provided to parents within 24 hours;
 - ▶ Requirement for debriefing after each incident, and completion/review of Functional Behavior Assessment or Plan. Continued use of restraint signifies the failure of programming;
 - ▶ Requirement for the collection and public reporting of data;
- 

Federal Legislation (continued)

- ▶ Protection of parents' and children's existing rights under federal and state law, including existing state health codes and safety regulations;
 - ▶ Reinforcing State Protection & Advocacy Center's authority to investigate and obtain legal remedies for students who are subject to violations under the provisions of the proposed act.
- 

Civil Action

- ▶ A student or parent may file a civil action under the Constitution, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), or other applicable Federal law.
- ▶ Do Not have to exhaust under the IDEA first

Grant Authority

- ▶ Secretary may establish grants to State educational agencies to:
 - Establish, implement and enforce minimum standards
 - Improve state and local capacity to collect data
 - Improve school climate and culture by implementing school wide positive behavior interventions and supports, mental health supports, restorative justice programs, trauma-informed care, and crisis and de-escalation interventions.

We wont rest until we are...

Keeping All Students Safe

