



AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

Keeping Schools Safe: How Seclusion and Restraint Protects Students and School Personnel

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Introduction

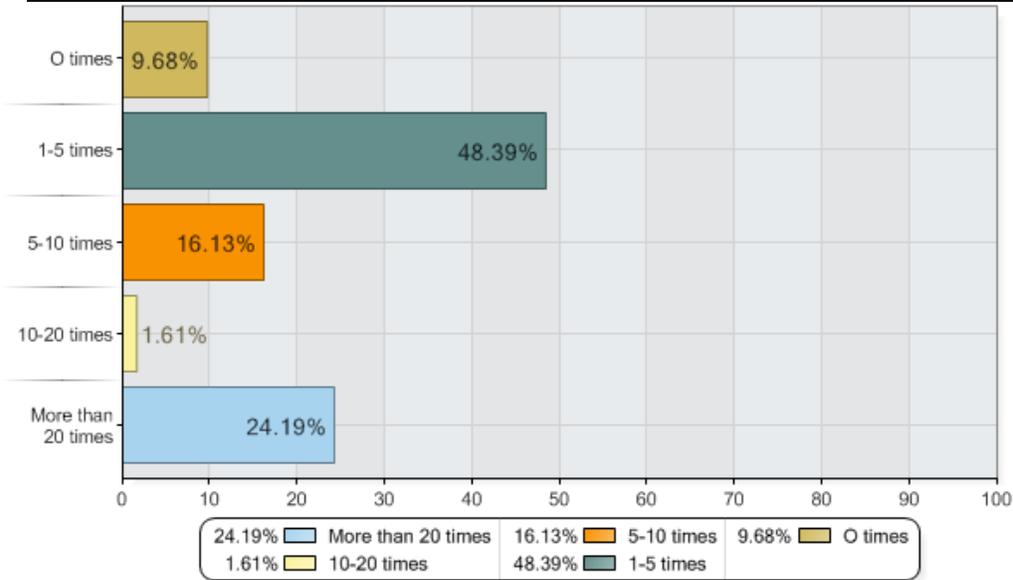
AASA has long opposed the prohibition of seclusion and restraint in public schools. We believe the use of seclusion and restraint has enabled many students with serious emotional or behavioral conditions to be educated not only within our public schools, but also in the least restrictive and safest environments possible.

Some of the approximately 4.7 million school personnel¹ working in our public schools are not perfect. The unfortunate reality is that they make a variety of mistakes, sometimes intentionally, that can hurt children. However, AASA does not support federal policies built around the few wrongful individuals who choose to disobey school policies, state regulations, or state and federal criminal laws. Because circumstances where seclusion and restraint are used inappropriately are the vast exception to the rule, we advocate for policies that support the 99 percent of school personnel that use seclusion and restraint safely, responsibly and only when circumstances truly demand their application.

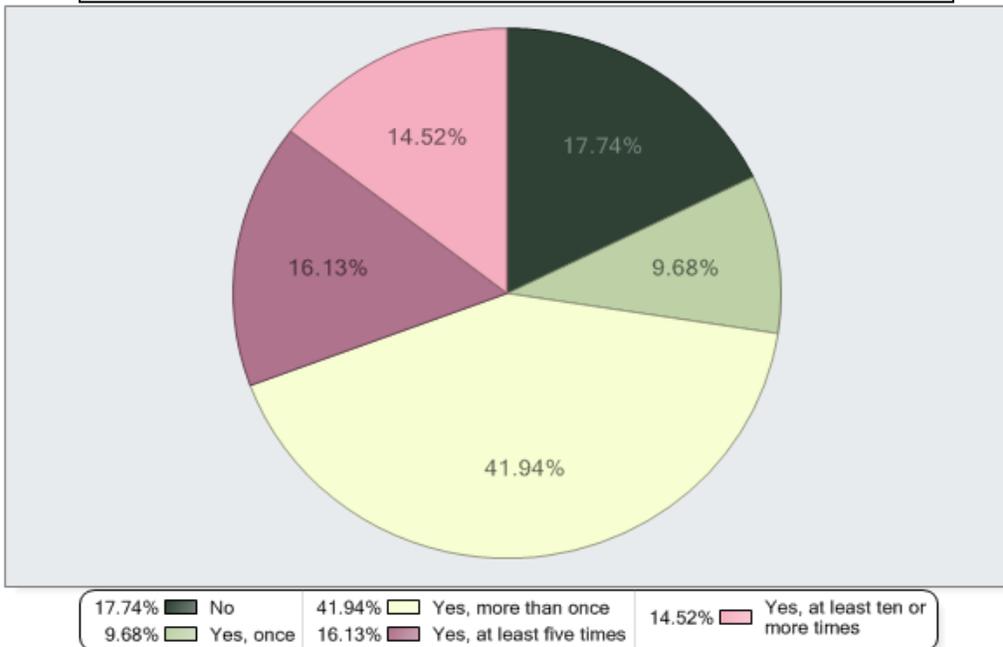
In early 2012, AASA conducted a randomized survey of school administrators across the U.S. on how often seclusion and restraint was used in their school districts and whether school personnel were injured as a result of working with students who needed to be secluded or restrained. The results of our survey are as follows:

- 10 percent of respondents used seclusion and restraint more than 5% of the time in a single school year.
- 97 percent of respondents said that staff who perform seclusion and restraint are either trained or certified in how to perform safe and appropriate seclusion and restraint.
- 95 percent of school personnel who perform seclusion and restraint are trained in prevention and conflict de-escalation or positive behavioral interventions and supports.
- 25 percent of school districts reported that at least 20 times in the last school year, an administrator, teacher, paraprofessional, aide or other school professional trained in proper seclusion and restraint techniques has been physically threatened or attacked by a student.
- 30 percent of school districts responded that within the last five years, there have been at least five hospitalizations of school staff due to unanticipated behavioral outbursts by students.

Percentage of school personnel trained in proper seclusion and restraint techniques that have been physically threatened or attacked by a student in 2010-2011 school year



Percentage of school personnel from 2007-2011 who have been hospitalized when responding to a student's behavioral outburst



In light of these survey results, AASA solicited stories and examplesⁱⁱ from school districts nationwide that would be affected by federal legislation that would prohibit, limit or undermine their ability to use seclusion and or restraint techniques.

Seclusion and restraint allows students to remain in public school settings

In response to a request from the Kansas State Board of Education for guidelines on the use of seclusion and restraint, a parent and special-education teacher anonymously submitted this letter in 2011.

To: Kansas Legislators & State Board of Ed.,

I am writing this letter in response to concerns regarding the use of seclusion and restraints in public schools. My daughter, "Jane," has attended school in the Auburn-Washburn (USD 437) district since kindergarten. She is currently in the 7th grade. Jane has multiple behavioral, cognitive and sensory issues that have made school a tremendous struggle for her since the start. She was evaluated for services immediately upon entering the school system, as it became apparent right from the start that she could not manage herself nor learn appropriately in the general education setting. We had muddled through preschool, and as I am a special educator, I thought we could at least get through kindergarten without special services.

Through her school years, Jane has continued to struggle to manage her behavior, regardless of the strategies and supports utilized by the district and myself. And please understand, we have been down every road: therapy, medication, behavioral consultation through the school, use of an alternative school, 1:1 paraprofessionals, her own special education teacher half-time. The district has been so incredibly supportive and accepting of my daughter and myself that I am overwhelmed by their desire to help her succeed.

With that, it should be noted that without the appropriate use of seclusion and restraint procedures, I am 100% certain that my daughter would not have been able to stay in public school. Her "meltdowns" over the years have been intense! They include every behavior you can imagine and **she has succeeded in hurting several adults and damaging property on numerous occasions.** This has been an incredibly difficult journey for our family. **Without the use of seclusion and restraints, Jane would have been placed out of home in a residential school setting, which honestly, would have been intolerable for me. However, there is no chance a public school could have managed her behavior without appropriate techniques.**

I have always been kept apprised of techniques being suggested, IEP meetings were held, daily and weekly correspondence sent to me so that I have always been aware when seclusion or restraint was needed. Jane's teachers have always treated her with respect and dignity and Jane has always understood why these procedures were necessary and she could verbalize what happened.

It would be disastrous for some students if seclusion and restraints were not options in public school. While I would be appalled to see any child hurt or their self-esteem damaged, those instances of abuse of seclusion and restraint should be dealt with on an individual basis. **We should not punish schools and students where things are going well.**

Another example submitted by a medium-sized school district in Georgia about a student named “Dave” illustrates how seclusion and restraint techniques actually keep students in school. Although the district implemented a Positive Behavioral Interventions and Support (PBIS) system-wide for four years and had personnel from general education and special education trained in de-escalation strategies and appropriate restraint, the use of physical restraint was still necessary.

Because school districts can utilize practices like seclusion and restraint when necessary, students like “Jane” and “Dave” are learning in America’s public schools today. If school districts were unable to occasionally use these techniques with students with severe behavioral or emotional disorders, then these students would have to be institutionalized or sent to private facilities where they may not have the same rights and services available to them.

“Dave” is a fourth grade student who is significantly cognitively disabled and autistic. He began to demonstrate aggressive behavior during fall 2010. Dave will bite, slap, hit, and punch himself and others. A teacher and a paraprofessional have been injured and required medical treatment. The only way that we have found to keep injury from occurring and to keep Dave in school is to restrain him when de-escalation strategies and positive supports are not effective. **Dave’s parents are aware of his outbursts and have witnessed the school staff restrain their child. They also use restraint at home for the same reason. The school system and the parents have sought other outside opinions and evaluation, but no one has been able to provide a strategy or treatment that is completely effective in preventing the occasional need for restraint.** Dave’s parents and school district personnel have worked with the two Board-Certified Behavior Analysts (BCBAs) who are in the school weekly to provide coaching in applied behavior analysis, but there is still no way to help Dave control his outbursts. Through the use of restraints, Dave has been able to remain in a public school setting and not be institutionalized.

For these students, federal legislation that prohibits these practices from being written into an individualized education plan (IEP) or behavioral intervention plan means that school personnel are unable to work with parents to create a plan for coping with the student when their behavior becomes unmanageable. Legislation that prohibits parents and school personnel from communicating about the student’s needs and corresponding school interventions runs counter to the entire purpose of the Individuals with Disabilities in Education Act (IDEA). If IEP teams comprised of both parents and school personnel agree the use of seclusion and restraint will enable a student to remain in the least restrictive environment possible and to educationally benefit from the teaching and services the student needs, then these techniques should be allowed to be written into the student’s IEP. The IDEA statute was never meant to restrict parents from receiving a unique, effective education plan for their child. Prohibiting seclusion and restraint in the IEP or behavioral plans where past behavior clearly indicates a need will only lead to further conflicts and misunderstandings between parents and school staff. Consequently, IEP teams cannot reach agreements with parents on individualized protocols for emergency situations that may require physical restraint, which could lead to harm for other students and school personnel.

Prohibiting seclusion and restraint for general education students is dangerous, especially when the standard for intervention is so high.

School personnel around the country understand that seclusion and restraint should only be used in rare circumstances where other interventions have failed to address student behavior. While the students highlighted in the aforementioned examples have serious, diagnosed behavioral conditions, there are times when restraint or seclusion must be used on general education students with no prior history of behavioral misconduct or emotional disabilities. For example, Tammie Morin, Director of Special Services of the Middleton School District in Idaho, wrote that sometimes her staff needs to use seclusion and restraint during a student fight.

“Two students who are upset enough to engage in physical aggression do not typically de-escalate through the use of the words ‘calm down and come with me.’ As educators, we are responsible for the safety of all students; therefore, we must intervene and disengage the students from this aggressive behavior. This may result in restraining the students and escorting the students to a conference room or other location away from others to allow the student to calm down and talk with an administrator or counselor.”

Federal legislation under consideration by the Senate would prohibit the use of seclusion and restraint on a general education and special-education student unless the student was at risk of inflicting “serious bodily injury” on himself or another student. Accordingly, if a fight breaks out, school personnel are not allowed to intervene unless the students are at risk of inflicting “serious bodily injury” on each other or themselves.

The “serious bodily injury” standard is a major flaw in the current federal legislation that has been proposed in the Senate. In the *Keeping All Students Safe Act* (S.2020), restraints can be used in emergency situations by trained personnel, but only when the student is at risk of imposing “serious bodily injury” on himself or others. Applying the “serious bodily injury” standard is problematic because seclusion and restraint techniques are most often used to *prevent* the risk of injury, not to determine the extent of the injury in the aftermath of the incident. Imagine the difficulty of trying to determine during a fight whether a student is at risk of inflicting “serious bodily injury” to himself or to another individual or whether the student is only at risk of inflicting “bodily injury,” particularly if school personnel are fearful for themselves or the student.

Moreover, the standard for “serious bodily injury” is very high and could lead to considerable litigation by parents who second guess school personnel decisions to intervene. Although not defined in the text, S.2020 cites the IDEA’s definition of **“seriously bodily injury”**, which states that it is a **substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.**ⁱⁱⁱ Bodily injury is defined as “a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ,

Courts have concluded that a broken nose does not constitute “serious bodily injury,”³ nor does pain, discomfort, disorientation and pain that was rated at “7” on a scale of 1 to 10.⁴ “Serious bodily injury” is limited to “the pain...of the type one would feel if losing a limb or suffering a near-death injury.”⁵

or mental faculty; or any other injury to the body, no matter how temporary.” Consequently, in the vast majority of cases, the standard simply cannot be met, and will likely lead to litigation that the school district acted inappropriately when school personnel restrained a child. Morin articulates this concern in the following statement:

If the legal ramifications for unwarranted intervention compel school personnel to refuse or delay intervening when a student or group of students are at risk of endangering themselves or others, how can schools ensure the safety of all students they serve? **How would you feel if a student in a classroom became violent and the school staff could do nothing but evacuate the room? What if, as an evacuated student was leaving the room, he/she was stabbed with a pencil? How do you explain to the injured student's parent that you were unable to stop the behavior? Or, how do you explain to a teacher who physically placed himself/herself between the behavioral student and that of the others, (which is what we would expect our teachers to do) that it is expected that they might be physically injured on the job?** Training staff in de-escalation and PBIS is vital and necessary as we teach students replacement/appropriate behaviors. However, sometimes the behavior of a student leaves you no other choice than to restrain them and/or seclude them for safety reasons.

What does this mean for school districts? School staff would be in the unenviable position of either risking a violation of S.2020 and subjecting themselves or the school to litigation over whether they improperly restrained a student, or risking a civil rights action from their failure to intervene. Under general principles of common law, parents are liable for the torts of their minor children and would be at risk for being sued by other parents for the injuries that are the result of their child’s outburst. For example, if a student assaults another student and there are medical costs or other damages involved, the parents of the assaulting student may be subject to a civil action for those expenses.

Teachers and other school personnel would be injured more frequently if seclusion and restraint were prohibited.

In AASA’s survey of school districts regarding the rate of injury of school personnel, we were surprised to find that a quarter of school districts reported that at least 20 times in the last school year, an administrator, teacher, paraprofessional, aide or other school professional trained in proper seclusion and restraint techniques was physically threatened or attacked by a student when trying to calm the student during a behavioral outburst.

The following three stories illustrate the serious health risks to teachers and school personnel when they delay using seclusion and restraint in favor of alternative de-escalation measures. These examples demonstrate how school personnel trained in de-escalation techniques and proper seclusion and restraint can be harmed when these techniques fail to calm down students. If school personnel are afraid to use these techniques because they could risk litigation for their school district, or if school personnel are prohibited from using these techniques entirely, the rate of injury for school personnel and for the students with whom they are trying to work would increase dramatically.

A Special Education teacher at a junior high school in the state of Missouri shared this story in the AASA survey.

“I teach students with Behavior Disorder, Emotional Disorders, and Students with Autism. I am professionally trained in de-escalation techniques and an instructor for our district. During this school year one of my students became upset because he could not have an item from my desk. The student became very agitated and began yelling at me. I moved away from the student and calmly verbalized other choices for him. The student began to throw items from my desk which prompted me to have another adult in the room remove the other students for their personal safety. I continued to speak to the student about calming down and again giving him the choices he could make. The student continued to approach me while yelling. I kept backing away from the student in an effort to not have a physical event. The student eventually backed me against a counter top and began to swing at me and kick at me. Using my training, I blocked several hits and kicks. **During one swing at me, the student grabbed my index finger and twisted it. This caused a spiral fracture. My finger was placed in a cast for six weeks. Five months later, I am still unable to have full range of motion in that finger.**”

A special education director at a New Mexico elementary school disclosed this story.

A trained staff member was compelled to use physical restraint after two hours of de-escalation techniques did not calm the first grade student. The student displayed extremely high levels of aggressive behavior toward himself, the staff, and his mother who had been contacted to come to the school site and try to help de-escalate the situation. The student threw furniture, kicked, bit and threw objects at the staff and at his mother. The team attempted several techniques to calm the student, including: verbal de-escalation, nonverbal de-escalation (increasing the student's personal space to reduce his feelings of being threatened or controlled) and positive limit setting (including being offered choices of preferred activities, etc.) **The school social worker was severely bitten during the course of the attempted two-hour de-escalation.**

Ultimately, the student was physically restrained for almost three minutes, according to CPI techniques and the restraint ended when he showed physical and behavioral signs of having calmed down. The parent supported the decision to use restraint.

A school district in Florida shared these two examples regarding the effects of delaying manual physical restraint. Both examples are about the same student. School personnel who restrained the child were trained in de-escalation techniques as well as the way to properly restrain a child.

An 8th grade male student stands about 6 foot 2 inches tall, and weighs about 185 pounds. In order to ensure all appropriate strategies and interventions were first implemented, a teacher delayed using manual physical restraint. *After punching another student repeatedly, the student kicked the teacher hard enough to cause nerve damage. The teacher was transported for emergency medical care by ambulance and continues to have difficulty.*

In another incident, the student physically attacked another student with force in the face, causing injury. The room was cleared to ensure student safety. During verbal de-escalation intervention, the student attacked an administrator by *thrusting his finger into the administrator's eye, causing severe bleeding and injury that required emergency medical attention at a hospital and ongoing treatment.*

Conclusion

Despite the efforts of some organizations to convince the public otherwise, AASA is confident that school personnel are not trying to hurt children when they restrain and seclude them.

“When a public education staff member opts for student seclusion or restraint, it is at the end of many proactive attempts of de-escalation. I know this, because in addition to being a certified school psychologist and special education director, I am a fair, reasonable, calm, and compassionate person who would rather not spend my days restraining a child. None-the-less, I *have* restrained students in the past and bear the literal scars of student violence.”

— James Stevens, East Wenatchee, Washington

AASA refuses to accept the idea that public school employees are over-using seclusion and restraint and/or using it inappropriately. Rather, we believe that teachers, administrators and other school personnel did not enter this profession with the intention of harming children. These individuals chose to work in schools to support the most successful and undemanding students as well as the most vulnerable and difficult-to-teach students.

AASA believes the issue of how schools use seclusion and restraint is a local and state policy decision and we are pleased that states are taking it upon themselves to pass laws, regulations or guidance that best meet the needs of the districts they represent. Between 2010 and 2012, seven states adopted executive orders, statutes or regulations governing the use of seclusion and restraint in schools. The total number of states with statutes or regulations related to the use of seclusion and/or restraint is 36.⁶ Thirteen states have created guidance issued by the State Board of Education or documents authored by the State Department of Education or Department of Special Education related to the use of seclusion and restraint and how school districts should design policies on the use of these techniques.⁷ Only six states lack any formal guidance, regulation or statute on the use of seclusion and restraint.⁸

If there is a role for the federal government when it comes to seclusion and restraint, it is to ensure school districts have the funding they need to train as many staff and school personnel as necessary in positive behavioral interventions and support systems, crisis prevention interventions and de-escalation techniques. These techniques have shown to be an effective way of reducing, but not eliminating, the need for seclusion or restraint.

In conclusion, AASA does not think the use of seclusion and restraint should be commonplace, or used as a means for punishing bad behavior. Rather, AASA believes seclusion and restraint are necessary tools in the toolbox of school personnel to defend themselves and their students from incidents that could be dangerous for everyone who attends or works in a school.

Footnotes

¹U.S. Census Bureau, Statistical Abstract of the United States: 2012 (131st Edition) Washington, DC, 2011; <http://www.census.gov/compendia/statab/>>

²AASA is only identifying school districts by the state where they are located unless the school district consented to disclosing the survey respondent and/or the exact district location. The districts that chose to identify themselves by state have made this choice to protect school personnel, students or families that may be depicted in these stories.

³ *Pocono Mountain Sch. Dist.*, 109 LRP 26432 (SEA PA 12/12/08)

⁴ *In re: Student with a Disability*, 54 IDELR 139 (SEA KS 2010)

⁵ *In re: Student with a Disability*, 108 LRP 45824 (SEA WV 06/04/08)

⁶Butler, Jessica. (2012). *How Safe is the Schoolhouse?* Retrieved from Autcom. <http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf>

⁷ibid, p.4

⁸ ibid p.10