

DRAFT

# Shouldn't School Be Safe?

Working Together to Keep Every Child Safe  
from Restraint and Seclusion in School

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**TASH**

[www.tash.org](http://www.tash.org)

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## About this publication

This publication was developed *by* parents and *for* parents in response to repeated requests for a practical guide to keeping our school children safe from restraint, seclusion and other aversive practices. While this problem has been most acute among children with disabilities, it is an issue of school safety that has the potential to affect ALL students, directly or indirectly, and one that all parents should know and care about.

*Shouldn't School Be Safe?* is divided into three sections:

**Prevention** addresses the Individualized Education Plan (IEP) and behavior plan, your rights as a parent, and ways of increasing your and your child's visibility and involvement in the school. Your child's plan should be based on positive approaches and supported by caring relationships within the school and community. This is an essential foundation to prevent the use of restraint, seclusion or other aversive practices.

**Vigilance** identifies warning signs in the behavior of a child or the behavior of a school that may be associated with or alert you to the use of restraint and seclusion. No single sign or combination of signs is definitive, but their presence should prompt parents to take a closer look both at immediate signs of trouble, and also at what the child's daily school experience is like.

**Response**, the third section, contains information that, hopefully, you will never need. It provides step-by-step actions you can take if you discover that your child has been restrained and/or secluded. Many possible contacts and actions are suggested because the process of finding help is not clear and simple. Across this country, there is only a poorly-made patchwork of laws and regulations that fails to adequately protect children. Parents are often told that the organizations or public agencies they contact lack the legal authority to step in and change what is happening, and that "there is no law" against restraining or secluding school children. Parents have had to become very creative and very persistent in finding solutions that protect their children, and must continue to work together to support each other and push for reforms.

**Two related publications:** This guide was designed to serve as a companion to *In the Name of Treatment* (published 2005, updated 2008; available online at [http://tash.org/wp-content/uploads/2011/05/APRAIS\\_In-the-Name-of-Treatmentfinal.pdf](http://tash.org/wp-content/uploads/2011/05/APRAIS_In-the-Name-of-Treatmentfinal.pdf)), which offers a broader overview and discussion of the restraint and seclusion issue. The authors of these publications hope

your concerns and experiences with this issue will encourage you to become involved as an advocate in the nationwide struggle to make all schools safe from the dangerous use of restraint, seclusion and other aversives. You are invited to download **Legislative and Media Kits** on the website of the Alliance for the Prevention of Restraint, Aversive Interventions, and Seclusion (APRAIS): <http://tash.org/advocacy-issues/restraint-and-seclusion-aprais/resources/> and use them to work with legislators, policymakers and the media opinion-leaders who inform and influence them.

## About TASH

TASH is an international leader in disability advocacy. Founded in 1975, TASH advocates for human rights and inclusion for people with significant disabilities and support needs – those most vulnerable to segregation, abuse, neglect and institutionalization. TASH works to advance inclusive communities through advocacy, research, professional development, policy, and information and resources for parents, families and self-advocates. The inclusive practices TASH validates through research have been shown to improve outcomes for all people.

TASH is governed by a board of directors and is supported by a network of members, volunteers, committees and chapter organizations. The TASH membership includes a diverse array of individuals and perspectives, including researchers, professionals, direct service workers, family members and people with disabilities. Together, we share a commitment to quality lives for the people for whom we advocate.

For more information about national efforts to promote safe, respectful and effective behavior and education services and supports for children and youth with disabilities, contact:

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# Understanding the Terms

**Aversive Interventions** (or “aversives”) involve the deliberate infliction of physical and/or emotional pain and suffering for the purpose of changing or controlling a child’s behavior. Aversives include (but are not limited to) techniques such as direct physical or corporal punishment (hitting or pinching); visual screening; forcing a child to inhale or ingest noxious substances; sensory deprivation; depriving a child of food, use of a toilet, or other health-sustaining necessities; and temporarily but significantly depriving a child of the ability to move. Use of restraint devices as well as blindfolds, visual screens, and white noise helmets results in sensory deprivation. Techniques that deliberately disrupt a child’s basic emotional well-being and sense of safety, or that result in the long-term loss of the normal freedoms and pleasures of childhood by preventing exercise, peer interactions or other activities may also be considered aversive.

**Restraint** is a type of aversive that involves the forced restriction or immobilization of the child’s body or parts of the body, contingent on a designated behavior. There are three types of restraint. Manual restraint involves various “holds” for grabbing and immobilizing a child or bringing a child to the floor. The child is kept in the chosen restraint position by one or more staff person’s arms, legs, or body weight. Mechanical restraint is the use of straps, cuffs, mat and blanket wraps, helmets, and other devices to prevent movement and/or sense perception, often by pinning the child’s limbs to a splint, wall, bed, chair, or floor. Chemical restraint means using medication to stop behavior by dulling a child’s ability to move and/or think. Medication specifically prescribed to treat symptoms of a disability or illness is not a chemical restraint.

It is generally accepted that brief physical intervention used to interrupt an immediate and serious danger to the child or others may be called for in the case of a safety emergency. This is different from the ongoing use of restraint as punishment or in the guise of treatment for a child’s disability or behavior. Frequent use of emergency restraint is an indication program revision is needed, even if the program is considered positive.

**Prone Restraint** means that the child is held horizontally in a facedown position.

**Supine Restraint** means that the child is held horizontally in a face-up position.

**Seclusion** involves forced isolation in a room or space from which the child cannot escape. Allowing a child to voluntarily take a break from activities is not considered seclusion.

## Restraint may also be referred to as

- Holding (or any term that uses the word “holds”)
- Restrictive Procedure
- Restricting Movement
- Limiting Movement
- Pinning
- Cuffing
- Physical Support
- Containment
- Hands-On

## Seclusion may also be referred to as

- Isolation
- Confinement (or solitary confinement)
- Extended Time Out
- Time In
- Time Away
- Alone Time
- Separation
- Remote location
- Extended Quiet Time
- Quiet Time
- Taking a Break
- Exclusion

All of these terms may be introduced by school staff as a means to induce parents to allow its placement into an IEP, without a clear understanding of what is involved.

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# Prevention

## Plan ahead to keep your child safe

- Work with your child’s education team to create a strong, positive Individualized Education Plan (IEP) and Behavior Intervention Plan (BIP). Be sure that it is detailed and specific about the safe, positive ways that teachers and other school staff should respond to your child’s needs and to any potentially challenging behaviors. If teachers require special training and support to implement any items in your child’s IEP or BIP, make sure this is specified and that there is a stated timeframe within which it must happen.
- *Do not, under any circumstances, allow restraint, seclusion or other aversive practices to be specified and/or permitted through the IEP or BIP.* Note: Parents are sometimes told that restraint and seclusion must be written into their child’s IEP to allow for emergency usage. This is not true. Schools do not need parental permission for the use of restrictive procedures on ANY student, whether or not they have an IEP, if that action is necessary to avert a highly dangerous, unforeseen emergency. It would be criminal negligence on the part of school staff to stand by and deliberately allow a student to be seriously injured or killed. However, once restraint and seclusion are in a child’s education plan, their use is considered approved, not merely as a one-time response to an unforeseeable emergency, but as an ongoing reaction to that child’s known and foreseeable or predictable daily “behavior.”
- Ask for a copy of the school-wide safety plan, and make sure it fully covers crisis intervention and safe, proactive responses that the school is prepared to implement for all students (not just

“Knowledge is power,” and knowledge about your child’s education rights is essential for keeping him or her safe from restraint, seclusion, and other aversive practices. Being involved and visible in the school community is also vital, since child safety depends not only on statutes and regulations but on inclusion in a wide network of caring relationships.

those receiving special education services). Ask for copies of any school district policies concerning the use of restraint and seclusion.

- Be aware that restraint and seclusion are often referred to in terms that are unfamiliar to parents, such as “restrictive procedures.” Carefully and completely read any forms you are asked to sign, and do not sign anything that you do not fully understand or with which you do not fully agree. If the terms used are unclear, ask for examples, complete descriptions, and demonstrations of any techniques or procedures referenced. If you find it difficult to refuse or feel pressured, ask to take the document home to review with a friend or family member. Then, if it calls for the use of restraint, seclusion or other aversive measures, mail it back with the words “I do not consent to this” printed across the front.
- If possible, always attend your child’s IEP meetings with a trusted support person who knows the system well and can advise you. Try not to attend IEP meetings alone – being able to review what happened in a meeting and check

your observations with those of another participant can be invaluable. For help in finding a support person, contact your local disability advocacy organization, your state Parent Training and Information Center (PTIC): <http://www.parentcenternetwork.org/parentcenterlisting.html>, or the state-by-state listings of the Council of Parent Attorneys and Advocates (COPAA): <http://www.copaa.org/find-a-resource/find-an-attorney/>

- You have **five strong legal arguments** against the inclusion of restraint, seclusion and other aversives in your child's education plan. Know them and use them:

### ***1) Presumption in favor of positive interventions***

Since 1997, the Individuals with Disabilities Education Act (IDEA) has created a presumption in favor of positive behavioral interventions. The IDEA requires the student's IEP team to consider "special factors" when it develops the IEP, providing that, "in the case of a child whose behavior impedes his or her learning or that of others," the IEP team shall "consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior." In explicitly providing for the use of positive behavioral interventions to address specified student behaviors, Congress gave that approach most favored intervention status.

### ***2) Requirement for a Functional Behavioral Assessment, which is a process specifically designed to lead to positive interventions and supports***

Congress further strengthened this presumption in favor of positive interventions by specifying that schools must conduct a functional behavioral assessment and develop a behavioral intervention plan for any student with a disability who exhibits severe behavior

difficulties and/or who puts peers at risk because of these behaviors. Likewise, the requirement applies when a student with a disability is being considered for serious disciplinary action (e.g., a change in placement or expulsion). A Functional Behavioral Assessment is the type of evaluation used to determine a child's behavior support needs. From this evaluation, a behavior intervention plan (BIP) may be developed.

Completing a Functional Behavioral Assessment means observing a child's behavior through a variety of methods and asking questions, such as:

*What does the child achieve or relieve through the use of this behavior?*

*Why and when is it happening?*

*How can we teach the child more desirable skills that will allow him/her to achieve the same results in a more socially acceptable and personally rewarding way?*

The concept of a Functional Behavioral Assessment has been highly developed in research and practice, and should lead to positive behavioral interventions and supports.

### ***3) Requirement for evidence-based practices***

The No Child Left Behind Act, as enacted in 2001, requires educational programs and practices to be founded on scientifically-based research. The 2004 reauthorization of IDEA also requires that the IEP team's choice of special education, related and supplementary services, must be guided by peer-reviewed research. Parents have the right to demand that

their child's IEP includes and uses evidence-based practices for which there is support in peer-reviewed journals, and can require that school districts produce rigorous, objective evidence concerning the safety and efficacy of methods or procedures proposed for use on their child. There is a lack of evidence that aversive techniques, restraint or seclusion offer a safe means of teaching desirable, self-directed behavior that a child can maintain over the long term. The research also shows that they offer no therapeutic value, can increase problematic behavior, and decrease positive, pro-social behavior. Safe, positive methods of changing and redirecting behavior are well documented. Evidence shows them to be successful regardless of the child's diagnostic label, degree of disability, or severity of behaviors.

***4) Prohibitions against restraint, seclusion and aversives for staff convenience, or as coercion, punishment or retaliation, as codified in various school district policies and/or state laws and regulations***

Check to see whether your local school district or your state has adopted such prohibitory language and procedures. When in place, these prohibitions further reduce the available justifications for a school to use these techniques. Restraint, seclusion and aversives are not "teaching" methods because they do not teach positive behaviors. Their use as therapeutic intervention is unethical because they create unnecessary risk, unnecessarily take away basic rights, and ignore the consensus among health care professionals that they have no therapeutic value. Specific local or state prohibitions against coercion, punishment, corporal punishment, retaliation or usage for staff convenience address and remove other common excuses for their use.

***5) Requirement that a student receive FAPE***

The use of aversive techniques, restraint, and seclusion can lead to violations of the "free and

appropriate public education" (FAPE) provision of IDEA. Under IDEA, an appropriate special education program must be designed to provide the student with meaningful educational benefit. However, your child cannot learn meaningful lessons about alternative ways of communicating and interacting when teachers and program staff respond to his or her challenging behaviors with aversive interventions, restraint or seclusion. Often the frustration and anxiety created by these negative procedures cause the child's original behavior to worsen or to be replaced by other undesirable activities. When children suffer a high degree of anxiety and stress, their ability to process, retain and act on new information is severely compromised, diminishing their ability to access FAPE. The implementation of aversive techniques, restraint, and seclusion takes time and attention away from your child's IEP goals, further endangering his or her FAPE rights. Your school district may need to be reminded that these techniques undermine its legal responsibility to provide FAPE.

- Back up your child's positive IEP content with a "No Restraint Letter." Many parents have used this letter, designed by the RespectABILITY Law Center, to assure their wishes are known to the school. The letter can be found on the final pages of this publication. It asks for full disclosure of any past or present use of restraint, seclusion or aversives on your child, and that usage cease (or never begin). Print it out, fill in the blanks (or customize and change any language as needed), sign it, and tell the school that it should be placed in your child's file. (Note: If you are accessing this information on your computer, you can cut-and-paste the letter into a new file and easily complete it.) Ask that the language of the letter – specifically refusing consent for the use of restraint and seclusion on your child – also be incorporated into your child's IEP.

- Back up the “No Restraint Letter” with letters from your child’s medical doctor and (if relevant) psychologist or professional counselor, stating why these techniques pose a health and safety hazard to your child and must not be used.
- Create a Parent Report profiling the information school staff need to understand and serve your child effectively. This may include your child’s medical conditions and needs, likes and dislikes, talents and skills, triggers that escalate his or her behavior, de-escalation methods, sensory regulation and communication strategies and needs, how to support his or her social skills, and instructions on avoiding restraint and seclusion. Your child’s profile should note any medical conditions that contraindicate (rule out) the use of restraint and seclusion, such as asthma, obesity, certain gastrointestinal disorders, heart and pulmonary disorders, etc. You may wish to include emergency contact information and a photo of your child. If possible, seek your child’s input on what should go into his/her Parent Report. Ask that this Report be attached to the IEP along with all other reports (e.g., psychological, speech/language) considered by the IEP team. You may circulate the Parent Report yourself to all school staff who interact with your child, including those who may not be sufficiently aware of the contents of your child’s IEP (e.g., substitute teachers, school librarian, school bus driver, and all staff new to your child).
- Have the IEP team write in the following under supplemental aids and services: “Provide ABC data for ALL problem behavior.” ABC data is: Antecedent (what happened first – where, with whom, under what social and environmental conditions? what else was happening in the area?); Behavior (a clear, nonjudgmental description of the child’s actions), Consequence (what happened after the display of problem behavior? what was the consequence or result of the behavior? what was the child’s response to

this consequence or result?). This allows parents and team members to determine the communicative intent of the behavior – or, in the case of unintentional behaviors such as tics or anxiety-driven reactions, the environmental or situational triggers – so that positive behavioral supports can be developed. ABC data collection is the basis for Functional Behavioral Assessment and should be ongoing and consistent for children who tend to use behavior as communication, or who experience sensory or motor-driven behavior that is not under their voluntary control. You may also need to question what behavior the school is trying to change, and why. Not all activities that school personnel classify as problems may actually represent an impediment to the child’s or the class’s health, safety or learning, and decisions to modify behavior merely because it “looks odd” or is “annoying” should be scrutinized.

- Become as involved as possible with your child’s school. This is a great way to build good communication with teachers, as well as to observe aspects of your child’s school day. Are there homeroom parents, lunchroom volunteers, or other roles you can play?
- Keep the lines of communication open with your child’s teachers. Attend all meetings and classroom open houses, and share information about your child with teachers via a daily diary or other system specified in your IEP.
- Keep the lines of communication open with your child, if necessary through assistive, augmentative or alternative communication systems. Responses to your questions can reveal a great deal about your child’s daily school experience (e.g., Do your teachers have special names for you? Who are your most and least favorite teachers? What subjects do you like best and least? Where do you sit in class or at lunch?).

- Visit and observe your child's services. If you feel the school unreasonably discourages parent observation, ask to see the School District's policy on parental visits.
- Get your child involved in school-based afterschool and extracurricular activities, and volunteer to help with the club, team or activity your child joins.
- Become involved in the PTO. Get to know, and make common cause with, other parents.
- Attend School Board meetings, and get to know your elected School Board members.
- When your child's teachers have done a good job, show your appreciation! At the close of a successful school year, write to the principal (with a copy to the teacher) commending their work. Nominate them for awards that may be offered by your school district, state education agency, or advocacy organization.

# Vigilance

## Know the warning signs of an endangered child or a dangerous school

### Warning signs of an endangered child

- Bruising or abraded, reddened skin on arms, wrists, or ankles, indicating where a child was held or tied/strapped down (sometimes “handprints” can be seen)
  - Unusual injuries, such as marks from fingernails, rug burns, or unexplained patterns of abrasions and bruises, sometimes hidden under the child’s clothing, which are unlike the scraped knees and elbows children acquire during play
  - Sudden regressions in behavior, such as seeking comfort through behavior typical of a much younger child (e.g., mouthing objects, clinging to others)
  - The emergence of new and unexplained behavior problems at home, such as sleeplessness, nightmares, increased anxiety levels, hypervigilance or emotional outbursts
  - The appearance of new problem behavior at school: for example, hitting, biting, screaming, running away, urinating or defecating on self (bowel and bladder problems may be related to locked seclusion and become a child’s only means of getting out of a lengthy, unpredictable lock-up)
  - The appearance or intensification of self-injurious behaviors and/or increased aggression
  - The emergence of school phobia (especially if the child previously enjoyed attending school)
- or a more generalized fear of leaving home
  - Frequent, unexplained illnesses, such as headaches or stomachaches
  - Frequently missing school or needing to visit the school nurse due to generalized complaints
  - Emergence of specific fears that may be related to particular aversive, restraint or seclusion techniques (such as fear of spray bottles, seatbelts or closets)
  - Acting out of the traumatic experience(s) in play (e.g., a child who experiences physical abuse may begin to play roughly with dolls or peers)

A particular child may be too young to give parents information directly, may not speak due to his/her disability, may feel like whatever occurred was his/her fault, or may be embarrassed or afraid to “tell on” adults in authority. Many children assume that their parents must already know and approve of what is being done to them. Therefore a lack of specific complaints and information from children does not guarantee that aversives, restraint, or seclusion are not being used on them in their school or program. Parents need to be vigilant detectives, questioning the warning signs.

- A sudden change in weight (either being too stressed to eat, or overeating for comfort)
- A decrease in sociability; increased withdrawal and unresponsiveness
- A decreased ability to concentrate on and learn new things; worsening grades and/or progress reports, slowed or no growth in skills development

Pay attention to any statements or observations made by your child’s classmates or other parents about what children have heard, witnessed or experienced in school. Second-hand reports should be followed up on and not discounted. Parents can also seek clues in the “incident reports” that many schools are supposed to send home following a problematic episode (although not all schools require these). If a daily journal or diary is sent between school and home, parents should question multiple entries with remarks such as “a rough day.”

Note: The warning signs of abuse may be attributable to other hidden causes, such as sexual abuse. Such activity can be particularly difficult to discover, but unlike aversives, restraint and seclusion these types of abuses are illegal in all states. As with any sudden change in a child’s everyday habits and ability to cope, it is important to see a doctor or other professional to rule out other possible causes.

### **Warning signs of a dangerous school**

- Are parents of students with disabilities treated differently than the other parents?
- Does the school maintain segregated programs and require students with disabilities to be removed from the rest of the student population for most or all of the day (e.g., kept in separate classrooms, kept in the classroom to eat lunch instead of going to the cafeteria, etc.)?

Research shows that the prevention of restraint and seclusion depends on a healthy school culture fostered through committed, values-based leadership. It also suggests that certain types of school attitudes and practices are likely to encourage R/S use. If your child’s school or services demonstrate these warning signs, parents should be especially involved and vigilant to improve school culture and help ensure student safety.

- Do school staff encourage – or even require – parents of children with disabilities to give permission for the use of “restrictive procedures” on their child?
- Is the school complacent about bullying, and reluctant to get involved in its active prevention (i.e., through school-wide training, playground mentoring programs, posters advising positive behavior, accepting and investigating complaints, both formal and informal)?
- Does the school lack a clearly designated 504 official who is knowledgeable about harassment and discrimination on the basis of disability? If a 504 official exists, is this person hard to reach with the necessary forms for students, teachers or parents to make concerns known to the school?
- Do staff lack training or interest in the provision of Positive Behavior Supports (PBS)? Do school staff express the opinion that PBS “doesn’t work for everyone”?
- Do staff respond to challenging behavior as “bad” rather than as communicative?
- Are parents tacitly blamed for their child’s problematic in-school behavior? Do staff complain to parents repeatedly about their child’s challenging behavior instead of

improving the child's PBS plan?

- Do parents of students receiving special education services feel unwelcome or “second class” when it comes to engagement in school activities, PTO, etc.?
- Are parents of students receiving special education services prevented or discouraged from meeting or talking with each other?
- Are parents not allowed to visit or observe their child's services?
- Does the school honor and reward students without disabilities while ignoring the achievements of students receiving services/supports through special education?
- Is teacher communication to parents kept to a minimum, with information on a student's progress hard to obtain?
- Are aides and/or auxiliary staff prohibited from speaking to parents, even with teacher permission?
- Are parents told that they are “not the experts” on their child, and made to feel their input is not valued?
- Do teachers complain about or disparage students receiving special education services, and make them or their families feel like a burden?
- Does school leadership condone or ignore negative or complaisant attitudes among the staff?
- Do teachers and school administration have a practice of solving problems by moving them outside the school (e.g., through expulsion or calling police)?

- Does the school respond rigidly and harshly to challenges that arise? Do school staff appear to lack training in crisis prevention and de-escalation?
- Does the school have problems attracting and retaining highly qualified teachers?

School culture can change when values-based leadership from the administration is linked to parent support. It is a process that many schools have successfully gone through on the road to becoming inclusive, respectful, welcoming, transparent in their activities, and restraint and seclusion free.

# Response

## Follow these action steps if restraint or seclusion are used

**Your child comes first.** In the immediate aftermath of a suspected or confirmed use of restraint, seclusion or other aversive practice on your child, your child's physical and emotional wellbeing is paramount. You will also want to move quickly in speaking to key people in your child's life who have responsibility for helping to keep him or her safe.

### Immediate steps

- Seek immediate medical attention if your child has any visible signs of abuse. Take your child to his or her pediatrician or an emergency room as soon as possible. Make sure that all injuries or signs of trauma are recorded in your child's medical records. Even if your child does not seem to have injuries that require treatment, your pediatrician should check for hidden problems such as muscle sprains or joint dislocations. In addition, having professional corroboration of your observations about your child's physical and emotional condition may be important at a later date. If your child's doctor has not previously done so, ask him or her to provide a letter for the school stating why restraint and seclusion are dangerous and inappropriate for use on your child.
- Take pictures of your child's condition as soon after the event as possible, and label them with the time and date. Be on the lookout for injuries, such as bruises, that may not become apparent until later; photograph and label these as well.
- If your child has a trusted psychologist or professional counselor, contact that person at once to alert them, and ask for their help and advice on how to handle the emotions and reactions your child may be experiencing. If your child's psychologist or professional counselor has not previously done so, ask him or her to provide a letter for the school stating why restraint and seclusion are dangerous and inappropriate for use on your child. They may wish to remind the school that there is a strong evidence base showing that, once a child has been psychologically traumatized by restraint or seclusion, the danger of re-traumatization is heightened.
- For the sake of your child, remain as calm as possible. You may be feeling panic, fear or anger, but displaying those reactions could spread them to your child and heighten his or her distress. It is vital to establish a sense of safety and security, so that your child does not feel that he or she has done something wrong or that you are angry with them. Reassure them of your love and that you are there to help them. Counteract any traumatic experiences that may have occurred by immediately offering your child a safe refuge and your unconditional empathy and support. If your child is able to communicate about what happened, gently encourage them to give you needed information. Don't press them if they are not ready. Keep a written record of everything they communicate, including any unusual and/or fearful behavior that may be a response to the event.

- If your child has a school aide or support staff who reports to you, de-brief that person about what they saw or were told. Check your child's book bag for any notes or reports from the teacher, and check your child's school-home communication log for any references to what happened that day. Make and keep a copy of the communication log.
- Contact the school the same day. Ask to speak to both your child's classroom teacher, and to the principal. Politely but firmly demand a full ABC accounting (Antecedents – Behavior – Consequences) of what occurred to your child, and follow this up with a faxed request to receive a full account in writing. Make sure that the following information is covered both in this verbal accounting and in the written report you will receive:
  - Time when the incident began and ended
  - Location of the incident
  - Rationale/reason why it occurred
  - All persons involved (including witnesses)
  - Description of the behavior leading up to restraint or seclusion
  - What was said to your child before, during and after the incident
  - How your child responded to the incident
  - What checks were made for your child's health and safety during and after the incident
  - What safety and de-escalation training and certification those implementing the restraint or seclusion possessed
  - When there will be a meeting or debriefing about the event.
- Listen carefully when those involved in or witness to the incident tell the story. Use the phrases, "and then what happened?" and "and what happened next?" to elicit more information. If pieces of the story seem to be missing or don't make sense, return to them and ask again: "so after this happened, what happened next? Do not comment on what you are being told until you believe you have the whole story; then, keep your comments brief. Remember that taking a confrontational stance at this stage may shut down communication or even lead to changes in or retraction of the statements you have been given. Write down, date and keep any information you are offered by phone. Tell school personnel that you want a copy of any reporting (i.e., the incident report, mandated reports to the state, etc.) and of the school policy on restraint and seclusion; if possible, offer to pick these items up in person, or to receive them quickly by e-mail or fax.
- Ask whether your child was seen by the school nurse after the incident occurred. If not, why not? If so, there should be a nurse's report and you should ask for a copy of that as well.
- Tell the school that you will need to have a meeting within the next day or two, with everyone involved in this incident. Contact a trusted and knowledgeable support person to attend the meeting with you; if at all possible do not go alone, as you will want someone with you who can later confirm and review what was said.
- **KEEPING YOUR CHILD HOME FROM SCHOOL:** This is a very individual choice and cannot be determined by anyone but you. If you feel that your child is not going to be safe, or is likely to be subject to additional trauma through more restraint, seclusion or aversive practices, it may be appropriate for you to keep your child home. School days lost can be made up by the school once the issues are resolved and positive strategies put in place. Document your decision fully and provide a copy to the school; include a note from your child's medical doctor if possible. Keep a copy of this documentation at home in case truancy officers come to check on your child (this is not likely to occur once you have notified the school, as you have then created an excused absence).

## Once you have determined that restraint, seclusion or related abuse has occurred

- Strongly consider reporting the incident to your local police. Ask yourself: if a similar incident occurred to a student without a disability, is it likely that the police would become involved? If so, they should become involved to protect your child as well. In many states you may file a police report even if the police think they should not get involved.
- Strongly consider reporting the incident to your local office of your state’s child protection system (it will have a name such as “Department of Youth and Family Services,” “Child Protective Services,” or “Child and Family Services”). Ask yourself: if a similar incident occurred to a student without a disability, or was perpetrated by a family member rather than by school staff, is it likely that the child protection agency would become involved? If so, they should become involved to protect your child as well. Some states have laws that prohibit corporal punishment in schools and other child-serving institutions, and failure to abide by this law should be investigated by the child protection agency.

Your strategy going forward will be to seek maximum assistance from as many potential allies as possible. You are in a situation in which the lines of power, responsibility and accountability are not clearly drawn, and it is difficult to predict which contact(s) will actually step up and succeed in helping you and your child. Make your situation known to as many potential supporters as possible.

## In the next few days

As you think through the suggestions below, remember that they were compiled by other parents like you. Other parents can be among your best sources of knowledge and support. To get linked up, and if possible to find parent support in your local area, contact Families Against Restraint and Seclusion (FARS): <http://familiesagainstrestraintandseclusion.blogspot.com/2011/03/blog-post.html>. If questions remain, a parent-run hotline is available through the grassroots volunteer organization Our Children Left Behind: 877-622-5176.

- Contact your state Protection and Advocacy system (P&A), which is a federally funded and mandated part of the National Disability Rights Network (NDRN), and ask for assistance. A listing for your state office can be found at: <http://www.napas.org/en/when-to-contact-your-state-paa-cap.html>.
- Consider whether you need an attorney of your own, in addition to any legal support that the state P&A system may be able to provide. A good resource for locating attorneys (and trained education advocates) in your state is the Council of Parent Attorneys and Advocates (COPAA) website, which has listings by state: <http://www.copaa.org/find-a-resource/find-an-attorney>. If you need *pro bono* (free) legal assistance, make this clear to whomever you contact. Ask about free public interest law projects and about any law firms that might be willing to work with you *pro bono* or for reduced or deferred fees.
- Attend the school meeting that you requested as soon as the verified or probable use of restraint or seclusion was discovered. Your goals for this meeting are to gather further information about the incident; to assure that school staff understand that the use of restraint or seclusion was not acceptable and why; to verify that a

Positive Behavior Support Plan is in place for your child, and that everyone at the school understands and is committed to its use; to assure that full and appropriate data on your child's behavior – and the behavior of school staff in responding to your child – is being faithfully and consistently collected and provided to you and other appropriate team members; and to thoroughly discuss how any future incidents will be handled without recourse to restraint or seclusion. You may wish to use the sample Debriefing Form at the end of this publication.

- Consider whether your child should attend this meeting with you. Just as students have the right to participate in their IEP meetings, it can be very powerful and useful to involve your child in this discussion of what happened and in planning for the future. Obvious exceptions would be a child who is too young, too traumatized, or is likely to be provoked into saying or doing things during the meeting that are not to his or her advantage.
- Ask about training in crisis prevention and de-escalation: are school staff up-to-date on trainings using evidence-based and preventive practices? What training system is being used, and what is its reputation? (There are numerous trademarked systems, but as yet no national standards in place.) Ask to see the dated training certificates.
- Assure that your “No Restraint Letter” is signed and in your child's file, and that school staff have read and understood it. If your child's doctor and/or psychologist have provided letters stating why restraint and seclusion are dangerous and inappropriate for use on your child, review this information with school staff.
- If the use of restraint and/or seclusion is specified as a planned intervention in your child's IEP or behavior intervention plan (BIP), now is the time to take steps to have that

language removed. Remember that you can request a new IEP meeting at any time, even if one has recently occurred. Bring that request in writing. Remember: placing restraint, seclusion, or “restrictive procedures” (which means restraint and seclusion) in the legal document that is your child's plan means that you have given permission for its use. It is crucial to remove that permission.

- Think prevention. Review and revise your child's positive behavior support plan, focusing on recognizing the antecedents or “triggers” of problematic behavior, and responding to early warning signs with safe, positive interventions. Identify how staff will intervene at the earliest moments of difficulty, use calming alternatives such as sensory interventions, and involve parents early in the process of supporting the child.
- If you have confidence in the positive support plans made at this or subsequent meetings with school staff, you may still need a re-entry plan so that your child feels safe and confident in returning to school. A traumatized child may react fearfully against returning to the scene of the incident. What will school staff do to be supportive, and to restore the child's trust? Do staff understand how to work with any new trauma-related “behaviors” that the child may have acquired? Are staff knowledgeable in the practice of “trauma-informed care”? Is there a school psychologist or social worker who can assist?
- If you do not feel comfortable with the prospect of having your child return to school at this time, you are likely to need the advice of a good education attorney or trained education advocate to help investigate your options. These may include asking the school for temporary homebound instruction based on the child's newly acquired (trauma-induced) health care needs, or seeking a change of educational

placement if a suitable alternative school is available.

## In the weeks ahead

If you are not completely satisfied that school staff can and will end their use of restraint and seclusion, you will want to go ahead and continue to enlist the support of stakeholders who could influence the school to replace dangerous practices with safe and positive approaches for ALL students.

- As you contact school district administrators for help, be aware of and work through the administrative hierarchy, from principal to superintendent. Start at the local school level, and work your way up to district level if needed. This can save time, because your information will not have to be “re-routed” within the system.
- If you do not receive a helpful response from school district administrators, then contact your local School Board. Attend their next meeting (and become a regular attendee if you are not already). Provide School Board members with a picture of your child, and with a statement of what occurred and how it has affected your child and family. Politely but firmly seek their assistance in assuring that school personnel are properly trained, supervised, and accountable so that no such incident recurs. Ask them whether your school district has a formal policy on the use of restraint and seclusion, and if not, why not. Volunteer to participate in drafting such a policy. Ask them to issue a public report on what the district will do to prevent future use of restraint and seclusion.
- Contact your state Department of Education’s help line. This can usually be found on their website, or ask your local public library or local

legislator’s office to look it up for you. Report what has happened and ask for help.

- Contact your state’s Parent Training and Information Center (PTIC): <http://www.parentcenternetwork.org/parentcenterlisting.html>. These centers receive federal Individuals with Disabilities Education Act (IDEA) funds. Tell them your story. They may be able to provide emotional support or advocacy.
- Some states have established an Office of the Child Advocate (or similar oversight agency) to investigate allegations of systemic abuse and neglect of children within that state’s service systems. This can be an important contact, especially when a group of parents comes forward with similar complaints.
- Contact your state and national legislators. Tell them that you believe the federal and state education laws that they have put in place are not working to protect your child, and ask them what they can do to help. Provide them with a picture of your child’s injuries, if possible, and with a statement of what occurred. Ask to be put in touch with appropriate officials who have the power and authority to intervene on behalf of your child.
- Contact your state’s Center of Excellence on Developmental Disabilities, which is a federally-funded program that, among other functions, provides training in Positive Behavior Supports: <http://www.aucd.org/directory/directory.cfm>. Ask them how your school district can receive free training and support that would benefit your child.
- Contact your school’s Parent-Teacher Organization (PTO). Make sure that PTO leadership understand that this is an issue that affects ALL students in the school, and that all students have the right to safe, positive

interventions. Ask for PTO support in seeing that school personnel are properly trained in school-wide Positive Behavior Supports, so that crisis prevention and de-escalation rather than restraint or seclusion are used to prevent emergencies and keep ALL students safe.

- Contact your local and state disabilities advocacy organizations. Share your story, ask what the organization is doing to prevent restraint and seclusion in the schools, and ask to be put in touch with other parents who have experience with this issue in your area or your state.
- Consider contacting news media. This is not always a viable strategy, because you cannot control the way the story is reported; the school district will tell “the other side” and may obtain favorable coverage. Seek help from your local disabilities advocacy organization(s) and from other parents, and proceed if you feel supported and reasonably confident in your ability to generate accurate and useful media coverage.
- Consider whether you have a complaint that can be raised with the Office for Civil Rights (OCR) in the U.S. Department of Education. The OCR provides the primary administrative enforcement for Section 504 of the Rehabilitation Act and for the Americans with Disabilities Act (ADA), two civil rights statutes that address discrimination, equal access, and reasonable accommodations, as these laws apply to schools. Section 504 prohibits discrimination against persons with disabilities on the basis of their disability. To demonstrate violation of Section 504, you would need to show that aversive techniques, restraint or seclusion were used on students with disabilities who engaged in certain behaviors, but were not used on students without disabilities when they engaged in similar behaviors. The ADA addresses the rights of individuals with disabilities regarding accommodations and access in public places. For example, an ADA violation might occur if a

student is restrained or secluded “for his or her own safety” when environmental modifications would have made this unnecessary. Complaints about the use of restrictive and unsafe practices, and lack of the accommodations that would make these practices unnecessary, can be lodged with OCR for investigation. If necessary, all OCR and SEA hearing reports may also be appealed to federal court.

- Become involved as an advocate in the nationwide struggle to make all schools safe for all children!
  - Report to Families Against Restraint and Seclusion (FARS) to be added to their list, which is used to educate legislators and others. FARS will only identify you by first name, county, state and the nature of the problem that occurred.  
<http://familiesagainstrestraintandseclusion.blogspot.com/2011/03/blog-post.html>
  - Report your child’s story to TASH by sending an e-mail to [info@tash.org](mailto:info@tash.org) with “restraint and seclusion” in the subject line.
  - Download the Legislative and Media Kits on the website of the Alliance for the Prevention of Restraint, Aversive Interventions, and Seclusion (APRAIS):  
<http://tash.org/advocacy-issues/restraint-and-seclusion-aprais/>
  - Write a letter to your state legislator and give them a link to Our Child Left Behind’s reporting page and a link to APRAIS so that they can become informed. This may be important when legislation comes before them, or if they receive stories depicting students with disabilities in a negative light. Your story may help them to understand that any child who is fearful of or responding to adult violence is likely to manifest unwanted behavior.  
<http://www.ourchildrenleftbehind.com/about.htm>  
<http://tash.org/advocacy-issues/restraint-and-seclusion-aprais/resources/>

*- Example No Restraint Letter -*

**PARENTS NAME  
ADDRESS  
CITY, STATE ZIP CODE  
TELEPHONE NUMBER**

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Date

(Name of Special Education Director)  
(Name of School District)  
(Address of School)

Dear (Name of Special Education Director):

**Re: child's name and birth date**

Dear Special Education Director;

My child, **child's name**, is a \_\_\_\_\_ grade student at \_\_\_\_\_ school. **Insert child's name** has **insert disability** and has received special education services since **insert grade or age**.

We are concerned that **insert child's name's** behavior challenges now are being or might be addressed in part through the use of seclusion, physical management or restraint. I have not authorized and will not consent to any activity that involves physically or mechanically restraining my child while at school or going to and from school. I know that special education law requires the use of functional assessments of behavior and positive behavior support plans to address behavior challenges. If the school feels **insert child's name's** behavior is such that seclusion, physical management or restraints are being considered or used, it is obvious to me that we need to follow the law, do the assessment and develop a positive behavior support plan.

I am sure you are aware of the number of news reports in recent months highlighting the death of children with disabilities during or after having been secluded, physically managed or restrained. Given that special education law requires the development of behavior plans, and given the known risks to children – and to **insert child's name** – of the use of seclusion and restraint, this letter is official notice that I will weigh all legal options if these activities against **insert child's name** are not terminated immediately, pursuant to *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998), and *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).

You may consider this letter a request to convene a behavior support team meeting to discuss **insert child's name's** behavior and possible approaches to address **his/her** particular needs. You also may consider this letter my request and consent for the performance of a functional assessment of behavior across environments and across time, provided that I am informed in

advance that the functional assessment of behavior is going to be conducted and am permitted to participate in the development and implementation of the assessment.

I want to work with you and with insert child's name's teachers and professionals at \_\_\_\_\_ school to be sure that insert child's name learns to develop positive behavioral skills in an environment that is safe for him/her, for his/her peers and for school personnel. I am certain that you also share my concern for student safety where seclusion or physical intervention has the potential to result in the student's death. I, like you, want my child's school to be a safe and secure environment where all students can learn. I want to work with you to help create that environment for insert child's name.

Sincerely,

(Your name)  
(Your address)  
(Your telephone number)

cc: **Insert name of school superintendent**  
**Insert name of state protection and advocacy system**  
**Insert name of state education department/compliance**

*- Example Debriefing Form -*

**DEBRIEFING FORM**

Student: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Date of Debriefing: \_\_\_\_\_

Present:

Name	Position	Signature

1. Give a brief description of the circumstances (antecedents) leading up to this incident.
2. Give a summary of incident.
3. What worked?
4. What did not work?
5. From information gained what changes (if any) should be made?
6. What intervention plan is in place or will be put in place?
7. How will this affect the

BIP  
504  
IEP

8. Does the team need to reconvene?

GEIT  Yes  No

504  Yes  No

IEP  Yes  No

If yes, name of person responsible for notifying the team

9. Has an FBA been initiated?  Yes  No

If this is the 3<sup>rd</sup> incident, an FBA MUST be initiated.

10. Has a support plan been initiated?  Yes  No

If yes, who was contacted?

NOTE: Process for requesting additional help. Contact Building Facilitator, who then contacts Consultants.

11. Additional comments (if any)