

The Cost of Waiting



TASH

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The fight to pass federal legislation to prevent restraint, seclusion and aversive procedures, and the real consequences of inaction.

Second Edition, 2012

Each day, children are at risk of being injured and traumatized by the use of restraint, seclusion and other aversive procedures in schools across the United States. The overwhelming majority of education and mental health professionals agree these techniques – which include forcibly strapping a child into a chair, locking them in a closet, or pinning them face down on the ground – do not offer therapeutic value and are not recommended practices given the body of evidence-based research into positive alternatives. Children with disabilities are often most vulnerable to these abuses, which have been well-documented to produce emotional trauma, physical harm, and in some cases, death. Given the current patchwork of state laws to prevent restraint, seclusion and aversive procedures, as well as the magnitude of the issue, TASH emphatically supports the passage of federal legislation to limit the use of these practices.

This second edition of *The Cost of Waiting* comes two years after the U.S. House of Representatives passed legislation to restrict these practices in schools in March 2010. The Senate version of the bill never reached the floor, and thus advocates and families waited as children were subjected to dangerous – and sometimes deadly – restraint, seclusion and aversive procedures. In 2011, TASH published the first edition of *The Cost of Waiting* to illustrate, through media accounts, the real cost of inaction. Now in 2012, *The Cost of Waiting* has been revised to bring attention to the ongoing struggle to protect our children in schools across the country.

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Understanding the Impact of Restraint, Seclusion & Aversive Procedures

Restraint, seclusion and other aversive procedures are methods of modifying behavior or exerting control over a person. These practices are all too frequently used on students with intellectual and developmental disabilities, and often carried out by untrained or undertrained adults. As a result, these acts may result in permanent injury, trauma or even the death of a child. In recent years, advocates and families have been increasingly vocal about the need for protection against these forms of abuse, particularly since state laws and regulations vary widely, if they exist at all. Yet despite the plea of families, human rights organizations and concerned citizens, there are no federal standards currently in place to monitor and prevent restraint, seclusion and aversive procedures in schools.

Defining the terms

Physical restraint is the use of various “holds” to grab and immobilize a child or bring a child to the floor. The child is restrained by one or more staff person’s arms, legs or body.

Chemical restraint is the application of medication to dull a child’s ability to move or think.

Mechanical restraint is the use of straps, tape, cuffs, mat or blanket wraps, helmets and other devices to prevent movement or sensory perception, often by restraining the child’s limbs to a splint, wall, bed, chair or floor.

Seclusion is forced isolation in a room or space from which the child cannot escape.

The use of these practices was documented in *School is Not Supposed to Hurt* (National Disability Rights Network, 2009), which examined the use of restraint, seclusion and aversive procedures on public and private school children as young as three years old. In response to this report, the U.S. Government Accountability Office conducted an investigation in 2009 that found no federal laws specifically regulate the use of such practices in schools.

Further, the GAO found that state laws vary widely, if they are present at all. Tragic examples of abuse in U.S. schools were highlighted in both reports, including:

Michigan: A 15-year-old boy with autism became the second child in the state to die from the use of restraint after four school employees pinned him face down on the floor for over an hour. He became non-responsive after 45 minutes, but the restraint continued and he eventually stopped breathing.

Wisconsin: A 7-year-old girl, restrained as punishment for blowing bubbles in her milk and not following the time out rules regarding movement, died from suffocation when several adult staff pinned her on the floor.

Georgia: A 13-year-old hanged himself in a small, concrete seclusion room using a cord provided by a teacher to hold up his pants. He had pleaded with his teachers that he could not stand being locked in the room for hours at a time, and he had threatened suicide in school only a few weeks before.

(National Disability Rights Network, 2009)

These incidents, while shocking, are not isolated. In addition to deaths like these, children are injured and traumatized by restraint, seclusion and aversive procedures every day in U.S. schools. The practices are disproportionately used on children with disabilities, often for non-dangerous behaviors, in order to force compliance or for the convenience of school staff. Despite the intentions of adults to control children through such actions, these practices frequently escalate a child’s fight-or-flight response, deepen negative behavior patterns and undermine the child’s trust while decreasing the capacity for learning. Even when no physical trauma is apparent, the emotional trauma can have lasting and significant impact on not only the child, but adults involved in implementing the practice and other students who may witness these incidents.

In 2009, TASH, in collaboration with APRAIS conducted and published a study regarding the *Use of Restraint, Seclusion, and Aversive Procedures with Students with Disabilities* (TASH, 2011). The study examined the responses of parents and caretakers of children with disabilities on the subject of restraint, seclusion and aversive procedures.

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With 48 states, the District of Columbia and two U.S. territories represented, the study included 1,300 individual respondents who responded in a two-week period. The results painted an alarming picture of the use of these procedures in schools.

Of the parents and caretakers of children with disabilities who participated in the study:

65% of respondents claimed their child had been subjected to restraint, seclusion and/or aversive procedures.

69% of children subjected to these procedures were between the ages of 6 and 10.

41% of incidents occurred in a special education classroom.

22% of incidents occurred in special education and general education classrooms.

25% of incidents of restraint involved prone restraints.

58% of incidents of seclusion occurred in a “special seclusion room.”

36% of incidents of seclusion lasted one or more hours.

93% of children experienced emotional trauma.

66% of parents were rarely (27.4%) or never (38.9%) contacted when a procedure was used.

62% of children experienced physical injury.

(TASH, 2011)

Why is Federal Legislation Necessary?

Federal legislation restricting restraint, seclusion and aversive procedures is necessary because rarely are abuses uncovered until it is too late and the child has suffered physical and emotional trauma. Although some state laws are in place, many are inconsistent or lack comprehensiveness. In far too many states, no laws exist at all. The threat these practices pose to children is a nationwide problem that can only be addressed through federal legislation. We owe it to children in every state to be able to live and learn in an environment free from abuse.

30 states have statutes and regulations providing meaningful protections against restraint and/or seclusion for children with disabilities.

16 states limit restraint, by law, to emergencies involving immediate risk of physical harm or serious physical harm.

4 states ban seclusion, by law.

17 states require staff to continuously watch a child in a seclusion room. **30** states lack such laws, and five of those **30** permit occasional monitoring.

18 states, by law, require less intrusive methods to either fail or be deemed ineffective before restraint or seclusion are used.

20 states require schools to notify parents on the same day or within **24** hours. There are **26** states with no legal requirement to tell parents that a child was restrained or secluded.

(Jessica Butler, Jessica@jnba.net 2012)

Additionally, school districts, teachers and other adults in positions of support and authority deserve the tools and knowledge to create a cultural shift away from dangerous tactics and toward preventative, positive intervention strategies backed by research. Adults who interact with students should be able to protect themselves and students by preventing problem behaviors and maintaining a

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Taking the First Steps

Following reports from the National Disability Rights Network and Government Accountability Office, U.S. Reps. George Miller (D-Calif.) and Cathy McMorris-Rodgers (R-Wash.) introduced the *Preventing Harmful Restraint and Seclusion in Schools Act* (HR 4247) in the 111th Congress. This represented the first comprehensive federal effort to tackle inappropriate and dangerous restraint, seclusion and aversive procedures in U.S. schools. The bill was renamed the Keeping All Students Safe Act and passed the House of Representatives on March 3, 2010, by a bipartisan vote of 228-184.

For full passage of this legislation, the U.S. Senate needed to pass a similar bill and have President Obama sign the legislation into law. The Senate effort was led by Sen. Christopher Dodd (D-Conn.), who introduced the Senate version of the bill (S 2860). Then, in late 2010, advocates and families were informed the Senate would not take up the legislation under the 111th Congress. This news came after months of contention over proposed changes that would have allowed restraint, seclusion and aversive procedures to be written into a student's individualized education plan, or IEP, a departure from the House version of the bill and a provision staunchly opposed by many advocacy groups who feared it could severely weaken the effectiveness of the legislation.

The following timeline outlines the steps taken, and challenges encountered, from 2009-2012 in the pursuit of federal legislation restricting restraint, seclusion and aversive procedures.

Timeline on Federal Legislation Efforts

January 14, 2009

National Disability Rights Network publishes *School is Not Supposed to Hurt*, an investigative report on restraint and seclusion in schools. NDRN calls upon Congress to pass legislation to ban "prone restraint" and the use of seclusion.

January 27, 2009

Rep. George Miller, chairman of the House Education and

Labor Committee, asks the Government Accountability Office to investigate state and federal laws and regulations on the use of restraint, seclusion and aversive procedures.

May 19, 2009

Government Accountability Office releases a report that finds dozens of instances of student suffering or death resulting from restraint and seclusion.

May 20, 2009

U.S. Education Secretary Arne Duncan announces that all states will have policies in place for handling restraint and seclusion in schools before the start of the following academic year.

August 3, 2009

Education Sec. Duncan submits a letter to state school chiefs asking them to formally submit their policies on restraint and seclusion.

December 9, 2009

Rep. George Miller and Cathy McMorris-Rodgers introduce *The Preventing Harmful Restraint and Seclusion in Schools Act* in the House of Representatives. Sen. Chris Dodd introduces the Senate counterpart of restraint and seclusion legislation.

December 22, 2009

A school board in Greenville, Wisconsin, votes to use \$131,000 in federal stimulus funds to construct seclusion and segregation areas. Among criticism, state officials turn down the plan.

February 10, 2009

The House Education and Labor Committee votes to pass the *Preventing Harmful Restraint and Seclusion Act* by a vote of 34-10.

February 24, 2010

The Department of Education releases a summary of state laws, regulations, policies and guidelines regarding the use

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of restraint and seclusion in schools.

March 3, 2010

The House legislation, now known as the *Keeping All Students Safe Act*, passes by a vote of 262-153. The bill would impose the first-ever federal oversight on the use of restraint and seclusion in schools.

August 3, 2010

Legislation stalls in the Senate as concerns grow over a provision barring restraint and seclusion from being included in a student's individualized education plan, or IEP. Opposition to the bill was strongest from the American Association of School Administrators.

October 5, 2010

The Senate proposes a modified bill that would allow schools to include restraint and seclusion in individualized education plans for some students, despite the House version prohibiting such inclusion. Concerns are raised by parent and advocacy group who favor the House version of the legislation.

November 2010

Senate staffers announce the bill will not be voted on during the 111th Congress, ending hopes that restraint and seclusion legislation would become federal law in 2010.

April 6, 2011

TASH releases *The Cost of Waiting*, a one-year report on the implications of inaction on restraint and seclusion legislation.

April 7, 2011

Rep. George Miller reintroduces legislation that would prohibit restraint and seclusion in most school situations. The bill would also mandate that parents be notified if the practices are used on their child, and would disallow such practices from being included in a student's individualized education plan.

May 13, 2011

TASH publishes *Shouldn't School Be Safe?*, a 23-page document providing parents a straightforward look at what they can do to identify, respond to and prevent restraint and seclusion.

June 28, 2011

TASH, in partnership with APRAIS, holds a congressional briefing on Capitol Hill to present research and best practices in restraint and seclusion prevention, and push for federal legislation to end these practices in schools.

October 21, 2011

The Senate moves forward with the reauthorization of the Elementary and Secondary Education Act without addressing restraint and seclusion. Lack of bipartisan support is cited.

December 16, 2011

Sen. Tom Harkin reintroduces the *Keeping All Students Safe Act* in the Senate.

March 7, 2011

The Department of Education releases first-ever national data on restraint and seclusion. Findings show students with disabilities are most often the subject of such practices, and gender and racial disparities are also apparent.

May 15, 2012

The Department of Education releases its "15 principles" resource on restraint and seclusion. Although not enforceable, it provides an evidence-based roadmap to limiting and preventing restraint and seclusion in schools.

May 22, 2012

TASH releases the second edition of *The Cost of Waiting* to draw attention to the real implications for students across the U.S. without federal protections.

(Disability Scoop, TASH 2012)

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The Implications of Inaction

To explore the real implications of not passing federal legislation on restraint, seclusion and aversive procedures, TASH reviewed media accounts from across the U.S. The articles reviewed were collected between April 1, 2011, and May 1, 2012, and cover roughly one year after the first release of *The Cost of Waiting*. The availability of articles detailing abuse claims from students with disabilities subjected to these practices was alarming. TASH readily admits the review of published articles is not comprehensive, as many additional accounts are likely to exist. TASH also emphasizes that the portrayal of abuse through these media accounts represents only a small number of overall instances in which restraint, seclusion or aversive procedures have harmed children in schools. From the sampling, the following conclusions can be drawn:

Trauma

The children involved in incidents of restraint and seclusion are likely to suffer long-term impacts. When such practices are inflicted upon children with disabilities, both the trauma and ethical offense are magnified.

Multiple Abuses

Many reports reference repeated abuse. In some cases, it is revealed that children undergo months or even years of abuse before actions are known by parents.

National in Scope

The impact of restraint and seclusion is widely spread across the U.S., with incidents in all regions of the country. The scope of this problem points clearly to the need for a baseline of protections for students in all states.

Met with Resistance

Schools and officials often respond to complaints about abuse with denial and resistance. The complaints tend to be taken seriously when law enforcement or media become involved.

No Clear Laws

Many news articles emphasize the lack of clear and effective laws in most states to prevent or manage the aftermath of the abuse. Numerous articles also describe the efforts of advocates to gain such protections.

Firing Offense

Often, teachers or other school officials lose their job because of their actions. With clear policies against restraint and seclusion, and proper support for research-based practices, many of these employees may have made better decisions.

Lawsuits

Reports of restraint and seclusion are frequently mentioned in the same breath as lawsuits. These preventable civil suits undoubtedly cost taxpayers considerable sums in legal defense and damages.

The following is a small sample of the media reports on restraint, seclusion and aversive procedures between April 1, 2011, and May 1, 2012.

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Orange County School For Children With Intellectual Disabilities Has Most Incidents of Restraint in Orange County - *Orlando Sentinel*

Magnolia School is a special center in Orange County whose students have intellectual disabilities and often emotional problems or autism.

It also has by far the most incidents of restraint in Orange County — 448 through mid-March — in which some students are placed in contraptions that staffers call “wrap mats.”

These are padded mats with a stiff board inside. Students are immobilized while standing up, then laid face down on the device. Thick flaps are placed over their shoulders, midsection and legs to hold them in place.

Orlando, Fla., April 4, 2011

Parents Tell Tales of Restraint and Seclusion - *NBC News 11Alive (Atlanta, Ga.)*

“His arm was twisted. His legs were grabbed and pulled on... he was brought to the floor. My child reported to me that a chair was put a cross his back”.

“He was restrained up to 1500 minutes throughout the years in Rifton chairs, regular chairs, basket holds, or whatever”.

Parents and activists from around the state testified before the Board of Education today, demanding an end to the use of restraint and seclusion of children in school, a practice sometimes used with special needs students.

Atlanta, Ga., June 30, 2011

Questions Are Raised on Restraint Training - *The New York Times*

As incidents of restraint, seclusion and other emergency interventions have soared in recent years, schools have relied on training programs and physical restraint protocols developed by private companies that in many cases appear to have few qualifications.

...

Incidents of restraint (in which a child’s movement is restricted), seclusion (in which a child is involuntarily confined alone in a room) and other behavioral episodes in California schools more than doubled to 21,076 between the 2005-6 and 2009-10 school years, according to California Department of Education figures.

San Francisco, Calif., July 7, 2011

Princeton House charter faces second restraint lawsuit - *Orlando Sentinel*

In a document prepared by Orange County Public Schools, Princeton House reported four restraints of special-education students between September and February of last school year, well below the number reported by many other district schools serving students with autism. The district as a whole, however, reported more restraints last year than any of Florida’s other 66 school districts. The new lawsuit, which was filed in federal court this month, also centers on the use of restraint.

In the January incident, the lawsuit alleges that the student suffered extensive bruising after a staff member pulled her sweater over the back of a special wooden chair. The chair, known as a Rifton chair, is intended to support and hold students who can’t sit well on their own.

Orlando, Fla., July 19, 2011

Court Revives Suit Over School Isolation Room - *Education Week*

The mother’s lawsuit challenges the use by a Washington state school district of an isolation room for her son, identified in court papers as D.P. According to court papers, an elementary school teacher in the Peninsula School District, based in Gig Harbor, Wash., used a small “safe room” to give students timeouts when they misbehaved.

D.P.’s parents initially gave grudging consent to placing their son in the safe room as part of his individualized education plan. However, they raised objections after D.P. was locked in the room several times and urinated and defecated on himself, the suit contends.

Gig Harbor, Wash., August 1, 2011

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Kentucky DOE Drafting Regulations to Limit Use of Restraint and Seclusion - *NSBA.org (Bowling Green, Kent.)*

Kentucky education officials are acting to limit the use of restraint and seclusion on public school students after citing two schools for violating the rights of three disabled students who were subjected to the practices. In all three cases, the schools were found to have violated the students' right to a free, appropriate public education under the federal Individuals with Disabilities Education Act.

...

One incident involved a student nearly asphyxiated while being restrained," Felicia Smith, associate commissioner in the Office of Next Generation Learners, said in a briefing to the board. "A second incident involved a student who was secluded in a window-less (sic) unvented closet all day for most of the school year, suffering severe emotional distress. (State education officials were) also advised by a school district's lawyer that the district was not prohibited from restraining students since Kentucky had no law on restraints."

Bowling Green, Kent., August 2, 2011

Use of Seclusion Rooms remains Focus of Debate at Morris Jeff Charter School - *The Lens Nola (New Orleans, La.)*

Morris Jeff officials said they don't remove disruptive students from class as a form of punishment, nor do they use the term "seclusion room," preferring instead "time-out room." Therefore, the practice would not be listed among disciplinary procedures.

The practice is forbidden at schools directly run or chartered by the Orleans Parish School Board. The board's unified code of conduct equates seclusion and locked isolation with corporal punishment – which is illegal. "Corporal punishment refers to intentional application of physical pain as a method of changing behavior...it also includes the use of seclusion, i.e., locked isolation, and inappropriate restraint," the code states.

New Orleans, La., September 12, 2011

PSL mother: Autistic son handcuffed, detained under Baker Act - *CBS News 12 (St. Lucie County, Fla.)*

A local mother says her child's school went too far. First grader Koby Adams is autistic. His mom and stepfather say he was handcuffed and taken to a mental health facility after a recent incident at the Allapattah K-8 School.

...

They say the school was well aware of their sons condition - and the situation could have been prevented if they took the proper procedures outlined in Koby's individual learning plan.

St. Lucie County, Fla., September 16, 2011

Autism Advocates Upset Teacher Cleared In Restraining Student - *The Indy Channel (Indianapolis, Ind.)*

Catherine Littleton, a teacher at Perry Meridian Middle School, was originally charged with confinement, battery and neglect of a dependent in connection with her treatment of a 12-year-old boy with autism in February 2010.

...

When other measures did not calm him down, investigators said Littleton allowed her teacher's aide to tape socks over the boy's hands, use orthopedic belts to tie his legs to a chair, then tipped the chair onto its back on the classroom floor.

Indianapolis, Ind., October 7, 2011

Use of restraint, 'timeout rooms' in Maine schools being re-examined - *Bangor Daily News*

For Jude Herb, it was the stuff of nightmares: Her first-grade son, flushed and screaming, pinned face-down to the floor by three adults. Worse, the 6-year-old had been restrained that way for 25 minutes when Herb arrived.

The people holding Herb's son down were not bullies or child abusers. They were educators at his public school and their use of "therapeutic restraint" is allowed by the Maine Department of Education.

Augusta, Maine, October 28, 2011

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Officials: 'Scream rooms' common in Connecticut schools - *New Haven Register*

Putting a child with special needs — whose behavior has gone beyond what a teacher can handle — into a secluded, padded room until the episode subsides is a legal and accepted practice in Connecticut as in many states.

...

The use of seclusion and restraint in schools came to the fore after a Tuesday Board of Education meeting in Middletown when parents expressed concern over “scream rooms” at Farm Hill Elementary School, saying it disrupted learning in other classrooms.

That concern has prompted three independent investigations, from the Office of Protection and Advocacy for Persons with Disabilities, the Office of the Child Advocate and an as-yet unconfirmed Department of Children and Families investigation.

Middletown, Conn., January 11, 2012

Largo School Has Autistic Boy, 6, Baker-Acted - *Bay News 9 (Pinellas County, Fla.)*

“They locked the gate,” said his mom, Dawn Gage. “I could hear him screaming my name.”

Ryder is autistic and his mom says he’s known to have tantrums when he’s taken away from normal routine.

But Thursday, at Southern Oak Elementary, Ryder’s mom said school officials decided his behavior had become uncontrollable.

The district called in specialists. Under the Baker Act, those specialists decided it was best to remove the 6-year-old from the building and take him to a Baker Act facility.

Pinellas County, Fla., January 13, 2012

Students Traumatized in Special Education Across America, Seclusion, Restraint & Aversives - *Psychology Today*

A urine soaked scream room. A child stuffed in a duffel

bag. Vinegar soaked cotton balls put in a child’s mouth. Slapped on the head with plastic bottles. Child dragged through a playground across asphalt with pants down. Shoved to the floor and dead from asphyxiation. Handcuffed and duct-taped. Degraded. Dehumanized. Traumatized. Mob stories? No, it is just a scratch of the surface of what has happened to children in special education in the past year. Not in a third world country, but here in America.

January 18, 2012

School Board Defends Duffel Bag Incident Response - *WLKY.com (Mercer County, Kent.)*

The mother of a 9-year-old autistic boy who claimed her son was stuffed in a duffel bag by a teacher took her allegations to the school board Thursday night. She said she left angrier than when she arrived.

...

While (Mercer County School Board President) Thomas declined to discuss specifics, she said putting special needs children in bags is not unheard of in certain cases.

“If it is at that school, that is an appropriate method of restraint and maybe Mrs. Baker didn’t understand that at the time,” Thomas said.

Mercer County, Kent., January 20, 2012

'Scream Rooms': Punishing Disabled Students in Isolation - *The Atlantic*

Students -- typically those with disabilities -- are put in the small, windowless room as a means of controlling their behavior. The room’s cinder block walls aren’t thick enough to drown out the sounds from within, according to a story from the Hartford Courant. In order to be placed in the room, the student usually must have an Individualized Education Plan (known as an IEP) that allows for this type of isolation as a form of “treatment.”

...

Who are the teachers who make use of the “scream rooms?” How many of them are working on provisional licenses, rather than having an extensive background and

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experience in special education?

January 23, 2012

Office for Civil Rights to Investigate New Hanover County's 'Seclusion Rooms' - CBS News 6 (New Hanover County, N.C.)

The Office for Civil Rights for the U.S. Department of Education has opened an official investigation into a complaint over the use of seclusion rooms in New Hanover County Schools.

The parents of a 5-year-old student filed the complaint on behalf of all elementary students with disabilities for the use of the rooms. In the complaint, the parents claim that their 5-year-old son is a special education student who in the past has been placed in a secluded room and forced to stay inside. The complaint states that these rooms are only being used on children with disabilities, therefore violating their civil rights.

New Hanover County, N.C., January 26, 2012

Parents Question, Board of Education Defends Use of Seclusion Rooms - WWAY News 3 (Wilmington, N.C.)

As a parent, no one wants to have their child locked in a seclusion room, while intended for the child's safety, the rooms can be frightening.

Sara Raider is a parent with experience having her child in these rooms." They are padded rooms they look something like you would see in a prison, that's what comes to mind. There's nothing colorful on the walls just pads on both the walls and the floor. It's very stark and not a place I would want to be."

One of Sara's concerns is the process for placing a child in seclusion. "I think that the laws that are in place allow for a lot of leeway, subjectivity where teachers make the call whether it's an emergency situation or not. They can throw a book and that's destroying property. I think the law and the system are set up to invite misuse of the practice."

Wilmington, N.C., February 7, 2012

Bill would extend Minnesota's prone restraint law until late 2013 - Minnesota Public Radio

A state House committee discussed legislation...that would allow schools to keep using a controversial physical restraint to subdue or calm students with severe mental health disabilities. The legislation was laid over.

...

Dan Stewart, a lawyer for the Minnesota Disability Law Center, said he isn't convinced prone restraint can ever be done in a way that's considered totally safe. The Disability Law Center is a group that provides free legal assistance to people with disabilities.

"Even when things are going well, in terms of the procedure itself, there's an unacceptable risk associated with prone restraint," he said.

February 23, 2012

Valley Schools Put Students in Padded 'Scream Rooms' - KPHO Channel 5 (Phoenix, Ariz.)

"They never really told me why or when they put him in there, just that he was, quote, 'out of control,'" said mother Leslie Noyes.

...

The second-grader has some special needs, so he was placed in the special education class at Desert Sage Elementary School in the Deer Valley Unified School District...

"He has been complaining about being restrained -- he uses that word, restrained. And being put into cool down," Leslie Noyes said.

...

It turns out Arizona is one of just six states that doesn't have any laws regulating seclusion and restraint.

Phoenix, Ariz., February 23, 2012

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Mom Says Teacher Sent Her 10-Year-Old Autistic Son into Cardboard Box - *New York Daily News*

An infuriated southern California mom is claiming a fourth grade teacher unfairly persecuted her autistic son by sending the 10-year-old to sit inside a large cardboard box at the back of her mainstream class.

...

"I'm very angry. The thought of your child being put in a box, it's heartbreaking," Rollins, 44, told *The News*.

"By law we have to send our kids to school, and if they're mistreating the kids, by law we're sending them in for torture," the Wildomar, Calif., mom said.

Wildomar, Calif., February 28, 2012

'Scream Rooms' Decried by Parents and Others - *Hartford Courant*

Beth Fleischmann Zweibel told state lawmakers Tuesday that her son, Joshua, now almost 11, has been placed in seclusion since he was 7 "as a method for extinguishing unwanted behaviors."

"I have personally seen him carried into a room no larger than a closet with the door slammed behind him as he was told he can come out when his screaming and crying have de-escalated," said Zweibel of Avon.

Robert J. Blackmore of Amston told of a 6-year-old boy who tried to cut his neck with a toy saw and then said to a doctor that "he wanted to die if he had to go back to school," where he "might have to go in the quiet room."

Amid growing concerns about the use of restraints and seclusion — or "scream rooms" as they have been called — lawmakers on the Select Committee on Children are considering a measure to require schools and other institutions to report how often seclusion and restraints are used and, in each case, why.

March 6, 2012

Suit Demands Data on City Schools' Use of 'Seclusion Rooms' - *The Columbus Dispatch*

A mother says her son, who is autistic, was terrified when he was left in a "seclusion room" at his Columbus high school. The 18-year-old stripped naked and urinated.

A state agency that protects people with disabilities wants to investigate but says the Columbus school district has blocked its attempts. The Ohio Legal Rights Service sued the district in federal court on Monday, seeking records to show how often — and why — school employees isolate students in the cell-like rooms.

...

"We have forms, but they don't tell us who was in these rooms, how often they're in the rooms, how long they're in the rooms," Tobin said.

The agency also doesn't know whether parents are told when students are isolated, she said. Some students with violent behavior don't have the ability to communicate.

Columbus, Ohio, March 8, 2012

Leake & Watts Boy's Death: 'I Can't Breathe,' Boy Shouts After Staffers Piled onto Him, Witness Says - *The Journal News*

The 16-year-old boy who died Wednesday night shouted, "I can't breathe, I can't breathe!" as eight staff members piled onto him during a violent confrontation on a basketball court at Leake & Watts residential treatment center.

...

John Francis, a student who knew the dead teen, said that Foster was from New York City and that he had been physically restrained before by school staff and taken into classrooms to calm down. Francis himself has been physically restrained by teachers before and described it as "pretty rough. They just hold you down."

Yonkers, New York, April 19, 2012

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The harmful use of restraint and seclusion continues to be a pervasive, nationwide problem that cannot be addressed effectively without federal legislation that provides children in all states equal protection from dangerous techniques and creates a cultural shift toward preventive, positive intervention strategies. Teachers need knowledge and tools to protect themselves and their students by preventing problem behaviors and maintaining a positive and healthy educational environment. This legislation would go a long way toward achieving those goals and assuring parents that their children are safe in our nation's schools.

Find more information at www.tash.org

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Suggested Media Resources

1. Butler, Jessica (January 20, 2012). **“How Safe is the Schoolhouse? An Analysis of State Seclusion and Restraint Laws and Policies.”** www.autcom.org. Jessica@jnba.net.

The report analyzes state “laws” (statutes, regulations, and executive orders) and voluntary nonbinding guidelines, which lack the force of law and can be easily changed by the state Department of Education. It also examines the impact on the states of federal Congressional action, particularly the bill introduced by George Miller two years ago. Its goal is to provide information and analysis.

2. **“The Business Case for Preventing and Reducing Restraint and Seclusion Use.”** July, 2011. <http://store.samhsa.gov/product/The-Business-Case-for-Preventing-and-Reducing-Restraint-and-Seclusion-Use/SMA11-4632>.

This report examines the costs, including violence and medical errors, associated with seclusion and restraint use in healthcare settings to control maladaptive behaviors. It also considers industry perspectives and the unquantifiable cost of the consumer’s experience.

3. **“Shouldn’t Schools Be Safe? A Parent’s Guide on Prevention, Detection and Response to Restraint, Seclusion or Other Aversive Interventions.”** July, 2011. <http://tash.org/shouldnt-school-be-safe/>

This is a free resource developed for parents and by parents that offers insight and advice to respond to and prevent restraint and seclusion. The process of finding help when a child is abused is not always clear, and many parents are discouraged or overwhelmed by the patchwork of laws and regulations handling restraint and seclusion in schools.

4. **“School is Not Supposed to Hurt: The U.S. Department of Education Must Do More to Protect School Children from Restraint and Seclusion.”** March 2012. National Disability Rights Network. http://www.napas.org/images/Documents/Resources/Publications/Reports/School_is_Not_Supposed_to_Hurt_3_v7.pdf.

As a follow-up to the original 2009 report and its 2010 update, this report urges the Department of Education to take a leadership role in the campaign to end the harmful practices of restraint and seclusion in our nation’s public schools. The report also calls on the Department to issue clear guidance about when restraint and seclusion might violate the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act (§ 504) or the Individuals with Disabilities Education Act (IDEA).

5. **“Abuse, Restraint, Seclusion in School.”** <http://www.wrightslaw.com/info/abuse.index.htm>

Parents, educators, advocates, and attorneys come to Wrightslaw for accurate, reliable information about special education law, education law, and advocacy for children with disabilities. This site gives a timeline of all legal actions related to restraint and seclusion in schools as well as a layman’s explanation for each case, related articles and resources for follow-up.

6. **“Summary of Seclusion and Restraint Statutes, Regulations, Policies and Guidance By State and Territory.”** February 2010. U.S. Department of Education. <http://www2.ed.gov/policy/seclusion/summary-by-state.pdf>

In a 2009 letter, Secretary of Education Arne Duncan informed the Chief State School Officers that the Department’s regional Comprehensive Centers would be conducting research on each state’s laws, regulations, guidance policies regarding the use of seclusion and restraints in schools. In December 2009, the states were asked to review and confirm the accuracy of the summary and the information for their specific state profile and to note any changes or corrections needed. The information in this report may be updated as states develop or revise policies and guidelines on the use of seclusion and restraints to ensure that all students are safe and protected.

7. **“Keeping Schools Safe: How Seclusion and Restraint Protects Students and School Personnel.”** March 2012. American Association of School Administrators. http://www.aasa.org/uploadedFiles/Resources/Tool_Kits/AASA-Keeping-Schools-Safe.pdf

The Cost of Waiting

AASA's report defending its long-standing opposition to the prohibition of restraint and seclusion in public schools on the basis that it believes the use of seclusion and restraint has enabled many students with serious emotional or behavioral conditions to be educated not only within public schools, but also in the least restrictive and safest environments possible. This report summarizes the Association's 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.

1. **“Debunking the Myths of Restraint and Seclusion.”** The Alliance to Prevent Restraint, Aversive Interventions and Seclusion (APRAIS). http://66.147.244.209/~tashorg/wp-content/uploads/2011/01/APRAIS_Myths.pdf.

A list of myths that are commonly used to support the use of restraint and seclusion in schools and factual explanations to debunk them.

2. Amos, Pat. “What Restraints Teach.” TASH Connections. November 1999. TASH.org. <http://66.147.244.209/~tashorg/wp-content/uploads/2011/01/WhatRestraintsTeachPatAmos.pdf>

This article highlights the lack of therapeutic value in restraining individuals with disabilities as a means to control behavior and the perverse messages that it sends to young people. The article demonstrates the negative outcomes of utilizing restraint in an educational setting.

3. Dunlap, G., Ostry, C., and Fox, L. “Preventing the Use of Restraint and Seclusion with Young Children: The Role of Effective, Positive Practices.” February 2011. Technical Assistance Center on Social Emotional Intervention. http://www.challengingbehavior.org/do/resources/documents/brief_preventing.pdf

The purpose of this issue brief is to review the issues of seclusion and restraint and to discuss positive strategies that can be used to prevent behaviors that could lead to considerations of these invasive and potentially-dangerous practices. The document explores the notion that the use of seclusion and restraint can be reduced most effectively by implementing proactive procedures that prevent serious challenging behaviors from occurring.

4. **“Civil Rights Data Collections.”** U.S. Department of Education. <http://ocrdata.ed.gov/>

The CRDC is a comprehensive dataset on U.S. school equity, and a tool for analyzing equity and educational opportunities. It includes data from more than 72,000 schools representing approximately 85 percent of the nation's students.

5. **“Restraint and Seclusion Resource Document.”** U.S. Department of Education. <http://www2.ed.gov/policy/seclusion/index.html>

The U.S. Department of Education issued 15 principles regarding the use of restraint and seclusion in schools. The principles, represent the most formal position take by federal authorities to date, although the principles are not enforceable and stop short of what the Department could have done on the matter.

TASH sincerely thanks Allison Wohl for her help in developing this report.

Orlando Sentinel Magnolia School is a special center in Orange County whose students have intellectual disabilities and often emotional problems or autism. It also has by far the most incidents of restraint in Orange County — 448 through mid-March — in which some students are placed in contraptions that staffers call “wrap mats.” These are padded mats with a stiff board inside. Students are immobilized while standing up, then laid face down on the device. Thick flaps are placed over their shoulders, midsection and legs to hold them in place. *NBC News 11Alive* “His arm was twisted. His legs were grabbed and pulled on... he was brought to the floor. My child reported to me that a chair was put a cross his back”. “He was restrained up to 1500 minutes throughout the years in Rifton chairs, regular chairs, basket holds, or whatever.” Parents and activists from around the state testified before the Board of Education today, demanding an end to the use of restraint and seclusion of children in school, a practice sometimes used with special needs students. *The New York Times* As incidents of restraint, seclusion and other emergency interventions have soared in recent years, schools have relied on training programs and physical restraint protocols developed by private companies that in many cases appear to have few qualifications. Incidents of restraint (in which a child’s movement is restricted), seclusion (in which a child is involuntarily confined alone in a room) and other behavioral episodes in California schools more than doubled to 21,076 between the 2005-6 and 2009-10 school years, according to California Department of Education figures. *The Orlando Sentinel* In a document prepared by Orange County Public Schools, Princeton House reported four restraints of special-education students between September and February of last school year, well below the number reported by many other district schools serving students with autism. The district as a whole, however, reported more restraints last year than any of Florida’s other school districts. The new lawsuit, which was filed in federal court this month, also centers on the use of restraint. In the January incident, the lawsuit alleges that the student suffered extensive bruising after a staff member pulled her sweater over the back of a special wooden chair. The chair, known as a Rifton chair, is intended to support and hold students who can’t sit well on their own. *Education Week* The mother’s lawsuit challenges the use by a Washington state school district of an isolation room for her son, identified in court papers as D.P. According to court papers, an elementary school teacher in the Peninsula School District, based in Gig Harbor, Wash., used a small “safe room” to give students timeouts when they misbehaved. D.P.’s parents initially gave grudging consent to placing their son in the safe room as part of his individualized education plan. However, they raised objections after D.P. was locked in the room several times and urinated and defecated on himself, the suit contends. *NSBA.org* Kentucky education officials are acting to limit the use of restraint and seclusion on public school students after citing two schools for violating the rights of three disabled students who were subjected to the practices. In all three cases, the schools were found to have violated the students’ right to a free, appropriate public education under the federal Individuals with Disabilities Education Act. One incident involved a student nearly asphyxiated while being restrained,” Felicia Smith, associate commissioner in the Office of Next Generation Learners, said in a briefing to the board. “A second incident involved a student who was secluded in a window-less (sic) unvented closet all day for most of the school year, suffering severe emotional distress. (State education officials were) also advised by a school district’s lawyer that the district was not prohibited from restraining students since Kentucky had no law on restraints.” *TheLensNola.org* Morris Jeff officials said they don’t remove disruptive students from class as a form of punishment, nor do they use the term “seclusion room,” preferring instead “time-out room.” Therefore, the practice would not be listed among disciplinary procedures. The practice is forbidden at schools directly run or chartered by the Orleans Parish School Board. The board’s unified code of conduct equates seclusion and locked isolation with corporal punishment — which is illegal. “Corporal punishment refers to intentional application of physical pain as a method of changing behavior...it also includes the use of seclusion, i.e., locked isolation, and inappropriate restraint,” the code states. *CBS News12* A local mother says her child’s school went too far. First grader Koby Adams is autistic. His mom and stepfather say he was handcuffed and taken to a mental health facility after a recent incident at the Allapattah K-8 School. They say the school was well aware of their sons condition - and the situation could have been prevented if they took the proper procedures outlined in Koby’s individual learning plan. *The Indy Channel* Catherine Littleton, a teacher at Perry Meridian Middle School, was originally charged with confinement, battery and neglect of a dependent in connection with her treatment of a 12-year-old boy with autism in February 2010. When other measures did not calm him down, investigators said Littleton allowed her teacher’s aide to tape socks over the boy’s hands, use orthopedic belts to tie his legs to a chair, then tipped the chair onto its back on the classroom floor. *Bangor Daily News* For Jude Herb, it was the stuff of nightmares: Her first-grade son, flushed and screaming, pinned face-down to the floor by three adults. Worse, the 6-year-old had been restrained that way for 25 minutes when Herb arrived. The people holding Herb down were not bullies or child abusers. They were educators at his public school and their use of “therapeutic restraint” is allowed by the Maine Department of Education. *New Haven Register* Putting a child with special needs — whose behavior has gone beyond what a teacher can handle — into a secluded, padded room until the episode subsides is a legal and accepted practice in Connecticut as in many states. The use of seclusion and restraint in schools came to the fore after a Tuesday Board of Education meeting in Middletown when parents expressed concern over “scream rooms” at Farm Hill Elementary School, saying it disrupted learning in other classrooms. That concern has prompted three independent investigations, from the Office of Protection and Advocacy for Persons with Disabilities, the Office of the Child Advocate and an as-yet unconfirmed Department of Children and Families investigation. *Bay News 9* “They locked the gate,” said his mom, Dawn Gage. “I could hear him screaming my name.” Ryder is autistic and his mom says he’s known to have tantrums when he’s taken away from normal routine. But Thursday, at Southern Oak Elementary, Ryder’s mom said school officials decided his behavior had become uncontrollable. The district called in specialists. Under the Baker Act, those specialists decided it was best to remove the 6-year-old from the building and take him to a Baker Act facility. *Psychology Today* A urine soaked scream room. A child stuffed in a duffel bag. Vinegar soaked cotton balls put in a child’s mouth. Slapped on the head with plastic bottles. Child dragged through a playground across asphalt with pants down. Shoved to the floor and dead from asphyxiation. Handcuffed and duct-taped. Degraded. Dehumanized. Traumatized. Mob stories? No, it is just a scratch of the surface of what has happened to children in special education in the past year. Not in a third world country, but here in America. *The Atlantic* ‘Scream Rooms’: Punishing Disabled Students in Isolation. Students - typically those with disabilities - are put in the small, windowless room as a means of controlling their behavior. The room’s cinderblock walls aren’t thick enough to drown out the sounds from within, according to a story from the Hartford Courant. In order to be placed in the room, the student usually must have an Individualized Education Plan (known as an IEP) that allows for this type of isolation as a form of “treatment.” Who are the teachers who make use of the “scream rooms?” How many of them are working on provisional licenses, rather than having an extensive background and experience in special education? *KPHO Channel 5* Valley Schools Put Students in Padded “Scream Rooms”. “They never really told me why or when they put him in there, just that he was, quote, ‘out of control,’” said mother Leslie Noyes. The second-grader has some special needs, so he was placed in the special education class at Desert Sage Elementary School in the Deer Valley Unified School District. “He has been complaining about being restrained - he uses that word, restrained. And being put into cool down,” Leslie Noyes said. *New*