

## **Seclusion and Restraint: America's Children with Disabilities in Crisis**

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by [Marcie Lipsitt](#)

Tuesday, January 27, 2009

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expert

The National Disability Rights Network (NDRN), known to parents of children across America as their states' Protection and Advocacy agencies, has issued a formal call to action with their January 2009 report, "School is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools."

Parents are supposed to send their children to school with the basic belief they will return home; safe, sound and without physical or emotional signs of abuse. This is not the case for thousands of America's students with disabilities in both public and private classrooms in schools that cross all socio-economic lines. Physical and emotional abuse, seclusion, restraint, physical harm and even death, has no idea if your child is attending a private or public school; if this school is located in an urban, rural or suburban area, or if it is wealthy, middle class or economically-disadvantaged.

So what is "seclusion and restraint?" (Per the Centers for Medicare and Medicaid Services and Protection and Advocacy Agencies)

\*\*\* It is important to note that only the Children's Health Act, enacted by Congress in 2000, defines seclusion and restraint for the purpose of facilities receiving Medicaid and other types of federal dollars and has no reference to our public schools. The Centers for Medicare and Medicaid Services further clarified the definitions of "seclusion and restraint" in 2006. IDEA 2004 (Individuals with Disabilities Education Act, originally the Education for All Handicapped Children Act) has no rules that explicitly prohibit the use of seclusion and restraint.

A "restraint" is-

(A) Any manual method, physical, or mechanical device, material, or equipment that immobilizes or reduces the ability of the patient to move his or her arms, legs, body, or head freely.

(B) A drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.

(C) A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine

physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm.  
(D) \*\*\*Prone Restraint ("The Lethal Hazard of Prone Restraint: Positional Asphyxiation" published by Protection and Advocacy, Inc. 2002) - "A physical restraint in which an adult holds a child's face on the floor while pressing down on the child's back. Sudden fatal cardiac arrhythmia or respiratory arrest due to a combination of factors causing decreased oxygen delivery at a time of increased oxygen demand can occur through prone restraint."

"Seclusion" is-

The involuntary confinement of a patient alone in a room or area from which the Patient is physically prevented from leaving. Seclusion may only be used for the management of violent or self-destructive behavior.

Education personnel in school districts across the United States are using seclusion and restraint as a first line of behavioral intervention and children are not only suffering emotional and physical abuse - - they are dying. Examples cited in NDRN's report of the horrific abuses suffered by children with disabilities have been based upon formal investigations by P &As in all fifty states.

Children with mental illness, ASD, AD/HD and other disabilities have died in Michigan, Texas, Wisconsin and Georgia. Only Michigan has "standards" (not a statute or even regulation in their special education rules) enacted by their State Board of Education only after two fatal incidents of restraint. Michigan still allows the use of restraint and only prohibits seclusion and prone restraint.

Only Connecticut has passed a statute that prohibits the use of seclusion and restraint in their schools and treatment facilities.

Only Pennsylvania has "regulations" (again not a law) that prohibit seclusion and restraint.

Alabama, Alaska, American Samoa, Arizona, California, District of Columbia, Georgia, Guam, Idaho, Indiana, Louisiana, Mississippi, Missouri, Nebraska, New Jersey, the Northern Mariana Islands, Ohio, Oklahoma, South Carolina, South Dakota, the Virgin Islands, West Virginia and Wyoming have no policies, standards, regulations or statutes on the use or prohibition of seclusion and restraint.

Only Colorado, Connecticut, Florida, Iowa, Michigan and Pennsylvania ban the use of "prone restraint."

Only Colorado, Connecticut, Florida, Hawaii, Iowa, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont and Virginia require parents are notified when their child's school has used seclusion and restraint.

Children across America have been found to be; tied and strapped down to chairs, and wheelchairs, grabbed and dragged into rooms, held in arm locks, handcuffed, placed in coffin-like boxes and cells, locked in closets for hours and subjected to other humiliating, emotionally and physically abusive and traumatizing acts of violence by school personnel.

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There are growing bodies of research on positive behavioral interventions that do not include the use of seclusion and restraint. IDEA 2004 includes discipline provisions that refer to the use of a "Functional Behavioral Assessment" (FBA). The principle behind a "Functional Behavioral Assessment" is that education personnel can assess the antecedents (the cause) of a student's inappropriate behaviors and implement positive behavioral interventions to reduce and then eliminate their occurrence. The problem is that America's special education and general education teachers, counselors, social workers, school psychologists and all ancillary staff, are for the most part, not trained to implement a FBA or write an appropriate and effective Behavior Intervention Plan (BIP). Nor, are they required to learn as most states have no standards, policies, regulations or laws that require education personnel are trained in FBAs or positive behavioral interventions.

No child with or without a disability should suffer emotional or physical abuse, let alone die at the hands of their teachers and education personnel. The National Disability Rights Network has only crystallized this crisis in America's schools and they are the first to recognize the reports from their Protection and Advocacy Agencies is only the "tip of the iceberg." There are more than 6.5 million students with "Individual Education Plans" (IEPs) and more with Section 504s (especially students with AD/HD) that are watching their educational lives sink on an educational version of the Titanic. IDEA (originally, EHA) has barely open the school door to equitable, meaningful and measurable, social, emotional and academic learning for students with disabilities. The percentage of these students going on to post-secondary education and the work force is egregious enough...the reality that thousands are suffering and dying from physical abuse is unconscionable and must stop. NDRN has documented "Public Policy Recommendations" for the "Obama Administration, Congress, State Legislatures and Boards of Education and Local School Districts" that include:

Banning the use of seclusion and all forms of restraint in our public and private schools (including charter schools and public school academies).

Requiring the use of evidence based positive behavioral supports and best practices.

Extensive training for all education personnel in the use of positive behavioral interventions and crisis reduction.

Thorough background checks for all school personnel and comparing databases for individuals that have lost their licenses or been convicted of abuse or neglect in any setting.

The Obama Administration must immediately support and Congress must propose and include (but not limited to) new rules in IDEA 2004 and NCLB that ban seclusion and all forms of restraint and require the use of Functional Behavior Assessments and Behavior Intervention Plans; along with evidence based behavioral interventions

Congress must expand the authority of our Protection and Advocacy agencies (and increase their funding) to investigate allegations of abuse and neglect in schools.

For more than thirty years, a meaningful "Free Appropriate Public Education" has been a broken promise to America's children with disabilities. In 2009 we must answer this call to action. "We the People" must ensure that President Obama and Congress stop the emotional and physical abuse of our students with disabilities (and without) and reauthorize NCLB and IDEA 2004 with airtight statutes, rules and regulations that finally allow millions of children to flourish in their schools and go on to post secondary education, vocational training and the global workforce. Everyone must read "School is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools", published and released, January 2009 by the National Disability Rights Network. Bring your tissue and then use your outrage and anger in an intensely, relentless educated manner for America's children with disabilities. Children with disabilities must no longer be academically, emotionally or physically, disabled by their schools or our state and federal government.

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