

Physical Restraint and Seclusion in Schools - An Update for Administrators

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The use of physical restraint and seclusion in schools continues to be controversial. Physical restraint is the use of adults to use their bodies to prevent movement of the student, when the student is in a behavioral crisis. Seclusion occurs when a student is placed in an environment where they are alone and prevented from leaving as a result of a behavioral crisis. The purpose of this update is to briefly explain the current status of policies on these two procedures, and make some suggestions to limit their use and to avoid problems related to their use.

Controversy Regarding Restraint and Seclusion

Both of these procedures- physical restraint and seclusion- have been controversial for some time, and the controversy continues due to several factors. Students continue to die or suffer injuries while in physical restraints or seclusion. There is no mechanism to know how often these occur, but when they do occur they are often the subject of news media reports. One of the most recent death of a student being restrained in a residential treatment center in Michigan in May of 2020, but over the past 15 years, numerous government, advocacy and news media reports have documented deaths and injuries.

There have been ongoing reports of inappropriate use of these procedures. Students have been restrained or secluded for minor inappropriate behavior when a student was not in a dangerous behavioral crisis. Students have been restrained too long causing restricted breathing, broken bones, or triggering of other health problems. Students have been secluded for extended periods of time— multiple hours per day for multiple days- when guidelines would recommend only minutes. Poor record keeping and lack of supervisions have also been documented.

Additionally, these procedures have been used on a far more widespread basis than most would reasonably predict. A recent report on the use of these procedures in Illinois found widespread use in situations where there were not true behavioral emergencies. The reports of the abusive and inappropriate use of these procedures along with the over use for non-emergency situations have energized parents and advocates to restrict or end their use.

When deaths or injuries do occur they regularly lead to law suits against the schools and educators who were involved. While some of these cases may also have issues related to special education under the federal special education law, in some cases they are directed toward accusations of assault or child abuse and are handled by state and local courts. Parent and disability advocacy organizations may often support parents bringing these lawsuits. Since these state and local cases are not catalogued in the same way that federal court special education cases are when they go to federal district courts, it is difficult to know how many of these other kinds of cases may be occurring and their results. Moreover, many of these cases are settled out of court. That may mean that school districts choose a monetary settlement rather than continuing a court case to a decision. When that happens, there is no permanent record of the case.

The Council of Parent Attorneys and Advocates (COPA) and its state and local affiliates and other advocacy organizations have continued to make physical restraint and seclusion a priority both nationally and at the state and local levels. They along with other disability and human rights advocacy organizations have continuously lobbied national, and state policy makers on these topics. They have continued to support parents whose children have been subjected to physical restraint and seclusion in schools, and to make those situations visible in news media. These organizations have been successful at having national legislation introduced for each Congressional term since about 2009 when the U.S. House of Representatives first heard testimony on this issue.

Federal State and Local Policy

None of these federal bills has passed both houses of Congress, including the most recent, the “Keeping All Students Safe Act,” which died at the end of the 116th Congress on January 3, 2020. However, it is likely that a similar bill might be introduced in the 117th Congress. With a change of party controlling Congress it is possible that such a bill may go further than in the past.

At this point, the only federal guidance on this topic is a “Resource document” published by the U.S. Office of Education in 2012. That document identified 15 principles which should be incorporated in state and local district policies. This report made a variety of quite specific recommendations regarding the circumstances in which these procedures could be appropriately used, and how educators could minimize the need for using these procedures.

In addition to federal bills, advocacy organizations have also been active in having legislation on this topic introduced at the state level. According to Butler in 2019, about 30 states have laws regulating restraint and seclusion. However, state laws have continued to be introduced since 2019, including one in North Dakota introduced in January of 2021 (House Bill 1318). These state policies vary widely in the way they prescribe the use of these procedures, and in their definitions and requirements (Marx & Baker, 2017).

Both the federal guidelines, and in some states, state legislation urge local school districts to have their own policy guidelines for the use of restraint and seclusion. In spite of long standing calls for school districts or cooperatives to have policies, it is not known how many districts have policies, let alone the content of those policies. Studies so far have found great variability (Van Acker, 2020; Van Acker et al. 2020).

Although federal guidance identifies the importance of training for those who engage in physical restraint or seclusion, relatively little is known about the content of training and whether the training provided to districts is in accord with federal guidelines. About 17 private for profit organizations contract with local school organizations to provide the bulk of training on these topics, but there are no standard guidelines indicating who receives this training or the nature of the training (Couvillon, 2018).

Content of Proposed Legislation

While these factors have continued to make this topic a prominent one, the content of the proposed federal bills has not changed significantly with one exception. Virtually all of the bills and policy proposals at the federal level call for only using these procedures when there is an imminent risk of serious physical injury to the student or to someone else. All of the federal bills have called for better training of staff, better records regarding the use of restraint and seclusion, mandating parents be informed quickly after these procedures are used with their children, and emphasized efforts to debrief after the incidents to prevent them from occurring again. They have also called for implementation of evidence based practices such as positive behavior supports, and better use of de-escalation to prevent the need for these procedures in the first place. They have also called for specific training related to the dangers of, and appropriate circumstances for the use of these procedures.

Seclusion

The one exception where these bills have changed is that recent federal bills and some state bills (including the North Dakota bill mentioned earlier) have now called for a complete ban on the use of seclusion in schools. The most recent two versions of the Keeping All Children Safe Act in the U.S. Congress have included a ban on the use of seclusion. Although some advocates have opposed the use of seclusion for a long time, the recent decision to seek a ban in policy may reflect several factors.

- Seclusion in particular has been over used inappropriately as a discipline or punishment procedure, with students being placed in seclusion in inappropriate unsafe environments, and for excessive periods of time by educators without training.
- There is an argument that if an out of control student has regained sufficient behavioral control to be released from a physical restraint, a placement in seclusion is arguably no longer necessary.
- Moreover, there are existing alternatives to seclusion which may include sending or taking a student to a more secluded or private location, but not leaving the student alone, and not locking the student in a location.
- And, as with physical restraint, seclusion possess risks of psychological injury as well as physical injury or death. Children and youth who have experienced child abuse and/or neglect, may be particularly traumatized by seclusion. There is no evidence of any therapeutic or de-escalation value to seclusion which prevents injury, and in fact seclusion may actually escalate student inappropriate behavior.

It should be noted that some special educators have argued that seclusion can have value and should be maintained. They argue that with adequate training, appropriate expertise, and careful use, it can be done in a way to avoid the problem described earlier. Nevertheless, almost all agree that its use should be greatly restricted.

Reducing Use of Restraint and Seclusion

There is no magic formula to reduce the use of these procedures in school settings. Clearly their use is related to the mental health needs of students, and reduction of their use will depend on the ability of schools to deliver education and mental health services and supports. Effective behavior intervention plans for student who may need them are essential. These, if done effectively, will prevent most behavioral crises from occurring. It will also be important to create a climate of prevention, and an expectation that these procedures are only used in extremely rare situations. A good description of how restraint and seclusion were virtually eliminated in a special school program for students with severe behavioral needs has been documented by George (2018).

Conclusions

Given the continuing deaths and injuries as a result of these procedures, the abusive and inappropriate use of these procedures, and the continuing visibility of these to parents of students in school, it seems unlikely that the push for specific federal regulation as well as specific state and local polices will continue. This will continue at least until clear guidelines with effective implementation accountability are established.

Recommendations

In order for local districts to avoid or minimize potential problems associated with these procedures, the following recommendations should be followed:

- School administrators and board members should establish policies (or examine existing local polices) to ensure that they follow the specific guidelines in the federal resource document, which is the best source of guidance at the present time. Doing this will insure that if federal or state laws are passed or updated on these topics, that district policies will already be in accord with those requirements. Specifically, in accord with federal guidance, local policies should ensure that these procedures are only used in the event of a behavioral crisis which provides an eminent threat of serious bodily injury.
- School administrators should ensure that local policies are shared with parents and community members, particularly with parents of students in special education since the use of these procedures is most likely with these students.
- School administrators should insure that teams of educators are trained not only on the usual crisis intervention certification programs, but also on the dangers death and injury associated with these procedures, and on state and local policies.
- School administrators should then ensure that state and local policies are being carefully followed. This includes documenting every use of physical restraint and seclusion, informing parents when students are restrained or secluded, and making efforts to understand why the behavioral crisis occurred, and how it can be prevented in the future. Establishing this climate of prevention is essential.
- School administrators should attempt to drastically reduce or eliminate the use of seclusion in their schools.

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