

How Can Parents Address Seclusion and Restraint in Schools?

A Quick Review

While district policies may differ ...

Restraint:

“Physical restraint means one or more persons using a physical hold to restrict a student’s freedom of movement as a response to student behavior. A light touching of a student while conducting a physical escort or a touching to provide instructional assistance is not a physical restraint for purposes of this Guidance.”

--Lincoln Public Schools

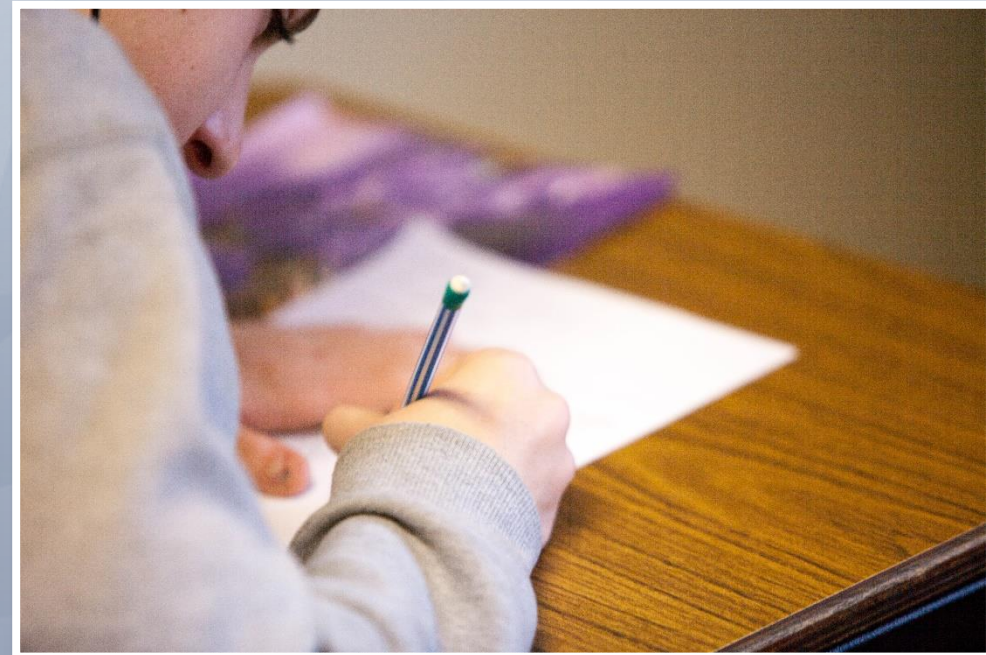
Seclusion:

“Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving as a response to student behavior.”

--Lincoln Public Schools

A Quick Review

- The National Disability Rights Network's 2009 report "[School is not Supposed to Hurt](#)" has identified incidents across the country where students were subjected to restraint and/or seclusion and have been physically injured or traumatized
 - The 2009 Governmental Accountability Office [report](#) found hundreds of cases of alleged abuse and death related to the use of restraint and seclusion on school children during the past two decades.
- Even when the student's behavior appeared not to be aggressive or without prior parental consent
 - Or ignored explicit parental instructions not to use restraint/seclusion



A Quick Review

Children With Disabilities Disproportionately Impacted

- The Governmental Accountability Office reported that most of the hundreds of allegations they identified related to children with disabilities-- 90% of the closed cases involved children with disabilities or a history of "troubled" behavior (children in these cases were diagnosed with autism or other conditions, including post-traumatic stress disorder and attention deficit hyperactivity disorder)



Disproportionate Data: Office of Civil Rights Data Collection (CRDC)

The 2011-2012 CRDC

- Students with disabilities served by IDEA represent **12%** of students enrolled in public schools, but **75%** of the students who are subjected to physical restraint during school.
- Students with disabilities served by IDEA represent **12%** of all students and **58%** of students subjected to seclusion in school.
- African-American students represent **19%** of students with disabilities served by IDEA, but **36%** of these students who are subject to mechanical restraint.

IN NEBRASKA...

- Of the students enrolled, **15%** are served by IDEA.
- Of the students subject to physical restraint, **77%** are served by IDEA.

The 2013-2014 CRDC

- More than **100,000** students were placed in seclusion or involuntary confinement or were physically restrained—including more than **67,000** students with disabilities served by IDEA
- Students with disabilities served by IDEA represent **12%** of all students, but **67%** of students subject to restraint or seclusion.
- Native-American or Alaska Native and multiracial boys represent **2%** of all students, but **5%** of students subject to restraint or seclusion.

End of Review

- There are no federal laws which govern the use of restraint and seclusion in U.S. schools--The issue has been left to the states to manage.
- The Nebraska Department of Education requires that school districts have a policy on the use of restraint and seclusion in order to be accredited

"011.01E Each school system has a seclusion and restraints policy approved by the school board or local governing body."

RULE 10: Regulations and Procedures for the Accreditation of Schools, Title 92, Nebraska Administrative Code, Chapter 10, p. 28

- Though schools are required to have a restraint and seclusion policy, the policy contents are developed independently
- Non-binding guidelines are issued by the Nebraska Department of Education to help schools develop policy content
 - *Discusses what a district policy could include, but does not require any uniform standards, criteria, or procedures*
- Consequently, there is little uniformity in the regulation of restraint and seclusion in Nebraska schools since each school district develops its own policy on restraint and seclusion.

What's a family to do?

ATTENTION

RELATION(SHIPS)

INFORMATION

INQUISITION

ADVOCACY

Attention & Information

Be attentive to cues (physical, emotional, social)

- a. Bruises, Strong aversion to going to school (and underlying cause)

Understand **YOUR** District's Policies and **YOUR** School Procedures

- a. Often are available on district and school websites

District: sometimes listed under district policy titled "Students"

Schools: check the Student Handbook or Code of Conduct

Schools: Ask for a copy of the school's restraint and seclusion procedures

- b. Stay current on any updates

Relation(ships)

Start building a positive relationship with pertinent school personnel and administrators



- a. That is the key to effective dialogue and mutual understanding
- b. Effective dialogue and mutual understanding will help smooth potential “difficult conversations”
- c. Effective dialogue and mutual understanding are fundamental to gathering information and developing solutions

Inquisition

Ask a lot of questions! Be assertive but not aggressive!

1. When will I get a copy of your seclusion and restraint policies and procedures? (Many are available on the internet)
2. What triggers the use of restraint/seclusion? How is student observed and dealt with while in restraint/seclusion? What does s/he have to do to be released?
3. Is the school required to report incidents to parents/guardian? Do they? How long between incident and parental report?
4. Does the school collect data on restraint/seclusion use? How would one get to view that data?
5. Does the school district use other names for the seclusion room? For example, "ALE room", "Student Success Room", "Isolation Room"
6. When can I see the room(s) in which you place a child into a seclusion room?
7. What staff/faculty in the building are trained and/or authorized to utilize physical restraints? What physical restraint method do you use (MANDT, CPI, etc.)? Can I see the training manual or materials?
8. Who will check on my child if restrained/secluded? How often?
9. What evidenced-based practices does the school utilize regarding other interventions to avoid the use of seclusion and restraints?
10. Is the school following the restraint/seclusion policy and procedures?
11. Is restraint/seclusion because of the behavior that is not deemed related to disability?
12. Has the behavior(s) been identified by the Multi-Disciplinary Team? May be time to re-open Individualized Education Evaluation.
13. Does IEP address the underlying issues resulting in restraint/seclusion? Are behavioral issues identified in the IEP? Does the IEP include restraint/seclusion as a primary response? May be time to revamp the IEP.
14. Has the school done a Functional Behavioral Assessment, even after the first time restraint/seclusion?
 - a. If there is a Functional Behavioral Assessment, is there a behavioral intervention plan and does it allow flexibility to address changing student behaviors/situations?
 - b. Does the behavioral intervention plan contain POSITIVE supports as alternatives or precursors to restraint/seclusion?

Advocacy

- Reporting/awareness is critical
 - Concerns and solution-seeking must be addressed by pertinent school personnel and Nebraska Department of Education
 - Climb the “authority ladder”
 - a. Informing Department can have tangible results (e.g. Internal Taskforce being developed)



Reporting (continued)

U.S. Office of Civil Rights (OCR) <http://www2.ed.gov/about/offices/list/ocr/index.html>

- Serves student populations facing discrimination and the advocates and institutions promoting systemic solutions to civil rights problems. An important responsibility is resolving complaints of discrimination.
 - OCR also provides technical assistance to help institutions achieve voluntary compliance with the civil rights laws that OCR enforces.
- **Areas covered may include, but are not limited to:** admissions, recruitment, financial aid, academic programs, **student treatment and services**, counseling and guidance, **discipline**, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing, and employment.
 - “How to File a Discrimination Complaint With the Office for Civil Rights”
<http://www2.ed.gov/about/offices/list/ocr/docs/howto.pdf>

Reporting (continued)

Nebraska Department of Education <https://www.education.ne.gov/index.html>

"I do not know, of the parents and the people who testified, whether any of them have been in contact with our special education office regarding the concerns of the school districts or the personnel regarding the particular situations. If they haven't, I certainly would encourage them and we would certainly be willing to work with them on that. If they did and they didn't get a satisfactory response, I'm sorry to hear about that. I'd like to know about it. There are other means and mechanisms."

– Testimony of Brian Halstead, representing the NE Department of Education at the LR 314 hearing 9/10/2015