

Coalition for the Improvement of School Safety: Focus on Restraint and Seclusion

Restraint and seclusion are dangerous practices which have led to death, broken limbs other injuries, and psychological trauma. Over the past 20 years, evidence has accumulated about the dangers of restraint and seclusion. The GAO documented 20 deaths from restraint alone. Seclusion has also killed and injured students. It is time for Virginia to improve the protections afforded to vulnerable children.

COY should provide comprehensive and meaningful recommendations for regulations, which will reduce the use of restraint and seclusion, and eliminate the inappropriate use of these dangerous practices. The current optional guidelines are not enough to protect children. In doing so, COY should follow the roadmap laid out in the proposed private school regulations (8VAC20-671-10 et seq.) since these are the closest policy statement applicable to restraint and seclusion.

Major policy recommendations:

- 1. Amend the definitions of restraint and seclusion.** The terms should be defined as they are in the federal legislation. The definition language in the study plan will unnecessarily narrow the reach of any law. The HB1106 Study Plan adopted on 5/7/14 defines terms as follows: “Seclusion and restraints refer to safety procedures in which a student is isolated from others (seclusion) or physically held (restraint) in response to serious problem behavior that places the student or others at risk of injury or harm.” The breadth of this definition would omit the use of restraint and seclusion for discipline or punitive reasons. This would then mean there would be no regulations impacting use of restraint or seclusion in those situations, and restraint and seclusion could be freely used for these purposes. Instead, the study should follow the model used in the Congressional bills and in other states: restraint and seclusion are defined without regard to their purpose, but then their use is forbidden except in emergencies threatening a risk of injury or harm.
- 2. Limit the use of restraint and seclusion in schools to emergencies where it is necessary to protect someone from imminent, serious physical danger.** Restraint and seclusion are highly dangerous, resulting in death, injury, and trauma. The Government Accountability Office has documented 20 deaths from restraint alone. Children have died in seclusion, including an Atlanta child who hung himself and died in 2007. Among the reports the GAO collected were a young child who died after she was held face down by staff; kindergarten children who were duct-taped to chairs and who suffered broken arms and bloody noses; a 4 year old who was bruised and suffered traumatic stress disorder after she was restrained in a miniature electric chair by straps. Most of the reports involved children with disabilities.¹ Because restraint and seclusion are so dangerous, they should only be used when there is an immediate risk of physical injury or physical harm. Laws and regulations in 14 states² limit restraint of all children to emergencies where it is necessary to protect someone from imminent physical danger or serious

¹ UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE, SECLUSIONS AND RESTRAINTS, SELECTED CASES OF DEATH AND ABUSE AT PUBLIC AND PRIVATE SCHOOLS AND TREATMENT CENTERS 5-8 (2009).

² Source: J. Butler, *How Safe Is the Schoolhouse? An Analysis of State Seclusion and Restraint Laws and Policies* (Autism National Committee May 2, 2013), <http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf>. Additional analysis is based on laws in effect on 1/12/14 in 51 states, including the District of Columbia.

physical danger (18 states provide this for children with disabilities). 12 states have statutes/regulations protecting all children from non-emergency seclusion, either by limiting it to physical safety emergencies (10), or banning it (2). An additional 18 states protect children with disabilities (5 ban, 14 limit it to physical safety emergencies).³

- 3. Restraint and seclusion should only be used as a last resort to prevent immediate physical injury.** Virginia should join with the other 17 states which require that less-restrictive measures (e.g., de-escalation) be used/deemed ineffective before using restraint/seclusion. At least 15 states also prohibit use of restraint or seclusion after the emergency has ended, in order to prevent further harm to the child. Research demonstrates that evidence-based positive behavioral supports, conflict resolution, and de-escalation resolve challenging behaviors and help prevent and reduce the seclusion/restraint use. Schools using positive supports report sharp reduction in restraint/seclusion, per Senate testimony.
- 4. Require least restrictive measures (including de-escalation) to be implemented and shown to be ineffective;** and restrict the use of seclusion and restraint except in cases of imminent physical danger. The force used should be limited to that necessary to prevent the threatened danger. Schools and parents should work together to review an incident afterwards to determine how restraint and seclusion can be prevented, and the additional positive behavioral supports and services the child may need.
- 5. Prohibit the use of the most dangerous restraints.** Restraints which impede breathing and threaten life, chemical restraints, aversive stimuli and mechanical restraints should never be allowed.⁴ If restraint or seclusion are contraindicated based on the student's disability, health care needs, or medical or psychiatric condition as documented by a child's physician or other licensed health care provider, they should not be used.
- 6. Prohibit the use of seclusion rooms.** If banning the use of seclusion is not adopted as a study recommendation, then clear limitations and requirements should be required, such as:
 - a. Seclusion should be limited to emergencies threatening serious physical harm and when all other requirements in these recommendations are met.
 - b. Fire, safety, and building codes apply to all rooms in all buildings in Virginia, but the recommendation should make it clear and explicit that they apply to seclusion rooms. This prevents extremely dangerous situations from occurring.
 - c. Continuous visual observation of students should be required. Children locked in seclusion rooms unobserved have been killed and injured, including those in rooms where staff can look in occasionally.
 - d. Seclusion rooms should not be locked (a fire code violation), and should be free of dangerous objects and furniture.

³ U.S. DEPT. OF ED., RESTRAINT AND SECLUSION: A RESOURCE DOCUMENT 14-15 (2012)

<http://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>

⁴ As discussed, bans on aversives are included in the proposed private school regulations and should similarly be included in these regulations. Aversive interventions are painful, abusive, and inhumane. They include such practices as electric shock; forcible introduction of foul or noxious substances to the mouth, eyes, ears, nose, or skin; use of chlorine bleach and other chemical sprays; forced exercise, and the use of prolonged restraint. These are neither educational practices nor effective.

- e. Rooms should be adequately spacious (prohibit the use of closets) and have heating, cooling, ventilation and lighting that is similar to the conditions in regular classrooms.
- f. There should also be time limits for how long a child can be kept in seclusion. Maryland applies a 30 minute limit. In all cases, seclusion must end when the threat of serious physical harm has ended.

7. Parental notice of the use of restraint or seclusion and of school district policies is critically important:

- a. Parents shall be notified on the same day if restraint or seclusion is used on their child. Quick notice is necessary to ensure that parents watch for potential concussions and other medical problems, trauma, and enables parents to work promptly and efficiently with the school to prevent further incidents and to implement positive behavioral interventions for their children. The majority of states with law or guidance about notice support notification within 1 calendar day or less, showing broad support for this concept. Parents shall also receive a detailed written incident report within 4-7 days of the incident, as required in many states, including the date, time, staff involved, justification for restraint/seclusion, the behavioral antecedents, the less restrictive interventions that were attempted prior to using restraint/seclusion and how they failed, duration and description of the methods of restraint used. This written notice enables parents and schools to work together to prevent future incidents and parents to work with children at home.
- b. Policy updates to parents: Parents should be informed of the school's restraint and seclusion policy on a yearly basis.

8. Collect data about the use of restraint and seclusion. Data gives schools benchmarks to measure themselves against and to work to reduce the use of restraint and seclusion. Data collection is important to enable public oversight and transparency, which better protect children.

COY should recommend:

- That the General Assembly pass legislation tasking the Board of Education with promulgating regulations consistent with the policy recommendations above.
- That local school divisions, with support from the Department of Education, ensure that all staff are trained on appropriate behavioral management, including trauma-informed care, prevention, de-escalation, the dangers restraint and seclusion pose, the adverse effect restraint and seclusion have by preventing child from learning and participating in educational activities, the requirements of any law or regulation, and first aid (including identifying, and responding to, the signs of medical distress). Staff development at all levels is important (e.g., teachers, administrators, instructional assistants, support staff).

Suggestions about the study process:

- **Use the private school regulations as a model.** These regulations are in the final stages in the Secretary of Education's Office.
- **Gather information from an array of families and students:** include parents and students who were victims of seclusion and restraint practices.

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