



ON Restraint AND Seclusion IN OUR SCHOOLS

BY CARL R. SMITH, PHD



THE USE OF RESTRAINT OR SECLUSION in our schools has received significant attention recently, raising several questions related to students with ADHD. When compared with other students, are students with ADHD potentially more likely to have such interventions used with them? Are there any circumstances in which these interventions would be considered necessary? What is the evidence base for the use of such interventions?

What should we ask our school officials about the use of restraint and seclusion? As parents and family members of children and youth with ADHD, we should be concerned about the use of these practices with any student. I will address several of these issues with the intent of raising awareness of the issues surrounding this important topic.

Definitions, concerns, and recent actions

Several recent reports have documented significant concerns regarding the use of restraint and seclusion. But first, it is important to define these terms. Reece Peterson writes that the following definitions are used to describe these practices:

Physical restraint, also known as “manual restraint,” entails one or more persons using their bodies to restrict the movement of another person.

Seclusion occurs when someone is placed in a room or location where they are alone and prevented from leaving the location. Seclusion should be distinguished from variations of “time out” which continue to be acceptable as long as the student is not isolated and not prevented from leaving.

According to a 2009 report issued by the National Disability Rights Network, the risks associated with the use of restraint or seclusion far outweigh any potential benefits.

Congress has responded to concerns about the use of restraint and seclusion through a bill introduced in the House of Representatives (HR 927) referred to as the Keeping All Students Safe Act. The proposed legislation would provide guidance regarding the protections afforded to all students that should reduce the likelihood of the need for restraint or seclusion, the limited circumstances in which such interventions may be needed, specific direction for providing early intervention models such as positive behavioral supports, reporting requirements from states, and funding to assist states in related training efforts.

Language regarding the use of restraint and seclusion was also introduced in the reauthorization of the Elementary and Secondary Act (also known as No Child Left Behind), which requires the following:

How the State educational agency will protect each student from physical or mental abuse, aversive behavioral interventions that compromise student health and safety, or any physical restraint or seclusion imposed solely for purposes of discipline or convenience, which may include how such agency will identify and support, including through professional development, training, and technical assistance, local educational agencies and schools that have high levels of seclusion or restraint or disproportionality in rates of seclusion and restraint.

Relevance for youth with ADHD

For the last several years I have been closely following court decisions and due process hearings in several areas, including challenges to the use of seclusion and restraint. In many of these cases the students involved were identified as having ADHD and other co-occurring disorders. It seems to me that we may be living in “two worlds” related to this use of restraint and seclusion. One the one hand we have significant advocacy activity, as evidenced by the legislative proposals cited above. Yet, on the other hand, we see that our courts have been very reticent in seeing that these interventions, even when extreme in nature, rise to a level of violating a child’s constitutional rights.



The Eighth Circuit heard a case in 2010 (*C.N. v. Willmar Public Schools*) in which the court held that a special education teacher, using restraint, had not violated a student's constitutional rights in using this technique. A major deciding point in this case was the fact that because restraint was listed in the student's behavioral intervention program (BIP), it was thus considered to be within the realm of acceptable practices. This student was described as having a communication disorder and ADHD behaviors. While an outside evaluator had not recommended the use of restraints or seclusion, these options, over the mother's objections remained a part of the student's BIP. According to the complaint filed:

[Teacher] allegedly made C.N. sit at a "thinking desk" and hold a physical posture for a specified time, or else face restraint or seclusion. [Teacher] also allegedly yelled and shouted at C.N., demeaned or belittled C.N., once pulled C.N.'s hair when she would not hold a posture at the thinking desk and once denied C.N. use of the restroom, causing an accident.

It should also be noted that this teacher was reported to the Minnesota Department of Education's Maltreatment of Minors Division by the paraprofessional working in the class for her maltreatment of C.N. This was noted as the third such report being lodged against this teacher. Despite these factors the court determined that C.N.'s constitutional rights had not been compromised and that her teacher was acting within accepted, professional judgment, practice, or standards. Because the IEP authorized the use of restraints and seclusion the Court held that these were accepted practices.

Guidance for schools: Principles and policies

Reece Peterson at the University of Nebraska suggests that a district or school policy should include:

- An emphasis on how students will be treated with dignity and respect and how appropriate student behavior will be promoted and taught, thus minimizing the need for these or other emergency procedures.
- A statement that schools will use prevention, positive behavior supports and conflict de-escalation to preclude the need for use of these procedures.
- Definitions of restraint and seclusion.
- Acknowledgment that these are "last resort" safety procedures employed only after other procedures have been implemented without success, and that they are to be used only in situations where there is risk of injury to someone.
- Indication that restraint or seclusion should be very

short in duration (a matter of minutes) or only until the danger of injury has passed.

- Indication of how incidents will be documented, debriefed, data recorded, and responsibilities assigned for evaluation and oversight.
- Appropriate notification of parents/guardians when incidents occur.
- Staff training requirements including recurrent training and certification.

(Source: Peterson, R. L. (2009) *Restraint and Seclusion in Schools: 21 Questions and Answers*, Council of Administrators of Special Education, 2009)

In May 2012, US Secretary of Education Arne Duncan distributed a resource document on restraint and seclusion. This document adds other guiding principles to the suggestions provided by Reece Peterson above, including:

- Never using mechanical restraints restricting a child's freedom of movement, and schools should never *use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional)* [emphasis added]
- These policies should apply to all children, not just those with disabilities.
- Restraint or seclusion should never be used as punishment or discipline.
- Restraint or seclusion should never be used in a manner that restricts the child's breathing or harms the child.
- Reviews should be triggered if restraint or seclusion is used often with one child or in one classroom.
- Behavioral Strategies should address underlying cause or purpose of behavior.

(Source: U.S. Department of Education, *Restraint and Seclusion: Resource Document*) 

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ADDITIONAL READING

C.N. v. Willmar School District (U.S. Court of Appeals, Eighth Circuit, 2010) 53 IDELR 251.

National Disability Rights Network (2009). *School Is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools*. <http://www.ndrn.org/images/Documents/Resources/Publications/Reports/School-is-Not-Supposed-to-Hurt-NDRN.pdf>

Peterson, R. L. (2009) *Restraint and Seclusion in Schools: 21 Questions and Answers*. Warner Robins, GA: Council for Administrators of Special Education.

Peterson, R. L. (2014). *Restraint and Seclusion, Policy Q & A*. Lincoln, NE: Student Engagement Project, University of Nebraska-Lincoln and the Nebraska Department of Education. <http://k12engagement.unl.edu/restraint-seclusion-policies>.

U. S. Department of Education, (2012) *Restraint and Seclusion: Resource Document*, Washington, D.C. www.ed.gov/policy/restraintseclusion.