



# P O L I C Y   B R I E F

## Promoting the Least Restrictive Environment:

### The Impact of Restraint and Seclusion Policies on Students with Disabilities

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#### Executive Summary

The United States public education system serves just over 50 million students; a system as diverse as the United States itself.<sup>1</sup> In the last 75 years, American education has made great strides for inclusion in many areas. *Brown v. Board of Education* is taught in any American history class and affirmative action policies are widely recognized, but some students are still marginalized in the places they are required to attend. Of the 50 million students enrolled in public schools, about 6.7 million have a disability, about 13 percent of all students.<sup>2</sup> Students with disabilities are formally protected under the Individuals with Disabilities Education Act (IDEA, 1975), but practices and policies vary widely across school districts.

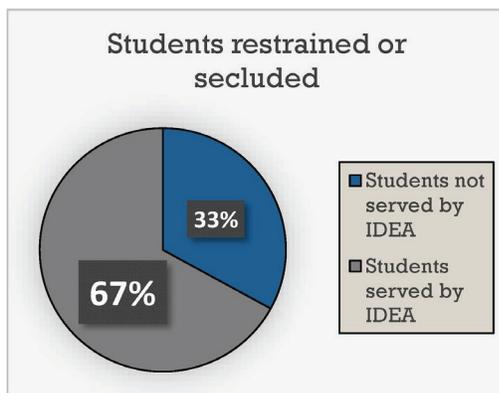
Frequently, schools face challenges in educating and caring for students who have disabilities. Schools often do not have the resources to support at-risk student populations or they devote those resources elsewhere. One concern for special educators and school administrators is how to respond in situations where students present a threat to themselves or others. In many cases, school districts resort to restraint and seclusion, the use of which “may result in discrimination against students with disabilities.”<sup>3</sup> Recently, the city of Columbia, Missouri has dealt with this problem firsthand. Allegations of improperly designed seclusion rooms have circulated on social media and the school district is facing a lawsuit for its use of restraint in an elementary school setting.<sup>4, 5, 6</sup> This policy brief will examine the nature of restraint and seclusion policies, the potential danger such policies pose to students with disabilities, and considerations for implementing school wide positive behavior supports (SWPBS).

## History and Associated Literature

On November 29, 1975, President Gerald Ford signed the Education for All Handicapped Children Act. This landmark piece of legislation, reauthorized in 1997 as the Individuals with Disabilities Education Act (IDEA), "is a federal law that requires each state to ensure that a free appropriate public education (FAPE) is available to all eligible children with disabilities residing in that state."<sup>7</sup> The notion of FAPE, like many other legal statutes, developed out of the equal protection clause of the 14th amendment to the Constitution.<sup>8</sup> Cited in numerous cases of social reform, the equal protection clause is vital for understanding the treatment of students with disabilities.

To comply with the equal protection clause, the U.S. Department of Education: Office for Civil Rights, broadly defines restraint as "restricting the student's ability to move his or her torso, arms, legs or head freely" and defines seclusion as "confining a student alone in a room or area that he or she is not permitted to leave."<sup>9</sup> Generally, restraint and seclusion are seen as a last result in addressing student behaviors, but another USDE report found that during the 2013-2014 school year students with disabilities accounted for 12% of public school enrollment, but 67% of the total number of restraints and seclusions (See Figure 1).<sup>10</sup> In a 2012 resource document, the USDE created 15 principles for schools to follow concerning restraint and seclusion, the first of which states "Every effort should be made to prevent the need for the use of restraint and for the use of seclusion."<sup>11</sup>

Figure 1. Students restrained or secluded



The first responsibility of all educators and education leaders is to foster a safe and healthy environment that enables learning.<sup>12</sup> Unfortunately, restraint and seclusion practices regularly contribute to a learning environment that feels neither safe or healthy for students who have disabilities. For many schools, finding a balance between ensuring a positive, safe environment for students with disabilities and their classmates remains a challenge. In a 2012 journal article, Villani, Parsons, Church, and Beetar explain 39% of states still have no laws, policies, or guidelines concerning the use of restraint or seclusion; 87.5% of states and territories still allow prone restraints or restraints that restrict breathing;

only 45% of states and territories requires or recommend that schools automatically notify parents or guardians of restraint or seclusion use.<sup>13</sup> Although slightly dated, these statistics raise concerns regarding the efficacy of restraint and seclusion.

Because of the IDEA, schools have made great progress in many areas of inclusion for students with disabilities. An area where many schools differ in IDEA application, however, is in the implementation of the Functional Behavioral Assessment, or FBA. In terms of implementation, "the benefit of a good FBA is that staff will know what the antecedents of inappropriate behaviors are, which enables staff to minimize their occurrence."<sup>14</sup> Instead of proactively assessing individual student behaviors, many schools lean on restraint and seclusion to deal with concerning behaviors after an event occurs. This posture of defense forces educators into positions where they may not be able to effectively diffuse high-stress situations.

## Policy Considerations

In some extreme cases, restraint and seclusion may be necessary. In settings where an immediate threat is present, trained personnel should have a plan for the safe use of restraints. While this need is apparent, school districts have access to more effective behavioral analysis tools to deescalate dangerous situations. According to a recent study, "While restraint and seclusion continue to be used in school settings, there is [little] data supporting the effectiveness of these procedures to improve behavior."<sup>15</sup> In addition, "there is a growing concern that the current pattern of restraint and seclusion use in schools is leading to educational, psychological, and social damage for students."<sup>16</sup> These concerns are further magnified for students who have disabilities, some of whom face more social and emotional challenges in the classroom than their classmates. Careful analysis suggests "Reducing the inappropriate use of restraint and seclusion will require that schools implement evidence-based practices to educate and support students with significant behavioral need."<sup>17</sup>

Among the potential considerations for addressing concerns over restraint and seclusion, the most compelling is the use of "individualized support for the students with a focus on evidence-based practices that increase quality of life as well as decrease students' problem behavior and improve adaptive behavior." This suggestion is best implemented through the framework of Schoolwide Positive Behavior Supports (SWPBS). According to Kurth and Enyart (2016), "SWPBS is a broad-based, preventive approach to supporting student behavior, incorporating principles of applied behavior analysis, contextual validity, systems change, inclusive ethics, and stakeholder collaboration." Generally, SWPBS are applied in a multi-tiered system that applies to all students in all situations. The multi-tiered system is a far more inclusive option than restraint and seclusion and is specifically designed to minimize unnecessary disciplinary action. Kurth and Enyart write that the tier system usually includes Tier 1 universal supports or instruction and preventative strategies for all students across all settings, Tier 2 targeted supports for students whose behaviors are unresponsive to universal practices, and Tier 3 intensive supports for those needing more supports than provided in Tiers 1 and 2.<sup>21</sup> For example, a universal Tier 1 support may include teaching school-wide expectations to every student. In addition to strong Tier 1 supports, Tier 2 and Tier 3 interventions include more structured plans that focus on increased supervision, positive reinforcements, and pre-corrections of negative behaviors.<sup>22</sup>

Despite progress in implementation of SWPBS, many school districts are slow to implement the policy, many do not adequately report data, and there is great variety in states' adoption of such laws.<sup>23, 24</sup> To remedy the outsize use of restraint and seclusion in special education settings, the following should be considered:

1. At the Federal level, include clear, directed language in future reauthorizations of the IDEA to mandate restraint and seclusion only be used in situations where there is imminent danger to the student or staff present.
2. At the state level, draft policy draft policy requiring, or incentivizing, school districts. At the district level, school boards should adopt definitions of restraint and seclusion consistent with the Department of Education's Office of Civil Rights and state-level policy.
  - a) Redirect a portion of funds used for training in restraint and seclusion to fund crisis management and positive behavior support programs.
  - b) Establish clear chains of command to minimize school faculty involved when restraint and seclusion are deemed necessary.
  - c) Require functional behavior assessments for all students who have an individualized education program (IEP) on file.

## **Conclusion**

To best care for students and their families, school districts such as Columbia have an opportunity to expand their thinking as it pertains to restraint and seclusion. A proactive approach may be considered before restraint becomes necessary to increase positive behavioral and educational outcomes for students with disabilities. The vision of equality laid out in the 14th Amendment to the U.S. Constitution has been pursued in many ways for many groups of people. For students and individuals with disabilities, equality is an ongoing discussion. Schools bear much of the responsibility in this discussion and should consider the proposals in this brief as potential avenues toward further inclusion in educational settings.

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