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**Before the United States Senate Committee on Health, Education, Labor, and Pensions**

**Hearing on**

***Beyond Seclusion and Restraint: Creating Positive Learning environments for All Students***

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**Introduction**

Good morning Chairman Harkin, Ranking Member Enzi, and Members of the Committee. I am truly honored to have this opportunity to speak with the Committee about the very important issue of seclusion and restraint in our nation's schools. I am the Director of the Center for Leadership in Disability at Georgia State University. Our Center is part of a national network of University Centers for Excellence in Developmental Disabilities (UCEDDs) that works with people with disabilities, their families, schools, state and local government agencies, and community providers to provide training, technical assistance, service, research and information sharing.

I am a psychologist by training who has spent a significant portion of my career working with families and teachers in developing solutions to children's persistent behavior problems. Briefly, the answer to problem behavior is a threefold approach based on *understanding* why it occurs, *preventing* it from happening through changes in the way we interact with the child, and *replacing* it by teaching more appropriate and acceptable behaviors. This is not always easy, because it requires a commitment to being proactive in preventing behaviors rather than reactive to behaviors occurring. However, it is an approach proven to be effective, safe, and respectful of all. Positive Behavior Intervention and Supports represent the alternative to the use of restraint and seclusion. And, in what is now a more-than-30-year career, I have had the opportunity to see this approach implemented in hundreds of classrooms and schools.

The use of seclusion and restraint in schools is widespread. And, the same threefold approach can be used to solve the problem of the continuing use of these techniques. Schools must *understand* the situations in which behaviors occur and these procedures are used, put in place systematic changes to *prevent* the occurrence of challenging behaviors, and develop a new set of strategies to *replace* the use of seclusion and restraint by school personnel. My testimony

today will focus on the importance of finding those replacements for seclusion and restraint in the schools. As an example, I will refer to the adoption of a rule by the Georgia State Board of Education in July 2010 that banned the use of seclusion and restricted the use of restraints in *all* schools; I will also note briefly some of the events that lead to the adoption of the rule and the early experience of schools in complying with it.

### **Definition of Restraint and Seclusion**

I want to share with you, briefly, what seclusion and restraint are. Seclusion is the isolation of a child in a room or space from which the child is physically prevented from leaving. Seclusion should be distinguished from *time out*, which may involve separating the student from a group in a non-locked setting.

Restraint can be of several types. Chemical restraint involves using prescribed medication to stop behavior by slowing a child's movements or dulling the ability to think. Mechanical restraint involves the use of straps, tape, cuffs, wraps, helmets, or other devices to prevent movement or sensory input to the child, often by pinning a child's torso, arms, legs or head to a chair, bed, wall or floor – this might take the form of restraining a child to a chair using duct tape, or placing a helmet on a student's head that produces white noise. The term does not include positioning devices or restraints used for safety when traveling, such as seatbelts. The third type of restraint is physical restraint, which occurs when an adult physically holds the child and prevents him or her from moving. The child is kept in the restraint position by one or more staff person's arms, legs, or body weight.

Seclusion and restraint are *not* evidence-based techniques. The vast majority of professionals agree that these techniques are not effective means of changing student behavior and are of no therapeutic or educational use. In fact, seclusion and restraint can escalate a child's arousal, deepen negative behavior patterns, and undermine the child's trust and capacity for learning. Moreover, the danger presented by these techniques is well documented – children have been traumatized, injured, and even killed after being restrained, and children in seclusion have harmed themselves and even committed suicide.<sup>i</sup> Tragically, many of these students were not exhibiting behaviors that presented a risk of harm to themselves or others. All too often, seclusion and restraint are used for non-dangerous behaviors, to force compliance, or for convenience.

And the children themselves are not the only ones being hurt; school personnel are frequently injured when implementing restraint procedures, and the other students in the classroom can be traumatized by witnessing these techniques. This was evidenced by recent stories about "scream rooms" in Connecticut – the term refers to the screams students heard coming from seclusion rooms where their classmates were being held.

## **Prevalence of Restraint and Seclusion**

The use of seclusion and restraint is widespread. New data from the U.S. Department of Education show there were nearly 40,000 incidents of restraint with children during the 2009-2010 school year, with nearly 70% of those incidents occurring with students with disabilities and a disproportionate number being African American and Hispanic students.<sup>ii</sup> These techniques are not limited to a handful of schools or even a handful of states. They are being used widely by school personnel who too often are not trained to use them safely and who are not adequately trained in positive strategies to guide behavior.

Seclusion and restraint are regulated by either federal statute or regulation in nursing facilities, hospitals, psychiatric facilities, and group homes. While some states have passed laws to regulate their use in schools, only 16 have laws limiting restraint to emergencies involving an immediate risk of physical harm.<sup>iii</sup> Furthermore, 26 states have no legal requirements that schools inform parents that their child was restrained or secluded.<sup>iv</sup>

There are numerous evidence-based alternatives to restraint and seclusion. Through the use of Positive Behavioral Interventions and Supports, de-escalation techniques, conflict management, and other positive strategies, the use of dangerous and dehumanizing seclusion and restraint techniques can be virtually eliminated. School personnel need training in these positive strategies, which are much more effective at guiding behavior while also maintaining a safe and supportive educational environment.

## **It Can Be Done – The Georgia Experience**

You are likely to hear that seclusion and restraint are necessary procedures to maintain discipline in the schools. I would like to speak briefly about a rule adopted by the Georgia State School Board in July 2010 that prohibited the use of seclusion and most forms of restraint for *all* students in *all* of our Georgia schools.

But first, let me speak briefly to one impetus for that regulation, which unfortunately was grounded in tragedy. In 2004, a boy named Jonathan King hung himself in a seclusion room in a Georgia school. I use his name because it has appeared in the press many times since his death, and his parents were staunch and very public advocates for the adoption of the rule in Georgia.

Jonathan was 13 years old at the time of his death. He attended a regional special education program because he had a history of challenging behaviors. He attended the program for only 29 days, but during that time he was secluded 19 times for an average of almost 90 minutes, including on two different occasions when Jonathan was kept in seclusion for more than seven hours.<sup>v</sup> The seclusion room measured 8 feet by 8 feet and had dark paper covering the window. Jonathan's parents never knew he spent hours at a time in seclusion, because at that time in Georgia, parents did not need to be notified when these techniques were being used on

their children. In Jonathan's case, when his mother would ask how his school day went, he did tell her that he had to go to timeout; she had no idea that meant that he was being kept in a separate locked room for hours at a time.

The program that Jonathan attended was part of a statewide network of regional special education programs developed to educate students who cannot be served by their local school systems. As in many states, this network in Georgia is part of the continuum of services, offering comprehensive educational and therapeutic support services to students who might otherwise require even more restrictive placements, such as a residential program. In general, students in these programs have the special education classifications of severe emotional and behavioral disorders or autism, and the placement decision is made as part of the student's Individualized Education Program. More specifically, students with dangerous forms of aggression, high levels of self-injurious behavior, or out-of control tantrums would be referred to their regional programs.

In 2007, the Georgia Department of Education (GaDOE), which provides administrative oversight to the regional alternative education programs, conducted a safety review of all programs and determined that the use of seclusion was not appropriate and the use of restraints had to be reviewed.

In October 2008, GaDOE finalized *Guidelines on the Use of Restraint and Monitored Seclusion*, which were developed with stakeholder input and disseminated to school systems throughout the state. This new guidance applied to *all special education students* in Georgia, including those in the regional programs, and banned the use of seclusion and limited the use of restraints. While there were complaints at the time that the guidance was too prescriptive and was likely to create issues in student control, GaDOE received few complaints after the guidance went into effect. In fact, many of the regional programs reported decreased in the use of restraints in that some of their use involved students' resistance to being brought to seclusion. Of significance was that this guidance was implemented in the programs serving students with the most disruptive and difficult-to-manage behaviors in the state.

In 2009, the GaDOE began work to develop a State Education Rule that would regulate the use of seclusion and restraint for *all* students. This rule was distributed in draft form and revised based on stakeholder input from parents, advocates, teachers, administrators, superintendents, and school boards. The draft rule was presented at multiple public meetings across Georgia, was considered by the Georgia State Board of Education at a regular public meeting in May 2010, and was adopted in July 2010.<sup>vi</sup> The rule has the force of law in Georgia. In the two years in which it has been in effect, DOE has received few complaints about its implementation.

Seclusion was eliminated and restraints significantly limited four years ago for special education students and two years ago for all students in all schools in Georgia. Over these four years, Georgia educators in public school programs serving children with the most significant behavioral challenges learned new, alternative ways to support these students, while keeping them, their peers, and their teachers safe.

### **The Need for Training and Technical Assistance**

Seclusion and restraint are harmful and dangerous practices that lack empirical evidence to support their continued use. Their use is particularly problematic as there is an alternative, the approach called Positive Behavior Intervention and Supports, which has a large and growing base of empirical evidence showing effectiveness with student in schools across Georgia and the nation.

I recognize that the shift away from using seclusion and restraint as behavior control strategies will take time, and schools will need support in this process. Statewide training efforts in positive behavioral supports, de-escalation, and crisis management will be needed; these are the positive alternative to restraint and seclusion. Currently, more than 17,000 schools in the United States, including nearly 300 schools in Georgia, use Positive Behavior Intervention and Support with excellent outcomes. The benefits of Positive Behavior Intervention and Support include reduction in problematic and disruptive behaviors, increased academic achievement scores, and improved school climate and morale – all at significant savings in financial costs as well as the psychological wear-and tear on all involved.

Even as an emergency procedure, if restraint is used for repeated incidents of student disruptiveness, restraint has become a *de facto* component of a behavior plan. School personnel will require training to ensure that they are able to break the cycle of reacting to a behavior with physical restraint. One concern is that that students may have learned to use their challenging behaviors to avoid demands or seek attention, and, thus, their behaviors may have become a form of communication for the student. Related to this, oftentimes behaviors that result in restraint are quite predictable, and, as such, many behavioral incidents are avoidable if the time is taken to understand the situations that trigger them. With this knowledge, trained personnel can use de-escalation techniques to prevent most incidents from becoming dangerous. This is a more humane and eminently safer method of handling difficult behaviors for all.

I do wish to strongly recommend that training and technical assistance reflect the need for intensive and individualized supports for students with the most persistent and challenging behaviors. These supports are based on a three-step process – the first is understanding the challenging behavior by conducting a functional behavioral assessment, which documents triggers and contexts for behaviors in the school environment. The second and third steps are

incorporated into a behavior intervention plan, which identifies strategies to prevent problem behavior and to teach positive alternatives such as social-skills and self-regulation as replacement skills. It is critical that school personnel receive training and support in providing individualized positive behavior supports.

## Summary

The issue of seclusion and restraint in the schools has gained widespread attention in the last several years with numerous exposes, several government reports, and proposed federal legislation. There is reason for concern, and a compelling need to address the problems raised by the use of seclusion and restraint as so-called therapeutic and educational interventions.

While a growing number of states do have laws regulating the use of seclusion and restraint, these are still in the minority. And children continue to suffer the consequences.

It can be done. Similar regulations have been in place in Georgia for almost four years now for students in special education and for two years for those in general education settings. We are anticipating the first statewide data on implementation at the end of the summer. But, we do understand that initial implementation has gone smoothly and without significant problems or complaints.

Most importantly, the problem needs to be addressed for students like Jonathan King. In doing so, it will contribute to improved school achievement by *all* students and enhanced morale for school personnel and families.

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<sup>i</sup> United States Government Accountability Office, *Seclusions and Restraints, Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers* (2009), <http://1.usa.gov/gaors7>. . . . . National Disability Rights Network, *School Is Not Supposed to Hurt* (2009), <http://bit.ly/ndrn2009>; *School is Not Supposed to Hurt* (2012), <http://bit.ly/xL8b89>. . . . .

<sup>ii</sup> U.S. Dept. of Educ., Office for Civil Rights, *Civil Rights Data Collection, Revealing New Truths About Our Nation's Schools* (March 2012), <http://1.usa.gov/crdcsum>. . . . .

<sup>iii</sup> J. Butler, *How Safe is the Schoolhouse, An Analysis of State Seclusion and Restraint Laws & Policies* (Autism National Committee 2012), <http://bit.ly/RSStatelaw>. . . . .

<sup>iv</sup> *Id.*

<sup>v</sup> Goodmark, C. (2010). *A tragic void: Georgia's failure to regulate restraint and seclusion in schools*. *John Marshall Law Journal*, 3(2), 251-285. Retrieved from [http://www.johnmarshall.edu/academics/LawJournalPublications/A\\_Tragic\\_Void.pdf](http://www.johnmarshall.edu/academics/LawJournalPublications/A_Tragic_Void.pdf)

<sup>vi</sup> Georgia Code 160-5-1-.35, *Seclusion and Restraint for All Students*. Retrieved from <http://archives.gadoe.org/documents/doe/legalservices/160-5-1-.35.pdf>