

ISSUE BRIEF



FEBRUARY 2015

PREVENTING SECLUSION AND RESTRAINT IN OHIO SCHOOLS

I spent thirty-five consecutive days in ... what used to be a storage room. ... It was concrete and there was two metal doors that were padlocked from the outside. There was no windows and no heat. ... You could scream in there. No one would hear you.¹

They told me not to engage or argue in any way, but [my vice principal] slammed me up against the wall, arm barred me across the throat and lifted up so I couldn't breathe. And then whispered, "How am I supposed to talk to you nice and slow so you can understand?" At that moment, I truly thought that I was going to die.²

The scenes recounted above did not occur in a prisoner of war camp, a maximum security prison, or a horror film. Rather, they happened to Helena Stephenson, a 13-year-old girl in an Ohio public school. Helena, who was diagnosed with Asperger's Syndrome as a child, excelled in school through the seventh grade. When her family decided to move seven miles away, to a new school district, her educational experience took a downhill turn. Helena was disciplined frequently for minor infractions, such as correcting a teacher who was giving incorrect information in a history class. These punitive measures quickly escalated and resulted in the frequent use of both seclusion and restraint. They became so frequent that the Ohio Department of Education (ODE) intervened in January 2004 and barred any further in-school suspensions of Helena. Helena was informed that should she receive another in-school suspension

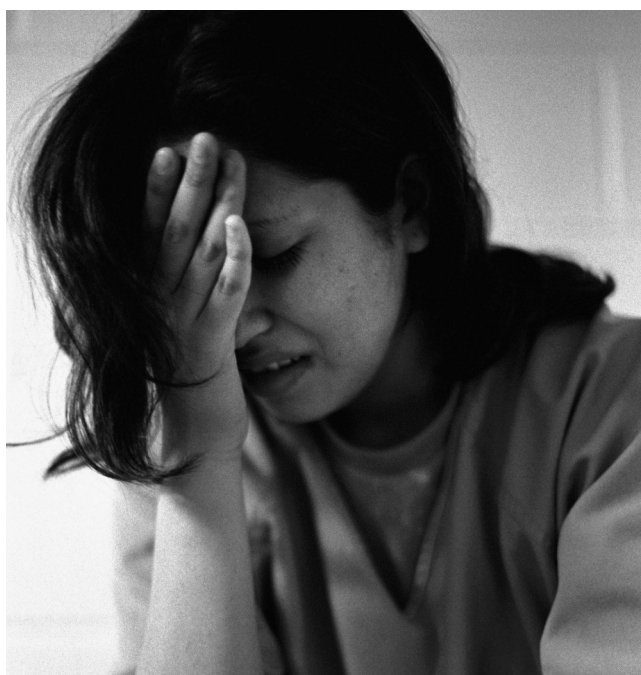


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from a faculty member, she was not supposed to acquiesce until she first called her mother or attorney, and that she should return to class. In one instance, however, after the ODE restrictions went into place, the vice principal called her out of class and told her to report to the seclusion room. When she calmly reminded him of the ODE directive, and moved to return to class, the vice principal slammed her against a wall and restrained her in a manner that restricted her airway. Following this incident, Helena tried to commit suicide. She was diagnosed with post-traumatic stress disorder, and did not leave her house for six months. She never returned to that school.³

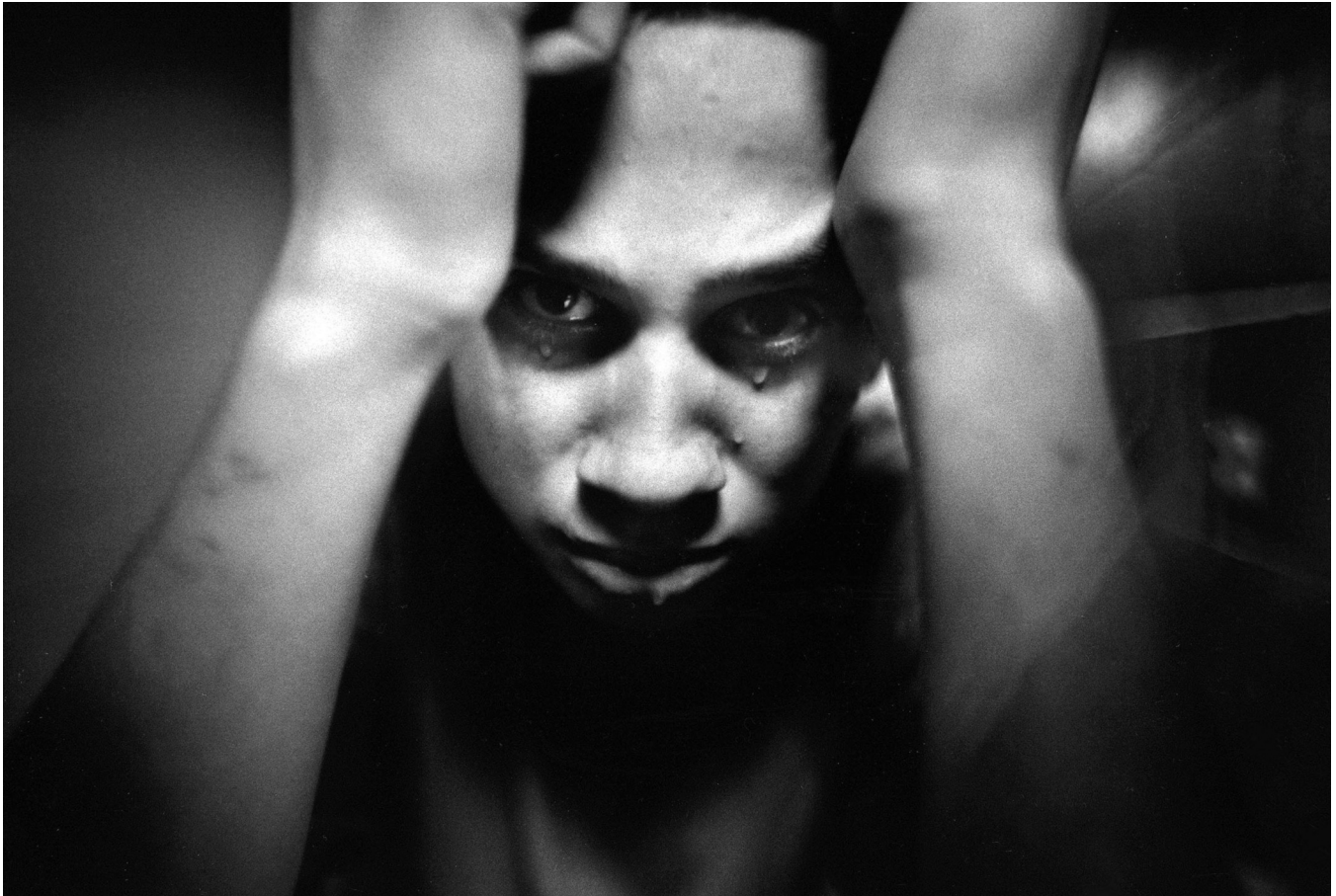


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A decade later, seclusion and restraint continue to be used as discipline measures in Ohio schools despite new rules enacted just a year-and-a-half ago that were intended to limit their use. In the 2013-14 school year, the first year in which data was collected on the use of seclusion and restraint in Ohio, over 9,000 incidents of restraint and over 5,000 incidents of seclusion were reported.⁴ Seclusion is a behavior control technique involving locked isolation.⁵ Restraint comes in different forms, but the primary form discussed herein is physical restraint. Physical restraint is a personal restriction that immobilizes or reduces the ability of an individual to move his or her arms, legs, or head freely.⁶ Both seclusion and restraint are dangerous and dehumanizing punitive measures. Around 4,000 total children accounted for the more than 14,000 total incidents of restraint and seclusion in 2013-14, meaning that many children were secluded or restrained multiple times during the school year.

In total, about 43 percent of Ohio's public schools that have reported data to the Ohio Department of Education physically restrained students and about 15 percent secluded students.⁷ This is despite the fact that, in early 2013, the Ohio State Board of Education adopted a policy that prohibits seclusion or restraint except when there is an immediate risk of physical harm to the student or others. This policy — which applied in traditional public schools but not public charter schools, STEM schools, or college-preparatory boarding schools — became effective at the start of the 2013-14 school year. However, the preliminary data from the 2013-14 school year show that the policy is not limiting the use of seclusion and restraint enough.⁸

This issue brief explores the vast negative physical, psychological, and developmental consequences of seclusion and restraint on children, as well as the ways

that seclusion and restraint destroy school culture and are often unfairly and arbitrarily used to target students of color and students with disabilities. Although Ohio has relatively new regulations intending to limit the use of seclusion and restraint in schools, the current policies are not sufficient to protect children. This brief, therefore, proposes alternative policies that would further limit the use of these aversive practices, with a goal of eliminating, or, at a minimum, reducing the use of seclusion and restraint in Ohio schools and better protecting all Ohio children from the profound harm that results from these practices.

Consequences of Seclusion and Restraint on Children

Seclusion and restraint are associated with an array of possible negative consequences to children, including impairment of physical, psychological, and developmental well-being. The use of seclusion and restraint creates “significant risks for adults and children, including serious injury or death, retraumatization of people with a history of trauma, loss of dignity, and other psychological harm.”⁹ The Center for Mental Health Services in the Substance Abuse and Mental Health Services Administration (SAMHSA) estimated that in 1998 the use of seclusion and restraint resulted in approximately 150 deaths per year across the nation.¹⁰ Children are at especially high risk for death and serious injury.¹¹ In 2009, the disability advocacy organization TASH found that in a survey of 1,300 children with disabilities, 65 percent had been subjected to seclusion, restraint, or another aversive procedure.¹² Of that group, 62 percent reported experiencing physical injury, and 93 percent experienced emotional trauma as a result of their experience.¹³ It is clear that children who experience seclusion and restraint suffer as a result, and that each practice has distinct, and troubling, consequences for vulnerable Ohio children.

Harms of Seclusion

Seclusion is a profoundly harmful practice, especially when used on children, whose brains are still developing and whose developmental stages are always in flux.

Isolating a child or adolescent from all human contact can cause serious psychological, physical, and developmental harm.¹⁴ Studies of seclusion and isolation in juvenile detention facilities show that suicide and self-harm are associated with the practice.¹⁵ And there is no reason to believe that these negative consequences are limited to juvenile justice system settings. In Georgia, a 13-year-old boy hung himself after school officials gave him a rope to keep up his pants before shutting him alone in a room.¹⁶ Helena Stephenson’s experience, too, demonstrates the distinct damage schools do to children when they use seclusion to try to address or avoid addressing behavior issues.

Multiple studies show that children who are secluded are more likely to commit suicide, attempt suicide, and engage in self-harming behaviors.¹⁷ Seclusion can create and even worsen individuals’ preexisting mental health problems due to new or increased feelings of alienation and isolation from others. The effects of seclusion include a serious risk to physical health, especially for children, given that their bodies are still developing physically.

The American Academy of Child and Adolescent Psychiatry has concluded that because of their “developmental vulnerability,” children and adolescents are “at particular risk of ... adverse reactions” when placed in solitary confinement or seclusion.¹⁸ Research on the impact of isolation on adult prisoners shows that adults display various negative physiological and psychological reactions to conditions of solitary confinement, including: “hypersensitivity to stimuli; perceptual distortions and hallucinations; increased anxiety and nervousness; revenge fantasies, rage, and irrational anger; fears of persecution; lack of impulse control; severe and chronic depression; ... confusing thought processes; ... self-mutilation; and lower levels of brain function including a decline in EEG activity after only seven days in solitary confinement.”¹⁹ Knowing what we know about adolescent development, it is reasonable to infer that these negative impacts would be exacerbated in children and adolescents. Typical adolescent development is characterized by a tendency to argue for the sake of arguing, jump to conclusions,

be overly dramatic, and suffer depression, rage, and other symptoms of low self-esteem.²⁰ Placing children who are already experiencing dramatic changes in their bodies, their outlook, their self-esteem, and their self-identity in seclusion is dangerous and cruel.

Youth reported feelings of vulnerability, neglect, fear, rejection, boredom, and claustrophobia both while in seclusion and shortly after release.

A study of youth in psychiatric care found that youth saw seclusion as a profoundly negative experience and as a punishment rather than part of therapy, as well as a practice that caused them to lose trust in their caretakers.²¹ Youth reported feelings of vulnerability, neglect, fear, rejection, boredom, and claustrophobia both while in seclusion and shortly after release.²² It is reasonable to expect that school children would feel similar neglect and distrust for their educational setting when secluded from their peers and when these feelings are coupled with a lack of supervision, it is no wonder that students' risk of self-harm increases while secluded.

Even absent clear physical or psychological harm, the traumatic experience of seclusion harms children. Trauma is a response to an upsetting event or troubling circumstance in a child's life which, without proper intervention and treatment, can involve lifelong physical, mental, behavioral, and emotional problems.²³ Trauma disrupts neurodevelopment and is also linked to major depression, post-traumatic stress disorder and heart disease.²⁴ Trauma can affect a child's school work, social life, family and community involvement, and future economic potential.²⁵

The TASH study mentioned above reported that 93 percent of children with disabilities studied experienced emotional

trauma due to their seclusion or restraint.²⁶ A child with a history of trauma prior to the seclusion may be affected even more significantly. According to the Adverse Childhood Experiences (ACEs) Study, nearly two-thirds of American adults reported that they had endured at least one adverse childhood experience.²⁷ Although we do not have a comprehensive set of data showing how many Ohioans have had adverse childhood experiences, 60 percent of children in the Ohio child welfare system have endured at least one traumatic event.²⁸ Secluding children who have suffered or are currently suffering from the impact of trauma certainly has a strong potential to re-traumatize those children and cause additional damage to their brains and their recovery.²⁹

Seclusion fails to respect children's right to dignity and dehumanizes them, often for minor infractions or because school officials failed to provide appropriate treatment options for students with disabilities. Helena Stephenson recounted a horrifying memory of a friend who she heard yelling in the seclusion room while she was in another class.³⁰ The boy yelled that he needed to use the bathroom but nobody came to allow him to relieve himself.³¹ The boy defecated and urinated on himself and, after this humiliating experience, never returned to school.³²

Harms of Restraint

In January 2014, 15-year-old Kenneth Barkley was physically restrained by a child care worker at a Berea group home in Berea, Ohio following an altercation.³³ As a result of that physical restraint, Kenneth died. The medical examiner ruled that Kenneth's death, which was caused by traumatic asphyxiation, was a homicide. This tragedy occurred despite the fact that the worker who restrained Kenneth had apparently been trained in how to properly restrain a child.³⁴

In December 2008, 17-year-old Faith Finley was killed when a worker at Parmadale Family Services in Parma, Ohio, restrained her in a potentially deadly face-down position known as "prone restraint."³⁵ The Cuyahoga

County coroner ruled Faith's death a homicide, finding that she suffocated when she choked on vomit while being restrained. Shortly before Faith's death, the Ohio Department of Mental Retardation and Developmental Disabilities (now known as the Ohio Department of Developmental Disabilities) had banned the use of prone restraint, but the Parmadale staff used the restraint regardless³⁶— resulting in profound tragedy for Faith and her family and criminal charges (but not convictions) for the workers involved in her restraint and death.³⁷

As these stories demonstrate, many of the harms associated with seclusion also accompany restraint, including a high risk of psychological and developmental harm, physical harm, and even death. The U.S. Government Accountability Office states that physical restraint can involve physical struggling, pressure on the chest, or other interruptions to breathing that are particularly harmful to children.³⁸ Physical restraint — the immobilization of a child so that he or she cannot move — carries a particular risk of harm, and is more common in school settings than other types of restraint (mechanical and chemical restraint).³⁹

Positional asphyxia, which is insufficient intake of oxygen as a result of body position, is a particular threat when adults use “prone restraint” — restraining a child in a face down position to subdue him/her. This is the type of physical restraint that was used on Faith Finley. Using prone restraint may cause sudden fatal cardiac arrhythmia, lacerations, abrasions, injury to muscles, overheating, dehydration, and exhaustion.⁴⁰ Children have suffered head injuries, bloody noses, broken bones and worse while being restrained or tied down in schools.⁴¹ Prone restraint has been blamed for the deaths of at least 40 children nationwide since 1993.⁴² Fortunately, Ohio now bans prone restraint, but, as the case of Faith Finley demonstrates, bans on the use of certain types of restraint do not always ensure that such methods will not be used. Staff training on permissible types of restraint and exactly how to perform authorized restraint procedures in emergency situations only is essential.

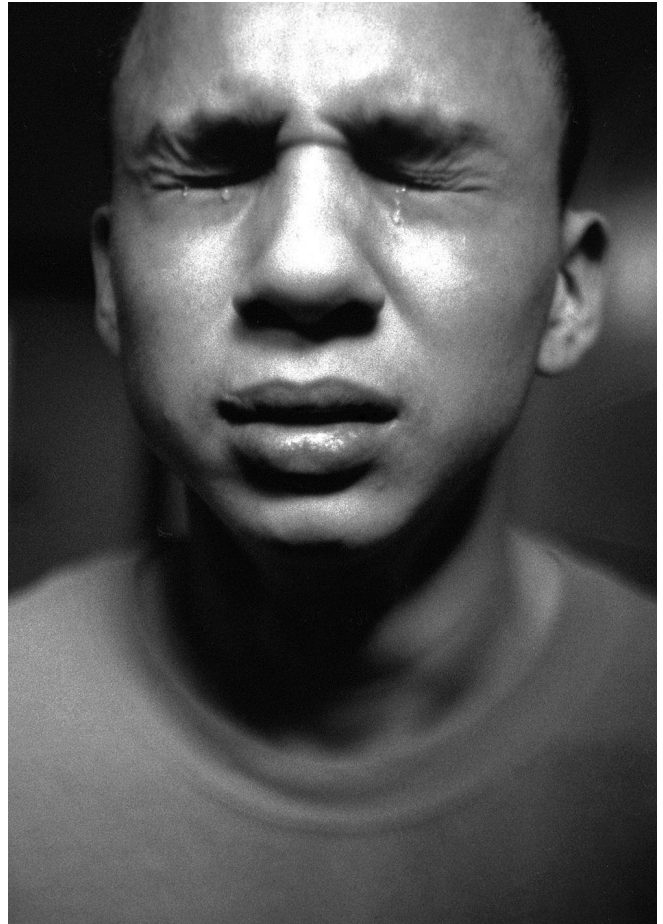


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Moreover, as the story of Kenneth Barkley demonstrates, even properly trained staff using physical restraint in an emergency situation (for example, when a staff member is being physically attacked, as was apparently the case in Kenneth's story) can result in tragedy. For this reason, restraint must be viewed as a last resort when appropriate interventions and treatments have failed — and any use of physical or mechanical restraint must be recorded, reported, and treated as an opportunity to reevaluate whether an institution or school is properly treating or responding to the needs of a particular child. Restraint absolutely must not become an acceptable or routine response to misbehavior in any child-serving setting — particularly not schools, where ensuring that staff are properly trained to appropriately apply the least restrictive restraint necessary in an emergency is not an easy task, given the other significant demands on the time and resources on educators and other school staff.

Consequences of Seclusion and Restraint for Schools

Seclusion and restraint are not only harmful to individual students but also to the school atmosphere, as they may provoke secondary trauma, create a negative, punitive, unsafe culture, and disrupt learning. Of particular concern is the disproportionate use of these tactics on children of color and those with disabilities.

Faculty members and peers who see students enduring seclusion and restraint may feel the consequences of secondary trauma. Secondary traumatic stress is “emotional duress that results when an individual hears about [or sees] the firsthand trauma experiences of another.”⁴³ It manifests like post-traumatic stress disorder (PTSD)⁴⁴ and, therefore, has huge potential to contribute to or cause behavior problems in other students, even if they are never secluded or restrained themselves.

The impact of this secondary trauma, along with the harm caused to individual students who are the primary victims of seclusion and restraint, create and foster a

profoundly negative school climate and culture. A positive school climate consists of the “norms, values and expectations that support people feeling socially, emotionally and physically safe” and “fosters youth development and learning necessary for a productive, contributing and satisfying life in a democratic society.”⁴⁵ A negative school climate does the opposite, creating an unsafe, mistrustful, disrespectful, toxic atmosphere in which staff and students do not feel comfortable and are not best positioned to teach and learn. In short, if students are not able to trust the adults with whom they interact at school, their ability to learn from them is stunted. Through seeing adults model aggression and intimidation, students learn that disrespect and instilling fear in others are the best ways to get what they want. Also, seclusion and restraint undermine learning in favor of behavioral management and represent a failure to provide necessary treatment or interventions to students who need it and to engage all students in appropriate, positive, preventive classroom and behavior management. Children who are secluded and restrained are removed from educational settings, with all of the attendant negative consequences that accompany removing children from



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school.⁴⁶ Furthermore, since seclusion and restraint may in fact cause behaviors to escalate, such practices may actually render a school more dangerous than it would be if seclusion and restraint were avoided completely.

While seclusion and restraint are harmful for all children who are subjected to the practices, the disproportionate use of these tactics on children of color and children with disabilities raises additional concerns about the practice. This disproportionality has been documented by the U.S. Department of Education's Civil Rights Data Collection, a biennial data collection from public schools and districts.⁴⁷ While Black children comprised 19 percent of all students with disabilities nationally, they accounted for 36 percent of students who were restrained in schools during the 2011-12 school year.⁴⁸ During the same time period, children with disabilities represented only 12 percent of the total U.S. student population, yet represented 58 percent of those placed in seclusion, and 75 percent of all children who were physically restrained.⁴⁹

Preliminary data in Ohio show that more than 4,000 Ohio children were secluded or restrained in more than 14,000 instances during the 2013-14 school year.⁵⁰ Earlier looks at restraint and seclusion data in Ohio revealed that in more than 60 percent of cases of seclusion and restraint, children with disabilities were the targets, even though they represented only about 15 percent of Ohio's students that year.⁵¹

In 2012, *The Columbus Dispatch* found that most of the reasons behind seclusion of students in Ohio schools had nothing to do with responding to physical aggression, but instead were the result of a student merely not listening to a teacher.⁵² For example, one Pickerington, Ohio special education teacher sent children to a seclusion room more than 60 times and, in nearly all of those incidents, the children were not violent.⁵³ Often, they were sent to the seclusion room for being "mouthy" or whining about their schoolwork.⁵⁴ This unduly harsh use of seclusion as a form of discipline (rather than as a response to an emergency situation) — especially as

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it is applied disproportionately to children with special needs and children of color — contributes greatly to a culture of unfairness and inequality in schools.

Overview of Ohio Law

In early 2013, following many years of advocacy for regulations on the use of seclusion and restraint by youth advocates across the state, the Ohio State Board of Education (State Board) approved a policy and administrative rule regulating the use of restraint and seclusion in Ohio schools.⁵⁵ The policy and rules became effective during the 2013-14 school year, and marked the first time Ohio had any statewide standards regulating the use of seclusion and restraint in traditional public schools.⁵⁶ The policy seeks to limit the use of seclusion and restraint:

*Every effort should be made to prevent the need for the use of restraint and for the use of seclusion. ... Restraint or seclusion shall not occur, except when there is an immediate risk of physical harm to the student or others, and shall occur only in a manner that protects the safety of all children and adults at school. Every use of restraint or seclusion shall be documented and reported[.]*⁵⁷

Among other things, the rules:⁵⁸

- Prohibit the use of “prone restraint” or any other physical restraint technique that pins down a student or causes pain, chemical and mechanical restraint, and “aversive behavioral interventions.”
- Prohibit seclusion in a locked room or area.
- Allow the use of physical restraint only if the “student’s behavior poses an immediate risk of physical harm to the student or others and no other safe or effective intervention is available[.]”
- Allow seclusion using the same criteria — whether the student poses an immediate risk of physical harm — and only in a room or area that is unlocked and under the constant supervision by staff.
- Require that parents be immediately notified about the incident of seclusion or restraint and that a written report on the incident be made available to them within 24 hours.
- Require training and professional development in de-escalation techniques.
- Require school districts to develop written policies and procedures.
- Require school districts to establish a procedure to monitor implementation of the policies and procedures.
- Require school districts to annually report about their use of seclusion and restraint to the Ohio Department of Education.

Additionally, at the end of its last term, the Ohio General Assembly passed a bill, H.B. 178, that allows the State Board to extend these policies and rules to public charter schools, STEM schools, and college-preparatory boarding schools. H.B. 178 was passed unanimously by both the Ohio Senate and the Ohio House and was signed into law by the Governor on December 19, 2014. The bill will take effect in March 2015.

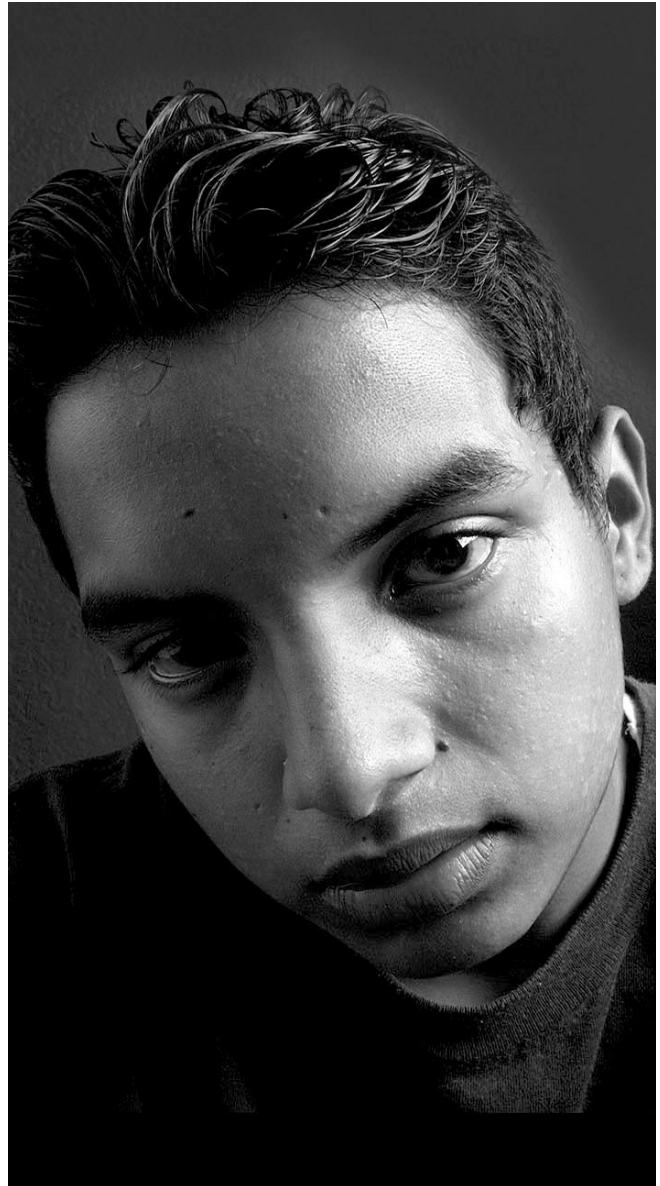


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Critiques of Current Ohio Law

1. There is no way to determine what constitutes an immediate risk of harm

Neither the State Board’s policy and rules nor H.B. 178 define what constitutes an immediate risk of harm, or give guidelines for making such a determination. The policy and rules do not clearly state what specific behaviors indicate a danger to self or others, how to determine whether harm is immediate, nor how likely the harm

needs to be to use restraint or seclusion in a manner consistent with the policy. Such gaps in the policy leave open opportunities for continued inappropriate, arbitrary, and discriminatory application of the tactics.

2. Students will still experience psychological trauma, physical harm, and fear

Under the 2013 rule and policy, seclusion or restraint must be documented in writing and immediately reported to the building administration and parent.⁵⁹ While this notice requirement is a huge step forward from the pre-2013 days when parents often had no idea these practices were being used on their children, the retroactive notice may not be enough for parents to take action to prevent psychological trauma or physical harm to their child. Furthermore, while there are standards in place to provide some form of process for the individual child after-the-fact, this does not change the systemic consequences inherent in the use of seclusion and restraint. When seclusion and restraint are allowed to occur with limited process *prior* to the incident of seclusion or restraint, a culture of fear persists and students are taught to distrust teachers and faculty. Moreover, the fact that preliminary data from the Ohio Department of Education show Ohio schools are still using seclusion and restraint on thousands of Ohio children suggests that the limitations in the current policy and rules are not sufficient to truly limit their use.

3. There is no clear oversight mechanism to expose when schools abuse the use of seclusion and restraint

The lack of transparency is another weakness of the current policy and rules in Ohio. Federal privacy laws prohibiting publication of personally identifiable student information are too often used as an excuse to prevent communities and the general public from acting as a watchdog and exposing schools' abuses of seclusion and restraint. There must be a clear mechanism whereby information about demographics and frequency of/reasons for restraint and seclusion are available to community members and parents who can act as a collective to ensure their children are not being treated unfairly in schools.⁶⁰

4. The Ohio Department of Education lacks the ability to ensure that schools follow the existing policies and rules

The Ohio Department of Education is responsible for enforcing the existing policy and rules and must periodically review district policies and request annual reports on school districts' incidents of seclusion and restraint. The policy and rules do not, however, mandate yearly review of the school districts' reports or supply guidelines for identifying abuses. There are no clear standards for investigation if abuses are suspected, nor enforcement measures if they are substantiated, and the state has no obligation to monitor demographic data to ensure that children of color and children with disabilities are not being disproportionately secluded and restrained. The Ohio Department of Education has not historically served as a watchdog agency for school districts and cannot do so effectively without clear guidelines, procedures, and training. Furthermore, the Ohio Legislature has failed to appropriate funds for the Department of Education to monitor these issues and the Department of Education has no access to additional funding to support a more active role enforcing policy. Thus, the Department may be unable to monitor and address abuses and, as a result, the policy and rules may serve as no more than mere words on paper if no entity has the guidelines, training, and resources to enforce them and ensure that they are protecting Ohio children.

Policy Recommendations

1. Seclusion must be banned in all Ohio schools

While Ohio's policy and rules regarding seclusion and restraint put limitations on the use of seclusion that are intended to protect children in schools, these protections are not enough. Ohio must ban all use of seclusion on any child of any age, for any reason. Currently, all forms of seclusion of *any* child are banned in the State of Georgia.⁶¹ Nevada, Pennsylvania, and Texas all ban seclusion of children with disabilities.⁶² There are good reasons for this. There is absolutely no evidence demonstrating that seclusion of *any* child is therapeutically effective, improves behavior, or makes schools a safer

place for students or teachers.⁶³ As reported in the *Journal of Adolescent Nursing*, “[e]vidence has been building for more than 30 years that the practice of seclusion does not add to therapeutic goals and is in fact a method to control the environment instead of a therapeutic intervention.”⁶⁴ Research also shows that the use of seclusion can increase a child’s agitation and tendency to violence.⁶⁵ Injuries to teachers are reduced when seclusion and restraint are reduced, dispelling any claim to protecting teachers’ physical safety. Students who have been secluded are more likely to harm themselves while in seclusion, an especially disturbing outcome of a school-based practice.⁶⁶

2. The use of restraint in Ohio schools must be much more narrowly limited to extreme emergency situations only

The use of restraint in schools must be much more narrowly limited to emergency situations – where serious bodily injury to a student or others is imminent, where there is no less coercive approach available, and where other preventive interventions have been tried and failed. Current language in the policy and rules limiting the use of some restraint and seclusion only to situations posing an “immediate danger” must be more narrowly and specifically defined. Furthermore, restraint should be limited in time to that necessary to prevent the impending harm and should only be carried out by trained professionals who can practice this tactic in the safest manner possible for the child’s physical and emotional well-being. Ohio’s policy and rules should be amended to prohibit this practice other than in very limited allowable circumstances and to require that schools that practice restraint must take into account a range of factors that must be considered in determining whether restraint is appropriate, including medical history, size, trauma history, location of episode, presence of trained staff, parental consent and/or parental procedure preference.

School staff and outside providers who work with schools to provide services to children in schools must be trained in conflict resolution tactics and positive, preventive approaches to discipline that reduce the

The Ohio Legislature must act to remedy this situation immediately and provide Ohio schools the resources they need to protect and better serve the state’s children.

need to restrain (such as Positive Behavior Interventions and Supports, as the Ohio policy and rules provide).⁶⁷ Additionally, school staff should be trained in cultural competency and implicit bias to prevent the disparate outcomes that disproportionately impact children of color and children with disabilities.

3. Ohio must mandate and engage in better, more transparent data collection and dissemination

The state must adopt more detailed standards for data collection and transparency regarding the use of seclusion and restraint. Current policy and rules are permissive. They do not specify the types of data schools must collect on the use of seclusion and restraint. This needs to be remedied if the Department is to engage in effective oversight and ensure student safety and the appropriate use of the policy and rules. Collection of specific data across schools and school districts must be required. The State Board must also ensure that concrete procedures and penalties exist to pressure schools that have failed to report to provide all necessary information. There must be clear procedures for investigation of schools suspected of the misuse of seclusion and restraint and for actions that will result when schools fail to properly restrict the use of seclusion and restraint. There should also be a requirement for making data on seclusion and restraint available to the public while protecting individual students’ privacy and at the same time allowing for community oversight. The data should also be made readily available to parents on Ohio school report cards⁶⁸ and school districts’ websites.

4. The State of Ohio must more vigorously fund the implementation of Positive Behavior Interventions and Supports and consider funding and using other preventive tools, such as comfort rooms, to prevent the use of seclusion and restraint

The State Board of Education’s policy adopting the use of Positive Behavior Interventions and Supports (PBIS) in Ohio schools is a wholly positive step toward shifting the culture in Ohio schools away from exclusionary and harmful discipline and toward positive, preventive approaches to creating positive school cultures.⁶⁹ The policy contains helpful language explaining how schools can use PBIS to prevent the need for aversive practices such as seclusion and restraint. Ohio schools, however, lack the resources and tools they need to implement PBIS wholesale. Administrators, teachers, and other school staff need extensive training, data collection tools, and time to implement PBIS in a holistic, effective way. Their ability to do so without a significant investment of state resources in our public schools is limited. The Ohio Legislature must act to remedy this situation immediately and provide Ohio schools the resources they need to protect and better serve the state’s children.

Additionally, the use of “comfort rooms” could prevent the need to resort to the use of seclusion and restraint and provide a needed therapeutic option for children who have trouble regulating their responses and behavior in schools. A comfort room is “a designated space that is designed in a way that is calming to the senses and where the user can experience visual, auditory, olfactory, and tactile stimuli.”⁷⁰ The use of comfort rooms must always be a voluntary choice by the child.⁷¹ Studies show that there is a strong correlation between the use of comfort rooms and a reduction in the use of seclusion and restraint.⁷² Comfort rooms have also been shown to reduce stress of those who utilize them.⁷³ Including funding for and encouraging the use of comfort rooms in schools would be a positive step toward improving school culture and limiting seclusion in Ohio.

Conclusion

Seclusion and restraint are dangerous and dehumanizing practices with extensive physical, psychological, and developmental consequences for individual children, as well as negative systemic consequences for schools. The destruction of positive school cultures, eroded school safety, and unequal educational opportunities for students of color and students with disabilities are all unacceptable. The individual stories of children who have suffered extreme trauma, injuries, and even death due to the use of seclusion and restraint in Ohio are beyond unacceptable.

Ohio’s current policy and rules regarding seclusion and restraint leave room for arbitrary enforcement because

the standard of immediate risk of harm is not clearly defined, there is a lack of transparency in reporting when seclusion and restraint do occur, and there is no mandate provided for better oversight to ensure that Ohio children are not being wrongfully secluded or restrained. Seclusion is never a safe or effective practice for treating problematic child behavior and restraint is harmful in all but the rarest of cases. Instead, the use of seclusion and misuses of restraint traumatize children like Helena Stephenson and prevent them from achieving their true potential. Ohio’s 2013 policy and rules started the conversations around this issue, and present a continued opportunity for further reform that will not only promote learning and wellness for children but will also make Ohio’s schoolhouses safer for all.



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Endnotes

- ¹ *Restraint and Seclusion: Hear Our Stories, Stop Hurting Kids* (last accessed Oct. 22, 2014), <http://stophurtingkids.com/the-film/>.
- ² *Id.*
- ³ *Id.*
- ⁴ Jennifer Smith-Richards, “ACLU wants curb on restraints in schools,” *The Columbus Dispatch* (Jan. 17, 2015), <http://www.dispatch.com/content/stories/local/2015/01/17/aclu-wants-curb-on-restraints.html> (citing data provided by the Ohio Dept. of Education). Approximately 50 districts have not yet submitted their data, so these estimates are likely to be significantly higher.
- ⁵ *School is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools*, National Disability Rights Network (Jan. 2009), [available at](http://www.ndrn.org/images/Documents/Resources/Publications/Reports/SR-Report2009.pdf) <http://www.ndrn.org/images/Documents/Resources/Publications/Reports/SR-Report2009.pdf> (definitions taken from Children’s Health Act of 2000, 42 U.S.C. 290jj(a)(4)(d)).
- ⁶ *Id.*
- ⁷ The Children’s Defense Fund-Ohio calculated this preliminary estimate based on information that 761 school districts and charter schools provided to the Ohio Department of Education. In October 2014, *The Columbus Dispatch* provided estimates on the number of schools that used restraint and seclusion in the 2013-14 school year based on survey responses from 690 Ohio school districts and charter schools. See Jennifer Smith-Richards, “Use of seclusion, restraint in Ohio schools quantified,” *The Columbus Dispatch* (Oct. 6, 2014), <http://www.dispatch.com/content/stories/local/2014/10/06/use-of-seclusion-restraint-quantified.html>.
- ⁸ Ohio Dept. of Education, Policy: Positive Behavior Interventions and Support and Restraint and Seclusion, (Jan. 15, 2013), [available at](http://education.ohio.gov/Topics/Other-Resources/School-Safety/Building-Better-Learning-Environments/Policy-Positive-Behavior-Interventions-and-Support) <http://education.ohio.gov/Topics/Other-Resources/School-Safety/Building-Better-Learning-Environments/Policy-Positive-Behavior-Interventions-and-Support>. This trend holds true nationally as well. It has been reported that the recent revision and implementation of seclusion and restraint policies across the U.S. has not yet led to a significant reduction of these practices. See Douglas J. Gagon, et al., *Restraint and Seclusion of Students With a Disability Continue to Be Common in Some School Districts: Patterns Remain Relatively Consistent Despite Recent Policy Changes*, Carsey Research National Issue Brief #78, 1, (Oct. 28, 2014), [available at](http://scholars.unh.edu/cgi/viewcontent.cgi?article=1223&context=carsey) <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1223&context=carsey>.
- ⁹ *School is Not Supposed to Hurt*, *supra* note 5.
- ¹⁰ *Id.*
- ¹¹ *Id.*
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⁴⁹ Joseph B. Ryan, *Restrained at school: are disabled kids targeted?*, Clemson University (June 30, 2014), <http://features.clemson.edu/inside-clemson/inside-news/restrained-at-school-are-disabled-kids-targeted/>.

⁵⁰ The Children’s Defense Fund-Ohio calculated these numbers based on information provided to the Ohio Department of Education by 761 school districts and charter schools. As noted *supra* in note 4, approximately 50 school districts and charter schools had not yet provided data on their use of seclusion and restraint in the 2013-14 school year.

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⁵⁴ *Id.*

⁵⁵ *Id.* The policy was approved on January 15, 2013, while the administrative rule was approved on April 9, 2013.

⁵⁶ Note that the Ohio rules currently apply only to public districts, and not to public charter schools, which are called “community schools” under Ohio law.

⁵⁷ Ohio Dept. of Education, *supra* note 8.

⁵⁸ Ohio Admin. Code 3301-35-15(C) – (J).

⁵⁹ Ohio Admin. Code 3301-35-15(F); Ohio Dept. of Education, *supra* note 8. The State Board’s Policy requires that each use of seclusion or restraint “be documented in writing and reported to the building administration immediately” and be “reported to the parent immediately.” However, the method that must be used to report to the parent is not specified.

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⁶⁴ Finke, *supra* note 21, at 189.

⁶⁵ *Debunking the Myths of Restraint and Seclusion, supra* note 63.

⁶⁶ *Id.*

⁶⁷ See Douglas J. Gagon, et al., *Variation Found in Rates of Restraint and Seclusion Among Students With a Disability*, Carsey Research National Issue Brief #67, 3, (Dec. 17, 2013), [available at http://scholars.unh.edu/cgi/viewcontent.cgi?article=1205&context=carsey](http://scholars.unh.edu/cgi/viewcontent.cgi?article=1205&context=carsey) (noting that rates of seclusion and restraint decrease when school staff receives such training).

⁶⁸ These report cards are issued annually by the Ohio Department of Education in order to measure school district performance. See O.R.C. § 3302.03; Ohio Department of Education, Ohio’s Report Card (last accessed Dec. 4, 2014), <http://education.ohio.gov/getattachment/Topics/Data/Accountability-Resources/Report-Card-facts-14-15.pdf.aspx>.

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CDF Mission Statement

The Children's Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities.

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