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POLICY BRIEF: Restraint and Seclusion in Schools: Understanding the Keeping All Students Safe Act (KASSA)

Produced by the 2018-2019 Cohort of New Hampshire-Maine Leadership Education in Neurodevelopmental and Related Disabilities (NH-ME LEND) Program Trainees.

What is the Issue?

The use of restraint and seclusion for managing children's behaviors in schools has led to physical and psychological harm, and, in the most extreme cases, even death. For more than a decade, the level of research and concern regarding restraint and seclusion in schools has grown. The experience of being restrained and secluded in school can be traumatizing and life-altering, particularly for children with developmental, mental health, or intellectual disabilities. While adults and children in mental health and correctional facilities are protected by law from the unnecessary use of restraints and seclusion, no federal law protects our children in schools.

Restraint is defined as the act of preventing a student from moving freely. A physical restraint involves the immobilization of the head, body, and limbs by others. Mechanical restraints include duct tape, rope, chairs, and other devices that limit student movement. Seclusion is the involuntary confinement of a child within a space (e.g., classroom, closet, "quiet room," box).

Parents send children to school with trust and an expectation that they will be safe from harm. Yet federal and private studies indicated that students are experiencing more incidents of restraint, seclusion and injury. According to the Government Accountability Office (GAO), the majority of children who experience restraint and seclusion in schools are those with disabilities. During the 2013-2014 school year, more than 100,000 students were placed in seclusion or physically restrained. Of that population, two-thirds were children with disabilities.¹ GAO reports also indicate that children with disabilities and children of color are disproportionately likely to have these experiences.²

What Alternatives Exist?

Restraint and seclusion in schools are viewed by professional standards as a measure of last resort to address an imminent threat to the safety of a student or others. Unfortunately, some schools are regularly using restraint and seclusion as a way to manage behavior rather than an emergency/crisis response as it was originally intended.³

Highly restrictive and harmful behavior management techniques such as restraint and seclusion are simply not acceptable when better practices exist. Evidence-based practices exist that have proven effective for managing children's behavioral challenges, including positive behavior intervention and de-escalation techniques.⁴ These approaches allow educators to handle behaviors more effectively while continuing to serve students in the least restrictive environment. Allowing restraint and seclusion to be included in Individualized Education Plans (IEP) for students in special education promotes these as routine practices, rather than measures of last resort.

Why is the Keeping All Students Safe Act (KASSA) Needed?

In absence of a federal law, the regulation and application of restraint and seclusion varies widely from state to state, with 40 percent of states failing to have any laws or regulations to govern these practices. While some states have developed protections that align with or exceed what is proposed

in the KASSA, many states do not have protections for children, our most vulnerable population. It is appreciated that some states have enacted protections for children being restrained or secluded; a better practice would be to establish a federal minimum standard to ensure the safety of all children regardless of their zip code.

In 2009, the KASSA was introduced in the House and the Senate with bipartisan support. While similar legislation has been introduced in each Congressional session since that time,⁵ KASSA has not yet been enacted. One point of disagreement has been the inclusion of restraint and seclusion in IEPs.

As proposed over the past decade, KASSA was designed to: set a federal definition of these practices; limit the use of these practices, except as measures of last resort; require that parents be notified when such practices are used on their children; provide funding for training of teachers in evidence-based practices; and set up mechanisms for the schools, districts, and the Department of Education to monitor what occurs.

KASSA is supported by a wide array of national organizations, including: parent organizations such as the National PTA and Family Voices; education organizations such as the National Association of State Boards of Education and the National Center for Special Education in Charter Schools; and disability rights organizations such as the National Disability Rights Network, the Consortium for Citizens with Disabilities, and The Arc.

Conclusion

Maine has taken action to protect children from the harm associated with restraint and seclusion and we are proud of what we, as a State, have done.

We believe all children should have the right to be safe from inappropriate restraint and seclusion in school, regardless of the state in which they live. Only new federal law can offer them such protection.

We have studied this issue and provide this information to educate you about its importance. We expect legislation similar to KASSA to be introduced in this Congress. In both the House and the Senate, there will be opportunity to co-sponsor the bill.

Endnotes

¹ U.S. Government Accountability Office (GAO). *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities*. GAO-18-258, Washington, DC, March 22, 2018. Also see related testimony. *K-12 Education: Federal data and resources on restraint and seclusion*. February 27, 2019. GAO 19-418T.

² U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2015-2016.

³ Trader, B., Stonemeier, J., Berg, T., Knowles, C., Massar, M., Monzalve, M.,... Horner, R. (2017). Promoting inclusion through evidence-based alternatives to restraint and seclusion. *Research and Practice for Persons with Severe Disabilities*, 42(2), 7588. doi:10.1177/1540796917698830

⁴ United States Department of Education, Restraint and Seclusion: Resource Document, Washington, D.C., 2012.

⁵ H.R.7124/S.3626 115th Congress. *Keeping All Students Safe Act* (2019) <https://www.congress.gov/115th-congress/house-bill/7124/text>. Accessed April 9, 2019.