

SECLUSION AND RESTRAINT IN VERMONT AFTER RULE 4500

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Introduction

In 2011, the state of Vermont took a pivotal step to ensuring the safety of all children, in “learning environments that receive public funding, or over which the Vermont Department of Education has regulatory authority,” by enacting Rule 4500 (Vermont Agency of Education, 2011). Rule 4500 established guidelines for when and how seclusion and restraint can be used in VT schools, promotes positive behavioral interventions and supports (PBIS) as an alternative to standard responses to disruptive behaviors, sets a training requirement for educators on the use of seclusion and restraint, and establishes reporting requirements on the use of seclusion and restraint. While Vermont proved progressive in becoming one of fifteen states in the union to regulate the use of restraint and seclusion in schools, there is still work to be done to ensure that the rule is having the intended effect on practices and outcomes for Vermont’s children (Butler, 2014).

Seclusion and Restraint: Definitions and Use

Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision.

There are three general categories of **restraint**. With the use of **chemical restraint**, a prescribed medication is used to stop behavior by slowing a child’s movements or dulling the ability to think. **Mechanical restraint** is the use of straps, tape, cuffs, wraps, helmets, or other devices to prevent movement or sensory input to the child. This often involves pinning a child’s torso, arms, legs or head to a chair, bed, wall or floor. It should be noted that positioning devices or restraints used for safety when traveling, such as seatbelts are not considered mechanical restraints. **Physical restraint**, which is the form addressed in this brief, is when a child is held by an adult and prevented from moving. Both chemical and mechanical restraints are prohibited by Vermont Rule 4500 so they will not be addressed here.

The problem with seclusion and restraint

“...seclusion and restraint can escalate a child’s arousal, deepen negative behavior patterns, and undermine the child’s trust and capacity for learning.” (Daniel Crimmins, Statement before the United States Senate Committee on Health, Education, Labor, and Pensions, 07/2012)

A great deal of literature demonstrates the detrimental effects of restraint and seclusion in the educational setting (Diaz, 2015). Seclusion and restraint are not effective in either altering student behavior, advancing educational goals or providing a therapeutic solution to disruptive behavior. On the contrary, these methods frequently result in escalating a student’s arousal, may reinforce negative behavior patterns, and undermine a student’s trust as well as the capacity to learn (Crimmins, 2012). Seclusion and restraint are meant to be “emergency safety measures of last resort” (Lebel et. al., 2012; ME Seaver-Reid, personal communication). They are not meant for regular use and are not teaching tools. They do not prevent crisis behavior nor do they teach positive alternatives (Pitonyak, 2012). In addition, there is a great deal of bias in the application of

and restraint as methods of discipline in response to disruptive behavior such that the practices are disproportionately applied to students with disabilities and students of color (U.S. Department of Education, Office of Civil Rights, 2014).

Despite the passage of Rule 4500, the limited data available show there is wide variation in how counties within the state of Vermont apply restraint and seclusion in the school setting. A report published by Legal Aid found that during the 2011-2012 school year, even with similar rates of IEP, or Individualized Education Plan detailing the educational program for a student with disabilities that adversely affect their educational performance, there were disparate rates of application of restraint and seclusion across counties. The report found as much as a 200% difference in the application of restraint between counties (Diaz, 2015).

According to Rule 4500, reporting on the use of seclusion and restraint is limited to the principal of each school unless a specific set of criteria is met. If any one of the first set of criteria for a reportable incident of seclusion or restraint is met, reporting is advanced to the district superintendent of schools.

Another set of criteria must be met in order for the Agency of Education to receive data on any seclusion or restraint occurring at the school level. This results in a very small subset of the overall data on seclusion and restraint being available at the state level. In addition, there is not standardized format for reporting data on seclusion and restraint and data collection practices vary between in schools (R. Boltax, personal communication, 03/16/15).

Vermont's Leadership Education in Neurodevelopmental and Related Disabilities (VT LEND) program, provides graduate level interdisciplinary training to prepare leaders across the health professions to serve children with special health needs and their families. It aims to improve services, care and the health of infants, children, and adolescents with disabilities through the training of health professionals.

How the practices of seclusion and restraint can be made obsolete in the academic environment

Potentially, the most effective means of phasing out the practice of seclusion and restraint in schools is to eliminate the problem behaviors by recognizing antecedents or behavioral precursors (Pitonyak, 2012; U.S. Department of Education, 2012). Experience has shown that disruptive behaviors can be preempted through changes in the way the child in question is approached and by teaching more appropriate and acceptable behaviors (Crimmins, 2012; U.S. Dept. of Education, 2012). This requires that teachers and administrators be properly trained on the appropriate use of effective alternatives to physical restraint and, in cases where a student is in imminent danger of harming themselves or others, the safe use of physical restraint so that they are prepared to effectively manage students with challenging behaviors (U.S. Dept. of Education, 2012). While Rule 4500 states that each school should have someone trained in applying appropriate restraint measures, it would seem more beneficial to have staff who are knowledgeable and skilled in the use of methods for de-escalating crisis situations so that restraint would not have to be applied.

Classroom teachers as well as school administrators should be trained in child development, the impact of communication challenges and especially the potential effects of trauma on a child (ME Seaver-Reid, personal communication, 03/05/15). In addition, teachers should be actively engaged in developing Positive Behavioral Interventions and Supports (PBIS) plans. PBIS plans should be based entirely on the needs of individual students; each one is different. The process for developing PBIS must be simple and clear enough to be easily understood and implemented by teachers, administrators, and paraprofessionals (Pitonyak, 2012).

Way forward for Vermont

- 1- Vermont's Congressional Representatives should actively support the passage of the *Keeping All Students Safe Act* (H.R. 927) which, along with restricting the use of restraint and seclusion in academic settings throughout the U.S., mandating crisis intervention training for school personnel, and establishing a timeline for reporting to parents, also allocates funding via grants and sub grants to support policy enforcement, collection and analysis of data related to physical restraint and seclusion, and implement PBIS as a school wide practice (U.S. Congress, H.R. 927).
- 2- Rule 4500 should be strengthened to mandate annual, standardized data collection to document every incident of seclusion and restraint in schools. Complete reporting is critical in allowing the state of Vermont to accurately assess the Rule's effectiveness as well as consistency in its application across the state.
- 3- Create a task force charged with conducting a statewide review of disciplinary action in schools, including restraint, seclusion, and use of positive behavioral interventions and supports. The task force should produce an annual report that is available to the public for the purpose of transparency and better public oversight.
- 4- Teachers and administrators need to become actively aware of their biases in dealing with students with disabilities and those who are culturally diverse. Training in cultural competence should be a required part of teacher training. There are pre-existing tools such as the Cultural Competence Self-Assessment Questionnaire (CCSAQ) from Portland State University (<http://www.racialequitytools.org/resourcefiles/mason.pdf>) and various tools from the National Center for Cultural Competence at Georgetown University such as the Self-Assessment Checklist for Personnel Providing Services and Supports to Children with Disabilities & Special Health Needs and their Families (<http://nccc.georgetown.edu/documents/ChecklistCSHN.pdf>) which can be used for this purpose.
- 5- All schools should have a team of personnel trained in the development of PBIS but at least one person in each school that is highly competent in creating individual PBIS plans.
- 6- Support consistency across school districts by clearly identifying and defining school-wide safety plans, policies, and procedures. Safety plans should include ongoing training for teachers, paraprofessionals, and other personnel who work directly with children and should include refreshers on positive behavior management strategies, proper use of positive reinforcement, the continuum of alternate behavioral interventions, crisis prevention, de-escalation strategies, and the safe use of physical restraint and seclusion (U.S. Department of Education, 2012).

References

- Boltax, R., M.Ed. (2015, March 16). The Vermont PBIS Leadership Team. [Telephone interview].
- Butler, J. (2014). How safe is the schoolhouse? An analysis of state seclusion and restraint laws and policies. The Autism National Committee. Available at: <http://www.aapd.com/what-we-do/education/education-legislation/seclusion-and-restraints.pdf>; Accessed on March 1, 2015
- Crimmins, Daniel (2012). Statement before the United States Senate Committee on Health, Education, Labor, and Pensions. *Beyond Seclusion and Restraint: Creating Positive Learning environments for All Students*, Hearing on Thursday, July 12, 2012. Available at: <http://www.help.senate.gov/imo/media/doc/Crimmins.pdf>; Accessed on 02/25/2015
- Diaz, Jay (2015). Kicked Out! Unfair and Unequal Student Discipline in Vermont's Public Schools. Vermont Legal Aid. <http://www.vtlegalaid.org/assets/Uploads/Kicked-Out-Unfair-and-Unequal-Student-Discipline-in-Vermonts-Public-Schools.pdf>
- HR 927: *Keeping All Students Safe Act*, 114 Cong., 1st session (2015). Available at: [https://www.congress.gov/bill/114th-congress/house-bill/927?q={%22search%22%3A\[%22Keeping+Kids+Safe%22\]}](https://www.congress.gov/bill/114th-congress/house-bill/927?q={%22search%22%3A[%22Keeping+Kids+Safe%22]}); Accessed 03/28/2015.
- Lebel, J., Nunno, M., Mohr, W., & O'Halloran, R. (2012). Restraint and Seclusion Use in U.S. School Settings: Recommendations from Allied Treatment Disciplines. *American Journal of Orthopsychiatry*, 82(1), 75-86. Retrieved February 25, 2015.
- Pitonyak, Cyndi (2012). Statement before the Senate Committee on Health, Education, Labor and Pensions. *Beyond Seclusion and Restraint: Beyond Seclusion and Restraint: Creating Positive Learning environments for All Students*, Presented on June 28, 2012. Available at: <http://www.help.senate.gov/imo/media/doc/Pitonyak1.pdf>; Accessed 02/25/2015
- Seaver-Reid, M., M.Ed. (2015, March 5). Vermont Center for Disability and Community Inclusion, Interdisciplinary Team (I-Team), Special Educator. [Personal interview].
- U.S. Department of Education (2012). *Restraint and seclusion: Resource document*, Washington, D.C., 2012 Available at: <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>
- Vermont Agency of Education (n.d.). Rule 4500. Available at: <http://education.vermont.gov/state-board/rules/4500>; Accessed 03/02/2015.

