



STATEMENT OF OPPOSITION TO RESTRAINT AND/OR SECLUSION OF STUDENTS WITH DISABILITIES IN PUBLIC SCHOOLS

by

Oklahoma Disability Law Center, Inc.
a system of protection & advocacy

The Oklahoma Disability Law Center, Inc. (ODLC) is the protection and advocacy system for Oklahoma. Established in 1977, ODLC is funded through a series of federal laws enacted after abuse and neglect was revealed at a state institution for individuals with developmental disabilities in New York. The ODLC conducts abuse and neglect investigations in settings that serve people with disabilities. The ODLC's authority to conduct abuse and neglect investigations extends to school districts because they provide services for students with disabilities.

The ODLC believes that all children with disabilities should grow up free from the use of aversive interventions, restraints and seclusion to respond to or control their behavior and free from the fear that these forms of behavior management will be used on themselves, their siblings or their friends.

A practice exists throughout school districts in the State of Oklahoma which places children with disabilities in seclusion rooms. These rooms are known by various euphemisms –

timeout rooms, seclusions rooms, safe rooms, quiet rooms, etc. The ODLIC opposes the use of seclusion timeout rooms, where the student is removed from the classroom environment and, for a period of time, is placed alone in a room designated for this purpose. The seclusion room completely removes the student from access to the educational environment and from his or her peers and usually entails isolation of the student from other students and staff. The use of seclusionary timeout procedures has been most often the focus of controversy.

In the past ten years, there has been an increased recognition of the grave risks and serious trauma associated with the use of behavioral restraint and seclusion to both individuals involved and personnel executing these interventions (Joint Commission Resources, 2002; Joint Commission on Accreditation of Healthcare Organizations, 2007; Huckshorn, 2006). The President's New Freedom Commission on Mental Health (2003) reported that the use of behavioral restraint and seclusion poses significant risks for adults and children, including serious injury or death, retraumatizing of people with a history of trauma or abuse, loss of dignity and other psychological harm. The Child Welfare League of America (CWLA) cautions that, "restrictive measures [behavioral restraint and seclusion] have the potential to produce serious consequences such as physical and psychological harm, loss of dignity, violation of individual rights, and even death." (CWLA, 2002) Children are subject to restraint and seclusion at higher rates than adults and are at higher risk of injuries or death (United States General Accounting Office, 1999; Substance Abuse and Mental Health Services Administration [SAMHSA], 2002; Child Welfare League of America, 2004). In the landmark 1008 Hartford Courant articles exposing the risks of restraint and seclusion, a disproportionate number of young children died (more than 26%) (SAMHSA, 2002; Mohr, 2003) Children struggle against physical and mechanical restraints, particularly when the situation or method of restraint is extremely

unpleasant or aversive. During the struggle, severe injuries and death can occur when adults physically overpower a child or when a child struggles well beyond the point of physical exhaustion (CWLA, 2004, Mohr, 2003). In a crisis situation, cognitive or learning disabilities may impair a child's ability to understand directions and are likely to compromise the child's ability to comprehend staff instructions and communicate needs. Beyond physical injuries or death, behavioral restraint and seclusion can also severely traumatize individuals and result in lasting adverse psychological effects (CWLA, 2004) The risk of trauma is greater with individuals with a history of abuse. (CWLA, 2002) Children and adolescents restrained during a psychiatric hospitalization report recurrent nightmares, intrusive thoughts, avoidance behaviors, enhanced startle response and mistrust of mental health professionals resulting from the incidents, even years after the event (Mohr, 2003). Restraint and seclusion may evoke feelings of guilt, humiliation, embarrassment, hopelessness, powerlessness, fear and panic (CWLA, 2004; Huckshorn, 2006) Restraint and seclusion compromise an individual's ability to trust and engage with others, and create a violent and coercive environment that undermines forming trusting relationships and, by extension to the education setting, learning (CWLA, 2004).

The seclusion rooms in Oklahoma usually have the following characteristics:

- (a) are small (6' x 6' or 8' x 8')
- (b) have a staff person positioned outside the door so that the student's movement out of the room is restricted¹
- (c) no table, chair, books or other educational supplies present
- (d) no educational services rendered inside the room

¹The ODLC has investigated instances where the door to the small room was locked in violation of local fire codes.

- (e) student is prevented from leaving the room
- (f) usually used only for children with disabilities
- (g) usually a converted room (previously a broom closet, etc.) or an after-constructed room (not in the original architect's plans)
- (h) most often the use of the room is not identified in the student's IEP, nor are the practices clearly defined and/or limited

Attached to this report are photographs of rooms which are typical in schools. There is some variation – one school had a white picket fence with a small house inside the picket fence for a student with a disability to segregate the student from the other class members.

As an employee of a governmental entity (school district), employees are required to use professional judgment in their conduct and rely on existing laws and regulations related to their conduct. The ODLC is unable to locate any portion of the Individuals with Disabilities Education Act² (IDEA) which permits the use of seclusionary timeout rooms. The ODLC is unable to locate any standards of professional judgment taught at the various colleges and universities in Oklahoma which inform school employees in the use of seclusion. Nor does the State of Oklahoma have any policy or guidelines for restraint and/or timeout rooms.

Two states, Colorado and California, have written extensive reports detailing impermissible conditions in timeout rooms³. The term seclusion is defined by the Colorado Department of Education's Restraint/Seclusion Rules as the placement of a student alone in a

²Nor does the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 permit timeout seclusion for people with disabilities.

³Contact the ODLC for a copy of the Colorado report. The California report is available on the internet at: <http://www.pai-ca.org/pubs/702301.pdf>.

room from which egress is prevented⁴. The use of restraint or seclusion is only permitted in emergency circumstances. An emergency is the serious, probable, imminent threat of serious bodily harm to self or others⁵. The IDEA clarifies serious bodily injury as being a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty⁶. In Colorado, restraint and seclusion may never be used as a means to punish a student or to gain compliant behavior⁷. Any restraint or seclusion must end once the need to ensure for the safety of the student or others has ended⁸.

Nothing in the laws or regulations of the State of Oklahoma authorizes the use of restraint and seclusion in the public schools. The protections afforded individuals subjected to behavioral restraint and seclusion in environments other than public schools⁹ are absent, such as:

- (a) definitions of restraint and seclusion consistent with state and federal law
- (b) prohibitions on the use of seclusion, while permitting limited and planned use of supervised timeout

⁴1 Colo. Code Regs. 301-45 - 2620-R-2.00(3)

⁵1 Colo. Code Regs. 301-45

⁶34 C.F.R. 300.530(i)(3)

⁷1 Colo. Code Regs. 301-45 - 2620-R-2.01(4)

⁸1 Colo. Code Regs. 301-45 - 2620-R-2.02(1)(a)(vii)

⁹Recognizing the serious risks associated with the use of behavioral restraint and seclusion, federal and state authorities and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) impose significant restrictions on its use in many settings and require specialized training of staff, rigorous event review and detailed data reporting. JCAHO requires the training to include recognizing how age, developmental considerations, history of sexual or physical abuse and other characteristics of the individual may affect the way the individual may react to restraint and physical contact.

- (c) strictly limiting the use of behavioral restraint to the most dire circumstances, only for as long as absolutely necessary, and only if adequate safeguards can be instituted to minimize possible injury or trauma
- (d) ensuring that the facility comply with laws and regulations limiting the use of emergency interventions, including restraint and seclusion, and promptly report its use to parents, administrators and a supervising governmental entity
- (e) ensuring that personnel proactively address serious behavioral problems through research-based methodology
- (f) encouraging heightened scrutiny of emergency interventions
- (g) enhancing data collection regarding emergency interventions, including seclusion, restraint, or any other timeout

CONCLUSION

In many health care and community settings, awareness about the risks of restraint and seclusion have prompted reform initiatives to eliminate their use. Given that these techniques are the same as those used in schools and given the enhanced risk of injury and death when used with children, the same restrictions and safeguards should apply. Schools must bring their standards regarding restraint and seclusion up to the minimum standards in other settings. Educators, parents and others must ensure that the use of restraint and seclusion is scrutinized and limited to only the most imminently dangerous behaviors. Ultimately, schools and the Oklahoma State Department of Education must make reducing and, eventually, eliminating restraint and seclusion a top priority, consistent with initiatives in all other settings where used.

Seclusion Room in Oklahoma

