



February 11, 2014

The Honorable Charisse Millet
Alaska State House of Representatives
State Capitol, Room 403
Juneau, AK 99801

RE: HB 210: Student Restraint, Seclusion, Psyc

Via Electronic Mail

Dear Representative Millet:

The Disability Law Center (DLC) is writing to you in regard of the current version of HB 210, an act relating to student restraint, seclusion, and psychiatric medications and which has been referred to the House Education Committee.

As it is written, the current draft of HB 210 closes a major gap in protections for children who may be subjected to restraint and seclusion and would regulate the use of these serious methodologies in our schools. Currently, there are no state or federal laws which regulate or restrict the use of seclusion or restraint in public or private schools. Alaska is one of ten states (out of 51) that has nonbinding, suggested guidelines that have no legal force and that are easily changed. The result is a patchwork of inconsistent policies, or no policies at all, across local school districts. This puts students at risk for injury, abuse, and violation of their rights. As H.B. 210 continues through the legislative process, we would like to take this opportunity to provide you with information that you may find helpful.

Besides creating consistent, binding policies regarding restraint and seclusion across the state, H.B. 210 also provides a vital safeguard by allowing only trained school personnel physically restrain, physically escort or seclude a student when the student's behavior poses an imminent danger of physical injury to the student or another person. It also provides language describing when an intervention must cease. Seclusion and restraint are emergency interventions that should only be used in rare occasions when absolutely necessary to protect students from severe physical danger. From government studies to private sector and non-profit studies, many have recognized the inherent risks associated with the use of restraint or seclusion over the years. These studies have found that the use of restraint and seclusion can cause serious consequences, such as physical or psychological harm, loss of dignity, and even death.¹ Without clear, consistent

¹ Government agencies that have completed studies on restraint and seclusion include: The President's New Freedom Commission on Mental Health, Center for Mental Services, Substance Abuse and Mental Health Services Administration, Government Accountability office. National accreditation and member organizations that have done studies on restraint and seclusion include: The Joint Commission on Accreditation of Healthcare Organizations, American Psychological Association, American Psychiatric Nurses Association, and National Association of Psychiatric Health Systems.

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guidelines, the potential to have students placed in restraint in seclusion in non-emergency situations is great. The need to have consistent language to all school districts across the state explaining when these emergency interventions can be used, and when they must end, is imperative. H.B. 210 would also require that a student be monitored by school personnel with face-to-face contact or by continued direct visual contact with the student. This language would ensure that all school districts across the state are held accountable for student's safety when they are placed in seclusion.

In addition, H.B. 210 requires that a parent or guardian will be promptly notified within 24 hours when their child experiences restraint or seclusion while at school. As DLC found in its investigation of the use of restraint and seclusion in schools, parents or guardians were informed much later, or never at all, that their child had been placed in restraint or seclusion. The possibility of needing to seek prompt medical attention makes the 24 hour notification important. Parents need to know so that they can watch for injuries and psychological trauma, and seek appropriate follow up care. Notification also enables parents to work with staff to prevent future incidents of restraint or seclusion and to ensure positive behavioral supports and de-escalations methods are in place.

H.B.210 would also ensure that a report is written up following incidents of restraint or seclusion to be provided to the school administrator and the student's parents or guardians on request, as well as make certain that a review process is established and conducted for each incident. This process will mean that school personnel will look at what caused the event, how it could have been avoided, and by analyzing, planning for, and implementing positive interventions. This type of debriefing has been shown help reduce and eliminate restraint and seclusion.²

Finally, H.B. 210 would direct school districts to report to the department the total number of incidents involving restraint and seclusion of a student. The annual report would allow the state to be aware of potential trends in the use of restraint and seclusion across Alaska and address any problems when necessary.

Thank you for addressing this issue for allowing the Disability Law Center to be a part of this important discussion.

Sincerely,

DISABILITY LAW CENTER OF ALASKA



David C. Fleurant
Executive Director

² *Medicaid Program; Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities Providing Psychiatric Services to Individuals Under Age 21; Interim Final Rule*, 66 FED. REG. 7148, 7152 (Jan. 22, 2001). A systematic debriefing process also counters implementation drift—the tendency to go back to prior patterns of routinely using seclusion/restraint as a response. BethAnn Glew, *Reducing The Use Of Seclusion And Restraint In Segregated Special Education School Settings Through Implementation Of The Collaborative Problem Solving Model* (2012) (unpublished dissertation, Duquesne University).