

**BEYOND SECLUSION AND RESTRAINT: CREATING  
POSITIVE LEARNING ENVIRONMENTS FOR ALL  
STUDENTS**

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**HEARING**  
OF THE  
**COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS**  
**UNITED STATES SENATE**  
**ONE HUNDRED TWELFTH CONGRESS**  
SECOND SESSION  
ON  
EXAMINING CREATING POSITIVE LEARNING ENVIRONMENTS  
FOR ALL STUDENTS

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JULY 12, 2012

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## **BEYOND SECLUSION AND RESTRAINT: CREATING POSITIVE LEARNING ENVIRONMENTS FOR ALL STUDENTS**

THURSDAY, JULY 12, 2012

U.S. SENATE,  
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:33 a.m. in room SD-106, Dirksen Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin and Isakson.

### **OPENING STATEMENT OF SENATOR HARKIN**

The CHAIRMAN. The hearing of the Senate Committee on Health, Education, Labor, and Pensions will come to order.

I welcome all of you to today's hearing entitled, "Beyond Seclusion and Restraint: Creating Positive Learning Environments for All Students."

Today's witnesses will help us explore the evidence-based practices that are most effective in supporting the learning of students who have challenging behaviors. We will learn how these practices can be employed in classrooms, at the school building level, at the district level, and even at a State level to address the educational needs of all students, and to keep all students and staff safe.

We are in the fourth decade of the implementation of IDEA, and the third decade of ADA, two pieces of landmark legislation that opened the doors of all aspects of society to people with disabilities.

In 1975, IDEA made school available to students who had been prohibited or discouraged from attending. IDEA recognized that all students deserve access to a good education provided in the least restrictive environment possible. However, all too often, students are not receiving the education IDEA envisioned because of the use of antiquated procedures such as seclusion and restraint.

In the case of one Iowa family that I have heard from, their son was being secluded for up to 3 hours a day, and they did not even find out about the use of this procedure until after it had been used for 3 years; 3 years without access to academic instruction for major portions of his school day.

Now the use of these outdated and outmoded techniques means that students may have access to the school building, but are being excluded from instruction at a great cost to them and to society. As we will hear today, the use of seclusion and restraint often escalates the challenging behaviors that these procedures are meant to

reduce, resulting in less time for a student to spend on academic tasks.

When we debate issues related to education, whether it is student assessments or teacher evaluations, we always say the stakes are high. But for students who are secluded and restrained, the stakes are very, very high; sometimes as high as life and death.

For instance, in December 2011, Christopher Baker of Kentucky, a 9-year-old with autism, was stuffed in a duffel bag by school personnel and secluded from his classmates. He was not discovered until his own mother came to school and found him in the bag.

In January in a Connecticut school district, many children were afraid to go to school because of the seclusion rooms that were used in their building.

And again in April 2012, at the Leake and Watts School in Yonkers, NY, 16-year-old Corey Foster was restrained by school staff members who were trying to remove him from a basketball court. Corey stopped breathing, went into cardiac arrest, and died.

Corey's mother, whom I just met, Sheila Foster, is here today. Ms. Foster, I would like to publicly say to you what I said to you in private, to offer my condolences to you and to your family for your loss. But I thank you for your courage in being here, and for doing all you are doing to raise the awareness of Corey's case and this issue. Please continue to do so. More people have to know what happened.

Sadly, Corey's story is all too familiar. Over 10 years ago, Tanner Wilson, a young Iowan with autism, was retrained, also went into cardiac arrest, and died. Since then Tanner's mother, Karen Wilson, has worked tirelessly to limit the use of restraint and to promote positive approaches. Her work resulted in a law in Iowa popularly known as "Tanner's Law," which restricts the use of prone restraints and any restraint that limits a student's ability to breathe. These restrictions, however, only apply to child psychiatric facilities, not schools.

Some argue that these injuries, and trauma, and deaths are limited and isolated, but unfortunately, this is not the case.

New information released by the U.S. Department of Education in March 2012 said there were almost 39,000 incidents of restraint that occurred during the 2009–10 school year. So it is occurring across the country, but also data shows it is disproportionately used with students of color and students who have disabilities.

According to the Civil Rights Data Collection, of those who were restrained, almost 70 percent were students with disabilities. Hispanic students are secluded at twice the rate of their population, and African-American students are mechanically restrained at over twice their rate also in terms of their population.

Fortunately, there are proven alternatives around the country, and this morning, we are going to highlight some of those positive approaches.

To address these concerns, I have introduced S. 2020, which limits the use of these procedures, providing States with funds to implement training to encourage schools to use preventative, positive behavioral interventions and supports.

There is broad national support for prohibiting seclusion and restraints. We received this week two letters. The first was from the

Consortium for Citizens with Disabilities urging, "Leadership to protect the safety of children in our schools." Over 50 national organizations signed this letter asking limitations on the use of seclusion and restraint.

The second letter was from more than 150 national and local organizations that advocate limiting the use of restraints only to emergency situations. All of these groups advocate the use of positive, preventative supports and interventions which will be the focus of our hearing today.

Again, I want to thank all of you for being here. I want to thank Senator Enzi and his staff for their collaborative work in putting together this hearing. This is truly a bipartisan approach, and that is the attitude in which we are conducting our business, and I thank those who have worked on our staff to do that.

Let me say at the outset, that I have been informed that we are going to start voting at a quarter to 12, so that leaves us about 1 hour and 15 minutes. But we have one panel and I will introduce that panel right now.

I am sorry. Senator Isakson, please.

#### STATEMENT OF SENATOR ISAKSON

Senator ISAKSON. Thank you, Senator Harkin.

I would not presume to make an opening statement when someone like yourself, who is the preeminent expert on individuals with disabilities. And I want to let the audience know that you should have heard Senator Harkin just about 2 hours ago testify before the Senate Foreign Relations Committee. He is an outstanding advocate on behalf of individuals with disabilities, and I commend you for all that you have done.

My reason for being here is I am a home State boy and we have a home State professional who is going to testify, and they told me that I could introduce him. Is that OK?

The CHAIRMAN. Absolutely, Senator Isakson, and I apologize. I was just focused. I want to thank Senator Isakson for all of his help and support in moving this hearing forward also.

And I will yield to him for the purposes of introduction.

Senator ISAKSON. Thank you, Mr. Chairman.

Mr. Chairman, Georgia State University is a preeminent university in the field of education and special education.

As the chairman of the State Board of Education from 1996 to 1999, I worked with doctor, then president, Dr. Patton and other members of the College of Education on many, many issues dealing with students with disabilities and the IDEA.

I am really privileged today to introduce to you, and the entire committee, and the audience, Dr. Daniel Crimmins, who serves as Director of the Center for Leadership in Disability at Georgia State University where he is also a clinical professor in the Institute of Public Health.

Dr. Crimmins has focused his career on advancing the rights of children and adults with disabilities by heightening the capabilities of organizations to provide evidenced-based behavioral and educational interventions. He played an instrumental role in Georgia's 2010 adoption of State regulations lending the use of restraint to

emergency situations and banning seclusion altogether in public schools in its entirety.

Dr. Crimmins is an expert in the field and most appropriate to testify before the committee today. He has a B.A., M.A., and Ph.D. from the State University of New York in Binghamton, and it is my pleasure today to introduce Dr. Crimmins to the committee.

The CHAIRMAN. Thank you very much, Senator Isakson.

And then going down the panel here, I will introduce them, and then start our testimony.

Dr. Michael George, director of the Centennial School at Lehigh University in Bethlehem, PA, a private school for students with the most challenging behaviors serving students ages 5 to 22.

Prior to his position at Lehigh, Dr. George served as the Supervisor of Special Education Programs in the Lane Education Service District in Oregon, and has extensive research experience in effective special education programs.

Miss Cyndi Pitonyak is coordinator of Positive Behavioral Interventions and Supports for the Montgomery County public school district in southwest Virginia. She has been a special educator for 36 years and has taught children from preschool age through young adulthood. She is also an instructor at Radford University, has served on State and national training teams in the area of positive behavior supports, and has provided training to teachers and parents in both England and Ireland.

Next, we have Miss Deborah Jackson, a single parent to 9-year-old Elijah. By the time Elijah was 5 years old, Miss Jackson found herself unable to care for him due to his tantrums and violence. She tried interventions with three school-based programs, all of which used seclusion and restraints, and all of which worsened his behavior.

She then enrolled Elijah in Centennial School. The positive behavioral supports and interventions allowed him to re-enroll in his local public school. Miss Jackson, I understand you have had to take unpaid leave to be here today. We appreciate you taking the time and making the sacrifice to share your story with us.

Thank you all very much for being here. Each of your testimonies will be made a part of the record in their entirety, and we will start with Dr. Crimmins and go down the line. And if you could sum up in 5 to 7 minutes, we would be most appreciative.

Dr. Crimmins, welcome. Please proceed.

**STATEMENT OF DANIEL CRIMMINS, B.A., M.A., Ph.D., DIRECTOR, CENTER FOR LEADERSHIP IN DISABILITY, GEORGIA STATE UNIVERSITY, ATLANTA, GA**

Mr. CRIMMINS. Good morning, Mr. Chairman.

Thank you, thank the Ranking Member, and I particularly thank Senator Isakson for his warm introduction. It is an honor to be here.

I am the director of the Center for Leadership in Disability at Georgia State University, and we are a university center for excellence in developmental disabilities with the mission of bringing effective practices to our States.

I would also like to mention that I did have the privilege of serving and working for Senator Jim Jeffords in 2003 for 1 year, and



I will say that I got to sit in the back row, and prepare some of the kinds of background documents that you Senators use, and I never imagined that I would be on this side of the table. So it is an honor to be here.

I do have a full set of written testimony that has been submitted for the record, and I will try to highlight that as we go through today.

Obviously, we are here to talk about the issue of restraint and seclusion, and I think that part of my highlights are going to be the fact that the State of Georgia, in 2008, implemented a set of rules to eliminate the use of seclusion and significantly limit the use of restraint for all special education students. In 2010, our State's Board of Education adopted a broader rule to apply to all schools and all children in the State.

Just briefly, seclusion involves the use of having a child in a room that they cannot exit, essentially without adult assistance or permission, and restraint can come in different forms: chemical restraint, mechanical restraint, and different kinds of physical restraint. Our Georgia rule, in fact, eliminated the use of chemical restraint, mechanical restraint, and most forms of physical restraint.

Though seclusion and restraint are in widespread use, as you noted in your opening statement, Mr. Chairman, they are really not evidenced-based techniques. The vast majority of professionals feel that these techniques are not effective means of changing student behavior and have no therapeutic or educational value. In fact, seclusion and restraint can escalate children's arousal, deepen negative behavior patterns, and undermine children's trust and capacity for learning.

Moreover, the danger presented by these techniques is well-documented. Children have been traumatized, have harmed themselves, and even committed suicide. And tragically, many of these are children who were not exhibiting behaviors that presented a risk to themselves or to others.

The seclusion and restraint in other settings are regulated by Federal regulation: nursing and psychiatric facilities, hospitals, and group homes. And while some States have passed laws to regulate their use in schools, only 16 have laws limiting the restraints to emergencies involving immediate danger of physical harm.

Mr. Chairman, I know you have been presented with folks telling you that these are necessary procedures to maintain discipline in the schools. I would like to speak then a little bit more about the fact that schools can, and many schools, and my other panelists you will hear from will give you evidence and examples that that is not so. But first, let me speak to one example, one impetus that I think did move the need in Georgia.

A boy named Jonathan King hung himself in a seclusion room in Georgia. I use his name because it appeared in the press many times, and his parents were very active with us when we worked toward the passage of a State rule.

Jonathan was 13-years-old. He had been in his school for 29 days. He had been secluded 19 times for an average of 90 minutes, and for 2 days, he remained in the seclusion room for the entire day. An 8-by-8 room, his parents did not know he was there. He

came home and said, "I did have to go to time-out today." They did not know what that meant at that time.

The program that he attended was part of a statewide regional special education program that dealt with the most challenging students and students with high levels of aggression, self injury, with classifications such as severe behavior disturbance and autism.

The State Department of Education did adopt a regulation that did not allow seclusion and restraint in special education settings. They implemented that in 2008. The State school board adopted a rule that did not allow these procedures to be used across the State in 2010. So we are now 2 years into that implementation.

Mr. Chairman, I would say, though, that these cannot be put into place without training. Seclusion and restraint are dangerous practices. They lack empirical evidence to support their continued use, but their alternative is a set of procedures that look at positive behavior intervention and supports.

There is a large and growing literature that shows that these can be effective, that they can result not just in the reduction of behavior, but in academic gains, social gains, and also gains in things like staff morale and confidence in the school.

In summary, the issue of seclusion and restraint has gained widespread attention in the last several years with numerous exposes, several government reports, and proposed Federal legislation. There is reason for concern and a compelling need to address the problems raised by the use of seclusion and restraint as so-called therapeutic and educational interventions.

While a growing number of States do have laws regulating the use of seclusion and restraint, these are still in the minority and children continue to suffer the consequences. It can be done. Regulations have been in place in Georgia for almost 4 years now for students in special education and for 2 years for those in general education settings. Most importantly, the problem needs to be addressed for students like Jonathan King. Doing so will contribute to the improved school achievement by all students and enhanced morale for school personnel and families.

Thank you, Mr. Chairman and Senator Isakson.

[The prepared statement of Mr. Crimmins follows:]

#### PREPARED STATEMENT OF DANIEL CRIMMINS, B.A., M.A., PH.D.

##### SUMMARY

My testimony addresses four issues related to the hearing topic.

First, I provide brief definitions of seclusion and the different forms of restraint (chemical, mechanical, and physical).

Second, I provide background regarding the problem of restraint and seclusion. The use of seclusion and restraint is widespread with nearly 40,000 incidents of physical restraint reported during the 2009–10 school year with 70 percent of those incidents being with students with disabilities and a disproportionate number being African-American and Hispanic students. There are numerous evidence-based alternatives to restraint and seclusion. The creation of minimum standards for the use of seclusion and restraint are necessary to create consistency and ensure that students across the Nation are afforded the same protections.

Third, I discuss the adoption of a rule by the Georgia State Board of Education in July 2010 that banned the use of seclusion and restricted the use of restraints for *all* students in *all* schools. I note some of the events that lead to the adoption of the Georgia rule and the early experience of schools in complying with it.

Fourth, I reiterate that eliminating seclusion and restraint will require a commitment to staff training in positive behavior supports, de-escalation strategies, and crisis management; these are the positive alternatives to restraint and seclusion. I also emphasize that within the broader area of positive behavior supports that training must focus on the development of individualized solutions that are likely to be needed by students who have historically been subjected to seclusion and restraint.

#### INTRODUCTION

Good morning Chairman Harkin, Ranking Member Enzi, and members of the committee. I am truly honored to have this opportunity to speak with the committee about the very important issue of seclusion and restraint in our Nation's schools. I am the director of the Center for Leadership in Disability at Georgia State University. Our Center is part of a national network of University Centers for Excellence in Developmental Disabilities (UCEDDs) that works with people with disabilities, their families, schools, State and local government agencies, and community providers to provide training, technical assistance, service, research and information sharing.

I am a psychologist by training who has spent a significant portion of my career working with families and teachers in developing solutions to children's persistent behavior problems. Briefly, the answer to problem behavior is a threefold approach based on *understanding* why it occurs, *preventing* it from happening through changes in the way we interact with the child, and *replacing* it by teaching more appropriate and acceptable behaviors. This is not always easy, because it requires a commitment to being proactive in preventing behaviors rather than reactive to behaviors occurring. However, it is an approach proven to be effective, safe, and respectful of all. Positive Behavior Intervention and Supports is a decisionmaking framework that guides the use of evidence-based practices for improving academic and behavior outcomes; it represents the alternative to the use of restraint and seclusion. And, in what is now a more-than-30-year career, I have had the opportunity to see this approach implemented in hundreds of classrooms and schools.

The use of seclusion and restraint in schools is widespread. And, the same threefold approach can be used to solve the problem of the continuing use of these techniques. Schools must *understand* the situations in which behaviors occur and these procedures are used, put in place systemic changes to *prevent* the occurrence of challenging behaviors, and develop a new set of strategies to *replace* the use of seclusion and restraint by school personnel. My testimony today will focus on the importance of finding those replacements for seclusion and restraint in the schools. As an example, I will refer to the adoption of a rule by the Georgia State Board of Education in July 2010 that banned the use of seclusion and restricted the use of restraints in *all* schools; I will also note briefly some of the events that lead to the adoption of the rule and the early experience of schools in complying with it. I will also refer to the transition away from the use of seclusion and restraint in children's mental health programs over the past decade. And, finally, I will speak to the need for training to bring about this important change in the way we work with children.

#### DEFINITION OF RESTRAINT AND SECLUSION

I want to share with you, briefly, what seclusion and restraint are. Seclusion is the isolation of a child in a room or space from which the child is physically prevented from leaving. Seclusion should be distinguished from *time out*, which may involve separating the student from a group in a non-locked setting.

Restraint can be of several types. Chemical restraint involves using prescribed medication to stop behavior by slowing a child's movements or dulling the ability to think. Mechanical restraint involves the use of straps, tape, cuffs, wraps, helmets, or other devices to prevent movement or sensory input to the child, often by pinning a child's torso, arms, legs or head to a chair, bed, wall or floor—this might take the form of restraining a child to a chair using duct tape, or placing a helmet on a student's head that produces white noise. The term does not include positioning devices or restraints used for safety when traveling, such as seatbelts. The third type of restraint is physical restraint, which occurs when an adult physically holds the child and prevents him or her from moving. The child is kept in the restraint position by one or more staff person's arms, legs, or body weight.

Seclusion and restraint are *not* evidence-based techniques. The vast majority of professionals agree that these techniques are not effective means of changing student behavior and are of no therapeutic or educational use. In fact, seclusion and restraint can escalate a child's arousal, deepen negative behavior patterns, and undermine the child's trust and capacity for learning. Moreover, the danger presented

by these techniques is well documented—children have been traumatized, injured, and even killed after being restrained, and children in seclusion have harmed themselves and even committed suicide.<sup>1</sup> Tragically, many of these students were not exhibiting behaviors that presented a risk of harm to themselves or others. All too often, seclusion and restraint are used for non-dangerous behaviors, to force compliance, or for convenience.

And the children themselves are not the only ones being hurt; school personnel are frequently injured when implementing restraint procedures, and the other students in the classroom can be traumatized by witnessing these techniques. This was evidenced by recent stories about “scream rooms” in Connecticut—the term refers to the screams students heard coming from seclusion rooms where their classmates were being held.

#### PREVALENCE OF RESTRAINT AND SECLUSION

The use of seclusion and restraint is widespread. New data from the U.S. Department of Education show nearly 40,000 students were physically restrained during the 2009–10 school year, with nearly 70 percent being students with disabilities and a disproportionate number being African-American and Hispanic students.<sup>2</sup> These techniques are not limited to a handful of schools or even a handful of States. They are being used widely by school personnel who too often are not trained to use them safely and who are not adequately trained in positive strategies to guide behavior.

Seclusion and restraint are regulated by either Federal statute or regulation in nursing facilities, hospitals, psychiatric facilities, and group homes. While some States have passed laws to regulate their use in schools, only 16 have laws limiting restraint to emergencies involving an immediate risk of physical harm.<sup>3</sup> Furthermore, 26 States have no legal requirements that schools inform parents that their child was restrained or secluded.<sup>4</sup>

There are numerous evidence-based alternatives to restraint and seclusion. Through the use of Positive Behavioral Interventions and Supports, de-escalation techniques, conflict management, and other positive strategies, the use of dangerous and dehumanizing seclusion and restraint techniques can be virtually eliminated. School personnel need training in these positive strategies, which are much more effective at guiding behavior while also maintaining a safe and supportive educational environment.

#### IT CAN BE DONE—THE GEORGIA EXPERIENCE

You are likely to hear that seclusion and restraint are necessary procedures to maintain discipline in the schools. But these techniques are strictly regulated in other settings with great success, and additionally, some States have made significant progress toward reducing and even eliminating their use in schools. I would like to speak briefly about a rule adopted by the Georgia State School Board in July 2010 that prohibited the use of seclusion and most forms of restraint for *all* students in *all* of our Georgia schools.

But first, let me speak briefly to one impetus for that regulation, which unfortunately was grounded in tragedy. In 2004, a boy named Jonathan King hung himself in a seclusion room in a Georgia school.

I use his name because it has appeared in the press many times since his death, and his parents were staunch and very public advocates for the adoption of the rule in Georgia. Jonathan was 13 years old at the time of his death. He attended a regional special education program because he had a history of challenging behaviors. He attended the program for only 29 days, but during that time he was secluded 19 times for an average of almost 90 minutes, including on two different occasions

<sup>1</sup> Government Accountability Office. (2009). Seclusions and restraints: Selected cases of death and abuse at public and private schools and treatment centers. Retrieved from <http://1.usa.gov/gaors7>.

National Disability Rights Network. (2009). School is not supposed to hurt. Retrieved from <http://www.napas.org/images/Documents/Resources/Publications/Reports/SR->

National Disability Rights Network. (2012). School is not supposed to hurt: The U.S. Department of Education must do more to protect school children from restraint and seclusion. Retrieved from [http://www.napas.org/images/Documents/Resources/Publications/Reports/School\\_is\\_Not\\_Supposed\\_to\\_Hurt\\_3\\_v7.pdf](http://www.napas.org/images/Documents/Resources/Publications/Reports/School_is_Not_Supposed_to_Hurt_3_v7.pdf).

<sup>2</sup> U.S. Department of Education, Office for Civil Rights, Civil Rights Data Collection. (March, 2012). Revealing new truths about our Nation's schools. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>.

<sup>3</sup> Butler, J. (2012). How safe is the schoolhouse? An analysis of State seclusion and restraint laws and policies. (Autism National Committee). Retrieved from <http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf>.

<sup>4</sup> Id.

when Jonathan was kept in seclusion for more than 7 hours.<sup>5</sup> The seclusion room measured 8 feet by 8 feet and had dark paper covering the window. Jonathan's parents never knew he spent hours at a time in seclusion, because at that time in Georgia, parents did not need to be notified when these techniques were being used on their children. In Jonathan's case, when his mother would ask how his school day went, he did tell her that he had to go to timeout; she had no idea that meant that he was being kept in a separate locked room for hours at a time.

The program that Jonathan attended was part of a statewide network of regional special education programs developed to educate students who cannot be served by their local school systems. As in many States, this network in Georgia is part of the continuum of services, offering comprehensive educational and therapeutic support services to students who might otherwise require even more restrictive placements, such as a residential program. In general, students in these programs have the special education classifications of severe emotional and behavioral disorders or autism, and the placement decision is made as part of the student's Individualized Education Program. More specifically, students with dangerous forms of aggression, high levels of self-injurious behavior, or out-of control tantrums would be referred to their regional programs.

In 2007, the Georgia Department of Education (GaDOE), which provides administrative oversight to the regional alternative education programs, conducted a safety review of all programs and determined that the use of seclusion was not appropriate and the use of restraints had to be reviewed.

In October 2008, GaDOE finalized *Guidelines on the Use of Restraint and Monitored Seclusion*, which were developed with stakeholder input and disseminated to school systems throughout the State. This new guidance applied to *all special education students* in Georgia, including those in the regional programs, and banned the use of seclusion and limited the use of restraints. While there were complaints at the time that the guidance was too prescriptive and was likely to create issues in student control, GaDOE received few complaints after the guidance went into effect. In fact, many of the regional programs reported decreases in the use of restraints in that some of their use involved students' resistance to being brought to seclusion. Of significance was that this guidance was implemented in the programs serving students with the most disruptive and difficult-to-manage behaviors in the State.

In 2009, the GaDOE began work to develop a State Education Rule that would regulate the use of seclusion and restraint for *all* students. This rule was distributed in draft form and revised based on stakeholder input from parents, advocates, teachers, administrators, superintendents, and school boards. The draft rule was presented at multiple public meetings across Georgia, was considered by the Georgia State Board of Education at a regular public meeting in May 2010, and was adopted in July 2010.<sup>6</sup> The rule has the force of law in Georgia. In the 2-years in which it has been in effect, DOE has received few complaints about its implementation.

Seclusion was eliminated and restraints significantly limited 4 years ago for special education students and 2 years ago for all students in all schools in Georgia. Over these 4 years, Georgia educators in public school programs serving children with the most significant behavioral challenges learned new, alternative ways to support these students, while keeping them, their peers, and their teachers safe. If Georgia schools can manage to make this transition, so can other States.

#### IT CAN BE DONE—THE EXAMPLE OF CHILDREN'S MENTAL HEALTH

We have powerful examples of large systems that serve children making the transition away from the use of seclusion and restraint. Prominent among these is the transition in facilities and programs serving children with mental health concerns, where there are presumptively a large number of children in behavioral crises.

In 1999, the then-titled General Accounting Office issued its first report on this subject in the context of mental health services<sup>7</sup>; in that same year, the National Association of State Mental Health Program Directors (NASMHPD) called for the

<sup>5</sup> Goodmark, C. (2010). A tragic void: Georgia's failure to regulate restraint and seclusion in schools. *John Marshall Law Journal*, 3(2), 251–85. Retrieved from [http://www.johnmarshall.edu/academics/LawJournalPublications/A Tragic Void.pdf](http://www.johnmarshall.edu/academics/LawJournalPublications/A%20Tragic%20Void.pdf).

<sup>6</sup> Georgia Code 160-5-1-.35, Seclusion and Restraint for All Students. Retrieved from [http://archives.gadoe.org/\\_documents/doe/legalservices/160-5-1-.35.pdf](http://archives.gadoe.org/_documents/doe/legalservices/160-5-1-.35.pdf).

<sup>7</sup> General Accounting Office, (September, 1999). Mental Health: Improper restraint or seclusion use places people at risk. Retrieved from <http://www.gao.gov/archive/1999/he99176.pdf>.

prevention and elimination of seclusion and restraint in mental health facilities.<sup>8</sup> In 2000, the Children's Health Act was passed which established protections for the use of restraint and seclusion with children in public and private general hospitals, nursing facilities, intermediate care facilities and other health care facilities receiving support from Federal funds. The law restricts restraint and seclusion to situations where the physical safety of the patient or a staff member is at risk, and requires close medical supervision when they are used. The law states that restraint and seclusion can only be imposed on an individual with the written order of a physician or other licensed practitioner that specifies the duration and circumstances under which the restraints may be used (except in specific emergency circumstances). Finally, the Children's Health Act requires that an adequate number of trained staff be available to evaluate patients and write treatment plans and that adequate training be provided to staff both in using restraints *and* in alternatives to the use of restraints.

Over the past decade, children's mental health facilities have made the commitment and undertaken the training to enable them to reduce the use of seclusion and restraint.<sup>9</sup> A major lesson learned in this transition within the field of children's mental health was that the use of restraint and seclusion in an individual facility came to be regarded more as a matter of "culture . . . than clinical necessity." The related lesson was that changing culture requires more than words and good intentions; it requires leadership and a willingness to learn from one's experiences and to act accordingly.<sup>10</sup>

As a result of this transition, the Substance Abuse and Mental Health Services Administration (SAMHSA) has documented benefits from reducing restraint and seclusion. In its report, *The Business Case for Preventing and Reducing Restraint and Seclusion Use*,<sup>11</sup> SAMHSA found that the shift created real cost savings within the system; these cost savings would likely translate to schools. Some of the costs associated with restraint and seclusion include lost work time (the teacher is not *teaching* when implementing these techniques), lost educational time (the student is not *learning* while being restrained or secluded), increased health costs, and increased workers compensation claims. Adding these costs to the trauma, injury, and even death that have occurred as a result of restraint or seclusion makes the case that these techniques are very costly to all involved. If America's children's mental health programs can manage to make this transition, so can our schools.

#### SUPPORTING THE TRANSITION—THE NEED FOR TRAINING AND TECHNICAL ASSISTANCE

Seclusion and restraint are harmful and dangerous practices that lack empirical evidence to support their continued use. Their use is particularly problematic as there is an alternative, the approach called Positive Behavioral Interventions and Supports, which has a large and growing base of empirical evidence showing effectiveness with students in schools across Georgia and the Nation.

I recognize that the shift away from using seclusion and restraint as behavior control strategies will take time, and schools will need support in this process. State-wide training efforts in positive behavioral supports, de-escalation, and crisis management will be needed; these are the positive alternatives to restraint and seclusion.

There are, for example, more than 17,000 schools in the United States, including nearly 300 schools in Georgia, using Positive Behavioral Interventions and Supports with excellent outcomes. The benefits of Positive Behavioral Interventions and Supports include reduction in problematic and disruptive behaviors, increased academic achievement scores, and improved school climate and morale—all at significant savings in financial costs as well as the psychological wear-and tear on all involved.<sup>12</sup>

<sup>8</sup>National Association of State Mental Health Program Directors (NASMHPD), *Position Statement on Seclusion and Restraint* (July 13, 1999).

<sup>9</sup>Substance Abuse and Mental Health Services Administration [SAMHSA]. (2005). *Roadmap to seclusion and restraint free mental health services*. DHHS Pub. No. (SMA) 05-4055. Rockville, MD: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration.

<sup>10</sup>"Focus on the States—Pennsylvania Leads the Way in Reducing the Use of Seclusion and Restraint," NETWORKS, Summer 1999; "Seclusion and Restraint Debate Gains Momentum," NETWORKS, Summer 1999.

<sup>11</sup>Substance Abuse and Mental Health Services Administration. (2011). *The business case for preventing and reducing restraint and seclusion use*. HHS Publication No. (SMA) 11-4632. Rockville, MD: Substance Abuse and Mental Health Services Administration.

<sup>12</sup>Sugai, G., & Simonsen, B. (2012). *Positive Behavioral Interventions and Supports: History, defining features, and misconceptions*. Storrs, CT: Center for Positive Behavioral Interventions and Supports.

Even as an emergency procedure, if restraint is used for repeated incidents of student disruptiveness, restraint has become a *de facto* component of a behavior plan. School personnel will require training to ensure that they are able to break the cycle of reacting to a behavior with physical restraint. One concern is that students may have learned to use their challenging behaviors to avoid demands or seek attention, and, thus, their behaviors may have become a form of communication for the student. Related to this, oftentimes behaviors that result in restraint are quite predictable, and, as such, many behavioral incidents are avoidable if the time is taken to understand the situations that trigger them. With this knowledge, trained personnel can use de-escalation techniques to prevent most incidents from becoming dangerous. This is a more humane and eminently safer method of handling difficult behaviors for all.

I do wish to strongly recommend that training and technical assistance reflect the need for intensive and individualized supports for students with the most persistent and challenging behaviors. These supports are based on a three-step process—the first is *understanding* the challenging behavior by conducting a functional behavioral assessment, which documents triggers and contexts for behaviors in the school environment. The second and third steps are incorporated into a behavior intervention plan, which identifies strategies to *prevent* problem behavior and to *teach positive alternatives* such as social-skills and self-regulation as replacement skills. It is critical that school personnel receive training and support in providing individualized positive behavior supports.

#### SUMMARY

The issue of seclusion and restraint in schools has gained widespread attention in the last several years with numerous exposes, several government reports, and proposed Federal legislation. There is reason for concern, and a compelling need to address the problems raised by the use of seclusion and restraint as so-called therapeutic and educational interventions.

While a growing number of States do have laws regulating the use of seclusion and restraint, these are still in the minority. And children continue to suffer the consequences.

It can be done. Similar regulations have been in place in Georgia for almost 4 years now for students in special education and for 2 years for those in general education settings. We are anticipating the first statewide data on implementation at the end of the summer. But, we do understand that initial implementation has gone smoothly and without significant problems or complaints.

Most importantly, the problem needs to be addressed for students like Jonathan King. In doing so, it will contribute to improved school achievement by *all* students and enhanced morale for school personnel and families.

The CHAIRMAN. Thank you, Dr. Crimmins.

My hat's off to the State of Georgia for all you have done. This is true leadership. Thank you very much.

Dr. George.

#### STATEMENT OF MICHAEL GEORGE, DIRECTOR, CENTENNIAL SCHOOL, BETHLEHEM, PA

Mr. GEORGE. Chairman Harkin, and Ranking Member Enzi, and members of the Senate HELP committee.

I want to thank you for inviting me here today, and to speak with you on the important topic of seclusion and physical restraint in this country. With your indulgence, I would like to share a brief story that illustrates what I believe is possible in this area.

The story begins 14 years ago, when I first arrived at the Centennial School of Lehigh University. As the new administrator, I was unsettled by the amount of violence I was witnessing at the School. Like many other day schools in this country for students with emotional and behavioral disabilities, Centennial students who misbehaved were physically escorted to one of two seclusion time-out rooms; rooms that were filled from the moment the school doors opened in the morning until school dismissed in the afternoon, and on most days, even longer.

And again, like many other day schools in this country, the use of physical restraint was commonplace. During the first 20 days of that school year, there were 112 physical restraints, usually basket holds involving two to three persons; loud, messy, and violent affairs that effectively shutdown any instruction occurring in the vicinity.

Data I asked to have collected from the previous school year showed that the 76 students enrolled that year spent an average of 787 minutes per day in seclusion time-out and had been subjected to 1,064 physical restraints. Moreover, the data showed that there had been 31 assaults on teachers that year; 16 of which were so serious, they resulted in referrals to law enforcement. In fact, police were called to the school 39 times that year because of violent and destructive behaviors, and 22 teachers visited emergency rooms for injuries that occurred on the job. By the end of the first 40 school days of that school year, the number of physical restraints had more than doubled to 233.

It was within that context that we began a process for transforming our school environment. We began with a vision of what we wanted the school to be like in the future, and then develop goals and procedures based on positive behavioral teaching approaches that would help us fulfill that vision. The results were nothing short of dramatic.

During the last 40 days of school that year, only one physical restraint was conducted at the school. We closed one of the seclusion time-out rooms at mid-year. We closed the second one at the end of the year.

In short, within 6 months with largely the same group of students and teachers, we went from conducting 233 physical restraints during the first 40 days of the school year to only 1 physical restraint during the last 40 days of the school year. And effectively broke a 20-year trend of seclusion and physical restraint at the Centennial School.

Today, physical restraints at the School are rare, and the restraints of today bear little resemblance to the restraints of 13 years ago, and probably would not even have been recorded as physical restraints back then. Students are seldom, if ever, secluded.

Serious assaults of teaching staff are virtually nonexistent, and police are infrequent visitors to the building. As compared to 14 years ago, truancy is down by 50 percent, and the rate of suspensions is down by 88 percent. The one thing that has not changed over all these years is the type of student we enter into the program.

We have learned some important lessons from our experiences at Centennial School. The first is that as a field, we have the technical knowledge necessary to reform chaotic and violent school environments, and to end the over-reliance on seclusion and physical restraint. We learned that a positive teaching approach to student discipline, one that teaches and acknowledges pro-social behaviors, is more productive and efficient than the traditional punishment paradigms.

A second lesson we learned is that institutionalizing the use of seclusion and physical restraint is more costly than reliance on



positive behavioral teaching approaches, especially in terms of staff costs. Significant dollars are saved at Centennial School every year as we no longer hire crises staff or one-to-one aides to manage student behaviors.

A third lesson we learned is that teachers are more likely, not less likely, to be seriously injured with the use of physical restraint. For example, during the year of over 1,000 physical restraints, 82 percent of the 22 serious injuries to Centennial staff occurred as a direct result of physically restraining students. The next year as restraints declined, so did injuries to teaching staff.

And a fourth lesson we learned from this experience is that students with significant emotional and behavioral disabilities, just like their nondisabled peers, wish to succeed in school. We learned that they can learn to make good choices. They can learn to manage their behavior if we, the adults, take the time to teach them to do so.

I would like to end my testimony with the following observation: change is often the result of a new vision for doing some things differently than they have been done in the past. I believe the proposed legislation on seclusion and physical restraint sets forth a realistic vision for the future and harbors the promise for much-needed and meaningful change. And I wish to acknowledge Chairman Harkin and the members of this committee for their leadership in this important area.

Thank you.

[The prepared statement of Mr. George follows:]

#### PREPARED STATEMENT OF MICHAEL GEORGE

##### SUMMARY

Dr. George's written testimony describes positive behavioral teaching approaches that led to a dramatic decrease and virtual elimination of the need for seclusion and physical restraint in a day school for children and youth with the most significant emotional, social and behavioral needs. Based on his experiences, he argues that the practices of seclusion and physical restraint are expensive, place teachers and students at risk for greater injury, and may contribute to the poor academic and social outcomes associated with children and youth with emotional and behavioral disabilities. George shares lessons he learned from his experience that may inform the current debate on the use and overuse of seclusion and physical restraint in our schools. He ends by advocating that Federal legislation would regulate the use of seclusion and physical restraint and hold school officials accountable for the use of the practices.

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Thank you for allowing me to be here today and share with you an account of my recent work and that of my colleagues at Centennial School of Lehigh University. My testimony today describes positive behavioral teaching approaches that led to a dramatic decrease and virtual elimination of the need for seclusion and physical restraint in a school for children and youth with the most significant emotional, social and behavioral needs; and shares lessons learned from the experience that may inform the current debate on the use and overuse of seclusion and physical restraint in our schools.

#### CENTENNIAL SCHOOL OF LEHIGH UNIVERSITY

Centennial School is an Approved Private School, funded by the Commonwealth of Pennsylvania and governed by Lehigh University that serves children and youth classified with emotional disturbance and autism as defined under the *Individuals*

with *Disabilities Education Improvement Act*.<sup>1</sup> As an alternative to public school education, it is one of over 10,000 alternative schools in the country.<sup>2</sup>

Centennial School is unique in that it provides a well-documented case study on how the use of positive behavioral approaches can decrease and virtually eliminate the need for the practices of seclusion and physical restraint in a school that serves students with some of the most challenging emotional and behavioral needs.

Students are commonly admitted to alternative schools, like Centennial, because their behaviors interfere with the learning of others; sometimes even after carefully planned interventions by well-intentioned educators have been designed, implemented and ultimately proven unsuccessful. For many students, placement in alternative schools represents one final chance for meaningful help. One would hope, therefore, that alternative school education would do a better job of educating youngsters at-risk of failure than traditional public school settings. But all too often that is not the case.

For nearly two decades researchers have raised concerns about the quality of education in self-contained settings: the paucity of academic curriculum, the over-reliance on behavior management, the lack of integrated mental health services, the poor connections with families and the lack of attention to transition services.<sup>3</sup> There is little evidence of widespread improvement over the years. Today there is growing concern about the use and possible abuse of seclusion and restraint for controlling students' behaviors.

The Centennial School stands as a testament to the benefits that accrue from the use of positive behavioral approaches as replacements for the practices of seclusion and restraint with children and youth with disabilities. There are many themes woven into the Centennial School story. It is a story about institutional change and the development of new arrangements for fulfilling the promises of a free appropriate public education for children and youth with behavioral and emotional disabilities; it is a story about changing the lives of young people and instilling in them hope for their futures. And finally Centennial is a story about the challenges facing educators today in meeting their responsibilities for implementing research-based practices that can lead to the creation of nurturing and caring school environments for serving some of the Nation's neediest youngsters.

#### THE STUDENTS

Students who attend Centennial School are referred from 40 surrounding local area school districts and range in ages from 6 through 21 years. Local school districts refer students to Centennial School after a determination is made that their needs have not been met in previous placements that include the local school districts, Intermediate Units, residential treatment facilities, and hospitals. Children and youth who enter Centennial School have a wide range of learning problems but share one trait in common: chronic challenging behavior and score in the first percentile on behavior rating scales, meaning their behavior is more severe than 99 percent of the population.

Some Centennial students enter directly from residential treatment facilities, like Trisha, a 10-year-old child with seven failed foster placements in her brief life; others like Thomas, come by way of Intermediate Units (i.e., specially designed service options for low-incidence populations), and others, like Carlos, come from other alternative schools. Nearly every student who comes to Centennial School has been physically restrained and placed in seclusion time-out, often repeatedly, in their previous settings.

Centennial School serves about 100 students and their families during the course of the school year at an annual tuition rate of \$39,700. The ethnic profile of the student body reflects the surrounding community at large; the majority of students are Caucasian with about 13 percent African-American, and 11 percent Hispanic American. This year, about 42 percent of the students receive free and reduced lunches, although in some past years the percentage has exceeded 80 percent. Upon entry to Centennial School, nearly all of the students when asked will indicate their hatred of school.

<sup>1</sup> *Individuals with Disabilities Education Improvement Act*, Pub. L. No. 108-446 (2004).

<sup>2</sup> Carver, P.R. & Lewis, L. (2010). *Alternative schools and programs for public school students at risk for educational failure: 2007-08* (NCES 2010-026). U.S. Department of Education, National Center for Education Statistics. Washington, DC. Government Printing Office.

<sup>3</sup> Knitzer, J., Steinberg, Z., & Fleisch, B. (1990). *At the schoolhouse door: An examination of programs and policies for children and youth with behavioral and emotional problems*.

## PROBLEM DEFINED

In 1997–98 data show that Centennial School staff relied heavily on the use of seclusion and physical restraint as a response to violence within the school setting, a trend that can be traced back by word of mouth for the previous 20 years.<sup>4</sup> Not unlike practices at many other alternative schools for children and youth with emotional and behavioral disabilities, the 76 students in attendance that year were physically restrained 1,064 times, typically with basket holds, involving two to three adults. Afterwards, students were physically escorted to a time-out room. Time-out was conducted in one of two, locked time-out rooms that were occupied as soon as the schoolhouse doors were open in the mornings until the final bus pulled away in the afternoons. Such methods continue to be employed and in some cases routinely employed in alternative schools around the country today because many professionals in the field believe them to be helpful.<sup>5</sup>

One result of the nearly six physical restraints each day was that the noise level in the school setting was loud, punctuated with intense or screaming voices, pounding on the time-out room walls, slamming of doors, and frequent shouts of “crisis” from teachers and other support personnel. According to the data collected that year, the high usage of seclusion and physical restraints did not decrease the need for those practices in the future.

Accompanying the high levels of seclusion and restraint were high rates of police involvement, suspensions, and emergency hospitalizations. Vandalism to the building was commonplace as was destruction of classroom equipment and materials. Truancy was high as were staff absences from work.

The school was densely staffed with 71 adults, nearly 50 percent of them males, a hiring practice adopted in part because of the high frequency of seclusion and restraint.<sup>6</sup> Included in that number were 6 crisis staff, 11 one-to-one aides and 5 mental health workers hired to assist with particularly violent children. One elementary classroom, for example, was comprised of six children and six adults.

A token economy was in place but students seldom carried point sheets. Students didn’t complete homework; nor were they much engaged in academic tasks at school.<sup>7</sup> Parents seldom entered the building and when they did, it was primarily for disciplinary meetings or for annual Individualized Education Program (IEP) meetings.

The year I arrived at the school, 1998, began very much like the one before it. During the first 20 days of school, 112 physical restraints were conducted. By the end of the first 40 days, the number of physical restraints was up to 233. If left unabated the rate of restraints would have easily exceeded 1,000 for yet another school year.

## SCHOOL-WIDE CHANGE

Fundamental to the change process was creation of a new vision and goals for the school and the development of a team process for assessing the school environment, introducing research-based practices, evaluating implementation, and making adjustments for improving outcomes, when necessary, a process that remains in place to this day.

The team was encouraged to envision a welcoming and caring school environment that students would be eager to attend; where students would speak politely to teachers, encourage one another, make friends, complete schoolwork and even complete homework. Teachers were asked to envision the type of environment in which they would like to work and to describe how they would like to be treated by the students as well as by their colleagues. They were exhorted to examine current

<sup>4</sup>These were not mean spirited people. They were dedicated individuals who believed they were implementing best practices and working with the best interests of students and families in mind while seeking to ensure a safe environment in the school. In fact, they had been trained to conduct restraints only when students’ behaviors were an imminent danger to themselves and others and there certainly was much violent student behavior to which they felt they needed to respond, including 31 assaults against teachers that year. As one administrator said, “This is the way you have to work with these children.”

<sup>5</sup>Those who believe seclusion and restraint to be helpful use the term therapeutic and would disagree with the term “punishment”. Although I’ve met many administrators who view seclusion and restraint as therapeutic, I’ve never met a student who did. See Fogt, J.B., George, M.P., Kern, L., White, G.P., & George, N.L. (2008). Physical restraint of students with behavioral disorders in day-treatment and residential settings, *Behavioral Disorders*, 34, 4–13.

<sup>6</sup>A former Centennial teacher whom I recently met told me that he was hired to stand at the door to keep students in the room.

<sup>7</sup>Time on task data averaged approximately 11 to 13 percent across classrooms.

practices and how those practices might be inadvertently contributing to the very problems they came to work everyday to solve.

The team discussions eventually resulted in a new vision for the school, “to make Centennial School a place where students, parents and teachers want to be and where they can learn new skills that would benefit them now and into the future.” Given the circumstances at the time, the vision was ambitious; but having a vision of the future helped to unify staff commitment to change and had other advantages as well.

To make the achievement of the vision a reality, staff committed to the accomplishment of three goals: (a) To develop an engaging and stimulating curriculum, (b) to create a safe, civil learning environment, and (c) to include parents as partners in their children’s education.<sup>8</sup> Success in meeting the goals would be measured by a decrease in episodes of seclusion and physical restraint.

The next 8 months witnessed the gradual introduction of a number of research-based behavioral strategies, data collection systems for monitoring the effectiveness of those strategies, and modifications to the organizational structure for supporting the new practices. Included below are brief descriptions of the major components of the new program, not all of which were implemented during the first year, by the way.

#### BELIEFS, ROLES AND ESTABLISHING A NEW CULTURE

We began by changing our beliefs about students. Rather than viewing the students as incapable or unwilling to behave in school, Centennial teachers now talk about students as learners who can meet the expectations set for them; who can think before they act, who can make positive changes in their lives, who can learn to manage themselves, and who can be held accountable, once they have been taught to do so. Perceiving students as capable learners who can make good choices in social situations is beneficial and productive from an educational perspective as it lends itself to the process of teaching.

Teachers strive to make Centennial School the most rewarding and enjoyable part of a student’s day. School is to be a place where students experience success, build relationships and have fun.

Centennial teachers build on students’ strengths, reinforcing the behaviors they wish to see occur more frequently in the future. So, for example, rather than focus on cursing and administer punishments in an attempt to eliminate it, teachers acknowledge polite statements students make in an effort to increase the likelihood the behavior will occur with greater frequency in the future.

Centennial teachers understand that behavioral change sometimes takes a long time and are encouraged to take the long view of the change process. Teachers are encouraged to think about students as the successes they will be in the future and not as the failures they have been in the past. Teachers refer to students who are experiencing behavioral difficulties as “works in progress” and treat misbehaviors as correctable errors. Teachers understand that the best approach is one of “gentle pressure, relentlessly applied.”

Centennial teachers are mindful of the importance of language. Centennial teachers strive to use only positive or neutral statements when teaching lessons<sup>9</sup> and practice stating directives positively, telling students how to succeed.

Teachers praise students publicly and prompt, correct, and warn students privately.

Centennial teachers avoid the use of sarcasm at all times and commit to never speak disparagingly about students and parents or even their co-workers.

Teachers shake hands with students when they meet them for the first time, just like they would do if introduced to them in the community.

Centennial teachers value teamwork and collegial support: they observe one another in class, share data on one another’s classroom performances, and strive for consistency with one another in the implementation of school-wide, class-wide and individualized interventions.

Teachers understand that a good day is one when they faithfully follow the procedures that are in place because that is the one thing over which they have full control.

<sup>8</sup>U.S. Secretary of Education Richard Riley had recently proposed the three objectives as worthy pursuits for America’s public schools at the First White House Conference on Mental Health in 1999.

<sup>9</sup>An example of a neutral statement is, “Open your book to page 27.” A positive statement is an affirmation or acknowledgement of something done well, for example, “Good job raising your hand to ask a question.”

Centennial teachers know they make positive differences in the lives of children. They collect student performance data that tells them so.

#### ENGAGING AND STIMULATING CURRICULUM

Teaching proper school and classroom behavior within the context of sound academic curricula is the most “sacred” thing Centennial teachers do in the day. The academic curriculum supplies the milieu for teaching proper school and classroom behavior and is designed to be accessible to the students, to stretch their skills, and to capture students’ interest and cause them to be actively engaged.

Centennial School teachers ascribe to the belief that a rich and engaging academic curriculum helps prevent the occurrence of problem behaviors and also prepares students for reintegration to home school environments. Centennial teachers use research-based teaching practices that include matching curriculum to students’ functioning levels, systematic analyses of student error patterns, positive error correction, frequent feedback, high rates of active engagement and praise, systematic progress monitoring and a tenacious pursuit of mastery learning.

Because Centennial School is a special education program, the general education<sup>10</sup> curriculum and instruction are modified for every child. Common modifications include small group instruction, task-analysis of content, individual pacing, alterations to the length of assignments, extended deadlines for completion, pre-correction strategies, classroom agendas, clear expectations for performance, one-to-one assistance, peer tutoring, and cooperative learning. Students are provided frequent opportunities for practice until they reach mastery of their IEP goals. Students who experience difficulty in completing academic assignments are supplied with modified work schedules that may include additional breaks throughout the school day as well as the opportunity, at times, to make choices about how, what, and where they learn within the building.

Teachers plan daily lessons and use a direct instruction (di) format that allows for the systematic delivery of instruction with an emphasis on the active engagement of students.<sup>11</sup>

Academic progress is routinely tracked using curriculum-based monitoring. Students who “stall” or fail to make anticipated progress are provided additional supports and alternative strategies.

Because completion of academic assignments is crucial for school success, students are held accountable for their schoolwork. Centennial teachers understand that students sometimes engage in disruptive and otherwise inappropriate behavior to avoid academic tasks and that allowing students to escape work through inappropriate behavior serves to reinforce poor behavior. Centennial students are taught that unsatisfactory conduct in class does not release them of their responsibility for work completion.

Centennial teachers assign homework for academic classes, teach homework skills and provide assistance on homework assignments during study hall periods. Homework is an important element for school success, especially because it is expected in the home schools upon students’ return.

#### SAFE, AND CIVIL LEARNING ENVIRONMENT

Centennial School uses a positive and proactive approach for teaching classroom and school behaviors, with an emphasis on teaching self-control and responsibility. The system is grounded on the assumption that all children and youth can learn courteous and respectful ways for meeting their needs and obtaining their goals. The key of course is teaching them.

#### SCHOOL-WIDE INTERVENTIONS

Centennial School employs a school-wide behavior intervention system designed to prevent and thus reduce the likelihood of serious behavior problems in the school setting.<sup>12</sup> Expectations for student conduct are clearly defined and communicated and consequences for rule-violating behavior are likewise clearly defined, taught, and applied consistently. Problem solving and social skills instruction are integral

<sup>10</sup>Centennial adheres to Pennsylvania Curriculum Standards. The methods of teaching the Standards are what is modified, not the standards themselves.

<sup>11</sup>The lesson plan format is divided into nine components: (a) classroom management, (b) advanced organizer, (c) teaching objective, (d) teaching segment, (e) modeling, (f) guided practice, (g) independent practice (h) closure, and (i) formative and summative assessments.

<sup>12</sup>Horner, R.H., & Sugai, G. (2000). School-wide behavior support: An emerging initiative. *Journal of Positive Behavior Interventions*, 2(4), 231–32.

aspects of the curriculum and are designed to teach students the proper strategies for succeeding in school and in life.

The Centennial school-wide intervention system is The Take Five Program, modeled after the nationally recognized High Five Program of Fern Ridge Middle School in Veneta, OR.<sup>13</sup> The Take Five Program consists of three tiers of interventions and offers a positive approach to school discipline. The “Take Fives” inform students of social behaviors in the following areas:

- Be There—Be Ready
- Be Responsible
- Be Respectful
- Keep Hands and Feet to Self/Maintain Personal Space
- Follow Directions

Each of the Take Five expectations is defined in accordance to the specific settings in which the student performs. The Take Five Program incorporates the use of a token economy as part of its reinforcement plan. Students are taught proper conduct and reinforced for following the expectations with praise and acknowledgements and the use of Take Five tickets that can be exchanged for privileges or items at the school store.

#### CLASS-WIDE INTERVENTIONS

Class-wide interventions are those elements that differ by program, that is, elementary, middle and high school programs. Point sheets are one example of a class-wide intervention. The Steps to Success system (a level system) is another, as is the format and presentation of social skills instruction.

Students at Centennial School carry point sheets<sup>14</sup> throughout the day. The point sheet lists goals from the student’s IEP along the left-hand column and spaces to the right of the goals for rating the child’s performance across the school day. Feedback and points are provided at the end of every period, thereby providing quick, immediate, and private feedback on performance. As students progress through the program they eventually take responsibility for rating their own behavior and completing their point sheets.

Students earn points for meeting school and classroom expectations and start every class period with zero points. They do not lose points for misbehaviors rather they earn points for appropriate behaviors. Every activity at the school is tied in some manner to the point system, and because the point system structures teachers’ as well as students’ conduct, it may well represent the most powerful tool for modifying behavior in the school.

#### INDIVIDUALIZED INTERVENTIONS

Positive Behavior Support Plans comprise the third component of the Centennial school-wide intervention system. Positive Behavior Support Plans are developed to address the individual needs of students with chronic and challenging behaviors. Positive Behavior Support Plans are grounded in Functional Behavior Assessments that identify the antecedents and consequences associated with the problem behavior. Program teams, that may include the parent, develop Positive Behavior Support Plans for students who fail to prosper under the school-wide and class-wide intervention systems and thus require more intensive supports to succeed in school. Positive Behavior Support Plans consist of: (a) antecedent and prevention strategies, (b) behavior replacement strategies, (c) positive consequences, and (d) reduction-oriented procedures and are included as part of students’ Individualized Education Programs. Teachers use performance data to monitor the effectiveness of the Positive Behavior Support Plans.

Centennial teachers manage low-level misbehaviors in the classroom so as to decrease the likelihood of behavior escalation, based on the notion that the best way to manage “crises” is to prevent them from occurring in the first place. Low-level misbehaviors are minor peer provocations, cursing, side talking, talk-outs, and other off-task behaviors that tend to disrupt a class (e.g., tapping pencils, out of seat, disrespectful verbalizations). When confronted with minor misbehavior, teachers employ a specific sequence for managing it that includes a review of expectations for

<sup>13</sup>Taylor-Greene, S.J., & Kartub, D.T. (2000). Durable implementation of school-wide behavior support: The high five program. *Journal of Positive Behavior Interventions*, 2, 233–35.

<sup>14</sup>Dr. Nancy George, Behavior and Training Specialist at Bucks County Intermediate Unit, was instrumental in the design of the Centennial School token economy system.

success prior to every class period, and the use of the “good model” procedure.<sup>15</sup> Public praise for appropriate behavior and private reminders or prompts for correcting inappropriate behavior are also used as are prompts to “take time” for students who are showing signs of frustration. Persistently disruptive students are asked to report to the program coordinator’s office for “problem solving.”

Taking time is a strategy for managing frustration. Taking time allows students to voluntarily remove themselves temporarily from instruction, regain composure, and try again. Students may take as much time as they require before returning to the assigned task. Teachers explain the rationale for “taking time” and teach students the “taking time” process prior to instruction and issue verbal praise when students use the taking time procedure appropriately.

A second strategy taught to Centennial School students for managing frustration and anger management is to raise their hand and ask for help. Students are taught that there is no reason to become angry at Centennial School, and that all they need to do is to “Raise your hand and a teacher will be there immediately to assist you.”

At Centennial School, problem solving is used in lieu of office discipline referrals. Students asked to leave class for persistent low-level misbehavior or episodes of more serious misbehavior are directed to problem solving, the purpose of which is to teach students to use polite words instead of aggressive or violent behaviors to resolve problems and to return students to instruction in the classroom as quickly as possible. When students return to the classroom, teachers welcome them back and enter them immediately into the curriculum.

Centennial teachers use a procedure for handling violent and aggressive behavior in a manner designed to ensure safety and preserve students’ dignity. The procedure is similar to many other crises prevention procedures. For example, when students are about to fight, teachers are taught to quickly assess the situation and attempt to make the situation safe by using a calm voice and giving a simple direction, (e.g., “Back away from one another,” or “Both of you, put your hands to your sides”). Teachers are instructed to not grab or touch the student as doing so likely adds emotional charge to the situation and usually results in greater violence. Instead, teachers are taught to give choices, (e.g., “Back away from one another or you will have to go to the office,” or “If you fight, you will be suspended.”) Teachers then give three part directions, telling the students (a) where to go, (b) for how long, and (c) what will happen afterwards. Students are reminded that if they follow the directions they will avoid serious consequences, such as suspension from school or in some cases referrals to law enforcement.

Teachers receive formal training annually in techniques for managing low-level misbehavior and preventing more serious misbehavior following the principles of Professional Assault Crisis Training (ProACT).<sup>16</sup>

#### PARENTS AS PARTNERS

Centennial teachers understand that cultivating parent support begins by recognizing that parents are the experts on their children and have gained that information over a longer period of time than school officials could ever hope to do. Centennial teachers show great respect for parent’s opinions, privacy, background, and dignity and rely on them for support in working with their child.

Centennial’s philosophy about parents’ participation in their children’s education is captured through procedures in a number of areas. Some of these areas include the following:

- Strength-based intake procedures
- Parent and Student Handbook*
- Parent Resource Library, and
- Parent contacts

Strength-based Intake: Intake meetings gather information about the child, including the Individualized Education Program, Re-evaluation Reports, performance data, if it exists, and the student’s personal goals. Parents are a valuable source of this initial information. Teachers query the youngster and family members about the student’s skills and strengths and discuss how those traits might benefit the student in the new setting. As important, detailed program information is provided the student and accompanying family members during the initial intake. Although

<sup>15</sup>The good model procedure allows teachers to remain positive when low-level misbehavior occurs during the lesson by ignoring the student who is engaging in the misbehavior and praising classmates who are behaving appropriately.

<sup>16</sup>Fox, L.E., Johnson, L.M., Nihart, M.A., & Smiar, N.P. (2006). *Professional assault crisis training*. Pro-ACT, Inc.

the intake procedures have changed over the years, the criteria for entry into the program have not.

*Parent and Student Handbook:* The *Parent-Student Handbook* describes the expectations and procedures for working successfully together during the year and includes various resources available to parents for accessing additional support if it is needed, including contact information for local and regional advocacy groups. The handbook procedures are also posted on the Centennial School Web page.

*Parent Resource Library:* A parent resource library called the “Parent Corner” is located in the foyer of the school. Here parents can find a multitude of materials from different sources, including many that are published by the Pennsylvania Department of Education, Federal agencies, and advocacy groups.

*Parent Contacts:* Parents and guardians are contacted daily. The point sheet contains a space for teachers to write brief notes to parents and guardians and a space for a response and is sent home daily. Parents are encouraged to use the point sheet as a communication tool.

Centennial teachers contact parents by telephone a minimum of one time every week to share students’ academic and behavioral progress and to provide reminders about homework assignments and upcoming school events.

Teachers respond within 24 hours if not sooner whenever a parent contacts the school by telephone or e-mail.

Parents also receive telephone contacts whenever a physical restraint is conducted. A meeting is scheduled within 10-days for reviewing the student’s IEP, including the Positive Behavior Support Plan, to determine whether the plan was followed and if the plan was followed whether the student needs a new functional behavioral assessment, a modified plan, or a change of placement to address the behavior of concern as specified in the Pennsylvania Public School Code.<sup>17</sup>

A Communication Log is maintained for every student in the program. Entries in the log include notes from telephone conferences with parents, Local Education Agency personnel, and representatives from other community agencies.

When communicating with parents about students’ academic and behavioral progress, teachers focus on what *they* are doing to assist the child and describe the interventions employed on behalf of the child as well as the child’s performance in relationship to those interventions. Discussions may center on interventions at the school-wide, classroom or individual levels.

Teachers are encouraged to refrain from focusing on a student’s negative behaviors when contacting parents, as this type of communication is redundant. Parents are already aware of their children’s challenging behaviors as those behaviors supply the reasons the child was referred to Centennial School in the first place.

Focusing on interventions designed to assist students sends the clear message that Centennial School is taking meaningful action to help improve the child’s school performance.

#### NEW ORGANIZATIONAL ARRANGEMENTS

New organizational configurations support the expectations and program procedures that were introduced to the school environment. To this day the school team examines everything done in the school; if an activity supports the vision of making Centennial a place where students want to be, the activity or procedure is retained, even though it may have been modified from its original form. If the activity does not support the vision and goals, it is eliminated.

*Policy Handbook:* The *Centennial School Policy and Procedure Handbook* provides teachers with specific procedures achieving the school’s vision and goals. The handbook is revised annually with input from the teaching staff to ensure its alignment with current practice.

*Teacher Teams:* Teacher teams<sup>18</sup> replace the traditional one-on-one teacher-aide model that was originally employed at the school. Teams consist of teachers<sup>19</sup> led by a program coordinator. Teacher teams meet weekly to discuss student progress and review data. Every member of the team is apprised of each student’s individual Positive Behavior Support Plan.

<sup>17</sup>Chapter 14: Special education services and programs. (2001). Pennsylvania Bulletin, 31, 3021–33.

<sup>18</sup>Mr. John Tommasini, assistant director at the time, now director of the Bureau of Special Education of the Commonwealth of Pennsylvania was familiar with the literature on the subject of one-on-one teacher aides and provided the fiscal support and encouragement for this innovation to occur. The only condition he asked for was data at year’s end showing its advantages.

<sup>19</sup>At Centennial School most teachers are graduate students who attend classes at Lehigh University.



The use of teams with members who are knowledgeable of students' programs eliminates the need for hiring substitutes<sup>20</sup> when staff absences occur and adds to consistency in the implementation of students' programs.

In addition to weekly team meetings, other meetings called staffings are convened for the specific purpose of conducting functional behavior assessments and revising Positive Behavior Support Plans for students who require additional assistance to succeed. Staffings may be held at anytime but are convened automatically under certain conditions: for example, point earnings fall below expectancy for 3 consecutive days, suspensions for 3 days over a 2-week period of time, or anytime law enforcement is involved.

A major component for the adoption and sustainability of the practices employed at Centennial School is the professional development program. Professional development consists of collaborative, active learning opportunities that occur weekly.<sup>21</sup> Professional development at Centennial School emphasizes the school's guiding assumptions as well as the teaching and professional behaviors that comprise the school's culture. Most of the topics presented during professional development episodes are included within the *Centennial School Policy and Procedures Handbook*.

Career Ladder: A career ladder was instituted that permits teachers who have successfully acquired their Masters' Degree to continue with Centennial School in the role of Lead Teachers. There are now four levels of employment among Centennial teachers: teacher associate, teacher intern, lead teacher, and program coordinator. Lead teachers assist with the mentoring and training of interns<sup>22</sup> and associate teachers. Because they tend to remain with the school for a number of years, Lead teachers add greatly to program consistency and continuity. They usually take coursework in the educational leadership program at Lehigh University.

Mentors: Every new teacher to the program has a mentor. Mentors serve multiple purposes, for example, transmission of the school culture, dissemination of technical information, and as models for teaching practices. Lead teachers mentor the teacher interns and associates; program coordinators mentor the lead teachers, and the Director mentors the program coordinators.

School Committees: School committees plan and conduct work in the school that otherwise might go unheeded. Presently, there are 16 ongoing committees at the school that plan and conduct work in areas such as Middle States Accreditation, athletic events (e.g., field days, Hoops for Heart, Special Olympics), budget, special events (e.g., Open House, Honor Roll Breakfasts), spirit days, bullying prevention, transition and graduation, technology, hiring, and the annual talent show, carnival and 5K Race and Walk Fundraiser, as well as staff social events.

Evaluation: Centennial uses formative evaluation for improving the performance of its personnel that is ongoing and supplies corrective feedback as issues arise. Such feedback is referred to as "gifts" at Centennial School—gifts of competence given to help teachers reach success.

Centennial School also employs a 360-personnel evaluation system that allows teachers the opportunity to give performance feedback to supervisors. The evaluation instrument was developed by the program coordinators in conjunction with Lehigh professors<sup>23</sup> and solicits information about supervisors' performances in the following areas: (a) organizational management, (b) supervision, (c) training, (d) communication, (e) leadership, and (f) student management. Personnel supervised by the director submit their evaluations to the Dean of the College of Education, the director's supervisor.

#### CELEBRATIONS AND CEREMONIES

Awards Ceremonies: Centennial School celebrates the success of students in a number of demonstrable ways. For example, each program conducts weekly Awards Ceremonies that are open to parents and other guests. During award ceremonies, students receive recognition for academic growth, behavioral competence and improved social development. Some of the awards granted are for Student of the Week, Most Improved, Parent Involvement, Community Participation, Academic Award,

<sup>20</sup> Substitute teachers have not been used at Centennial School for the past 13 years.

<sup>21</sup> Once again, Mr. Tommasini was instrumental in helping Centennial achieve the necessary modifications to the school calendar that could allow for a half-day every week for professional development and yet remain within State regulations.

<sup>22</sup> Teacher interns hold Bachelor's Degrees along with Pennsylvania certification in special education and teacher associates hold Bachelor's Degrees but not certification in special education.

<sup>23</sup> Dr. George White of Lehigh University provided the guidance and leadership for this initiative.

Above and Beyond, Homework, Perfect Attendance, Model Employee, Teamwork, and Athletic Awards.

Honor Roll: Students are also recognized for academic excellence and achieving the Honor Roll. The Honor Roll requires students to achieve a minimum of 3.2 (of 4.0) and an overall grade point average with a letter grade of "B" in every subject (on work at the instructional level), with no trancies or suspensions from school during the entire quarter. Honor Roll is celebrated at a breakfast with teachers and families in the school library. The ceremony is well attended and it is not uncommon for every recipient to have a family member present.

Graduation Ceremony: Centennial School celebrates the annual graduation of its seniors with a formal ceremony in the gymnasium. Although students may also participate in the graduation Ceremonies of the resident districts, if they choose, Centennial takes time to bring parents and the extended families together to celebrate students' accomplishments and formally transition them to their futures.

Other events and ceremonies, such as the annual Talent Show, Carnival, 5K Race and Walk, and "Spirit Days" are interspersed throughout the year, help to "normalize" the students' school experiences and bring parents and faculty together.

Re-integrations and Transitions: Centennial successfully re-integrates an average of about 14 percent of its student population to their home school districts. A student's return to the less restrictive environment is a joint decision made between parents and district officials with a recommendation from the Centennial School team. In general students are quite successful upon their return and some go on to do some remarkable things. Jon, for example, who entered Centennial School from a residential facility, returned to his home school environment to pass all of his senior classes, participate on the wrestling team and attend the school's prom. Alex, upon his return to his middle school enrolled in accelerated algebra and readily became indistinguishable from his non-disabled peers. Jose maintains his home school success after 5 years and in addition to passing all of his subjects, plays the violin in the high school orchestra, an instrument he learned to play during his elementary years at Centennial School. There are many more such success stories.

#### OUTCOMES: YEAR 1

By the end of 1998–99, the first year of restructuring, episodes of seclusion and restraint had decreased dramatically. The number of minutes of seclusion time out for the 79 students in attendance decreased by approximately 77 percent, from a high of 15,774 minutes of seclusion time-out during the first 20 days of school to 3,627 during the final 20-day period.<sup>24</sup> The number of physical restraints decreased by 69 percent as compared to the previous year, (1064 to 327 physical restraints). There were no physical restraints during the final 20 days of the year, even though the student population was nearly the same as the year before.<sup>25</sup>

Viewed another way, during the first 40 days of 1998–99 there were 233 episodes of physical restraint. During the final 40 days only one physical restraint was conducted. The student population was largely the same throughout the year.

One of the time-out rooms was closed at mid-year and converted to a supply closet; at year's end, the second time-out room was closed and converted to the school store and was filled with trinkets, notebooks, paper, pencils, snacks, and other items that students could purchase with points they earned for meeting school and classroom expectations. In a span of just over 6 months, a 20-year pattern of seclusion and physical restraint was broken.

#### CENTENNIAL SCHOOL: A PLACE STUDENTS, FAMILIES AND TEACHERS WANT TO BE

Subsequent years witnessed the tenacious pursuit of the school's vision and goals through steadfast implementation and refinement of positive behavioral strategies. To ensure continuity and maintenance of the school's mission, organizational structures as described previously were gradually modified to accommodate new procedures and practices. For more than a decade, Centennial School has indeed transformed into a school where students, parents and faculty are eager to come to learn new skills that can benefit them now and into the future.

Students new to the school enter an environment governed by a three-tier system of school-wide positive behavior supports where expectations for achieving success are clearly known to students and faculty alike. Parents and other visitors upon entering the building often remark on the orderly and calm atmosphere, especially

<sup>24</sup> School-wide data graphs were compiled every 20 days because of Pennsylvania's 180-day school year.

<sup>25</sup> Eighty-three percent of the student body was the same as the year before when there were 1,064 physical restraints.

visitors from other alternative schools, who come to learn about the educational practices at the school.

The school is brightly decorated with student work covering the walls. The 12 classrooms reflect a singular focus on academics and are well supplemented by technology: SMART boards, iPads, iPods, laptop and desktop computers.

Students are actively engaged in academics throughout the day. They complete homework. They talk about “making their days”, meaning they have met the expectations held of them. They can identify the day and step they are on in the Steps to Success system (i.e., a level system) that helps inform them of their progress. They talk about their future goals. They appear genuinely proud of their academic achievements.

As important perhaps, students at Centennial School talk about their friends at the school, a topic of conversation that is atypical for children and youth with behavioral and emotional disabilities.

Centennial students speak politely to teachers and at times even praise them. Guests often comment on the polite discourse among those in the school. One State Education Agency official, for example, who visited the school, observing classes and meeting students, asked repeatedly during his visit, “Are there any children with disabilities here?”

Last term 30 students earned Honor Roll and attended the Honor Roll Breakfast Celebration along with their parents and guardians. Earning the Honor Roll is a challenge, especially for students with histories of chronic behavior problems in schools. Nearly all of the parents attend this important event; they almost always do.

Parents and teachers communicate frequently, sometimes daily. Most of the contacts are positive in nature with teachers sharing stories of success. Parent support is judged to be quite strong; for example, 52 percent of Centennial families attended the Spring Open House despite long distances and economic stressors.

Teachers speak<sup>26</sup> of the support they receive from their colleagues, the positive environment, the dynamic teamwork, and the joy from teaching the students. Teachers often arrive early and often stay late. Staff absences are at an all time low.

#### LESSONS LEARNED

A number of lessons emerge from the Centennial School experience. Perhaps one of the most encouraging lessons is that as a field we have the technical information necessary to reform chaotic school environments and to decrease and perhaps eliminate the use of seclusion and physical restraint from our schools. The practices adopted at Centennial School are contained in the present body of literature and are no farther away than a few mouse clicks on the World Wide Web. Moreover, this past May, the U.S. Department of Education published an excellent overview of the practices as well as guidelines for school officials to follow so that seclusion and restraint are unnecessary<sup>27</sup>; and as chronicled in this report, the practices are not highly specialized nor arcane but well within reach of professionals. To use the words of Douglas Reeves, founder of the Leadership and Learning Center,<sup>28</sup> “the practices are mundane, inexpensive, and [most important] replicable.”

Physical restraints are messy, loud, and violent affairs that effectively shut down any instruction occurring in the vicinity. Physical restraints teach nothing in and of themselves and they interfere with the main business of schools—learning. Physical restraints not only disrupt the learning environment, they disrupt the learner, as well. The practices of seclusion and restraint like other forms of aversive consequences engender some rather nasty side effects for the learner: fear, resentment, anger, resistance, and feelings of hatred.<sup>29</sup> Needless to say, such emotional predispositions are hardly conducive for the learning process to occur.

When seclusion and restraint are used excessively, it is likely because school personnel believe that students with emotional and behavioral disabilities are dangerous, unable to manage themselves and therefore require physical management by others. Yet, seclusion and restraint cause students to react more violently and thus exacerbate the very symptoms that led to their identification as emotionally

<sup>26</sup> Annual “One Thing Survey” wherein teachers anonymously list the one thing they like best about their job at Centennial School, the one thing they like least about their job, and the one thing they would change about their job at the school.

<sup>27</sup> U.S. Department of Education, *Restraint and seclusion: Resource document*, Washington, DC 2012.

<sup>28</sup> Reeves, D. (2002). *The daily disciplines of leadership*, Jossey-Bass.

<sup>29</sup> Axelrod, S., & Apsche, J. (Eds.). (1983). *The effects of punishment on human behavior*. New York, Academic Press.

and behaviorally disabled in the first place. This intensified emotional and behavior response reinforces the belief that students with emotional and behavioral disabilities are dangerous, unable to control themselves and need to be controlled by others. The students at Centennial School in 1998 certainly looked more disturbed and behaved more violently than students at Centennial School today, even though the entry criteria have remained unchanged over the years.

The frequent use of seclusion and physical restraints is relatively expensive. It usually requires additional personnel to conduct the restraints, often personnel who are fully unrelated to the instructional process. At least that is what we found at Centennial School. As preventive procedures based on positive behavior support proved successful at Centennial School, the need for personnel who were hired solely to conduct physical restraints diminished. In 1998, for example, Centennial School employed 71 people; today there are 51.<sup>30</sup> Monies saved through reductions in unnecessary personnel were reinvested for such things as renovations to the facility, curriculum materials, furniture, technology, and other items designed to improve the overall work environment.

Teachers are more at-risk for injury with the use of seclusion and restraint than without those practices. As a measure of staff safety, data were collected on the number of Workers Compensation Claims that were filed by injured employees at Centennial School. During the year of over 1,000 physical restraints, injured staff filed 22 Workers Compensation Claims; 82 percent of those injuries occurred while staff was conducting physical restraints with students.

As the number of restraints decreased so did injuries to staff. The following year when 327 physical restraints were conducted, 18 Workers' Compensation claims were filed with 52 percent of the injury claims directly related to restraint situations. The subsequent year, when no physical restraints were recorded, only four Workers Compensation Claims were filed, none of which, of course, were associated with physical restraint. Centennial faculty has not suffered an injury related to physical restraint for the past 12 years and Workers Compensation Claims continue to remain at low levels. At this school, staff injuries were related positively to physical restraints with more frequent restraints resulting in a greater number of injuries to staff.

Perhaps the biggest barrier to success is the educators themselves, the inability of professionals to redefine the problem and implement innovations. There is too much emphasis on the consequences for behavior and too little attention to restructuring learning environments. Too many professionals continue to view the child as defective, dangerous and unpredictable and fail to see the connection between students' behaviors and the practices they have in place.

It wasn't the students at Centennial School who were restraining themselves to the floors or escorting themselves to time-out rooms—it was the adults. It is the adults and not the students who establish the culture in schools, define the professional behaviors, and erect the standards of conduct for students as well as themselves to follow.

Centennial School does business in vastly different ways than it did years ago; it has a much different culture today than it did then. But even amidst the relative chaos of those past days, Centennial had a culture: it had values, norms, and traditions that were faithfully followed by both faculty and students alike. Those were the "rules of the game" so to speak and those rules were hardly conducive for teaching academics and pro-social behavior and most likely allowed students to practice poor conduct in the presence of school officials. The message is quite clear and now well known. In order to change student behavior, we must first change our own behavior. We must change the rules of the game.

Yet, too many leaders find too many excuses for maintaining the status quo. Money, lack of training, violent students, psychiatric conditions, apathetic parents, teacher unions, poverty, drugs are but a few of the reasons given for the failure of school administrators to take action. Often, it is the students who end up getting the blame. "What you do at Centennial is nice, but would not work at our school—our students are much more difficult than yours", is a common refrain I often hear.

Services for children and youth with emotional and behavioral disabilities are suppose to provide assistance for children who have had histories of difficulties in public schools. Yet, despite nearly 40 years of special education services, students with emotional and behavioral disabilities suffer some of the bleakest outcomes of

<sup>30</sup>It is likely that the mere presence of "crisis intervention" staff (i.e., staff employed solely to physically restrain students) will result in a greater number of physical restraints than in schools without such staff.

all school-aged children and youth.<sup>31</sup> More than half of them drop out of school, a rate more than twice that of students in general education; three-fourths of them achieve below grade expectancy in reading, and 97 percent of them achieve below grade expectancy in mathematics. Two-thirds cannot pass competency exams at their grade level. Such dismal outcomes certainly cause one to wonder, whether in our attempts to help these youngsters, what we use are not actually doing them more harm.<sup>32</sup>

Among the many lessons learned at Centennial School, there is good news for school administrators. The techniques and strategies for increasing pro-social behavior at Centennial School work equally well in public schools.<sup>33</sup> Administrators might wish to adopt practices that lead to the creation of favorable instructional environments especially the special education classrooms within their buildings, if not within the entire school altogether.

A final lesson is that students with emotional and behavioral disabilities wish to succeed in school just like their nondisabled peers. They work diligently on lessons that are engaging and challenging yet within their capabilities. When his probation officer asked Joe, a new Centennial student who came by way of a long-term placement in a juvenile detention facility why he was now doing so well in school, Joe responded, "Here they teach you something, in my other placements we just sat around and talked about our problems."

#### CENTENNIAL: 14 YEARS LATER

Centennial has sustained its school-wide positive approach for the past 14 years. Each year heralds new improvements to the school setting. The vision established in 1998 is now "just the way we do things around here;" it is part of the school culture.<sup>34</sup> The physical interventions of today bear little resemblance to those conducted 13 years ago. This past year, there were three physical restraints, consisting of brief standing holds under a minute each in duration. Brief holds restricting movements like the ones at the school this year would not have been recorded as physical restraints 13 years ago when basket-holds and prone restraints were common.

Are there imaginable circumstances when Centennial teachers might someday need to use more intrusive physical restraints? Common sense would dictate yes.<sup>35</sup> But the preventive strategies Centennial School has in place greatly reduce the probabilities of having to employ more intrusive physical restraints as occurred in the past. In fact, the topography and intensity of overall behavioral episodes at Centennial School have changed markedly over time.

Just 7 years ago, for example, it was commonplace for angry and upset students to leave the classroom loudly, curse the teachers, wander the halls, tear artwork off the walls, flip furniture, bang walls, and slam doors. Today those behavioral patterns are nearly nonexistent. Students seem to understand that teachers are here to help them and that all they need do is to raise their hand or ask to Take Time when they become frustrated or upset. When students choose more disruptive behaviors to express their anger, teachers follow students' behavior plans, usually meaning, they remain silent and wait for the student to get calm.<sup>36</sup>

Visitors to the school often express astonishment when they discover that a particular student is "out of program", meaning he or she is not following expectations. Zack, a recent 17-year-old referral to the program said it quite well. One afternoon while sitting in the school library, visibly agitated and upset about something that happened in his classroom, muttered angrily, "I thought this was a school for bad kids. I don't see any bad kids here!"

<sup>31</sup>Bradley, R., Doolittle, J., & Bartolotta, R. (2008). Building on the data and adding to the discussion: The experiences and outcomes for students with emotional disturbance. *Journal of Behavioral Education*, 17, 4-23.

<sup>32</sup>See Hayling, Cook, Gresham, State & Kern, and (2008); and Sutherland & Wehby, (2001).

<sup>33</sup>An administrator at a public middle school who recently hired one of Centennial's teachers called me to ask in mock astonishment, "What are you teaching your teachers? The classroom was totally different from the previous years even though the students were the same ones from last year. I have had a self-contained classroom for children with emotional and behavioral disabilities in my school for 13 years. All of that time I thought it was the students," she said.

<sup>34</sup>Deal, T.E., & Peterson, K.D. (1999). *Shaping school culture*. CA: Jossey-Bass.

<sup>35</sup>The number of restraints, defined as the application of force for the purpose of restraining the free movement of a student, varies each year with an overall average of about 10 per year.

<sup>36</sup>One of the most common mistakes teachers make to control inappropriate student behavior is the use of "escalating prompts" that take the form of negative reprimands, repeated warnings, sarcasm, criticism or other forms of disapproval. See Walker, H.M., Ramsey, E., & Gresham, F.M. (2004). *Antisocial behavior in school: Evidence-based practices*. Belmont, CA: Wadsworth.

Other measures confirm Zack's exasperation about the dearth of "bad kids" at the school. The rate of suspensions has decreased by 88 percent since 1998<sup>37</sup>; truancy is down an annual average of 50 percent; police visited the school only 3 times this past year with no student arrests (as compared to 39 visits during the year of 1,064 physical restraints). Only three Workers Compensation Claims were filed this past year. In addition, in the absence of frequent seclusion and physical restraint, time-on-task at Centennial School has increased dramatically. Many Centennial students now demonstrate academic growth rates in reading fluency that closely approximate or exceed "typical students" as measured by AIMSweb reading probes.

Moving from a violent school climate to a positive educational climate is hard work. It is daunting to begin a change process in the midst of a violent student population. In fact, once the change process begins, things will likely get worse<sup>38</sup> in the short-term: more suspensions, more police, and possibly even more violence, as teachers and staff are called upon to change their beliefs and their behavior. Nonetheless, the results in terms of teacher satisfaction, student performance and parent support are well worth the effort.

The favorable outcomes associated with positive behavior supports are perhaps best understood from the mouths of the students themselves. When asked, "How is Centennial different than your previous school?" Tommy put it succinctly,

"At Centennial School when I have a problem teachers try to help me. At my other school when I had a problem, the teacher got mad and that made me mad. Then a big man would come and lay on me, and that made me madder."

As more and more evidence accumulates, it appears quite certain that the practices of routine seclusion and physical restraint will someday be placed on the shelves of the Gloré Psychiatric Museum in St. Joseph, MO, alongside other failed mental health practices for ameliorating the problems of individuals with emotional and behavioral disabilities.

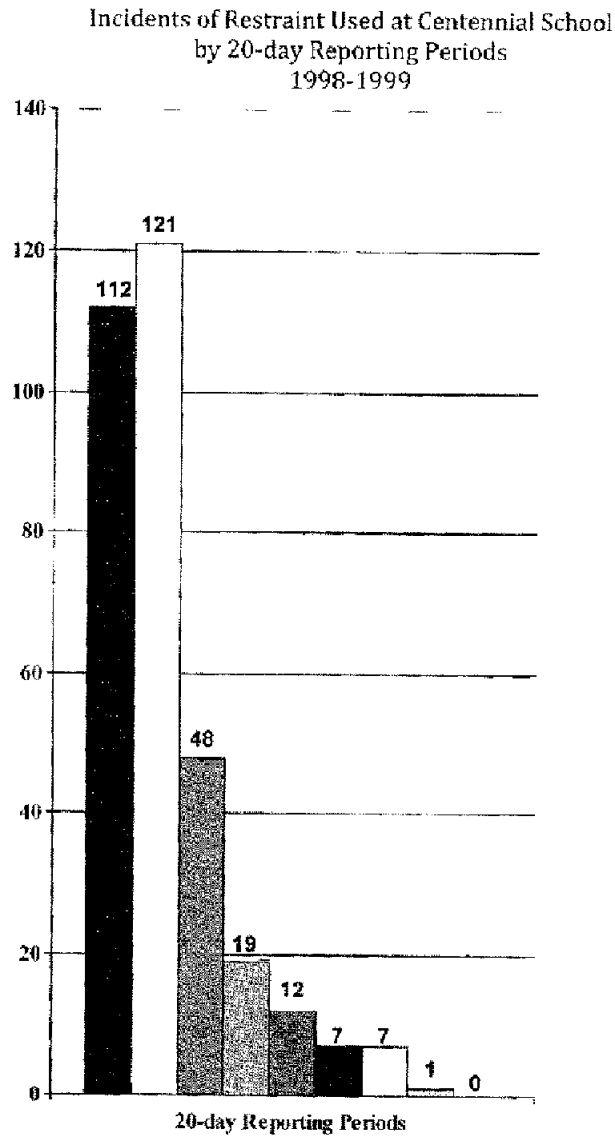
Change is often the result of a new vision for doing things differently than they have been done in the past. From that vision, we develop goals and procedures for eventually making the vision a reality. I believe the proposed Federal legislation on seclusion and restraint sets forth the vision and harbors the promise for meaningful change in the future.

Thank you for receiving my report. I am happy to answer any questions you might have.

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<sup>37</sup>Centennial suspends students for 1 day only at a time.

<sup>38</sup>Fullan, M. (2001). *Leading in culture of change*. San Francisco: Jossey Bass.



The CHAIRMAN. Thank you very much, Dr. George. I look forward to engaging in a colloquy and some questions about this.  
Miss Pitonyak, welcome and please proceed.

**STATEMENT OF CYNDI PITONYAK, COORDINATOR OF POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS, MONTGOMERY COUNTY PUBLIC SCHOOLS, CHRISTIANSBURG, VA**

Ms. PITONYAK. Thank you, Chairman Harkin, Ranking Member Enzi, and members of the committee.

Thank you for inviting me to be here as a representative of my school division, Montgomery County Public Schools.

Our goal in Montgomery County is schools that meet the needs of all children who live in our community, and this includes the kids who present the most serious behavior challenges. For over two decades now, we have not found it necessary to use restraint or seclusion to maintain safe schools except in rare emergency situations.

A fundamental factor in removing the need for restraint and seclusion has been our move, 23 years ago, from segregated, centrally located special education classes to inclusive, regular education classes in neighborhood schools. This is especially important in our work with children with serious behavior needs for several reasons.

First, working with the kids who live in the neighborhood is not overwhelming. The number of children in any given school who have truly extensive behavior needs is very small, usually 1 to 2 percent of the population or less.

Second, we spend our time talking about how to make kids successful rather than talking about where to send them. A separate classroom is not part of our default plan, and our special education and classroom teachers are working together anyway.

Third, the natural, healthy, inclusive setting is a strong, positive influence. Kids with problem behaviors are not surrounded by other kids with problem behaviors, but by typical peers who model appropriate social skills.

Another critical factor in removing the need to use restraint and seclusion has been early behavior intervention. When children develop behavior problems, most of the time it begins quite early in their school careers. When we can intervene and reverse a negative pattern in the early years of school, the chance that the student will go onto success in future grades improves dramatically. This means that a kid who requires many supports and modifications just to make it through the day in first grade is quite often successful with little or no special support by middle school. Intervening early not only results in a better outcome for the student, but in a significant reduction in the resources that are going to be required later. The bottom line is that school just has to be a safe place for everyone.

A key tool for us in moving from restrictive procedures to positive behavior supports has been individualized Positive Behavior Support plans, or PBS plans for kids with the most significant needs. These plans are based entirely on the needs of the individual student, so each one is different, but the process for developing them is simple and clear enough to be understood by a variety of involved adults.

We start by forming a small support team around the student, composed of the people who work with her every day. The student's parents and the student herself, in the case of older students, are members of the team whenever possible. The team meets weekly.



They plan ahead, they problem solve, they review progress data, and they celebrate successes. This commitment of time is essential to make sure that the PBS plan stays on-track and effective.

If the student's behavior presents a safety or a severe disruption risk, the team immediately develops a crisis plan. We spell out specifically what crisis level behavior looks like for this particular student, what the early warning signs are, and what steps to take to prevent a crisis. It includes who to call and exactly what to do if a crisis does occur. And when there is an incident, we carefully analyze what we happened to learn from the experience and make adjustments in the plan.

With the team up and running, and the crisis plan in place, we make modifications to the student's daily routine. The most important step is to help the student replace the problem behavior with a positive behavior that serves the same purpose.

For example, if we discover that a student's problem behavior is driven by a need to escape the classroom, we might teach the student an easy way to request a break like a break card that can be placed on the desk at any time and a legal place to go. This alternative works better for the student than the problem behavior did. It is a quicker and easier way to escape, and it does not have the negative effects that the problem behavior did.

Then we focus on circumstances that drive the student to escape the classroom, in this example, and we work to address those. Over time, we eliminate the need for the student to request those special breaks and we can withdraw the special modifications.

Skilled and knowledgeable staff is our most valuable resource, and preparing them requires initiative on several levels. First, we make sure that the people called upon most frequently have the big picture. They understand why inclusion is so important for these students, the principles of positive behavior support, our emergency procedures policy, and how to deescalate crisis situations.

Second, one of the primary ways our teachers develop their skills is just by being part of one of these student teams. This side-by-side, "learn it while you do it" approach has been an essential due to the multitude of competing demands on teachers' time.

Third, we create easy and free ways for interested and motivated staff to improve their skills through a menu of training opportunities that are open to everyone.

We are far from perfect. At present, out of 881 students with IEPs, 6 have been placed in nearby private day schools to access services that are not available in their neighborhood schools. As the home of Virginia Tech, we are only too aware of the tragic implications of serious and unmet social and emotional needs. We know for a fact that positive results are not only possible, but predictable when proactive, positive procedures are used.

According to this year's data, 86 percent of our students with PBS plans achieved very significant behavior improvement. Of these students, the average decrease in targeted problem behavior was 81 percent. The average decrease in crisis behavior was 78 percent. Aside from the typical scrapes that occur between kids in any school, students with PBS plans injured no adults or children.

Restraint and seclusion may be necessary tools when the immediate alternative is serious injury, but they are not teaching tools.

They do not prevent crisis behavior and they do not teach positive alternatives. The students who present emergency situations are not usually a surprise to us. Powerful, positive, evidence-based tools exist and we can use them. Most important of all, we can make sure that no child feels unwelcome and isolated in his school, and that learning is not out of reach for any student.

Our time, our focus, our training efforts must be about connecting with and empowering our kids, not about isolating and immobilizing them.

Thank you for the critically important work you are doing, and for the opportunity to share our story with you. I look forward to answering any questions you may have.

[The prepared statement of Ms. Pitonyak follows:]

PREPARED STATEMENT OF CYNDI PITONYAK

SUMMARY

Ms. Pitonyak's written testimony describes the experience of her school division in serving students with the most significant social, emotional and behavioral needs without the use of restraint or seclusion except in rare emergency situations for over 20 years. She addresses fundamental factors that have been important in removing the need for using restraint and seclusion, transitioning to reliance on positive behavior supports to address the needs of students with the most difficult behaviors, and preparing staff to successfully use positive behavior supports in their daily work with children. Ms. Pitonyak cites the move from traditional to inclusive special education services to students in their local community schools and early behavior intervention as factors that have been most important in removing the need for restraint and seclusion. She describes the individualized positive behavior support planning process, which includes individualized crisis planning, as fundamental in transitioning from more restrictive procedures to reliance on positive behavior supports. She outlines three areas of training that are essential for effective teacher preparation, including: groundwork of basic understanding for staff who work directly with these students and those who would be called upon to help in a crisis, "learn by doing" participation on student planning teams, and a menu of easily accessible, free training opportunities for interested staff and parents. Ms. Pitonyak provides several appendices to her testimony that serve as examples of how these fundamental factors are put into daily practice in Montgomery County Public Schools.

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Chairman Harkin, Ranking Member Enzi, and members of the committee, thank you for inviting me to be here as a representative of my school division, Montgomery County Public Schools. Our goal in Montgomery County is to create schools that are organized and equipped to meet the needs of all children who live in our community. This includes those children with the most significant social, emotional, and behavioral needs. For over two decades now, we have not found it necessary to use restraint or seclusion procedures to keep our schools safe, except in rare emergency situations. My testimony today will focus on fundamental factors that have been important to us in:

- Removing the need for using restraint and seclusion;
- Transitioning to positive behavior supports to address the needs of our students with the most difficult behaviors; and
- Preparing staff to successfully use positive behavior supports in their daily work with children.

A fundamental factor in **removing the need for restraint & seclusion** has been our move 23 years ago from segregated, centrally located special education classes to serving all of our children in **inclusive regular classes in their local community schools**. This is especially important in our work with children with serious behavior needs for several reasons.

- First, serving each child in her local school means that we are working with the natural population of children who live in the community. Therefore, the number of students in any given school who have truly extensive behavior needs is very small, usually 1-2 percent of the population or less. The intensive planning and

highly individualized supports required for success are not overwhelming because there are so few students who need them.

- Second, because a separate classroom is not part of our default plan and our special education and classroom teachers teach together, we spend our time talking about how to make our students successful rather than talking about where to send them. Students with and without IEPs benefit from this success-focused collaboration.

- Third, in an inclusive setting, children with problem behaviors are not surrounded by other children with problem behaviors. Typical peers who model appropriate social skills surround them instead. This healthy, natural setting is a strong positive influence on our students with problem behavior, and their peers benefit from learning first-hand how to resolve conflicts and solve social problems in the real world. The inclusive classroom setting is a positive influence on the behavior of adults as well. Restrictive interventions such as restraint or seclusion seem out of place or even shocking within the context of daily life in a regular classroom.

Another critical factor in removing the need to use restraint & seclusion has been **early behavior intervention**. When children develop behavior problems, most of the time it begins quite early in their school careers. Problem behaviors often escalate and become even more serious over time. Initiating intensive intervention early, while children are still small, is not only easier to manage, but also has a major impact on the amount and intensity of intervention those children will require later.

- Our experience has been that when we are able to intervene and reverse a chronic negative behavior pattern in the first few years of school, usually before third grade, the chances that the student will go on to successful participation in future grades without requiring an extensive amount of support improve dramatically. This means that the student who needs a highly individualized daily routine and many special modifications to make it through the day in first grade, often actually requires no support by middle school, or is successful with relatively minimal supports that can easily be delivered through IEP or 504 Plan accommodations.

- Students sometimes transfer into Montgomery County from other school districts, where highly restrictive procedures have been used to control their behavior. These students are accustomed to being managed by others and usually have limited or sometimes no experience in a regular classroom setting. They require careful transition and a particularly high level of support.

- When we are not able to intervene until students are older, our experience has been that a higher level of ongoing support (i.e., greater commitment of staff time, increased requirement for specialized planning, intensive intervention) is often required through the last years of school to maintain students' success. Early intervention not only results in better outcomes for students, but in significant reduction in resources that are going to be needed to support those students later.

The bottom line is that school has to be first and foremost a safe place if our children are going to learn and thrive. Including students with the most significant behavior needs cannot mean that safety is compromised for anyone. In Montgomery County Public Schools, making the **transition from restrictive procedures to positive behavior supports** has meant that we must have easily accessible, evidence-based practices that prevent disruption and crises as much as possible. We must have the capacity to maintain safety and quickly restore calm when problems do occur. Having a good process for developing & implementing **individualized positive behavior support (PBS) plans** for students who need them has been essential. PBS plans are based entirely on the needs of individual students, so each one is different. However, the process for developing them must be simple and clear enough to be easily understood and implemented by a variety of teachers, administrators, and instructional assistants. (See Appendix A: How to Develop a PBS Plan)

- We start with forming a small support team around an individual student, composed of people who work with her every day and at least one person who is skilled in the PBS plan development process. The student's parents and the student herself (in the case of older students) are members of the team whenever possible. The team meets weekly to plan ahead, problem solve, review progress data and celebrate successes together. These regular meetings of "key players" are the vehicle for ensuring that behavior interventions for the student are relevant and effective. This commitment of time is essential in ensuring that the PBS plan is modified as needed and implemented with fidelity.

- If the student's behavior presents a safety or severe disruption risk, the team immediately develops a crisis plan. We spell out specifically what crisis level behavior looks like for this particular student, (e.g. aggression directed to self or others, talking "over" the teacher or otherwise making it impossible for instruction to continue, leaving or roaming the classroom or school, destroying equipment). The plan

includes early warning signs and steps to take to prevent a crisis. It includes who to call and exactly what to do to maintain safety and restore order if crisis level behavior does occur, as well as followup procedures. (See Appendix B: *Crisis Plan Worksheet*). When a crisis incident occurs, we carefully document and analyze what happened in order to learn from the experience and adjust our supports for the student if necessary. (See Appendix C: *Crisis Incident Record*).

- With the team up and running and the crisis plan in place, we implement modifications to the student's daily routine, based on functional behavior assessment. (See Appendix D: *How to Complete an FBA*). The most important step is to help the student replace the problem behavior with a positive behavior that serves the same purpose. For example, if we discover that a student's problem behavior is driven by a need to escape the classroom, we might give the student a break card that can be placed on the desk any time and a "legal" place to go. This alternative works better for the student than the problem behavior did. It is a quicker and easier way to escape without the negative effects generated by the problem behavior. By focusing on the circumstances that drive the student to escape the classroom (in this example), and working to address those, we eliminate the need for the student to ask for special breaks, and we can withdraw the special modifications over time.

- Chronic, serious problem behaviors do not develop overnight and they are not addressed overnight. We frequently review progress data and make adjustments in our interventions. We tackle a week's worth of issues in our team meetings, and over time we can eliminate crisis behaviors and teach the student to interact positively in an integrated setting.

Skilled and knowledgeable staff is our most valuable resource, and **preparing our teachers & administrators to meet the challenges** presented by students with extensive behavioral needs requires initiative on several levels.

- First, we must make sure that the people who work directly with students every day and those who are called upon most frequently to help when problems occur, have a **groundwork of basic understanding** of the value of inclusion for these students, and primary principles of positive behavior support. We train all principals, assistant principals, special education teachers and instructional assistants in our emergency procedures policy and techniques for de-escalating crisis situations. Using stimulus funds over the last year, we have been able to greatly improve and expand this basic training to include counselors and classroom teachers.

- Second, we have learned that one of the primary ways our teachers develop their skills in positive behavior support is through **participating on a student team**. It is essential to have at least one person in each school that is highly competent in creating individual PBS plans. That person must have the leadership skills and responsibility to guide teams through the PBS plan development process. It is our responsibility as district level administrators to provide training, mentoring and technical support for those building level leaders. It is the responsibility of principals in each building to establish a flexible infrastructure that allows team members to plan and problem-solve together, and to receive any special training required to meet the needs of their student. This side-by-side, "learn while doing" approach has been essential due to the multitude of competing demands on our teachers' time.

- Third, we create **easily accessible and free ways for interested and motivated staff to improve their skills**. Each year we provide a menu of training opportunities open to all of our staff and interested parents.

We are far from perfect. At present, out of 881 students with IEPs, six are served in nearby private day schools to access services for their behavior needs that are not available in their schools. We keep in close contact with these students, and plan to bring two of them back next year. We have no students placed in residential settings by their IEP committees.

For the last 23 years, Montgomery County Public Schools have been safe places to learn without the use of restraint and seclusion. As the home of Virginia Tech, we are only too aware of the tragic implications that can be associated with serious and unmet social and emotional needs. We know for a fact that **positive results are not only possible, but also predictable when proactive positive procedures are used**. According to this year's data, 86 percent of the students for whom we developed an individual positive behavior support plan achieved very significant behavioral improvement. Of these students, the average decrease in targeted problem behavior was 81 percent. The average decrease in crisis level behavior for these students was 78 percent. Aside from the typical scrapes that occur between children in any public school setting, students with PBS plans injured no adults or children.

Restraint and seclusion may be necessary tools in the immediate urgency of an emergency situation when the alternative is serious injury, but restraint and seclu-







sion are not teaching tools. They do not prevent crisis behavior and they do not teach positive alternatives.

The most effective way, in our experience, to establish safety in our schools is to prevent crises from occurring in the first place. The students who present emergency situations are not usually a surprise to us. We have powerful, evidence-based tools at our disposal. We can identify the circumstances that give rise to crises and modify the circumstances that are within our control. We can teach the student better ways to deal with these circumstances. We can include the student and his parents in our planning and support efforts. Most important of all, we can make sure that no child feels isolated and unwelcome at school, and that learning is not out of reach for any student. Our time, focus, and training initiatives must be about connecting with and empowering our students, not isolating and immobilizing them.

Thank you for the important work you are doing, and for the opportunity to share our story with you today. I look forward to answering any questions you may have.

## Appendix A

## How to Make a Positive Behavior Support (PBS) Plan

1. Identify	2. Establish	3. Complete	4. Create	5. Teach	6. Develop over time
 <p><b>1. Identify whether the student needs a PBS plan.</b></p> <p>Questions to consider:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Does the problem behavior occur frequently? (i.e. presents a safety risk, serious property destruction, disruption at a level that is causing significant amounts of instruction, or is causing student to be denied access to school)</li> <li><input type="checkbox"/> Is it happening across multiple settings and with multiple people?</li> <li><input type="checkbox"/> Have there been multiple previous interventions that might be expected to address the behavior?</li> <li><input type="checkbox"/> Have there been previous modifications, CICO, social skills training, homework club)</li> </ul>	 <p><b>2. Establish the support team and address priority needs &amp; safety issues.</b></p> <p><input type="checkbox"/> Conduct a recent review (if this has not already been done) and conduct a triangle chart to determine personal, academic, and social needs that have been part of this student's history.</p> <p><input type="checkbox"/> Conduct a student interview to determine the student's personal relationships in school.</p> <p><input type="checkbox"/> Establish a support team and a regular meeting schedule.</p> <p><input type="checkbox"/> Determine any priority needs that the team has identified and address those needs. (i.e. Academic weaknesses, friendships, etc.)</p> <p><input type="checkbox"/> Collect data to determine if the student needs a crisis or safety plan, develop &amp; implement it.</p> <p><input type="checkbox"/> Collect data on how often crises are occurring.</p> <p><input type="checkbox"/> Decide whether to move forward to the next step &amp; continue with plan development.</p>	 <p><b>3. Complete a Functional Behavior Assessment (FBA)</b></p> <p><input type="checkbox"/> Obtain parent permission to conduct the FBA.</p> <p><input type="checkbox"/> Complete the FBA.</p> <p><input type="checkbox"/> Collect data to identify the level at which the target behavior is currently occurring.</p> <p><input type="checkbox"/> Collect data to identify antecedent events that may be triggering the target behavior.</p> <p><input type="checkbox"/> Collect data to identify other factors in the student's life that may be affecting the occurrence of the target behavior.</p> <p><input type="checkbox"/> Collect data to identify consequences that may be maintaining the target behavior and may stimulate or encourage the target behavior.</p> <p><input type="checkbox"/> Collect data to identify possible functions or "messages" of the target behavior.</p> <p><input type="checkbox"/> Make a "top 10" list of supports to include in the plan.</p> <p><input type="checkbox"/> See the attached page for more data to be collected.</p>	 <p><b>4. Using the "to do list" from the FBA, create prevention &amp; response strategies.</b></p> <p>Create prevention strategies for the environments found in the FBA to be likely places for the target behavior to occur.</p> <p>Create strategies to address the target behavior.</p> <p>Be sure all staff working with the student are prepared to support the student in using the strategies.</p> <p>Collect response data to document whether the student is using the new behaviors and the target behavior is greatly diminished or not occurring.</p>	 <p><b>5. Using the hypotheses generated in the FBA, teach functional replacement behaviors.</b></p> <p><input type="checkbox"/> Identify specific alternative behaviors that can serve as a functional replacement for the target behavior. (i.e. Asking for a break instead of walking out of the room.)</p> <p><input type="checkbox"/> Develop a plan to teach the student to use those behaviors.</p> <p><input type="checkbox"/> Be sure all staff working with the student are prepared to support the student in using the strategies.</p> <p><input type="checkbox"/> Collect response data to document whether the student is using the new behaviors and the target behavior is greatly diminished or not occurring.</p>	 <p><b>6. As the student's ability to participate develops over time, continue to monitor and gradually fade supports.</b></p> <p><input type="checkbox"/> Keep in mind the desired behavior that was defined as the ultimate goal in the FBA.</p> <p><input type="checkbox"/> Gradually withdraw intensive preventive supports as the student's function and success in completing more complex tasks increases.</p> <p><input type="checkbox"/> Continue to meet regularly as a team (although meetings may be less frequent) to monitor progress until behavior is no longer a concern.</p> <p><input type="checkbox"/> Determine if the student and staff need intensive supports are no longer needed.</p> <p><input type="checkbox"/> Continue to collect progress data until that data shows that the student is no longer a major concern.</p> <p><input type="checkbox"/> Determine if intensive supports are no longer needed.</p> <p><input type="checkbox"/> This process may take several years. Be sure to carefully monitor and proactively plan for future needs and to ensure an ongoing, consistent approach.</p>

**Appendix B**

**Crisis (Safety) Plan Worksheet**

Student:  
Grade:  
School:  
Planning Team:

*Description of crisis-level behavior for this student (causes serious risk of injury or harm to student or others, causes serious property damage, or presents extreme disruption of learning environment):*

*Under what circumstances is crisis behavior likely to occur?*

What are the behavioral precursors (early warning signs) to the crisis behavior?

*What steps should we take when we see precursor behaviors to attempt to avert a crisis?*

*If crisis behavior does occur, what specific steps will we take to restore safety and order and eventually help the student resume his/her regular routine?*










*Staff supports needed to implement this plan (including back up plans in case of staff absences):*

*How will we track crisis incidents and determine whether or not our plan runs smoothly?*

- ## Appendix C



# How to Complete a Functional Behavior Assessment (FBA)

To Answer	What is the specific behavior we are going to address? How much is it occurring now? (before the PBS plan)	What happens before this behavior occurs that we can use as a cue to directly ask it off?	Who is this student?	What happens after this behavior that has the effect of discouraging it from happening again?	What purpose does this behavior seem to serve for this student?	What do we do with this information?
						
	<b>Target Behavior &amp; Baseline</b> <input type="checkbox"/> Scatterplot <input type="checkbox"/> Frequency Count <input type="checkbox"/> Other methods	<b>Antecedents</b> <input type="checkbox"/> ABC Observations <input type="checkbox"/> ABC Log <input type="checkbox"/> Other methods <input type="checkbox"/> Scatterplot	<b>Context</b> <input type="checkbox"/> Student Interview <input type="checkbox"/> Parent Interview <input type="checkbox"/> Teacher Interview <input type="checkbox"/> Multiple Informants <input type="checkbox"/> Assessment <input type="checkbox"/> Observation <input type="checkbox"/> Interview with Samples	<b>Consequences</b> <input type="checkbox"/> ABC Observations <input type="checkbox"/> ABC Log <input type="checkbox"/> Other methods	<b>Communicative Function</b> <input type="checkbox"/> ABC Observations <input type="checkbox"/> ABC Log <input type="checkbox"/> Other methods	<b>Direct Methods</b> <input type="checkbox"/> Directly observed <input type="checkbox"/> Immediately recorded <input type="checkbox"/> Other methods
	<b>How do we collect it?</b> <input type="checkbox"/> Interview <input type="checkbox"/> Observation <input type="checkbox"/> Self-report <input type="checkbox"/> Other methods	<input type="checkbox"/> Interviews <input type="checkbox"/> Direct Observations <input type="checkbox"/> Self-report <input type="checkbox"/> Other methods	<input type="checkbox"/> Teacher Interviews <input type="checkbox"/> Student Interviews <input type="checkbox"/> Parent Interviews <input type="checkbox"/> Other methods	<input type="checkbox"/> Interviews <input type="checkbox"/> Direct Observations <input type="checkbox"/> Self-report <input type="checkbox"/> Other methods	<input type="checkbox"/> ABC Observations <input type="checkbox"/> ABC Log <input type="checkbox"/> Other methods	<b>Indirect Methods</b> <input type="checkbox"/> Interviewed by others <input type="checkbox"/> Interviewed in time

## Appendix E

### Montgomery County Public Schools—Policy & Procedures Guiding Management of Student Behaviors in Emergency Situations: Use of Restraint and Seclusion\* (Developed April 2006; Updated June 2008)

**Philosophy:** Montgomery County Public Schools is committed to valuing every student as a unique and capable partner in the education process. When there is a need to manage aggressive or violent behavior of students in emergency situations, there must be a balance between maintaining an effective and safe learning environment for children and school staff and safeguarding the rights and protections of students. This balance is reflected in our procedures for dealing with unanticipated emergency situations, as well as for planning as mandated by Federal law (IDEA) for our students having disability-related problem behaviors. Students in Montgomery County Public Schools are free from the unreasonable use of physical restraint, seclusion, or any other intervention method that is not least restrictive for that student. The use of aversive interventions is not authorized, permitted or condoned in the public schools of Virginia and Montgomery County Public Schools. Corporal punishment is expressly prohibited by law.

**Purpose:** The purpose of this policy is to provide information to all persons working with children within Montgomery County Public Schools on how violent and aggressive student behaviors will be addressed—both in terms of response to emergency situations and with regard to planning for individual students to reduce the likelihood of future emergency situations. This document will provide definitions of restraint and seclusion as restrictive procedures and outline emergency circumstances under which they would be used. Also, this policy identifies students who receive ongoing planning to prevent emergency situations and how students are to be referred by administrators to receive such planning services. Procedures are described here for ensuring that incidents that require the use of emergency procedures are clearly documented, recorded and reported to appropriate school officials and parents.

#### POLICY AND PLANNING PROCEDURES FOR MANAGING STUDENT BEHAVIORS

- As required by IDEA, Behavior Support Plans (BSPs) are developed for students with significant disability-related problem behaviors. Student Individual Education Plans (IEPs) usually address the need for development of BSPs for individual students. Montgomery County Public Schools generally uses one of three different formats in development of these plans, depending on the needs of the student and the frequency and intensity of the behaviors being addressed. (See MCPS Special Education Handbook 2006–2007). All BSPs are developed using a team approach, a clear definition of the behaviors being addressed, and a functional assessment of those behaviors using systematically collected information from a variety of sources. Personalized strategies to prevent problem behaviors are developed using the results of the functional behavior assessment and are spelled out in the BSP.

Specific steps staff will take to address problem behaviors when they occur and to defuse crisis situations may also be included in the plan. Descriptions of social skills, which are taught to the student as a means of replacing problem behaviors, are included as well. While the amount of detail and information included in individual BSPs will vary based on the needs of the student, all BSPs include a means for collecting data to measure the effectiveness of plans and to allow for adjustment as needed.

- School administrators may also initiate development of Behavior Support Plans for students who engage in repeated or serious problem behaviors but who are not identified as having disabilities. The process used for these students is the same as that described above, using one of the three formats depending on the severity of the problem.

- In all emergency or crisis situations, MCPS staff initially uses the least restrictive measure possible to safely address the situation. The student should return to the learning environment as soon as possible after the behavior has been addressed.

#### DEFINITIONS

- **“Emergency”** situation is defined as one that *requires* a person to take immediate action to avoid serious bodily injury to a student or staff member or substantial property damage. Serious bodily injury means “a bodily injury that involves a

\* Based on IDEA Reauthorized Discipline Statute, July 2005 and Guidelines from Virginia Department of Education Office of Special Education Instructional Services November 2005.

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 faculty”.

- **“Crisis” situation** is defined as one in which student behavior is creating a situation which must be brought under rapid control because of risk of harm to student or others, serious property damage or extreme disruption of the learning environment.

- **Physical restraint** means the use of “approved physical interventions” or “hands on” holds by *trained* staff to prevent a student from moving his/her body to engage in a behavior that places him/herself or others at risk of physical harm. Montgomery County Public Schools staff are not trained in the use of physical restraint as part of their job responsibilities. Police assistance would be requested in **emergency situations** requiring this type of intervention. Physical restraint in the school setting may be used only for a period of time necessary to contain the behavior of the student so that the student no longer poses an immediate threat of causing physical injury to himself or others or causing severe property damage. Physical restraint is not used as a disciplinary procedure in Montgomery County Public Schools. It may be used only in emergency situations when other less-intrusive measures have failed and there is no other way to re-establish safety. (See “Procedures . . .”)

- **Holding** a student in order to calm or comfort that student, or holding a student’s hand or arm to **escort** him safely from one area to another are procedures that are sometimes used by Montgomery County Public Schools staff, either to re-establish calm in crisis situations or as stipulated by a student’s Behavior Support Plan. By middle and high school, as students mature and grow and physically holding or escorting a student safely becomes more difficult, alternatives to physical intervention would be addressed in student Behavior Support Plans.

- **Seclusion** means the confinement of a student alone in a room from which the student is physically prevented from leaving. Seclusion as defined here is an emergency procedure, and is used only for a period of time necessary to contain the behavior of the student so that the student no longer poses an immediate threat of causing physical injury to himself or others or causing severe property damage. Although an emergency procedure, no special training is required for use of seclusion.

- **Exclusion** means the removal of a student to a supervised area for a limited period of time during which the student is not receiving instruction and has an opportunity to re-gain self control. **Time out** means assisting a student to regain control by removing the student from his immediate environment to a different, open location until the student is calm or the problem behavior has subsided. Students may sometimes self-select this procedure. Exclusion and time out are measures that may be specified in crisis plans for some students. No special training is required for use of these procedures.

#### PROCEDURES FOR CRISIS AND/OR EMERGENCY SITUATIONS

While it is hoped that crisis or emergency situations (as defined above) can be avoided as much as possible through the use of student Behavior Support Plans, unanticipated situations may arise which require immediate action. In these situations, MCPS staff will—**In a crisis situation** (student is at risk of causing harm to self or others or serious property destruction or interruption of instruction):

- Attempt to calm the student and de-escalate the situation through redirection,
- Withdraw demands,
- Re-locate the student to a private location or re-locate others to create privacy,
- Use other strategies as stipulated in the student’s Behavior Support Plan (if applicable),
- Hold or escort the student to a private location if it can be done safely and there appear to be no non-physical alternatives.

**If the situation escalates to emergency status** (immediate action is required to prevent serious bodily injury to a student or staff member):

- Staff should isolate the student by secluding him/her in a contained area, or removing others. Building administrator should call the police (School Resource Officer or DARE Officer if present in building, otherwise call 911). If necessary, building administrator should call for emergency lock down until police arrive and contain the situation.

**Note:** Police officers will use physical restraint or seclusion procedures to re-establish calm when other, less-intrusive measures have failed and there is no other way to establish safety in the situation. Use of these procedures will involve the use of force only as reasonable and necessary under the circumstances.

## FOLLOWUP PROCEDURES FOR EMERGENCY SITUATIONS

When the police have been called to assist in managing a student, and/or emergency physical restraint or seclusion procedures are used, the building administrator will take the following documentation steps:

**For all students:**

- Inform parents of the situation and actions taken.
- Inform the Superintendent of the situation and actions taken by submitting the *Incident Information Form*. This form includes documentation that parents have been informed.

**Additionally, for students with disabilities:**

- Inform the Consulting Teacher in the building, who will insure that a *Crisis Incident Record* is completed by staff involved, submitted to the Special Education Office, and placed in student's confidential file.
- The building administrator will also inform the director of Special Education through a call to the Special Education Office or Behavior Support Coordinator. The Behavior Support Coordinator will assume responsibility for convening a team to review the situation and determine steps needed to prevent emergency situations for this student in the future. If the student already has a Behavior Support Plan, the Behavior Support Coordinator will convene a meeting of the team involved in developing and monitoring it to review the plan and determine needed adjustments. If the student does not have a Behavior Support Plan, the Behavior Support Coordinator will work with the administrator to develop a team who will meet, review the situation together, and begin working on developing a BSP if indicated.
- These procedures are not intended to replace disciplinary action which is determined to be appropriate by the building administrator, but rather to provide a process for systematically addressing the behavioral needs of students and reducing the need for subsequent emergency measures.

## METHODS AND PROCEDURES FOR POLICY IMPLEMENTATION

- Building administrators and police officers serving as School Resource or DARE Officers for Montgomery County Public Schools will receive training in the requirements of this policy. This training will be repeated yearly for new personnel.
- All building administrators, special education teachers, support staff and instructional assistants in Montgomery County Public Schools will receive training in development of Behavior Support Plans for students, and in techniques for recognizing and defusing crisis situations. This training will be repeated yearly for new personnel and updated for all staff on a 3-year cycle.
- Training in development of Behavior Support Plans for students and techniques for recognizing and defusing crisis situations will be available to any staff as requested by building administrators.
- This policy statement will be made readily accessible in each school building for immediate review should incidents arise requiring the management of violent and aggressive student behaviors in emergency situations.

The CHAIRMAN. Thank you very much, Miss Pitonyak.

We will end and close up with Deborah Jackson. Miss Jackson, welcome. Please proceed.

**STATEMENT OF DEBORAH (DEBBIE) JACKSON, PARENT,  
EASTON, PA**

Ms. JACKSON. Thank you.

Good morning, Chairman Harkin, Ranking Member Enzi, and members of the committee. I am both honored and humbled to be here to share my story on this very important crucial subject that you are trying to improve for students everywhere.

I am a 44-year-old single mother of an amazing 9-year-old son named Elijah. Elijah is entering the fourth grade in our local public school general education program. Elijah has been an honor roll student since the age of 5 when he entered kindergarten, consistently achieving straight A's and excelling, particularly in math and reading. Elijah's IQ registered at 116 at age 5, and I can think of no place he would rather be than at school learning.

Elijah is active in sports and participates in basketball, football, and baseball. He is an active member of the Boys and Girls Club of Easton, where he was awarded last year First Place for his written and artistic expression on a poster and biography he created demonstrating the dangers of the use of drugs and alcohol profiling the biography of Whitney Houston.

He has also participated as a member of the Club's Step Team. He is very healthy and an active 9-year-old boy. However, this is not always the way it was.

Elijah has been diagnosed with the following conditions: Intermittent Explosive Disorder, Oppositional Defiant Disorder, ADHD unspecified combined types, bipolar disorder, and Pervasive Developmental Disorder mainly Asperger's. The challenges he faces daily far exceed a normal day for you and I.

Elijah was born June 4, 2003 in Atlanta, GA. Four months later, Elijah came home with me and 2 years to the day, he officially became my son through adoption.

At age 1, Elijah went to his first day care, 6 months later, it became clear that Elijah struggled in certain social settings. By age 3, Elijah had been asked to be removed out of 10 day cares for displays of aggression.

The first, initial sign of aggression was snatching toys from other toddlers or immediately reacting in a hitting action when he was asked to share or anything like that, he immediately responded physically. As time progressed, over the next year, his behaviors included stripping the walls of hanging pictures, turning over desks or chairs, throwing markers or pencils on the floor, throwing tantrums on the floor or screaming. Elijah's screams were incredibly loud, very high pitched, shrieking noises.

Distraught and at the end of my rope, I reached out to the staff at T. Carl Buice Elementary School in Sugar Hill, GA, a general education school with a special needs program. After extensive evaluation, Elijah was determined to be eligible for special education services due to severe social developmental delays and evident tactile defensiveness tendencies. Elijah was 3-years-old.

Over the next several years, Elijah and I experienced many challenges with harsh discipline on bus rides, being placed in seclusion rooms more times than I can remember, being restrained in basket holds, being restrained by his arms, wrists, and legs by multiple staff at the same time, countless bruises from school staff, and coming home in someone else's clothing due to sweating from physically fighting the teachers to stop them from holding him down. I received telephone messages of him screaming in the background at school with absolutely no other messages from school personnel. In short, it was a nightmare and I no longer recognized who my son was. He was constantly angry, and I felt like a complete failure as a parent. More importantly, Elijah became to be afraid to go to school.

The strategies to control his behavior, seclusion and restraints, were not working. In fact, they were making his behavior worse. In a final act of desperation, I dialed the administration office of our school district, and left several messages with different people looking for answers and help. It was not until I attended a meet-

ing, almost 3 years ago, that different options were offered, and I began to have a shred of hope for my son.

When I relocated to the Easton school district, my son had an IEP plan for him for the kindergarten year. This IEP was not accepted in the Easton school district due to them stating that Elijah was not an official school-age child when the IEP was developed.

Centennial School in Bethlehem, PA is a specialized school for students with severe behavioral challenges. I was lucky enough to meet Kelly Price, the director of the elementary program for Centennial. For me and my son, Centennial School was heaven, and Kelly Price and the staff were our angels of hope.

I remember the day Kelly interviewed my son. She spoke to Elijah on his level, and engaged him in the meeting, and asked him about his thoughts on what was going on with his schooling. All Elijah kept saying was, "They keep holding me down."

I was so impressed with Kelly and felt odd at the same time. I was not used to Elijah being treated like a little person. I was used to him being treated like a bad kid. She was full of hope and encouragement, and I remember leaving the meeting telling her, "I do not know how you are going to get him back." Kelly responded that there was definitely some deprogramming they would have to do, but everything would work out. And she was right, but I never would have believed it.

Centennial School is a hands-off facility. Every single person that works at the School has the same belief, and they fought daily for the success of my Elijah. Some of the tools they use include a point sheet for good behavior. The behaviors include very unique goals that are tailored for each child individually, such as "be there and be ready," keeping hands and feet safe, being responsible for one's work, and so on.

Elijah responded very well to this system. As his points increased, Elijah would earn credits at the school store, be able to select things from the grab box, earn the privileges of special lunches, and weekly awards for obtaining his goals at an awards ceremony. I just learned through the testimony of Dr. George that that special store used to be a seclusion room.

Centennial held Elijah responsible for his choices, both the right ones and the choices he could have made better. The staff at Centennial used positive reinforcement and recognition to strengthen positive behaviors.

In many schools, so often the focus is on bad behavior. That focus causes those behaviors to continue rather than eliminate them. Elijah had to earn and maintain a certain amount of points in order to participate in special programs such as the monthly field trips that Centennial offers. This is a wonderful motivator for him.

One of the most successful strategies used at Centennial for Elijah was teaching him problem solving skills. This is a strategy that requires the student to talk with the staff about what and why something happened, what choices they should have made, and resolve the emotion they are feeling about the situation.

Additional strategies that helped Elijah cope with his anger and impulses included putting his head down to be able to control what he is hearing or seeing, ignoring other people, walking away from

others with permission, and asking permission to leave a situation that is upsetting to him.

Centennial also has an honor roll breakfast with parents and students. Centennial's honor roll is not just about grades. Behavior is key to achieving this honor, and it is not easily obtained. Elijah earned this recognition consistently beginning his fourth full quarter attending Centennial in his first year. He has earned it every quarter moving forward.

Elijah was enrolled in Centennial for 2½ years. I am happy to say that despite the behaviors he entered Centennial with and up to the day he left Centennial, he was never restrained. The positive approaches I have described addressed the challenging behaviors Elijah had and helped him learn new behaviors so he could show all the talent that he has.

Throughout and beyond Elijah's attendance at Centennial, I have been blessed and fortunate to have had Kelly Price in my life. She has been, first, a teacher and a source of understanding for Elijah. She has been and remains a strong advocate for Elijah and a source of strength and support for me, and she is here today supporting me. She is now someone I call a dear friend. Kelly has earned the nickname "Mom No. 2," as she has toiled long days of dedication to the cause and belief that a positive environment without restraint and seclusion works, not only for my son, but for all the students and families at Centennial.

In March of this past year after 2½ years at Centennial, Elijah transitioned back to his local public school a secondary elementary then the one that he attended before he moved to Centennial School. With the transition to public school, Kelly was instrumental in training all school staff that would come in contact with Elijah. She taught them the proper tools to work with him. She labored long hours to ensure Elijah met this next phase of his life with confidence and the belief that he belongs right where he is.

Additionally, Elijah's first teacher contact within the public school was a former teacher from Centennial School. Mia is an active user of the Centennial way, and has been instrumental in Elijah's success within the classroom and throughout his school days. She has also provided additional insight to the professional educators that co-teach Elijah, and the partnership has been a bright beacon leading the way.

Mia has shared that Elijah is a complete joy to teach and have in the classroom, and that he is the most mannered and respectful child in the entire third grade. This is a direct result of Centennial's teaching, my parenting, and Elijah's commitment to achieve, and most importantly, the partnering with everyone involved.

He is a transition student who is also looked on as a support and role model for other students today. Elijah is a walking testimony that we all have been successful, and most importantly, Centennial's way works.

I believe that my son, Elijah, is nothing short of a miracle. He did not ask for this kind of life, but through no fault of his own, he is forced daily to overcome challenges neither you nor I would ever have to think about. He has taken on the task of training his mind to see things differently than he does naturally. But Centen-

nial has taught Elijah and me to apply his strengths in a positive way that enables him to be successful and to enjoy life. Centennial School and the staff are a godsend to all who are blessed enough to have their paths cross. And I believe with all my heart that Centennial School saved my son's life.

The road was difficult and although I know there will be speed bumps and construction ahead in life, the doorway to the road of achievement was successfully taken off the hinges by the support, education, and love Elijah received at Centennial School. I will forever be an advocate for them and for other students that got treated wrong. I will forever work and represent them whenever possible. My son is because Centennial, Dr. George, Kelly Price, and all the staff was.

In closing, I ask of this board to please give all kids the chance to reverse their direction caused by the negative experiences of seclusion and restraint by educating everyone in schools everywhere of the Centennial way, the roadmap to the ultimate achievement of self. They all deserve it.

Thank you.

[The prepared statement of Ms. Jackson follows:]

PREPARED STATEMENT OF DEBORAH (DEBBIE) JACKSON

Good morning Chairman Harkin, Ranking Member Enzi and members of the committee. Thank you for inviting me to testify before the Senate HELP Committee. My name is Deborah Jackson. I am a 44-year-old single mother of my amazing 9-year-old son Elijah. Elijah is entering the fourth grade in our local public school general education program. Elijah has been an honor roll student since age 5 when he entered kindergarten, consistently achieving straight A's and excelling in math and reading. Elijah's IQ registered at 116 at age 5 and I can think of no place he would rather be than at school learning as much as he can. Elijah is active in sports and participates in basketball, football and baseball. He is an active member of The Boys and Girls Club of Easton where he was awarded 1st place last year for his written and artistic expression of a poster and biography he created demonstrating the dangers of the use of drugs. He has also participated as a member of the Boys and Girls Step Team. Elijah is a very healthy and active 9-year-old boy. However, this was not always the way it was.

Elijah has been diagnosed with the following conditions: Intermittent Explosive Disorder, Oppositional Defiant Disorder, ADHD Unspecified Combined Types, Bipolar Disorder and Pervasive Developmental Disorder, mainly Asperger's Disorder. The challenges he faces daily far exceed a normal day for you or I.

Elijah was born June 4, 2003 in Atlanta, GA. Four months later Elijah came home with me and 2 years to the day he officially became my son through adoption. At age 1, Elijah went to his first daycare, 6 months later it became clear that Elijah struggled in certain social settings. By age 3 Elijah had been kicked out of over 10 day cares for displays of aggression. The first initial sign of aggression was snatching toys from other toddlers or immediately reacting in a "hitting" action. As time progressed over the next year, his behaviors included stripping the walls of all hanging pictures, turning over desks or chairs, throwing markers or pencils on the floor, throwing tantrums on the floor or screaming. Elijah's screams were incredibly loud, very high-pitched shrieking noises.

Distraught and at the end of my rope I reached out to the staff at T. Karl Buice elementary school in Sugar Hill, GA; a general education school with a special needs program. After extensive evaluation, Elijah was determined to be eligible for special education services because of severe social developmental delays and evident tactile defensiveness tendencies. Elijah was 3 years old.

Over the next several years Elijah and I experienced many challenges with harsh discipline on bus rides, being placed in "seclusion" rooms scores of times, being restrained in basket holds, being restrained by his arms, wrists and legs by multiple staff at the same time, countless bruises from school staff, and coming home in someone else's clothes due to sweating from physically fighting the teachers to stop them from holding him down. I received telephone messages of him screaming in the background (at school) with absolutely no other messages from school personnel.



In short it was a nightmare and I no longer recognized my son. He was constantly angry and I felt like a complete failure as a parent.

The strategies to control his behavior, seclusion and restraints, were not working. In fact, they were making his behavior worse. In a final act of desperation I dialed the administration office of our school district and left several messages with different people looking for answers and help. It wasn't until I attended a meeting, almost 3 years ago, that different options were offered, and I began to have a shred of hope for my son.

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In many schools, so often the focus is on bad behaviors. That focus causes those behaviors to continue rather than eliminate them. Elijah had to earn and maintain a certain amount of points to participate in monthly field trips, which was a great motivator for him.

One of the most successful strategies used at Centennial for Elijah was teaching him problem solving skills. This is a strategy that requires the student to talk with a staff member about what and why something happened, what choices should they have made and resolve the emotion they are feeling about the situation. Additional strategies that helped Elijah cope with his anger and impulses included putting his head down to be able to control what he is hearing and seeing, ignoring others, walking away from others and asking permission to leave a situation that is upsetting.

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Throughout and beyond Elijah's attendance at Centennial I have been blessed and fortunate to have had Kelly Price in my life. She has been first, a teacher and a source of understanding for Elijah. She has been and remains a strong advocate for Elijah and a source of strength and support for me. She is now someone I call a dear friend. Kelly has earned the nickname "Mom #2" as she toiled long days of dedication to the cause and belief that a positive environment without restraint and seclusion works, not only for my son but for all the students and families at Centennial.

In March of this year, after 2½ years at Centennial, Elijah transitioned back to his local public school. With the transition to public school, Kelly was instrumental in training all school staff that would come in contact with Elijah. She taught them the proper tools to work with him. She labored long hours to ensure Elijah met this next phase of his life with confidence and the belief that he belongs right where he is. And so far we have all been successful.

I believe that my son Elijah is nothing short of a miracle. Elijah didn't ask for this. But through no fault of his own, he is forced daily to overcome challenges neither you nor I would ever have to think about. He has taken on the task of training his mind to see things differently than he does naturally. But Centennial has taught Elijah and me, to apply his strengths in a positive way that enables him to be successful and enjoy life. Centennial School and the staff are a Godsend to all who are blessed enough to have their paths cross. I believe with all my heart that Centennial School saved my son's life.

Thank you.

The CHAIRMAN. Thank you, Miss Jackson, very powerful and poignant statement. But I have to know who Kelly Price is. Where is Kelly Price?

Ms. JACKSON. Kelly Price is right behind me.

The CHAIRMAN. Can we Xerox you and put you around the United States somehow? I would like to meet you sometime. Actually, I would like to meet Elijah. It is too bad he could not have been here.

Ms. JACKSON. He was here last week at the original scheduling on June 28th.

The CHAIRMAN. That is right. We had to postpone it. I am sorry about that.

Ms. JACKSON. But I have a picture for you.

The CHAIRMAN. Say hi to Elijah for me.

Ms. JACKSON. I will.

The CHAIRMAN. Thank you all very much. These are profound, profound statements. I read the statements last night, but there's nothing like hearing them from people that have lived through this.

I am going to ask some questions that people ask me all the time. When we talk about seclusions, and restraints, and things like this, a lot of times I hear this kind of question. Are there not seclusions or restraints that have to be used? Students need to be restrained because they are difficult to manage. Here is the example I got. I am going to start with Dr. Crimmins and go to Dr. George.

I have had educators and others say to me that because of the danger to other students and educators, you mentioned about how many people, educators, teachers were being physically abused, that schools should be allowed to use restraints either physical or mechanical. Here is a classic case. You had a 250-pound teenager coming at a 110-pound teacher. Should not restraints be allowed? I mean, are you just going to let that kid beat the teacher up? What should the teacher do? I get this question a lot.

So what do you do in a case like that?

Mr. CRIMMINS. Senator, it is certainly a very serious situation if you know that you have a 100-pound teacher and a 250-pound student who is volatile. Let me just say two things about that.

One is that we would never support a law that said, "An administrator should not exercise their judgment in an emergency situation to keep everyone safe." And if safety is preserved by the proper use of restraint with a physical restraint by a trained person, I know that is allowable in Georgia law. We expect the administrator to do their job.

But the second aspect of that—that I think is also one of the tones you heard here today—is that if we know that we have that 110-pound teacher and that 250-pound student, the time to start

thinking about, "How are we going to work with that student?" is not when that student is charging that teacher. That time is when that assignment is made. And we want to know what are the kinds of things that might trigger that student's behavior, and how might we teach that student to manage their own behavior, to calm themselves? How do we deescalate that? And the time to think about that is not in the crisis. It is well before the crisis.

That is an education. That is a therapeutic environment that thinks about these things before they happen, and I think that they are the kinds of examples that my fellow panelists were using with you today. I yield to them, but that would be how I would respond to that kind of a statement.

The CHAIRMAN. Dr. George, any other observations on it, because I hear people say, "Well, you have this big teenager come after a little teacher." But your point is: you have to start beforehand.

Mr. GEORGE. Dr. Crimmins is exactly on-target. We would do and teach teachers procedures that would prevent those behaviors from even occurring in the first place.

I have been an administrator in self-contained day schools for nearly 26 of my 38 years. In St. Louis, MO, I had two schools—in Eugene, OR, one; and then, of course, the school here. All of these children were considered in the 1 percentile in terms of aggression, and I have never witnessed that scenario.

This year, we brought in a 6-foot 3-inch African-American from another day school. His reason for referral was aggression and fighting, and he did assault some teachers, although we later found out it was during restraint episodes.

One week after being in our school, when we taught him what those expectations were, when we treated him with dignity and respect, he came to me in the hallway and grabbed both of my hands and said, "I want to thank you for bringing me to this school." We do not need to be there with children if we teach them with respect and we use positive approaches.

But then, on the other hand, if you are telling me that there is a 250-pound person chasing me, I think I would leave the area, to be quite honest with you. And that is one of the techniques we do teach our teachers is to evade. We might clear the room of other students by announcing, "This is a room clear." This is a procedure that we have taught to the children beforehand and usually they would do that. They follow those directions quite well when things get unsettling. So there are specific procedures that you can use in those situations that will keep people safe.

The restraints probably are not going to prevent an ugly and messy affair from occurring; picture what that would look like, practically, in the classroom. If you have a crisis, is staff going to rush in, and tackle this child to the ground at 250-pounds, and try to get him somewhere else? I do not think so. I do not think so.

People who say, "Well, we are going to be safe with restraints under those conditions." We have just started a fight, basically. People are going to get hurt.

The CHAIRMAN. Let me ask you this, one of the things that has come up is that if this is only used in an emergency situation, a restraint, that is the time when people get hurt because they have not planned for it. There is no adequate procedure in place, so that

if you are just using it in an emergency situation, and people have not been trained, then that is when we really get people hurt.

So there has been a disagreement about whether or not to put in place plans for using restraint and seclusion in their IEPs or in an individual behavior plan. Is this a good idea? Should we be planning for the use of restraints with some students and preparing staff for the use of restraints? Should we give parents and the IEP team the choice to write-in a restraint plan for a student? Should school staff know which children might need to be restrained?

Miss Pitonyak, yes. Should there be in their IEP a plan for this? I am just asking this question because it is asked of me, and I do not know the answer.

Ms. PITONYAK. Planning and preparation needs to be as good—underline what Dr. Crimmins and Dr. George just said about preventing the problem from occurring in the first place.

Certainly, we need clear and good emergency procedures in place for any student, not just students with disability, but any student who is in a situation where serious injury is a possibility. But IEPs are about instruction and instructional planning. Just to kind of piggyback on the comments before that may be relevant in this case.

You talked about the 250-pound kid and the 100-pound teacher, and I think one point that is really important is that in public school, this change to a preventive approach is a change. People are not used to thinking that way. They are used to thinking about, “What am I going to do after the problem occurs?” So changing is critical.

It used to be, in the early days, when we were first starting inclusion, we had to get really good at including kids with serious behavior needs really quickly because they were going to really disrupt classes. It was going to blow everything if we had kids going off, or people getting hurt or injured. We had to be preventive.

I used to love it when I had a 250-pound kid with the 100-pound teacher because then I did not have to worry about everybody wanting to hire two big guys to stand at the door and strong arm the kid when a problem arose. It forced us to get into that preventive mindset that we are only going to come up with strategies that this 100-pound teacher is going to be able to use.

People in public schools, in my opinion, do not have enough confidence in their own ability to change their policies. We tell ourselves that we have to engage in these restrictive things that hurt children because they are necessary for a positive result. But we are not getting a positive result or we would not have to be using those things over and over anyway. So it turns out that we are doing them for a couple of other reasons.

We are doing them because they give us the feeling of control when we think things are out of control. We do them because we think they demonstrate to other people that this behavior is not acceptable to us. Neither one of those things is about the kid having the problem.

Emergency procedures need to be in place and people need to know what they are. We have to keep school safe, but IEPs should

be about preventing problem behaviors and teaching positive alternatives.

And there is one last little thing. My opinion is that if we include in IEPs' sanctions that allow the use of these dangerous procedures with kids with disabilities when we would not allow them with other people. You have said so correctly in the beginning that we already have a disproportionate amount of use of those procedures for kids with disabilities to start with. We are only going to underline the problem.

The CHAIRMAN. If you put it in their IEPs.

Ms. PITONYAK. Absolutely, because we are saying it is OK to use it with these kids. And again, IEPs are instructional documents. I am all about a crisis plan. You need a good crisis plan, and when everything fails and you have an emergency procedure, you need good emergency policies and procedures in place to protect everyone. It is not different for kids with disabilities.

The CHAIRMAN. OK, any other observations?

The other followup I have on that is, how long does it take to train individuals to be able to use preventative approaches to behavior management instead of restraints and seclusion? I do not know. It just seems to me that restraint or seclusion; that is easy. It does not take long to teach that.

But how about teaching individuals to do these preventative approaches? Is it expensive? Can any teacher learn how to do this?

Ms. PITONYAK. Anyone, and it is more about, in our experience, an issue of the culture in the school. The leadership, the expectation that, as Dr. George has described, that school is a welcoming place, and that these are students who belong here because they live here, and they live in the neighborhood, and we should expect to deal with them. It is public school.

We approach it on a variety of levels. I think the most powerful thing for us are those little student teams, and we make sure that we have at least one person on each of those teams who really knows what they are doing in terms of setting up positive behavior supports.

So we can do global training with our administrators. Our leaders can set up the expectation that positive supports are going to be used, and lend their support. We work with our teachers every single week, every single day in these little planning teams, and then we have a menu of other options. You have to approach it on a lot of levels.

The CHAIRMAN. You have been doing this in Montgomery County for how long?

Ms. PITONYAK. Twenty-three years.

The CHAIRMAN. Really? Do you have any data, for example, of what has happened to some of the students who have gone through this positive behavioral support system, and how they have fared after they got through with school and later on in life? Do you have any data on that at all?

Ms. PITONYAK. I have anecdotal data, and I would have to go back and look at some of the followup stuff that we have done in the district, and see if I could come up with something like that for the record.

The CHAIRMAN. I just wondered if you had that. So you have been doing it for so long in Montgomery County schools, this is a public school.

Ms. PITONYAK. Yes.

The CHAIRMAN. Fully integrated system.

Ms. PITONYAK. Yes.

The CHAIRMAN. Now, that is different than Centennial.

Mr. GEORGE. Yes.

The CHAIRMAN. Centennial is—I am sorry. Is that a private school or a public?

Mr. GEORGE. It is titled an Approved Private School in Pennsylvania.

The CHAIRMAN. OK.

Mr. GEORGE. But it operates as a public, self-contained day school; a small school.

The CHAIRMAN. See, in that school you have, you told me, just the top 1 percent?

Mr. GEORGE. One percent as they are rated on behavior scales in terms of aggression, acting out behavior, or shy and withdrawn behavior, but 1 percentile.

The CHAIRMAN. So these are really tough cases, then, that you have there. And how many students at Centennial?

Mr. GEORGE. We serve about 100 families every year; 100 children every year.

The CHAIRMAN. I am just trying to get a grip on the difference between a public situation where you deal with a lot of different students, some who have behavioral problems, some who do not; some who are disabled, some who are not. And yet, you have an isolated situation where all of these kids have behavioral problems.

Mr. GEORGE. Correct.

The CHAIRMAN. I am just trying to figure out. Most of the problems that I have heard about occur in the public school-type setting, and I am just trying to get a handle on the differences, and how the approaches are between a public school setting and your kind of a setting.

Miss JACKSON, you wanted to comment on that?

Ms. JACKSON. Yes, I do. My son started out in the public school setting.

The CHAIRMAN. Yes.

Ms. JACKSON. And the reason why Elijah was referred by the public school to Centennial is because it was admitted to me in the special education classroom by the director of the special education, they did not know how to help my son.

The CHAIRMAN. How to handle him.

Ms. JACKSON. They did not know how to do it. And I was going to the school, teaching them on how to approach Elijah.

And I just want to say that I do not feel that restraint and seclusion, and the Individual Education Plans, obviously, are very important for the children that are brought forward that have those needs. But every single child in the world could go to school and have a bad day.

I feel that the teachers and the educators need to be educated on positive reinforcement for all kids, not just zoomed in on chil-

dren that have known disabilities. But just all kids, anything can happen.

My son was not given the opportunity to even speak. One of Elijah's driven sources or triggers is his need to be able to explain. When someone wants him to go to the calm corner, he wants to be able to tell them about this action that has just taken place or something he might have done wrong, they want him go do a time-out, it is not aggressive at all. It turns into aggression when he is trying to explain. They do not want to listen to him, so they put their hand on his arm and they start to force him to go back to the calm corner. At that point in time, it just triggers immediate——

The CHAIRMAN. It cascades.

Ms. JACKSON. Yes, he is defending himself.

The CHAIRMAN. Let me ask, so Elijah was in public school.

Ms. JACKSON. Yes.

The CHAIRMAN. For what, through first grade, or kindergarten, or what was it?

Ms. JACKSON. Kindergarten.

The CHAIRMAN. Then he went to Centennial.

Ms. JACKSON. Yes.

The CHAIRMAN. For how many years?

Ms. JACKSON. Two-and-a-half years.

The CHAIRMAN. Two-and-a-half years, now he is back in public school.

Ms. JACKSON. He is. He is back in the same public school that he transferred out of. And I want to say that the school district, when we had an opportunity to transition Elijah back, aside from not going to the school where the restraints took place because he has mental scars from that experience.

The CHAIRMAN. I would think so.

Ms. JACKSON. Yes, so he is within the same district, but he is in an elementary school on the other side of town.

The CHAIRMAN. I see, so it is not exactly the same school.

Ms. JACKSON. It is not the same school. It is the same district.

The CHAIRMAN. Did you not tell me that Kelly Price went to that school?

Ms. JACKSON. Yes, she did.

The CHAIRMAN. And met with people there?

Ms. JACKSON. Yes. We had an IEP meeting, but the Easton area school district went a step beyond through, I believe it was called, the SAP program brought to us by PaTTAN.

And this was a whole group, I mean, an extensive team of about 15–16 people. The individual IEP members, other educators that came to draw out a designed plan for Elijah in a room, you know, this area. Everybody sat around the table, introduced this program, and all over the wall was all of these different pages of, “OK, what triggers does Elijah have? What does this bring? How can we reach him? What do we do?” all these different things became part of his profile. I will be honest with you, I do not care who knew about it because I did not want my son touched.

Within 2 weeks of going back to public school, he was asked by a cafeteria lady to go to this little time out table for something, and he was trying to explain to her why he flicked the food on the wall

or food on the floor because one of the kids picked it up and put it in his face. He did not want to go, she did not want to listen to him. She called a security guard and the security guard started to take Elijah by the arm and make him go. Well, no restraint, I refused to sign it. I will not sign anything allowing anyone to put their hands on my son. I am just not going to do it.

The principal, I think it was the principal. Do you remember? The assistant principal came into the cafeteria and calmly approached Elijah and talked with him. But as a result of that happening, Kelly came to the school and met with every single person that would come in contact with Elijah from the janitor to the teacher—which the teacher was already a part of the integral planning—everyone, and explained, “Listen, when you see Elijah trying to talk, let him talk.”

That was one of the main points I kept driving home is let him speak and tell you what is going on. It does not have to escalate to that point of aggression and people being hurt. It just does not. I do not believe that it has to.

Mr. CRIMMINS. Chairman Harkin, if I might add——

The CHAIRMAN. Yes, please.

Mr. CRIMMINS. One thing. I heard you asking or commenting on the difference between the settings. But looking at how you heard about the effectiveness of those settings, I would actually ask you to think about what is similar in those settings.

What was similar is really a commitment to positive approaches, a commitment to looking at teaching alternative behavior, a commitment to having a culture that is respectful of everyone and supportive of everyone. I would also ask us to think about, or ask you and other members of the committee, to look at other examples of broad systems change that have been put into place.

The Children’s Health Act of 2000 called for the elimination of seclusion and most restraint procedures in psychiatric facilities for children and youth. That is a large system driven with therapeutic goals in mind that manage the systems change largely through the idea of looking at the organizational culture and making a commitment to doing it a different way.

We have examples out there of how this can work, but it really comes from leadership, it comes from commitment, and it comes from the values of what it is that we want to stress.

The CHAIRMAN. In Centennial, is that the usual course where kids will come in and they will be there for a couple of years or so, then they go back to public schools? Is that sort of the way it operates?

Mr. GEORGE. That is sort of the way it operates. Children come and the average, over the last 5 years, has been about 2½ years and then they begin transition back to the public school.

The CHAIRMAN. So do you positively go out to schools? I have a note here that says that 40 Pennsylvania school districts refer students to Centennial.

Mr. GEORGE. Yes.

The CHAIRMAN. Mostly because of behavioral issues, so when they go back, do you have some arrangement with them where you go over there and tell them how to treat those kids? Like you were



talking about Elijah that you go and tell them, “Here is how you treat this kid.”

Mr. GEORGE. We do that as often as the resources will allow us to do so.

When we send a child back to the public school, we also send a plan that goes with the child, and that plan informs receiving teachers of that child’s characteristics, the triggers for the behavior, things that we have found works, how to speak with that child, emergency plans, choices that the child might be given. And we will actually teach the teachers onsite how to work with that particular child who is returning.

The CHAIRMAN. OK. Montgomery County, do you ever refer this 1 percent of kids that you really cannot handle, do you refer them to any kind of school? That is Pennsylvania, but is there such a thing in Maryland?

Ms. PITONYAK. In Virginia.

The CHAIRMAN. I am sorry, Virginia.

Ms. PITONYAK. There are. In our area, there are several project day schools that support students with behavioral needs, but our IEP placements to those schools, it is not a blanket thing. We do not have a certain percentage that always seems to go there. It is a case-by-case situation and it is usually not so much about the characteristics of the particular student, but just about our capacity to marshal resources in the building depending on the school.

The other thing that is an issue, too, is we have to work with families on what works for them. For example, if we believe that we could successfully and safely—you know, these things, they develop over time and it takes time to improve them. If we are thinking, “Gosh, if we could maybe reduce the day a little bit, do a little bit of home-based stuff too, work together there, and then gradually increase the day, we think we could do that.”

But sometimes we have families in situations where it would be an undue hardship to them for us to be able to be flexible like that in our programming. So we will sometimes work to another setting simply because of that child’s particular circumstances, and not characteristics of that student.

One quick comment, too, related to the training and the Kelly’s that are wonderful, that go out and work in schools.

In Montgomery County, one thing that has been really critical for us is that learning while you do it, the example right there, every day in the building with you. And we have special education teachers in our elementary schools that have a little bit of their day designated to provide leadership to these individual student teams in developing positive behavior support plans.

My job in the central office is to keep those people trained and prepared. The principal’s job is to set the expectation that positive supports will be used with the student, and create flexibility so the teams can meet, they can talk, they have the time to be together.

And even though we do a lot of overall global training for folks, and we use some of our stimulus funding to expand our crisis de-escalation sort of training for people, it is that day-to-day work, side-by-side with somebody that understands how to do it. That sort of, “I do it first, then we do it, then you do it, and I give you

feedback,” that is what really works because you have to stick with teachers through that uncomfortable process of change.

The CHAIRMAN. I just made a note. You said you were far from perfect, but my notes say that you have only 6——

Ms. PITONYAK. That is correct. We have far fewer students.

The CHAIRMAN [continuing]. Out of almost 900 that are referred to day schools.

Ms. PITONYAK. Yes.

The CHAIRMAN. I think that is pretty awesome.

Ms. PITONYAK. Thank you.

The CHAIRMAN. That is pretty close to being perfect. The other thing that I just have to bring up, and we have to close here pretty soon, is that we ask a lot of our teachers these days.

To be sure, as you know, IDEA in its full implementation means that we have kids in classrooms today that, in the old days, never would be there. They would be isolated, sent off to some school by themselves someplace like my brother was, halfway across the State someplace in isolation.

But now, we get kids in with a lot of problems, they may have family problems, who knows what happened to them early in life, or maybe they just have other inherent problems. We ask teachers not only to teach, but to be almost like therapists, and psychologists, and almost psychiatrists in so many ways.

So, I wonder aloud sometimes whether or not we are doing an adequate job of training teachers. Not just teachers, as you said, it was the cafeteria workers and other people in school that come in contact with these kids that has to have broad-based training.

I have often wondered if we do not need more than one person in that classroom, maybe a teacher, but maybe another person that is trained in these positive behavioral support mechanisms, trained to do the kind of things that you do at Centennial, but do them in public schools.

Mr. GEORGE. Yes.

The CHAIRMAN. Maybe we need to think about having more people, someone else in that classroom besides just a teacher. I just worry about teachers getting overloaded, especially in our elementary schools. They just get overloaded with a lot of work.

Ms. JACKSON. Mr. Chairman.

The CHAIRMAN. Yes.

Ms. JACKSON. Elijah’s current teacher that he has in the public school both last year for his transition and also due to cutbacks—a good thing that she has moved into the fourth grade—is a previous Centennial teacher, and she is the only teacher in the classroom of 20-plus kids, and consistently uses what she has learned at Centennial.

She has been training, she has actually been such an important piece in the transition because she shares her knowledge, and her techniques, and what she has learned with other teachers that come in contact with Elijah. The open communication with the parent and myself, with them at Centennial, is a complete loop. There are no secrets. I sign everything so everyone can partner to make this successful.

But to look at my son, you would not even know there was anything going on with him.

The CHAIRMAN. Dr. George, does Centennial—since you seem to be unique in how you operate it, and you have good data—have you connected with other like schools around the country or are you just sort of in Pennsylvania? I mean, there must be other schools like you around the country, or other day schools, other places where kids go.

Is there any kind of outreach? Is there any kind of a network out there of schools like yours?

Mr. GEORGE. We do provide some training for schools when invited to do so.

The CHAIRMAN. Yes.

Mr. GEORGE. I think there is a lot of work that needs to occur in our day schools. I applaud the movement of children back to public schools in supportive environments.

I would almost argue against self-contained day schools because in many cases, they use these intrusive procedures of seclusion and restraint, and sometimes I think they make the children worse.

The CHAIRMAN. What I am getting at is I do not know how many other schools there are like yours in the United States. I do not know that.

Mr. GEORGE. There are probably about 10,000 I believe.

The CHAIRMAN. Like yours. But, I mean, how many—

Mr. GEORGE. Not 10,000 that do things the way we do.

The CHAIRMAN. That is what I am talking about.

Mr. GEORGE. Yes.

The CHAIRMAN. How many do things the way you do, and use the kind of approaches which you seem to have perfected, and which seem to work extremely well? Maybe they just do not know how to do this, or they have not had the kind of exposure to what you are doing.

How many schools? Do you know of any other schools that operate the way you do?

Mr. GEORGE. I know of one, that is the one in Lane County. That was the one I formerly operated, and it is now in the competent hands of Robin Hartshorne, who is the administrator there.

The American Institutes for Research, I believe it was in 1998, surveyed the country. This I got by hearsay; I do not have it in writing. But in talking to some of the members of the team, they went around the United States looking for effective alternative day schools, and they found very few. I think she said it was a handful. Most were schools that control students; schools that use lots of worksheets; schools that use reactive procedures such as seclusion and restraint; schools that were chaotic, and destructive, and violent.

Mr. CRIMMINS. Mr. Chairman, there are. The Department of Education, in their recent report, did suggest that there are 17,000 schools, public schools, that use the model that has positive behavior intervention and support. It is a very widespread model. I mean, not in the specialized schools so much as Dr. George has described, but in the context much more of what Miss Pitonyak described.

The 17,000 schools that use the broad model that looks at, how do you structure the schools? How do you have clear expectations for the students, their positive behavior? How are they commu-

nicated to the students? How are the students given essentially the feedback, the reward for behaving in the ways we want them to behave rather than reacting to them? And that comes out of collaboration. It comes out of teamwork. It comes from leadership, and it is really being implemented across the United States.

The CHAIRMAN. Michael, on my staff, just said that each school in Montgomery County has a positive behavioral support person?

Ms. PITONYAK. Yes.

The CHAIRMAN. In the building, each school has one person in the building to support teachers, and they use their IDEA and Title I monies to do this.

Ms. PITONYAK. Yes, and it is usually a portion. The teacher also has a special education teaching caseload, a small one, but they have the dedicated time in their day to provide that modeling and support to other teachers.

But a critical point, I think too, is that kids are kids. We have to be careful about over-pathologizing, over-mystifying the behaviors of some students that we have a hard time understanding because they do not talk, or because they have autism, or other kinds of disabilities.

In public school, our responsibility is academic success, but it is also to teach our children to be citizens and community members. So, we are not asking teachers to be, in my opinion, therapists and psychologists.

What we are doing is asking them to teach, to help us, to help kids become citizens, and the skills that they learn in working with the toughest kids works and stays with the kids that are not as tough. It is not like this is a waste of people's time that does not carryover and benefit to other things.

In public school, if we did not try so hard to cling to the flexibility to do things the way we have always done them, if we could just put our time into saying, "This stuff hurts kids. It has even killed kids." And there are 40 years of research to support positive behavior support. It is not a brand new thing. Any special education director in the country should be familiar with it. This is established stuff.

The CHAIRMAN. Are teacher preparation programs equipped to train teachers to use positive behavioral support?

Ms. PITONYAK. In our area, the local universities that do teacher preparation do, I think, a good job of preparing teachers. But to really learn this, you learn it on the job. You cannot expect people to just walk in with some classes in their back pocket and be able to do this. You have to do it on the job, and schools have to support teachers through it, and model for them what to do, and plan and problem solve.

We pour our resources into elementary school because we have learned that we clear it up there and we do not get it later.

The CHAIRMAN. Early intervention. When you developed your teacher training program on positive behavioral support, did you draw from some other school system, or did you just sort of develop this yourself?

Ms. PITONYAK. We sort of developed it ourselves as we went. We drew heavily on Johnson City, NY 23 years ago when we were

doing inclusion. We even took buses and teachers up to see what we wanted to do there.

But, again, our inclusion and positive behavior supports, for us, are hand in hand. We had to develop them because our kids were not going to be able to be in class together unless we could do something preventive. But there is a lot of great work out there.

Dr. Crimmins' work is great work, we have heavily used. The resources are totally there. School-wide positive behavior support, it is all there.

The CHAIRMAN. Let me ask you this, then, Dr. Crimmins, all of you, Dr. George, what more could the U.S. Department of Education be doing?

The reason I ask that is because I want to acknowledge Dr. Melody B. Musgrove, who is here. She is appointed by the President as the Director of the Office of Special Education Programs at the U.S. Department of Education. Under her leadership, the Department reached the issue of helpful guidance on this one issue.

What I am asking you is what more could the U.S. Department of Education be doing, some kind of a clearinghouse or some kind of a way of getting information out? What would you like to tell Dr. Musgrove to do?

Mr. CRIMMINS. There certainly are clearinghouses. There are training programs available. What I would actually risk saying here, Senator, is that—

The CHAIRMAN. You have immunity.

Mr. CRIMMINS. Oh, good. That is good to know.

But I think the schools need the push that the Department of Education could support with the kinds of training resources. The knowledge is there. Essentially the science of this is available. What we need is a commitment to make this change. We need to eliminate the use of these procedures.

And I hate to say it, but I think that comes from your side of the branches of Government, not necessarily the executive branch.

The CHAIRMAN. Are you saying that we should be doing something in our reauthorization of the ESEA to address this?

Mr. CRIMMINS. Senator Harkin, you would know better than I which law that should go into.

But what I can tell you, and again, let me go to our Georgia regulation that has the rule, the status of law: seclusion is not allowed, most forms of restraint, chemical, mechanical, prone restraints not allowed.

The CHAIRMAN. This is a State law.

Mr. CRIMMINS. Effectively State law. The physical restraint may be used as in emergency situations, staff must be trained. Parents must be notified. And if used, there must be a plan for how can we avoid its use. Those are all, I think, very reasonable kinds of statements.

The CHAIRMAN. I guess what I am thinking of more, excuse me for interrupting, Dr. Crimmins, is the training of teachers and the expectation of teachers to be trained in positive behavioral support. Because you said you were using, I think if I am not mistaken, some Title I monies and IDEA monies, right, to support a person in each school to do this.

Ms. PITONYAK. Yes, yes.

The CHAIRMAN. Should that be something we should be thinking of promoting from a national standpoint?

Mr. CRIMMINS. Part D of IDEA allows specifically for training in positive behavior intervention in the schools. And even though it is IDEA, it allows that training, the funding, to go to teachers who are not special education. In fact, they are the general education teachers because it is important to the entire school that these alternative ways of providing structure and support for students be available.

The CHAIRMAN. Dr. George, any observations on this?

Mr. GEORGE. I thought the resource from the U.S. Department of Education, Arnie Duncan had just published very recently on seclusion and restraint, a resource guide. It is a very valuable tool. I believe it sets a high standard for schools to achieve. I think it summarizes what we know works. I do believe we need more intensive training particularly of teachers who serve children with emotional and behavior disorders.

We need more teachers to begin with. Not many people go into the field. They are fearful. They hear horror stories.

Years ago, we conducted a national survey and asked teachers one simple question: were you adequately prepared for the realities of the job? Sixty-six percent of those teachers indicated "no".

The CHAIRMAN. Yes, 2 out of 3.

Mr. GEORGE. Sixty-six percent. If we asked heart specialists and they came back with that response, I think we would all be a little bit nervous.

We do need more training. Youngsters who graduate with a bachelors do not come out fully prepared. It is up to those school districts, through their in-service, to train those teachers specifically in the types of behaviors and procedures they will need on the job. And training monies would be very helpful.

The CHAIRMAN. Yes.

Ms. PITONYAK. I would add to that. I think the expectation in public school, we need our feet held to the fire a little bit. We need the expectation that public school is something we take very seriously. It means "public"; everybody.

In any school, you are going to have students who do fine with the regular rules and procedures in the school. You are going to have a group of kids who are seriously at-risk and they need intervention. Then, you are going to have a small group of kids who need highly individualized intensive support. That is a normal school population right there, and it is the responsibility of the school to serve those kids.

We need to stop pathologizing these students at the top. They are just part of our community. It is our job to serve them, and I think leadership is the key. It is principals, superintendents, leaders who need that special direction.

The CHAIRMAN. Yes, Miss Jackson.

Ms. JACKSON. Is it not possible to require a year of hands-on training in an environment or in a school that is like Centennial or the schools, it sounds like, in Montgomery? Cannot that be required before you receive a bachelor's in training or in teaching for every teacher?

The CHAIRMAN. How do you train your teachers at Centennial? They come out of school and they want to teach.

How do you train them?

Mr. GEORGE. Our teachers from Centennial School are graduate students at Lehigh University in the special education program.

Ms. JACKSON. Yes.

Mr. GEORGE. They work at Centennial School for 2 full years, take their classes in the evenings. We train them onsite.

Ms. JACKSON. Yes.

Mr. GEORGE. Every Wednesday afternoon for an additional 3 hours. It is similar to the medical profession where they are doing a 2-year residency.

Ms. JACKSON. Yes.

Mr. GEORGE. They work under dense supervision with constant feedback.

The CHAIRMAN. Interesting.

Mr. GEORGE. They look, they do, they, et cetera. It is a very intensive program.

After a while, they are able to implement these procedures and make it look very natural. You would not even recognize it as they were doing something differently.

Ms. JACKSON. Yes.

Mr. GEORGE. They are highly trained when they leave our setting. Consequently, we turn over staff quite frequently, so we are constantly training and it is a full-time job just to train the teachers.

The CHAIRMAN. Where do they go when they leave you? Do they go into public schools?

Mr. GEORGE. They go into the public schools. They go around the country. We could probably place a teacher with a phone call. We simply explain how they have been trained and administrators scoop them up.

The CHAIRMAN. My time has completely run out. But listen, this has been extremely educational for me, very enlightening.

I still have questions about what we should be doing legislatively. We do not have an ESEA reauthorization. We got it through our committee, but it looks like it is deadlocked for this year, so we will probably have to address it again next year.

We have both IDEA and ESEA that we have to address. And we'll appreciate any thoughts that you have, any of you here, on how we get more training, and how we get more focus on training in positive behavioral supports to our schools. How do we take what is happening at Centennial and in public schools, what they are doing in Montgomery County, Virginia and spread this around the country? I would like to say also, how do we get more States to adopt the kind of laws that Georgia has too, but that is sort of beyond my ability to do.

But we do need to know how we can start focusing more on getting away from the old ways of doing things. I do not know that we have any really good data to show positive outcomes from the old ways, but we do have pretty good data to show the positive outcomes from what you all have been doing.

I want to thank all the witnesses for their testimony, and for being here, and for all the work you do every day. Miss Jackson,

thank you. I understand you had to take unpaid leave to be here today, we really appreciate that very much.

Ms. JACKSON. It was my pleasure and my honor. Thank you.

The CHAIRMAN. Thank you for being here. Sheila Foster, thank you, again, for being here today. You two ought to get to know each other.

Ms. JACKSON. Yes.

The CHAIRMAN. Because I think you make powerful presentations.

I look forward to working with our committee colleagues on this issue to ensure that all students and staff are safe in our schools.

We will leave the record open for 10 days to allow additional statements or supplements to be submitted for the record.

Does anyone have any last thing they wanted to add before I close the meeting? Any last thing?

Mr. CRIMMINS. Thank you, Senator.

The CHAIRMAN. Thank you all, very much.

Mr. GEORGE. Very much.

The CHAIRMAN. Safe travels back home. Thank you.

Ms. JACKSON. Thank you.

The CHAIRMAN. The committee will be adjourned.

[Additional material follows.]



## ADDITIONAL MATERIAL

### PREPARED STATEMENT OF THE AUTISM NATIONAL COMMITTEE BY JESSICA BUTLER

The Autism National Committee is a 22-year-old national nonprofit organization that advocates for children and adults with autism and related disabilities. We thank Chairman Harkin and Ranking Member Enzi and the committee for holding these hearings devoted to preventing restraint and seclusion and creating positive learning environments for all students. As the hearings have demonstrated, positive interventions can reinforce appropriate behaviors and reduce dangerous behaviors.

America's schools educate over 55 million children, but schools remain the only major institution without Federal statutes and regulations protecting children from restraint and seclusion. For more than two decades, evidence of the physical and psychological toll caused by restraint and seclusion has accumulated.<sup>1</sup> A 2009 Government Accountability Office study found that children have been injured, traumatized, and even killed through the use of restraint and seclusion. At least 20 of the cases the GAO documented involved children who died from restraint. Children have suffered broken bones and other injuries, or had post-traumatic stress syndrome.<sup>2</sup> National organizations have documented the harms of these procedures.<sup>3</sup> School staff are also put at risk of injury.<sup>4</sup> Because of these dangers, restraint/seclusion should be used rarely and only when necessary to prevent a physical safety emergency.

The hearings have illustrated the need for a national policy that will limit restraint and seclusions to such emergencies, and instead promote a culture of de-escalation, conflict resolution, and other positive, preventative interventions. Today, the absence of such a strong national policy harms students and staff across the Nation, as noted below. The State information is from Jessica Butler, *How Safe Is the Schoolhouse? An Analysis of State Seclusion and Restraint Laws and Policies* (Autism National Committee 2012), <http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf>. The report used 51 "States" to include the District of Columbia.

#### FEW STATES PROTECT CHILDREN FROM NON-EMERGENCY RESTRAINT AND SECLUSION

Because restraint and seclusion are so dangerous, it is vitally important that they not be used in non-emergency circumstances. But fewer than one-third of States have laws (statutes or regulations) that provide such protection.

There are 16 States that limit restraint of children with disabilities to emergencies threatening imminent physical danger, with the five asterisked States imposing a serious physical harm standard: Alabama, Colorado, Connecticut, Florida\*, Georgia, Illinois, Louisiana\*, Maine, New Hampshire\*, Ohio, Oregon\*, Pennsylvania, Rhode Island\*, Tennessee, Vermont, and Wisconsin. Only 11 of these States extend their protections to all children. (Historically, States have regulated restraint/seclusion through their special education statutes and regulations because of the particular risks faced by people with disabilities. All of the children in the GAO study who died had disabilities.)

There are 33 States that by law or guidance would define seclusion as a room or space which a child is physically prevented from exiting (e.g., the door is locked, blocked by furniture, held closed by staff, etc). But only 12 States have laws protecting students with disabilities from non-emergency seclusion, either by limiting it to physical safety emergencies (Oregon, Colorado, Louisiana, Maine, Tennessee, Vermont, Wisconsin, and Wyoming) or by banning it (Georgia, Nevada, Pennsylvania, and Texas). Of these, seven extend the protections to all children.

In other States, seclusion and restraint may be used for such things as tantrums and other disruptions that threaten no one, destroying property, discipline, punishment, forcing compliance, and even as a substitute for proper educational programming—meaning putting children in seclusion rooms or restraint rather than providing education in the classroom with peers. Many States allow restraint and seclu-

<sup>1</sup>H.R. Rep. No. 111-417, Preventing Harmful Restraint and Seclusion in Schools Act 14 (2009), <http://1.usa.gov/HR111417>.

<sup>2</sup>U.S. Government Accountability Office, Seclusions and Restraints, Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers (2009), <http://1.usa.gov/gaors7>.

<sup>3</sup>National Disability Rights Network, School Is Not Supposed to Hurt (2009), <http://bit.ly/ndrn2009>; J. Butler, Council of Parent Attorneys & Advocates, Unsafe in the Schoolhouse: Abuse of Children with Disabilities (2009), <http://bit.ly/UnsafScho>.

<sup>4</sup>Reece L. Peterson, Developing School Policies & Procedures for Physical Restraint and Seclusion in Nebraska Schools, a Technical Assistance Document 20 (Nebraska Dept. of Educ. 2010), <http://bit.ly/NErsdoc1>.

sion for destruction of property, with no distinction made between dangerous destruction of property and non-harmful acts that threaten no one. Only three States that permit restraint/seclusion for property destruction (Nevada, Texas, and West Virginia), limit it to serious destruction. But when destruction of property threatens physical danger, it should be treated as a threat of imminent physical harm, and restraint/seclusion imposed on that basis if necessary. Indeed, most professionals do not consider destruction of property a legitimate basis for restraint or seclusion.<sup>5</sup> Rather, non-dangerous property destruction, like educational disruption, is readily resolved through positive behavioral supports, de-escalation, conflict resolution, and other adjustments.

Only 18 States by law require that less intrusive methods either fail or be deemed ineffective before seclusion or restraint are used. When less restrictive and less dangerous measures will prevent the threat, they should be used. Only 17 States by law require restraint and/or seclusion to cease once the emergency ends. Some children have remained in seclusion/restraint until they can sit perfectly still, show a happy face, or do other tasks unrelated to an emergency.

#### THE NEED FOR LAWS THAT PREVENT ASSOCIATED RESTRAINT/SECLUSION DANGERS

Children locked in seclusion rooms without continuous visual monitoring have been killed and hurt. In 2004, 13-year-old Jonathan King killed himself in a seclusion room, while the teacher sat outside, checking in occasionally. In 2011, an Indiana student attempted suicide in an unobserved seclusion room, according to the National Disability Rights Network. He was in the room for having urinated on himself the previous day while locked for hours in the room. An Alabama child was locked into a chair and placed in a seclusion room alone; she flipped the chair upside down and was hanging by the straps, and also urinated on herself. Of the States allowing seclusion, only 17 require staff to continuously watch the students; 30 States lack such laws. Five States have monitoring rules that explicitly permit staff to leave the child alone and check in only occasionally—which is how Jonathan King died.

Of the hundreds of stories the GAO collected, at least 20 involved children that died from restraint. According to House hearing testimony, an African-American child with a disability was suffocated in a restraint by his teacher after he tried to leave class to get his delayed lunch. Still, only 18 States have laws banning all restraints that obstruct breathing for students with disabilities; only 10 protect all children. Moreover, only 11 States ban chemical restraints, and 16, mechanical restraints, for children with disabilities. Children have been duct taped to furniture, locked into chairs and other equipment, and left for hours, and been subjected to dangerous chemical restraint.

#### SUNSHINE AND INFORMATION (FOR PARENTS AND THE COMMUNITY)

Parents must be notified promptly of seclusion/restraint, so they can seek medical care for concussions, hidden injuries, and trauma. But far too often, parents are told nothing—until it is too late. Of the 25 States with parental notification laws, 20 require schools to take steps to notify parents on the same day or within 24 hours—a strong, good public policy that should be adopted nationally. There are 26 States with no legal requirement at all to tell parents that a child with a disability was restrained/secluded. (Only 15 States have laws requiring parental notification for all children, meaning that 36 do not).

Likewise, data collection is important for an informed public, to promote sunshine and oversight, and to provide information to minimize use of restraint and seclusion. In its 2009 report, the GAO found that no single entity collected information on the use of seclusion/restraint or the extent of their alleged abuse. Data showed at least 33,000 incidents of restraint or seclusion in Texas and California in 2007–8. Yet, only 13 States collect even minimal data on the use of restraint/seclusion each year.

#### INDIVIDUALIZED EDUCATION PROGRAMS AND SIMILAR DOCUMENTS

Some have sought to include restraint and seclusion in Individualized Education Programs. IEPs are educational planning documents; restraint and seclusion are not educational techniques but emergency procedures. Parents report that the IEP process can be unlevel, with parents having little control over IEP content and reporting that there may not be agreement on the issues. Further, permitting restraint/seclusion into IEPs can increase their use because IEP procedures tend to become routine

<sup>5</sup>H.R. Rep. No. 111–417 at 10, 14.

practices. Some have proposed that the law specifically authorize restraint/seclusion to be included in “individual student safety plans” or other similar documents. Such plans would be entirely unregulated, lacking the protections that the Individuals with Disabilities Education Act and the Rehabilitation Act, Section 504 provide for children with disabilities. These protections are very important to maintain.

#### LAWS AND POLICIES IN ALL STATES

There has been some misconception about the extent of State laws and policies. There are 12 States with nonbinding restraint/seclusion guidelines. These lack the force of law, provide no binding protections for children, and can be readily changed by the State Department of Education with little limitation. They are not the equivalent of statutes or regulations. Some are simple memos; others list factors schools might consider in imposing restraint/seclusion.

There are seven States with minor provisions in statute or regulation that provide little or no protection. For example, one State regulates only restraint/seclusion of children with autism. Even for these children, abusive techniques can be authorized by committee. Another State law simply bans “unreasonable restraint” (undefined term) and is silent on seclusion. Yet a third State has a law explicitly allowing restraint in some circumstances, not barring it others, and not regulating seclusion at all.

There are 30 States with statutes and regulations providing some degree of substantial protection against restraint and/or seclusion for children with disabilities. These have the force of law and must be obeyed. Even in these States, protections vary, with important safeguards often missing. Many do not require continuous visual monitoring of seclusion rooms. A large number do not prohibit life-threatening restraints, or mechanical or chemical ones. Some States do not require schools to tell parents their child was restrained/secluded or set no deadlines for it. Many States by law allow restraint/seclusion for any property destruction, tantrums, or similar disruptions that harm no one. Some States protect against restraint but not seclusion, or vice versa. New Hampshire provides for parental notification of restraint in its new statute but not of seclusion in its older regulations. Some States restrict restraint and seclusion to physical danger emergencies, but then permit it for any other reason at all if written into a behavior intervention plan, Individualized Education Program (IEP) or similar document: Massachusetts, North Carolina, and Maryland (restraint); Connecticut, Maryland, New Hampshire, and North Carolina (seclusion). Connecticut requires same day parental notification, unless seclusion is in a child’s IEP, in which case the IEP team decides when and whether to notify parents. Other States likewise do not measure up to the minimum standards in the House or Senate bills.

Because of the physical dangers that restraint and seclusion pose, and because laws and policies can be weak and have loopholes, exemptions for States are inappropriate. National minimum standards must protect all children. A Maryland child (regulation) should not lose his protections because his family moves to Virginia (non-binding policy) or Delaware (scant protection in regulation).

#### THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS’ (AASA) SURVEY

In July 2012, the American Association of School Administrators issued *Keeping Schools Safe: Ensuring Federal Policy Supports School Safety*. It contained a restraint/seclusion survey of 389 administrators. The survey is not representative of American schools. The vast majority of respondents came from districts with fewer than 5,000 students; 61 percent came from districts with 2,999 students or less. But according to 2008–09 data from the National Center for Education Statistics, 69 percent of students were enrolled in districts of 5,000 or more; 84 percent, in districts of 2,500 or more. Indeed, there were 11.1 million students attending the country’s 100 largest school districts (ranging from New York City to Shelby County, TN).<sup>6</sup>

Moreover, of the 389 AASA responses, 58 percent were from rural districts, 34 percent from suburban ones, and only 7.5 percent from urban districts—even though millions of children attend urban districts. States with high student populations were underrepresented, with 4 replies from California (6.1 million students); 9 from Texas (4.9 million students); and 15 from New York (3.1 million students). There were also few responses from populous States lacking restraint/seclusion laws, including 9 from New Jersey (1.35 million students), 16 from Michigan (1.5 million students), and 9 from Ohio (1.8 million students; only has executive order limiting

<sup>6</sup>National Center for Education Statistics, Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 2008–09, <http://nces.ed.gov/pubs2010/100largest0809/how.asp>.

some forms of restraint). While it is important to look at issues affecting small and non-urban school districts, such a report is not nationally representative.

In addition, the survey's methodology appears to contain flaws. The survey did not report that it was open to all members of the public, allowing anyone to identify themselves as an administrator, superintendent, or other category of respondent; that the URL had been made public; that more than one person could respond from a district; and that while the survey sought specific factual information (including numbers and percentages), survey respondents were not instructed to check records, but could have guessed or estimated. Furthermore, certain questions could not be answered unless the school district kept records on the number of children restrained/secluded, which very few States require.

#### CONCLUSION

It is important to adopt a Federal law that protects all children nationwide. The current limited State approach deprives many students of protection. Restraint and seclusion should be used rarely only in emergencies threatening physical danger. Schools should take steps to inform parents within 24 hours when their child is subjected to these techniques. The most dangerous practices should be prohibited. A law that combines prohibitions on harmful restraint and seclusion practices with the support to ensure that schools use preventative, positive behavior practices will make schools safer for all, students and staff alike. We thank you again for focusing on these issues in the hearings.

#### PREPARED STATEMENT OF THE NATIONAL SCHOOL BOARDS ASSOCIATION

The National School Boards Association (NSBA), representing over 90,000 local school board members across the Nation, is pleased to submit this Statement for the Record regarding the need to create and sustain positive and safe learning environments and to offer our perspective on the appropriate use of seclusion and restraints for all students. Additionally, we wish to share with the Senate Committee on Health, Education, Labor, and Pensions some of our concerns with the Senate bill, *Keeping All Students Safe Act*, S. 2020 that was introduced on December 16, 2011.

The primary goal of our schools and local school districts is to provide high quality educational services that are challenging, rigorous and tailored to the maximum potential of every student through highly effective teachers and principals. The desired outcome is that such educational services will enable our students to successfully compete in the global workforce.

In achieving this goal, we believe that a safe and positive learning environment for all students is essential. Federal, State, and local policy must effectively address appropriate safety protections not only for our students with disabilities, but for students enrolled in the general education program as well. We must also ensure the safety for all school personnel from those who drive and monitor our buses, to the food service personnel, to the professional and administrative support personnel to our teachers and principals.

#### MAXIMUM FLEXIBILITY TO STATES AND LOCAL SCHOOL DISTRICTS

In support of this goal, local school boards want to be assured that Federal legislation addressing the use of restraints and seclusion provides maximum flexibility and authority to States and local school boards in its implementation. While Congress and the executive branch of government may establish broad policy goals and objectives, States and local school districts are in the best position to determine what works determined by evidence-based interventions. As you finalize the legislative language, we trust that this principle will serve as a primary guide.

#### TRAINING FOR SCHOOL PERSONNEL

With respect to training, we urge you to ensure that any requirements for training and certification must be structured in a manner that is reasonable, affordable and effective. A Federal policy that would establish training requirements and/or certification for all school personnel or even all within a certain category of employees or even major segments of the staff fails to recognize the uniqueness of the various operational environments of schools and would result in the unnecessary expenditure of already very limited funds. For example, Wisconsin State law permits the "train the trainer" model so that more employees would have access to the training without the requirement for certification.

## DATA COLLECTION AND REPORTING

With respect to data collection and reporting requirements, we urge you to ensure that such requirements are at a minimum and take full advantage of existing reporting and data collection requirements to the maximum extent possible. We note that the U.S. Department of Education currently does not have the capacity to review and analyze existing reporting requirements. We believe that establishing additional reporting requirements without the capacity to conduct appropriate and timely analyses by the Department would serve no real purpose and create additional costs to school districts.

## KEY PROVISIONS IN THE SENATE BILL, KEEPING ALL STUDENTS SAFE ACT, S. 2020

With respect to the pending Senate bill, S. 2020, has several provisions that cause us concern:

a. *Threshold for Use of Restraints.* This is an extremely high threshold based on the definition of serious bodily injury adopted by IDEA in 2004. State hearing decisions have demonstrated that for purposes of discipline, it is a high standard: *Tehachapi Unified School District* (SEA CA 02-07-06) and *Pocono Mountain School District* (SEAPA 12/12/08). To have a teacher or other staff have to determine if the level of injury will meet the IDEA definition before deciding to intervene is not workable.

Additionally, the bill limits the use of restraint to an emergency with the imminent threat of physical harm to a person. This, restriction, combined with the prohibition on making restraint a planned-for intervention, takes away the opportunity to effectively train and plan well for its use. This bill would create a situation in which school staff would simply be using it in “emergencies”, which might occur over and over, particularly in the case of some general education students. Local school boards believe that reacting to an “emergency” is far less effective than proactively planning for a specific intervention that works for a particular student. Further, the property damage portion is important. If only an imminent threat of physical harm to a person is included, local school boards could easily see a situation in which a student must be allowed to destroy a classroom, which would be costly as well.

b. *Debriefing Session.* NSBA notes that the Senate bill establishes requirements for a debriefing session to be held within 5 school days following the imposition of a physical restraint upon a student unless this session is delayed by written mutual agreement by the parent and school. With some States (e.g., Wyoming, Maine, Missouri) already requiring such debriefings, they should continue to determine their timelines. Further, the bill requires the debriefing session to include all school personnel in the proximity of the student immediately before and during the time of restraint, the parent, the student, appropriate supervisory and administrative staff, and appropriate IEP team members. These requirements are burdensome and costly to the school and create conditions well beyond the control of the school. Rather than to specifically require their physical presence, NSBA recommends modifications that provide an opportunity for personnel to submit information verbally, in writing and electronically since all parties may not be able to physically participate in the debriefing sessions—especially in scheduling a session within 5 days.

c. *Flexibility to Address Unanticipated Threats to Student and Staff Safety.* From a policy perspective, any total prohibition against the use of restraints or seclusion would fail to recognize the need to be able to respond to certain unanticipated circumstances that threaten the safety and welfare of others. NSBA is pleased that the Senate bill does recognize such circumstances and we would urge the committee to ensure that such recognition is sustained in the language of the final bill. We also note that the Senate bill establishes a definition of “seclusion” that makes no distinction between a room that is locked and one that is unlocked while preventing the student from exiting. Such language appears too restrictive. We recommend that the Senate bill follow the action taken by the House Committee on Education and the Workforce by adopting the definition which is already contained in section 595(d)(4) of the Public Health Service Act (42 U.S.C. 290jj(d)(4)).

d. *Prohibition Against References to the Use of Restraints or Seclusion in Planning Documents.* Perhaps our greatest concern relates to language in the Senate bill that prohibits any reference to the use of physical restraints into the student’s education plan, individual safety plan, plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), individualized family service plan (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), or any other planning document for an individual

student. Such a prohibition is unnecessary and counter to the goal of ensuring a positive and safe environment for all students and all school personnel. In this regard, there are procedures related to each of these documents that require the consent of the parents. Parents who agree to such entries in the respective plans should not have their rights taken away. Commitment to parent and family engagement means that parents and family have the final say, not the Federal Government. NSBA urges you to delete this requirement from the final legislation.

e. *Recognition of Existing State Policy.* Additionally, according to the U.S. Department of Education, 39 States and the District of Columbia have existing policy or guidance on the use of restraints and seclusion. In such States, implementation has been successful. As an example, North Carolina has had success with strong, fair laws drafted collaboratively by parent advocates and education officials. We see no reason that these State policies, which have the support of all major stakeholders, should now be rejected. Therefore, NSBA recommends that the Senate bill provide for exempting States that have established policies regarding the use of restraints and seclusion. Further, while NSBA acknowledges that the Secretary of Education has the authority to issue rules, we recommend that such issuance should be permitted only after a sufficient and appropriate public comment period.

Local school boards across the Nation remain strongly committed to these priorities and recommendations and urge the Senate to fully address these critical concerns in the final Senate bill. We believe that our recommendations will ensure a much more effective and workable framework in addressing the challenges in providing a positive and safe learning environment for students enrolled in special and general education programs.

NSBA appreciates the opportunity to submit this Statement for the Record. We look forward to working with the committee in finalizing key policies affecting our Nation's public schools.

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CONSORTIUM FOR CITIZENS WITH DISABILITIES (CCD),  
WASHINGTON, DC 20036,  
July 20, 2012.

Hon. TOM HARKIN, *Chairman*,  
*Health, Education, Labor, & Pensions Committee*,  
*U.S. Senate*,  
*Washington, DC 20510*.

Hon. MIKE ENZI, *Ranking Member*,  
*Health, Education, Labor, & Pensions Committee*,  
*U.S. Senate*,  
*Washington, DC 20510*.

DEAR SENATORS: We write today on behalf of the Education Task Force of the Consortium for Citizens with Disabilities<sup>1</sup> to thank you for holding the hearing last week on alternatives to using restraint and seclusion in schools.

The testimony offered by the witnesses during the hearing, *Beyond Seclusion and Restraint: Creating Positive Learning Environments for All Students*, reinforced that restraint and seclusion are practices that should only be used in emergency situations in which the student's behavior poses an imminent danger of physical injury. The witnesses discussed concrete examples of schools that have shifted from using these practices to preventing and reducing the need for their use through de-escalation techniques, conflict management and evidence-based positive behavioral interventions and supports. The hearing also highlighted that this shift in focus has helped school personnel understand the needs of their students and safely address the source of challenging behaviors, leading to a better result for everyone in the classroom. Finally, the hearing emphasized the critical role of training for teachers in using these positive approaches to keep their students and themselves safe.

The Education Task Force is very pleased to see bipartisan support for examining the issue of restraint and seclusion in schools and their alternatives. We thank you

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<sup>1</sup>The Consortium for Citizens with Disabilities is a coalition of over 100 national consumer, advocacy, provider and professional organizations headquartered in Washington, DC. Since 1973, the CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve Federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society. Approximately 50 national organizations participate in the CCD Education Task Force.

for your leadership, and look forward to continuing to work with you on this important issue.

Sincerely,

KATY BEH NEAS,  
*Easter Seals.*

LAURA KALOI,  
*National Center for Learning Disabilities.*

CINDY SMITH,  
*National Disability Rights Network.*

RESPONSE TO QUESTIONS OF SENATOR MURRAY BY DANIEL CRIMMINS, B.A., M.A.,  
PH.D.

#### LEGISLATION

*Question 1.* As you consider State laws regarding seclusion and restraint, are these laws adequate in ensuring children are safe when they go to school and will not be subjected to seclusion and restraint in non-emergency situations?

Answer 1. There is a tremendous variability among the States in their laws related to the use of seclusion and restraint in non-emergency situations. Sixteen States have laws that limit restraint to emergencies for children with disabilities, usually using a standard that there is an immediate risk of physical harm or serious physical harm. Eleven States have these protections for all children. Many States have no laws or have loopholes that allow restraints to be used with little limitation. Even fewer States regulate the use of seclusion; only 12 States protect children with disabilities from non-emergency seclusion and only 7 extend these protections to all children.

Because current State laws are a patchwork of varying protections, and because of the serious risks involved with restraint and seclusion, I do *not* believe the current State laws are adequate to protect *all* students from restraint and seclusion in non-emergencies.

*Question 2.* Other areas of social policy have Federal laws prohibiting or limiting the use of seclusion or restraint, but education does not. How does the Chairman's Keeping All Students Safe Act compare with these other Federal policies?

Answer 2. The Children's Health Act of 2000 established protections from the use of seclusion and restraint in public and private general hospitals, nursing facilities, intermediate care facilities, and other health care facilities receiving Federal funds. The law restricts restraint and seclusion to situations where the physical safety of the patient or a staff member is at risk, and requires close medical supervision when they are used. In these settings, the law states that restraint and seclusion can only be imposed on a patient if done so under the written order of a physician or other licensed practitioner. The order must specify the duration and circumstances under which the restraints are to be used (except in specific emergency situations). It requires facilities to report any deaths that occur within 24 hours after a patient is restrained or in seclusion, or where it is reasonable to assume that a patient's death may have resulted from seclusion or restraint. It also requires these facilities to work toward the elimination of any use of restraint and seclusion for purposes of discipline or convenience. Finally, the Children's Health Act requires that an adequate number of trained staff be available to evaluate patients and write treatment plans and that adequate training be provided to staff in the use of restraints and their alternatives.

The Children's Health Act also limits the use of seclusion and restraint in non-medical, community-based facilities for children and youth. In these settings, seclusion and restraint may only be imposed by an individual trained and certified in the use of these procedures and their alternatives, including the needs and behaviors of the population served, escape and evasion techniques, relationship building, de-escalation methods, and avoiding power struggles. These individuals must also be trained in the potentially dangerous physiological and psychological impacts of seclusion and restraint, including monitoring physical symptoms, recognizing signs of distress, and obtaining medical assistance. Programs using seclusion and restraint must also have procedures in place for monitoring and documentation, obtaining approval for continued use, addressing problems occurring during their use, following up with staff, and investigating injuries and complaints.

S.2020 is an important step toward the goal of providing States with consistent standards toward the elimination of seclusion, mechanical and chemical restraint, and physical restraint that restricts breathing or is contraindicated by the student's disability or health condition. The bill also prohibits the use of physical restraint

as a planned intervention in a student's education plan. It requires that school personnel who implement physical restraint in emergencies be trained and certified and that they continuously monitor the student. Finally, S.2020 requires that parents be notified if physical restraint is used, and also calls for a meeting with family and school personnel to identify ways to prevent the future need for restraint.

The Children's Health Act is more prescriptive than the Chairman's bill in providing protections and training requirements around the use of restraint and seclusion. Specifically, it requires training in more areas and requires a doctor's order before restraint and seclusion can be imposed on a patient. However, many of the common-sense protections found in the Children's Health Act are included in S.2020.

*Question 3.* In your testimony, you indicated there were nearly 40,000 incidents of physical restraint reported during the 2009–10 school year with 70 percent of those incidents being with students with disabilities, and a disproportionate number being African-American and Hispanic students. In light of these facts, is there a role for Federal legislation on this issue or should it be left to the States?

*Answer 3.* In my revised testimony, I clarified that there were nearly 40,000 students (not incidents) who were physically restrained during the 2009–10 school year. The number of incidents is very likely much higher. Given the disproportionate use of seclusion and restraint on students with disabilities and students belonging to racial minorities, I do believe that Federal legislation is the solution to the problem of seclusion and restraint in schools, as it has been for so many civil rights issues.

#### RESEARCH

*Question 4.* In summary, what has the field concluded from research? Is there any peer-reviewed and published research that indicates seclusion or restraint is effective practice in special education for students with emotional or behavioral disabilities? And, is there any peer-reviewed and published research that indicates positive behavior interventions and supports are more or less effective than seclusion or restraint in special education for students with emotional or behavioral disabilities? Is there any peer-reviewed and published research on the effect of seclusion or restraint on school children?

*Answer 4.* There is no evidence that seclusion or restraint benefit individual children, nor do they ensure safe schools. In fact, there is a great deal of evidence to the contrary. There are thousands of schools and districts that have never used restraint and seclusion and would not consider them to be a legitimate tool, especially when strategies such as Positive Behavior Intervention and Supports have been demonstrated to promote a positive school climate in addition to helping manage challenging behaviors.

What we must keep in mind is that there is a great deal of evidence showing that behaviors often serve as forms of communication—they occur in often predictable situations and lead to predictable outcomes. They are a symptom of a problem or need whose source must be addressed. The best tool to do this is the Functional Behavioral Assessment, generally referred to as an FBA, which has been part of the Individuals with Disabilities Education Act (IDEA) since 1997. The FBA helps us to understand the reason for the behavior, develop safer and more appropriate strategies for prevention, and should point to new replacement behaviors that the student needs to learn to do instead. There is a wealth of research supporting the long-term solution for students requires the anticipation of behavior, being proactive in order to break the cycle of dangerous behavior, and instruction in alternative behaviors.

An extensive list of peer-reviewed research related to positive interventions can be found on the Office of Special Education Programs Technical Assistance Center on Positive Behavioral Interventions and Supports site, [www.pbis.org](http://www.pbis.org).

- A family from Washington State recently shared their story with me about their grandchild. The family has given me permission to share their story, in their own words.

"We are a family who lives in Washington State; our grandchild has autism. As a young child, he was very happy and enjoyed his 2 years of preschool very much. When he entered kindergarten a few years ago, he was full of hope. But placed into a 'behavioral classroom,' he was repeatedly restrained and secluded, until he developed injuries, worse meltdowns, and fear of school. Our family was never told this was happening. The school district never informed us of our rights. We discovered them ourselves online. After we advocated for positive behavioral supports, our grandson began to grow and flourish. The meltdowns ended; the injuries ended; and he began to bloom and make academic and func-



tional progress. I hate to think of what would have happened if we had not discovered our rights.

During pre-K, my grandson had had a few 'meltdowns'—tantrums. My grandchild was sensitive to loud noises, and covered his ears. Like several autistic children, he did not like to be touched, and he reacted strongly. He could have tantrums where he cried and told people not to touch him. His teacher just talked him through them or gave him some quiet down time—never a seclusion room.

In Kindergarten, he was moved to a special behavioral classroom. We were told the staff was more experienced and the smaller setting would be better. There was a 'quiet room' in the classroom. We were told that it was only used to protect children for their safety and that of others, and that we would be notified immediately if it was used.

We had informed the school in our forms that he was resistant to being touched and very sensitive to it. We said that he would react negatively by hitting, jerking away, and yelling. We explained his other sensitivities. But it turned out that our grandson was put in the quiet room frequently. He was physically restrained and dragged into the quiet room. We were never told. We saved every note from the school and they did not mention the seclusion room or the restraints to take him there. The only notes said that he was occasionally put in a time-out chair in the classroom—still able to be part of the class.

We did get notes that he was having a rough day; hitting other children; they were hitting him; and we saw a long scratch on his face from another student. We were concerned about what was going on, but he would shut down and not talk. We had told the school that he would react negatively to touch, and if other children grabbed him, he would respond negatively, and even aggressively. The school ignored us and the autism specialist said that he would just have to 'adjust to someone touching him.' I was surprised that the autism specialist was not aware of this characteristic trait within an autistic child since it is so commonly known. I thought she would have been trained on these issues.

By mid-fall, things were getting really hard for our grandson. We noticed a huge change in his behavior. He hated school and would fight us to go to school, he resisted by hitting, scratching us & himself, yelling, crying, spitting. This was all new for us with him. It was truly unreal what we were seeing and we knew something was going on but didn't know what and wasn't getting anywhere with the school. It turned out that another child was bullying him, jumping on him and other children and body slamming them.

In the winter, we met with the school and explained that the bullying needed to stop. The staff spent much of the rest of the meeting talking about how well our grandson was doing. We said that we wanted to work on him transitioning into regular general education classroom. He was bored in the behavioral classroom, and there was not enough to keep him interested.

A few months later, the school called and said that my grandson had been injured, when the teacher restrained him at the wrist and he pulled away and dropped to his knees. He was sent to the Emergency Room. One of his bones was dislocated.

Soon after that, we had an IEP meeting. We were very upset because we found out for the first time that our grandson was being restrained and dragged into the seclusion room, 'quiet room' multiple times. It began soon after school started and continued through the semester. We were told that his behavior was regressing, which we had not been told before. All the grabbing and pulling in the physical restraint made him more and more upset, and all of the time alone in the seclusion room upset him, and his behavior worsened. He does not like people touching him. He is very fearful of being locked in a room and being isolated. He has had that fear since he was a toddler.

We asked for the notes the staff was writing. It is quite sickening to read. My grandson went from this quiet kid to a child that inflicted scratches on himself, yelling bad words, kicking, spitting, and biting. We attribute this directly to his having been placed in the quiet room since he was being restrained and dragged forcibly to this room by para-educator and/or teacher.

We were told that his disability needs—including his fear of touch—could not be accommodated by the school. We were told he would just have to get used to people touching him. We were told he would have to get used to the loud noises.

We went online and began to educate ourselves about the IEP process. We read about my grandson's rights and our rights as a family. I found forms on the State Department of Education Web site. The school never told us of our

rights or these forms. We contacted an advocate. I learned that we are part of the IEP team. We told the school we would not agree to use of the quiet room unless it was used only as a last resort after efforts to de-escalate the situation.

The school began to work with us and our advocate. We built in steps before the quiet room could be used. His frustration builds and causes meltdowns because he cannot communicate adequately, the doctor who assessed him told us. So, he was given communication cards so he had a way to communicate. We built a system of positive supports and interventions, and rewards for good behavior. He worked one-to-one with his teacher some of the time. If he got upset, he could take a break—not go in the quiet room, just take a break.

The first 6 months were a nightmare, and no family or child should have to go through that. As we worked together with the school on positive interventions, things began to change. The last few years have been terrific because of the positive supports. We share our experience to help others.”

*Question 5.* This story is not uncommon with dozens more in Washington State just like this. As you consider this story, what steps can parents take to advocate for their children who are being secluded or restrained?

*Answer 5.* First, let me say that this is an impressive family, and this young person is fortunate to have these grandparents standing behind him.

This is a story with a sad beginning, but at least it has a happy ending because the parents—or in this case the grandparents—took the time to communicate with the school, pushed to make sure they got the whole story, called for IEP meetings to address what clearly wasn’t working, learned about the protections provided under IDEA, enlisted the help of an advocate, and worked with the school to develop a positive behavior intervention plan. They stayed involved and committed, but they also recognized that injuries, reports of bullying, and a child who starts to resist going to school indicates that there may well be a much larger problem that needs to be addressed. These are the important steps in supporting every student, but particularly those with challenging behaviors.

*Question 6.* This family feared repercussions from their grandchild’s school if they were identified. Is this fear shared with other parents of children who are secluded or restrained?

*Answer 6.* Teachers resort to seclusion and restraint because they simply don’t know what else to do, and they work in schools that allow these procedures. If they had different techniques to protect themselves and all their students, I believe that they would use them. But, they have to know what these approaches are, be trained in using them, and work in schools that support their use. Teachers benefit from school-wide systems and support from school leadership that provides a clear understanding of what is expected of them and what resources are available to them when challenging behaviors arise. Can we expect any teacher to use positive approaches? Yes, they’re smart people and they learn new teaching techniques throughout their careers.

The fear of repercussions from the school—whether it is grounded or not—indicates a lack of trust in the school and a likely poor pattern of communication between the school and the parents. These can be repaired, but the parents will be in a better position if they talk to other parents in their own and other districts, to school board members, to advocates, and then approach the school administration to discuss their concerns. There is anecdotal evidence that many parents experience a feeling of powerlessness when dealing with schools regarding their child’s behavior, and, thus, likely would fear the repercussions of speaking out about the use of restraint and seclusion in their child’s school. Many parents have expressed frustration over the imbalance of power between themselves and the school when it comes to developing plans to deal with challenging behaviors. Parents have reported that they have felt coerced or threatened into including restraint and seclusion into their child’s IEP despite their desire that these techniques not be used on their child.

*Question 7.* What could have been done to prevent the use of seclusion and restraint in this case, and other cases like it?

*Answer 7.* Seclusion and restraint are, in their essence, reactive approaches. In this case, the pattern of reacting to behavior became the student’s behavior intervention plan—but it was totally inadequate and inappropriate. What was needed was to analyze the crises and why they occurred, to anticipate and prevent problems rather than react to them, and to teach better ways to behave. This is accomplished through the procedures that are called for in IDEA for students with behaviors that disrupt learning—a functional behavioral assessment conducted by qualified professionals and a positive behavior intervention plan outlining the positive interventions needed to improve the student’s behavior. The behavior interventions plan must be

developed by qualified professionals, the parents, and, if appropriate, the student, and implemented with fidelity.

*Question 8.* As a parent, former teacher and school board member, I would want to know if my child was being restrained or secluded by school employees. Should there be a legal requirement for parents to be informed of their child being secluded or restrained? And, would a legal requirement of this nature be too burdensome for school and district administrators?

Answer 8. Yes, I believe there should be a legal requirement that schools notify parents when seclusion or restraint are used with a child. Parents send their children to school trusting the school personnel to keep their children safe, to teach them, and to help them develop into independent members of their communities. Transparency between schools and parents about behavior issues is essential to ensuring that all interested and necessary parties can participate in helping to develop strategies to keep the child, school personnel and other students safe.

School districts are expected to notify parents when their children are injured or experience a medical problem while at school. Therefore, it does not seem overly burdensome to expect them to provide timely notification to parents when dangerous techniques such as restraint and seclusion are being used.

*Question 9.* What is the legal liability for teachers when a child is injured during restraint or seclusion? Also, what is the school district's liability when a student is injured by an employee? Is the teacher's union liable for costs associated with defending teachers who injure children during seclusion or restraint?

Answer 9. This is one of those times that I feel I really must preface my remarks by saying, "I'm not a lawyer so I am certainly not qualified to speak to specific legal issues related to liability." And then I'm going to go ahead and say, "But, I do think there are some important things to keep in mind in considering legislation."

As a parent, a professional, a former school board member, and citizen, I would think that when I send my child to school, the school as an entity will be responsible for my child's well-being. If a student is injured at school during seclusion or restraint, I would not expect a teacher or the school to be liable, as long as the situation in which the injury occurred was handled in a responsible manner. In such a situation, having a law that established reasonable minimum safety standards and clear expectations for staff and the schools would serve as a protection for everyone involved.

That is certainly the case in Georgia, where our State rule requires staff to be trained if restraint procedures are to be used in a school, calls for less intrusive measures in managing crises, but does allow for physical restraint to be used in emergencies involving the physical safety of the child, other students, or the teacher. Our rule also acknowledges that school personnel must use their own good judgment at times to ensure the safety of all, and should be able to do so without penalty. But this judgment must be based in appropriate training and knowledge about preventive and positive interventions as well as minimum safety standards such as those outlined in the Chairman's bill.

I am not aware of how teachers' unions might be involved in a teacher's legal defense.

#### RESPONSE TO QUESTIONS OF SENATOR MURRAY BY MICHAEL GEORGE

*Question 1.* When positive behavioral interventions and supports are implemented we often hear of the reductions in the number of office referrals and the less frequent use of seclusion and restraint. However, we rarely hear about the academic benefits. Did you see any changes in the amount of time dedicated to instruction or other academic changes in Centennial School?

Answer 1. Yes, there were academic benefits. As a consequence of the prevention strategies put into place, teachers were able to reduce the time spent on "managing behavior problems" and thus were able to spend more time developing creative and interactive lessons that engaged students in learning. Consequently, there were favorable changes in the amount of academic engaged time, meaning the amount of time students are actively engaged in the academic tasks before them, and improvements in achievement scores as measured by State assessments and curriculum-based measurements.

*Question 2.* What teacher professional development was required to reduce the use of seclusion and restraint at Centennial School?

Answer 2. The re-design of the elementary classroom, where we first began the new system, entailed about 2 hours of additional training to prepare the teachers. Topics covered the procedures for using Point Sheets, including the collection and

use of data on students' classroom performances, a focus on and recognition of positive classroom behaviors, de-escalation strategies, as well as anger management strategies for students (e.g., Taking Time and raising hand). Teachers were provided a prep period during the school day and the number of subject preparations was decreased. Along with prep periods and fewer subject preparations, teachers were encouraged to develop a rich and engaging curriculum for the students.

The second year, we incorporated an additional 3 hours of staff development into the weekly schedule. To this day, Wednesday afternoons are reserved for professional development that emphasizes the translation of theory into practice. We teach teachers specific procedures for effectively working with students having serious disabilities.

A family from Washington State recently shared their story with me about their grandchild. The family has given me permission to share their story, in their own words.

"We are a family who lives in Washington State; our grandchild has autism. As a young child, he was very happy and enjoyed his 2 years of preschool very much. When he entered kindergarten a few years ago, he was full of hope. But placed into a 'behavioral classroom,' he was repeatedly restrained and secluded, until he developed injuries, worse meltdowns, and fear of school. Our family was never told this was happening. The school district never informed us of our rights. We discovered them ourselves online. After we advocated for positive behavioral supports, our grandson began to grow and flourish. The meltdowns ended; the injuries ended; and he began to bloom and make academic and functional progress. I hate to think of what would have happened if we had not discovered our rights.

During pre-K, my grandson had had a few 'meltdowns'—tantrums. My grandchild was sensitive to loud noises, and covered his ears. Like several autistic children, he did not like to be touched, and he reacted strongly. He could have tantrums where he cried and told people not to touch him. His teacher just talked him through them or gave him some quiet down time—never a seclusion room.

In Kindergarten, he was moved to a special behavioral classroom. We were told the staff was more experienced and the smaller setting would be better. There was a "quiet room" in the classroom. We were told that it was only used to protect children for their safety and that of others, and that we would be notified immediately if it was used.

We had informed the school in our forms that he was resistant to being touched and very sensitive to it. We said that he would react negatively by hitting, jerking away, and yelling. We explained his other sensitivities. But it turned out that our grandson was put in the quiet room frequently. He was physically restrained and dragged into the quiet room. We were never told. We saved every note from the school and they did not mention the seclusion room or the restraints to take him there. The only notes said that he was occasionally put in a time-out chair in the classroom—still able to be part of the class.

We did get notes that he was having a rough day; hitting other children; they were hitting him; and we saw a long scratch on his face from another student. We were concerned about what was going on, but he would shut down and not talk. We had told the school that he would react negatively to touch, and if other children grabbed him, he would respond negatively, and even aggressively. The school ignored us and the autism specialist said that he would just have to 'adjust to someone touching him.' I was surprised that the autism specialist was not aware of this characteristic trait within an autistic child since it is so commonly known. I thought she would have been trained on these issues.

By mid-fall, things were getting really hard for our grandson. We noticed a huge change in his behavior. He hated school and would fight us to go to school, he resisted by hitting, scratching us & himself, yelling, crying, spitting. This was all new for us with him. It was truly unreal what we were seeing and we knew something was going on but didn't know what and wasn't getting anywhere with the school. It turned out that another child was bullying him, jumping on him and other children and body slamming them.

In the winter, we met with the school and explained that the bullying needed to stop. The staff spent much of the rest of the meeting talking about how well our grandson was doing. We said that we wanted to work on him transitioning into regular general education classroom. He was bored in the behavioral classroom, and there was not enough to keep him interested.

A few months later, the school called and said that my grandson had been injured, when the teacher restrained him at the wrist and he pulled away and dropped to his knees. He was sent to the Emergency Room. One of his bones was dislocated.

Soon after that, we had an IEP meeting. We were very upset because we found out for the first time that our grandson was being restrained and dragged into the seclusion room, 'quiet room' multiple times. It began soon after school started and continued through the semester. We were told that his behavior was regressing, which we had not been told before. All the grabbing and pulling in the physical restraint made him more and more upset, and all of the time alone in the seclusion room upset him, and his behavior worsened. He does not like people touching him. He is very fearful of being locked in a room and being isolated. He has had that fear since he was a toddler.

We asked for the notes the staff was writing. It is quite sickening to read. My grandson went from this quiet kid to a child that inflicted scratches on himself, yelling bad words, kicking, spitting, and biting. We attribute this directly to his having been placed in the quiet room since he was being restrained and dragged forcibly to this room by para-educator and/or teacher.

We were told that his disability needs—including his fear of touch—could not be accommodated by the school. We were told he would just have to get used to people touching him. We were told he would have to get used to the loud noises.

We went online and began to educate ourselves about the IEP process. We read about my grandson's rights and our rights as a family. I found forms on the State Department of Education Web site. The school never told us of our rights or these forms. We contacted an advocate. I learned that we are part of the IEP team. We told the school we would not agree to use of the quiet room unless it was used only as a last resort after efforts to de-escalate the situation.

The school began to work with us and our advocate. We built in steps before the quiet room could be used. His frustration builds and causes meltdowns because he cannot communicate adequately, the doctor who assessed him told us. So, he was given communication cards so he had a way to communicate. We built a system of positive supports and interventions, and rewards for good behavior. He worked one-to-one with his teacher some of the time. If he got upset, he could take a break—not go in the quiet room, just take a break.

The first 6 months were a nightmare, and no family or child should have to go through that. As we worked together with the school on positive interventions, things began to change. The last few years have been terrific because of the positive supports. We share our experience to help others."

*Question 3.* This story is not uncommon with dozens more in Washington State just like this. As you consider this story, what steps can parents take to advocate for their children who are being secluded or restrained?

*Answer 3.* The story itself contains many clues for helping parents advocate for their children. For example, it is important for parents and guardians to understand the IEP process as well as their rights under Federal and State laws (copies of these rights should be given to parents in written form at every IEP meeting).

Moreover, as it was for the grandparents in this story, retention of an advocate may prove helpful for parents in need of assistance. There are many State and national advocacy groups that supply assistance with programming suggestions and legal advice for parents and guardians. At Centennial School, we include the names of advocacy groups along with their contact information in the *Parent-Student Handbook* that is revised annually and provided to every Centennial School parent. The information is also posted on our Web page. In addition, Centennial School invites representatives from advocacy groups to its Open House events so as to be available to parents.

Like the grandparents in the story, parents and guardians will want to work cooperatively with school officials to create a strong and positive IEP that is predicated on research-based interventions and calculated to provide educational benefit for the child. Note that the practices of seclusion and restraint have no research support behind them and consequently should be excluded from the IEP.

At the IEP meeting, parents and guardians should inquire about the positive interventions that will be used to teach social behaviors and improve communication skills. They should also seek information about the specific procedures the school uses for emergency situations and ask to see any printed information on the school's policies about the use of seclusion and restraint.

Parents may also wish to review the child's Functional Behavioral Assessment and offer to become active participants in its development. Parents and guardians

can play a valuable role by supplying information from their experiences in the home and community situations with the child. For example, the procedures used successfully by parents to correct social errors can be shared with school officials.

Meaningful dialog during the initial IEP meeting in this case may have prevented the resultant problems that contributed to the “nightmarish” first 6 months. The grandparents may have learned the specifics of the school’s emergency procedures that included seclusion and restraint, and the school officials may have learned about the child’s specific characteristics, namely, the child’s fear of isolated spaces and aversion to touch. Arguably, accommodations (i.e., prevention strategies) could have been made at that point rather than 6 months later.

Parents and guardians may also wish to observe the child in the classroom and school environment and meet with the teacher afterwards to discuss the observation. A guardian of a former Centennial School student found this to be a highly valuable experience. He came back repeatedly, saying he learned more about working with his child from the classroom observations than through any book he had read on the subject.

*Question 4.* This family feared repercussions from their grandchild’s school if they were identified. Is this fear shared with other parents of children who are secluded or restrained?

*Answer 4.* I have not heard parents or guardians express this fear but perhaps that is because of my role as a school official. My first reaction is that the grandparents’ relationship with the school has suffered and now lacks trust; and given the facts as reported in the story, perhaps justifiably so. However, as also illustrated in the story, once the grandparents, the advocate and school officials began working together, significant progress was achieved. I suspect the feelings of mistrust may have dissipated somewhat when school officials modified the program and the child began to experience “terrific” success. I have found that when parents and schools work together earnestly to solve problems, success is usually imminent.

When disagreements emerge, parents and guardians have access to problem solving and dispute resolution procedures. *The Individuals with Disabilities Education Act (IDEA)* provides detailed procedures that allow parents and guardians to voice their disagreements with school officials and seek resolution through mediation and due process.

Repercussions or any sort of retaliation on the part of school officials would in my opinion constitute a serious breach of ethics and possibly State law. The “fear” of retaliation may be assuaged through ongoing communication. As reported in the story, the parties were able to work together once communication was in place.

*Question 5.* What could have been done to prevent the use of seclusion and restraint in this case, and other cases like it?

*Answer 5.* The story provides important clues. For example, the team built in specific steps before the quiet room could be used. The child was given communication cards so he had a way to communicate and avoid frustration. A system of positive supports and interventions, along with rewards for good behavior were developed and implemented. The teacher worked one-to-one with the child some of the time. And when the child became upset, he was allowed to take a break and get himself calm in lieu of going to the quiet room. These are excellent strategies for preventing the use of restraint and seclusion and apparently they were quite successful.

Most likely, the strategies for preventing the use of seclusion and restraint in this case were the result of a Functional Behavioral Assessment (FBA) that was conducted to determine the hypothesized function of the boy’s agitated and aggressive responses. An FBA identifies the immediate and distal (i.e., setting events) antecedents that occur prior to the behaviors of concern (triggers) and the consequences that maintain the behavior. Based on the results of the assessment, an individualized behavior support plan is created that spells out (a) detailed strategies for preventing the behaviors of concern, (b) strategies for teaching new, more efficient, replacement behaviors (e.g., raising hand to signal agitation, using of anger management skills to remain calm, and communication skills, such as the communication cards cited above), and (c) consequence strategies that serve to reinforce the new behaviors as well as the procedures for managing challenging behaviors.

As argued by my colleagues in the testimony before the Senate committee, the best way for dealing with crises is to prevent them from happening in the first place. Learning occurs when students are calm and attentive. Good planning based on the principles of positive behavioral teaching approaches along with consideration for the unique characteristics of the child can greatly reduce the need for “crisis” intervention. I elucidate many of the prevention strategies employed at Centennial School in the written testimony I provided the Senate HELP Committee.

*Question 6.* As a parent, former teacher and school board member, I would want to know if my child was being restrained or secluded by school employees. Should there be a legal requirement for parents to be informed of their child being secluded or restrained? And, would a legal requirement of this nature be too burdensome for school and district administrators?

*Answer 6.* Yes, there should be a legal requirement to notify parents when their child is being secluded or restrained, especially given the potential and real negative side effects of seclusion and physical restraint for children. Pennsylvania, for example, has incorporated a provision in its Rules and Regulations governing Special Education Services and Programs for notification of parents in the case of restraint (although not in the event of seclusion), and further requires that an IEP meeting be convened within 10 days to consider whether the student “needs a functional behavior assessment, reevaluation, a new or revised positive behavior support plan, or a change of placement to address the inappropriate behavior.”<sup>1</sup>

The burdensomeness of this requirement is certainly relative to the number of seclusions and restraints conducted by the school. For example, had the Pennsylvania law been passed 10 years earlier, it would have been an insurmountable burden for Centennial faculty to conduct 1,064 additional meetings within a 180-day school calendar. Today, the meetings are not burdensome at all. In rare instances when a restraint is conducted, the team uses the meeting to analyze the restraint episode and to develop modifications to the behavior plan that might reduce the likelihood that restraint would need to be used in the future.

As a final thought on the matter, a provision requiring parent notification in instances of seclusion and restraint might in itself supply the additional encouragement for schools to seek alternative approaches for working with children having challenging behaviors.

*Question 7.* What is the legal liability for teachers when a child is injured during restraint or seclusion? Also, what is the school district’s liability when a student is injured by an employee? Is the teacher’s union liable for costs associated with defending teachers who injure children during seclusion or restraint?

*Answer 7.* Although I am not an attorney or legal expert, it is my understanding that teachers, school officials, and school districts may be held liable for injuries that occur to students because of their actions (e.g., using restraints or seclusion) or their negligence (e.g., failing to supervise employees).<sup>2</sup> A family of a student who was injured during a restraint or an episode of seclusion could pursue civil remedies through tort law; and seek compensatory damages and/or punitive damages against the school defendants by alleging various torts, such as negligence and/or intentional torts (e.g., assault and battery, false imprisonment, intentional infliction of mental distress).<sup>3</sup>

*Question 8.* Is the teacher’s union liable for costs associated with defending teachers who injure children during seclusion or restraint?

*Answer 8.* With all due respect, this question might best be posed to representatives of teachers’ unions. I would surmise that a teacher’s union would be liable for the costs associated with defending teachers who may have injured a student during seclusion or restraint, as legal representation is usually part of member association benefits. However, due to wide variance in State laws and other factors, this may not always hold true. For a definitive answer I suggest you contact the teacher unions directly.

#### RESPONSE TO QUESTIONS OF SENATOR MURRAY BY CYNDI PITONYAK

A family from Washington State recently shared their story with me about their grandchild. The family has given me permission to share their story, in their own words.

“We are a family who lives in Washington State; our grandchild has autism. As a young child, he was very happy and enjoyed his 2 years of preschool very much. When he entered kindergarten a few years ago, he was full of hope. But placed into a ‘behavioral classroom,’ he was repeatedly restrained and secluded, until he developed injuries, worse meltdowns, and fear of school. Our family was never told this was happening. The school district never informed us of our

<sup>1</sup> Chapter 14 Special Education Services and Programs, 22 Pa. Code § 14.121 (2008).

<sup>2</sup> See Zirkel, P.A. & Lyons, C.A., *Restraining the Use of Restraints for Students with Disabilities: An Empirical Analysis of the Case Law*, 10 CONN. PUB. INTEREST L.J. 323 (2011) for a review of case law involving the use of restraints and students with disabilities.

<sup>3</sup> See Cambron-McCabe, N.H., McCarthy, M.M., & Thomas, S.B. (2009). *Legal rights of teachers and students* (2d ed.). Boston, MA: Pearson for a more thorough text on tort liability.

rights. We discovered them ourselves online. After we advocated for positive behavioral supports, our grandson began to grow and flourish. The meltdowns ended; the injuries ended; and he began to bloom and make academic and functional progress. I hate to think of what would have happened if we had not discovered our rights.

During pre-K, my grandson had had a few 'meltdowns'—tantrums. My grandchild was sensitive to loud noises, and covered his ears. Like several autistic children, he did not like to be touched, and he reacted strongly. He could have tantrums where he cried and told people not to touch him. His teacher just talked him through them or gave him some quiet down time—never a seclusion room.

In Kindergarten, he was moved to a special behavioral classroom. We were told the staff was more experienced and the smaller setting would be better. There was a 'quiet room' in the classroom. We were told that it was only used to protect children for their safety and that of others, and that we would be notified immediately if it was used.

We had informed the school in our forms that he was resistant to being touched and very sensitive to it. We said that he would react negatively by hitting, jerking away, and yelling. We explained his other sensitivities. But it turned out that our grandson was put in the quiet room frequently. He was physically restrained and dragged into the quiet room. We were never told. We saved every note from the school and they did not mention the seclusion room or the restraints to take him there. The only notes said that he was occasionally put in a time-out chair in the classroom—still able to be part of the class.

We did get notes that he was having a rough day; hitting other children; they were hitting him; and we saw a long scratch on his face from another student. We were concerned about what was going on, but he would shut down and not talk. We had told the school that he would react negatively to touch, and if other children grabbed him, he would respond negatively, and even aggressively. The school ignored us and the autism specialist said that he would just have to 'adjust to someone touching him.' I was surprised that the autism specialist was not aware of this characteristic trait within an autistic child since it is so commonly known. I thought she would have been trained on these issues.

By mid-fall, things were getting really hard for our grandson. We noticed a huge change in his behavior. He hated school and would fight us to go to school, he resisted by hitting, scratching us & himself, yelling, crying, spitting. This was all new for us with him. It was truly unreal what we were seeing and we knew something was going on but didn't know what and wasn't getting anywhere with the school. It turned out that another child was bullying him, jumping on him and other children and body slamming them.

In the winter, we met with the school and explained that the bullying needed to stop. The staff spent much of the rest of the meeting talking about how well our grandson was doing. We said that we wanted to work on him transitioning into regular general education classroom. He was bored in the behavioral classroom, and there was not enough to keep him interested.

A few months later, the school called and said that my grandson had been injured, when the teacher restrained him at the wrist and he pulled away and dropped to his knees. He was sent to the Emergency Room. One of his bones was dislocated.

Soon after that, we had an IEP meeting. We were very upset because we found out for the first time that our grandson was being restrained and dragged into the seclusion room, 'quiet room' multiple times. It began soon after school started and continued through the semester. We were told that his behavior was regressing, which we had not been told before. All the grabbing and pulling in the physical restraint made him more and more upset, and all of the time alone in the seclusion room upset him, and his behavior worsened. He does not like people touching him. He is very fearful of being locked in a room and being isolated. He has had that fear since he was a toddler.

We asked for the notes the staff was writing. It is quite sickening to read. My grandson went from this quiet kid to a child that inflicted scratches on himself, yelling bad words, kicking, spitting, and biting. We attribute this directly to his having been placed in the quiet room since he was being restrained and dragged forcibly to this room by para-educator and/or teacher.

We were told that his disability needs—including his fear of touch—could not be accommodated by the school. We were told he would just have to get used to people touching him. We were told he would have to get used to the loud noises.



We went online and began to educate ourselves about the IEP process. We read about my grandson's rights and our rights as a family. I found forms on the State Department of Education Web site. The school never told us of our rights or these forms. We contacted an advocate. I learned that we are part of the IEP team. We told the school we would not agree to use of the quiet room unless it was used only as a last resort after efforts to de-escalate the situation.

The school began to work with us and our advocate. We built in steps before the quiet room could be used. His frustration builds and causes meltdowns because he cannot communicate adequately, the doctor who assessed him told us. So, he was given communication cards so he had a way to communicate. We built a system of positive supports and interventions, and rewards for good behavior. He worked one-to-one with his teacher some of the time. If he got upset, he could take a break—not go in the quiet room, just take a break.

The first 6 months were a nightmare, and no family or child should have to go through that. As we worked together with the school on positive interventions, things began to change. The last few years have been terrific because of the positive supports. We share our experience to help others."

*Question 1.* This story is not uncommon with dozens more in Washington State just like this. As you consider this story, what steps can parents take to advocate for their children who are being secluded or restrained?

*Answer 1.* The very basic and reasonable restrictions of Senate bill 2020 would go a long way toward protecting children from the destructive use of restraint and seclusion as described in this example. When use of these procedures is entirely at the discretion of school personnel and there is no requirement that parents be informed when they are used, the job of advocating becomes much more difficult for parents. That being said, the following are some options that parents could try.

One option for parents is to advocate through the Individualized Education Plan (IEP) process for an inclusive education for their child. Very restrictive procedures like restraint and seclusion are out of place and even shocking within the context of a regular classroom, and are far less likely to be used there. When special education services are provided in an inclusive setting, there is strong motivation for staff to use preventive practices like positive behavior supports to avoid disrupting instruction for all. (See written testimony). The use of restraint and seclusion began in the example above when the child was placed in a "special behavioral classroom." Within this segregated context, restrictive procedures often become commonplace and are even used for relatively minor offenses.

A wide array of information on positive behavior interventions and supports (PBIS) is available on-line and in print. Parents can educate themselves on PBIS, use it at home, and request a functional behavior assessment and development of a PBIS plan for their child at school, as stipulated in IDEA. A PBIS plan is by definition preventive and instructional, and would not include dangerous reactive procedures like restraint and seclusion. An educational advocate could be helpful in supporting parents to monitor and collaborate in this process.

Parents can become knowledgeable about how progress data is collected for their child. Data collection procedures should be spelled out in the IEP. Parents can ask to see regular progress data collected on their child's behavior and the effectiveness of the behavioral strategies used in reducing occurrences of problem behavior. In the story above, the grandparents became aware of the behavioral problems their grandson was having at school and the fact that restraint and seclusion were exacerbating symptoms associated with his autism when they asked to see the actual progress notes being collected by the staff. Data collected on the time this boy spent in the "quiet room" would certainly have shown this to be an ineffective practice in reducing meltdowns.

The grandparents in this story were very knowledgeable about the symptoms associated with their grandson's autism and the kinds of conditions that serve to exacerbate these symptoms. There is a wealth of excellent programming information available on effective, positive, evidence-based instructional programming for students with autism and other disabilities. Parents can ask for a clear description of the type of programming being used by the school to address their child's disability, and to see the evidence base behind the strategies employed. An educational advocate would be helpful to parents in this process.

It is distressing to hear and read so many stories like the one above, and to know that these situations happen every day throughout our country. The stipulations of IDEA strongly support inclusion, positive behavior supports, and parental collaboration in the development of individual educational plans for children. Parents are often exhausted by fighting their school districts for these basic services that should be readily available to any student with a disability. With more than four decades of solid research to support the effectiveness of positive behavior supports in reduc-

ing the occurrence of problem behaviors, the lack of evidence to support restraint and seclusion as effective in reducing occurrence of problem behaviors, and the numerous injuries and even deaths associated with use of restraint and seclusion, school divisions have no excuse for not changing their practices to keep up with the times and to ensure safety and progress for their students. It is my view that school divisions who continue to use the practices described in the story above will not discontinue them and turn to positive, preventive alternatives until they are required to do so.

*Question 2.* This family feared repercussions from their grandchild's school if they were identified. Is this fear shared with other parents of children who are secluded or restrained?

*Answer 2.* It is my understanding from talking with parents who have moved into our community from other areas and through consulting in other parts of the country, that many parents fear retribution from the school division if they refuse the use of restraint and seclusion with their children. Parents are often told that their child will lose her current educational placement if they refuse these procedures. Sometimes parents are asked to sign "blanket" permission forms as a "precautionary measure," without being informed of the dangers associated with restraint and seclusion or the positive, preventive alternatives available. When parents have given permission for these procedures to be used, usually without the privilege of truly informed consent, the only way to enforce a subsequent objection is through due process, an expensive and difficult process that is out of reach for many.

*Question 3.* What could have been done to prevent the use of seclusion and restraint in this case, and other cases like it?

*Answer 3.* The story above indicates that a program of positive behavior supports was effective for this child.

"After we advocated for positive behavioral supports, our grandson began to grow and flourish. The meltdowns ended; the injuries ended; and he began to bloom and make academic and functional progress."

Positive behavior supports and educational programming that specifically addresses the issues associated with a student's disability (e.g., the sensitivities to sound and touch associated with autism described in this case) are just basic solid special education practice. They should be available in school to any student with a disability as required by Federal law, and it is the responsibility of school divisions to make these basic services available to their students with disabilities.

Repetitive use of reactive procedures like restraint and seclusion often initiates a vicious cycle of escalation, as it appeared to do in this case; the more frequently these procedures are used the more frequently they appear to be needed because they have become part of the problem.

The requirement provided by S. 2020 that restraint and seclusion be used only in emergency situations, and the stipulations around informing parents provided in the bill could possibly have prevented the situation described in this case, by putting more pressure on school staff to change their focus from punishment to effective programming in order to successfully meet the needs of this student, and by making the grandparents aware earlier of the seriousness of the situation.

*Question 4.* As a parent, former teacher and school board member, I would want to know if my child was being restrained or secluded by school employees. Should there be a legal requirement for parents to be informed of their child being secluded or restrained? And, would a legal requirement of this nature be too burdensome for school and district administrators?

*Answer 4.* It should absolutely be a legal requirement for parents to be promptly informed regarding the use of restraint or seclusion with their child. Our emergency procedures policy in Montgomery County Public Schools includes this provision. (See Written Testimony, Appendix E.)

When effective positive behavior supports are in place for students, emergency situations in schools are extremely rare. If restraint and seclusion are only used in emergency situations, as stipulated in S. 2020, requirements associated with informing parents would only be needed on these rare occasions.

If true emergency situations occur with frequency in schools, the problem is with the school's ability to effectively use positive behavior supports to prevent emergencies, not with the requirement to inform parents.

*Question 5.* What is the legal liability for teachers when a child is injured during restraint or seclusion? Also, what is the school district's liability when a student is

injured by an employee? Is the teacher's union liable for costs associated with defending teachers who injure children during seclusion or restraint?

Answer 5. I do not have the information required to answer this question concerning teacher liability, as our teachers do not use restraint or seclusion as general practice. In an emergency situation, our staff would follow steps to de-escalate the situation and enlist the assistance of our school resource officers or local police as described in our emergency procedures policy. (See Written Testimony, Appendix E.)

#### ADDITIONAL RESPONSES TO QUESTIONS OF SENATOR MURRAY BY CYNDI PITONYAK

*Question 1.* When positive behavioral interventions and supports are implemented we often hear of reductions in the number of office referrals and less frequent use of seclusion and restraint. However, we rarely hear about the academic benefits. Did you see any changes in the amount of time dedicated to instruction or other academic changes in Montgomery County Public School?

Answer 1. A primary academic issue for students with problem behaviors is that of access to academic instruction. These students typically spend large amounts of time away from academic classes, because unaddressed problem behaviors can be disruptive to instruction for others. In schools that are not inclusive, students with problem behaviors are often assigned to segregated classes where academic expectations are considerably reduced, and their access to teachers highly qualified in the curriculum is limited. Under these circumstances, even if the student is technically "in class", access to quality academic instruction is very significantly reduced.

Our experience in Montgomery County has been that positive behavior support planning reliably results in increased time in regular academic classes for our students with problem behaviors, which means increased access to academic instruction. In fact, documentation of time in and out of the classroom is a commonly used type of progress data monitored by student support teams.

Important to note in any discussion of academic benefits associated with positive behavior supports is the fact that unaddressed academic weaknesses are a significant underlying cause of problem behaviors for students. This is usually easy to spot in functional behavior assessment, when problem behaviors occur more frequently in certain academic settings or under conditions associated with specific types of academic demands. When this is the case, addressing the academic problem typically results in resolution of the problem behavior as well. Our positive behavior support plan development process includes a preliminary step of assessing and addressing academic needs. (See written testimony, Appendix A.)

*Question 2.* What teacher professional development was required to reduce the use of seclusion and restraint in Montgomery County Public School?

Answer 2. In Montgomery County Public Schools, we have addressed professional development for our teachers on three levels concurrently over time. (See written testimony) We have found that it is important to consistently provide support and training for our staff at all three of these levels each year in an ongoing fashion.

At the first level, leaders in each school (e.g., principals and assistant principals) and any others who would be called upon frequently to help when problems occur must have a groundwork of basic understanding to guide their decisions and actions. It is important that these staff understand the benefits of inclusion for these students, principles of positive behavior support, how to de-escalate crisis situations, and the emergency procedures policy. We provide this training to new administrators and staff on a yearly basis. Recently, we have taken advantage of stimulus funding to increase and systematize our training in basic de-escalation strategies to include counselors, classroom teachers, special education teachers, and instructional assistants.

At the second level, we establish leadership and technical assistance in each school that is immediately available to teachers who serve students with significant problem behaviors. We do this through positions we call "intervention specialists". These are special education teachers who have the skills, responsibility and dedicated time to serve as leaders and models for teams of teachers supporting individual students who require behavior support. (See written testimony). The intervention specialist in each school leads individual student teams through the process of collaboratively conducting a functional behavior assessment and developing a positive behavior support plan for the student. (See written testimony, Appendices A & D). This person serves as a model for implementing interventions & monitoring progress and a support for planning and problem solving to all members of the student team, including classroom and special education teachers. This "learn while doing" training and support has been critical to our success in training our staff to use positive behavior supports, thus eliminating the need for restraint and seclusion

in our schools. Our special education office at the district level has the responsibility for ensuring that intervention specialists are well-trained and supported as leaders in their buildings; principals have the responsibility of ensuring that circumstances in the building allow student teams to meet regularly with the intervention specialist. The principal is also responsible for establishing clear support and expectations for the consistent use of positive behavior supports in the school.

At the third level, we provide a menu of training opportunities each year that are free and open to any interested staff and parents. We have found that positive models and success stories in each building are a powerful motivator to our teachers in learning to use positive behavior supports. Our training options for interested staff range from book groups and short after school training sessions on specific topics and interventions, to a semester-long intensive course in positive behavior supports. Motivated teachers take advantage of these opportunities, and go on to use what they have learned in their daily work at school. They talk about their successes with their colleagues. We have found over time that many teachers become more interested and confident in taking on the challenge of teaching a student with serious problem behaviors after they have seen their colleagues do it successfully.

It is critically important to always present the “why” and the “how” together when providing professional development in positive behavior support to teachers. Positive behavior support is a significant change from traditional behavior management. Teachers need to understand that traditional approaches have been highly unsuccessful for some students, and that practices like restraint and seclusion have not only been ineffective but very dangerous to students and staff as well. They are more open to changing their practices when they understand the reason for doing so, when help and support is immediately available, and when they have ready access to good information and positive examples to follow.

*Question 3.* Some administrators claim they must use restraint or seclusion to control and subdue some students with severe emotional or behavioral disorders who have outbursts. Do you agree this is necessary?

*Answer 3.* We have not found it necessary to use restraint or seclusion with our students except in very rare emergency situations for the past 23 years. Our emergency procedures policy (See written testimony, Appendix E) describes the circumstances under which restraint or seclusion would be used for any student, which would be an emergency situation that included immediate threat of serious bodily injury to the student or others.

We use individualized positive behavior support planning for our students with severe emotional or behavioral disorders who have a history of behavioral outbursts. This process includes identifying the circumstances under which behavioral outbursts would be likely to occur for the student, modifying those circumstances to reduce or eliminate the likelihood that an outburst would occur, and teaching the student a positive alternative that serves the same function that the outburst served for the student; e.g., escape from demands, tension release, protest. (See written testimony). This highly preventive approach greatly reduces the likelihood of emergency situations occurring at school.

As part of the positive behavior support planning process, we develop individual crisis plans for students who have a history of behavior outbursts. Part of this process includes identifying early warning signs that indicate potential for escalation, and spelling out specific steps for staff to take to avert the crisis. The crisis plan describes exactly what crisis level behavior looks like for each individual student, who to call, and specific steps to follow to help the student calm down and eventually resume his/her regular routine.

There is a solid body of research to support positive behavior support as a preventive and effective approach to addressing serious problem behaviors, and our experience has certainly shown this to be true. When our efforts are focused on identifying causes, modifying the environment to prevent outbursts, and teaching positive alternatives, restraint and seclusion are simply not required. In our experience, focusing our efforts on how we can understand and prevent problems for our students works much better than focusing our efforts on how we can control and subdue them.

*Question 4.* As an expert in the use of positive behavioral interventions and supports for students with emotional or behavioral disabilities, is it appropriate for any type of seclusion or restraint to be listed in a child’s individualized education program?

*Answer 4.* No. Individualized education programs should address instruction and accommodations for student learning and success. Seclusion and restraint are not instructional strategies or accommodations associated with student success. Positive behavior interventions and supports implemented with fidelity and grounded in

data-based progress monitoring, *should* be addressed in student IEPs and have been proven to make use of restraint and seclusion unnecessary.

It is important for our legislators to be aware that, even though positive behavior supports have been specified in IDEA for a number of years, their systematic use in public schools is by no means established, particularly for the students with the most serious problem behaviors—ironically, the students who need them the most. Allowing and planning for the use of these restrictive procedures on an “as-needed” basis for some students by including them in student IEPs, will simply allow schools to continue using these outdated and dangerous practices, rather than taking the initiative and responsibility to comply with IDEA and effectively implement positive behavior supports for their students with disabilities.

Restraint and seclusion are already used disproportionately on students with disabilities. Allowing these procedures to be included in student IEPs will only strengthen this disproportionality in their use, resulting in failure to provide students with disabilities with the protections afforded to students without disabilities under the provisions of Senate bill 2020.

The bottom line is that services for individuals with mental health needs, the elderly, and even those in the penal system already prohibit the use of these dangerous procedures except in emergency situations. There is absolutely no reason why we should be using them on children in our schools in non-emergency situations.

#### RESPONSE TO QUESTIONS OF SENATOR MURRAY BY DEBORAH (DEBBIE) JACKSON

A family from Washington State recently shared their story with me about their grandchild. The family has given me permission to share their story, in their own words.

“We are a family who lives in Washington State; our grandchild has autism. As a young child, he was very happy and enjoyed his 2 years of preschool very much. When he entered kindergarten a few years ago, he was full of hope. But placed into a “behavioral classroom,” he was repeatedly restrained and secluded, until he developed injuries, worse meltdowns, and fear of school. Our family was never told this was happening. The school district never informed us of our rights. We discovered them ourselves online. After we advocated for positive behavioral supports, our grandson began to grow and flourish. The meltdowns ended; the injuries ended; and he began to bloom and make academic and functional progress. I hate to think of what would have happened if we had not discovered our rights.

During pre-K, my grandson had had a few “meltdowns”—tantrums. My grandchild was sensitive to loud noises, and covered his ears. Like several autistic children, he did not like to be touched, and he reacted strongly. He could have tantrums where he cried and told people not to touch him. His teacher just talked him through them or gave him some quiet down time—never a seclusion room.

In Kindergarten, he was moved to a special behavioral classroom. We were told the staff was more experienced and the smaller setting would be better. There was a “quiet room” in the classroom. We were told that it was only used to protect children for their safety and that of others, and that we would be notified immediately if it was used.

We had informed the school in our forms that he was resistant to being touched and very sensitive to it. We said that he would react negatively by hitting, jerking away, and yelling. We explained his other sensitivities. But it turned out that our grandson was put in the quiet room frequently. He was physically restrained and dragged into the quiet room. We were never told. We saved every note from the school and they did not mention the seclusion room or the restraints to take him there. The only notes said that he was occasionally put in a time out chair in the classroom—still able to be part of the class.

We did get notes that he was having a rough day; hitting other children; they were hitting him; and we saw a long scratch on his face from another student. We were concerned about what was going on, but he would shut down and not talk. We had told the school that he would react negatively to touch, and if other children grabbed him, he would respond negatively, and even aggressively. The school ignored us and the autism specialist said that he would just have to “adjust to someone touching him.” I was surprised that the autism specialist was not aware of this characteristic trait within an autistic child since it is so commonly known. I thought she would have been trained on these issues.

By mid-fall, things were getting really hard for our grandson. We noticed a huge change in his behavior. He hated school and would fight us to go to school, he resisted by hitting, scratching us & himself, yelling, crying, spitting. This was all new for us with him. It was truly unreal what we were seeing and we knew something was going on but didn't know what and wasn't getting anywhere with the school. It turned out that another child was bullying him, jumping on him and other children and body slamming them.

In the winter, we met with the school and explained that the bullying needed to stop. The staff spent much of the rest of the meeting talking about how well our grandson was doing. We said that we wanted to work on him transitioning into regular general education classroom. He was bored in the behavioral classroom, and there was not enough to keep him interested.

A few months later, the school called and said that my grandson had been injured, when the teacher restrained him at the wrist and he pulled away and dropped to his knees. He was sent to the Emergency Room. One of his bones was dislocated.

Soon after that, we had an IEP meeting. We were very upset because we found out for the first time that our grandson was being restrained and dragged into the seclusion room, "quiet room" multiple times. It began soon after school started and continued through the semester. We were told that his behavior was regressing, which we had not been told before. All the grabbing and pulling in the physical restraint made him more and more upset, and all of the time alone in the seclusion room upset him, and his behavior worsened. He does not like people touching him. He is very fearful of being locked in a room and being isolated. He has had that fear since he was a toddler.

We asked for the notes the staff was writing. It is quite sickening to read. My grandson went from this quiet kid to a child that inflicted scratches on himself, yelling bad words, kicking, spitting, and biting. We attribute this directly to his having been placed in the quiet room since he was being restrained and dragged forcibly to this room by a para-educator and/or teacher.

We were told that his disability needs—including his fear of touch—could not be accommodated by the school. We were told he would just have to get used to people touching him. We were told he would have to get used to the loud noises.

We went online and began to educate ourselves about the IEP process. We read about my grandson's rights and our rights as a family. I found forms on the State Department of Education Web site. The school never told us of our rights or these forms. We contacted an advocate. I learned that we are part of the IEP team. We told the school we would not agree to use of the quiet room unless it was used only as a last resort after efforts to de-escalate the situation.

The school began to work with us and our advocate. We built in steps before the quiet room could be used. His frustration builds and causes meltdowns because he cannot communicate adequately, the doctor who assessed him told us. So, he was given communication cards so he had a way to communicate. We built a system of positive supports and interventions, and rewards for good behavior. He worked one-to-one with his teacher some of the time. If he got upset, he could take a break—not go in the quiet room, just take a break.

The first 6 months were a nightmare, and no family or child should have to go through that. As we worked together with the school on positive interventions, things began to change. The last few years have been terrific because of the positive supports. We share our experience to help others."

*Question 1.* This story is not uncommon with dozens more in Washington State just like this. As you consider this story, what steps can parents take to advocate for their children who are being secluded or restrained?

*Answer 1.* I think the most important step a parent can take to be a strong and positive advocate for their child is to first understand the disability of the child relating to triggers and positive steps/interventions to de-escalate and most importantly, educate themselves on their rights as parents and the rights of your child. At that point, you take your knowledge to the schools and be a very active participant in the IEP process. Do not accept immediate evaluations from the school without documenting proof. Come to school unannounced and observe the classroom and format of teaching. There may be something happening in the classroom that triggers a response from your child and no one knows . . . but you will. Changing a seating arrangement will sometimes eliminate certain behaviors. All children are to be in the "least restrictive environment" first. Seclusion and restraint causes fear and immediately places a child in a defense mode, especially children along the autistic spectrum. My son still has that immediate "hitting" action the second someone touches him in an aggressive way. At 9 years old, he knows now that is not the

proper way to address issues. I have found with my son that allowing him to speak when addressed with something he may have done wrong is the best course of action. He feels justified or “fair” if he is heard. Autistic children do not always see things as they are. My son is very literal and does not have the ability to abstract at all. I advocate for my son by educating him on the way he thinks as well. I help him realize that his first immediate reaction is not always correct and try to teach him to broaden his judgment base. I teach him about “estimating” and “educated guesses” that are the norm for others to use in everyday life and help him understand and interpret that information.

*Question 2.* This family feared repercussions from their grandchild’s school if they were identified. Is this fear shared with other parents of children who are secluded or restrained?

Answer 2. I can confidently say that the fear of repercussion is a very real fear many parents have. However, and as for me in my situation, my fear of Elijah being hurt permanently mentally or physically far outweighed the aftermath or judgment from the school. If the school is properly handling the needs of the child there should be no concerns in identifying yourself. Additionally, the IEP should protect against any negative repercussions.

*Question 3.* What could have been done to prevent the use of seclusion and restraint in this case, and other cases like it?

Answer 3. Very detailed IEP meetings with all involved. It also sounds like a one-on-one aide or wrap around situation would have assisted in this as well. I also would have been in the classroom observing and offering assistance in de-escalating techniques. Further, the teachers need to be educated and trained to know how to identify and address behavioral concerns in a non-threatening manner.

*Question 4.* As a parent, former teacher and school board member, I would want to know if my child was being restrained or secluded by school employees. Should there be a legal requirement for parents to be informed of their child being secluded or restrained? And, would a legal requirement of this nature be too burdensome for school and district administrators?

Answer 4. Parents should absolutely know when their child is being restrained or secluded. In every situation I had a record sheet of my son’s day where every minute was accounted for. This was a standard form and it identified periods of time out and restraint. In every case, I received paperwork on that. I responded with questions around what happened before, during and after the escalation occurred to help identify the trigger. It is our right to know. Additionally, talk to your child. Tell them to let you know what happens and why. My son was just as accountable for explaining what happened knowing this was a tool Mommy used to help him have more successful days in school.

*Question 5.* What is the legal liability for teachers when a child is injured during restraint or seclusion? Also, what is the school district’s liability when a student is injured by an employee? Is the teacher’s union liable for costs associated with defending teachers who injure children during seclusion or restraint?

Answer 5. I am not sure what the legal liability is for restraint injuries. What I do know is when my son started coming home with bruises I demanded answers and backup for the injuries. They were not able to present that to me. It was then that no matter what happened, big or small, I was informed in writing. When I was not satisfied with the teaching, handling or answers and demanded recourse, the school ultimately ended up paying for half of the tuition at the private school he attended. His medical coverage paid the rest. Again I have to stress the importance of the IEP and the details in it. I have retained an attorney to review my son’s IEP and represent me and him with the school and requesting monthly update meetings and training for all people who will be involved with Elijah during this coming school year. Parents have the same amount of importance and leverage in the IEP process as the school—in fact, more so. It is our job to protect and fight for the needs of our children and be the strongest advocate we can be for them. An IEP is not complete unless all parties agree on the contents. That is the strongest piece of support we have. My attorney will ensure Elijah’s safety and hold the school accountable for any slip ups. The goal for all should be a healthy and happy school year for the child.

*Question 6.* In your testimony, you mentioned your son was asked to leave several child care centers. When advocating for your son, what challenges did you face when trying to work with child care providers?

Answer 6. One of the biggest and most frustrating challenges is the lack of patience and understanding from the Day Care Centers. Many people do not want to know the issues that our children may have. They view the behaviors as acts of disobedience and disrespect. I was always being called to either pick him up or calm him down. The child care providers lacked the knowledge and training for intervention and communication for a child that has special needs.

That being said, there was one daycare that was extremely helpful and that was the last one Elijah was in at age 3. That was the daycare where the supervisor told me about T Carl Buice School and the special schooling they had for young children. That referral resulted in Elijah's acceptance into that school and a chance of early interventions to begin molding Elijah's behavior in the school setting. It also identified many of the "triggers" that would result in a negative reaction from Elijah and we were able to develop a daily procedure that promoted positive reactions versus negative.

After enrollment in T. Carl Buice I only placed Elijah in home care centers for before and after school care moving forward. There has only ever been two home cares that would not keep Elijah. The reasoning for that being the same as the public centers; they viewed Elijah as being bad. However, after I took my time and interviewed the home care givers and explained Elijah's situation I was blessed to find two caregivers who were extremely successful with Elijah.

I stand firm on the need for training and education. Teachers of all sorts should be trained in the areas of special needs just for the simple fact that some children and parents do not even realize the needs until much later. That was exactly the case with me. When a parent knows "something" is wrong but does not know what it is—the professional with training may be able to identify certain behaviors and make suggestions for help that will ultimately change the course of a child's life and school experience for that child. Most importantly, they will be able to identify how best to handle a situation and avoid it from becoming a negative or dangerous situation.

Thank you.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]