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**It's Time to Protect America's Children,  
But the AASA's New Restraint and Seclusion Survey  
and Report Are Deeply Flawed and Not Representative**

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**It's Time to Protect America's Children, But  
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**Overview.** We urge the American Association of School Administrators to join us in supporting national legislation to protect children in schools from dangerous Seclusion and Restraint (S/R). If, as they claim, many school districts have already adopted practices protective of children and would limit restraint/seclusion to emergencies, it demonstrates that the time has come for a national statute to protect America's children. Only 1/3 of states by law limit the use of restraint and seclusion to emergencies threatening physical danger. The Keeping All Students Safe Act would promote a shift to positive interventions. Unfortunately, the AASA continues to oppose such legislation, one of the few national organizations to do so.

In its July 2012 report, *Keeping Schools Safe: Ensuring Federal Policy Supports School Safety*, the AASA has again provided a survey plagued by such substantial methodological flaws that they render the survey of little value. The survey was open to all members of the public, allowing anyone to identify themselves to identify themselves as an administrator, superintendent, or falling into one of the other categories of staff surveyed. The survey allowed answers by more than one person per district. Although the survey sought specific factual information (including numbers and percentages), survey respondents were allowed to guess and estimate, rather than check records. Virtually every question in the AASA survey invited guessing, rendering the answers highly unreliable and corrupting the data. Questions were worded in ways that can invalidate the answers. Valid surveys should be constructed to eliminate guessing, and only qualified persons who have a basis to answer survey questions should take part in a survey.

The AASA survey is also not nationally representative. Large states with significant populations of schoolchildren are under-represented and other states are overrepresented. Only 4 Californians, 9 Texans, and 15 New Yorkers responded. Only 7.5% of respondents represented urban schools and the vast majority of districts had under 5,000 students. By contrast, there are 6.8 million students that attend the 67 large urban school districts which make up the Council of Great City Schools.

Hospitals, mental health facilities, psychiatric institutions, and related facilities are subject to federal statutes and regulations that define and restrict seclusion and restraint. America's schools educate over 55 million children, but schools remain the only institution without federal statutes and regulations addressing seclusion and restraint. The time has come for national legislation to address school-based restraint and seclusion.

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## **I. RESTRAINT AND SECLUSION ARE DANGEROUS PRACTICES**

Evidence of the great physical and psychological toll caused by restraint and seclusion has accumulated for the past two decades.<sup>1</sup>

In 2009, the Government Accountability Office (GAO) documented the use of seclusion and restraint upon hundreds of school children, resulting in death, injury, and trauma. At least 20 involved children who died from restraint. Stories included a 7-year-old girl dying after being held face down by staff, kindergarteners tied to chairs with duct tape and suffering broken arms and bloody noses, and a young teen who hung himself while unattended in a seclusion room. Many incidents involved children with disabilities.<sup>2</sup>

In 2009, the National Disability Rights Network (NDRN) catalogued the use of abusive interventions against children in over 2/3 of states,<sup>3</sup> and state protection and advocacy agencies also published reports. In 2012, NDRN again reported on the dangers of restraint and seclusion, including an attempted suicide in a seclusion room by a student who was not being watched by staff, and who was secluded at the time for urinating on himself while in the seclusion room earlier.<sup>4</sup>

The Council of Parent Attorneys and Advocates (COPAA) documented 185 episodes in which aversive techniques were used, often on young children.<sup>5</sup> In 2005, TASH and the Alliance to Prevent Restraint, Aversive Interventions, and Seclusion published *In the Name of Treatment*.<sup>6</sup> The Council for Exceptional Children's Council for Children with Behavioral Disorders has described the "wide variety of injuries and deaths [that] have occurred while students are in seclusion environments including suicide, electrocution, and self injury due to cutting, pounding, and head banging"<sup>7</sup> and the "widespread" use of restraint in educational and other environments.<sup>8</sup> Staff have also been injured and traumatized by these techniques.

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<sup>1</sup> See 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* 5-8 (2009), <http://1.usa.gov/gaors7>.

<sup>3</sup> National Disability Rights Network, *SCHOOL IS NOT SUPPOSED TO HURT* (2009), <http://bit.ly/ndrn2009>.

<sup>4</sup> National Disability Rights Network, *School is Not Supposed to Hurt* (2012), <http://bit.ly/xL8b89>.

<sup>5</sup> J. Butler, *Unsafe in the Schoolhouse: Abuse of Children with Disabilities* (Council of Parent Attorneys & Advocates 2009), <http://bit.ly/UnsafScho>.

<sup>6</sup> TASH and the Alliance to Prevent Restraint, Aversive Interventions, and Seclusion, *In the Name of Treatment: A Parent's Guide to Protecting Your Child From the Use of Restraint, Aversive Interventions, and Seclusion* (2005).

<sup>7</sup> Council for Children with Behavioral Disorders, *Position Summary on the Use of Physical Restraint Procedures in School Settings*, 34 BEHAVIORAL DISORDERS 223, 224 (2009), <http://bit.ly/CCBDRestr>.

<sup>8</sup> Council for Children with Behavioral Disorders, *Position Summary on the Use of Seclusion in School Settings*, 34 BEHAVIORAL DISORDERS 235, 236 (2009).

## **II. PASSING THE KEEPING ALL STUDENTS SAFE ACT (S.2020 AND H.R. 1381) BILLS ARE NECESSARY TO PROTECT ALL CHILDREN; STATE PROTECTIONS ARE INSUFFICIENT**

### **A. The Bills Will Promote a Culture Of Positive Interventions In Place of Restraint and Seclusion, Better Protecting Children and Staff.**

Contrary to the AASA's claims, the Keeping All Students Safe Act bills (S.2020 and H.R. 1381) will ensure that all school children nationwide receive vital minimum protections.

The Keeping All Students Safe Act will promote a shift toward preventing problematic behavior through the use of de-escalation techniques, conflict management and evidence-based positive behavioral interventions and supports. This shift will help school personnel understand the needs of their students and safely address the source of challenging behaviors – a better result for everyone in the classroom. In many cases, the use of positive supports and interventions greatly diminishes and even eliminates the need to use restraint and seclusion. For example, the Centennial School in Pennsylvania, which serves children in 35 school districts, has cut the use of restraint and seclusion from well over 1,000 occurrences per year to less than ten through the use of positive supports. Reports and studies have also shown that students and staff are safer when positive interventions and supports, rather than restraint and seclusion, are used in schools. Worker's Compensation costs even decrease significantly.

Under the two Congressional bills, states will be required to train staff in evidence-based techniques and the dangers of seclusion and restraint. The bills will provide needed funds for that training. Experience has shown that curtailing restraint and seclusion use has decreased the rate of injury for students and school staff.<sup>9</sup> One study found that reducing the use of restraint and seclusion in adolescent inpatient facilities cut the number of injuries to children and staff members, and resulted in a substantial decrease in sick time, workers' compensation, and replacement costs.<sup>10</sup>

### **B. Too Few States Protect Schoolchildren from Restraint and Seclusion**

The Keeping All Students Safe Act bills will strengthen protections for children in every state.<sup>11</sup> Only 19 states provide some meaningful protection by statute or regulation from restraint/seclusion for all schoolchildren; 30 do so for students with disabilities (SwDs).<sup>12</sup>

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<sup>9</sup> H.R. Rep. No. 111-417, Preventing Harmful Restraint and Seclusion in Schools Act 11 (2009), <http://1.usa.gov/HR111417>.

<sup>10</sup> J. LeBel & R. Goldstein, The Economic Cost of Using Restraint and the Value Added By Restraint Reduction or Elimination, Psychiatric Services, Sept. 2005, <http://bit.ly/EconRestr>.

<sup>11</sup> All state information cited in this report comes from J. Butler, *How Safe is the Schoolhouse, An Analysis of State Seclusion and Restraint Laws & Policies* (Autism National Committee 2012), <http://bit.ly/RSSatelaw>.

<sup>12</sup> Aside from the 19 states (all children)/30 states (students with disabilities) that provide meaningful protections by law from restraint and seclusion, another 7 states have statutes or regulations providing limited, weak protections. For example, one state only gives protections to children with autism. Even for them, abusive techniques can be authorized by committee. Another state law simply bans "unreasonable restraint" and is silent on seclusion. Yet another has no legal limits on restraint. Its law explicitly permits it in certain situations and does not prohibit it in others. The state has no restrictions in law or regulation on seclusion. In addition, 12 states have voluntary guidance documents that are not legally binding. These

**Fewer than 1/3 of states have laws protecting children from non-emergency use of restraint and seclusion.** In other states, seclusion and restraint may be used for such things as allowing use for tantrums and other disruptions that threaten no one, destroying property (in several states, even minor property destruction), discipline, punishment, forcing compliance, and as a substitute for proper educational programming. A New York child was secluded alone 75 times in 6 months for whistling, slouching, and waving. His hands blistered as he tried to escape from the door staff held closed, reported the GAO. Some states limit the procedures to emergencies but allow them more broadly if included in a child's IEP or written plan.

**Only 11 states (all children)/16 states (SwDs) by law limit restraint to emergencies threatening immediate physical danger.** Many states have no laws or have loopholes that allow restraint to be used with little limitation. The 16 that protect children with disabilities are Alabama, Colorado, Connecticut, Georgia, Florida, Illinois, Louisiana, Maine, New Hampshire, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, and Wisconsin.

**Students are protected by law from non-emergency seclusion in only 7 states (all children)/12 states (SwDs).** The 12 states protecting students with disabilities from non-emergency seclusion are Colorado, Georgia, Maine, Nevada, Oregon, Pennsylvania, Tennessee, Texas, Vermont, Wisconsin, and Wyoming. Seclusion for these purposes means a room a child cannot exit (door is locked, blocked by furniture or staff, etc.), which is how 33 states would define it (22 by law, the rest by non-binding guidance).

**Only 18 states by law ban all restraints that obstruct breathing for students with disabilities; the number falls to 10 for laws applicable to all children.** According to House hearing testimony, 14 year old Cedric Napoleon, 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.

Chemical restraints can injure and harm children. Only 11 states by law ban chemical restraints for all children (including those with disabilities). Mechanical restraints are devices used to restrain a child. Only 12 states by law ban them (all children)/16 states (SwDs). Mechanical restraints include devices children are locked into, bungee cords, ties, and duct tape tying children to furniture; devices that restrain the arms, legs, torso, and other body parts. Some children have been locked into mechanical restraints and then secluded. For example, an Alabama child who was screaming was locked into a chair and placed alone in a bathroom. She flipped the chair over and was hanging by the restraints. She was alone so long she urinated on herself.<sup>13</sup>

Parents must be notified promptly of seclusion/restraint, so they can seek medical care for concussions, hidden internal injuries, and trauma. By law, 20 states require schools to take steps to notify parents on the same day—a good policy. **But 26 states (SwDs)/36 states (all children) have no legal requirement to tell parents at all.**

**The majority of states permit putting children in seclusion rooms and leaving them alone, without continuous visual monitoring.** Of the states allowing seclusion, only 17 require staff to

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provide no legal protections and they can be easily changed without formal process. Some consist only of memos or suggestions of factors to consider.

<sup>13</sup> Alabama Disabilities Advoc. Program, *Seclusion and Restraint in Alabama Schools* (June 2009).

continuously watch a child in a seclusion room. **30 states lack such laws. Five states permit staff to check occasionally and otherwise leave the child alone.** Children locked in seclusion rooms without continuous visual monitoring have been killed, injured, and traumatized. In 2004, 13-year-old Jonathan King killed himself in a seclusion room, while the teacher sat outside, checking the room occasionally. In 2011, an Indiana student attempted suicide in an unobserved seclusion room, according to the National Disability Rights Network. He was placed in the room and denied access to the bathroom, urinating on himself. The next day, he was secluded for relieving himself, and attempted suicide. In Massachusetts, a preschooler was allegedly strapped into a chair for being rambunctious, and left alone by a teacher in a closed closet as he cried--until another teacher rescued him.<sup>14</sup>

Stationing staff in the vicinity of a seclusion room and having them look inside occasionally can be considered continuous monitoring. It is not the same as continuously visual monitoring where the child is continually watched.

### **III. METHODOLOGICAL FLAWS IN THE AASA SURVEY RENDER IT OF LITTLE VALUE**

The new American Association of School Administrators' Survey remains deeply flawed, rendering it meaningless and of little value. Because of these serious flaws, the AASA cannot support any of its claims through the survey. It is impossible to use the responses to claim that any percentage of "school districts" do any particular thing (e.g. ban mechanical restraints, monitor children continually, or use restraint/seclusion only on children with severe emotional or behavioral disabilities).

1. The AASA survey was open to the public. Anyone could with the URL could answer it, and fill in answers more than once, simply by clearing the cache or using another computer. No effort was made to limit the survey to actual school district employees. At least one AASA affiliate publicized the survey over the internet. Any person could self-identify as an administrator or superintendent, or by any of the titles from which the survey sought answers. (They were superintendent, assistant superintendent, special education director, special education teacher, and other.) No effort was made to ensure that this was a correct identification.<sup>15</sup>
2. More than one person could answer for a district, meaning that a district can be counted more than once in the answers. For example, a superintendent and an assistant superintendent could have answered the survey. Given that the survey was designed to get answers about a district's practices, only one respondent should have answered per district.
3. The survey is not at all nationally representative. Large states with large numbers of students were entirely underrepresented. For example, there were 4 answers from California (6.1 million students enrolled); 9 from Texas (4.9 million students); and 15 from New York (3.1 million students). By contrast, there were 25 responses from Montana (141,693 students total in state); 30

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<sup>14</sup> James Vaznis, *Restraining Of Students Questioned, Some Wonder Whether Schools Cross The Line*, BOSTON GLOBE, May 4, 2009.

<sup>15</sup> The AASA could have done so by requesting that administrators email the AASA from their business email, and then assigning them unique numbers they would have to fill in on the survey. This simple step would have eliminated this problem. Instead, the AASA did nothing. This also would have resolved the problem in issue 2.

from Oklahoma (666,150 students), and 34 from Indiana (1.04 million students). Even for the districts that answered, there is no information to indicate if they were small or large, wealthy or poor. Moreover, 298 of the respondents (77%) represented school districts with total enrollments under 5,000 students. Further, 58% of the districts classified themselves as “rural,” a very high percentage that is not representative of America. Only 7.5% of survey participants classified themselves as urban, a very low number. By contrast, there are 6.8 million students that attend the 67 large urban school districts which make up the Council of Great City Schools.

4. All 17 factual questions in the survey are rendered unusable because they invited guessing. Survey respondents could simply answer the questions. The AASA apparently made no effort to determine whether responses came from records or were best guesses. It is highly likely that many participants gave their best guesses. The AASA did not instruct survey participants to review records or data. Such a review was necessary to accurately answer most questions--particularly those seeking for a numeric or percentage answer (e.g., questions about the percentage of students known to have emotional or behavioral health disabilities who were restrained or secluded; percentage of staff lacking training; number of days of absences and worker’s compensation information, among other questions).

Furthermore, certain questions could not be answered unless the school district kept records on number of children restrained/secluded, which very few states require. Only 9 states require data reporting at the LEA level. Information about injury rates and worker’s compensation may have been confidential, and no effort was made to ascertain that respondents had access to it.

Valid surveys should be constructed to eliminate guessing, and only qualified persons who have a basis to answer survey questions should take part in a survey.

5. The wording of the questions rendered the responses unreliable and corrupted the data. The survey asked whether staff were trained in "appropriate" S/R use. In a state that does not restrict the reasons for which S/R is used, a person could honestly answer yes to those questions even when trained to use S/R in non-emergencies. The survey also asked if staff ended S/R when the emergency ended, but more than 2/3 of states lack laws protecting children from non-emergency S/R. The survey asked whether students are monitored in seclusion, but did not define monitoring. Children have died in seclusion rooms and injured themselves because they were "monitored" by someone outside the room who occasionally checked on them.

6. The questions regarding training are particularly problematic. It is highly unlikely that administrators (or even staff) would admit their staffs are not trained. The survey also does not describe the scope of training. A person could describe training as appropriate if he/she merely reviewed a handout or attended a 30 minute session.

**Conclusion.** The AASA report significantly deviates from accepted standards of research practice in regards to data collection and reporting. Its lack of rigor hurts the serious national discussion of restraint and seclusion. We urge the AASA to abandon its views and join us in supporting the Keeping All Students Safe Act. America's children deserve protection from abuse in school. No more children should die or face injury or the horror of restraint and seclusion.