



Wyoming Department of Education

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MEMORANDUM NO. 2010-036

TO: School District Superintendents
School Principals
Special Education Directors

FROM: Joe Simpson
Deputy Superintendent of Public Instruction

DATE: February 19, 2010

SUBJECT: Seclusions and Restraints



IMPORTANT INFORMATION

On May 19, 2009, the U.S Government Accountability Office (GAO) released a report entitled, *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*. The GAO found “no federal laws restricting the use of seclusion and restraints in public and private schools and widely divergent laws at the state level.” Following the GAO report, the Council of Parent Attorneys and Advocates, Inc. (COPAA), published and disseminated the report entitled, *Unsafe in the Schoolhouse: Abuse of Children with Disabilities* (May 27, 2009). This report stated that COPAA, along with other organizations that make up the Alliance to Prevent Restraint, Aversive Interventions and Seclusions (APRAIS), has been working to combat the following practices: 1) placing schoolchildren with disabilities in restraints; 2) confining children in locked seclusion rooms; and 3) subjecting children to painful aversive interventions.

Prompted by the GAO report, Chief State School Officers in every state received a letter dated July 31, 2009, in which Secretary Arne Duncan expressed deep concern about ensuring that schools foster learning in a safe environment for all of our children and teachers, and encouraged the Chiefs to review their state’s current policies and guidelines regarding the use of seclusion and restraint in schools to ensure every student is safe and protected from the inappropriate use of seclusion and restraint. His request included a request to develop or revise those policies and guidelines “as appropriate.”

Currently there are proposed bills sitting in both the House and the Senate on Capitol Hill. H.R. 4247 was introduced by Miller (D-CA) and referred to the Committee on Education and Labor on December 9, 2009. All of which point to a move at the national level to require states and local education agencies to develop statute, regulations, policies and guidelines for the use of seclusion and restraint in schools.

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Finally, it came to the Department's attention this week that the Office for Civil Rights (OCR) has revised its required data collection to include a count of the number of incidents of physical restraints and seclusion conducted during the school year. The U.S. Department of Education conducts the Civil Rights Data Collection (CRDC), to collect data on key education and civil right issues in the nation's public schools for use by the Department of Education's Office for Civil Rights (OCR) in its enforcement and monitoring efforts, by other Department staff, and by policymakers and researchers outside the Department. The CRDC collects information about students in public schools, including enrollment, educational services, and academic proficiency results, disaggregated by race/ethnicity, sex, limited English proficiency and disability...and now seclusion and restraint.

Unfortunately, seclusion and restraint techniques are often used as a disciplinary measure rather than as a method imposed only when a student's behavior poses an imminent danger of physical injury to the student, school personnel, or others. Case law and state complaints across the country (including Wyoming in 2007) find districts in violation of students' rights as a result of these practices.

The Wyoming Department of Education (WDE) will continue to work with national technical assistance providers, other state agencies (e.g., Department of Family Services) and local stakeholders, as we watch to activity in Congress. The WDE will not move forward to develop policy until such time as there is statute enacted as a result of regulations at the national level. However, we feel that it is in each district's best interest to develop guidance for school personnel regarding the appropriate use of seclusion and restraint. (Some districts have already accomplished this task and have comprehensive guidance documents in place.) This guidance would be developed for the purpose of keeping all students and school personnel safe, including students with the most complex and intensive behavioral needs; providing school personnel with the necessary tools, training, and support to ensure the safety of all students and all school personnel; collecting and analyzing data on physical restraints and seclusion in schools; and identifying and implementing effective evidence-based models to prevent and reduce physical restraint and seclusion in schools.

Districts that feel compelled to develop guidance or policy regarding the appropriate use of seclusion and restraint are advised to work with their district legal counsel. A recent publication from the Council for Exceptional Children (CEC) may be helpful to superintendents, administrators, staff and boards of trustees as guidelines are contemplated. That publication can be found at www.cec.sped.org (Policy & Advocacy - CEC Professional Policies). The WDE contact person for questions related to this memorandum is Peg Brown-Clark, Unit Director of Special Programs, pclark@educ.state.wy.us or 307-777-2553.