

**MANUAL
OF
RECOMMENDED
PRACTICE**

Project REST

Restraint: Efficacy, Safety and Training

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With Project REST the Family Resource Center for Disabilities and Special Needs (FRC) has been examining the use of restraint and seclusion on children with developmental disabilities in the public school systems of Charleston, Berkeley and Dorchester Counties. Project REST research and activities have confirmed the necessity to develop clearly defined policies regarding restraining children with disabilities in a school environment. Clear definitions of what constitutes restraint should be identified with detailed standards of practice that insure the safety and well being of all students. Most importantly, there should be a documented method for the implementation of positive behavior supports (PBS) in the Individual Education Programs (IEP) of children whose behavior puts them at risk for the use of restraint.

At this time, South Carolina has no legislation and there are no uniformly adopted guidelines that define the parameters of use and the reporting measures employed when children are put under physical restraint in public schools.

This Manual of Recommended Practice is meant to be used as a tool for Educators, Classroom Assistants, Student Specific Attendants, School Administrators, School Resource Officers, and Parents. The content of this Manual was developed by the Project REST Development Committee and is being disseminated to schools throughout Berkeley, Dorchester, and Charleston Counties as well as specific areas of South Carolina identified by the Development Committee. This committee strongly encourages these recommended practices which are aimed to promote school accountability and parent involvement for the assurance of safe and appropriate practice during those extreme conditions when restraint is required to insure any child's safety.

MANUAL OF RECOMMENDED PRACTICE

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SECTION ONE

Project REST Position Paper

Project REST Position Paper on the Use of Physical Restraint and/or Seclusion

Physical Restraint and/or Seclusion refer to techniques used to control or suppress the movement of a student to ensure the safety of that student and any others in the immediate area. Physical Restraint and/or Seclusion do not focus on skill development or education; these methods only reduce immediate danger, and if used inappropriately or excessively may seriously harm a student. We support statewide legislation, policies and procedures to guide the appropriate use and subsequent reporting of Physical Restraint and/or Seclusion in public schools.

Effective approaches to problem behavior consist of two components. The first, and most important, component is Positive Behavior Support (PBS). PBS is a proactive and preventative approach to problem behavior that emphasizes skill development and does not rely on coercion or punishment to change behavior. In essence, PBS engineers environments to foster and sustain socially acceptable behavior in ways that make problem behavior irrelevant, ineffective, and inefficient. PBS reduces the likelihood of problem behavior by developing a comprehensive multi-component support plan. The second component is crisis management, which may include the use of Physical Restraint and/or Seclusion. The uses of these methods, however, are reactive approaches to problem behavior because they occur after the behavior. The only purpose of Physical Restraint and/or Seclusion is to protect the safety of the student and others in the environment during an episode of aggressive or violent behavior. Using these methods reduces the likelihood that someone will get hurt during the occurrence of problem behavior.

Positive Behavior Support (PBS) and crisis management are both necessary aspects of behavior management. Together they comprise a seamless response to problem behavior that focuses mainly on skill development but also includes a safety net to ensure that no one gets hurt while the skill development component is being refined. We advocate the use of PBS because it is the most effective approach to reducing problem behavior; we also understand that Physical Restraint and/or Seclusion may be a necessary aspect of a crisis management plan.

Positive Behavior Support (PBS) and crisis management plans both need to be developed and individualized to reflect the unique characteristics and situations of each student. There is no “one size fits all” behavior support plan or crisis management approach. Each must be implemented consistently according to a predetermined plan that reflects the best interests of the student. PBS and crisis management do not work when people fail to effectively plan for an episode of problem behavior. In fact, responding without a plan may increase the severity of problem behavior during an episode and may even increase the severity and frequency of future episodes.

To serve as a model for best practice, the Manual of Recommended Practice emphasizes the use of PBS, contains definitions and recommendations for reporting and documenting the use of Physical Restraint and/or Seclusion, and provides schools with information to help them develop policies and training procedures for the use of Physical Restraint and/or Seclusion. This manual will be disseminated to schools and other agencies throughout the state. Efficacy, safety and training in the use of Physical Restraint and/or Seclusion, coupled with PBS, offer students, parents and staff the best educational outcomes possible. In summary, Positive Behavior Support and crisis management work best when everyone has the training, resources, and administrative support to follow the predetermined plan.

SECTION TWO

Definitions

DEFINITIONS

Behavior Intervention is a systematic implementation of procedures that result in lasting positive changes in an individual's behavior. Interventions may include positive strategies, program or curricular modifications, and supplementary aids and supports required to address the disruptive behaviors in question. It is helpful to use data collected during a functional behavioral assessment to develop the plan and to determine the discrepancy between the student's actual and expected behavior.

Behavioral Intervention Plan (BIP) is a proactive and systematic plan designed to address behavior excesses or deficits that have a negative impact on learning. BIPs should be built upon a student's strengths and should result in lasting positive behavior changes.

Caregiver is considered to be an adult responsible for the physical care of a student.

Child/Student with a Disability is a child who has been evaluated in accordance with the standards set forth in the *Criteria for Entry into Programs of Special Education for Students with Disabilities*, and in State Board Regulation 43-243.1, and Part B of the IDEA as having one of the thirteen categories of disabilities (mental retardation, hearing impairments, speech or language impairments, visual impairments, serious emotional disturbances, orthopedic impairments, autism, traumatic brain injury, multiple disabilities, specific learning disabilities or other health impairments) and who, by reason thereof, needs special education and related services.

Crisis Management Plan is a plan of action, usually included in a student's Individual Education Program (IEP), with the purpose of minimizing the risk of injury to student(s) and staff and to safely de-escalate and manage a potentially explosive situation.

Crisis Situation means a state of events or actions that poses an immediate threat to self or others.

De-Escalation Skills are strategically employed verbal or non-verbal interventions used to reduce the intensity of threatening behavior before a crisis situation occurs.

Disability in this context is defined as the categories of disabilities delineated in the Individuals with Disabilities Education Act (IDEA) and result in the eligibility for services under that statute. These disabilities are: Autism, Deaf-blindness, Deafness, Emotional disturbance, Hearing impairment, Mental retardation, Multiple disabilities, Orthopedic impairments, Other Health Impairment (i.e.: ADHD, Asthma, HIV, Mental illness, other medically diagnosed conditions), Specific

learning disability, Speech or language impairment, Traumatic brain injury, Visual impairment.

Emergency is a situation requiring immediate action in which a student's behavior poses a threat of imminent and serious physical harm to the student or others.

Free Appropriate Public Education (FAPE) is the special education and related services that: a) are provided at public expense, under public supervision and direction, and without charge; b) meet the standards of the State Department of Education; c) include preschool, elementary school, and secondary school education in the State; and d) are provided in conformity with an IEP that meets all state and federal requirements.

Foster Parent is an individual assigned by certain state or local agencies to serve as the custodian for a student. A foster parent may act as a parent if the natural parents' authority to make educational decisions on the student's behalf has been removed under state law and if the foster parent has an ongoing, long-term parental relationship with the student; is willing to make the educational decisions required of parents under state and federal law; and, has no interest that would conflict with the interests of the student.

Functional Behavior Assessment (FBA) or Functional Assessment (FA) is a systematic process for identifying the events that trigger and maintain problem behavior in an educational setting. A Functional Behavior Assessment will describe specific problematic behaviors, report the frequency of the behaviors, assess environmental and other setting conditions where problematic behaviors occur and identify the factors that are maintaining the behaviors over time.

Immediate Danger means events or actions that pose imminent harm to any individual and where immediate intervention is required.

Individuals with Disabilities Education Act (IDEA) is the federal law that requires a free and appropriate public education (FAPE) be provided to any child with a disability. Enacted in four parts, the IDEA mandates the provisions under which services are provided to all eligible students regardless of the severity of the disability. The IDEA identifies disability categories, evaluation processes, service delivery, due process rights and parent participation.

Individual Education Program (IEP) is a written and documented education plan for a student with a disability that is developed, reviewed, and revised annually and in accordance with state and federal regulations. The IEP directs all aspects of the student's special education program and *must* include: 1) the student's present levels of educational performance, 2) specific measurable educational goals and objectives, 3) related services and supplemental aids and program modifications or supports for school personnel, 4) the extent to which the student will participate

with students without disabilities, 5) any modifications in state or district assessments of student achievement, 6) the projected dates for the initiation and duration of services, 7) transition plans and/or services for students age fourteen and older, and 8) a statement of how the student's progress will be measured and reported to parents. For those students whose behavior interferes with learning (including the learning of others) a Behavior Intervention Plan is required.

IEP Team is responsible for developing and reviewing a student's IEP annually. The IEP Team must include: the parent(s)/guardian, a special education teacher, a regular education teacher, a person knowledgeable about general curriculum, a person who can interpret the instructional implications of evaluation results, a Local Education Authority (LEA), and, when appropriate, the student. When transition issues are being discussed, the team should include a career or technical education representative.

Legal Guardian is a private individual who has been given the legal custody of a child. If a guardian represents a child, no surrogate parent is needed.

Least Intrusive Physical Skills means safely matching the intervention to the circumstances of the crisis from the least intrusive to most restrictive non-harmful techniques of physically restraining a student.

Local Education Authority (LEA) is a representative of the school or school district qualified to supervise the provision of special education and to ensure that the educational services specified in the IEP are provided. The LEA will have knowledge regarding school district resources and the authority to commit those resources.

Mechanical Restraint is the use of any device, article, garment, or material attached or adjacent to the student's body, which the student cannot easily remove, and that restricts freedom of movement or normal access to any portion of the student's body.

Exclusion: Mechanical restraint does not include items such as orthopedically prescribed devices, surgical dressings, protective helmets, or any methods of holding for the purpose of conducting physical examinations or tests. It also does not include devices that protect the student from falling out of a chair, or that permit the student individual to participate in school activities without risk of personal harm.

Notification is a written statement in the primary language of the home and oral communication in the primary language of the home, unless it is clearly unfeasible to use that language.

Multidisciplinary Team (MDT) is the school-based team responsible for implementing the procedures, including evaluations, necessary to determine

eligibility if a student is suspected of having a disability. The MDT must include a person qualified to conduct an individual diagnostic examination (i.e. school psychologist) and at least one teacher or specialist in the area of the child's suspected disability. When a learning disability is suspected, the team must also include the student's general education teacher or a person qualified to teach students with learning disabilities

Parent refers to a parent, a guardian, a person acting as the parent of a child, or a surrogate parent who has been appointed in accordance with state/federal education regulations. The term does not include the State if the child is a ward of the State. The term "parent" includes persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

Physical Restraint is the application of physical force by one or more individuals that reduces or restricts a student's freedom of movement. *The holding of a student with any purpose other than providing safety and support is considered Physical Restraint.*

Exclusion: Physical Restraint does not include the temporary holding of an individual to help him or her participate in educational or daily living activities. For example: briefly holding a student in order to calm or comfort the student; holding a student's hand or arm to escort the student safely from one area to another; holding a child for a brief time in order to prevent an impulsive behavior that threatens the child's immediate safety (i.e. running in front of a car); moving a disruptive student who is unwilling to leave an area or breaking up a fight in the school building or on school grounds.

Physical Escort is the touching or holding a student with a minimum use of contact for the purpose of directing movement from one place to another.

Positive Behavior Interventions are procedures used to provide positive intervention whenever a student displays, or is likely to display, a targeted serious behavior problem. Positive Behavior Interventions are implemented as a part of a student's Behavior Intervention Plan (BIP).

Positive Behavior Support (PBS) involves the assessment and reengineering of environments so people with problem behaviors experience reductions in their problem behaviors and increase social, personal, and professional quality in their lives. (Horner, 1999).

Positive Behavior Plan is the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in behavior through skill acquisition and the reduction of problematic behavior.

Problem/At-Risk Behaviors are behaviors that pose problems or risks to the identified student and/or those around him/her.

Public School is tuition free school in the United States (and territories) supported by taxes and controlled by a school board or other state or locally sanctioned entity.

School Day in accordance with South Carolina state laws and regulations is an instructional day of six hours; for elementary and middle school student this includes lunch but does not include lunch for secondary students.

School Personnel are individuals employed by a public school agency at the state, district or school building level.

School Resource Officer (SRO) is a school based certified law enforcement officer whose primary responsibility is to maintain and enforce local, state and federal laws on the Public School campus. The SRO is specifically trained to perform three roles: law enforcement officer; law-related counselor; and law-related education teacher.

Seclusion means the confinement of a student alone in a secured room or other space from which the student is physically prevented from leaving.

Exclusion: Seclusion does not include time-outs. Time-out is the withdrawal of reinforcement of inappropriate behavior, during which a student is not provided the opportunity to participate in the current routine and activity until he or she is less agitated. Time-out is used to teach students to calm themselves and is not a punishment. The duration of time-out is only limited to the amount of time it takes the student to regain composure.

Note: Seclusion is not the same as removing a student to a private location during physical restraint. When physical restraint is necessary, it is generally considered helpful to conduct the restraint away from peers whenever possible.

Section 504 of the Rehabilitation Act of 1973 or “Section 504” is a civil rights declaration that prohibits discrimination against persons for reasons of disability. Section 504 prevents exclusion “from the participation in, be denied the benefits of, or be subjected to discrimination under any program or any activity receiving Federal financial assistance”. It is important to note that the definition of disability under Section 504 is much broader than under IDEA, thus students who do not meet eligibility requirements under IDEA may qualify for protection under Section 504. As in IDEA, Section 504 has specific procedural requirements for the identification, evaluation, placement and procedural safeguards of students.

Section 504 Plan is the documented plan designed to identify and eliminate impediments to full participation in activities by students with disabilities. Developed by the MDT (with input from other vested individuals including parents), the 504 Plan specifies accommodations to the regular education

environment in order to insure a student's receipt of FAPE. For those students whose behavior interferes with learning, the 504 Plan should include a BIP.

Serious Behavioral Problems are behaviors that are self-injurious, assaultive, and consistently and seriously destructive to property or other severe behavior problems that are pervasive and maladaptive.

Special Education is specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including: a) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; b) instruction in physical education; c) speech-language services; d) travel training; and e) vocational education (career and technical education).

Student Assistance Team is a group of school staff who makes and implements instructional changes, based upon available data, for students prior to making a special education referral.

Supplementary Aids and Services means aids, services, and other supports that are provided in general education classes or other education-related settings to enable students with disabilities to be educated along with non-disabled students to the maximum extent appropriate. Supplementary services include, but are not limited to, the following: itinerant or resource assistance, sign language interpreting, tutoring, consultation, note taking, assistive technology services, and training for general educators. Supplementary aids include, but are not limited to, the following: large-print textbooks, auditory trainers, curriculum adaptations, classroom modifications, adaptations, time management, behavior management, augmentative communication, and assistive technology devices.

Surrogate Parent is a person appointed to act in place of parents when a student's parents or guardians cannot be identified or cannot be located or when the student is a ward of the State. The surrogate parent may represent the student in all matters relating to the identification, evaluation, and educational placement of the student and to the provision of FAPE.

Time-Out means a behavior management technique in which a student, for a limited and specified time, is placed in an environment where access to positive reinforcement is unavailable. Time out should not be confused with seclusion because in a Time Out setting a student's movement is not physically restricted.

SECTION THREE

Positive Behavior Support

POSITIVE BEHAVIOR SUPPORT (PBS)

Problem behavior may be the single greatest barrier to people with disabilities living, working, playing, and socializing with non-disabled peers in community settings. (Carr et al., 1999). Children, adolescents, and adults who are vocally or verbally aggressive (e.g., scream, swear), physically aggressive (e.g., throw or kick furniture; hit or kick others), or otherwise disruptive may ultimately be excluded from community settings. Historically, approaches to these types of behaviors have focused on eliminating or reducing problem behavior through the use of punishment (e.g., time out, response cost). We now know that punishment may reduce problem behavior but it often does not result in a person learning any alternative *acceptable* forms of behavior (Drasgow, 1997). Indeed, behavior reduction approaches are inadequate when they “leave the student compliant but in a socially, academically, and personally barren situation (Horner, Albin, Sprague, & Todd, 2000, p. 208).

Disillusionment with punishment for both ethical and empirical reasons served as the impetus for the creation of a new approach to problem behavior (Drasgow, 1997; Drasgow & Yell, 2001; Maag, 2001). This new approach is called positive behavior support (PBS). PBS uses educational methods to expand a person’s behavioral repertoire and system change methods to (a) enhance a person’s quality of life and (b) minimize problem behavior (Carr et al., 2002). Positive behaviors increase the likelihood of success in normal school, vocational, social, recreational, community, and family settings. Support consists of all educational methods that can be used to teach, strengthen, and expand positive behavior and all system change methods that can be used to increase opportunities for using positive behavior.

The driving philosophical force behind positive behavior support is normalization and inclusion (Carr et al., 2002). Positive behavior support represents a movement away from punishment-based approaches that emphasize obedience and compliance and toward instruction that emphasizes functional skill development. Skill development, not behavior reduction, prepares people with disabilities to be successful in the same school, work, recreation, and social life as people without disabilities. Moreover, positive behavior support includes engineering environments that make problem behavior irrelevant, inefficient, and ineffective while making people responsive to new alternative skills.

Positive behavior support is consistent with the principles of person-centered planning and self-determination. First, person-centered planning represents a movement away from program-centered planning, where people with disabilities are offered only those services that an agency has available. In person-centered planning, the specific characteristics, needs, and situations of the person drive the services. The same is true of positive behavior support. Positive behavior support is individualized to meet the unique life skills and circumstances of the individual. There is no “one size fits all” behavior support plan. Second, positive behavior

support is consistent with self-determination. Among other things, self-determination involves choice and decision-making. Positive behavior support empowers individuals with disabilities to express their choices and decisions through socially acceptable means (e.g., handing a picture, vocalizing) instead of through problem behavior (screaming, hitting). Positive behavior support returns control of one's life to the person, rather than usurping control for instructional or environmental convenience.

In sum, positive behavior support is driven by a number of philosophical principles and empirical facts:

1. Problem behavior usually serves a purpose for the person displaying it. Problem behavior is often a very predictable and effective way for a person to get a desired outcome (e.g., throwing books on the floor is an effective way to avoid schoolwork).
2. The goal of intervention is education, not simply behavior reduction. The main goal of intervention is to teach an individual new ways of influencing other people so that the problem behaviors are no longer necessary.
3. Problem behavior does not occur in a vacuum. It occurs in a dynamic and reciprocal social context. Thus, intervention involves changing social systems, not just individuals. Reducing problem behavior often involves change on everyone's part.
4. Complex problems require complex solutions. Problem behavior is most often the result of multiple factors and complicated situations. Thus, assessment and intervention must reflect strategies that take into account the complex nature of problem behavior.
5. Lifestyle change is the ultimate goal of intervention. The broader goal of intervention is to produce change that positively affects how people live their lives. Successful intervention enables a person to influence others without having to resort to problem behaviors. Most importantly, it permits people to participate directly in the community, moves them towards independence, and allows them access to all the opportunities available in society (Carr et al., 1994).

Positive Behavior Support Procedures

Positive behavior support consists of two procedures: (a) functional assessment and (b) comprehensive, multicomponent interventions (Horner & Carr, 1997). First, functional assessment (or functional behavioral assessment) is a procedure used to identify *why* problem behavior occurs and *what* purpose it serves (Dragow, Yell,

Shriner & Bradley, 1999). Functional assessment procedures usually consist of collecting information about the problem behavior through indirect and direct methods. Indirect methods include checklists and interviews, and direct methods most often consist of observing the actual occurrence of problem behavior and recording important aspects of the situation. The functional assessment component of positive behavior support should achieve four outcomes:

1. Operational definition of the problem behavior or problem behaviors
2. Identification of the factors (e.g., times, places, activities) that predict the occurrence and nonoccurrence of the problem behaviors
3. Identification of (or hypotheses about) the consequences responsible for the problem behavior
4. Verification of the predictors and consequences through direct observation.

The second procedure of positive behavior support is comprehensive interventions. Intervention is comprehensive when it (a) addresses the function(s) of the behavior as determined by the functional assessment, (b) addresses all problem behaviors, (c) is implemented throughout the day and in different settings, (d) consists of multiple intervention strategies, and (e) consists of procedures that match the skills, values, and resources of the people responsible for implementing it (Carr et al., 1994; O'Neill et al., 1997). Developing comprehensive and effective interventions can be very challenging, and practitioners require intensive training to be competent.

References

- Carr, E. G., Dunlap, G., Horner, R. H., Koegel, R. L., Turnbull, A. P., Sailor, W., et al. (2002). Positive behavior support: Evolution of an applied science. *Journal of Positive Behavior Interventions*, 4, 4-16.
- Carr, E. G., Horner, R. H., Turnbull, A. P., Marquis, J. G., McLaughlin, D. M., McAtee, M. L., et al. (1999). *Positive behavior support for people with developmental disabilities: A research synthesis*. Washington, DC: AAMR.
- Carr, E. G., Levin, L. McConnachie, G., Carlson, J. I., Kemp, D. C., & Smith, C. E. (1994). *Communication based intervention for problem behavior: A user's guide for producing positive behavior change*. Baltimore: Paul H. Brooks.
- Drasgow, E. (1997). Positive approaches to reducing undesirable behavior. *Beyond Behavior*, 8 (2), 10-13.

Drasgow, E., & Yell, M. L. (2001). Functional behavioral assessment: Legal requirements and challenges. *School Psychology Review, 30*(2), 239-251.

Drasgow, E., Yell, M. L., Shriner, J., & Bradley, R. (1999). The IDEA amendments of 1997: A school-wide model for conducting functional behavioral assessments and developing behavior intervention plans. *Education and Treatment of Children, 22*, 244-266.

Horner, R. H., Albin, R. W., Sprague, J. R., & Todd, A. W. (2000). Positive behavior support. In M. E. Snell & F. Brown, *Instruction of students with severe disabilities, 5th Ed.* (pp.207-243), Upper Saddle River, NJ: Merrill.

Horner, R. H., & Carr, E. G. (1997). Behavioral support for students with severe disabilities: Functional assessment and comprehensive intervention. *Journal of Special Education, 31*, 84-104.

Maag, J. (2001). Rewarded by punishment: Reflections on the disuse of positive reinforcement in education. *Exceptional Children, 67*, 173-186.

O'Neill, R. E., Horner, R. H., Albin, R. W., Sprague, J. R., Storey, K. & Newton, J. S. (1997). *Functional assessment and program development for problem behavior: A practical assessment guide (2nd ed.)*. Pacific Grove, CA: Brooks/Cole.

SECTION FOUR

Using Seclusion Timeout and Physical Restraint: An Analysis of State Policy, Research, and the Law.

Using Seclusion Timeout and Physical Restraint: An Analysis of State Policy, Research, and the Law¹

Seclusion timeout and physical restraint are aversive procedures designed to eliminate problem behavior. The use of these procedures with students in special education has become commonplace in the last decade. Nevertheless, both seclusion timeout and physical restraint procedures have been, and continue to be, very controversial. Typically, professionals who use these procedures assert that they are sometimes needed to safely manage dangerous student behaviors. On the other hand, many opponents of the procedures argue that seclusion timeout and physical restraint are used far too often in school settings. They contend these interventions have no place in a public school setting. With respect to physical restraint, opponents argue that many students suffer serious injuries when restraints are used inappropriately and that seclusion timeout unnecessarily removes students from the classroom and denies them a fundamental right to an education. This difference in opinion regarding the use of these procedures has resulted in a number of lawsuits and due process hearings. In this report, we will define the procedures, offer research-based guidelines, highlight state policy, and explain the legal issues that are often raised in the litigation on seclusion timeout and physical restraint. We end by offering recommendations that will help schools create new, or modify existing, policies and procedures on timeout and physical restraint.

Seclusion Timeout

The reinforcement principle states that if a behavior is consistently followed by reinforcement, the rate of behavior will increase (Wolery, Bailey, and Sugai, 1988). Timeout is based on the assumption that if behavior is followed by time spent in a less reinforcing environment then the behavior will decrease in frequency (Wolery, et al., 1988). Thus, timeout is “a procedure that serves as a punishment by denying a child, for a fixed period of time, the opportunity to receive reinforcement” (Wolfgang, 2001). In using timeout, if a student displays unacceptable behavior then he or she is isolated from either other individuals who are reinforcing the unacceptable behavior, or the environment, which is reinforcing the behavior. This isolation, or denial of positive reinforcement, is intended to decrease the rate of unacceptable behavior.

There are two major types of timeout: nonexclusionary (e.g., planned ignoring, timeout ribbon) to exclusionary (e.g., contingent observation, exclusion, seclusion). Seclusion timeout, a specific form of exclusion, involves placing a student in a specially constructed or designated room; this room is physically isolated from common areas and often has a locked door (Maag, 2004). Seclusion

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timeout is the most restrictive, intrusive, and controversial form of timeout. It is also the timeout procedure most open for abuse (Miltenberger, 2004; Wolery, et, 1988).

Standards and Guidelines

Seclusion timeout is typically used when a student exhibits violent behaviors, like verbal or physical aggression and property destruction (Alberto & Troutman, 2003; Wolfgang, 2003). Although some authors (Jones, 1987; Jones & Jones, 1998) argue against the use of seclusion timeout, in part because the isolation does not teach a replacement behavior, there are general guidelines for implementing the procedure. Wolery, Bailey, & Sugai (1988) and Yell (1994) state that teachers should adhere to certain planning decisions prior to using seclusion timeout.

1. *Enrich the time-in environment.* Timeout will not work unless there is a meaningful difference in the level of reinforcement available during time-in (i.e., when the student is in the classroom) and timeout. Thus before using timeout, teachers must make efforts to enrich the time-in setting. Providing more and varied materials, more interesting instructional activities, and more positive reinforcement will accomplish this.

2. *Select the type of timeout carefully.* Generally, two exclusionary forms of timeout are considered less restrictive and intrusive than seclusion timeout. These types are contingent observation, in which a student is removed to the periphery of the classroom where he or she can watch classroom activities but cannot participate in them, and exclusion, in which a student is removed from instructional activities and cannot watch, but does not go to a timeout room (e.g., the student sits in a study carrel in a corner of the classroom). The teacher should determine if either of these less restrictive types of timeout is effective with a student. If they can be used effectively, they would be preferred over seclusion timeout.

3. *Use seclusion timeout appropriately.* If seclusion timeout is necessary, teachers must ensure that it serves a legitimate educational function and is only used to remove a student who is engaging in extremely disruptive or dangerous behavior. Additionally, seclusion timeout must be used in a reasonable manner (e.g., is proportionate to the inappropriate behavior, age and physical condition of the student). Because the purpose of timeout is behavior reduction, it is important that teachers teach appropriate behaviors to replace those behaviors that are reduced.

4. *Monitor and evaluate the effectiveness of seclusion timeout using suitable data collection procedures.* The failure of teachers to continuously evaluate the effectiveness of timeout is perhaps the most frequent abuse of the procedure (Nelson & Rutherford, 1983). Teachers should document the continuous evaluation of seclusion timeout. A number of data decision models based on the methods of applied behavior analysis, are available for evaluating efficacy (see Alberto & Troutman, 2003; Kerr & Nelson, 2002; Wolery, et al., 1988). There are a number of reasons for collecting data. First, data should be used to help teachers to make decisions about whether the intervention is working and if the target behaviors are being reduced. Second, teachers are accountable to supervisors and

parents regarding the results of their interventions and data collection is useful for these purposes. Third, teachers that continuously monitor the effectiveness of student's programs and make adjustments in accordance with data are more effective teachers. (Fuchs and Fuchs, 1986).

Additionally, because seclusion timeout requires the use of a designated room, care should be taken when establishing and maintaining the room. Several authors (e.g., Alberto & Troutman, 2003; Gast & Nelson, 1977) and states (e.g., North Carolina Department of Public Instruction, 1999) have outlined room requirements, emphasizing that the room should be of adequate size (e.g., minimum of 36 square feet; Wolfgang, 2003), heavily cushioned, well lighted and ventilated, free of objects and fixtures with which children can harm themselves, equipped so that students can be continuously monitored, and designed with a locking mechanism that automatically releases without constant supervision.

Legal Issues

In the lawsuits and due process hearings on seclusion timeout, plaintiffs have typically based their cases on one of the following two legal paths. One path is that the school's use of seclusion timeout violated their children's educational rights under the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act (Section 504). A second path is that the by using seclusion timeout, the school violated their children's individual rights under the Fourth Amendment² to the U.S. Constitution or that they violated the student's procedural or substantive due process rights under the Eighth and Fourteenth Amendments³. We next review these two paths.

Path One: Violations of a Student's Educational Rights

Violations of the IDEA

Litigation regarding violation of a student's educational rights under the IDEA often involves possible violations of the Free Appropriate Public Education (FAPE) provision of the IDEA. This provision requires that a student's special education program (a) is developed in accordance with the procedural requirements of the law (e.g., the program must be developed with parental input), and (b) is reasonably calculated to provide the student with meaningful educational benefit (*Board of Education v. Rowley*, 1982). When plaintiffs contend that the FAPE mandate was violated because of the use of seclusion timeout, they must show that the use of the intervention compromised a student's educational program in some way. For example, plaintiffs might allege that the student spent so much of his or her school day in timeout, that they were unable to make progress toward achieving his or her IEP goals. Additionally, if plaintiffs could show that the school's decision to use

² The Fourth Amendment prohibits unreasonable searches and seizures.

³ The Eighth Amendment prohibits cruel and unusual punishment and the Fourteenth Amendment protects an individual's liberty interests.

seclusion timeout was made without their input or against their wishes, they could possibly convince a court that the student's right to a FAPE was violated because the student's parents were not been meaningfully involved in developing a student's special education program.

According to Norlin and Raphael (2003), if a student's IEP authorizes the use of timeout, courts will examine the procedural and substantive appropriateness of the student's program to determine if the use of timeout denied the student a FAPE. This means that the court will examine the student's special education program to see whether it was developed in accordance with the guidelines of the Individuals with Disabilities Education Act and whether the program conferred meaningful educational benefit. *Robert H. v. Nixa R-2 school district* (1997) involved timeout and the issue of FAPE. In this case a Missouri district court ruled that a student with a behavioral/emotional disability was not denied a FAPE when he was placed in timeout and denied the opportunity to go on a field trip. The court held that the school district has (a) properly assessed and identified the student, (b) developed an appropriate IEP, (c) included parents in the IEP planning process, and (d) adhered to all procedural safeguards. Moreover, the court noted that the student's IEP allowed the use of timeout.

In *Bourne Independent School District* (1996), a parent alleged that the school's use of timeout was an inappropriate intervention. Additionally, the parent alleged that the timeout room was not safe. The independent hearing officer (IHO) and state review panel disagreed, finding that the use of timeout was included in the student's IEP and BIP, and data collected by the teacher showed that timeout was reducing the student's inappropriate behavior. Furthermore, it was noted that the timeout room was safe because it was well lighted and ventilated and was constantly monitored by the teacher or the teacher's aide.

Violations of Section 504

Section 504 prohibits discrimination against persons with disabilities on the basis of their disability. When plaintiffs allege violations of Section 504, they typically file complaints with the U.S. Office for Civil Rights (OCR) in the Department of Education. If a school is found to have violated Section 504, the OCR will require that the school take actions to correct the discrimination.

When plaintiffs contend that the Section 504 was violated because of the use of physical restraint, they must show that (a) seclusion timeout was used with students with disabilities for engaging in certain behaviors, whereas students without disabilities would not be restrained when they exhibited similar behaviors, or (b) seclusion timeout was used in such a way that it deprived a student of his or her educational services, thus denying the student a FAPE.

In *Pinellas County (FL) School District* (2003), a student's parents filed a complaint with OCR alleging that the school district failed to provide their child with a FAPE because they disciplined her using timeout. When OCR investigated the complaint,

they found that the child had a behavior intervention plan (BIP) to address her misbehavior. According to the plan, when the student hit others or was disruptive she would be placed in timeout for 5 minutes. Timeout was in an empty room with a desk. During the 2001-2002 school year, the teacher kept a log that showed that the student had been placed in timeout a total of 24 times for behaviors such as biting, kicking, and hitting. The Office of Civil Rights determined that the use of timeout was legal because it was included in the student's BIP and the teacher kept a log of the use of timeout to see if it was being used excessively. Similarly in *North Beach (WA) School District* (1999), complainants brought complaints under Section 504 and the Americans with Disabilities Act (ADA), alleging that the school district placed a student in timeout, which was contrary to the student's IEP. However, OCR found that the use of timeout was not discriminatory because (a) the student's IEP provided for timeout when the student engaged in certain inappropriate behaviors, (b) the school district had provided a FAPE, (c) the school district had safeguards to ensure that timeout was not used inappropriately (i.e., the district has a policy stating that when timeout was used it must be explained to the parents, the maximum duration of timeout must be listed, personnel must be qualified to use timeout, and that the use of timeout had to be evaluated for effectiveness), and (d) the timeout room was insulated, lighted, temperature controlled, and permitted continuous adult monitoring.

In *Watson Chapel (AR) School District*, a principal repeatedly placed a special education student in timeout for dress code violations. These removals violated the student's BIP, which called for no removals from class. The Office of Civil Rights found that the school district violated Section 504 because (a) the child was disciplined for offenses that nondisabled students would not have been disciplined for, and (b) the child's BIP stated that he would not be removed from class for misbehavior. Moreover, in a previous due process hearing, the IHO found that the student's BIP was inappropriate because it did not address teaching appropriate behaviors but included interventions to reduce inappropriate behaviors.

Summary of Potential Violations of a Student's Educational Rights.

Our analysis of this litigation leads us to the following five conclusions regarding seclusion timeout, the IDEA, and Section 504.

- First, school district must develop written policies on the use of seclusion timeout. If an IEP team or Section 504 team decides that seclusion timeout will be used with a student, these policies should be shared with the student's parents. Parents and students must be informed of the possible use of timeout and what behaviors will lead to use of the intervention. Rules of timeout, length of time out, and release from timeout should be explained. In addition to written procedures, parents should be shown how timeout will be administered. They should be given sufficient opportunity to ask questions.

- Second, if seclusion timeout will be used to the student's achieve educational goals it should be included in the IEP or Section 504 plan. By

incorporating timeout in the IEP or the 504 plan, which is collaboratively developed with a student's parents, the teacher will have IEP obtained informed consent to use the procedure.

- Three, seclusion timeout should only be for legitimate educational reasons. Legitimate reasons include reducing dangerous or disruptive behavior, and protecting the educational environment and students and staff from either disruption or a dangerous situation. Additionally, when seclusion timeout is used, it must not be in a harsh or severe manner and use should be proportionate to the offense committed and the age and physical condition of the student. For example, timeout lengths of 5 to 10 minutes with younger students and 15 to 20 minutes with older students should be viewed by teachers as being maximum durations. Durations in excess of these may be viewed as excessive by courts. Timeout must be administered according to previously established guidelines and not because of teacher anger toward the student.

- Four, when interventions as intrusive as seclusion timeout are used, teachers need to keep thorough records. Each instance of timeout must be recorded. Elements that should be present in the record include: the behavior that precipitated the use of the procedure, the specific procedure(s) used, the length of time the student was in timeout, the results of the procedure, and witnesses present. Moreover, when seclusion timeout is used, parents and supervisors should be notified as soon as possible.

- Five, teachers should continuously evaluate the effectiveness of seclusion timeout. In fact, teachers should always document the continuous evaluation of interventions used. The data collected can be used to assist teachers in making decisions about whether the intervention is working and if target behaviors are being reduced.

Path Two: Violations of a Student's Constitutional Rights

A number of judicial decisions involving the use of seclusion timeout have addressed the constitutionality of a school district's decision to select and implement the procedure. If plaintiffs prevail in a case in which they argued that a school violated a student's individual constitutional rights, plaintiffs can collect compensatory and punitive damages.

When constitutional questions are raised, plaintiffs typically allege that the student's constitutional rights were denied because the use of seclusion timeout amounted to unreasonable illegal search and seizure in violation of the Fourth Amendment to the U.S. Constitution or a violation of a student's procedural and substantive due process rights under the Eighth and Fourteenth Amendments. Frequently constitutional issues are brought directly to federal court. Plaintiffs could succeed in a search and seizure lawsuit if they can prove that the use of timeout was not justified at inception (e.g., the teacher did not have a legitimate educational reason to use seclusion timeout) or was unreasonable (e.g., the teacher put the student in seclusion timeout for an excessively long period of time).

Two federal court decisions examined alleged constitutional violations and seclusion timeout. In *Rasmus v. State of Arizona* (1996) a student in special education was assigned to a timeout room for about 10 minutes. The student's parents sued the school district alleging that the district and teaching staff had subjected the student to an unreasonable search and seizure in violation of the Fourth Amendment. Additionally, they claimed that the student's due process rights under the Fourteenth Amendments were violated.

Hayes v. Unified School District (1987) involved a brother and sister who were in a special education program for students with behavior problems. When students exhibited certain behaviors, the teacher placed them in a timeout room. The student's father sued the school district alleging that the school district had violated his children's constitutional rights.

In both cases the courts used the test established by the U.S. Supreme Court in *New Jersey v. T.L.O.* (1985) to determine if the use of timeout violated the Fourth Amendment. In this case the High Court held that search and seizure in public schools is reasonable in scope when (a) the measures used are reasonable related to the objectives of the seizure and (b) the measures are not excessively intrusive considering the student's age and sex and the nature of the infraction. Both the *Hayes* and *Rasmus* courts considered the following factors in determining that the school district's use of timeout met the Supreme Court's standards: (a) nature of the misconduct, (b) location of the timeout room, (c) design of the timeout room, (d) the school district's safety precautions, (e) the amount of time that the student was in timeout, and (e) the school district's policy regarding timeout.

Summary of Potential Violations of a Student's Constitutional Rights.

Our analysis of this litigation leads us to the following three conclusions regarding physical restraints and potential violation of a student's constitutional rights:

- First, seclusion timeout should be used only when absolutely necessary. As previously mentioned, legitimate reasons include reducing dangerous or disruptive behavior, and protecting the educational environment and students and staff from disruption or a dangerous situation.

- Second, when seclusion timeout is used, the intervention must be reasonable in proportion to the behavioral incident that occasioned its use. This means that the intervention should only be used to stop the behavior and must not be excessive given the students' age and disability.

- Third, it is preferable if parents give informed consent for teachers to use seclusion timeout. Therefore, timeout should be a part of a program developed collaboratively between parents and the school district. If, however, teachers and administrators believe that the use of seclusion timeout is necessary, and they can show why its use was necessary, seclusion time out may be used in the absence of parental consent. This should be a rare occurrence.

Physical Restraint

Restraint is an aversive technique (Green, 1990) designed to restrict a student's freedom of movement and/or physical activity and should be used only in an emergency situation (Ruhl, 1985). When a child exhibits inappropriate behavior, usually out-of-control aggressive behavior, he or she is prevented from continuing when school staff control or contain the student through physical, mechanical, or chemical means (Day, 2003). Staff restraining a student may hold (e.g., basket or supine), strap (e.g., into a straight jacket, Riffen chair or Papoose board), handcuff, or sedate the student until he or she demonstrates less violent behavior.

Standards and Guidelines

Because restraint is a severely restrictive procedure, it should be used only when a student is (a) harming him/herself or others, or (b) destroying property, and (c) only after other less restrictive strategies have been attempted (Day, 2002; Hewett & Arnett, 1996; Kemp, 1996; North Carolina Department of Public Instruction, 1999). Restraint should not be used to force a student to behave in a certain manner (e.g., to physically guide a student through a restitution exercise, Schloss & Smith, 1987). Staff completing restraints must take "extreme care... to provide for the safety and comfort of the student during the restraint procedure" (Schloss & Smith, 1987); the restraint should not cause the student pain or physical discomfort.

Although there are extensive descriptions of restraint techniques (e.g., Torem, 2000), staff who are working with violently aggressive students, and are likely going to restrain these individuals, should undergo extensive and repeated training (Allen, 1998). This training should include extensive instruction and discussion of alternatives to restraint (e.g., de-escalation strategies and problem-solving techniques). A comprehensive review program should be established (Lohrmann-O'Rourke & Zirkel, 1998); after completing a restraint, teachers and administrators must keep detailed records, and monitor and evaluate the effectiveness of the procedure.

Legal Issues

Like the seclusion timeout litigation, in the physical restraint lawsuits and due process hearings, plaintiffs have typically based their cases on two legal paths. The first path is that the school's use of physical restraint violated their children's educational rights under the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act (Section 504). The second path is that the school violated their children's individual rights under the Eighth or Fourteenth Amendment to the U.S. Constitution by using physical restraint. We next review these two paths.

Path One: Violations of a Student's Educational Rights

Violations of the IDEA

Litigation regarding violation of a student's educational rights under the IDEA often involves possible violations of the FAPE provision of the IDEA. When plaintiffs contend that the FAPE mandate was violated because of the use of physical restraints, they must show that the use of the restraints compromised a student's educational program in some way. Additionally, if plaintiffs could show that the school's decision to use physical restraint was made without their input or against their wishes, they could possibly convince a court that the student's right to a FAPE was violated because the student's parents had not been meaningfully involved in developing the student's special education program. We found a few hearings and cases in which plaintiff's alleged that school districts had violated the IDEA by using physical restraints (*CJN v. Minneapolis Board of Education*, 2003; *M.H. v Bristol Board of Education*, 2002; *Ronnie Lee S. v. Mingo County Board of Education*, 1997).

In *M.H. v. Bristol*, the parents of a 14 year-old student sued a school district for violations of IDEA and constitutional violations because the district used physical restraint on two occasions. After reviewing the school's records, the court held that IDEA was not violated because the student had a behavior management plan that included the use physical restraint when the student became violent. Records of the behavior incidents also showed that the student had become violent and a possible threat to other students and staff. The court decided, therefore, that appropriate professional judgment was exercised by the staff when the restraint was used.

In this case, the parents also alleged that excessive force was used in the restraint. The *M.H.* court in making its ruling on the excessive force claim used a four factor test developed by the U.S. Court of Appeals for the Second Circuit in *Johnson v. Newburgh Enlarged School District* (2001). The circuit court established these factors when considering excessive force claims. The four factors are as follows:

1. Was there a need for force to be used? (e.g., Was force used to prevent injury?)
2. What was the relationship between the need to use force and the amount of force that was used? (e.g., Was the amount of force used necessary to prevent the student from injuring someone?)
3. What was the extent of the injury inflicted? (e.g., Was the student actually injured and if so how serious was the injury?)
4. Was the force applied in a good faith effort to maintain a safe environment or was it applied maliciously for the purpose of causing harm? (e.g., Did the teacher exercise good professional judgment by applying the force to protect a student, staff members, or the student's peers or did the teacher apply the force intending to hurt or "get even" with a student?) In this case, the court held that there was no intentional infliction of harm in the physical restraint.

Violations of Section 504

Section 504 prohibits discrimination against persons with disabilities on the basis of their disability. When plaintiffs contend that Section 504 was violated because of the use of physical restraint, therefore, they must show that physical restraint were used with students with disabilities for engaging in certain behaviors, whereas students without disabilities would not be restrained when they exhibited similar behaviors. In such situations, the use of physical restraint might constitute discrimination under Section 504. A Section 504 violation may also occur in situations where (a) the use of restraints compromises a student's educational program to the degree that it is no longer equivalent to educational program offered to children without disabilities, and (b) excessive force is used when restraining a student. A number of hearings and OCR rulings have addressed the use of physical restraint (i.e., *Aiken County (SC) School District*, 1995; *Florence County (SC) School District No. 1*, 1987; *Gateway (CA) Unified School District*, 1995; *Oakland (CA) Unified School District*, 1993; *Ohio County (WV) Public School*, 1989; *Wells-Ogunquit (ME) Community School District No. 18*, 1990).

In *Wells-Ogunquit (ME) Community School District No. 18* (1990). OCR ruled that a school did not discriminate against a student with a disability when the teacher restrained him. Records indicated that the student was a problem in class and OCR found that the teacher was justified in using physical restraint to subdue the student during a violent outburst. Moreover, the student continued to receive the academic services listed in his IEP. Similarly, in *Florence County (SC) School District No. 1* (1987), OCR found that physical restraint procedures used by a teacher was justified because a student could have harmed himself or others during a violent acting out episode. The Office of Civil Rights, in *Gateway (CA) Unified School District* 1995), also found the use of physical restraint was appropriate when a student had attempted to harm himself. The student's IEP and behavior plan had stated that, when necessary, physical restraint would be used.

Summary of Potential Violations of a Student's Educational Rights

Our analysis of this litigation leads us to the following four conclusions regarding physical restraints, the IDEA, and Section 504.

- First, if there is a possibility that physical restraint may be used with a student, this should be discussed in the individual education program (IEP) or Section 504 planning process. Moreover, if the team decides that physical restraint might be used, it should be written into the student's IEP or Section 504 plan. This will ensure that any decisions regarding physical restraints will be made collaboratively with the parents, teachers, and administrators.
- Second, teachers and staff should be trained in the proper use of physical restraint techniques. Rock (2000) noted that few special education teachers have been formally trained in the use of crises management procedures. She suggests that crisis management training and certification should be available on a continuous basis for teachers that use crises intervention procedures. Proper

training of staff members will help ensure that physical restraint procedures are used appropriately and with the student's safety being a primary consideration.

- Three, thorough record-keeping procedures are essential. Any time that physical restraint procedures are used they should be immediately documented in writing. If possible, witnesses should be called in such crises situations and they should also document the incident.

- Four, data should be collected on the effectiveness of student's special education program. The repeated use of physical restraint is a strong indication that a student's programming is not effective and needs to be reevaluated.

Path Two: Violations of a Student's Constitutional Rights

The majority of the judicial decisions involving the use of physical restraint have addressed the constitutionality of a school district's decision to select and implement physical restraints. When constitutional questions are raised, plaintiffs typically allege that the student's constitutional rights were denied because the restraint (a) amounted to cruel and unusual punishment, and (b) infringed on a student's liberty interests. Frequently, constitutional issues are brought directly to federal court. If a plaintiff prevails in a case in which they argued that a school violated a student's individual constitutional rights, plaintiffs can collect compensatory and punitive damages.

In the following hearings and cases the plaintiffs alleged that school districts had violated a student's constitutional rights by using physical restraints: *CJN v. Minneapolis Board of Education*, 2003; *Garland Independent School District v. Wilks*, 1987; *Heidemann v. Rother*, 1996; *Jefferson v. Yselta Independent School District*, 1987; *M.H. v Bristol Board of Education*, 2002; *Ronnie Lee S. v. Mingo County Board of Education*, 1997. In some of these cases, the courts based their decision on the standard established by the U.S. Supreme Court in *Youngberg v. Romeo* (1982). The *Youngberg* case involved an adult with mental retardation who was physically restrained while living at a state-operated hospital. Plaintiffs alleged the use of physical restraint was unconstitutional. The standard the High Court used in this case was whether the use of the physical restraint technique constituted a substantial departure from accepted professional judgment, practice, or standards. If the restraint departs from these standards there may be a constitutional violation. The *Heidemann* and *CJN* courts determined that the school districts' uses of physical restraint did not depart from accepted professional practice; therefore, no constitutional rights were implicated.

Summary of Potential Violations of a Student's Constitutional Rights.

Analysis of this litigation leads to the following three conclusions regarding physical restraints and potential violation of a student's constitutional rights:

- First, administrators, staff members, and teachers may be held liable for the inappropriate use of physical restraint. This means that when teachers violate student's constitutional rights by either using physical restraint procedures

inappropriately or injuring a student, they may be required by a court to pay compensatory and punitive damages. Moreover, if a court decides that a restraint was used with malice or ill will, liability is much more likely. Therefore, it is critical that when teachers use physical restraint, they use it only when necessary to protect the safety of the student, other students or staff members, and that a restraint never be used in a way that may injure a student (e.g., twisting a joint, sitting on a student's chest).

- Second, courts have usually ruled that the use of mechanical restraints (e.g., tying a student to a chair, rendering a student immobile by strapping him or her to an object, taping a student's mouth shut) are unacceptable and clearly violate a student's rights. Mechanical restraints, therefore, should not be used.

- Third, when teacher, staff members, or administrators use physical restraints they should do so in accordance with accepted professional standards and practices. If a restraint is not professionally indicated or is unnecessarily restrictive, the restraint may violate a student's rights. This means that staff members that may be required to use physical restraints should receive thorough training in such procedures. Additionally, staff members should receive training and periodic retraining in the appropriate use of such procedures.

Summary

Seclusion timeout and physical restraints are among the most intrusive and restrictive interventions that teachers use when working with students who have disabilities. Often these procedures are needed to safely manage dangerous student behaviors; however, we know that these procedures are probably used too frequently and that often the teachers who use these procedures have not received proper training in their use. Thus, the use of timeout and physical restraint are extremely controversial issues. This controversial nature has led to a substantial amount of case law and administrative decisions and rulings. In this section, we extrapolate principles from the litigation, the research, and the survey we conducted of state directors of special education.

Principle 1: Public school districts need to develop policies and procedures regarding the use of timeout and physical restraint with all students. School districts, in conjunction with community members and parents, should develop policies regarding these procedures. Moreover, these policies should clearly state (a) what types of timeouts and physical restraints will be used, (b) when these procedures will be used (e.g., if students engage in behaviors that are dangerous to students and staff), and (c) who will administer the procedures. All teachers, administrators, and staff members should receive training regarding these policies.

Principle 2: Timeout and physical restraint procedures should be included in a student's IEP or Section 504 plan. When timeout and physical restraint procedures are used with students with disabilities, the student's parents should be informed of the procedures that may be used, when they will be used, and by

whom. Moreover, parents should be told what behaviors may lead to the procedures, how students may avoid the use of the procedures (e.g., the teacher will issue a specific warning), and under what conditions the student will be released from timeout or physical restraint. These decisions should be developed collaboratively between the parents and school staff and written into the IEP or Section 504 plan. When parents understand and sign the IEP or Section 504 plan, they are essentially giving informed consent for the use of timeout and physical restraint.

It is important to note that this does not mean that if parents refuse to consent to the use of timeout or physical restraint that these procedures can never be used. If a student's behavior is threatening self-injury or injury to others, physical restraint may be necessary.

Principle 3: Seclusion timeout and physical restraint should be used only when a student's behavior poses a risk of injury to the student or to harm to his or her peers or staff members. Because of the intrusive and restrictive nature of timeout and physical restraint, as well as the potential danger and liability associated with these procedures, physical restraint should be used only when a student's behavior poses a safety risk to him/herself or others. Seclusion timeout and physical restraint should be used in a reasonable way. This means that these procedures should not be used in a harsh or severe manner and should be proportionate to the offense committed and the age and physical condition of the student. Seclusion timeout and physical restraint must be administered according to district-established guidelines and not because of teacher anger toward the student.

Principle 4: Seclusion timeout and physical restraint should be used only after less restrictive interventions are not successful. Seclusion timeout and physical restraint should be used only as a last resort. Although behavior that endangers students must be stopped quickly and effectively, more intrusive interventions should be used only after less intrusive interventions have failed. These procedures should be used in accordance with the principle of hierarchical application (Braaten, Simpson, Rosell, & Reilly, 1988) and the fair pair rule (Kaplan, 1988). According to the principle of hierarchical application more intrusive procedures to reduce behavior (e.g., seclusion timeout) should be used only when less intrusive procedures to reduce behavior (e.g., non-exclusionary timeout and contingent observation) have failed. The fair pair rule states that when behavior reduction interventions are used, they should always be accompanied by interventions designed to teach an appropriate skill, which will replace the behavior we are targeting for reduction. This replacement behavior should serve the same function for the student as the problem behavior did and be positively or negatively reinforced.

Furthermore, timeout and physical restraint, which are crises intervention techniques, should not be confused with positive behavior change procedures.

Physical restraint is a control procedure, which should only be used to protect a student or others from injury, whereas timeout is a behavior reduction procedure.

Principle 5: The state department of education, teacher training institutions, and public school districts should develop appropriate preservice and in-service training experiences so that staff members who may be required to use seclusion timeout and physical restraint receive thorough and continuous training in the appropriate use of the procedure. Teachers and staff members who may be required to use seclusion timeout and physical restraint must receive training in the use of the procedure. Rock (2000) noted that few special education teachers have been formally trained in the use of crisis management procedures. She suggests that crisis management training and certification should be available on a continuous basis for teachers that use crisis intervention procedures. Teachers using these procedures should receive training in (a) de-escalation techniques to avoid the use of seclusion timeout and physical restraint, and (b) implementing the procedures in an appropriate manner. Moreover, training for seclusion timeout should include using timeout contingently, keeping the duration relatively short, and understanding how to continuously monitor students in timeout. Training for physical restraint should be extensive; in fact, a person who has not received training should not attempt physical restraint procedures. Training is crucial because teachers who use physical restraint procedures must do in ways that protect students and staff from injury, while also protecting the restrained student. In addition to thorough initial training, booster sessions should be offered each year. A staff member should also be trained in first aid in the event of an emergency that may arise because of the use of physical restraint.

Principle 6: Teachers should continuously collect meaningful data to document the efficacy of their seclusion timeout and physical restraint. Teachers should collect data to determine student progress toward IEP or Section 504 goals and, thus, to document the program's efficacy. This means that data must be collected over the course of instruction so that student progress is continually monitored. The purpose of data collection is to provide objective evidence on student performance that can be used to guide instructional decisions. If timeout and physical restraint are being used excessively, it is a strong indication that the student's program is not appropriate. Similarly, if either of these procedures is used frequently with a student to control inappropriate behavior, and the inappropriate behavior continues, this means that the procedures are not effective in reducing the problem behavior. Data can be used to make this determination and to ensure that teachers make effective changes to the student's program. Unless the teacher has data to show the efficacy of these very intrusive procedures, they should not be used except in situations when students' behavior presents a danger to themselves, their peers, or teachers and other staff members.

Principle 7: Teachers should keep extensive records when seclusion timeout and physical restraint procedures are used. When any restrictive and intrusive interventions, such as seclusion timeout and physical restraint, are used with

students, teachers need to keep extensive and thorough records of each incident. Records should include names of staff members present, the name of the student, the date and time the procedure was used, the behavior that precipitated the use of the procedure, what the teacher did to attempt to deescalate the student's behaviors to avoid the use of the procedures, the length of time that the timeout or physical restraint was used, and witnesses who were present.

Principle 8: District and school administrators should develop methods to periodically review and summarize teacher and school-level data on the use of seclusion timeout and physical restraint. Without administrative supervision of the administration of these restrictive procedures, there exists more potential for misuse or abuse. Procedures should be developed to (a) immediately report all incidents to school-level administrators, (b) review all incidents on a monthly basis and provide specific feedback/training to teachers who frequently apply the procedures, and (c) create summary reports for review by the State Department of Education or its equivalent.

Principle 9: The State Department of Education should collect data regarding the frequency of use of seclusion timeout and physical restraints in public schools. The data should track the frequency of the use of seclusion timeout and physical restraint, including the types of incidents that lead to application of the procedures. Trends should be identified and addressed. Moreover, this data should be used to determine whether school districts are using these intrusive interventions appropriately or excessively. If a school district is using these interventions in an excessive manner, they should be required to investigate any potential problems, report them to the Department, and undertake corrective action to ameliorate any problems. The Department should explore alternatives (e.g., Fogt & Piripavel, 2002) to seclusion timeout and physical restraint and develop appropriate teacher and administer training.

References

- Aiken County (SC) School District*, 23 IDELR 113 (OCR 1995).
- Alberto, P. A., & Troutman, A. C. (2003). *Applied behavior analysis for teachers* (6th ed.). Upper Saddle River, NJ: Merrill/Prentice Hall.
- Allen, B. (1998). New guidance on the issue of reasonable force in schools 1998. *British Journal of Special Education*, 25(4), 184-188.
- Board of Education of the Hendrick Hudson School District v. Rowley*, 458 U.S. 176 (1982).
- Braaten, S., Simpson, R., Rosell, J., & Reilly, T. (1988). Using punishment with exceptional children: A dilemma for educators. *Teaching Exceptional Children*, 20, 79-81.
- CJN v. Minneapolis Public Schools*, 38 IDELR 208 (8th Cir. 2002).
- Florence County (SC) No. 1 School District*, 352 IDELR 495 (OCR 1987).
- Fogt, J. & Piripavel, C. (2002). Positive school-wide interventions for eliminating physical restraint and exclusion. *Reclaiming Children and Youth; Journal of Emotional and Behavioral Problems*, 10(4), 227-232.
- Gast, D., & Nelson, C.M. (1977). Time out in the classroom: Implications for special education. *Exceptional Children*, 43, 461-464.
- Garland Independent School District v. Wilks*, 657 F.Supp. 1163 (N.D. TX, 1987)
- Gateway (CA) Unified School District*, 24 IDELR 80 (OCR 1995).
- Hayes v. Unified School District No. 377*, 555 IDELR 249 (D. KN 1987).
- Heidemann v. Rother*, 84 F.3d 1021 (8th Cir. 1996).
- Jefferson v. Yselta Independent School District*, 817 F.2d 303 (5th Cir. 1987).
- Johnson v. Newburgh Enlarged School District*, 239 F.3d 246 (2nd Cir. 2001).
- Jones, F. (1987). *Positive classroom discipline*. New York: McGraw Hill.
- Jones, V. F., & Jones, L. S. (1998). *Comprehensive classroom management: Creating communities of support and solving problems*. Boston: Allyn and Bacon.
- Kemp, F. (1996). The ideology of aversive treatment as applied to clients and colleagues. *Child and Family Behavior Therapy*, 18(1), 9-27.
- Kerr, M.M. & Nelson, C.M. (2002). *Strategies for addressing behavior problems in the classroom* (4th ed.). Upper Saddle River: Prentice Hall/ Merrill.

Lohrmann-O'Rourke, S. & Zirkel, P. (1998). The case law on aversive interventions for students with disabilities. *Exceptional Children*, 65(1), 101-123. *M.H. v. Bristol Board of Education*, 36 IDELR 123 (D. CT, 2002).

Maag, J. W. (2004). *Behavior management: From theoretical implications to practical applications (2nd ed.)*. Toronto, Canada: Wadsworth.

Miltenberger, R. G. (2004). *Behavior modification: Principles and procedures (3rd ed.)*. Belmont, CA: Thomson/Wadsworth.

Norlin, J.W. & Raphael, F.S. (2003). *Aversives in the classroom: What are the legal limits?* Horsham, PA: LRP Publications.

North Carolina Department of Public Instruction. (1999). Questions and answers related to policy issues about students with disabilities, 1999 (EC 307 631). Raleigh, NC: Author.

Oakland (CA) Unified School District, 20 IDELR 1338 (OCR 1993).

Ohio County (WV) Public School, 16 IDELR 619 (OCR 1989).

Rasmus v. State of Arizona, 24 IDELR 824 (D. AZ 1996).

Rock, M.L. Effective crises management planning: Creating a collaborative framework. *Education and Treatment of Children*, 23, 246-264.

Ronnie Lee S. v. Mingo County Board Of Education, 27 IDELR 202 (OCR 1997).

Schloss, P. & Smith, M. (1987). Guidelines for ethical use of manual restraint in public school settings for behaviorally disordered students. *Behavioral Disorders*, 12(3), 207-213.

Watson Chapel (AR) School District, 36 IDELR 249 (OCR 2001).

Wells-Ogunquit (ME) Community School District No. 18, 17 IDELR 495 (OCR 1990).

Wolery, M., Bailey, D.B., & Sugai, G.M. (1988). *Effective teaching: principles and procedures of applied behavior analysis with exceptional students*. Boston: Allyn and Bacon.

Wolfgang, C. (2001). Teacher strategies: The many views of timeout. *Journal of Early Education and Family Review*, 8(5), 18-28.

Yell, M. (1994). Timeout and students with behavior disorders: A legal analysis. *Education and Treatment of Children*, 17(3), 293-301.

SECTION FIVE

Recommendations for Documentation

RECOMMENDATIONS FOR DOCUMENTATION AFTER AN INCIDENT OF PHYSICAL RESTRAINT/SECLUSION

If Physical Restraint and/or Seclusion are used, a written report must be submitted within one day to school administration. The school principal or designee shall attempt to make verbal contact with the legal guardian to report the incident as soon as possible *but no later than the end of the day* that Physical Restraint and/or Seclusion were used. Additionally, a written report shall be mailed, E-mailed, or faxed to the legal guardian within one day following the use of Physical Restraint and/or Seclusion and a copy placed in the student's confidential file.

It is recommended that each report include:

1. the student's name, the date of the report, the name of the person filing the report, the date of the incident, and the beginning and ending times of the incident;
2. a description of the activity in which the student was engaged immediately preceding the use of Physical Restraint and/or Seclusion;
3. a description of de-escalation interventions used prior to the implementation of Physical Restraint and/or Seclusion;
4. a description of the incident and/or student behavior that resulted in Physical Restraint and/or Seclusion (including a clear account of how the behavior endangered the child or another individual);
5. the location of the Physical Restraint and/or Seclusion;
6. a description of the Physical Restraint and/or Seclusion technique(s) used;
7. a log of the student's behavior during Physical Restraint and/or Seclusion, including a clear description of how the intervention ended;
8. a description of any injuries (to students, staff, or others) or property damage;
9. the name(s) of the school personnel administering the Physical Restraint and/or Seclusion, the name(s) of school personnel who participated in monitoring or supervising the administration of Physical Restraint and/or Seclusion, and the names of school personnel responsible for assessing the student's mental and physical well-being after the incident of Physical Restraint and/or Seclusion;

10. the date, time, and nature of initial contact with the legal guardian regarding the current event.

No more than three incidents of Physical Restraint and/or Seclusion shall occur prior to a formal review of the student's Individualized Education Program (IEP), including an assessment of the current Behavior Intervention Plan (BIP) or development of a BIP if none is in place. Furthermore, if any single restraint or seclusion intervention lasts more than 15 minutes, a certified staff person trained in the use of Physical Restraint and/or Seclusion shall evaluate the situation. The purpose of this evaluation shall be to ascertain that appropriate procedures are followed and to minimize future use of Physical Restraint and/or Seclusion. The results of the evaluation shall be committed to writing and copies of this shall be placed into the student's temporary student record.

SECTION SIX

De-escalation & Physical Intervention Issues for School Resource Officers

DE-ESCALATION & PHYSICAL INTERVENTION ISSUES FOR SCHOOL RESOURCE OFFICERS

The School Resource Officer (SRO) contributes to the maintenance of a safe and secure learning environment. The daily presence of the SRO may serve to prevent many incidents – particularly when the officer has successfully invested in a relationship of mutual trust and respect with students and school personnel. Still, enforcing criminal law on the school campus may include apprehending, subduing, and arresting students – including those with disabilities. SROs, like all law enforcement officers, must exercise their authority in context and with discretion.

Some overlap exists between the training and mindset of SROs and educators, but the distinct characteristics of trained police officers may be particularly evident when there is a behavioral escalation by a student with special needs. When a student's behavior suddenly becomes potentially dangerous to self or others, trained educators may choose to use de-escalation and physical intervention techniques (restraint or seclusion). The techniques used by school staff should focus on safety and on assisting the acting-out student in regaining physical and emotional control. Training for law enforcement personnel usually includes training in these approaches; while some law enforcement procedures may be similar to those employed by school staff, others may differ. For example, SRO training may focus on more aggressive techniques designed to attain security and physical control in a violent crisis.

Law enforcement officials have the responsibility to exercise their authority when a student, including a student with a disability, is found violating a criminal law or ordinance. SRO's have the authority and the responsibility to protect the safety and welfare of the school. However, SROs like all law enforcement officers must exercise discretion in deciding what action to take.

School staff should use caution when requesting that law enforcement personnel become involved in an event requiring de-escalation and physical intervention. Schools are urged to develop and disseminate administrative guidance for determining when to involve the SRO in a behavioral emergency. Clearly articulated guidance will well serve staff, the SRO, and students well. The student's Individualized Education Program (IEP) may modify the general guidance, making ongoing communication among staff and the SRO critical. When possible, it may be appropriate to include the SRO in de-escalation and physical intervention training as it is being provided to school staff, just as it is helpful for the officer to regularly educate staff about the SRO's function, skill sets, and responsibilities. All members of the learning community should know what to expect from each other in an emergency in order to provide appropriate intervention and support to the student in behavioral crisis.

SECTION SEVEN

Selection of Training Models

SELECTION OF TRAINING MODELS

When students present issues that require de-escalation and physical intervention in order to maintain safety, it is critical that staff members be adequately prepared to respond to those needs. To meet those needs in the most professional and appropriate manner, staff members need training.

There are a number of respected training models available across the state and nation. Rather than present a list of programs deemed acceptable by the authors of this document, we have chosen to provide a set of criteria against which training models may be evaluated. Following are criteria that will be helpful in making selections regarding training models.

Characteristics of Effective Training Models

- The model is externally developed and has a record of successful implementation in a variety of settings (i.e., developed by a program or individual independent of the school).
- The model includes a curriculum that is available for review.
- The model emphasizes prevention of the type of events that require physical intervention, including
 - relationship building,
 - positive approaches to prevention of escalation, and
 - an emphasis on de-escalation skills.
- The model promotes safety as the only acceptable reason to use physical intervention.
- The model includes instruction in the physiological effects of restraint and the monitoring of physical distress signs, including positional asphyxia.
- The model includes instruction in personal safety and evasion techniques.
- The model includes instruction in safe holding techniques. This instruction must include
 - discussion and modeling,
 - an opportunity to physically practice the techniques, and
 - a requirement that the staff member demonstrate competency in the model.
- The model includes techniques on how to help the student process, or debrief the event.
- The model includes information on how staff members are to debrief the event, including
 - reviewing the event to understand how it evolved, and to uncover areas of improvement for future situations,
 - assisting staff members in managing the stress of the event,
 - documentation of the event, and

- communication about the event to appropriate parties including parents, the school administration, and, as needed, other students and staff members.
- The model requires that staff successfully complete post-training assessments of knowledge and skill.
- The model specifies a minimum training/refresher training schedule. Training must be conducted on at least an annual basis. The needs of the students and staff may dictate more frequent training/refresher training.

Precautions

Beyond the criteria provided above, any training model under consideration should prohibit certain practices. These include

- pain inducement to gain compliance,
- bone locks,
- hyperextension of joints,
- peer restraint,
- chemical restraint as defined in this document,
- mechanical restraint as defined in this document,
- techniques which involve pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen,
- straddling or sitting on any part of the body, or any maneuver that places pressure, weight, or leverage on the neck or throat, or any artery, or on the back of the child's head or neck, or that otherwise obstructs or restricts the circulation of blood or obstructs an airway,
- any type of choking, hand chokes, and any type of neck or head hold, any technique that involves pushing on or into the child's mouth, nose, eyes, or any part of the face, or covering the face of body with anything, including soft objects such as pillows or washcloths, and
- any maneuver that involves punching, hitting, poking, pinching, or shoving.

Some models include restraints called “flooring restraints” (also, “wall restraints”) where the student is held against the floor in either a prone (face down) or supine (face up) position. Adherents to these restraints will attest to the usefulness and safety of the procedures. It should be noted that many others express significant concerns regarding the use of flooring restraints. Recently there has been a heightened awareness of positional asphyxia. Many professionals believe that an individual being restrained in a flooring position is at greater risk of positional asphyxia. For that reason, some models expressly prohibit the use of flooring, wall, and other restraints that include holding the individual against a hard surface.

A primary reference for the guidance provided above is the *Child Welfare League of America Press* document, State Regulations for Behavior Support and Intervention (CWLA Press, Washington DC, 2004).

SECTION EIGHT

Prohibited Uses

PROHIBITED USES OF PHYSICAL RESTRAINT & SECLUSION (R&S)

R&S should not be conducted by untrained staff or by staff unfamiliar with the student involved.

R&S should not be used as a punitive form of discipline. Only in crisis situations during which the student poses a physical threat to self or others should lead to consideration of R&S. The following events should not lead to R&S: profanity, noncompliance, refusal to complete work, verbal threats without intent or means, and similar non-emergency situations.

R&S may not be used in a manner that is medically contraindicated for the student involved. It is the responsibility of the school to seek medical information and inform staff in a manner consistent with law and best practices.

R&S should not interfere with adequate supervision of the student, healthy physical functioning (breathing, circulation, sensation, etc.), or the student's ability to communicate. It is important to note that for students who use sign language or communication devices, it may be necessary to adapt the R&S approach employed.

R&S should not exceed the minimum force and minimum time necessary to address the emergency and return all in the environment to safety. The R&S procedure itself should not produce additional risks (beyond the emergency itself) for the student and others in the environment. The following are examples of excessive force: slapping, paddling, kicking, activities or positions that cause physical pain, unpleasant sprays, dehydration, hunger, toileting restrictions, ridicule, humiliation, emotional trauma, etc. Documentation should clearly identify a time-line of the event.

Medically prescribed restraint procedures employed for the treatment of a physical disorder or for the immobilization of a person in connection with a medical or surgical procedure shall not be used as a means of R&S.

SECTION NINE

Resources

RESOURCES

ADVOCACY ORGANIZATIONS/CONTACTS

Family Resource Center for Disabilities and Special Needs, Inc.
Parent Training and Resource Center
Project REST
2176 Savannah Highway – Suite 105
Charleston, SC 29414
(843) 266-1318
(843) 266-1941 - FAX
www.frcdsn.org

PRO-Parents of South Carolina
(800) 759-4776

South Carolina Protection and Advocacy
(843) 763-8571

South Carolina Autism Society
(800) 438-4790

ARTICLES & BOOKS

Ayers, Barbara J, Hedeem, Deborah L., Fishbaugh, Mary Susan E, et al (2003) Creating positive behavior support plans for students with significant behavioral challenges. Ensuring safe school environments: Exploring issues--seeking solutions. Mahwah, NJ: Lawrence Erlbaum Associates, Publishers. pp. 89-105. ISBN 0-8058-4310-8

Busch, A. (2000). Seclusion and Physical Restraint and Seclusion: A review of recent literature. *Harvard Review of Psychiatry*, 8, 261-270.

Crone, Deanne A. & Horner, Robert H.(2003) Building Positive Behavior Support Systems in Schools, Functional Behavioral Assessment. New York: The Guilford Press. ISBN 1-57230-818-4

Day (2002). Examining the Therapeutic Utility of Physical Restraint and Seclusions and Seclusion with Student and Youth: The role of theory and research in practice. *American Journal of Orthopsychiatry*, 72, 266-278.

Donovan, A., Siegel, L., Zera, G., Plant, R., & Martin, A. (2003). Seclusion and Physical Restraint and Seclusion reform: An initiative by a student and adolescent psychiatric hospital. *Psychiatric Services*, 54, 958-9.

Donovan, A., Plant, R., Peller, A., Siegel, L., & Martin, A. (2003). Two-year trends in the use of seclusion and restraint among psychiatrically hospitalized youths. *Psychiatric Services*, 54, 958-9.

Lewis, Timothy J. & Sugai, George (1999). Safe Schools, School-wide Discipline Practices, Third CCBD Mini-Library Series: What Works for Children and Youth with E/BD: Linking Yesterday and Today with Tomorrow, Lyndal M. Bullock & Robert A. Gable, Series Editors, Council for Children with Behavioral Disorders. ISBN 0-86586-349-0

Luiselli, J., Kane, A., Tremi, T., & Young, N. (2000). Behavioral intervention to reduce physical Physical Restraint and Seclusion of adolescents with developmental disabilities. *Behavioral Interventions*, 15, 317-330.

Nunno, M., Holden, M., & Leidy, B. (2003). Evaluating and monitoring the impact of a crisis intervention system on a residential student care facility. *Student and Youth Services Review*, 25, 295-315.

Quinn, M.M., Osher, D., Warter, C.L., Hanley, T.V., Bader, B.D., Hoffman, C.C., (2000) Teaching and Working with Children Who Have Emotional and Behavioral Challenges, American Institutes for Research, IDEAS That Work, Office of Special Education Programs.

Sugai, George & Lewis, Timothy J. Lewis (1999), Developing Positive Behavioral Support for Students with Challenging Behaviors, Third CCBD Mini-Library Series: What Works for Children and Youth with E/BD: Linking Yesterday and Today with Tomorrow, Lyndal M. Bullock & Robert A. Gable, Series Editors, Council for Children with Behavioral Disorders. ISBN 0-86586-346-6

LINKS TO POSITIVE BEHAVIOR SUPPORT MATERIALS ON THE WEB

<http://www.pbis.org/> - US Department of Education, Office of Special Education Programs (OSEP) Technical Assistance Center on Positive Behavior Interventions and Supports

<http://cfs.fmhi.usf.edu/dares/apbs/> - Association for Positive Behavior Support

<http://cecp.air.org/fba/default.htm> - Center for Effective Collaborations and Practice

<http://ericec.org/digests/e580.html> - ERIC Clearinghouse on Disabilities and Gifted Education Positive Behavior Support and Functional Assessment

LINKS TO PHYSICAL RESTRAINT & SECLUSION MATERIALS,
LISTSERVES AND INTEREST GROUPS ON THE WEB

[http://courant.ctnow.com/projects/Physical Restraint and Seclusion/](http://courant.ctnow.com/projects/Physical%20Restraint%20and%20Seclusion/) - This site contains the Hartford Courant articles that revitalized the battle to regulate the use of Physical Restraint and Seclusion and includes valuable database tracking deaths from the use of Physical Restraint and Seclusion across the nation.

<http://www.aradvocate.com/News119.html> - This site includes the article on the improper use of Physical Restraint and Seclusion in nursing homes in Louisiana.

http://groups.yahoo.com/group/RESTRAINT_INFO/ - This list serve is dedicated to discussion of issues relating to the use of Physical Restraint and Seclusion.

<http://users.1st.net/cibra/> - This site provides a national/international support network for parents whose children (including adult children) have been traumatized, injured or killed by abusive behavior modification and restraint.

<http://www.charlydmiller.com/ranewz.html> - A comprehensive directory of restraint techniques and restraint asphyxia information

<http://www.breggin.com/jcah.html> - Principals for the Elimination of Restraint. An ICSP Report prepared by Peter R. Breggin, MD, Director for the Joint Commission on Accreditation of Health Care Organizations

POSTION STATEMENTS & GUIDELINES

http://www.nami.org/Content/NavigationMenu/Inform_Yourself/About_Public_Policy/Policy_Research_Institute/seclusion_and_restraints.pdf - National Association of Mental Illness (NAMI) Policy Research Institute: Seclusion and Restraints

<http://www.autcom.org/restraints.html> - Autism National Committee position paper on the use of restraints

<http://www.aacap.org/publications/policy/Ps44.htm> - American Academy of Student and Adolescent Psychiatry Policy Statement on the Prevention and Management of Aggressive Behavior in Psychiatric Institutions with Special Reference to Seclusion and Physical Restraint and Seclusion.

FEDERAL REGULATIONS

- <http://www.hcfa.gov/quality/4b2.htm> - Centers for Medicare and Medicaid Services {formerly Health Care Financial Administration (HCFA)] Interpretative Guidelines for Hospital Conditions of Participation for Patients' Rights.

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ310.106 - Public Law 106-310, Children's Health Act of 2000 (Section 3207 and 3208) Restraint and seclusion requirements amend Title V of the Public Health Service Act (42 USC 290aa et seq.) by adding Section 591 and 595

<http://www.bazelon.org/issues/restraintandseclusion/randshandout.html> Overview of Public Law 106-310 provided by Judge David L. Bazelon Center for Mental Health Law

STATE STATUTES, REGULATIONS & POLICIES

<http://www.doe.mass.edu/lawsregs/603cmr46.html> - Massachusetts Department of Education regulations on the use of Physical Restraint and Seclusion in schools.

- <http://www.mdicbalto.org/legis2003.htm> - Maryland Disability Law Center Web Page

<http://marylandpublicschools.org/MSDE> - Maryland Department of Education Web Page and Regulations on the use of Physical Restraint and Seclusion in schools.

http://www.equipforequality.org/equalizer02_isbe.htm - Proposed Rules on Use of Restraint and Time Out in the Public Schools of Illinois.

<http://www.isbe.state.il.us> - Illinois State Department of Education Web Page and Regulations on the use of Physical Restraint and Seclusion in schools.

www.edb.utexas.edu/coe/depts/sped/sped.html - Texas Department of Special Education

www.aldine.k12.tx.us/pdfs/bpPDFs/BP5112.pdf - Discusses the use of confinement, restraint, seclusion and time out in accordance with the provisions of Texas Education Code (TEC), §37.0021

<http://www.cqc.state.ny.us> – Information on New York statute on use of emergency Physical Restraint and Seclusion in psychiatric facilities.

<http://www.gao.gov/archive/1999/he99176.pdf> - Restraint and Seclusion use field work in Delaware, Massachusetts, New York, and Pennsylvania

www.trumbullps.org/policies/JHD_PhysicalRes.pdf - How Public Schools prohibit the use of life-threatening physical restraints on a student.

<http://www.acsu.buffalo.edu/~drstall/restrain.html> - Schofield Residence, Kenmore, NY, Restraint Free Policy in Nursing Home

<http://www.worcestershire.gov.uk/home/edu-index/edu-doc-physical-restraint.htm> - Worcestershire County, United Kingdom Guidelines on the Use of Physical Restraint and Seclusion in Schools.

<http://education.qld.gov.au/corporate/doem/studemansm> - Queensland, Australia state policy on the use of Physical Restraint and Seclusions in schools.

STUDIES & REPORTS

<http://www.cqc.state.ny.us/pubvoice.htm> - New York Commission on Quality of Care study of Physical Restraint and Seclusion and seclusion practices in psychiatric facilities.

http://ici2.umn.edu/multistate/tip_sheets/physrest.htm - Question and answer fact sheet prepared by Institute on Community Integration, University of Minnesota.

<http://www.fda.gov/opacom/backgrounders/safeuse.html> - FDA fact sheet on use of Physical Restraint and Seclusion devices.

<http://www.contac.org/contaclibrary/seclusio10.htm> - Protecting Vulnerable Individuals Against Abuse

<http://www.wral.com/news/2152894/detail.html> - The debate over the growing debate over restraint and seclusion in schools

<http://safeschools.astate.edu/news/learning.htm> - Information and Training

<http://www.protectionandadvocacy.com> - Restraint and seclusion in public schools: legislation and legal claims, care providers regarding restraint and seclusion and other forms of abuse and neglect.

<http://www.peoplewho.net/documents/sandr.htm> - A National Call to Action: Eliminating the Use of Seclusion and Restraint.

<http://www.thearc.org/ga/restraints.htm> - The Arc of the United States Supports Legislation that protects all Children and Adults with Disabilities

www.drcnh.org/Issue%20Areas/abuseneglect.htm - The need for restraints in various settings, including public and private schools.

SECTION TEN

Addendum to the Student's Behavior Intervention Plan (BIP) and Sample Report Forms

ADDENDUM TO THE BEHAVIOR INTERVENTION PLAN FOR
 _____ (Student)
 THE APPLICATION OF RESTRAINT AND/OR SECLUSION

Restraint and/or seclusion refer to techniques used to control or suppress the movement of a student to ensure the safety of that student and any other people in the immediate area. The use of restraint and/or seclusion may be a necessary component of this student's Behavior Intervention Plan.

Listed below are options for the educational team to consider for use when all other deescalating behavioral techniques fail. Clearly check a box to indicate whether the intervention may be used or will not be used; for those interventions that may be used, specify the uses (note that mechanical restraints require a physician referral that should be attached to this document). All environments need to be considered when developing this plan.

| Will NOT be used | May be used | Crisis Intervention | Specify Type and Location School/Co-curricular Activities/Transportation |
|-------------------------------------|----------------------------|----------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Physical Restraint | _____ _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Mechanical Restraint | _____ _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Seclusion | _____ _____ |

List specific risk factors related to the use restraint and/or seclusion with this student (e.g. medical conditions, emotional, and/or physical factors, etc.):

School personnel applying restraint/seclusion are currently trained in their use:

Yes No

If yes, list the method(s) and date(s) of training.

If no, record the plan for training in use of restraints/seclusion.

If restraint and/or seclusion are used, a written report must be submitted within one day to school administration. The school principal or designee shall attempt to notify the parents as soon as possible but no later than the end of the day that restraint and/or seclusion was used. A written report also shall be mailed, E-mailed, or faxed to the parent within one day following the use of restraint and/or seclusion -- and a copy placed in the student's confidential file.

If more than _____ incidents of restraint and/or seclusion occur, the team will meet to reevaluate the Behavior Intervention Plan within _____ school days.

Sign: _____ Parent _____ LEA _____ Date _____

Sample: Restraint Report Form (to be completed *at time* of restraint)

| | | | |
|---|--|-----------------------|--|
| Student's Name: | | Date Of Report | |
| Location: | | | |
| Observation Log During Restraint | | | |
| Time: _____:_____ | | | |
| Injuries Or Property Damage Descriptions | | | |
| Names Of People Who Participated In Restraining Student | | | |
| Names Of People Monitoring Student During Restraint Or Seclusion | | | |
| Names of Other People who Observed Incident | | | |
| Name Of Personnel Assessing The Student's Mental Or Physical Condition | <input type="checkbox"/> _____ RN yes <input type="checkbox"/> No | | |
| Date of Parent/Legal Guardian Notified Of Incident | | | |

Sample: Restraint Report Form (to be completed immediately *after* use of physical restraint)

| | | | |
|---|--|----------------------------|--|
| Student's Name | | Date Of Report | |
| | | Date Of Incident | |
| Name Of Person Filing Report | | | |
| Time Incident Began | | Time Incident Ended | |
| Activity Of Student Prior To Incident | | | |
| Describe The Incident Involved | | | |
| Other Things Done To Manage (Or De-Escalate) Situation Prior To Restraining Or Secluding Student | | | |
| What Was The Danger To The Child Or Others | | | |
| Location Of The Restraint/Seclusion | | | |
| What Type Of Restraint Or Seclusion Was Used | | | |

SECTION ELEVEN

Project REST Development Committee

Project REST Development Committee

| | |
|----------------------------|---|
| Phil Blevins, RN | Carolina Autism Supported Living Services |
| Ken Boggs | Family Resource Center |
| Ron Brown, Ph.D. | Medical University of South Carolina |
| Monica Katsaris Butler | Dorchester School District Four |
| Charles Conant | Horry County School District |
| Tim Conroy | SC State Department of Education |
| Jeff Craver, Ph.D. | Berkeley County School District |
| Tim Daugherty, Ph.D., ABPP | Winthrop University |
| Erik Drasgow, Ph.D. | University of South Carolina |
| Debra Hanna | Charleston County School District |
| Jayne Holden, LMSW | Berkeley County School District |
| Kathy Kiniry | Dorchester School District Two |
| Amy Limehouse-Eager | Project REST Coordinator, Years 1 & 2 |
| Bev McCarty | Parent Training and Resource Center |
| Bonnie McCarty, Ph.D. | College of Charleston |
| Mike Paget | SC State Department of Education |
| Craig Stoxen | South Carolina Autism Society |
| Joyce Svensen | Project REST Coordinator, Year 3 |
| Mitchell Yell, Ph.D. | University of South Carolina |
| David Zoellner, JD | Attorney |

Project REST - Feedback Form for Manual

Thank you for your time. Please know that your professional opinions will help us improve the manual.

Name: _____

School _____

Position: _____

E-mail _____ Phone _____

May we acknowledge by name your contribution in future drafts of the manual? YES NO

In using the **Addendum to the BIP form**, I have found that it: **works well** **needs improvement**

Ideas for improvement (attach sheets as needed): _____

In using the **Recommendations for Documentation** and **Sample Restraint Report Forms**, I have found that they: **work well** **need improvement**

Ideas for improvement (attach sheets as needed): _____

Please provide comments on the following sections of the manual:

De-escalation & Physical Intervention Issues for SRO's

clear, accurate and thorough **needs improvement**

Comments & Ideas for improvement (attach sheets as needed): _____

Prohibited Uses of R&S

clear, accurate and thorough **needs improvement**

Comments & Ideas for improvement (attach sheets as needed): _____

Please provide any other comments and suggestions (attach sheets as needed): _____

Please return this form to: Family Resource Center - Project REST

2176 Savannah Hwy, Suite 105 - Charleston, SC 29414

(843) 876-1201 (FAX) – E-Mail: bevmccarty@frcdsn.org