



RESTRAINT & SECLUSION

The Reality in Kentucky's Schools.

Kentucky Protection & Advocacy and
The Commonwealth Council on Developmental Disabilities

“Physical Restraint”

is defined in the proposed regulation as “a **personal restriction that immobilizes or reduces the ability of a student to move the student’s torso, arms, legs, or head freely** but **does not mean temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location....does not mean less restrictive physical contact or redirection to promote student safety...**”

“Seclusion”

is defined in the proposed regulation as “the **involuntary confinement of a student alone in a room or area from which the student is prevented from leaving** but does not include classroom timeouts, supervised in-school detentions, or out-of-school suspensions.”



Lilly is a Kentucky child who received these injuries as the result of restraints done at her public school.

Why Are We So Concerned?

Restraint and seclusion can have terrible consequences. At worst, restraint and seclusion can cause serious injuries and even result in death. In May 2009, the Government Accountability Office reported on its investigation of the use of restraint & seclusion on children across the country. The GAO found “hundreds” of injuries attributed to the misuse of restraint and seclusion, and **documented at least 20 child deaths from the improper use of restraint and seclusion.** The Child Welfare League reported six to eight children die **every year** from restraint and seclusion related injuries.

Children are being harmed by restraint and seclusion practices in Kentucky schools.

While there are no known deaths of children in Kentucky due to restraint or seclusion, these practices are hurting Kentucky’s children. Over the past 5 years, Kentucky Protection & Advocacy has received over 100 complaints regarding the use of restraint and seclusion in public schools in 63 Kentucky counties. P&A has investigated more than 80 cases of injuries allegedly caused by restraints performed on children in our public schools.

The data show that restraint & seclusion are not effective ways of changing behavior. While restraint & seclusion may be effective at stopping someone from getting hurt when a child’s behavior raises a real risk of physical harm, a growing body of research shows that they do not change future behavior. **Data show that positive behavior supports are highly effective at changing behavior.**

Currently, Kentucky has NO statewide regulations dealing with the use of restraint & seclusion in our public schools, NO reporting or parent notification requirement, and NO staff training requirements. The lack of regulation of restraint and seclusion leaves Kentucky children vulnerable to the misuse and abuse of these interventions and at risk for continued injuries and even death.



Angellika died during a restraint in Wisconsin in 2006. The 7-year-old was being restrained for blowing bubbles in her milk and not following time-out rules.

No Voice

Inside this magazine, we introduce you to children in Kentucky who have been hurt as a result of restraint and seclusion. According to The Child Welfare League, 69% of children restrained and secluded have an identified disability. Even more alarming is the fact that an estimated 60% of those children cannot speak. We have also received reports from parents and teachers who are afraid to speak out about their experience with restraint and seclusion because they are afraid of the consequences for their children or their jobs. **Kentucky does not have any notice or reporting requirements, so we cannot know how many children continue to struggle in silence.** These few stories represent the many who have no voice.

Kentucky kids: Jenna*, Scott County

When Jenna's mom dropped by her daughter's school in the fall of 2012, she learned that her 9 year old daughter was in the seclusion room. "I asked, What happened? What did she do?" says her mom. "And they told me, 'Oh, she didn't do anything. We were going to make some cookies and normally she doesn't do well with that type of activity.'"

Jenna's mom doesn't know how often her daughter is sent to seclusion. She gets reports whenever Jenna is restrained, but she is not notified about seclusion. Staff told her they refer to the padded seclusion room as "Jenna's Room".

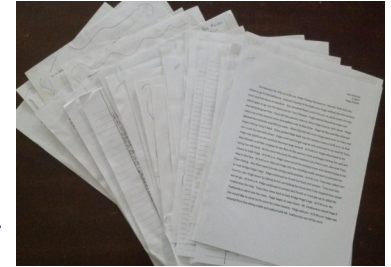
Things are better for Jenna than they were back in the spring of 2011. That's when **she was being restrained as often as three times a week. Jenna's mom went to the school staff and gave them ideas on how to prevent the need for restraint.** "I suggested they give her two appropriate choices and they were amazed – they said it works like magic." **During the first two months of school in 2012, Jenna was only restrained once.**

Unfortunately, Jenna's troubles aren't over. Since she started being restrained and secluded in first grade, her mother has noticed that Jenna's self-injurious behaviors have gotten much worse – behaviors like biting her own arm or scratching her skin until it bleeds.

Reflecting on Jenna's story, her mother says, "I understand what teachers go through and I want to support them...but my thing is, they took the easy route. It seemed to be easier to restrain her than it was to learn her actions and her needs, because a lot of this could have been avoided."



Jenna began scratching herself during the spring of 2011, when her restrains were at their peak.



Reports documenting restraints on Jenna over a 4-month period.

Kentucky kids: Adam, Pulaski County



Bruising on Adam's face, documented after restraint.

Adam, who is known as "a big old teddy bear", is very limited in his verbal communication. Adam has been restrained 4 times in his life. The 4th and final time, something went very wrong.

That afternoon, the school called Adam's mother to tell her he had been restrained. When Adam's mother arrived, she reports, **"The teacher said, we held his arms. I said, then why does his face look like that? She said, I don't know."** The school nurse diagnosed the injuries on Adam's face as petechia due to hemorrhaging. Adam's behavior therapist disagreed, and described it as deep tissue bruising.

As Adam's family pieced together the day's events, they learned that school documentation shows that **Adam displayed signs of agitation all day. He was stomping his feet, making a strange sound and being rough with classroom objects. Despite Adam's signs of distress, teachers and aides did not intervene or address his behavior.**

An aide took Adam from the self-contained classroom where he spent most of the day into a regular classroom for his elective, where Adam began biting his own hand. As soon as Adam and the aide returned to the self-contained classroom, Adam headed for the back of the room and began hitting his head against the wall and biting himself while flailing, screaming and crying. Sometime during Adam's meltdown, staff restrained him. While his parents believe the worst of his injuries were self-inflicted prior to the restraint, this was unclear based on staff accounts.

The use of restraint is not what upsets Adam's parents. They are upset that his distressed behavior went unaddressed for so long, and that it resulted in their son getting hurt. Adam has not been restrained again since that day.

“Five men took him to the floor multiple times. He learned that brute force was the way to deal with problems.”---Mother of Zachary*, former Oldham County student



Kentucky kids: Will, Kenton County

Will's first experience with school was with a teacher who later told his parents she was trying to “fix” their son. **Will was secluded in a closet in the preschool room when he was unable to put his things away fast enough.** While Will was never physically aggressive, at various times school staff attempted to modify Will's behavior by **denying him food, pinching his fingers, pulling his hair, and restraining him to keep him still.** These behavior modifications were never authorized by Will's parents, and because Will had not yet begun to speak, he could not tell anyone what was happening.

Nobody told his parents that their son was being restrained or secluded during this two-and-a-half-year period, until Will began to talk and told them himself. Once his parents started asking questions, various school staff members confirmed Will's accounts.

Will's parents strongly believe that some of the behavioral changes they noticed in their son during this time – hours of crying, withdrawal, nightmares and severe anxiety – are due to those restraints, seclusions and aversive punishments.

While Will was a student in public preschool, his punishments included restraint & seclusion.

Kentucky kids: Eddie**

Fourteen-year-old Eddie was a **favorite target of bullies** and often struggled to get through the school day. While he reported the bullying to his teachers and his mother repeatedly asked the school for help, the bullying continued. Eddie was never physically aggressive, but he began to lash out verbally, threatening his peers.

In response to Eddie's verbal outbursts, school staff secluded him in a converted broom closet with the door shut. At one point, the closet was his “classroom”. **Except for lunch and other non-class periods, he spent all day in the closet.** Eddie's mother repeatedly asked the school to evaluate Eddie for Special Education Services, but the school denied her requests.

Eddie began to have anxiety attacks, particularly when he was shut in the closet. He began to vomit in the closet. School staff did agree to leave the door cracked, but also put a video camera in the closet because they believed that Eddie was forcing himself to vomit to get out of his closet.

P&A became involved and the district agreed that an evaluation was appropriate. The school psychologist started her evaluation that same day. Several weeks later, however, the district called to inform P&A that Eddie's mother had changed her mind and no longer wanted additional services for Eddie. P&A tried to contact Eddie's mother to see what had happened, but was unable to get in touch with his mother for an explanation or for further updates.

Kentucky kids: Lily, Pike County

In May 2011, Lily's mother was giving her 6-year-old daughter a bath when she discovered bruising on Lily's back. Lily, who is unable to speak, could not tell her mother what happened. **Lily's mother discovered that her daughter was being restrained at school by being strapped into a chair. Before she found the injuries, Lily's mother didn't know Lily was being restrained at school.**

Lily was injured during a restraint in a Rifton chair—an orthopedic device that is supposed to be used for therapeutic reasons, not for restraints or behavioral intervention. **After an investigation by Kentucky Protection & Advocacy, the school staff member who was using the chair to restrain Lily was fired.**

In January 2012, Lily's mother discovered even more extensive bruising on Lily's back. School staff denied that she had been restrained and gave no explanation for Lily's new injuries. While Lily's mother believes that restraint did, again, injure her daughter, she decided to not pursue an investigation because she was concerned that an investigation would have negative consequences for her daughter.



May 2011



January 2012

*child's name has been changed to protect his or her identity; **child's name has been changed & county withheld to protect his identity

Positive Behavior Interventions and Supports (PBIS)

PBIS is not a specific curriculum, intervention, or practice, but is a framework for selecting and implementing evidence-based academic and behavioral practices. **The PBIS approach is to use pro-active, research-based strategies to teach clearly defined behavioral expectations.** The goal of PBIS is to create a more positive, safe, and supportive learning environment for both staff and students.

Over 30 years of research on PBIS shows that a positive and predictable school environment **reduces discipline problems and improves academic performance among all students.** Schools that implement PBIS with fidelity show a gain in instructional time, reduction in out of school suspensions and discipline referrals, and a decrease in referrals to Special Education.

Since 2001, the Kentucky Center for Instructional Discipline (KCID) has been training schools and districts how to implement PBS with fidelity. **KCID's trainings are offered at no cost to the districts** beyond substitute teachers and mileage costs.

The Centennial School: A Success Story

The Centennial School, located in Bethlehem, Pennsylvania, is an alternative school for children age 6 to 21. **Its approximately 100 students are referred from the surrounding 40 public school districts—including residential facilities and hospitals.** Students have a wide range of learning difficulties, but have in common the fact that they are within the top 1% of chronic and severe behavioral problems.

During the 1997-98 school year, the Centennial School's 76 students were restrained 1,064 times. Seclusion rooms were occupied continually during the school day. There were high rates of police involvement, suspensions, and emergency hospitalizations. Vandalism and property damage were common occurrences. There were 31 assaults against teachers. Restraint and seclusion were accepted as necessary and inevitable.

Then, **new leadership led an initiative to replace restraint and seclusion with positive behavioral interventions.** **In the first year of implementation, restraints were reduced by 69% and seclusion time by 77%.** One seclusion room was converted to a supply closet at mid-year and the second was converted to a school store at year's end. By the second year of efforts, there were virtually no restraints.

In the last 13 years, the Centennial School has changed its school culture and its expectations of its students and teachers. Students are no longer viewed as problem students incapable or unwilling to change their behavior. Interventions are implemented on a school-wide and individual basis. **Last year, there were 3 restraints—all brief standing holds lasting less than one minute. The seclusion rooms have remained closed.** Most significantly, academic outcomes for students have improved.

The Centennial School stands as evidence that restraint and seclusion can be virtually eliminated in schools—even for kids considered to be the "worst of the worst." It is our attitudes, as adults, that drive our interactions and our interventions. While the institutional culture promotes the use of restraint and seclusion, they will continue to be seen as necessary. When the culture changes, outcomes, behaviors, and lives change.



A staff member works with Centennial Students. Centennial has dramatically reduced restraints & seclusions, from over a thousand in 1997-98 to just 3 last year.

Kentucky Success Story: Marion County



In the fall of 2011, schools in Marion County, Kentucky officially began operating under a policy that's very similar to 704 KAR 7:160. **Under the Marion County policy, restraints are to be used only when a student's behavior "poses an imminent, serious physical harm" to themselves or others.** Restraint cannot be used as a punishment or in response to the destruction of property, the disruption of order, or a student's refusal to comply. Staff are trained in multiple restraint techniques, but no prone or supine restraints are taught.

Is the policy working? **"It works for us,"** says Debbie Spalding, who just retired in September 2012 after twelve years as the county's Director of Special Education. During its first year on the books, staff did not report any difficulties in handling student behavior due to the new policy, and Spalding says she's not aware of any negative reactions to the policy on the part of staff, students or parents.

Principal Benji Mattingly, who is the district's head restraint & seclusion trainer, agrees that the policy is working well for Marion County Schools and says the key is being pro-active: "A lot of it is good classroom management and de-escalation skills cutting back the number of restraints." Both Mattingly and Spalding note it is possible to train staff for a reasonable cost. **In Marion County, 20 staff were trained in restraint and seclusion techniques for a total of \$5,000.**

Summing it up, Spalding says, "We have to be looking at what's the purpose behind behavior, so that we can address that and not just react. **Up front it's a time investment. But if we nip it in the bud, we're not spending the whole school year dealing with this.** Once you address behavior it's less of a problem...over that year and the coming school years. **If we address behavior we have a much more independent, happy child who requires much less staff time.**"

If restraint & seclusion continue to be used in school settings, schools could benefit from the lessons learned from the mental health and child welfare systems' experience ...Those lessons learned include recognizing that restraint & seclusion are high-risk procedures that have the potential to cause severe physical injury, death, and emotional trauma; have little to no therapeutic effect ; can be counter-therapeutic when children are removed from a therapeutic or learning environment; and can be greatly reduced, if not eliminated, in other child-serving settings.

- Dr. Janice LeBel et al, *American Journal of Orthopsychiatry*, 2012

The State of Restraint and Seclusion Laws Nationally

Federal law protects children from the abusive use of restraint and seclusion in mental health facilities, but currently there is no similar federal law protecting children from the same abuses in public schools. With no federal law to protect America's 55 million school children, regulation of the use of these dangerous—and potentially deadly—interventions has been left to the states with varying results.

- ⇒ In 2009, only 22 states regulated the use of restraint or seclusion in public schools by statute, regulation, or Executive Order. Today, 30 states limit the use of restraint and seclusion in public schools.
- ⇒ Kentucky is one of 12 states with guidelines regarding the use of restraint and seclusion. These guidelines lack the force of law and may be disregarded.
- ⇒ Use of restraint and seclusion is limited to those emergencies involving an immediate risk of physical harm or serious physical harm in 16 states.
- ⇒ Seclusion is defined by 33 states as a room a child cannot exit (i.e. door is either locked or blocked). All seclusion is banned in four states. Eight states allow seclusion only to prevent immediate threat of physical harm.
- ⇒ In 18 states, less intrusive methods must be tried and fail or be deemed ineffective before restraint or seclusion can be used.
- ⇒ Restraint or seclusion must be immediately stopped as soon as the emergency ends in 17 states.
- ⇒ Restraints that impair breathing are prohibited in 18 states; mechanical restraints are banned in 16 states; and chemical restraints are banned in 11 states.
- ⇒ Parents must be notified of restraint or seclusion on the same day or within 24 hours in 20 states.
- ⇒ 26 states have no legal requirement to tell parents a child was restrained/secluded.

Today, 30 states regulate the use of restraint or seclusion in public schools by statute, regulation, or Executive Order.

Butler, Jessica, *How Safe is the Schoolhouse?*, April 15, 2012, Jessica@jnba.net

“As education leaders, our first responsibility must be to ensure that schools **foster learning in a safe and healthy environment for all our children, teachers, and staff**. To support schools in fulfilling that responsibility, the U.S. Department of Education has developed . . . 15 principles for States, school districts, schools, parents, and other stakeholders to consider when developing or revising policies and procedures on the use of restraint and seclusion. These principles stress that **every effort should be made to prevent the need for the use of restraint and seclusion** and that any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse. The principles make clear that **restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff**. The goal in presenting these principles is to help ensure that all schools and learning environments are safe for all children and adults.”

U.S. Department of Education Secretary Arne Duncan, May 15, 2012

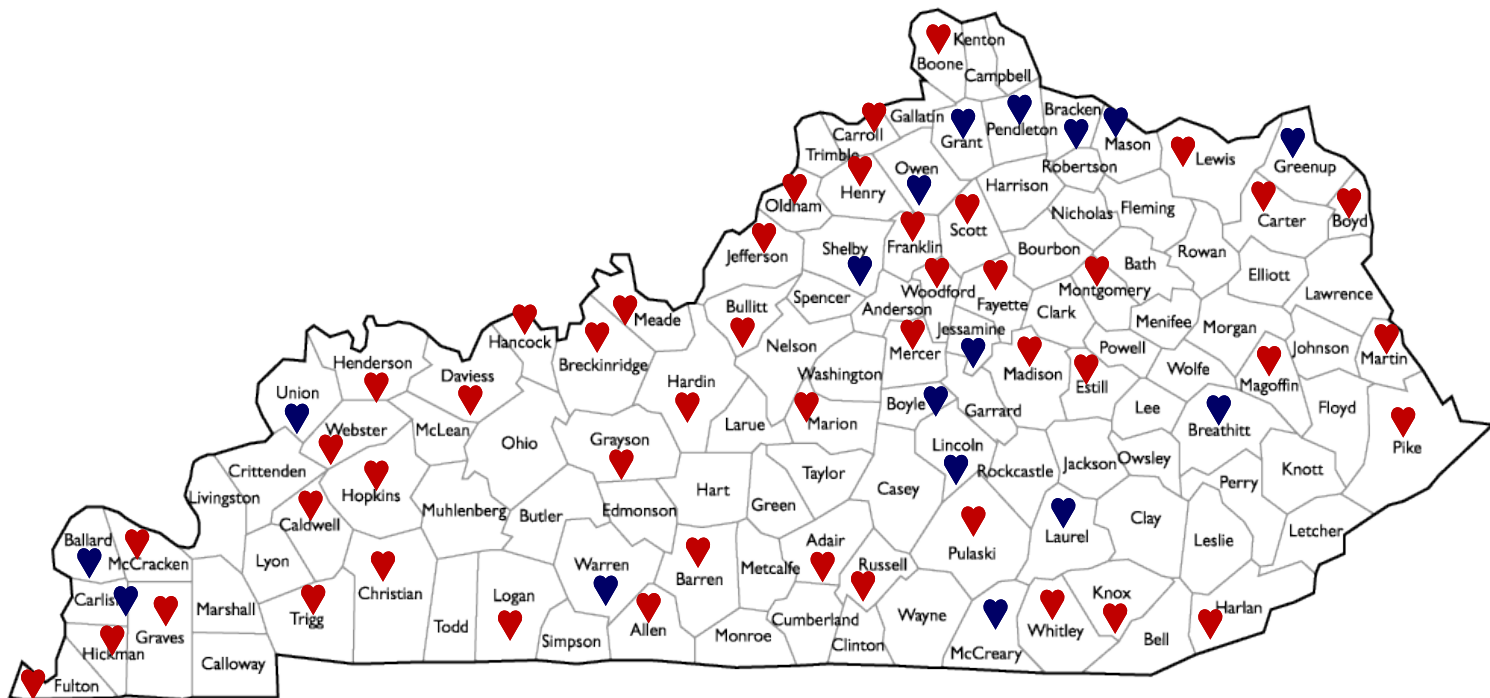


704 KAR 7:160: What Will it Do?

Kentucky Protection & Advocacy and the Commonwealth Council on Developmental Disabilities believe **704 KAR 7:160 will enhance school safety for both students and staff by limiting the use of restraint and seclusion, educating teachers on how to safely conduct restraints when absolutely necessary, and educating teachers on more effective ways to improve student behavior.**

Highlights from 704 KAR 7:160:

- **“Physical Restraint”** defined as “a personal restriction that immobilizes or reduces the ability of a student to move the student’s torso, arms, legs, or head freely, but **does not mean temporary touching or holding** of the hand, wrist, arm, shoulder, or back for the purpose of encouraging a student to move voluntarily to a safe location; does not mean behavioral interventions, such as proximity control or verbal soothing, used as a response to calm and comfort an upset student; **does not mean less restrictive physical contact or redirection to promote student safety**; and does not mean physical guidance or prompting when teaching a skill or when redirecting the student’s attention.”
- The regulation does not prevent teachers from breaking up fights or prohibit teachers from intervening and addressing negative or challenging behaviors. It does not require teachers to sit back and watch when students destroy property.
- School personnel cannot use at any time: mechanical restraint, chemical restraint, aversive behavioral interventions, physical restraint that is life-threatening, prone or supine restraint, or physical restraint that is prohibited by licensed medical professional.
- **Standing, sitting and kneeling restraints are permitted.**
- **Physical restraint may ONLY be used if student’s behavior poses imminent danger of serious physical harm to self or others.**
- Each use of restraint or seclusion will be documented via written record and parents shall be notified.
- All school personnel shall be trained to use an array of positive behavior supports and interventions to increase appropriate student behavior, decrease inappropriate & dangerous behavior, and respond to dangerous behavior. This training may be web-based.
- In each district, a core team of personnel shall be designated to respond to dangerous behavior & implement restraint. Members of this core team will receive annual training.
- School personnel who perform restraints should be trained members of the core team, except in cases of clear emergency.
- The regulation recognizes restraint and seclusion as largely preventable and potentially injurious emergency interventions that are appropriate only in those instances where the risk of psychological and/or physical harm presented by restraint or seclusion is outweighed by the risk of physical injury posed by the child’s behavior.



Restraint and Seclusion Hurts Kentucky's Children

Restraint and seclusion were first brought to national attention in January 2009, when P&A's parent organization, the National Disability Rights Network, released a report on the abuse and misuse of restraint and seclusion in national schools entitled "School Is Not Supposed To Hurt." The Government Accountability Office released its own report, which also **documented hundreds of allegations of injury and at least 20 deaths due to restraint and seclusion techniques currently permitted in Kentucky schools.**

Kentucky has not had a reported death of a child in a school due to the use of restraint or seclusion, but **this is very much a Kentucky problem. In the last five years, P&A has investigated more than 80 allegations of the abuse or misuse of restraint and seclusion in over 45 Kentucky counties.**

On the map above, the **red hearts** represent those counties **where P&A has investigated allegations of the abuse or misuse of restraint or seclusion.** The **blue hearts** represent **counties in which a parent or teacher has reported an allegation of the abuse or misuse of restraint and seclusion, but where P&A has not investigated those allegations. In many instances, we have received multiple allegations arising out of single counties.**

During the course of those investigations, districts have responded to concerns about the appropriateness of those restraints by noting that Kentucky has no regulation regarding the use of restraint and seclusion. 704 KAR 7:160 would ensure a best-practices-based standard of safety for Kentucky children and teachers when it comes to restraint and seclusion.



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