

Testimony for LR 314 - September 8, 2015

Reece L. Peterson, Professor of Special Education, University of Nebraska-Lincoln

I am a Professor of Special Education at the University of Nebraska-Lincoln. My professional experiences include the preparation of teachers to work with students with emotional, mental health or behavioral needs, and teaching courses related to student behavior, administration and policy. For more than ten years, I have conducted research and policy analysis on the use of physical restraint and seclusion in schools. I have published several research articles on this topic, and testified before the US House of Representatives hearing in 2009 on a bill proposed on this topic. In 2013, I co-edited a book, *Physical Restraint and Seclusion in Schools*. I am currently working on a research project which examines the content of vendor's training programs provided to schools and other agencies related to physical restraint and seclusion.

It is my understanding that Legislative Resolution 314 includes but is not limited to the following four issues. I will try to respond to each of these, and then provide some general comments related to restraint and seclusion in schools.

Topics from LR 314

“(1) Existing regulatory and statutory mechanisms that allow or circumscribe the use of restraint or seclusion in Nebraska schools;

Nebraska currently has no statute which regulates the use of restraint or seclusion in school settings. Nebraska Department of Education's Rule 10 requires that a school district have in place policies and procedures on this topic in order to be fully accredited. However, the provisions of Rule 10 do not include any specific requirements for the policies and procedures.

There is a technical assistance document which I authored to provide guidance to districts in Nebraska as they developed these district policies and procedures. That document is available on the NDE website at: http://www.education.ne.gov/documents/Restraint-Seclusion_final_guidance_document_6-22-10.pdf.

There is currently no federal law regulating restraint or seclusion in schools, although bills on this topic have been introduced consistently in both the U.S. Senate and House since 2009. Since that time many other states have enacted legislation and/or regulation on these topics.

(2) Data collection techniques used by schools to report incidences of the use of restraint or seclusion, to whom incidences are reported, and how those reports are catalogued;

There are no requirements in Nebraska for collection of data related to physical restraint or seclusion in schools. While it would be good practice to gather, maintain and use such data for decision making, there are no standard protocols or mechanisms for doing so.

(3) The incidence of the use of restraint or seclusion in Nebraska schools and the extent and duration of the restraint or seclusion used on students, especially those with disabilities; and

As a result, it is impossible to know the incidence of the use of physical restraint or seclusion procedures in Nebraska schools. Nevertheless, it is likely that they are employed regularly in schools, with any use being too frequent.

(4) Nebraska school policies and procedures on the use of restraint or seclusion, including, but not limited to, when these practices are prescribed and for what purpose, the school staff

authorized to use them, the training school staff receive regarding the use of these techniques, and the extent to which parents or legal guardians are notified when such techniques are used.”

At this point there is no examination of the content of school policies or procedures in Nebraska on this topic.

General Comments

Death or injury of students while being restrained or secluded is the primary impetus for the federal legislation which has been proposed and the legislation in other states which has been enacted. When deaths and injuries have occurred they have garnered extensive media coverage and community scrutiny. Fortunately, there have been none of these incidents recently in Nebraska (to my knowledge). However there is possibility that an incident resulting in death or injury could occur at any time.

While Nebraska has had excellent schools, and may not yet have had serious incidents reported to the media, its schools face the same challenges as other areas of the country in appropriately serving students with serious mental health and behavioral needs. Students with such needs are being served in all of Nebraska’s schools, and it is generally recognized that mental health services are insufficient or unavailable in many of our communities to serve children with these needs. As a result, it is likely that the need for the use of physical restraint for out-of-control or dangerous behaviors in school will continue, and it could arguably increase.

Many of the horrible incidents that have been reported nationally have been situations which I believe could have been avoided with appropriate training or oversight. Many others have been situations where the adults were clearly abusive, totally lacking in understanding of the dangers of their actions, and without adequate supervision. Good professional practice suggests that these procedures should only be used if the student’s behavior poses an imminent risk of injury to the student or others. Thoughtful, well trained educators need to weigh the risks of intervening with these procedures compared to the risks of not intervening when the student’s behavior poses danger to someone else.

As a result, I would support appropriate legislation on this topic in Nebraska. Legislation is useful to insure that policies and procedures in the schools are consistent with best practice and to minimize the risks for students as well as adults. Such legislation should:

- Define physical restraint and seclusion,
- Identify restraint and seclusion as emergency procedures used only when there is imminent risk of injury to someone;
- Require appropriate training to educators;
- Mandate documentation, debriefing and reporting to parents when incidents occur
- Insure procedures within the schools to provide useful oversight and supervision; and
- Mandate reporting of data on these incidents to an outside agency charged with oversight and empowered to intervene and assist schools when these procedures are inappropriately used or used too frequently.

Such legislation would make the use of these procedures more safe, consistent and transparent.

Sincerely,

Reece L. Peterson

