

# School District Policies on Restraint and Seclusion

## A Study of Nebraska School District Policies on Physical Restraint and Seclusion

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This study report will provide information about whether Nebraska school districts have policies in place to regulate the use of physical restraint and seclusion procedures within their schools. If policies exist, it will determine the level of detail provided and whether they comply with federal guidance.

### Physical Restraint

#### What is physical restraint?

“Physical restraint” entails one or more persons using their bodies to restrict the movement of another person. In this document, it will be simply called “restraint”. Other types of restraint include “mechanical restraint” when objects are used to restrict a person’s movement, and “chemical restraint” when medications are used to restrict a person’s behavior.

Most educators agree that mechanical restraints should not be used in schools to control student behavior, but that these restraints should be distinguished from the devices which students with physical disabilities may use for physical support to permit participation in school. Also the use of restraints in transportation of students (seat belts) are appropriate for safety. The use of all medications, including those intended for controlling behavior, is a decision determined by parents and physicians, not the school. (See Peterson, et al., 2013).

#### When might physical restraint be appropriate?

Physical restraint is viewed as an appropriate “last resort” option and should only be used when a student poses a danger of seriously injuring someone, including themselves. Assessing the risk of injury when a student displays out-of-control behavior should be judged based on knowledge of the student and the student’s history. Restraint is not appropriate for a student when only property is at risk for damage. It is not appropriate when a student is non-compliant, disruptive, confrontational, or verbally aggressive unless there is also substantial risk of immediate physical injury to someone. It should not be used as a consequence for inappropriate behavior or as a behavior change procedure (Council for Children with Behavior Disorders, 2009 a and b).



## **What programming principles should be in place?**

In order to minimize risk of injury in using these procedures, only adults who have received training in the appropriate use of these procedures should employ them with students. Staff members should be trained in how to de-escalate angry or aggressive behavior, and should employ a variety of strategies to prevent or minimize the need for their use (e.g. Positive Behavior Interventions and Supports). When used, restraint and seclusion should be employed with the least amount of force necessary, and for only the period in which student behavior poses a threat of serious injury.

## **Seclusion**

### **What is Seclusion?**

Seclusion occurs when someone is placed in a room or location where they are alone and prevented from leaving that location. Seclusion should be distinguished from variations of “time out” –such as time out from positive reinforcement where the student is not isolated or prevented from leaving but may be removed from the instructional environment. As with restraint, seclusion may have a variety of names. Regardless of what the procedure is called, seclusion occurs when the student is separated from other students and is alone and prevented from leaving.



### **When might seclusion be appropriate?**

As with physical restraint, seclusion is also a “last resort” option and should only be used when a student poses an immediate threat of seriously hurting someone. As a result it should be used rarely, and only in situations where there is danger of injury to someone if it were not employed. It is not a behavior change procedure, and has been used inappropriately as a punishment. A number of experts have indicated that they do not feel that seclusion is ever appropriate in school settings.

### **If employed, what supervision and environments are needed for seclusion?**

A student who is secluded should be continuously monitored visually and orally for potential self-harm. The environment must be as safe as possible. All potentially dangerous items, such as electrical outlets and fixtures, pipes and heating ducts, windows or other breakable items, and any other items which might pose a risk to a student should be removed, covered, or secured to prevent tampering. The area must have adequate lighting, ventilation, and temperature control.

As soon as the student no longer poses a danger of hurting someone, the seclusion should be ended. As with physical restraint, educators using this procedure should be trained in its use, and be able to employ prevention and conflict de-escalation procedures which might minimize the need for seclusion.

### **Principles which should be in policies on physical restraint and seclusion.**

The U.S. Department of Education has a resource document (2012) which identifies principles for the use of these procedures, and these principles should be included in district policies.

## **Why Are These Procedures Controversial?**

### **Why do these procedures cause concern and controversy?**

The use of physical restraint and seclusion can be dangerous- both for the student being restrained or secluded, and for staff members involved. Students have died as a direct result of being physically restrained, and some students in seclusion have attempted or died by suicide. More frequently, students and staff are injured while engaging in these procedures, sometimes very seriously. Additionally, these procedures can cause psychological injury, especially increasing the potential for re-traumatization of students. Many believe that these procedures are overused, and they lack evidence that they are effective in preventing injury.

Untrained or inadequately supervised staff have also inappropriately employed these procedures, or have used them as punishments for inappropriate behavior. Incidents have been documented where unsupervised staff employed these procedures in an abusive fashion creating physical and emotional trauma. (e.g., Abamu & Manning, 2019; Eldreib, 2016; Samuels, 2017; Kentucky Protection and Advocacy, 2016; Scheuerman et. al., 2015).

### **If dangerous, why are they permitted?**

Many policy makers, professional and advocacy organizations, and educators reluctantly accept that physical restraint procedures may be necessary when student behavior is so out of control that it is likely to result in serious injury to that student or others. In that situation, the risks of using these procedures should be weighed against the risks of not employing them, and the procedures only employed when doing so lessens the overall risk of injury.

Some advocacy organizations, and experts believe however that the risk of death and injury or other negative outcomes as a result of the use of restraint or seclusion outweighs the perceived benefits of using these procedures. They recommend against their use at all in schools. They suggest that appropriate preventative measures, combined with effective behavior intervention, and conflict de-escalation procedures can eliminate the need for these procedures (e.g., The Keeping All Students Safe Act of 2019; George, 2018).

## **Why are policies and procedures on these topics important?**

Having clear policies stipulating required training, correct procedures and appropriate circumstances for use of restraint and seclusion is one way to minimize the risks of deaths or injuries, and psychological trauma. At both the federal and state levels, policy makers including the U.S. secretary of Education (Duncan, 2006) as well as many advocacy organizations have called on all states and school districts to have policies on these topics in order to make these procedures as safe as possible. Although studies of state policies have occurred (Marx & Baker, 2017), and efforts have been made to analyze local data (Gagnon, Mattingly & Connelly, 2017), no studies to date have examine the contents of local school district policies. A federal guidance documents, however, has identified the principles which should be included in state and district policies in order to improve safe use of these procedures (U.S. Department of Education, 2012).

## **The Nebraska Study of District Policies**

### **Policy in Nebraska**

Nebraska is one of about 17 states which does not have a state-wide policy on the use of physical restraint or seclusion in schools (Butler, 2017). As a result, Nebraska relies on local school districts to have both policies and procedures on these topics in place. Nebraska's Chapter 10 (2019) of its administrative code for accreditation requires districts to have policies on this topic, but provides no specific guidance regarding content. The Nebraska Department of Education has encouraged local school districts to have such policies, and a technical assistance document was created to assist districts in developing these policies (Peterson, 2010). Additionally, in recent Nebraska legislative sessions, bills have been introduced which have addressed the use of physical restraint or seclusion in schools.

*Tier 2 & 3 Intervention*



### **What is the purpose of this study?**

This study will provide information which may be useful to assist school boards, school administrators, school attorneys, and the Nebraska Department of Education in developing and improving state and local policies on these topics.

### **What are the research objectives?**

This study has been designed to answer these questions:

- Are local school district policies in place on these topics in Nebraska?
- Do these policies include principles which reflect good practice and address federal guidelines for content of policies on physical restraint and seclusion?
- Are there differences in the district policies across districts of differing enrollment sizes?

## **Procedures for the Study**

### **How was the study conducted?**

The study was conducted by the staff of the Student Engagement Project at the University of Nebraska-Lincoln, Department of Special Education and Communication Disorders which received support from the Special Education Office at the Nebraska Department of Education.

### **How was the sample of school districts identified?**

Since it was not practical to study policies of all of the 244 Nebraska school districts, a sampling procedure was developed. A sample of 90 school districts were selected for this study representing 37% of the 244 school districts in Nebraska. The study sample identified three sets of Nebraska public school districts based on their enrollment as indicated by Nebraska Department of Education records for 2016-2017 school year. The thirty largest school districts by enrollment were identified (enrollment in these districts ranged from 1,465-52,344 students), as well as the thirty smallest enrollment districts (enrollment these districts ranged from 51-175 students). In addition the thirty districts with enrollment closest to the mean of all districts' enrollment (statewide mean enrollment of 453 students) were included. This group included the fifteen districts with enrollments immediate above the mean, and the fifteen districts immediately below the mean. The enrollment of this group was from 411 to 529 students. These 90 districts made up the sample for the study.

### **Obtaining Copies of Policies**

During the 2017-2018 school year project staff first attempted to locate district websites for each of the 90 districts in the sample. When the districts websites were located, each was searched to determine if the school districts had posted a policy addressing physical restraint or seclusion. If found, these policies were downloaded and archived for analysis by project staff. If district policies were not found, the district special education director, superintendent or other district administrators were contacted for help in obtaining copies of policies. In some cases, Educational Service Unit (ESU) special education directors also assisted in this process. Policies for 85 Nebraska districts in the sample of 90 were obtained. Three districts did not respond to project inquiries, and their policies, if they existed, were not obtained and were not included in the study. Two additional districts indicated that they did not presently have policies on this topic. The identified policies represented the data for this study.

### **Determining Whether Policies Are Complete?**

In order to determine the comprehensiveness or thoroughness of the content of policies, the project staff employed the 2012 U.S. Department of Education's recommendations for principles which should be included in state and local policies. According to the U.S. Department of Education, these principles reflect good practice and the safest possible use of restraint and seclusion procedures. In order to maintain clear reference to the U.S. Department of Education recommendations, the numbering of principles in the federal document was used in this study.

Three of these federal recommendations were not included in the present study analysis since these were broad recommendations which could be included within overall district policies, but were not likely to be specifically addressed within school district policies on physical restraint or seclusion. These included #4 (policy applies to all children), #5 (right to be treated with dignity) and #14 (policies reviewed regularly). We did not attempt to locate these within overall district policies.

Additionally, four of the U.S. Department of Education recommendations were each split into two more specific policy components. Those split included two important content topics within those principles, permitting us to track both topics within the principle. In order to track more detail related to those principles, those that were split maintained the original number but were labeled with an A and B to show how that principle was split.

As a result this study identified sixteen policy principles based on the federal principles while maintaining the federal numbering. See Table 1 for a detailed description of each of the of policy principles evaluated in this study along with a more detailed explanation of the policy principle.

**Table 1.** *US Department of Education (DOE) Policy Principles and Definitions*

<b>Guiding Principle</b>	<b>Definition for policy review</b>
1A.Focus on Prevention	Policy explicitly states every effort should be made to prevent the need for the use of restraint and seclusion. May include explanation of how prevention of behavior problems will occur, how conflict should be de-escalated, and what appropriate alternatives to restraint and seclusion (e.g., PBIS) staff will be trained on and implement in order to diminish the need for employing physical restraint or seclusion.
1B. Positive Behavioral Strategies Identified	Policy explicitly states that positive behavioral strategies should be employed to prevent and/or address dangerous behavior, and could include positive reinforcement, positive behavior supports, or other preventative interventions.
2A. Mechanical Restraint	Policy explicitly states if, and when the use of mechanical restraints is permitted.
2B. Medical Restraint	Policy explicitly states if, and when the use of medical restraints is permitted.
3A. Situations for Permitted or Warranted Use Identified	Policy explicitly states when the use of restraint and seclusion is permitted or warranted such as when danger is present, in the event of property damage, when a student’s behavior disrupts the learning of other students in the area, when written into a student’s IEP, etc.
3B. Emergency Procedures Only Permitted for Imminent Danger of Injury	Policy explicitly states that restraint and seclusion are emergency procedures only to be used when a student’s behavior presents imminent risk of serious injury to self or others and does not include any other situations for use, such as those under “Permitted or Warranted Use”.

**Table 1. (Continued)** *US Department of Education (DOE) Policy Principles and Definitions*

6. Restriction of Use for Purposes of Discipline and Coercion	Policy explicitly states when the use of physical restraint and seclusion is not allowed; prohibited purposes for using restraint and seclusion such as for purposes of discipline, punishment, coercion, or as a means of convenience.
7. Restriction of Use so as to Not Harm Child	Policy explicitly states that there are specific restraint holds and restraint and seclusion procedures that are prohibited to ensure the safety of students such as prone restraints or when students have certain mental health or medical conditions.
8. Supervision, Oversight and Review	Policy explicitly states accurate records will be kept for each incident of restraint and seclusion and also states who will be responsible for collecting and keeping the records, how oversight will be provided, and/or how problems will be monitored and addressed.
9. Cause or Function of Behavior Identified	Policy explicitly states that behavioral strategies employed to address dangerous behavior should address the underlying cause or purpose of the behavior. Policy may also state that a functional behavior analysis or functional assessment will be conducted to identify the cause or purpose of the dangerous behavior.
10. Staff Training	Policy explicitly states which staff are permitted to use restraint and seclusion. Policy may state recertification requirements if it indicates that staff must be trained to employ restraint and seclusion.
11A. Use Monitored for Safety	Policy explicitly states every instance in which restraint or seclusion is used should be carefully and continuously visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
11B. Debriefing	Policy explicitly states debriefing will occur after every incident of restraint and seclusion. Policy may state debriefing will include a review of the restraint and/or seclusion procedures employed, the appropriateness of the use of the procedures, and how they could be avoided in the future.
12. Guardians Informed of Policy	Policy explicitly states that parents and guardians will be informed of school or district policies on restraint and seclusion.
13. Reporting Incidents of Use to Guardians	Policy explicitly states when and how parents and guardians will be notified for each instance in which restraint or seclusion is used with their child.
15. Documentation of Incidents	Policy explicitly states each incident involving the use of restraint or seclusion will be documented in writing and may include specific content to be included in the written documentation of the incident.

When sample policies were obtained, the project staff rated each policy on each of these sixteen principles. If the component was judged to be absent a “0” was assigned for that item for that policy. If the component was minimally present or partially addressed a “1” was assigned, and if the policy component was judged to be more than minimally present or complete a “2” was assigned for that policy.

## Inter-Observer Agreement

Inter observer agreement ratings were conducted by project staff. Two or three project staff members rated the same policies for over 29% of the policies. As a result, an interrater reliability of 95% was established, with agreement ranging from 89% to 100% for each of the policy principles.

## Results of the Study

### Groups of Similar Policies

Early in gathering district restraint and seclusion policies it became apparent that many districts had similar or identical policies as a result of receiving policy guidance from the same policy advisors. We hypothesized and later confirmed that these similarities were the result of law firms or other organizations (such as the Nebraska Association of School Administrators) which were contracted by districts to provide policy guidance. Often these sources provided sample policies to the client districts they served. These sample policies were then adopted, sometimes with minor modifications, by local school districts as their policies. As can be seen in Table 2, five groups of districts were found to have similar or identical district policies. The smallest group had three similar policies, and the largest had twenty five similar district policies. These groups all together accounted for 78 district policies, or 92% of the policies analyzed. Only seven policies were “unique” and were either completely different from these groups, or varied significantly from one of the groups. The effect of these similar policy groups are discussed later in this report.

**Table 2.** *District Study Sample Divided into Policy Groups and by Enrollement Size.*

Policy Group	Total Group		Large		Medium		Small	
	n	%	n	%	n	%	n	%
Group 1 Policy	5	6%	3	60%	1	20%	1	20%
Group 2 Policy	25	29%	6	24%	10	40%	9	36%
Group 3 Policy	22	26%	7	32%	4	18%	11	50%
Group 4 Policy	23	27%	3	13%	14	61%	6	26%
Group 5 Policy	3	4%	3	100%	0	0%	0	0%
Unique Policies	7	8%	6	86%	0	0%	1	14%
Totals	85	100%	28	100%	29	100%	28	100%



These groups of policies were then examined to see if they reflected different sizes of school districts. As can be seen in Table 2 only Group 5 (the group with the smallest number of districts), included only large districts. However, these were only three of the 28 large districts. All but one of the “unique” category were large districts. Each of the other groups included districts across the enrollment size groupings, and we could detect no pattern related to district enrollment size.

### Are local district policies in place in Nebraska?

Only two districts in the sample of 90 indicated that they did not have policies. Three others did not respond to the study, and it is unknown whether they had policies. As a result it can be estimated that from 95% to 97% of Nebraska school districts have district policies addressing the use of physical restraint and seclusion.

### Do District Policies Address U.S. DOE Content Guidelines?

Overall, the policies varied in the degree to which they included the 16 principles (see Table 3). Five principles were included in 94% or more of the policies, and one more principle (#5 Situations for permitted or warranted use identified) in 100% of the policies. The remaining principles were included in 72% to only 8% of the policies.

**Table 3.** *Percentage of Policies that Addressed each Principle from Most to Least Often Included, and Whether Fully or Partially Present.*

Principles Most Often to Least Often Included	n	%	% Fully Present	% Partially Present
3A. Situations for Permitted or Warranted Use Identified	85	100%	73%	27%
10. Staff Training	84	99%	68%	32%
8. Supervision, Oversight & Review	83	98%	43%	57%
11A. Use Monitored for Safety	81	95%	32%	68%
6. Restriction of Use for Purposes of Discipline and Coercion	80	94%	100%	0%
7. Restriction of Use so as to Not Harm Child	80	94%	40%	60%
15. Documentation of Incidents	61	72%	95%	5%
1A. Focus on Prevention	60	71%	60%	40%

**Table 3. (Continued)** *Percentage of Policies that Addressed each Principle from Most to Least, and Whether Fully or Partially Present.*

<i>Principles Most Often to Least Often Included</i>	<i>n</i>	<i>%</i>	<i>% Fully Present</i>	
			<i>% Fully Present</i>	<i>% Partially Present</i>
13. Reporting Incidents of Use to Guardians	59	69%	95%	5%
9. Cause or Function of Behavior Identified	34	40%	97%	3%
2A. Mechanical Restraints	33	39%	100%	0%
2B. Medical Restraints	32	39%	100%	0%
12. Guardians Informed of Policy	30	35%	87%	13%
1B. Positive Behavioral Strategies Identified <sup>a</sup>	13	15%	100%	NA
11B. Debriefing	11	13%	91%	9%
1B. Emergency Procedures Only Permitted for Imminent Danger of Injury <sup>a</sup>	8	9%	100%	NA

Note. N = 85.

<sup>a</sup> Components were not rated for level of completeness as they could only be fully present or not present based on the operational definitions.

As explained earlier Principles 4, 5 and 14 were not examined.

### **How Thorough Were Policies?**

As can also be seen in Table 3, when policies did include the listed principle, policies also varied substantially in their thoroughness in describing those policies with 10 principles fully present or completely described in 87% or greater of the sample policies. However, within the policies that included the remaining six principles, 32% to 73% of the districts completely described these components. There was considerable variance in whether the principles were thoroughly present.

### **Did Policy Content Vary by District Enrollment?**

As can be seen in Table 4, when the presence of policy principles was analyzed by district enrollment group (small, medium and large), it did not appear that the enrollment size of district made a substantial difference in the content of district policies. The principles were ranked by their presence in each of the groups. As can be seen in Table 4, these rankings were very similar across groups, and no substantial pattern of differences across the enrollment size groupings was found.

**Table 4.** *Percentage of Principles Addressed and Rank by District Size Grouping*

Principle	Small			Medium			Large		
	n	%	Rank	n	%	Rank	n	%	Rank
5. Situations for Permitted or Warranted Use Identified	28	100%	1 <sup>st</sup>	29	100%	1 <sup>st</sup>	28	100%	1 <sup>st</sup>
11. Staff Training	27	96%	2 <sup>nd</sup>	29	100%	2 <sup>nd</sup>	28	100%	2 <sup>nd</sup>
9. Supervision, Oversight & Review	27	96%	3 <sup>rd</sup>	29	100%	3 <sup>rd</sup>	27	96%	3 <sup>rd</sup>
12. Use Monitored for Safety	27	96%	4 <sup>th</sup>	29	100%	4 <sup>th</sup>	25	89%	4 <sup>th</sup>
7. Restriction of Use for Purposes of Discipline and Coercion	27	96%	5 <sup>th</sup>	29	100%	5 <sup>th</sup>	24	86%	6 <sup>th</sup>
8. Restriction of Use so as to Not Harm Child	27	96%	6 <sup>th</sup>	29	100%	6 <sup>th</sup>	24	86%	7 <sup>th</sup>
1. Focus on Prevention	22	79%	7 <sup>th</sup>	14	48%	11 <sup>th</sup>	24	86%	8 <sup>th</sup>
16. Documentation of Incidents	21	75%	8 <sup>th</sup>	15	52%	7 <sup>th</sup>	25	89%	5 <sup>th</sup>
15. Reporting Incidents of Use to Guardians	21	75%	9 <sup>th</sup>	15	52%	8 <sup>th</sup>	23	82%	9 <sup>th</sup>
3. Mechanical Restraint	12	43%	10 <sup>th</sup>	6	21%	12 <sup>th</sup>	15	54%	10 <sup>th</sup>
14. Guardians Informed of Policy	12	43%	11 <sup>th</sup>	5	17%	13 <sup>th</sup>	13	46%	11 <sup>th</sup>
10. Cause or Function of Behavior Identified	8	29%	12 <sup>th</sup>	15	52%	9 <sup>th</sup>	11	39%	12 <sup>th</sup>
4. Medical Restraint	7	25%	13 <sup>th</sup>	15	52%	10 <sup>th</sup>	10	36%	13 <sup>th</sup>
2. Positive Behavioral Strategies Identified	2	7%	14 <sup>th</sup>	1	3%	14 <sup>th</sup>	10	36%	14 <sup>th</sup>
6. Emergency Procedures Only Permitted for Imminent Danger of Injury	2	7%	15 <sup>th</sup>	0	0%	16 <sup>th</sup>	6	21%	16 <sup>th</sup>
13. Debriefing	1	4%	16 <sup>th</sup>	1	3%	15 <sup>th</sup>	9	32%	15 <sup>th</sup>

Note. Total sample of small districts n = 28, medium districts n = 29, large districts n = 28.

### Did Policy Content Vary by Source Group?

While the content of policies did not vary much by district size, the content, as might be expected, varied much more by source policy advice the group received. Table 5 shows the policy principles by group. Group #1 and Group #5 had the most complete set of policies although

these two groups also had the fewest number of districts included (n= 5 and n=3 respectively). Almost all of the districts in these two groups addressed all of the policy principles except that 3 of the 5 districts in Group #1 did not include the principle of “emergency use for imminent danger of injury.” Groups #2, #3, and #4 had policies which were substantially less complete with from 5-7 of the principles totally absent in the districts in these groups. These groups represented a substantially larger number of districts than the other two groups. The seven districts assigned to the “unique” category of course varied the most in the principles included.

**Table 5.** *Percentage of District Policies by Groups that Addressed each Principle*

<b>Policy Component</b>	<b>Grp 1 (n = 5)</b>	<b>Grp 2 (n = 25)</b>	<b>Grp 3 (n = 22)</b>	<b>Grp 4 (n = 23)</b>	<b>Grp 5 (n = 3)</b>	<b>Unique (n = 7)</b>
1A. Focus on Prevention	100%	96%	100%	0%	100%	86%
1B. Positive Behavioral Strat.	100%	0%	0%	0%	100%	71%
2A. Mechanical Restraint	100%	0%	100%	4%	100%	29%
2B. Medical Restraint	100%	0%	0%	100%	100%	14%
3A. Warranted Use	100%	100%	100%	100%	100%	100%
3B. Only Permitted for Imminent Danger of Injury	40%	0%	0%	0%	100%	43%
6. Restriction of Use for Discipline and Coercion	100%	100%	100%	100%	100%	29%
7. Restriction of Use so as to Not Harm Child	100%	100%	100%	100%	100%	29%
8. Supv., Oversight & Review	100%	100%	100%	100%	100%	71%
9. Cause/Function of Behavior	100%	0%	0%	100%	100%	43%
10. Staff Training	100%	100%	100%	100%	100%	86%
11A. Use Monitored for Safety	100%	100%	100%	100%	100%	43%
11B. Debriefing	100%	0%	0%	0%	100%	43%
12. Guardians Informed of Pol.	100%	0%	100%	0%	100%	0%
13. Reporting Use to Guardians	100%	100%	100%	0%	100%	57%
15. Documentation of Incidents	100%	100%	100%	0%	100%	86%

## Discussion

### Existence of Policies

With only Nebraska's Rule 10 of Nebraska's Administrative Code requiring districts to have policy on restraint and seclusion for accreditation, it appears that the vast majority of districts do have policies on physical restraint and seclusion. This might call into question the need for additional state policy on this topic to stimulate local policy. However, the variability of policy content might suggest that further guidance regarding the content of policies would be useful. Further state guidance might assist districts to make their policies more comprehensive.

### District Enrollment Size and Restraint Policies

The present study indicates that the size of district enrollment did not appear to be a factor in the nature of district policies on these topics.

### Most Significant of the Missing Principles?

Several important principles were included in relatively few district policies. Four of these are highlighted here.

**Imminent danger of serious physical harm (#3B).** The most central and important policy principle expressed in federal policy was the least likely to be included in state policies analyzed. This is the policy principle (item #3B in the present study) which indicates that: "Physical restraint or seclusion should not be used except in situations where the child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated." (U.S. DOE, 2012, p.14)

This principle appeared in only eight of the eighty five school district policies (77 or 91% of the 85 district policies did not include this principle) and suggests a crucial flaw in the policies which do not include the principle. Although 56 districts (66% of the sample) included a statement restricting restraint and seclusion to emergency use, these districts include contradicting guidance whereby restraint and seclusion could be used in situations of property destruction, or when included on the IEP, or when behavior was disruptive. A recent court case in the U.S. District Court of Kansas ruled that the use of physical restraint and seclusion for an 11-year-old student was not discriminatory since the conduct was shown to present an immediate threat to others (E.C. by W.C. and K.C. v. U.S.D. 385 Andover). Policies which lack a principle indicating the use of restraint and seclusion should be used only in situations of imminent danger could have potential difficulty in avoiding accusations of discriminative or abusive use of these procedures.

**Documentation of Incidents (#15).** Another policy principle which was not consistently in place in district policies were principles about documentation of incident data when restraint or seclusion were employed (#15). While the majority of districts (72%) did include this principle in policy, the remaining districts did not. Without such policies, data may not be recorded

thoroughly. Having accurate data about each incident involving the use of physical restraint or seclusion is essential to identify the circumstances, events, and procedures that occurred, and to demonstrate that they are not being over-used or used inappropriately. This data is required by the U.S. Department of Education's Office of Civil Rights in its biannual data collection, and would be useful as a tool to assess the effectiveness of behavior interventions intended to prevent or diminish the need for physical restraint or seclusion. Recent media reports (Abamu & Manning, 2019; Hattem, 2017), and now the Governmental Accounting Office report (U.S. Government Accountability Office, 2019) has highlighted the fact that data supplied to OCR may be incomplete and inaccurate. It is very likely that OCR will be scrutinizing district policies in the future, and their data in order to ensure that accurate data are reported and discrimination is not occurring.

**Reporting incidents of use to guardians (#13).** Without clear documentation of incidents in which restraint or seclusion were used, it is also difficult to report incidents to parents or guardians (principle #13). Only 69% of districts included a principle on reporting to guardians. Lack of reporting to parents or guardians, or reporting without detailed documentation of the incidents may invite parent complaints leading to mediation and possible litigation.

**Debriefing on incidents (#11).** A final principle that only 13% of study districts included in their policies was the principle of debriefing incidents when they result in restraint or seclusion. Debriefing would be likely to guarantee that discussion would occur which might lead to better understanding why a crisis occurred, and thus how to prevent the same kind of crisis from occurring in the future.

## **Effective Way to Influence Local Policies**

Working with attorneys and other agencies which provide guidance to districts regarding legal policies may be the most direct way to affect changes and improvements in district policies. Since districts update all of their policies on a wide variety of topics on a regular basis based on advice from attorneys or other organizations, this would be a potentially relatively quick and effective method to improve district policy on restraint and seclusion. The annual updates or recommendations for policies these agencies could provide to school districts could remedy deficits evident in current policies. Since there may be a limited number of these firms or organizations which serve a large number of school districts, it may be possible to affect updates to almost all local district policies relatively quickly by employing this strategy. School districts themselves can also request that these policy advisors update their recommendations, once they are aware of deficiencies in their own local policies.

## **Future Research Topics**

**Training on policies.** We did not examine whether local districts provide copies, let alone training to their staff on the policies we examined. We recognize that most districts themselves or through their Educational Service Units contract with outside vendors for crisis intervention training which typically includes training on the use of physical restraint, and sometimes also on seclusion. However, our perception is that a limited number of 3-5 vendors provide this training in Nebraska.

It might be important for districts to make sure that the training that they provide whether provided by these vendors or, in house, aligns with the restraint and seclusion policies that the district has in place. While most of the training vendors would probably support the principles recommended by the federal guidance document, it is unclear whether some or all of those federal recommendations are included in the typical vendor training. It is also unclear whether the vendors themselves or the individuals trained by vendors within the districts or service units are informed and knowledgeable of the district policies, or if they are providing training specifically on district policies.

## Conclusions and General Recommendations

### Four Important Principles Were Inadequately Addressed

**Imminent danger of serious physical harm.** Arguably the most important policy principle expressed in federal policy was the least likely to be included in the district policies analyzed: “Physical restraint or seclusion should not be used except in situations where the child’s behavior poses imminent danger of serious physical harm to self or others....” (U.S. DOE, 2012, p.14). Unfortunately, 77 or 91% of the 85 district policies did not include this principle, or they included contradictory statements permitting use in other situations which should be removed.

**Documentation of incidents.** 28% of district’s policies did not include this principle.

**Reporting incidents of use to guardians.** 23% of policies did not include this principle.

**Debriefing on incidents.** 87% of policies did not include this principle.

### Effective Way to Influence Local Policies- Better Advice from Advisors

Working with attorneys and other agencies which provide guidance to districts regarding legal policies may be the most direct way to affect changes and improvements in district policies. Since districts update all of their policies on a wide variety of topics on a regular basis, these advisers should make their policy recommendations more complete. This could be a relatively quick and effective method to improve district policy on restraint and seclusion.

## Specific Recommendations

### For individual Educators

- Determine if your district has a policy, and if so, become familiar with it.
- If your district does not have a policy on this topic, or if it is incomplete or deficient, submit a written request for your district to establish or improve its policy.
- Regardless of district policy, recognize that restraint & seclusion procedures should only be employed in a situation where there is an imminent risk of someone being seriously injured.
- Insist that each use of these procedures is documented, & reported to guardians.

### For District or ESU Administrators Who Purchase Crisis Training

- Do not purchase vendor training unless it limits use of these procedures to situations of imminent risk, and provides strategies for documentation, debriefing and informing guardians.
- Ask your vendor of training whether they are aware of districts’ policies, and whether the federal principles are included (or can be included) in the delivery of training.

**For District Administrators**

- Ensure that a policy on this topic is in place in your district and request revisions to make policy complete employing federal recommendations for principles to be included.
- Ensure that all appropriate staff are trained regarding appropriate circumstances for use of these procedures, documentation & debriefing of incidents, and reporting to guardians.

**For the Nebraska Department of Education (NDE)**

- Identify district law firms and policy advisors, meet with them, and work with them to improve district policies on restraint and seclusion in their next update cycle employing all of the federal principles in the DOE Guidance Document.
- In particular require that these crucial principles be included in policies:
  - Permit use only if student behavior poses imminent danger of serious injury and attempts to de-escalate have failed.
  - Removal of contradicting circumstances for use such as destruction of property, etc.
  - Documentation of incidents when these procedures are employed.
  - Debriefing of incidents to determine how to prevent them in the future.
  - Reporting to guardians for each incident.

## Final Comments

Most Nebraska school districts do have policies, although some important principles were found to be missing in significant numbers of these policies. The districts and the Nebraska Department of Education should work with school district legal and policy advisors to add these missing principles to future policy updates. This would assure compliance with the federal policy guidelines and good practice. It might also reduce the possibility of abusive or inappropriate use of these procedures and the resulting mediation and legal action by parents or advocacy organizations.



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A similar journal article has been submitted for publication. Contact [rpeterston1@unl.edu](mailto:rpeterston1@unl.edu) for access to that report.

### Additional Resources on Physical Restraint and Seclusion

A variety of materials on physical restraint and seclusion including links to reports, state and federal bills, videotapes, and other materials are available on the Student Engagement Project website: <https://k12engagement.unl.edu/physical-restraint-seclusion-resources>.

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