

How many states reference SWPBS in their restraint-seclusion policies?

Claudia G. Vincent

Evaluation Brief

Appreciation is extended to Megan Cave for editing and publishing assistance.

Vincent, C. (2010). *How many states reference SWPBS in their restraint-seclusion policies?* Evaluation brief. Educational and Community Supports, University of Oregon, Eugene, Oregon.



Use of disciplinary practices that involve restraint or seclusion of students is an emotionally laden issue. Parents of children with disabilities report abuse of students by school staff who appear insufficiently trained to address behavioral problems (COPAA, 2009). In the wake of parents' concerns about abusive discipline practices, the U.S. Government Accountability Office reviewed a number of cases of restraint or seclusion leading to injury or death of a child (GAO, 2009). Although these cases are few in number, their severity is alarming. In response to these findings professional associations have proposed new guidelines (e.g. CCBD, 2009a, 2009b) and state departments of education have been encouraged to review regulations associated with seclusion and restraint to prevent injury and death of students.

Ryan, Robbins, Peterson, & Rozalski (2009) surveyed states' Department of Education websites and followed up with telephone calls and emails to state education agencies to identify existing restraint and seclusion regulations. They found that 22 states had policies and 9 states had guidelines regarding the use of restraint and seclusion. Of the remaining states, 17 had no statewide regulations in place and no information could be located for 2 states. These findings coincided with the overview of existing statewide restraint and seclusion legislation compiled by the GAO (2009, Appendix I). Their "Summary of State Laws Related to the Use of Restraints and Seclusions in Public and Private Schools" also identified 31 states as having statewide legislation governing the use of restraint and seclusion. In 2010, the U.S. Department of Education produced a more

comprehensive summary of states' seclusion and restraint legislation, policy, and guidelines, and also found that 31 states had existing legislation, while 19 did not. Of those 19 states, the majority were engaged in deliberations about needed changes to their existing legislation or development of new legislation concerning the use of restraint and seclusion in school settings.

Based on their review of existing statewide restraint and seclusion legislation Ryan et al (2009) identified a number of commonalities across states. Restraint and seclusion procedures tended to be (a) acknowledged as potential discipline measures for all students, not only students with disabilities, (b)

reserved for emergency situations, (c) considered an appropriate response to school property damage, (d) deemed permissible only if staff were adequately trained, and (e) accompanied by procedural provisions, e.g. parental notification and documentation. Based on these findings, as well as outcomes of earlier studies (Rozalski,

Yell & Boreson, 2006; Ryan, Peterson & Rozalski, 2007), Ryan et al recommended that restraint and seclusion be used only in conjunction with rigorous staff training in appropriate use of these measures, thorough documentation and periodic administrative review of the data.

Given the current focus on regulating restraint and seclusion, our intent was to assess the extent to which states include school-wide positive behavior support (SWPBS) in their legislation regulating the use of restraint and seclusion.

It appears that SWPBS was largely seen as an approach to preventing behaviors that might lead to restraint and seclusion

Method

We examined the *Summary of Seclusion and Restraint Statutes, Regulations, Policies and Guidance, by State and Territory: Information as Reported to the Regional Comprehensive Centers and Gathered from Other Sources* compiled in 2010 by the US Department of Education. This summary represents information furnished by US states in response to a letter from the Secretary of Education to the Chief State School Officers. In his letter, the Secretary references the 2009 GAO findings, encourages states to review and potentially adapt their legislation to prevent abusive discipline practices, presents SWPBS as a preventative approach to limit extreme behavioral problems, and asks states to provide a summary of their existing legislation as well as plans for changes to the regional Comprehensive Centers, who will then compile the information into a comprehensive report to be posted in the public domain. States had the opportunity to review and revise information after it was compiled.

We first reviewed the information furnished by each state to assess the current state of state-wide restraint and seclusion policy. Second, we searched the entire document for references to SWPBS by typing “positive” into the find function of the pdf file. Only references to “(school-wide) positive behavior(al) support” were counted as hits. Our search was limited to the pdf file only; any links provided in the pdf file were not searched. The table below summarizes the results for the 50 US States and the District of Columbia; US territories were omitted.

Results

| State | Current state-wide restraint/ seclusion legislation | References to SWPBS |
|-------------|--|--|
| Alabama | Under discussion | Proposed policy emphasizes SWPBS |
| Alaska | Under discussion; survey being conducted to assess use of restraint and seclusion | Survey references SWPBS as potential means to reduce need for R/S |
| Arizona | None | |
| Arkansas | Seclusion policy for special education students only No restraint policy in place | |
| California | Guidance and procedures for emergency situations | Training in SWPBS is offered to address assaultive and violent behaviors |
| Colorado | Restraint legislation in place | Restraint to be used only after alternatives, including SWPBS, have failed Schools are encouraged to use SWPBS to reduce need for restraint |
| Connecticut | Restraints and seclusion legislation in place | Seclusion to be used only after alternatives, including SWPBS, have failed |
| Delaware | Legislation allows use of reasonable and necessary force to protect pupil from harming self and others | |

| State | Current state-wide restraint/ seclusion legislation | References to SWPBS |
|----------------------|--|--|
| District of Columbia | Rules on seclusion and restraint proposed | Implementation of SWPBS encouraged; pilot initiative in progress |
| Florida | Standards for the use of reasonable force under development | State-wide SWPBS effort exists, training is on-going |
| Georgia | Rule on restraint and seclusion under development | |
| Hawaii | Use of restraint included in existing legislation | |
| Idaho | None | Consultation in SWPBS available to districts |
| Illinois | Legislation includes specific requirements for use of isolated time out and physical restraint | Use of SWPBS to prevent restraint and seclusion |
| Indiana | None Schools written discipline rules contain guidance on use of restraint and seclusion | |
| Iowa | Corporal Punishment legislation | Training in alternative strategies including SWPBS, required |
| Kansas | Guidelines exist | Professional development in SWPBS available |
| Kentucky | None | KY Center on Instructional Discipline provides training in SWPBS |
| Louisiana | None | |
| Maine | Legislation exists | |
| Maryland | Legislation defines requirements for use of restraint and seclusion | Training in SWPBS provided to prevent need for restraint and seclusion |
| Massachusetts | Legislation addresses physical restraint laws and guidelines | |
| Michigan | Legislation exists | Districts are required to implement SWPBS |
| Minnesota | Statute forbids corporal punishment | SWPBS scale-up model in place |
| Mississippi | Restraint policy exists | |
| Missouri | None | Schools are implementing SWPBS |
| Montana | Legislation exists | |
| Nebraska | None | SIG provides training in SWPBS |
| Nevada | Legislation exists | Training in restraint must include training on SWPBS |
| New Hampshire | None | Use of SWPBS is encouraged |
| New Jersey | None | |

| State | Current state-wide restraint/ seclusion legislation | References to SWPBS |
|----------------|---|--|
| New Mexico | Legislation for students with disabilities | Training emphasizes SWPBS to be used prior to restraint |
| New York | Legislation exists | Use of SWPBS is encouraged in conjunction with appropriate restraint training. |
| North Carolina | Legislation exists | Use of SWPBS in conjunction with appropriate use of seclusion and restraint is encouraged |
| North Dakota | Legislation exists for students with developmental disabilities | |
| Ohio | Restraint legislation exists | |
| Oklahoma | None | State Personnel Development Grant provides training in SWPBS to schools |
| Oregon | Legislation exists | Implementation of SWPBS is encouraged; SWPBS encourages reduction of bullying behaviors |
| Pennsylvania | Legislation exists | Training in SWPBS encouraged for staff authorized to use restraint |
| Rhode Island | Legislation exists | Restraint should be used only after PBS specified in BIP has failed |
| South Carolina | None | |
| South Dakota | None | |
| Tennessee | Legislation exists | Special Education Isolation and Restraint Modernization and Positive Behavioral Supports Act encourages training in SWPBS |
| Texas | Legislation exists | Time-out should be used only in conjunction with SWPBS and must be specified on IEP Professional development is SWPBS available |
| Utah | Legislation exists | Personnel development in SWPBS available |
| Vermont | None | SWPBS initiative exists |
| Virginia | Legislation exists | |
| Washington | Legislation exists | SWPBS must be used prior to aversive interventions |
| West Virginia | Legislation exists for Pre-K settings only | Use of SWPBS is encouraged |
| Wisconsin | None | |
| Wyoming | None | |

Discussion

Overall, it appears that our findings of currently existing state-wide restraint and seclusion legislation largely mirror those of Ryan et al (2009). Of the states who had no existing legislation, a number were engaged in various phases of legislation development. Of the states who had existing legislation, the scope of this legislation varied from applying to the general student population to students with disabilities only to specific age groups.

Of the 36 states that either had existing legislation or were in the process of developing it, 25 referenced SWPBS; of the 15 states who did not have existing legislation, 7 referenced SWPBS. In general, references to SWPBS were somewhat generic and rarely provided specifics about what elements of SWPBS were used to address which challenges students, teachers, and administrators involved in restrictive disciplinary measures face. It appears that SWPBS was largely seen as an approach to preventing behaviors that might lead to restraint and seclusion. Training in SWPBS was delivered through existing state-wide initiatives, State-wide Improvement Grants, or State-wide Professional Development Grants.

Limitations

It is important to interpret our results in light of a number of limitations. First, the information provided by states varied greatly in the amount of detail given. For example, while Maryland provided 22 pages of detailed information on its legislative definitions of disciplinary practices and technical assistance provisions, Minnesota provided one page of links to statutes, rules, and codes, and South Dakota provided 8 lines of text and 2 links stating its existing policy. Because we did not extend our search to links provided in the pdf file, we might have missed relevant information.

Second, a number of states referenced SWPBS in the context of developing behavioral intervention plans for students who have an IEP. The consideration of positive behavioral

support strategies for students with a disability is mandated under IDEA 2007, represents federal legislation, and therefore does not reflect state-wide restraint and seclusion legislation.

Third, given that the Secretary of Education referenced SWPBS as a preventative approach to behavior problems in his letter soliciting the information reviewed for this brief, and given states' generic references to SWPBS as such a preventative approach, one has to wonder if states' references to SWPBS could partially represent a direct response to the Secretary's letter rather than a firm commitment to utilizing specific components of SWPBS to prevent behaviors leading to restraint or seclusion and manage students when they engage in severe and potentially harmful behaviors.

References

- Council for Children with Behavior Disorders (CCBD). (2009a). CCBD's position summary on the use of physical restraint procedures in school settings. *Behavioral Disorders*, 34, 223-234.
- Council for Children with Behavior Disorders (CCBD). (2009b). *CCBD's position on the use of seclusion procedures in school settings*. Arlington, VA: Author.
- Council of Parent Attorneys and Advocates (2009). *Unsafe in the schoolhouse: Abuse of children with disabilities*. Towson, MD: Author.
- Government Accountability Office (2009). *Seclusions and restraints: Selected cases of death and abuse at public and private schools and treatment centers*. Washington, DC: Author.
- Rozalski, M., Yell, M., & Boreson, L. (2006). Using seclusion timeout and physical restraint, an analysis of state policy, research, and the law. *Journal of Special Education Leadership*, 19(2), 13-29.
- Ryan, J.B., Robbins, K., Peterson, R.L., & Rozalski, M. (2009). Review of state policies concerning the use of physical restraint procedures in schools. *Education and Treatment of Children*, 32(3), 487-504.
- Ryan, J.B., Peterson, R.L., & Rozalski, M. (2007). Review of state policies concerning the use of timeout in schools. *Education and Treatment of Children*, 30(3), 215-239.
- U.S. Department of Education (2010). *Summary of Seclusion and Restraint Statutes, Regulations, Policies and Guidance, by State and Territory: Information as Reported to the Regional Comprehensive Centers and Gathered from Other Sources*, Washington, D.C.: Author.