

Testimony
Interim Education Committee
Senator Donald Shaible, Chairman
February 18, 2018

Chairman Shcaible, members of the Interim Education Committee, I am Carlotta McCleary, Executive Director of the ND Federation of Families for Children’s Mental Health (NDFFCMH), which is a parent run organization that focuses on the needs of children and youth with emotional, behavioral, or mental health needs and their families. As the result of an affiliation agreement between NDFFCMH and Mental Health America of North Dakota (MHAND), I am also the Executive Director for MHAND, whose mission is to promote mental health through education, advocacy, understanding, and access to quality care for all individuals.

I am here to testify in support of the need to create a statute regarding the use of seclusion and restraint procedures in schools. According to the “How Safe is the Schoolhouse?” report series created by Jessica Butler of the Council of Parent Attorneys and Advocates, North Dakota is one of five states that, “does not have any statute, regulation, or guidance specific to schools and restraint/seclusion.” Seclusion and restraint are **highly dangerous interventions that have led to death, injury, and trauma in children**. The Government Accountability Office (GAO) documented at least 20 stories of children who died in restraint, and other children have died and been injured in seclusion. I have personally been involved in a case in which a little five year old child with asthma could have been killed as a result of two adults laying on top of this child, causing that child to have difficulty breathing. It is instances like this that can turn a lapse of judgment into the death of a child in their school. Seclusion and Restraint procedures can be dangerous for both staff and students.

In previous testimonies, the legislature heard from representatives of various school districts. The consistent theme has been that the state does not need to embark on regulations for seclusion and restraint, because the local districts have it figured out and have a model that they follow that secures student safety and is transparent. Both suggestions are false. As has been elaborated on by representatives from Protection and Advocacy as well as the North Dakota Federation of Families for Children’s Mental Health, the use of seclusion and restraint in our schools is

practically unfettered with little to no transparency or accountability. In contradiction to testimony delivered numerous times by district administration representatives, parents are usually not notified about their use and Protection and Advocacy has no way of knowing that any such measure was used on a child. The models they proclaim to use are fine indeed, but there is a lack of data supporting the notion that they are being consistently used across the state; not all staff across the state are being adequately prepared to use those crisis prevention techniques such as verbal de-escalation and positive behavioral supports; and there is no accountability in place to ensure that staff are using it with fidelity. A voluntary model is only as good as its practitioners allow it to be; and we know it is not being followed, nor is there any incentive to do so. All the meanwhile, children continue to be harmed by techniques that evidence shows does physical and psychological harm to children. If local control worked, we would have supported it. But it has not. The time has come for real change.

Seclusion and restraint regulations can promote the best care, welfare, safety and security for all.

We believe the following principals should be considered

- Any behavioral intervention must be consistent with the child's right to be treated with dignity and to be free from abuse regardless of the child's educational needs or behavioral challenges;
- Physical restraint and seclusion should never be used as punishment or discipline;
- Physical restraint and seclusion should never be used that restricts a child's breathing;
- Limit the use of physical restraint and seclusion in schools...except when it is necessary to protect a child or others from imminent danger;
- Every instance of physical restraint and seclusion should be appropriately monitored to ensure the safety of the child, other children, teachers, and other personnel;
- Parents should be notified promptly following the use of restraint or seclusion on their child, and any such use should be documented in writing;
- Teachers and other personnel should be trained regularly on the appropriate use of restraint and seclusion and the use of effective alternatives, such as positive behavioral intervention and supports.

Thank you for time. I would be happy to answer any questions that you may have.

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