



House Committee on Children & Families

Testimony on House Bill 2444

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Presented by:
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NAMI Kansas is a statewide grassroots membership organization dedicated to improving the lives of individuals with mental illness. Our members are individuals who are living with mental illnesses and the family members who provide care and support. NAMI Kansas provides peer support through a statewide network of local affiliates. We sponsor educational programs targeted at consumers of mental health services, their family members, and the general public. We advocate for individuals who are living with mental illness to ensure their access to treatment and supportive services.

We have been active participants over the years in discussions about state policy on seclusion and restraint in school and other institutional settings. We presented testimony to the State Board of Education in 2007 when they last heard this issue. We believe that the enforceable guidelines provided in this bill represent a minimal level for setting limits on seclusion and restraint which are long overdue.

We remain open to more stringent guidelines based on input from students and their families who have been subjected to these interventions. Additional guidance might further address the involvement of administrators, the collection and analysis of data, and standardization of staff training.

Seclusion and restraint have no place in the education of children. Research substantiates that more than half of children and adolescents with mental illnesses have been the victims of physical or sexual abuse or both. Many of the children and adolescents who will be restrained or secluded have a mental illness or serious emotional disorder. Any intervention that recreates that abuse is likely to re-traumatize and further abuse these youngsters.

We recognize that *any* use of seclusion or restraint is a result of the failure of the educational system or other institution to meet the needs of the child. Schools must then recognize that this failure

requires immediate remediation.

Although some school personnel have argued that they must use these interventions to protect students and themselves from harm, the research data indicates that when seclusion and restraint are reduced and eliminated in psychiatric treatment facilities there is a concomitant reduction in patient and staff injury.

I have attached to this testimony the section on Restraints and Seclusion in Schools from NAMI's Policy Platform. I would particularly draw to your attention items 4.3.1 through 4.3.14 which address our more specific concerns about the enactment of comprehensive legislation in this area.

Thank you for the opportunity to appear before the Committee today to address this critical issue. We hope that you will act favorably on HB 2444.

Public Policy Platform of the National Alliance on Mental Illness

4.3 Restraints and Seclusion in Schools

The use of restraints and seclusion in schools -- causing trauma, injury and death in far too many cases -- disproportionately impacts students with disabilities, most often students with mental illness.

Restraints refer to the forced restriction or immobilization of a child's body or parts of the body to control behavior. Escorting and the immediate physical separation of children in conflict are not considered a restraint. Seclusion is involuntary confinement in a room, box, structure or space from which a child cannot leave. Seclusion does not include requiring a child to leave an activity, to move to a quieter or less stimulating location, or to be in a comfortable unlocked room designed to reduce stimulation or anxiety and from which the child could come and go.

NAMI believes that restraints and seclusion should not be used in our nation's schools except in emergency circumstances as described below. NAMI calls for the enactment of federal and state legislation and the adoption of regulations to address the following issues related to the use of restraints and seclusion in our nation's schools:

(4.3.1) Authorize the use of federal Title I education funds and provide additional federal funding to implement Positive Behavioral Supports (PBS) and require as a condition for funding that schools implement positive, evidence-based plans and procedures for all students who exhibit behaviors that interfere with learning or that may threaten to place themselves or others in imminent danger;

(4.3.2) Develop federal standards and provide additional federal funding for training in restraints use, prevention and reduction and require all staff to be trained within the first month of each school year on the school's emergency and crisis prevention procedures, de-escalation to help avoid crises, and debriefing procedures. Require that school staff receive training and demonstrate competence in the following areas: the early warning signs of mental illness and effective crisis intervention for students with mental illnesses; positive behavioral supports and interventions; communicative intent of behaviors; relationship building; alternatives to restrictive procedures and identifying events and environmental factors that may escalate behavior; de-escalation methods; obtaining emergency medical assistance; the physiological and psychological impact of restraints and seclusion; and the skills that students need to better regulate and manage their behaviors;

(4.3.3) Prohibit the use of restraints except in emergency cases defined as those involving an imminent risk of danger to the child or adolescent or others and no other safe, effective intervention is possible. Restraints may only be used by staff who have received intensive training and with rigorous supervision and must cease as soon as the emergency ends. Prohibit the use of any form of restraint that interferes with breathing and/or the ability of students to speak or otherwise communicate, e.g., prone restraints (with the student face down on his or her stomach), supine restraints (with the

student face up on the back), or any maneuver that places pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat .

(4.3.4) Prohibit the use of seclusion except in emergency cases defined as when a child must be physically separated from others because of an imminent risk of danger to an individual or others and when it has been documented that no other safe, effective intervention is possible. The child must be released from seclusion the moment the emergency ends. The room used for this purpose must be designed to provide a safe and non-threatening environment. The door to the room may not be locked, but it may be temporarily held closed with a device that requires a staff person to hold it in place and to see and hear the child at all times. Staff must be able to visually and audibly monitor the child at all times. Occasional checks are not acceptable. If a child is secluded for more than 15 minutes, either the school principal or an administrator responsible for the school in the absence of the school principal, must personally observe the child and note any reason for continued seclusion in a log maintained for that purpose. The school principal or administrator responsible for the school in the absence of the school principal must renew these observations every 15 minutes until the child is released from seclusion; and immediately attempt to notify the family of any continuous seclusion exceeding 15 minutes;

(4.3.5) Require that whenever there are multiple applications of restraints and/or seclusion, or whenever recurring use of restraints and/or seclusion is likely, a meeting must be promptly convened with the student's teacher, the school principal, the student's family, a mental health provider, and other relevant school staff to identify the circumstances leading to the use of restraints or seclusion and to discuss the appropriateness of a Section 504 plan or an Individual Education Program (IEP);

(4.3.6) Prohibit disciplinary techniques or behavior interventions that compromise the health and safety of students and others; cause physical or psychological injury, harm or are demeaning; or deprive students of basic human necessities or rights - including food, hydration and bathroom visits;

(4.3.7) Provide that restraints and seclusion are not to be used as a means of punishment or as a response to property destruction, disruption of school order, refusal to comply with school rules or directives, or in response to verbal threats that do not constitute an imminent danger to self or others;

(4.3.8) Prohibit the inclusion of restraints and seclusion in a student's individual education plan (IEP) or as part of a student's behavior intervention plan (BIP);

(4.3.9) Provide all students with a range of programs to prevent behavioral emergencies, including mental health services, anti-bullying programs, social problem-solving programs, positive skills development, and related services. In the event of an emergency and whether or not restraints or seclusion were employed, all students should also be offered relevant services including but not limited to mental health services, trauma informed care, counseling and related services;

(4.3.10) Require that parents and caregivers be informed immediately of all emergency interventions and incidents of restraints or seclusion occurring that day that involve their child. This is necessary in order to ensure that parents and caregivers can exercise their right to meaningful participation in the development of safe and positive interventions and supports for their child as well as being assured that action will be taken immediately to help avoid similar events in the future. If the school is unable to

immediately reach parents or caregivers to inform them about the emergency use of restraints or seclusion, then the school must document attempts made to reach them;

(4.3.11) Require schools to provide clear procedures for school staff to report perceived abuse with respect to restraint and seclusion and ensure that parents and caregivers are aware of all available legal remedies, including the right to pursue legal action;

(4.3.12) Require schools, using uniform reporting standards, to collect data on the emergency use of restraints and seclusion in schools, including the identity of all school staff involved in these incidents. These data must be collected by State Education Agencies and should also include the number of times restraints and seclusion are used, the duration of usage, the emergency circumstances that led to their use, the ages of the students, injuries to students (as reported by school staff and parents), the identity of all school staff involved in the use of restraints and seclusion in schools and fatalities. Incident reports summarizing these data should be provided to parents, caregivers and providers. These data should be available to the public and used by the U.S. Department of Education to target action to reduce restraints and seclusion. This action should include training, technical assistance, and corrective action related to any inappropriate use of restraints and seclusion.

(4.3.13) Require that each state annually develop a publicly available report on efforts targeting the elimination of the unnecessary use of restraints and the elimination of seclusion and efforts to create a more positive school climate and culture; and

(4.3.14) Intervention by law enforcement personnel is not acceptable as an alternative to the use of restraints and/or seclusion.