

Show Proper Restraint

Controversial discipline technique for special education students gets Capitol Hill scrutiny



Joetta Sack-Min

As his foster mother wept, a thin African-American boy with a vague smile gazed from a portrait at a panel of U.S. representatives and staff last spring. Toni Price brought 14-year-old Cedric Napoleon's photo and story to Capitol Hill, determined that his death at the hands of his special education teacher would serve as notice of the improper use of restraints on special education students.

Cedric, who had been underfed and severely abused before being placed in foster care, had gotten into a dispute with his teacher because she delayed his lunch at his Killeen, Texas, middle school, Price told the lawmakers. According to reports, his 230-pound teacher pushed him to the floor and lay on top of him for several minutes, despite his pleas that he couldn't breathe, as his classmates watched him suffocate.

Police later classified the case as a homicide, and the school district placed the teacher's name on a state list of those who had abused students; however, a Texas grand jury declined to prosecute the teacher.

"After I read the autopsy report, I was taken aback at how much a school can get away with," Price told the lawmakers. "I want to make sure this doesn't happen to anyone else's child. It is awful the way Cedric died. This should have never happened."

While such incidents initially were thought to be rare, an investigation by the federal Government Accounting Office last year found that restraining or isolating disruptive students may be much more common than expected, particularly in special education classrooms. Some states already have counted thousands of incidents, and researchers studying the issue believe even

those numbers are underestimated.

RESTRAINT POLICIES

Legislation introduced late last year by Rep. George Miller, D-Calif., the chairman of the House Education and Labor Committee, and Sen. Christopher Dodd, D-Conn., would for the first time set federal rules and collect data on the use of restraints and seclusion in schools.

Michael A. Resnick, associate executive director for NSBA, says clarification on the use of such discipline—which already exists for health facilities and treatment centers—is needed for all students, not just those in special education. NSBA is endorsing the bill along with other education and disability-rights groups.

An important distinction, Resnick notes,

is that the legislation does not ban all seclusion and restraints, but outlines how those may be used in emergencies when the safety of others is at risk.

“We do believe this legislation will meet our safety and other goals for students and school personnel while providing sufficient authority and flexibility to schools and school districts in training school personnel based on their unique needs,” Resnick said at a legislative ceremony with Miller.

Few states have laws that regulate the use of restraints and seclusion, according to the National Disability Rights Network (NDRN), an advocacy group whose 2008 report citing dozens of instances of improper uses of restraints and seclusion—some ultimately causing death or injury to students—prompted an investigation by Miller.

The NDRN found that 41 percent of states had no policies or guidelines, almost 90 percent still allowed “prone” restraints—a hold by either physical or mechanical means that continues after the student stops struggling—and only 45 percent of states required or recommended that schools automatically notify students’ parents or guardians when restraint or seclusion was used.

TRAINING DEEMED INADEQUATE

Although the two disciplines have been lumped together, seclusion and restraint are entirely different, says Joseph B. Ryan, an assistant professor of special education at Clemson University.

“There is a rationale for restraints—there is no rationale for seclusion,” Ryan says. “Restraints are not designed to be therapeutic; they’re a safety feature. These should be used only if there is a risk of further injury to staff or students.”

Researchers and lawmakers charge that the lack of training for teachers and other school staff is a key problem, as many do not know when or how to properly hold down a violent or disruptive student. An-

other problem is that, when available, training often focuses on how to physically restrain and does not discuss the appropriate times to restrain or focus on prevention, Ryan says.

In his research, Ryan queried teachers on the appropriate times to use restraints, and found that many reiterated school rules or other training notes. But, in practice, he found that a pervasive culture in some schools meant students were frequently restrained or isolated for relatively minor behavioral problems.

In another publicized case, a 7-year-old girl died at a mental health facility in Wisconsin after she was pinned to the floor as punishment for blowing bubbles in her milk and not following timeout rules.

A “prone” restraint, the type used in that case as well as in Cedric Napoleon’s death, is considered one of the most intensive and long-term holds. A study by the California-based legal advocacy group Protection & Advocacy Inc., which investigated 12 deaths that occurred during restraints, found that sudden death with a prone restraint is “not an uncommon phenomenon,” particularly if the individual already is agitated or has an underlying medical condition. A sudden fatal cardiac arrhythmia or respiratory arrest can occur if oxygen is cut off at a time when the body demands more oxygen, the report states.

SECLUSION DEMEANING, ADVOCATES SAY

Seclusion differs from timeout methods, some say, because students are often put in small, confined spaces—sometimes without light or food—for hours at a time and may become emotionally distressed.

“Confining and isolating children can cause a myriad of negative emotional reactions, including feelings of anger, anxiety, boredom, confusion, embarrassment, depression, humiliation, abandonment, loneliness, sadness, loss of dignity, powerlessness, helplessness, despair, and delusion,” the NDRN

report states. “The improper use of seclusions may lead to feelings that one is ‘bad’ and ‘sick’ and needs to be locked up.”

NDRN researchers also documented suicides of students who were isolated and left unsupervised for long periods of time.

Seclusion or isolation often exacerbates existing behavioral problems, Ryan says, because it lacks a positive outcome. His research found numerous instances of “frequent flyers”—the same students were barred from the classroom repeatedly. In some cases, students had an incentive to act out and be removed if the classroom was a negative experience, and the teacher’s incentive was to remove a classroom distraction.

Further, “the more time a child is out of the academic environment, the less likely it is that that child should succeed,” Ryan adds.

Miller’s legislation, the Preventing Harmful Restraint and Seclusion in Schools Act, would allow restraint or seclusion only in cases with imminent danger of injury and only by trained staff. It would prohibit the use of mechanical restraints, such as straps and duct tape, for punishment, as well as the use of any restraint that restricts breathing or affects the student’s health and safety, such as denying food and water or using pepper spray. It would require states to create more specific rules and regulations and collect data on any instance involving seclusion or restraint.

Miller is planning a vote on the bill early this year, says Melissa Salmanowitz, a committee spokeswoman. It also has been introduced in the Senate.

At the introduction ceremony, Miller said the legislation “is a critical first step toward finally ending this nightmare of abuse and ensuring that all classrooms are safe for students, their teachers, and the entire school communities.” ■

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