



## **Hogg Foundation for Mental Health**

**Services, Research, Policy, and Education**

*Envisioning a Texas that leads the nation in promoting mental health and recovery from mental illness, supporting all Texans in achieving their potential*

### **Information Provided to Senate Education Committee**

**On April 12<sup>th</sup>, 2011**

**SB 536 (Davis)**

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*The use of seclusion and restraint creates significant risks for all individuals involved. These risks include serious injury or death, re-traumatization of people who have a history of trauma, loss of dignity, and other psychological harm. In light of these potential serious consequences, seclusion and restraint should be used only when there exists an imminent risk of danger to the individual or others and no other safe and effective intervention is possible. (NASMHPD)<sup>i</sup>*

The restraint and seclusion legislation relating to public schools passed in 2001, and the subsequent commissioner's rule regulating the use of these aversive practices were the result of numerous serious injuries and even death of children in Texas public schools due to unregulated and often unrecorded instances of restraint and seclusion. The legislation previously passed included several exemptions:

*This section and any rules or procedures adopted under this section do not apply to:*

- (1) a peace officer while performing law enforcement duties;*
- (2) juvenile probation, detention, or corrections personnel; or*
- (3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.<sup>ii</sup>*

These exemptions were intended to address the difference between individuals who were regularly on a campus, aware of campus rules, and under the authority of the school district administration, and those who came on campus to perform a duty not under the control of the school district. The exemption of "a peace officer while performing law enforcement duties" was intended for police officers, DPS, and sheriffs deputies who came on to a campus in the role of law enforcement (e.g., to retain or arrest an individual, respond to an emergency, investigate suspected criminal activity, etc.).

It is logical to expect that a peace officer that is regularly on campus as an employee of the district, or under contract with the district, be required to abide by the same rules, regulations and standards as any other district personnel with respect to the use of restraint and seclusion. Accountability is key to ensuring the safety of students. All those regularly on a school campus with opportunity and authority to restrain or seclude a student, should be required to abide by the same rules, attend the same training, and submit the same required documentation. <sup>χ</sup> If someone

is consistently on campus, but is exempt from the rules and the reporting requirements, this could lead to some of the same practices and consequences that generated the need for the legislation including overuse, improper use, and over dependence on restraint and seclusion.

The use of restraints is not an evidence based practice, and there is no evidence that restraint has any therapeutic value. Restraint is not an effective behavior management strategy and often exacerbates behaviors. Frequent use of restraint can create a culture of distrust and fear. The use of restraint can be traumatizing and dangerous for both the individual with behavioral disabilities as well as staff. As we know, restraint can also lead to death.

***Restraint and seclusion should only be used in emergencies when imminent risk of harm to the individual or others exists.*** The rules relating to the use of restraint and seclusion should apply to all campus personnel who regularly engage with the student population.

For more information, please contact Colleen Horton at [colleen.horton@austin.utexas.edu](mailto:colleen.horton@austin.utexas.edu).

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<sup>i</sup> National Assoc. of State Mental Health Program Directors (NASMHPD), Position Statement on Seclusion and Restraint, 2007.

<sup>ii</sup> Texas Education Code, Sec. 37.0021.