

Doniphan County Education Cooperative # 616

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Terry Collins, Director

House Bill No. 2444 Seclusion & Restraint

KASEA Position: Opponent

Chairman Keigerl and Honorable Members, thank you for the opportunity to speak to you today.

As co-chair of the Legislative Committee for I am representing not only Doniphan County but the Kansas Association of Special Education Administrators as well.

- 2005 – The Kansas Senate considered a bill designed to regulate seclusion and restraint in schools. (SB 241)
- 2007 – Non-binding guidelines were developed and passed by Kansas State Board of Education on the proper use of Seclusion and Restraint in schools.
- June 2011- KSBE broadened reporting to include instances of seclusion and restraint for **all students** at the recommendation Special Education Advisory Council.
- Neither seclusion nor restraint are behavior programs designed to change student behaviors.
- They are not disciplinary procedures for punishing students.
- They are interventions to prevent imminent harm to self or others. They are **emergency safety interventions**.
- Guidelines in the State of Kansas have proven to be a very effective statewide resource.
- There have been no substantiated formal complaints received by KSDE for improper use of seclusion or restraint since the guidelines were developed.
- Proponents of this bill are utilizing **old data from institutional settings in other states**. To my knowledge, they have collected no data from Kansas Public Schools within the last six years that would indicate improper uses of physical restraint or seclusion.
- Under HB 2444 current guidelines will become law which will likely lead to litigation.
- All schools are already required to report seclusion, restraint data for ALL students.
- KSDE promotes POSITIVE BEHAVIOR INTERVENTIONS AND SUPPORTS,
- Unique circumstances will sometimes call for interventions that are more restrictive and Emergency Safety Interventions may be needed.

The Office of Civil Rights serves as the primary administrative enforcement mechanism for Section 504 and the Americans with Disabilities Act (ADA) in relation to schools (Lohrmann-O'Rourke & Zirkel, 1998). Educational cases frequently are handled by the state education agency (SEA), which resolves disputes regarding IDEA using a system of

impartial due process hearings and, at the state's option, a second-tier impartial administrative review. All OCR and SEA hearing officer reports may also be appealed to a federal court.

The Office for Civil Rights has verified that Civil Rights of Institutionalized Persons Act would apply to students in school settings. (Complaints can be directed to: Special Litigation Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66400, Washington, DC 20035-6400. 202-514-6255.)

I am a proponent of maintaining the current guidelines and an opponent of developing regulations that do not mirror the federal regulations and which go beyond the requirements of IDEA.

- School districts are required to report quarterly to the State Director of Special Education all incidents of seclusion.
- Less than 20% of the 1380 Public Schools in Kansas reported even having a seclusion room for the 2009-2010 school year.
- Less than 1% of the students with disabilities were reported being secluded in each quarter for the 2009-2010 school year.
- Less than 1% of the schools in Kansas secluded more than 5 students per quarter for the entire school year.
- Four was the largest number of students secluded for 60 minutes or more in any quarter for the 2009-2010 school year.
- No (zero) schools reported having secluded a student for 120 minutes or more for the 2009-2010 school year.
- Less than 5% of the schools in Kansas secluded 1-2 students per quarter for the entire 2009-2010 school year.

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