

# Restraints and Seclusion

By Erica McFadden, Ph.D.

A recent American Civil Liberties Union [report](#) found that Maricopa County elementary and middle school students with disabilities are twice as likely to be suspended compared to kids without disabilities. Another key factor in this discussion is the use of restraints and seclusion on students with disabilities as disciplinary action in schools. In 2016, state lawmakers revised Arizona Revised Statute Title 15-105 on the use of restraints and seclusion, requiring that schools document and report any restraint or seclusion used on students to the parent or guardian within 24 hours. This briefing paper looks at the definition of restraints and seclusion, as well as whether they are overused forms of punishment on students with disabilities.

## What are restraints and seclusion?<sup>1</sup>

Restraints are methods that restrict a person's ability to move freely or use one's body. They can be mechanical (e.g., straps), physical (e.g., being held by others), or chemical (e.g., medication used to sedate). Seclusion is involuntary isolation in a restricted location without the ability to leave. An appropriate use of "time out" is not considered seclusion.

Restraints and seclusion are used to subdue or stop undesirable behavior. In the best circumstances, restraints are employed by trained personnel and used to prevent a person from harming him/herself or others. In the worst cases, restraints and seclusion are used excessively as a management intervention by untrained staff when behavior is not actually dangerous. These types of management interventions may lead to psychological trauma, physical injury, or even death.

## What does federal law say about restraints and seclusion?

No federal statute governs the use of restraints and seclusion in public or private schools. Several attempts have been made to pass federal legislation that would restrict the use of restraints and seclusion and require states to collect data on their usage. Most recently in 2011, Senator Tom Harkin of Iowa introduced the Keeping All Students Safe Act (S 2020).

*"Students with disabilities served by IDEA represent 12 percent of all students, but represent 67 percent of students subject to restraint or seclusion."*

- 2013-2014 Civil Rights Data Collection, A First Look

<sup>1</sup> Although there are many definitions of restraints and seclusion, these are based on the Centers for Medicare and Medicaid Services (42 C.F.R. § 482.13(e)(1)(i)-(ii)) that apply to medical facilities participating in federal programs.

Keeping All Students Safe Act (S 2020) intends to reduce restraints and seclusion, but there are still high rates of exclusionary school discipline practices, which have led to the removal of students from class. The removal of students through suspensions or expulsions does not allow students to fully participate in their education. Data from the U.S. Department of Education's Civil Rights Data Collection (CRDC) shows disparities along race, sex, disability, and other student characteristics in the administration of student discipline (suspension or expulsion).<sup>2</sup> The population of students with a disability is twice as likely to be suspended compared to those without disabilities.

"Those served under Individuals with Disability Education Act (IDEA) represent 12 percent of the overall school population, yet account for 25 percent of the students with one or more suspensions."<sup>3</sup> Furthermore, when an individual identifies with a racial identity other than white and has a disability, they encounter higher rates of suspension.

### Are there disparities in the use of restraints, seclusion, and school removals of students?

Currently there are "1.6 million students attending school with a law enforcement officer but not a counselor."<sup>4</sup> The large amount of suspensions, removals, and exclusionary practices reduces the amount of time students have for their education. Expulsion and suspension can also interfere with identifying the root causes of students' behavioral problems. Students need to be able to continue their education no matter what race, sex, or disability identity. Section 504 of the Rehabilitation Act of 1973 requires all school districts to provide students with disabilities an equal opportunity to participate in educational programs and to provide a Free Appropriate Public Education (FAPE) to every student with a disability.<sup>5</sup>

Although hard data regarding the use of restraints and seclusion is sparse, the Government Accountability Office (GAO) suggests that children with disabilities are uniquely vulnerable to inappropriate and dangerous uses of restraints and seclusion. Furthermore, children with disabilities are often unable to report the use of restraints or seclusion used against them. The GAO proposed a new rule in 2016 that would require states to "Implement a standard approach to compare racial and ethnic groups, with reasonable thresholds for determining when disparities have become significant."<sup>6</sup> The rule also states that if disparities are found, at least 15 percent of IDEA funding would need to be spent on early intervention services.

### What does research say about the effect Positive Behavioral Interventions and Supports (PBIS) has on the use of restraints and seclusion?

Positive Behavioral Interventions and Supports (PBIS) is part of the Individuals with Disabilities Education Act (IDEA). Congress initiated PBIS because it recognized the need for schools to "Use evidence-based approaches to proactively address the behavioral needs of students with disabilities."<sup>7</sup> The intent of PBIS is to use an evidence-based approach to manage challenging behaviors in the classroom. Although research

<sup>2</sup> Report: The Continuing Need To Rethink Discipline. Executive Office of the President December 2016.

<sup>3</sup> Report: The Continuing Need to Rethink Discipline. Executive Office of the President December 2016.

<sup>4</sup> Report: The Continuing Need to Rethink Discipline. Executive Office of the President December 2016.

<sup>5</sup> United States Department of Education office for Civil Rights. Fact Sheet: Restraint and Seclusion of Students with Disabilities.

<sup>6</sup> Report: The Continuing Need to Rethink Discipline. Executive Office of the President December 2016. [http://www.aiu3.net/uploadedFiles/Teaching\\_and\\_Learning/IDEA\\_and\\_Training\\_Consultation/Behavior\\_Support/2016%20School%20Discipline%20Report.pdf](http://www.aiu3.net/uploadedFiles/Teaching_and_Learning/IDEA_and_Training_Consultation/Behavior_Support/2016%20School%20Discipline%20Report.pdf)

<sup>7</sup> <https://www.pbis.org/school/pbis-and-the-law>

has not explored if PBIS reduces the incidence of restraints and seclusion, PBIS has been proven to reduce suspensions, expulsions and other disciplinary activities. Consistent and robust data collection systems are necessary for the long term success of PBIS because present data collection mechanisms are not capable of providing sufficient information about the effect of PBIS on the use of restraints and seclusion.

### How does Arizona define restraints and seclusions?

In 2016, lawmakers revised Arizona Revised Statute Title 15-105 on the use of restraints and seclusion techniques, requirements, and definitions.<sup>8</sup> The revision requires schools to report and document any restraint or seclusion used on students, and the incident report must be completed and sent to the parent or guardian within 24 hours.

### National Tracking of Restraints and Seclusion

The U.S. Department of Education began collecting data regarding the use of restraints and seclusion through its Civil Rights Data Collection.<sup>9</sup> Data for the 2013-2014 school year became available in June of 2016. The full data can be found at [crdc.ed.gov](http://crdc.ed.gov), and the report by the state can be found at [ocrdata.ed.gov](http://ocrdata.ed.gov).<sup>10</sup>

<sup>8</sup> <http://law.justia.com/codes/arizona/2016/title-15/section-15-105>

<sup>9</sup> <http://www2.ed.gov/news/pressreleases/2010/03/03162010.html>

<sup>10</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

August 2017 | Morrison Institute for Public Policy, Arizona's premier think tank, was established in 1982. An Arizona State University resource, Morrison Institute utilizes nonpartisan research, analysis, polling and public dialogue to examine critical state and regional issues. Morrison Institute provides data- and evidence-based review to help improve the state and region's quality of life. Morrison Institute is part of the ASU College of Public Service and Community Solutions.

**[MorrisonInstitute.asu.edu](http://MorrisonInstitute.asu.edu)**