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Autism National Committee, Inc.

22 years of working for civil rights and justice for people with autism

www.autcom.org

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March 13, 2012

The Honorable Tom Harkin
Chairman, Committee on Health, Education, Pensions, and Labor
United States Senate
Washington, DC 20510

Re: **Restraint/Seclusion: AASA Report and Survey Deeply Flawed;
Would Subject Children to Continued Injury and Harm**

Dear Senator Harkin:

The Autism National Committee has worked during much of its 22 years of existence to fight abusive restraint and seclusion. We are deeply concerned about the American Association of School Administrators' report, Keeping Schools Safe. We would ask our school administrators to fight to protect children. But AASA instead asks for school districts to have the freedom and flexibility to use restraint and seclusion as they wish. AASA opposes the Keeping All Students Safe Act, S.2020 and H.R. 1381. These two bills would protect all school children in America from dangerous restraint and seclusion. We strongly support them.

The AASA report contains a survey that is flawed and misleading. There is no description of how data was collected or analyzed, whether leading questions were used; how many school districts answered the survey; or even who answered the survey. AASA simply left the methodology out of its report. As we discuss below, we find reliance on this survey to be disingenuous and an improper attempt to shift attention from the danger of restraint and seclusion.

Restraint/Seclusion Are Dangerous and Harmful, Contrary to AASA Assertions

In 2009, the Government Accountability Office documented hundreds of children who were restrained and secluded in school, resulting in death, injury, and psychological trauma. At least 20 involved children who died from restraint. Children suffered injuries, including broken bones and bloody noses, or had post-traumatic stress syndrome.¹ A number of national organizations have documented the harm caused by restraint and seclusion in numerous reports,² as did a U.S. House of Representatives report.³ The AASA report mentions none of this. AutCom received dozens restraint/seclusion stories from parents in a recent collection; and there have been large numbers of recent media reports.

The AASA argues that restraint/seclusion issues should be left to states and school districts to decide. In 2005, a Georgia teen hung himself in a seclusion room as his teacher sat outside, checking him occasionally, in accord with the kinds of policies the AASA would protect. Most recently, a Connecticut school district placed children with disabilities in locked seclusion "scream rooms," in keeping with state policy. The children were traumatized and even bloodied from self-injury.

With no source cited, the AASA simply asserts that 99% of school personnel use seclusion and restraint safely and only when needed. There is not only no proof for this assertion; it is false. Even if this claim were true, it would mean over 30,000 public school staff--entrusted to care for the majority of America's children--were using restraints and seclusion dangerously. Is this something America should support?

**In Contrast To AASA's Claims, State Policies
Don't Work; Many States Lack Effective Laws.**

Today, only 14 states limit restraint to physical safety emergencies and only 11 limit seclusion to these emergencies or ban it entirely. The Keeping Students Safe Act will ban physical restraint except for emergency threats of physical danger when less restrictive alternatives won't work. The bills will protect children from dangerous seclusion. The bills will require same day notification of parents. Only 12 states require this today, and 27 have no laws about notification. Too many parents never find out how their child was mistreated. The bills will ban dangerous mechanical and chemical restraints, and restraints that interfere with breathing--something few states do today. AASA asserts that 36 states have policies, but 13 of these are voluntary, nonmandatory policies that can be disobeyed. There are 29 states with statutes and regulations, but many have loopholes and none provide the same protection the federal bills would. For example, some only protect children from restraint or seclusion. Others allow these procedures to be used for such things as educational disruption, getting out of one's seat, acting out, coercion, discipline, and in place of proper educational programming.⁴ More information about the weaknesses in state laws (including a summary of state laws effective in 2012) can be found in J. Butler, *How Safe is the Schoolhouse, An Analysis of State Seclusion and Restraint Laws & Policies* (Autism National Committee2012), <http://bit.ly/RSSstatelaw>.

**The AASA's Survey is Highly Flawed and
Obscure the Danger of Restraint/Seclusion**

The AASA report relies on a "survey" of some portion of its members for a variety of claims, including assertions that 97 percent of respondents said that staff who perform seclusion and restraint are trained in performing safe seclusion and restraint, and that some portion reported some hospital care of staff due to student outbursts.

To the extent the AASA suggests its survey is nationally representative, it is misleading. The report contains no information about the survey or its methodology.

The report does not state whether the AASA surveyed few districts or many; whether it used questions that suggested an answer or how terms were defined; whether the response rate was low; how the AASA picked the districts it surveyed; or what the administrators used to give their opinions (did they actually check records or just give impressions?). There is no reporting of demographics or even a mention of who responded to the survey. The report does not state whether any data analysis was conducted, and if so, what that analysis was. All of this is likely to skew an outcome and results badly.

To issue a report like the AASA has is to issue a report with no scientific basis that is designed to obscure the very real dangers of restraint and seclusion. The report significantly deviates from accepted standards of research practice in regards to data collection and reporting. The AASA report is problematic due to its lack of reliability and validity and to the harm that lack of rigor contributes to a serious discussion of restraint and seclusion.

We are greatly disappointed that an organization that purports to be a serious representative of school administrators across the country would issue such a disingenuous document and survey.

We wish to point out two issues of concern with AASA's survey. AASA's survey does not distinguish between staff with a few hours of training and those who complete full training programs. Poorly trained or untrained staff were involved in several deaths and injuries reported by the GAO and others. Only 7 states require training in medical distress and first-aid, and only 18, in safe and appropriate restraint/ seclusion use (often without further definition of what this means).⁵ The Congressional bills will require training in evidence-based techniques and the dangers of seclusion and restraint, and provide needed funds for training personnel. AASA also makes claims about injuries. Reducing the use of restraint/seclusion has cut the rate of injury for students and school staff.⁶ One 2005 study found that decreasing restraint and seclusion in adolescent inpatient facilities cut the number of injuries to adolescents and staff, and reduced sick time, workers' compensation, and replacement costs "substantially."⁷

School Children Deserve the Same Legal Protection Patients and Others Receive.

If these same children were in hospitals, mental health facilities or psychiatric institutions, federal law would protect them from restraint and seclusion. But no such federal law applies to schools, even though they educate over 55 million children. Schoolchildren deserve these same protections, but the AASA's proposals would deny them those protections.

Conclusion

We find the AASA's report to be, at best, a disappointment, and at worst, an endorsement of continued dangerous practices. The AASA's survey is seriously flawed and misleading. We urge the AASA to abandon its views and join us in supporting the Keeping All Students Safe Act. America's children deserve protection from abuse in school. No more children should die or face injury or the horror of restraint and seclusion. Please feel free to contact us for more information.

Sincerely,

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¹ United States Government Accountability Office, Seclusions and Restraints, *Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers* (2009), <http://1.usa.gov/gaors7>.

² National Disability Rights Network, *School Is Not Supposed to Hurt* (2009), <http://bit.ly/ndrn2009>; Council of Parent Attorneys & Advocates, *Unsafe in the Schoolhouse: Abuse of Children with Disabilities* (J. Butler 2009), <http://bit.ly/UnsafScho>.

³ H.R. Rep. No. 111-417, Preventing Harmful Restraint and Seclusion in Schools Act (2009), <http://1.usa.gov/HR111417>.

⁴ **J. Butler, *How Safe is the Schoolhouse, An Analysis of State Seclusion and Restraint Laws & Policies* (Autism National Committee 2012), <http://bit.ly/RSSstatelaw>.**

⁵ *Id.*

⁶ H.R. Rep. No. 111-417, Preventing Harmful Restraint and Seclusion in Schools Act (2009), <http://1.usa.gov/HR111417>.

⁷ J. LeBel & R. Goldstein, *The Economic Cost of Using Restraint and the Value Added By Restraint Reduction or Elimination, Psychiatric Services*, Sept. 2005, <http://bit.ly/EconRestr>