

Ways and Means Committee

Bill #: HB1166

Bill Title: Education – Physical Restraint and Seclusion – Requirements, Reporting, and Training

February 24, 2021

****FAVORABLE****

Dear Madame Chair and members of the Ways and Means Committee,

As Chair of the national disability civil rights nonprofit Communication First, human rights advocate combating the high rates of abuse against students of color and students with disabilities (and especially students of color with a disability), product of Head Start and Maryland public schools, and person born with a speech disability, I am writing to request your support for HB1166: Education – Physical Restraint and Seclusion – Requirements, Reporting, and Training, which would prohibit a public agency or nonpublic school from using a physical restraint or seclusion on a student as a behavioral health intervention, except under certain circumstances, require a risk assessment to be completed at certain points for a student who has an individualized education plan and experiences a seclusion updated requirements on annual reporting of restraint and seclusion, and additional accountability and training protocols. **Implementing stricter laws on the use of physical restraint and seclusion is a critical step towards ensuring our most vulnerable students are protected from emotional and physical abuse, and potential death.**

“I can’t breathe” That became the cry in 2020 for Black Lives Matter after the senseless death of George Floyd. Yet those have been the last words of hundreds, thousands, of children in schools and institutions who died by means of physical restraint. Mr. Floyd was restrained for 9 minutes and 30 seconds before his last breath. Imagine a child being pinned down for 110 minutes before his last breath. Stories can be heartbreaking to hear. Data can be even more devastating to look at. According to the U.S. Department of Education (DOE), **students with disabilities represent 12% of the public school population but 58% of students placed in seclusion or involuntary confinement. Students with disabilities also represent 75% of students physically restrained at school** (and are 25% of students arrested and referred to law enforcement). According to the U.S. Department of Justice Office of Victims of Crimes, individuals with disabilities were at least twice as likely as people without a disability to be victims of “violent victimization”. Specifically, 30 out of every 1000 individuals with a disability age 12 or older reported being a victim of a violent victimization, compared to 12 out of every 1000 individuals age 12 or older without a disability. Moreover, between 2011 and 2015, nearly **60 out of every 1000 individuals with a cognitive disability age 12 or older reported being a victim of violent victimization.** Other statistics show that children with disabilities are 3.7 times more likely to experience violence than children without a disability, and 60% of students with disabilities are bullied compared to 25% of students without disabilities.



Restraint and seclusion can result in a myriad of physical, psychological, and emotional harms. Specifically, victims of physical restraint have suffered death from sudden respiratory arrest or fatal cardiac arrhythmia, strangulation, or serious bodily injury such as muscle injuries, blunt trauma to the head, lacerations, and broken bones. A [2009 GAO Report, “Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers”](#), found hundreds of cases of abuse and death related to the use of restraint and seclusion on school children during the past two decades – and almost all of the allegations involved children with disabilities. A

common theme with cases that involved death was that most of the students were nonverbal. Additionally, at least half of the educators involved in the cases under review by the GAO remained employed after the death and/or abuse occurred. The statistics have not changed. The DOE reported nearly 70,000 students covered under the *Individuals with Disabilities Education Act* were restrained or secluded in the 2013-14 school year, accounting for over 200,000 incidents. The DOE also reported in October 2020 that 80% of all students subject to physical restraints had disabilities, while 77% of students subject to seclusion had disabilities. In another study, NPR and ProPublica found that although students with disabilities represent only 12% of the public school population, they comprise two-thirds of the children who are physically restrained or secluded from their classmates annually. Since the 2009 GAO report, many states and localities have passed laws or policies to better protect students from restraint and seclusion, yet laws and policies are not being enforced. Much more is needed to truly protect our kids from such inhuman practices, along with other forms of abuse by educators or volunteers.

The GAO has released multiple reports in the last decade highlighting the vast underreporting (or no reporting) by school systems across the country regarding students with disabilities facing restraint, seclusion, and other abuse. It is easy for schools to not report such incidents when most children are unable to fully communicate the abuse or there is no supporting evidence to give their stories further credibility.

For the reasons stated above, I strongly urge this committee to vote FAVORABLY on Bill #: HB1166, Bill Title: Education – Physical Restraint and Seclusion – Requirements, Reporting, and Training.

Respectfully Submitted,

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