

Please Vote For Sub. HB 2170 – Please Protect Children from Dangerous Seclusion & Restraint

My name is Jawanda Mast. My daughter Rachel is 15, has Down syndrome and is in 9th grade in the Olathe Unified School District. I want to share with you an example of how my daughter was subject to unnecessary and inappropriate restraint. Rachel's example reinforces why the Legislature needs to pass HB 2170:

- 1) Right Standards, Uniform Protection – The standards in Sub. HB 2170 are far superior to the flawed existing regulation. They are uniform and effective. We need effective protections in statute. We need this problem fixed once and for all in law.
- 2) Compromise – Sub. HB 2170 is a compromise that was actually drafted by KSDE staff in 2007.
- 3) Sub. HB 2170 Fixes the Flaws in the Existing Regulation – a) Regulations only require schools to have a “policy,” but whether that policy is effectively followed is pretty much left up to schools, b) The proposed complaint process in the regulation does not treat parents as equals, c) HB 2170 has more effective protections.
- 4) I hope the Senate FINISHES THE JOB it started back in 2012. In 2012 this committee deferred to the State Board. The result is that the policy is still broken. We hope this Committee will finish the job.

Schools should not be allowed to police themselves regarding these deadly methods. We need the right standards in law. Parents must be treated the same as schools in any complaint process.

Effective training must occur before school staff engage in these dangerous methods.



My daughter Rachel was subjected to inappropriate restraint. If this can happen to Rachel, it can happen to anyone.

Rachel is amazing. Rachel is integrated in the general education classroom, participates in Christian Youth Theater, dance programs, church youth and choir activities, and most recently was featured in the documentary *“Just Like You – Down Syndrome.”* Additionally, she has visited with our United States Senators and Congressman and helped to secure their co-sponsorship of the ABLE Act. Recently, she

testified before the Kansas Legislature's Children and Seniors Committee in support of the ABLE Act. Overall, we have been pleased with the Olathe school system. However, we had an incident when Rachel was in the 4th grade that reinforces the points I just made. It reinforces the need for protections in law.

Rachel's Speech Language Therapist (SLP) restrained her inappropriately not once, but twice in a five minute period. The SLP stated that Rachel was NOT an immediate danger of causing serious physical harm to herself or others.

Please keep in mind that Rachel does not have a behavior plan as part of her IEP because it is not needed. She has never been violent. To the best of my understanding, Rachel asked to get a drink of water and was told no. Rachel decided to get a drink of water anyhow. The school SLP followed her to the water fountain, placed her hands on Rachel and restrained her. As you can imagine, the restraint caused Rachel to feel threatened and she started back to the classroom. Instead of disengaging, the SLP escalated the situation by restraining her yet again and this time wrapped her arms around Rachel and taking her to the ground. All of this over a drink of water in a five minute period? Thankfully another person witnessed this incident. Rachel displayed some unusual behaviors, and I only found out about it because I began to ask questions of the school. Even though my daughter is an effective communicator, I couldn't discern what had happened through a discussion with her. I had to go to school officials to get the story. Long story short, if not for me being a loving and involved mom, no one would have known because the SLP did not report it to anyone.

Supposedly and by her own admission, the SLP was properly trained in CPI. Yet, she chose to use physical restraint on Rachel when she was clearly not a danger to anyone. This illustrates that just having a policy on staff training is not enough. Just having a regulation which only requires schools to have a policy is not enough. We need protections in statute. You also need either in the regulation itself or through KSDE policy specific language that makes it crystal clear that restraint can only be used when the child is an immediate danger or causing serious physical harm. This is the standard developed by the US Department of Education under the leadership of former Kansas Education Commissioner Alexa Posny when she was at USDE.

In Conclusion:

As you can see from the parents who have testified here today, the Kansas Legislature needs to pass Substitute HB 2170 in order to support and fix the current regulations and ensure that our state has an effective policy on seclusion and restraint.

Even though my example happened before the current regulations went into effect, I have talked to numerous parents who tell me that the current regulations failed them. The current regulations did not protect their children. Unfortunately, due to a combination of scheduling difficulties, the "halo effect" granted to school staff and some concerns about retaliation, those parents could not testify today.

Please know that Kansas has some outstanding teachers and great schools who will do what is best regardless of what the law says. You do not pass laws like this for those who will do the right thing. You pass Substitute HB 2170 to ensure accountability and consistency statewide. It should not matter where a child resides in Kansas, they should have the same protections. By supporting HB 2170 you are actually supporting Kansas schools because you are ensuring consistency and accountability and also protecting

teachers and schools, not just students and parent. As you have heard today, there are still far too many children and parents who are being failed by current Kansas policy.

I do understand that the education lobby is strong. I imagine you will hear from the some aspects of the education lobby that we do not need this bill and that the current regulations are sufficient. Please remember two things when you hear that. First, the parents you heard from today and many other Kansas parents who couldn't be here prove that current regulations are failing to keep Kansas children safe and that this bill is absolutely needed. Secondly, understand that the argument that the status quo is fine and you should not change the policy is the same argument the state government and lobbyists have made on this issue for over the past 10 years.

You will also probably hear that the data indicates the status quo is working. As you heard from parents today, there are huge flaws in that argument. The parents are telling you that not all instances of seclusion and restraint are being captured in that data. Because all this is left to local policies with discretion to schools, schools misclassify incidences of the use of seclusion and restraint, which means they do not have to report it (saying the child was not put in a "seclusion room" but rather an "opportunity room" or "cooling off room," etc.). The data is unreliable and the data issue is an outstanding question in which more improvement must be made by both schools and the state.

You will most likely hear that the data shows that few parents have used the "local dispute resolution process." There is a good reason for that. Parents do not trust the current process, because parents can only complain to their local school board. Parents see this as a clear conflict of interest, as they must complain to the school district that employs the staff member who perpetrated the incident.

Finally, you should also know that the State Board of Education has proposed only ONE change to these fatally flawed regulations. This is in spite of parents like me and others calling out these problems for over the past two years. 3 of the 4 parents who testified today have also testified to the State Board over the last two years. The Board has not acted. I really hope you act. The Board's only proposal is an insufficient one. It would create a complex "appeals process," technically allowing appeals beyond the local board. This is the wrong policy for several reasons. One, this proposal does not address any of the other flaws of the current policy that this bill fixes in Sections 1-4. Two, this latest proposal treats parents unfairly and is another Band-Aid on a critical wound. Parents would still not trust this proposed appeals process because it treats parents unequally, limits appeals, gives great deference to schools and is convoluted. Section 5 of Substitute HB 2170 restores faith by ensuring an independent complaint system where parents and schools are "treated equally in the complaint process," but allowing the State Board to develop the specific regulation conforming to this policy.

Thank you for your attention to my requests. I will gladly answer your questions.

Jawanda Barnett Mast
1389 E. 154th Terrace
Olathe, KS 66062 ; jmast3@earthlink.net