

March 10, 2015

Matt J. Enyart  
Kansas Institute for Positive Behavior Support  
University of Kansas  
1000 Sunnyside Avenue  
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Dear Chairman Steve Abrams and Members of the Senate Education Committee,

Our most vulnerable youth continue to be at the highest risk for seclusion, restraint, suspension, and expulsion in Kansas schools. This is directly related to punitive, ineffective, and reactionary disciplinary practices more focused on accountability versus education. Why is it we so easily recognize a child needs to be taught math and not behaviors? When a child struggles with math, teachers receive additional professional development and provide targeted and individualized interventions. When a school has difficulty overall with their math and reading scores, administration implements additional preventative and universal curriculum for all students to increase the likelihood of success, and improve outcomes. Supporting behavior should be not different and in fact, is even more important as a child is not in the classroom learning if they are in seclusion, suspended, or expelled from school.

The time is now for Kansas to strengthen laws to better protect, support, and educate our at risk youth. Positive Behavior Interventions and Support (PBIS) is a framework for schools to use to systematically provide proactive, preventative interventions for students at the universal, targeted, and intensive level. With PBIS, all staff receive training to effectively support the behavior and support needs of students at these different levels. Schools are set up to systematically teach and reinforce expectations to all students at the universal level. At the targeted level, at risk youth are identified and provided additional supports and supervision. Those students with the most challenging behaviors receive comprehensive intensive, individualized behavioral supports. The effectiveness of PBIS is evident by the overwhelming amount of school based research, the specific reference to PBIS in the Individuals with Disabilities Education Act, U.S. Department of Education (USDE) Restraint and Seclusion Resource Document, and numerous examples of improved school outcomes in Kansas and other states as a result of implementing PBIS.

I am specifically writing you today to request you consider the principles of PBIS as you develop the language for the Freedom from Unsafe Restraint and Seclusion Act (Sub HB 2170). The current proposed bill is absolutely a step in the right direction. I am suggesting that you make additions to the bill to do more to adequately protect and support our most vulnerable students. Youth engaging in challenging behaviors significant enough to put them at risk for seclusion and restraint in Kansas schools deserve more than just additional reactionary requirements. Through their behaviors, they are communicating they need additional supports and skills. As cited in both IDEA and by the USDE, the PBIS framework provides the supports for both students and staff to be successful through preventative and proactive interventions. While these interventions will reduce the likelihood of behaviors that could endanger the youth or others, they will not eliminate them completely. When schools do have to respond to these behaviors, it is critical they have specific law and policy to provide them with the guidance needed. Regarding the Freedom and Unsafe Restraint and Seclusion Act, I would encourage you to consider the following language borrowed from other states:

**Use of Restraint and Seclusion – Suggested additional language to Substitute HB 2170:**

***Ensuring that less restrictive procedures are tried first, including PBIS***

*Add on page 1, line 23, after the word “others”:*

*“and after other less restrictive alternatives, such as positive behavior interventions support, have been implemented without success or determined that such alternatives would be inappropriate or ineffective under the circumstances.”*

***Rapid Response to Multiple Incidents of Physical Restraint and Seclusion***

*Add a new section to the bill:*

- (a) **Special Education/504 Students after Third Incident.** After the third incident of physical restraint or seclusion in a school year of a student who has been found eligible for special education or has a Section 504 plan, the student’s IEP or 504 team shall meet within 10 school days of the third incident to discuss the incident and consider the need to conduct an functional behavioral analysis (FBA) and/or develop a behavior intervention plan (BIP) or amend an existing one.*
- (b) **For all other students after Third Incident.** For students not described in Paragraph A, a team shall meet within ten school days of the third incident in a school year to discuss the incidents.*
- (c) The team shall consist of the parent, an administrator or designee, a teacher for the student, a staff member involved in the incident (if not the teacher or administrator already invited), and other appropriate staff members.*
- (d) The team shall consider the appropriateness of a referral to special education and, regardless of whether a referral to special education is to be made, the need to conduct an FBA, and/or develop a BIP.*
- (e) Nothing in this section is meant to prevent the completion of an FBA or BIP for any student who might benefit from these measures but who has had fewer than three restraints or seclusions.*

***Debriefing***

*Add a new section to the bill:*

*Following each incident of physical restraint or seclusion, the covered entity shall ensure that, within two school days, an administrator or designee reviews the incident;*

*With all staff persons who implemented the use of physical restraint or seclusion to discuss:*

*Whether the use of restraint or seclusion was implemented in compliance with this rule and local policies, and*

*How to prevent or reduce the future need for physical restraint and/or seclusion; and*

*With the student who was restrained or secluded to discuss:*

*What triggered the student’s escalation; and*

*Consider additional positive behavior interventions support (PBIS) and what the student and staff can do to reduce the future need for restraint or seclusion.*

*When physical restraint or seclusion has resulted in a student or staff member requiring medical treatment, the debriefing must take place as soon as possible but no later than the next school day.*

*Following the debriefing, staff must develop and implement a written plan for response and de-escalation for the student, or, if a plan already exists, staff must review and, if appropriate, revise it. This written plan should include the consideration of PBIS interventions, a functional behavioral assessment (FBA), and comprehensive behavior intervention plan (BIP).*

***School wide training of PBIS***

*Add a new sentence on page 3, line 5, after “altercation.” to read:*

*“All school personnel shall receive positive behavior interventions and support training and shall use an array of positive behavior interventions, strategies, and supports to increase or decrease targeted student behaviors.”*

Please let me know if you have any questions or if I can be of any assistance moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Enyart", written over a light blue horizontal line.

Matt J. Enyart  
Director, Kansas Institute for Positive Behavior Support