

House Committee on Children and Families

Testimony on HB 2444, Seclusion and Restraint
Robert Coleman, Director ANW Special Education Cooperative
Thursday February 2, 2012

Chairman and Members of the Committee,

My name is Robert Coleman; I am currently the Director of Special Education for ANW Special Education Cooperative #603 in Humboldt Kansas. I have worked in special education as a teacher, coordinator of day schools and detention facilities, principal of a day school for seriously emotionally disturbed students, and Director of Special Education in Wichita supervising 4 different day schools for seriously disabled students as well as contracts with outside agencies. In addition I served on the committee that developed the current guidelines adopted by the State Board of Education.

I would respectfully ask that you not support HB 2440 for the following reasons:

1. To do so would go contrary to the guidance that was specifically placed in IDEA and strengthened during the last reauthorization. The authors of IDEA knew and understood that litigation would not provide effective, nor timely resolutions for parents or school districts when disputes occurred over the services provided or how they were provided. That is why they have required schools to dispute resolution services and mediation before even going to a due process hearing, let alone the courts. In my opinion this law will cause attorneys to encourage parents to take legal action rather than work with school staff to resolve concerns. In my own experience, litigation generally takes at least a year to resolve and in some cases can take 5 to 10 years and in most cases neither party gets the outcome they expected and the child is the one that loses the most.
2. The current guidelines have proven to be effective since the time they were implemented. No due process hearings have been held, one complaint was filed with KSDE about a year ago but in that case the school was refusing to use the floor restraints requested by the parents, three others have just recently been filed, two dismissed as unsubstantiated and the third was just filed and has not, to my knowledge, been processed.
3. Beyond the guidelines current statutes on abuse and neglect apply to all school personnel. Parents can and do report their concerns to SRS and or the police, and investigations do take place. Litigation is possible under this law yet to my knowledge no charges have been filed regarding the treatment of a disabled child by school personnel. Schools also monitor the performance of their staff and if the staff do not comply with appropriate procedures then actions are taken to retrain and or if necessary dismiss the individual.

4. The purpose of the guidelines is to assure that schools have effective tools to deal with emergency situations that arise based on student behaviors that are caused by their disabilities. They are not used to punish the student nor are they used for disciplinary action. Their purpose and use is to assure that a student does not harm themselves or others. I understand that it is very difficult for any of us but particularly those that have not been with these children to understand that a child can bite into their own flesh-scratch themselves until they bleed, beat their head against the floor or attack other students or staff in a manner that does serious harm to others. It is, however, a circumstance that parents, caregivers and school staff find themselves in every day with a very small number of seriously disable students. Clearly school staff needs to be trained in the use of methods that can protect the child and others from harm. The current guidelines provides the means to assure that is done in an effective manner and the current laws on abuse and neglect offer the means to hold anyone accountable for mistreatment of a child

Again I urge the members of the committee to consider my testimony and vote against the adoption of HB 2444.