



Special Services
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Testimony on House Bill No. 2444 Seclusion & Restraint in Senate Education Committee

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The following statement is written in opposition of House Bill No. 2444 *Seclusion & Restraint*. Derby Public Schools and districts across Kansas are committed to ensuring that students with disabilities are served in the least restrictive environment (LRE) as required in the Individuals with Disabilities Education Improvement Act (commonly called IDEA). That portion of the act is based on the premise that, "you don't use a cannon to kill a fly when a fly swatter will do." In other words, students have a right to receive an education in which the supports provided to ensure access to the curriculum don't unnecessarily hamper their participation with general education peers. This has become the underlying ethic that guides the delivery of special education services in Kansas. Evidence of this is found in data collected statewide that show that less than 1% of the students with disabilities in Kansas per quarter are secluded as defined by the Kansas State Department of Education Seclusion and Restraint Guidelines adopted by the State Board of Education in 2007. The state data shows that seclusion is a rarely used emergency safety intervention employed only when students and/or staff members are in eminent risk of harm.

I would like to believe that the proposed legislation is well intentioned to protect students with disabilities from unnecessary or prolonged episodes of seclusion. However, because highly emotional anecdotes from other states have been used to promote this legislation, and the existing data in Kansas hasn't confirmed a local need, it is my concern that the Senate Education Committee will vote in favor of the bill and in so doing put the targeted students at great risk. Before voting on HB 2444 please consider the following:

1. Since seclusion data has been monitored statewide, no substantiated formal complaints regarding the improper use of seclusion or restraint have been received by KSDE.
2. There are no documented cases of a Kansas school student being killed during the use of seclusion or restraint. The cases widely shared by the agencies promoting this legislation were obtained from other states and involved service agencies other than schools.
3. Remedies for a violation of the adopted guidelines or for inappropriate use of seclusion and/or restraint already exist through the Office of Civil Rights under Section 504 or the Americans with Disabilities Act (ADA). Educational cases are subject to due process procedures conducted by the state education agency. Legislation specifying "seclusion/restraint" is redundant and would result in increased legal fees by the school districts that would be forced to interpret the service obligations imposed by the new bill.
4. The proposed legislation applies to only those students served on an Individual Education Plan when ALL students should be considered if safety is a legitimate issue.
5. Derby Public Schools is highly committed to following the current adopted guidelines and targeting the supports and training needed to keep all students and staff safe. If the guidelines become a regulation applied to all schools, even those with no record of physical

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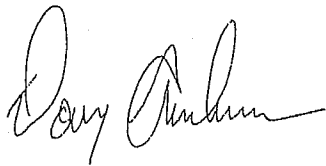
restraint or seclusion, then districts forced to certify instructors to train every provider who may someday be subject to a situation that requires physical redirection of a student would incur an enormous expense. In a limited budget these are funds that will be diverted from other pressing priorities.

6. Under the proposed regulations school staff will be reluctant to use effective emergency safety interventions and will instead defer this responsibility to local law enforcement. This has the potential for greatly decreasing instruction time for some students and increasing legal issues for parents who feel very secure and supported in the current system.

Please be assured that Derby Public Schools has followed the seclusion/restraint guidelines as written in 2007 and will continue to do so. We consider the safety of our students and staff to be a top priority. The proposed legislation will not help in that regard and has a potential to divert funds and disrupt the safe and supportive system that is currently in place.

I appreciate your consideration on this important matter.

Sincerely,



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