

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:35 p.m. on March 15, 2005, in Room 123-S of the Capitol.

Committee members absent: Barbara Allen- excused
John Vratil- excused

Committee staff present: Carolyn Rampey, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Rodney Bieker, General Counsel, Kansas State Department
of Education
Alexa Posny, Assistant Commissioner of Education
Dr. Earle Knowlton, Department of Special Education,
University of Kansas

Senator Schodorf explained that the meeting concerned information concerning the laws, policies, and procedures regarding seclusion and restraints in public schools. She noted that, after the hearing on **SB 241**, members felt further information on the subject was appropriate.

Rodney Bieker, General Counsel, Kansas Department of Education, gave an overview of current law with regard to the time-out or seclusion room. He described the seclusion room and noted that such rooms are authorized in public schools. He noted that there is no state or federal law that directly prescribes standards or guidelines for the use of time-out rooms in public schools. He explained that the few courts that have addressed specific facts about placing students in time-out rooms have uniformly held that the reason for using this measure and the details of the area of isolation must be reasonable. He informed the Committee that all children with disabilities are entitled to a Free Appropriate Public Education (FAPE). These children have an Individualized Education Program (IEP) which addresses their behavior. The IEP team, which includes parents, must develop a Behavioral Intervention Plan (BIP) for the child, and the courts have held that an appropriate BIP for some children may include the use of a time-out room. If concerns later arise about the time-out room, the parents can withdraw their consent to its use. (Attachment 1)

Alexa Posny, Assistant Commissioner of Education, noted that teachers can often use the same disciplinary strategy with any student, yet some students may require varying levels of behavioral intervention as a result of their disability. The issue of the use of time-out as a behavioral intervention comes down to appropriate use. She noted that the appropriate use is for the purpose of removing access to positive reinforcers for a specified period of time. She explained that time-out may be implemented at different levels from least to more exclusionary (observation, exclusion, and seclusion). She noted that there is no one intervention that is appropriate for every child, and the use of any of the time-out methods is subject to safeguards. (Attachment 2)

Senator Apple recalled that pictures of small, wooden time-out boxes were presented by a parent during the hearing on **SB 241**. He asked Ms. Posny if she believed that these type of boxes were often used. Ms. Posny said she was not familiar with the boxes described and that she thought the use of them would be few and far between. She commented that a seclusion room should be well ventilated and used only as a last resort. She noted that, if the use of the boxes described was reported to the State Department of Education, the Department would follow up with an investigation.

Dr. Earle Knowlton, Department of Special Education, University of Kansas (KU), was present to respond to questions from committee members. He informed the Committee that he is part of the KU teacher education program, he teaches undergraduate students courses in special education, and he also participates in the graduate level teacher preparation for adaptive special education enforcement as well as functional special education enforcement.

Senator Schodorf informed Dr. Knowlton that one of the questions raised at the hearing on the bill was how much training teachers in special education receive, especially teachers in behavior disorder, autistic

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classrooms. Dr. Knowlton said all teacher education programs in the state strive to use standard space. The standards both in adaptive and functional special education addresses appropriate procedures in classroom management and behavior management. He noted, "We have a lot more challenging behaviors in school now than we did twenty or thirty years ago. So, we have to be very careful to prepare people. It's repulsive to me that we need to legislate probably common sense more than anything else. Certainly, teachers that I have been associated with would not participate in something like that, and they would call attention to the proper authority if they saw the use of plywood boxes and things of that nature. We prepare our students to meet the standards. They must have knowledge of laws, including litigation that gives us very clear guidelines on how we're supposed to manage behavior."

Senator Steineger commented that perhaps there was a way that a survey of the school districts could be done with regard to the frequency of the use of seclusion in public schools. Ms. Posny responded that she checked with the Director of Special Education on the testimony of a parent who said that her child had been secluded 360 times within a very short period of time. The Director informed her that the child was sent to a table and chair in the room in which he already was. She commented, "That's a very different interpretation than what I thought. That's what I call time-out observation."

For the Committee's information, Senator Schordorf distributed copies of completed study on physical restraints in school from the University of Nebraska. (Attachment 3) In addition she distributed a handout entitled, "A Way to Protect Kids with the Use of Seclusion and Restraint in Schools" (Attachment 4) and copies of a prospectus on a study of exclusionary time-out and physical restraint from the University of Nebraska (Attachment 5).

She went on to say that school districts are concerned that **SB 241** is very detailed, yet there are no guidelines, no policies, and no regulations. She commented, "If this is being used, it seems to me that it's safer for the kids and for the school districts to have some policies and some guidelines." Senator Teichman said, "I think this is a very intense, problematic issue we have before us, and I'm not sure we can solve that in just one time. We need to spend some time with this, and I would prefer that you hold on to the bill, because we have it for two years, and study it over the summer." Senator Schodorf replied, "We can hold on to the bill, and I plan to do that. But I'd like to ask the State Board if we need to request that guidelines and policies be drawn up or if there is something else we need to do to get guidelines." Dale Dennis, Deputy Commissioner, State Department of Education, commented, "To be sure we get proper input for policy makers, why don't we develop some guidelines and bring them back to the Legislative Educational Planning Committee (LEPC). That way, you can review them and see if that's what you want. That's just an option."

Senator Lee noted that, first of all, it would be necessary to determine if the seclusion room was appropriate and, if so, the general parameters for the room should be defined. If rules and regulations are decided upon, it should be made clear how they will be enforced.

Senator Teichman moved to direct the State Department of Education to develop policies, rules and/or regulations about the usage of restraints and seclusion rooms, the appropriate use of restraint seclusion time-out rooms, the physical characteristics of such rooms, and appropriate training of teachers and then report to LEPC during the summer of 2005 and to the Education Committee during the 2006 legislative session, seconded by Senator Lee. The motion carried.

The meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for March 16, 2005.

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