

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

May 21, 2019

Dear Senators:

Disability Rights Nebraska is the designated Protection and Advocacy organization for Nebraskans with disabilities. Disability Rights Nebraska was created to assist individuals with disabilities and their families in protecting and advocating for their rights as well as working to protect Nebraskans with disabilities from abuse and neglect.

Disability Rights Nebraska strongly supports LB 495.

Data collection is necessary to understand the scope of schools' use of restraint, seclusion, and other disciplinary practices; the underlying causes leading to the use of these practices; and ultimately the mechanisms by which these practices, and the situations where they are used, can be addressed, reduced, or alleviated. Data and incident reporting is the lynchpin¹:

“In addition to training in positive behavior supports and other evidence-based practices, a crucial failure in the protection of children from restraint and seclusion is the lack of documentation and reporting when incidents do occur. No one really knows the extent of the problem because most schools are not required to report this information or notify parents, and not a single entity exists that collects information or statistics regarding restraint and seclusion. Even in states that limit restraint and seclusion to emergency interventions for immediate safety threats, the lack of a documentation or reporting requirement makes enforcement virtually impossible, causing children to suffer restraint and seclusion as an everyday disciplinary strategy for the staff's convenience. Reporting these incidents would be a prospective way to have the necessary information to identify problems and attempt to find meaningful solutions.”

Just to make the legislature aware, students with disability types other than learning or behavioral are subject to the use of these techniques, and so the bill language and data collected should also reflect the broad use of these disciplinary techniques on Nebraska's students, especially those with disabilities. Additionally, we would stress that seclusion is predominantly used on students with disabilities and, as such, should be included in the list of data to gather. We would be happy to work with the legislature during the remaining days or over the interim on perfecting the language.

¹ Darcie Ahern Mulay, “Keeping All Students Safe: The Need for Federal Standards to Protect Children from Abusive Restraint and Seclusion in Schools”, 42 STETSON L. REV. 325, 333 (2012), available at <http://www.stetson.edu/law/lawreview/media/42-1mulay.pdf>

We urge the committee to take action on this bill in the remaining days of this legislature, especially in the context of (or as an alternative to) LB 147 or during the next session.

Sincerely,

Bradley A. Meurrens
Public Policy Director