

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

**Testimony on LB 154
Before the Education Committee
Nebraska Legislature**

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Good morning Senator Walz and members of the committee. For the record, my name is B-R-A-D Meurrens M-E-U-R-R-E-N-S and I am the Public Policy Director with Disability Rights Nebraska, the designated Protection and Advocacy organization for persons with disabilities in Nebraska. I am here today in support of LB 154.

The use of restraints and seclusion pose significant risk to both the student being restrained/secluded. Reports by the National Disability Rights Network¹, and others show that children can suffer serious bodily harm and even death at the hands of teachers or school staff when using restraint techniques. The Governmental Accountability Office(GAO)² found hundreds of cases of alleged abuse and death related to the use of restraint and seclusion on school children during the past two decades. Data collection is necessary to understand the scope of schools' use of restraint, seclusion, and other disciplinary practices³:

"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

¹ National Disability Rights Network, 2009, "School is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools", available at:

<http://www.ndrn.org/images/Documents/Resources/Publications/Reports/SR-Report2009.pdf>

² Governmental Accountability Office, GAO-09-719T, "Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers" (May 19, 2009) , available at:

<http://www.gao.gov/new.items/d09719t.pdf>

³ 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>

these incidents would be a prospective way to have the necessary information to identify problems and attempt to find meaningful solutions.”

As the 2017-2018 Civil Rights Data Collection (CRDC) indicates⁴, students with disabilities comprise approximately 13% of the national student population, but represent 80% of the use of restraints.

LB 154 is especially important given GAO's 2019 report demonstrating that incidents of restraint and seclusion are often underreported⁵. GAO's 2019 analysis showed that both large and small districts have inaccurately reported zeros when they actually had incidents or did not have restraint/seclusion data. Very large districts are likely to have incidents of restraint and seclusion which makes reports of zero incidents suspect. For example, Fairfax County Public Schools in Virginia, which has about 186,000 students, reported zero incidents in school year 2015-16 but acknowledged over 1,600 incidents of restraint or seclusion in school year 2017-18.

In order to get a more accurate understanding of the incidents of restraint/seclusion and other disciplinary measures, especially as applied to students with disabilities, collecting and reporting the data is critical.

Disability Rights Nebraska recommends LB 154 be advanced.

If you have any further questions or comment, please contact me at your convenience: brad@drne.org or 402-474-3183.

⁴ US Department of Education, “2017-18 Civil Rights Data Collection: The Use Of Restraint And Seclusion On Children With Disabilities In K-12 Schools” <https://www2.ed.gov/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>. See page 6 for percentage of enrollment and physical restraint use.

⁵ Governmental Accountability Office (2019) “Federal Data and Resources on Restraint and Seclusion”, GAO-19-418T, Feb 27, 2019, available at <https://www.gao.gov/products/GAO-19-418t>.