



American Association of School Administrators

February 2, 2010

Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Miller and members of the Committee:

The American Association of School Administrators, representing more than 13,000 school administrators and local educational leaders, would like to express serious concerns with HR 4247, the Preventing Harmful Restraint and Seclusion in Schools Act. HR 4247 seeks to protect students from harm during seclusion and restraint by creating national regulations that would severely limit the ability to restrain and seclude students. We ask the HR 4247 be modified to support state policies and provide teachers the skills and knowledge they need to deal with explosive and potentially dangerous emergencies when students are a danger to themselves, other students and school employees and volunteers.

Based on reviews by teachers and administrators, HR 4247 has three major flaws that need attention. First, HR 4247 includes a prohibition against including restraint and seclusion in the behavioral plan or within the Individualized Education Program. This is counterproductive. For the handful of students with a history of violent outbursts, a proactive and open discussion between parents and school staff about how to protect the student and others from harm is reasonable. These proactive discussions would only be warranted for those students who have been involved in incidents that harmed the student or others. AASA strongly supports a proactive dialogue with parents instead of a reactive approach after the fact.

Second, HR 4247's prohibition against mechanical restraints is too broad and could prevent appropriate use of handcuffs in certain situations. Some outbursts will be so violent that other students or school employees are harmed. In some of those cases, the police will be called and the student will be arrested. The arresting officer, whether a school resource officer or other law enforcement personnel, may well handcuff the student to protect them from themselves and to protect other students and school employees. In these cases, it is the law enforcement that becomes the agency of jurisdiction.

Lastly, the tone of HR 4247 is relentlessly negative toward the good work of teachers and administrators across the country. It assumes implicit bad motives and behavior for educators. This tone is unwarranted and should be eliminated.

At the request of Secretary Duncan, 31 states worked with a broad group of educators, health care professionals, parents and law enforcement to develop their own seclusion and restraint policies. Other states are in the process of developing their policies. Enacting HR 4247 would be premature and out of line with many of the state policies being developed.

While the state policies recognize and differentiate between those schools serving only students with behavior disorders and histories of violent outbursts and regular public and private schools, HR 4247 fails to make this distinction and acknowledge the rarity of violent outbursts in regular public and private schools. The GAO report on restraint and seclusion clearly illustrates just how rarely seclusion and restraint are used. Texas and California collectively enroll more than 11 million students in public and private schools for an average school year of 180 days. That is a combined 1.98 billion student school days per year. The GAO report identified a mere 30,000 incidents of seclusion and restraint over the course of a year. This is a 'rate' of one seclusion or restraint event for 66,000 student days. Seclusion and restraint is clearly very rare.

Review of seclusion and restraint laws and regulations across states reveals a broad general consensus governing how and when seclusion and restraint should be reflected in federal law. There is also consensus around the type of professional development that will both reduce the incidence of seclusion and restraint and eliminate harm to student when seclusion and restraint are used.

AASA urges that policy regarding seclusion and restraint of students be modified to implement the broad consensus of when and how seclusion and restraint are to be used and the type of training that will dramatically reduce the need for seclusion and restraint.

Beyond these revisions, AASA believes that further state policy is needed to permanently remove school employees who violate the common sense rules for safely restraining and secluding students. Removal of staff requires due process and a state registry to track people who lose their certification for violating rules and harming students. We need to ensure that the few bad actors are removed from classroom settings.

Failure to enact common sense rules and policies consistent with emerging state policies will have two negative consequences. First, the policy in HR 4247 may result in schools relying on police to handle more dangerous situations because action by school employees is too restrained to be safely undertaken. Second, the restrictive rules on IEPs and mechanical restraints will mean that students who have a history of explosive outbursts will be increasingly placed in more restricted settings to reduce the difficulties of teachers in protecting students during violent outbursts.

Thank you for your consideration and if there are any questions please do not hesitate to contact me for further discussion of this important issue.

Yours truly,

A handwritten signature in cursive script that reads "Dan Domenech".

Dan Domenech
Executive Director