

ACTION ALERT: Contact Your US Senators NOW on Restraint/Seclusion Bill!

Current efforts to introduce use of restraint and seclusion into the IEPs of students with disabilities could jeopardize the safety of our children, serve to increase the use of restraint and seclusion by teachers and staff, and undermine the very purpose of the “Keeping All Students Safe Act” that we need!

What can you do?

Contact and inform your Senators during the recess.

Congress is now in recess until January, when action on this bill will resume. While your Senators are home, please contact them!

- Schedule a visit to their offices if you can, or call, email the local office or write
- If you have a personal story about restraint or seclusion, tell it!
- Let your Senator know what you do and don't want in the Senate bill
- Most important, let your Senator know what you want him/her to do if a bill permitting restraint and seclusion in IEPs comes to the floor to be voted into law.

<http://www.usa.gov/Contact/Elected.shtml> has links to all Members of the US Congress and an easy access application. Most Senators have local office contact information on the websites. NOW would be a good time to get in contact

Changes in the language could still be made before it comes out of the Senate Health, Education, Labor and Pensions (HELP) Committee for a vote by the full Senate. It is also possible that the Committee will decide not to send the bill on for a floor vote, in which case there will be no bill on restraint and seclusion during this Congress. IDEA rights that our children now have will remain in place, BUT we will lose the very real protections against use of restraint and seclusion for ALL students. That would be a shame.

BACKGROUND

What happened in the House of Representatives?

A bill supported by parents and advocates was passed.

On March 4, 2010, The U.S. House of Representatives passed H.R.4247. Called the “Keeping All Students Safe Act,” the bill, which was introduced and championed by Congressman George Miller of California, took substantial steps to eliminate the use of restraint and seclusion in America’s schools.

While the bill did not offer all of the protections that parents, parent attorneys, and advocates, would have liked, it received strong support for its prohibition on placing restraint or seclusion in students’ Individualized Education Plans (IEPs) or Behavior Intervention Plans (BIPs). This prohibition insured that these dangerous techniques would be used in a safety EMERGENCY, and not as ongoing, acceptable parts of a student’s plan. The bill’s other provisions call for crisis prevention training for school staff, prohibit mechanical restraint and certain forms of physical restraint and seclusion under all circumstances, and assure that parents would be promptly informed should an emergency leading to restraint or seclusion occur. The bill passed the House by a substantial majority and was sent to the Senate.

What just happened in the US Senate?

The newly-introduced Senate version changes key language of the House bill.

Senators Dodd (D, CT) and Burr (R, NC) introduced the Senate version of the “Keeping All Students Safe Act” (S.3895) on September 29, 2010. S. 3895 agrees with the Findings of the House bill that restraint and seclusion are “not therapeutic” and “are not effective means to calm or teach children . . . “. Nonetheless, the Senate bill WOULD ALLOW the use of restraint and seclusion to be added to the IEPs, or individual behavior, education

or safety plans of students who are determined to have a “documented history” of “dangerous behavior”. Other key provisions of the House bill, such as parental notification and the prohibition of certain more dangerous forms of restraint and seclusion, remain in the Senate bill.

How would the Senate version of the bill change children’s IDEA rights?

For the first time, placing restraint and seclusion into IEPs would be explicitly permitted for certain students.

Currently, under IDEA, when a child’s behavior impedes their learning or the learning of others, the IEP Team is required to undertake a functional behavior assessment (FBA) and then use that FBA to develop a positive behavior intervention or support plan (PBI plan). If the current Senate bill becomes law, it will be permissible for school to give up ongoing use of functional behavior assessment and positive behavior interventions and to decide that these “less restrictive interventions” will not work. This will create a roll-back of IDEA’s current presumption in favor of positive interventions.

In addition, IDEA requires that calls for methods used in schools to be “evidence based”. That means curriculum and services must be linked to research, study and data that indicate that they are valid approaches and are effective in achieving good educational outcomes for students with disabilities. The House and Senate versions of this bill agree that restraint and seclusion have no therapeutic or educational benefit. In fact, the findings of the US Congress are that these methods and procedures have been the cause of much harm to children and to the staff who attempt to use them, that they have been used for convenience and punishment, or as a substitute for appropriate, EVIDENCE BASED educational support and positive behavior interventions.

Bill sponsors Senators Christopher Dodd and Richard Burr, along with the Chairmen and Members of the Senate Health, Education Labor and Pensions Committee, and their staffs, care about giving protection to our children and we know they want to pass a good bill. They and their colleagues in the US Senate need good information, education and support from parents and advocates and they need it NOW!

RESOURCES FOR PARENTS AND ADVOCATES

OUR CHILDREN LEFT BEHIND WEBSITE AND HOT LINE:

Website with updated information for parents and families

<http://www.ourchildrenleftbehind.com/>

The No Restraint/No Seclusion Toll Free Hotline:

1-877-622-5176

THE ADVOCACY INSTITUTE

Ending Restraint and Seclusion in Our Schools: Countdown to Congressional Action

<http://www.advocacyinstitute.org/advocacyinaction/RestraintSeclusion.shtml>

Webpage with links to an excellent 30 minute PODCAST discussing the need for the Congress to act, the strength of the current bills and the reason why the restraint and seclusion should NOT be written into IEPs. Additional reports and documents that support Congressional actions, information about and links to the House and Senate bills, and information about actions taken by the US Department of Education.

ALLIANCE TO PREVENT RESTRAINT AND AVERSIVE INTERVENTIONS AND SECLUSION

Founded in 2004 by parents and advocates from across the nation, this coalition of organizations has been instrumental in helping to guide the bills through the Congress.

Materials and information <http://aprais.tash.org/>