

The Allowance of Written Plans for Physical Restraint and Seclusion in the Keeping All  
Students Safe Act  
David Blaiklock  
George Mason University

David, This is a good paper. In the first section, framing the issue, you need to think like a non-special ed person. You tend to assume the reader knows more about special ed in general and restraint and seclusion in particular than most folk do. My comments in that section are there to help you identify points that could be confusing, in particular to a policy maker without an education background.

Policy Brief Proposal  
Written Plan Requirements  
U.S. Senate Keeping All Students Safe Act

**Issue**

The Keeping All Students Safe Act is awaiting consideration in the U.S. Senate and provides requirements for physical restraint and seclusion to be written into an education plan, behavior plan, individual safety plan, or individualized education plan. The requirements for inclusion into a written plan are that the physical restraint and seclusion meet minimum state and local requirements, two years of documented history of dangerous behaviors, and the completion of both a functional behavioral assessment (FBA) and behavior intervention plan (BIP) (S. 3895 Keeping All Students Safe Act, Sec. 102 (a(5))). Allowing physical restraint and seclusion to be in written plans is contrary to language in a companion bill passed in the U.S. House of Representatives (H.R. 4247) which prohibits written plans for physical restraint and seclusion (H.R. 4247 Keeping All Students Safe Act, Sec. 5 (a(4))).

The Keeping All Students Safe Act was developed in response to a Government Accountability Office (GAO) report and congressional hearings about the safety of physical restraint and seclusion of disruptive students (??) in schools. The intent of the act is to protect all students attending publicly funded schools from physical restraint and seclusion in situations other than where the student poses a threat to themselves or others. Current practice in some

**Comment [u1]:** Since "all" is important, somewhere in the first paragraph you need to explain to the reader who might be covered in which bill.

**Comment [u2]:** Of whom? Teachers perhaps?

**Comment [u3]:** Who are these plans for?

**Comment [u4]:** By whom and where?

school districts requires physical restraint and seclusion to be written into behavioral plans when required for a student exhibiting dangerous behavior. The intent of writing physical restraint and seclusion into a behavior plan is to document effective practices for that student in case they change schools and to create a formal arena to gain informed written consent from the parent to use physical restraint and seclusion. Creating written plans for the use of physical restraint and seclusion potentially undermines the intent of emergency only usage because it becomes an available intervention for that student. Given the intent of the Keeping All Students Safe Act is to protect students from the harm associated with unnecessary physical restraint and seclusion, the question is should written plans be allowed for physical restraint and seclusion.

**Comment [u5]:** What is the requirement for behavioral plans, where does it come from and who do they cover.

### **Conceptual Framework**

The debate over including or eliminating the allowance of written plans for physical restraint and seclusion in the Keeping All Student Safe Act resembles the Multiple Streams model outlined by Cohen-Vogel & McLendon (2009). The problem stream was identified at the federal level with the release of GAO report on the safety of physical restraints and seclusion. The Congressional hearings in 2009 opened the policy window for lawmakers. The political stream became an active voice with interest groups, such as ....., and ..... demanding regulation of physical restraint and seclusion. The disparity between the House and Senate bills represents the policy stream because they are attempting to implement specific recommendations made by specialists. When the House and Senate are able to resolve their differences on allowing written plans for physical restraint and seclusion, the policy stream will be aligned with the problem and political stream creating the policy solution to the current safety issues surrounding physical restraint and seclusion. Resolving the difference between the House and Senate on physical

restraint and seclusion requires the determination of written plans being beneficial, harmful, or neutral.

### **Data**

Determining if written plans for restraint or seclusion are beneficial, harmful, or neutral, could be accomplished by conducting a mixed-method study using complementary quantitative and qualitative data. The quantitative data would include the frequency, duration, and reported injuries from the use of physical restraint and seclusion for students who both currently have written plans and do not have written plans. The qualitative data would gather information from school staff and students about their beliefs and experiences with physical restraint and seclusion for both students with written plans and students without written plans. The data for physical restraint and seclusion should be analyzed separately because it may be plausible that the impact of having a written plan may be different for each.

Current practice in some school jurisdictions requires a written plan for the use of physical restraint and seclusion. Several states already gather data on both the frequency (number) of physical restraint and seclusion and whether or not it is included in a written plan. Using the same techniques as states that already collect data, additional data could be collected on the duration (length of time per physical restraint and seclusion) and reported injuries for each instance of physical restraint and seclusion. Students with written plans and students without written plans could be compared as groups using analysis of variance to determine if a statistically significant difference exists in the frequency, duration, and occurrence of injury associated with physical restraint and seclusion.

Qualitative data could be gathered through interviews with students, parents, and school staff about their beliefs and attitudes about written plans for physical restraint and seclusion.

Record reviews of current written plans for physical restraint could be analyzed to determine the level of detail regarding the behavior, less intrusive measures being used, and the conditions for terminating the physical restraint or seclusion. The interview data will provide the perspective of primary stakeholders on written plans for physical restraint and seclusion. The qualitative data will provide deeper insight into stakeholder beliefs about physical restraint and seclusion and will also evaluate the current practice of how written plans are being developed. The interview data has the potential to capture harmful effects of physical restraint and seclusion that may not be as apparent in the quantitative data. Students may experience psychological or emotional turmoil as the result of physical restraint or seclusion which may not be captured as a reported injury.

### **Recommendations and Conclusion**

Comment [u6]: Very nice section

The main difference between the Senate Keeping All Students Safe Act and the companion bill passed by the House is the allowance of written plans for physical restraint and seclusion. The following recommendations are being made based on the data described in the previous section and indicate the decisions the Senate and House should make in different scenarios.

If the data indicates that students with written plans experience physical restraint and seclusion either more frequently, for longer durations, or have a greater level of injury than students without written plans, then the written plans should be considered harmful. The written plans should also be considered harmful if students with written plans report emotional distress regarding restraint and seclusion associated with written plans. However, if students with written plans experience less frequency, duration, and injury associated with physical restraint and seclusion than those students without written plans, then the written plans should be considered

Comment [u7]: Data = plural

beneficial. The written plans should be also be considered beneficial if the students interview data reported that the written plans made them feel safer.

The recommendation to the Senate if the written plans are determined to be harmful to students is to pass the House companion bill that prohibits individualized written plans for physical restraint and seclusion. However, the recommendation to the Senate if the written plans are determined to be beneficial to students then the Senate should pass the Keeping All Students Safe Act. The recommendation to the House after the Senate passes the Keeping All Students Safe Act is to pass it as well allowing written plans for physical restraint and seclusion.

Both the qualitative and quantitative data for physical restraint and seclusion were going to be analyzed separately. If written plans for either physical restraint or seclusion are considered harmful and for the other is beneficial, then the recommendations for each should be considered separately as described in the previous paragraph for the House and Senate.

Comment [u8]: Don't you mean would be?

The potential exists that the quantitative and qualitative data will not demonstrate any difference in physical restraint and seclusion for students with and without written plans. To settle the difference between the Senate and House on the Keeping All Students Safe Act, the recommendation is to allow written plans for physical restraint and seclusion as written in the Keeping All Students Safe Act being considered by the Senate. The written plans are not mandatory and the requirements under this bill require substantial documentation. Written plans will only apply to students who demonstrate dangerous behavior for a number of years. The benefit for allowing written plans for restraint and seclusion for students who exhibit pervasive patterns of dangerous behavior is that the Senate bill also requires an FBA and BIP be completed. The data indicate written plans are not harmful in this case and fulfilling the

procedural requirements associated with the written plans will be beneficial to students who are exhibiting dangerous behaviors for prolonged periods of time.

The decision making framework will utilize the data and indicators outlined to determine if written plans for restraint and seclusion are beneficial, harmful, or neutral. Determining the impact of written plans will resolve the policy stream and align it with the political and problem streams allowing the Keeping All Students Safe Act to be the policy solution for the overall harmful effects associated with physical restraint and seclusion. 29 points. Final grade for the class = A.

#### References

- Cohen-Vogel, L. & McLendon M. K. (2009). New Approaches to Understanding Federal Involvement in Education. In Sykes, G., Schneider, B., & Plank, D.N. (Eds.). *Handbook of Education Policy Research* (pp. 735-748). New York: Routledge.
- Desimone, L. M. (2009). Complementary Methods for Policy Research. In Sykes, G., Schneider, B., & Plank, D.N. (Eds.). *Handbook of Education Policy Research* (pp. 163-175). New York: Routledge.
- H.R. 4247 Keeping All Students Safe Act. Retrieved on October 16, 2010 from [http://thomas.loc.gov/cgi-bin/query/F?c111:4:./temp/~c111w9cBkJ:e12380:](http://thomas.loc.gov/cgi-bin/query/F?c111:4:./temp/~c111w9cBkJ:e12380)
- Introduction of the Preventing Harmful Restraint and Seclusion in the Schools Act: Rep Miller. Retrieved on December 4, 2010 from <http://www.youtube.com/watch?v=qTaUAC-DEU8>
- Mead, J. F. (2009). The Role of Law in Educational Policy Formation, Implementation, and Research. In Sykes, G., Schneider, B., & Plank, D.N. (Eds.). *Handbook of Education Policy Research* (pp. 286-295). New York: Routledge.

- McDonnell, L. M. (2009). A Political Science Perspective on Education Policy Analysis. In Sykes, G., Schneider, B., & Plank, D.N. (Eds.). *Handbook of Education Policy Research* (pp. 57-70). New York: Routledge.
- S. 3895 Keeping All Students Safe Act. Retrieved on October 16, 2010 from <http://thomas.loc.gov/cgi-bin/query/F?c111:1:./temp/~c111w4NJMU:e14524>:
- United States Government Accountability Office (2009). *Seclusions and Restraints: Selected Cases of Death at Public and Private Schools and Treatment Centers*. (GAO-09-719T). Retrieved from <http://www.gao.gov/new.items/d09719t.pdf>.
- Weimer, D. L. (2009). Making Education Research More Policy Analytic. In Sykes, G., Schneider, B., & Plank, D.N. (Eds.). *Handbook of Education Policy Research* (pp. 93-100). New York: Routledge.