



Key points:

- **Language on restraint, seclusion bars use solely for discipline, convenience**
- **If retained in final bill, language could prompt guidance from ED**
- **Proposal to let teacher training funds be used for dyslexia, LD called divisive**

Panel approves language on restraint, nixes amendment on dyslexia

For many years, the Education Department has said it is powerless to issue regulations or even binding guidance on the use of restraint and seclusion in schools.

Thus, when it issued a set of [15 principles](#) on the topic in 2012, it made it clear that the document was merely food for thought.

"This is not guidance. This is not regulation. This is not statute," OSEP research chief Larry Wexler said at a workshop at the IDEA Leadership Conference that year. "So there's no authority behind this document other than ... common sense."

On April 15, however, the Senate Health, Education, Labor and Pensions Committee approved language to curtail the use of restraint, seclusion, and other techniques as part of a [proposal](#) to reauthorize the ESEA.

The vote was 12-10, with Republicans Mark Kirk of Illinois and Rand Paul of Kentucky, a presidential candidate, joining all of the panel's Democrats.

Meanwhile, the committee rejected by an identical vote a proposal to add professional development in dyslexia and other learning disabilities to the allowable uses of teacher training funds.

Passing the amendment, which was offered by Sen. Bill Cassidy, R-La., would send a message that Congress "cares more about the education of one group of students with disabilities than [it does about] others, and that is not something that I think this committee should support, especially in a general education bill," said Sen. Patty Murray of Washington, the panel's top Democrat.

On April 16, the committee approved the overall bill, sending it to the floor. Thus, the process isn't finished.

For example, the House might object to the restraint amendment, which was offered by Sen. Chris Murphy, D-Conn. But if the provision remains intact and the bill is signed into law, the department might be willing to go beyond its 2012 statement, because it would finally have some statutory language on which to rely.

That, at least, is the hope of Barb Trader, executive director of [TASH](#).

If the amendment survives, "we hope the department takes the next step and issues binding guidance that would make the 15 principles enforceable," she said.

Protecting all children

The amendment on restraint and seclusion is short, comprising a mere 76 words. In crafting state plans, it says, states must explain:

"[H]ow the state educational agency will protect each student from physical or mental abuse, aversive behavioral interventions that compromise student health and safety, or any physical restraint or seclusion imposed solely for purposes of discipline or convenience, which may include how such agency will identify and support, including through professional development, training, and technical assistance, local educational agencies and schools that have high levels of seclusion and restraint or disproportionality in rates of seclusion and restraint."

Compared to a full-fledged law on the topic, it's not much, Trader conceded. But change happens in stages, she said.

"It's not anywhere near what a federal bill would do, but it's more than we have," she said, "so we were really glad to support it."

Similar sentiments were expressed by Eric Buehlmann, deputy executive director of the [National Disability Rights Network](#).

"Hopefully, this is a first step toward getting us on the path toward passing some federal legislation on restraint and seclusion," he said.

The measure also was welcomed by Nancy Reder, deputy executive director of the [National Association of State Directors of Special Education](#).

"NASDSE has been very supportive of seclusion and restraint legislation and the chances of getting a full-blown bill through this Congress aren't very good," she said in an email. "Having this in ESEA supports our view that this is not a special ed issue but an issue that needs to be addressed for all children."

Attempts to learn the reactions of other groups, including the [National School Boards Association](#), were not successful at press time.

Addressing the larger issues

Discussion of the dyslexia amendment was heated.

Some say the plan amounts to "special treatment for a privileged class of students," Cassidy said, adding that "nothing could be further from the truth. ... Does anyone really think that a child with dyslexia who struggles to read, write, and spell through no fault of their own is privileged? The irony is palpable."

Murray wouldn't budge. First, she said, people with disabilities have long insisted that discussions of their needs include them, hence the phrase, "Nothing about us, without us."

What she meant, Murray said, is that many disability groups opposed the Cassidy plan. Indeed, the [Consortium for Citizens with Disabilities](#) sent a letter April 13 opposing the proposal signed by 20 organizations, including [The Arc](#), [Easter Seals](#), and the [American Foundation for the Blind](#).

In fact, Murray said, stealing a line from Chairman Lamar Alexander, R-Tenn., "it seems to me this is something we ought to leave to school districts or even to states."

She even offered to work with Cassidy if he would replace the words, "children with dyslexia and other specific learning disabilities" with the words, "children with disabilities."

Cassidy wasn't interested, however.

"Thank you for the offer, but on behalf of the 17.5 percent of children who are not having their needs met in the three charter schools, I respectfully decline."

At press time, it was not possible to learn Cassidy's source for the figure of 17.5 percent; the reference to charter schools was to charter schools for children with dyslexia, of which Cassidy says there are only three in the country, including [Louisiana Key Academy](#), where Cassidy's wife, Laura Cassidy, is president of the board.

In any event, it's a shame the amendment went down, according to Hal Malchow, president of the [International Dyslexia Association](#).

"If you know that a child has dyslexia, there's a clear path to teaching that child to read," he said, "but in many if not most public schools, both the awareness and the sensitivity to this condition and the knowledge of the appropriate remediation is not present."

Public schools often do have trouble serving children with learning issues, said Buehlmann of NDRN. In fact, he said, he sends his son to a private school because he wasn't happy with the way the public schools system proposed to deal with the child's auditory processing disorder. In that respect, he said, his experience resembles what Cassidy went through in trying to get services for one of his daughters.

"I think it is very similar to his, and I think it's very unfortunate that our public system has these kinds of problems," Buehlmann said.

Still, he said, the solution is not to divide up professional development funds by disability category. Rather, he said, it is to provide better teacher training, period.

When it comes to such training, he said, "if we don't address the overall issues, we're dooming ourselves to failure."

See also:

- [Disability groups split on adding dyslexia amendment to ESEA](#) (April 14)
- [Disability group seeks to head off movement to put cameras in classrooms](#) (Jan. 28)
- [Race, disability issues overlap in Mississippi restraint project](#) (Dec. 4)

For more stories and guidance on these issues, see the Special Ed Connection® Roundups on [ESEA Title I Regulations](#) and [Restraint and Seclusion](#).

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