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Testimony Prepared for Mississippi Department of Education Public Hearing on Restraint and Seclusion Use in Schools

October 22, 2015, Barbara R. Trader, MS, Executive Director, TASH

Good evening. Thank you to the Mississippi Department of Education for providing this opportunity for public testimony on the use of restraint and seclusion in public schools.

My name is Barbara Trader, and I am the Executive Director of TASH, a cross-disability membership association founded by researchers in 2015 with the mission of advancing human rights, opportunity and inclusion through the implementation of evidence-based practices for people with significant disabilities and complex support needs. As a therapist, I have 17 years of direct service experience in public schools and hospitals, and have 39 total years of experience in the disability field.

In 1990, the nation's leading behavioral researchers, many of which were TASH members, first called for the elimination of aversive behavioral interventions, or those which cause pain, humiliation or discomfort, because they were no longer ethically tolerable for two simple reasons –

1) they cause pain and can be dangerous, and moreover,
2) they do not work – in fact, they *increase* disruptive behavior.

Restraint and seclusion fall under the overarching descriptor, "aversive behavioral intervention." These practices were used at a time in our nation's history when people with significant disabilities were mostly institutionalized. In 1977 and 1978, when students were coming out of state institutions and I was working with them in public schools, my colleagues and I didn't consider using restraint and seclusion because we found them cruel and archaic practices that represented an institutionalized approach to disability. Since then, researchers have developed sound practices which do not harm service recipients, such as systematic instruction and positive behavioral interventions and supports, just two practices which make academic and behavioral learning possible. Since the days of restraint and seclusion use in institutions, *every other human service system – hospitals, mental health facilities, residential treatment, juvenile justice, and senior services facilities* – have been controlled by federal legislation that seriously limits the use of restraint to emergencies only. The ONLY publicly funded service system where people are unprotected by federal law from restraint and seclusion use is public schools.

We find ourselves now, 25 years later, discussing whether or not restraint and seclusion should be allowed or limited in our nation's schools. To address this question, we need to first clearly define what is meant by both terms. Restraint is a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely, caused by physical, mechanical or chemical means. This does not include escorting a student or temporarily touching a student to guide or direct.

Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It should not be confused with timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

In recent years, there have been multiple cases of student death and serious injury caused by the abusive use of restraint and seclusion in public schools. Some of these examples include:

- In Georgia, an 8th-grader hung himself in a seclusion room.
- In Connecticut, elementary school children reported "Scream rooms" to their parents, where children were left to scream and cry for hours throughout the school day.
- In Ohio, an elementary student was taped to chair.
- In Yonkers, a student died while restrained by 6 staff members for not leaving the basketball court when told.
- In Wisconsin, a 7 year old foster child died while restrained after blowing bubbles in her milk.
- In Ohio, a high school student attempted suicide after spending 35 days in a row in a locked storage closet in the basement.
- A 9-year-old boy in foster care died at a public charter school after his teacher restrained him using a "basket hold".
- Disabled children as young as 6 years old were allegedly placed in strangleholds, restrained for extended periods of time, confined to dark rooms, prevented from using the restroom causing them to urinate on themselves, and tethered to ropes in one public school district.
- A special education teacher at a public school used bungee cords and duct tape to fasten children as young as 5 years old to chairs designed to support kids with muscular difficulties. According to parents, their children sustained injuries such as broken arms and bloody noses while in this teacher's class.
- According to the father of an 8-year-old autistic boy, his son suffered from scratches, bruises and a broken nose after being put in a prone restraint by his public school teacher and aide.
- A sixth-grade special education student reportedly had his leg broken by the public school teacher who was trying to restrain him.
- A 12-year-old girl allegedly had her arm fractured by a special education teacher who put her in a "therapeutic hold," described as being similar to a "bear hug" or hold a student's arms behind their back.
- An autistic student at a public school claims he was strapped with his pants pulled down onto a toilet training chair for hours at a time over several days.

These are just a few of the hundreds of chilling stories reported each year on restraint and seclusion use in public schools.

In response to parents alarmed by experiences their children were having in schools, APRAIS, the Alliance for the Prevention of Restraint, Aversive Interventions and Seclusion was formed in 2004 by TASH and 10 of the nation's leading disability advocacy non-profits organizations, including The Arc of the United States, the National Association on Mental Illness, or NAMI, the National Disability Rights Network, the Council on Parent Attorneys and Advocates, the National Down Syndrome Society, the National Down Syndrome Congress, the Autism Society and others. APRAIS now numbers 32 national organizations. Our shared mission is to prohibit the use of seclusion and restraint as behavioral management strategies – they are ineffective and too dangerous. Restraint, a technique which was developed as a response to true emergencies – in the case of imminent physical injury to self or others – should be allowed for that purpose only, and, in order to avoid over-use, should not be included in any individualized plan. This approach is consistent with the practices in place in every other human service field outside of public schools, and supported by federal regulations.

We urge the Mississippi Department of Education to adopt this proven approach to keeping students and school personnel safe.

APRAIS members share this mission because research and experience underscore the following main points:

a. **Both restraint and seclusion are very dangerous practices** because by their nature they rely on physical contact between a school staff member and a student. Parents of students restrained or secluded report than in 62% of the instances, their children have been hurt – ranging from cuts and bruises to broken bones and head injuries.

   There is a myth that restraint and seclusion are necessary to keep schools safer. There is no research that backs up this claim. In fact, several schools and school districts that have reduced or eliminated their use have reported significant declines in worker's compensation claims. In two schools, injuries to teachers declined by 95% when restraint and seclusion use were prevented. In other cases where schools have tracked the implementation of prevention of restraint and seclusion measures with the impact of workers compensation claims, they have reported a significant decrease in claims, revealing the fact that restraint and seclusion use actually increase physical danger for school personnel.

b. In terms of behavior management, **restraint and seclusion cause more harm than good.** Because they are physical confrontations between students and staff, use of these practices nearly always result in trauma for the child, and often for the children watching and staff implementing or witnessing the incident. In one study, 93% of parents whose children had been restrained or secluded at school reported their children were traumatized. There is ample evidence that children and staff exposed to restraint and seclusion have heightened "flight-fight" responses. This response can over-ride a more reasoned response to interaction and trigger "fight." It should be noted that

a “flight-fight” response is not a willful choice – this is a biologically triggered reaction in a stressed person. There is no evidence that suggests that restraint and seclusion have any positive benefit on future behavior, but there is ample evidence that it leads to more serious behavioral issues because of the “flight-fight” phenomenon.

The devastating impact of trauma on the developing brain and on a child's ability to learn - short and long-term – cannot be overstated. The ACEs study (Adverse Childhood Experiences) demonstrated that short- and long-term outcomes of these childhood exposures to trauma include a multitude of health and social problems, including alcoholism, depression, drug use, chronic disease, suicide, involvement with the criminal justice system, and more. This is consistent with the findings reported in joint guidance on discipline issued in 2014 by the US Departments of Justice and Education: “Studies have suggested a correlation between exclusionary discipline policies and practices and an array of serious educational, economic, and social problems, including school avoidance and diminished educational engagement, decreased academic achievement, increased behavior problems, increased likelihood of dropping out, substance abuse, and involvement with criminal justice systems.”

c. **The tragedy of restraint and seclusion use is that it is nearly always preventable**, as currently practiced in public schools, especially considering the associated significant risks to children’s health and safety. Teachers reported in a 2007 study that physically aggressive behavior by students preceded restraint only 3.2% of the time and preceded seclusion in 2.8% of the cases. Other reasons given were not following directions, talking back to the teacher, not completing assignments, and other forms of common student misbehavior. We find overuse of dangerous practices to be abusive and unethical, and because they are most often limited to students with disabilities, discriminatory.

   Moreover, restraint and seclusion is overwhelmingly the experience of young children who have disabilities – our nation’s most vulnerable children. A 2009 study reported that 69% of all instances of use were experienced by children younger than 10 years old. Fifty percent of these children had disabilities impacting their ability to communicate. The likelihood that these young children can cause physical injury to themselves or others without the use of a less dangerous response is arguable. In fact, the GAO found that in most cases, students experiencing restraint and seclusion were not aggressive.

d. **There are effective, positive, and evidence-based practices that should be used in place of restraint and seclusion**. Behavior is a form of communication – children use behavior to either get something they want or avoid something they don’t want. Often, challenging behavior is a sign of boredom, which can be addressed through increasing academic expectations of students and providing quality, engaging instruction. The behaviors children exhibit that result in restraint and seclusion use are often a manifestation of disability, and more effectively addressed through the provision of communication supports and services, the use of behavioral instruction and positive behavior interventions and supports. Most children who have communication

disabilities can learn and develop communication strategies, which mitigate behavioral issues, when provided supports and services. Many young children and children with disabilities simply do not know how to behave in a public school. Teaching them what is expected, and supporting their attempts to demonstrate expected behaviors, is much more effective and humane than using dangerous interventions to punish. Finally, many children who "act out" are experiencing trauma outside of school – an estimated 25-68% of the overall student population, depending on the community – and need to feel safe, connected and supported in a "trauma-informed" school in order to heal and learn.

e. **Schools have found that it is in the best interest of the entire school community to prevent the use of restraint and seclusion** for many reasons. For example:
    - They are able to cut costs – one school for students with emotional and behavioral disabilities found that more than $7 million was saved through a restraint and seclusion prevention initiative. Savings were found in reduced court costs, reduced time addressing parent concerns and media inquiries, lower insurance premiums, etc. Multiple schools have reported reductions in workers compensation claims.
    - Positive vs. aversive approaches to student behavior changes school culture, improves academic performance, and staff morale.
    - Positive school cultures are safe places for students who experience trauma and chronic stress are able to heal – and even thrive.

There are multiple available sources for implementing trauma-informed approaches and positive behavioral interventions and supports, including but not limited to:

- Comprehensive Early Intervening Services Funds
- Training and support through www.pbis.org
- State Professional Development Grants

Other human services systems have concluded that the use of restraint and seclusion represents failure on the part of the service system. Educational strategies should focus on prevention of behavioral challenges – and not succumb to restraint and seclusion as "tools." These techniques are far too dangerous to use – because of the danger they present to teachers, to uninvolved students who witness them, and to the most vulnerable students served by public schools, seclusion must be banned, and restraint rarely if ever used as an emergency-only response. As a country, we have the science and knowledge to do better – the question is – do we have the will. Nelson Mandela said it best: "*There can be no keener revelation of a society's soul than the way in which it treats its children.*"

Thank you for your serious consideration of these issues. On behalf of TASH and APRAIS, I pledge our support for your efforts.

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