



# **Restraint & Seclusion Symposium**

## PRESENTERS

### **Timothy A. Adams, Esq.**

received his Bachelor's degree from the University of California, Irvine and his Juris Doctorate degree from Pepperdine University School of Law. He has served as an adjunct professor and Associate Director of the Special Education Advocacy Clinic, Pepperdine University School of Law. He is actively involved in educating parents through presentations to disability rights organizations and parent support groups including speaking at Autism One (2005-2009), the National Autism Association (2005 and 2007-2009) and the National Epilepsy Foundation Annual Conference (2001). He has been interviewed and quoted in publications including the *Daily Journal* (2001), the *Orange County Register* and the nationally published magazine *Parenting* (March 2003); He is Adams & Associates' Principal and Chief Executive Officer.

### **Lynne Arnold, MA**

is a coordinator for Talk About Curing Autism (TACA) of Visalia, CA. Through conference presentations and mentoring, she helps parents to understand their child's rights to appropriate interventions and education. Lynne is the editor of *Autism: Asserting Your Child's Rights to a Special Education*, by David Sherman. She has presented at Autism One (2005-2009), the National Autism Association Conference (2005 and 2007-2009), Families for Effective Autism Treatment (FEAT), Autism Society of America and for other autism groups.

### **Maria M. Cammarate, Esq.**

is a mother of three children, the oldest of whom is on the autism spectrum. She is the president and director of Reveresco Learning Services in South Florida. This organization serves the unique role of providing applied behavior analysis services and social skills classes along with special education advocacy training for parents of children with autism and related disabilities. Throughout the year, Maria holds complimentary training workshops for families about a variety of special education topics under the Individuals with Disabilities Education Act (IDEA) and state laws. Her past experience includes serving as Corporate Counsel for an international franchise company and working as an advocate for a nonprofit organization that provides free special education advocacy services for disabled children. Maria also works with Families Against Restraint and Seclusion (FARS) to advocate for state and federal legislation and help promote proven behavior interventions in public schools. This work has been among her most rewarding and helped lead to the creation of Reveresco Learning Services. Maria received her JD from Ohio Northern University College of Law.

### **Wendy Fournier**

is the president and a founding board member of the National Autism Association. After several years in the promotional products industry, Wendy founded a home-based web development company that allowed her to have a career in web design and be a full-time Mom. When her youngest daughter was diagnosed with autism, doctors gave her little hope. She began to research treatment options via the internet, where she discovered that there is indeed a great deal of hope - autism is treatable. Wendy is committed to changing the perspective of autism from what was once considered a mysterious mental illness to a biologically definable and treatable medical disorder. She attends and speaks at conferences throughout the US. She works closely with non-profit organizations on a state and national level and runs a support group for parents of children on the spectrum. Wendy currently serves on the RI State Commission to study the education of children with autism, as a consumer reviewer for the Congressionally Directed Medical Research Program for Autism Research through the U.S. Department of Defense, and is a founding board member of the Gottschall Autism Center. Wendy and her husband Paul live in Rhode Island with their three children.

### **Lori McIlwain**

is the co-founder and chairperson of the board of the National Autism Association. Lori began her career in radio and television and has focused primarily on conceptual development, commercial copywriting, and media strategies on the agency side. She has an extensive and diverse background in advertising, marketing, public relations, and consumer behavior working with national, regional and local accounts. Her fight for a cure began right after her only son, Connor, was diagnosed with autism. Her husband Christian is also very pro-active in the autism fight and is committed to finding a cure.

### **Phyllis Musumeci**

is a national parent advocate. In 2005, Phyllis pulled her son, Christian, out of the 8th grade because he was having a breakdown. Christian has autism, and, although Christian could speak, he could not communicate his pain. Further, due to a lack of transparency in the school system, it took one year for Phyllis to learn that her son had been subjected to almost daily restraint and isolation for nearly two years in his school. After learning of these practices, she founded Families Against Restraint and Seclusion (FARS) in 2007. FARS is one of the only organizations families may contact to report such abuses and receive support. It has received several hundred reports of restraint and seclusion in schools from families across the country and has tracked countless news stories nationwide. FARS has formed alliances with different disability rights organizations to help pass federal and state legislation and is a member of the national organization APRAIS. Phyllis has been invited to several federal press conferences and hearings on the issue of restraint and seclusion in public schools. She co-wrote current Florida House Bill 81, "Use, Prevention, and Reduction of Seclusion and Restraint on Students with Disabilities in Public School."



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# The Background & Basics of Restraint & Seclusion

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restraint & seclusion | background & basics

**RESTRAINT & SECLUSION DEFINED**

- **PRONE RESTRAINT:** *Prone Restraint* means that the child is laid in the **facedown** position
- **SUPINE RESTRAINT:** *Supine Restraint* means that the child is laid in the **face-up** position

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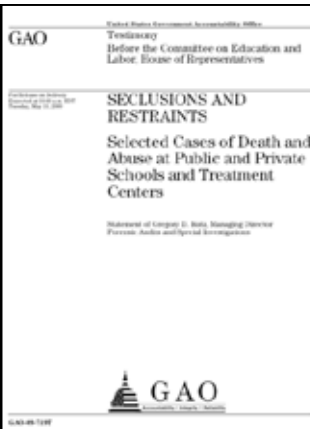
**RESTRAINT: HOW DANGEROUS IS IT?**

In the article *Downright Dangerous*, Wanda K. Mohr, PhD, APRN, BC, FAAN, lists a number of ways in which people can die from a restraint, including death by **aspiration, blunt trauma to the chest, malignant catecholamine-induced cardiac dysrhythmias, thromboembolism, rhabdomyolysis with subsequent renal failure, and overwhelming metabolic acidosis from intense struggle.**

And according to Mohr, although **any prone restraint has the potential to be deadly**, children and adults receiving psychotropic medications (as many of our children are) are at great risk for asphyxiation in prone positions secondary to the abdominal adiposity, a result of second-generation antipsychotics.

She also notes that **one of the most dangerous false assumptions is — if an individual can talk, then he or she can breathe adequately.** In many of the restraint-death scenarios, the medical record indicates that the restrained individual said, "I can't breathe," and staff members believed that he or she was "manipulating" them.

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**RESTRAINT: HOW  
DANGEROUS IS IT?**

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**WHAT THE MAY 2009 GOVERNMENT INVESTIGATION REPORT SHOWED:**

- One year ago this month, our Government Accountability Office (GAO) completed its nationwide investigation into the use of restraint & seclusion in public schools.
- The results of its findings concluded that **no federal laws were in place to keep educators from using dangerous and abusive methods to restrain or seclude a student.**
- The investigation found that **19 states\* had no laws in place, and the laws in remaining states were 'widely divergent.'**
- It showed that although the Children's Health Act of 2000 protects children from abusive practices in facilities such as hospitals, residential treatment centers and residential group homes, **it does not protect children from such practices in schools.**

\*Wisconsin, Wyoming, Vermont, South Carolina, South Dakota, North Dakota, Oklahoma, New Jersey, Nebraska, Mississippi, Missouri, Kansas, Kentucky, Louisiana, Indiana, Idaho, Florida, Georgia, Arizona.

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### WHAT THE MAY 2009 GOVERNMENT INVESTIGATION REPORT SHOWED:

Of those cases GAO reviewed, at least 20 led to the death of a child. All of them had some form of disability. Sample cases included...

- A 14-year-old boy who **suffocated** due to improper restraint
- A 4-year-old who was **tied with leather straps to a chair and beaten**
- A 10-year-old boy who was **secluded at least 75 times** over a six-month period with no supervision and was left to urinate on himself
- A 14-year-old boy **who was left to hang himself in a seclusion room** after he begged not to go and threatened suicide
- Five children who were **duct-taped to desks with their mouths taped shut**

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### WHAT THE MAY 2009 GOVERNMENT INVESTIGATION REPORT SHOWED:

#### One particular story stuck with us...

A seven-year-old girl was **suffocated and killed after several adults pinned her to the floor.**

She died because she was blowing bubbles in her milk and didn't follow the **"time-out rules regarding movement."** Quotes are used because that's what the teacher report documented.

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### WHAT LED TO THE 2009 GOVERNMENT INVESTIGATION:

- In January 2009 a report by the Disability Rights Network showed that **forty-one percent (41%) of states have no laws, policies, or guidelines concerning restraint or seclusion use in schools**
- Almost **ninety percent (90%) still allow prone restraints**
- Only **forty-five percent (45%) require or recommend that schools automatically notify parents or guardians of restraint/seclusion use**

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### WE'VE ALSO SEEN THE NEWS STORIES:

- A 14-year-old boy **was burned by his teacher with a cooking pan**
- An 11-year-old nonverbal boy was **repeatedly hit by teachers**, caught on audio
- A 7-year-old boy was **restrained and force-fed until vomiting**
- An 11-year-old boy **had bleach thrown in his face**
- A group of students were **handcuffed and forced to 'wrestle'**
- A boy in Detroit was **handcuffed to a doorknob for four hours**

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**NOTED METHODS:**

According to the Alliance to Prevent Restraint, Aversive Interventions and Seclusion (APRAIS), aversive methods currently in use include: **Forced exercise; Shaving cream to the mouth; Lemon juice, vinegar, or jalapeno pepper to the mouth; Water spray to the face; Placement in a tub of cold water or cold showers; Slapping or pinching with hand or implement; Ammonia capsule or vapor to the nose; Blindfolding or other forms of visual blocking; Placement in a dark isolated box or other methods of prolonged physical isolation; Ice to the cheeks or chin; Withholding of meals/denial of adequate nutrition; Teeth brushed or face washed with caustic solutions; Prolonged restraint or seclusion.**

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**WHAT OUR CHILDREN NEED:**

- **Restraint and seclusion regulations.** Prone restraint is still allowed in most states and the first step we'd like to take in banning it altogether would be banning it for certain age and weight groups to start.
- **Cameras and/or two-way mirrors in every special-ed classroom**
- **Stiffer penalties for first-time offenders** and stronger background checks
- **A better reporting and data-collection system** should all be in place
- **Universal training** should be made available to every staff member in every district. It should cover de-escalation methods in detail and empower teachers and aides to respond appropriately.

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**FOR TEACHERS:**

If you're a teacher or aide who witnesses anything that makes you uncomfortable, report it. Write a letter to the parents of the child who is being mistreated, or alert school administration. Too often colleagues wait months, even years, to report abuse after they've relocated to another school. Child rights advocate Teri Arranga put it this way. **"Another day of delay is another day of danger."**

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**WHAT TO LOOK FOR:**

- **Bruises**
- **Escalated behaviors**
- **Anxiety issues**
- **Increased Self injurious behaviors (SIB)**
- **Fear of going to school**
- **Fear of a particular teacher, aide, substitute, staff member**
- **Bed wetting**
- **Crying for unknown reasons**
- **Sleep disturbance**
- **Not wanting to be alone**
- **Loss of appetite**
- **Loss of interest in things he/she use to enjoy**
- **Phobias**

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| <p>restraint &amp; seclusion   background &amp; basics</p>  |  |
| <p><b>WHAT YOU CAN DO FOR YOUR CHILD:</b></p> <ul style="list-style-type: none"> <li>•Download a sample 'no consent' letter at <a href="http://aprais.tash.org">aprais.tash.org</a> or <a href="http://nationalautism.org">nationalautism.org</a>, or write to <a href="mailto:lori@nationalautism.org">lori@nationalautism.org</a>.</li> <li>•Get informed by reading the GAO report on restraint and seclusion. Download it at <a href="http://nationalautism.org">nationalautism.org</a>.</li> <li>•Visit sites such as <a href="http://familiesagainstrestraintandseclusion.blogspot.com">familiesagainstrestraintandseclusion.blogspot.com</a> and <a href="http://aprais.tash.org">aprais.tash.org</a></li> </ul> |  |
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| <p><b>ALWAYS ASK IF YOUR CHILD HAS EVER BEEN RESTRAINED. NEVER IGNORE YOUR GUT:</b></p> <p><i>My son had a new teacher and assistant. I thought everything was okay and the assistant really seemed to be a nice girl. When I was around, she was sweet to my son and the other kids. But after a few months, he didn't want to go school – he cried in the mornings. I asked about it and they said he was fine at school, nothing different than usual. He seemed to be worse when the teacher was off for the day so I thought maybe it was the substitute or something. One day he came home with bruises all over his legs. I was appalled and immediately went to the school. I was told he did it to himself from stimming, even though it never caused bruises before. My gut told me something wasn't right, so I bought a voice-activated tape recorder and hid it in his backpack. I could not believe how he was treated. My heart broke and my anger rose as I sat and listened to his aide berate, ignore, and tease my nonverbal child who could not defend himself. I didn't hear her do anything physically to him that day, although she is heard telling one child to get the paddle "Because he needs it." I made copies of the tape and took it to his principal and teacher. They didn't fire her immediately. My biggest regret is that when those bruises first appeared, I ignored my gut and didn't call the police and press charges. I know my son better than anyone and knew that something was going on. <b>Maranie</b></i></p> |  |
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| <p><b>cpi</b> Crisis Prevention Institute, Inc.</p> <p>Get the answers you need to train your staff. Search Our Site</p> <p>Home   How to Register   Contact   Site Map   Link to Us   Blog</p> <p>About CPI<br/>Training Programs<br/>Training Schedule<br/>On-Site Training<br/>Register<br/>Research<br/>CPI Global<br/>CPI News<br/>Store</p> <p><b>FREE TRAINING RESOURCES</b><br/>Go to a FREE online class today.</p> <p><b>Find a Training Program Fast!</b><br/>Quick Search Tool</p> <p><b>cpi Matters at Work Series</b><br/>Autism Awareness</p> <p><b>Autism Awareness</b><br/>CPI developed this compelling seminar to raise autism awareness and dispel myths about autism. It is designed to help professionals—those who have occasional workplace encounters with people on the autism spectrum—interact safely, effectively, and respectfully. This seminar provides important information that helps minimize risks and prepares staff for workplace contact with individuals on the autism spectrum.</p> <p><b>What Participants Are Saying:</b><br/>"I want to share what I learned with my branch members. This information helps us be more inclusive of those with autism in work and in life."<br/>"We have autistic children at our center. I will share this with both staff."</p> |  |
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FROM CPI:

Q Should restraints be used as a means of punishment?

**A Physical restraints should never be used for any of the following purposes: As a punishment. For the convenience of staff. As a way to inflict pain.** (As Roy Leonardi put it, short of a child about to jump out of a window, restraint should not be used, and never by anyone untrained.)

Q Are physical restraints dangerous?

**A All physical restraints involve some possibility of injury to the person being restrained and to staff. There is less risk of injury when staff members are well-trained and safer techniques are used, but there is always the chance that an injury will occur. There is also a psychological danger in using restraints. Being restrained can be a frightening (even traumatic) experience.**

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FROM CPI:

Q Under what circumstances should individuals in my care be restrained?

**A Sometimes a person needs to be restrained in order to provide medical or nursing care. For example, a confused patient may need restraints to prevent him from removing an IV that is providing needed medication. Other than to provide medical or nursing care, individuals should be restrained only when all of the following guidelines are met: •The person is an immediate danger to self or others. •Other ways to manage the person's dangerous behavior have failed.**

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FROM CPI:

Q How can we reduce the possibility of injury during a restraint?

**A Injuries can be reduced in two important ways. First, staff members need to be trained in safer ways of restraining, and they need to practice those skills on a regular basis. A physical restraint is an emergency procedure(not very different from CPR or first aid). As with any emergency response procedure, staff members need to rehearse these skills on a regular basis. Second, some restraints are more dangerous than others. By choosing safer restraint techniques, you and your facility can reduce the possibility of serious injury or even death. In particular, you should avoid positions that can lead to restraint-related positional asphyxia.**

Q What is restraint-related positional asphyxia?

**A Restraint-related positional asphyxia occurs when a person being restrained is placed in a position in which he cannot breathe properly and is not able to take in enough oxygen. This lack of oxygen can lead to disturbances in the rhythm of the heart, and death can result.**

Q What positions are most likely to cause restraint-related positional asphyxia?

**A Especially dangerous positions include facedown (prone) floor restraints, or any position in which a person is bent over in such a way that it is difficult to breathe. This includes a seated or kneeling position in which a person being restrained is bent over at the waist, and it also includes any facedown position on a bed or mat. Staff members must be especially careful not to use their own bodies in a way that restricts someone's ability to breathe, such as sitting or lying across a person's back or stomach. When a person is lying face down, even pressure to the arms and legs can interfere with a person's ability to move her chest or abdomen in order to breathe effectively.**

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FROM CPI:

Q Are some people more at risk for restraint-related positional asphyxia than others?

**A Yes. Contributing factors include:**

- Obesity.
- Extreme physical exertion or struggling prior to, or during, restraint.
- Breathing problems, such as asthma or emphysema.
- Heart disease.
- Use of alcohol or other drugs.

**Always keep in mind that people might have health problems that you don't know about, so everyone being restrained should be considered to be at risk for restraint-related positional asphyxia.**

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[illegible]

**Q What is the best way to avoid restraint-related positional asphyxia?**

Get to know the people in your care. Be aware of changes in behavior that can be warning signs that an individual is anxious or upset. Intervene early. Learn to set limits effectively. Avoid being drawn into power struggles. Work at least as hard at learning verbal intervention skills as you do at learning physical intervention skills. Treat everyone with dignity and respect. The best way to eliminate the dangers of restraints to you and to those in your care is to eliminate the need for restraints at all.

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[illegible]

If all these positions may interfere with a person's ability to breathe. While these positions are different, they share a common feature. When *diaphragmally constrained*, each of them could *prevent the diaphragm* (the largest muscle of inspiration) from working. If the diaphragm is not allowed to work to move down into the abdomen, breathing is seriously restricted, and when a *diaphragmally constrained* position involves both *short and abdomen movement*, the result can be fatal.

All of these positions may interfere with a person's ability to breathe. While these positions are different, they share a common factor: **When forcefully maintained, each of them could prevent the diaphragm (the largest muscle of respiration) from working.** If the diaphragm is not allowed room to move down into the abdomen, breathing is seriously restricted. And when a forcefully maintained position hinders both chest and abdomen movement—the result can be fatal.

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This image shows a single page of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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# Restraint & Seclusion Behind Closed School Doors

The grid contains the following images:

- Top-left: A small white table and chair in a room with a brick wall.
- Top-middle: A person in a plaid skirt and dark top kneeling on the floor, holding a small white box over a person lying face down.
- Top-right: A close-up of a person's face, looking upwards.
- Middle-left: A person sitting at a desk with a computer monitor and keyboard.
- Middle-middle: A close-up of a person's face, looking downwards.
- Middle-right: A person standing in a doorway, looking out.
- Bottom-left: A person standing in a doorway, looking out.
- Bottom-middle: A close-up of a person's face, looking downwards.
- Bottom-right: A person walking down a hallway.

### Seeing the signs,

### Seeking the cause



This picture was named Christian



This picture was named tears

### Signs to look for if you think your child is being restrained and put into seclusion

Loss of interest in things  
 Not wanting to go out  
 Increase in behaviors  
 Increase in OCD  
 Aggression  
 Poor sleep  
 Loss of appetite  
 Anxious  
 Irritable  
 Phobias  
 Not wanting to be touched  
 Not wanting anyone too close to him/her  
 Bed wetting  
 Not wanting to be alone  
 Regression in school  
 Regression in personal skills  
 Not wanting to go to school

Is this Behavior Treatment or Abuse?



### ➡ Tunnel Vision



- ➡ Lack of visible physical damage assumed to indicate "safe and effective" usage
- ➡ Long-term psychological effects ignored; data not gathered  
Long-term "cultural" or
- ➡ "systems" effects (e.g. on staff, peers, families) ignored; data not gathered

### Florida News

Parents: Special-needs students physically restrained too often

Palm Beach County teacher fired for putting student in closet

Lee County Florida - 9-year-old arrested at school

Fla. special needs teacher guilty of spiking soda

Child Abuse By Teacher Brushed Aside By Port St. Lucie Public School System

Teachers' Aides Accused Of Kicking, Choking Autistic Students In Class

Police: Teacher's Aide Attacks Autistic Student

Teacher Accused Of Duct-Taping Boy To Desk

Student Says a School Employee Broke His Arm



### News in Other States

|              |   |
|--------------|---|
| Arizona      | Student routinely restrained to fence                   |
| California   | Schools Locking Children In Closets                     |
| Georgia      | 8th-grader's suicide in seclusion room spurs lawsuit    |
| Georgia      | Teacher Duct Taped Child To Chair                       |
| Iowa         | Some experts call school time-out rooms 'abuse'         |
| Missouri     | Mother Finds Autistic Child Naked in Classroom          |
| Michigan     | Special Ed Student Handcuffed to School Door            |
| New York     | Officials defend room in school basement                |
| Pennsylvania | Officials admit school has a padded room                |
| Virginia     | Teacher's aide charged with bruising 6-year-old student |

### What you can do to help STOP the overuse of Restraint and Seclusion



Stand up and get involved



- Learn to effectively advocate for your child in order to prevent restraint & seclusion.
- Submit a "No Consent" letter to your school. <http://aprais.tash.org/parents.htm>.
- Take pictures of any marks or bruises on your child's body.
- Keep a notebook and document your concerns by date and time.
- Contact the school Principal and ESE Director in writing if you suspect any abuse.
- File a complaint with the Office of Civil Rights.
- File a complaint with your state Department of Children and Family Services.
- Contact your local state legislators requesting laws be created.
- Contact your federal legislatures requesting laws be created.
- Work with local state and national advocacy organizations to make changes.

Contact your local Media and share your story.  
Media Tool Kit from APRAIS <http://aprais.tash.org/toolkit.htm>

### What We've Learned: Myths v. Facts

**Myth** - Aversives, restraint, and seclusion are effective treatment.

**Fact** - Aversives, restraint and seclusion are the failure of treatment.

**Myth** - Aversives, restraint and seclusion are used only when absolutely necessary and for safety reasons.

**Fact** - Children with disabilities are being routinely hurt, restrained, and secluded by their schools for reasons such as non-compliance, humming, rocking, or other non-dangerous behavior.

**Myth** - Aversives, restraint and seclusion are the most powerful interventions we have for the promotion of child safety.

**Fact** - These procedures are misused and abused; children are being hurt and are dying: 142 deaths found from 1988 to 1998, reported by the Hartford Courant

**Fact** - 50 to 150 deaths occur nationally each year due to seclusion and restraint, as estimated by the Harvard Center for Risk Analysis (NAMI, 2003) No national monitoring means the full extent of injuries and deaths remains unknown.

**Myth** - Positive approaches won't work for all children; if the school has tried a few positive interventions first, it is okay to move on to aversives, restraint or seclusion.

**Fact** - Decades of research prove that safe, positive approaches to behavior are successful regardless of diagnostic label, complexity of disability, or severity of problem behaviors. School staff must be trained in and use proven positive methods!

### To Learn More

School Is Not Supposed to Hurt  
National Disability Rights Network (NDRN, 2010)

UNSAFE IN THE SCHOOLHOUSE:  
ABUSE OF CHILDREN WITH DISABILITIES  
(COPAA, 2009)

Testimony Before the Committee on Education and Labor, House of  
Representatives  
GAO: United States Government Accountability Office  
SECLUSIONS AND RESTRAINTS  
Selected Cases of Death and Abuse at Public and Private Schools and  
Treatment Centers  
May 2009



## Where are we now?



March 3, 2010

### Houses Approves Bill to Protect Schoolchildren from Harmful Restraint and Seclusion

#### GAO Found Hundreds of Cases of Students Being Abused Through Inappropriate Uses of Restraint and Seclusion .

WASHINGTON, D.C. – In response to a recent government investigation that found widespread allegations that children were being abused through misuses of restraint and seclusion in classrooms, the U.S. House of Representatives today approved bipartisan legislation to protect children from inappropriate uses of these practices in schools. The Keeping All Students Safe Act (H.R. 4247) passed by a vote of 262 to 153.

The House of Representatives, in particular Chairman George Miller (D-CA) and Rep. Cathy McMorris-Rodgers (R-WA), should be commended for taking action to end the abusive use of restraint and seclusion in schools.

Similar legislation (S.2860 - Preventing Harmful Restraint and Seclusion in Schools Act) was proposed in the Senate late last year, but there is no date yet as to when that Senate may consider the bill. The Senate sponsor is Chris Dodd.

**Restraint and seclusion should never be viewed as treatment options but rather as treatment failures because they risk lives, escalate behaviors and inflict emotional and physical trauma.**

### RESTRAINT, SECLUSION AND AVERSIVE TREATMENT S

This is NOT an isolated incident.

This is happening all over Florida.

Creating Florida Families Against Restraint and Seclusion.  
<http://floridafamiliesagainstrestraint.blogspot.com>

This is NOT an isolated incident.

This is happening all over the United States.

Creating Families Against Restraint and Seclusion.  
<http://familiesagainstrestraintandseclusion.blogspot.com>

APRAIS <http://aprais.tash.org/index.htm>



## SESSION 3

# Keeping Your Child Safe: Preventing Abuse at School

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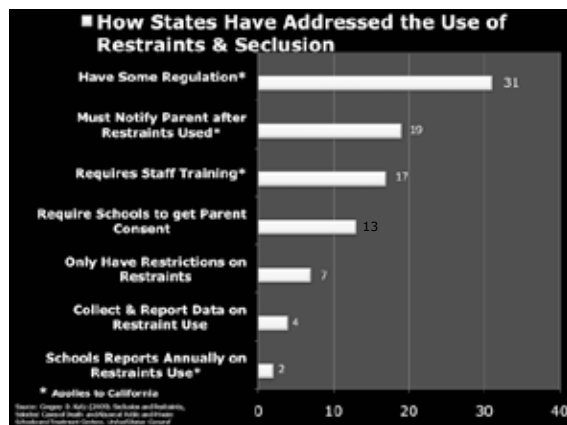
### Restraint & Seclusion

#### *Keeping Your Child Safe: Preventing Abuse at School*

Timothy A. Adams, Esq. • Lynne Arnold, MA

The law firm of Adams & Associates presents the information as a service to parents and the community. While the information is about legal issues, it is not legal advice.

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### What if you suspect...?

1. Volunteer at school
  - It's your right!
2. Investigate
3. Document
  - Photos
  - Keep a log

### Seeing the signs,

### Seeking the cause



This picture was named Christian



This picture was named tears

### Typical First Sign: The Pick Up Call

- Come get the bad kid!
- IEP must be convened
- Retool or develop a new behavior plan
  - Resist more of the same
  - Measurement of efficacy?
  - Require ongoing reporting
  - IEE may be needed

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### Consult with a Doctor

- Letter should include:
  - Nature of injury
  - How it may have occurred or how this type of mark/injury typically occurs
  - If injury is consistent with abuse
  - Consequence to the child if the injury continues
  - Health conditions that risk child's health if subjected to restraint and/or seclusion

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### Reporting to Authorities

- Pros and cons of reporting to:
  - Child Protective Services (CPS)
  - Police

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### Keep Your Child Safe

- Resolve situation before sending child back to school
- Consider keeping your child at home or in private placement
- 10-day letter giving notice of right to seek reimbursement of any costs

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### Evaluating the Child's Needs

- More of the same isn't likely to resolve the situation
- Conflict of interest among district staff
- Request IEE for BIP/FBA?

### Considering Strategies

- Depends on placement of child
- Will the district be allowed to evaluate?
- Is the evaluator qualified?
- Independent evaluator can evaluate the evaluation and participate in IEP meeting
  - See resources for listing of our top-10 recommendations for independent evaluators

### Pros & Cons of Evaluation Strategies

- Again, depends on placement of child
- Strategy determination
  - Action vs. passive aggression
- Bad evaluation: easiest to overcome
- Mediocre evaluation: can be more difficult to overcome
- Appropriate evaluation: great!

## Hidden Recording Device

- Might be discovered = loss of trust
- May be barred as evidence in court
- Could confirm allegation for CPS and/or police

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## How Can We Prevent Abuse?

- Clearly written IEP with effective behavior plan
- Talk about R&S openly with the team
  - District policies
  - District equipment, rooms, etc.
  - Include doctor's note in IEP
- Ongoing reporting to parent
- Take action at first occurrence
- Note changes in child's behavior
- Put district on notice and give them opportunity to rectify problem

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# Preventing Restraint & Seclusion Functional Behavior Assessments & Behavior Intervention Plans

This image shows a single page of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

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## WHAT IS A FUNCTIONAL BEHAVIOR ASSESSMENT (FBA) & (POSITIVE) BEHAVIOR PLAN (BIP)?

A **Functional Behavior Assessment (FBA)** is a comprehensive & individualized strategy to identify the purpose or function of a student's problem behavior (s); develop and implement a plan to modify variables that maintain the problem behavior; and teach appropriate replacement behaviors using positive interventions.

A **Behavior Intervention Plan (BIP)** takes the observations made in a Functional Behavior Assessment and turns them into a concrete plan for managing a student's behavior. A BIP may include ways to change the environment to prevent behavior from starting in the first place, provide positive reinforcement to promote good behavior, employ planned ignoring to avoid reinforcing bad behavior, and provide supports to meet the unique needs of the student.

Ex.) Token System, Behavioral Contracts

## TWO PLACES FBAs & BIPs ARE MENTIONED IN IDEIA

### **DISCIPLINE SECTION** 20 U.S.C. §1415(k) (1) (F)

If the IEP team determines the behavior was a manifestation of the child's disability, they SHALL conduct a functional behavior assessment (FBA) and implement a behavioral intervention plan.

If the student already has a behavior plan, the IEP team shall modify the plan to address the child's behavior

### **DEVELOPMENT OF IEP** 20 U.S.C. §1414(d)(4)

The IEP team SHALL consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior that impedes learning. (Shall = Must)

## HOW DO I KNOW WHEN TO REQUEST AN FBA?

### **IEP CONTENT**

Whether a quick fix or serious,

### **IEP CONTENT & FBA/BIP**

do not wait!

|   |  |   |  |
|---|--|---|--|
| Behavior happening infrequently does not effect learning or any IEP domain                  | Behavior is easily and quickly addressed. i.e. move seat to avoid disturbance    | Continuous complaints from teacher/staff .<br>Home notes typically reflect behavior issues.                 | Knowledge your child has aggressive or self injurious behaviors at school                                      |
| Is this "typical" age appropriate behavior? May be typical but still needs to be addressed! | Did something happen night before ?slept late or morning /school routine Medical | Any known behaviors that impede learning: pragmatics, disrobing, elopement, lack of sustained attention ... | Child being sent out from classroom for "mis-behaving." (school staff should not be doing this/denial of FAPE) |

## HOW TO PROPERLY REQUEST AN FBA

Remember, school should have already performed one if you are requesting w/ good reason! (remember IDEIA)

**ALWAYS IN WRITING OR EMAIL! Avoid discussions & keep it simple!**

- **State the reason for your request**

Ex) Johnny's behaviors are effecting his learning and he needs an FBA /Give specifics as best you can

- **State how long the behavior (s) has been happening and how you know this.**

Ex) School has known about Johnny's behaviors since \_\_\_\_ . Ex) Teacher complained to me, home notes...

- **Provide signed consent**





## Functional Behavior Assessment

Once you know the FBA will be PERFORMED

ASK (in writing):

**WHO, WHAT, WHERE, WHEN & HOW IT WILL BE PERFORMED.**



You are entitled to **Prior Written Notice**.

If you do not believe the FBA will be performed properly, you may request that a Board Certified Behavior Analyst (BCBA).

If the school **refuses**, ask for the refusal in writing (**Notice of Refusal**). You may then request mediation (simple form/non adversarial).

**\*Most important thing is to meet the child's needs APPROPRIATELY as quickly as possible!**

## "GOT the FBA- NOW WHAT?"

Once the FBA is COMPLETE:

Request (in writing) a copy of FBA & all raw data collected

Request a "draft" copy of the Behavior Plan

**REVIEW THE FBA PRIOR TO YOUR BEHAVIOR PLAN MEETING FOR MEANINGFUL PARTICIPATION!**

**You are permitted to bring anyone you like to the Behavior Plan meeting.**

**You are entitled to participate in the creation of the behavior plan.**

## Simple Check List for FBAs

### FBA

We Look at the Environment (people are part of the environment!)

Data collection/ simple data sheets make collection easy

Main goal is to determine the function of the behavior in order to develop the plan!

| WHO?   | WHERE?  | "ABC" DATA  |
|--|---|---|
| Properly trained staff using "research-based" guidelines<br>No strict guidelines in IDEA ☺ | The places the target behavior (s) occurs.<br>The more settings & time (rule of thumb is at least 1 hr per setting) the better! | <b>Antecedent</b> - What happens <u>before</u> the behavior occurs?<br><b>Behavior</b> -Define in <u>measurable</u> terms (NO! "He was upset", YES! He threw himself to ground, crying.etc)<br><b>Consequence</b> -What happens immediately <u>after</u> ? (Ex, teacher reprimanded student "don't do that!") |

## BEHAVIOR PLAN (BIP)

**Always Monitor After Written**

**\*A BIP is only as good as the FBA it is based on.**

Must be based on the child's unique behavior needs.

Define possible replacement behaviors (FBA too!).

The replacement behavior MUST serve the same function as the inappropriate behavior!

**EX) If Johnny was crying to get attention, the replacement behavior might be to tap someone's shoulder to get attention.**

**•SPECIFIC**

Some plans may include:

**•DEFINED**

Token economy, Behavioral

**•DATA DRIVES**

Contract

**•CONSISTENT**

## DO NOT ACCEPT AN INFORMAL “PLAN” TO ADDRESS A SERIOUS ISSUE!



## 4 MOST IMPORTANT THINGS YOU CAN DO TO PREVENT R&S

- #1 No Restraint (Consent) Letter – modify to your situation  
<http://aprais.tash.org/parents.htm>
- #2 Dr.'s note stating R&S is not safe for your child.  
Document in IEP/BIP if your child has Seizures, Asthma, GI  
issues, Heart Problems, Obesity, ...
- #3 Have a solid IEP with proper supports, accommodations  
& goals. (collect data from teachers, classroom  
observations...)  
Document pertinent information in Parent Input Section of  
IEP!
- #4 An effective behavior plan that is constantly being  
monitored & is strictly data driven!



BE IN CONSTANT WRITTEN CONTACT WITH SCHOOL STAFF!

## WHAT TO DO WHEN ALL GOES WRONG!



### BAD FBA/BIP

- Hire a pit bull ABA therapist
- Request an Independent Educational Evaluation (IEE)
- File for Mediation
- Hire an Attorney/Advocate /File Due Process

## RESOURCES

[http://www.scdsb.on.ca/media/files/programs-and-services/specialeducation/FUNCTIONAL\\_ANALYSIS\\_INTERVIEW\\_FORM\\_A.pdf](http://www.scdsb.on.ca/media/files/programs-and-services/specialeducation/FUNCTIONAL_ANALYSIS_INTERVIEW_FORM_A.pdf)  
<http://cecp.air.org/fba/default.asp>  
<http://www.usu.edu/teachall/text/behavior/LRB/pdfs/Functional.pdf>  
[http://www.wrightslaw.com/info/discipl\\_fab\\_starin.htm](http://www.wrightslaw.com/info/discipl_fab_starin.htm)  
<http://ed.gov/about/offices/list/ocr/504faq.html>  
[http://www.wrightslaw.com/info/discipl\\_index.htm](http://www.wrightslaw.com/info/discipl_index.htm)  
[http://www.samhsa.gov/matrix2/seclusion\\_matrix.aspx](http://www.samhsa.gov/matrix2/seclusion_matrix.aspx)  
<http://www.specialeducationmuckraker.com/>  
<http://www.napas.org/>  
<http://www.napaba.org/napaba/showpage.asp?code=legalaid>  
<http://www.splcenter.org/>

[illegible]



# APPENDIX

## Resources

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“No Consent” letter to your school. [aprais.tash.org/parents.htm](http://aprais.tash.org/parents.htm).

Media Tool Kit from APRAIS [aprais.tash.org/toolkit.htm](http://aprais.tash.org/toolkit.htm)

Creating Families Against Restraint and Seclusion. [familiesagainstrestraintandseclusion.blogspot.com](http://familiesagainstrestraintandseclusion.blogspot.com)

### Miscellaneous Sites

[www.scdsb.on.ca/media/files/programs-and-services/specialeducation/FUNCTIONAL\\_ANALYSIS\\_INTERVIEW\\_FORM\\_A.pdf](http://www.scdsb.on.ca/media/files/programs-and-services/specialeducation/FUNCTIONAL_ANALYSIS_INTERVIEW_FORM_A.pdf)

[cecp.air.org/fba/default.asp](http://cecp.air.org/fba/default.asp)

[www.usu.edu/teachall/text/behavior/LRBIpdfs/Functional.pdf](http://www.usu.edu/teachall/text/behavior/LRBIpdfs/Functional.pdf)

[www.wrightslaw.com/info/discipl.fab.starin.htm](http://www.wrightslaw.com/info/discipl.fab.starin.htm)

[ed.gov/about/offices/list/ocr/504faq.html](http://ed.gov/about/offices/list/ocr/504faq.html)

[www.wrightslaw.com/info/discipl.index.htm](http://www.wrightslaw.com/info/discipl.index.htm)

[www.samhsa.gov/matrix2/seclusion\\_matrix.aspx](http://www.samhsa.gov/matrix2/seclusion_matrix.aspx)

[www.specialeducationmuckraker.com/](http://www.specialeducationmuckraker.com/)

[www.napas.org/](http://www.napas.org/)

[www.napaba.org/napaba/showpage.asp?code=legalaidd](http://www.napaba.org/napaba/showpage.asp?code=legalaidd)

[www.splcenter.org/](http://www.splcenter.org/)



# Autism One

## Restraint & Seclusion Symposium

May 26, 2010

*R&S = Restraint & Seclusion*

**Did you attend the full session from 8 a.m.-noon** Yes No

**Please circle your identity:** Parent Professional Both

**If a parent, how old is your child?** \_\_\_\_\_

**Why did you come to this symposium?** (circle all that apply)

Experiencing problems with R&S

Suspect my child may be abused by staff at school

General information

Other \_\_\_\_\_

**Please rate how this symposium helped you to understand how to prevent R&S.** (circle ONE only)

Not at all helpful

Somewhat helpful

Moderately helpful

Very helpful

Extremely helpful

**Which session was the LEAST helpful for you?** (circle ONE only)

1. Background & Basics – Wendy Fournier & Lori McIlwain
2. Behind Closed School Doors – Phyllis Musumeci
3. Preventing Abuse at School – Tim Adams & Lynne Arnold
4. Functional Behavior Assessment & Behavior Intervention Plans – Maria Cammarata

**Which session was the MOST helpful for you?** (circle ONE only)

1. Background & Basics – Wendy Fournier & Lori McIlwain
2. Behind Closed School Doors – Phyllis Musumeci
3. Preventing Abuse at School – Tim Adams & Lynne Arnold
4. Functional Behavior Assessment & Behavior Intervention Plans – Maria Cammarata

**Is there a topic or other information that you hoped to learn that was not covered today?** Please describe:

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**Will you recommend this symposium to other parents?** Yes No Maybe

**Do you have any suggestions for this symposium?** Please describe here or on back of this sheet:

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