Isolation & Restraint in Public Schools

Disability Rights Tennessee
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Presentation adapted from information sheet produced by the Disability Coalition on Education, DCE, a statewide alliance of families, agencies and advocacy organizations working together to improve educational outcomes for students with disabilities.
INTRODUCTIONS
Disclaimer

The general interpretations in this presentation are based upon the opinions and perspectives of the presenters. Other attorneys and agencies may have differing views. Federal and state laws, regulations, and procedures may change over time. Persons should consult the statutes, regulations, and an attorney for purposes of compliance on a specific matter.
Tennessee Law: Restraint and Isolation in Public Schools

- Special Education Behavioral Supports Act
- Originally took effect January 2009
- Amended in 2011
Why create a law for Restraint and Isolation (R&I)?
Purposes of the Law

- Keep students who receive special education services free from unreasonable, unsafe, and unwarranted uses of isolation and restraint practices
- Positive behavioral interventions and support
- Properly trained staff
What is meant by "restraint" and "isolation"?
Definitions

- **Restraint** means limiting a student’s freedom of movement by physical contact or holding.

- **Isolation**, sometimes called **seclusion**, means confining a student alone in a room or space from which the student is physically prevented from leaving.

- “Time-out” in an area from which the student is NOT physically prevented from leaving is not considered to be **isolation**.
Definitions (cont.)

- *Emergency situation* means a threat to the physical safety of the student or others.
What are schools NOT allowed to do?
Restrictions

Schools MAY NOT:

- restrain a child in any position that restricts breathing or is life-threatening
- use *mechanical restraint*
- use *chemical restraint*
- use *noxious substances*
- lock a child in a room, closet, or other confined space
- use R&I as punishment, coercion, convenience or retaliation
Restrictions (cont.)

Schools may not:

- Use any structure, mechanism, or device to lock or block a student into a room, structure, or area
- Take away or disable (turn off) equipment as punishment, coercion, convenience, or retaliation
What are schools allowed to do?
What Schools Are Allowed To Do (cont.)

Schools MAY use R&I:

• Only in emergency situations even if written into IEP

• Before writing into an IEP, an individualized positive behavior intervention plan (BIP) should be created based on a functional behavior assessment (FBA).
What Schools Are Allowed To Do (cont.)

- Use brief holding to calm or comfort
- Use minimum contact necessary to escort from one area to another
- Assist student in completing a task if no or only minimal resistance
- Hold a student briefly to prevent an impulsive behavior that threatens immediate safety

*Parent notification of all uses of restraint or isolation is required unless used in above situations.*
Schools are allowed (cont.)

- To report a suspected crime by calling a law enforcement official
- File a juvenile petition *only* after holding a manifestation determination showing the behavior was not caused by the student’s disability
- School Resource Officers (SRO’s) may take a student into custody if they have witnessed an offense
What is an Emergency Situation? Saying it One More Time!

- Threat to physical safety of student or others
- This applies even if written into the student’s IEP
What are schools required to do?
Reporting and Recording
Reporting and Recording (cont.)

Schools must:

- Notify parent each time R&I used unless it falls under 4 exceptions
- Hold an IEP meeting if R&I used when not in IEP or if used longer than written into the IEP
- Report to principal every time R&I used
- Keep records of R&I
- Report information to the school system
- Report to the State the use of R&I
Isolation Room Must Be...

- Unlocked and incapable of being locked
- Free of anything that could hurt student
- Well-ventilated, temperature controlled, and adequately lit
- Where school staff can be in continuous direct visual contact with student
- At least 40 square feet
- In compliance with all health, fire, and safety codes
The IEP team *wants* to add Restraint & Isolation to your child’s IEP......

What should you do?
If writing R&I into your child’s IEP is suggested, you should ask for:

- your child’s rights and protections under the law
- school’s policy
- school staff’s training
- Type of restraint they intend to use
- shortest time
- specific circumstances
If writing R&I into your child’s IEP is suggested, you should ask for:

- to see the room used for isolation (“quiet” or “calming” room)
- notification every time
- team to meet again if R&I is used frequently
- all these points to be put in writing
The IEP team *insists* on including Restraint & Isolation in your child’s IEP...

What should you do?
If you disagree with the proposed use of R&I, you may:

- NOT sign the proposed IEP
- request the team meet again
- ask to talk with someone in your local special education office
If you disagree with the proposed use of R&I, you may:

- request an outside evaluation (IEE)
- talk to an advocate
- file a request for a due process hearing
- file an OCR or other type of complaint
In Tennessee, if you refuse to sign an IEP which the school system presents to you, the school can start using the IEP on the 15th day after you’ve refused, unless you file for *due process* prior to day 15.
Important Note

- Filing for *Due Process* is the only action which can prevent the IEP from being implemented without a parent signature.

- Filing for *Mediation* is a remedy choice that will not prevent the IEP from being implemented.
If you believe that your child has been harmed by the use of R&I, you should:

- seek medical attention immediately
- take photographs
- notify the school
If you believe that your child has been harmed by the use of R&I, you should:

- if appropriate, make a police report

- if appropriate, make a report to Child Protective Services (toll-free #: 1-877-237-0004)

- contact Disability Rights Tennessee (DRT) (toll-free#: 1-800-342-1660)
Resources

- Disability Rights TN
  Phone: 1-800-342-1660
  TTY: 1-888-852-2852
  Email: GetHelp@disabilityrightstn.org

- The Arc of Tennessee
  Phone: 615-248-5878
  Toll Free: 1-800-835-7077
  Email: info@thearctn.org

- Tennessee Disability Pathfinder
  Phone: 1-800-640-4636
  Web site: tnpathfinder@vanderbilt.edu

- STEP (Support and Training for Exceptional Parents)
  Phone: 1-800-280-STEP
  Espanol: 1-800-975-2919
  TTY: 423-639-8802
  Email: information@tnstep.org

- Tennessee Disability Coalition’s
  Family Voices of Tennessee
  Toll free family line: 1-888-643-7811
  Email: familyvoices@tndisability.org