

**ND Seclusion and Restraint Task Force**  
*"Keeping Everyone Safe in Our Schools"*  
**Meeting #3 - Thursday, July 28, 2016**

**Shared Task Force Values:**

- Collaborative and Integrated Stakeholder Participation
- Safety-Based - "Keeping Everyone Safe in Our Schools"
- Student-Focused
- Best-Practices-Based
- Uniform Implementation and Monitoring
- Adequate Resources

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**DRAFT MEETING SUMMARY**

**Task Force Members Attending:** Doug Sullivan (ND Association of School Administrators), Teresa Larsen (ND Protection & Advocacy Project), Tamara Waters-Wheeler (ND Association of School Psychologists), Joan Heckaman (State Senator), Kirstin Dvorak (Pathfinder Parent Center), Linda Greenwood (Teacher, Dickinson Public Schools), Vicki Peterson (Family Voices of ND), Peg Wagner (ND Department of Public Instruction), Lori Garnes (ND Center for Persons with Disabilities/Minot State University), Cory Pederson (ND Juvenile Court), Carl Young (Parent Representative), Carlotta McCleary (ND Federation of Families for Children's Mental Health), Rosalie Etherington (ND Department of Human Services/ND State Hospital Superintendent), Russ Zeigler (ND Council of Educational Leaders), Jennifer Fremstad (ND Association of Secondary School Principals), Penny Hetletved (ND Department of Corrections/Youth Correctional Center), Jason Stugelmeyer (Bismarck Police Youth Bureau SRO), Patty Barrette (ND United), and Jaylia Prussing (University of Mary).

**Task Force Members Unable to Attend:** Pam Sagness (ND Department of Human Services), Sarah Jordan (Teacher, Bismarck Public Schools), Mike Yantes (School Social Worker, Bismarck Public Schools), April Dahme (The Arc of ND), Aimee Copas (ND Council of Educational Leaders), Tracy Klein (Special Education Directors Study Council), Debra Follman (ND Association of Elementary School Principals), Roxane Romanick (Designer Genes), Dotti Dixon (ND School Counselors Association), Kathy Blohm (Private Practice Psychologist), Robyn Lang (ND School Counselors Association Board Member), Virginia Long Feather (Principal, Standing Rock Elementary), Mary Schultz (ND Parent Teachers Association), Kyle Davison (ND State Senator, ND Regional Education Associations), Don Two Bears (Director of Security, Standing Rock Schools), Bradley LaRoque (Director of Career and Tech Education, Turtle Mountain Community High School), Kris Wallman (ND State Representative), John Porter (Special Education Directors Study Council), and Mark Doerner (ND Psychological Association).

Draft for Review

8.18.16

**Welcome and Introductions:** Task Force members were welcomed to Meeting #3 and provided self-introductions. Special welcome was provided to Penny Hetletved, a new Task Force member representing the ND Department of Corrections and Youth Correctional Center (YCC).

**Brief Meeting Overview:** The facilitator reviewed the consensus-based decision-making process and reviewed the ground rules for discussion, agreed to at the April meeting:

1. It's your show.
2. Everyone is equal.
3. No relevant topic is excluded.
4. No discussion is ended.
5. Respect opinions.
6. Respect the time.
7. Silence is agreement.
8. Non-attribution.
9. Keep the facilitators accurate.
10. Have fun!

Stakeholders agreed to proceed with the rule of consensus and the ground rules, and then reviewed the draft agenda, making no recommendations for initial changes. Task Force members were encouraged to review and provide feedback or corrections to the meeting summary from the May 26 meeting. The facilitator reminded participants that meeting materials and information of interest to the Task Force is readily available on the Consensus Council website: <http://agree.org/seclusion-and-restraint-task-force/>.

**Update on Legislative Interim Education Committee Activities:** The interim Education Committee met on July 22, 2016 and reviewed a legislative bill draft regarding definitions of seclusion and restraint, along with proposed reporting requirements for schools that have a policy on S & R. The bill draft had been requested by Chairman Don Schaible, and drafted by Dustin Assel from the Legislative Council. Chairman Schaible recommended no action be taken on the bill in the absence of Senator Heckaman, who was unable to attend the Committee meeting. Rose Stoller, Consensus Council, provided testimony to the committee regarding the activities of the Task Force (testimony posted to the website). No action was taken on the proposed legislation.

Senator Heckaman suggested that it would be important for the Task Force to finalize any recommendations for the interim Education Committee by early September, in order for them to be considered by the Committee at their next meeting (tentatively scheduled for early September). This would mean that the Task Force should complete its work during the August 25 meeting.

**Developing and Implementing a Seclusion & Restraint Policy for Bismarck Public Schools (BPS):** Cindy Wilcox, Special Education Director for Bismarck Public Schools,

provided a presentation on their policy that was largely crafted from the recommendations of the ND School Boards Association. The policy is routinely reviewed as a part of ongoing review of all BPS policies and has a strong focus on safety vs. discipline. She noted that training, using the CPI model, is provided to “teams” that serve each school building. BPS is evaluating trends to determine whether there are schools in their system that have greater issues than others, while also noting that they are seeing more aggressive behaviors in younger children. There is interest in determining what factors, if any, might contribute to any data anomalies (ethnicity, race, income, etc.). It was noted that the School Resource Officers (SRO) are not trained in CPI, a decision that was made intentionally by the local Police Department.

Dr. Wilcox stressed the importance of debriefing with the student and staff following an incident where seclusion or restraint was used. She also shared information about the process for notifying parents or guardians of such incidents. She shared recommendations for the Task Force including:

- Don't rely on the numbers/data alone
- Staff training, and retraining, is critical
- Use a continuum of services to help meet the students needs (although she noted that some services, including mental health, are lacking in the community)
- Take the time necessary to debrief with anyone/everyone who was directly involved, as well as bystanders

Dr. Wilcox was thanked for her time, and her presentation is posted to the Consensus Council website.

**Review of Data Subcommittee Work:** The data subcommittee is comprised of Peg Wagner (ND DPI), Cody Wagner (ND Protection & Advocacy Project), and Russ Zeigler (NDCEL). On behalf of the Committee, Cody provided an overview of existing data from the Office of Civil Rights (OCR) from the 2011-2012 and 2013-2014 school years for North Dakota. He also presented information from a survey completed by the ND Council on Educational Leaders (NDCEL) of its members, specific to S & R policies. Task Force members discussed the information and asked questions about the data collected. There is a great deal of information that can be gleaned from the voluminous data. However, there is uncertainty whether all schools are reporting by using the same definitions/understanding of terminology. It was agreed that, since the OCR Reporting is mandatory, the Task Force should consider utilizing this data as the key source for information when discussing policy, rules, legislation, etc.

The Committee was thanked for their time, and this presentation is posted to the website for review.

**Discussion of Key Terms/Definitions:** There was discussion regarding definitions of key terms and agreement that the Task Force recommends using the US Department of

Education, Civil Rights Data Collection (CRDC) definitions of physical restraint, mechanical restraint and seclusion as follows:

**Restraint & Seclusion Resource Document – US Department of Education:** references in this document to “restraint” encompass the terms “physical restraint” and “mechanical restraint” as defined in the Civil Rights Data Collection (CRDC). References to “seclusion” encompass “seclusion” as defined in the CRDC. According to the GAO report, each of these types of restraint is currently being used in schools.

The CRDC defines **physical restraint** as a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term physical restraint does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out to walk to a safe location.

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The CRDC defines **mechanical restraint** as the use of any device or equipment to restrict a student’s freedom of movement. This term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:

- Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
- Restraints for medical immobilization; or
- Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

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The CRDC defines **seclusion** as the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a 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.

As these terms are used in this document, “restraint” does not include behavioral interventions used as a response to calm and comfort (e.g., proximity control, verbal soothing) an upset student, and “seclusion” does not include classroom timeouts, supervised in-school detentions, or out-of-school suspensions.

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Regarding definitions of other key terms (physical escort, timeout, chemical restraint, etc.) it was **agreed** that these could be addressed in a “frequently asked questions (FAQ)” document and/or included in law, if thought to be necessary by legislators. This information and these recommendations will be shared with the interim Education Committee.

**Developing Definitions, Policy & Programs for the ND Boys & Girls Ranch (NDBGR):** Christina Hemmer, Vice-President and Kaitlin Kinsella, Treatment Manager, ND Boys & Girls Ranch, provided a presentation about the policy, training and implementation for the use of seclusion and restraint in their facilities. NDBGR offers several levels of service in a number of communities in North Dakota. These include an outpatient clinic, group homes, psychiatric residential treatment facilities and an accredited school

program. The DBGR has a goal of zero incidences of seclusion and restraint and provides training for all staff, using the CPI model, at all levels of service. Because of their philosophy in this regard, they have successfully removed all seclusion rooms from their facilities and are now employing a “regroup” model for children in their care. Christina and Kaitlin stressed the following as important for the Task Force:

- Some of the best feedback about this issue comes from the child as well as from the parents
- Children and families need to be included in treatment planning, including behavioral health treatment planning
- By training all staff employed in their programs (including bus drivers, support staff, janitors, etc.), they’ve created a culture change for the better; staff are more engaged and have a greater understanding of the children and their needs
- The process of debriefing is critical and should be done in a timely manner – for the child, the parent/guardian and for the staff; DBGR completes the process within the shortest amount of time to increase its effectiveness – it presents learning opportunities for all involved
- Collecting data is only an entry point for addressing the issues of seclusion and restraint; successful prevention occurs over time through attitudinal shifts, training and open communication

Christina and Kaitlin were thanked for their time and presentation, which will be posted on the Consensus Council website.

**Discussion of Policy/Rules/Other Recommendations:** Christine Hogan, Attorney at Law, ND Protection & Advocacy Project, provided a presentation about the adoption of “Anti-Bullying” legislation in North Dakota in 2011. There were some parallels noted to the process being used by the S & R Task Force – engaging stakeholders in a coalition, looking at best practices, creating common language, etc. It was noted that the legislation that was ultimately passed protected local control and the authority of local school boards. Ms. Hogan noted that there was originally a fiscal note attached to the legislation for teacher/school training, but that the fiscal note was removed. Thus, there is a requirement that all ND school districts have a policy addressing bullying and that they provide training to school personnel, but without receiving any additional funds.

Christine was thanked for her time and her presentation, which will be posted on the Consensus Council website.

**Task Force Discussion and Development of Tasks for Writing/Planning Team:** There was lengthy discussion relative to the legislative bill draft vetted at the interim Education Committee. Specifically, there is concern regarding voluntary vs. mandatory reporting beyond what is now required, to whom such reporting would/should go and for what purpose. The following agreements were reached:

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8.18.16

- The Task Force supports use of the USDOE, Civil Rights Data Collection (CRDC) definitions of physical restraint, mechanical restraint and seclusion.
- The Task Force supports all ND school districts being required to have a policy regarding seclusion and restraint.
- The Task Force supports seclusion and restraint policy being developed at the local level.
- The Task Force supports prohibition of prone restraints or any restraints that could impede breathing.
- The Task Force supports biannual reporting of select data, gleaned from already mandatory OCR reporting, to Legislative Management.
- The Task Force supports legislators determining which data they want to receive.
- The Task Force supports training for school district personnel in the area of seclusion and restraint.
- The Task Force does not support unfunded mandates and thus, recommends necessary fiscal support for seclusion and restraint training for school personnel.

The Writing/Planning Team is requested to review and distribute this meeting summary, develop a FAQ document that includes terminology (other than that previously approved by the Task Force), develop an agenda for the August 25 meeting, and to determine any other needs for the Task Force. The Planning/Writing Team will meet within the next 2 weeks to prepare the requested information.

The Task Force members indicated that they do not wish to have additional presentations or topics for discussion at the August 25 meeting. Rather, it is hoped that the Task Force might be able to wrap up its work at that meeting and would prefer to spend the time refining legislative and/or other recommendations.

**Adjourn and Public Comment:** The meeting was adjourned by consensus of the group. Public comment was requested and was offered by a parent who detailed her experiences with seclusion and/or restraint of her child in the public school system. She recommended that the task force encourage creation of culture change within school districts from top to bottom, move away from the use of seclusion and restraint, use available federal funding for training needs and to form stronger, more meaningful partnerships with parents and families.

**Next Task Force Meeting:** Thursday, August 25, 2016 from 9:00 – 4:00 CT at Great River Energy in Bismarck.

*The Seclusion and Restraint Task Force, a non-partisan, non-legislative group of stakeholders, representing a comprehensive body of invested constituencies, has been assembled and challenged to develop and provide specific recommendations to assist the Interim Education Committee of the North Dakota Legislature in codifying policies and procedures regulating the use of seclusion and restraint in North Dakota schools.*