

The Legal Center investigates Aurora Elementary Schools

The Legal Center has released a public report on the improper restraint and seclusion of children with disabilities at Kenton and Lansing elementary schools in Aurora. The result of a lengthy investigation, the June 2007 report documents a disturbing pattern of inappropriate treatment of young children in the Life Skills Program at both schools. The findings are particularly troubling because the children were enrolled in special education programs designed to accommodate their disabilities.

Three decades following passage of the first laws to protect the right of children with disabilities to an inclusive education, the reasons given by schools for restraint and seclusion have changed very little: it's for their own good, or to protect the other children and the staff. Despite laws that specifically prohibit restraint except for emergencies, a five-year-old girl with multiple disabilities in the Life Skills class at Lansing was repeatedly strapped into a restraint chair for half an hour or longer. Colorado law does not permit restraint to "gain compliant behavior" and most specialists agree that using other activities to redirect difficult behavior is preferable to forcible restraint. Even so, the child's mother had agreed to use of the chair for two minutes or less to allow her daughter to "calm down." In the case of this five-year-old girl, a paraprofessional at Lansing stated that use of the chair by the teacher seemed to have become "punitive."

At Kenton, we followed the case of a 10-year-old girl with multiple disabilities and a history of difficult behaviors that include hitting, kicking, scratching and biting. The child also has a serious heart condition. When a restraint chair proved ineffective, staff began to use a small camping tent to help her calm down. Initially it seemed a positive solution as the tent had blankets and a teddy bear, and she could enter and exit voluntarily. Staff reported an improvement in her behavior. However, one of the paraprofessionals interviewed for the report complained that the girl was sometimes forcibly placed in the tent and the windows and door zipped up while staff ignored her cries for help. Another staff member described the child's distress as "elephant tears." One day, the girl's mother was summoned to school to remove her daughter and found her zipped into the tent, crying, kicking and screaming to be let out. She was hot and sweaty and the mother was frightened that the agitation and distress might precipitate additional heart problems. Several staff members reported that they were unaware of the child's previous heart surgery.

To obtain a balanced picture of how children were treated in the Life Skills programs at Kenton and Lansing, The Legal Center interviewed teachers and paraprofessionals from both programs, the school principals, school psychologists, the district's special education consultant and the parents of both children. We also received complaints from other parents, and comments from staff about additional children in the programs, leading us to believe that these were not isolated incidents. The report uncovered a pattern of improper use of restraint and seclusion and a disregard of the law on keeping records and informing parents when restraint is used. Among other findings, The Legal Center concluded that:

- The Aurora Public School District has not ensured compliance with the Colorado Department of Education's Protection of Persons from Restraint Act.
- The district has not submitted an annual report on restraint and seclusion as required by the Act.
- The staff at Kenton and Lansing engaged in a pattern and practice of improper use of restraint and seclusion.

- Parents did not provide informed consent for restraint of their children, nor were they informed of their children's treatment or given an opportunity to meet with staff to revise their child's individual education plan after each incident as the law requires.

The Legal Center recommended that the Aurora Public School District:

- Ensures district-wide compliance with the restraint act.
- Eliminates the use of occupational therapy devices (such as chairs with straps) as mechanical restraints.
- Obtains Child Welfare League of America restraint and trauma training for all special education staff and building administrators.
- Provides training on the state's restraint and seclusion law, including individual education programs, parental consent, and reporting requirements.
- Ensures that all children are thoroughly evaluated for the psychological and physical health risks associated with the use of restraint and seclusion.

Throughout the investigative process the district was very cooperative. In fact the Aurora Public School District Director of Communications stated after receiving the report, "We deeply regret our failure to follow procedures in this situation, and we will work hard to rebuild trust with any families involved." The District is working on a corrective plan to be released by early fall.

The improper use of restraint and seclusion is a statewide problem. The Legal Center has five other investigations in other parts of the state. The ongoing school investigations, training program for school staff, and individual advocacy for children and their families, are part of a wide-ranging initiative by The Legal Center to draw public attention to the problem of inappropriate restraint and seclusion and bring about system-wide change.

"Bringing about a paradigm shift takes time," says Heidi Van Huysen, The Legal Center's special education attorney. "We are seeing an increase in the level of attention paid to these practices by schools. We are still working toward the overall reduction of the use of restraint and seclusion and that requires more than just "attention."