

July 31, 2009

Dear Chief State School Officers:

On May 19, the Education and Labor Committee in the U.S. House of Representatives held a hearing to examine the abusive and potentially deadly misapplication of seclusion and restraint techniques in schools. Related to this hearing was the testimony issued on the same day by the Government Accountability Office on “Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers.” The testimony is available on the Internet at the following Web address: <http://www.gao.gov/new.items/d09719t.pdf>.

I was deeply troubled by the testimony, as I am sure you would have been. As education leaders, our first responsibility should be to make sure that schools foster learning in a safe environment for all of our children and teachers. Therefore, I am encouraging each State to review its current policies and guidelines regarding the use of restraints and seclusion in schools to ensure every student is safe and protected, and if appropriate, develop or revise its policies and guidelines.

My home State of Illinois has what I believe to be one good approach, including both a strong focus upon Positive Behavior Intervention and Supports (PBIS) as well as State regulations that limit the use of seclusion and restraint under most circumstances (see <http://www.isbe.state.il.us/rules/archive/pdfs/oneark.pdf>). The State’s requirements, which I found to be extremely helpful as chief executive officer of the Chicago Public Schools, were described in testimony at the hearing. Illinois prohibits the use of seclusion or restraint for the purpose of punishment or exclusion, and allows trained staff to restrain students only in narrow circumstances. The State allows the use of isolated time out or physical restraint only in situations when it is absolutely necessary to preserve the safety of self or others; includes rules that must be followed when these techniques are used; and requires documentation of each incident to be provided to parents within 24 hours. Several other States have also adopted effective seclusion and/or restraint policies, but there are many jurisdictions that have not, leaving students and teachers vulnerable.

Approximately 8,000 schools across the country are already implementing PBIS, a systems approach to establishing the social culture needed for schools to achieve social and academic gains while minimizing problem behavior for all children. PBIS provides a framework for decision making that guides the implementation of evidence-based academic and behavioral practices throughout the entire school, frequently resulting in significant reductions in office disciplinary referrals, suspensions, and expulsions. While the successful implementation of PBIS typically results in improved social and academic outcomes, it will not eliminate all behavior incidents in a school. However, PBIS is an important preventative approach that can increase the capacity of the school staff to

support children with the most complex behavioral needs, thus reducing the instances that require intensive interventions.

The American Recovery and Reinvestment Act provides significant one-time resources that districts can use to implement a school-wide system of PBIS. Districts could, consistent with program requirements, use funds provided for the State Fiscal Stabilization Fund, Title I of the Elementary and Secondary Education Act, the Individuals with Disabilities Education Act, and State and local funds to provide professional development, develop data systems, and offer coaching to establish and sustain these programs. The Department's Office of Special Education Programs funds the Center on Positive Behavioral Interventions and Supports, with a Web site (<http://www.pbis.org/>) where additional information and technical assistance on PBIS can be obtained free of charge.

I urge each of you to develop or review and, if appropriate, revise your State policies and guidelines to ensure that every student in every school under your jurisdiction is safe and protected from being unnecessarily or inappropriately restrained or secluded. I also urge you to publicize these policies and guidelines so that administrators, teachers, and parents understand and consent to the limited circumstances under which these techniques may be used; ensure that parents are notified when these interventions do occur; and provide the resources needed to successfully implement the policies and hold school districts accountable for adhering to the guidelines.

I encourage you to have your revised policies and guidance in place prior to the start of the 2009-2010 school year to help ensure that no child is subjected to the abusive or potentially deadly use of seclusion or restraint in a school. I have asked Fran Walter of our Office of Elementary and Secondary Education to work with staff from our regional Comprehensive Centers to contact your office by August 15, to discuss the status of your State's efforts with regard to limiting the use of seclusion and restraint to protect our students. During this contact, we expect to discuss relevant State laws, regulations, policies, and guidance that affect the use of seclusion and restraint, and any plans for further development or revisions. We expect to post the results of these discussions on the Department's Web site to assist in the sharing of information that will help protect our students.

In the meantime, please feel free to contact Ms. Walter at (202) 205-9198 or at Fran.Walter@ed.gov with any information or questions about your State's efforts to limit the use of restraints and seclusion in schools.

Thank you for your cooperation on this important topic.

Sincerely,

/s/

Arne Duncan