

**Restraint and Seclusion in Special Education:  
An Analysis on Policy in Texas from 2001 to 2025\***

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## INTRODUCTION

Restraint and seclusion have been used in schools for many years. There are countless definitions of restraint and seclusion across the fifty states. On the federal level, definitions have been provided by the Civil Rights Data Collection (CRDC) of the U.S. Department of Education to provide a common understanding of restraint and seclusion. They define 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.” Mechanical Restraint is defined as “The use of any device or equipment to restrict a student’s freedom of movement.” Seclusion is defined as “The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving” (U.S. Department of Education 2012).

The existence of restraint and seclusion in special education has traumatized and killed students. Regulations, reporting, and policy surrounding restraint are left up to the state. On the federal level the U.S. The Department of Education’s Office for Civil Rights (OCR) requires that school districts report how often restraint and seclusion are used. These numbers are then posted in the CRDC (CRDC). Although districts are required to report data on restraint and seclusion, multiple districts have gained national attention for underreporting instances of restraint and seclusion. In 2019, the Government Accountability Office (GAO) released a report discussing how many of the nation's largest school districts reported zero instances of restraint or seclusion (GAO 2019). States have varied policies placing limitations on restraint and seclusion, yet none fully protect students.

## ABSTRACT

Texas was one of the first states where policy regulating restraint and seclusion in schools was passed. Yet, we continue to see the misuse of restraint and seclusion over the past 20 years.

Drawing from journalistic accounts, advocacy group investigations and statements, policy analysis, and reports from the U.S. Government Accountability Office I examine two questions: (1) How has the regulation of restraint and seclusion in special education in Texas changed over time? (2) How has journalism and advocacy helped to influence those changes? I find that despite regulating restraint and seclusion for over two decades, policy and legislation has proven its inability to properly protect students in special education, through continued misuse and underreporting. Previous legislation has failed to entirely ban restraint and seclusion, allowing for exceptions to be made for emergency situations. Journalism and advocacy groups highlight that continued use of restraint and seclusion in Texas schools hurts special education students.

## METHODS

Through primary source analysis, I found social shifts in the perception of restraint and seclusion in special education. Starting in 2001, I looked at the first proposed legislation and correlated news publications. Through analyzing news publications in the early 2000s, I discovered key actors of change within this topic. This includes teachers, parents, students, politicians, and advocacy groups. I looked at proposed legislation from 2001 until 2023 and used these time points to find journalism, stories, and investigations from advocacy groups that occurred either prior to or after such legislation was proposed. Through analyzing news articles and first-hand accounts of restraint and seclusion being used in special education, I discovered trends regarding when legislation is more likely to be proposed.

With varying laws regarding restraint and seclusion across the United States, I found it to be beneficial to focus on one state, to be able to closely study social shifts regarding restraint on a local level. I specifically selected Texas because it was one of the first three states to pass legislation about seclusion in special education. Further, Texas gained the attention of large news

publications, the Government Accountability Office, and the United States Department of Education for the overuse and death of students caused by the use of restraint or seclusion. Texas was one of the few states where I was able to find new articles and legislation regarding restraint and seclusion in the early 2000s, granting me the opportunity to explore social shifts surrounding restraint and seclusion in special education as far back as possible.

My research includes significant moments on the federal level. I examined statements and reports from the U.S. Government Accountability Office regarding the abuses of restraint and seclusion in special education. One of the most referenced sources within the discussion of restraint and seclusion reporting is the U.S. Department of Education's Office for Civil Rights' Data collection. These federal sources provided a national understanding of the present issues and conversations that occurred.

Academic sources about restraint and seclusion in special education are limited. A majority of research and conclusions are drawn from the use of news articles, investigations conducted by advocacy groups, and proposed legislation. Jessica Butler, a former attorney for the Congressional Affairs for the Autism National Committee, published a guide regarding laws and policies of restraint and seclusion in all fifty states. This source was extremely helpful and useful to better understand how policies and laws differ state by state (Butler, [jessica@jnba.net](mailto:jessica@jnba.net) 2019).

2001

The first explicit bill or policy about restraint and seclusion in special education was passed in 2001, Senate Bill 1196 (Texas Legislature 2001). Notably, 2001 was roughly 8 years before restraint and seclusion gained much attention on the federal level. It was in 2009 that the Government Accountability Office brought awareness to deaths caused by the use of restraint and seclusion in schools through a released statement. (GAO 2009). Further, it was in 2009 that

the Civil Rights Data Collection began requiring reporting and data on the use of seclusion and restraint (CRDC 2018). These events help to indicate when Restraint and Seclusion became a national conversation. Senate Bill 1196, of the 77th legislative session, shows that Texas had discussed the injustices of restraint and seclusion in the years prior to 2009.

On August 31, 2001, the Texas Education Agency (TEA) released a correspondence about the bill explaining its effect and role in the Texas Education Code (TEC). The bill is established in Section 37.0021 of the TEC. The TEA states, “establishes requirements for students enrolled in special education programs related to the use of confinement, restraint, seclusion, and time-out.” The requirements are as follows: students with disabilities cannot be secluded, meaning confined in any locked place. However, 37.0021(f) states that locked confinement of a student is allowed while awaiting law enforcement in an emergency. This includes if a student possesses a weapon or may cause physical or bodily harm to themselves or another student (TEA 2001). This is one of the first cases where we see the term ‘emergency situations’ used regarding restraint and seclusion in policy. Emergency situations are often used to justify or allow the use of restraint or seclusion, a conversation we see continue over the next 20 years. It is important to note that emergency situations are defined, providing insight into what may motivate restraint or seclusion to be used.

The legislation, SB 1196, formerly HB 692, was proposed by Scott Hochberg in the House, who previously served in the House Committee on Public Education. (Hochberg n. d.). In May of 2001, the Fort Worth Telegram reported an article titled, “Restrictions backed for timeout rooms - Bills would ban students from being isolated.” The article provides the account of a teacher, Bonnie Armstrong, who disapproved of her district building a padded room designed for a timeout for special education students. The article explained that legislation now supports her,

“A proposal that would prohibit students from being placed alone in or locked inside timeout rooms was approved this week” (Mendoza 2001). This is in reference to SB 1196. Hochberg briefly stated his motivations for proposing the legislation, as he heard that students were being left alone in janitorial closets.

We see that in 2001, it was journalism and stories that helped bring the issue of the possibility of legislation to his attention, a trend we will notice over the next 20 years. In 2001, it appears that much of the focus of legislation was on seclusion, but this legislation helped to pave the way for legislation to expand upon restraint guidelines in the upcoming years. The article addressed some of the social climate or thoughts about seclusion, including a discussion about how some educators think time-out rooms are needed to calm the behaviors of students. In fact, school administrators have testified against SB 1196. Not everyone supported restricting the use of seclusion, especially on the district level, with administrators who believed restraint and seclusion were necessary for the safety of students and faculty. For example, the Arlington school district said time-out rooms are needed for behavior and education, and before 2001, the district had guidelines, but that was not the case for every district in Texas at the time (Mendoza 2001).

Additionally, advocacy groups have played a role in restraint and seclusion since 2001. Advocacy Incorporated, now Disability Rights Texas and Texas Center for Disability Studies are both on the HB 692 Witness list with speakers who expressed their support for the bill. Advocacy for regulating restraint and seclusion is not new, instead, it continues to evolve. The presence of advocacy groups will continue to play a large role in the proposal and support of legislation in the following years.

## CEDRIC NAPOLEON

Shortly after the legislation was passed in 2002, Cedric Napoleon, a 14-year-old special education student from Killeen, Texas, died an hour after being restrained by his teacher. Cedric's teacher repeatedly delayed his lunch, leading to his eventual restraint. Devastatingly, one of his emotional triggers was food. This shows how restraint may be used as a punishment and as a result of inappropriate or non-existent behavioral de-escalation techniques. Cedric was restrained face down on the floor, where fellow students witnessed his death. (Ramshaw 2009). Midland Reporter Telegram stated, "The autopsy revealed Friday that Napoleon died from 'mechanical compression of the trunk,' which forensics officials say is a form of suffocation" (Midland Reporter Telegram 2002). With legislation and policy already in place, it is clear that in 2001, the guidelines were not yet enforced strictly enough to protect students. If restraint has the possibility to be misused so egregiously to kill children in front of their classmates, it casts doubt on whether restraint should be allowed at all.

2009

In 2009, we see Cedric's story go to the federal level. Toni Price, mother of Cedric Napoleon, in House Education and Labor Committee Hearing: Examining the Abusive and Deadly Use of Seclusion and Restraint in Schools (House Education and Labor Committee Hearing 2009). Chairman Miller, who proposed the Keep All Students Safe Act, invited her to share the story of her foster son. She revealed that she was unaware that her son was being restrained, "I didn't know the school was practicing restraint techniques on Cedric." Cedric's story is also an early example of the lack of reporting, specifically to legal guardians, regarding the use of restraint or seclusion on their children. SB 1196 has a strong focus on seclusion and

time-out guidelines, but Cedric Napoleon's story highlights how state and national conversations aimed to address the fatal uses of restraint in special education.

2018

In 2018, a local newspaper in Denton, Texas, the Denton Record-Chronicle, reported on a ten-year-old student who was pinned down and handcuffed. This story was on the cover of the newspaper and was boldly titled “Pinned down,” including an image of a young child with handcuffs. Within the article, the boy's advocate explained that handcuffs violated the law since it is a mechanical restraint and that was not authorized in his behavioral intervention plan (BIP). It is important to note that school employees are not allowed to use mechanical restraint, such as handcuffs, but peace officers can. The Texas Education Agency states “A comprehensive BIP includes the following components: descriptions of the interfering behavior(s), function(s) of the interfering behavior(s), appropriate replacement behaviors, antecedent/prevention strategies, instructional strategies, and consequences (i.e., responses to interfering behaviors, reinforcement for replacement behaviors) (TEA 2023).

The article includes a statement from DRTx. Attorney for DRTx, Elbe, states that she's glad schools report restraints to the TEA, but thinks the agency can do more. She recalls, “In fact, I reported to TEA a couple of years ago that Plano ISD falsely reported their restraint data and I was informed that TEA would not do anything about it. They collect the data, but rarely do anything with it” (McCrary 2018).

## DATA AND REPORTING

Conversations about restraint and seclusion in special education often focus on data. It appears that we rely on the quantification of social phenomena in order to make them real. Understandably, policymakers need numbers. Numbers are proof of an existing problem.

However, stories are also proof. Stories provide insight into the struggles, emotional turmoil, and injustice that restraint and seclusion cause. Further, even when given these numbers, such as the TEA was given, what is the next step?

Data and numbers prove that the problem exists, but equal amounts of attention and advocacy are needed to enact change with the reported information given. This can include investigating districts with high numbers of restraint or seclusion and providing training on de-escalation techniques. Significantly, many of the injustices caused by restraint have gone unreported and unnoticed, adequate reporting and data bring attention to the injustices that failed to receive documentation. Within my own research, I noticed how I desired numbers to help strengthen my understanding of how expansive the issue is. I quickly realized that solely focusing on the underreporting of data did not address the injustices students in special education due to restraint and seclusion. Many students had cases of restraint and seclusion properly documented, the next step is to look at how the school or district reacted to such reports. For example, did they reconsider the students' behavioral plan and provide proper accommodations?

2018 CONTINUED

The following year, in 2019, the Government Accountability Office released the Federal Data and Resources on Restraint and Seclusion (GAO 2019). The Chicago Tribune released their famous investigation, “The Quiet Rooms” (Richards et al. 2019). Restraint and seclusion gained national attention again within the media, but it is within smaller news publications that we are able to see how people perceive policy about restraint on the local/district level. This newspaper provides insight from the parents, police deputy officers, attorney advocates, teachers, and professors all within Denton, Texas. The conversations and insight we see from these actors

underline general feelings of frustration with the use of restraint and a desire for further restrictions on restraint.

2019

In 2019, Senate Bill 712 was enacted in the 86th Texas Legislature. § 37.0023 was added to Texas Education Code (TEC), Section 1, Subchapter A, Chapter 37. Within § 37.0023 “aversive techniques” were defined and prohibited for students in Texas schools. Notably, prohibited actions include “Simultaneously immobilizing all four extremities using a device, material, or object including procedures resulting in immobilization known as prone or supine floor restraint” (TEA 2019). This does not mean the prone position restraint is entirely banned. As the bill states, “ c) Notwithstanding Subsection (a)(13), an aversive technique described by Subsection (a)(13) may be used if the technique is executed in a manner that: (1) does not cause the student discomfort or pain; or (2) complies with the student’s individualized education program or behavior intervention plan” (Texas Legislature 2019).

As previously mentioned in the story from the Denton Record-Chronicle, it appears that “aversive” techniques manage to find ways to be implemented in special education, for emergency situations as well as within behavioral intervention plans. Within the Denton Record-Chronicle, the advocate affirmed that mechanical restraint was not written in the student's behavioral intervention plan, but still was used. Importantly, Texas requires that the restraint must end once there is no longer a present emergency (Butler 2019). This leads one to believe or be hopeful that those administering restraint understand and recognize the earliest moments to cease the use of restraint. However, we know historically that this is not always the case, as students in Texas have lost their lives to prolonged and forceful uses of restraints.

## NO KIDS IN CUFFS

HB 459 and SB 133, “No Kids In Cuffs” prohibit mechanical, chemical, and physical restraint on students younger than 10 years of age. The bill was introduced by Representative Lacey Hull (Texas Legislature 2023). This means that peace officers and school security cannot restrain these students unless they may harm themselves or others. The bill was signed into official law in 2023. The Minaret Foundation explains that police officers themselves do not want to restrain children, that is why law enforcement perspective and guidance were utilized when drafting the bill (Minaret Foundation n.d.). This shows how the issue of restraint has been a collective voicing of disapproval, from multiple perspectives, not just the students and parents. Once again, we see the role that advocacy groups have played in promoting legislation and further guidelines of restraint. Disability Rights Texas and Texas Appleseed are listed as witnesses for the bill on the witness list (Texas Legislature 2023).

Could this bill have protected the elementary student who was handcuffed in Denton, Texas, in 2018? Or would his situation have been deemed an emergency that required mechanical restraint? So long as exceptions are allowed, such as an emergency situation where a student may be placing themselves or others at risk, this means that there is a possibility that a student may be restrained.

2022

In 2022, there was a rise in conversation about the dangers of restraint. The Times Union wrote about students being restrained in Texas schools, mentioning Xavier Hernandez, a 21-year-old special education student, who was restrained, face down on the ground, leading to his death in 2021. The position he was restrained in is listed as an “aversive technique” under code § 37.0023 (TEA 2019). Yet, the district's law firm said there was no wrongdoing by staff

and there are no criminal charges. Disability Rights Texas was mentioned numerous times in this article and provided some of their own statements as well. Disability Rights Texas voiced that they launched their own investigations and claimed that the current state laws and regulations have limitations or faults. The article stated, “To reduce restraints, Disability Rights Texas has advocated for House Bill 1163, which would adjust the Texas Education Code to make prone and supine restraint prohibited in all circumstances, even in emergency situations” (Munson et al. 2022). As previously discussed, allowing for restraint in emergency situations gives room for restraint to be misused and lead to tragic events. Advocating to fully ban restraint positions, even in emergency situations will ensure that students are no longer harmed by their use.

2023

Parents, advocates and lawmakers went to the Texas Capitol for a press conference in 2023 to discuss ways to end the use of restraint in special education. The conference was hosted by numerous advocacy groups, including Arc of Texas and Disability Rights Texas. Parents and advocates requested strengthened accountability for school staff who use violence against students, more video surveillance of classes, further state regulations of restraint, and investment in behavioral prevention plans.

Although policy around restraint and seclusion has existed since 2001, we see that advocacy groups and parents demand tighter regulation of restraint, specifically, of more dangerous techniques. For example, at the conference, they discussed Xavier Hernandez and how prone restraint was used on him. Disability Rights Texas stated, “The prone restraint used on Xavier is allowed by state education law” (Disability Rights Texas 2023). Prone restraint is listed as an aversive technique, yet it is allowed by education law. Restraint is permitted by law, even aversive techniques that are advised against. Investigations conducted by journalists and

advocacy groups highlight how law and policy regarding restraint and seclusion fail students even in light of further regulation.

## CONCLUSION

For over 20 years, legislation has been in place to prevent restraint and seclusion, yet students continue to be harmed and possibly lose their lives through these practices. Through advocacy, journalism, and policy regulations and rules surrounding restraint and seclusion have strengthened, however, the strengthening of regulations does not entirely prevent the use of restraint and seclusion, allowing room for students to be harmed. Restraint and seclusion are still deemed as necessary measures in order to solve emergency situations in special education classrooms. The rise of conversations surrounding the injustices and underreporting of restraint highlight the power and importance of disability rights advocacy. It will be important to continue to not only strengthen the regulations of restraint and seclusion but also emphasize behavioral de-escalation techniques, along with other necessary measures to ensure restraint and seclusion no longer have a place in special education. Discussion about the dangers of restraint and seclusion has existed for years, it is time to take the steps to ban restraint and seclusion. No students should ever face physical or emotional harm while attending school.

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