

Approved: February 22, 2011
Date

MINUTES OF THE HOUSE CHILDREN AND FAMILIES COMMITTEE

FEBRUARY 15, 2011

The meeting was called to order by Vice Chairman Wolf at 9:07 a.m., February 15, 2011, in Room 142S of the Capitol.

All members were present except: Chairperson Kiegerl (excused).

Committee Staff Present:

Renae Jefferies, Office of the Revisor of Statutes
June Christensen, Committee Assistant

Others Attending: See attached list.

Vice Chairperson Wolf announced that Representative Kiegerl was absent because of illness and subsequent hospitalization yesterday. He reported that proposed bills would be worked on Thursday, February 17, and Tuesday, February 22, but there are no pending bills on the waiver waiting list or seclusion and restraint at this point. He stressed the need for the committee to have adequate information to go forward with its mission and that time is critical at this point.

Representative Brunk said that bills that might not have adequate time for hearing in the Children and Families Committee could be referred to an exempt committee and then sent back to this committee, even after the turnaround date. This would require permission from the Speaker of the House.

Representative Melody McCray-Miller reported that Representative Brunk, chairman of the House Federal and State Affairs Committee, will sponsor three bills the Children and Family Committee was considering sponsoring but did not have time to introduce.

Renae Jefferies, revisor, presented bill briefs on **HB 2137, exacting the parent reform act; HB 2103, child in need of care; and HB 2105, children in need of care; relating to removal of child from parent's custody.**

Chairperson Wolf suggested that testimony be limited to three minutes for each person, as there is likely to be considerable input. Representative Rubin agreed with the time limit and said each conferee should be encouraged present additional oral relevant information and not to read his/her testimony only. Those wishing to testify are to get their names and testimony to the committee secretary.

Representative Gregory reported that Chairperson Kiegerl was resting comfortably and that a CT scan would be read this morning. If possible, he will be moved to Olathe to be in his personal physician's care. She requested prayers for his improvement.

Additional information regarding previous testimony was presented (Attachment 1 and Attachment 2.)

The next meeting will be held on Thursday, February 17, at 9 a.m., Room 142S, and will be a hearing on bills.

The meeting adjourned at 10:13 a.m.

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[illegible]

June Christensen

From: ehling411@cox.net
Sent: Tuesday, February 15, 2011 7:33 AM
To: Kelly Meigs; Bill Wolf; Charles Roth; John Rubin; Melody McCray-Miller; TerriLois Gregory; Mike Kiegerl; Steve Brunk; Sean Gatewood
Subject: Testimony on Seclusion and Restraint

Chairman Kiegerl and members of the committee,

Representative Gatewood asked me if there was anything else I had to offer that was not in my written testimony. This note is in response to that request. After the hearing I read other parents' stories and realized that our struggle is minor compared to other parents whose children have been secluded and restrained. For example, I received seclusion and restraint data from my own district where in one school in town, 9 children have been secluded over 200 times during the first semester of this year alone! Having spoken to our Director of Special Education about this situation, I have confidence that this will be stopped soon.

The following comments are other items I wanted to point out to you.

- 1) Our son, Ike, has intense anxieties, particularly separation anxiety. That information was rejected as being invalid, since the principal secluded him anyway. The impact of being secluded and being alone in a locked seclusion room is still unknown except for one thing. Every minute Ike was secluded or restrained was one more minute that he was not receiving academic instruction. Both seclusion and restraint increase the agitation Ike experiences and that means additional time out of the classroom in order to calm. We have lost significant amounts of instructional time because of seclusion and restraint.
- 2) The seclusion room was then used twice again without our permission, even though we had, in writing, unequivocally denied the school permission to use seclusion with Ike.
- 3) Due Process - Please read a copy of the Parental Rights. I have a Master's in Educational Leadership, yet I needed help from an attorney friend to explain them clearly to me. The school social worker always offers to explain these rights, but during an IEP meeting there is little time to complete the IEP, let alone thoroughly explain parental rights to parents. The process is intimidating in multiple ways.

oThe district has a clear advantage over parents who insist on their due process rights. The district has in-house council, experienced support staff to support the school's claims, and a full-time due process officer. All meetings occur in schools or administrative buildings where parents do not feel comfortable and certainly not on safe turf. And because a due process hearing is a legal hearing, parents who do not know and attorney, cannot afford an attorney, or who do not understand that they might benefit by having an attorney are at a clear disadvantage. If the case is determined to be frivolous parents may be required to pay the district's legal fees.

oThe ideal relationship between IEP team members is one of collaboration. But when there are disagreements between parents and the school, parents must consider several things when deciding about due process challenges. Will challenging the team be taken out on their child? What happens to the relationship when parents "lawyer up?" School staff become defensive and work to protect themselves rather than work to maintain trust in the relationship. Parents become so angry when they perceive their children are being harmed; it becomes difficult to be collaborative unless the IEP team members work through their own interpersonal issues. This takes time and effort away from educa

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oAll of these potentialities have a chilling effect on parents being able to fight for their due process rights.

4) Because the guidelines are virtually unknown to parents of children in special education centers and schools, parents are often unaware that they have rights with regard to seclusion and restraint.

5) I would like you to be aware of a text that focuses on the use of seclusion and restraint. It is called For Our Own Safety: Examining the Safety of High-Risk Interventions for Children and Young People, published by the Child Welfare League of America. Chapters 10-12 are particularly relevant to schools.

Again, please let me thank you for taking up this issue and for allowing me to testify. Finally, I urge you to introduce legislation that will make the guidelines binding. Sincerely,

Kris A. Ehling



Kansas Council on Developmental Disabilities

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"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

TO: Members of the House Committee on Children and Families Together

FROM: Jane Rhys

DATE: February 11, 2011

RE: Request by Representative Meigs

After your discussion yesterday on the use of seclusion and restraint for children with autism, Representative Meigs asked if I could put together two different scenarios. Both are based on students for whom I have been an Educational Advocate. This means, for the students assigned to me who are in foster care, I act as their parents in school special education issues. Both students are female and both receiving special education services all day (no general education classes are attended by either student).

Student A: Linda is 13, and big for her age. She has serious emotional problems and has been in foster care for several years. Academically she is close to average in reading and far behind in math. Socially and emotionally she does not respond well to new people and is very immature. She does not like to be told to do anything, whether it is to begin doing an assignment or to stop yelling in the classroom.

I observed her in school - she was asked to put on her shoes and to put her books away. She refused to do either and was very loudly telling the person who asked her to do both that she was not going to do either. The staff person and she eventually got into a loud argument with the staff person in Linda's face and shouting just as loudly as Linda. I was observing the argument but did not intervene since I had just met Linda. The argument got worse and Linda began swinging her books around. The staff person moved closer and grabbed the books and the child. There was a tug of war and I was afraid that one or the other would be hurt, or flying books could hurt someone in the vicinity.

Eventually the staff person was able to wrest the books from Linda and put them away but both were upset and the incident did not end with either person happy.

Student B: Susie is an eight year old with extreme behaviors. She is also on foster care and the foster care mother reported that at home Susie bites, kicks, screams, and hits if she does not get her way. School staff report seeing the same behavior. Again, I went for a first visit and to observe Susie. Susie is also large for her age and aggressive in getting her way. I observed her being asked to go into the classroom, which she declined to do. Staff kept their voices low and talked very calmly and softly. They reminded Susie that there were consequences to not going into the classroom. They moved closer to her but backed away when she became agitated.

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Staff remained a distance from her but kept talking to her. Eventually Susie calmed down and went into the classroom.

The difference? Linda's staff yelled back at her and moved into her space causing Linda to become more aggressive in return. Susie's staff remained quiet and calm, closely watching Susie's reaction to any action they took. Both incidents lasted approximately the same amount of time but the outcome was that Susie quieted and Linda remained angry and upset.

In neither case did I feel threatened by either Linda or Susie. However, the differences in treatment and the possibilities for injury to the child and/or another person were different due to staff response. In Linda's case staff did not appear to have knowledge and training in calming an aggressive child whereas in Susie's case I saw evidence of staff knowledge and training in working with a child of this nature.

This shows that, before not only considering restraint, but even considering moving into a child's space, the staff person must be trained and capable of using de-escalation techniques with an aggressive child.

There are also many examples of instances in which the child was hurt and/or a staff person was hurt. Mr. Nichols mentioned instances from other states. I am aware of a Kansas teacher who was pregnant being kicked in the stomach by a violent child. Luckily there was no injury to her child but there easily could have been. I also know of children who were restrained by untrained staff who were injured. Fortunately, to my knowledge, there have been no deaths but there easily could be when someone not trained tries to restrain a student.

Finally, as a former State Department of Education member, I know that they have no authority to act when there are alleged criminal acts. They can investigate instances where it is believed that restraint and/or seclusion are not justified but really have no action they can take because there are only guidelines for use of these procedures, not laws.