



STOP HURTING KIDS: PARENT GUIDE

for Keeping All Children Safe from Restraint and
Seclusion in BC Schools



September 2014

Inclusion BC
inclusionbc.org

Family Support Institute of BC
familysupportbc.com

About This Publication

Restraint may also be referred to as:

- Holding, or any term that uses the word “Hold”
- Restrictive Procedure
- Restricting Movement
- Limiting Movement
- Pinning or Cuffing
- Physical Support
- Containment

Seclusion may also be referred to as:

- Isolation
- Confinement
- Time Out*
- Alone Time
- Quiet Time
- Separation
- Taking a Break
- Sensory Break
- Exclusion
- Personal Office Time

All of these terms may be introduced by school staff as a means to induce parents to allow the placement of restraint or seclusion into an Individual Education Plan (IEP) without a clear understanding of what is involved.

* Not to be confused with “time-out”, which is a situation where a student is removed from access to the reinforcement for behaviour that exists in that environment.

As the attention around restraint and seclusion in schools grows in BC, the Family Support Institute and Inclusion BC are seeking to inform and empower families of their rights around the issue. This guide will help families prevent, recognize, and act on cases of restraint and seclusion that affect their children both directly and indirectly. Restraint and seclusion affect all children in school, but with the greatest impact on those most vulnerable, including children with disabilities.

This guide was developed based on an American version, “Shouldn’t Schools be Safe”, created by TASH, an international leader in disability advocacy. It can be found online at: http://stophurtingkids.com/wp-content/uploads/2013/05/TASH_Shouldnt-School-Be-Safe.pdf

Key Definitions

Restraint is the use of physical procedures by one or more individuals or mechanical devices to limit freedom of movement.

Example: Holding an individual in an immobile position for a time.

Seclusion is placement in an isolated area for an extended time and prevention from leaving the area.

Example: Placing an individual in a locked room or closet, or where a person of authority blocks exiting this room.

It is generally accepted that brief physical intervention used to interrupt an immediate and serious danger to the child or others may be called for in the case of a safety emergency. This is different from the ongoing use of restraint as punishment or in the guise of treatment for a child’s disability or behaviour. Frequent use of emergency restraint is an indication program revision is needed, even if the program is considered positive.

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About FSI, Inclusion BC, and TASH



Family Support Institute of BC

The Family Support Institute was founded in 1986 in response to the request and need of families of people with disabilities for an independent organization that would strengthen families faced with the extraordinary circumstances that come with having a family member who has a disability. Believing that families are the best resources available to support one another, FSI organizes training for local parents as volunteers in communities across BC to be regional resource parents. For more information on how to join FSI please see: <http://www.familysupportbc.com/join-us>

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Inclusion BC

Inclusion BC, formerly the BC Association for Community Living, is a provincial federation working with partners to build community and to enhance the lives of children and youth with special needs, adults with developmental disabilities, and their families by supporting abilities, promoting action, and advancing rights, responsibilities, and social justice. For more information on how to join Inclusion BC please see: <http://www.inclusionbc.org/member-associations>

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TASH

TASH is an international leader in disability advocacy. Founded in 1975, TASH advocates for human rights and inclusion for people with significant disabilities and support needs – those most vulnerable to segregation, abuse, neglect and institutionalization. TASH works to advance inclusive communities through advocacy, research, professional development, policy, and information and resources for parents, families, and self-advocates. The inclusive practices TASH validates through research have been shown to improve outcomes for all people. For more information on how to join TASH please see: <http://tash.org/join/>

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Restraint and Seclusion in BC

In November 2013, Inclusion BC and the Family Support Institute released a summary report of their restraint and seclusion survey. Approximately 200 parents and guardians reported the use of restraint or seclusion on their children. The results were shocking and revealed a definitive systemic problem in the use of restraint and seclusion in schools. With nearly all cases reporting physical pain or emotional trauma, the survey shows BC schools are NOT safe.

In BC there is no provincial legislation regulating the use or reporting of restraint and seclusion in schools. Only a quarter of the 60 school districts have specific policies in place regarding restraint, and those with policies do not even mention seclusion. At best, these policies are inefficient and allow room for broad interpretation and application.

By combining the survey results and background information on restraint and seclusion, Inclusion BC and the Family Support Institute made five key recommendations about what is needed to stop the use of restraint and seclusion in BC:

1. Informed parents and guardians and transparency
2. Legislation and/or a ministerial order prohibiting the use of restraint and seclusion, with Inclusion BC and the Family Support Institute approaching the ministry of education to develop:
 - I. A requirement that all forms of restraint and seclusion are documented and reported to the Ministry of Education and
 - II. A regulation against the use of restraint and seclusion in all BC schools.
3. Requirements for school districts to prepare policies against the use of restraint and seclusion
4. Better understanding of positive behaviour supports by teachers, support staff, principals, district administrators, and oversight
5. Skilled educators who can de-escalate a conflict with a student

The release of the report fostered a lot of media attention locally, provincially, and nationally. Coverage of the story prompted statements by both Premier Christy Clark and Education Minister Peter Fassbender indicating their grave concern for students and commitment to review the use of restraint and seclusion. As of the end of June 2014, the BC Ministry of Education is finalizing guidelines for the 60 school districts to write or update restraint and seclusion policies. No intent to develop legislation or issue a ministerial order has been enacted.

This guide will help parents navigate the current legislation and school policies that are in place regarding restraint and seclusion in schools.

The survey report can be found at:

<http://www.inclusionbc.org/stophurtingkids>

Knowledge is power, and knowledge about your child's rights is essential for keeping him or her safe from restraint and seclusion. Being involved and visible in the school community is also vital, since child safety depends not only on statutes and regulations but on inclusion in a wide network of caring relationships.

Prevention

Plan ahead to keep your child safe

The use of restraint and seclusion is often included as part of a Behaviour Intervention Plan (BIP) or Behaviour Support Plan (BSP) for students with a disability and rationalized as a method to control behaviour; however, there is no evidence that these practices have therapeutic benefit or prevent unwanted behaviours. They are usually noted as harmful. Widespread use and acceptance in behaviour intervention has allowed restraint and seclusion to become accepted tools used by well-intending people, but with profoundly harmful results for all children involved. In order to prevent children from becoming victims of restraint and seclusion, parents' non-consent must be very clear.

Prevention Tips

- Work with your child's education team to **create a strong, positive Individualized Education Plan (IEP) and Behaviour Intervention Plan (BIP) or Behaviour Support Plan (BSP)**. Be sure that it is detailed and specific about the safe, positive ways that teachers and other school staff should respond to your child's needs and to any potentially challenging behaviour.
- **Keep your own records** of all versions of your child's IEP and documents attached to it. Make requests for any meetings in writing so there is a dated copy. Although these prevention tips aim to stop a case of restraint or seclusion from occurring, these documents may be required to prove non-consent.
- **Specify special training and support** teachers may need to implement any items in your child's IEP and BIP/BSP and **specify a timeframe** within which training must happen.
- **Do not, under any circumstances, allow restraint or seclusion to be specified or permitted through the IEP or BIP/BSP.** Parents are sometimes told that restraint and seclusion must be written into their child's IEP to allow for emergencies. This is not true. Schools do not need parental permission for the use of restrictive procedures on ANY student if that action is necessary to avert a highly dangerous, unforeseen emergency. It would be criminal negligence on the part of school staff to stand by and deliberately allow a student to be seriously injured or killed. However, once restraint and seclusion are in a child's education plan, their use is considered approved as an ongoing reaction to that child's known and predictable daily behaviour.
- **Be familiar with other terms that may refer to restraint and seclusion** as they may be used by staff in the IEP without full understanding of what they allow. For examples please see "Key Definitions" at the beginning of this guide.
- **Carefully and completely read any forms you are asked to sign and do not sign anything that you do not fully understand or with which you**

do not fully agree. If the terms used are unclear, ask for examples, complete descriptions, and demonstrations of any techniques or procedures referenced. If you find it difficult to refuse or feel pressured, ask to take the document home to review with a friend or family member. Then, if it calls for the use of restraint or seclusion, return it with the words “I do not consent to this” printed across the front. Remember to keep a copy for your records.

- **Include a “No Restraint Letter” in your child’s IEP.** This letter may ask for full disclosure of any past or future cases of restraint and seclusion involving your child. Insist that usage cease or is never begun. It may also be a platform to request a meeting to update the IEP and BIP/BSP with strong anti-restraint language. For help writing this letter please see Appendix I: Example “No Restraint Letter”.
- **Back up the “No Restraint Letter” with letters from your child’s medical doctor and other relevant professionals,** such as a psychologist or counselor, stating why these techniques pose a health and safety hazard to your child and must not be used.
- **Create a Parent Report profiling the information school staff needs to understand and serve your child effectively.** Have the report attached to the IEP and circulate it yourself to all staff who interact with your child. The report may include your child’s medical conditions and needs, likes and dislikes, talents and skills, triggers that escalate his or her behaviour, de-escalation methods, sensory regulation, communication strategies and needs, how to support his or her social skills, and instructions on avoiding restraint and seclusion. Your child’s profile should note any medical conditions that rule out the use of restraint and seclusion such as: asthma, obesity, certain gastrointestinal disorders, heart and pulmonary disorders, etc. You may wish to include emergency contact information and a photo of your child. If possible, seek your child’s input on what should go into his or her Parent Report.
- **Have the IEP team write in a requirement to provide ABC data for ALL problem behaviour.** ABC data is:
 - **Antecedent** – A description of what happened first, where, with whom, and under what social and environmental conditions.
 - **Behaviour** - A clear, nonjudgmental description of the child’s actions.
 - **Consequence** – A description of what happened after the display of problem behaviour, the consequence or result of the behaviour, and the child’s response to this consequence or result.

ABC data allows parents and team members to determine the communicative intent of the behaviour or responses and the environmental or situational triggers, so that positive behavioural supports can be developed. ABC data collection is the basis for Functional Behavioural Assessment and should be ongoing and consistent for children who tend to use behaviour as communication, or who experience sensory or motor-driven behaviour that is not under their voluntary control.

Completing a Functional Behavioural Assessment means observing a child’s behaviour through a variety of methods and asking questions such as:

- What does the child achieve or relieve through the use of this behaviour?
- Why and when is the behaviour happening?
- How can we teach the child more desirable skills that will allow him or her to achieve the same results in a more socially acceptable and personally rewarding way?

The concept of a Functional Behavioural Assessment has been highly developed in research and practice and should lead to Positive Behavioural Supports.

Codes also need to be sensitive to the fact that some students have disabilities that interfere with their ability to understand or follow the school's code of conduct expectations. ... Codes of Conduct [must] include statements that make it clear that their application will not discriminate against a student who cannot meet a behavioural expectation because of a disability.

-Developing and Reviewing Codes of Conduct: A Companion

- If possible, **always attend your child's IEP meetings with a trusted support person** who knows the system well and who can advise you. Try not to attend IEP meetings alone; being able to review what happened in a meeting and check your observations with those of another participant can be invaluable. For help in finding a support person contact the Family Support Institute or Inclusion BC. For contact information please see "About the Authoring Organizations" at the beginning of this guide.
- **Ask for a copy of the school's Code of Conduct.** This must be based on the human rights code and focus on positive interventions and restorative consequences. The language used may be a basis for anti-restraint. For legal requirements of these codes please see the "Provincial Standards for Codes of Conduct Order" in Appendix III.
- **Ask for copies of any school district policies concerning the use of restraint and seclusion.** Carefully read the language to determine where there are loopholes that allow for use of restraint and seclusion and whether or not the school is required to notify you. For current district policies please see Appendix II: School Board Policies as of June 30, 2014.
- **Ask for copies of any relevant school documents referencing crisis intervention.** This may include an emergency preparedness policy or safety plan.
- Despite the lack of specific legislation regarding restraint and seclusion in schools, **there are several legal documents in BC and Canada that may be used to build a case against restraint and seclusion:**
 - BC Ministry of Education Ministerial Orders
 - Individual Education Plan Order
 - Provincial Standards for Codes of Conduct Order
 - Special Needs Students Order
 - Statement of Education Policy Order
 - BC Government Legislation
 - Child, Family and Community Services Act
 - Human Rights Code
 - School Act
 - Canadian Government Laws
 - Canadian Charter of Rights and Freedoms
 - Criminal Code
 - International Conventions
 - UN Convention on the Rights of Persons with Disabilities
 - UN Convention on the Rights of the Children

For applicable excerpts from these documents please see Appendix III: Excerpts from BC and Canadian Law.
- **Become involved with your child's school.** This is a great way to build good communication with teachers as well as observe aspects of your child's school day. Possible parent roles may include: homeroom parents, lunchroom volunteers, etc.

- **Keep the lines of communication open with your child's teachers.** Attend all meetings and classroom open houses and share information about your child with teachers via a daily diary or other system specified in your IEP.
- **Keep the lines of communication open with your child,** if necessary through assistive, augmentative or alternative communication systems. Responses to your questions can reveal a great deal about your child's daily school experience. Ask your child questions like: Do your teachers have special names for you? Who are your most and least favorite teachers? What subjects do you like best and least? Where do you sit in class or at lunch?
- **Visit and observe your child's services.** If you feel the school unreasonably discourages parent observation, ask to see the school district's policy on parental visits.
- **Get your child involved in school-based afterschool and extracurricular activities,** and volunteer to help with clubs, teams or other activities your child participates in.
- **Become involved in the Parent Advisory Council (PAC).** Get to know other parents and gain support for restraint and seclusion prevention.
- **Attend school board meetings** and get to know your elected School Board members.
- **When your child's teachers have done a good job, show your appreciation!** At the close of a successful school year, write to the principal and teacher commending their work. Nominate them for awards that may be offered by your school district or ministry of education.

Safe schools make it easy and safe for students and their parents to inform school authorities of safety concerns.

-Developing and Reviewing Codes of Conduct: A Companion

Bowel and bladder problems may be related to seclusion and emerge as a child's only means of getting out of a lengthy, unpredictable lock-up. This may also be a sign of a traumatic event.

Vigilance

Be familiar with the warning signs of an endangered child and a potentially unsafe school environment

Children may be too young to give their parents information directly, may not speak due to their disability, may feel like whatever occurred was their fault, or may be embarrassed or afraid to tell on adults in authority. Many children assume that their parents must already know and approve of what is being done to them. Therefore, a lack of specific complaints and information from children does not guarantee that restraint or seclusion is not being used on them in their school or program. Parents need to be vigilant detectives, questioning the warning signs.

Warning Signs of an Endangered Child

- **Bruising or abraded, reddened skin** on arms, wrists, or ankles indicating where a child was held, tied, or strapped down, sometimes handprints can be seen
- **Unusual injuries** such as marks from fingernails, rug burns, or unexplained patterns of abrasions and bruises, sometimes hidden under the child's clothing (which are unlike the scraped knees and elbows children acquire during play)
- **Sudden regressions in behaviour** such as seeking comfort through behaviour typical of a much younger child like mouthing objects or clinging to others
- **The emergence of new and unexplained behaviour at home** such as sleeplessness, nightmares, increased anxiety levels, hyper vigilance, or emotional outbursts
- **The appearance of new behaviour at school** such as hitting, biting, screaming, running away, or urinating or defecating on self
- **The appearance or intensification of self-injurious behaviours or increased aggression**
- **The emergence of school phobia**, especially if the child previously enjoyed attending school, or a more generalized fear of leaving home
- **Frequent, unexplained illnesses** such as headaches or stomach-aches
- **Frequently missing school** or needing to visit the school nurse or principal's office due to generalized complaints
- **Emergence of specific fears that may be related to particular restraint or seclusion techniques** such as fear of seatbelts, closets, spray bottles, etc.
- **Acting out traumatic experiences in play** such as playing roughly with dolls or peers due to experiencing physical abuse

- **A sudden change in weight** from being too stressed to eat or overeating for comfort
- **A decrease in sociability, increased withdrawal, and unresponsiveness**
- **A decreased ability to concentrate on and learn new things** including worsening grades and progress reports, and slowed or no growth in skills development
- **Pay attention to any statements or observations made by your child’s classmates or other parents** about what children have heard, witnessed, or experienced in school. Second-hand reports should be followed up on and not discounted. Parents can also seek clues in the Incident Reports that many schools send home following a problematic episode, although not all schools require these. If a daily journal or diary is sent between school and home, parents should question multiple entries with remarks such as “a rough day”.
- **The warning signs of abuse may be attributable to other hidden causes** such as sexual abuse. Such activity can be particularly difficult to discover, but unlike restraint and seclusion these types of abuses are illegal. As with any sudden change in a child’s everyday habits and ability to cope, **it is important to see a doctor or other professional to rule out other possible causes.**

Warning Signs of a Potentially Unsafe School Environment

Research shows that the prevention of restraint and seclusion depends on a healthy school culture fostered through committed, values-based leadership. It also suggests that certain types of school attitudes and practices are likely to encourage restraint and seclusion use. If your child’s school or services demonstrate these warning signs, parents should be especially involved and vigilant to improve school culture and help ensure school safety

- **Parents of students with disabilities are treated differently than the other parents.**
- **The school maintains segregated programs** and requires students with disabilities to be removed from the rest of the student population for most or all of the day. Examples of this include being kept in separate classrooms, kept in the classroom to eat lunch instead of going to the cafeteria, etc.
- **School staff encourages, or even requires, parents of children with disabilities to give permission for the use of restrictive procedures on their child.**
- **The school is complacent about bullying and reluctant to get involved in its active prevention** through school-wide training, playground

School culture can change when values-based leadership from the administration is linked to parent support. It is a process that many schools have successfully gone through on the road to becoming inclusive, respectful, welcoming, transparent, and restraint and seclusion free.

mentoring programs, posters advising positive behaviour, or accepting and investigating formal and informal complaints.

- **School staff lacks training or interest in the provision of Positive Behaviour Supports (PBS)** or expresses the opinion that PBS doesn't work for everyone.
- **School staff responds to challenging behaviour as bad rather than communicative.**
- **Parents are blamed for their child's problematic in-school behaviour** or staff complains to parents repeatedly about their child's challenging behaviour instead of improving the child's PBS plan.
- **Parents of students receiving special education services feel unwelcome** when it comes to engagement in school activities, PAC, etc.
- **Parents of students receiving special education services are prevented or discouraged from meeting or talking with each other.**
- **Parents are not allowed to visit or observe their child's services.**
- **The school honours and rewards students without disabilities while ignoring the achievements of students receiving services** and supports through special education.
- **Teacher communication to parents is kept to a minimum**, with information on a student's progress hard to obtain.
- **Special Education Assistants, Teacher's Assistants, or auxiliary staff is prohibited from speaking to parents.**
- **Parents are told that they are not the experts on their child** and made to feel their input is not valued.
- **Teachers complain about or disparage students receiving special education services** and make them or their families feel like a burden.
- **School leadership condones or ignores negative or complacent attitudes among the staff.**
- **Teachers and school administration have a practice of solving problems by moving them outside the school** through suspension, expulsion, or calling police.
- **The school responds rigidly and harshly to challenges that arise** and staff appears to lack training in crisis prevention and de-escalation.
- **The school has problems attracting and retaining highly qualified teachers.**

Response

Follow these action steps if restraint or seclusion is used

Your child comes first. In the immediate aftermath of a suspected or confirmed use of restraint or seclusion on your child, your child's physical and emotional wellbeing is paramount. You will also want to move quickly in speaking to key people in your child's life who have responsibility for helping to keep him or her safe.

Immediate Steps

- **Seek immediate medical attention if your child has any visible signs of abuse.** Take your child to your family doctor, walk-in clinic, or an emergency room as soon as possible. Make sure that all injuries or signs of trauma are recorded in your child's medical records. Even if your child does not seem to have injuries that require treatment, your doctor should check for hidden problems such as muscle sprains or joint dislocations. In addition, having professional corroboration of your observations about your child's physical and emotional condition may be important at a later date. If your child's doctor has not previously done so, ask him or her to provide a letter for the school stating why restraint and seclusion are dangerous and inappropriate for use on your child.
- **Take pictures of your child's condition as soon after the event as possible, and label them with the time and date.** Be on the lookout for injuries such as bruises that may not become apparent until later; photograph and label these as well.
- **If your child has a trusted psychologist or professional counselor, contact that person at once to alert them and ask for their advice on how to handle the emotions and reactions your child may be experiencing.** If your child's psychologist or professional counselor has not previously done so, ask him or her to provide a letter for the school stating why restraint and seclusion are dangerous and inappropriate for use on your child. They may wish to remind the school that there is a strong evidence base showing that once a child has been psychologically traumatized by restraint or seclusion, the danger of re-traumatization is heightened.
- **For the sake of your child, remain as calm as possible.** You may be feeling panic, fear, or anger, but displaying those reactions could heighten his or her distress. It is vital to establish a sense of safety and security so that your child does not feel that he or she has done something wrong or that you are angry with them. Reassure them of your love and that you are there to help them. Counteract any traumatic experiences that may have occurred by immediately offering

KEEPING YOUR CHILD HOME FROM SCHOOL:

This is a very individual choice and cannot be determined by anyone but you. If you feel that your child is not going to be safe, or is likely to be subject to additional trauma through more restraint or seclusion, it may be appropriate for you to keep your child home. Lost school days can be made up by the school once the issues are resolved and positive strategies put in place. Document your decision fully and provide a copy to the school; include a note from your child's medical doctor if possible. Keep a copy of this documentation at home in case your child's absence is questioned by school authorities. This is not likely to occur once you have notified the school, as you have then created an excused absence.

- your child a safe refuge and your unconditional empathy and support.
- **If your child is able to communicate about what happened, gently encourage him or her to give you needed information.** Don't press your child if he or she is not ready. Keep a written record of everything he or she communicates including any unusual or fearful behaviour that may be a response to the event.
- **If your child has a Special Education Assistant or support staff who reports to you, de-brief that person about what they saw or were told.** Check your child's book bag for any notes or reports from the teacher and check your child's school-home communication log for any references to what happened that day. Make and keep a copy of the communication log.
- **Contact the school the same day.** Ask to speak to both your child's classroom teacher, and to the principal. Politely but firmly demand a full ABC (Antecedents, Behaviour, Consequences) accounting of what occurred to your child and follow this up with a faxed or emailed request to receive a full account in writing. Make sure that the following information is covered both in the conversation and in the written report you will receive:
 - Time when the incident began and ended
 - Location of the incident
 - Rationale or reason why it occurred
 - All persons involved, including witnesses
 - Description of the behaviour leading up to restraint or seclusion
 - What was said to your child before, during, and after the incident
 - How your child responded to the incident
 - What checks were made for your child's health and safety during and after the incident
 - What safety and de-escalation training and certification those implementing the restraint or seclusion possessed
 - When there will be a meeting or debriefing about the eventFor general guidelines to record this information please see Appendix IV: Example "Restraint and Seclusion Report Form".
- **Listen carefully when witnesses and others involved in the incident tell the story.** Use phrases like, "and what happened next?" to elicit more information. If pieces of the story seem to be missing or don't make sense, return to them and ask again to clarify. Do not comment on what you are being told until you believe you have the whole story, then, keep your comments brief. Remember that taking a confrontational stance at this stage may shut down communication or even lead to changes in or retraction of the statements you have been given. Write down, date, and keep any information you are offered with your records. For general guidelines to record this information please see Appendix IV: Example "Restraint and Seclusion Report Form".
- **Tell school personnel that you want a copy of any reports** they have completed, such as the incident report, and of the school policy on.

restraint and seclusion; if possible, offer to pick these items up in person, or to receive them quickly by e-mail or fax.

- **Ask whether your child was seen by the school nurse or first aid attendant after the incident occurred.** If not, ask why not. If so, ask for a copy of the visit report.
- **Tell the school that you will need to have a meeting with everyone involved in this incident within the next few days.** Contact a trusted and knowledgeable support person to attend the meeting with you; if at all possible, do not go alone as you will want someone with you who can later confirm and review what was said.

Once You Have Determined that Restraint or Seclusion Has Occurred

- **Strongly consider reporting the incident to your local police.** Cases of abuse should be reported if there needs to be an investigation and to protect your child and others from being abused. You may file a police report even if the police determine they will not get involved.
- **Strongly consider preliminary school district appeal procedures.** Check for a district policy on dispute resolution. This should include all steps that may lead up to an appeal with the school board and note all deadlines.
- **Strongly consider reporting the incident to The Ministry of Child and Family Development.** Child Protective services with the ministry are in place to protect children from abuse where parents are unable to protect them. Any concerns regarding child safety may be reported to the ministry via their help line: 310-1234 and following the instructions at: http://www.mcf.gov.bc.ca/child_protection/reportabuse.htm
For more information on the legal aspects of child abuse and protection, please see the Child, Family and Community Services Act in Appendix III.
- **Strongly consider reporting the incident to the Representative for Children and Youth.** The representative may offer support to parents and can investigate allegations of abuse and neglect of children within child-service systems. This can be an important contact, especially if a group of parents comes forward with similar complaints. Methods to contact the office of the Representative can be found at: <https://www.rcybc.ca/get-help-now/contact-us>
- **Strongly consider reporting the incident to the Ombudsperson.** The BC Ombudsperson has the jurisdiction to investigate complaints on the practices of schools and school districts. Instructions to make a complaint can be found at: <https://www.ombudsman.bc.ca/how-to-make-a-complaint>
- **Strongly consider reporting the incident to the BC Human Rights Tribunal.** If your child's case could be considered a violation of human

ASK YOURSELF: If a similar incident occurred to a student without a disability, would an investigation occur? If so, an investigation should occur to protect your child as well.

Every child and youth in British Columbia has the right to be healthy, safe, educated, and heard.

-Representative for Children and Youth Website

rights according to the BC Human Rights Code follow the filing instructions at: <http://www.bchrt.bc.ca/process/complaint.htm>
Please note: There is a 6 month filing time limit. Assistance with filing is available through the BC Human Rights Coalition. More information can be found at:

<http://www.bchrcoalition.org/files/filingcomplaint.html>

For more information on the BC Human Rights Code please see Appendix III.

In the Next Few Days

Your strategy going forward will be to seek maximum assistance from as many potential allies as possible. You are in a situation where the lines of power, responsibility, and accountability are not clearly understood, and it is difficult to predict which contacts will be able to actually step up and succeed in helping you and your child.

- **Consider whether you need a lawyer** in addition to any legal support that the Ombudsperson or the BC Human Rights Tribunal may provide. A good resource for locating lawyers is the Lawyer Referral Service from the BC branch of the Canadian Bar Association. For more information on this service please see: <http://cbabc.org/For-the-Public/Lawyer-Referral-Service>
If you need *pro bono* (free) legal assistance, make this clear to whomever you contact.
- **Request and attend a school meeting as soon as you discover the use of restraint or seclusion.** Your goals for this meeting are to gather further information about the incident; to ensure that school staff understand that the use of restraint or seclusion was not acceptable and why; to verify that a Positive Behaviour Support Plan is in place for your child and that everyone at the school understands and is committed to using it; to ensure that full and appropriate data on your child's behaviour, and the behaviour of school staff in responding to your child, is being faithfully and consistently collected and provided to you and other appropriate team members; and to thoroughly discuss how any future incidents will be handled without recourse to restraint or seclusion. For general guidelines to record additional incident information please see Appendix IV: Example "Restraint and Seclusion Report Form".
- **Consider whether your child should attend this meeting with you.** Just as students have the right to participate in their IEP meetings, it can be very powerful and useful to involve your child in this discussion of what happened and in planning for the future. Exceptions would be a child who is too young, too traumatized, or is likely to be provoked into saying or doing things during the meeting that are not to his or her best interests.

- **Ask about school training in crisis prevention and de-escalation.** Is school staff up-to-date on trainings using evidence-based and preventive practices? What training approach is being used, and what is its reputation? Ask to see the dated training certificates of staff involved with your child.
- **Ensure that your “No Restraint Letter” is signed, in your child’s file, and read and understood by school staff.** If your child’s doctor or psychologist has provided letters stating why restraint and seclusion are dangerous and inappropriate for use on your child, review this information with school staff.
If the use of restraint or seclusion is specified as a planned intervention in your child’s IEP or BIP/BSP, now is the time to take steps to have that language removed. Remember that you can request a new IEP meeting at any time, even if one has recently occurred. Bring that request in writing. Remember: placing restraint, seclusion, or other restrictive procedures in the legal document that is your child’s plan means that you have given permission for its use. It is crucial to remove that permission.
- **Think prevention.** Review and revise your child’s Positive Behaviour Support Plan to focus on recognizing the antecedents or triggers of behaviour and responding to early warning signs with safe, positive interventions. Identify how staff will intervene at the earliest moments of difficulty, use calming alternatives such as sensory interventions, and involve parents early in the process of supporting the child.
- **If you have confidence in the Positive Behaviour Support Plans made at this or subsequent meetings with school staff, you may still need a re-entry plan so that your child feels safe and confident in returning to school.** A traumatized child may react fearfully against returning to the scene of the incident. Find out what school staff will do to be supportive and to restore the child’s trust. Ensure staff understands how to work with any new trauma-related behaviour that the child may have acquired. Ensure staff is knowledgeable in the practice of Trauma-Informed Care. Enlist the aid of a school psychologist or social worker to assist if there is one available.
- **If you do not feel comfortable with the prospect of having your child return to school at this time, you may need the advice of a lawyer or advocate to help investigate your options.** These may include asking the school for temporary homebound instruction, or seeking a change of educational placement if a suitable alternative school is available.

In the Weeks Ahead

If you are not completely satisfied that school staff can and will end their use of restraint and seclusion, you will want to go ahead and enlist the support of stakeholders who can influence the school to replace dangerous practices with safe and positive approaches for ALL students.

- **As you contact school district administrators, be aware of and work through the administrative hierarchy.** Start at the local school level, and work your way up to ministry level if needed. This can save time, because your information will not have to be re-routed within the system.
For a visual representation of the school system hierarchy please see Appendix V.
- **If you do not receive a supportive response from school district administrators, then contact your local school board.** An option may be to attend their next meeting. Consider providing school board members with a picture of your child and a statement of what occurred and how it has affected your child and family. Keep in mind the school board meetings are open to the public and consider the effects this may have on the privacy of your family. Politely but firmly seek their assistance in ensuring that school personnel are properly trained, supervised, and accountable so that no such incident recurs. Ask them whether your school district has a formal policy on the use of restraint and seclusion, and if not, why not. Volunteer to participate in drafting a policy that is in alignment with the BC Ministry of Education guidelines. Ask them to issue a public report on what the district will do to prevent future use of restraint and seclusion.
- **Consider contacting the Ministry of Education.** Provide them with a picture of your child's injuries, if possible, and a statement of what occurred. Contacts within the ministry can be found at: <http://dir.gov.bc.ca/gtds.cgi?Index=ByUnitHier&OrgCode=EDUC>
- **Consider contacting your Member of the Legislative Assembly (MLA) and Member of Parliament (MP).** Tell them that you believe the federal and provincial education laws in place are not working to protect your child. Ask what they can do to help. Provide them with a picture of your child's injuries, if possible, and with a statement of what occurred.
- **Contact your school's Parent Advisory Council (PAC), District Parent Advisory Council (DPAC), and the BC Confederation of Parent Advisory Councils (BCCPAC).** Make sure that PAC leadership understand that this is an issue that affects ALL students in the school and that all students have the right to safe, positive interventions. Ask for PAC support in seeing that school personnel are properly trained in school-wide Positive Behaviour Supports, so that crisis prevention and de-escalation rather than restraint or seclusion are used to prevent emergencies and keep ALL students safe.

For information on advocating for students in BC schools, please see BCCPAC's Speak Up! at:

http://www.bccpac.bc.ca/sites/default/files/resources/speaking_up_2008.pdf

- **Contact your local and provincial advocacy organizations**, including Inclusion BC. Share your story, ask what the organization is doing to prevent restraint and seclusion in the schools, and ask to be put in touch with other parents who have experience with this issue in your area.
- **Consider contacting news media.** If you would like to share your story, Inclusion BC will have media contacts that are interested in your story and can advise you on the impacts of media involvement.

Appendix I: Example “No Restraint Letter”

Parent Name
Street Address, City, Province, Postal Code

Name of Special Education Director
Name of school district

Date

RE: Child’s Name, Personal Education Number (PEN)

Dear (Name of Special Education Director),

My Child, (child’s name), is a grade _____ student at _____ school. (Child’s name) has (a disability) and has received special education services since (grade or age).

I am concerned that (child’s name)’s behaviour challenges are being addressed or may be addressed with the use of restraint or seclusion. I have not authorized and will not consent to any action that involves physically restraining or secluding my child while at school. I would like to be informed, with full ABC accounting (Antecedents, Behaviour, and Consequences), of any restraint or seclusion cases involving or that have involved my child according to my rights as a parent in the School Act. If the school feels (child’s name)’s behaviour is such that restraint and seclusion methods are being considered or used, we must conduct a meeting reviewing his/her Individual Education Plan (IEP) and Behaviour Intervention Plan (BIP) / Behaviour Support Plan (BSP) so that alternate interventions and Positive Behaviour Supports can be put in place.

I am sure you are aware of the recent news reports highlighting the use of restraint and seclusion in BC schools, as well as Premier Christy Clark and Education Minister Peter Fassbender’s grave concerns regarding their usage. Restraint and seclusion are human rights issues pertaining to the statutes in the BC Human Rights Code, Canadian Charter of Rights and Freedoms, and the UN Conventions on the Rights of Persons with Disabilities and the Rights of the Child. If restraint or seclusion methods are ever used as treatment for my child despite this notice of my non-consent, I will weigh all legal options.

You may consider this letter a request to convene an IEP team meeting to discuss (child’s name)’s behaviour and possible positive approaches to de-escalate situations without the use of restraint or seclusion.

I want to work with you, (child’s name)’s teachers, and professionals at ___ school to be sure that (child’s name) learns to develop positive behavioural skills in a safe environment. I am certain that you also share my concern for student safety and wish to see a truly safe, caring, and orderly school environment as encouraged by the Ministry of Education.

Sincerely,
Your Name
Your Phone Number

CC: Principal’s Name
Superintendent’s Name
Ministry of Education Contact/Department

Appendix II: School Board Policies as of June 30, 2014

School District	R/S Policy (June 2014)	Policy #	Link
5 Southeast Kootenay	No		
6 Rocky Mountain	No		
8 Kootenay Lake	No		
10 Arrow Lakes	No		
19 Revelstoke	No		
20 Kootenay-Columbia	No		
22 Vernon	No		
23 Central Okanagan	No		
27 Cariboo-Chilcotin	Yes	5146	https://bcisd27.civicweb.net/Documents/DocumentList.aspx?ID=159
28 Quesnel	No		
33 Chilliwack	Yes	524	http://www.sd33.bc.ca/sites/default/files/524%20Physical%20Restraint%20of%20Students.pdf
34 Abbotsford	No		
35 Langley	No		
36 Surrey	No		
37 Delta	Yes	357	http://web.deltasd.bc.ca/files/1126__Procedure357.pdf
38 Richmond	No		
39 Vancouver	Yes	JFCL	http://www.vsb.bc.ca/district-policy/jfcl-physical-restraint-students
40 New Westminster	No		
41 Burnaby	No		
42 Maple Ridge-Pitt Meadows	Yes	JHCDA	http://www1.sd42.ca/sites/default/files/Policy%20JHCDA.pdf
43 Coquitlam	No		
44 North Vancouver	No		
45 West Vancouver	No		
46 Sunshine Coast	Yes	6700	http://www.sd46.bc.ca/files/6000-Emergencies/6700.pdf
47 Powell River	No		
48 Sea to Sky	No		
49 Central Coast	No		

50 Haida Gwaii	No		
51 Boundary	No		
52 Prince Rupert	Yes	4.25	http://sd52.bc.ca/sd52root/sites/default/files/Policy%20Manual%20-%20Regulation%20Headers.pdf
53 Okanagan Similkameen	No		
54 Bulkley Valley	Yes	9.300	http://www.sd54.bc.ca/images/stories/board/policy/Section_9/9.300.pdf
57 Prince George	No		
58 Nicola-Similkameen	No		
59 Peace River South	No		
60 Peace River North	No		
61 Greater Victoria	Yes	6164.03	https://documents.sd61.bc.ca/super/polreg/pdf/pol6164.03.pdf
62 Sooke	Yes	C-302	https://dsweb.bcsta.org/docushare/dsweb/Get/Document-59136/C-302%20-%20PHYSICAL%20RESTRAINT.pdf
63 Saanich	No		
64 Gulf Islands	No		
67 Okanagan Skaha	Yes	315	http://www.sd67.bc.ca/policies.asp?o_id=243&PageSize=50&Page=1&order_by=&desc=0&q=
68 Nanaimo-Ladysmith	Yes	3584	https://dsweb.bcsta.org/docushare/dsweb/Get/Document-57149/3584%20-%20PHYSICAL%20RESTRAINT.pdf
69 Qualicum	No		
70 Alberni	Yes	5117	https://dsweb.bcsta.org/docushare/dsweb/Get/Document-57494/5117%20-%20PHYSICAL%20RESTRAINT%20OF%20STUDENTS.pdf
71 Comox Valley	No		
72 Campbell River	No		
73 Kamloops/Thompson	No		
74 Gold Trail	Yes	5.100	https://sd74.civicweb.net/Documents/DocumentList.aspx?ID=1885
75 Mission	No		
78 Fraser-Cascade	Yes	7030	http://www.sd78.bc.ca/policymanual/main.htm
79 Cowichan Valley	No		
81 Fort Nelson	No		
82 Coast Mountains	No		
83 North Okanagan-Shuswap	No		
84 Vancouver Island	No		

West			
85 Vancouver Island North	No		
87 Stikine	No		
91 Nechako Lakes	Yes	502.7	https://dsweb.bcsta.org/docushare/dsweb/Get/Document-62453/0502.7%20-%20(502.7)%20-%20PHYSICAL%20RESTRAINT%20OF%20STUDENTS.pdf
92 Nisga'a	No		
93 Conseil Scolaire Francophone	Non		

Appendix III: Excerpts from BC and Canadian Law

BC Ministry of Education Ministerial Orders

Individual Education Plan Order (M 638/95) Amended to November 17, 2006

Interpretation

1. In this order

...

"IEP" means an individual education plan designed for a student and includes one or more of the following:

- a) learning outcomes for a course, subject and grade that are different from or in addition to the expected learning outcomes for a course, or subject and grade set out in the applicable educational program guide for that course, subject and grade, as the case may be;
- b) a list of support services required for the student to achieve the learning outcomes established for the student;
- c) a list of the adapted materials, or instructional or assessment methods required by the student to meet the learning outcomes established for the student in the IEP, pursuant to a ministerial order or in a local program

Review and consultation

- 4.** Where a board is required to provide an IEP for a student under this order, the board
- a) must ensure that the IEP is reviewed at least once each school year following the year the IEP is developed and, where necessary, it is revised, or cancelled, and
 - b) must offer a parent of the student, and where appropriate, the student the opportunity to be consulted about the preparation of an IEP.

Implementation of an IEP

- 5.** Where a board is required to provide an IEP for a student under this order, the board must offer each student learning activities in accordance with the IEP designed for that student.

The IEP Order describes the circumstances when a child needs an IEP, what is to be contained in the IEP, and the follow-up required by the school. The order allows parents and students to be involved in the process and requires regular review and revision that will allow parents to make necessary anti-restraint and seclusion changes.

Provincial Standards for Codes of Conduct Order (M 267/07) October 17, 2007

6. Boards must ensure that the following elements are included in their codes of conduct:
 - a) one or more statements that address the prohibited grounds of discrimination set out in the BC Human Rights Code in respect of discriminatory publication and discrimination in accommodation, service and facility in the school environment;
 - b) a statement of purpose that provides a rationale for the code of conduct, with a focus on safe, caring and orderly school environments;
 - c) one or more statements about what is
 - i. acceptable behaviour, and
 - ii. unacceptable behaviour, including aggressive behaviours such as bullying behaviourswhile at school, at a school-related activity or in other circumstances where engaging in the activity will have an impact on the school environment;
 - d) one or more statements about the consequences of unacceptable behaviour, which must take account of the student's age, maturity and special needs, if any;
 - e) an explanation that the board will take all reasonable steps to prevent retaliation by a person against a student who has made a complaint of a breach of a code of conduct.

7. Further to section 6(c), boards must do the following in the statements about consequences of unacceptable behaviour:
 - a) whenever possible and appropriate, focus on consequences that are restorative in nature rather than punitive, and
 - b) include an explanation that special considerations may apply to students with special needs if these students are unable to comply with a code of conduct due to having a disability of an intellectual, physical, sensory, emotional or behavioural nature.

The Code of Conduct Order is in place to help school boards write their code of conduct with human rights in mind. The document created by each school in response should focus on positive interventions and restorative consequences. The BC guide for Safe, Caring and Orderly Schools suggests all students should be free from harm, know what is expected of them, and have a place of belonging. The language in both documents does not allow room for restraint and seclusion since it is a harmful, discriminatory, and demeaning practice that may physically injure and emotionally traumatize children.

Special Needs Students Order (M 150/89) Amended to September 18, 2007

Students with special needs

2. (1) A board must ensure that a principal, vice principal or director of instruction offers to consult with a parent of a student with special needs regarding the placement of that student in an educational program.
- (2) A board must provide a student with special needs with an educational program in a classroom where that student is integrated with other students who do not have special needs, unless the educational needs of the student with special needs or other students indicate that the educational program for the student with special needs should be provided otherwise.

The Special Needs Students Order allows parents to consult with staff about their child's educational program and if possible, have it integrated. An integrated program is inclusive and does not allow for periods of seclusion.

Statement of Education Policy Order (OIC 1280/89) September 1, 1989

Part A: Mission Statement

The purpose of the British Columbia school system is to enable learners to develop their individual potential and to acquire the knowledge, skills, and attitudes needed to contribute to a healthy society and a prosperous and sustainable economy.

Part B: General Policies for the School System

The Educated Citizen

A quality education system assists in the development of human potential and improves the well being of each individual person in British Columbia society.

...

Part C: Policy Statement on Public Schools

Goals of Education

...

Goals that are shared among Schools, the Family and Community

Schools are expected to play a major role, through learning experiences and supervised practice, in helping students to achieve the following goals:

- *Human and Social Development* – to develop in students a sense of self-worth and personal initiative; to develop an appreciation of the fine arts and an understanding of cultural heritage; to develop an understanding of the importance of physical health and well being; to develop a sense of social responsibility, and a tolerance and respect for the

The Statement of Education Policy Order focuses on the positive attributes of the education system. The education system should, according to the order, develop every child's personal potential, improve their well being, and set them up to be positive contributors to our society. Since restraint and seclusion may cause emotional trauma, delayed development, and a loss of learning opportunities in the class room, students suffering from these treatments will have hindrances to the potential schools are supposed to help them reach. Furthermore, schools are responsible to increase the well being of each individual, which is not possible if they are harming students with restraint and seclusion.

BC Government Legislation

Child, Family and Community Services Act (R.S.B.C., 1996, c. 46) Current to May 31, 2014

Guiding principles

2. This Act must be interpreted and administered so that the safety and well-being of children are the paramount considerations and in accordance with the following principles:

- a) children are entitled to be protected from abuse, neglect and harm or threat of harm;
- b) a family is the preferred environment for the care and upbringing of children and the responsibility for the protection of children rests primarily with the parents;
- c) if, with available support services, a family can provide a safe and nurturing environment for a child, support services should be provided;
- d) the child's views should be taken into account when decisions relating to a child are made; ...

Service delivery principles

3. The following principles apply to the provision of services under this Act:

- a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;
- ...
- d) services should be integrated, wherever possible and appropriate, with services provided by government ministries, community agencies and Community Living British Columbia established under the *Community Living Authority Act*;
- e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children.

Best interests of child

4. (1) Where there is a reference in this Act to the best interests of a child, all relevant factors must be considered in determining the child's best interests, including for example:

- a) the child's safety;
- b) the child's physical and emotional needs and level of development;
- c) the importance of continuity in the child's care;
- d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
- e) the child's cultural, racial, linguistic and religious heritage;
- f) the child's views;
- g) the effect on the child if there is delay in making a decision.

Child, Family and Community Services Act Continued...

When protection is needed

13. (1) A child needs protection in the following circumstances: ...

c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child; ...

Duty to report need for protection

14. (1) A person who has reason to believe that a child needs protection under section 13 must promptly report the matter to a director or a person designated by a director.

(2) Subsection (1) applies even if the information on which the belief is based

- a) is privileged, except as a result of a solicitor-client relationship, or
- b) is confidential and its disclosure is prohibited under another Act.

(3) A person who contravenes subsection (1) commits an offence.

The Child, Family and Community Services Act speaks of protecting children from harm and keeping their best interests in mind when making decisions related to them. The factors listed regarding the best interests of the child may all be violated in cases of restraint and seclusion. Section 13 indicates that a child at risk of physical harm may need protection if their parents are unable to protect them. Since parents may be unaware of restraint and seclusion in school they would be unable to protect their child, and school staff aware of the situation have a duty to report the situation.

Human Rights Code (R.S.B.C., 1996, c. 210) Current to May 31, 2014

Purposes

3. The purposes of this Code are as follows:

- a) to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;
- b) to promote a climate of understanding and mutual respect where all are equal in dignity and rights;
- c) to prevent discrimination prohibited by this Code;
- d) to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;
- e) to provide a means of redress for those persons who are discriminated against contrary to this Code;

Complaints

21. (1) Any person or group of persons that alleges that a person has contravened this Code may file a complaint with the tribunal in a form satisfactory to the tribunal.

Restraint and seclusion can be considered a human rights issue impeding the full participation in school, dignity, and safety of the children these treatments are being used on. In the case of students with a disability, restraint and seclusion may even be considered discrimination. Any human rights complaints can be made to the BC tribunal at: <http://www.bchrt.bc.ca/>

School Act (R.S.B.C., 1996, c. 412) Current to May 31, 2014

Parents' entitlements and responsibilities

7. (1) A parent of a student of school age attending a school is entitled
- a) to be informed, in accordance with the orders of the minister, of the student's attendance, behaviour and progress in school,
 - b) on request, to the school plan for the school and the achievement contract for the school district, and
 - c) to belong to a parents' advisory council established under section 8.
- (2) A parent of a student of school age attending a school may, and at the request of a teacher or principal, vice principal or director of instruction must, consult with the teacher, principal, vice principal, or director of instruction with respect to the student's educational program.

Examination of student records

9. (1) A student and the parents of a student of school age are entitled,
- a) on request and while accompanied by the principal or a person designated by the principal to interpret the records, to examine all student records kept by a board pertaining to that student, and
 - b) on request and on payment of the fee, if any, charged under subsection (2), to receive a copy of any student record that they are entitled to examine under paragraph (a).

Appeals

11. (1) In subsections (2) and (4), "decision" includes the failure of an employee to make a decision.
- (2) If a decision of an employee of a board significantly affects the education, health or safety of a student, the parent of the student or the student may, within a reasonable time from the date that the parent or student was informed of the decision, appeal that decision to the board.
- ...
- (6) A board may make any decision that it considers appropriate in respect of the matter that is appealed to it under this section, and, subject to section 11.1(1), the decision of the board is final.
- (7) A board must
- a) make a decision under this section within 45 days of the date on which the board receives the appeal, and
 - b) promptly report that decision to the person making the appeal.

Appeals to superintendent of achievement

- 11.1 (1) Subject to the regulations, a decision of a board made under section 11 (6) or a reconsideration by a board under section 11.5 may be appealed to a superintendent of achievement.

...

School Act Continued...

Powers and duties of superintendent of achievement on appeal

- 11.2** (1) On receipt of an appeal under section 11.1, a superintendent of achievement may
- a) refer the matter for mediation or adjudication, to a mediator or adjudicator under contract with the minister or a person designated by the minister, or
 - b) summarily dismiss all or part of the appeal.

...

Adjudication of appeals

- 11.4** (1) On receipt of an appeal referred by a superintendent of achievement under section 11.2, an adjudicator may
- a) confirm, vary or revoke the decision under appeal,
 - b) refer the matter back to the board for reconsideration, with or without directions, or
 - c) dismiss all or part of the appeal.

Decision final

- 11.6** A decision of a superintendent of achievement under section 11.2 (1) (b), or of an adjudicator under section 11.4 (1), is final and binding on the parties.

The School Act gives parents and students two important powers in regards to restraint and seclusion. The first is the right to review the student file, remain informed, and be involved in making decisions regarding education plans. This will allow parents to request reporting of restraint and seclusion even though it is not mandatory in all school districts because it is part of their child's behaviour and progress in school. It also gives parents room to request and discuss anti-restraint and seclusion methods with staff. The second power is the right to appeal a decision which affects education, health, or safety of a child. This will allow the board and possibly the superintendent to make amends for restraint and seclusion and possibly update policy so restraint and seclusion do not happen again to the child affected or to other students.

Canadian Government Laws

Criminal Code (R.S.C., 1985, c. C-46) Amended to July 11, 2014

PROTECTION OF PERSONS IN AUTHORITY

Correction of child by force

43. Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

ASSAULTS

Assault

265. (1) A person commits an assault when

- a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
- b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose...

266. Everyone who commits an assault is guilty of

- a) an indictable offence and is liable to imprisonment for a term not exceeding five years; or
- b) an offence punishable on summary conviction.

Assault with a weapon or causing bodily harm

267. Everyone who, in committing an assault,

- a) carries, uses or threatens to use a weapon or an imitation thereof, or
- b) causes bodily harm to the complainant,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months.

Section 43 of the Criminal Code is the Achilles' heel of a legal case regarding restraint and seclusion. The section offers to protect teachers under law to use reasonable force to correct a child without offering a definition as to what may be reasonable. In order to get around this, a lawyer may need to prove that the actions taken by the teacher were not solely corrective, but punitive as well, or that the force was excessive. Within the same code, restraint and, depending on the circumstances, seclusion may be considered assault. To commit an assault a person only needs to intentionally apply force, or indicate with actions that they are going to apply force, without consent. By setting up the IEP without consent for restraint and seclusion, pursuing a charge of assault may be plausible.

Constitution Act 1982 – Part 1: Canadian Charter of Rights and Freedoms

LEGAL RIGHTS

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Treatment or punishment

12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

EQUALITY RIGHTS

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

ENFORCEMENT

Enforcement of guaranteed rights and freedoms

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

The Canadian Charter of Rights and Freedoms indicates several rights that may be violated by restraint and seclusion. If indeed a case affects personal security, subjects a child to unusual and cruel treatment, or discriminates on the basis of disability, this is another legal route that may be taken.

International Conventions

UN Convention on the Rights of Persons with Disabilities – Ratified by Canada in March 2010

Article 1 - Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 4 - General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

- a. To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
- b. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- c. To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- d. To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention; ...

Article 16 - Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse ...

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

UN Convention on the Rights of Persons with Disabilities Continued...

Article 17 - Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

Article 24 - Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:
 - a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; ...
2. In realizing this right, States Parties shall ensure that: ...
 - e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

The UN Convention on the Rights of Persons with Disabilities focuses on non-discrimination and full, free lives. By ratifying this document, Canada agreed to be bound by it and make the legislative changes it suggests. However, restraint and seclusion have not yet been recognized as discriminatory and demeaning practices in need of regulation.

UN Convention on the Rights of the Child – Ratified by Canada in 1991

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

UN Convention on the Rights of the Child Continued...

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

Article 28

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; ...
 - d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

The UN Convention on the Rights of the Child focuses on the protection of children's human rights and the promotion of developing them into positive contributors of society. The convention specifically protects children from physical or mental violence, injury, and abuse, neglect, and maltreatment from people in the care of the child. The Convention also has a specific article about punishment in schools that protects the dignity of children and would exclude restraint and seclusion.

Appendix IV: Example “Restraint and Seclusion Report Form”

Restraint and Seclusion Report Form

Student Name:	Date of Report:
Teacher/Class:	School:
Nature of Restraint/Seclusion:	Date of Incident:
	Start/End Time of Incident:
Staff Member(s) Involved in Restraint/Seclusion Actions:	
Witnesses:	
Describe the antecedents that lead to the use of restraint/seclusion including: location, what happened first, who else was present, and under what social and environmental conditions:	
Describe the problem behaviour of the student that lead to the use of restraint/seclusion. Was there imminent serious physical harm to themselves, others, or property?	
Describe procedures used in attempt to de-escalate the student prior to using restraint/seclusion:	

Describe the incident of restraint/seclusion and the child's response to this consequence:

What methods did and did not work in the situation?

Was there follow up with the student after the restraint/seclusion? If so, what was said/done?

What health and safety checks were made for the child during and after the incident? Was the school nurse or first aid attendant visited?

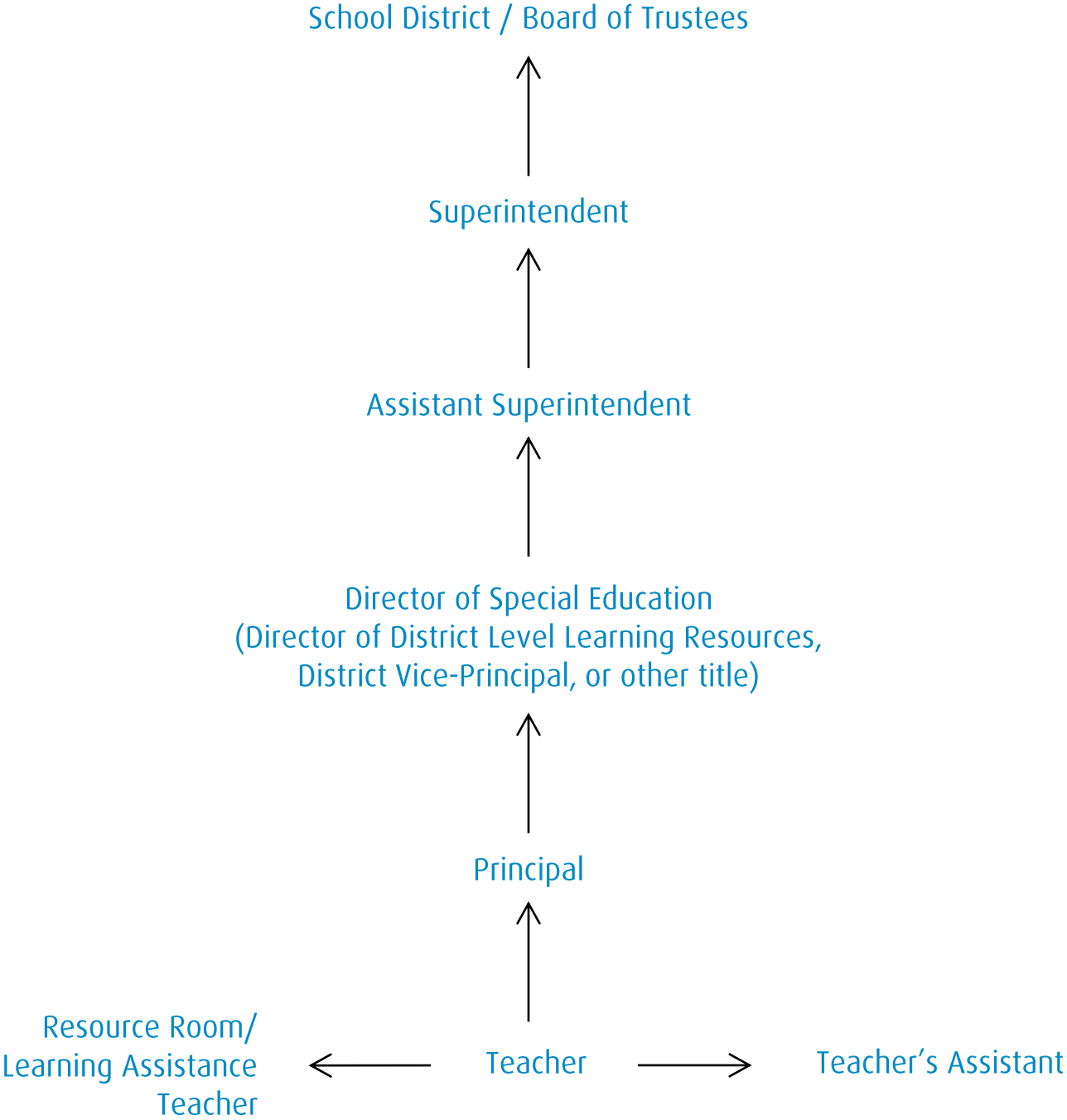
Do the staff involved in the use of restraint/seclusion have up-to-date training in crisis prevention and de-escalation methods? If not, when will they complete training?

What interventions can be used to prevent another case like this?

Is further follow-up needed? (IEP meeting, debriefing meeting, staff training, additional evaluation, medical exam, Functional Behaviour Assessment, etc.)

Was the parent notified? By who? Time/Date:	Follow-up meeting date:
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Appendix V: The School System Hierarchy



Appendix VI: Resources

Legislation & Policies:

- BC Ministry of Education. (2014). Physical Restraint and Seclusion in School Settings (Draft). Not in circulation.
- BC Ministry of Education. (2008). Safe, Caring and Orderly Schools: A Guide. Retrieved from <http://www.bced.gov.bc.ca/sco/guide/scoguide.pdf>
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- School District 27 Cariboo-Chilcotin. (2000). Physical Restraint of Students (Policy 5146). Retrieved from <https://bcds27.civicweb.net/Documents/DocumentList.aspx?ID=159>

School District 33 Chilliwak. (1998). Physical Restraint of Students (Policy 524). Retrieved from <http://www.sd33.bc.ca/sites/default/files/524%20Physical%20Restraint%20of%20Students.pdf>

School District 37 Delta. (2013). Restraint of Students (Policy 357). Retrieved from http://web.deltasd.bc.ca/files/1126__Procedure357.pdf

School District 39 Vancouver. (2001). Physical Restraint of Students (Policy JFCL). Retrieved from <http://www.vsb.bc.ca/district-policy/jfcl-physical-restraint-students>

School District 42 Maple Ridge & Pitt Meadows. (2013). Physical Restraint and/or Seclusion of Students (draft Policy 9620). Not in distribution

School District 42 Maple Ridge & Pitt Meadows. (1993). Physical Restraint of Students (Policy JHCDA - in review). Retrieved from <http://www1.sd42.ca/sites/default/files/Policy%20JHCDA.pdf>

School District 46 Sunshine Coast. (1999). Physical Restraint of Students (Policy 6700). Retrieved from <http://www.sd46.bc.ca/files/6000-Emergencies/6700.pdf>

School District 52 Prince Rupert. (1995). Restraint (Policy 4.25). Retrieved from <http://sd52.bc.ca/sd52root/sites/default/files/Policy%20Manual%20-%20Regulation%20Headers.pdf>

School District 54 Bulkley Valley. (1990). Physical Restraint of Students (Policy 9.300). Retrieved from: http://www.sd54.bc.ca/images/stories/board/policy/Section_9/9.300.pdf

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Organizational Statements & Recommendations

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TASH. (2011). Shouldn't School Be Safe? Retrieved from http://stophurtingkids.com/wp-content/uploads/2013/05/TASH_Shouldnt-School-Be-Safe.pdf

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