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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Education (SC-Ed)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Gigi Godwin (LRB) (August/2011)

Senate

Record of Committee Proceedings

Committee on Education

Senate Bill 468

Relating to: the use of positive behavioral interventions and supports and aversive interventions in schools and requiring the exercise of rule-making authority.

By Senators Lassa, Taylor, Miller, Hansen, Robson and Risser; cosponsored by Representatives Pasch, Pogan, Young, Milroy, Krusick, Benedict and Turner.

January 22, 2010 Referred to Committee on Education.

February 18, 2010 **PUBLIC HEARING HELD**

Present: (5) Senators Lehman, Erpenbach, Hansen,
 Grothman and Hopper.

Absent: (2) Senators Jauch and Olsen.

Appearances For

- Julie Lassa, Stevens Point — Sen., 24th Senate District
- Sandy Pasch, Whitefish Bay — Rep., 22nd Assembly District
- Chris Stagge, Franklin
- Charlotte Price, Eagle River
- Sandra Engel, Racine — The Arc of Racine
- Cynthia Hirsch, Sullivan
- Glenis Benson, Madison
- Diana Rogers-Adkinson, Whitewater — Council for Children with Behavioral Disorders
- Kristin Sorenson, Madison
- Donovan Richards, Middleton
- Paula Buege, Middleton
- Rhonda Greenshaw, Germantown
- Emily Levine, Milwaukee — Autism Society of Wisconsin
- Veronica Nolden, Milwaukee — WI FACETS
- Erin Miller, New Berlin
- Terri Bluse, Hurley
- Susan Carey, Eau Claire
- Grace Michand, Florence
- David Hiltonen, Florence
- Jeff Spitzer-Resnick, Madison — Disability Rights Wisconsin
- Jan Serak, Greendale
- Hugh Davis, Madison — Wisconsin Family Ties
- Marlea Linse, Oconomowoc

- Mary Sobczak, Hurley
- Jenny Stonemeier, Milwaukee
- Sally Flashberger, Brookfield

Appearances Against

- Mary Draeger, Oshkosh — WEAC
- Mary Bell, Madison — Wisconsin Education Association Council
- Kari Pettit, Oshkosh — Merrill Elementary
- Mary Brenzel, Oshkosh — Merrill Elementary School
- Becky Van Ravenstein, Oshkosh — Merrill Elementary
- Julie Brill, Oshkosh — Merrill Elementary School
- Troy Polson, Green Bay — WEAC
- Laura Vernon, Milwaukee — WEAC/MTEA
- Jennifer Nickowski, Baldwin — WEAC
- Kirby Lentz, Onalaska — Lentz Solutions
- Patricia Burlew Cox, Waterloo — WEAC
- David Kwiatkowski, Gillett — WCASS
- Gary Myrah, Port Washington — WCASS
- Nissan Bar-Lev, Fox Point — WCASS
- Greg Nyen, Stevens Point — WCASS
- Joanne Huston, Madison — WEAC

Appearances for Information Only

- Jennifer Kammerud, Madison — Department of Public Instruction
- Marge Resan, Madison — Wisconsin Department of Public Instruction
- Tim Grove, Milwaukee — St. Aemilian- Lakeside

Registrations For

- Phyllis Greenberger, Madison — Disability Rights Wisconsin
- Jill Gonzalez, Madison — Disability Rights Wisconsin
- Raandi Schmidt, Oregon
- Susan Coopen, Madison — Wisconsin Family Ties
- Jessica Erdman, Madison
- Joe Lay, Madison
- John Shaw, Windsor
- Jason Glezter, Madison
- Brandy Jadcak, Kenosha
- Dawn Wians, Verona
- Weldon Toms, Racine
- Mary Halm, Racine
- Sherrylyn Campbell, Racine
- Kimberly Jackson, Racine

- Noel Gordillo, Racine
- Daari Pawelski, Racine
- Mike Torrey, Racine
- Darryl Craig Hibbler, Racine
- Kristen Mrkvicka, Racine
- Josh Richardson, Racine
- Donna Agosto, Racine
- Shel Gross, Madison — Mental Health America of Wisconsin
- Martha Lechuger, Milwaukee
- Alan Sobczak, Hurley
- Chris Thomas-Cramer — Board for People with Disabilities
- Jessica Thompson, Madison
- Kim Hogan, Madison

Registrations Against

- Christa Peters, Madison — AFT- Wisconsin
- Joe Quick, Madison — Madison Metropolitan School District
- Jim Holperin, Conover — Sen., 12th Senate District
- Jesse Reschke, Madison — Madison Teachers Inc.
- Sheri Krause, Madison — Wisconsin Association of School Boards

Registrations for Information Only

- None.

April 22, 2010

Failed to pass pursuant to Senate Joint Resolution 1.


Sara Dauscher
Committee Clerk



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Education
FROM: John Forester, Director of Government Relations
DATE: February 16, 2010
RE: Senate Bill 468 – Seclusion and Restraint

The SAA strongly opposes Senate Bill 468, relating to the use of seclusion and restraint techniques. SB 468 is highly prescriptive and mandate-driven, will impose a significant fiscal burden on school districts, and will not, if passed, result in a common sense approach to protecting the safety of all Wisconsin school children and staff.

Among other things, SB 468 imposes training and certification requirements on the safe, effective, and appropriate use of physical restraint and timeout for any school employee that may use physical restraint or a timeout on a pupil. It prescribes the appropriate use of seclusion, physical restraint, mechanical restraint and timeout as well as the circumstances under which school employees may use these techniques. The bill also requires each school to submit a written report at least annually containing a summary of each use of physical restraint and certain instances in which a timeout is used. The bill establishes procedures for the parent of a pupil to seek a hearing on or file a written complaint regarding the use of physical restraint or a timeout on that pupil.

SB 468 also requires a local educational agency to prepare a BIP (Behavior Intervention Plan) for a child with a disability who has not responded to the behavioral approaches specified in the child's IEP or if the child exhibits: 1) assaultive or self-injurious behavior, 2) behavior that causes property damage, or 3) behavior that significantly interferes with the implementation of the child's IEP. A BIP may authorize the use of physical restraint or timeout on the child, but only if the parent consents in writing to the use of physical restraint or timeout, and only if the use of physical restraint or timeout is consistent with the requirements established in this bill.

The SAA has the following major concerns about the bill:

- Federal legislation on the use of seclusion and restraint techniques has been introduced in the House (HR 4247) and the Senate (S 2860) and has considerable support. Federal law supersedes state law. A side-by-side analysis of the federal legislation and SB 468 uncovers numerous conflicts. Forcing school districts to

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Wisconsin Association of
School Business Officials

Wisconsin Council for
Administrators of Special Services

administer conflicting state and federal laws would be a frustrating waste of time, energy and limited financial resources. What's more, conflicts between state and federal law are often resolved through costly litigation, which drains precious educational resources from children. The SAA recommends we postpone state legislative efforts until Congress passes legislation. **The SAA has publicly pledged to participate in a stakeholder process on a state law once federal action is completed.**

- The mandated training, reporting and other requirements imposed by the bill create a significant fiscal and operational burden that is difficult to justify at a time when schools are already cutting teaching staff and stretching resources in order to balance budgets.
- We believe that if the bill is enacted school districts will be so constrained by the bill's restrictions, and the potential liability, that they will simply turn to law enforcement whenever they face an unruly or violent student. We do not believe that this would be in the best interests of children. And yet, this concern is validated by anecdotal evidence provided by school administrators in other states that have adopted legislation similar to SB 468.

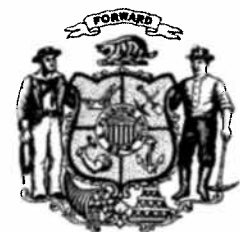
Finally, Wisconsin educators are keenly aware of the concerns surrounding the appropriate use of seclusion and restraint techniques, and our number one objective is the safety of all students and staff. The Wisconsin Council of Administrators of Special Services (WCASS), in partnership with the Wisconsin Education Association Council (WEAC), the Wisconsin Association of School Boards (WASB), the Wisconsin Association of School District Administrators (WASDA), the Association of Wisconsin School Administrators (AWSA), and the Department of Public Instruction (DPI), proactively developed a training program on the appropriate use of seclusion and restraint in special education. **This training is taking place in school buildings throughout Wisconsin. To date, 416 training sessions have taken place.**

In addition, other organizations are also conducting the type of "evidence-based training" identified in the bill. For example, there are currently 484 active Wisconsin instructors training people (school, social services, law enforcement, corrections and other personnel) in non-violent crisis prevention and intervention (NVCPI). **For the eighteen month period ending December 31, 2009, 45,083 people were trained in NVCPI in Wisconsin.**

Thank you for your consideration of our views. If you should have any questions regarding the SAA's position on Senate Bill 468, please call me at (608) 242-1370.



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**Testimony of Pat Burlew Cox
Before the Senate Education Committee
Senate Bill 468
February 18, 2010**

Good morning. My name is Pat Burlew Cox and I am a school social worker in the Sun Prairie School District. I work every day with children who struggle at school with showing appropriate behavior, including, at times those behaviors that are not safe toward themselves or others. When we talk about seclusion and restraint it brings to mind an institution because these are institutional words. At school we are really talking about a place for a "time-out" or a safe place to calm down. At an institution, the word restraint conjures up tying down. At school, it is specially trained staff safely assisting a student to that safe place. It is never as a discipline - it is for assistance and support for an upset student. Our goal is to keep everyone safe. At school, seclusion means a safe place to calm down. A child is NEVER left alone or out of view. Again the goal is safety, and once the child calms; to help that child figure out what went wrong or what is bothering him or her. Then we work to fix it and our goal is to get the child back to class. With all the conditions that SB468 imposes on school staff, I would question my ability to effectively manage and improve student behavior.

Think about your worst day as a child, or perhaps a very embarrassing moment. Would you want your emotions on display for all of your peers? What if you hurt someone? In a moment when you were so upset you were not thinking? How would you face that person again? How would you feel about walking into a room where everyone saw that? Our goal in helping a child get to a safe place is about safety and learning. The safe place can be a chance to express anger and emotion safely. Sometimes that means yelling and crying. Sometimes it means using a weighted blanket or a sensory swing. The learning happens once a child calms down. Then we can talk and we can teach. We learn what happened from the child's perspective. We teach strategies for calming down, asking for help or asking to take a break. Sometimes we role-play how to fix the problem and practice a solution. We work on how to re-enter the classroom so that it is a successful transition back.

How does this look at school? The first thing we do as a school is try to prevent a meltdown that might lead to the need for a child to leave the classroom. As we get to know our kids we look for those signs that indicate agitation or upset. We use strategies to intervene before an upset. Usually those strategies work, but not always. Here is an example of a student at the elementary level. A second grade student was struggling with some rigid thinking, wanting to be perfect at everything and low frustration tolerance. The class had a science project that involved building a parachute using string, paperclips, tape, a clothespin and a paper towel. Several students had some trouble with the tape not sticking or tearing the paper towel. Most of the students who had a mishap got extra material, asked for help or buddied up with another student. My little buddy threw his material and then started to grab the materials of others, and knocked over some chairs

Mary Bell, President
Dan Burkhalter, Executive Director



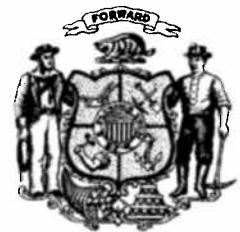
and desks. Help was requested. Another staff member and I responded. When we got there, the teacher was able to take the class out of the room. We first made a verbal connection to our student and tried to convince him to go with us to the cool down room. Because we already had a relationship with him and he had been to the cool down room before, he was eventually able to walk with us rather than needing assistance to get there. Once there he was able to express his anger and cry a bit. Then we were able to talk and figure out what had gone wrong, other ways he could handle it and how he could fix it with his teacher. He was able to talk with his teacher calmly. He could tell his teacher how he would try to handle his frustration the next time. He was able to apologize to his teacher for his behavior. He was welcomed back to the classroom and was able to complete his day without another incident. My second grade friend here needed that time away from his class to express his emotions and learn some new ways to deal with his frustrations. His parents have been involved every step of the way. We have worked together to help him. This year is completely different. My now third grade buddy has come to me only twice this year on his own initiative. Once he stopped by my office to tell me that his mother had told him to stop in to say 'hi' because I might think that he has forgotten me. He is having a great year. He has learned that he can ask for help. He has learned that there are people that will help him when he is having a hard time. That's what we are aiming for with all kids.

Educators need to be allowed to use their judgment to manage student behaviors and maintain a safe school environment for all children. Should SB468 become law, educators would question their judgment and hesitate to act until a situation is out of control leading to unsafe schools. Please oppose SB468.

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Testimony of Jennifer Nickowski, Somerset teacher
Senate Committee on Education

SB 468

February 18, 2010

My name is Jennifer Nickowski and I am a Special Education teacher in the School District of Somerset. I am a Certified Non-Violent Crisis Intervention Specialist for our District and I am also our Association President. Today I am here to testify against SB 468 because I am concerned about how it would impact the safety of students and staff.

As our Certified Non-Violent Crisis Intervention Specialist for our district, I support proper training in classroom management and the teaching of de-escalation techniques. I believe it is of utmost importance to Wisconsin educators that students are physically and emotionally safe at school.

I am concerned about maintaining safety, and a safe learning environment for all, which in my own classroom, requires the ability to use minor or incidental contact at times to maintain order and control. This type of contact could be placing a hand on a student's shoulder to let them know they can not go near another student. The majority of my students are on the Autism spectrum. They can trigger each other with simple movements and are very aware of what each is doing. Almost daily we have to use incidental contact to keep students from going after each other. The students may perceive another student using a computer in a bad way. If I was not able to use incidental contact, the situation would end up in a physical altercation; where one student would get hurt. School staff is aware of the triggers with my students and have also had to use incidental contact on occasions.

There have been incidences where staff members have had to use restraint on a student to keep a situation from escalating. One incidence in particular we had a student who was a runner. The student would run out of the school and on one occasion he ran over a mile. Our school parallels the major road that runs through town and we also have train tracks. We could not allow the student to run out of the school any longer for his own safety. We needed to prevent the situation and the unknown and we had to do this by using a restraint.

The proposed bill would allow me, support staff, and any educators to intervene only in case of an emergency. What would constitute an emergency? Would it be when a situation is escalating, during which time a violent outburst could be prevented, or only when harm has been inflicted on someone?

I work in a district where the severity of behavioral and other disabilities are increasing, and treatment options that would meet the children's mental health needs are limited or nonexistent. The lack of adequate special education funding, means that children are unable to obtain the mental health and other highly skilled intervening services that they need to be able to learn to control aggressive behavior and attend school without endangering others. The lack of needed services results in children whose inability to control aggressive behaviors impact the learning environment for everyone, including teachers, staff and other students.

Untreated mental health issues, and other severe disabilities unfortunately can and do result in children manifesting aggressive behaviors in school. Some examples of the behavior exhibited by students I have worked with include randomly striking out at others; students and adults and running to escape. And my district is not alone in experiencing this phenomenon. As a result, special education teachers, support

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staff, and perhaps most importantly, other students are facing and witnessing dangerous behaviors every day. This bill would prevent school staff from intervening in a situation in order to prevent a serious incident from occurring. When properly trained, school staff can de-escalate some situations, and understand when to intervene to prevent someone from getting hurt.

Those of us who teach children with special needs learn our students' triggers and can predict with great accuracy when a situation will become violent and unsafe. If we are hampered in how we can respond, or if we don't respond for fear that we will be disciplined or found in violation of state law, incidents of violence and injury will increase at an alarming rate in our schools. Essentially, this bill demands a "hands off" approach. One casualty of such an approach is the right of all students to a positive and safe learning environment.

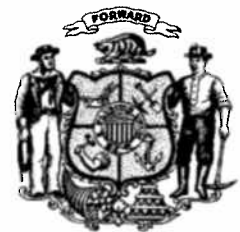
Please oppose SB 468 because it severely limits the options that I and other educators need to have available to prevent injury and to maintain a safe and positive learning environment.

Jennifer Nickowski
1228 Lokhorst Street
Baldwin, WI 54002

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***Testimony of Laura Vernon
Senate Committee on Education
SB 468
February 18, 2010***

My name is Laura Vernon and I work in the Milwaukee Public Schools. I am here today to testify against SB 468. First let me say that it has been an honor for me to work in the public education field as a security officer for more than 35 years. One thing that has become very clear to me as a School Safety Officer is that the safety of our children is of utmost importance. It is very difficult for children to learn if they do not feel safe. We should never have to worry about safety in a school setting, but unfortunately, that is not always the case. My colleagues and I work hard every day to try and make our public schools a safe environment for all children to learn and for educators to teach. I enjoy what I do, but it is becoming more and more challenging for educators to maintain a controlled environment where all children learn. Let me tell you why.

Of course we educate all children. Every child has a right to a quality public education. But we are experiencing an influx of children in our public school system that had previously been in environments more conducive to their special needs. Unfortunately the Residential Treatment Centers that serviced them have been shut down or have drastically reduced services because of budget cuts and no funding source. Alternative placements are very limited, so public education opens their doors and classrooms. The results are that we have:

- ◆ Children with severe anger management issues
- ◆ Children that are verbally and physically abusive to other students and staff
- ◆ Children who have aggressive disregard for others and display that type of behavior.

I have witnessed various techniques educators use to calm situations with children that display challenging behaviors. Let me share with you an example. Our special education classrooms often use restorative justice methods to calm students. They try "circles" to redirect negative behaviors. But when one of the students gets angry without any identifiable provocation, all of those techniques no longer work.

Just recently one of our 7th grade female students in an EBD classroom got angry when the teacher redirected her about one of the classroom assignments. This girl's emotions exploded and she started trashing the classroom. We had to move the students out of the classroom. She was throwing desks, chairs, books, file cabinets and computer equipment. We had to get the teacher out of the classroom also because the anger was directed toward him. The classroom was trashed. The student wanted to leave the classroom. We would not allow her to because of the threats she

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continuously made. It took well over an hour to calm her, but not without sustaining injury from the student. We must act quickly and cautiously.

Because this legislation puts so many conditions on the use of physical restraint and timeouts, school staff may be hesitant to act to quickly to address student safety as a situation is developing. As a child's behavior escalates to out-of-control levels, most techniques have little or no effect and classrooms are literally destroyed. Staff and students risk injury. The child quite often has self-inflicted injury. My colleagues and I are left with no choice but to restrain and seclude the child, and in the process, we often sustain injuries.

Any legislative attempt to restrict or impede educators from securing calm and safety for everyone in a public school setting endangers and compromises the entire concept of a safe school learning environment.

Please be vigilant in protecting the rights of all children and educators to a great public school by giving educators the tools we need to protect the children that are our future - our real hope for a better society.

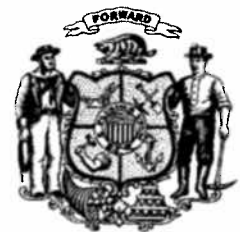
Please oppose SB 468.

Laura Vernon
4087 North 60th Street
Milwaukee, WI 53216

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**Testimony of Troy Polson
Senate Education Committee
SB 468
Thursday, February 18, 2010**

Good morning ladies and gentlemen:

My name is Troy Polson and I have been a Special Ed teacher in DePere, Wisconsin, for the past 9 years. I earned undergraduate degrees in Psychology and Sociology in 1989 and returned to college to get teacher certified at UW-Green Bay and special education certified at UW-Oshkosh.

I have previously been:

1. a counselor at a therapeutic wilderness program in Tennessee
2. a platoon sergeant in the National Guard Youth Challenge Program
3. an overnight supervisor at a runaway shelter in Honolulu
4. and a Youth Corrections Officer for the state of Hawaii.

I have over 15 years of direct experience working with troubled youngsters.

I originally chose my current career as a Special Ed teacher because I wanted to help troubled children achieve success in school and the community before getting too far into the justice system. I am here **today** because my education, training, and personal experience tell me that Senate Bill 468, **as it is written**, is not in the best interest of the children it is intended to serve or for the other children in their classrooms.

I have read the cases involving students secluded in inadequate settings, and of the girl who died at a treatment facility due to unsatisfactory restraining techniques. It saddens me to know these and other incidents took place and I understand that changes needed to be made to prevent future occurrences.

I also agree with several key points made by the bill's writers and the disability rights organizations who back it, such as standardized requirements for time-out rooms, documentation of seclusion and restraint, crisis response procedures, notification to parents, and the use of positive motivational techniques and supports for students with disabilities. 1 2 3 4

I also believe in developing a personal relationship with students, showing them I care about them as people, and doing whatever it takes to help them grow in their academic and interpersonal skills. I believe it **because it's what I do!** My co-workers and I have 1 goal:
to increase the success of our students and every other child in their classrooms!

Senate Bill 468, to quote, "*restricts dangerous practices in restraining and secluding students, sets standards for training, and requires documentation and reporting to parents and the Department of Public Instruction.*" This is a noble and justified mission, but there are **specific items** in the bill that are counterproductive to its intent.

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The first of these involves training. The program our school district chose teaches important de-escalation and crisis management methods. But it also teaches specific techniques used to control a student who has become assaultive, and these are **out-dated police arresting techniques** that are not conducive to injury prevention. I am certain that a large portion of Wisconsin schools get their certification through this same commercial vendor. I personally teach modern, gentler, less-restrictive techniques at a business separate from the school setting, and I know the difference between safe and unsafe methods of restraint. Requiring this training for school employees **does not guarantee** the quality of instruction, because the methods taught can be severely inadequate. Also, the bill states that a person can be certified for 24-months, but that is not enough to ensure safe procedures will be followed. Short practice sessions need to be conducted several times per school year. Neither the bill nor DPI addresses this shortcoming.

Secondly, the bill specifically references Positive Behavior Interventions and Supports (a.k.a. PBIS.) The documents released by the bill's supporters said that

*"Research shows that PBIS can **prevent** the need to restrain and seclude students...specifically: PBIS is an effective method of managing behavior to avoid emergency situations that lead to restraint or seclusion."*

PBIS is an offshoot of Operant Conditioning or Behavior Modification, the B-Mod made famous by psychologist Dr. B.F. Skinner. While strongly believing in influencing students using positive reinforcement, even Dr. Skinner recognized that it may not work in every situation. When an autistic or ED student becomes enraged and loses control, Badger Bucks or good-behavior tokens are not going to affect his behavior. On my job I use behavior plans I designed for disabled students every day, but they **cannot prevent** 100% of the destructive tantrums that overcome these students. Positive behavior intervention works but it is not a cure-all.

Lastly, this bill restricts the use of seclusion and restraint to situations identified as emergencies, defined as:

situations in which it is necessary to control a pupil's spontaneous or unpredictable behavior when that behavior poses a clear and present danger of serious physical harm to the pupil or to others.

I have personally witnessed students hit, kick, bite, scratch, throw pencils, chairs, and textbooks, and flip over heavy desks with no concern for the safety of other children or respect for other children's property. I have seen classrooms that looked like a tornado touched down with every desk overturned and countertops stripped of all contents.

A reasonable person would realize that a student brandishing a knife or a sharpened pencil should be stopped before harming himself or others. But what is not so easily ascertained is that **disabled students can develop a self-reinforcing chain of behaviors** that starts with academic or other frustration and escalates quickly into a full-blown destructive tantrum. To teach students alternative (replacement) behaviors, the cycle of behaviors must be stopped before violent actions become a habitual part of that chain.

Failure to intervene is, to me, **morally unjust and scientifically unsound**. When a trained and insightful teacher sees the signals of an impending meltdown, the student should be encouraged to leave the classroom in order to calm down and verbally process his or her frustration before re-entering the classroom. This is the beginning of behavior change. But

sometimes the behavior escalates too quickly. The student only wants to lash out at the source of frustration and does not want to exit the classroom. Under this bill, escorting the student from the room could constitute **restraint** because it might involve *“interfering with the free movement of the child’s limbs and body.”* If the student were taken to a Special Education classroom, that would constitute **seclusion** because it *“involuntarily confines the child in a room or area while physically preventing him or her from leaving.”*

There are many implications to classroom tantrums. When classmates are repeatedly exposed to a peer’s violent tantrums, their willingness to interact with the child is reduced, leading to feelings of rejection and alienation. I have an autistic student who is afraid to return to class after tantrums because he fears classmates will reject or ridicule him. I know this because he told me so.

Normal levels of classroom noise and activities can be overwhelming to some students. Students with disabilities often need **privacy** to process their thought, feelings, and behaviors. By removing an emotionally-charged student to a safe setting where trained adults monitor and encourage the student’s return to self-control, negative effects are minimized. As behavior change begins to take place, students are taught to remove themselves from classrooms and go to a safe spot rather than “exploding,” but we often have to guide them through the process until it feels natural for them. Many children on the autism spectrum seek out voluntary seclusion when it is taught as a coping strategy. After my school removed a door to prevent the use of a “quiet room” used only rarely for time-out, a female student with Fragile X Syndrome asked why the door was gone and worried aloud “How am I going to get away from all the noise?” She had learned a coping strategy and it was taken away to prevent the use of seclusion.

Last year we had an autistic 11-year old run out of school without a coat in the middle of winter, cross a 4-lane highway, and run 500 yards across Claude Allouez Bridge over the Fox River. School staff had been told not to restrain him from running out of the building. If not for a concerned citizen who saw him running and the police who later found him, I’m not sure what harm may have come to him.

I have personally held the arms and legs of the same student while he was in a full-blown meltdown. When students begin to calm down I always ask if they are calm and ready for me to let go. Several times this student has said, “No. Don’t let go yet.” Students sometimes need help regaining control, and he recognizes this in himself.

Last week a student got angry and left his regular classroom. He entered my room, overturned 2 heavy lab tables, and threw a metal and plastic chair at another student receiving math assistance from an aide. He grabbed a box full of puzzle pieces and threw it at them. I stopped him just as he reached for another projectile. As I held his arms, he voluntarily sat on the floor and I used a technique in which I gave him active resistance while he pushed and pulled the major muscle groups of his body for 10 minutes; the student then relaxed and lay quietly for 20 minutes. When he got up we replaced the tables and he picked up the puzzle pieces. Believe it or not, this was progress. Last year he would have kicked, bit, scratched, and screamed for 30 minutes or more. At the end of that day, while waiting for his mother to pick him up, he gave me a hug. It was the first time I saw him hug anyone at school.

A co-worker who is also a parent wrote this when I mentioned that I might be testifying at a state hearing:

"Seclusion and therapeutic restraint is for your child. It is for all of the children in a classroom who deserve to learn unimpeded by other students who are out of control; but it is also for the child who needs help in this way, who needs quietness and therapeutic restraint in order to regain control over themselves that they are unable to initiate on their own. Children (both special ed. and regular ed. students) cannot be expected to come to public school and run wild with no limit on their physical behavior, and expect that learning will take place. That includes a certain amount of control over the physical body. When a student is unable to achieve this control himself, it is left to the teacher, properly trained, to restore this balance for the child, which the child needs, and often *wants*.

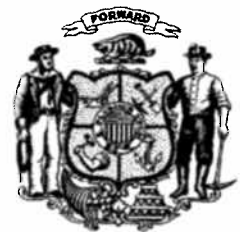
"In a classroom where there is no "so-called emergency" taking place, a student would be allowed to be out of control, to yell, kick and scream, to disturb the classroom by turning over desks and pounding on the door and throwing papers around the room, disrupting the learning process. Learning in this case has come to a halt for all students in the room. There is no order here, there is no learning, but there is also no emergency. If your child was in this classroom and it was allowed to happen, would you be happy with the level of your child's education? I certainly would not agree to have my child in any classroom where this behavior was allowed to take place, and as an educator, would not expect any parent to agree to this environment for their child. In effect you will tie the educator's hands with this law by allowing this to happen without any power to stop such an onslaught on the education we all expect and deserve for our children. Therapeutic restraint and seclusion are necessary in *some* instances, and to state that it can be used only in an emergency is unfair to each child in the classroom trying to learn."

In **my** 13 years as a public school **student**, I never saw anything like the tantrums that occur in schools today. The explosive behaviors we are speaking of would be out of place in a store, restaurant, or any public setting, and we need to have some leeway when a student becomes so out-of-control that other children are negatively affected. Children need classroom environments free of stress, fear, and violent disruption.

Just to be clear, I do everything I can to avoid restraint or seclusion, and I urge my co-workers to avoid them as well. I have only used restraint one time this school year. By the definition of this bill, I haven't used seclusion this year at all. But to assume that their use is never okay except to prevent serious bodily harm rejects the needs of disabled and regular education children to be safe and feel safe in their schools. I urge you to examine the provisions of this bill closely and consider the points I have made before voting on it. We owe that to all of our children.



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Testimony of Mary Bell
President of the Wisconsin Education Association Council
Before the Senate Education Committee
Senate Bill 468
February 18, 2010

Good morning. My name is Mary Bell. I am a library media specialist and English teacher currently serving as President of the Wisconsin Education Association Council, the largest union of education employees in the state. WEAC's 98,000 members represent a diverse group of teachers and education support professionals. Thank you for the opportunity to speak to you today about SB 468.

It is of utmost importance to Wisconsin educators that students are physically and emotionally safe at school. We support a reasonable approach to ensuring that safe environment – for children as well as school staff. For that reason, we oppose SB 468.

Current law allows school personnel to use reasonable and necessary contact to maintain an orderly and positive learning environment and defers to the judgment of school personnel in exercising that right. Although the proposed legislation keeps that language in statute, it would severely restrict an educator's ability to exercise that judgment. This bill prohibits or puts so many conditions on the use of restraint, seclusion, and even time-outs, that school employees will fear violating the law, which may make them reluctant to intervene.

If restraint is necessary, an educator could intervene only in an emergency under this legislation. We have many questions around this provision. What constitutes an emergency? Is it when a situation is escalating, where using contact to guide a student away from the triggering event could prevent a violent outburst? Or is it an emergency only after harm has been inflicted? The bill defines time-out as separating a student from class and into an enclosed setting or isolated area. Can a teacher no longer send a student to the principal's office if the student then sits in a separate room? The bill does not allow an educator to threaten or even warn a child that he may get a time-out. Can I no longer say, "Johnny, if you don't stop shooting spitballs, you'll need to take a time-out?"

This legislation was drafted without input from educators. The extreme limitations on the use of reasonable restraint appear to be modeled after rules that are applied in hospital and residential treatment settings. However, the public school setting is very different from a hospital setting. A hospital setting is designed to provide treatment and therapy individually or in a small group. Public schools are designed to provide academic skills mostly in large group settings. As a result, schools have a much higher student to staff ratio compared with the number of patients seen at one time by a health care worker. Given this high ratio, it is unlikely that you will have two people who are

Mary Bell, President
Dan Burkhalter, Executive Director



certified to use restraint and seclusion present at the moment of crisis in a school, a requirement of SB 468. If only one certified person were available, wouldn't you want that staff person to restrain a child who poses a clear and present danger to himself or others? In crisis situations, educators need to make decisions in a split second. Because of all of the conditions placed on the use of restraint in this bill, educators may hesitate to intervene as the emergency unfolds.

What about the need to prevent a child from running away from the playground? What about removing a student from standing on a table or climbing bookshelves? This legislation severely hampers educators' abilities to appropriately respond even where safety is an issue.

But there's a bigger issue here that this legislation completely ignores. As more and more residential and clinical treatment centers are closed, more and more students with severe behavioral disabilities are entering our schools. Just this month, Winnebago Mental Health Institute and Mendota Mental Health Institutes consolidated and reduced child and adolescent beds. The children's census at Winnebago went from 65 children one year ago to 28. As these children returned to the community and began attending public schools, the specialized resources and staff that were available in these children's treatment facilities didn't follow them into their schools. And even if they did, it is unlikely these children's extensive treatment needs could be met in a school setting.

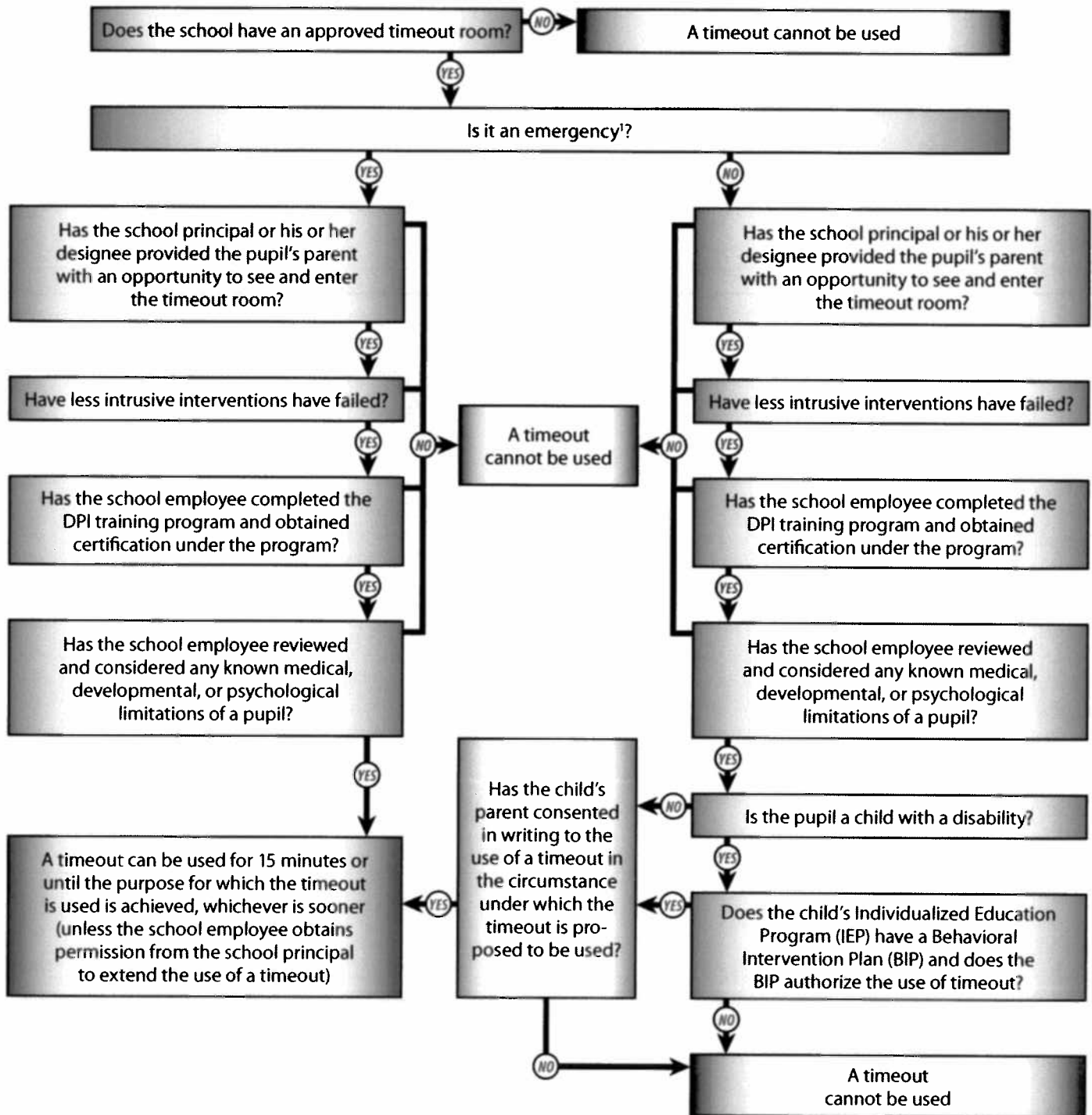
If we truly want to address these children's needs, we would ensure that wrap-around services, including mental health treatment, were available to all children. The lack of alternatives to provide appropriate services addressing the various behavioral needs of children is a fundamental issue that this legislation ignores. We would welcome the opportunity to work on the underlying problem of inadequate services for children whose behavioral needs interfere with their learning and that of others.

School district employees take safety very seriously. They are responsible for the safety of all children in their classrooms, on the playground, in the lunchroom, and during after-school activities. Educators must have the tools to ensure a safe and positive school environment.

For all of these reasons, please oppose SB 468.

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Can a timeout be used?

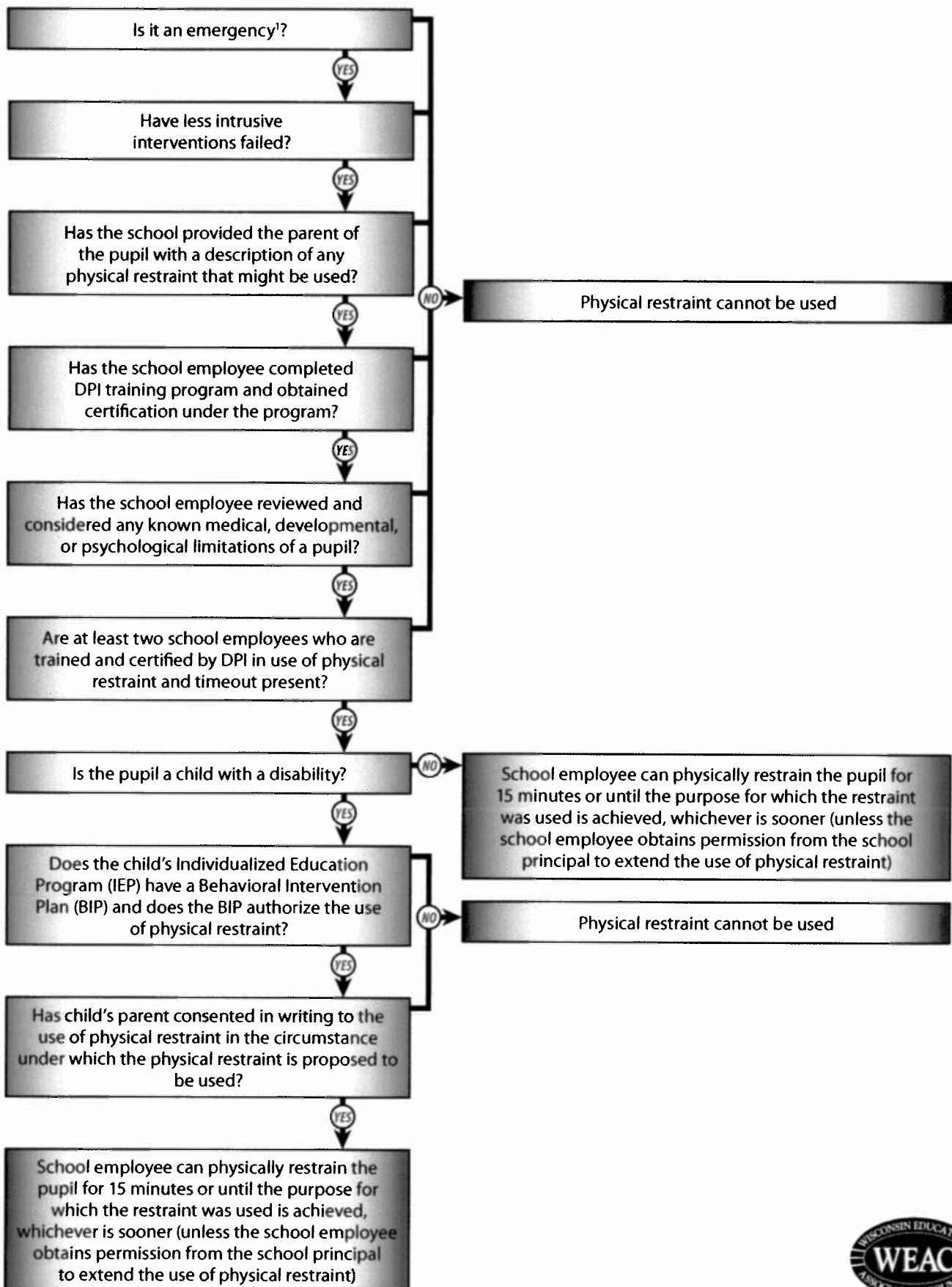


¹“Emergency” means a situation in which it is necessary to control a pupil’s spontaneous or unpredictable behavior when that behavior poses a clear and present danger of serious physical harm to the pupil or to others and cannot be immediately controlled by a less restrictive technique. “Emergency” does not include a situation in which a pupil uses profanity or threatens physical harm to himself or herself or others unless the pupil demonstrates a means of carrying out the threat.



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Can physical restraint be used?

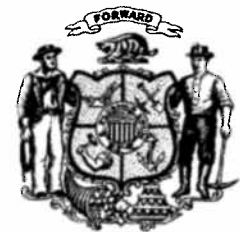


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*Testimony of Mary Draeger
Senate Committee on Education
SB 468
February 18, 2010*

My name is Mary Draeger and I am here today to testify against SB 468 because I have concerns about what it would mean for school safety if enacted. I have worked as an assistant with EBD students in Oshkosh for almost 10 years. EBD stands for emotional behavior disability. Working with EBD students is a challenging job that I enjoy. The children I work with are integrated into regular education classes and I am there for support and to assist with academics and their behaviors. I am required to be certified annually in non-violent crisis intervention procedures. This program teaches us proper de-escalation techniques and, as a last resort, use of safe restraint.

Many EBD students are easily frustrated, easy to anger and unfortunately prone to becoming violent. Working with the same students over time gives me the ability to anticipate and de-escalate most situations before any harm comes to themselves, other students or staff. Unfortunately these same students can be unpredictable and escalation can take only seconds without warning.

Let me give you an example. A student became agitated during class because he wanted to call his mother. I told him he could leave with me to call her. He then refused, but there was no way to know why. My children are unpredictable. The student suddenly began screaming obscenities at me and ran into a vacant classroom. He ran from room to room screaming and swearing. The other children in these classrooms were visibly frightened. His behavior continued to escalate. He attempted to leave the building. He tried multiple times to pull the fire alarm and I blocked his access with my body. He suddenly stopped grabbing for the alarm, put his hands around my throat and began choking me. It took two people to pull him off. If this legislation became law, those two people would have had to be certified to restrain children. If the first two people who arrived were not, they would not have been able to physically restrain this child. What if it had been a student that was being choked? What if it had been your child? Do you honestly want to impose so many conditions on the use of physical restraint, rendering a school employee powerless to effectively safeguard school safety?

I have been assaulted five times just in the past year. I have been bitten twice requiring me to go through AIDS testing. I have been punched with fists, slammed against a cement wall, kicked, spit at and recently suffered an injury to my back

Physical restraint is only used as a last resort. Our protocol now when dangerously aggressive behavior is likely to occur is to empty the classroom of the other students to get them out of harm's way. The disadvantage of this is that it disrupts learning. However, we believe it is the best way to keep all children safe. Under this legislation, this technique could be considered a

Mary Bell, President
Dan Burkhalter, Executive Director



timeout. However, our classrooms would not meet the legislation's requirements that the timeout room be free of electrical outlets or other objects that could be used by the student to harm himself or others. Does that mean we will no longer be able to use this tactic to protect school safety? When a child becomes out of control, the rest of the students in the class become upset, anxious, and frightened. We need to consider the safety, both physical and emotional, of ALL children, not just the out-of-control child.

I have great compassion and empathy for the students I work with. I have developed a trusting relationship with them. I have purchased clothing, boots, snow pants, and school supplies. I provide Valentines, Halloween costumes and buy them Christmas gifts. My students know if they need something they can always come to me and I will do what I can. I truly care about my students and this is why I choose to be generous with them.

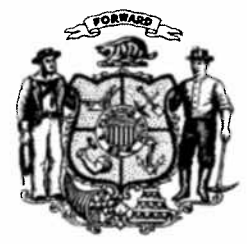
I believe if SB 468 is passed it will only be a matter of time before the number of serious injuries in our schools increases. Please do not place unrealistic restrictions on those of us who choose to work with this vulnerable group of children. We need to protect them from hurting themselves, their classmates and the adults who are there to work with them.

Please oppose SB 468. Thank you.

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WISCONSIN STATE LEGISLATURE



Testimony on Senate Bill 468
Thursday, February 18, 2010
Senate Committee on Education
State Capitol, Room 412 E

Chairman Lehman and members of the Senate Committee on Education,

Thank you for holding a public hearing today on Senate Bill 468. This legislation will give guidance to educators on how to safely and effectively manage difficult student behavior, give information to parents on how schools deal with student behavior challenges, and will track how and when restraints and timeouts are being used in Wisconsin schools. Current seclusion and restraint practice doesn't properly support teachers, protect students or notify parents, and this bill will help fix that.

Parents send their children to school with the expectation that they will be safe. Most reports we've received from advocacy groups about the use of seclusion and restraint are from parents of our most vulnerable children: kids with autism, bipolar disorder, ADHD, anxiety or depression. Many of these parents didn't know that their children were being restrained or put in seclusion rooms – rooms that are locked from the outside - until a concerned school employee informed them about what was going on, or until parents began asking questions after noticing unexplained physical injuries or a change in their child's behavior. This is wrong. Parents have a right to know what is happening to their child in school.

There are currently 20 states that have either statutory language or administrative rules governing the way that schools implement seclusion and restraint. Wisconsin is not one of them. In fact, reports of death and abuse from the use of seclusion and restraint of students are so widespread that the U.S. Government Accountability Office recently conducted a review of these methods in public and private schools across the country. Its findings were troubling. The GAO's examination of school documents police and autopsy reports and interviews with parents, attorneys, and school officials revealed documented cases where students were pinned to the floor for hours at a time, handcuffed, locked in closets and subjected to other acts of violence, some of which resulted in death. As a result, the GAO advises that all states implement regulations and reporting procedures for every facility that uses or has the potential to use restraint and seclusion techniques.

Wisconsin has no statute or administrative regulations regarding seclusion and restraint in schools. The only policy in Wisconsin that attempts to provide guidance to educators on seclusion and restraint is an outdated and ineffective directive by the Department of Public Instruction that does not have the force of law behind it. The directive states that seclusion and restraint should only be used as a last resort when a student's behavior is an immediate danger to the student and when other interventions have been unsuccessful. I think you will hear today that both seclusion and restraint are often used, not as a last resort, but as a first response. Additionally, you will hear that the directive requires staff training on the appropriate application of restraint, as well as training on how to de-escalate problematic behaviors in students. This training is not an annual requirement for all school staff. It also does not require training for the use of seclusion. Unfortunately, it is inexperienced professionals that often engage in the most restrictive seclusion and restraint. The directive does not require debriefing after the incident, nor does it require parental notification. No guidance is given as to who has the authority to decide about seclusion and restraint, and there is no requirement to collect data or to submit reports to district administrators or DPI.

You will also hear from opponents of this bill today that this legislation will restrict teachers and be administratively cumbersome. You will hear that it is paperwork intensive. I would argue that schools are already submitting paperwork when behaviors spiral out of control and the police are called, either because staff or students were injured. Additionally, you're going to hear that the federal government is looking into this issue and we should wait for them to act. I would argue that Wisconsin should not wait for the federal government to protect our children. Prompted by the Government Accountability Office report and a congressional hearing, the Department of Education promised to have an accounting of laws, regulations, policies and guidelines currently in place in each state on the department's Web site by February 12th. To date, that promise has not been kept.

Professionals once considered seclusion and restraint therapeutically useful. This is antiquated methodology. Seclusion and restraint have actually been shown to exacerbate difficult behaviors and do nothing to teach a child appropriate behaviors. In fact, the literature on seclusion and restraint shows the psychological harm suffered by children who experience it. These children have nightmares, intrusive thoughts, avoidant responses and mistrust, even five years after the incident. No adult should ever inflict such harm on a child. A risk management guide for behavioral health states that "each use of restraint or seclusion poses an inherent danger, both physical and psychological, to the individual who is subject to the interventions and frequently, [and] to the staff who administer them." The *American Journal of Orthopsychiatry* states that 50-81% of seclusion or restraint episodes happen to children who experience them repeatedly, demonstrating that the practice does not change behavior. In the *Journal of Applied Behavior Analysis*, researchers reported that in a series of classroom observations, physical restraint applied in direct response to specific problem behavior only increased the rates of those behaviors. There are better ways to address the needs of children with behavioral problems. There is a growing consensus that the use of Positive Behavioral Intervention and Supports, or PBIS, is an effective way to prevent problem behaviors that are currently leading to the use of seclusion and restraint. Senate Bill 468 requires that at least one staff member in each school be trained in PBIS.

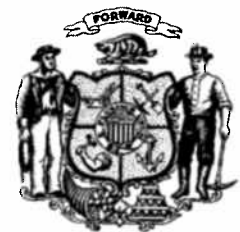
As we developed this legislation, we struggled to find consensus among the various stakeholders involved. My office began meeting with the groups that I'm sure you will be hearing from today regarding this bill in the fall of 2009. One of these meetings was arranged by the Department of Public Instruction, which sought out an independent mediator to facilitate the discussion. Despite this attempt at mediation, this effort failed. The groups we met with did not bring anything meaningful to the discussion. This inability to find common ground suggests to me that it is absolutely necessary for the legislature to step in and provide guidance on how timeouts and restraint are used in our schools.

I have attached to my testimony a copy of a Legislative Council memo on the legislation which describes the bill in detail. It includes a requirement that staff be trained on how to appropriately and safely de-escalate challenging student behaviors before they start, how to safely use a restraint hold on a child, and how to place a child on a timeout. The bill includes a procedure to notify parents when restraints or timeouts are used on their child. Finally, the bill also requires schools to report to DPI when seclusion and restraint are used.

I look forward to continuing to work with Representative Pasch, committee members and key stakeholders to come to a common ground on how to resolve this issue and ensure that our schools are safe for everyone, both students and staff. However, if key stakeholders continue to refuse to come to the table with meaningful solutions, the legislature should move forward with this bill. It is our charge to ensure that the citizens of our state are safe, especially in our schools.



WISCONSIN STATE LEGISLATURE



**Senate Committee on Education
February 18, 2010**

**Department of Public Instruction
Testimony on 2009 Senate Bill 468**

Thank you to Chairperson Lehman and members of the committee for the opportunity to testify before you today for information on Senate Bill 468 (SB 468). My name is Jennifer Kammerud. I am the Legislative Liaison for the Department of Public Instruction (DPI) and with me today is Marge Resan, School Administration Consultant for the Special Education Team at DPI.

SB 468 would apply to all school-age children. It regulates the use of aversive interventions in schools, such as timeouts and physical restraints. It also relates to the use of positive behavioral interventions and supports and provides procedures for the review of the use of timeouts and physical restraints.

The State Superintendent of Public Instruction believes that school districts should provide training for school staff, provide notice to parents, log incidents and report the use of seclusion and restraint for all school-age children. These requirements are already in place for special education students, which make up 12.48 percent of Wisconsin's school-age population, through the *Directives for the Appropriate Use of Seclusion and Restraint in Special Education*. The department issued the directives in 2005 and holds local educational agencies accountable for compliance with its requirements. Requirements include:

1. Seclusion or physical restraint may be used only as a last resort in emergencies, when there is immediate threat of danger to the student and/or others.
2. Seclusion or restraint may be used only until safety concerns are no longer present, and may not be prolonged beyond what is required for maintaining safety.
3. The use of seclusion or restraint must be documented in the student's Individualized Education Program (IEP) when the IEP team can reasonably anticipate its use may be necessary. In situations where seclusion or restraint is first used without prior indication, an IEP team meeting should be held as soon as possible so the team can address its use.
4. Constant adult supervision must be maintained while either technique is used.
5. Written procedures or policies on the use of seclusion and restraint must be developed.
6. Logs or incident reports must be maintained.
7. Data on the use of seclusion or restraint must be reviewed and evaluated.
8. School building codes apply to any area or room used for seclusion.
9. School staff using these techniques must have information and training in their safe and appropriate use.

In the past five years, the department has investigated 22 situations where inappropriate use of seclusion or restraint was alleged. When we have found violations, they range from failure to

log the use of seclusion or restraint or failure to notify parents to insufficient staff training and inappropriate use of seclusion and restraint.

When we find violations, the department imposes vigorous corrective action, both child-specific as well as district-wide so violations do not recur. We have required, for instance, such corrective actions as shutting down a seclusion room, taking away devices used inappropriately for restraint, requiring training for staff, reconvening IEP teams, development of behavioral intervention plans, program reviews, and establishment of logging and oversight systems. Our experience has been that school districts treat this important issue very seriously and respond appropriately.

Physical restraint is sometimes necessary to ensure the safety of students and staff in crisis situations, and the department supports the need for training in its appropriate use. Currently school districts obtain training through many different venues at significant expense, often through contracts with private companies who specialize in crisis intervention training. These private companies have developed and employ differing approaches and techniques.

In addition, the department supports a statewide initiative to bring Positive Behavioral Interventions and Supports (PBIS) training and technical assistance to the state. The goals of PBIS are to increase academic performance, improve safety, decrease problem behavior, and establish a positive school culture for all children.

Schools implementing PBIS see dramatic reductions in disciplinary interventions and increases in academic achievement. Currently, \$260,000 of federal funding supports this work. Such training, however, takes years to accomplish and is expensive. For PBIS, or any other training system, to be implemented in every school, funding must be available.

Parents should be notified of the potential use of seclusion or restraint, both prospectively through the child's individualized education plan (IEP) and, for all students, following an occurrence of its use. The timelines and content of parental notification need to be considered so there is a reasonable balance between a school staff's capacity and parents' rights.

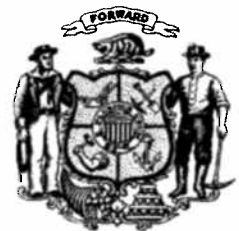
The department supports a requirement to maintain a log documenting the use of seclusion or restraint for all students so their use may be evaluated and to allow their use to be reported. On this last point, you should know that the United States Department of Education, Office of Civil Rights, is nearing completion of revising its regular data collection procedure to include reporting of incidents of seclusion and restraint.

As you also undoubtedly are aware, federal legislation governing the use of seclusion and restraint has been introduced, both in the House and the Senate. Wisconsin would be required to conform to federal legislation.

Thank you for the opportunity to speak before you today. We would be happy to answer any questions you may have.



WISCONSIN STATE LEGISLATURE



February 18, 2010

Senate Committee on Education Hearing for

Senate Bill 468

Testimony of

Marlea Linse, M.Ed.

WI FACETS and Parent of children with special needs

Thank you for the opportunity to speak with you. I am here in support of Senate Bill 468. I was an elementary teacher for five years and a principal for fifteen. More importantly, I am the adoptive parent of a sibling group of four children, all of whom have varying degrees of special needs. All four children have been traumatized beyond what I can even imagine.

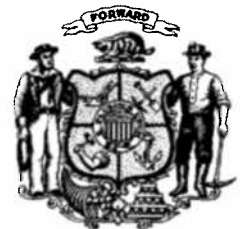
Today I would like to share our 10-year-old's experience. He is cognitively delayed and has multiple mental health diagnoses. When Reggie came home in June of 2004, it was not uncommon for him to rage for up to two hours more than once a day at home and two to four times a week in school. Thus began the search for answers. We wanted a better way, one that was less invasive, traumatic, and emotionally charged. Our choice was to use a love based approach, described in a book by Bryan Post and Heather Forbes entitled Beyond Consequences, Logic, and Control. After reading this book, when Reggie raged my husband or I stayed with him, reassured him he was safe and we would not let him hurt himself. We helped him learn relaxation strategies in his calmer moments and gradually we could get him to use them even in the early stages of a rage. We did not see an overnight turn around. We did see a decrease in the number of rages, the intensity of them and the duration. We knew we were on the right path and shared our experiences with his teachers at school. This strategy proved to us that seclusion and restraint actually escalated his behavior. Teaching him relaxation techniques and having knowledge of what triggered his rages coupled with less invasive techniques allowed us to actually prevent rages more and more as time went on.

We shared our new found knowledge with Reggie's teachers and they too saw improved behavior. I am happy to report that Reggie rarely rages at home or at school. We have learned his triggers and can often prevent an oncoming rage. When he does lose control, he can be brought back to a calm state within ten minutes.

Our learning curve was steep. I believe that Senate Bill 468 will encourage the use of positive behavior intervention strategies by requiring schools to train staff and use evidence-based practices to facilitate the child's successful awareness, self-management, and engagement which, as in Reggie's case proved very effective.



WISCONSIN STATE LEGISLATURE



A lot of really bad things happened to me in school.

No one was helping me.

Restraining me, holding me down and locking me in the calming room all the time only made me worse.

That did a lot of psychological damage.

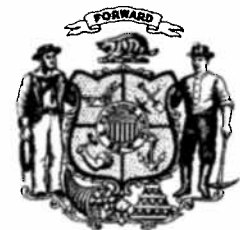
It's hard for me to trust people now.

Educators need to be taught how to work with kids like me.
Kids like me need SB 468.

Respectfully submitted February 18, 2010
Donovan Richards, Jr
5218 Shorecrest Dr
Middleton, WI 53562



WISCONSIN STATE LEGISLATURE



February 18, 2010

RE: SB 468

Senate Committee on Education

Submitted By Kirby Lentz, Ed.D., Senior Policy Analyst

WRITTEN TESTIMONY

Thank you for the opportunity to speak to you this morning. My name is Dr. Kirby Lentz. I am the senior policy analyst for Lentz Solutions in Onalaska, Wisconsin. I have over forty years experience working with students with emotional/behavioral disorders, cognitive and learning disabilities, and twenty-five years with autism spectrum disorders. I recently retired as CEO of a specialized agency for students with developmental disabilities and autism. I served as president of the Onalaska School Board and I have authored books and articles relating to the IEP and the delivery of special education services, and served on a variety of local and state boards and committees.

I speak this morning in opposition to Senate Bill 468. While the spirit and intent of this Bill is important and noble, the procedures and process described are overly restrictive and prescriptive that will certainly jeopardize what is best for the individual student. I wish to summarize five points.

1. Most important, this Bill takes away from the role and function of the required IEP team meeting. The issues presented in this Bill are the responsibility of this team that includes, school officials, parents and students. The IEP team needs to be allowed to do its work without a rule that interferes with its ability to do what is optimum for individual student needs. This is, by law, and by function, an IEP team responsibility: to develop, monitor, and evaluate all aspects, including behavioral interventions, of the students' individual education plan.
2. This Bill is duplicative. The issues addressed, other than the impractical monitoring system purported in this Bill's language, exist in the federal IDEIA and PI-Chapter 115. The DPI has issued Information Bulletins, including Bulletin 7.01 dealing with this exact issue.
3. This Bill is overly restrictive and categorically prescriptive. The spirit of the Bill is correct, but the generalization of procedural conduct restricts individual student potential for improvement and achievement. Too often in education we have experienced the failure of a one-size-fits-all approach and governance. This Bill will compromise our students and their potential for achievement.
4. Most professionals posit that restrictive, seclusion, and exclusion behavioral methodologies do not effectively teach alternative skills. Addressing aversive behavioral strategies and time-out need to be addressed by the LEA; by policy, school attitudes, and training. There must be a culture of positive behavioral

intervention to create such a norm by and in the LEA, not a "we have to do this" because of a state mandated process.

5. The Bill creates another unfunded school mandate and required reporting mechanism. Costs for training by DPI and participation by school personnel, plus costs for approved staff are unnecessary, in most cases redundant, and needlessly will add to the budget difficulties faced by all LEAs in the state.

I believe the intent of SB 468 is good for students. I would like to propose three recommendations to replace the process prescribed in this Bill:

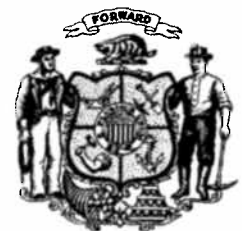
1. Replace SB 468 with language similar to HR 4247
2. DPI should re-issue the Information Bulletin 7.01
3. LEAs should develop local policies in ways that are meaningful to that district.
4. Strengthen the IEP process and the IEP team at the local level.
5. Remove all the training requirements by the LEA and demand that this is part of post secondary teacher training done by our colleges and universities. The LEA would assess on teacher hiring the ability of the prospective teacher to handle behavioral interventions and understand principles of positive behavior supports.
6. LEA develop monitoring reports they feel are necessary for them to monitor and assess utilization of aversive and positive behavior procedures. A statewide database will do little to affect individual student achievement.
7. DPI and LEAs support groups such as FACETS who help parents understand behavioral strategies, how to monitor effectiveness, and how to be equal partners in the IEP team.
8. DPI takes a consulting and supportive role in this issue rather than a compliance monitor
9. This is an unfunded mandate. I would rather have LEAs use what money they have for instruction than pay for training that should be done at the university level, to collate superficial data to DPI with little probability of decreasing the use of aversive behavior techniques, or to pay a teacher or administrator extra money to watch over a restraint.

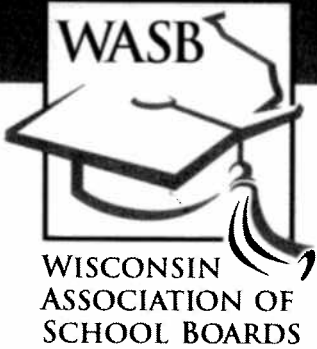
The restrictive and generalized prescriptive nature of this Bill does little to support the IEP team, LEAs, and students. It sounds good, but rules such as this bind and deter from meeting the individual needs of our state's students.

Thank you for your interest and work on education related concerns for all of our states children.



WISCONSIN STATE LEGISLATURE





122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 • FAX: 608-257-8386

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Senate Education Committee
FROM: Sheri Krause, Government Relations Specialist
DATE: February 18, 2010
RE: Senate Bill 468, relating to the use of positive behavioral interventions and supports and aversive interventions in schools.

The Wisconsin Association of School Boards opposes Senate Bill 468, which relates to the use of positive behavioral interventions and supports and aversive interventions in schools. The WASB supports school districts' emphasis on positive behavior support approaches in all school settings and the ongoing training of school staff in the appropriate use of seclusion and restraint techniques.

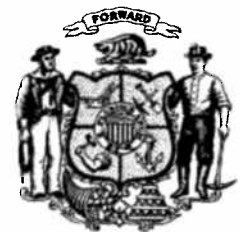
Numerous concerns have been raised by special education directors and others that Senate Bill 468 is overly restrictive and prescriptive, and as a result will likely hinder efforts to develop individualized educational plans and behavioral intervention plans that effectively address students' individual needs. In addition, concerns have been raised that it school staff are overly regulated in their ability to quickly and effectively respond to unruly or disruptive behavior, staff are more likely to rely on law enforcement to intervene. The WASB shares these concerns.

Legislation has been introduced in Congress to address the appropriate use of seclusion and restraint as well. H.R. 4247 and S. 2860 are making their way through the congressional process and have considerable support. However, there are numerous conflicts between the proposed state and federal legislation. Thus, the state should refrain from advancing similar legislation until Congress has completed its work. The WASB is willing to participate in a review of state laws and regulations to ensure compliance with the federal requirements.

Thank you for your consideration.



WISCONSIN STATE LEGISLATURE



Senate Education Committee
SB 468

I am in favor of this bill.

February 18, 2010

I am a parent of an adult with disabilities, and a grandparent of children with disabilities who are in the public school system. I work with families who have children with disabilities. I feel that this bill is necessary for the safety of children and school staff.

These are a few points I would like to highlight:

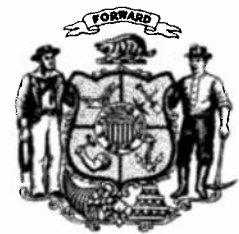
- *Physical restraints will be used in limited situations, such as, in an emergency.
- *The bill has requirements of documentation of the incidents to parents and reporting to DPI.
- *Staff who may use restraint and seclusion will be trained on their proper use.
- *The bill promotes positive behavior intervention and supports which will help outcomes for all students. Research shows that Positive Behavior Intervention and Support (PBIS) is an effective method of managing behavior to avoid emergency situations that lead to restraint or seclusion.
- *It will also help the communication between staff and parents/families by requiring schools to notify parents when their child has been restrained or secluded on the same day that it happened and requiring schools to provide all of the information recorded in the school documentation to the parents.

I urge you to support SB 468. Thank you.

Mary Sobczak
510 Hematite Street
Hurley 54534



WISCONSIN STATE LEGISLATURE



Senate Education Committee
SB 468

I am in favor of this bill.

February 18, 2010

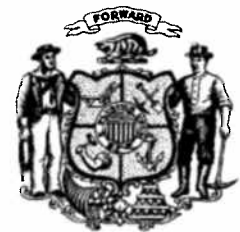
My name is Veronica Nolden. I have a son, Branden, who is six. He has Autism. Sometimes Branden gets frustrated and he throws things for reasons, like, misunderstanding and the communication barrier that is common with children with Autism. I feel this bill is important because asphyxiation is the number two killer of children with Autism by the hands of others who don't understand and don't have proper training. I can't imagine someone using inappropriate techniques that might be used in schools or in other situations outside of school and possibly harming my child, physically, emotionally, mentally or worse. This bill will require schools to train school staff and keep records on restraint and seclusion. It will also require parent consent and keep them informed of restraints and seclusion.



Veronica Nolden
2464 W. Lloyd Street
Milwaukee 53205



WISCONSIN STATE LEGISLATURE





Wisconsin Board for People
With Developmental Disabilities

Date: February 18, 2010

To: Sen. John Lehman, Chairperson
Members
Committee on Education

From: Cindy Zellner-Ehlers, Chairperson

CZE/OTC

*by Chris Thomas -
Cramer*

Re: Support for SB 468: Relating to the use of positive behavioral interventions and supports and aversive interventions in schools

The Wisconsin Board for People with Developmental Disabilities strongly supports SB 468 and thanks Senator Lassa and Representative Pasch for co-sponsoring the legislation. The Committee will hear compelling testimony from parents and children who have been traumatized from seclusion or restraints. The Board applauds the bravery of these parents and children to speak publicly about these incidents.

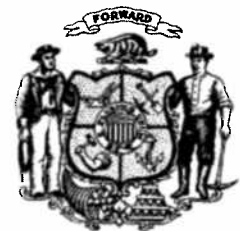
It is the view of the Board that SB 468 is long-overdue and reflects the advances made in behavioral management techniques over the years. Positive behavioral interventions are basically best practices in education. Students benefit from the use of positive behavioral interventions because they maximize their learning opportunities without the trauma associated with seclusion and restraints. School personnel benefit because implementing seclusion and restraints improperly put staff at risk of injury.

SB 468 is common-sense, comprehensive and thorough legislation beneficial to all parties involved in education. Implementation of SB 468 will prevent many abuses and support the proper education of children. Please support SB 468 and pass it out of Committee.

Thank you for your consideration of this testimony. If you have any questions, please contact Chris Thomas-Cramer, Legislative Director, at 608-266-0979 or Christine.ThomasCramer@Wisconsin.gov.



WISCONSIN STATE LEGISLATURE





SANDY PASCH
STATE REPRESENTATIVE

Senate Bill 468
Testimony of Representative Sandy Pasch
Senate Committee on Education
February 18, 2010

Good morning, Mr. Chairman and committee members. As the lead Assembly author of Senate Bill 468, I thank you for allowing me to testify before you today in favor of this proposal.

Earlier this week, the State Assembly took action to strengthen the punishment of adults who cause reckless harm to children. We made the punishment harsher for adults who harm children, recognizing that children are more vulnerable and deserve special protection.

Children are special. But they may also be frustrating at times. They may exhibit behaviors that are annoying, or possibly disruptive, and sometimes, even dangerous. It is important for teachers and school personnel to understand these behaviors and know the best ways to intervene, using methods that are safe, effective, and evidence-based.

Unfortunately, children regularly and needlessly suffer from harmful practices in a misguided attempt to manage “challenging behaviors.” This is wrong for all involved – the child exhibiting the behavior, the teacher expected to manage the behavior, and the students who witness the intervention. Wisconsin parents and teachers have been raising concerns about the use of restraint and seclusion in schools for many years. These reports reveal that restraint and seclusion are harming children’s academic progress and, perhaps even more disturbing, causing serious physical and emotional harm.

I have spoken to teachers. Teachers have described feeling inadequately trained to deal with inappropriate behavior, which has led some of them to restrain students – without proper training. One teacher poignantly told me of her concern, adding that too many of her colleagues do not know the difference between a child who *won’t* versus a child who *can’t*. Today, you will hear from parents the stories of the physical injuries and emotional trauma their children have experienced due to restraint and seclusion. For example, a 9 year-old boy attempted suicide after being secluded. A 16 year-old boy’s elbow was broken in multiple places during a restraint. Most tragically, a 7 year-old girl died when she was improperly restrained. A joint report by Disability Rights Wisconsin, Wisconsin FACETS, and Wisconsin Family Ties—titled *Out of Darkness...Into the Light: New Approaches to Reducing the Use of Seclusion and Restraint with Wisconsin Children*—draws attention to the damaging effects of seclusion and restraint. It outlines the tragic cases of children who have been subject to these practices and calls for action to enact policy that addresses the dangerous practice of seclusion and restraint.

Senate Bill 468 would facilitate the use of Positive Behavioral Interventions and Supports (PBIS) as a safer and more effective alternative to seclusion and restraint. The bill also restricts dangerous practices in restraining and secluding students, sets standards for training, and requires documentation of incidents and reporting to parents and the Department of Public Instruction.

This is consistent with recommendations from U.S Education Secretary Arne Duncan, who, in a letter dated July 31, 2009, urges each state to review and revise its current policies regarding seclusion and restraint to ensure that *every* student is safe and protected. Secretary Duncan praised the policies of his home state of Illinois which prohibit the use of seclusion or restraint for the purpose of punishment or exclusion, and allows trained staff to restrain students only in narrow circumstances. Illinois allows the use of isolated time out or physical restraint only in situations when it is absolutely necessary to preserve the safety of self or others; includes rules that must be followed when these techniques are used; and requires documentation of each incident to be provided to parents within 24 hours. Secretary Duncan also encourages the use of Positive Behavioral Intervention and Supports (PBIS). As noted, this bill includes those recommendations.

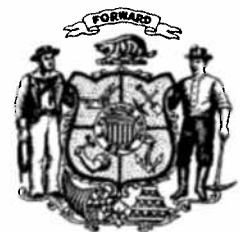
Our state must address outdated or nonexistent measures that fail to adequately address the health and educational outcomes of our children. Momentum behind the effort to address this issue is growing across the nation, as at least 20 states have addressed the use of seclusion and physical restraint in statutes or administrative regulations. Further, in light of the death and abuse of students from the use of seclusion and restraint, the U.S. Government Accountability Office recently conducted a review of the use of these methods in public and private schools across the country. The appendix – at the end of the report – is entitled the *Summary of State Laws Related to the Use of Restraints and Seclusions in Public and Private Schools*. Wisconsin is listed as having none. We have no laws to protect a child from being subjected to the abusive and potentially deadly use of seclusion or restraint in a school.

With adequate training, teachers and care providers can appropriately understand and respond to behaviors in ways that are **safe, effective, humane, and evidence-based**. Senator Lassa and I look forward to continue working with a broad coalition of stakeholders to ensure the well-being of both our most vulnerable citizens and our teachers, making our schools safer with better academic outcomes.

I appreciate your consideration of this important issue facing schools, teachers, and children across our state.



WISCONSIN STATE LEGISLATURE





FOX POINT • BAYSIDE
SCHOOL DISTRICT
A Valuable Education. An Education With Values.

Gary W. Petersen, Ed.D, District Administrator
7300 N. Lombardy Road
Milwaukee, Wisconsin 53217
Phone: 414-247-4167
Fax: 414-351-7164
gpetersen@foxbay.k12.wi.us

SB 468?

February 18, 2010

Dear Members of the Committee on Education,

Approximately four years ago I became aware of a problem that Open Enrollment students who are attending the Fox Point-Bayside School District are experiencing at the conclusion of their eighth grade year. Under the current Open Enrollment laws in the state of Wisconsin, K-8 school districts like the Fox Point-Bayside School District and union high school districts like Nicolet Union High School District are treated as though they have no affiliation. Resident and Chapter 220 students who graduate from our Bayside Middle School are given the choice to enroll at Nicolet UHS. In the case of our Open Enrollment students who are preparing to go to high school during their eighth grade year, their parents learn that they must apply for a limited number of Open Enrollment seats at Nicolet. If they apply under the Open Enrollment law to the Nicolet Union High School District, they are treated as though they were coming from any other school district in the state of Wisconsin and must participate in a random selection process that does not give them any preference for available seats.

As Superintendent of Schools for the Fox Point-Bayside School District, I have had numerous parents of Open Enrollment students who attend our schools come to me with concerns about their children's very slim chance of attending Nicolet Union High School. The Fox Point-Bayside Schools work very closely with Nicolet High School because the majority of our students will be attending Nicolet after they graduate from our middle school. Open enrollment students who graduate from our middle school have been prepared with the same rigorous curriculum, have developed close relationships with their peers and have had numerous experiences which have prepared them to have a successful high school career at Nicolet High School.

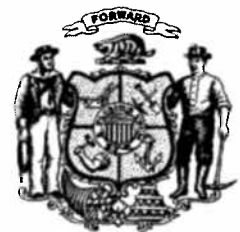
I ask that the committee support the change in the Open Enrollment statute that has been introduced by Senators Darling and Kedzie and cosponsored by Representatives Pasch, Nass and Townsend. The proposed change in the law will allow Open Enrollment students from K-8 districts which are affiliated with a union high school district to be given preference under the law for available Open Enrollment seats in the union high school district. The current law already gives preference to pupils and to siblings of pupils who are already attending a nonresident district in a random selection process. The change in the law would extend this preference in a random selection process to Open Enrollment students in a K-8 district who desire to continue their education in the affiliated union high school district. I believe that this change will be of great benefit to Open Enrollment students and their families and should be supported by the Committee on Education.

Sincerely,

Gary W. Petersen, Ed.D.
District Administrator
Fox Point-Bayside Schools



WISCONSIN STATE LEGISLATURE



Charlotte A. Price
5566 Cloverland Dr.
Eagle River, WI 54521

February 18, 2010

I am in favor of SB 468.

As a retired teacher, I wish that more information about Positive Behavior Interventions and Supports(PBIS), which is featured in this bill, had been available when I was teaching.

There was very limited parent involvement, therefore I did not have any information about any history of trauma, violence, or emotional turmoil in the students' lives that may have had an impact on their behavior.

I may have inadvertently intensified situations by using behavior control methods popular at the time and still being used today-"My way or the Highway!" Students escalate when teachers send them out of the room, to the office or other rooms for punishment. It becomes too easy just to send the students to the principal or give detentions for smaller and not very significant incidents. Students who receive the same treatment from more teachers, experience undue stress and frustration and we wonder why some kids just explode with emotion and anger.

We were never trained in college or given in-services on how to use Positive Behavior Interventions and Supports to actively teach replacement behaviors, to provide consistent corrective consequences, to be able to recognize early warning signs or triggers, or to implement successful intervention strategies that would have fostered healthy emotional development and interactions with others. I am sorry to say that it was easier to just get the kid out of the room which many times resulted in more inappropriate behaviors and then the fight was on. I am sorry to say that this is still happening in schools today.

I apologize to any students who are being emotionally and physically harmed by outdated and ineffective "behavior mod" techniques.

I also wish that my state teachers union would be fighting for this legislation to ensure that all teachers and students are safe in all schools.

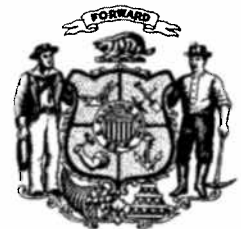
Wisconsin needs this legislation now ^{to make training mandatory.} It would provide schools, teachers, children and parents with more effective, research based tools and methods to use instead of seclusion and restraints, making for better and more productive school days.

Thank you for your support.

Charlotte A. Price



WISCONSIN STATE LEGISLATURE



Christini Stagge

SB 468?

2/18/10 –

I wish to speak in favor of this bill.

My son, Michael Stagge, has autism and is nonverbal. At the age of 20, his school placement was in a segregated “special needs” school, 45 minutes from home. I was strongly opposed to this placement, which had happened for the last 3 months of the previous school year.

This was not a place of learning for my son. There was a “quiet room” across the hall from his assigned classroom. A regular sized classroom that was used for “breaks”, There were some tables, chairs, a swing, and a mat on the floor /against a wall, with weighted blankets and pillows. The quiet room became home base for my son, as no teaching was going on, no attention paid. Staff did not know how/what to teach so they did nothing. I came to find that Mike was spending his day lying on the mat.

One afternoon, as I was expecting Mike’s bus I received a call from the school nurse. Mike had been “upset that afternoon, and after he had left school, they noticed blood in the quiet room, so I should check him when he got home.

I asked questions and received little information. Mike had been upset for the last hour or so, he was in the quiet room, by himself, yelling and crying. What actually happened? How was he hurt? They did not know. What started with one person outside of the door/in the hall, became 2 and then 3, but no one went in. I could not determine if he tried to leave and was prevented. No one would say. The door had just a narrow window, and the area where Mike would typically lay on the mat, he could not be seen from the hall.

When his bus arrived at school, they opened the door, told him it was time to leave. He dutifully got his belongings and left. When he arrived home, I entered the bus, and Mike was exhausted, looked at me and pointed to his head, I removed his knit hat to find a bloody gash at the crown of his head. I took Mike to urgent care where he received 7 stitches to close the wound.

The brief information that I received from the nurse that afternoon is all I would get. School would not talk about how, why this happened, the same from his home district, no accountability. The only additional information that I would come to hear – it was thought that Mike’s injury came from the chalk rail that runs the length of the area just above the mat and pillows. Some time later, they covered the chalk rail with padding.

I never wanted my son in this placement, fought against it and lost. I tried to have hope, that maybe it would be ok, that perhaps these people would see the neat kid that my son was, treat him with kindness and respect, and positively support him in his challenges.

I was not at the school that day, I don't know what upset Mike. During the time that he was alone in that room – was he injured early on and then yelling and crying, in need of assistance that never came? OR was an initial upset made worse by lack of attention to his needs, causing him to escalate and incur injury? I will never know.

I was not there at school to help Mike that day, not a part of what happened, and yet I live with such guilt and grief over what happened to him.

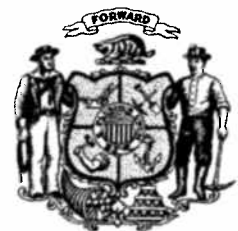
What could have been different? If this bill was in effect, staff would have been trained in positive behavior supports, there would have been thorough documentation of event, duration and the names of staff involved. My son's injury could have been prevented or if any injury occurred, it could be treated immediately and without delay.

I trusted that while at school, staff would pay attention to him, teach him, supervise him and keep him safe. That is their job, that is what is right to do. But people don't always do what is right, and sometimes just do what is easy. Doing what is right and in the best interest of a student, should be mandatory – should be the law. Please support Senate Bill 468.

Christine Stagge
7254 S. Hillendale Drive
Franklin, WI 53132



WISCONSIN STATE LEGISLATURE



SB 468?

Testimony regarding Restraint and Seclusion Hearing February 18, 2010

Good Morning:

My name is Grace Michaud , my husband is David Hiltunen. We would like to include this statement as testimony to encourage you to support the legislation to end the use of seclusion and restraint with our children. I hope to make my statement brief, but should you require additional documentation to support this testimony, I would be happy to provide copies of IEP's and Behavior Plans, as well as e-mail requests and suggestions and correspondence with school officials and The Department Of Public Instruction.

Our son was Niles Hiltunen. His photo and his story appears in the Out Of the Darkness Booklet. He has since passed away on May, 27 2009. We are here in hopes that other children do not have to experience this type of treatment especially in school.

We moved into the Florence District in 2004-05 school year. I had requested an Autism Consultant work with staff and training in Autism and directly with my son. Niles had some challenging behaviors that the teacher may have benefited from support of a consultant.

Our situation began toward the end of the school year of 2006. We had conflict with school officials after a staff member reported our son to the sheriff department for assault while she worked in the classroom. It was later learned that this staff member had not had the appropriate training to work with children like my son. As a result, discussions included if the Sheriff department might use handcuffs and the padded cell in the jail with my son. He had just turned 11 years old and attended the elementary school.

As I began advocating for my son and what was in his best interests, I met strong intimidation from the school. A 3 month child protective investigation was involved. During this time I asked Dr. Glenis Benson to call the Social Workers involved to explain Autism. Needless to say, I found this as deliberate intimidation and harassment that the School initiated and the County continued. At the end of the 3 months the allegations were dropped, yet the County had placed conditions on our use of the State Funds such as Family Support Funds and the Children's Waiver Program.

Niles was moved to the Middle School building during the 2006-07 school year and had a new teacher. He was 11 years old. His behaviors were still challenging and the autism consultants (Of Whom I would have Preferred not using) presented a behavior plan that indicated the use of a "Quiet Room".

As time went on, Niles behaviors did NOT improve; in fact they got worse.

Niles developed severe anxiety. He was terrified to walk through hallways, doorways, and where he used to enjoy going to the lake to swim; he was afraid to get out of the car. It was especially difficult to go long distances to doctor appointments because he would not get out of the car to use a toilet. He loved to go to fast food restaurants, now we needed to use only the drive-thru. He refused to go into the Sauna room in our home. At times Niles seemed to be terrorized to do

activities that had normally given him such happiness in the past. During the IEP Meetings and countless other meetings I opposed the use of the quiet room. The school refused to eliminate the use of the "Quiet Room".... Niles also began to become more and more violent. At school, which resulted in increased use of seclusion and increased the violent behavior which then came into his home environment.

Although I continued for years to oppose the use of this room in IEP Meetings; the school refused to stop this practice and the Autism Consultant continued to promote this line of behavior intervention. The Data reflected that we were not making progress but that Niles behaviors were becoming MORE Challenging. The Schools reaction was to ask me what they should do when Niles presented such "Bad" Behaviors..... I was getting very angry at the school because the Behavior Plan seemed to work from a Crisis situation backward.

One example of the misuse of the quiet room documented the quiet room being used because Niles did not want to take his boot off when he arrived in the morning. The data reflected that Niles spent 5 visits in the quiet room totaling 19 minutes within a 64 minute time frame. There are plenty of Data sheets that describe similar uses of the quiet room. My question had been where was such critical danger to himself or others for him wanting to keep his boots on?

We took Niles to various Psychiatrists in Madison, and a Psychologists at the Marshfield Clinic, as well as our Neurologist suggested revisiting the Behavior Intervention Plans.... Specifically they suggested looking more at antecedents to avoid the meltdowns in the first place. I brought all of these suggestions along with documentation from these specialist to the table at Meetings. I sent Web Site information that addressed seclusion and restraint not being an appropriate intervention and offering better alternative interventions. The information I forwarded was from The American Psychiatric Association along with other Psychiatric organizations that in fact offered Ideas for Reducing Seclusion and Restraint in Behavioral Health.

I really would like to emphasize that with all of my opposition to the use of this practice, I presented a sound argument WHY this was not acceptable. I was not just an Angry Mother.... I had evidence from a Large variety of Experts, Doctors, And a News Article from July 9 Wall Street Journal Called Isabel's Office, and information from the American Psychiatric Association... not to mention the fact that Niles behaviors were getting MORE Troublesome. As a parent, I can tell you it is quite frustrating to send your child to school to know that what they are doing to your child is actually harmful.

There was a short time within the school year where the regular teacher was on maternity leave. The Substitute teacher respected that I did not want Niles in the "Quiet Room". She did not use it as the regular teacher had. Niles behaviors were improving and less negative reports were being seen at home. When the regular teacher returned and the "quiet room" was used again, Niles behaviors were negative and challenging again. My relationship with his teacher was deteriorating. There was one conversation where she had insinuated that I was not giving Niles his medication. She wanted me to send it to school so she could be sure he was getting it correctly. This made me even more angry.

In the end of the school year of 2007-08, I refused to continue the IEP when I was

again met with the same Behavioral Intervention Plan that contained the "Quiet Room" . I asked the DRWI to help. On October of 2008, Mr. Mark Sweet observed Niles in his school environment and offered alternatives for the school to consider. Niles also had a new teacher. The use of the "Quiet Room" was discontinued and the Autism consultant was instructed to NOT work from the Crisis backward but to try to avoid the stress of the meltdown to begin with.

The new direction improved Niles behaviors. I am happy to say that in the last year of my Niles life, he was beginning to go swimming in the pool again and although he still had episodes of violent or challenging behavior, it had decreased.

January 2009, Niles had a seizure and was airlifted to Milwaukee Children's Hospital. He recovered and returned to school. May 24, 2009 Niles had another seizure and was given the same drug he had been given in January. He suffered then from an allergic reaction and stopped breathing along with V-Tach.

He suffered a Hypoxic Brain Injury that resulted in his Brain Death.

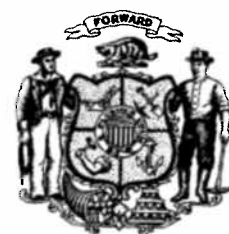
Niles Brain has been Donated to the Autism Tissue Program to study Autism and Epilepsy. He was an Organ, Eye, and Tissue Donor. Our Family has begun the Niles Hiltunen Memorial Family Support Fund and Benefit to support Families who continue live with Special Needs. This fund helps with respite for families along with other expenses families may have in supporting a person with Special Needs.

Niles life was significant. He has left quite a legacy. We see our testimony here to further the Legacy of his life. We became a part of this legislation when Niles was alive. It is very difficult to be here and speak, But we hope that our testimony will help support this legislation so that other families will be helped.

Thank You.



WISCONSIN STATE LEGISLATURE





ST. AEMILIAN-LAKESIDE, INC.
Advancing foster care, education and mental health services

8901 West Capitol Drive Milwaukee, WI 53222
414-463-1880 www.st-al.org

Testimony provided by Tim Grove, Director of the Division of Therapy Services

- St. Aemilian-Lakeside is a non-profit, non-sectarian human service organization, headquartered in Milwaukee, and providing foster care, education, and mental health services that serve over 2,000 children, families, and adults annually. We provide therapy services and teacher consultation in twelve school districts. We also operate an independent charter school, Capitol West Academy, and, through our subsidiary, Integrated Family Services, we provide ongoing case management and safety services for the Bureau of Milwaukee Child Welfare.
- My role is the Director of the Division of Therapy Services. I oversee our Residential Treatment program, our therapeutic school, and our two care coordination programs. I am the leader of our implementation of trauma informed care, providing training and case consultation to further our staff expertise, I am a certified Crisis Prevention Institute trainer and have lead our agency's trainers' group, and I am the liaison to Dr. Bruce Perry of the Child Trauma Academy in Houston. We have received extensive training and clinical consultation from Dr. Perry to assist us in our trauma informed work.
- The issue of reduction of seclusion and restraint is one we have devoted significant time, focused energy, and many staff resources to over the past three years. What started for us as a simple ad hoc committee to refresh our crisis intervention training has evolved into a transformative shift in our service delivery, across our entire organization. This shift has been created by developing our expertise in the philosophy and practice of trauma informed care. We serve children with significant mental health issues and behavioral challenges and it is evident that many of them have experienced trauma.
- The discussion of reduction of seclusion and restraint is a parallel process to the initiative within the mental health and human service provider arenas. In Wisconsin, St. Aemilian-Lakeside has been very invested in this reform initiative. I serve on the Department of Health Services' training and technical assistance committee on trauma informed care. Our staff have attended many state sponsored trainings on this topic and how it interfaces with trauma informed care. And we knew Angie Arndt, a precious and challenged little girl who lived with one of our dedicated treatment foster families. Angie died in a restraint and many of us are determined to never forget Angie and to ensure that her legacy is a commitment to the reduction of seclusion and restraint.
- And since we work in schools and school districts throughout southeastern Wisconsin and operate both an independent public charter school and a therapeutic school for residential treatment consumers and school district students, we can anticipate what this discussion and the ensuing process may bring for schools. Within our own services we have experienced (and likely will continue to experience) challenges just as schools will face, but despite these challenges, we have found the quest to reduce seclusion and restraint to be a worthy endeavor. The question that has faced those in our business, how do I deal with a child

whose behavior is escalating without seclusion or restraint? is a question that schools will encounter...and on a small scale, we believe we have found some answers.

- Specifically we have found that collaboration is the essential ingredient to the reduction of seclusion and restraint. All stakeholders need to be committed to coming together to tackle difficult issues, and to openly communicate what is happening, what is working, what needs to be changed...
- In schools these stakeholders include parents, teachers, students, and administrators... all with the belief that a reduction in seclusion and restraint practices is possible, is critical, is essential to create a safe and successful school environment that fosters student success and academic achievement.
- We have found success in using positive behavioral interventions and supports as well as trauma informed, sensory-based interventions. Our focus is on understanding the story of our children's lives. This requires a significant perspective shift to ask the "what has happened to you" question instead of "what is wrong with you" in order to design interventions with and for them that work. We have seen an increase in our use of creative strategies for behavior regulation and a reduction in the use of restraint. We have found that understanding brain development and neurodevelopmental profiles can help target individualized behavioral strategies that are effective. As we advance on this journey, we are accumulating quite a library of positive outcomes and success stories. Like Alex, and Joe, and Tobias, and many others...
- We acknowledge that the mental health, behavioral and developmental issues that present in the school setting are more complex and challenging than ever before and that we support the investment of time and resources into early intervention, giving front line teachers the skills and resources to form positive relationships with students, to deescalate effectively, and keep themselves, the student and his/her classmates safe.
- Our purpose today is not to purport to be experts in the reduction of seclusion and restraint but to share our story with the goal to attest to the healing and hope that can be created when you shine the light on the goal to reduce seclusion and restraint. For students, parents, teachers, and administrators this journey may be challenging but can ultimately produce the desired outcome. At St. Aemilian-Lakeside, within the scope of our organization's experience, the results have been transformative.
- Despite the difficult emotions and challenging discussions that the issue of reduction in seclusion and restraint can sometimes create, we believe that there is room for common ground which includes the sincere belief that the primary focus is what is best for all children.
- Thank you for the opportunity to share St. Aemilian-Lakeside's journey. We plan to be active participants in this important discussion in the months and years ahead.