

TESTIMONY
HOUSE EDUCATION COMMITTEE
1-18-2021
by John Porter, Special Education Director
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South Valley and Rural Cass Special Education Units

Chairman Owens and members of the committee:

My name is John Porter and I am the Special Education Director for the South Valley and Rural Cass Special Education Units in southeast North Dakota. I am here to provide testimony in opposition of House Bill 1318.

The topics of restraint and seclusion in schools can be very polarizing topics that have been discussed numerous times at the legislative level. However, all people will likely agree that the end goal is to ensure the safety and well-being of all people involved when crisis situations occur in North Dakota schools. In general, my opposition to the House Bill 1318 stems from a belief that legislation mandating North Dakota school districts to create policies is not the most effective means to change practices.

North Dakota school districts have access to sample policies provided by the North Dakota School Board Association. When districts in North Dakota have felt it is necessary to have policies related to restraint and seclusion, those districts have adopted such policies through their local school boards. These policies were adopted, as their local school board and administrators have deemed necessary, to ensure the safety and well-being of students and staff while supporting the continued goal of maintaining an effective learning environment for all students.

Beyond just philosophical, some areas of concern rest with the language included in House Bill 1318. Line nine on page one refers to pace behavior, this is not a term used by school districts, which will make it difficult to implement. The

definition of mechanical restraint as written on page one along with the language prohibiting its use on page two could be interpreted to limit school district's utilization of mechanical restraints such as car seats, which are used to transport preschool students with special education needs. This same language could also be interpreted to restrict the utilization of pieces of equipment used for mobility and transition purposes by occupational and physical therapists. Ensuring that the language in line 17 and 18 of page two is followed becomes very challenging for staff when there is a student who is in need of physical restraint but is attempting to spit at or bite staff members. The concern to see the student's face is likely to be sure staff can monitor their airway, which is already addressed in line 14 and 15. The language included in lines 19, 20 and 21 develops a requirement for annual training for school district personnel. The training topics mentioned in this section are all excellent topics that are relevant for schools. I am supportive of training being provided to school staff about these topics. However, I believe professional development topics are best left to local administrators and local leadership teams who know their school's needs. Additionally, to cover these topics adequately on an annual basis would require a substantial increase in professional development days added to many school district calendars and negotiated agreements. Adding days would come at a tremendous cost to the state.

The topic of restraint and seclusion in schools is not a new topic brought before the legislature. If the goal of House Bill 1318 is to ensure all school districts in North Dakota have a policy related to restraint seclusion, my suggestion would be to simplify this legislation by eliminating all the other language and to simply state: by June 30 of 2022 all school districts in North Dakota will have in effect a policy addressing restraint and seclusion in their school. This language would allow school districts to develop policies that align with their own operations and belief systems.

Perhaps the overall goal of House Bill 1318 is to change practices in schools, out of a concern for the safety and well being of students and staff in schools. If this is the case, my experience is this is best accomplished by working with school districts to implement research based best practices with professional development aligned to their local school district improvement plans.