



COMMONWEALTH OF VIRGINIA

Commission on Youth

Use of Restraint and Seclusion by Schools

October 20, 2014

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Study Mandate



- House Bill 1106 (Hope, 2014) directed the Commission on Youth (COY), in consultation with the Department of Education (DOE) and the Department of Behavioral Health and Developmental Services (DBHDS), to review:
 - statewide policies and regulations related to seclusion and restraint in public and private elementary and secondary schools; and
 - methods used in other states to reduce and eliminate the use of seclusion and restraint in public and private elementary and secondary schools.
- COY is to make recommendations and report its findings no later than the first day of the 2015 Regular Session of the General Assembly.

Identified Issues



- Seclusion and restraint refer to safety procedures in which a student is isolated from others (seclusion) or physically held (restraint) in response to serious problem behavior that places the student or others at risk of injury or harm.*
- There is no statute or regulation specifically governing the use of seclusion and restraint in Virginia's public schools.
 - In 2006, DOE issued *Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations in Virginia Public Schools Focusing on Physical Restraint and Seclusion*.
 - These Guidelines were updated in 2009 and a Superintendent's Memorandum requesting that all school divisions review these Guidelines was distributed to local school divisions. DOE encouraged school divisions to adopt its guidelines or develop policy regarding physical restraints and seclusion.
 - Virginia's reliance upon Guidelines means that there is discretion in handling incidents pertaining to the use of seclusion and restraint. The Guidelines recommend training for staff and notifying parents after restraint or seclusion has been utilized, but there is no enforcement of these provisions.

*Source: Virginia Department of Education. (2009). *Guidelines for the Development of Policies and Procedures for Managing Student Behaviors In Emergency Situations in Virginia Public Schools Focusing on Physical Restraint and Seclusion*.

Study Activities



- Interview impacted stakeholders (additional interviews)
 - Parents/Family Members
 - Educators
 - Advocacy Organizations
 - Autism National Committee Congressional Affairs Coordinator
 - Virginia Coalition for Students with Disabilities
 - Virginia Parent Teacher Association
 - Virginia Education Association
 - Virginia Association of School Superintendents
 - Virginia Association of Elementary School Principals
 - Virginia Association of Secondary School Principals
 - Virginia School Counselors Association
 - Virginia Middle School Association

COY Survey



- Sent to all school divisions on 7/25/14 via Superintendent's Memo
- Responses due 8/25/14
- Responses received from 99 divisions as of 9/12/14
- Major goals:
 - Determine which school divisions have policies and determine how closely those policies follow DOE's 2009 Guidelines
 - Determine what training programs, if any, divisions are using
 - Determine if divisions keep records of seclusion and restraint and attempt to establish a statewide count

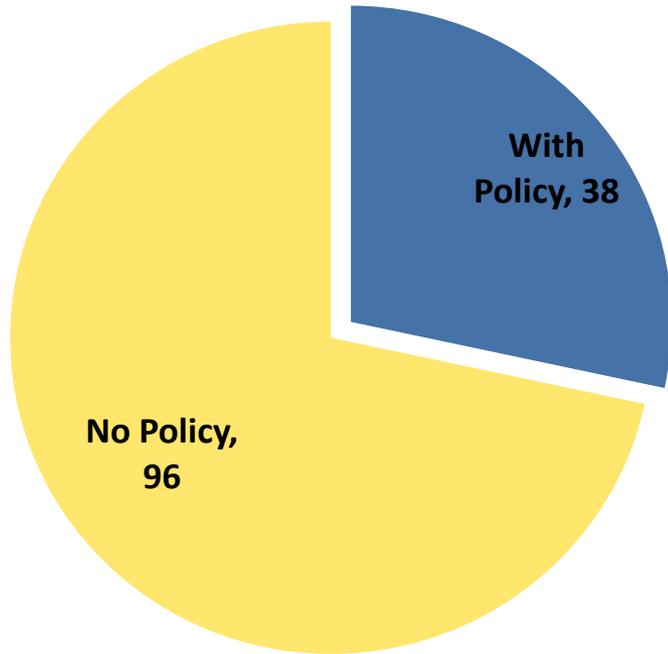
COY Survey (cont.)



- Survey submitted to 132 school divisions
- Since 9/16/14, 15 additional responses received
- Responses received from 114 school divisions
- Response rate of 86%



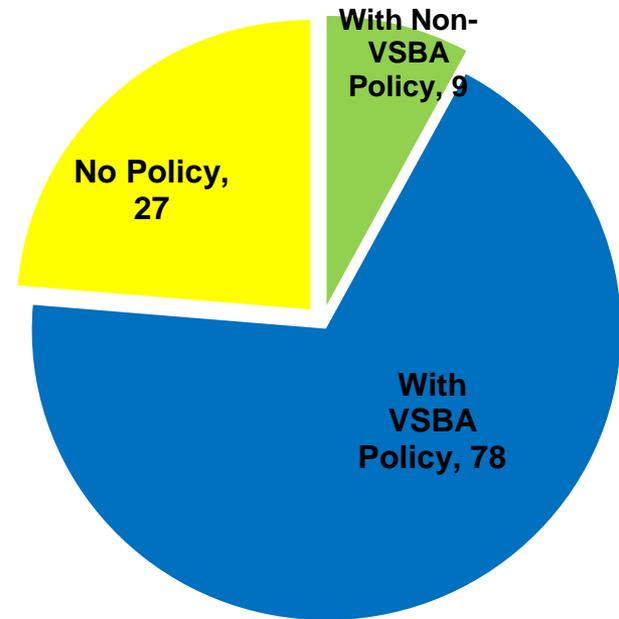
DOE 2009 Survey



■ With Policy

■ No Policy

COY 2014 Survey



■ With Non-VSBA Policy

■ With VSBA Policy

■ No Policy

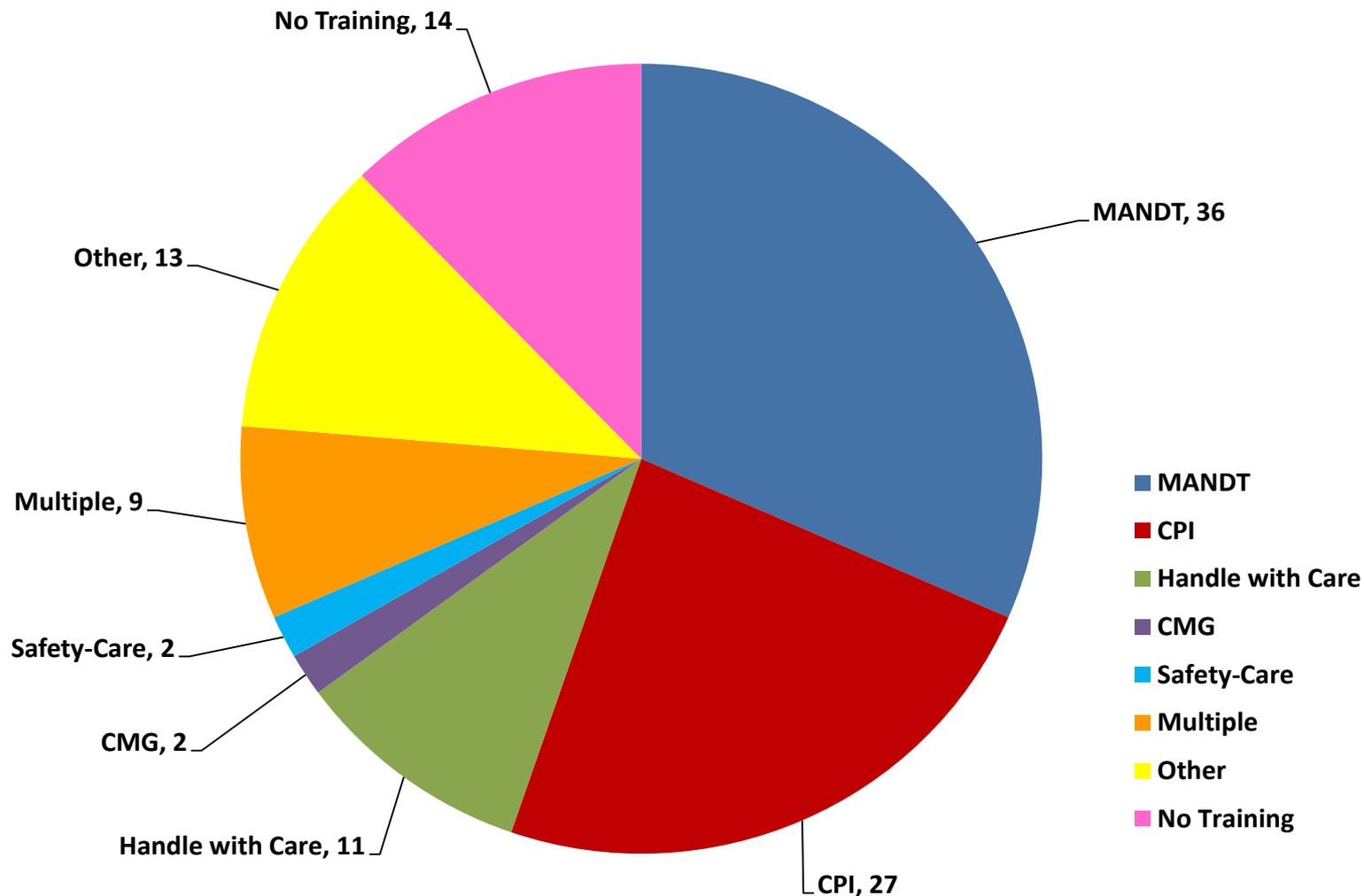


Restraint and Seclusion of Students (2010)

- Physical restraint, mechanical restraint, and seclusion may only be used by a staff member who has been trained in the proper use of the technique applied or device utilized and only to be used in the following circumstances:
 - as needed to protect an individual from his or her own actions;
 - as needed to protect others from injury by the restrained person;
 - as needed to quell a disturbance;
 - as needed to gain possession of weapons or other dangerous objects on the person or within the control of a student;
 - as needed for self-defense;
 - as needed to escort a student safely from one area to another;
 - as reasonably needed to prevent imminent destruction to school or another person's property;
 - when using seat belts or other safety restraints to secure a student during transportation;
 - to direct the movement or actions of a student to avoid the undue or deliberate disruption of the learning environment;
 - as authorized by the Code of Virginia, or
 - as authorized by a student's IEP, Section 504 plan or behavior intervention plan.
- School divisions are to notify parents within 15 school days of a restraint incident or a physical injury occurring in the seclusion room.
- The staff person is to make a record of information regarding its use including the date, time, duration, precipitating behavior, outcome and other pertinent observations.



De-escalation Training Programs Used



Federal Law Related to Seclusion & Restraint



- The Individuals with Disabilities Education Act (IDEA) guarantees a free appropriate public education (FAPE) to all eligible children with disabilities.
- IDEA requires that students be provided special education services in the least restrictive environment (LRE) and that students with an Individualized Educational Program (IEP) not be unnecessarily segregated from nondisabled students.
- IDEA requires that:
 - A child's IEP Team consider the child's behavior if it interferes with his or her education or the education of others.
 - If a child's behavior impairs the child's learning or that of others, the IEP team shall consider the use of positive behavioral interventions and supports.
 - If the team determines that the child's conduct was a manifestation of the disability, the IEP shall conduct a functional behavioral assessment, and implement a behavior intervention plan.
 - If a behavior intervention plan (BIP) already exists, the team must review and modify it to address the child's behavior.

Key Findings from Interviews – Parents & Stakeholders



- The majority of parents interviewed did not support eliminating the use of seclusion and restraint and felt that seclusion and restraint, when used appropriately, was frequently necessary to protect the safety of students and staff.
- However, there should be a minimum standard assuring that restraint or seclusion is used only when there is an emergency or threat of serious harm to the student or others.
- The use of seclusion and restraint has the potential to cause:
 - trauma to the student, particularly for a child with an intellectual or developmental disability;
 - confusion to the parents when they are not notified of its use and their non-verbal child is resisting attending school;
 - the increased likelihood of physical injury to the child when utilized by untrained and/or poorly trained school staff; and
 - an increased likelihood that the child’s right to FAPE in the LRE pursuant to IDEA will be impeded.

Key Findings from Interviews – Advocacy Organizations



- 19 states have laws providing meaningful protections against restraint and seclusion for all children; 32, for children with disabilities.
- 14 states by law limit restraint to imminent threats of physical danger for all children.
 - In 2013, Kansas approved a regulation limiting restraint/seclusion to threats of physical danger. “Violent action that is destructive of property” is included within this definition.
- In 20 states, schools must by law notify all parents of both restraint and seclusion; in 32, parents of students with disabilities.
- Of these, only 3 states’ parental notification deadlines exceed two school or business days.

Key Findings from Interviews – Advocacy Organizations & Parents



- Lack of requirements for continuous observation of students in seclusion
- Lack of minimum requirements for seclusion room (i.e., lighting, temperature, size)
- School staff may not know whether their school division has a policy, there is a need for generalized training for everyone, especially regarding the existence of a policy.
- Seclusion and restraint can hinder the therapeutic approaches espoused by applied behavior analysis (ABA), an evidence-based treatment for youth diagnosed with Autism.
- There is a need for training on requirements of IDEA and BIP.

Key Findings from Interviews – Education Representatives



- Schools are increasingly confronted with youth who exhibit challenging behaviors. The safety of students and school staff must take priority.
- Any guidelines should be consistent with Virginia’s corporal punishment statute and not delete protections for school staff that are contained in that statute.
- The majority of students attending Virginia’s public schools are in the general education population and do not receive special education services pursuant to IDEA.
- The facility specifications of a public school with campus-style architecture are very different from many private school settings. Differences between primary and secondary schools and these students’ emotional and physical developmental differences must also be considered.
- Schools lack the funding to train all school personnel in costly proprietary crisis intervention and de-escalation techniques.
- Any recommendation adopted by COY should not be a “one size fits all” approach.



- Finalize the *Proposed Regulations Governing the Operation of Private Day Schools for Students with Disabilities*
 1. Request that the Governor finalize Virginia's *Proposed Regulations Governing the Operation of Private Day Schools for Students with Disabilities*.



■ Regulate the Use of Seclusion and Restraint in Virginia's Public Schools

1. Introduce legislation requiring the Board of Education to promulgate regulations on the use of seclusion and restraint in Virginia's public schools. These regulations will be consistent with the 2009 DOE Guidelines and the U.S. DOE 15 Principles on Seclusion & Restraint and address definitions, criteria for use, restrictions for use, training, notification requirements, reporting, and follow-up procedures.

-or-

2. Request BOE promulgate regulations on the use of seclusion and restraint in Virginia's public schools. These regulations will be consistent with the 2009 DOE Guidelines and the U.S. DOE 15 Principles on Seclusion & Restraint. These regulations will address definitions, criteria for use, restrictions for use, training, notification requirements, reporting, and follow-up procedures.



■ Regulate the Use of Seclusion and Restraint in Virginia's Public Schools (cont.)

3. Introduce legislation for the Board of Education to establish guidelines and model policies for the use of seclusion and restraint in Virginia's public schools. The guidelines and model policies shall include definitions, criteria for use, restrictions for use, training, notification requirements, reporting, and follow-up. School boards shall adopt and revise policies on the use of seclusion and restraint consistent with, but may be more stringent than, the guidelines of the Board of Education.

-or-

4. Introduce legislation requiring local school boards to establish guidelines and model policies for the use of seclusion and restraint in Virginia's public schools.



■ Encourage Training Efforts

1. Support DCJS efforts in training appropriate parties, including School Resource Officers (SRO) and School Security Officers (SSO), in student development, de-escalation, and conflict mediation in the school setting.
2. Request DOE support local school divisions by providing resources and training on research-based appropriate behavioral management, prevention, de-escalation techniques to reduce the use of seclusion and restraint.