

**THE VIABILITY OF TRAINING STUDENT TEACHERS FOR THE
POSSIBILITY OF USING PHYSICAL RESTRAINT: AN INVESTIGATION OF
CARE, WELFARE SAFETY AND LIABILITY**

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Abstract

Ambulatory restraint is defined as any physical method of restricting an individual's freedom of movement, physical activity, or normal access to his or her body. There has been increased volume of restraints documented in public schools. This alerted the school of education at a midwestern university as to the possible need for crisis intervention training to become a required part of the licensure program. An examination of current best practices, current stances taken by professional organizations, legal perspectives on safety and liability, and an investigation of the of the trauma this might induce was undertaken, The decision was made that training would not be required for licensure or degree, but should still be made available to students as PD.

Keywords: restraint, crisis intervention, PBIS, trauma

The purpose of this paper is to describe the process a mid-sized, liberal arts education licensure program implemented to discern the viability of providing mandatory training for preservice teachers in the skills of crisis intervention that includes ambulatory restraint training for students who have become a threat to themselves or others. This is a pressing issue in licensure programs and as a faculty we felt that we needed to further educate ourselves as to the context of ambulatory restraint in schools, the legal implications, safety implications and the overall efficacy of training, or not training our candidates in these skills. In the past several years our candidates have experienced an increased frequency of aggressive, acting out behavior from the students they serve in their

field placements. Several times they were in the midst of physical interventions and were unaware and unprepared to react. The School of education saw this as a liability and began working towards writing a policy that addressed this evolving problem.

We will also address the difficulties in delivering said curriculum as well as strategies to combat and overcome white student resistance to this critical content.

Methods

As a faculty we identified four broad areas of investigation. These were the historical context of restraints in school, the legal implications of either training our candidates in these skills or forbidding them from participating in physical restraints, the impact of trauma research in regard to physical restraints on children for both the children and candidates, and finally, the current “best practice” for physical restraints as well as the perspectives of current administrators in the field and their perspectives of the legal and liability related issues of training candidates in how to physically restrain students. The purpose of these investigations was to provide us with current data on maintaining the care, welfare and safety and security of both the children our candidates were teaching as well as the candidates themselves. Each of the three faculty members tasked with this investigation took a portion of the research. The experts chosen to provide their personal correspondence on these issues were chosen because each were veterans in education both with over 30 years in the field and direct knowledge and experience with the issue of physical restraint and the liability and safety issues involved in candidates participating in physical restraints while in their student teaching experience. After each faculty member collected data, and completed the interviews we met to consolidate our data and attempt to form a policy regarding physical restraint training and participation of

candidates in physical restraint events in the schools they were completing their student teaching experience in. For the purpose of clarity “students” will refer to the P-12 students in schools and “candidates” will refer to student teachers in the licensure program.

Historical Perspective

Ambulatory restraint is any physical method of restricting an individual’s freedom of movement, physical activity, or normal access to his or her body (International Society of Psychiatric and Mental Health Nurses, 1999). In the early 1900’s ambulatory restraint was an intervention more common to a psychiatric hospital than a school. During the second half of the 20th century the inclusion movement embraced a behaviorally diverse population and the consideration of physical restraint became more commonplace (Simonsen, Britton, & Young, 2010). In a 21st century study by French and Wojcicki (2017), a school district documented the number of physical restraints that took place in the district within a five-year period. During that period there were 1,012 incidents that required physical interventions of which 34% were due to severe aggression towards another person (danger to another person), 4% were prompted by the student engaging in self-injurious behavior (danger to self), and 62% were due to a combination of both aggression and self-injurious behaviors. While there was clearly a need to understand and learn how to effectively manage students with these behaviors, the faculty in the School of Education needed more information before incorporating crisis intervention training with ambulatory restraints as a requirement for teacher licensure and degree. There were throughout the School varying opinions about the appropriateness of training preservice teachers in any form of crisis intervention that involved restraint. This article presents the

field research and the professional debate engaged in by our School of Education to vet information obtained from research, positions of professional organization, educational law, and the testimony of educational professionals on crisis prevention intervention training for preservice teachers. Any worthy debate on the ramifications of crisis intervention that involves restraint must also factor in the consideration of trauma informed care for all involved and the liability of training preservice teachers who may not have the contextual knowledge of the school, the children, and the management system in the individual schools in which they might student teach.

Organizational and Legal Positions on Restraint

In 2017, the 34th Session of United Nations on Human Rights Report required the unconditional application of the principle of non-discrimination concerning persons with disabilities so that no additional qualifiers justify the restriction of human rights (p. 7). Human rights violations incorporate the deprivation of liberty based on the individual person's state of impairment in conjunction with an alleged danger to themselves or to others. The United Nations report highlights articles 15, 16, and 17 of the Convention of the Rights of Persons with Disabilities that reinforced "the abolition of all involuntary treatment" (p. 9) and demanded the elimination of restraints.

In the Hearing before the Committee on Education and Labor, U.S. House of Representatives One Hundred Eleventh Session held in Washington, DC on May 19, 2009, on the Examining the Abusive and Deadly Use of Seclusion and Restraint, the Council for Children with Behavioral Disorder (CCBD) and TASH both submitted position summaries. CCBD recommended, "Physical restraint or seclusion procedures should be used in school settings only when the physical safety of the student or others is

in immediate danger...neither restraints nor seclusion should be used as punishment.”

“Restraints are considered emergency procedures not treatment procedures.” (2009, p. 23) TASH, an international leader in the advancement of inclusion communities for individuals with disabilities, confirmed this position in their prepared statement for the hearing. TASH stated that schools that incorporate the anticipation of restraint into the behavior plan for individuals with disabilities are in essence substituting restraint for the use of positive programming to effect behavior change. When programming proposes staff training in restraint skills this, according to TASH, is a “failed panacea,” a treatment failure. TASH considers that “solutions” based on training school personnel in the use of restraint are at the onset a failed “stratagem.” (2009, p. 82) TASH concludes:

The most responsible restraint trainers are now careful to warn that there is no such thing as a safe restraint. The prevailing reductionist approach of many violence-management training programs, which emphasize the interpersonal skills of de-escalation and restraint is to locate the problem within a faulty paradigm...defining the problem solely as an issue of staff skill may actually increase incidents and reinforce the prevailing blame and power culture so prevalent in many agencies. A child restrained in the classroom may come to fear and avoid not only the so-called target behavior but also the classroom itself, the teacher, the school and the learning process in general. (TASH, 2009, p. 83)

Sasha Pudelski (2012), Government Affairs Manager and spokesperson for the American Association of School Administrators (AASA), in a position statement “Keeping Schools Safe: How Seclusion and Restraint Protects Students School Personnel” presented a very different picture. The American Association of School

Administrators opposed prohibition of restraint and stated that this procedure “enabled many students with serious emotional or behavioral conditions to be educated not only within our public schools, but also in the least restrictive and safest environments possible” (p. 1). The AASA position apologized for the “unfortunate reality” that “sometimes intentionally” hurts children enduring restraints. They conclude that the infliction of harm occurs with inappropriate use of restraint and is the exception not the rule. For this reason, the AASA does not support the federal prohibition of the use of restraint incorporated into the Individualized Education Plan. In this posture, if the IEP team agrees the use of restraint will allow the student to remain in their Least Restrictive Environment (education at a maximization with all children in the school) prohibiting this intervention runs counter to the entire purpose of the Individuals with Disabilities Education Act (IDEA).

AASA warns that the prohibition of restraints for all students (students with disability and the general education student) is dangerous. For example, restraint can be an appropriate intervention for students with no history of behavior misconduct in the event of a fight. Students “engaged in physical aggression do not typically de-escalate through the use of the words “calm down and come with me” (p. 5). This position of the AASA is in opposition to the position of TASH and CCBD where restraint is justified only when there is a risk of a student inflicting serious bodily injury on himself or another student.

Courts have concluded that a broken nose does not constitute serious bodily injury nor does pain or discomfort ...rated at seven on a scale of one to ten.

Serious bodily injury is limited to the pain of the type one would feel if losing a limb or suffering a near death injury. (Pudelski, 2012, p. 6)

On December 16, 2011 the “Keeping all children safe act” was proposed to 112th session of Congress. The bill promoted effective interventions practices that did not involve restraint and denounced aversive behavior interventions that included restraint. Unique to this bill was the request to prohibit physical restraint if contraindicated by the student’s health care needs, disability, medical management plan, behavior intervention plan, IEP, IFSP or a plan made under section 504 of the Rehabilitation Act of 1973. The Act lays dormant in Congress and to date no other Act has fully addressed restraint.

The Council for Exceptional Children (CEC) position on restraints presents in their publication entitled *Physical Restraint and Seclusion in Schools* by Peterson, Ryan, & Rozalski (2013). Even though children with disabilities are the recipient of restraint more often than other children and youth, concerns about the use of physical restraint apply to all children. The CEC questions if crisis intervention training in the use of ambulatory restraint sufficiently encompasses effective decision making in managing challenging behavior and elements of swift decision making about “whether precipitating conditions meet threshold criteria for an emergency.” The concern is whether those with only crisis management training are able to determine the levels of imminent physical danger or capable of making sound decisions in a crisis. The contention is that “a deep understanding of and experience with challenging behaviors...only comes with extensive professional training and supervised practice” (p. 47). The lack of extensive and sophisticated training in techniques effective in mediating challenging behaviors such as functional analysis, token systems, or self-management interventions leads to ineffective

practices that “set the stage for challenging behaviors that result in restraint or seclusion” (p. 47). The final word in CEC’s 2009 Policy on Physical Restraint and Seclusion Procedures in School Settings stated physical restraint should be used only when the physical safety of the child or others are in danger. Restraint should not be used to force compliance or as a punishment.

According to the Council for Children with Behavior Disorders (CCBD), physical restraint procedures are rarely justified and only when administered by trained personnel (Peterson et al., 2013). Considerations for training include certificates, annual training updates, positive behavior support, conflict de-escalation and evaluation of risks. In preparation for crisis intervention staff should be aware of all medications and how restraint might affect wellbeing. Training “should include multiple methods of measuring a student’s wellbeing” (Peterson et al., 2013, p. 167). First Aid and CPR training, as well as use of an oximeter or defibrillator, should be part of training for anyone involved in restraint procedures. CCBD states that restraint may be appropriate when a student’s action is a physical danger to self and others and least restrictive measures have not de-escalated the risk of injury. The restraint when undertaken should last no longer than needed to resolve the risk of harm. The degree of force used in a restraint is the minimal force needed to protect the student or others from “imminent bodily injury” (Peterson et al., 2013 p. 168).

The Ohio Department of Education Policy on Positive Behavior and Support and Restraint and Seclusion adopted by the Ohio State Board of Education on January 15, 2013, presented a statewide policy that applied to all school districts regarding positive behavior intervention and supports, and the limited use of restraint and seclusion. The

policy stated schools should use non-aversive behavioral interventions such as Positive Behavioral Intervention and Supports (PBIS) in order to prevent the use of restraint. PBIS should facilitate a learning environment that is evidence based for behavioral interventions, thus enhancing academic and social behavioral outcomes for all students. According to the Ohio Department of Education, every school district must establish written policies that inform the use of emergency interventions such as physical restraint and prohibit all practices that present any form of immediate risk of physical harm. In order to protect the “care, welfare, dignity, and safety of the students” only trained staff should implement restraint procedures. Trained staff must continually observe the student in restraint for indications of physical or mental distress and seek immediate assistance from medical personnel if necessary. Staff must also be versed in research-based de-escalation and de-briefing techniques. Noted the state mandated that repeated dangerous behaviors that precipitate restraint must flag the need for a functional behavior assessment followed by a functional behavior plan based on PBIS. The State of Ohio charged the school districts to make sure an “adequate” number of school personnel received training in crisis management and de-escalation techniques. Noteworthy for our discussion on student teacher training in crisis prevention intervention is the Ohio Department of Education definition of student personnel as teachers, principals, counselors, social workers, school resource officers, teacher’s aides, psychologists, or other school district staff who interact directly with students.

Under the Codes of Ohio for Schools, Chapter 3301-35 Standards for Kindergarten through Twelfth Grade, the definition of school personnel is presented as encompassing specially qualified individuals who possess the knowledge, skills and

expertise to support the educational, instructional, health, mental health and college and career readiness needs for all students. Educational service personnel also include those that support the learning of students with special need and include, but are not limited to gifted intervention specialists, adapted physical education teacher, audiologist, interpreter, speech-language pathologists, physical and occupational therapists and English as a second language specialist. Note that at no time are student teachers included in this definition of educational personnel who, with training, might be eligible to implement crisis intervention.

Under the code of Ohio 3301-35-15, The Standards for the Implementation of Positive Behavior Intervention Supports and the Use of Restraint and Seclusion only school personnel trained in safe restraint technique should implement restraints except in the rare and unavoidable emergency when trained personnel are not immediately available. Both a current principal of an autism unit in the Midwest (AT, personal correspondence, 2019) and a former principal of an elementary school (LAP, personal correspondence, 2019) currently employed as faculty Midwestern university emphatically stated that student teachers are visitors and at no time should they be considered school personnel. Both correspondents were very firm in this position. This position reflects their fear of the legal ramifications of student intervention, the lack of student experience to judge the situation, and potential trauma to both student and student teacher. However, the position of field experts stated that exceptions might apply for the unenviable situation where not doing something, even by a student teacher, is not a safe or prudent choice.

Impact of Trauma Research on Decision

Trauma in early childhood has a dramatic effect on the child's development (McConnico, Boynton-Jarrett, Bailey, & Nandi, 2016). Traumatic experiences vary by the individual's perceptions of the traumatic event(s), but the impact can be sustaining and have long lasting ramifications and can actually change a child's physiology (DeBellis & Zisk, 2014). What is the risk of training, or participation in a "restraint even," causing trauma to students in the field?

A neurological study conducted on individuals in the vicinity New York City during the events of September 11, 2001, found that their brains' threat detection system was significantly over-active five years after the traumatic events of the day (Ganzel, Casey, Glover, Voss, & Temple, 2007). Ganzel et al. suggest that these individuals were "permanently retuned" to harm. If this "retuning" occurs, how are children impacted by traumatic events? According to the Center for Disease Control (CDC), one in four children are the victims of maltreatment (Tello, 2019). Perry's 2006 research supports Ganzel's et al. study suggesting traumatized children's normal state of arousal is "reprogrammed" to alert to danger even when no danger is present. These children are less trusting of the adults in their environment and do not see them as a means of support. Brain-based stress response systems of these children permanently change as they focus their attention on safety rather than intellectual pursuits (Bath, 2008). There are two primary types of trauma: acute and complex. Acute trauma comes from a single significant event while complex trauma is ongoing trauma typically induced by a parent (Bath, 2008).

Infant, toddler, and preschool victims of child abuse and neglect experience a disproportionate amount of abuse, and the resulting toxic stress during this rapid formative stage is more damaging than it is in later years (Fredrickson, 2019). For children whose exposure to complex traumatic events at an early developmental level is persistent, the developmental impact tends to be more pervasive (Bath, 2008). Given the prevalence of the children with traumatic histories, educators are trying to meet the needs of these children within the school community. According to Tello (2019), trauma informed care are practices that promote a culture of safety, empowerment, and healing. Promoting healing comes from creating an atmosphere of safety - a core developmental need. The creation of an environment where children have some level of control when it is possible enables them to begin to feel empowered; however, how are schools to keep these children and others safe when traumatized children often exhibit aggressive, violent behaviors. Due to these children's pervasive distrust of adults, creating an environment of safety becomes more challenging.

True healing comes from helping the child learn to feel empowered and healing a child's inner pain while not re-traumatizing them in the process (Bath, 2008). (a) How does the use of physical restraints influence the student-teacher relationship and their ability to work together for the betterment of the learner? (b) Does the use of restraints provide an irreparable wedge into the student-teacher relationship? (c) How does the use of restraint affect both participants? According to Souers (2017), when students are operating under stress, they are unable to access the higher functioning levels of their brains and are operating in fight, flight, or freeze mentality. When students are dysregulated, they are not learning-ready (Souers, 2017).

A goal of an educator is to avoid trauma inducing behaviors that might further impair a student's ability to access and to benefit from their education. Is there a legitimate need to train and prepare our preservice teacher candidates to participate in restraints given the trauma risks involve?

Crisis Intervention: Importance of Care, Welfare Safety of Students and Staff

There are several considerations when creating a policy that addresses the liability and viability of training preservice teachers in physical crisis intervention techniques. These considerations include the concern for safety of all individuals involved, understanding the law and current research concerning crisis intervention as well as the liability and responsibility involved in these situations. The following scenario and questions help focus attention on the critical elements of safety and welfare of students and staff engaged in a crisis intervention.

In the scenario, a candidate (student teacher) from a small Midwestern licensure program is completing her field placement in a large elementary school in a surrounding suburb. During her typical day, she is required to monitor the cafeteria during breakfast and lunch. Her cooperating teacher uses this time to complete work back in the classroom though this is technically her time to supervise. The candidate is very capable, and the cooperating teacher feels confident that the student can supervise as well as she could. During breakfast, the student teacher was in the cafeteria when she witnessed two boys arguing as they came into the building. The boys put their backpacks down at the table and went towards the cafeteria line. They raced to be first. The boy who got there first began taunting the other boy who was clearly upset that he was last in line and had to wait longer for his food. He began pushing the boy who got there first. The other boy

pushed back and soon the two boys were fighting. It was clear to the student teacher that one of the two boys would be hurt if this continued. She was the only adult in the cafeteria at the time. She went over to the two boys to break them apart. As she raised her voice, she grabbed the boy who appeared to be the aggressor in a basket hold as she was trained in her crisis intervention training. She held on tight until the boy calmed himself and was able to control himself. She then documented the incident per school policy. In the documentation, the student teacher recorded that the boy restrained had deep bruising on the arms and wrists from the restraints. The following questions develop from the scenario:

1. Who is responsible for this restraint?
2. Who is liable for the injury?
3. What does the law state about liability in this type of situation?
4. What is “best practice” in field placement situations like this?
5. What is the liability of the licensure program and of the student who did the restraint?

The overriding concern and focus should always be on the care, welfare safety and security of all students and staff involved in physical restraint events. Therefore, it is prudent to discourage or even preclude participation of candidates in restraint events while in the field especially if they are untrained in dealing with these types of behaviors. However, safety and liability are two different subjects. It is clear that the liability of events such as described in our scenario is with the supervising teacher and the school district.

The *Ohio Revised Code 5122-26-16 Seclusion, Restraint and Time Out* states that restraint or seclusion is only appropriate in response to a crisis where there is imminent danger for students or staff. It also states that these techniques require response “pro re

nata” or as the situation demands. Also, the revised code states that only “qualified people” defined as “employees or volunteers who carry out the agency’s tasks under the agency’s administration/supervision are qualified to utilize or participate in the use of seclusion or restraint by virtue of the following: education, training, experience, competence, registration, certification, or applicable licensure law or regulation. Yet, it is also prudent and necessary for the licensure program institution to assist candidates in processing events such as those presented in the scenario. Training in the de-escalation and proactive management strategies within the context of a rich and fully developed Positive Behavioral Intervention Supports model would also assist student teachers in understanding and contextualizing these types of events. This training prior to field placement might be the best way to ensure the care, welfare, safety and security of both the student teachers as well as the students in the classroom while at the same time provide the necessary contextual understanding necessary for rich reflection on these types of events.

Dave Tobergte, Ed.D., veteran administrator and professor in educational leadership, has advised several programs and school districts in southern Ohio as to the risks and considerations of dealing effectively and safely with physical crisis interventions. Dave observed that while legal liability and responsibility may rest with the supervising teacher and district there is still a responsibility of student teachers to begin viewing themselves as professionals who understand and can respond adequately and safely to events requiring possible restraints. Likewise, he feels that school administrators would be “foolish not to assume that a visiting candidate might be put into a situation requiring action of some kind even possible physical restraint.” As such,

training prior to entering the building would be preferable. Tobergte also makes the point that schools and even student teachers are under the check of “in loco parentis.” In loco parentis is a legal doctrine holding that educator assumes custody of students in school because they are deprived of protection from their parents or guardians. Educators stand in loco parentis, in place of the parent. Tobergte (personal correspondence, 2019) stated:

While the law states that the liability and responsibility lie with the supervising teacher and district the care, welfare and safety as well as the civil ramifications need to be taken into consideration. Negligence is still a primary consideration and not responding to a dangerous situation could be seen as negligent and therefore subject to civil lawsuits. Not to mention unsafe. In terms of the story you tell (at the beginning of this section) if the student teacher chose to do nothing and the student who was the aggressor pushed down the other student, he hit his head on the floor and died. That student teacher may not be *legally* liable but would certainly be *civilly* liable. More importantly, under the premise of in loco parentis - protecting the care, welfare safety and security of all students is required. Therefore, doing nothing may not be the safest or most ethical choice. Even if the student teacher intervenes and ends up hurting the student it is far less likely negligence would be found. It is my professional opinion that training prior to placement should be at least considered, if not required. (Tobergte, 2019)

Many believe that safety for all is best attained through training preservice teachers for the possibility of dealing with severe acting out or violent behaviors by students. This type of training would assist professors, and field supervisors, help the students in the processing of events like the one described at the beginning of this article.

John Concannon, Esq. is a 30-year veteran of school law and served as the district council for a large Midwestern city school district for over 30 years agrees with Tobergte. Concannon states (personal correspondence, 2019):

Training student teachers as to the nature and needs of students requiring physical restraint, teaching them de-escalation techniques and strategies, aligning these skill sets within a Positive Behavioral Intervention Support Model is, in my mind, an essential and necessary skill set that must be taught initially in the licensure program. The minute those student teachers enter a building they could be required to participate in any number of events that all school personnel might be required to undertake. It is the licensure programs responsibility, with the cooperating teacher and school leadership, to make sure they are prepared for that possible event. However, a licensure program servicing student teachers must also weigh the safety and liability risk of allowing student teachers to participate in physical interventions if for no other reason than their responsibility of in loco parentis not to mention the risk of a student teacher not understanding the context of situation or not knowing the child and their needs because they are only temporarily in the building. It is not at all a black and white decision. (Concannon, 2019)

Likewise, Thomas Knestrict, Ed.D., a certified Crisis Prevention trainer for 25 years, states (personal correspondence, 2019):

Professionals must walk a very thin line. On the one side, if they choose not to physically intervene and because they did nothing a child is hurt or dies, they are liable. On the other side, if they physically intervene and hurt the child, they are

liable. The safest and most prudent course of action is to train all personnel, teachers, teacher assistants, administrators and even student teachers, to know how to safely physically restrain a student to ensure their care, welfare safety and security just in case. Then, if they find themselves in a situation where they must react, they can safely do so. (Knestrict, 2019)

Conclusion – Decision

When this process started, there was much to learn regarding the current thinking about physical restraints. In general, field placement supervisors assumed that the most prudent option would not permit student teachers to engage in a physical restraint while serving in the field. However, after speaking to some experts, this decision is now in the process of reevaluation. The School of Education has not reached an agreement as to what is most judicious when granting candidates permission to participate in physical interventions. Many in our School agree that we should train preservice teachers in the skills of de-escalation, personal safety techniques, and documentation skills. However, we cannot come to a consensus and still embrace differing opinions regarding training our students to use ambulatory restraints. More importantly, schools, and lawyers, are split on these issues. Given the burgeoning information on trauma and trauma informed practices, we are inclined to study this issue further.

The care, welfare, and safety of students and staff should be a primary focus of any licensure program. Training students in skills of de-escalation and personal safety techniques but discouraging participation in physical interventions except when necessary is a safe and prudent concept to teach all preservice teachers. Coaching these skills within the proven viability of a Positive Behavioral Intervention and Supports

(PBIS) framework is also an effective means of communicating the location of these skills. The existing gray areas of safety, liability, and appropriateness of student's participation in ambulatory restraints is a set of issues not yet definitively settled in either the legal or educational discourse. Our School of Education will offer workshop options in crisis intervention as well as PBIS and trauma informed practices to offer a variety of experiences for students but will not, as of yet, *require* the training for students in our initial licensure program.

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