

Addressing Violent Restraint of Texas Students

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What Is the Problem?

Texas students with disabilities are increasingly subject to injuries, and even death, because of over reliance on physical restraints. State-collected data reveal that restraints happen tens of thousands of times each school year. While annual numbers fluctuate, for the most recent school year for which data are available, Texas school districts and charter schools self-reported 22,643 episodes of school staff physically restraining students.¹ A recent examination of Texas data revealed that nine times out of ten, a school restraint is of a student with a disability.² Too many of these restraints have ended with the student suffering emotional trauma from the incident. Students have received physical injuries as well. In the most extreme case, a Texas student's death was connected to a restraint on campus.³ These situations of harm are only coming to light through a growing number of media reports. Families coming forward, law enforcement getting involved, and a rare criminal trial have all brought the spotlight on a serious problem hidden from view.⁴ On January 30, 2023, victims of school restraints gone wrong gathered at the Texas Capitol to speak out and bring attention to the problem.⁵

Who Is Suffering?

For the most recent school year for which data are available, Texas school districts and charter schools reported providing 635,097 students with disabilities with special education services.⁶ While not all students with disabilities are subject to a restraint, there are other students with disabilities who are subjected to multiple restraints. In particular, students with disabilities that

¹ Under the Texas Administrative Code, Texas school districts and charter schools must submit data on restraint incidents to the Texas Education Agency. 19 Tex. Admin. Code 89.1053(k).

² Disability Rights Texas, *Harmful Restraint of Students with Disabilities in Texas Schools: An Investigative Report from Disability Rights Texas* (2020), <https://disabilityrightstx.org/wp-content/uploads/2020/12/DRTx-Restraint-Report-FINAL-Dec-7-2020-2.pdf>.

³ Autism Society of Texas, Statement on Xavier Hernandez (Aug. 13, 2021), <https://www.texasautismsociety.org/statement-on-xavier-hernandez/> (last visited Jan. 27, 2023).

⁴ Disability Rights Texas, Statement on Groups Call for improved Laws to Protect Special Education Students (Oct. 24, 2022), <https://disabilityrightstx.org/en/news/groups-call-for-improved-laws-to-protect-special-education-students/> (last visited Jan. 27, 2023).

⁵ Disability Rights Texas, Statement on Texas Parents Ask Lawmakers to Take Action to End Harmful Student Restraint (Jan. 25, 2023), https://disabilityrightstx.org/en/press_release/end-harmful-student-restraint/ (last visited Jan. 27, 2023).

⁶ Texas Education Agency, PEIMS Standard Report, <https://tea.texas.gov/reports-and-data/student-data/standard-reports/peims-standard-reports> (last visited Jan. 27, 2023).

are confined to segregated settings for their special education services seem particularly vulnerable to physical restraints. In Texas, for the most recent school year for which data are available, 16 percent of black students with disabilities received their special education services in self-contained classrooms.⁷ In contrast, 12 percent of white students with disabilities in Texas received their special education services in self-contained classrooms.⁸ Perhaps it is no surprise then that in Texas districts and charters restraints were used disproportionately on black students.⁹ On January 30, 2023, advocates called a press conference at the Texas Capitol to recount examples of illegal and violent restraint stories from across Texas.¹⁰

What Can Be Done?

Both the U.S. Department of Education and the Texas Education Agency have released policy guidance to public schools to promote positive behavioral interventions, de-escalation techniques, and avoidance of dangerous techniques.¹¹ National organizations have promoted reform of restraint procedures.¹² In Texas, advocates and advisory groups have articulated a number of measures that the Texas Legislature and the Texas Education Agency should embrace.¹³ On January 30, 2023, a press conference at the Texas Capitol included lawmakers' reaction to recommendations to address violent restraints.

- Improved independent investigations by the Department of Family and Protective Services (DFPS) of alleged abuse in public schools.
 - Modify the Texas Family Code definition of the term “abuse” to clarify that DFPS may make a finding of abuse when a teacher or aide uses restraint or seclusion

⁷ U.S. Dep’t of Educ., IDEA Section 618 Data Products Static Tables, Part B Child Count and Educational Environments, Table 19 Number and percent of students in race/ethnicity category ages 6 through 21 with disabilities served under IDEA, Part B, by educational environment and state. 2020-2021, <https://data.ed.gov/dataset/idea-section-618-data-products-static-tables-part-b-count-environment-tables19/resources> (last visited Jan. 27, 2023).

⁸ Ibid.

⁹ U.S. Dep’t of Educ., Civil Rights Data Collection, 2017-18 State and National Estimations, Restraint and Seclusion Estimations, Physical Restraint IDEA/NonIDEA, <https://ocrdata.ed.gov/estimations/2017-2018> (last visited Jan. 27, 2023).

¹⁰ Live and archived video can be viewed on the Texas Legislature Online website, <https://house.texas.gov/video-audio/press-conference/>.

¹¹ U.S. Dep’t of Educ., *Restraint and Seclusion: Resource Document* (2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited Jan. 27, 2023). Tex. Educ. Agency, *Technical Assistance: Behavior Support and Guidance for Students with Disabilities* (2022), <https://tea.texas.gov/sites/default/files/behavior-guide-2022.pdf> (last visited Jan. 27, 2023).

¹² For example, see National Disability Rights Network, *Restraint and Seclusion Federal Policy Update, 2022*, <https://www.ndrn.org/wp-content/uploads/2022/02/Restraint-and-Seclusion-White-Paper-AC-020222.pdf> (last visited Jan. 27, 2023).

¹³ For example, the Texas Continuing Advisory Committee for Special Education has recommended that the state’s Do Not Hire Registry be expanded to include school personnel that abuse students with disabilities. Special Education Continuing Advisory Committee, *Special Education Policy Recommendations for the 88th Texas Legislative Session, 2023*, <https://tea.texas.gov/sites/default/files/cac-sped-policy-recommendations-2022.pdf> (last visited Jan. 27, 2023).

in a manner that is not in compliance with federal and state laws and regulations.

- Heightened accountability for school staff that engage in violent and harmful treatment of students with disabilities.
 - Expand state’s Education Do Not Hire Registry to include school staff who are terminated or resign because of illegal confinement, seclusion, and aversive techniques.
 - Reform use of force standard in Texas Penal Code.
- Better utilization of video surveillance in classrooms with vulnerable students with disabilities.
 - Inform parents of their rights for video surveillance of special education classrooms.
 - Lengthen video retention period by districts and charters.
 - Ease parental access to view recordings when suspected abuse.
 - Provide funding to districts and charters to operate cameras.
- Tighter state regulation of dangerous restraint practices in schools.
 - Ban utilization of prone and supine restraints.
- Greater investment in proactive and positive behavioral interventions, services, and supports in schools.
 - Require state’s Education Service Centers to provide school staff training to interact appropriately and safely with students with disabilities.
 - Enable Education Service Centers to provide direct behavioral support services to students to supplement the work of districts and charters to minimize the risk of restraints.

How Can I Learn More?

The following organizations have engaged in this issue over time and continue to inform and educate community leaders about this problem and solutions.

The **Arc of Texas** promotes, protects, and advocates for the human rights and self-determination of Texans with intellectual and developmental disabilities. Follow The Arc of Texas on Twitter, Facebook, and Instagram, and learn more at thearcoftexas.org.

Autism Society of Texas works to support individuals with Autism as well as their loved ones in Texas through free information and referrals, education, support and enrichment groups, and state & national advocacy. It provides community inclusion events, recreation, and support groups across Texas. Visit texasautismsociety.org for more information.

The **Coalition of Texans with Disabilities** was founded in 1978 and is a statewide cross-disability advocacy organization with a mission to ensure that people with disabilities may live, learn, work, play and participate fully in their community of choice. Visit www.txdisabilities.org for more information.

Disability Rights Texas is the federally designated legal protection and advocacy agency (P&A) for people with disabilities in Texas established in 1977. Its mission is to help people with disabilities understand and exercise their rights under the law, ensuring their full and equal participation in society. Visit www.DRTx.org for more information.

Texas Council for Developmental Disabilities is a state council on developmental disabilities created through the Developmental Disabilities Assistance and Bill of Rights Act. Its mission is to create change so that all people with disabilities are fully included in their communities and exercise control over their own lives. Visit tcdd.texas.gov for more information.

Texas Parent to Parent is a parent-led organization committed to improving the lives of Texas children and adults with disabilities, chronic and mental health conditions and other health care needs. It empowers families to be strong advocates through parent-to-parent support, resource referral, and education and educates professionals about the unique needs of their children with the goal of improving care and opportunities for their children. Visit www.txp2p.org for more information.