

**Subject:** 22 PA Code Chapter 14 Commentary  
**From:** Amy <amycaraballo@gmail.com>  
**Date:** Fri, 20 Jul 2007 16:05:22 -0400  
**To:** jbuckheit@state.pa.us

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Mr. Jim Buckheit  
Executive Director  
State Board of Education  
333 Market Street  
Harrisburg, PA 17126-0333

Dear Mr. Buckheit:

Thank you for the opportunity to comment on proposed 22 PA Code Chapter 14. The version of Chapter 14 that was passed at the May, 2007 State Board meeting differed dramatically from earlier versions in an area of particular importance to my family. Specifically, 22 PA Code §14.133 regulates when professionals can and cannot use physically coercive techniques on our special needs children – children who often do not have the communication skills to tell professionals and families what happened or how they feel. Yet this version of the "Behavior Support" regulation is even less protective of these vulnerable children than current law.

As a parent of a child with autism, it is of utmost importance to me that these regulations protect such children. My son was being physically restrained in his local school district for the convenience of staff on at least a weekly basis. We only know this to be true thanks to our BRHS provider who witnessed the misuse by the principal and classroom aide. Unfortunately, our son was treated this way for over a year before we knew. He has suffered two inpatient mental health stays from the trauma and now must attend cyber-school. While we pursued our due process rights, we cannot chance that he would be treated differently there without more law protecting him.

The proposed regulations not only make restraints more legal, the regulations guarantee school staff can continue to use restraints as a behavior modification technique. Additionally, the regulations do not clearly state that a child must be exhibiting behavior that may cause physical harm to someone before restraint can be used. The "Clear and Present Danger" terminology is unspecific and does not indicate that the use of restraint is only warranted when bodily injury is imminent. Nor do the proposed regulations make it clear as to what is considered "less restrictive measures".

There are a multitude of Positive Behavioral resources and programs that are free to school districts. However, instead of mandating a program, it would appear that the state would rather loosen it's disciplinary code.

The use of restraints and seclusion in the mental health and other medical fields provides safeguards. Those who use restraints are trained and overseen by a Physician. The circumstances for the use of restraint in these institutions are clear. Why are our children less protected?

In our past, Pennsylvania institutions went under fire for the misuse of restraints. And indeed now there is federal code that prohibits the misuse of restraints on children: (Public Law 106-310, Children's Health Act of 2000 (Section 3207 and 3208). For some unknown reason, it is apparent that the educational institutions have become exempt from such federal law in the eyes of Chapter 14.

I therefore fully support the Value Coalition and the Autism Society of America's stance that 22 PA Code §14.133 proposed regulations are unacceptable. And these proposed regulations are potentially in violation with civil rights and HHS.

Please carefully consider the recommendations so many advocates and experts have offered. Restraints and seclusion must never be used to discipline a child. It's unethical and should be unlawful. Failure to help these children succeed in school now guarantees our future prisons will be full of special

needs adults.

Sincerely,

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CC: Ms. Michaele A. Totino  
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