



**Report of the Office of Protection and Advocacy for Persons with Disabilities
and
the Office of the Child Advocate**

No More “Scream Rooms” in Connecticut Schools:

*An Investigation into Seclusion Practices at Farm Hill Elementary School,
including
Analysis of the Responses of the State Departments of Education and Children
and Families,
and
Recommendations for Reform*

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INTRODUCTION

In January 2012, through numerous parent complaints and extensive media coverage, both the Offices of Protection and Advocacy for Persons with Disabilities (OPA) and the Child Advocate (OCA) were made aware of concerns regarding the alleged inappropriate use of restraint and seclusion of students in Middletown's Farm Hill Elementary School. Allegations reported included frequent incidents of children exhibiting out of control behaviors in their classrooms, child and staff injuries related to attempts to control child behavior, frequent calls to parents to remove their children from the school, calls to the police, and emotionally distraught children being dragged down school hallways to what were publicly dubbed "scream rooms" within the school.

OCA and OPA are each authorized to investigate allegations of this nature. OPA's authority to conduct independent interviews and investigations of allegations of abuse and neglect of persons with disabilities derives from the federal Protection and Advocacy for Individuals with Mental Illness Act (PAIMI), 42 United States Code (U.S.C.) §§ 10801-10827; and from the federal Developmental Disabilities Assistance and Bill of Rights Act, 42 USC 15041 SEC. 141. OCA has authority to investigate inquiries or complaints regarding children receiving state funded services for the purpose of recommending changes in state policy and proposing systemic reforms pursuant to CGS §§ 46a-13k *et. seq.* In addition, C.G.S. § 46a-153 requires notification to both OPA and the OCA of all serious injuries and deaths that occur while a child is in restraint or seclusion in any school, facility or institution. Although no such reports had been received involving the Farm Hill Elementary School, news reports contained statements to the effect that some injuries had occurred to students in the "scream room". (These reports were later found to be overstated.) To maximize resources and minimize duplication, OPA and OCA determined it would be appropriate to conduct a joint investigation pursuant to their specific individual statutory mandates and responsibilities.

Initial reports did not make mention of plans to investigate by either the State Department of Education (SDE) or the Department of Children and Families (DCF). Both agencies were contacted at the outset by the OCA, via email. A subsequent written report of suspected abuse and neglect (DCF 136 form) was made by the OCA.

PURPOSE OF THE JOINT OPA/OCA INVESTIGATION

OPA and the OCA initially began their joint investigation pursuant to the independent mandates described above. However, as the SDE and DCF investigations proceeded and reached their conclusions, OPA and OCA determined that the most useful purpose of their joint investigation would be to examine the incidents and practices at Farm Hill Elementary School in terms of the systems issues they brought to light. More specifically, the joint investigation looked at the practices at Farm Hill Elementary School through a broader lens, one that considered how well the educational and child welfare systems are responding to the needs of students with behavioral and emotional health needs, and addresses how those systems' responses might more comprehensively address those needs. The decision to focus on systems issues was reached, in part, because the SDE and DCF investigation reports reflected sound methodology, evidenced

thorough examinations of pertinent facts, and unflinchingly applied standards from relevant statutes and regulations. DCF examined the evidence it gathered in light of its statutory mandate to investigate allegations of child abuse and neglect. As the designated State Education Agency (SEA), SDE investigated pursuant to its General Supervision System responsibilities. The General Supervision System is intended to ensure Local Educational Agencies (LEAs) correctly implement the federal Individuals with Disabilities Education Act (IDEA), and related provisions of the Connecticut General Statutes (Sections 10-76a to 10-76h, inclusive). Both agencies' investigations ultimately provided valuable information and recommendations. However, their findings were specifically focused on compliance with existing *special education laws, legal requirements governing the use of restraint and seclusion, and laws prohibiting child abuse and neglect*. The joint OPA/OCA investigation attempts to delve into questions of policy and best practice, looking beyond the constraints of current statutes and regulations.

Methodology

Upon initiating this investigation in January 2012, OPA/OCA staff visited Farm Hill Elementary School for the purpose of touring the facility, examining the spaces that had been utilized for student seclusion, and observing the school environment, as well as conducting introductory interviews with the Middletown Superintendent, Pupil Services Director, school district attorney and the Farm Hill School Principal. Investigators also attended a parent meeting, and spoke with several parents on the telephone.

In addition, OPA/OCA participated in two telephone conferences (January 17, 2012 and February 1, 2012) convened by the SDE Bureau Chief for Special Education with the DCF area office investigation staff, for the purpose of sharing/receiving information regarding the SDE and DCF investigation plans. Access to information was a major focus of those teleconferences due to each agency having different access to information authority.

Documents obtained through subpoena included parent contact information, educational records of children identified for special education and related services, incident logs, district policies and procedures, and other related information. Middletown Police Department records regarding calls from Middletown Public Schools were also requested and reviewed.

This investigation included a review of relevant state and federal regulatory requirements specific to the use of seclusion in schools and in the IDEA, as well as the statutory responsibilities of the State Department of Education and the Department of Children and Families. A review of the literature was conducted regarding current best practices specific to school climate and understanding and managing behavior in school settings.¹

In September 2012, OCA/OPA staff met with both the newly hired Middletown Public Schools' Superintendent and the Farm Hill Principal to discuss their implementation of SDE required and suggested reforms.

The investigation reports done by both the SDE and DCF were reviewed upon their completion. In addition, a follow up interview was conducted with the SDE Bureau of Special Education lead

investigators regarding the corrective action requirements imposed on Middletown Public Schools by SDE and their plan for oversight. All documents required from Middletown by SDE were reviewed.

The SDE Response: Summary of Findings

The Department of Education decision to investigate was made under the states' "General Supervision System". In Connecticut, the SDE is the State Educational Agency (SEA), and public agencies are local educational agencies which include public school districts, the Connecticut technical high school system, and unified school districts within the Department of Children and Families (DCF), the Department of Correction (DOC), and the Department of Mental Health and Addiction Services (DMHAS). Under the Individuals with Disabilities Education Act (IDEA), SEAs are charged with the responsibility for the general supervision of local school districts including ensuring that educational programs for children with disabilities meet the state educational standards as well as requirements of the IDEA, Part B. (34 C.F.R. Section 300.149(a),(b)). The General Supervision System is coordinated under SDE's Bureau of Special Education.

The purpose of the General Supervision System is to ensure local school districts correctly implement the IDEA and Connecticut law (CGS Sections 10-76a-10-76h, inclusive), and their corresponding regulations; to correct any deficiencies identified through local district monitoring; and to improve the educational results and functional outcomes for all children with disabilities. When the SDE identifies local school district noncompliance through its General Supervision System compliance monitoring activities, it is required to issue a finding of noncompliance. Noncompliance is defined as a violation of a requirement under the IDEA and its corresponding regulations and/or a violation of a requirement under the General Statutes of Connecticut and its corresponding regulations. SDE initiated its investigation on January 20, 2012 and issued its investigation findings of noncompliance and requirements for corrective action publicly in the form of a letter to the Middletown Public School Superintendent dated July 2, 2012.

State statutes and regulations regarding restraint and seclusion, CGS 46a-150(3),(5),(7) and State regulations, Regulations of Connecticut State Agencies (RCSA) Section 10-76b-5(10) are silent on regular education students.

The SDE investigation included a review of the two seclusion room spaces (referred to by the Middletown Public Schools as "Alternative Learning Areas" or ALAs), interviews with Farm Hill staff and district administrators, and telephone interviews with parents. SDE investigators also reviewed all available documentation concerning the use of the ALAs, parent notification, incident reporting, and the educational records of the 18 students who had Individualized Education Plans (IEPs) or Section 504 plans, and who had been placed into the ALAs.

The SDE investigation found that:

- Farm Hill staff reported that seclusion was used in accordance with each child's IEP. However, only four of the special education students who had been placed into the

seclusion rooms had IEPs which called for the planned use of seclusion, and none of those IEPs or related documents reflected that the assessments, environmental descriptions or alternative de-escalation strategies required by State regulations had been completed. In addition, SDE found that other special education students, whose IEPs made no reference to the planned use of seclusion, had also been subjected to non-emergency placement into the ALAs.

- Farm Hill staff also used seclusion rooms for students who did not have specialized, legally created IEPs (e.g. were not identified as having a need for special education and related services). These students were placed into seclusion as an attempt to address student misconduct. Most of the students who experienced multiple uses of the seclusion rooms were not subsequently referred for evaluation to determine whether they had a need for supports and services. In fact, some of these students had previously been denied special education eligibility by Middletown.
- Farm Hill staff did not consistently notify parents when their children were secluded, as required by state law. Parents did not receive incident reports, and most were unaware their child had been placed in the seclusion room. However, Farm Hill did call parents with some frequency, asking them to pick their children up early when the children were manifesting difficulty behaving appropriately.
- Middletown provided no evidence to investigators that the use of seclusion was consistently or fully documented as required by statute and regulation, nor was there any documentary evidence of Farm Hill staff using other strategies to redirect or calm the child to avoid the use of seclusion. Incident reports provided to investigators indicate that the seclusion rooms were used for a variety of reasons including to calm, de-escalate, provide for safety and prevent classroom disruption, as well as for “time-out”, and, sometimes, for purposes of allowing a child to take a test.
- Middletown provided no evidence to indicate that Farm Hill had clear, specific written policies and procedures for the use of its seclusion rooms. There was no evidence to indicate that school staff members were trained on proper use of seclusion or other means to manage behavior in order to prevent seclusion of students as required by state law. Middletown made no record of professional development in the use of restraint and seclusion available to investigators.
- At the time that this investigation was initiated, Farm Hill did not include information on functional behavioral assessments or behavior interventions with any of its students’ IEPs. Many of the IEPs did not include seclusion as an appropriate behavioral intervention. Only in February and March of 2012, after this investigation commenced, did this documentation begin to appear on Farm Hill students’ IEPs.
- Farm Hill failed to convene Planning and Placement Team (PPT) meetings to discuss and revise the IEPs of a number of students who had experienced multiple seclusions.
- A 4th grader, who previously had been denied an evaluation to determine whether the student met eligibility requirements for special education and related services, experienced multiple seclusions and disciplinary suspensions over the course of an entire school year before the parent was finally able to convince the school to consider a Section 504 (Rehabilitation Act) accommodation plan.
- Farm Hill staff did not collect or consider any documented medical or psychological factors that might inform or contraindicate the use of seclusion for students with Post Traumatic Stress Disorder (PTSD) or historical experiences of trauma. Functional

behavioral assessments were not conducted for most of the students that had been secluded.

SDE determined Farm Hill School violated certain state regulations regarding the use of restraint and seclusion and that the district and Farm Hill “displayed a lack of understanding of the requirements around restraint and seclusion.” Nine corrective recommendations required compliance with the current regulations regarding restraint and seclusion. All measures of compliance utilized paper responses and certifications to the SDE before the end of 2012.

Required Corrective Actions	Date Due
1. Revise incident report form and send a copy of the revised form to this office (SDE) for review.	On or before 8/15/2012
2. Each student with seclusion included in the IEP as a behavior intervention – revised IEPs are to be sent to this office.	On or before 10/15/2012
3. A copy of incident report for each student in the district who is restrained or secluded to be sent within 5 business days of each incident.	7/2/2012 – 12/31/2012
4. District-wide/school specific policies and procedures sent to this office.	On or before 10/15/2012
5. Materials to be provided for professional development training and a roster of actual attendees as well as absentees to be sent to this office at least 7 business days before scheduled training days.	On or before 9/15/2012
6. Professional development training materials provided during training to be sent to this office at least 7 business days after the training day.	On or before 9/15/2012
7. A copy of a contracted agreement with an appropriate entity for review and approval to provide appropriate training and technical assistance to all school personnel.	On or before 10/15/2012
8. Provide visual documentation that seclusion room window in the new space has a window at a level that allows all staff to provide visual monitoring of student.	On or before 8/15/2012
9. General education students placed in seclusion more than once during school year shall be referred to a PPT for consideration of special education eligibility.	Send IEPs for each student within 5 school days of PPT meeting.

The DCF Response: Summary of Findings

The DCF investigator was assigned out of the Middletown DCF office on 1/12/12 following two reports to the Careline from citizens concerned with the reported “scream rooms” (including a report made by the OCA on January 11, 2012 which did not appear in the DCF record). The assigned investigator was unsuccessful making telephone contact with either the school principal or the district superintendent so she drove to the Board of Education office. The Superintendent was meeting with the district’s attorney and the DCF investigator was invited to meet with them to discuss the Careline reports. The DCF investigation subsequently included a tour of the

school and seclusion rooms, participation in teleconferences with SDE, OCA and OPA, extensive interviews with school administrators, staff, parents, and children. DCF and SDE agreed to collaborate in interviews and document requests as much as possible in an effort to minimize duplication of effort.

On day 2 of the investigation, the DCF investigator met again with the school and district administrators, and the district's attorney. During that meeting, the Farm Hill Principal provided an example of a second grade general education student "threatening to kill himself, using foul language and throwing items." The parents were reportedly contacted but unavailable to pick the child up. The DCF investigator inquired if school personnel were aware of the Emergency Mobile Psychiatric Service (EMPS) and if they had considered calling EMPS as the child was reporting he wanted to kill himself. The Principal acknowledged awareness of EMPS but reported utilization had been a challenge due to the requirement that EMPS has to call the parents first and get their permission to go to the school. The Principal informed the DCF investigator that parents will often tell EMPS "no". The aforementioned child reportedly was transported to the emergency room following a call from the school to 911.

Several parents and children were interviewed by the DCF investigator. Documentation of these interviews revealed information about diagnosed serious and persistent mental health/behavioral issues in these children, who were in grades ranging from kindergarten to 4th grade. Some of the children were identified as receiving special education, some regular education only.

The DCF investigator initiated contact with the school's Family Resource Center to learn that, while funded by the school, the Family Resource Center works with children who are just starting school and assists their families in helping the child to make that adjustment, as well as positive youth development activities. The Family Resource Center reported that it did not work with children who have identified behavioral issues.

The DCF investigation concluded with an internal meeting between the investigation staff and DCF's regional education consultant to discuss the challenges of collecting information from the school. The record indicates that the district's attorney declined to release the names of parents and students as well as IEPs, behavioral plans, incident reports and functional behavioral assessments as to do so would violate the Family Educational Rights and Privacy Act (FERPA). The investigator documented concerns about lack of documentation on the "time out" room "log", outdated IEPs, lack of behavioral plans for students identified, apparent lack of written policy related to the use of the ALA room, parents' concerns about not knowing that their child was placed in the ALA room, and the belief that the school was not adequately prepared to manage difficult behaviors.

Ultimately, DCF did not substantiate the allegations of neglect by the Farm Hill Principal, citing P.A. 07-147 which allows seclusion rooms for "persons at risk".

The DCF investigation found:

- Children who were secluded were both special education and regular education students.

- Staff persons who were affiliated with any student utilizing the ALA room were physical management technique (PMT) trained.
- One of the students' behaviors required the assistance of an ambulance.
- No evidence was documented that any child had been injured in the room. One student did urinate on himself and the matter was immediately addressed. Another student pulled a hang nail causing bleeding on the ALA room wall.
- P.A. 07-147-required documentation was incomplete and inconsistent.
- Children were in seclusion longer than 1 hour.
- Parents were not made aware that their child had been secluded.

According to DCF, the “use of seclusion room in and of itself doesn’t constitute neglect or maltreatment,” and “the issues and concerns identified in the investigation are associated with a failure to follow proper procedure and demonstrate the need for additional training and resources”.

Summary of Middletown Public Schools’ Response to SDE and DCF

In the initial interviews with investigators, Middletown Public Schools’ administrators reported that the reliance on seclusion was a result of the SDE-imposed redistricting plan intended to integrate students with special education needs. (Note: SDE subsequently explained that it did not “impose” a redistricting plan. In 2005-2006, SDE conducted focused monitoring activity in Middletown which identified concerns around the low rate of home school placement for specific categories of disability, a high school level program for students with disabilities that was housed in an elementary school and transportation arrangements to these placements which resulted in excessive travel time. Middletown unilaterally initiated the redistricting plan, which considered a variety of factors beyond those identified in SDE’s focused monitoring.) Pursuant to that redistricting plan, the Board of Education had determined Farm Hill Elementary School would serve those students with behavioral/emotional needs, and that other elementary school age children with disabilities would be served in the district’s two other elementary schools. In addition to staff enhancements added during school year 2010-2011 in preparation for the change in student population, on Jan 10, 2011, following the media attention and initiation of various investigations, the district Superintendent reported to the Board of Education that it was hiring a student management coordinator and a full time psychologist, consulting with the ACES Behavior Services Center, developing a school climate committee facilitated by an expert from the SDE, and revising the Parent Compact to focus the Parent Partnership Committee on school climate.

Beginning one month **after** the initiation of this investigation, Farm Hill and the District’s special education staff created new Individual Educational Plans (IEPs), functional behavioral assessments, and behavioral intervention plans as required by law for the Farm Hill special education students who had been placed in seclusion. Middletown also reported to the investigatory agencies that it had ceased use of its previously designated seclusion rooms.

By the end of January 2012, Farm Hill staff began to prepare a different space to serve as their “Alternate Learning Area.” The space chosen was located across from the self-contained

intensive case management special education classroom for children with behavioral health and emotional needs.

The Farm Hill principal and the district superintendent both left their positions and were replaced by interim administrators. Permanent administrators were put in place by June 2012.

OPA/OCA FINDINGS & ANALYSIS

OCA and OPA concur with the conclusions and recommendations made by DCF and SDE in so far as they reflect factual findings and outline reasonable, immediate improvements to correct deficiencies. More specifically, the SDE and DCF investigations reflected rigorous, thorough and objective fact-finding, and produced reports that were useful in illuminating instances of inappropriate use of seclusion, and failures to follow legally required procedures – procedures which are intended to promote safety and safeguard civil and human rights. However, as the summary above demonstrates, the two agencies’ findings were focused on Middletown’s compliance with existing legal requirements, not on broader questions of policy and best practice. A principal finding of the OPA/OCA joint investigation is that both SDE and DCF need to continue and, in fact, expand upon their leadership initiatives in this arena.

OPA/OCA Specific Findings Regarding the SDE Investigation

Beyond its role in providing General Supervision and establishing specific requirements for corrective action that may flow from investigations such as that conducted at Farm Hill Elementary School, SDE is responsible for providing leadership and coordinating with other service systems in an attempt to locate related services resources for LEAs that are attempting to comply with IDEA requirements. Toward that end, SDE has recently developed an MOU with DCF regarding the sharing of certain educational records, and sponsors training in topics relevant to behavioral intervention through its related technical assistance program, the Special Education Resource Center. It has also recently issued a guidance document addressing the identification and education of students who fall into the Emotional Disturbance category, and, pursuant to Public Act 12-88, has begun to track and report annually on the frequency with which restraint and seclusion is used in schools. SDE has also successfully applied for a federal grant that provides individual schools with opportunities to participate in Scientifically Based Response to Intervention initiatives, including initiatives geared to providing positive behavioral supports. While its report on Farm Hill Elementary School does not refer to these or other leadership activities, they represent important components in a comprehensive approach to decreasing utilization of aversive procedures such as seclusion. OPA and OCA strongly recommend that SDE continue these endeavors and, in fact, develop a comprehensive plan for systematically ensuring that LEAs and approved special education schools, including those operated by Regional Education Service Centers (RESCs), engage in effective efforts to prevent restraint and seclusion use and to embrace approaches based on positive behavioral support pedagogies. This is especially important because it is reasonable to believe that Middletown is not the only local school district in Connecticut utilizing seclusion as a behavior management technique and that problems similar to those that surfaced through the Farm Hill School investigation may exist elsewhere. It is thus imperative that SDE have the capacity to assess the scope of these

challenges for local districts and provide the kind of monitoring, supervision and technical support needed to do address them.

Consistent with the specific findings reported by SDE, the OPA and OCA find that:

(1) Middletown’s Farm Hill Elementary School operated two seclusion rooms – one located in a hallway near regular classrooms on the second floor and the other diagonally across from the cafeteria on the first floor. The rooms were bare tile floors with concrete block walls approximately 6 feet wide by 10 feet long. No furnishings were found in the rooms. The spaces included doors that had a small window built in and which were locked from the outside.

(2) When the seclusion rooms were utilized they were in full view of and audible to all children in the vicinity. Parents visiting the school and their children attending the school witnessed children in these rooms kicking and screaming as school staff held the doors shut.

(3) The seclusion rooms were used for students who did not have specialized IEPs. These rooms were used for children with disabilities because of the children’s “misconduct”. Some of these children had been denied special education eligibility. Despite multiple admissions to the seclusion rooms, most of the children were not referred to a PPT to recommend functional behavioral assessments and behavior intervention plans individually designed to meet their needs.

(4) Approximately 15 children were placed in seclusion when their behavior was judged to be inappropriate in the classroom. The rooms were reportedly used based on provisions of the child’s IEP that called for the use of seclusion when the child was removed from the classroom. However, reviews of educational records did not support this claim. More specifically, IEPs did not authorize the specific use of seclusion or describe efforts by the PPT to provide appropriate evaluations and programming. None of the children documented on the incident log had a properly constructed IEP detailing the results of functional behavioral assessments, behavior intervention plans, or how and when seclusion was to be used.

(5) No clear policies and procedures for the use of the seclusion rooms were produced indicating that school staff was trained in specific protocols to decrease the likelihood of the use of seclusion in any given situation and when to decide on its use. There also was no record of professional development in the use of restraint and seclusion.

(6) Some children were regularly placed in the seclusion room without notice to the parent about convening the Planning and Placement Team to discuss the efficacy of the child’s IEP or to make revisions. When parents were notified it was for the purpose of removing their child from school.

(7) Several children who resisted the use of seclusion were restrained while being “escorted” to the seclusion room.

(8) Beginning one month after the initiation of the investigation until late March, new IEPs, functional behavioral assessments, and behavior intervention plans were completed by the district for children for whom seclusion had been used. The use of these rooms was discontinued by the end of January. Instead, the other children were removed from the classroom and the classroom itself was used by school staff to calm the distressed child; parents reported being called more often to remove their child from school and some children were out-placed to “therapeutic settings”. A new centralized location for seclusion was identified across from the self-contained segregated intensive case management special education classroom for children with behavioral health and emotional needs.

(9) A fourth grader may have met eligibility requirements for special education and related services but was denied services even though he had not been provided with evaluations to make that determination. One year later, after the child experienced multiple suspensions and admissions to the seclusion room, the parent of the child finally convinced the school that the child should be considered for a 504 plan.

(10) Another child, diagnosed with autism, was routinely removed from class to be isolated in the seclusion room based on her inability to get along with other children. Children on the autism spectrum frequently have difficulty forming relationships and expressing their needs appropriately. In this instance, Farm Hill staff used seclusion as a disciplinary measure when a student failed to be “compliant” in the classroom, when such “noncompliance” was a manifestation of the child’s disability.

(11) Despite IEPs calling for instruction in regular settings to learn the skills necessary to function in the classroom, the school failed to provide adequate supplementary services and supports to students to enable them to succeed in the regular setting. As a result, students experienced repeated removal from the school community and placement in isolation. Farm Hill staff placed students at risk by using seclusion without consideration of the students’ medical or psychological factors.

(12) Despite the planned placement of young children with behavioral needs at the Farm Hill Elementary School as part of the redistricting plan, Middletown Public Schools’ administration did not prepare the staff responsible for the children nor did they provide adequate support resources to ensure child safety and well being.

(13) Farm Hill did not effectively utilize available community based services (e.g. emergency mobile psychiatric services) to assist in assessment and management of children demonstrating significant emotional distress.

OPA/OCA Specific Findings Regarding the DCF Investigation

DCF’s conclusion to not substantiate abuse or neglect by the school’s principal may be reasonable with respect to its child protection mandate, and in fact, the assigned investigator completed the investigation capably within the current procedural expectations. This report seeks

to identify systemic limitations that can be examined and changed to ensure systems designed to protect children and promote their well being are positioned to do so. In this situation, the state agency intervention could have a greater impact if the investigation were viewed in light of the agency's broader statutory responsibilities, including its role as the lead agency for collaborative efforts towards children's well-being. DCF's new mission statement provides the appropriate frame: *In partnership with families and communities, we will advance the health, safety and learning of the children we serve both in and out of school, identify and support their special talents, and provide opportunities for them to give back to their communities and to leave the Department with an enduring connection to a family.*

Since the completion of the Farm Hill investigation, multiple reform initiatives within the Department are currently underway, with many in early stages of implementation, to broaden and strengthen its responses to children with mental health needs in its care and in communities across the state. These include: 1) a data sharing arrangement with SDE that will provide valuable information regarding disciplinary incidents involving children in the care of DCF, along with academic and attendance data; 2) efforts to secure data sharing agreements with those local school districts that enroll significant numbers of children in the care of the Department, so as to obtain academic, attendance and disciplinary information on a monthly basis; 3) creation of the Connecticut Child Justice Foundation, through which volunteer attorneys provide representation to children in the care of the Department whose educational rights are in jeopardy; 4) provision of information and training to the Department's social workers which will enhance their understanding of school related issues; and 5) collaboration with the Connecticut Association of Public School Superintendents to improve cooperation between the Department and school districts throughout the state. In addition, the DCF continues work, with both internal and external stakeholders, focused on system-wide reforms achievable only through cross-system partnerships with, *inter alia*, the Departments of Mental Health and Addiction Services, Social Services, Developmental Services and Education. Engaging educational systems effectively remains a significant challenge and is thus a high priority.

With regard to the Farm Hill Elementary School, due to procedural and systemic barriers, the investigator was unable to explore the underlying factors contributing to the significant emotional distress exhibited by these young children, or to address the possible effects of Farm Hill's students experiencing and observing the distress and subsequent restrictive intervention of seclusion. Moreover, neither DCF nor SDE documented any evaluation of the capacity of Farm Hill to address the mental and behavioral health needs of its students, or assessed the advisability or justification for Middletown's "redistricting" students with identified mental and behavioral health problems to this particular school.

Limitations of DCF's investigation include:

- (1) The DCF investigation report described the needs of students through a "behavioral" vs. "mental health" lens, and its focus was on concerns with behavior management vs. a more therapeutic response. Despite DCF's responsibility as the lead state agency for children's mental health, there was no documented inquiry into why such young children became so emotionally

dysregulated and out of control in their classroom settings. The OCA/OPA investigation found that of the 15 children identified in this investigation as having been secluded, 11 came from families who had significant involvement with DCF protective services. Of those 11 children, 8 lived in families that had open DCF cases at the time of this investigation. Citing the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), the school district denied DCF access to the records of the individual children who experienced seclusion. Had the investigator had access to the names of the individual children involved in the investigation, the investigator could have ensured further review of the specific needs of those individual children known to DCF by those within DCF who were responsible. (Note – FERPA has since been amended to specifically allow schools to share information with state child welfare agencies, and DCF and SDE have recently negotiated an MOU describing protocols for requesting such information.)

(2) The DCF investigation demonstrated limited execution of its responsibilities as the lead children's mental health agency. While the DCF investigator did ask the Farm Hill staff about their awareness and/or utilization of emergency mobile psychiatric services (a DCF funded community service), there is no evidence that the response resulted in any follow-up within the DCF with any of the DCF behavioral health experts or emergency mobile psychiatric services overseers.

(3) The DCF recommendations did not address the need for an improved partnership between the DCF area office, school and community agencies to assist in identifying children at risk and ensuring children and families gain early access to appropriate support and services. All of the children reviewed had known mental/emotional/behavioral health issues, and as described previously, many of their families were known to the DCF child protection system. The families' challenges included substance abuse and domestic violence.

(4) Significant interagency communication challenges were identified between DCF and SDE and between DCF and the local school district secondary to confidentiality requirements. There was impaired access to information which impeded a thorough appreciation of the problems. The DCF investigation report did not offer any remedy to this.

DISCUSSION

The use of restraint and seclusion in public schools has become the subject of considerable controversy and debate in recent years. Reports issued by national advocacy groups have shown that attempts to place students into seclusion rooms often lead to the use of restraints, a practice which has caused numerous serious injuries and even deaths. The Government Accountability Office (GAO) cited examples of student injury and death in its own report to Congress, and identified widely varying practices amongst the states.¹ Advocates and at least some lawmakers

¹ U.S. General Accountability Office, *Seclusions and Restraints, Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers*, Washington, D.C., 2009, <http://www.gao.gov/new.items/d09719t.pdf>

have called for bans on the non-emergency use of restraint and the planned use of seclusion as part of an educational program. In fact, several states have completely abolished these practices, and recently issued guidelines from the U.S. Department of Education clearly discourage schools from relying on them.² Yet, there has also been push-back-- last year the politically powerful American Association of School Administrators issued its own report justifying the continued use of seclusion and restraint in schools.

The intensity of debate surrounding this issue reflects the fact that public schools are fundamental institutions in our society - institutions that powerfully define the opportunities available to our children, and, in a larger sense, the future prospects of our nation. Despite its fundamental importance, or perhaps because of it, the institution of public education is surrounded by competing interests and expectations, and is operating under tremendous stress. Schools are being pressed to improve test scores and graduation rates; to contain costs; to increase instructional time (while still achieving greater economy in operations and abiding by collective bargaining agreements); to comply with prescriptive curriculum mandates; to report problems and suspected problems to investigative agencies; to incorporate evidence-based curricula; to acquire, use and teach about ever-evolving technology; to measure the performance of students, teachers and administrators; to demonstrate accountability; to feed, transport and provide security for students and staff; to promote fitness and health; to respond to evolving demographic trends and involve families from dynamically changing communities; and to resolve disputes and teach others about the skills necessary for doing so. And, they are further pressured to navigate through a variety of structural changes, including reform efforts that are driven as much by fundamentally different perspectives about the role and purpose of public education as by justifiable disappointment over shameful achievement gaps and dismal student outcomes.

Since the late 1960s, local education authorities in Connecticut have also been expected to identify and educate students with disabilities, including students who present behavioral issues. Most of those students are (or should be) found eligible for special education and related services because the categories of disabilities that underlie their behavioral issues – Emotional Disability (ED), Specific Learning Disability (LD), Intellectual Disability (ID), Autism Spectrum Disorders (ASD), and Other Health Impairment (OHI)-- are such that they interfere with the student's ability to benefit from the general education curriculum without individually designed modifications and supports.

Historically, these students were sent to segregated “special” schools. However, driven partly by efforts to contain costs associated with the rapid increase in numbers of students manifesting both emotional and autism-related disabilities, and partly by growing recognition that, for many of those students, segregated schools were producing disappointing results, local education systems have increasingly moved toward in-district placements, often in typical classrooms in neighborhood schools. Theoretically, placement into one's neighborhood school alongside

² U.S. Department of Education, *Restraint and Seclusion: Resource Document*, Washington, D.C., 2012
www.ed.gov/policy/restraintseclusion

neighbors, friends and siblings is optimal: the student benefits from incidental learning that comes from association with non-disabled peers, gains a sense of positive identity as a full community member and emerges better equipped to deal with “real life”. And, at the same time, the school community acquires competencies and develops resources that can benefit all its members. The problem is that after decades of relying on segregated placements, many local schools are ill-equipped to deal with these students, and transitions have not been well supported. Like many of the other mandates and imperatives to change, including students with behavioral issues seems like just another “add-on” requirement.

In fact, most of the recently articulated imperatives surrounding public schools have come in the form of “add-ons” – required undertakings which add to the cumulative load of expectations rather being part of an integrated investment strategy to address the need for fundamental change. In Middletown, and quite likely in other towns and cities across Connecticut, the task of providing students who have behavioral support needs with access to the general education environment was seen as one such “add-on”. When interviewed, administrators stated to OPA/OCA investigators that the school district had previously congregated those students in a segregated program environment, but had been informed by reviewers from the State Department of Education that continuing to do so on a categorical basis potentially violated special education law. While the extent to which other factors may have contributed to administrative decisions about dismantling that segregated program remains somewhat unclear, merely transplanting students with behavioral support needs to a neighborhood school (along with the same questionable technologies that had been employed in the segregated program) ultimately created a state of cognitive dissonance amongst the other students who attended that school and their families: schools are supposed to be places of safety and learning, not places where children can be placed into a “scream room” if they become upset. Whether or not a child has an IEP, schools should not be places where adults can put hands on a child and hold her down, or force a child into a small room and then hold the door shut while he cries uncontrollably and bangs on the walls. The fact that such practices did not belong at Farm Hill was apparent to students and parents, even if it eluded administrators.

Creating the alternative – schools that are genuinely competent to include and educate all children - requires committed leaders as well as resources from, and relationships with, the larger community: families, faith based organizations, mental health providers, children’s services and various consultative resources and coaches. It invariably requires figuring it out one-student-at-a-time, usually over a period of time. And, very often it involves utilizing those community resources and relationships. To the extent that larger systems (e.g. SDE, DCF) have oversight and policy-setting roles, they too have a responsibility to organize their resources and marshal expertise in support of schools that are struggling: to engage not only as occasional interpreters of overall policy, reluctant to be seen as interfering with “home rule” or “local autonomy”, but as sources of concrete assistance in the day to day journey of learning.

In this sense, then, what happened at Farm Hill Elementary School reflects a systems failure – a failure to adequately monitor, support and assist. While the SDE and DCF investigations and reports were competently done, they nonetheless reflect a traditionally narrow focus on their respective agencies’ defined scope of authority. This report takes a broader view, because OPA

and OCA conclude that everyone with a stake in the success of public schools and the students they educate needs to be involved in the ongoing process of their transformation.

Seclusion has been practiced in school settings for decades, but has become increasingly controversial in recent years due to reports of negative outcomes, including injuries and abuses. In addition, best practice research has caused shifts in the opinions of clinical and educational practitioners regarding seclusion's efficacy and benefit. While consensus remains elusive, an increasing number of professional associations have issued official statements that "[restraint and] seclusion have no therapeutic value" and describe a very specifically limited set of circumstances under which these restrictive measures may be used.³

The May 2012 U.S. Department of Education resource document offered fifteen principles for school systems to consider in their development or revision of policies to address student behavior.⁴ In this document, Secretary of Education Arne Duncan explicitly states the Department's position that "there continues to be no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate" their use and that "schools must make every effort to structure safe environments and provide a behavioral framework, such as the use of positive behavior interventions and supports, that applies to all children, all staff, and all places in the school so that restraint and seclusion techniques are unnecessary." The principles set forth in the resource document had previously been used as a framework for the legislative efforts in both the 111th and 112th Congress aimed at limiting seclusion and restraint in schools and promoting the use of positive behavioral intervention techniques.

One alternative is Positive Behavior Interventions and Supports (PBIS), an evidence-based approach currently used by more than 17,000 schools across the country to establish a school culture focused on academic and social success for all students and to minimize problematic behaviors. PBIS is found to increase the capacity of all school staff to address the needs of all students, including those with complex behavioral issues, and to reduce the need for interventions such as suspension, expulsions, and seclusion or restraint.

RECOMMENDATIONS

Based on the findings of this investigation, the Office of the Child Advocate and the Office of Protection and Advocacy for Persons with Disabilities make the following recommendations:

1. The Middletown Public Schools must recognize and acknowledge that seclusion and restraint are not supported by research as sound educational or therapeutic practices, and should not be included in students' IEPs, and SDE must promote similar recognition amongst all LEAs. While seclusion is permitted in schools by state regulation, the IEP process includes provisions for much more useful evidence-based methods for addressing student behavior challenges, including functional behavioral assessments and behavioral intervention plans. A provision for

³ National Alliance on Mental Illness Public Policy Platform, via www.nami.org; Mental Health America via www.nmha.org; American Psychiatric Nurses' Association, via www.apna.org; Copeland Center for Wellness and Recovery, via www.copelandcenter.com

⁴ U.S. Department of Education, Restraint and Seclusion: Resource Document, Washington, D.C., 2012 www.ed.gov/policy/restraintseclusion

seclusion in an IEP too often means that seclusion becomes the preferred intervention for students exhibiting behavioral dyscontrol, rather than a last resort in emergency situations. The SDE is aware of Connecticut educational programs that have made concerted efforts to discontinue any use of restraint and seclusion as interventions of control. Just as it is incumbent upon the Board of Education of Middletown to pursue similar efforts at Farm Hill Elementary School, it is also incumbent on SDE to encourage the same commitment throughout all schools in Connecticut.

2. SDE must develop policies and procedures that encourage, consistent with the intent of IDEA, development of best educational practice regarding the use of functional behavioral assessments and behavior intervention plans. It would be helpful if SDE pursued revisions to its regulations that would preclude the planned use of seclusion or any other aversive strategies as part of a student's IEP. There are school systems within the state of Connecticut that already prohibit the use of restraints and seclusion as tools for treatment and instruction; these programs serve as models for other districts looking to implement better practice in their schools.

3. The Middletown Public Schools (at the district level) and SDE (at the state level) should increase access to and availability of resources regarding positive behavioral supports and alternative interventions for school professionals working with children who have emotional and behavioral challenges. These resources exist in Connecticut, but there are too few mechanisms to make them available to districts that struggle with these students. An expanded system of training and support is needed to promulgate the expertise of the state's knowledgeable professionals to address the behavioral and mental health needs of students who are especially vulnerable to restraint and seclusion. SDE has the responsibility and the authority to make resources available to assist school districts in reducing and eliminating archaic and harmful practices of behavior control, and in promoting positive behavioral supports among school staff who had previously felt they had no other option than to seclude students.

4. DCF and SDE should establish meaningful collaboration to erase the boundaries that separate mental health treatment from educational needs of Connecticut's children. DCF's storehouse of children's mental health expertise and community/family mental health resources must combine with SDE's obligation to require appropriate Individualized Educational Plans in the schools that they oversee. DCF's ongoing partnership with SDE for a coordinated plan to address children's behavioral health needs in school, home and community is vital, and would significantly operationalize DCF's new mission statement's commitment to "advanc[ing] the health, safety and learning of the children we serve both in and out of school".

5. DCF must ensure that its child abuse investigation unit and its ongoing services units communicate and collaborate concerning children common to both units.

6. The Middletown Public Schools must partner with community service providers and foster collaboration so that educational teams have access to consultation and additional resources to support students' success in school, home and community.

7. SDE should promote within Connecticut's school districts a cultural change in the education of children with behavioral challenges. If SDE regulations permit provisions for seclusion in a student's IEP, then the SDE and school districts have an obligation to require the use of functional behavioral assessments and behavioral intervention plans. Development and implementation of functional behavioral assessments and behavioral intervention plans must

meet professionally acceptable standards as codified in CGS §§ 17a-238-10 for adults in the developmental disability service system. These behavioral intervention plans are based on a completed functional analysis, and they include and emphasize components designed to increase positive behaviors.

8. SDE should refine its data collection system in order to evaluate districts' use of restraint, seclusion and other aversive interventions, and to document steps the district may be taking to decrease the use of these techniques such as: a) professional development for school personnel in alternatives to restraint and seclusion; b) training in mental health issues and how to engage the mental health system in order to address the needs of students; and c) the need for behavioral assessments to understand the reasons for the student's behavior and how to develop plans to address them.

9. SDE should ultimately issue a periodic "report card" documenting progress being made by districts in preventing the use of seclusion and restraints. The Department should continually revise its efforts to collect useful information to inform its policies and procedures to improve the Department's oversight of local schools. Information about school performance in this area can support the provision of useful technical assistance and resources by the state.

ⁱ The Offices of the Child Advocate and Protection and Advocacy for Persons with Disabilities extend special thanks to Ryan E. Toombs, JD, for her many hours of voluntary time assisting with document review and research for this investigation.