

To: Senator Olsen and Senator Darling and Members of the Senate Committee on Education
From: Sally Flaschberger- Lead Advocacy Specialist- Disability Rights Wisconsin
Date: November 19, 2019
RE: SB 527- In Support

My name is Sally Flaschberger and I am a lead advocate for Disability Rights Wisconsin. Thank for the opportunity to testify today regarding common sense changes to the seclusion and restraint law. I want to thank the authors of this bill Senator Olsen, Senator Johnson, Representative Quinn and Representative Considine for their bi-partisan support of this bill. But, especially Senator Olsen and his staff for helping our stakeholder group over the course of several years to get this bill drafted and to today's hearing. The proposal you are considering today will significantly improve the transparency of the use of seclusion and restraint across the state, provide better parent notification, keep kids safe from dangerous prone restraint, give staff an opportunity to debrief, and revise the training to focus more on de-escalation.

Disability Rights Wisconsin is Wisconsin's Protection and Advocacy system for people with disabilities. A major focus of our work both individually and systemically across the state focuses on special education and the rights of students with disabilities. One of DRW's main priorities is supporting families whose children may face inappropriate or overuse of seclusion and restraint in public schools.

In 2009, Disability Rights Wisconsin, WI Family Ties, and WI Facets collaborated on a report that revealed a critical need for regulation around harmful practices of seclusion and restraint in our public schools. Stakeholders across the state came together and in 2012 landmark legislation was enacted to provide regulations and protections around the use of seclusion and restraint. The current law has several key components, including prohibiting certain forms of restraint, and limiting the use of seclusion and restraint to situations in which there is immediate risk to physical safety. Schools are also required to notify parents and prepare a report on each incident of seclusion and restraint. School districts are required to annually submit the number of incidents of seclusion and restraint to their local school board. These provisions remain the same.

In the fall of 2013, Disability Rights Wisconsin, WI Family Ties, and WI Facets sent an open records requests to all school districts in Wisconsin to receive the first year of data reported to school boards on the use of seclusion and restraint. This was not a small undertaking but did result in the first real numbers on how often seclusion and restraint was being used, and how many students were involved. The numbers were unfortunately high, and there was great confusion around the particulars of the law. This confusion was not only in the use of seclusion and restraint but also around the reporting requirements for each school district. Our report documented over 20,000 incidents of seclusion and restraint in Wisconsin public schools with 80% of these incidents taking place on students with disabilities. There were wide ranges between school districts and great discrepancies on how the data was reported. I had several school districts call and ask if there was a form to report this information to their school boards and where was the form on the DPI website.

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In the fall of 2014, we pursued a second open records request and the overall results were the same. While the reporting was somewhat improved, the variation remained great between school districts. The collaborating agencies prepared an even more in-depth report with several recommendations of ways to improve the law. Before the release of this report in February of 2016, DPI convened a wide group of stakeholders including the Wisconsin Council of Administrators of Special Services, Wisconsin School Administrators Alliance, and Wisconsin Association of School Boards to discuss our recommendations to changes to the law. This began a collaborative process to get us to where we are today.

Link to report: <http://www.disabilityrightswi.org/wp-content/uploads/2018/12/Seclusion-and-Restraint-in-Wisconsin-Public-Schools-District-2013-2014-Miles-to-Go.pdf>

The first most important change for our agency is the reporting to families on individual incidents involving their children. Currently, the law requires notification to families as soon as possible and no longer than 24 hours, preparation of the incident report by the school within 72 hours, and alerting families the report is available. The current law does not require the school to actually give the report to the family. In my advocacy work, I have assisted many families who are not aware that a report was available. When they reach out to us for assistance, it is often because seclusion or restraint is being overused or their child has been injured during a restraint. As an advocate, I immediately request the reports and families are often shocked when they learn the details involved in the incident. Often, they struggle with tremendous guilt not knowing what was happening at school because they didn't receive the report. If families had these reports up front, they would work more closely with schools for alternative solutions to these practices. It is as simple as the school handing the family a report, emailing the report, or mailing the report. This change will benefit both families and districts.

The second important change is to include reporting annual numbers of the use of seclusion and restraint in schools to DPI. Districts would continue to report to their school boards but also require them to provide that same information to the state. This will allow DPI to create a method for reporting that will be uniform across the state and allow a much easier process for school districts. It will take the guess work out of reporting. Annual reporting to DPI will also create greater transparency for families on the use of these practices in their school districts and school districts around the state. With this data going to DPI, we envision DPI being able to provide greater technical assistance and resources to schools to help reduce the use of these practices.

A client of mine was not able to be here today but I would like to share her story:

Quiton is a student with autism and was in kindergarten at the time. Quinton's special education teacher met the parent in the school hallway to tell her she would have to begin to use restraint to control his "behaviors". The parent agreed that sometimes guiding him with a hand on the shoulder or taking him by the hand is a good strategy. It became painfully obvious they were not talking about the same thing when he came home from school with red marks on his shoulder. The parent asked her son "What happened

here?" "The teachers grabbed me," he replied. He then demonstrated how his arms were tightly wrapped across his body in a knot by 2 teachers, each lifting him by his twisted arms and carrying him to a room where he was secluded. Shocked, Marcia called the school and demanded they stop "restraining" her son immediately. She was told the school had the right to restraint and she could not stop them. There had been no Individualized Education Program meeting, no written plan. Marcia had never been notified what the teacher meant by "restraints" and she was not notified that a written report was available.

The school had violated Act 125, a law limiting the use of restraints in schools to emergencies, requiring parental notification and implementation of positive behavior plans. Marcia filed a grievance and contacted Disability Rights Wisconsin. Working with an advocate from DRW, the school district agreed to adopt a conforming policy with a checklist requiring a written plan, debriefing, and parent notification. This resulted in a positive behavior intervention plan and no more restraints for Quinton.

The changes to the current law would have required the parent to receive a report after the use of restraint. She would have clearly understood what happened and could have worked with the school sooner to eliminate these practices.

DRW serves many families each year whose children are subject to these practices. Our goal is to keep kids safe, provide better transparency across the State on the use of these practices, and to be sure families are given appropriate notification including written incident reports. We ask that your committee approve this bill and help to move it forward before the end of this session.

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