



# ***Mental Illness in the Schools: Update on Policy and Practice***

Tennessee Voices for Children

Tennessee's Federation of Families for  
Children's Mental Health State Organization



1-800-670-9882

[www.tnvoices.org](http://www.tnvoices.org)



## **Goals of this Presentation:**

***To provide information to attendees on updates and changes for the following school policies and procedures:***

- ***Restraints and seclusion***
- ***Supreme court rulings***
- ***ADA guides lines effective January 2009***



## Tennessee Restraint and Seclusion Policies (Effective January 2009)

- Student can only be restrained or isolated if the restraint or seclusion is provided for in the IEP (except in emergency situations: assuring physical safety of student or others)
- If restraint or isolation needed, parent or guardian shall be notified orally or in written or printed communication the same day of the incident
  - If IEP does not provide for isolation or restraint and isolation or restraint used, an IEP meeting shall be held within 10 days



## Restraint and seclusion continued....

- School personnel may file a juvenile petition against a student receiving special education, only after a manifestation determination that results in determination that the act was not caused by the student's disability: or
- A SRO may, upon witnessing an offense, take student into custody



## Restraint and seclusion continued....

- School personnel shall remain in the physical presence of any restrained student and continuously observe a student in isolation or restrained to monitor the health and wellbeing of the student



## Restrictions on Use of Isolation/Restraints

Effective January 2009

- Chemical restraints are prohibited (unless for therapeutic purposes, under the direction of a physician and with child's parent/guardians permission)
- Defense sprays are prohibited (for instance: Mace, pepper spray)
- Mechanical restraints are prohibited (for instance: straight jackets)
- Any form of restraint that restricts the flow of air into the lungs or involves chest compressions
- The use of isolation or physical holding restraint used to coerce, punish, or retaliate on any student receiving special ed services



## Implementation of these Policies

***The state board of education, in consultation with:***

- ***the Department of Education***
- ***the Department of Mental Health and Developmental Disabilities***
- ***and the Department of Children's Services***  
***shall disseminate rules and regulations concerning the use of isolation or restraint with students who receive special education services.***



## **Strategies for Parents/Guardians**

- Ask for copy of the school/school district restraint and seclusion policy
- Make sure the school is aware of any medical conditions your child has
- If it is in the best interest of your child to have a restrain/seclusion plan: ask the qualifications, training of the persons to administer the plan
- Ask your child's physician, mental health services to participate in developing the restrain and seclusion plan for your child
- Ask to see the area used for seclusion
- If you have any concerns about the school/school district policy, area to be used for seclusion, qualifications, training of persons to administer the plan document them and share this with school. ***(You may want to note your concerns in the child's file or in the parent's concern section of the IEP)***



## **Supreme Court Rulings Related to Special Education/Education**

- *Forest Grove School District v. T.A* “We conclude that IDEA authorizes reimbursement for the cost of private special education services when a school district fails to provide a FAPE and the private school placement is appropriate, regardless of whether the child previously received special education or related services through the public school.”
- Ruling makes it easier for families of special ed students to receive private school reimbursement
- However, parents/guardians must show that school unable to provide FAPE



## *Strategies for Parents/Guardians*

- Make sure you read the minutes of each meeting before signing
- Ask for copies of minutes, draft IEPs, and finalized IEPs
- When you have concerns about services, accommodations and school programs for your child, document your concerns and have them placed in your child's file or on the IEP
- Talk/meet with the school sharing your documented concerns **and** your suggestions on how to resolve the concerns
- Listen and work to understand the school's mandates around teaching your child, ensuring your child's and other children's safety
- Be involved as much as you can in your school and school district committees and organizations (school improvement plan committee, parent advisory committee, PTO/PTA, etc.)



## Americans With Disabilities Act, 2008

**Broadens the definition of a “Major Life Activity” to include the following:**

- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing
- Eating
- Sleeping
- Walking
- Standing
- Lifting

- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working



## Implications with the New Guidelines?

- Unsure of all the implications at this time
- There are implications for children with disabilities under 504

“Section 504 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education.” U.S. Department of Education, Office of Civil Rights



## What services are available for students with disabilities under Section 504?

- Section 504 requires recipients to provide to students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met.
- An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services.



- School Districts must now make their Section 504 determinations **based upon the child's disability as it presents itself *without* mitigating measures** (i.e., hearing aids, medications, learned behavioral adaptations).
- Example: Suppose you have hired a tutor for your child with a disability, who helps him with homework 2-3 hours a day and helps keep his grades at A or B level. The tutor is a mitigating measure. Now, the use of this mitigating measure (resulting in better grades) cannot be used to preclude someone with a disability from being a person with a disability whose ability to learn is substantially impaired.

*Wright's Law*



## Resources for Parents/Caregivers

- Tennessee Voices for Children (1-800-670-9882; [www.tnvoices.org](http://www.tnvoices.org))
- STEP (800) 280-STEP, Español 800-975-2919: <http://www.tnstep.org/>)
- NAMI (800) 467-3589; <http://www.namitn.org/>)
- Tennessee Department of Education, Special Education (<http://www.state.tn.us/education/speced/index.shtml>)
- Wright's Law (<http://www.wrightslaw.com/>)
- Disability Law and Advocacy Center (1-800-342-1660 (TTY: 1-888-852-2852); <http://www.dlactn.org/>)
- Family Voices of Tennessee (1-888-643-781; <http://www.tndisability.org/familyvoices>)