

June 24, 2019

President Hartings, Vice President Iszard, Superintendent Salmon and Members of the State Board of Education,

I am writing to you today to share my serious concern about the use of dangerous restraint and seclusion in Maryland Public Schools. Restraint and seclusion under Maryland State law (COMAR) are intended as measures of last resort if a child's behavior escalates to a point that it presents a high likelihood of imminent, serious, physical harm to that student or others. COMAR requires that each time restraint or seclusion is used, parents shall be provided oral or written notification within 24 hours, unless otherwise provided for in a student's behavior intervention plan or IEP.

Unfortunately, it has come to my attention that seclusion and restraint are often utilized in Maryland Public Schools in situations that do not involve imminent, serious, physical harm and the use of these aversive measures are not always appropriately reported to families, to MSDE and to the Office of Civil Rights as required by law. Restraint and seclusion lead to significant trauma, as well as the risk of serious bodily injury and even death to students, teachers, and staff.

I am not alone in my concern about the use of dangerous restraint and seclusion. The issue has been receiving significant coverage in the local and national news recently, including a series of articles by Jenny Abamu of NPR. There are many disability rights organizations that are concerned about the inappropriate use of restraint and seclusion in schools across the nation including Disability Rights Maryland (DRM), Council of Parent Attorneys and Advocates (COPAA), The Arc, Maryland Coalition of Families (MCF) and others. The Department of Education Office of Civil Rights has shared concerns that these practices disproportionately impact children with disabilities, minorities, and boys. The Maryland Governors Office has expressed concerns about the school to prison pipeline and the impact of aversive discipline. The General Accounting Office (GAO) released a report last week raising significant concerns about inaccuracies in data provided by the states and urging the Department of Education to take immediate action. In the vein of data inaccuracies, it is my understanding that MSDE provided incorrect data in the 2018 report to Governor Hogan, "Restraint and Seclusion Data Collection; Findings, and Recommendations". The report, for example, showed no instances of seclusion in Montgomery County, which was not accurate.

Our family has been personally impacted by the use of seclusion and restraint in the Maryland Public School system and our story has been covered in local media and more recently on Fox 5 DC. Our son Cooper is on the autism spectrum and has ADHD and anxiety. Following two incidents involving the unnecessary physical restraint of my son at the end of the fifth grade, he did not want to return to the public school system.

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Subsequently, we homeschooled Cooper for the next two years. Last year he made the decision that he wanted to return to the public school system. We worked very hard to develop an IEP and supports that we felt would enable him to be successful.

Unfortunately despite our efforts things went terribly wrong. Over the course of 15 days while Cooper was in attendance at the Calvert Middle School last Fall he was forcefully put into seclusion and physically restrained on at least four occasions (only two were officially documented). Following a traumatic seclusion and restraint event that occurred on October 3rd, 2018 Cooper no longer wanted to return to school and was provided home and hospital teaching for the remainder of the school year.

Our county, Calvert County, while fourteenth in the size of the enrollment in the State of Maryland, has the highest rate of the use of seclusion and the second highest rate of restraint in the State of Maryland according to a December 2018 report to the Governor (Restraint and Seclusion Data Collection. Findings, and Recommendations). Calvert County is clearly doing something wrong. I learned in reviewing the school systems policies that Calvert County's policies were not aligned with Maryland State law or COMAR (The Code of Maryland Regulations). The policy did not include the provision that it should only be used when the situation includes the potential of imminent, serious, physical harm. It is my hypothesis that the difference in policy could be related to the high rates (overuse) of seclusion and restraint occurring in our county. In Calvert County, seclusion and restraint were routinely used for what was described as "unsafe" behaviors. There are documented cases of children being restrained and secluded for minor behaviors such as splashing water, taking off their shoes, and refusing to clean up their desk. However, Calvert County is not alone in Maryland in the use of restraint and seclusion when the situation does not rise to the level of imminent, serious, physical harm.

Over the last year, I have talked to psychologists, university researchers, professors, teachers, school administrators, disability rights advocates, parents, and students about the use of seclusion and restraint. This research has informed my position that we need to significantly reduce the use of restraint in schools in the State of Maryland and across the nation. I am aligned with MSDE and Maryland State law in terms of when the use of restraint is appropriate, unfortunately in practice restraint is all too often used in Maryland schools in situations that do not warrant the high likelihood of imminent serious physical harm. My research also supports a national ban on the use of seclusion in schools across the nation as there is no science that supports the use of seclusion in a school setting. Later this week I have meetings scheduled with Senator Van Hollen and Congressman Hoyer's offices to discuss the "Keeping All Students Safe Act", which would prohibit the use of seclusion in schools across the nation. There are

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far better ways to work with children who may exhibit challenging behaviors and there are even trauma-informed alternatives to seclusion and restraint. We can and should be doing better for our children in Maryland.

What is the State Board of Education doing to provide oversight to MSDE and the local education agencies (LEAs) to ensure these practices are being used in accordance with state law? Do you as a member of the State Board of Education feel that seclusion is an appropriate intervention in a non-clinical school setting? All of the data I have found indicates that seclusion has no educational benefit and leads to increased aggression and behavioral issues. Why do you think that five states have been able to successfully ban the use of seclusion and Maryland has not? I believe we can and should do better for our children in Maryland. I believe that it is time for the Maryland State Board of Education to investigate this issue. There are experts in Maryland and across the country that can help us reduce the use of restraint and eliminate the use of seclusion, I have spoken to many of them. The State of Hawaii has shown leadership when the Governor signed HB 1796 into law and prohibited the use of seclusion in public schools in the state. I believe that it is time for Maryland to take a leadership position and end the disproportionate violation of civil rights imposed by the inappropriate use of restraint and seclusion. I would be happy to discuss this matter further with you and look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Guy Stephens', with a long horizontal flourish extending to the right.

E. Guy Stephens

Cc: Governor Hogan