

***Behind Closed Doors: What's Happening to Students
With Autism in America's Public Schools?***
The case for cameras in self-contained classrooms

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Executive Summary

The Centers for Disease Control and Prevention (CDC) estimates one in 88 children born in 2000 are diagnosed with an autism spectrum disorder. This represents a more than 68 percent increase in autism rates in only eight years. The dramatic impact of this epidemic has been keenly felt by school districts nationwide struggling to cope with students who often have a high level of need for supports and services to be provided a Free and Appropriate Public Education (FAPE) as guaranteed under the Individuals with Disabilities Education Act, part B for students identified with autism. Often, the most profoundly affected children are relegated to segregated environments in what are referred to as “self-contained” classrooms. They spend their entire school days behind closed doors with teachers and aides who often have little training in autism, and with no surveillance and little oversight to ensure consistent educational and safety standards. Many of these students are unable to communicate with trusted adults about what is happening at school. Tragically, this recipe of inadequate screening of prospective teachers and aides, poor training, students who sometimes have very challenging behaviors, and lack of oversight has resulted in an alarming increase in reported incidents of student abuse. Certainly, lack of education funding has greatly exacerbated issues of staffing and training, and with expected cutbacks, the situation will further deteriorate.

Data regarding Texas’ public schools shows a student with autism is 25 times more likely to be restrained in a self-contained classroom than in general education environments, an indication that difficult situations are much more common in these classrooms.

The installation of surveillance cameras in self-contained classrooms would provide students a critical safeguard to maintain personal safety, assure teachers protection from false allegations, and likely save taxpayer money by avoiding

expensive and protracted investigations into allegations of abuse by providing solid documentary evidence.

Introduction

A dramatic increase in the number of students receiving special education services under the eligibility label of Autism has caused tremendous strain in public schools struggling to serve a population with a high level of need. According to the Texas Education Agency, [the number of students receiving special education services with the eligibility label of AU](#) (for students with autism spectrum disorders) increased from 26,603 in the 2008-2009 school year to 37,361 in 2011-2012, *an increase of greater than 40 percent in only three years*. Parents report meetings to negotiate for services to assure a FAPE in the Least Restrictive Environment (LRE), as promised under the Individuals with Disabilities Education Act (IDEA) have become battlegrounds. While education in inclusive environments is often the goal, sometimes the intensity of support required for a student results in placement apart from general education settings in self-contained classrooms. This paper addresses concerns related to abuse that occurs in these segregated settings.

What is unique to autism that puts our kids at risk?

Chief among the difficulties of educating students with autism is challenging behavior. Whatever the cognitive ability of a student with autism, problems with social skills, self-regulation and self-awareness can become barriers to participation in general education environments, especially if behaviors are not appropriately addressed early on. While a large body of scientific research points to the efficacy of Applied Behavior Analysis (ABA) to develop functional behavioral analysis (FBA) resulting in a Behavior Intervention Plan (BIP) individualized to the student, the promise of inclusion all too often is not realized.

It is often behavioral challenges that lead to educational placement in self-contained classrooms as a student's primary instructional setting. The self-contained classroom, as the name implies, limits access to the school community, often resulting in sequestration of students, teachers and other personnel behind closed doors for most of the school day. The restricted setting per se is not the problem. Some students may make better progress in settings that minimize distractions and provide intensity of instruction they need in order to learn. The problem lies in the fact that many children with autism who have been determined to need this placement are non-verbal, limited, or unreliable communicators who cannot tell trusted adults when things go wrong at school. Classmates, likewise, are often unable to report abuse. As media reports have unfortunately revealed, collusion between two or more adults to cover up abuse is alarmingly common.

With the explosion of students with autism has come a corresponding increase in students in these placements. The National Autism Association monitors media reports of cases of student abuse and has observed what appears to be a steady increase in instances of abuse perpetrated by trusted adults including teachers, therapists and paraprofessionals. All too often, the abuse goes undetected (because of the students' communication challenges) until obvious signs or symptoms arise. Undoubtedly, there are some cases of abuse that are never detected.

What *should* be happening?

The Office of Special Education Programs (OSEP) of the US Department of Education [endorses Positive Behavioral Interventions and Supports \(PBIS\)](#) as an effective, evidence-based disciplinary practice using a three-tiered approach from broader school-wide efforts to specific strategies for students with significant behavior challenges.

The primary tier of PBIS involves core elements including having clear behavior expectations defined and taught, reward systems for appropriate behavior, and consequences for problem behavior. It also includes the use of data to drive decision-making.

The secondary tier involves universal screening, efforts to improve school-home communication, increasing structure, and other tenets.

The third, most intensive tier, called the “tertiary” tier, involves the use of Functional Behavioral Assessments (FBA). Ideally, an intensive team-based approach should be used to perform needed evaluations resulting in the development of an individualized Behavior Intervention Plan (BIP) for students whose behavior challenges have not responded to tier one and two approaches.

In a March 2009 paper, OSEP cites 19 studies showing support for use of the organizational systems and strategies defined in the tertiary PBIS intervention tier. Simply put, if an FBA is properly done -- and the BIP is properly developed and implemented -- PBIS works.

Unfortunately, students with autism (and other students with challenging behaviors) are often denied this support because the process by definition is rigorous, and can be costly on the front end. Failures include not performing FBAs at all, or using short cuts which result in bad BIPs that don't help -- and sometimes exacerbate -- behavior problems.

A student who languishes with a poor FBA and BIP can struggle for years, be denied education in the Least Restrictive Environment (LRE) and, in some difficult cases, be subject to abusive practices, either under the guise of “aversives” (negative and sometimes abusive practices such as spraying lemon water to the eyes) or outright abuse by teachers and aides who may have neither the right training, nor the right tools to implement a good behavior plan. One

fundamental flaw with aversives is that they cannot be humanely increased (while positive consequences can be almost infinitely increased.) As frustrated educators “up the ante” in an effort to gain compliance, the strategies that seemed to work initially stop working, and efforts to step up aversives set up all parties involved for abusive situations.

The long-term goal in properly supporting students with serious behavior challenges (whether they have autism or not) is high fidelity implementation of PBIS in all schools. Cameras cannot and should not be the *primary* strategy used to assure student and teacher safety, but should be viewed as a means to detect abusive situations while ongoing efforts are made to improve staff screening, training, and student supports. In the face of budget crises, cutbacks in education likely won't lead to progress in this regard as quickly as our students need. Therefore, measures must be in place to ensure the safety of students with autism in these often-volatile environments.

Are children more vulnerable to abuse in self-contained classrooms?

We can speculate that the majority of teachers and aides in self-contained classrooms are dedicated to their students' well-being, but that would only be speculation since no data exists specifically looking at instances of abuse in these instructional settings. One proxy to understand what is going on in self-contained classrooms would be to analyze the frequency of student restraint in various school environments.

Though no federal laws protect students with disabilities from dangerous restraint practices, and only 13 states currently have laws regarding use of seclusion and restraint in public schools, restraint by definition *should* normally be used as a last resort when responding to a behavior crisis.

According to the [Alliance for the Prevention of Restraint, Aversive Interventions and Seclusion \(APRAIS\)](#):

“Restraint is characterized by exposing the student to physical, mechanical or chemical restraints to immobilize them. These procedures include forcing a child to the floor, the use of tape, cuffs or other devices and the application of medicine that dulls a child’s ability to move or think. Seclusion is forced isolation in a room or space. Without legal safeguards, these procedures are often carried out by untrained or undertrained personnel, placing students at higher risk of serious injury or death.”

Because one in ten students in the US attends a Texas school, it is useful to look at data compiled by the Texas Education Agency (TEA) to understand trends. A report developed by the Texas Behavior Support Network for the TEA [analyzed the use of restraint](#) in the state’s public schools from 2007-2009.

In that timeframe, 52,506 instances of restraint were reported. When analyzing student placement where restraint occurs, 30,671 took place in self-contained classrooms. This compares with 2,313 instances in mainstream instructional settings. This means a student was more than thirteen times as likely to be restrained in a self-contained classroom as they were in a mainstream setting. (Notably, an additional 11,405 episodes occurred in resource classrooms, which are often similar to self-contained environments but with more student movement to and from general education settings and often with students who require less behavior support than those in self-contained classes). Of more than a dozen instructional settings analyzed, restraint occurred in self-contained classrooms more frequently than in all other settings combined.

The report further analyzed instances of restraint by disability (or special education eligibility label). Among students receiving special education services under the label AU (autism), 7,271 were restrained in self-contained settings,

while only 294 took place in mainstream settings. This means a student with autism is roughly *25 times more likely to be restrained in a self-contained classroom than in a mainstream instructional setting*. This is *hard evidence that situations that escalate beyond the control of educators to resolve with safe strategies are far more common in self-contained settings*.

In 2009, the [Government Accountability Office conducted a national review of restraint and seclusion policies](#) and found instances of death and injury resulting from improper use of restraint. Not surprisingly, the report noted:

“Children, especially those with disabilities, are reportedly being restrained and secluded in public and private schools and other facilities, sometimes resulting in injury and death. The ten closed cases we examined illustrate the following themes:

(1) children with disabilities were sometimes restrained and secluded even when they did not appear to be physically aggressive and their parents did not give consent; (2) facedown or other restraints that block air to the lungs can be deadly; (3) teachers and staff in these cases were often not trained in the use of restraints and techniques; and (4) teachers and staff from these cases continue to be employed as educators. In addition to the 10 cases we identified for this testimony, 3 cases from our previous testimonies on residential treatment programs for troubled youth also show that face down restraints, or those that impede respiration, can be deadly.

The report further stated that among the allegations they investigated, 20 deaths had been reported due to restraint.

It is prudent and reasonable to assume if restraint occurs so commonly in self-contained settings that the potential for abuse in these stressful situations also increases. The use of cameras could in fact be justified if for no other reason than to determine why restraint occurs so often in these classrooms and to

inform behavior specialists on how to better support teachers and students to avoid this dangerous practice.

[A 2011 study](#) conducted in Ontario schools explored the prevalence of teacher bullying and abuse, characteristics of teachers and students involved, and the impact on students, teachers and co-workers. The study revealed between 2-11 percent of teachers were observed bullying students in general education environments even when they were aware they were being observed by pre-service teachers (interns). In fact, more than half of respondents said they observed teachers firsthand bullying or being abusive to students, though most reported being afraid to report the incidents fearing reprisals.

What constitutes abuse?

A fundamental problem underlying the issue of classroom abuse is that the definition of abuse in schools is not clear. Certainly, actions that, if taken by a parent would constitute child abuse and result in arrest, are not always triable offenses when they occur in the classroom.

When students with severe autism in a Texas school were allegedly forced to put vinegar soaked cotton balls in their mouths, Texas Education Agency officials stated that this did not necessarily constitute abuse because education code in the state differs from criminal code. Teachers, they say, have discretion to handle difficult behaviors as they see fit. While it is best practice to have strategies outlined in a Behavior Intervention Plan (BIP) and approved by parents, it is not a legal requirement.

In fact, in [Allen Sagan v. Sumner County Board of Education, \(6th Cir., 2012\)](#) the court found the families of five unrelated children with disabilities failed to support claims that a teacher abused the students. The decision states:

“Making matters worse, appellants fail to offer a cogent argument for how the record evidence supports triable issues of constitutional violations for any of the

five children. To demonstrate that a teacher's conduct violates a student's substantive due process rights, the student must show that "the force applied caused injury so severe, was so disproportionate to the need presented, and was so inspired by malice or sadism rather than a merely careless or unwise excess of zeal that it amounted to a brutal and inhumane abuse of official power literally shocking to the conscience."

This standard for abuse appears dangerously high especially when you consider that many students with autism have difficulty connecting their actions with consequences. It allows for a cycle of violence that starts with low level efforts that may work temporarily, then become ineffective. As educators increase aversive and other dangerous practices to diminish unwanted behavior, the punishment escalates resulting in an atmosphere of fear, creating further anxiety and risk of acting out on the part of the student.

Moreover, it's a standard that would never be acceptable and would not be tolerated by parents of students in general education.

Do school personnel report abuse?

A [2004 report](#) surveying 200 teachers' attitudes toward and knowledge of maltreatment of children found most reported being unaware of the signs and symptoms of child maltreatment, did not understand reporting procedures, felt school administration would not be supportive, and were in disagreement with their legal role as mandated reporters. It's important to note this study primarily looked at teachers' role in reporting suspected abuse occurring outside of school. It is reasonable to assume that if school administrators discourage teachers from reporting suspected abuse in the home, they may be at least as reticent to have educators report suspected abuse by their colleagues in the school setting.

A [2005 study](#) conducted by Kent State University Department of Sociology found that teachers used discretion to determine whether to report child abuse and were more likely to underreport than overreport suspected abuse.

Are cameras in classrooms legal?

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

According to the US Department of Justice:

“Cameras may not be used in areas where there is a “reasonable expectation of privacy.” Examples of these are bathrooms, gym locker/changing areas, and private offices (unless consent by the office owner is given). Examples of where cameras are generally acceptable are in hallways; parking lots; front offices where students, employees, and parents come and go; gymnasiums, cafeterias; supply rooms; and classrooms. The use of cameras in classrooms is often debated by teachers who want cameras for protection and teachers who do not. *At this point in time, it is probably wise to use cameras in classrooms only when the teacher is given an option and notification that a camera is to be used.”* (author’s emphasis).

Conclusion

The dramatic increase in the number of students with autism in schools, coupled with lack of funding for adequate educator training and staffing levels has resulted in an untenable situation in many schools. The tactics that are being used to control behavior (or simply out of frustration) among students who are in self-contained classrooms would never be tolerated for students in general education settings.

Long-term strategies to combat the problem include:

1. Incentives for students pursuing degrees in autism or behavior analysis
2. Minimum standards for training of teachers and aides on the front lines
3. Minimum standards for staffing levels
4. Taking a hard look at the best behavior remediation programs in the country to see how and why they are successful
5. Legal reform that makes child abuse in schools a criminal offense and lowers the bar from “literally shocking to the conscious” to a reasonable standard

In the short term, the use of surveillance cameras in classrooms could provide necessary evidence to confirm, or rule out, serious and sometimes chronic abuse of our most vulnerable children.

Information for Families

If you suspect adults at school are abusing your child, it is important to understand that this is not an educational issue, it's a legal issue. Just as in any case of suspected child abuse, the [proper authorities should be notified](#) (your local police, or child protective services). While you may choose to notify school personnel, child abuse is a criminal offense and should be treated as such. Your child may be at greater risk of abuse if they are non-verbal or have a history of being unreliable at communicating meaningful events.

They are also at risk if they have challenging behaviors; have a history of frequent disciplinary reports or notices of restraint; or have a diagnosed emotional disturbance that affects their behavior. It should be noted, though, that maladaptive behaviors are not always present when abuse occurs. Unfortunately, there are some people who victimize these students just because the children are vulnerable.

It is always advisable to observe your child in the classroom, if possible, without being seen (through a two-way mirror, if available, or through a classroom window). Most schools require notice for observation to occur. Obviously, this may mean adults will behave differently when being watched, but it may be possible to detect clues about the classroom environment, the demeanor of staff and the behavior of the students. It will also let staff know that you are alert to problems that may occur.

If your student has a Behavior Intervention Plan (BIP) and continues to have problems with targeted behaviors, you should, at a minimum, request data on the frequency of problem behavior and circumstances surrounding the incidents. You may wish to ask for an updated Functional Behavioral Assessment (FBA). *If your child continues to struggle with behaviors targeted by a BIP, then the BIP is failing.* You should be able to understand the terminology in the BIP, and be able to carry out the procedures in your own home successfully. If you can't, it's fair to ask teachers how they are able to carry it out at school. If the plan includes negative consequences (or aversives), you should ask yourself if you were seen carrying out the consequence in public would someone report you of child abuse. A more fundamental question would be, "If my child didn't have a disability, would this be OK to do?"

Unfortunately, the distinction between aversive strategies used in an effort to control behavior and behavior that constitutes child abuse is not always clear. Some states (such as Texas) cite educational code that is not in line with criminal code. In this case, a teacher can legally use "strategies"— that would be considered child abuse in other situations--in the classroom in an effort to control behavior. This may happen even if the strategies are undocumented and have not been approved by the parent as long as the teacher can prove it was done to address behavior challenges. If your school asserts that a practice you consider child abuse was done in the name of "behavior management", document every communication, contact your state education agency legal department, and if you feel it's warranted, file a report with authorities. You may also wish to contact

your state's [protection and advocacy organization](#) or [Council for Developmental Disabilities](#) for advice.

Sample Headlines

*Parents Use Hidden Camera To Capture Abuse Of Autistic Son
Video shows school employees hitting special needs student
Aaron Hatcher, Special Needs Student, Allegedly Died From Teacher's Forced
Neck Brace*

*Deer Park Teacher Disciplines Autistic Student with Spray Bottle
NY1 Exclusive: Mother Says Her Autistic Son Was Abused Twice In A Manhattan
School*

*Autistic Child Left Alone On Bus 2 Hours-Starts to Wander Away
Autistic schoolboy, 6, 'has hands tied behind his back by teacher as punishment'
Columbus School District Sued Over Accusations of Locking Disabled Students
in Padded Rooms*

*Local Autistic Child Struck, Handcuffed by Police
Parents: Aide hit autistic child
S. Fulton middle school teacher charged with abuse
School uses foam blockers on special-needs teens
Springfield, Vt., parents raise concern over seclusion room
Teacher fined for classroom assault on autistic boy
Teacher's aide at special needs high school arrested on child abuse charges
Teacher's aide accused of assaulting student with autism
Parents of Cabarrus Co. student with autism claim bullying by teacher
Scream room' usage makes parents of autistic kids cry out for answers
Teacher accused of abusing special-ed students
Hearing Today For School Principal Charged With Abuse
Cherry Hill Dad Tells YouTube: Teachers Bullied My Autistic Son
Mother Sues Judge Rotenberg Center Over "Torture" Of Disabled Son
Mother says 7-year-old autistic boy being physically abused at school
Mom says SECEP teacher punched child
Ex-Hub school aide indicted in abuse case
Arnold H.S. Teacher on Administrative Leave Accused of Abusing and Mocking
Students
Terrified autistic teenager with the mental age of five left locked on school bus for
45 minutes by driver
Allegations of Sexual Abuse Cover-up of Autistic Child at Ogden School
Autistic student left behind on ETX school bus
Mother says autistic son put in locked, unventilated plywood box at school*

Hudson teacher suspended for placing child in cardboard box
KAMC Investigates: Parents Angry After Frenship Teacher Physically Mistreats Students
Handcuffing of 8-year-old prompts change in school policy
Father says autistic daughter mistreated by teachers, records classroom
Bus driver shoved boy with autism into a bush
6-Year-Old Autistic Child Ends Up At Wrong School
Autistic child has head slammed into school bus window by bus monitor, Utica Police say
School bus aide accused of assaulting autistic student
Autistic boy abused at Dorchester school
May Institute aide faces assault charge
C-A teacher charged with abusing autistic student
Teacher sued over claims that autistic students abused
Trial for autistic boy allegedly tormented by bus driver opens
Teacher charged with striking student in autistic program
Lake Co. teacher accused of slapping autistic students
New York bus driver gets probation for duct taping disabled girl's mouth
Teacher accused of dragging autistic boy across classroom
Conroe teacher pulled from classroom amid abuse investigation