

October 16, 2012

Ms. Beth A. Oberdier, Disability Rights Advocate
Disability Rights Ohio
50 West Broad Street
Suite 1A00
Columbus, Ohio 43216-5293

Dear Ms. Oberdier,

This letter is being written in response to the recommendations to the Ohio Department of Education (ODE) as prescribed in the Disability Rights Ohio, fka Ohio Legal Rights Service, Investigative Report on *Columbus City Schools Use of Seclusion Rooms*, dated September 2012. The Ohio Department of Education has developed both a draft rule and draft policy on the use of seclusion and restraint in Ohio schools. Both have been presented to the Achievement Committee of the State Board of Education and are currently posted on the ODE website for public comment. Sue Tobin, as a non-participating member of the stakeholder work group, continues to receive notices and information on the stakeholder workgroup meetings, drafts of the documents and resources used, and the timelines associated with the adoption and implementation of the policy and rule.

Based on the principles of Positive Behavior Intervention and Support (PBIS), the policy and rule explicitly state that the intent of the system of discipline and behavior management is the creation of a learning environment that promotes the use of evidence based behavioral interventions to promote enhanced behavioral and academic outcomes for each student. It is further stated that restraint or seclusion shall not occur except when there is an immediate threat of physical harm to the student or others, and shall occur only by trained personnel in a manner that protects the safety of all children and adults. Ongoing training, documentation and reporting of every use of restraint or seclusion are requirements outlined in the draft language.

It is noted that the basis of the recommendations from Disability Rights Ohio LRS is the USDOE *Restraint and Seclusion: Resource Document* released in May 2012. The Restraint and Seclusion Stakeholder group and the internal work team from ODE based the development of the draft rule and policy language on the 15 principles outlined in the resource document as well as the draft rule language sent to ODE by LRS. As state above, both the draft policy and draft rule are posted on the ODE website and can be located by typing Restraint and Seclusion in the search engine. Feedback and comments may be entered until **October 24, 2012** in the form provided on the webpage. Your feedback on the policy and rule is welcome.

Ohio's policy and rule apply to all students and set forth both prohibited practices and guidance on the use of seclusion and/or restraint. Both are prefaced with the statement that restraint and seclusion can only be used when there is an immediate risk of physical harm to self or others and no other safe and effective intervention is possible. In no instance should seclusion or restraint be used as punishment or to force compliance. Consideration of the individuals' age and development as well as staff

training to assure the care, welfare, dignity and safety of the student are addressed in the draft policy and rule.

Definitions are provided in the draft documents. Of note, is the definition of seclusion (*the isolation of a student in a room, enclosure, or space that is either locked or unlocked and from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier*). The requirements for training of staff, unlocked rooms, ongoing visual contact and monitoring for physical and mental distress, use of de-escalation strategies, de-briefing, and documenting the incident and reporting to parents combined with specific guidance on when seclusion may not be used is more restrictive and provides greater structure than reported in the LRS Investigative Report. As part of a PBIS multi-tiered system of support both timeout and sensory rooms may be part of a well-designed multi-tiered system of prevention and intervention support. The intent is to prevent the need for the use of seclusion or restraint through the use of evidence based strategies and interventions that structure both a positive educational environment and support both teaching and student learning of new behavior.

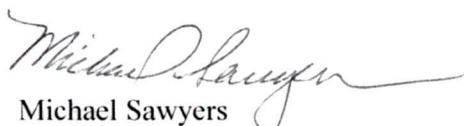
The policy and rule also define restraint and prohibit certain practices.

Staff training in PBIS principles, de-escalation techniques, and crisis management are required in both the policy and rule drafts. In addition, the use of restraint or seclusion must be documented in writing and immediately reported to building administration, reported to the parent immediately, and documented in a written report with a copy of the report provided to the parent within 24 hours. Annual reporting of incidences by districts to ODE is required. Districts are expected to monitor procedures to ensure that the policy and practice are implemented as written. In addition, districts are required to make records pertaining to seclusion and restraint available to ODE upon request.

Complaint processes will be addressed based on both the recommendations of Disability Rights Ohio and feedback from stakeholders. Currently, the Ohio Department of Education (through the Office of Professional Conduct and the Office for Exceptional Children) and Child Protective Services provide a means of reporting incidences of suspected IDEA violations, professional misconduct and child abuse. However, further discussion with the external stakeholder group will continue to assure there is a clear articulation of complaint procedures.

Thank you for sharing the Investigative Report and recommendations with the Ohio Department of Education. Your continued protection and advocacy for the rights of individuals with disabilities in Ohio is respected and an important part of the system of services for individuals with disabilities and their families. Like you, we have a desire and directive to assure a quality education is provided for each of Ohio's students in a safe and healthy learning environment with due diligence in assuring that each student is treated with dignity and respect.

Sincerely,



Michael Sawyers
Acting Superintendent of Public Instruction