

November 23, 2021

## **Fairfax County Public Schools, Plaintiffs Settle Restraint & Seclusion Practices Suit**

Fairfax County, VA – The parties involved in a lawsuit alleging unlawful restraint and seclusion practices in Fairfax County Public Schools (FCPS) have reached a mutual agreement that puts an end to the case.

The settlement between FCPS, disability rights organizations, and students follows an overhaul of practices. Seclusion has been prohibited in all FCPS base schools since January 1, 2021, and will be banned in all FCPS schools, including private schools with whom FCPS contracts, by the start of the 2022-2023 school year.

Building on its work to limit the use of physical restraint to only those instances where it is necessary to prevent a student from imminently inflicting serious physical harm, or injury, on the student or others, FCPS is also blanketly prohibiting the use of physical restraints that create a high risk of injury including prone, supine, and floor restraints and chokeholds. These prohibitions will be division-wide and will also apply to all private placements made by FCPS for students with disabilities by the start of the 2022-2023 school year, except students may opt to remain at their current private placements.

Further, until the prohibitions on restraint and seclusion described above take full effect, and for otherwise permissible physical restraints thereafter, all use of physical restraint or seclusion is prohibited as to those students who submit medical or psychological documentation that such practices would be contraindicated for them.

Expanding on its current work with Ukeru Systems, FCPS will continue to seek guidance on how to eliminate the need for physical restraint and seclusion altogether. FCPS will utilize Dr. Ross Greene, a leading educational expert in this field, to help it evaluate and improve upon methods for positive behavioral interventions and supports programs, staff training, and implementation of FCPS policy regarding physical restraint and seclusion throughout the district. FCPS will provide quarterly public reports on Dr. Greene's recommendations and will appropriately document and provide data on all acts of restraint and seclusion.

The plaintiffs are the families of six students with disabilities, the Council of Parent Attorneys and Advocates ("COPAA"), the Autistic Self Advocacy Network ("ASAN"), and CommunicationFIRST. Represented by attorneys Jessie Weber, Eve Hill, Sharon Krevor-Weisbaum, and Anthony May of Brown Goldstein & Levy and Kevin Byrnes of FH+H, the plaintiffs have expressed support for FCPS's efforts to curtail and eventually eradicate the use of physical restraint and seclusion against school children with disabilities.

FCPS released the following statement:

"Since the allegations were made, FCPS has taken direct action to ensure the dignified and appropriate treatment of students with disabilities."

“When the concerns were raised in the spring of 2019, the Fairfax County School Board began a complete, thorough, and independent review of restraint and seclusion guidelines and practices, including parental notification, data collection and staff training. The School Board also funded new Behavior Intervention Teacher positions and additional training for special education teachers, administrators, counselors, instructional assistants, social workers, psychologists, and related service providers, and directed the Auditor General to conduct a comprehensive review of special education programs in FCPS.”

“In August 2019, FCPS appointed a new assistant ombudsman dedicated solely to the FCPS special education program who is responsible for supporting parents who have special education concerns. The lawsuit settled this week was filed in October 2019.”

“In 2020, the School Board adopted a policy that placed it at the forefront of school systems working to eliminate the use of restraint and seclusion. For a full list of actions taken by FCPS following the allegations [see the FCPS website.](#)”

The plaintiffs released the following statement:

“We are encouraged by the steps FCPS has taken to end seclusion, sharply curtail the use of restraint, and create a positive learning environment where children with disabilities are treated with dignity and respect. The purpose of the lawsuit was to highlight these concerns and we are pleased that FCPS will seek to lead the nation on restraint and seclusion practices that respect the rights of students and more appropriately and productively address and respond to disability-related behaviors. FCPS’s new policies recognize that the needs of students and the school system are bound together in a common purpose to foster the education, advancement, and maximization of learning and growth potential for all students, including those with disabilities. Although the trauma the children in this lawsuit have endured because of restraint and seclusion can never be undone, we expect this resolution will ensure that no other student will ever have to experience such trauma. We also hope these policies will provide positive, coherent guidance to educators and staff so that uniformly-applied, evidence-based strategies for working with students with disabilities are followed. We believe that such policies will benefit not only the students but teachers as well. We encourage other school districts around the country to take note of what FCPS is doing to end restraint and seclusion and foster a positive learning experience for all students.”

###

***The Council of Parents Attorneys and Advocates (COPAA)*** is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals; over 90% of whom identify as having a disability; or are parents of family members of individuals with disabilities. COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of the 7 million children with disabilities in America. COPAA’s mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment,

higher education, and lifelong learning, as well as full participation in his or her community.  
[copaa.org](http://copaa.org)

***Autistic Self Advocacy Network (ASAN)*** seeks to advance the principles of the disability rights movement with regard to autism. ASAN believes that the goal of autism advocacy should be a world in which autistic people enjoy equal access, rights, and opportunities. We work to empower autistic people across the world to take control of our own lives and the future of our common community and seek to organize the autistic community to ensure our voices are heard in the national conversation about us. Nothing About Us, Without Us! [autisticadvocacy.org](http://autisticadvocacy.org)

***CommunicationFIRST*** is the only nonprofit organization dedicated to protecting and advancing the civil rights of the more than 5 million people of all ages in the United States who, due to disability or other condition, are unable to rely on speech alone to communicate. Our mission is to educate the public, advocate for policy change, and engage the justice system to protect and advance the human and civil rights of our historically marginalized community.  
[communicationfirst.org](http://communicationfirst.org)