

## Policies Matter: Closing the Reporting and Transparency Gaps in the use of Restraint, Seclusion, and Time-Out Rooms in Schools

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Résumé de l'article

Information about the use of physical restraint, seclusion, and time-out rooms in Canadian schools has primarily been anecdotal (media reports and anonymous survey data) due to uneven and non-existent mandates for reporting, transparency and public accountability. The absence of clearly articulated mandates to provide written documentation and publicly available data has allowed this issue to remain obscured from public scrutiny and has severely hampered advocacy efforts for students with disabilities, who are disproportionately impacted. Building upon a prior policy analysis that investigated the policy landscape of physical restraint, seclusion, and time-out in Canadian educational jurisdictions, the current policy analysis explores an additional variable, which was not previously considered, notably the degree to which educational jurisdictions provide clear regulatory requirements to document, report, and review incidents of physical restraint, seclusion, and time-out rooms in schools. Findings indicate that inconsistent reporting requirements have created glaring gaps and loopholes in accountability mechanisms that severely disadvantage students with disabilities. Recommendations include problematizing the institutionalized structures that enable information about the use of restraint, seclusion, and time-out to be filtered and concealed, and identifying guiding principles, which are grounded in research, that can provide a framework for much needed regulatory standards relative to this issue.

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## **Policies Matter: Closing the Reporting and Transparency Gaps in the use of Restraint, Seclusion, and Time-Out Rooms in Schools**

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### **Abstract**

Information about the use of physical restraint, seclusion, and time-out rooms in Canadian schools has primarily been anecdotal (media reports and anonymous survey data) due to uneven and non-existent mandates for reporting, transparency and public accountability. The absence of clearly articulated mandates to provide written documentation and publicly available data has allowed this issue to remain obscured from public scrutiny and has severely hampered advocacy efforts for students with disabilities, who are disproportionately impacted. Building upon a prior policy analysis that investigated the policy landscape of physical restraint, seclusion, and time-out in Canadian educational jurisdictions, the current policy analysis explores an additional variable, which was not previously considered, notably the degree to which educational jurisdictions provide clear regulatory requirements to document, report, and review incidents of physical restraint, seclusion, and time-out rooms in schools. Findings indicate that inconsistent reporting requirements have created glaring gaps and loopholes in accountability mechanisms that severely disadvantage students with disabilities. Recommendations include problematizing the institutionalized structures that enable information about the use of restraint, seclusion, and time-out to be filtered and concealed, and identifying guiding principles, which are grounded in research, that can provide a framework for much needed regulatory standards relative to this issue.

*Keywords:* physical restraint, seclusion, time-out, reporting, policy, disability, schools

### **Introduction**

The use of physical restraint, seclusion and time-out rooms in schools in response to challenging behaviours is a highly contentious issue. According to the Council for Children with Behavioral Disorders (CCBD, 2009), physical restraint and seclusion are intended to be used as emergency response procedures that should only be employed as a last resort when there is an immanent/immediate threat to physical safety. Physical restraint is defined as the immobilization of an individual, while seclusion is described as the act of denying an individual the free will to exit a space (CCBD, 2009a, 2009b). In contrast, time-out is not intended to be used as an emergency response procedure, as it is defined as a behaviour management strategy that involves the temporary removal of reinforcement (CCBD, 2009b). In spite of the important distinction that time-out is not an emergency response procedure, in practice, the use of time-out rooms or spaces (seclusionary time-out) in schools shares several similarities to that of seclusion, as individuals may be placed in such spaces as a form of punishment and denied the right to exit (Bon & Zirkel, 2013). There is increasing concern that physical restraint and seclusion are being inappropriately applied in school-based settings to address behaviours that are disorderly, but not neces-

sarily dangerous (Simonsen et al., 2014) and students with disabilities are most at risk. A recent study in the United States found that students with disabilities were seven times more likely to be restrained and four times more likely to be secluded, and if they attended a special school, they were “almost guaranteed to receive a restraint or seclusion” (Gage et al., 2020, p. 1). The use of physical restraint, seclusion and time-out rooms is particularly worrisome, as the use of these practices has been found to contribute to emotional trauma and physical injury for both students and staff (Bartlett & Ellis, 2020a, 2020b; Inclusion Alberta, 2018; Inclusion BC, 2013, 2017; National Disability Rights Network, 2012). In addition to the dangers associated with the use of physical restraint and seclusion, there is limited evidence that they are effective in reducing aggressive behaviour or that they have any educational or therapeutic benefit (CCBD, 2009a; Ryan et al., 2007).

Much of the research and legislation regarding the use of restraints, seclusion, and time-out rooms in schools exist in the United States, where federal funding has been provided to the Substance Abuse Mental Health Services Administration (SAMHSA) to identify proactive, preventative alternatives to the use of punitive disciplinary measures with the goal of eliminating their use (LeBel et al., 2012). The U.S. Department of Education (2012) also has provided critical guidance relative to this issue by developing a *Restraint and Seclusion: Resource Document*, which articulates 15 Guiding Principles that should be incorporated into policies related to restraints, seclusion, and time-out rooms. The document focuses on prevention, regulation, monitoring, and supports the ultimate eradication of restraints, seclusion, and time-out rooms. On the federal legislative front, the *Keeping All Children Safe Act* (2018), while not yet passed by congress, has the potential to provide comprehensive protections from the misuse of restraint and seclusion by outlining the rare conditions under which they may be used and by banning several procedures (e.g., mechanical restraints). The Act has provided a framework for the development of state regulations regarding the use of restraint and seclusion in schools (Marx & Baker, 2017). Reporting requirements and accountability are central features of the aforementioned resource document and federal legislation. *The Keeping All Children Safe Act* (2018) emphasizes the need for parents to receive verbal notification on the same day and written notification within 24 hours if restraint or seclusion are used. *The Restraint and Seclusion: Resource Document* (U.S. Department of Education, 2012) also recommends same-day notification, and both require data collection to ensure training, resources, and oversight are provided whenever these practices are used. Moreover, since 2009, the United States Department of Education Office for Civil Rights has required all public schools, alternative settings, and charter schools to report all incidents of restraint and seclusion and disaggregate the data by race/ethnicity, sex, limited English proficiency and disability as a part of their Civil Rights Data Collection (CRDC) (Gage et al., 2020; U.S. Department of Education, 2012; United States Government Accountability [USGAO] Office, 2019).

Only recently has the use of restraint, seclusion, and time-out in schools been brought to the fore in other jurisdictions, including Australia, Canada, and the United Kingdom (Bartlett & Ellis, 2020a, 2020b; 2021; Government UK, 2019; Inclusion Alberta, 2018; Inclusion BC, 2013, 2017; Inclusion Ireland, 2018; McCarthy, 2019; Scottish Government, 2018). In Canada, much of the activism regarding the use of physical restraint, seclusion, and time-out in schools has been from parents of children with disabilities (Bartlett & Ellis, 2020a, 2020b; Inclusion Alberta, 2018; Inclusion BC, 2013, 2017). Canadian parents of children with disabilities have been voicing concerns and demanding regulation to protect their children from the misuse of these potentially harmful practices (Alphonso, 2019; Heidenreich, 2020). Bartlett and Ellis (2020a, 2020b) conducted an anonymous survey of parents of children with disabilities in Manitoba and found that physical restraint and seclusion were being used in some cases on a daily basis. The most frequently reported disabilities for children who experienced restraint and seclusion included Autism Spectrum Disorder, intellectual disabilities, learning disabilities, emotional and behavioural disorders, and mental health disorders. Children were described as traumatized from the experience and parents reported that they were rarely informed by the school that the incident had occurred, and if they were informed, 90% indicated they did not receive a written report. The harms experienced by students with disabilities including emotional trauma and physical injury resulting from restraint and seclusion at school, and a lack of documentation and timely reporting align with the results of similar surveys conducted in other jurisdictions (Inclusion Alberta, 2018; Inclusion BC, 2013, 2017; Westling et al., 2010).

In Canada, provincial and territorial educational jurisdictions do not publicize data regarding the use of physical restraint, seclusion, or time-out rooms. The lack of transparency and accountability is not limited to the public educational system. A startling report by the Manitoba Advocate for Children and Youth (2019), *Learning from Nelson Mandela: A Report on the use of Solitary Confinement and Pepper Spray in Manitoba Youth Custody Facilities* involving case reviews and interviews with youths who were incarcerated in Manitoba's youth justice system, revealed the misuse of solitary confinement for up to 15 days, most often involving youths with disabilities. The report describes the use of solitary confinement of a youth or an individual with a disability for more than 24-hours as inhumane and recommends Manitoba Justice amend *The Correctional Services Act* to prohibit the solitary confinement of youth for a period exceeding 24 hours. The report further indicated the absence of regulatory guidance and accountability mechanisms as contributing factors to the egregious misuse of these harmful practices. The report states, "Manitoba Justice did not have the capacity to track the length of stay in solitary confinement units for individual youth, the frequency of use, the reasons for use, or any trends associated with its use" (p. 18). Regrettably, there are many parallels between youth custody facilities and schools regarding the absence of transparency, monitoring, and accountability for the use of physical procedures and seclusionary practices, most often with individuals with disabilities, and urgent change is required.

### ***Restraint, Seclusion, and Time-Out in Canada***

The need for regulation of the use of physical restraint, seclusion, and time-out rooms in Canadian educational jurisdictions was affirmed in a recent policy analysis conducted by Bartlett and Ellis (2021). This analysis found that seven educational jurisdictions (Manitoba, Northwest Territories, Ontario, Quebec, Nunavut, Saskatchewan, and Yukon) did not have provincial/territorial educational policies or support documents that specifically regulate or provide guidance regarding the use of physical restraint, seclusion, and time-out rooms in schools. Of the six provinces that were found to have provincial educational policies or support documents that provided guidance pertaining to these practices (Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island), there were inconsistencies with respect to terminology, disparate conditions under which these practices could be used, and variability in the degree of mandate. Only Alberta, Newfoundland, and Prince Edward Island were found to have Ministerial Directives, Operational Procedures, or policies that were explicitly directive and enforceable; however, even within these mandates, specific practices (e.g., physical restraint as compared to time-out rooms) were subject to varying degrees of enforceability. For example, the province of Newfoundland mandates how physical restraint must be addressed but provides only non-directive guidelines regarding the use of time-out rooms (Bartlett & Ellis, 2021).

The aforementioned analysis provided the first examination of the policy landscape of physical restraint, seclusion, and time-out rooms in Canadian educational jurisdictions and revealed glaring gaps and inconsistencies in regulatory standards. This article builds upon the prior policy analysis by examining an additional variable, which was not previously considered, notably the degree to which educational jurisdictions provide clear regulatory requirements and/or guidance to document, report, and review incidents involving the use of physical restraint, seclusion, and time-out rooms. This analysis focuses on the provinces where policies and support documents were located including: Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island. We acknowledge that the findings of our prior research led us to engage in the current policy analysis. We attempted to bracket our biases regarding the use of restraint, seclusion, and time-out by purposively searching for both strengths and weaknesses within the documents that were analyzed.

### **Methods**

The methods used in the current analysis was an enactment policy analysis (Ball et al., 2012), which assumes that policy is not universally adopted by actors in educational settings. The process of identifying relevant documents was conducted by searching ministerial websites to identify policies and support documents that referenced physical restraint, seclusion, and time-out. Once documents were identified, they were verified to be relevant through a close reading and keyword search of related terms identified in advocacy literature. In this analysis, special attention was paid to the following keywords: report, inform, document, written, verbal, debrief, parent, principal, administrator, division or district or board,

province or ministry, time (immediate, 24-hours, same day, as soon as possible, etc.), data collection, and data analysis. The selection criteria was intended to identify documents that would help to discern the following: (a) the expectations for reporting the use of restraint, seclusion, and time-out rooms, (b) the stakeholders who were identified as needing to be informed (e.g., parents, school administrators, school districts, and ministries of education); (c) whether written documentation was required as a part of the information sharing process; (d) whether debriefing procedures were identified; (e) the inclusion of timelines for any of the aforementioned practices; and (f) evidence of data collection and analysis to ensure accountability and to inform improvements in practice. The aforementioned criteria were selected as they have been identified by government bodies, advocacy groups, and scholars as essential to establishing necessary protections from the misuse of these practices and contribute to reductions in their use (Butler, 2019; Lebel et al., 2012; National Association of State Mental Health Program Directors [NASMHPD], 2011; U.S. Department of Education, 2012).

Once the aforementioned criteria were seemingly met through the keyword search, relevant sections of policies and support documents were identified and read more thoroughly to discern the degree of mandate and scope of relevant application. This involved determining if mandatory modifying language was used in concert with the relevant keywords (e.g., must, are required) or whether language more akin to a suggestion or recommendation was used (e.g., should, suggest). In the context of this article, mandate is used to describe policies that require actions to be taken and are thus enforceable. Recommended practices included language that suggests a particular practice should be employed but does not explicitly require that the practice be followed. These recommended practices are often modified by procedural and internal regulations at the school level and are fungible in their interpretation and applicability. Recommended practices provide fewer grounds from which parents can demand the fulfillment of their rights because they are not required in policy. Recommended practices also may be problematic for teachers and administrators as they create ambiguity, which may contribute to inconsistent and disparate interpretations of expectations.

## Results

Below are summaries of the analyses of the provinces where policies and support documents related to physical restraint, seclusion, and time-out rooms were located.

### *Alberta*

The *Standards for Seclusion and Physical Restraint in Alberta Schools* (Alberta Department of Education, 2019a) is a Ministerial Order that must be followed by school personnel within the province of Alberta. In addition to describing restraint and seclusion as crisis response procedures, the standards contain a detailed description of the documentation and reporting requirements that must be followed any time restraint or seclusion are employed. In these standards, there is an emphasis on the need for detailed documentation and several prompts outlining the contents of incident reports, including but not limited to: interventions used prior to the restraint or seclusion, attempts to de-escalate, the duration of the crisis response procedure, and the student's behaviour during the restraint or seclusion (p. 15). In terms of reporting the information, the standards "require" that the principal inform the parents of the child/student involved in the use of physical restraint or seclusion "as soon as possible after the incident and on the same school day" (p. 16). There is also a requirement to document the methods used to notify the parents along with the date and time they were informed. This requirement provides additional assurance that the important step of informing parents regarding the use of these procedures is not overlooked. In terms of sharing written documentation regarding the use of restraint or seclusion, there are frequent references to the need for detailed documentation to be compiled and shared in accordance with applicable privacy standards.

In spite of the focus on the need to document the use of restraint and/or seclusion, an explicit statement regarding the need to provide parents with written documentation would strengthen these standards, as it is clearly stated for other stakeholders including the school division administration. Debriefing is also an essential component in helping to prevent the future use of restraint and seclusion. In the province of Alberta, debriefing is required for all staff within three days, and an opportunity to debrief with parents and the student, where appropriate, are also required; however, the timeline for the debriefing with parents is



not stipulated (Alberta Department of Education, 2019a). The standards also describe occasions when the use of restraint or seclusion may be a part of a student's pre-planned safety or crisis plan, and in this case, it must be agreed to by the parents. In the event that these procedures are employed, they are "not to be a regular part of the child's /student's educational program" (p. 14), and parents must be notified after "each instance where seclusion and/or physical restraint is used" (p. 15). This is an important element of these standards, as they require every incident of restraint and seclusion, regardless of whether it has been included in a student's safety or crisis plan, to be documented and shared with parents and other stakeholders (e.g., principal, school division).

In terms of oversight and accountability, Alberta is one of the few provinces that require documented information regarding each use of physical restraint and/or seclusion to be reported to the school division administration "for purposes of reviewing the frequency, planning and oversight" (p. 16). Oversight and accountability are critical components of the standards as they clearly outline that it is the role of the school division administrator to ensure that every incident of restraint and/or seclusion is monitored, that policies and procedures are adhered to, and that follow-up resources and training in positive proactive alternatives are provided (p. 13). In addition to oversight at the school division level, there is also provincial oversight regarding the use of seclusion spaces. The *Appendix to Ministerial Order 42/2019* requires that school authorities submit regular reports on a per-school basis on the use of seclusion rooms to the ministry, which will be used to follow up with school authorities (Alberta Department of Education, 2019b). Alberta is the only province that has established provincial oversight regarding the use of seclusion spaces. However, there is not a comparable level of provincial oversight regarding the use of physical restraint. This is a shortcoming of the *Standards for Seclusion and Physical Restraint in Alberta Schools* (Alberta Department of Education, 2019a), as both procedures are characterized as emergency responses, and therefore should be subject to the same level of provincial regulation and oversight. In Alberta, time-out is described as a behaviour management procedure, as opposed to an emergency response procedure, and therefore it is addressed in separate provincial guidelines, *Guidelines for Time-Out in Alberta Schools authorities* (Alberta Department of Education, 2019c). Since time-out is clearly distinguished from seclusion, approaches to addressing time-out and associated reporting practices are guidelines or suggested practices and are determined at the discretion of the local authorities.

### ***British Columbia***

The reporting and documentation processes outlined in the *Restraint and Seclusion Guidelines* (British Columbia Ministry of Education, 2015) are not mandated practices, and are thus not enforceable. In spite of the fact that the guidelines are recommended, they share several similarities with the mandated practices in Alberta. The guidelines state that school divisions are expected to develop policies "requiring documentation of every instance where physical restraint and seclusion of a student occurs" (p. 5). Notification to parent/guardians, the principal, and the school district administrator for student services are recommended as soon as possible, and "always prior to the end of the school day" on which the incident has occurred (p. 6). Notification to the superintendent is also recommended as soon as possible after an incident occurs. However, the frequent use of the word "notification" within these guidelines makes it unclear whether written documentation should be provided to the aforementioned stakeholders in addition to recording the incident at the school level. Moreover, while the guidelines state that debriefings with parents, the school personnel involved, and the student where appropriate are expected, they do not stipulate a timeline for the debriefing process to occur. The guidelines reference the need for school districts to establish a process or mechanism for recording all incidents of restraint, seclusion, and the use of time-out outside of the classroom. Oversight at the school division level is also referenced, in that the guidelines state that the recording processes or mechanisms that are established by school districts need to include a process for providing this information to the district superintendent (p. 6). However, there is no indication of ministerial oversight regarding the use of restraint, seclusion or time-out outside of the classroom. There are no separate guidelines for time-out; however, time-out outside of the classroom is subject to the same documentation, reporting, and review procedures as restraint and seclusion. The establishment of guidelines as opposed to a mandate for policy development in this area, further illustrate that the ministry is somewhat detached from this issue in this province.

### ***New Brunswick***

Due to the existence of multiple policies that address responses to behavioural issues more generally, the province of New Brunswick provides limited concrete direction regarding expectations for documenting and reporting the use of physical restraint, seclusion, and time-out. For example, Policy 322, *Inclusive Education* (New Brunswick Department of Education and Early Childhood Development, 2013) states that “when a behaviour crisis occurs, a principal must ... follow guidelines and standards of practice about emergency physical intervention and supervised de-escalation, including requirements for documentation and reporting, as per relevant departmental policy” (p. 9). Since the relevant departmental policy is not identified—and in this analysis, no departmental policy specifically referencing physical restraint, seclusion, or the use of time-out rooms could be located, this statement does not provide sufficient direction to school personnel regarding how to document and report the use of these practices. Other policies such as Policy 703, *Positive Working and Learning Environment* (New Brunswick Department of Education and Early Childhood Development, 2018, section 6.7) reference the need to record and document student conduct information, but this reference is also vague and does not directly address the use of restraint, seclusion or time-out rooms.

The *Response to Intervention: A PBIS Resource Guide for School-Based Teams* (New Brunswick Department of Education and Early Childhood, 2017) is the most detailed support document that addresses behaviour more broadly. As a support document, it is not mandated; however, it does emphasize the need to document behaviour incidents and engage in data collection through online systems, such as PowerSchool, to guide planning and reduce the occurrence of challenging behaviour. In reference to the use of physical restraint, it states the need to “document incidents of physical aggression that result in use of physical restraint or emergency procedures” (p. 35). It further indicates, “It is preferable to communicate this information verbally with parents/guardians prior to sending it home in writing” (p. 35, emphasis added). There is also a reference to the need for restraint and “seclusion (e.g., time-out rooms)” to be documented (p. 42). In spite of the fact that restraint is described as needing to be documented, this resource guide does not include a clear directive to provide written documentation to parents, school administrators, school divisions, or the ministry, nor does it stipulate the need to debrief the incident or provide associated timelines for information to be shared. While the *Response to Intervention: A PBIS Resource Guide for School-Based Teams* is comprehensive and employs evidence-based practices like Positive Behavioral Interventions and Supports (PBIS), physical restraint, seclusion, and time-out procedures are not the explicit focus of this resource, and therefore accountability for documenting, reporting, and collecting data about these practices are insufficiently addressed. Unlike Alberta, which has a Ministerial Directive regarding the use of physical restraint and seclusion, and British Columbia that has dedicated guidelines regarding these practices, in New Brunswick, provincial guidance regarding this issue is comparatively limited. Moreover, by integrating recommended practices related to restraint, seclusion, and time-out within a support document they may not receive the visibility and oversight they require.

### ***Newfoundland and Labrador***

The *Safe and Caring Schools Procedure 4: Nonviolent Crisis Intervention Guidelines* (Newfoundland and Labrador Department of Education, 2013) stresses the importance of documenting physical intervention, and since documentation and reporting procedures are addressed in policy, they must be followed. In spite of this mandate, the frequent use of terms like “should” and “may” throughout may serve to undermine the strength of this policy. The policy states, “A school administrator *should* be informed immediately after each incident of student restraint” (p. 3; emphasis added). It further provides an exemplar of a “Non-Violent Physical Crisis Incident Report Checklist” (p. 3) and indicates that it “*may be used*” to assist school districts in developing their own incident reports (p. 3; emphasis added). It also points out that an incident report “*will*” be completed by the individuals involved in the intervention, and “*should* be signed by an administrator, and stored in the student’s confidential file” (p. 3; emphasis added). It further states that parents “*should* be informed as soon as possible” after the use of restraint (p. 4; emphasis added), but a precise timeline is not provided, nor does it indicate that parents must receive written notification. Overall, there is a strong emphasis on data collection throughout the policy. The policy indicates that school administrators are responsible for collecting and analyzing data regarding the frequency of

the use of physical restraint to guide planning for specific students and to inform training. It references that schools must report incidents of inappropriate behaviour to the district office on a monthly basis. In reference to ministry oversight, it indicates that the role of the ministry is to “Ensure and monitor school participation in the collection, analysis and reporting of data regarding policy implementation and inappropriate student behaviour, as outlined by the Department of Education” (p. 7). While this statement indicates that the ministry is involved in oversight regarding inappropriate behaviour, a more explicit statement regarding the role of the ministry in monitoring the use of restraint would strengthen this policy.

Since time-out is not addressed in the *Safe and Caring Schools Policy* (Newfoundland and Labrador Department of Education, 2013), reporting practices related to the use of time-out do not appear to be mandated. The use of time-out is addressed in a separate document entitled, *Time Out Intervention Guidelines* (Newfoundland and Labrador Department of Education, 2014). In reference to reporting the use of time-out, the guidelines state, “the principal *must* ensure that parents and/or guardian are notified when a time-out space is *being used* with their child” (p. 2, emphasis added). The guidelines indicate that time-out may be included in a student’s behaviour management plan (BMP), and once the use of time-out is decided upon as a part of the BMP, it does not stipulate that it must be reported to parents when it is used. There is a reference about to the need to document time-out space usage, “(e.g., sign-in form) to record time-out space usage is required” (p. 2); however, who receives this information and how it is used are not explained. Moreover, the need for a debriefing process is not included within these guidelines. Unlike physical restraint, exemplars for documentation are not provided, nor is there a specific reference to data collection regarding the use of time-out at the school level (beyond the sign-in form). There is also no reference to the collection of data at the school division or ministry levels. This is particularly concerning given that there is a reference in the *Time Out Intervention Guidelines* to situations in which time-out may be used in emergency situations when there may be a “high risk to the personal safety” (p. 2), and according to these guidelines these situations would not be subject to the same level of transparency and oversight as the use of restraint.

### *Nova Scotia*

The *Guidelines for the Use of Physical Restraint* (Nova Scotia Department of Education, 2011) state that “Every incident of physical restraint must be documented appropriately. Boards *may* have policies, procedures, and directives already in place for this process.” (p. 14; emphasis added). The use of the word “may” indicates that there is likely variability in the extent to which school boards have developed policies and procedures for documenting the use of restraint, and that such variability is permissible. The guidelines also reference Special Education Policy 2.2 (Nova Scotia Department of Education, 2008, pp. 23–28) for further details regarding documentation and reporting requirements. In reviewing the policy, no references to the documentation of restraint were found. Effective September 2020, Nova Scotia’s *Inclusive Education Policy* (Nova Scotia Department of Education and Early Childhood Development, 2020) replaced Special Education Policy 2.2; however, the province’s 2020 *Inclusive Education Policy* also does not reference the documentation of the use of physical restraint, but a Physical Restraint Incident Report is provided as an exemplar in an appendix of the *Guidelines for the Use of Physical Restraint* (Nova Scotia Department of Education, 2011). The incident report indicates that it should be completed “as soon as possible” after the incident by the staff member involved and submitted to the principal (p. 15). The incident report form includes an area for indicating when the school administrator was informed and the date and time parents were informed, as well as the date and time of the debriefing with parents (p. 24). The prompts provided are detailed and include critical components related to sharing information with parents, the school administrator, and the school-based team. Although a precise timeline for sharing information and debriefing is not provided, the guidelines stress the importance of timely reporting and debriefing with stakeholders. A more explicit requirement for same day verbal and written notification to parents and adding a timeline for debriefing with all stakeholders would strengthen these guidelines. Overall, these guidelines address many critical elements related to reporting the use of restraint; however, the fact that they are not mandated brings into question the degree to which they are followed in this province. Moreover, there is no evidence of reporting and oversight at the school division, or ministry levels, and therefore an absence of oversight may further lessen the responsiveness of school personnel to adhere to these recommended practices and use data to improve future practice.



The *Guidelines for the Use of Designated Time-Out Rooms* (Nova Scotia Department of Education, 2009) state that the use of time-out rooms “*must* be systematically planned, through the Program Planning Process, documented, delivered, supervised, and evaluated” (p. 1, emphasis added). However, in subsequent references, the guidelines state that the use of time-out rooms “*should* be continually documented, evaluated, and reviewed by the Program Planning Team” (p. 2, emphasis added). The guidelines provide a sample “Time Out Data Collection” form that includes information about the incident (e.g., date, time duration, antecedents, behaviour, whether physical assistance was required), and the guidelines state “this data *must* be placed in the student’s confidential record” (p. 5, emphasis added). However, the sample Time Out Data Collection form does not indicate that the form also must be provided to parents. While parents are informed about the use of a time-out room through the Program Planning Process, it appears that there is not a requirement to inform them every time a time-out room is used with their child. For example, the *Guidelines for the Use of Designated Time-Out Rooms* (Nova Scotia Department of Education, 2009) state: “It *may* be necessary to contact parents/guardians, board personnel” (p. 2, emphasis added). This statement seems to indicate that parental notification about the use of a time-out room may occur at the discretion of school personnel. Parental notification does not need to be in writing, nor is there a clearly stated expectation that it needs to be provided within a specific timeline. There is also no requirement for a debriefing process indicated within these guidelines. The *Guidelines for the Use of Designated Time-Out Rooms* implies a level of oversight at the school division level when time-out is used on a frequent basis; however, this also seems to be at the discretion of school personnel as it states, “school boards student services staff should be consulted” (p. 2). There is also a prompt about the need to collect data about the use of time-out, as there is a question in the guidelines that asks, “is data routinely collected and reviewed to evaluate the effectiveness of time-out?” (p. 2). However, beyond this prompt, there is no indication that data regarding the use of time-out is collected or analyzed at the division or ministry levels in order to monitor practice and support the use of positive, proactive alternatives. It is interesting that reporting practices regarding the use of restraint and time-out rooms are so disparate, especially since the following reference is made on the sample time-out data collection form: “If used, describe the physical assistance required” (p. 5). This statement acknowledges that a student may resist being taken to a time-out room and that physical assistance may be required. While “physical assistance” may differ from “physical restraint,” the distinction is not provided in this document, which may lead school personnel to think that physical restraint is permissible as a part of the time-out process, and that its use may not necessarily require parental notification.

### *Prince Edward Island*

Operational Procedure 405.1 *Physical Restraint Used in Schools* (Prince Edward Island Public Schools Branch, 2019) mandates “the timely notification of the school administrator and parents” regarding all incidents involving the use of physical restraint (p. 5). Although information sharing is clearly a requirement, Operational Procedure 405.1 does not indicate a precise timeline, nor does it expressly indicate the need for written notification to be provided. There is a focus on debriefing incidents involving physical restraint, which *should* involve the student, staff/and or parents, and reviewing and revising the behaviour support plan if necessary (p. 5). Interestingly, the written documentation that is required by this operational procedure is heavily weighted toward the needs of staff and internal procedures, including workers compensation and risk management forms. One of the strengths of the documentation procedures that are outlined is the focus on data collection regarding the use of physical restraint at the school, division, and ministry levels to provide oversight, guide planning, and prioritize training at both the individual and program-wide levels. The following directive is explicitly stated, “The school shall submit a copy of the Physical Intervention Log and any other associated forms to Public Schools Branch Student Services Department at the end of each month” (p. 4). This level of ministerial oversight regarding the use of physical restraint was not found in any other provinces.

The Operational Procedure 405.2 *Timeout and Timeout Rooms in Schools* (Prince Edward Island Public Schools Branch, 2016) also mandates practices related to the use of time-out in this province. It describes degrees of time-out (e.g., non-exclusion time-out, exclusion time-out, seclusion time-out, and a time-out room). On the continuum, a time-out room is described as a space that is used in a “crisis” when a student is in danger of hurting themselves or others (p. 1). The operational procedure states that

if a time-out room is going to be used, it must be clearly articulated in a student's Behaviour Support Plan (BSP) and that "parent/guardian permission *must* be obtained" (p. 3, emphasis added). Once the use of a time-out room is a part of the BSP, it does not require regular notification to parents. Moreover, the frequent use of the term "notification" in reference to communicating the use of time-out rooms to parents, neglects to convey the expectation for written documentation to be provided to this stakeholder group.

In reference to documentation, the Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools* (Prince Edward Island Public Schools Branch, 2016) also appears to be heavily weighted toward the completion of internal forms. The required documentation includes a "Physical Intervention & Timeout Room Log" that must be "filed in a student's record" (p. 4). Other forms of documentation include a "Physical Incident Report" and a "Risk Management School Incident Report," but further details regarding the content of these forms are not provided, nor are the stakeholders with whom they must be shared identified (p. 5). In terms of debriefing, the operational procedures state: "A student's support team will debrief following the student's use of the time-out room. The debriefing will include a review of the incident(s) leading up to the use of the time-out room and the intervention strategies used" (p. 4). It is the responsibility of the school administrator to ensure that the debriefing occurs "as soon as possible" following the incident and that it includes "the appropriate people" (p. 4). Although the focus on debriefing is important to prevent future incidents involving the use of time-out, these prompts lack specificity and raise several questions. Specifically, what is the expected timeline within which debriefing must occur? Are parents regarded as "appropriate people" who should be involved in the debriefing? Why are parents identified as participants in the debriefing process when restraint is used but not when a time-out room is used? If the use of a time-out room is included in a student's BSP, is debriefing required each time it is used?

Data collection regarding the use of time-out rooms is identified under the guiding principles of these operational procedures. Rather than stating that data collection is required, the reference to data collection is posed as a question: "Are data routinely collected and reviewed to evaluate the effectiveness of the time-out?" (p. 2). While this question may serve as a prompt to school administrators and school personnel regarding the importance of data collection, unlike the use of restraint, there is no explicit requirement to collect data regarding the use of time-out rooms at any level (e.g., school, division, or ministry). Given that the use of time-out rooms is characterized as a crisis response, the variable reporting practices and accountability structures in this province relative to these practices raise significant concerns.

## Discussion and Recommendations

Ideally, every province and territory would have clearly articulated, enforceable educational legislation, which specifically mandates the need to document and report (verbally and in writing) all incidents involving the use of physical restraint, seclusion, and time-out rooms. The documentation and reports would be shared immediately with parents and school administrators, as well as school divisions, and ultimately with central educational authorities (e.g., ministries of education in the provinces/territory), where it would be analyzed to reduce and prevent reoccurrence, and then publicized at an aggregate level in order to create accountability and oversight. Follow-up debriefings and a re-evaluation/and or development a student's individualized education plan would also be required (Butler, 2019; Gagnon et al., 2017; Lebel et al., 2012; Mohr & Nunno, 2011).

Regrettably, the current policy analysis revealed that when taken in aggregate, less than half of Canada's educational jurisdictions had provincial/territorial documents that provide guidance regarding the need to document, report, and review the use of physical restraint, seclusion, and time-out. Of the provinces that addressed this issue, there were significant inconsistencies in who must be informed, how information must be shared, the timelines that must be followed, and the degree of oversight at the school division and ministry levels. Moreover, several provinces were noted to have glaring loopholes including not having legislative mandates regarding this issue (e.g., British Columbia, New Brunswick, and Nova Scotia), or only having legislative mandates for some practices and not others (e.g., Newfoundland for restraint), and allowing reporting to stop after a procedure had been included in a student's individualized plan (e.g., Newfoundland and Labrador, Nova Scotia, and Prince Edward Island regarding the use of a time-out room). Gaps in reporting requirements and the inclusion of these practices in students'

individualized education plans raises significant concerns about the potential for restraint, seclusion, and time-out rooms to be disproportionately used with students with disabilities, who are more likely to have such plans, and for these practices not to be reported and reviewed.

Advocacy organizations have cautioned that the inclusion of restraint or seclusion in a student's individualized plan may serve to normalize the practice and may even convey to staff that the approaches are not emergency responses, but rather sanctioned educational strategies (Alliance to Prevent Restraint, Aversive Interventions and Seclusion [APRAIS], 2010; Bartlett & Ellis, 2020a; 2020b). The inclusion of the use of restraint, seclusion, or a time-out room in a students' IEP also illustrates how parents of children with disabilities may feel pressured to accept what Lemay (2018) refers to as "the least worst option." In this case, the least worst option refers to agreeing to the inclusion of a crisis response procedure in their child's individualized education plan and having to accept that they may not be informed when it is used. The need for this most basic protection, i.e., the right to know how one's child is treated at school, has been advanced as central to the rights of parents of children with disabilities relative to this critical issue (Bartlett & Ellis, 2020a, 2020b; Inclusion Alberta, 2018; Inclusion B.C., 2013, 2017).

Parents of children with disabilities have consistently reported that communication with the school is imperative in order to build a trusting, reciprocal relationship, and yet research regarding the individualized education planning process finds that parents report receiving insufficient information, and further feeling negatively judged by school professionals when they seek information or try to provide input regarding support for their child (McLeod et al., 2017; Walle, 2018). The lack of immediate and transparent communication illustrates a power imbalance, whereby schools may control and even filter the information that parents of children with disabilities receive (Bennett et al., 2020; Hodge & Runswick-Cole, 2008; Trainor, 2010).

The importance of mandated reporting to parents within 24 hours—including providing written documentation, engaging in follow-up debriefing with parents and school personnel, and collecting, analyzing, and disseminating data are considered best practices and have been mandated in many U.S. states (Butler, 2019; Couvillon et al., 2019; US Department of Education, 2012). While some provinces have mandated documentation and reporting practices that include a requirement for same day written notification and for follow-up debriefing and planning with both parents and school it is not a universal requirement. Even in provinces such as Alberta, which has very detailed mandates for reporting and documentation, some critical features (e.g., a clearly articulated statement that parents must be provided with written documentation and the need for a timeline for debriefing the incident with parents) would strengthen this mandate (Alberta Department of Education, 2019a). Similarly, in Prince Edward Island, mandated practices involving the need to notify multiple stakeholder groups regarding the use of restraint are provided; however, the need for parents to receive written notification and a precise timeline within which the notification and debriefing process must occur are overlooked (Prince Edward Island Public Schools Branch, 2019). These gaps in seemingly comprehensive policies indicate an urgent need for the identification of guiding principles, which are grounded in research, that can provide a framework for comprehensive policy development.

Similar gaps in accountability and oversight were affirmed when analyzing reporting requirements at the school division and ministerial levels. Accountability at the school division and provincial levels were only mandated in Alberta for seclusion (Alberta Department of Education, 2019b) and in Prince Edward Island for restraint (Prince Edward Island Public Schools Branch, 2019). There was some evidence of mandated accountability at the school division and ministry levels regarding the use of restraint in Newfoundland; however, this accountability and oversight generally referenced "inappropriate behaviour" as opposed to specifically referencing restraint (Newfoundland and Labrador Department of Education, 2013). Even in provinces where evidence of ministerial oversight was indicated, there was no evidence that data regarding the use of these practices and follow-up ministerial actions, if any, would be publicized. The need for data collection and transparency must be emphasized as it "helps parents, educators, and the public understand the extent of restraint and seclusion" and "it can help them work to implement policies and procedures to reduce restraint and seclusion" (Butler, 2019, p. 101). It may also help to identify sites that have been successful in reducing their use, as well as sites where improvements in practice are warranted (U.S. Department of Education, 2012).

In the United States, a more centralized statutory framework for regulating physical restraint and

seclusion exists due to the prominent role that the U.S. Federal Government plays in education policy-making. In a comprehensive review of restraint and seclusion policies in the United States, Butler (2019) emphasized that,

*States and districts, which report and analyze their data are to be highly commended. Their examples and work are not evidence of weakness; they are evidence of strength and efforts to improve and find ways to prevent and decrease use of restraint and seclusion. (p. 101)*

Strong mandates for transparency and public accountability are needed and were found to be severely limited in the Canadian context. There is a need to work toward the *near total* abolition of the use of physical restraint, seclusion, and time-out rooms in schools. In this case, *near total* refers to the potential for incidents to occur, which may require the use of restraint, seclusion, and time-out practices, but only as a last resort in cases of an immediate/imminent threat to physical safety, and with a high degree of transparency and oversight (CCBD, 2009a, 2009b). To accomplish this aim, it is necessary to mandate legislative requirements that include documentation and oversight in order to understand the full scope of the use of these practices in Canadian schools. It is also inadequate to simply suggest reporting to parents or to centralized authorities. As Butler (2019) describes, in 2003 the State of Vermont recommended that school districts report to parents but soon after abandoned the practice because “since the state law did not require it, Vermont simply stopped doing so a few years later” (pp. 104-105). This indicates that without a specific requirement that educational jurisdictions report and are held accountable for the use of physical restraint, seclusion, and time-out rooms, students with disabilities may continue to be disproportionately harmed, and these inequities may continue to be hidden.

## Conclusion

One of the challenges with garnering broad-based government support to regulate the use of physical restraint, seclusion, and time-out rooms may be the fact that little is known about the scope of the issue in Canadian schools. Information about the use of physical restraint, seclusion, and time-out rooms in Canada has largely been anecdotal (media reports and anonymous survey data) due to variable and non-existent mandates for reporting, transparency, and public accountability. The absence of written documentation and publicly available data has allowed the use of restraint, seclusion, and time-out rooms to remain obscured from public scrutiny and severely hampered advocacy efforts for students with disabilities, who are disproportionately impacted. The current policy analysis illuminates the urgent need for reporting standards to be established and for the glaring loopholes within existing reporting requirements that severely disadvantage students with disabilities to be immediately closed. While documenting and reporting incidents of physical restraint and seclusion are not a solution to this multi-faceted issue, requirements for reporting and transparency create accountability and a heightened sense of responsibility to pursue positive, proactive alternatives whenever possible.

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