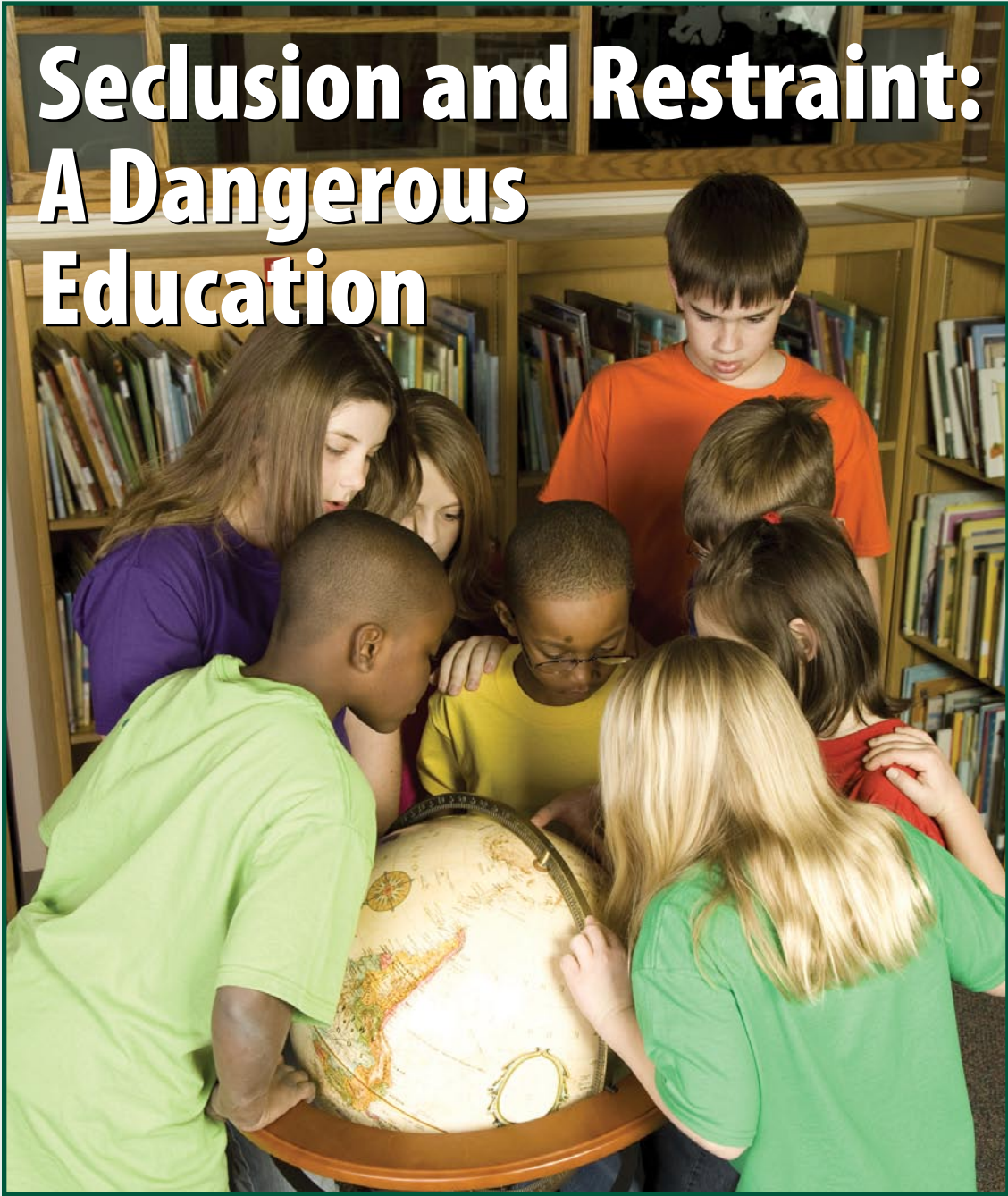


Seclusion and Restraint: A Dangerous Education

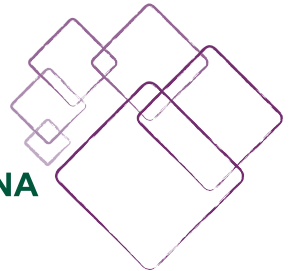


A DRNC REPORT: FEBRUARY 2010

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DISABILITY RIGHTS
NORTH CAROLINA

Champions for Equality and Justice



North Carolina's Protection and Advocacy System

www.disabilityrightsn.org

What It Means...

North Carolina law includes specific definitions of seclusion and restraint. The law includes reasons for and situations in which these techniques may be used. The law also specifically prohibits some techniques. All of the school systems profiled in this report have policies that mirror those required by North Carolina law.

Physical Restraint: North Carolina law defines physical restraint as “the use of physical force to restrict the free movement of all or a portion of a student’s body.” School staff may use physical restraint, among other reasons, as reasonably needed to prevent injury to themselves, other staff, or students, including the student who is restrained. School staff may also use physical restraint to prevent the destruction of property and to escort a student from one area to another.

Mechanical Restraint: North Carolina law defines mechanical restraint as “the use of any device or material attached or adjacent to a student’s body that restricts freedom of movement or normal access to any portion of the student’s body and that the student cannot easily remove.” School staff may use mechanical restraint in a limited number of circumstances.

Prone Restraint: This is restraint in a face-down position. Prone restraint is dangerous and can be fatal because it compresses the ribs and limits an individual’s ability to expand the chest and breathe. This position may push the individual’s abdominal organs up, further restricting the

Overview

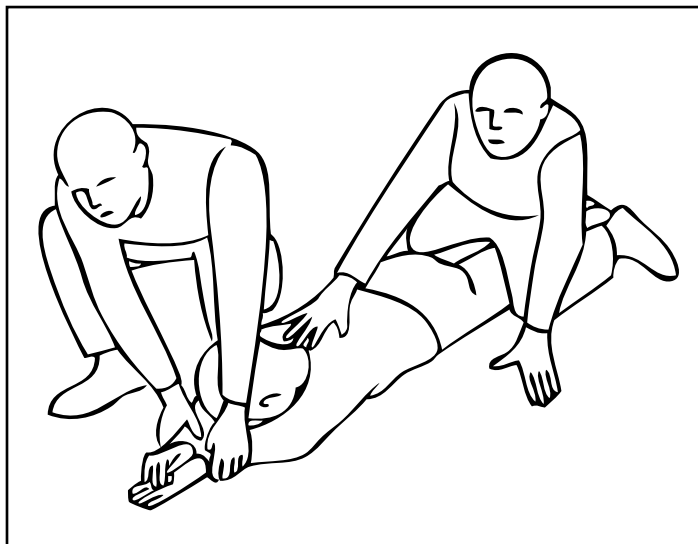
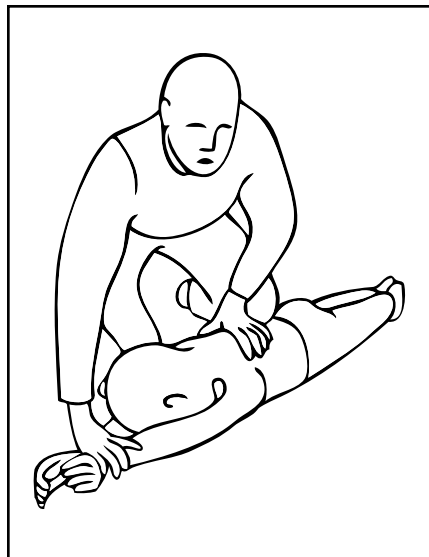
Since it was designated North Carolina’s Protection and Advocacy system (P&A) two and a half years ago, Disability Rights North Carolina has monitored or investigated seclusion or restraint practices in each of the state’s 115 school districts. DRNC has investigated the use of leashes, handcuffs, and restraint chairs on children with disabilities. We have advocated on behalf of a student who was secluded in a locked bathroom. Most disturbing have been the investigations that revealed routine and frequent uses of prone restraint that have, in some cases, resulted in observable injuries to children.

Our goal is to reduce the overall use of seclusion and restraint as the first response to challenging behaviors associated with some disabilities. We hope to ban the dangerous practice of prone restraint altogether.

DRNC supports proposed federal legislation that would impose stricter standards than those that currently exist under North Carolina law. This may be the only way to ensure that all of our

children are free from injury inflicted by the very educators who are employed to teach them.

With no state or federal laws specifically banning dangerous restraint and seclusion practices, the reforms must be carried out one school system at a time. This report highlights just a few examples of what we fear is happening in schools across the state. North Carolina must stop these practices before a student dies.



Above and left: Two examples of prone restraint. This is a dangerous technique that should never be used!

ILLUSTRATIONS: COLLEEN ANDERSON

Continued on next page

Wayne County

In the spring of 2009, DRNC received a complaint from a parent of a child with a disability in the Wayne County Public Schools (WCPS). The parent alleged that staff in a public separate school used inappropriate restraints on her child, resulting in bruises on multiple occasions. DRNC reviewed the student's educational records and interviewed six staff members. DRNC concluded that classroom staff lacked appropriate training on North Carolina's seclusion and restraint law. Staff members were not certified in a recognized restraint program. As a result, staff used inappropriate restraint techniques that caused observable injury to the student. DRNC also found that the WCPS staff had not been trained in the use of Positive Behavior Supports and recommended that all staff receive training. Based on these findings, the WCPS implemented system-wide training programs on Positive Behavior Supports and the state seclusion and restraint law. Wayne County also agreed to provide restraint training, using a recognized restraint curriculum, to all staff at the public separate school.

Cumberland County

In the spring of 2008, DRNC received calls from parents in the Cumberland County Schools (CCS), the fourth largest school system in North Carolina. The parents alleged that restraint chairs and straps were being used in two classrooms for children with autism, typically on students as young as four years old. DRNC



visited both classrooms, met with CCS officials, and observed the chairs in question. Soon thereafter, the CCS attorney notified DRNC that CCS had permanently discontinued the use of the restraint chairs and straps.

Left: These chairs are no longer used for improper restraint purposes in Cumberland County Schools.

ability to breathe. Additionally, a person who is agitated and struggling needs extra oxygen; it is unlikely that the person will get sufficient oxygen in a prone restraint position. Finally, staff members are likely to use their weight to restrain a struggling person, thereby putting further pressure on the person's chest. Neither of the two most commonly used restraint curricula in North Carolina provide for the use of prone restraint. However, North Carolina law currently allows this extremely dangerous practice.

Seclusion: North Carolina law defines seclusion as “the confinement of a student alone in an enclosed space from which the student is physically prevented from leaving by locking hardware or other means, or not capable of leaving due to physical and intellectual incapacity.” School staff may use seclusion, among other reasons, as reasonably necessary, to prevent injury to themselves, other staff, or students, including the student who is secluded. The space used for seclusion must be free of objects that unreasonably expose the student or classroom staff to harm.

Time-out: North Carolina law defines time-out as “a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.” The law does not restrict or regulate the use of time-out.

SRO: A School Resource Officer is a law enforcement officer assigned to a public school. North Carolina law specifically excludes law enforcement officers, including SROs, from its restrictions regarding

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What It Means...

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the use of seclusion and restraint. In performing their duties, SROs may use mechanical restraints, such as handcuffs, to restrain a student.

CPI: The Crisis Prevention Institute's Nonviolent Crisis Intervention curriculum is a training program that emphasizes the need to attempt to calm or de-escalate a student prior to the use of any physical restraint. CPI includes several safe restraint positions and techniques that may be used when a restraint is necessary. CPI does not permit prone restraint.

PBS: Positive Behavioral Supports is a system for teaching and reinforcing appropriate behaviors. PBS helps school staff establish expectations for student behavior and reward appropriate behavior. Staff also teach students ways to replace their inappropriate actions with more appropriate behavior. Research shows that PBS leads to a decrease in disciplinary issues and an increase in student achievement.

Wake County : A Story of Two Students

In late 2008 several parents requested assistance from DRNC, alleging the inappropriate use of seclusion, physical restraint and mechanical restraint at Carroll Middle School in the Wake County Public School System (WCPSS). Their allegations concerned the school's treatment of two students with autism.

Student A is a thin, friendly teenager who wears glasses. When he attended Carroll Middle School, he was 15 years old. He enjoyed looking at books and listening to music, but also displayed behaviors related to his autism, sometimes becoming aggressive. Classroom staff characterized him as unmanageable.

Today, Student A is a high school student. His teachers have helped him learn to manage his behavior. In fact, he no longer requires a behavior management plan. Student A received an award for academic achievement during his first year in high school. He also attended the prom.

Student B is a kind, gentle teenager. His parents describe him as "always having been big for his age." He was 13 years old when he attended Carroll Middle School. He loved computers and exploring the Internet. Student B displayed behaviors related to his autism, especially the need for frequent breaks.

Today, Student B is a high school student who has not had any behavior incidents since leaving Carroll Middle School. He makes good grades and participates in school athletics. Student B still has a fear of law enforcement officers, but no longer talks about being handcuffed at school.

The Allegations

Allegation 1: Inappropriate Use of Physical Restraint

During the second half of the 2006-07 school year and the 2007-08 school year, Student A was subjected to 30 individual documented uses of physical restraint. Typically, one classroom staff member restrained him; sometimes two were involved.

On at least one occasion, Student A was restrained in the dangerous prone position with two staff holding him. The restraint procedure used at Carroll Middle School, CPI, specifically excludes this technique because it can impede a person's breathing. Classroom staff used other non-CPI techniques as well, including restraining Student A while seated on the floor and grasping his biceps to prevent him from slumping to the floor. At least one of these restraints resulted in bruises on the student's arms.

During the second half of the 2007-08 school year, Student B was subjected to seven individual documented uses of physical



restraint. Typically, one classroom staff member restrained him, but two staff members sometimes participated. On one occasion, three staff members were reportedly involved.

CPI includes a two-person restraint position, but not a restraint that uses three people. On at least two occasions, classroom staff grasped Student B's biceps, causing bruises on the student's arms.

Allegation 2: Inappropriate Use of Mechanical Restraint

Student A was twice handcuffed by the School Resource Officer (SRO) at Carroll Middle School. In both cases, a staff member physically restrained him while the SRO entered the classroom and handcuffed his wrists and, on the second occasion, his ankles.

Allegation 3: Staff Encouragement/Participation in Wrestling Activities

DRNC also received information regarding wrestling activities in the same self-contained classroom at Carroll Middle School.

On at least two occasions, the students were allowed to wrestle in an empty classroom as a reward for good behavior. Classroom staff acted as the "officials" during this activity.

DRNC further determined that a former teacher's assistant physically wrestled with Student A.

Allegation 4: Inappropriate Use of Time-out and Seclusion

Student A was subjected to the inappropriate use of time-out. Although time-out was an approved intervention in the student's behavior plan, classroom staff did not consistently implement the intervention as described in the plan. On at least one occasion, for instance, staff moved the student to the time-out space *after* he became calm and ceased his aggression. Additionally, Student A spent an excessive amount of time in the time-out space — often several hours — despite being calm.

Student A was also subjected to the inappropriate use of seclusion. Both North Carolina law and WCPSS policy mandate that the space used for seclusion be free from objects that unreasonably expose the student to harm. The area used for seclusion contained a metal box of audio-visual equipment, a metal cabinet and window blinds with cords that Student A often pulled on. The room also had a closet space; Student A sometimes stood in the closet and slammed the doors onto his body. On one occasion, classroom staff documented that Student A had located and thrown a "bag of metal materials" in the room.

DRNC found no evidence that Student B was placed in seclusion, but he was subjected to the inappropriate use of time-out.

The Findings

Based on a review of student records and the information shared in staff and parent interviews, DRNC identified several factors that led to the inappropriate uses of restraint and seclusion at Carroll Middle School.

Inadequate Staffing

First, classroom staff were frequently tardy or absent from school, and there was no contingency plan to address this situation. On days when classrooms were understaffed, students were restrained, secluded and/or put into time-out more frequently and staff members were more likely to accept or request assistance from the SRO. Moreover, WCPSS had no clear protocol for staff to follow when calling an SRO into the classroom.

Behavior Plan Failures

Second, classroom staff failed to develop and/or implement a behavior plan for each student. Student A had a behavior plan, but the plan's strategies were used inconsistently. Student B had no behavior plan at all.

Failures in Documenting and Reporting

DRNC further determined that both classroom staff and the school principal failed to appropriately and consistently document the use of physical and mechanical restraint and observable physical injuries on both students. There were similar failures to document and report the inappropriate use of seclusion.

DRNC's Recommendations for Wake County Schools

In June of 2009, DRNC made recommendations to the WCPSS to reduce the use of restraint, seclusion and time-out, and to ensure the proper use of such interventions. Among other recommendations, DRNC urged the WCPSS to require staff who use restraint to be certified in a recognized restraint curriculum prior to such use. DRNC further recommended that the WCPSS adopt several policies, including a district-wide ban on prone restraint.

Specifically, DRNC recommended that the WCPSS change its policy to:

- ◆ Require each staff member to complete a certification course in a recognized physical restraint curriculum, such as CPI, before that staff member may utilize physical restraint;
- ◆ Provide appropriate training to all staff regarding the definition of seclusion and the requirements of North Carolina law and WCPSS policy regarding the appropriate use of seclusion;
- ◆ Clarify for all staff that the classroom teacher is ultimately responsible for ensuring that physical restraint is utilized consistently with the chosen restraint curriculum. It is crucial that classroom staff use correct physical restraint techniques only as a last resort. The classroom teacher, as the head of classroom staff, should be responsible for ensuring that physical restraint is used appropriately and for ensuring that the events leading up to the use of physical or mechanical restraint or seclusion are handled in compliance with the student's behavior plan;
- ◆ Adopt a policy, consistent with best practice, that the student's special education team will develop a behavior plan for a student if that student's behavior results in the use of physical restraints three or more times in one school year;
- ◆ Develop and provide classroom staff with a standardized restraint documentation form;
- ◆ Adopt a written policy to prohibit the use of prone restraint; and
- ◆ Adopt a policy regarding SRO intervention at the request of classroom staff.

Wake County's Response

After months of negotiation, and as this report went to print, negotiations broke down when the Wake County Public School System refused to ban the use of prone restraint in any circumstance.

Recommended language for policies banning prone restraint:

“The use of prone restraint is prohibited in all (name of county) schools. Prone restraint is defined as all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time.”

Disability Rights North Carolina is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Upon request, information is available in alternate formats.

Durham County: Dangerous Restraint Investigated

In September 2009, Disability Rights North Carolina received a complaint from the mother of a student in the Durham Public Schools (DPS). The student is an inquisitive 10-year-old with a passion for video games. The parent alleged that her son, who has autism, had been restrained by two staff members in the time-out room at school. She also reported that her son had been injured as a result of the restraint, which took place after he refused to clean tables in the school cafeteria.

DRNC opened an investigation. Advocates observed two of the school's Community Outreach Program for Education (COPE) classrooms, viewed and took photographs of the two time-out rooms, requested and reviewed student records, began interviews with school staff and met with the student and his mother. Although the investigation is ongoing, DRNC has already made several determinations.

DRNC has concluded that two male teaching assistants inappropriately restrained the student in a dangerous, face-down (prone) position on the floor of the time-out room at his school. This restraint technique is not included in the training curriculum provided by DPS. Interviews with other students confirm that face-down floor restraint techniques have also been used on other children at this school. Interviews with school staff and students revealed that children have sometimes hyperventilated or told staff, "I can't breathe," during the restraint process.

The student in this case also described not being able to breathe during the prone restraint. One school staff member described him as crying and breathing heavily during and after the restraint. Another school staff member described him as trying to catch his breath and slow down his breathing. The restraints resulted in observable injuries, which his mother discovered. She took him to emergency room the same day, after she noticed red rash-like spots on his face and neck. ER staff documented the following injuries: a small broken blood vessel in his right eye and petechia scattered on his face, neck and upper chest, around both eyes and across the bridge of his nose. Photographs clearly show the petechiae around his eyes.

The dangers of using prone restraint are well documented:

"When an individual is restrained prone, the right atrium is compressed. It is sandwiched between

sternum and vertebral column. This limits the heart's capacity to receive blood return from the body. Meanwhile the left side of the heart is still working, pumping blood into the brain and body as usual. With the blood not returning to the heart, it begins pooling in the tissues. When the pressure in the venous system builds up, it causes the rupture of small venous branches resulting in small hemorrhages. Small purplish hemorrhagic spots (petechiae) have long been considered corroborative evidence of asphyxia." —California P&A in consultation with Werner U. Spitz, M.D., forensic pathologist, *The Lethal Hazard of Prone Restraint: Positional Asphyxiation* 21 (2002).

According to a 2005 publication by The Crisis Prevention Institute:

"Restraint related positional asphyxia occurs when a person being restrained is placed in a position in which he cannot breathe properly and is not able to take in enough oxygen. This lack of oxygen can lead to disturbances in the rhythm of the heart and death can result. Especially dangerous positions include face-down floor restraints, or any position in which a person is bent over in such a way that it is difficult to breath." —The Crisis Prevention Institute, *Risks of Restraint: Understanding Restraint Related Positional Asphyxia* 4 (2005).

DPS is cooperating fully with DRNC's investigation into these matters. On January 12, 2010, DPS agreed to suspend the use of prone restraint in the COPE program at Oak Grove Elementary School pending the outcome of this investigation.



Petechiae are small round red spots under the skin surface caused by intradermal hemorrhage (bleeding into the skin). Petechiae can be caused by local injury or trauma.

DRNC Supports Proposed Federal Legislation

Pending federal legislation would eliminate dangerous practices.

The passage of H.R. 4247/S. 2860, the “Preventing Harmful Restraint and Seclusion in the Schools Act,” would mandate stricter guidelines than currently exist in North Carolina. Importantly, the bill requires the use of de-escalation techniques and/or the implementation of a student’s Behavior Intervention Plan prior to the use of physical restraint or seclusion. It also provides for strict limitations on use and eliminates dangerous practices:

- ◆ Mechanical restraints may only be used for specific, approved therapeutic safety purposes for which they were designed, including: for medical immobilization; adaptive devices or mechanical supports to achieve proper body position; or vehicle safety restraints during

transport.

- ◆ Physical restraints that restrict breathing are banned. Permitted types of physical restraint may be used only when the student’s behavior poses an imminent danger of physical injury to student, school personnel or others; and less restrictive interventions would be ineffective. Restraint to prevent property destruction would not be allowed.

- ◆ Seclusion would be required to end upon the cessation of the conditions that led to the seclusion.

The bill would also require reporting of all seclusion and restraint practices to the student’s parents, as well as reporting to the state and federal education agencies. These important restrictions and reporting guidelines do not exist under our current North Carolina law.

Action Steps: Statewide Changes Are Needed

What DRNC Is Doing:

- ◆ This report will be mailed to all of North Carolina’s U.S. Senators and Representatives, whom we are calling on to support and move forward this important federal legislation protecting our children.
- ◆ This report will also be mailed to all North Carolina school districts, whom we are calling on to ban prone restraint and implement Positive Behavior Supports.
- ◆ DRNC has requested that the Department of Public Instruction improve its data collection and tracking of seclusion and restraint practices in North Carolina schools.
- ◆ DRNC continues to monitor and investigate allegations of inappropriate seclusion and restraint throughout North Carolina.

What You Can Do:

- ◆ Contact your U.S. Senators and your Congressperson if you have an interest in this issue.
- ◆ Contact your local school board members. Share this report and ask them to ban prone restraint in your school district.

***Whether we make changes locally or legislatively,
together we can improve the lives of NC’s children.***