



**Testimony of Kimberly McCullough, Legislative Director  
In Support of HB 3266  
House Committee on Judiciary  
April 17, 2017**

Chair Barker and Members of the Committee:

The American Civil Liberties Union of Oregon<sup>1</sup> supports HB 3266, which would extend current prohibitions on the use of physical restraints and seclusion on students in public education programs. As a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights, the ACLU of Oregon supports efforts that reduce the school-to-prison pipeline and make our schools safe spaces for all students.

Under current law, school personnel are prohibited from using physical restraints and seclusion on students, except in very limited circumstances.<sup>2</sup> HB 3266 will extend these prohibitions to law enforcement, with a narrow exception for use of restraints when there is an imminent threat of serious injury, no less restrictive alternatives available, and restraints are not being used for punishment or convenience.

The Oregon legislature already decided as a matter of policy that the use of restraints and seclusion should be an extremely rare occurrence and a true last resort for dangerous situations in our schools. Yet we know that in recent years, law enforcement—frequently referred to as School Resource Officers—have become commonplace in Oregon schools and schools across the nation. Without extending our prohibitions on restraints and seclusion to School Resource Officers, who are often placed in schools full time—we have not fully addressed this important issue.

Behavioral interventions for students must promote the right of all students to be treated with dignity. All students have the right to be free from physical or mental abuse, aversive behavioral interventions that compromise health and safety, and any restraint or seclusion imposed solely for purposes of discipline or convenience, or as a substitute for appropriate educational or behavioral support.

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<sup>1</sup> The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonprofit organization with more than 37,000 members in the State of Oregon.

<sup>2</sup> See ORS 339.291 (allowing use only when the student's behavior imposes a reasonable threat of imminent, serious bodily injury; use is not for convenience or punishment; less restrictive means would not be effective; personnel have undergone training; student is continuously monitored and provided access to the bathroom and water every 30 minutes; parents are notified; and written authorization is obtained for each 15 minutes of restraint or seclusion continues).

Restraint and seclusion can be physically and psychologically harmful.<sup>3</sup> There is no evidence that they reduce problem behaviors; in fact, they have been shown to have the opposite effect by increasing the amount of emotional and behavioral disruptions.<sup>4</sup>

Restraint and seclusion are also disproportionately used on students with disabilities and students of color.<sup>5</sup> As a result, they are at greater risk for the physical injury, emotional harm, and long-term adverse educational outcomes. The ACLU of Oregon has deep concerns about incidents of excessive use of force pushing students with disabilities and students of color into the School-to-Prison Pipeline.<sup>6</sup>

HB 3266 will end the use of restraint on students except when absolutely necessary, create safe learning environments for all students, and promote preventative and positive alternatives for addressing challenging behavior.

Ultimately, the ACLU believes that children should be educated, not incarcerated. HB 3266 will disrupt the School-to-Prison Pipeline in the earliest stages by addressing challenging behavior with evidence-based, non-harmful methods that do not isolate, punish, and push out students who are especially vulnerable to the discriminatory application of discipline.

For each of these reasons, the ACLU of Oregon urges you to support SB 3266.

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<sup>3</sup> *The Alliance to Prevent Restraint, Aversive Interventions and Seclusion*, “Debunking the Myths about Restraint and Seclusion in Schools,” <http://stophurtingkids.com/wp-content/uploads/2013/05/Debunking-the-Myths-about-Restraint-and-Seclusion-in-Schools.pdf>

<sup>4</sup> L.M. Finke, The Use of Seclusion is Not an Evidence-Based Practice, 14 *Journal of Child and Adolescent Psychiatric Nursing*, 186 (2001).

<sup>5</sup> Students with disabilities make up 1 out of every 8 students (12%); however, students with disabilities make up 69% of students physically restrained. And Black students comprise 21% of all students with disabilities, although they comprise 44% of students with disabilities who are subjected to mechanical restraint. Department of Education, Office for Civil Rights, Civil Rights Data Collection, 2006, available at [http://ocrdata.ed.gov/StateNationalEstimations/projections\\_2006](http://ocrdata.ed.gov/StateNationalEstimations/projections_2006).

<sup>6</sup> For more information about Oregon’s School to Prison Pipeline, please see our reports published in 2010 ([http://aclu-or.org/sites/default/files/ACLU\\_STPP\\_FINAL\\_0.pdf](http://aclu-or.org/sites/default/files/ACLU_STPP_FINAL_0.pdf)) and 2013 ([http://aclu-or.org/sites/default/files/ACLUF\\_OR\\_STTP\\_Update\\_2013.pdf](http://aclu-or.org/sites/default/files/ACLUF_OR_STTP_Update_2013.pdf)).