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Fwd: Did too many forget about FAPE and LRE?

1 message

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December Board Meeting

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From: **State School News Service** <j.m.broadway74@gmail.com>
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To: <jbauer@panaschools.com>

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Did too many forget about FAPE and LRE?

By Jim Broadway, Publisher, Illinois School News Service

FAPE: Free Appropriate Public Education. LRE: Least Restrictive Environment. Free appropriate public education must be provided in the least restrictive environment for every schoolchild, no matter what. Federal law ([P.L. 94-142](#)), signed into law by President Gerald Ford in 1975, guarantees that.

The key word, I think, is "appropriate." Is solitary confinement appropriate? No. How about binding the children in devices that prevent movement, maybe even make it hard for them to breathe? No, *not* appropriate. Then why are schools and special education programs in Illinois accused of doing those things?

When ISNS was launched in 1995, I observed that plenty of public education-bashing was going on. Even if some serious criticism might be warranted, I promised to let other voices express it. I promised not to participate in it. And, except for the [occasional pedophile](#), I've kept my word. I don't name names.

I will continue letting others name the culprits, in spite of the recent [ProPublica Illinois report](#) on seclusion and restraint, actions reportedly inflicted so egregiously on Illinois children and youths in schools and special education cooperatives, actions perpetrated by educators *who were supposed to be giving children FAPE*.

Seriously, some of the actions described in the report might lead to criminal charges if imposed by non-educators. Shut inside places that are deceptively called the "reflection room [or] the calming room ... children as young as 5 wail for their parents, scream in anger and beg to be let out," the reporters wrote.

"The students, most of them with disabilities, scratch the windows or tear at the padded walls. They throw their bodies against locked doors. They wet their pants. Some children spend hours inside these rooms, missing class time. Through it all, adults stay outside the door, writing down what happens."

This sort of rhetoric can have a powerful effect on public (and policymaker) opinion. It can have severely negative impact, not just on the professional educators and the institutions identified as the perpetrators of the abuse of schoolchildren, but also on public education in general - an easy target for privatizers anyway.

It's *not as if there had been no wake-up call*. National ProPublica journalists had [raised this issue sensationally in 2014](#) by documenting similar abuse. And early this year, Secretary of Education Besty DeVos (speaking of privatizers) announced new [USDE initiatives](#) to address "inappropriate" (*not* appropriate) seclusion and restraint. (Previous Secretary Arne Duncan worried so much about this that the USDE developed a [45-page policy statement](#) on it.)

Federal initiatives? Yes, for those who agree with me that detailed school policy should never descend from the federal level (just send us the money you promised), a review of the USDE's plans to conduct "compliance reviews" and collect districts' data and give them "support" must send a shiver down the spine. Betsy is sure to enjoy denigrating public schools and policymakers of such a politically "blue" state as Illinois.

You can also expect reactions from state policymakers. Actually, as you may know, that has already begun. Seemingly angered by the media account, Gov. JB Pritzker directed the Illinois State Board of Education to draft "emergency rules" on seclusion, a practice he thinks is "[misused and overused to a shocking extent](#)."

Emergency rules take effect immediately and last for up to 15 months while the Joint Committee on Administrative Rules ([JCAR](#): a bipartisan panel of the General Assembly that oversees executive branch implementation of new laws) considers their legality. [ISBE has already responded with strict rules](#) on seclusion and restraint.

Legislation codifying those rules, or something very much like them, will surely be enacted long before the 15 months for emergency rules have expired. In fact, [HB 3875](#), which would *flatly prohibit* seclusion practices was filed just last month by [Rep. Jonathan Carroll](#) (D-Northbrook).

Can Carroll's bill pass? Looks like it. HB 3875 immediately attracted a bipartisan roster of co-sponsors that includes nearly enough members of the House (it takes 60 votes) to pass it. The Senate will follow suit. Look for a package of legislation dealing with exclusion and restraint to be signed into law by March or April.

There will be no drive-by enactments. Even though it is technically possible to pass legislation quickly when the spirit moves them, the legislators will certainly draft "tough-sounding" bills (it will be an election year, after all), and then let them be nuanced for realism during the committee hearing process.

Money is certainly an issue. When the federal IDEA was passed in 1975 [P.L. 94-142 was an federal accomplishment Sen. Paul Simon was proudest to have been a part of] the fiscal promise was that 40% of the cost of special education would be provided by the federal government. *They've never provided even half of that.* (Moving to *full federal funding* of IDEA is in presidential candidate [Elizabeth Warren's the education platform](#). But it won't happen.)

Has state special education funding been reduced by the move to evidence-based funding (EBF) rather than the old state aid formula? For special education administrators to believe that - and then reduce staffing - would be a "Big Mistake" in the view of the state's most respected association representing these folks.

The [Illinois Alliance of Administrators of Special Education](#) notes that the EBF law puts special education funding into a new budgetary line item - but also guarantees that no district's funding will be reduced in this or future years. Still, costs are a legitimate point to raise in the legislative committee hearings.

When will the committees consider these issues? As you have read here, the first true session day (a day with members of the House and Senate actually present at the Capitol) will be January 28. Pritzker's "State of the State" address will be given the next day - and the legislators will [leave town on January 30](#).

But thousands of bills will be filed by that time. Many will be assigned to committees, where the deadline for action will be March 27. Any bill not yet voted out of its committee by that date will be "dead." (There will be exceptions, of course, and leaders can revive any "dead" bill anyway. Still, the deadline mostly works.)

So bills in the House and Senate will be considered by committees in each chamber from early February until March 27. After that date, bills that survived committee scrutiny will be debated on the House and Senate floor. That will go on for four weeks. April 24 is the deadline for bills to pass in their chamber of origin.

Bills that pass in their chamber of origin will go through the committee and (if successful there) floor debate processes in the "second chamber" (House bills in the Senate; Senate bills in the House). Passing in a floor vote in the second chamber is a bill's legislative finish line. It then goes to the governor's desk.

Each General Assembly exists for two years. We are about to enter the second year of the 101st General Assembly's biennium. The 101st had an ambitious agenda, but most of the heavy lifting (tax and fee increases, constitutional tax amendment resolution, infrastructural renewal bonding) was done last year.

In 2020, the legislators will focus on the elections. The primary elections, mainly for nominating candidates for various state and county offices, will be March 17. Legislators will not be in session from March 6-to-16; they'll be out campaigning. The general election (candidates either win or lose) will be November 3.

The current General Assembly has Democratic "super" majorities (three-fifths or more) in both chambers. That is unlikely to be the case in the 102nd GA. Sen. John Cullerton won't be there to guide elections to the Senate Democrats' caucus; some Democrats now face corruption charges; there are other factors.

There are questions about House Speaker Michael Madigan, the longest reigning speaker in U.S. history. Will he be on the ballot in 2020? There are issues relating to [his handling of sexual harassment](#) by a former employee; will that be a #metoo level problem? Is Madigan-fatigue setting in? (He's *even older than me!*)

Bottom line: Election pressure will guide legislators toward popular (or even just popular-appearing) policy. And what would be more popular than relieving children of the stress they are sure to feel from seclusion and restraint procedures that they may - but should not - encounter at their school?

Snippets:

How are charter schools doing in special education? A new report by intellectually honest [advocates for charters](#) as a setting for special education claims such schools are gaining in enrollment and services to special education students, but admits that they still *enroll proportionally fewer* students with disabilities *and that they suspend them more frequently* as a disciplinary action than regular public schools are found to do.

You've learned that music education benefits students in other courses as well. There's been plenty of research on this. Now there's more. Some smart folks at UCLA have looked at the [neural networks of school-aged children](#). They confirm the beneficial effects of music lessons and theorize (over-simplified here) improved control as a cause. (It will remind you of the [marshmallow test](#).)

Kids are offered one marshmallow, and a second one if they don't eat it until the teacher returns to the room. Some kids wait. Others eat the first marshmallow even before the teacher even goes out the door.)

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12/13/2019

Pana Community Unit School District #8 Mail - Fwd: Did too many forget about FAPE and LRE?

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