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Résumé de l'article

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Physical Restraint, Seclusion, and Time-Out Rooms in Canadian Schools: Analysis of a Policy Patchwork

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Abstract

The intended purpose of physical restraint, seclusion, and time-out rooms in schools is to intervene in a crisis when the behaviour of a student poses an immediate or imminent, and significant threat to physical safety. While the use of physical restraint, seclusion, and time-out rooms is intended to provide protection from immediate physical harm, there is increasing concern that these practices are being used more broadly and that individuals with disabilities are disproportionately subjected to their use. In spite of the importance of this issue, there is a dearth of research analyzing the policy landscape of physical restraint, seclusion, and time-out rooms in Canadian schools. In order to explore this issue, a comparative analysis of publicly available provincial and territorial education documents was conducted. The analysis revealed that in many Canadian provinces and territories, policies and accountability structures on the use of physical restraint, seclusion, and time-out rooms in schools are inconsistent or non-existent. Further, the terminology used to describe seclusion is variable and often conflated with time out, and the conditions under which such practices may be used in some instances are subjective, which may contribute to a broad interpretation of what is deemed acceptable practices in schools. This analysis draws attention to the need for the development of clearly articulated provincial and territorial standards for the use of physical restraint, seclusion, and time out, as well as the need for regulatory and enforcement mechanisms at the school, division, and ministry levels in order to ensure the emotional and physical well-being of all.

Keywords: physical restraint, seclusion, time out, policy, Canadian schools

Introduction

Reports of the use of physical restraint and seclusion with children and youth with disabilities are increasingly being reported in Canadian schools by parents and disability advocacy groups. In 2013, Inclusion BC, a Canadian non-governmental organization, was one of the first disability advocacy groups to shine a light on the use of physical restraint and seclusion in that province and on the resultant emotional and physical harms it caused. Through a survey of parents of children with disabilities, unauthorized and dangerous physical restraint and seclusion practices were identified in British Columbia's schools (Inclusion BC, 2013). The concerning results of this survey led the British Columbia Ministry of Education (2015) to develop *Provincial Guidelines—Physical Restraint and Seclusion Guidelines in School Settings*. In spite of the development of provincial guidelines, a follow-up survey in 2017 of parents of children and youth with disabilities revealed that restraint and seclusion were continuing to occur and that very few school divisions had developed restraint and seclusion policies as recommended by the province. A survey of parents of children and youth with disabilities about the use of restraint and seclusion in Alberta's schools found similar worrisome trends, for example, an absence of regulation, physical and emotional harm, and limited information sharing (Inclusion Alberta, 2018). Concerns about

the use of physical restraint and seclusion in schools have not been limited to these provinces. In Ontario, a high-profile lawsuit against the Peel District School Board brought by a parent of a child with autism alleged that her son was both restrained and secluded by school staff. The methods included

plac[ing] him in a chair and hold[ing] his arms tightly behind the back of the chair for certain periods of time [and] ... plac[ing] in a solitary isolation room for several hours, some-times for the duration of the entire school-day. (Gallant, 2015)

More recently, a survey of parents of children and youth with disabilities regarding the use of physical restraint and seclusion was conducted in the province of Manitoba (Bartlett N. A, & Ellis, 2020a, 2020b). In this study, parents reported similar issues to the ones raised in British Columbia and Alberta. Of significant concern was the finding that only 10% of parents reported that they had received written notification from the school that their child had been restrained or secluded. In addition, practices were reported involving mechanical restraints (e.g., the use of Posey cuffs) and the modification of doorknobs on seclusion spaces so that they could not be opened from the inside. While provincial, territorial, and national data regarding the use of physical restraint, seclusion, and time-out rooms in schools is neither collected nor disseminated by ministries of education in Canada, there is mounting evidence that these practices are occurring and that regulation is required (Bartlett N. A. & Ellis, 2020a, 2020b; Inclusion Alberta, 2018; Inclusion BC, 2013, 2017).

Despite the importance of this issue, there is a dearth of research analyzing the policy landscape of restraint, seclusion, and time-out rooms in Canadian educational jurisdictions. This study involves an analysis of the existing policies, guidelines, and support documents related to restraint, seclusion, and time-out rooms in Canada to identify strengths and gaps and to provide recommendations for policy development. It does not address how policies can and should be used more broadly, as that is beyond the scope of the current analysis. To that end, we used three guiding principles identified in the literature as fundamental in the regulation of physical restraint, seclusion, and time-out rooms to analyze publicly available educational policies, guidelines, and support documents in the Canadian context. Those guiding principles are (a) the need for mandated policies; (b) provisions for the use of physical restraint or seclusion only in cases of an immediate/imminent threat to physical safety; and (c) a clear distinction between seclusion as an emergency response and time out as a behaviour management strategy (Butler, 2019; Council for Children with Behavior Disorders or CCBBD, 2009a, 2009b; Council for Exceptional Children or CEC, 2009; Freeman & Sugai, 2013; Sugai, 2019; U.S. Department of Education, 2012; Victoria State Government Education and Training, 2019). In this article, we explore the degree to which the analyzed documents adhered to the three guiding principles and make recommendations for future policy development.

Definitions

Physical Restraint and Seclusion

The definitions of physical restraint and seclusion articulated by CCBBD (2009a, 2009b) are used in this analysis, as their definitions are used broadly in educational jurisdictions in the United States, and there is some evidence of their use in the Canadian educational documents that were analyzed. CCBBD (2009a) defined *physical restraint* as the use of physical procedures by one or more individuals to limit freedom of movement, for example, holding an individual in an immobile position for a period of time. *Seclusion* is defined as placement in an isolated area for an extended time without the ability to leave the area, for example, placing a student in a locked room or having a person in a position of authority block a student from exiting a space. It is important to draw a distinction between seclusion and situations in which students have *free will* to go to an alternate space and may exit the space at any time, as schools may proactively provide access to sensory spaces and other calming environments, which would not constitute seclusion if the aforementioned conditions are met (CCBD, 2009b).

Time Out

One of the most obvious and repeated variants for the practice of seclusion is the use of time out. CCBBD (2009b) has defined *time out* as removing a student's access to positive reinforcement in order to reduce inappropriate behaviour and has identified three distinct typologies: (a) inclusionary, (b) exclusionary, and (c) seclusionary. Inclusionary time out involves temporarily denying positive reinforcement while the student remains in the classroom setting (e.g., a student moving to the periphery of the group, or removing reinforcing materials). Exclusionary time out involves the student leaving the classroom and going to an alternate space where access to social reinforcement continues to be provided (e.g., the principal's office). Finally, seclusionary time out involves sending the student to a space where they are completely socially isolated, and there is no access to reinforcement. Others refer to seclusionary time out as isolation time out (Wolf et al., 2006).

Policy

In Canada, each provincial or territorial ministry of education, and each public school's act provides authority to the education minister to enact policies which have the force of law (McBride, 2013). In this analysis, the scope of this strictly legal definition of policy was broadened. As described by Ball (2006), "One of the conceptual problems currently lurking within much policy research and policy sociology is that more often than not analysts fail to define conceptually what they mean by policy" (p. 44). Ball then proceeded not to provide a clear definition of his own, but instead argued that policy is more than a category, and is also a process and outcome. Policy is a discursive tool that seeks to regulate and constrain the agency of actors within a given context; and in this case, the setting is the use of physical restraint, seclusion, and time out in schools across Canada. Because of this broader conceptual category, documents that are not of legal authority, but that seek to regulate and constrain the actions of educational professionals and administrators, were sought at the provincial and territorial levels in Canada. These included the ministry of education policy documents, guidelines, resource documents, and supplementary documents related to the use of restraint, seclusion, and time out.

For the purpose of this analysis, and to promote clarity, we use the term *mandated* to describe practices that are enforceable, and we use the term *recommended* to refer to practices that are not binding and subject to the discretion of local educational authorities to address. The distinction between mandated practices and recommended practices related to restraint, seclusion, and time out is important because it reveals the relative importance of this issue to those in positions of power. According to Ball (1994), policy reflects "who can speak, when, where, and with what authority" (p. 22). Using the policy as a discourse lens (Ball, 1994), we regard policy and the absence of policy as reflective of the hierarchy that exists within society, and of what those in positions of power value as worthy of policy development.

Methods

Research conducted under the paradigm of enactment policy analysis assumes that policies are neither universally accepted nor rejected by actors (Ball et al., 2012). Using this approach, a policy is seen as the aspirational codification of behaviour within educational contexts. This expands the realm of policy to include not only legal and regulatory materials, but also guidelines and resource documents, which intend to inform practice and determine normative behaviour by educational actors. In this instance, the behaviour of educational workers was of primary interest; therefore, student codes of conduct were not analyzed.

Provincial and territorial documents were identified by searching ministries of education websites using a number of keywords, synonyms, and variants that were drawn from the relevant academic and advocacy literature (CCBD 2009a, 2009b; CEC, 2009). The terms related to physical restraint included *physical intervention*, *physical redirection*, *physical guidance*, and *use of force*. The terms related to seclusion included *exclusion*, *isolation*, *withdrawal*, and *removal*. The terms related to time out included *time-out room*, *time-out space*, *inclusionary time out*, *exclusionary time out*, and *seclusionary time out*. Contextual cues also were used within provincial and territorial documents to determine if the discourse suggested the restraint, seclusion, or time out of a student that was consistent with the definitions provided in the previous section. In addition to all provincial and territorial ministries of education websites, specific school division websites and specific school websites were searched in some instances to deter-

mine adherence to policy and guidelines.

Mandate, Guideline, or Something in Between

This analysis involved a scan of all the provincial and territorial education websites to survey for the selected keywords. Table 1 below shows that in seven jurisdictions in Canada (Manitoba, Northwest Territories, Ontario, Quebec, Nunavut, Saskatchewan, and Yukon) provincial documents that specifically regulate or provide guidelines regarding the use of physical restraint, seclusion, or time out in schools could not be located. The silence of four provinces and all three territories on this issue is highly problematic and may confirm a lack of regulatory interest in restricting and monitoring physical restraint, seclusion, and time out among Canadian educational jurisdictions. The provinces that were found to have provincial documents related to restraint, seclusion, and/or time out were Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island (see Table 1). This section summarizes the contents of the documents in each province and explores how they vary discursively. Also noted are the different levels of the mandate they carry, including explicitly directive and enforceable (e.g., ministerial directives and operational procedures) or non-directive recommendations (e.g., guidelines, resource documents). While an effort was made to draw a distinction between enforceable and recommended practices, in some instances, a lack of clarity, regarding the enforceability or the mandate on subordinate jurisdictions and/or school staff was noted (e.g., Newfoundland and Labrador in the area of time out). Moreover, in some cases, the existence of multiple, ambiguous, and competing policies interfered with the clarity of the mandate and the expected actions of school divisions and their employees (e.g., New Brunswick). The analysis examined a further distinction, that is, the degree to which the responsibility for policymaking was deferred to local school divisions or maintained at the provincial level.

Table 1

Degree of Mandate in Provinces' and Territories' Documents Regulating Physical Restraint, Seclusion, and Time Out

Province or Territory	Restraint	Seclusion	Time Out
Alberta	Mandate	Mandate	Recommendation
British Columbia	Recommendation	Recommendation	—None found—
Manitoba	—None found—	—None found—	—None found—
New Brunswick	Mandate*	—None found—	Mandate*
Newfoundland & Labrador	Mandate	—None found—	Guideline**
Northwest Territories	—None found—	—None found—	—None found—
Nova Scotia	Mandate	—None found—	Recommendation
Nunavut	—None found—	—None found—	—None found—
Ontario	—None found—	—None found—	—None found—
Prince Edward Island	Mandate	---None found---	Mandate
Quebec	—None found—	—None found—	—None found—
Saskatchewan	—None found—	—None found—	—None found—
Yukon	—None found—	—None found—	—None found—

* New Brunswick's mandates regarding restraint and time out are not well articulated and are confounded due to vague references in multiple provincial policies

** Newfoundland and Labrador's provincial document referencing time out is categorized as a guideline because there is a lack of clarity regarding the enforceability of this document

Alberta

The Alberta Department of Education (2019c) has developed *Standards for Seclusion and Physical Restraint in Alberta Schools* (Appendix to Ministerial Order No. 42/2019). These standards provide “guidance, expectations, and requirements” in the use of these emergency response procedures “with a focus on prevention and minimizing their inappropriate use” (p. 9). The Ministerial Order No. 42/2019 itself states, “These standards shall serve as a basis for school authorities to develop policies, procedures, and practices on seclusion and physical restraint in schools” (Alberta Department of Education, 2019b, p.1). The use of the word *standards* as compared to the word *guidelines* conveys the need for school divisions to develop policies that adhere to the standards that have been identified, and it also establishes a date for compliance. There is also provincial oversight regarding the use of seclusion spaces, which mandates that school authorities submit regular reports on a per-school basis on the use of seclusion rooms, which will be used to follow up with authorities (Alberta Department of Education, 2019b). While the responsibility for policy development is deferred to school divisions, the *Standards for Seclusion and Physical Restraint in Alberta Schools* are so detailed that there is very little room for variability in local policy development. The standards heavily focus on the use of Positive Behaviour Interventions and Supports (PBIS) as a proactive alternative to the use of restraint and seclusion, as well as transparency and accountability for their use. In addition to the development of standards regarding restraint and seclusion, the Alberta Department of Education (2019a) has developed separate *Guidelines for Time-Out in Alberta Schools*. Given that the document pertaining to time out is referred to as “guideline,” it is less directive and states that school divisions are “expected to” develop local policies regarding its use (p. 10). In addition to the absence of a formal mandate to develop local policy regarding time out, there are no requirements to report the use of time out to the Alberta Department of Education.

British Columbia

The British Columbia Ministry of Education (2015) has developed *Restraint and Seclusion Guidelines*. Unlike Alberta, the guidelines in British Columbia do not provide a strong, affirmative mandate for school divisions to create policies with respect to restraint and seclusion. Instead, they “*recommend* boards of education and independent school authorities use provincial guidelines to support a multidisciplinary review, discussion and development of individual district policy, protocol and training to develop policies related to restraint and seclusion” (p. 2; emphasis added). They further state, “It is expected that boards of education/independent school authorities/schools, in which physical restraint or seclusion may potentially be used, have in place a physical restraint and seclusion policy,” followed by a description of the minimum required information that should be included within the local school division policies (British Columbia Ministry of Education, 2015, p. 5). However, a review of school division policies by Inclusion BC in 2017 revealed that two years following the development of provincial guidelines, only 20 of the 60 school divisions in British Columbia had developed policies regarding restraint and seclusion (Inclusion BC, 2017). The use of the terms *recommended* and *expected* in the British Columbia guidelines indicate a form of hedging on the part of the political actors responsible for the development of these guidelines. *Hedging* refers to the use of vague or indirect language and often demonstrates a lack of commitment to the ideas expressed (Andriani, 2019). Moreover, there are no follow-up or regulatory mechanisms in place in British Columbia to ensure local school divisions follow through with recommended policy development, which may serve as a further indicator of the lack of government interest in this issue. The *Restraint and Seclusion Guidelines* (British Columbia Ministry of Education, 2015) define time out as a behaviour management strategy. While time out is defined, additional provincial procedural guidelines and the expectations of school divisions relative to its use could not be located.

New Brunswick

New Brunswick has several provincial policies that reference how to address a behaviour crisis, but none of the policies explicitly describe the use of restraint, seclusion, and time out. To illustrate, Policy 703, *Positive Working and Learning Environment* (New Brunswick Department of Education and Early Childhood Development, 2018, Section 6.2) identifies the role of superintendents and principals in creating Positive Learning and Working Environment Plans at the school division and local school levels that

include strategies for managing inappropriate behaviour by students. This policy further states that these plans must include a “continuum of interventions, supports, and consequences” (p. 4); it also requires school divisions and local schools to develop plans to address behaviour crises as a part of their Positive Learning and Working Environment Plans. However, the complex myriad of policies in this province creates ambiguity with respect to how restraint, seclusion, and time out should specifically be addressed within local plans. To illustrate, Policy 322, *Inclusive Education* (New Brunswick Department of Education and Early Childhood Development, 2013, Section 6.5, Behaviour Crisis Response) states,

A behaviour crisis is a situation where a student’s conduct or actions pose imminent danger of physical harm to self or others.... A principal must: ensure that a School Positive Learning and Working Environment plan, as per section 6.2 of Policy 703—Positive Learning and Working Environment, is in place to effectively manage any behavior crisis within the learning environment so that students are removed from the school only when all other options have been exhausted. (p. 9)

What appears to be missing from this policy is a concise description of what is meant by “effectively manage.” What is clear is that Policy 322, *Inclusive Education*, focusses on promoting the inclusion of students in their neighbourhood schools, and restricting the ability of schools to vary the common learning environment. However, how a behaviour crisis is “effectively managed” at the school level is less well defined in the policy. Some additional information regarding physical intervention is contained in a support document entitled *Response to Intervention: A PBIS Resource Guide for School-Based Teams* (New Brunswick Department of Education and Early Childhood, 2017). The purpose of this document is described as a reference to support the implementation of Policy 703, *Positive Working and Learning Environment* (New Brunswick Department of Education and Early Childhood Development, 2018) and Policy 322, *Inclusive Education* (New Brunswick Department of Education and Early Childhood Development, 2013). While the approaches to addressing behavioural issues incorporate PBIS, which have been found to reduce the use of physical restraint and seclusion, (Simonsen, Britton, & Young, 2010; Sugai, 2019), regrettably, the implementation of these approaches is not mandated provincially.

In terms of addressing time out, Policy 322, *Inclusive Education* states, “Ensure time-out procedures are in compliance with Policy 703, *Positive Learning and Working Environment*” (p. 9). However, in reviewing Policy 703, *Positive Learning and Working Environment*, no reference to time out was found. Moreover, there are limited references to seclusion and time out in the support document, *Response to Intervention: A PBIS Resource Guide for School-Based Teams* (New Brunswick Department of Education and Early Childhood, 2017). New Brunswick has been recognized as a leader in the area of inclusive education (Fembek et al., 2016); however, details related to physical restraint, seclusion, and time out are not well explicated. Given that the details regarding the use of physical restraint are contained in a support document, and therefore are not mandated in policy, and that there are vague references to seclusion and time out, it is likely that there is much variability in how local school divisions and school staff address these issues.

Newfoundland and Labrador

In Newfoundland and Labrador, mandated provincial standards regarding the use of physical restraint are contained within the *Safe and Caring Schools Policy* (Newfoundland and Labrador Department of Education, 2013). The intent of this policy is to “establish clear expectations and set direction for all members of the school community, encourage appropriate action, and encourage pro-active and preventive endeavours as well as remedial and restorative approaches when problems do occur” (p. 2). It outlines the role of the Department of Education to establish policy and direction, which means that school divisions are not required to develop specific policies related to the use of physical restraint, as the expectations have been established by the Ministry. Specifically, Procedure 4 within the *Safe and Caring Schools Policy* is called “Nonviolent Crisis Intervention Guidelines,” and it outlines the responsibilities of school divisions and school administrators when a response to violent behaviour is required. It states, “Public schools in Newfoundland and Labrador will practice Nonviolent Crisis Intervention, as defined by the Crisis Prevention Institute and the Safe and Caring Schools Procedure 4—Department of Educa-

tion Nonviolent Crisis Intervention Guidelines” (p. 10; emphasis added). Procedure 4 within this policy is based on the for-profit training program called Non-Violent Crisis Intervention (NVCI; www.crisis-prevention.com). In order to adhere to the guidelines, it states, “When the school composition dictates the need for staff to utilize personal safety techniques and/or possible student restraints, then the school administrator *will* ensure the establishment of a school-based CPI (Crisis Prevention Institute) team” (Newfoundland and Labrador Department of Education, 2013, p. 2; emphasis added). The focus is on ensuring access to a trainer and a team with certification in the NVCI training program. It is important to note the NVCI training program does not address the use of seclusion (Couvillon et al., 2019); and therefore, seclusion is not discussed in this policy. In spite of this policy being mandated, the use of the word *guidelines* when referencing Procedure 4 and terminology such as “Nonviolent Crisis Intervention[®] training, as provided by the Crisis Prevention Institute (CPI), is *recommended* by the Department of Education, Newfoundland and Labrador for the prevention and management of disruptive behaviour” (p. 1; emphasis added) may serve to undermine the strength of this mandate.

The *Time-Out Intervention Guidelines* in Newfoundland and Labrador (Newfoundland and Labrador Department of Education, 2014) are separate from the *Safe and Caring Schools Policy* (Newfoundland and Labrador Department of Education, 2013) and do not reference their relationship to the *Safe and Caring Schools Policy*, even though the *Time-Out Intervention Guidelines* were developed after the policy was enacted. Perhaps this is an oversight; however, in the absence of this important clarification, it appears that the implementation of the *Time-out Intervention Guidelines* (unlike Procedure 4 within the *Safe and Caring Schools Policy—Nonviolent Crisis Intervention Guidelines*) are not mandated and that there is no explicit requirement for local policy development.

Nova Scotia

The province of Nova Scotia has established *Guidelines for the Use of Physical Restraint* (Nova Scotia Department of Education, 2011). The stated purpose of these guidelines is “to standardize practice and guide decision making when students require physical restraint as a rare, intensive, and immediate intervention” (p. 2). The guidelines are further described as a tool to “assist boards and schools in the development of their own directives and procedures in anticipation of the rare occasion when physical restraint, always used as the last resort, is required” (p. 4). However, the guidelines do not provide a clear directive for school divisions and schools to develop policies. For example, the guidelines state, “Individual school boards *may* have additional policies, directives, or procedures for the use of physical restraint or a protocol for crisis intervention” (p. 17; emphasis added). The lack of a clear mandate to engage in policy development at the local level and lack of direction regarding the content of such policies has resulted in seemingly very little uptake among school divisions in this province. For example, in a review of the website of Chignecto-Central Regional School Board (n.d.), a link to the provincial *Guidelines for the Use of Physical Restraint* was found, but no division level policy could be located. In the absence of a clear mandate from the province and of any requirement for school divisions to engage in policy development, it is unlikely that practices regarding restraint have been standardized in the way that the guidelines in this province purport to desire.

Nova Scotia also has developed *Guidelines for Use of Designated Time-Out Rooms in Nova Scotia Schools* (Nova Scotia Department of Education, 2009). The use of the terms *guidelines* and *procedural and practice considerations* in this document conveys that the time out guidelines in this province are also recommended practices for school divisions and their staff, and are not enforceable. That said, Nova Scotia’s *Guidelines for the Use of Designated Time-Out Rooms* frequently vacillate between suggestive language, for example, including statements that the use of a time-out room “should not exceed 30 minutes” (p. 2), and more directive language, as when describing the specifications of a time-out room: “A time out room must not be locked, latched or secured in any way” (p. 3). It appears that the guidelines regarding time-out rooms in Nova Scotia attempt to serve a dual function, that being to mandate some practices and to recommend others. They also attempt to strengthen their enforceability by referencing mandated policies, including special education policy 2.2 (Nova Scotia Department of Education, 2008, pp. 23–28). For example, the guidelines state that if a time out room is to be used, “it is decided through the Program Planning Process outlined in the special education policy (Policy 2.2)” (Nova Scotia Department of Education, 2009, p. 1). While special education policy 2.2 describes the Program Planning Process for students with special or exceptional needs, it does not specifically refer to or elaborate on

the use of time out and time-out rooms as one would expect given the reference to this policy. A further review of the *Inclusive Education Policy* (Nova Scotia Department of Education and Early Childhood Development, 2019) that will take effect in September 2020, also does not elaborate on the use of time out, nor on the expectations of school divisions with respect to policy development in this area.

Prince Edward Island

Prince Edward Island Public Schools Branch addresses the issue of physical restraint and time out through what is referred to as Operational Procedures. In this province, the responsibility for policy development in the areas of physical restraint and time out are not delegated to school divisions, as the Operational Procedures are provincial mandates that school divisions and their staff are required to follow. Operational Procedure 405.1, *Physical Restraint Used in Schools* (Prince Edward Island Public Schools Branch, 2019), states, “This procedure has been developed to provide structure that complements what staff can learn through formal training. It attempts to clearly define expectation of acceptable conduct for staff... It is critical that staff follow this procedure” (p. 1). Prince Edward Island is the only province with provincial oversight regarding the use of physical restraint, as its use must be regularly reported to the ministry. Similar to Newfoundland and Labrador, Prince Edward Island’s Operational Procedure 405.1, *Physical Restraint Used in Schools*, employs Nonviolent Crisis Intervention (NVCi) procedures (www.crisispreventioninstitute.com) directly within the policy as a required practice.

Prince Edward Island is also the only province in the Atlantic region with provincially mandated practices regarding the use of time out as outlined in Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools* (Prince Edward Island Public Schools Branch, 2016). Moreover, it is the only province in the Atlantic region where degrees of time out are defined. The degrees of time out include inclusionary, exclusionary, and seclusionary, with seclusionary time out being described as an emergency response procedure to be used with physically aggressive students, and one that must be incorporated into a behaviour support plan. (Prince Edward Island Public Schools Branch, 2016).

When Are Physical Restraint, Seclusion, and Time-Out Rooms Sanctioned?

Because the purpose of policy and guidelines related to restraint, seclusion, and time out is to constrain and regulate the agency of actors, it is important to have unambiguous directives when sanctioning the use of these procedures. In this analysis, provincial documents were reviewed to determine the conditions under which physical restraint, seclusion, and the use of time-out rooms (which constitutes the most restrictive form of time out), were sanctioned in the educational documents that were reviewed. When examining the conditions under which restraint, seclusion, and the use of time-out rooms were sanctioned, evidence of the terms *immediate* and *imminent* were examined, as both terms are regarded as appropriate in the determination of the immediacy of the threat imposed (CCBD, 2009a, 2009b; U.S. Department of Education, 2012). When describing the nature of a threat, the presence of the word *physical* also was analyzed. According to Butler (2019), the inclusion of the term *physical* provides a level of meaningful protection against the misuse of restraint or seclusion in non-emergency situations (e.g., non-compliance, inappropriate language) where no threat of physical harm is present. The justifications for restraint, seclusion, and time-out rooms also were analyzed according to who or what was being harmed by the event (e.g., harm to self or others and/or property). In a review of incidents involving physical restraint and seclusion Ryan et al. (2007) found that the most commonly cited antecedents to physical restraint and seclusion included behaviours such as non-compliance (e.g., refusal to comply with a teacher’s request) and disruption (e.g., inappropriate language). Given the evidence of the misuse of physical restraint, seclusion, and time-out rooms, it is important that policies provide concise descriptions of the conditions under which they might be used.

Alberta and British Columbia

Alberta’s *Standards for Seclusion and Physical Restraint in Alberta Schools* (Alberta Department of Education, 2019c) and British Columbia’s *Restraint and Seclusion Guidelines* (British Columbia Ministry of Education, 2015) both describe the need for an “imminent physical danger” to exist in order for restraint or seclusion to be used. The restrictions in Alberta state that physical restraint and seclusion “may only be used as a last resort when a child’s/student’s behaviour poses significant imminent danger

of serious physical harm to themselves or others” (Alberta Department of Education, 2019c, p. 9). The guidelines in British Columbia are similar; they state that physical restraint and seclusion may only be used in “exceptional circumstances where the behaviour of a student poses imminent danger of serious physical harm to self or others, including school personnel, and where less restrictive interventions have been ineffective in ending imminent danger of serious physical harm” (British Columbia Ministry of Education, 2015, p. 3). Not only do these documents use the term *imminent* to describe the immediacy of the threat, but both also include the term *physical* as well as descriptions of the degree of physical threat with adjectives like *serious* and *significant* to differentiate the conditions under which a crisis response like physical restraint or seclusion might be invoked. Moreover, it is very clear that an individual must be physically harmed by the act in order for physical restraint or seclusion to be used. While there may always be a need to utilize professional ethical judgement in emergency situations involving restraint and seclusion (Scheuermann et al., 2016), the specificity in these documents may help to inform decision making and reduce the likelihood that they may be misused for non-protective purposes.

New Brunswick

New Brunswick’s Policy 701, *Policy for the Protection of Pupils* (New Brunswick Department of Education, 2004) explicitly permits the use of “physical force or restraint not exceeding that required for the protection of an orderly learning environment, personal safety, the protection of others, or the protection of school property” (p. 3). While this policy is dated, it is cited in Policy 703, *Positive Working and Learning Environment* (New Brunswick Department of Education and Early Childhood Development, 2018, Section 6.2), and therefore it appears that it is still binding in this province. This passage demonstrates a conflict in that it positions the psychological and physical safety of the student, and others, and the protection property as equal and valid justifications to physically restrain a student. The reference to the maintenance of an “orderly learning environment” is also very problematic as it is highly subjective and may lead to the misuse of restraint in non-emergency situations. While Policy 701, *Policy for the Protection of Pupils*, may enable the misuse of restraint for non-protective purposes, other related policies in this province provide more stringent restrictions on its use. Policy 322, *Inclusive Education*, indicates that restraint may be used when there is a threat of “imminent danger of physical harm to self or others” (New Brunswick Department of Education and Early Childhood Development, 2013, p. 9). Policy 322, *Inclusive Education*, also states that “emergency physical intervention and/or supervised de-escalation are only used as a last resort in an emergency situation when doing so does not endanger the student, and where continuous monitoring is provided” (p. 9). The existence of multiple and contradictory policies related to the justification of the use of restraint in the province of New Brunswick may lead educational actors to resort to the use of physical restraint in non-emergency situations, which may put students at risk of physical and emotional harm. In this province, seclusion and the use of a time-out room are only cursorily referenced as emergency procedures in a support document, *Response to Intervention: A PBIS Resource Guide for School-Based Teams* (New Brunswick Department of Education and Early Childhood, 2017), and thus there is limited direction in policy regarding the conditions under which such procedures might be used.

Newfoundland and Labrador

The *Safe and Caring Schools Policy: Nonviolent Crisis Intervention Guidelines* (Newfoundland and Labrador Department of Education, 2013) addresses the conditions under which physical restraint may be used. The use of physical restraint is described as an “emergency response procedure” and as a “last resort” (p. 49). These descriptions indicate the severity of the procedure and focus on the need for staff training and certification in NVCI in order for staff to utilize restraints or personal safety techniques. However, a review of the justification for staff to use physical restraint found that the terms *imminent*, *immediate*, and *physical* are not used to describe the nature of the threat imposed. Rather, a more general description of the conditions that would justify the use of physical restraint is provided. The *Safe and Caring Schools Policy: Nonviolent Crisis Intervention Guidelines* state that physical restraint should be used, “only when all less restrictive methods of intervening have been exhausted and when the individual presents a danger to self or others” (p. 49). While overall, the *Safe and Caring Schools Policy* is comprehensive and similar to the standards in Alberta in that it emphasizes the use of PBIS and proactive

alternatives to the use of physical restraint, the absence of a concise description of the conditions under which restraint may be used is problematic and should be strengthened in order to ensure that there are necessary protections from its potential misuse.

The *Time-Out Intervention Guidelines* (Newfoundland and Labrador Department of Education, 2014) do not clearly explicate when time-out or the use of a time-out space should be used. It generally states, “A decision to use a time-out intervention is made by the students’ program planning team” (p. 1). It also states that the placement of a student in a time-out space may occur “after less intrusive interventions have been unsuccessful” (p. 2). Based on these guidelines, the use of a time-out space is not limited to an emergency or crisis situation. These guidelines appear to provide schools with the authority to use such procedures based on highly subjective criteria and/or as long as it is a part of a student’s program plan.

Nova Scotia

The *Guidelines for the Use of Physical Restraint* (Nova Scotia Department of Education, 2011) use the term *imminent* to describe the nature of the danger or threat posed in order to justify the use of physical restraint (p. 9). It also states, “Physical restraint is the last and most restrictive procedure in a hierarchy of behaviour management strategies. It is to be used as a last resort when someone’s safety is at risk” (p. 5). References to the use of physical restraint to prevent “self-harm and/or harm to others” are also included (p.2). While these guidelines clearly articulate the immediacy of the threat imposed, they do not specifically use the word *physical*, which is a critical component of what is regarded as a meaningful protection from the misuse of restraint (Butler, 2019). These guidelines also cite property damage as relevant context for physically restraining students, “as a last resort, when the need for physical restraint is necessary to keep the student, others, or property around him or her safe” (Nova Scotia Department of Education, 2011, p. 8). Moreover, within the same document, there are instances in which less intrusive strategies are simply suggested. For example, when discussing less intrusive preventative measures, it states, “There are a wide range of non-intrusive strategies that *should* be our first line of response” (p. 8, emphasis added). This is followed by a list of suggested strategies, but this contingent “*should*” leaves open the possibility that school staff may bypass these less intrusive interventions and move directly to physical restraint. This is further reinforced by a subsequent statement in the document that using intrusive interventions immediately in cases of grave concern or emergency may be warranted, leaving it up to the professional judgement of school staff with respect to how they would prefer to proceed.

What is most concerning about the *Guidelines for Use of Designated Time-Out Rooms in Nova Scotia Schools* (Nova Scotia Department of Education, 2009) is that there is no reference to time-out rooms only being used in a crisis, that is, when there is an immediate threat to physical safety. The guidelines reference that time out may be used when students are behaving “inappropriately” however; there is no description of what inappropriate means (p. 1). In addition, the guidelines state that a time out room may be used, “only after less intrusive interventions have failed to bring the student’s behaviour under control” or as a part of the “Program Planning Process” (p. 1). Similar to Newfoundland and Labrador, the use of a time-out room is permitted if it has been included as a part of a student’s individual plan. The inclusion of a time-out room as a part of a student’s plan is also concerning because it may enable its more liberal use, given that once it is included in a program plan, it does not need to be reported each time it is used.

Prince Edward Island

Operational Procedure 405.1, *Physical Restraint Used in Schools* (PEI Public Schools Branch, 2019), uses the term *immediate physical threat* to describe the conditions under which a student may be restrained, and further describes that it is only used in a “crisis” and “as a last resort” (p. 1). The operational procedure also describes the conditions under which restraint should never be used (e.g., as punishment, for the destruction of property, non-compliance, and verbal threats), as it states that these acts do not constitute immediate threats of physical harm. This is an important point of clarification and reduces the likelihood that restraint may be misused for non-protective purposes.

Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools* (PEI Public Schools Branch, 2016) is less restrictive in that it does not include the word *immediate* to describe the nature of the threat

to warrant the most restrictive form of time out (e.g., seclusion time out). However, it does state that placing a student in a seclusion time out should be in response to “physically aggressive behaviour”; and it further states that it should only be used in an “emergency situation where the student is in danger of hurting him/herself or others” (p. 1). While the use of the terms *emergency* and *crisis* to define the conditions that might necessitate a student being placed in a seclusion time out is appropriate, the inclusion of the term *immediate* to describe the nature of the threat (as in Operational Procedure 405.1, *Physical Restraint Used in Schools*) would enhance the specificity of this mandate. Of note, the definition of NVC Physical Crisis intervention that is contained within the Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools*, defines physical intervention techniques as “a technique which is used, by a trained team, only as a last resort when a person is a danger to self, others or property” (p. 2). The inclusion of danger to property as a justification for physical intervention with a student is expressly prohibited in the Operational Procedure 405.1, *Physical Restraint Used in Schools*. Thus its inclusion in Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools*, may be an oversight on the part of policy-makers; regardless, this statement requires explication in order to ensure clarity and prevent the misuse of physical intervention with students.

The Distinction between Seclusion and Time Out

While time out is intended to be used as a short-term behaviour management strategy that involves the removal of reinforcement when it is not clearly defined, it is possible for time out to take on the characteristics of seclusion (e.g., seclusionary time out and placement in a time-out room; Bon & Zirkel, 2013). Freeman and Sugai (2013) affirmed this point, indicating that although time out may have similar features to seclusion, time out is not an emergency or crisis response, and therefore ought to be defined and considered separately in policy. When time out is conflated with practices like seclusion, there is concern that it may not be subject to the same degree of regulatory guidance and accountability that an emergency or crisis procedure requires. Therefore, it is important to examine how time out and seclusion are differentiated in policy and practice by Canadian educational jurisdictions. This kind of analysis is important in order to ensure that students are protected from potentially harmful procedures, as seclusionary forms of time out that are used in non-emergency situations may actually constitute punishment and should not be used in schools (Mayerson, 2003).

Alberta and British Columbia

In Alberta, the definition, expectations, and accountability mechanisms regarding the use of seclusion are distinct from the use of time out. The *Standards for Seclusion and Physical Restraint in Alberta Schools* (Appendix to Ministerial Order No. 42/2019) (Alberta Government, 2019c) clearly define seclusion as an emergency or crisis response procedure and outline the expectations for school divisions regarding policy development, documentation, and reporting of its use. The separate *Guidelines for Time-Out in Alberta Schools* (Alberta Department of Education, 2019a) describe time out as a behaviour management strategy involving brief time out from positive reinforcement. Like Alberta, the *Restraint and Seclusion Guidelines* in British Columbia (British Columbia Ministry of Education, 2015) also concisely define seclusion as an emergency response, consistent with the definition outlined by CCBD (2009). While separate time out guidelines could not be located in this province, the *Restraint and Seclusion Guidelines* (British Columbia Ministry of Education, 2015) define time out as the removal of a child from an apparently reinforcing setting for a specified and limited period of time, also indicating that it is a form of behaviour management not to be used in a crisis situation.

New Brunswick

The province of New Brunswick not only lacks clearly articulated policies related to restraint, seclusion, and time out, but it also conflates time out with seclusion by describing the procedures as synonymous. The support document *Response to Intervention: A PBIS Resource Guide for School-Based Teams* (New Brunswick Department of Education and Early Childhood, 2017) in the area of emergency procedures, states that if the plan “involves restraint or seclusion (i.e., time-out room) the following must be specified: the target behaviour that initiates the use of restraint or seclusion; the type and duration of the restraint or seclusion; personnel responsible; documentation and communication procedures” (p. 42).

While this support document is comprehensive and employs evidence-based practices like PBIS, seclusion, and time-out procedures are neither clearly defined nor mandated. If seclusion constitutes the act of preventing an individual from having the free-will to exist a space (CCBD, 2009a), it is possible that when students are placed in a time-out room in this province, they may in fact be secluded or prevented from leaving the space given the lack of specificity in this document.

Newfoundland and Labrador

In Newfoundland and Labrador, a “time out intervention” is broadly positioned as both a behaviour management procedure and as a crisis response (Newfoundland and Labrador Department of Education, 2014, p. 1). To illustrate, the *Time-out Intervention Guidelines* state that a time out intervention should be used “before a behaviour escalates” and not “as a reaction to an inappropriate behaviour” (p. 1). However, in a subsequent reference, there is a description of a situation in which there may be a “high risk to the personal safety” (p. 2) of a school staff member, which may involve placing a student in a time-out space and monitoring them through an observation window. The discourse shifts from using the terminology of a *time out intervention* and *time out strategy*, to using the term *time-out space* without clearly distinguishing how these approaches differ. In this instance, positioning an emergency response within the same document as a proactive behaviour management strategy blurs the distinction between the approaches, and may serve to minimize and even normalize its use. The *Time Out Intervention Guidelines* also indicate that the use of a time out intervention, which includes the use of a time out space, may be incorporated into a student’s behaviour management plan (BMP), and once the use of a time out intervention is decided upon as a part of the BMP, it does not stipulate that it must be reported to parents each time it occurs. This may create a dangerous incentive to include a time out intervention in a student’s plan, as it would be exempt from visibility and regular reporting (APPRAIS, 2010).

Nova Scotia

The intent of *The Guidelines for Use of Designated Time-Out Rooms in Nova Scotia Schools* (Nova Scotia Department of Education, 2009), as indicated in the title, is to provide direction regarding the use of time out rooms. However, the distinction between time out as a behaviour management strategy, and the use of a time out room are also conflated within this document. The *Guidelines for Use of Designated Time-Out Rooms in Nova Scotia Schools* (Nova Scotia Department of Education, 2009) begin with describing time out as a “proactive strategy to support self-monitoring, self-calming, and self-reflection (p. 1). It subsequently states that time out should be used when a student needs to be “temporarily separated or removed from the environment ... where they are behaving inappropriately. Time out can range from quiet time, to at the most restrictive end of the continuum a designated time-out room” (p. 1). While the guidelines reference time out as being on a continuum, the distinction between degrees of time out, and what might precipitate its variable use along this continuum are not well articulated. Given that the parameters for the use of time out rooms are vague and highly subjective, it is unclear how educators might differentially employ these procedures.

Prince Edward Island

Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools* (Prince Edward Island Public Schools Branch, 2016) states, “The goal of this procedure is to gain a common understanding of time-out as a behaviour management strategy and to provide clear expectations regarding the use of timeout rooms in schools” (p. 1). In this regard, these operational procedures attempt to distinguish time out as a behaviour management strategy from the use of a time out room as an emergency response. The operational procedures state that a time-out room (e.g., seclusion time out):

is used to temporarily place a student in an emergency situation where the student is in danger of hurting him/herself or others. Timeout rooms are used only in emergency and crisis situations, to de-escalate a dangerous situation and are under adult supervision at all times.
(p. 1)

While this operational procedure differentiates between degrees of time out (e.g., inclusionary, exclusionary) as behaviour management strategies and a time out room (e.g., seclusionary) there are some parts of this document where the distinction is less clear. For example, it states that “parental/guardian permission must be obtained in order to utilize a timeout room as a *strategy in the behaviour management* of their child” (p. 3). This statement may create confusion on the part of educators, as it appears to indicate that a time-out room may be used in situations that do not constitute emergencies (e.g., behaviour management) if parental approval has been obtained. Questions regarding what such usage would entail, and what behaviours would precipitate the use of seclusionary time out as “behaviour management” are not fully explained. Of note, Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools*, also permits a student to be secluded in a time-out room if prior approval is granted from the Director of Student Services. The procedure states that time-out rooms:

must NOT be locked, latched, or secured from the outside or inside in any way that would, in the case of an emergency, prevent an individual from exiting the room. Any exception to this must be approved by the Director of Student Services. (p. 3)

This statement reinforces the concern that the use of a time-out room may actually involve seclusion (e.g., preventing a student from exiting a space) and that in this instance, seclusion may be sanctioned by the school division and not necessarily reported to parents if it occurs as a part of the behaviour support planning process. While the use of time-out rooms in emergency situations is regulated through Operational Procedure 405.2, *Timeout and Timeout Rooms in Schools*, it is not subject to the same degree of regulation as the use of physical restraint (e.g., documentation and reporting requirements and provincial oversight), which is problematic as they are both framed as emergency response procedures in this province.

Discussion and Recommendations

The Need for a Clearly Articulated Mandate

Since education in Canada is a provincial and territorial responsibility, there is a lack of federal guidance, which has led to uneven policy development at times resulting in policy gaps. This analysis affirms this point and reveals the absence of much needed regulatory guidance regarding the use of physical restraint, seclusion, and time out in 7 of Canada’s 13 educational jurisdictions, as well as inconsistent and divergent mandates in others. The need for legislative mandates regarding physical restraint, seclusion, and time-out rooms or spaces in schools must be underscored, as regulations serve a protective function by providing minimum standards and specific prohibitions that support the safety of all, in particular students with disabilities (Suarez, 2017; Trader et al., 2017). While still respecting the autonomy of the provinces and territories, there may be an opportunity to establish national leadership on this critical issue through a forum such as the Council of Ministers of Education, Canada (CMEC). Through this collaborative organization, the issue of physical restraint, seclusion, and time-out rooms could be prioritized, shared principles could be identified, and the need for legislative mandates could be articulated. This issue aligns with other areas of mutual interest expressed by CMEC, including *Ensuring Inclusive and Equitable Quality Education: Sustainable Development Goal 4 in Canada* (CMEC, 2020). The explication of guiding principles regarding the use of physical restraint, seclusion, and time-out rooms or spaces by a Canadian organization such as this could build upon the present analysis and contribute to the development and/or strengthening of existing policies so that they are consistent with the guiding principles identified.

Articulating When Physical Restraint and Seclusion May Be Warranted

Given the severity of conduct being discussed, policy must establish clear and unambiguous conditions under which physical restraint, seclusion, and a time-out room or space might be used. There is mounting consensus that physical restraint, seclusion, and the use of time-out rooms should only be used in cases in which there is a significant, immediate, or imminent threat to physical safety, and policies must clearly articulate these conditions and mandate that they are followed (Butler, 2019; Simonsen et al.,

2014; U.S. Department of Education, 2012). In the current analysis, the most concerning policies and guidelines on physical restraint were those that permitted its use: (a) in order to maintain an orderly environment, (b) in order to prevent the destruction of property, and (c) based on a combination of both protective (e.g., immediate threat of physical harm), and non-protective purposes (e.g., maintaining an orderly environment). The use of physical restraint, seclusion, or a time-out room for subjective, ill-defined, and non-protective purposes is highly problematic and constitutes an infringement on students' basic human rights (Weissbrodt et al., 2012) including protections from cruel and inhuman treatment as outlined in the *United Nations Convention on the Rights of Persons with Disabilities* (CRPD; United Nations, 2006), and the *United Nations Convention on the Rights of the Child* (CRC; United Nations, 1989). In the absence of clear parameters, policy actors may defer to personal and professional judgement and may interpret and act out guidelines and policies in conflicting and potentially harmful ways. Therefore, greater explication of the conditions under which restraint, seclusion, and time-out rooms might be used in Canadian educational jurisdictions is required.

Distinction Between Seclusion and Time Out

In the Atlantic region of Canada, time out is not clearly distinguished from seclusion in policy or guidelines. In some instances, time out is positioned as both a behaviour management strategy and as an emergency response, typically within the same document. The Atlantic region is not unique in this regard, as McCarthy (2019) identified a similar need for regulatory frameworks to differentiate between time out and seclusion in Australian government schools. Because some policies and guidelines in the Atlantic region were found to treat all time outs as more or less severe forms of the same practice, they understate the severity of the use of a time-out procedure when it involves placement in a time-out space or room, even though this does not seem to be the intent of the policy-makers. This conflation highlights a very important ideological difference in the way that time out, and seclusion are conceptualized in Canada, with some provinces blurring the distinction between behaviour management and emergency procedures, and thus providing neither concrete direction to school staff in how to address these issues, nor the level of regulation that an emergency procedure requires. The clear distinction between restraint and seclusion as emergency procedures, and their separation from time out as a behaviour management strategy, as illustrated in the *Standards for Seclusion and Physical Restraint in Alberta Schools* (Appendix to Ministerial Order No. 42/2019; Alberta Department of Education, 2019), may serve as a model for other jurisdictions to distinguish these procedures from one another, which will provide greater clarity for educators, as well as necessary protections for students.

Conclusion

This analysis revealed significant gaps in educational policy and guidance regarding the use of physical restraint, seclusion, and time-out rooms in Canadian educational jurisdictions. It is not uncommon for issues most relevant to individuals with disabilities to be disregarded in policy and/or loosely regulated (Suarez, 2017). In Canada, advocacy for mandated regulations and protections regarding the use of physical restraint, seclusion, and time-out rooms in Canadian schools has largely been championed by parents of children with disabilities (Bartlett N. A. & Ellis, 2020a, 2020b; Inclusion Alberta, 2018; Inclusion BC, 2013, 2017). It is critically important for educational leadership to also prioritize this issue and enact significant regulatory measures so that necessary protections are provided. It is hoped that this analysis will draw attention to this issue and prompt the development of guiding principles and standards of practice that can be incorporated by all provinces and territories. Given that guidance regarding policy development related to physical restraint and seclusion have been found to positively influence the adoption of protocols (Freeman & Sugai, 2013; Marx & Baker, 2017; Sugai, 2019), it is imperative for Canadian educational leadership on this issue to be expanded, and for regulation that aligns with human rights standards to be enacted.

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