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May 10, 2018

Honorable Lorena Gonzalez Fletcher
Chair, Appropriations Committee
California State Assembly
Capitol Building, Room 2114
Sacramento, CA 95814

RE: AB 2657 (WEBER) – SPONSOR AND SUPPORT

Dear Assembly Member Gonzalez Fletcher:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **sponsors and supports AB 2657**. This bill will soon come before you for hearing in the Assembly Appropriations Committee.

AB 2657 provides minimum safeguards on the use of restraints and seclusion in schools. The bill does not eliminate these procedures, but limits the use of particularly dangerous practices and provides guidance on when and how seclusion and restraints are permissible.

The bill was drafted and subsequently amended in ways to insure minimal to no cost. For example, the data provisions have been clarified to assure there is no new requirement beyond what the federal government requires. Additionally, the bill's provisions have been reconciled with existing special education law in the Education Code to make implementation easier. Attached to this letter is a write-up from *Wrightslaw*, documenting the \$17 million two Contra Costa County school districts faced in one year because of their practices. There are also helpful and interesting links in that attachment.

Over the last ten years the United States Government Accountability Office (GAO) has reported several times on school practices with an emphasis on the deleterious impacts of restraints and seclusion. On April 4th of this year, the GAO released a report on the overrepresentation of students with disabilities and African American boys in school discipline. The disparities described in the report make it easier to understand the “school to prison pipeline” because coercive disciplinary practices can lead to suspension and expulsion, with the juvenile criminal justice system entering the picture. AB 2657 is a tool to help move us back in the right direction in taking our children into adulthood.

In the new report, GAO focused on five school districts in five states. Described in the report is an Office of Civil Rights investigation from Oakland California that found the use of prone restraint on one pupil with disabilities “severe, persistent, and pervasive: staff held the student face-down 92 times over a period of 11 months, with the longest duration of a single face-down restraint being 93 minutes.” This is wrong. More importantly, it is dangerous.

There is a better way. Other states are going there with positive behavior intervention and supports. AB 2657 complements California’s Multi-Tiered System of Supports (MTSS) by identifying the kinds of intervention techniques that are harmful and should only be used in emergency situations. Information about MTSS can be found on the California Department of Education (CDE) website here <https://www.cde.ca.gov/ci/cr/ri/>, with particular information about Positive Behavioral Support here <https://www.cde.ca.gov/ci/cr/ri/corecomp6.asp>.

There are also attachments to this letter with very brief vignettes describing some restraint and seclusion cases investigated by DRC, as well as a chart showing how California compares to other states in its restraint and seclusion practices. Analyzing 11 categories, where a perfect score would be 11, California scored a dismal 3. The chart is adapted from *How Safe is the Schoolhouse* by Jessica Butler.

AB 2657 provides common-sense direction. It provides the same protections afforded in every other setting where restraint or seclusion are used. For example, although prone restraint, where a student is held face-down, is not absolutely prohibited, there are circumstances under which this type of restraint should never be used. Under AB 2657, if the person


performing the restraint **knows** the student has heart disease or respiratory conditions such as asthma, which puts the student at risk of sudden death, then under those circumstances, prone restraint is prohibited.

We are not asking teachers or aides to be physicians who must diagnose before a restraint. We are asking for good judgment.

The U.S. Department of Education (USDOE) discourages the use of restraints and seclusions and issued a resource document containing fifteen core principles for consideration in developing related policies. At the press release link (<https://www.ed.gov/news/press-releases/us-department-education-issues-resource-document-discourages-restraint-and-seclu>) is quick information with a further link to download the full resource document. Summary information and detailed information on the principles can be found beginning on page 11 of the full document. As noted, further guidance about positive behavior intervention can be found on California's Department of Education website.

For these reasons, DRC sponsors and supports this bill. Please contact me if you have any questions about our position or if I can provide any further information.

Sincerely,



Deb Roth
Senior Legislative Advocate
Disability Rights California

cc: Honorable Shirley Weber, California State Assembly
Sawait Seyoum, Office of Assembly Member Arambula
Honorable Members, Assembly Appropriations Committee
Natasha Collins, Principal Consultant, Assembly Appropriations Committee
Robert Becker, Consultant, Assembly Republican Caucus Committee
Nicole Restmeyer, Speaker's Office