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**Federal Judge Finds ADA Covers Fairfax County Public Schools’
Use of Restraint and Seclusion**

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Washington, D.C. (July 15, 2020): Last evening, a federal judge [refused](#) to dismiss a civil rights lawsuit against Fairfax County Public Schools alleging the district’s use of restraint and seclusion on students with disabilities violates federal law.

The lawsuit was filed in October 2019 on behalf of six students with disabilities, the Council of Parent Attorneys and Advocates (COPAA), Autistic Self Advocacy Network (ASAN), and Communication FIRST. The law firms Brown, Goldstein & Levy, LLP and Fluet Huber + Hoang, PLLC are representing the plaintiffs.

In their complaint, the plaintiffs allege that students with disabilities, some as young as five years old, experience discrimination, psychological trauma, and physical harm from FCPS’s improper use of physical restraints and seclusion in cell-like rooms. The lawsuit claims that FCPS is violating the Americans with Disabilities Act, and FCPS’s own guidelines, by using restraint and seclusion to punish and segregate students with disabilities. Plaintiffs contend such techniques are ineffective, traumatic, and are systematically used on the students without any valid educational or safety reason. The suit points out that physical restraints and seclusion are so inherently dangerous and traumatizing that many states specifically outlaw or limit their use, and the U.S. Department of Education has heavily scrutinized and sought to regulate their application.

FCPS asked the court to dismiss the case. Judge Rossie D. Alston, Jr., ruled against FCPS and in favor of the plaintiffs, allowing the case to move forward on ADA grounds. Judge Alston ruled, among other things, that the individual plaintiffs’ claims showed discrimination, not merely the failure to provide special education services, and that, therefore, they were not required to take their claims first through the district’s administrative process.

Beginning in March 2019, FCPS, the tenth largest school district in the country, faced scrutiny over its use of restraint and seclusion when it was revealed that, despite reporting to the Federal government that it had not used restraint and seclusion on a single child from 2013 to 2017, in fact, at least one plaintiff had been restrained and secluded over 700 times in that same period.

“This is a critical decision for these individual Fairfax County families and others across the country who have entrusted schools to educate and support, rather than traumatize and punish,

their children with disabilities. Judge Alston’s decision is important because it affirms that these families have rights under the ADA and that a court is the proper forum for their grievances to be heard. We look forward to continuing with this lawsuit and holding FCPS accountable,” said Regina Kline, counsel for the plaintiffs.

The motion was presented by Kevin Byrnes of FHH and Regina Kline of Brown Goldstein & Levy, who serve as lead counsel on the case.

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The Council of Parents Attorneys and Advocates (COPAA) is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals; over 90% of whom identify as having a disability; or are parents of family members of individuals with disabilities. COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of the 7 million children with disabilities in America. COPAA’s mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community. copaa.org

Autistic Self Advocacy Network (ASAN) seeks to advance the principles of the disability rights movement with regard to autism. ASAN believes that the goal of autism advocacy should be a world in which autistic people enjoy equal access, rights, and opportunities. We work to empower autistic people across the world to take control of our own lives and the future of our common community and seek to organize the autistic community to ensure our voices are heard in the national conversation about us. Nothing About Us, Without Us! autisticadvocacy.org

CommunicationFIRST is the only nonprofit organization dedicated to protecting and advancing the civil rights of the more than 5 million people of all ages in the United States who, due to disability or other condition, are unable to rely on speech alone to communicate. Our mission is to educate the public, advocate for policy change, and engage the justice system to protect and advance the human and civil rights of our historically marginalized community. communicationfirst.org