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VE/03

Erica J. Jessup  
1442 Hanshaw Road  
Ithaca, NY 14850  
[ejj\\_mail@yahoo.com](mailto:ejj_mail@yahoo.com)

CR-VE-06/187  
due 8/4

**RECEIVED**

JUL 26 2006

COMMISSIONER  
OF EDUCATION

Richard P. Mills  
President of the University of the State of New York  
and Commissioner of Education  
State Education Department  
Education Building  
Albany, NY 12234

July 18, 2006

Dear Commissioner Mills:

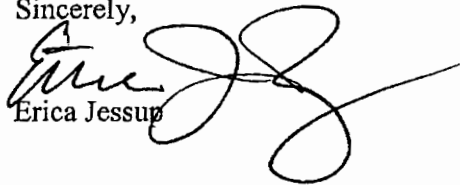
I am appalled by the recent enactment by the State Education Department of "emergency" regulations allowing schools to use certain extreme aversive behavioral intervention techniques on children with disabilities. The scope of techniques allowed and the lack of oversight is frightening to me as the parent of a disabled child and a citizen of New York.

Some of these actions clearly constitute abuse when used on other segments of the population, including the mentally retarded and the elderly in nursing homes. I think the standard for children with disabilities should be no less.

Also, the fact that the State Education Department enacted the regulations BEFORE the public comment period implies there was some understanding of how inappropriate these measures are.

Thank you for any influence you may have on this issue, this regulation needs to be overturned immediately for the safety of New York's school children.

Sincerely,

  
Erica Jessup

July 27, 2006

To: Dr. Rebecca H. Cort,  
New York State Department of Education,  
Anthony S. Bottar  
Senator Hillary Rodham Clinton,  
Jeff Brown,

REC  
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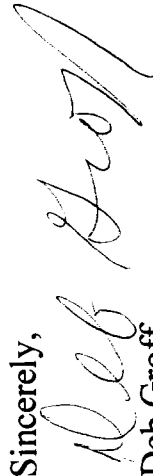
Re: Use of "Aversive interventions" on children as passed by the New York State Board of Regents

These regulations that were passed in June allow aversive interventions and use of time out rooms on our children. I have worked with children as a Physical Therapist for 17 years and have a 9 year old with Asperger's. I know from experience that negative forms of "behavioral intervention" do not work. These children often see the world very differently than we do. It is a very confusing and scary place for them and some of their behaviors come from fear. They need staff at school that have the training to teach appropriate social skills and behavior. Children do not benefit from negative, abusive treatment from the adults who are supposed to be teaching them.

As a parent of an Autistic child and a staff member at a local school district, I do not want to see these regulations in New York State. In fact, I am mortified that we would even consider treating children in this manner.

**Do you want "aversive interventions" preformed on your child?? Do you want your child left alone in a time out room? PLEASE, help to reverse these regulations.**

Sincerely,



Deb Groff

9595 Clarecastle Path  
Brewerton, NY 13029

# Greenberg Traurig

Pamela A. Madeiros  
518.689.1412  
madeirosp@gtlaw.com

August 1, 2006

Ms. Rebecca Cort  
Deputy Commissioner  
NYS Education Department  
One Commerce Plaza - Room 1606  
Albany, New York 12234

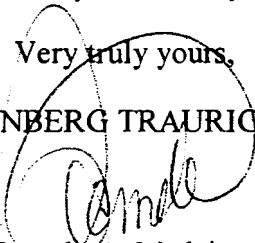
Dear Ms. Cort

The New York Association of School Psychologists wanted to share with you their comments on the recently proposed regulations governing behavioral interventions, including the use of aversives.

Please feel free to contact me should you have any questions.

Very truly yours,

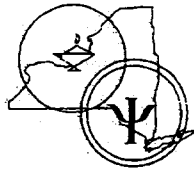
GREENBERG TRAUIG, LLP

  
Pamela A. Madeiros

PAM/mdw  
Enclosure  
\\ODMA\PCDOCS\ALB\84583v1

*Pat Garry*  
*Becky*

RECEIVED  
AUG 07 2006  
DEPUTY COMMISSIONER  
VESID



The New York Association of School Psychologists

**Comments on Regulations Governing Use of Aversives and  
the Creation of Human Rights Committees**

**The New York Association of School Psychologists  
July 2006**

The New York Association of School Psychologists (NYASP) applauds the State Education Department in its efforts to protect the safety and wellbeing of children in school settings. While discipline and behavioral interventions are integral components of education, aversive punishment techniques have the potential to result in far greater harm than good. These approaches are often developed in response to the challenging behaviors exhibited by children with severe emotional or developmental disorders and may include techniques such as application of uncomfortable, intrusive, or painful stimuli, physical restraints or limitation of movement, withholding of food, or restriction to time-out rooms. The negative consequences of such approaches many include: failure to teach appropriate behavioral responses, feelings of humiliation or resentment, escalation of problem behaviors, and risk of physical injury to the student, peers, or adults who intervene.

The National Association of School Psychologists has long advocated for system-wide approaches that focus on positive behavioral change for all children. For children with challenging behaviors, best practices involve assessment techniques which recognize the functions of maladaptive behaviors (functional behavioral assessment or FBA) that can serve as the basis for developing programs to meet needs in adaptive ways (Dwyer, 1997, *Communique*). Following is a summary of these recommendations:

**Alternatives to Aversive Behavioral Approaches**

Effective discipline and behavior management includes programs and strategies for changing student behavior, for changing school or classroom environments, and for educating and supporting teachers and parents. Effective discipline includes prevention and intervention programs and strategies. This approach is empirically based rather than relying on custom or habit. The following are alternatives which can be initiated and developed or supported by school psychologists and other educators and which help provide an atmosphere where learning can take place and where students learn to be self-disciplined:

- Help students achieve academic success through the provision of appropriate instruction
- Use behavioral contracting
- Encourage positive reinforcement of appropriate behavior
- Use individual and group counseling
- Encourage disciplinary consequences which are meaningful to students and have an instructional and/or reflection component
- Provide social skills training
- Teach conflict resolution skills

**Alternatives for changing the school and classroom environment:**

- Use of system-wide approaches, such as Positive Behavioral Interventions and Supports (PBIS)
- Encourage schools to utilize a Response to Intervention model to implement supports and monitor the effectiveness of these interventions
- Encourage programs that emphasize early diagnosis and intervention for school problems including problems of staff and problems of students
- Encourage programs that emphasize values, school pride and personal responsibility and support the mental health needs of children
- Encourage development of fair, reasonable and consistent rules
- Support strong parent/school and community/ school communications and ties

**Alternatives for educating and supporting teachers (as preventive measures):**

- Provide information on effective discipline programs and resources
- Provide in-service programs on communication, classroom management, understanding of behavior and individual differences, and alternative ways for dealing with misbehavior
- Assist with development and monitoring of behavioral intervention programs - schoolwide, classwide or individual
- Provide training for school personnel in crisis management and de-escalation techniques

- Network with community groups and mental health agencies to provide programs and support for school staff

**Alternatives for educating and supporting parents:**

- Provide parenting classes on effective discipline particularly as it relates to such issues as homework, school grades, peers, learning problems, developmental expectations and undesirable behavior
- Provide school-based consultation to parents on effectively managing child behavior
- Encourage home visitation programs for parents of babies and toddlers - programs which focus on developmental expectations, resources and discipline

Finally, NYASP recognizes that there are certain circumstances that aversive techniques may be required to address significant and severe behavioral problems. However, we support the need for clear guidelines on how and when to use these techniques, the use of functional behavioral assessments (FBA) to understand the student's behavior, and the development of appropriate behavioral intervention plans (BIP). **The proposed legislation provides strong, timely, and comprehensive monitoring of the use of aversive approaches, and most importantly, monitors whether such approaches are effective in bringing about positive behavioral change.**

NYASP supports the development of Human Rights Committees in schools that use aversive behavioral interventions with students. **However, we would request that the regulations be amended to allow school psychologists to serve as members on this committee.** School psychologists are highly qualified mental health professionals, who have training in assessing the educational, emotional, and behavioral needs of children. School psychologists are intimately involved in functional behavioral assessments and behavioral intervention plans. They possess the knowledge and expertise in understanding the development of maladaptive behaviors, as well as techniques to modify these behaviors. Many school psychologists utilize Applied Behavior Analysis (ABA) techniques with severely disabled students. Finally, school psychologists understand the unique culture of schools, which is important when reviewing student's behavioral intervention plans. Through consultation and direct interventions, school psychologists assist in the balance between the educational needs of children and the management of disruptive and maladaptive behaviors. While we support the restriction of school psychologists employed by the school or agency under review from participation on their own district committees, NYASP strongly urges consideration of school psychologists from neighboring districts or BOCES as members of this committee.

The New York Association of School Psychologists represents school psychologists working in public and private schools, as well as college and university based training programs in New York. In addition to their work in supporting and advocating for school psychologists, NYASP serves as a resource to policy and decision makers throughout

New York Association of School Psychologists, Aversive Technique Comments

New York State. The following individuals are available for further comments on the above topics:

Robin Raphael, President NYASP - (716) 250 – 1457

Nancy Evangelista, Past President NYASP - (607) 871 – 2649  
Legislative Co-Chair NYASP

John Kelly, President-elect NYASP – (631) 912 – 2122  
Legislative Co-Chair NYASP

**AUTISM SOCIETY OF AMERICA, INC.  
QUEENS COUNTY CHAPTER**

Dedicated to the education and welfare of children and  
adults with severe disorders of communication and behavior

**RECEIVED**

**AUG 11 2006**

**DEPUTY COMMISSIONER  
VE**

Joanne M. Buccellato  
85-32 258 Street  
Floral Park, NY 11001  
August 7, 2006

Dr. Rebecca H. Cort, Deputy Commissioner  
Office of Vocational and Educational Services  
for Individuals with Disabilities  
One Commerce Plaza, Room 1606  
Albany, New York 12234

RE: Comments: Behavioral Intervention Regulations

Dear Dr. Cort:

The Queens Chapter of the Autism Society of America wishes to express its strong opposition to the Regents' amendments as currently stated that would permit the use of aversives for students with disabilities.

It is our position that the Department of Education has yet to fully educate all special education professionals on positive behavioral interventions, let alone implement and monitor them in an appropriate and consistent manner throughout its programs. This should be a first step when addressing behavioral needs.

The regulations are too broad and non-specific in many areas, e.g. well-defined criteria for its use related to the severity of self-injurious or life threatening nature of a behavior, medical/psychiatric approval, oversight and intervention, staff qualifications and training, etc.

R. Cort  
August 7, 2006

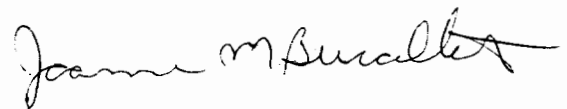
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While the use of certain "aversive type" interventions may ultimately be needed in severe and life threatening situations for a very small subset of the disabled population, the regulations as stated do not clearly delineate this. Only after exhausting all other possible interventions should these "aversives" be provided and only then in one or two highly structured, closely monitored programs with knowledgeable, qualified staff, not any and all programs. The level and intensity of such care cannot and should not be generalized to the entire special education population.

Consider the fact that what the Regents regulations would permit for the special education students under the guise of behavioral interventions would be considered corporal punishment for the regular education student - a good number of whom are known to exhibit and/or engage in inappropriate and dangerous behaviors.

The fact they these regulations were promoted and passed in something of a precipitous manner with hearings set for the summer months also raises a concern that such a grave matter is not being given the time, consideration and planning needed in an effort to quickly implement Billy's Law at the expense of some of our most vulnerable citizens.

Respectfully submitted,



Joanne M. Buccellato  
Board Member,  
Queens Chapter of the  
Autism Society of  
America

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AUG 11 2006

DEPUTY COMMISSIONER  
VESI

August 9, 2006

Dr. Rebecca H. Cort  
Deputy Commissioner  
Office of Vocational and Educational Services for Individuals with Disabilities  
Room 1606, One Commerce Plaza  
Albany, New York 12234  
Attention: Comments: Behavioral Intervention Regulations

RE: Summary of testimony presented in Albany, NY on August 8, 2006

To Whom It May Concern:

The regulations that limit aversive procedures to only aggressive and self-injurious behaviors fail to address two important facts regarding individuals with severe problem behaviors. First, many of the behaviors that interfere with a given student's education and social development include property destruction, noncompliance and major disruptive (yelling, disrobing in class, stealing etc) behavior. Many times, these behaviors are in the same response class as or antecedents to aggressive and self-injurious behaviors. Second, there exists a population of children and adults who do not respond to interventions that are comprised of only reinforcement based interventions.

The emergency regulations have already had a negative impact on one of the students currently on my caseload. Prior to coming to the Judge Rotenberg Center (JRC), CJ was unsuccessful in special education settings, residential treatment facilities and psychiatric hospitals. Upon admission to JRC, positive only programming was attempted for 6 months and very little improvement in her behavior was noted. JRC then sought and received court and parental approval to implement treatment for CJ's aggressive, health, dangerous, destructive, major disruptive and noncompliant behaviors.


Immediately, we observed dramatic improvement in her behavior (her major behaviors dropped to near zero levels) and collateral improvements in her educational progress and social development. CJ began attending field trips, home visits and was able to access richer schedules of reinforcement. In addition, she was able to move to a residence with less restrictions. At the time the emergency regulations went into effect, we were attempting to eliminate CJ's minor inappropriate verbal behaviors using self-management and reinforcement procedures. Reducing the frequency of her inappropriate verbal behavior was, in my opinion,

the last obstacle that CJ needed to overcome before a responsible GED fading process was implemented.

Upon implementation of the emergency regulations, we observed a dramatic increase in the frequency of her major disruptive, noncompliant and destructive behaviors. That is, in the 40 days since the regulations were implemented we have observed 1179, 2137 and 2012 destructive, major disruptive and noncompliant behavior respectively. In 51 weeks, prior to the regulations, we had observed only 14 of these behaviors. In addition, we have observed an increase in aggressive behaviors. As a result, CJ has been moved to a more restrictive classroom, a more restrictive residence, had less access to the community and has required transport restraints. Her education, social development and overall treatment has been severely disrupted. Although we have observed regression, her behavior is better than it was prior to the implementation of Level III procedures. However, if it were not for the emergency regulations, I suspect that CJ would currently be in the fading process and her excellent progress would have continued.

Finally, subjectively, prior to the regulations, my daily meetings with CJ were filled with smiles, positive comments and discussions of her future. Since the implementation of the regulations, CJ has been belligerent, overtly unhappy and has not discussed her future.

Regards,



Nathan A. Blenkush, Ph.D., BCBA  
Clinician, Judge Rotenberg Center

1709 Irving Road  
Randolph, MA 02368

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AUG 11 2006

DEPUTY COMMISSIONER  
VESID

August 9, 2006

Dear Board of Regents Member,

I am writing to you regarding the emergency regulations that were put into effect in June that limit the use of aversives. I am current a clinician and Board Certified Behavior Analyst and have been working with children and adolescents with autism and other behavioral challenges for over 10 years. I am also the previous director of a residential treatment facility in New York for children with autism.

I would like to share a brief case with you. While in NY I worked closely with a 10 year old girl who was diagnosed with severe autism, we will call her Shelly. Shelly frequently engaged in self-injurious behaviors, primarily hitting herself forcefully on the side of the head. She spent 9 months at the residential treatment facility where we did everything possible to help treat her including the best types of positive support available without using aversive interventions. Due to the severity and dangerousness of Shelly's hitting she frequently had to wear a helmet and required restraints almost daily. Towards the end of her time at the school she started walking into objects such as doors and tripping on things such as chairs and down steps. Shelly had completely detached both of her retinas due to hitting herself in the head.

Currently, this same student and I are both in Massachusetts at another residential treatment facility. Due to the success of her court authorized treatment plan (which includes aversives) she no longer engages in hitting herself in the head. Shelly has had four eye surgeries and is expected to regain most of her vision. She no longer wears a helmet or requires restraints. Without the use of aversives to decelerate her self-injurious behaviors to near zero levels her surgeries would not have been helpful.

Aversive interventions have saved this student's life. Every time I speak with her mother she thanks me for saving Shelly's life as I am the one who referred Shelly out of the positive-only programming school to Massachusetts where the most effective interventions could be provided.

I ask that you please consider the students who positive-only supports has failed when considered this policy as it will deprive many individuals of effective and life saving interventions.

Sincerely,



Christine Chiudina, Psy.D., BCBA  
Board Certified Behavior Analyst

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AUG 15 2006  
DEPUTY COMMISSIONER  
VESI

Written statement from speaking at NY Public Hearing in Albany NY  
Steffanie R. Koué, Psy.D., BCBA, clinician  
Judge Rotenberg Center

Nine students on my caseload had significant changes made to their treatment plans when the NYSED "emergency" regulations were put in place regarding court-approved Level III treatment procedures.

For seven of these nine students, it has resulted in adverse effects in the form of regression in academic and independent living skills, as well as engaging in more behaviors which had previously decelerated almost to the point of being non-existent. This includes an increase in severely disruptive and destructive behaviors, **as well as**, behaviors which continue to be treated by the Level III procedures. Meaning, in some cases, some of my students are now receiving more aversive GED consequences than they were prior to these NYSED "emergency" regulations.

Specifically, six of these seven students who have regressed, are lower functioning. This increase in major inappropriate behaviors has led to a decrease in academic progress, as well as independent living skills.

For example, one student in particular, who after the use of Level III interventions was introduced, no longer required 1:1 staffing. This is a huge step forward for this student. However, since we have put the "emergency" regulations into place, we are unable to effectively treat this student's disruptive and non-compliant behaviors, without having constant 1:1 assistance to redirect her to complete academic tasks, or follow staff directions.

Another low functioning student of mine, who has made slow, but steady progress over the past 2 years on learning to engage in daily living skills independently, including dressing self, brushing teeth, and bathing self. Though the process of learning these independent living skills have been acquired over a couple of years, they are very quickly becoming unlearned. Similarly, the student is beginning to refuse to engage in these activities independently, knowing that she will no longer be consequence aversively for refusing.

It is a shame, that with these two student's in particular, they were both learning ways to become more independent, including finishing tasks on their own, and engaging in self-care activities without the need for another individual to interfere with their privacy. However, before the students could be provided the opportunity to fully acquire these new skills with mastery and consistency, the only tool which has been effective in aiding to teach these necessary skills, has been removed before they could become successful. These are only two examples of students, who through the use of court-approved Level III interventions have reached a level to now be able to learn alternative, more appropriate behaviors which then allow the opportunity to teach them these independent living skills and increase academic skills.

Two students on my caseload, one which was mentioned above, have begun receiving more GED applications since the implementation of the NYSED "emergency" regulations. Specifically, the student's will engage in major behaviors, which are known to be antecedents to Aggressive or Health Dangerous behavior and which, prior to the NYSED "emergency" regulations, was considered a severe behavior, and thus consequated by the GED. It has been noted that when an antecedent behavior to a more severe behavior, is consequated, it significantly reduces the frequency of the more severe behavior. Because these students are no longer able to be consequated for this antecedent behavior they are engaging in more severe, dangerous behaviors at a higher frequency.

In summary, including Level III interventions in some students treatment plans allows the student an opportunity to significantly decelerate the frequency of their severe behaviors, so that myself, and other clinicians, may then have the opportunity to teach this student alternative behaviors, which are more appropriate and accepted by society.

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August 9, 2006

Dr. Rebecca H. Cort  
Deputy Commissioner  
Office of Vocational & Educational Services for Individuals with Disabilities  
Room 1606, One Commerce Plaza  
Albany, New York 12234

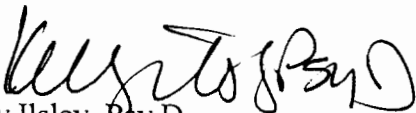
ATTN: Comments: Behavioral Intervention Regulations

Dear Dr. Cort:

I am a doctoral level clinician at the Judge Rotenberg Educational Center (JRC), and I write this message as a request that all parties join efforts rather than present as opposing teams, with regards to everyone's shared final goal: the safety and protection of all children we educate, treat, and protect. Since the Board of Regents adopted their emergency regulations in June 2006, I have seen tremendous behavioral and academic regression among my student caseload. Further, I have been the recipient of urgent phone calls from furious parents who demand an answer to questions such as "why are these people telling me what I can decide is best for my child?" As a health care professional, it is my ethical obligation to treat these children with the very least restrictive and most effective treatment modalities.

Certainly, I am not in support of any institution that would or does use abusive techniques (hurling, strangling, etc); such illegal abuse procedures do not occur at JRC. I simply ask that the Board consider, respect, and recognize the rights of parents and guardians to choose the most appropriate treatment for their children.

Thank you for your time and consideration.

  
Kelly Ilsley, Psy.D.

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AUG 15 2006

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VESID

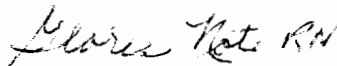
August 12, 2006

Dear Deputy Commissioner Cort:

I am writing to you as a concerned citizen of the State of New York. I recently had the opportunity to attend a portion of the Albany hearing on the use of aversive techniques to address issues presented by students with disabilities. I have spent my professional career as a nurse, in this profession my concern was always for the well being of the patient. I am appalled to learn of the treatment of children in programs that profess to be providing educational services to these children. Additionally, I am saddened and angered to learn that my tax payer dollars are being used to "torture" children.

I urge you to stop the use of aversive treatments with children both in programs in the state of NY and outside of the state. I support the current proposed regulations for behavioral interventions with the expectation that they will include all children and make no exceptions for high quality appropriate programming based on the federal law (IDEA) to require functional assessment and positive behavior supports for all students with disabilities who have behavioral issues. Please continue your efforts to move the State of New York away from these barbaric and expensive practices and reaffirm the commitment that we as tax payers to "leave no child behind".

Sincerely,



Gloria Noto, RN  
Concerned New Yorker  
33 New Street  
Amsterdam, NY 12020  
[gjnoto@verizon.net](mailto:gjnoto@verizon.net)

cc: Hugh Farley, U.S. Congressman  
Michael McNulty, U.S. Representative  
James Dawson, Regents Representative  
Paul Tonko, State Representative

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**AUG 15 2006**

**DEPUTY COMMISSIONER  
VESID**

Dr. Rebecca H. Cort  
Deputy Commissioner  
Office of Vocational & Educational  
Services for Individual with Disabilities  
Room 1606, One Commerce Plaza  
Albany, New York 12234

ATTN: Comments: Behavioral  
Intervention Regulations

August 10, 2006

Dr. R. Nicolle Matthews  
Ph.D. in Psychology (emphasis in Behavioral Neuroscience from University of Texas)  
Clinician  
Judge Rotenberg Center

Re: Written Testimony for August 8, 2006 Spoken Testimony

The changes in the NYSED regulations has been disastrous for many of our students, both those directly and indirectly affected. Of the students at JRC, 67% are from NY-funded school districts with court approved supplemental Level III aversives in place. Of this population, 64% have exhibited a significant behavioral regression since the implementation of the new regulations. Most of those who have not shown regression at this time are either in the fading process or thus far unable to learn the absence of consequence contingency due to their functioning level.

The Judge Rotenberg Center has behavioral frequency data collected 24 hours per day by both video monitoring and direct care staff. Through this data, we have shown that in about the 30 days prior to the implementation of the regulations, all NY students exhibited a total of 839 major inappropriate behaviors. In the same period of time following the implementation of the regulations, the display of major inappropriate behaviors increased over 4,000% to a total exceeding 35,000. Some of the behaviors exhibited since the regulations came into effect include students screaming from one classroom to another, swearing at staff and other students, taking off their seatbelt while in transport, disrobing to nakedness, and masturbating in the classrooms. Students on my caseload have also exhibited behaviors such as hitting their teacher, threatening to hurt me and other students, refusing to come to school and refusing to sit down on the bus once in motion. Due to this increase in inappropriate behaviors, students are spending more time 1:1 isolated rooms and overall academic completion for all students has decreased.

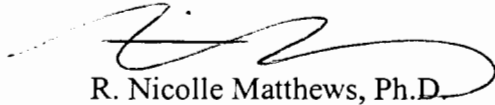
For some students, the inability to treat antecedent behaviors has resulted in the student receiving more GED applications than prior to the implementation of the regulations. It has also lead to students spending less time in the community on home-visits, field trips and in the classroom. Many students had to be moved to a more restrictive residence or

classroom in order to safely contain their behaviors, which previously, had been under control.

In conclusion, the implementation of the NYSED regulations has caused more harm than benefit to the students in which they were issued to 'help'. The use of court approved aversives at the Judge Rotenberg Center provide the most effective, least restrictive treatment for a small population with severe behavioral disorders. We agree that our methods are not for the average child with behavioral disorders, but for the small population unable to be treated with positive only procedures. For this population, two options remain: medication and highly structured supplemental aversive procedures. Instead of warehousing a student on medications that have yet to be approved by the FDA for children due to their unknown side-effects, a 2 second skin-surface shock is the most effective, least restrictive approach available. Its objective effectiveness is proven through data and its subjective benefits include a better quality of life for the student and their family.

If you have questions, please contact me immediately.

In earnest,

A handwritten signature in black ink, appearing to read 'R. Matthews', with a large, sweeping flourish extending to the right.

R. Nicolle Matthews, Ph.D.  
Clinician  
Judge Rotenberg Center

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**RECEIVED**

**AUG 15 2006**

**DEPUTY COMMISSIONER  
VESIO**

August 12, 2006

Dear Deputy Commissioner Cort:

I learned this week from a family member who is a special education teacher that the State of New York was evaluating the use of a particular type of technique for students with disabilities. I often do not know all the details of such techniques but found myself drawn to read the materials that she had received. I was stunned when I read of the techniques (i.e.,aversives) that were being used on students and being called treatment. I have worked in the mental health and addiction field for a long time and these types of techniques were banned from use in that area. These types of procedures are unacceptable for prisoners of war, why are they acceptable for children? I am very concerned about the welfare of the students who are exposed to these programs and strongly encourage your office to continue to evaluate the practices with the goal of stopping these treatments.

I am a taxpayer and I do not want my tax contributions being spent to have children with disabilities exposed to these types treatments. Honestly, I find it difficult to even refer to these programs as educational. Please continue your efforts for all children in NY, do not make any exceptions for students with the most challenging behaviors and the programs that proposed to be the only place for these children to receive services. I know from my family member that there are other approaches based on positive practices that are humane and effective. All children should receive educational services that are humane and effective based on the acceptable practices in special education. A long time ago, we stopped the inhumane treatment of individuals with mental health problems, it is definitely time to stop these practices with our children.

Sincerely,

*Patricia Shults*

Patricia Shults  
Concerned New Yorker  
33 New Street  
Amsterdam, NY 12020

cc: Hugh Farley, U.S. Congressman  
Michael McNulty, U.S. Representative  
James Dawson, Regents Representative  
Paul Tonko, State Representative

Terri Abrams  
152 Windmill Trail  
Rochester, NY 14624  
[tabrams@rochester.rr.com](mailto:tabrams@rochester.rr.com)

RECEIVED  
AUG 16 2006  
DEPUTY COMMISSIONER  
VESID

Dr. Rebecca H. Cort  
Deputy Commissioner,  
VESID  
Room 1606, One Commerce Plaza  
Albany, NY 12234

Dear Dr. Cort,

As a human being the list of aversive behavioral therapies the NY state has prohibited makes my skin crawl because they are so abusive. I am proud that my state has committed to being more humane toward all of our citizens. Prohibiting these actions was the right thing to do and it is very upsetting that the Board of Regents is now developing plans to allow exceptions to these prohibitions.

As a parent of a child with a disability I am by turns infuriated and terrified that any of these horrifying acts could happen to my child in the name of therapy—with my state's permission.

As an RN and citizen of the state I am also wondering about the regulatory inconsistencies allowing these exceptions creates in our state:

- The NYS Health Department has very strict rules about treatment of people who live in the state's nursing homes. Any of the 'aversive behavioral therapies' listed in the new regulations would qualify as abuse in a nursing home and would lead to prosecution, fines, jail time and loss of licensure for individuals and even for institutions.
- The NYS Commission of Quality Care has similar, strict rules on behalf of adults with disabilities who live in the state's many homes and group homes.
- The NYS Mental Health Office enforces the same standards to protect people in the state who have mental illness.
- Adult Protective and Child Protective Services would prosecute caregivers or parents who engaged in any of these aversive/abusive activities in the home resulting in jail time and loss of custody.
- In fact all nurses, doctors, social workers, police, teachers, school personnel and others who hold professional licenses in NYS are "mandated reporters" trained and required by law to recognize and report signs of child abuse. All of the "therapies" that appear in the Board of Regents' prohibited list also appear in the list of activities licensed professionals are required to report—we are trained that there are no exceptions.
- People in prison who have been convicted of crimes are also protected from these aversive strategies by regulations in NYS.

- Even animals in NYS are protected by law from the 'behavioral interventions' listed in this regulation.

Allowing exceptions to these necessary prohibitions only for children with disabilities puts these vulnerable people on the bottom of the value totem-pole in our state. It might even be said that these exceptions—making children with disabilities the only legal recipients in the state of these reprehensible acts—creates a hostile environment for children with disabilities in our state.

The fact that the effectiveness of these "therapies" is not supported by research supports the idea that these exceptions are nothing more than legitimizing cruelty.

NYS should set a standard for the treatment for all of its citizens that precludes cruelty and abuse, without exception.

Where there are problem behaviors we need to commit our resources, time and energy into finding or creating solutions that do not resort to tactics that would be construed as torture under any other circumstance.

Sincerely,

Terri Abrams





dobbs ferry, new york 10522

RECEIVED

AUG 16 2006

DEPUTY COMMISSIONER  
VEST

(914) 693-0600  
FAX (914) 693-1373

August 14, 2006

Dr. Rebecca H. Cort  
Deputy Commissioner  
New York State Education Department  
Office of Vocational and Educational  
Services for Individuals with Disabilities  
One Commerce Plaza  
Room 1606  
Albany, New York 12234

Re: Proposed Regulations Relating  
to Behavioral Intervention

Dear Commissioner Cort:

I am writing to support the proposed amendments to the Rules of the Board of Regents and the Regulations of the Commissioner of Education relating to behavioral interventions. These regulations establish: gradual standards for behavioral interventions, including assessments of student behavior, behavioral intervention plans, the use of time out rooms and emergency physical interventions; set a general prohibition on the use of aversive behavioral interventions, with a provision and procedures for a child-specific exception to this prohibition; and establish standards for programs that provide aversive behavioral interventions as approved on a child-specific basis.

The proposed amendments is consistent with subdivision 7 to Billy's Law (483-d, Social Services Law) banning the use of aversive behavioral interventions except under certain child-specific cases as well as in keeping with the passed 2006 legislation co-sponsored by Senator Martin J. Golden and Assemblywoman Joan Millman to amend the social services law, in relation to establishing a restraint and crisis intervention technique committee and coordinated inter-agency standards. Governor George Pataki has been strongly urged to sign without-delay this progressive legislation into law. The enactment of this law will ensure greater protection to some of New York State's most vulnerable children and adolescents.

If you have questions, please feel free to contact me.

Sincerely,

Regis G. McDonald, LCSW  
Vice President for Quality  
Improvement, Program and  
Policy Development

RGM:slhm