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February 28, 2023

To: Chairperson Murman and Members of the Education Committee  
From: Juliet Summers, Executive Director of Voices for Children in Nebraska  
**RE: Opposition for LB 811, change provisions relating to the Student Discipline Act and provide for use of physical contact or physical restraint or removal from a class in response to student behavior**

Children need to feel welcome, safe, and supported in school to achieve educational success and all the positive life outcomes that go with it. School safety for every Nebraska student can only happen when proper equitable steps are taken with their mental health and well-being in mind. Voices for Children in Nebraska opposes LB 811, because it is at odds with best practices for improving classroom culture and keeping students engaged in education, and is likely to lead to increases in disparity of educational attainment outcomes for students with disabilities and students of color.

Restraint or physical intervention and isolation are traumatic experiences that can make it harder for students to manage their behavior or engage in classrooms.<sup>1</sup> These disciplinary acts can cause not only physical harm/injuries, they can exacerbate behavioral and mental health problems. The student and teacher or school personnel relationship is fractured, and the relationship with the educational institution can be destroyed. Emphasizing physical intervention creates a school culture of mistrust, misuse of power and fear for both students and school personnel rather than one of trust, safety, and communication.

The data tells us, consistently, that use of restraint and removal are consistently, drastically, disproportionately used on students of color, students with disabilities, and younger students. Racial disparities in physical intervention and classroom removal in Nebraska are not the exception. We do not have up to date state level data on physical intervention, restraint, and removal. The provisions of LB 154 from the 107<sup>th</sup> Legislature would provide such data but there has, as yet, been no disclosure of this information from the Nebraska Department of Education. The federal Office of Civil Rights Data Collection has state-level data, though their most updated data in use of restraint and seclusion is from the 2017-2018 school year.<sup>2</sup> The data indicates that, of the 567 students physically restrained in Nebraska that year, 82% were students with disabilities served under Individuals with Disabilities Education Act (IDEA). 14% were Black students and 13% were Hispanic or Latino students.<sup>3</sup> Almost 76% of the 749 students put into seclusion were students served under IDEA, almost 13% were Hispanic or Latino and 12% were Black.<sup>4</sup>

<sup>1</sup> "Restraint and Isolation in Washington Schools: What These Practices Are, How They Are Being Used and What Needs to Change." *ACLU of Washington*, [www.aclu-wa.org/story/restraint-and-isolation-washington-schools-what-these-practices-are-how-they-are-being-used#:~:text=Restraint%20refers%20to%20when%20students%20are%20physically%20immobilized.](http://www.aclu-wa.org/story/restraint-and-isolation-washington-schools-what-these-practices-are-how-they-are-being-used#:~:text=Restraint%20refers%20to%20when%20students%20are%20physically%20immobilized.)

<sup>2</sup> "Civil Rights Data Collection." *Ocrdata.ed.gov*, [ocrdata.ed.gov/estimations/2017-2018](http://ocrdata.ed.gov/estimations/2017-2018).

<sup>3</sup> "Civil Rights Data Collection." *Ocrdata.ed.gov*, [Restraint-or-Seclusion.Students-under-IDEA-or-not\\_phys.xlsx](http://ocrdata.ed.gov/Restraint-or-Seclusion.Students-under-IDEA-or-not_phys.xlsx) (live.com)

<sup>4</sup> "Civil Rights Data Collection." *Ocrdata.ed.gov*, [Restraint-or-Seclusion.Students-under-IDEA-or-not\\_secl.xlsx](http://ocrdata.ed.gov/Restraint-or-Seclusion.Students-under-IDEA-or-not_secl.xlsx) (live.com)

Nebraska's students deserve school systems that operate with racial justice and disability rights.

We are particularly concerned with the provisions of LB 811 suggesting administrative immunity for school personnel, coupled with provisions which require behavioral training for certain personnel but not all. In reading LB 811, we don't know what would happen if a student were to get seriously harmed. Restraint, seclusion, and removal from class not only impact learning time but even more seriously sometimes cause injury or mental anguish to students.<sup>5</sup> The creation of a new category of removal from class, distinct from suspension or expulsion and potentially unlimited, is also of grave concern and guaranteed to contribute to ongoing disparities in educational attainment.

Taken as a whole, LB 811 would increase the use of harsh and exclusionary discipline practices in schools. This is not the right direction for Nebraska's children, at a time when they are facing a mental health crisis and need more loving support than ever. We should be bringing additional appropriations and funding to ensure schools have what they need to support learners with emerging mental health and trauma supports, not using physical intervention or isolation as a mask for safety. Providing mental health resources and trauma support would promote REAL safety.

As the Secretary of Education Miguel Cardona said, "All students deserve access to safe, supportive schools and classrooms. Discrimination and use of exclusionary discipline can negatively impact students' abilities to learn, grow and thrive."<sup>6</sup> For all these reasons, Voices for Children respectfully urges the Committee not to advance LB 811. Thank you for your time and consideration.

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<sup>5</sup> "PBIS.org | Restraint/Seclusion." *Www.pbis.org*, [www.pbis.org/topics/restraintseclusion](http://www.pbis.org/topics/restraintseclusion).

<sup>6</sup> "Civil Rights Data Collection." *Ocrdata.ed.gov*, [Discipline Practices in Preschool, based on 2017-18 CRDC Data Collection](https://ocrdata.ed.gov/DisciplinePractices)