

Restraints used by NJ educators set up son for failure, mother says

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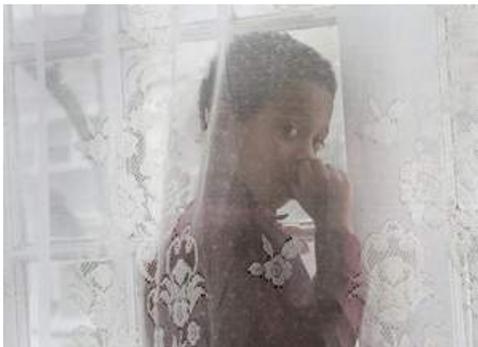
Deuce (5/4/10): A Camden County mother explains why she's taken legal action to stop her son from being restrained at school. MULTIMEDIA BY PETER ACKERMAN



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Angela Collins of Collingswood, Camden County, said her 7-year-old son, Deuce Fussell (pictured), was subject to restraining holds during at least eight separate behavior incidents he had last year at William P. Tatem Elementary School in Collingswood. / STAFF PHOTO: PETER ACKERMAN ~



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Angela Collins of Collingswood, Camden County, is pictured with her 7-year-old son, Deuce Fussell. Collins' voluminous case file, which she shared with the Asbury Park Press, provides a rare look inside one district as it wrestles, literally and figuratively, with a troubled little boy and the legal, financial and educational implications of his often violent behavior. / STAFF PHOTO: PETER ACKERMAN ~

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Dressed up in his church clothes, 6-year-old Deuce Fussell tried his best not to fidget too much in front of the TV cameras while the congressman was talking.

His mother told him it was important. A bill was being introduced that day that would place restrictions on how and when schools could use forceful means to control kids with behavior problems.

That meant kids like Deuce.

The legislation was sparked by a federal investigation last year that documented hundreds of cases over the past 20 years in which children had been abusively restrained or confined at school. Deuce, a shy, bright first-grader from Collingswood, Camden County, didn't realize it, but the enlarged photos set up on the stage were of kids who had died as a result of such practices.

"I'd like to make something very clear," Rep. George Miller, D-Calif., chairman of the House Education and Labor Committee, said during the Capitol Hill news conference that day, as Deuce stood a few feet away. "This isn't simply the matter of a bad teacher here or there. We face a serious, system-wide failure. Until it's adequately addressed, these incidents will continue."

How Deuce, now 7, wound up on that stage is a story that's detailed in a tall stack of school records, internal e-mails and other court documents that Deuce's mother, Angela Collins, is using as evidence in her ongoing legal fight against the Collingswood School

District.

At issue are the restraining holds that district staff used on Deuce during at least eight separate behavior incidents he had last year at the William P. Tatem Elementary School in Collingswood, according to district reports. Photos taken during one such episode show Deuce, at turns, being grabbed from behind, held by the wrists and pinned between an administrator's knees as he struggles to break free.

"He's a black little boy, and the way he was restrained was the way you'd take a man down for robbing a liquor store," said Collins, 32. "They treated him like a criminal."

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In court documents, the district says it did nothing improper and that Deuce had to be restrained as a last resort to protect him and other students and staff at the school.

At Tatem, Deuce has assaulted teacher's aides, kicked, punched and spit on the school principal, smacked classmates in the head, threatened to stab a girl with scissors, stabbed himself with a pencil, destroyed school property and tried to flee the school via a fire escape, according to district reports.

"Simply put, the district cannot stand by and permit Deuce to hurt himself or others," Joann Plescia, the district's director of special services, wrote in a letter to state investigators last year.

The dispute is symptomatic of the legal ambiguity that surrounds cases like Deuce's. In the absence of any clear state or federal guidelines on the use of restraints and "time out" rooms in schools, educators and parents are left to wrangle over where the boundaries ought to be set.

Collins' voluminous case file, which she shared with the Asbury Park Press, provides a rare look inside one district as it wrestles, literally and figuratively, with a troubled little boy and the legal, financial and educational implications of his often violent behavior.

From bad to worse

Collins and her then-fiance, Troy Green, 48, moved their blended families out of Camden in the summer of 2008, seeking better schools and a healthier environment for their eight children. The couple married in April.

A friend had good things to say about the schools in Collingswood. Located just outside of Camden, it's a pretty suburb of quaint, old houses, kid-friendly neighborhoods and a downtown brimming with boutiques and sidewalk cafes.

In Camden, both Deuce and his older brother Michael, now 8, were classified as "socially maladjusted," which means they have trouble interacting with others. Their IEPs, the document that lays out what special-education services a child requires, say they need to be educated in a highly structured, closely supervised setting.

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In Collingswood, Michael was placed in a "multiply disabled" classroom with other children with special needs and a teacher and aides certified in special education. District officials wanted to place

Deuce in the same classroom, but Collins said she opposed that idea because, she says, the two boys feed off each other's disruptive behavior.

Because there wasn't room in any other suitable special ed classrooms, Deuce wound up in a regular kindergarten class at Tatem with about 20 other children. The teacher and the two part-time aides that each worked with Deuce for half the day had no background in special education or any training in handling behavior problems like Deuce's, court documents show.

Deuce wasn't there a week before he incurred a one-day, in-school suspension for scraping a girl's hand with a pair of scissors.

A letter went home, the first of many.

After that, the situation soon began to spiral out of control, court records show:

Nov. 19, 2008: A day after being punched, kicked and spit at by Deuce, Tatem's principal, Joseph Gurcsik, acknowledges in an e-mail that Deuce's teachers and aides lack the training to deal with him. But, he adds, "All of the training in the world is not going to prevent Deuce (from) these behaviors. None of these behaviors were out of anger. He laughed the whole time. He is a danger to himself and the other students and staff at Tatem." Schools Superintendent Scott A. Oswald replies that he expects the staff to do better. "The programs at Newbie and Zane have larger groups of very challenging students and they are successful," he writes in an e-mail. "Tatem has ONE Deuce."

Dec. 23, 2008: In the wake of another incident, Oswald rejects the idea of making one of Deuce's part-time aides a full-time employee. "If Michelle goes full-time, she gets benefits. Another \$12k-\$15k down the tubes," he writes in an e-mail to Plescia, the special services director. "We are at the point where for every special ed aide we hire or kid we send out, we will need to reduce staff elsewhere in regular ed."

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Jan. 9, 2009: Deuce tells a girl in his class that she has ""scissors in her heart," and makes a stabbing gesture with scissors in his hand. The police are called and Deuce is suspended.

March 2009: Deuce has seven serious behavior incidents in one month. They involve him kicking, biting, bolting from the classroom, running away from an aide to get on the bus, throwing a trash can, swinging a yardstick and poking himself in the leg with pencil, district records show. District employees restrain him, holding his arms and legs, six times. Collins keeps Deuce home for several days to protest the use of restraints.

Oct. 19, 2009: Deuce erupts after his aide confiscates his pencils after he refused to stop drumming them on a table. He brandishes a pair of scissors, punches the aide in the stomach, pulls a screen off a window, spits on an administrator and climbs on top of office furniture.

In an e-mail to Plescia, Collins says that Deuce was "fighting for his life."

"He is afraid of your staff and what they are capable of doing," she writes. ""You and your staff are creating a violent and sad little boy. ... I DO NOT WANT MY SON RESTRAINED EVER AGAIN BY ANYONE ON THE DISTRICT'S CLOCK. I hope I am making myself very clear."

Still waiting

After two more violent incidents, district officials and Collins agreed to have Deuce placed on home instruction, which started Nov. 23. A tutor comes to his home every day for two hours.

The arrangement is temporary, pending the resolution of the due-process hearing before an Administrative Law judge. Collins filed a request for such a hearing on Jan. 22, 2009. Such hearings are supposed to be concluded within 45 days, but Collins' case has dragged on for 15 months.

Collins also has filed a complaint with the state Division of Civil Rights. That investigation can't begin until the other matter is resolved. District officials declined to comment, citing the ongoing litigation.

To see Deuce at home today, quietly watching cartoons, cuddling his baby sister or patiently waiting for his mother to finish an interview, he hardly seems like the same child described in his mother's mounting pile of court documents.

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He has tantrums and gets into fights at home, too, his mother says. Collins says she has to keep a close eye on him, particularly when he's playing with his brother Michael, and regularly reminds her other children to avoid the kind of bossy or teasing behavior that sets Deuce off.

When he does have a tantrum, she leaves him alone, and doesn't restrain or spank him. She doesn't believe in that approach, and she says it would be counterproductive with a child like Deuce, anyway.

Collins doesn't dispute the district's accounts of her son's behavior. Her argument is that the district has "set him up to fail" by not providing him with the help he needs.

"If you place a child with his classification in an environment where there aren't any supports, where teachers are not properly trained in behavior management and behavior modification, you're going to get a child who is going to be aggressive. He's not going to recognize boundaries," she said.

"It became 'restraint, restraint, restraint.' That's the only way they knew to manage his behavior."

Collins hopes that by pressing her case in court, she can help other children in the same situation.

"If parents don't think this is happening in their child's school, just ask, because it's happening," she said. "It's happening more than they want to know, because it's ugly, it's ugly."