

## Restraints

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# New York City Sends \$30 Million a Year to School With History of Giving Kids Electric Shocks

*New York City kids make up the vast majority of the students at Massachusetts' infamous Judge Rotenberg Center, and keep going there despite repeated evidence of abuse.*

*by Heather Vogell and Annie Waldman  
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*Samantha Shear, 21, wears an electric shock therapy device at the Judge Rotenberg Center. Her mother says the Center was the only school that would take Samantha in after self-injurious behavior left her nearly blind. (Annie Waldman/ProPublica)*

The Judge Rotenberg Center, a Boston-area school for kids with severe developmental disabilities and behavior disorders, has earned national notoriety for a long record of brutal techniques to keep children in line.

Electric shocks. Restraints. Hunger.

Federal and state authorities have repeatedly scrutinized the school. Even the United Nations' Special Rapporteur on torture has chimed in.

But New York City kids are still being sent there. Indeed, nearly 90 percent of the school's students — 121 of 137 kids — are from New York City, including 29 who enrolled this year. New York's taxpayers send the Center \$30 million a year.

The flow has continued despite records obtained by ProPublica showing the Center has repeatedly violated New York state rules, including by tying children down with leg and waist straps to punish them. The Center has received a string of warning letters from New York State and has been subject to two state inquiries over the past five years — neither of them previously disclosed to the public.

City education officials insist they never recommend the school and fight requests by parents to place children there. Families simply enroll their kids and then take the city to court to force it to pay tuition, officials say.

But Judge Rotenberg officials told ProPublica that Mayor Bill de Blasio's administration has made it easier for New York City kids to go to school at the Center

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“I’ve seen a change since Mayor de Blasio came on board,” says Glenda Crookes, the Center’s executive director. City lawyers appear to be settling a lot of the cases, she said, adding, “It doesn’t seem like the parents have to go to hearings anymore.”

A de Blasio spokesman confirmed the Center is benefiting from a new policy in which the city doesn’t fight cases involving special needs kids in which it “is unlikely to prevail.” The change was part of an effort the city unveiled earlier this year streamlining the process for the city to cover the cost of private school or services for special needs children. Such cases have been fraught with conflict and litigation in recent years.

“The city still reserves the right to oppose families’ claims for schools that are not appropriate for the child’s need,” spokesman Wiley Norvell says.

Councilman Vincent Gentile, a longtime critic of the Rotenberg Center, says the issue goes beyond de Blasio. “I’ve said long ago that State Ed and New York City Department of Education have to take a stand on this,” Gentile says, “and up to now, they’ve been unwilling.”

“The city’s department of education is not putting up a big fight to keep kids out,” Gentile says.

Once kids are at Judge Rotenberg Center — with or without the city paying — it becomes almost impossible for the city to remove a child if the family doesn’t agree.

Many of the students Rotenberg accepts have tried to hurt themselves or others. In caring for them, the Center eschews psychotropic drugs and, for decades, has relied instead on so-called “aversive” therapy, using pain or other negative stimuli to change behavior. Its signature approach is to apply a two-second electric shock to students’ skin.

The Center cites case studies to defend the effectiveness of the shocks, but many mental health specialists don’t support their use. Dr. Gregory Fritz, the President-Elect of the American Academy of Child and Adolescent Psychiatry, says electric shocks and restraint holds can lead to lasting trauma and provide no more than a temporary fix for behavior problems.

“The problem with most of those aversive things is that you can never stop it,” Fritz says. “As soon as the aversive system is removed or tapered, they could go back to the problematic behavior.”

After a 2006 investigation found a variety of abuses including kids being shocked for minor infractions, such as swearing, yelling, and refusing to follow directions, New York State enacted rules against aversive therapy and the Center agreed to scale back their use. The school said it would only use shocks when a court approved them for a specific child. (Two New York students currently have such court orders.) The rules also require court approval of restraints, except for emergencies.

But three years later, New York officials found that the Center was still using so-called “mechanical” restraints — which can include devices that use straps or cuffs — on children it shouldn’t have. Officials briefly ordered the Center to stop accepting New York students. After the Center fought the prohibition, the state settled and allowed admissions to begin again.

Then, in 2011, Edward Placke, a former Assistant Commissioner of New York’s Education Department, was shaken by an encounter with a New York City teenager during a visit to the school. The girl was anxious, but she spoke deliberately, even though a Rotenberg staff member watched over their meeting. Get me out, she said. Take me home.

“She said she was shackled to a chair,” recalls Placke, now superintendent of a cluster of New York special needs high schools. “She said she was incredibly hungry and she was being provided the very minimum.”

Placke’s complaint triggered a probe by New York investigators. They pulled the files of 10 students, reviewed hours of video, and discovered “significant and serious” violations. Kids were still being bound as a way to punish them, the records show.

One child who wasn’t supposed to be restrained was left in waist and leg straps for nearly

10 hours.

Staff members had also altered reports about restraints or failed to record them altogether. Investigators also concluded that Rotenberg was not providing adequate schooling to students who were suspended, and that the school was suspending kids too often.

This time, state officials didn't suspend the school. The state is keeping a close watch through occasional site visits, say officials.

"We understand the issues with the school. But we have to catch them at serious misconduct. We have to be able to uphold a decision to revoke," says Richard Trautwein, counsel to the New York State Education Department.

In a written statement, the Rotenberg Center said it "did not agree with the findings of the NYSED in the report, but responded by adjusting policies and procedures in order to make it clearer to NYSED that it was in compliance." It promised in a 2012 letter to state officials not to use restraint as punishment.

The Center has long fought states' efforts to regulate it. It has won nearly every major court case and has spent substantial amounts on lobbying.

State and federal filings show the Center has employed Bracewell & Giuliani, former Mayor Rudolph Giuliani's firm, as well as Albany powerhouse Malkin & Ross. Since 2010, the nonprofit school has spent about \$770,000 lobbying officials in Washington D.C., Massachusetts and New York, including an effort to counter further restrictions on the use of aversive therapy by New York's education department.

To recruit students, the Center runs radio ads and has a toll-free number, reaching parents who are desperate for help. "We get a lot of cold calls from parents," Crookes, the executive director says. About 90 percent of the school's kids are minorities.

The Rotenberg Center has also worked with an advocacy agency, Joan A. Harrington & Associates, that is listed on a city website as a resource for parents of special needs children.

The advocates are supposed to be independent experts, tasked with helping parents navigate government bureaucracy to find the best services for their child, yet Harrington acknowledged to ProPublica that she has previously been paid by the Rotenberg Center.

In an interview at her Brooklyn office, Harrington said she couldn't remember how much she was paid or for what specific work. "I imagine it was for referrals and things, like everybody else is," Harrington said. She said her last case involving the Judge Rotenberg Center was before she became ill in 2013.

Harrington also shares an office and administrative staff with attorney Anton Papakhin, who is paid by the Rotenberg Center to represent parents embroiled in court battles to send their children to the school, keep them there or get behavioral interventions approved by courts. He has received an average of \$470,000 a year from the Rotenberg Center over the last five years, according to tax filings.

In a case this year involving a Rotenberg placement, New York City lawyers argued that Papakhin's relationship with the Center posed a conflict of interest, potentially influencing him and another lawyer to recommend placements at the Center that weren't appropriate. The judge on the case said there was no evidence that had occurred.

Papakhin represented the parents of most of the 29 New York City students who were enrolled at Rotenberg in 2014, the Center said. Papakhin says he also works with other

schools and that there is no conflict.

"I represent the parents and only the parents."



*Some students currently have court approval to be mechanically restrained in chairs for health reasons. A 2011 New York State investigation revealed that students were often restrained as a way to punish them. (Annie Waldman/ProPublica)*

I represent the parents and only the parents, Papakhin told ProPublica. “At any point of time, they change their mind and they decided to place their child in any other school, I can do that for them.”

Papakhin and Harrington work together “from time to time,” as Papakhin puts it.

Harrington says, “It wouldn’t be unusual for me to walk out the door and say, ‘I have this case and look at what they’re doing,’ or for him to come in and say, he has a case, ‘do you know where I could put this child?’”

Other educational advocates recommended by the city say they don’t refer parents to the Judge Rotenberg Center. We “don’t recommend [the school] as a matter of course,” says Kim Sweet, executive director of Advocates for Children, one of the largest advocacy organizations in the city.

New York City’s Department of Education did not respond to our questions about why a city list directs parents to an office shared by a lawyer who works with the Rotenberg Center.

Cheryl McCollins, a Brooklyn mother whose son is a former Rotenberg student, views the city as partially to blame for her son’s treatment. “They are the ones that referred me to this asylum,” she says. The city recommended the Massachusetts facility in 2001 after her son had been through numerous residential centers that weren’t right for him, she says.

A year later, her son was strapped spread-eagled to a restraint board and shocked multiple times while screaming for staff to stop, surveillance videos showed. The shocks were her son’s punishment for not taking his coat off in class. McCollins pulled her son, then 18 years old, out of the Center soon after and eventually sued the school, settling for an undisclosed sum.

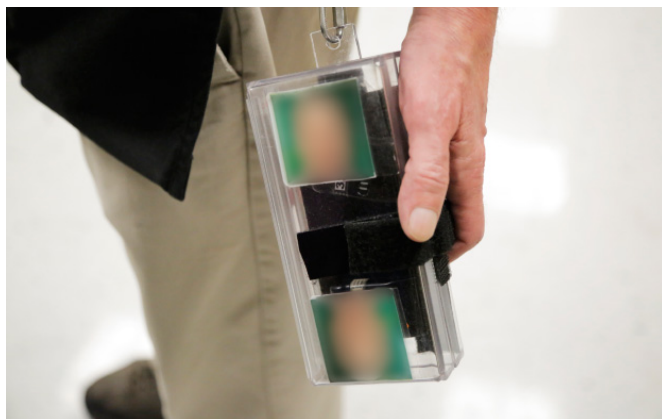
Over the years, McCollins has repeatedly contacted the city to ask why the school was still an option for New York students. “Why are you giving them money to torture disabled children who can’t fend for themselves?” she recalled asking one city official.

While families of former students have filed several lawsuits against the Center alleging mistreatment, other parents continue to be the school’s most outspoken supporters.

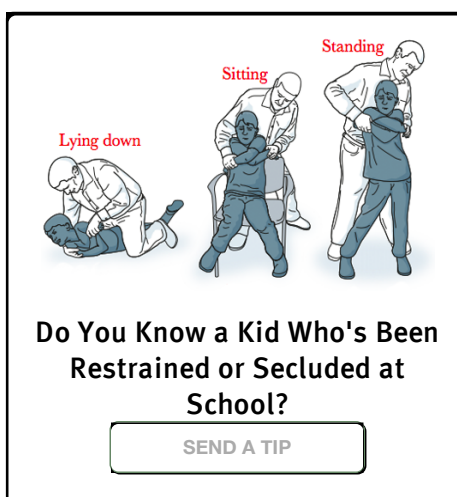
“If it wasn’t for Judge Rotenberg Center, my daughter would be dead,” says Marcia Shear, whose daughter Samantha, 21, has been at the school for nearly a decade. When Samantha came to the school, her parents saw it as a last resort. Samantha had just been kicked out of yet another treatment center for children with behavioral issues after she hit her own head so many times she dislocated both of her retinas, leaving her almost blind.

The Center was the only school that would take her. Within a few months, the school introduced the electronic skin shock device into Samantha’s treatment plan — with Shear’s support.

“You see the kid is killing themselves, you have nothing to lose,” Shear says. “Until you



Students with court approval for shock therapy carry the electronic shocking device in a backpack or fanny pack, which is remote-controlled by staff members. (Annie Waldman/ProPublica)



have lived in our shoes and seen your kid practically blind themselves, you can't judge.”

*Read more about restraints and seclusions in public schools across the country who's fighting federal limits on the practices, and whether your state law says it's ok to pin down kids in school.*

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