



**School Districts' Progress in Reducing the Use of Restrictive  
Procedures in Minnesota Schools**

**Fiscal Year 2017**

**Report to the Legislature**

**As required by Minnesota Statutes,**

**section 125A.0942**

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## **Cost of Report Preparation**

The total cost for the Minnesota Department of Education (MDE) to prepare this report was approximately \$22,000. Most of these costs involved staff time in compiling and analyzing data, staffing the stakeholder group, and preparing the written report. Incidental costs include paper, copying, and other office supplies.

Estimated costs are provided in accordance with Minnesota Statute, section 3.197, which requires that at the beginning of a report to the Legislature, the cost of preparing the report must be provided.

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## INTRODUCTION

Beginning with the passage of the restrictive procedures legislation in 2011, and subsequent statutory revisions, the Minnesota Legislature in Minnesota Statutes section 125A.0942, subdivision 3, paragraph (b) tasked the Minnesota Department of Education (MDE) with developing a statewide plan “with specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.”<sup>1</sup> As set forth in the legislation, as amended in 2016, the statewide plan includes the following components:

- measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of seclusion;<sup>2</sup> and
- recommendations to clarify and improve the law governing districts' use of restrictive procedures.

Since the fall of 2012, MDE has annually convened the Restrictive Procedures Stakeholders' Workgroup to develop a statewide plan, and has submitted annual reports to the Legislature providing restrictive procedures summary data along with recommendations for reducing the use of restrictive procedures. The reports summarize the progress made in reducing the use of restrictive procedures, and specifically the progress made leading to the elimination of the use of prone restraint in the school setting, as well as the efforts made to eliminate the use of seclusion. Prior statewide plans and a summary of progress toward the goals in the 2015 statewide plan can be found in Appendix A of this report.

### **Status of Restraints and Seclusion in the School Setting**

#### **Prone Restraint in the School Setting**

Due in large part to the efforts and recommendations of MDE and the restrictive procedures stakeholders, the use of prone restraint was eliminated in the school setting effective August 1, 2015. During the 2016 legislative session, prone restraint was added to the list of prohibited procedures. The elimination of prone restraint was a result of building district capacity and achieved through implementation of the statewide plan, which was supported by a 2015 legislative appropriation. Six entities (three intermediate school districts and three independent school districts) received funding and developed work plans to address their specific needs. Those funds, totaling \$150,000, were expended from November 2015 through June 30, 2016. School districts continue to report their struggles in meeting the needs of students with disabilities who exhibit aggressive or self-injurious behavior, and have co-existing mental health issues which are not fully addressed given the limitation of services currently available through the state's children's mental health continuum of care. This is addressed in this year's statewide plan and recommendations.

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<sup>1</sup> Minn. Stat. § 125A.0942, subd. 3(b) (2016).

<sup>2</sup> The 2011 legislation specifically addressed prone restraint, which is now a prohibited procedure. See Minn. Stat. § 125A.0942, subd. 4(10) (2016).

## **Status of Seclusion in the School Setting**

During the 2016 legislative session, the restrictive procedures statute was amended to reflect that prone restraint was a prohibited procedure and to add “seclusion” as a specific area of focus for the workgroup and statewide plan. Minnesota Statutes 125A.0941, paragraph (g) defines seclusion as “confining a child alone in a room from which egress is barred.” This report includes the first quarter of seclusion data collected for the 2016-17 school year (July 1, 2016 through September 30, 2016), as well as the summary of seclusion incidents reported by each public school district for the 2015-16 school year (July 1, 2015 through June 30, 2016).

In order to reduce the emergency use of restrictive procedures in the school setting, and specifically, to work toward the elimination of seclusion, the Restrictive Procedures Stakeholders’ Workgroup recommended changes to the statewide plan and requested a legislative appropriation.<sup>3</sup> The requested state funding appropriation is needed to build capacity in the most inclusive settings to enable students to remain in their current setting with the needed supports in place so they can access, remain engaged, and make progress in the general education curriculum. In addition, the funding will enable MDE to contract with professional trainers in the area of trauma-informed practices to provide training to superintendents, school principals, and general and special education staff. This will result in improved educational outcomes, including increased graduation rates.

## **Minnesota’s Olmstead Plan**

On September 29, 2015, the State of Minnesota’s Olmstead Plan was approved by the Federal District Court (2015 Olmstead Plan).<sup>4</sup> The 2015 Olmstead Plan addresses meeting the needs of persons with disabilities in the most integrated settings. On December 19, 2016, the Olmstead subcabinet reviewed and provisionally adopted the proposed amendments to the goals.<sup>5</sup> At the January 30, 2017 subcabinet meeting, the changes and public comments received will be reviewed to determine if the requested amendments should be adopted. Changes are currently pending approval by Judge Donovan Frank in the Federal District Court.

As part of the 2015 Olmstead Plan, MDE is responsible for two positive supports goals which address reducing the emergency use of restrictive procedures incidents in the public school setting, and reducing the number of students subjected to the emergency use of restrictive procedures in the public school setting. The proposed changes to positive supports goals four and five include: re-establishing the baseline, changing the time period to meet the two goals, and adding a percentage/rate to reflect changes in the yearly number of students receiving special education services. These goals align with the work of the restrictive procedures stakeholder group. In addition, under the work plan associated with the two positive supports goals in the 2015 Olmstead Plan, MDE is responsible to convene the Restrictive Procedures

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<sup>3</sup> See Appendix A for a more detailed description of the statewide plan and the requested legislation appropriation.

<sup>4</sup> More information about the [development of the Olmstead Plan](#) can be found at the DHS website (last visited January 23, 2017).

<sup>5</sup> The [proposed changes](#) can be found at the DHS website (last visited January 23, 2017).

Stakeholders' Workgroup to make progress toward reducing all restrictive procedures, and specifically make progress toward eliminating the emergency use of seclusion in the school setting<sup>6</sup>. Minnesota Department of Human Services (DHS) representatives attend the restrictive procedures workgroup meetings and inform the stakeholders of DHS initiatives in the area of children's mental health. MDE also collaborates with DHS on the Olmstead Plan's crisis services goal, prevention of abuse and neglect, and the associated workplan's strategies, and activities.

### **2016 Olmstead Positive Support Workplans.**

On September 28, 2016, the Olmstead subcabinet approved the updated workplans for the goals set forth in the 2015 Olmstead Plan, and the workplans were filed with the federal court on September 30, 2016. The relevant strategies under the Positive Supports Section are Strategy 2, "Reduce the use of restrictive procedures in working with people with disabilities," and Strategy 3, "Reduce the use of seclusion in educational settings."

A number of the activities under the second strategy are aligned with the restrictive procedures statewide plan. Activities include convening the Restrictive Procedures Stakeholders' Workgroup to share quarterly seclusion incident reports each year, and submitting an annual restrictive procedures legislative report that documents progress toward implementation of the statewide plan and summarizes the statewide restrictive procedures data. Additional activities address MDE training and technical assistance related to evidence-based positive supports and restrictive procedures.

Under Strategy 3, MDE is responsible to implement the following key activities:

- Beginning with the 2016-17 school year, districts must report data quarterly to MDE about individual students who have been secluded. Reporting will begin by October 15, 2016.
- Share these reports with the restrictive procedures workgroup at meetings held during the 2016-17 school year. The 2016 workgroup will identify areas of concern and develop strategies for eliminating the use of seclusion. The 2016 workgroup will provide recommendations to MDE by January 31, 2017, and the recommendations will be included in the February 1, 2017, legislative report.<sup>7</sup>

### **Progress toward Implementing the 2015 Olmstead Plan's Positive Support Goals and the Associated 2016 Workplan Strategies and Activities.**

MDE is on track to complete all of the activities under Strategy 2 within the allotted time frame.

MDE is also on track to complete the two activities under Strategy 3 within the allotted timeframe. As set forth in Appendix A, the 2015 Restrictive Procedures Stakeholders' Workgroup reached consensus on legislative changes for submitting a quarterly report of

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<sup>6</sup> The [2016 strategies and workplan activities](#) can be found on the DHS website (last visited January 23, 2017).

<sup>7</sup> Id.

individual uses of seclusion and the number of students involved, beginning with the first quarter of the 2016-17 school year. Those changes went into effect for the 2016-17 school year. MDE provided an analysis of the first quarter's data submission of individual uses of seclusion and shared it with the Restrictive Procedures Stakeholders' Workgroup in December 2016. Future quarterly seclusion data will be shared at upcoming Restrictive Procedures Stakeholders' Workgroup meetings.

### **2016-17 Restrictive Procedure Stakeholder's Composition and Charge**

The 2016 Restrictive Procedures Stakeholders' Workgroup (2016 Workgroup) included representation from the following legislatively mandated participants:

- Advocacy organizations
- Special education directors
- Teachers
- Paraprofessionals
- Intermediate school districts
- School boards
- Day treatment providers
- State human services department staff
- Mental health professionals
- Autism experts.<sup>8</sup>

The 2016 Workgroup operated under the state legislative mandate and the mandate from the 2015 Olmstead Plan and its associated 2016 workplan to develop goals for a statewide plan that would significantly reduce the use of restrictive procedures and specifically, work toward the elimination of the emergency use of seclusion in the school setting. The summary data in this report, as well as the first quarter of individual seclusion incidents, was shared with the 2016 Workgroup in September and December 2016. We commend the reporting school districts for their commitment and candor in their submission of the required data to MDE. As more training occurs by MDE and by districts, we receive more consistent reporting. All public school districts and charter schools reported to MDE whether they used restrictive procedures during that school year, and seclusion data for the first quarter of the 2016-17 school year.<sup>9</sup> That data helped to inform the 2016 stakeholders' work.

The statewide plan can be found in Appendix A of this report. Appendix B is revised to summarize how other states have addressed the use of seclusion in the school setting.

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<sup>8</sup> Minn. Stat. § 125A.0942, subd. 3(b) (2016).

<sup>9</sup> For the 2012-13 school year, MDE received responses from all but one traditional school district and five charter schools.

## **Summary of Progress toward Implementing the 2015 Statewide Plan**

The statewide plan generated by the 2015 Restrictive Procedures Stakeholders' Workgroup (2015 Workgroup) contained three goals and attendant objectives. Highlights of progress made toward implementation of the 2015 statewide plan goals are:

- Positive Behavioral Interventions and Supports (PBIS) continues to expand across Minnesota schools. The number of students effected by schoolwide PBIS has reached 250,613, with 583 schools (29 percent of Minnesota schools) trained or being trained in PBIS.
- MDE conducted training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disability and included information from and references to the Positive Intervention Strategies Training Modules and the positive outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraints Grants. MDE conducted this training during the 2015-16 school year 11 times to nearly 400 individuals. During the 2016-17 school year, as of December 13, 2016, MDE has conducted this training seven times to over 400 individuals. MDE anticipates providing additional trainings throughout the remainder of the 2016-17 school year.
- MDE continues to collaborate with other state agencies through ongoing cross-agency workgroups.

See Appendix A for a more detailed update on implementation of the three goals.

### **2016-17 Restrictive Procedures Stakeholders' Workgroup**

MDE reconvened the Restrictive Procedures Stakeholders' Workgroup (2016 Workgroup) during the 2016-17 school year. The 2016 Workgroup operated under the current legislative mandate to develop a statewide plan with specific measurable implementation and outcome goals to reduce restrictive procedures and eliminate seclusion.<sup>10</sup> In addition, the 2016 Workgroup was charged with aligning its work with the 2015 Olmstead Plan and associated work plan strategies and activities to significantly reduce the use of restrictive procedures and eliminate the emergency use of seclusion in the school setting. Accordingly, the 2016 Workgroup was charged with the "how" of reducing all restrictive procedures in the school setting, and specifically, moving toward the elimination of the emergency use of seclusion.

The 2016 Workgroup has met four times—in July, September, December, and January—to review the statewide plan and make recommendations for revisions and legislative recommendations. The statewide plan generated by the 2016 Workgroup contains three goals with attendant objectives. In addition, the 2016 Workgroup requests a legislative appropriation to enable MDE and the stakeholders, including DHS, to implement the goals in the statewide plan. The funding is needed to build capacity in the most inclusive settings to enable students to remain in their current setting with the needed supports in place so they can remain engaged and access the general education curriculum. In addition, the funding will enable MDE to

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<sup>10</sup> Prone restraint had been eliminated in the school setting at the time the 2015 Stakeholder Group met in the fall of 2015.

contract with professional trainers in the area of trauma-informed practices to provide training to superintendents, school principals, and general and special education staff. This will result in improved educational outcomes, including increased graduation rates and better postsecondary outcomes.

The current statewide plan in Appendix A reflects the consensus among the 2016 Workgroup.

### **Summary of the Decreased Use of Restrictive Procedures in Minnesota Schools**

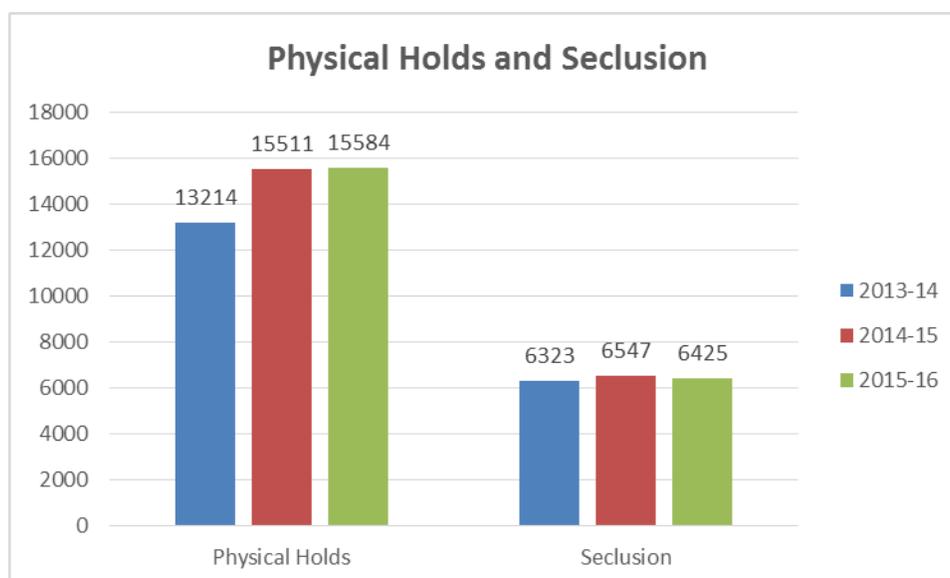
When comparing the data from the last two reporting periods,<sup>11</sup> there has been an overall decrease in the use of restrictive procedures during the 2015-16 school year, and specifically, a reduction in the use of seclusion and an increase in the use of physical holds. The increase in the use of physical holds may be due in part to MDE's discussions with school districts to ensure that districts report a physical hold if one is used to escort a student (with more than minimal resistance) to seclusion.

In addition, the total number of students receiving special education services increased during the 2015-16 school year as reported by school districts. During the 2015-16 school year, the number of students experiencing the emergency use of restrictive procedures in the school setting increased as did the number of students with disabilities. The following is how the restrictive procedures data changed between the 2014-15 and 2015-16 school years:

- A net increase of 17 independent school districts and 10 charter schools reported the use of one or more restrictive procedure in the school setting.
- A net decrease of one cooperative/education district reported the use of a restrictive procedure in the school setting.
- A net increase of 30 school districts reported the use of one or more physical holds in the school setting.
- A net decrease of 11 school districts reported the use of seclusion one or more times in the school setting.
- The number of students with disabilities who experienced the emergency use of a restrictive procedure in the school setting increased by 9 percent.
- 65 more incidents of physical holding reported (0.4 percent increase).
- 122 fewer incidents of seclusion reported (1.9 percent decrease).

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<sup>11</sup> The reporting periods for restrictive procedures are 2014-15 and 2015-16. (July 1 through June 30).



## REGULATORY DEVELOPMENTS

### Recent Minnesota Developments

During the 2015 legislative session, Minnesota Statutes, section 125A.0942, was amended to make revision of the statewide plan permissible. In addition, prone restraint was not allowed effective August 1, 2015, and during the 2016 legislative session, prone restraint was specifically added to the list of prohibited procedures.

### Federal Developments

On May 12, 2012, the Office of Special Education Programs at the United States Department of Education issued a document entitled “Restraint and Seclusion: Resource Document” (Resource Document).<sup>12</sup> It defined the terms “prone restraint” and “seclusion” and included 15 principles to assist states and districts to consider when developing or revising restrictive procedures policies and procedures.

On December 28, 2016, the United States Department of Education, Office of Civil Rights Division, issued a significant guidance document, entitled: “Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities.”<sup>13</sup> As set forth in that document:

In particular, this guidance informs school districts how the use of restraint and seclusion in the school setting may result in discrimination against students with disabilities, in violation of Section 504 of the Rehabilitation Act of 1974 (Section 504) and title II of the American with Disabilities Act (IDEA) of 1990 (Title II) (both as amended). Based upon the most recent civil rights data collected for the 2013-

<sup>12</sup> [OSEP Resource document](#), found in Appendix C.

<sup>13</sup> [Dear Colleague letter about Restraint and Seclusion of Students with Disabilities](#) (December 28, 2016), page 1 (last visited 1.24.2017) (Appendix D).

14 school year, students with disabilities and receiving services under the IDEA (IDEA 2004) represent 12 percent of students enrolled nationally in public schools; however, they represent 67 percent of the students who are subjected to restraint and seclusion in the school setting.<sup>14</sup> Currently, Minnesota does not have a requirement or mechanism to collect data on general education students who were subjected to the use of restrictive procedures.

The guidance focuses on students enrolled in kindergarten through 12th grade; however, as noted in the guidance, restraint and seclusion can impact a child's access to a program at the preschool level, and there are nondiscrimination obligations under Federal disability civil rights laws for those students.<sup>15</sup>

The guidance also reiterates that, "there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques."<sup>16</sup> Through a series of questions and answers, the documents provide guidance on how school districts should respond to students with or without disabilities that engage in physical aggression/self-injurious behavior. In addition, resources are listed that address positive behavioral interventions, evidence based positive classroom strategies, and student trauma. Those resources include trauma-informed care and information on the serious impact of traumatic stress on children.<sup>17</sup>

Appendix B contains a citation to and a description of the provisions in place for each state's laws, rules, or policy guidance addressing seclusion in the school setting.

### **Quarterly Seclusion Data for the 2016-17 School Year**

Based upon the 2016 legislative changes, public school districts, including intermediate school districts and charter schools, submitted a quarterly data submission form for individual instances of seclusion to MDE through a secure website. The quarterly data submission forms necessarily included personally identifying information related to specific students, and as such constitute non-releasable data under the Minnesota Government Data Practices Act.<sup>18</sup> Below is a summary of the data submitted.

#### **Districts that Reported Use of Seclusion**

- MDE received reports of 630 seclusion incidents that occurred during the first quarter of the 2016-17 school year. We do not have a baseline to compare as this is the first quarter of seclusion data with individual demographics. Forty-seven (47) districts reported the use of seclusion. This included 33 independent and special school district, four intermediate school districts, nine cooperative/education districts, and one charter school.

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<sup>14</sup> *Id.* at page 2.

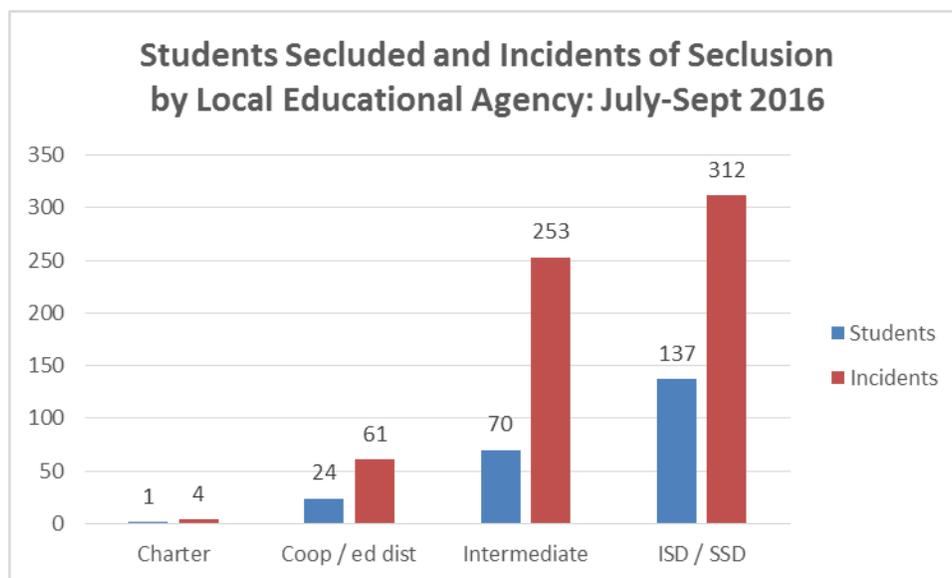
<sup>15</sup> *Id.* at page 5, footnote 9. See, e.g., 34 C.F.R. § 104.38 (preschool education).

<sup>16</sup> *Id.* at page 19 (citations omitted).

<sup>17</sup> *Id.* at page 22. ([SAMHSA](#)).

<sup>18</sup> Minn. Stat. § 13.02, subds. 5, 8a (2014).

District	2016-17 First Quarter (07/01/2016- 9/30/2016) Seclusion Incidents	2015-16 Seclusion Incidents
Independent and special school districts	312	3,717
Charter schools	4	14
Intermediate District 287	1	0
Intermediate District 917	119	933
Northeast Metro 916	118	609
SouthWest Metro Intermediate 288	15	146
Bemidji Regional Interdistrict Council (998)	1	0
Fergus Falls Area Special Education Cooperative (935)	3	57
Goodhue County Ed. Dist. (6051)	4	43
Hiawatha Valley Education District (6013)	11	60
Meeker and Wright Special Education Cooperative (938)	4	164
Mid-State Education District	2	70
Minnesota Valley Education District (6027)	7	73
River Bend Education District (6049)	0	74
Rum River Special Education Cooperative (6088)	13	213
Southwest West Central (991)	16	252
<b>Total Seclusion Incidents</b>	<b>630</b>	<b>6,425</b>

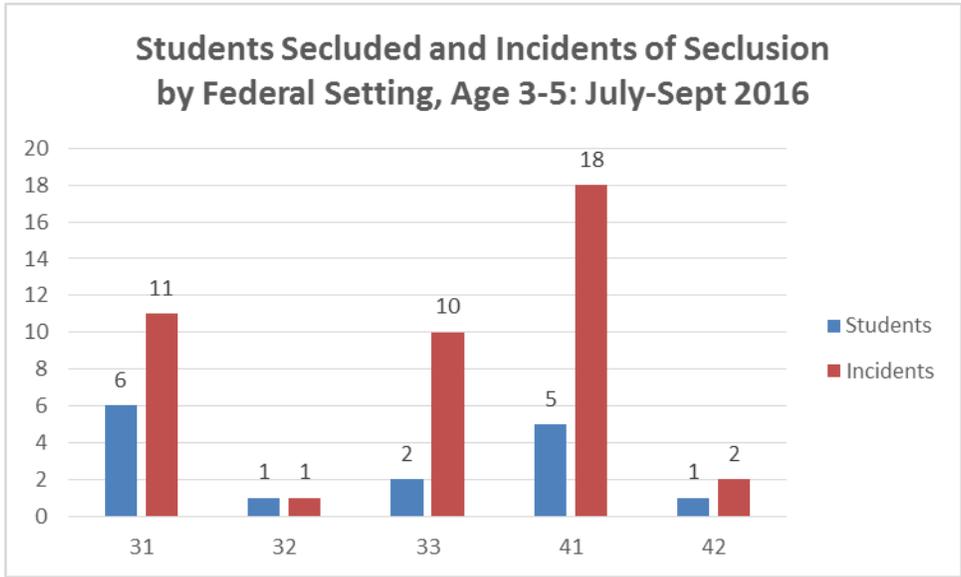
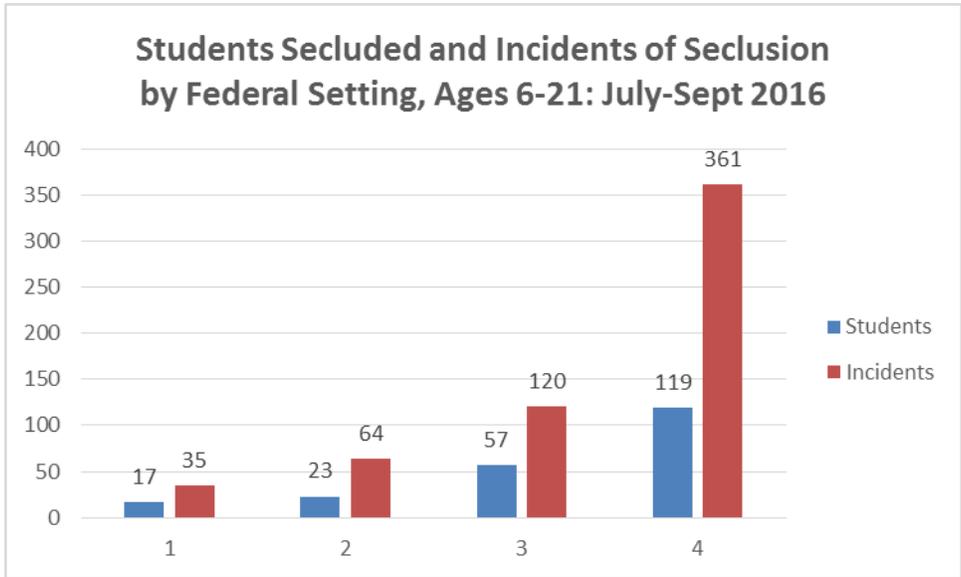


### Number of Students in Seclusion

For the first quarter of the 2016-17 school year, 238 students with disabilities experienced seclusion one or more times. Four students experienced more than 15 incidents of seclusion during the first quarter of the 2016-17 school year. The highest use of seclusion for the first quarter of the 2016-17 school year involved students at Minnesota's intermediate school districts. This is not surprising given that the intermediate districts provide, among other important services, a program of integrated services for students receiving special education.<sup>19</sup> In addition, they provide services to students with disabilities who have not experienced success at their original district, and a significant percentage of these students exhibit atypical behavioral challenges in a school setting. In greater Minnesota, the service cooperatives function similarly to the intermediate school districts in the Twin Cities metropolitan area, in part by serving students with the most challenging behaviors. Below is a chart of the number of students in seclusion and the number of incidents of seclusion by federal setting. Two hundred thirty-two (232) students were secluded. In addition to the chart below, 42 incidents involved 15 students occurred in special education early childhood settings<sup>20</sup>

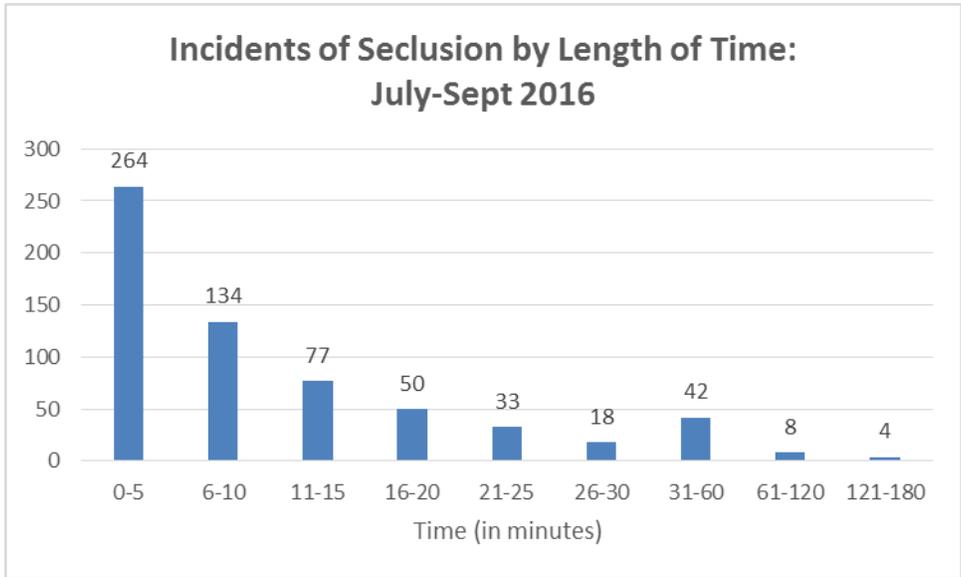
<sup>19</sup> Minn. Stat. § 136D.01 (2016).

<sup>20</sup> Federal settings 31, 32, 33, 41, and 42.



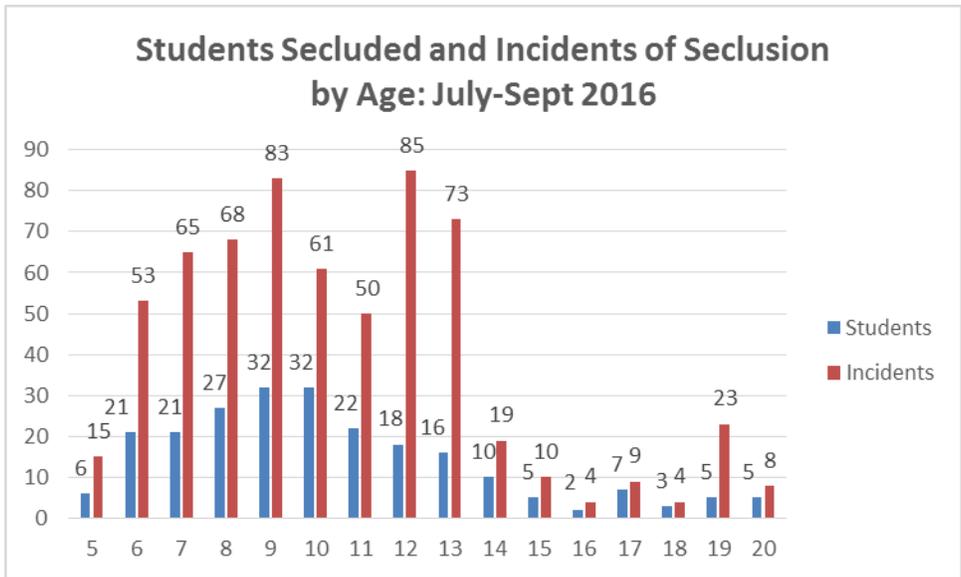
### Length of Incidents of Seclusion During the 2016-17 School Year

During the first quarter of the 2016-17 school year, the majority of the seclusion incidents were of short duration with 42.3 percent of the incidents lasting five minutes or less, and the next highest group, (21.3 percent), lasting six to 10 minutes in length. The longest duration was 175 minutes.



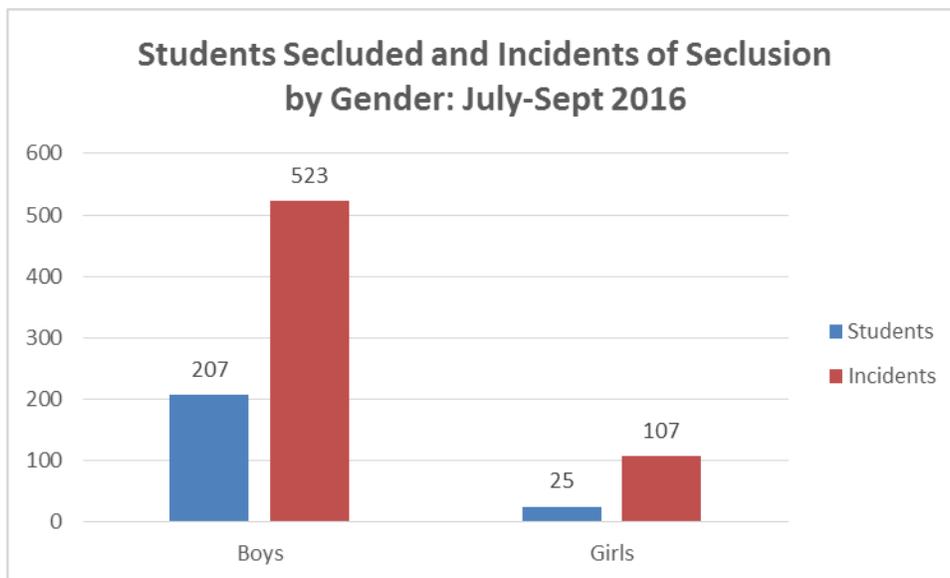
### Age of Students Placed in Seclusion During the 2016-17 School Year

During the first quarter of the 2016 school year, seclusion was used on students as young as 5 years old and as old as 20. Students ages 6 to 13 experienced the highest use of seclusion.



### Gender of Students Placed in Seclusion

The data reported for the first quarter of the 2016-17 school year (July 1, 2016 through September 30, 2016), shows that boys were more than eight times more likely than girls to be placed in seclusion, though the gap by incidents is smaller, nearly five times more for boys.



### Students and Incidents by Disability Category

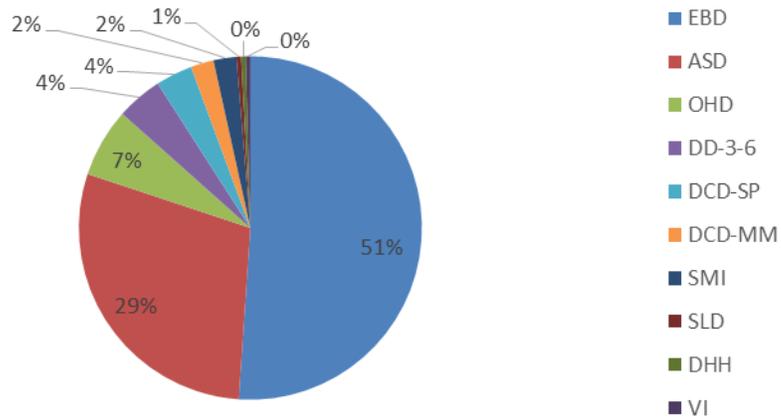
Overall, 76 percent of all incidents of seclusion reported during the first quarter of the 2016-17 school year involved students who were eligible for special education under the following eligibility criteria: Autism Spectrum Disorders (ASD) or Emotional or Behavioral Disorders (EBD).

The first chart below illustrates the percentage of students with disabilities subjected to seclusion. The second chart illustrates the percentage of incidence represented by each specific category. For further comparison, the percentages of these students within the state's total special education population are illustrated in the third chart. ASD students represent 13 percent of the state's total special education population; however, they represent 28 percent of all students who experienced the use of seclusion and represent 28 percent of all incidents reported.<sup>21</sup> EBD students represent 11 percent of the state's total special education population; however, they represent 52 percent of all students who experienced the use of seclusion and 48 percent of all incidents reported.<sup>22</sup>

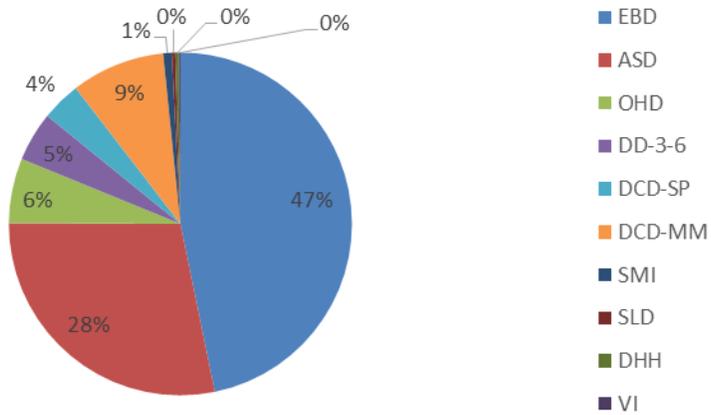
<sup>21</sup> [2016 Child Count Totals by December 1, 2015 by Disability, Race/Ethnicity, and Age](#), retrieved from MDE Data Reports and Analytics.

<sup>22</sup> *Id.*

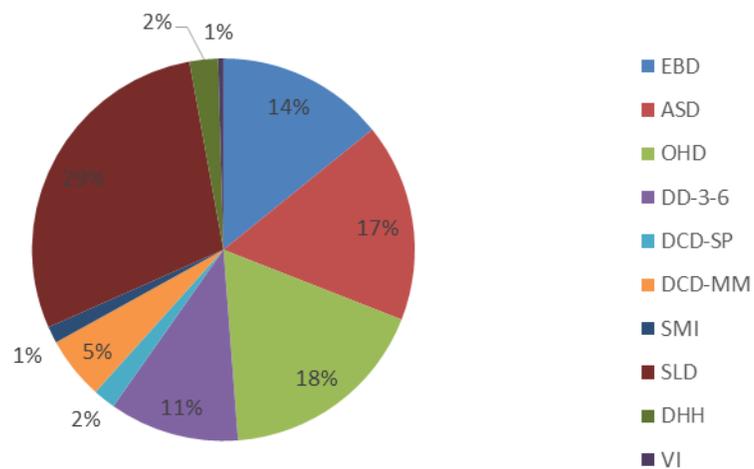
**Students Secluded by Disability Category:  
July-Sept 2016**



**Incidents of Seclusion by Disability Category:  
July-Sept 2016**



**Students Statewide by Disability Category**



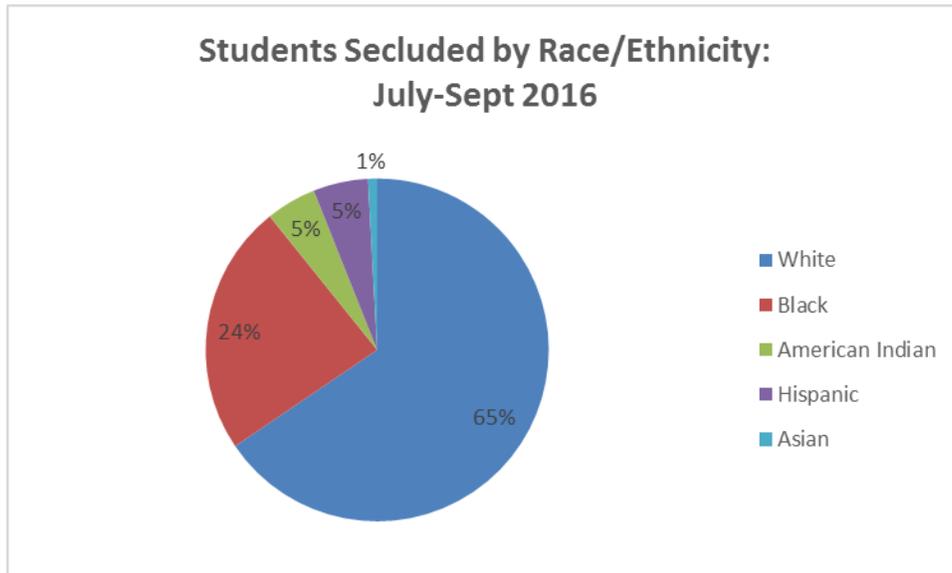
**Key**

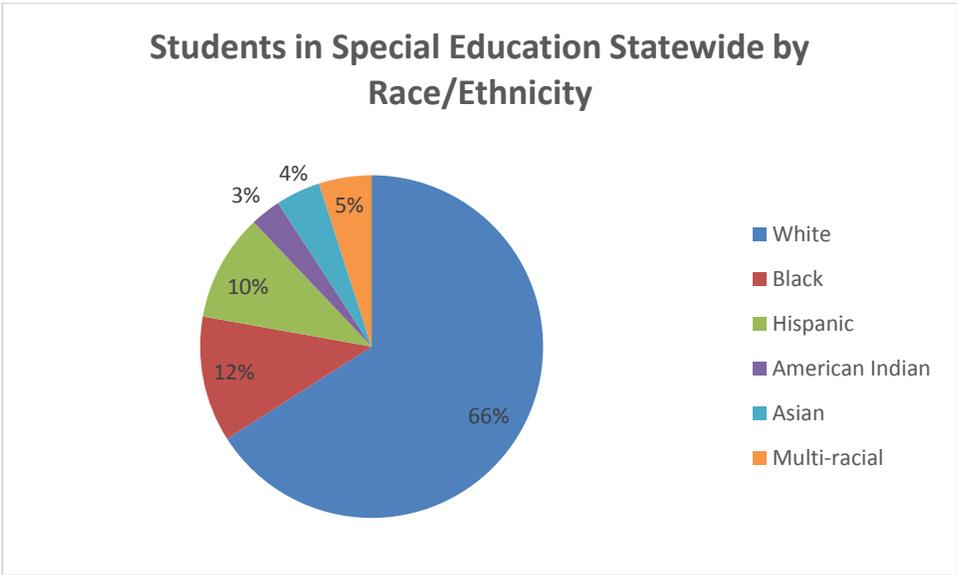
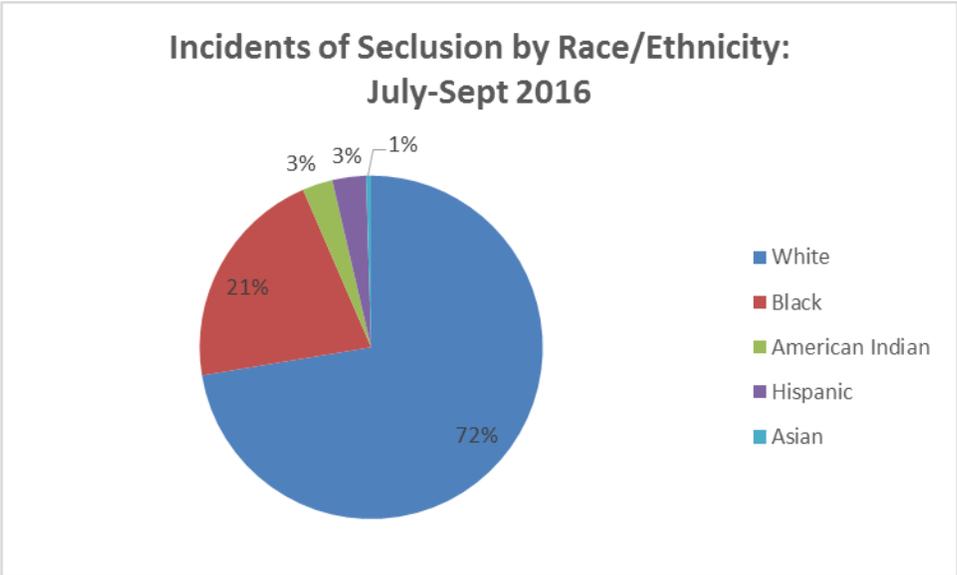
*EBD = Emotional or Behavioral Disorders*  
*ASD = Autism Spectrum Disorders*  
*OHD = Other Health Disabilities*  
*DD-3-6 = Developmental Delay*  
*DCD-SP = Developmental Cognitive Disability-Severe to Profound*

*DCD-MM = Developmental Cognitive Disability-Mild to Moderate*  
*SMI = Severely Multiply Impaired*  
*SLD = Specific Learning Disability*  
*DHH = Deaf and Hard of Hearing*  
*VI = Visually Impaired*

**Students Involved In Seclusion by Race/Ethnicity**

During the first quarter of the 2016-17 school year, more black students were secluded (24 percent), with a higher proportion of the incidents of seclusion (21 percent), compared to the statewide population of black students in special education (12 percent) and compared to all other racial/ethnic categories. White students were secluded (65 percent) in proportion to the statewide population of white students in special education (66 percent), but with a higher proportion of the incidents of seclusion (72 percent). American Indian students were secluded (5 percent) at a higher rate as compared to their respective statewide population (3 percent).



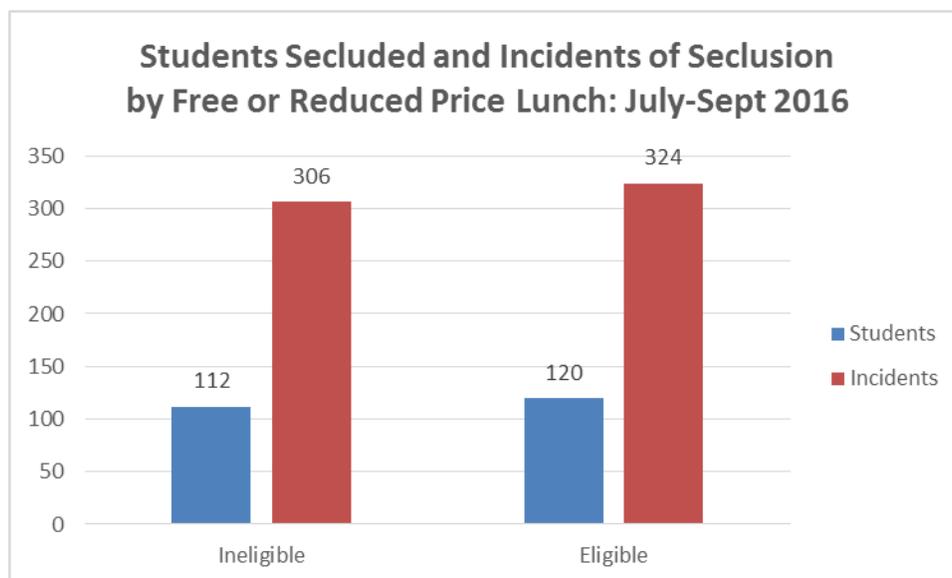


**Students Involved In Seclusion by Free or Reduced Price Lunch Eligibility**

During the first quarter of the 2016-17 school year, slightly more than one half of the students with disabilities secluded were reported as eligible for free or reduced price lunch. For a family of four during the 2016-17 school year, free lunch requires an annual household income of less than \$31,591 and reduced price lunch requires an annual household income less than \$44,956.<sup>23</sup> Statewide, approximately 38 percent of students are eligible for free or reduced price lunch.<sup>24</sup>

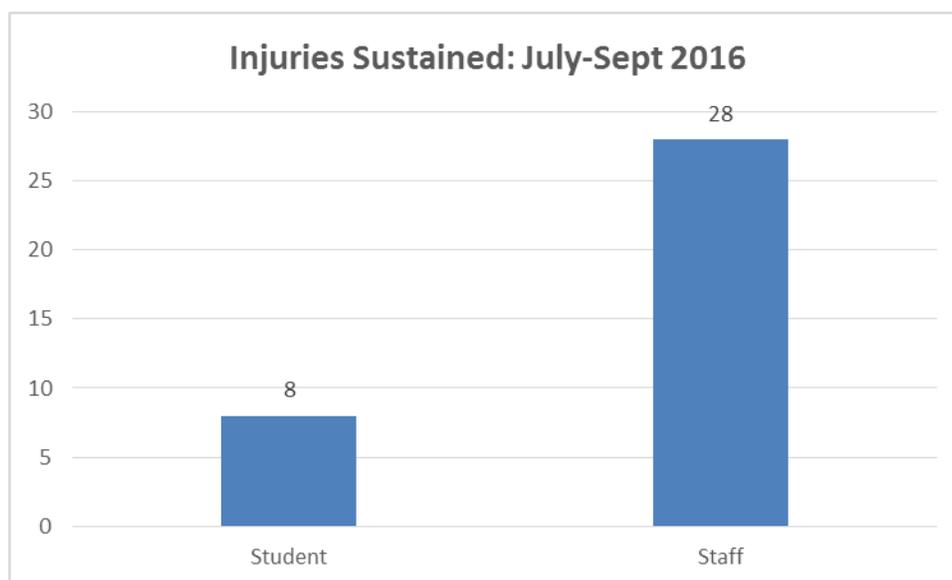
<sup>23</sup> MDE, School Nutrition Programs: 2016-17 Household Income Guideline and Requirements for Collection of Applications, 8 (effective July 1, 2016).

<sup>24</sup> [2015-16 Enrollment by Special Populations](#), retrieved from MDE Data Reports and Analytics.



### Injuries Related to the Use of Seclusion

For the first quarter of seclusion reporting for the 2016-17 school year, school districts reported eight student injuries and 28 staff injuries.



## RESTRICTIVE PROCEDURES SUMMARY DATA FOR THE 2015-16 SCHOOL YEAR

Following the 2015-16 school year, districts reported summary data to MDE on the use of restrictive procedures, which was due by July 15, 2016. On a form provided by MDE, school districts reported:

- Total number of students receiving special education services served by the district during the school year (whether currently enrolled or not).

- Total number of incidents of restrictive procedures (both physical holding and seclusion) during the school year (including during extended school year (ESY) services, as applicable).
- Total number of students receiving special education services upon whom a restrictive procedure was used.
- Total number of students receiving special education services upon whom restrictive procedures were used 10 or more school days during the school year.
- Total number of incidents of physical holding.
- Total number of uses of seclusion.
- Training needs.
- Demographic information for the students (disability, age, race/ethnicity, gender, and federal instructional setting).
- Number of injuries to students and staff.

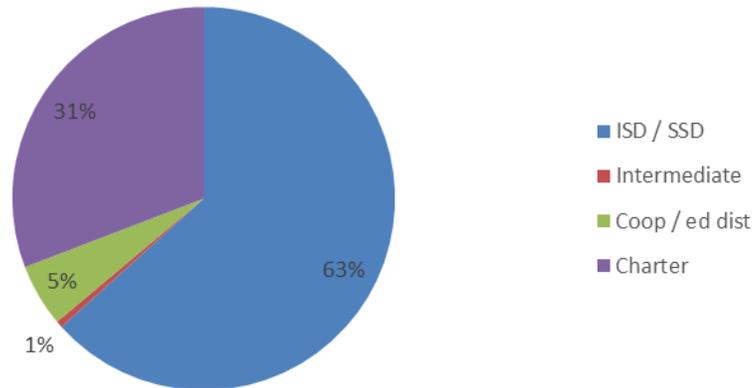
MDE received summary data from 529 school districts (which includes independent and special school districts, charter schools, cooperatives, education districts and intermediate school districts). This was a 100 percent response rate, which included school district responses of no use of restrictive procedures.

### **School Districts that Reported Use of Restrictive Procedures**

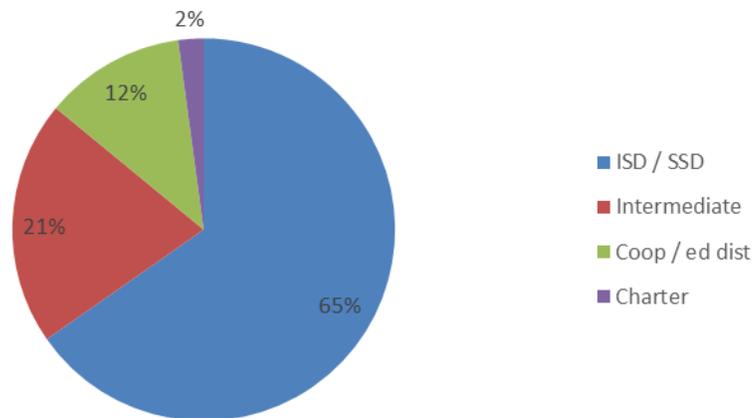
Of the 529 school districts that reported summary data to MDE, 281 of those school districts reported use of restrictive procedures, whether physical holding, seclusion, or a combination of both. They include:

- 210 of 335 traditional school districts.
- Intermediate school districts.
- 17 of 28 cooperatives and education districts.
- 51 of 163 charter schools.

### Districts Reporting by District Type: 2015-16



### Restrictive Procedures by District Type: 2015-16



While intermediate districts, cooperatives and education districts comprise approximately 6 percent of the total reporting districts, combined they reported 33 percent of the restrictive procedures use in the state. By contrast, charter schools represent approximately 31 percent of the reporting districts, but reported nearly no use of restrictive procedures (2 percent). Traditional districts represent approximately 63 percent of the reporting districts and reported 65 percent of restrictive procedures use. The proportion of restrictive procedures reported for the 2015-16 school year is lower as compared to the 2014-15 data for intermediate districts and charter schools. Cooperatives, education districts and traditional districts reported slightly higher use.

Of the 281 school districts that reported use of restrictive procedures:

- 217 (77 percent) reported use of only physical holding.
- 0 reported use of only seclusion.
- 64 (23 percent) reported use of both physical holding and seclusion.

The number of school districts reporting usage of restrictive procedures increased over the previous school year, up from 255. It should be noted that the school districts reporting usage changed as well. Of the 281 school districts reporting use of restrictive procedures during the 2015-16 school year, 72 school districts increased from zero usage in 2014-15 to some usage in 2015-16, and 46 school districts decreased to zero usage in 2015-16 from some usage in 2014-15. This resulted in a net increase of 26 school districts reporting the use of restrictive procedures for the 2015-16 school year as compared to the prior school year.

### **Statewide Data on the Use of All Restrictive Procedures**

Across the state, during the 2015-16 school year, school districts reported 15,584 physical holds and 6,425 uses of seclusion for a total of 22,028 restrictive procedures incidents. This was a decrease of approximately 0.4 percent from the 2014-15 school year reporting and again roughly equivalent to the reporting for 2012-13.<sup>25</sup> Stakeholders again believed that the reported number of incidents and number of students for the 2015-16 school year better reflected the actual baseline from which to measure the reduction of restrictive procedures. In addition, the total number of reported students with disabilities increased by 7,375 for the 2015-16 school year, which is also a contributing factor in the increase in the number of students who experienced the use of a restrictive procedure during the 2015-16 school year.

<b>School Year</b>	<b>Physical Holds</b>	<b>Uses of Seclusion</b>	<b>Restrictive Procedures<sup>26</sup></b>
2015-16	15,584	6,425	22,028 <sup>27</sup>
2014-15	15,511	6,547	22,119 <sup>28</sup>
2013-14	13,214	6,323	19,537
2012-13	15,738	6,425	22,163
2011-12	16,604	5,236	21,840

Of 147,360 students receiving special education services,<sup>29</sup> restrictive procedures were used with 3,034 students. Please note that the actual number of reported students receiving special

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<sup>25</sup> During the October 2015 workgroup meetings, administrators from multiple school districts reported that more consistent reporting of restrictive procedures incidents during the 2014-15 school year resulted in an increase in the number of reported incidents. This occurred through both trainings conducted by school districts as well as trainings provided by MDE.

<sup>26</sup> When comparing the data, it should be noted that for the 2011-12 school year, only 474 school districts submitted a summary restrictive procedures form, as compared to 513 school districts, 522 school districts, 528 school districts, and 529 school districts, respectively, for the 2012-13, 2013-14, 2014-15, and 2015-16 school years.

<sup>27</sup> The individual counts of physical holds and seclusion does not match the total number of restrictive procedures due to district reporting errors.

<sup>28</sup> The individual counts of physical holds and seclusion does not match the total number of restrictive procedures due to district reporting errors.

<sup>29</sup> The number of students receiving special education services is based on an aggregation of districts' self-reported data in conjunction with the restrictive procedures reporting and may not match exactly with other aggregations by MDE of the number of students receiving special education services in the state.

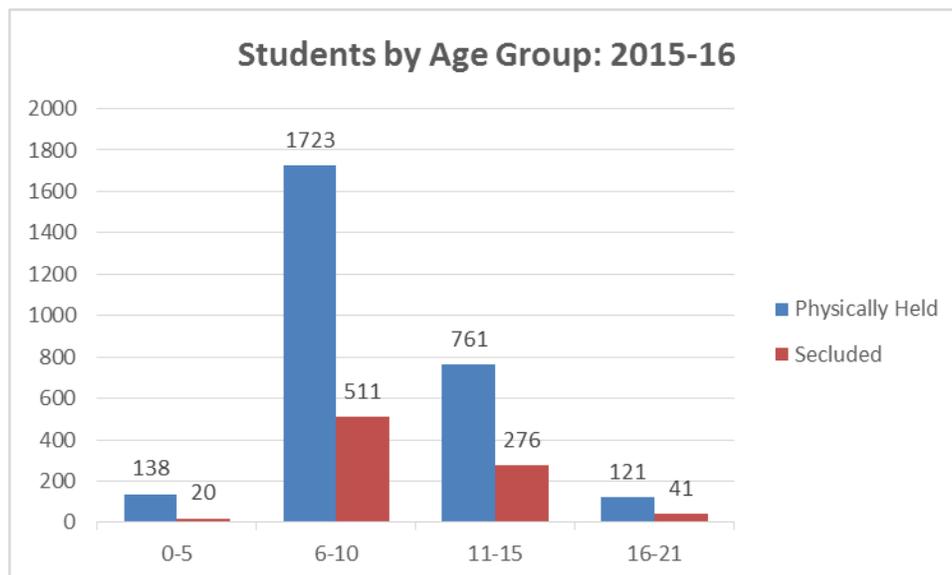
education services increased by 7,375 for the 2015-16 school year. The percentage of students who experienced the use of restrictive procedures slightly increased to 2.06 percent of the special education population for the 2015-16 school year.

Physical holding was used with 2,743 students, up from the data reported in the 2016 legislative report (2,541) and seclusion was used with 848 students, also up slightly from the data reported in the 2016 legislative report (840).<sup>30</sup> Compared to the 2014-15 school year, the average number of physical holds per physically held student was 5.7, down from 6.1; the average number of uses of seclusion per secluded student was 7.8, down from 7.3; and the average number of restrictive procedures per restricted student was 8.0, down from 7.9.<sup>31</sup>

Upon analysis of the 2015-16 data by district, four districts (three traditional school districts and one intermediate) accounted for 50.4 percent of the total number of reported restrictive procedures incidents statewide. Looking at the seclusion data for the same time period, five districts (three traditional districts and two intermediate) accounted for 53.4 percent of the total number of reported seclusion incidents statewide.

### Age of Students in Restrictive Procedures

The majority of restrictive procedures reported for the 2015-16 school year were used with elementary through middle school students, with fewer uses with early childhood and high school students, consistent with the previous legislative reports.

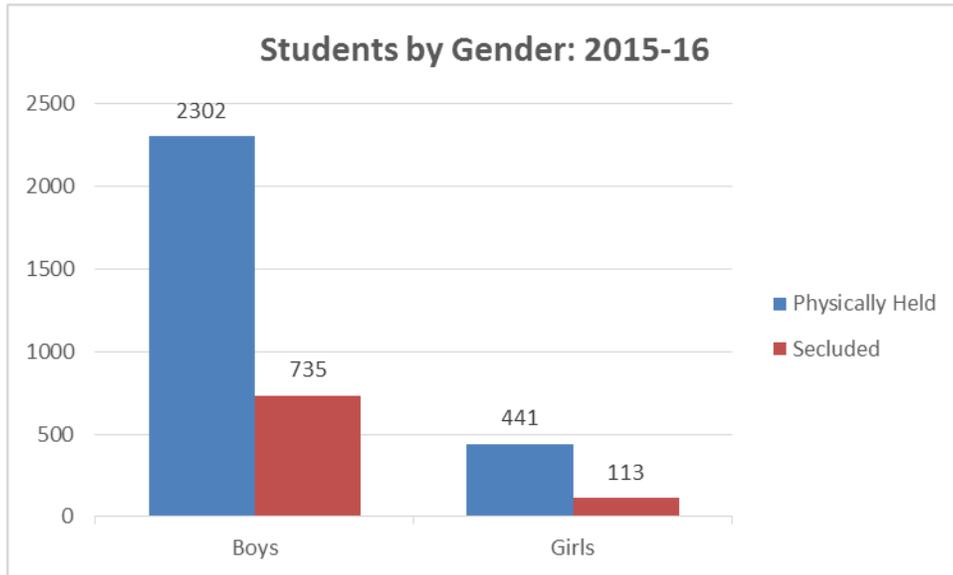


<sup>30</sup> The number of physically held students plus the number of secluded students is greater than the total number of students with whom restrictive procedures were used because a number of students were reported as both physically held and secluded.

<sup>31</sup> As with the previous footnote, the average number of restrictive procedures per restricted student may be higher than the averages for both physical holding and seclusion because of the number of students both physically held and secluded.

## Gender of Students in Restrictive Procedures

Based upon the data reported for the 2015-16 school year, boys are 5.2 times more likely to be physically held and 6.5 times more likely to be placed in seclusion than girls, consistent with previous legislative reports, though a slightly smaller gap compared to 2014-15. All of the increased usage of seclusion for 2015-16 was with girls, whereas most of the increased usage of physical holding was with boys.



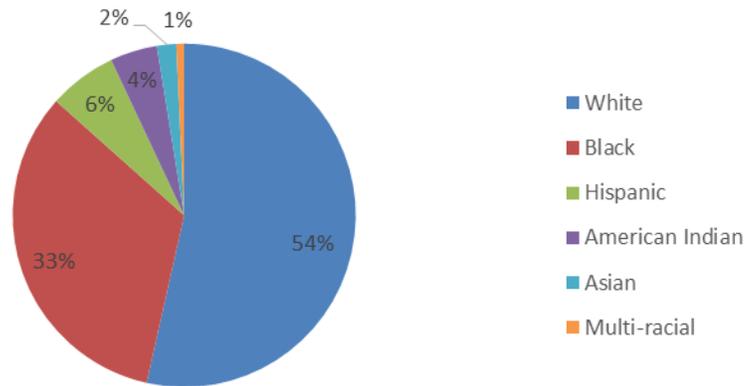
## Race/Ethnicity of Students in Restrictive Procedures

Black students, who account for approximately 12 percent of the special education student population,<sup>32</sup> are overrepresented in both the physical holding and seclusion data, consistent with previous legislative reports. American Indian students, who account for approximately 3 percent of the special education population, are also overrepresented in the physical holding and seclusion data, though not to as great a degree.

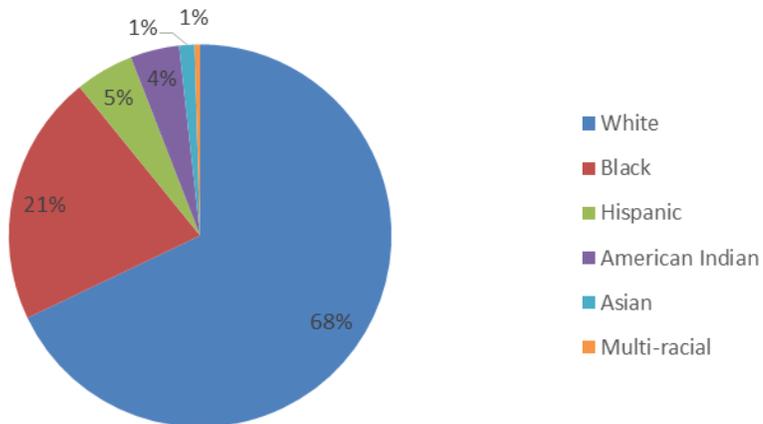
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<sup>32</sup> [2016 Child Count Totals by December 1, 2015 by Disability, Race/Ethnicity, and Age](#), retrieved from MDE Data Reports and Analytics.

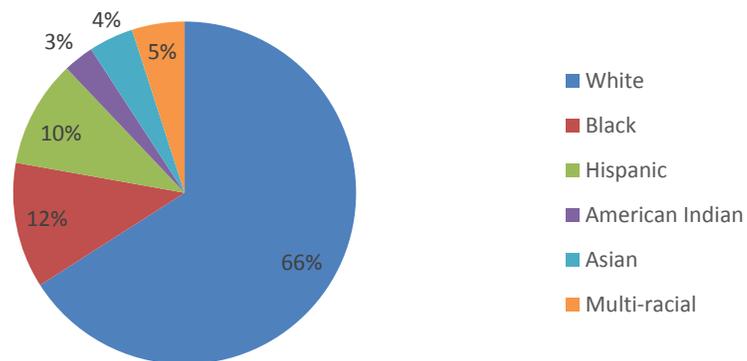
**Students Physically Held by Race/Ethnicity:  
2015-16**



**Students Secluded by Race/Ethnicity: 2015-16**

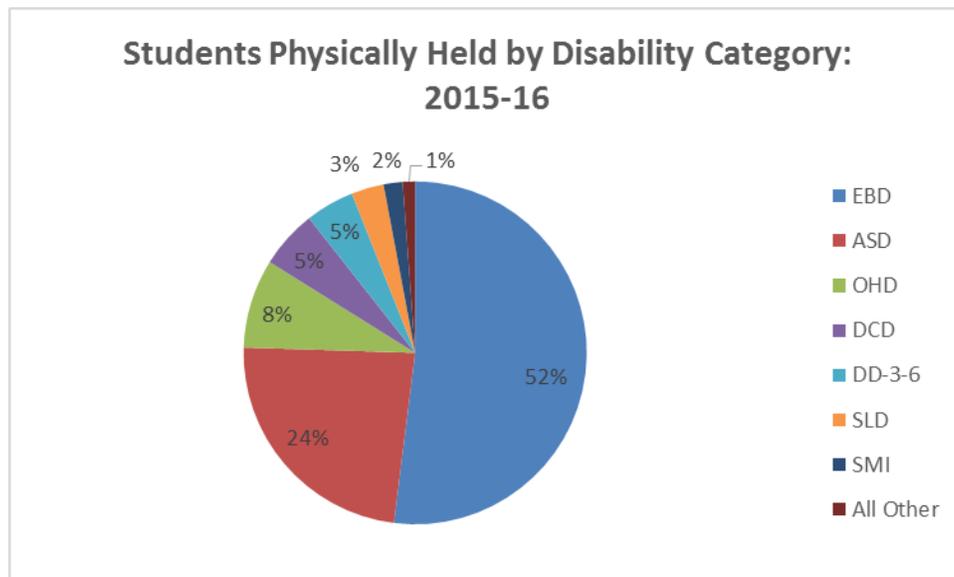


**Students in Special Education Statewide by  
Race/Ethnicity**



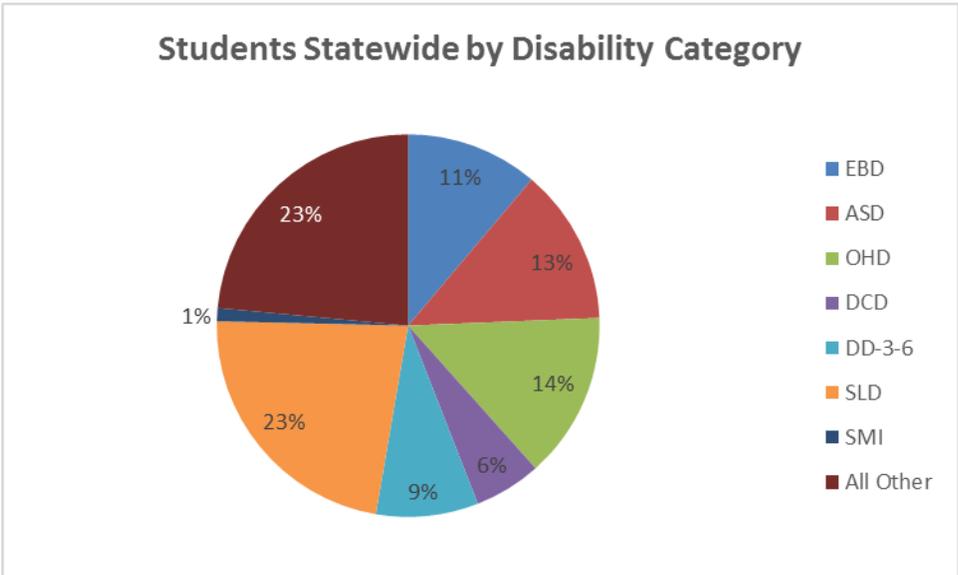
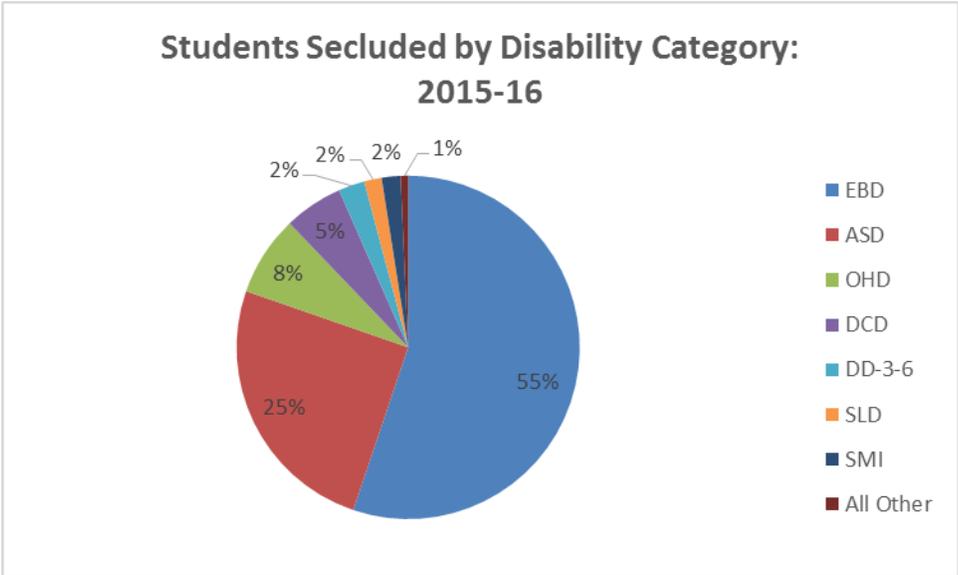
## Disability Categories for Students in Restrictive Procedures

During the 2015-16 school year, students who received special education services by meeting eligibility criteria under the primary disability category of EBD or ASD accounted for more than three-fourths of the students who experienced the use of restrictive procedures, consistent with previous legislative reports. ASD students make up approximately 13 percent of the special education student population and EBD students make up approximately 11 percent.<sup>33</sup> The remaining one-fourth of restrictive procedures were used on students with OHD, DCD, DD 3-6, SLD, and SMI. The categories of disabilities included in the “All Other” category are, in order of prevalence: Speech or Language Impairments (SLI), Traumatic Brain Injury (TBI), DHH, Physically Impaired (PI), VI, and Deaf-Blind (DB).



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<sup>33</sup> [2016 Child Count Totals by December 1, 2015 by Disability, Race/Ethnicity, and Age](#), retrieved from MDE Data Reports and Analytics.



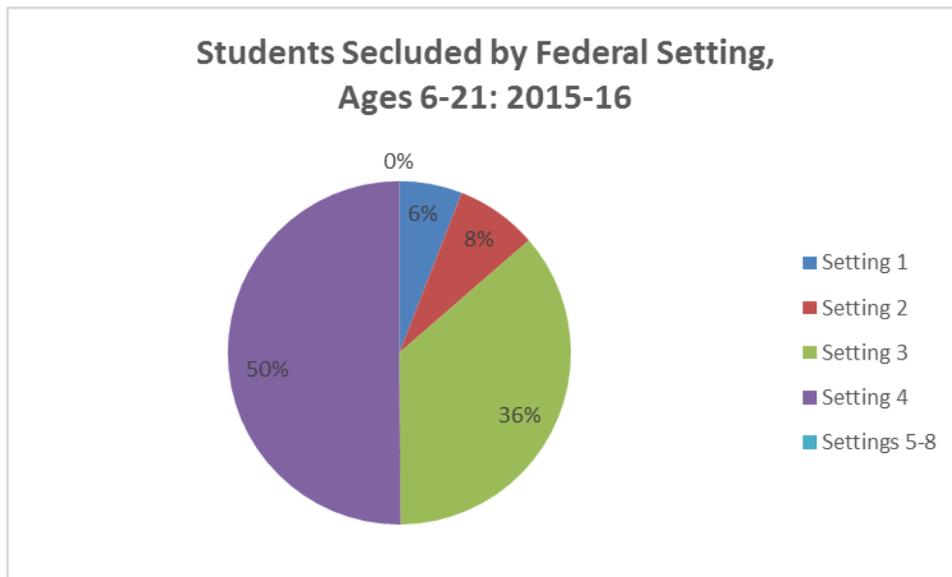
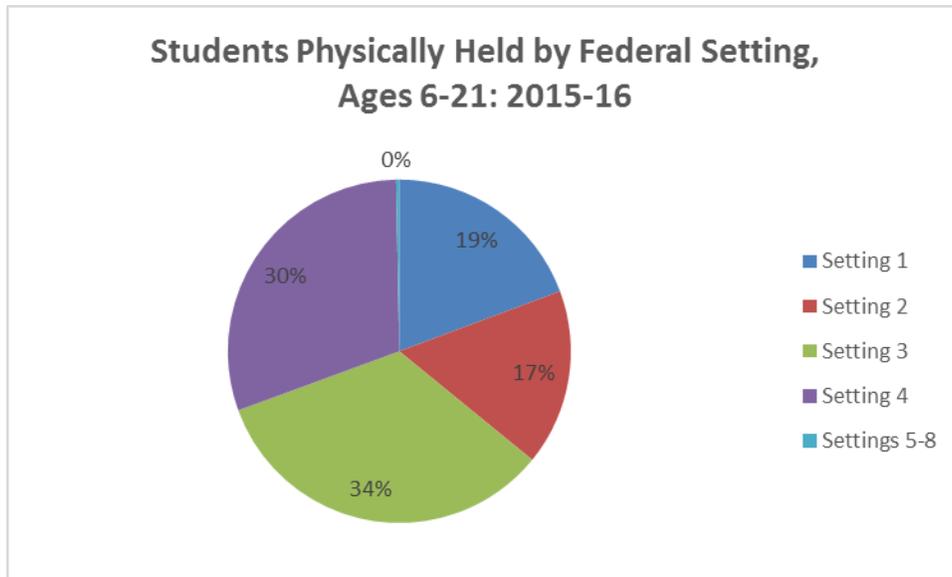
### Federal Instructional Setting for Students in Restrictive Procedures

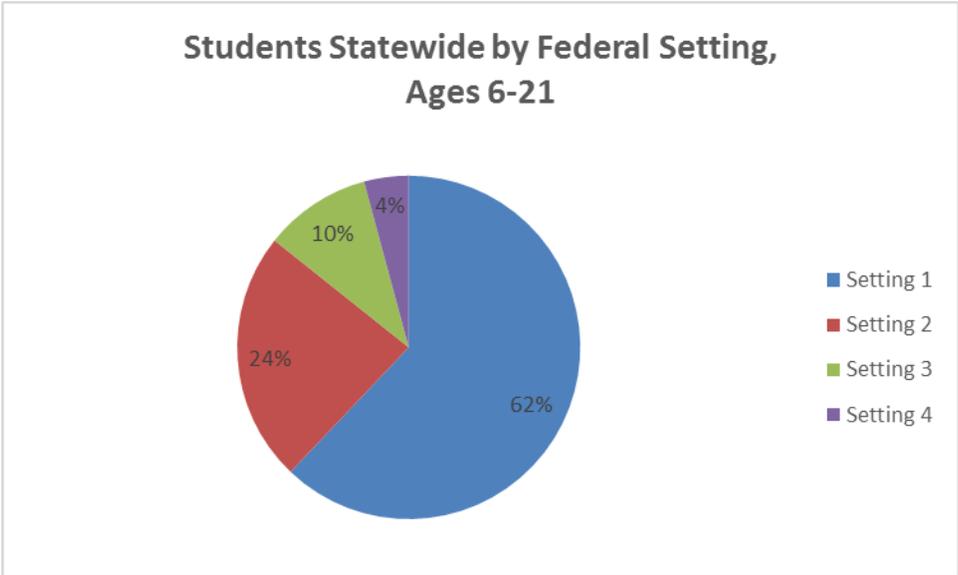
Consistent with data from the 2014-15 school year, most restrictive procedures occurred either with students who were in a separate school specially designed for students receiving special education services (setting four) or with students who were outside of the regular education classroom more than 60 percent of the day (setting three). Students who spend 21 to 60 percent of their day outside the regular education classroom are in setting two. Students who spend less than 21 percent of their day outside the regular education classroom are in setting one.

In reviewing the type of restrictive procedures used across the four federal instructional settings:

- Districts used physical holding substantially more often than seclusion for students who were in federal setting one or two.

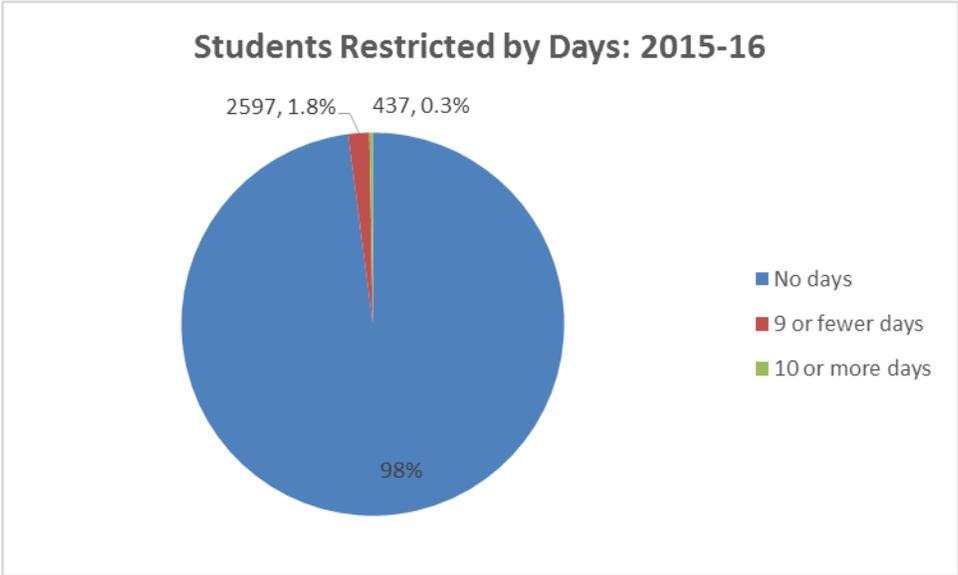
- Districts used seclusion slightly more often than physical holding for students in federal setting three.
- Districts used seclusion substantially more often than physical holding for students who were in federal setting four.





### Students Restricted 10 or More Days

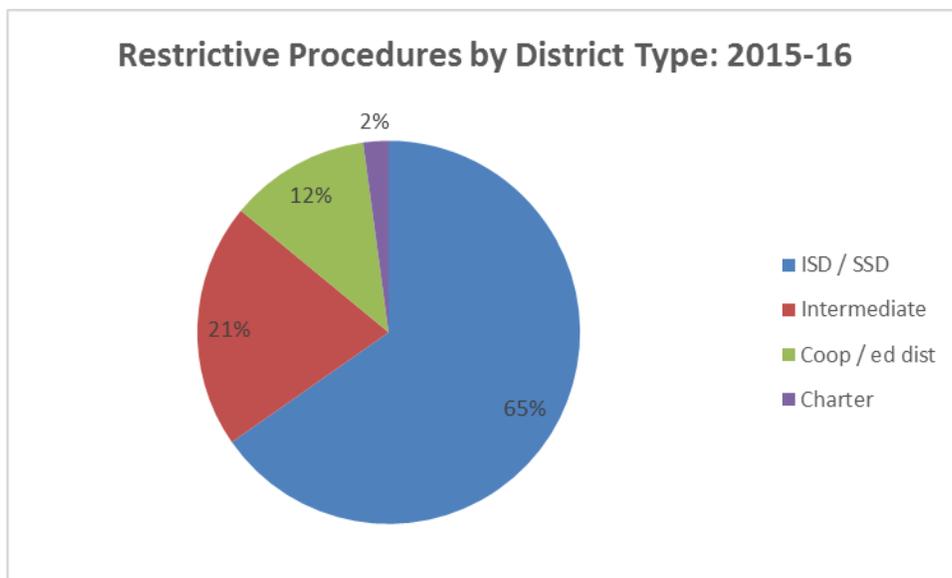
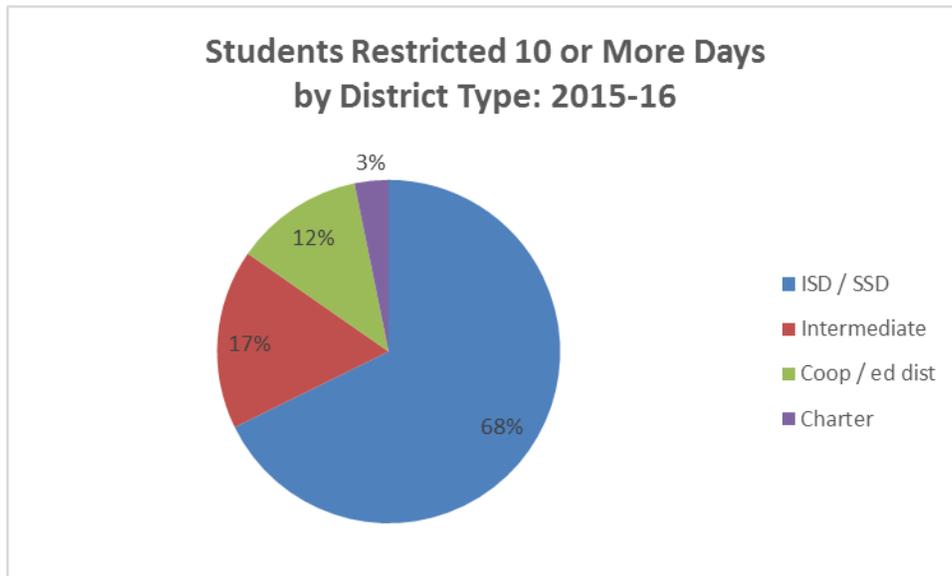
A threshold of 10 or more days was chosen for this restrictive procedures summary data point to be consistent with districts' obligation under statute to take additional action when restrictive procedures have been used ten or more days within a school year.<sup>34</sup> Districts reported that a total of 437 students receiving special education services experienced the use of restrictive procedures over 10 or more days during the 2015-16 school year, which is an increase from the previous year (417). These students account for approximately 0.3 percent of the population of students receiving special education.



While the restrictive procedures summary data is more limited than the quarterly seclusion data, the district level data for these outliers in the restrictive procedures population suggest the average number of restrictive procedures may be about 26 incidents of restrictive procedures

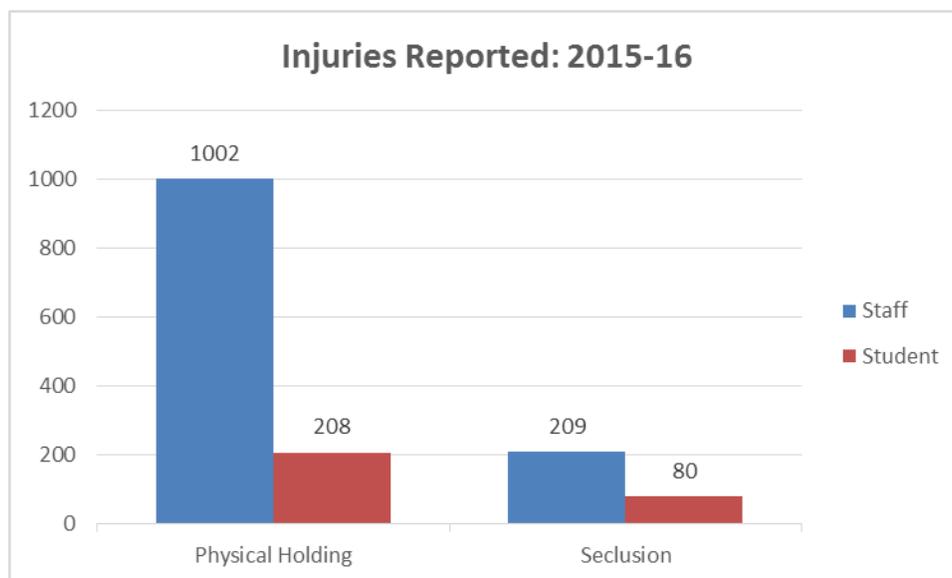
<sup>34</sup> See Minn. Stat. § 125A.0942, subd. 2(d).

per student, with 10 or more days of restriction students who experienced the use of restrictive procedures over 10 or more days across all district types are in rough proportion to the number of incidents of restrictive procedures by district type.



### Injuries Related to the Use of Restrictive Procedures

Data about the number of injuries to both students and staff related to the use of restrictive procedures is reported as increased for all categories; however, when considering this data, please note that the Restrictive Procedures Stakeholders Group has raised continuing questions related to how to define a staff or student injury as well as when an injury should be reported.



## STATEWIDE PLAN

MDE is committed to ensuring that all students and all staff are safe in all educational environments. We are also committed to working with the Minnesota Legislature and all interested stakeholders, including parents, educators, school administrators, and community leaders, to ensure schools have necessary and effective tools to support student safety while working together to reduce the use of restrictive procedures and work toward the elimination of seclusion. Please refer to Appendix A for the statewide plan, including recommendations to the Legislature for additional funding to support implementation of the stated goals, and for revisions to the restrictive procedures statutes.

## CONCLUSION

MDE and the restrictive procedures workgroup respectfully submit this report to provide the Legislature with objective data to inform its continuing policy discussions regarding restrictive procedures. As noted in this report, prone restraint is now a prohibited procedure. The report details factors contributing to the 2015-16 slight decrease in the number of restrictive procedures incidents and increase in the number of students who experienced the use of a restrictive procedure. The report also addresses Minnesota's 2015 Olmstead Plan and seclusion data for the first quarter of the 2016-17 school year in more detail. In order to move forward, the 2016 workgroup made a number of recommendations that are detailed in Appendix A. In addition, Appendix B is revised to include each state's seclusion laws and policies. While the number of students affected by this discussion is small, about 2.06 percent of the special education student population experience the use of restrictive procedures, it is clear that these students have significant and complex needs.<sup>35</sup>

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<sup>35</sup> Based on the 2015-16 data, approximately 2.1 percent of all students receiving special education services experienced the use of physical holding, and approximately 0.6 percent of all students receiving special education services experienced the use of seclusion

We anticipate the data provided will result in informed decision-making, promoting safe educational environments. We appreciate the opportunity to inform the Legislature about this important issue and commend the Legislature for its continued commitment to this task.

## Appendix A

### 2016 Statewide Plan to Reduce the Use of Restrictive Procedures and Eliminate Prone Restraint in Minnesota

#### I. Purpose

During the 2016 legislative session, the Minnesota Legislature continued to task the Minnesota Department of Education (MDE) with developing a statewide plan with specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.<sup>36</sup> To assist with developing a plan, MDE assembled a group of stakeholders. The stakeholder group included representation from advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, state human services department staff, mental health professionals, school resource officers, and autism experts.<sup>37</sup> Although invited, the stakeholder group did not have a representative from county social services. The group developed implementation and outcome goals that would move the state toward a reduction of restrictive procedures in the educational setting.

#### II. Stakeholder Workgroup Charge

By February 1, 2015 and annually thereafter, stakeholders may, as necessary, recommend to the commissioner specific and measurable implementation and outcome goals for reducing the use of restrictive procedures, and the commissioner must submit to the Legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of seclusion. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of seclusion; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. Beginning with the 2016-17 school year, in a form and manner determined by the commissioner, districts must report data quarterly to the department by January 15, April 15, July 15, and October 15 about individual students who have been secluded. By July 15 each year, districts must report summary data on their use of restrictive procedures to the department for the prior school year, July 1 through June 30, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582.<sup>38</sup>

<sup>36</sup> Minn. Stat. § 125A.0942, subd. 3(b) (2016).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

### III. Stakeholder Group Members

Anoka-Hennepin School District.....	Erin Jensen
Anoka-Hennepin School District.....	Marsha Polys
ARC Minnesota.....	Steve Larson
ARC Minnesota.....	Wendy Watson
Autism Society of Minnesota.....	Jean Bender
Autism Society of Minnesota.....	Jonah Weinberg
Cambridge School District.....	Pauline Bangma
Catholic Charities.....	Lynn Starr
Department of Human Services, Disability Services Division.....	Carol Anthony
Department of Human Services, Disability Services Division.....	Charles Young
Department of Human Services, Children’s Mental Health Division.....	Kris Lofgren
Department of Human Services.....	Jason Flint
Department of Human Services.....	Amber Maki
Department of Human Services.....	William Wyss
Fraser Day Treatment.....	Shelly Brandl
Grand Rapids School District 318.....	Brent Brunetta
Intermediate District 287.....	Tina Houck
Intermediate District 917.....	Melissa Schaller
Intermediate District 917.....	John Christiansen
Intermediate District 917.....	Amy Swaney
Minnesota Administrators for Special Education.....	Cherie Johnson
Minnesota Administrators for Special Education.....	John Klaber
Minnesota Association for Children’s Mental Health.....	Deborah Saxhaug
Minnesota Association of County Social Services.....	Eric Ratzmann
Minnesota Council of Child Caring Agencies.....	Mary Regan
Minnesota Disability Law Center.....	Dan Stewart
Minnesota School Board Association.....	Bill Kautt
Minnesota School Board Association.....	Grace Keliher
National Alliance on Mental Illness.....	Sue Abderholden
Northeast Metro 916.....	Connie Hayes
Northeast Metro 916.....	Dan Naidicz
Olmsted County.....	Jodi Wentland
PACER Center.....	Paula Goldberg
PACER Center.....	Jody Manning
PACER Center.....	Virginia Richardson

Ramsey County .....Kimberly Young  
 Ramsey County Sheriff's Office ..... Dan Young  
 Robbinsdale School District, Paraprofessional .....Karen Krussow  
 Southwest Metro Schools ..... Melanie Kray  
 Southwest South Center Service Cooperative, Program Lead ..... Tony Miller  
 St. Paul Public Schools ..... Catherine Butcher  
 St. Paul Public Schools .....Alecia Mobley  
 St. Paul Public Schools .....Katie Pfalz

**IV. Minnesota Department of Education Participants**

Assistant Commissioner.....Daron Korte  
 Director, Compliance and Assistance.....Marikay Canaga Litzau  
 Director, Special Education ..... Robyn Widley  
 Supervisor, Compliance and Assistance ..... Sara Winter  
 Supervisor, Special Education .....Eric Kloos  
 Supervisor, Interagency Partnerships .....Tom Delaney  
 Compliance and Assistance ..... Ross Oden  
 Compliance and Assistance .....Sara K. Wolf  
 Special Education ..... Aaron Barnes  
 Special Education ..... Garrett Petrie

## V. 2015 Statewide Plan and Updates

### **Goal 1: 2017 Legislative Report**

By February 1, 2017, MDE will submit a report to the Minnesota Legislature summarizing the state's progress on reducing the use of restrictive procedures and working toward the elimination of seclusion in schools with recommendations on how to further reduce their use.

### **Goal 1 Update:**

This report serves as MDE's report to the Minnesota Legislature summarizing the state's progress on reducing the use of restrict procedures and working toward the elimination of seclusion in schools, with recommendations on how to further reduce their use.

### **Goal 1a**

The restrictive procedures workgroup will meet in the fall of 2016, to:

- i) Review positive behavioral interventions and supports (PBIS) data collected by MDE.

### **Goal 1a(i) Update:**

During the September 23, 2016 restrictive procedures workgroup meeting, Dr. Aaron Barnes, MDE, Division of Special Education presented on PBIS data collected by MDE along with an overview of MDE's PBIS training. MDE's PBIS training includes nine days of training over two years, intended to build capacity, skills, competency, and beliefs to sustain implementation beyond initial training in a school. There are now 12 cohorts (2005-2018). Specifically, Dr. Barnes reviewed the data collected on the:

- i) Number of students affected by SW-PBIS (250,613).
- ii) Number of schools that have been or are in PBIS training (583).
- iii) Number of school districts that have been or are in PBIS training (203) (29 percent of Minnesota schools).
- iv) Data collected on implementation fidelity broken down by baseline, year one, and year two.
- v) Use of PBIS and suspensions.

Dr. Barnes also provided an example of how implementation of PBIS looks in an intermediate school district from [Minnesota PBIS information online](#). There was additional discussion on 2 of the 15 principles outlined in the [Restraint and Seclusion: Resource Document \(May, 2012\) U.S. Department of Education](#), principle number 8 (the use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior, if positive behavioral strategies are not in place, staff should consider developing them) and principle number 10 (teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and,

only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion).

**Goal 1a**

The restrictive procedures workgroup will meet in the fall of 2016 to:

- ii) Review the annual summary restrictive procedures data collected by MDE.

**Goal 1a(ii) Update:**

During the September 23, 2016 Restrictive Procedures Stakeholders' Workgroup meeting, Ross Oden, J.D., MDE, Division of Compliance and Assistance, presented the 2015-16 summary data on the use of restraint and seclusion in Minnesota schools, which included a comparison with prior years' data. By way of example, Mr. Oden reported on:

- i) The number of school districts reporting use of restrictive procedures (281).
- ii) The number of school districts reporting physical holding (281).
- iii) The number of school districts reporting physical holding, but no seclusion (217).
- iv) The number of school districts reporting seclusion (64).
- v) The number of school districts reporting seclusion, but no physical holding (0).
- vi) The number of school districts reporting changes compared to 2014-15 school year (46 school districts decreased to zero usage; 99 school districts decreased by incidents; 72 school districts increased from zero usage; 87 school districts increased by incidents; 23 school districts reported same number of incidents).
- vii) Statewide total usage of restrictive procedures (22,028 incidents).
- viii) Statewide total usage of physical holds (15,584 incidents affecting 2743 students).
- ix) Statewide total use of seclusion (6425 incidents affecting 848 students).
- x) The number of days restricted (2597 (9 or fewer; 437 10 or more)).
- xi) The age group with the most physical holds (6-10).
- xii) The age group with the most seclusion (6-10).
- xiii) The gender group with the most physical holds (boys).
- xiv) The gender group with the most seclusion (boys).
- xv) The race/ethnicity group with the most physical holds (white, although black students continue to be disproportionately held).
- xvi) The race/ethnicity group with the most seclusions (white, although black students continue to be disproportionately secluded).
- xvii) The disability category with the most physical holds (EBD then ASD).

- xviii) The disability category with the most seclusions (EBD then ASD).
- xix) The federal instructional setting with the most physical holds (setting 3).
- xx) The federal instructional setting with the most seclusion (setting 4).
- xxi) The number of staff injuries reported relating to physical holding (1,002).
- xxii) The number of student injuries reported relating to physical holding (208).
- xxiii) The number of staff injuries reported relating to seclusion (209).
- xxiv) The number of student injuries reported related to seclusion (80).

Mr. Oden also reported that the number of students receiving special education services was up 7,375 students from the 2014-15 school year.

**Goal 1a**

The restrictive procedures workgroup will meet in the fall of 2016 to:

- iii) Share resources from the PBIS Center that address cultural inequity.

**Goal 1a(iii) Update:**

On September 23, 2016, Dr. Barnes presented on PBIS resources for enhancing equity of schools referencing the [U.S. Department of Education's Office of Special Education Programs \(OSEP\) technical assistance center on PBIS website](#) which provides a list of PBIS resources for equity. Dr. Barnes discussed the 5 Point Plan from the article, "Recommendations for Addressing Discipline Disproportionality in Education," which outlines components of effective intervention to prevent and reduce disproportionality: 1) use effective instruction to reduce the achievement gap; 2) implement school-wide positive behavioral interventions and supports to build a foundation of prevention; 3) collect, use, and report disaggregated student discipline data; 4) develop policies with accountability for disciplinary equity; and 5) teach neutralizing routines for vulnerable decision points. Dr. Barnes also shared a 2011 Tobin & Vincent study which found two key predictors of decreased disproportionality: 1) regular use of data for decision making; and 2) implementation of classroom SW PBIS systems. Some discussion took place about [Project Implicit from Harvard University](#), which developed an Implicit Association Test (IAT) on implicit bias on race.

**Goal 1a**

The restrictive procedures workgroup will meet in the fall of 2016 to:

- iv) Work to clarify definitions found in Minnesota Statute, section 125A.0941, to ensure accurate and consistent reporting.

**Goal 1a(iv) Update:**

On September 23, 2016, Sara Winter, J.D., MDE, Division of Compliance and Assistance, led a discussion on ways to ensure accurate and consistent restrictive procedure reporting. Ideas included: 1) proposing legislative changes; 2) developing a question and answer document; 3) developing a guidance document produced by the workgroup; 4) creating a PowerPoint training for districts to use. The following issues/definitions were discussed: a) further clarifying the type

of injury that requires reporting; b) School Wide Information System (SWIS) data versus MDE summary data; c) further clarifying the definition of seclusion; d) further clarifying what constitutes an “incident”; e) staff turnover; f) if you don’t have a proper seclusion room and seclude someone in an emergency – do you report it?; f) do you report untrained physical holds?; f) clarifying the ramifications of reporting to MDE; and g) emergency versus safety.

At the December 2, 2016 stakeholders’ meeting, in a discussion led by Ms. Winter, the workgroup determined not to propose legislative changes and instead develop a subgroup to assist in the creation of a resource bank to be placed on MDE’s website to assist with clarifying definitions and other aspects of the restrictive procedures statutes.

**Goal 1a**

The restrictive procedures workgroup will meet in the fall of 2016 to:

- v) Discuss the possibility of developing and implementing an expert review panel to serve as a resource for school districts and parents<sup>39</sup> to use in reducing the use of restrictive procedures, particularly seclusion, and promoting school safety for staff and students; and,

**Goal 1a(v) Update:**

At the September 23, 2016 stakeholders’ meeting, Marikay Canaga Litzau, J.D., director of Compliance and Assistance at MDE, led this discussion. Specifically, since no funds were appropriated to MDE to help in the reduction of the use of restrictive procedures and particularly seclusion, would it be possible for the 2016 Workgroup to tackle this task? The matter was tabled to consider at a later time whether the expert review panel would continue to be part of the 2016 statewide plan.

The restrictive procedures workgroup will meet in the fall of 2016 to:

- vi) Discuss the possibility of developing and implementing a high risk pool to provide comprehensive supports across school, county and state systems for highly challenged students in need of long-term, systemic, and intensive interventions.

**Goal 1a(vi) Update:**

At the September 23, 2016, stakeholders meeting, Marikay Canaga Litzau, J.D., director of Compliance and Assistance at MDE, led this discussion. Specifically, since no funds were appropriated to MDE to develop and implement a high risk pool to provide comprehensive supports across school, county, and state systems for highly challenged students in need of long-term, systemic, and intensive interventions, would it be possible for the 2016 Workgroup to tackle this task? The matter was tabled to consider at a later time whether the high risk pool would continue to be part of the 2016 statewide plan.

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<sup>39</sup> “[Parent](#)” is defined as outlined in 34 C.F.R. § 300.30.

**Goal 1b**

At the fall 2016 restrictive procedures workgroup meeting, MDE will report on its ongoing collaboration with the Minnesota Department of Human Services (DHS) and other state agencies, pertaining to its:

- i) Continued development and implementation, evaluation, and required reporting activities in Minnesota's Approved Olmstead Plan.

**Goal 1b(i) Update:**

On September 29, 2015, the court approved Minnesota's August 2015 Olmstead Plan. Two topics remained under development (assistive technology and preventing abuse and neglect). The June 1, 2016 Amendment incorporates the proposed goals for these two topic areas and on June 21, 2016, the court approved the June 1, 2016 Update to the Plan.

At the September 23, 2016 stakeholders meeting, Tom Delaney, MDE, Division of Special Education, presented on the continued development and implementation, evaluation, and required reporting activities in Minnesota's approved Olmstead plan. Specifically, Mr. Delaney reported that in September 2016, the Olmstead Implementation Office (OIO) informed that the Education and Lifelong Learning work plans had no further edits. Interagency Olmstead work plans are maintained at [www.connect.mn.gov/sites/Olmstead/layouts/15/start.aspx#1](http://www.connect.mn.gov/sites/Olmstead/layouts/15/start.aspx#1). MDE continues its collaboration with the Department of Corrections (DOC) at the Minnesota Correctional Facility in Red Wing (MCF-Red Wing), including using the Reintegration Protocol with all students with an action IEP exiting MCF-Red Wing. The Olmstead workgroup is defining a model and core components for access to crisis services for students with complex disabilities that will be piloted in the St. Paul, Minneapolis, Cass Lake-Bena, and Pipestone districts.

**Goal 1b(ii)**

At the fall 2016 restrictive procedures workgroup meeting, MDE will report on its ongoing collaboration with [DHS] and other state agencies, pertaining to its:

- ii) Continued efforts to ensure implementation of statutory requirements pertaining to the use of medical assistance funds for IEP health-related services, the Autism Spectrum Disorders medical assistance benefit, and the school Children's Therapeutic Services and Supports program.

**Goal 1b(ii) Update:**

Tom Delaney, MDE, Division of Special Education, provided an update of MDE's continued participation at the September 23, 2016, stakeholders meeting, to collaborate on developing a "first step" model for school districts to adopt in accessing Medicaid for health services to students with Section 504 Plans and students without disabilities, based on the Public Health Nursing Clinic model. Further, DHS, MDE, and the Minnesota Department of Health (MDH), Healthy Learners, Promising Futures interagency state team is working with the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services, and the U.S. Department of Education to design systems for comprehensive health care in schools to support learning.

Mr. Delany further reported on the Early Intensive Developmental and Behavioral Intervention (EIDBI) Benefit. EIDBI services are intensive services designed to meet each child or young adult's therapeutic needs based on the person's and his or her family's values, language(s), culture, and preferences, and may include one-on-one or group treatment sessions, training and support for the family. It is determined by the assessed needs of the person and his or her family, including where, how often, and for how long EIDBI services are provided. EIDBI services teach a child or young adult skills that help him or her interact and communicate with others, learn and play, improve challenging behaviors, build independence, and participate in family, school, and community life. Mr. Delaney reported that a person can receive EIDBI services if he or she is under the age of 21, has ASD or a related condition, does not need 24-hour medical monitoring, is enrolled in Medical Assistance (MA) or Minnesota Care, and has had a comprehensive multi-disciplinary evaluation (CMDE) that shows his or her medical need for EIDBI services. DHS maintains an [informative website](#).

Mr. Delaney also reported on the Children's Therapeutic Services and Supports program. Specifically, Mr. Delaney reported the collaboration of DHS, MDE, and school district staff workgroup in reviewing whether (or how) the IEP may serve as the annually required diagnostic assessment. The workgroup is also conferencing with other states to review innovations in school-based Medicaid billing to leverage additional federal revenue.

**Goal 1b(iii)**

At the fall 2016 restrictive procedures workgroup meeting, MDE will report on its ongoing collaboration with the [DHS] and other state agencies, pertaining to its:

- iii) Continued participation at school-linked mental health grantee meetings and the First Episode of Psychosis workgroup meetings.

**Goal 1b(iii) Update:**

MDE continues to participate in the school-linked mental health grantee meetings. Tom Delaney, MDE, Division of Special Education, reported at the September 23, 2016, stakeholders' meeting that there is a draft definition of "care coordination" intended to support a student to have improved mental health and functioning at school, at home, and in the community. The purpose of care coordination is to provide integrated care within a student's school and across the child-serving systems involved with the student. Care coordination can be provided to students who are receiving skills training services and/or ancillary and supportive services under the School-Linked Mental Health (SLMH) services grant from a mental health practitioner; or from a mental health professional or clinical trainee employed directly by or under a subcontract funded by the SLMH services grant. It can also be provided to students who do not meet the Minnesota Health Care Programs (MHCP) definition, or a mental health condition that co-occurs with other complex and chronic conditions; and students who are receiving psychotherapy services but do not meet the MHCP definition of having a complex mental health condition, or a mental health condition that co-occurs with other complex and chronic conditions.

Mr. Delaney further reported continued participation in the First Episode Psychosis workgroup meetings sponsored by DHS. This workgroup has developed a Request for Proposal (RFP) to

implement the Navigate model at a grantee site and also designed an agenda for a First Episode Psychosis Summit in March 2016.

**Goal 1c**

At the fall 2016 restrictive procedures workgroup meeting, the members will determine how many additional meetings are necessary to allow the workgroup to accomplish the work outlined in the February 1, 2016, legislative report and reach consensus on recommendations for the February 1, 2017, legislative report.

**Goal 1c Update:**

At the fall 2016 restrictive procedures workgroup meeting, the workgroup determined the following meetings are necessary to accomplish the goals outlined in the FY16 legislative report:

September 23, 2016 (9 a.m.– 4 a.m.)

December 2, 2016 (9 a.m. – 12:30 p.m.)

January 27, 2017 (9 a.m. – 12:30 p.m.)

April 21, 2017 (9: a.m. – 12:30 p.m.)

July 21, 2017 (9 a.m. – 12:30 p.m.)

**Goal 2: Activities to Reduce the Emergency Use of Restrictive Procedures**

By June 30, 2017, in alignment with the Olmstead Positive Supports Goals, school districts will decrease the emergency use of restrictive procedures and increase the use of PBIS and other positive supports so that students are supported in the most integrated educational setting.

**Goal 2 Update:**

MDE continues to track the emergency use of restrictive procedures in the school setting through the Restrictive Procedures Summary Data Form submitted by each school district annually, and through the Quarterly Seclusion Reporting Form submitted by each school district quarterly. MDE is prepared to make a comparison of the data come June 30, 2017, to further report on the progress of this goal.

**Goal 2a**

MDE will continue to maintain updated model forms in response to legislative changes under Minnesota Statutes, section 125A.0942, and maintain links to DHS's children's mental health services applicable to the goals outlined in this report, including the positive supports community of practice bi-weekly live stream meeting, the positive supports webpage, and the crisis response services webpage.

**Goal 2a Update:**

MDE updated the 2015-16 Restrictive Procedures Summary Data Form and also developed a Quarterly Seclusion Reporting Form for school districts to report quarterly seclusion data to MDE about individual students who have been secluded.

MDE continues to maintain the [DHS children's mental health services links](#) applicable to the goals outlined in this report.

## **Goal 2b**

MDE will continue to offer onsite training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities, including requirements that must be met before using restrictive procedures and the standards for use. This training will be revised to include information from, and references to, the Positive Intervention Strategies Training Modules posted on MDE's website, as well as the successful school district work plan outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraints Grant.

### **Goal 2b Update:**

MDE has provided onsite training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities. This training has been revised to include information from, and references to, the Positive Intervention Strategies Training Modules and the positive outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraints Grant.

MDE conducted this training during the 2015-16 school year 11 times for nearly 400 individuals.

During the 2016-17 school year, as of December 31, 2016, MDE has conducted this training seven times for more than 400 individuals. MDE anticipates providing additional trainings throughout the remainder of the 2016-17 school year.

## **Goal 2c**

MDE will continue to collaborate with DHS, school districts, parent advocacy groups, the National Alliance on Mental Illness, community partners, higher education, professional educational associations, Regional Low Incidence Facilitators (RLIFs), Regional Centers of Excellence, and school resource officers, to discuss targeted technical assistance, training, and resource needs related to the use of positive supports and the reduction of restrictive procedures, particularly seclusion, mental health services, pre-service training, and licensing requirements.

### **Goal 2c Update:**

Through collaboration and partnerships, this workgroup has discussed targeted technical assistance, training, and resource needs related to the use of positive supports and the reduction of restrictive procedures, particularly seclusion, mental health services, preservice training, and licensing requirements. In a product-driven effort, the workgroup has contemplated addressing this goal with subgroups to focus their work on 1) a back-to-school training in August 2017 titled Special Education 101: Basic Training for New Teachers and Teachers on Variant Licenses; 2) developing a restrictive procedures workgroup page on MDE's website to house workgroup information, including resources for school districts and parents; and 3) a teacher exchange program.

## **Goal 2d**

Based upon a review of the 2015-16 annual summary of restrictive procedures data, MDE staff will contact school districts with high usage or atypical patterns of restrictive procedures, particularly seclusion, prior to September 1, 2016, to offer to conduct a comprehensive review of the school district's plans, policies, and procedures for using restrictive procedures, PBIS and positive supports. The review will also identify what is working or not working and staff along

parent concerns. MDE will then facilitate the provision of onsite targeted technical assistance and training to address the identified needs. MDE will also make this review process available to all school districts, upon request.

***Goal 2d Update:***

MDE's Divisions of Compliance and Assistance and Special Education continue to collaborate to review the 2015-16 annual summary restrictive procedures data. The divisions continue to identify high usage or atypical patterns of restrictive procedures, particularly seclusion. MDE has determined to use the "Rates per 100" to identify school districts with the most need. This measurement identifies the number of incidents per every 100 students in a particular group. In other words, for every 100 students in a particular group, how many incidents are occurring? To calculate Rates per 100, first divide the total number of incidents attributed to a particular group by the total enrollment of that group, then multiply the result by 100. The result is the number of incidents per every 100 students, or Rates per 100. By using Rates per 100, MDE believes it has a more meaningful comparison between different sized groups, such as school districts.

***Goal 2e***

By June 30, 2018, the workgroup will develop a plan for an annual conference on the use of positive supports to showcase successful efforts to improve educational outcomes for students with disabilities and reduction in the emergency use of restrictive procedures.

***Goal 2e Update:***

The restrictive procedures workgroup continues to discuss efforts which improve educational outcomes for students with disabilities and the reduction in the emergency use of restrictive procedures.

***Goal 3: Additional Funding***

In the event that MDE receives a legislative appropriation targeted to assist in the reduction of the emergency use of restrictive procedures for fiscal year 2017, the funds will be used to secure additional resources and activities outlined in this report and through the activities listed below.

***Goal 3 Update:***

MDE did not receive a legislative appropriation during the 2016 legislative session to assist in the reduction of the emergency use of restrictive procedures.

***Goal 3a***

MDE will develop a process for school districts and/or RLIFs to apply and receive funding for the development and implementation of training by school district staff who have a documented decrease in their school district's use of restrictive procedures, and by external providers, to serve as resources for other school districts experiencing high usage of restrictive procedures.

***Goal 3a Update:***

MDE did not receive a legislative appropriation during the 2016 legislative session to assist in the reduction of the emergency use of restrictive procedures.

### **Goal 3b**

MDE will create a cross-agency panel, to include MDE, DHS, other state agencies and experts as appropriate, to ensure children and youth ages 0 to 21 have access to a comprehensive array of services as needed to address their needs. The panel would have the authority to make recommendations and designate funds necessary to facilitate access to services and settings, and have the following responsibilities:

- i) Identify children and youth who have complex educational and mental health needs and who have experienced exceptionally high rates of restrictive procedures, and/or are likely to need a high level of coordinated care across service systems.
- ii) Review service needs for those children and youth for the purpose of evaluating the sufficiency and effectiveness of current services, determining gaps in services, and proposing recommendations to ensure access to effective services in appropriate settings.
- iii) Designate and facilitate access to those services and settings across service systems, including finding existing funding, and if it is not available, funding these services and settings.

### **Goal 3b Update:**

MDE did not receive a legislative appropriation during the 2016 legislative session to assist in the reduction of the emergency use of restrictive procedures.

## **VI. Goals Recommended by the 2016 Restrictive Procedures Stakeholder Group**

The 2016-17 Stakeholder Workgroup focused its work on reviewing data and implementation of the prior statewide plan, which is incorporated into the February 1, 2016, legislative report. All recommendations by the 2016 Stakeholder Workgroup are intended to reduce school districts' use of restrictive procedures and work toward the elimination of seclusion.

### **Goal 1**

By February 1, 2018, MDE will submit a report to the Minnesota Legislature summarizing the state's progress on reducing the use of restrictive procedures, working toward the elimination of seclusion, and identifying disproportionalities related to the use of restrictive procedures.

### **Goal 1a**

The restrictive procedures workgroup will meet in the spring of 2017 to:

- (i) Determine how many additional meetings and subgroup meetings are necessary to allow the workgroup to accomplish the work outlined in the February 1, 2017, legislative report and reach consensus on recommendations for the February 1, 2018, legislative report.
- (ii) Review quarterly seclusion data collected by MDE.

### **Goal 1b**

The restrictive procedures workgroup will meet in the summer of 2017 to:

- (i) Review quarterly seclusion data collected by MDE.

**Goal 1c**

The restrictive procedures workgroup will meet in the fall of 2017 to:

- (i) Review Positive Behavioral Interventions and Supports (PBIS) data collected by MDE.
- (ii) Review restrictive procedures summary data collected by MDE, including data on student and staff injuries and data on disproportionalities.
- (iii) Review quarterly seclusion data collected by MDE.
- (iv) Review the progress of the Staff Development Grants updates.

**Goal 2**

By June 30, 2018, in alignment with the Olmstead Positive Support Goals, school districts will decrease the emergency use of restrictive procedures at schools and increase the use of PBIS and other positive supports so that students are supported in the most integrated educational setting. Schools will continue to work toward the elimination of seclusion and to identify and consider strategies to address disproportionalities related to the use of restrictive procedures.

**Goal 2a**

MDE will continue to maintain updated model forms, including but not limited to restrictive procedure plan forms and reporting forms, in response to any legislative changes under Minnesota Statutes, section 125A.0942.

**Goal 2b**

MDE will continue to offer onsite training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities, including a) requirements that must be met before using restrictive procedures and the standards for use; b) information from and references to the Positive Intervention Strategies Training modules posted on MDE's website; c) successful school district work plan outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraint grants; d) positive behavior supports and PBIS.

The training will be revised to include information from and references to the successful school district outcomes resulting from the receipt of the Staff Development Grants along with any resources gathered by the restrictive procedures workgroup to assist in working toward the elimination of seclusion, and identifying and considering strategies to address disproportionalities related to the use of restrictive procedures.

**Goal 2c**

Based upon a review of the annual summary restrictive procedures data and the quarterly review of the school districts use of seclusion data, MDE will contact school districts with high usage or atypical patterns of restrictive procedures, particularly seclusion, using the Rates per 100 method for identification. MDE will offer to conduct a comprehensive review of the school

district's plans, policies, and procedures for using restrictive procedures, PBIS, and positive supports, and to identify areas and review what is working, what is not working, and concerns from staff and parents. MDE will then facilitate the provision of onsite targeted technical assistance and training to address the identified needs. MDE will also make this review process available to all school districts upon request.

**Goal 2d**

The workgroup will develop a Special Education 101 training for new teachers and teachers on variant licenses to be provided in August 2017 to assist in working toward the elimination of seclusion, and identifying disproportionalities related to the use of restrictive procedures. The stakeholders will determine the most beneficial topics to include based on survey information and presenters available, that will assist new teachers and teachers on variant licenses to understanding the state's goal to reduce the use of restrictive procedures and eliminate the use of seclusion, including but not limited to, resources on PBIS, positive behavior supports, mental health resources, working effectively with school resource officers or police officers, and the standards for using restrictive procedures in emergency situations.

**Goal 2e**

The workgroup will gather, develop and review information to share with school districts to assist in working toward the elimination of seclusion and will help to identify and consider strategies to address disproportionalities related to the use of restrictive procedures. This information will come from other state agencies, other state task forces and workgroups, as well as federal agencies. Additionally, the workgroup will develop information as determined appropriate. MDE will create a Restrictive Procedures Workgroup webpage on its website with a link for the resources. The workgroup will gather and review information to post on this page. This will include reviewing definitions related to student and staff injuries occurring before, during, and after the use of a restrictive procedure.

**Goal 2f**

The workgroup will develop a framework for a teacher exchange program to assist in working toward the elimination of seclusion, and identifying disproportionalities related to the use of restrictive procedures. MDE will create a restrictive procedures workgroup webpage on its website with a link for teachers to use if they wish to participate in a teacher exchange.

**Goal 2g**

The workgroup will develop a standard data presentation template to assist in comparing and reporting the progress in working toward the elimination of seclusion, and identifying and considering strategies to address disproportionalities related to the use of restrictive procedures. The workgroup will review the content of the data collection form related to staff and student injuries.

**Goal 3**

In the event that MDE receives a legislative appropriation targeted to assist in the reduction of the emergency use of restrictive procedures for the FY 2018 and FY 2019 biennium, the funds

will be used to secure additional resources and activities outlined in this report and through the activities listed below.

### **Goal 3a**

During the 2016-17 school year, the workgroup will assist MDE in identifying upcoming superintendent and principal conferences held during the 2018-19 school year. The workgroup will identify professionals who train in the area of trauma-informed practices and secondary trauma. Training will take place during the 2018-19 school year. In addition to administrative trainings, the funds will be used to train general education and special education staff by providing training through the regional low incidence facilitator project (RLIF).

### **Goal 3b**

MDE will develop a process for school districts and/or RLIFs to receive funding to enable them to consult with external providers to assist with developing a more effective program for students who are experiencing the use of restrictive procedures. The experts would include culturally competent professionals and experts based upon student needs. The funding would enable the experts to work with district staff through observation, consultation, and development of effective programming. This funding would assist districts in keeping students in their resident districts and in more integrated settings. RLIFs may apply for additional consultation dollars to be utilized at program sites selected by the RLIF.

## **VII. Recommendations**

### **1. Support Stakeholder-Driven Changes to Statute and Funding Request**

The 2016 stakeholder group does not recommend any amendments to Minnesota Statutes, sections 125A.0941 or 125A.0942.

The 2016 restrictive procedures stakeholder workgroup recommends that \$1.75 million be appropriated to MDE over the FY18 and FY19 biennium.

The requested appropriation will assist school districts and charter schools to build their capacity to effectively develop and consistently implement positive support strategies and interventions so that students with disabilities are provided with a free and appropriate public education in the most integrated setting possible. The trauma-informed practices training is needed, given the primary trauma of many of the students who are experiencing the use of restrictive procedures and the secondary trauma experienced by school staff.

The intended result is that the recommendations, as summarized in the 2016 statewide plan, will move the state forward toward the reduction of all restrictive procedures; specifically, the elimination of seclusion in the school setting. The result will be that students with disabilities will have improved education outcomes, which will include improved graduation rates and better preparation for postsecondary outcomes.

The requested funding will not be used for staffing at MDE, but rather will be distributed to school districts through grants/contracts for needed staff expertise. The funding is needed to ensure that school districts and charter schools have sufficient training and access to experts,

when needed, to substantially reduce the emergency use of restrictive procedures in the school setting. The funding serves two purposes:

- \$1,500,000 to help build staff capacity in the area of positive supports and provide experts as needed to school districts and charter schools to help keep students with disabilities in the most integrated setting.
- \$250,000 to provide professional development for superintendents, school principals, special education administrators, and special education and general education staff on trauma-informed practices. This would cover the cost for the expert presenter, as well as costs associated with staff attendance and travel.

During the past two years, MDE has provided training and technical assistance to school districts for more consistent restrictive procedures reporting. In addition, restrictive procedures stakeholders have also provided training and technical assistance to staff to obtain clarity of definitions. This resulted in more consistent reporting during the 2014-15 and 2015-16 school years. We acknowledge that it is still unclear if we have consistent enough reporting to establish a true baseline. Despite the progress made by MDE and the restrictive procedures stakeholders, we have not yet achieved our goal of substantially reducing the use of restrictive procedures, specifically seclusion, in the school setting.

Many school districts do not have access to a team of experts to help consult with and determine what changes are needed in the student's school environment, to meet a student's sensory, social, behavioral and mental health needs. In reviewing successful district outcomes from the 2015 grants received related to reducing the use of prone restraint, school districts responded that outside consultants helped them make necessary changes to the school environment and curriculum, as well as more focused positive behavior strategies. This resulted in a sharp decrease in the use of prone restraint, and restrictive procedures in general, for those students.

The funding is needed to implement the 2016 restrictive procedures statewide plan and move the state forward in the reduction of all restrictive procedures; specifically, the elimination of seclusion in the school setting, so that students with disabilities will have improved education outcomes.

## APPENDIX B

### Legislative Language or Policy Guidance Currently in Effect in All States Relating Specifically to Seclusion within the School Setting

State	Language
AL <sup>1</sup>	<p>“Seclusion - a procedure that isolates and confines the student in a separate, locked area until he or she is no longer an immediate danger to himself/herself or others.</p> <p>The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1)(vi) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Alabama public schools and educational programs.”</p>
AK <sup>2</sup>	<p>Seclusion is prohibited, unless:</p> <ol style="list-style-type: none"> <li>(1) the student's behavior poses an imminent danger of physical injury to the student or another person;</li> <li>(2) less restrictive interventions would be ineffective to stop the imminent danger to the student or another person;</li> <li>(3) the person continuously monitors the student in face-to-face contact or, if face-to-face contact is unsafe, by continuous direct visual contact with the student;</li> <li>(4) the person has received training in crisis intervention and de-escalation and restraint techniques that has been approved by the department under AS 14.33.127, unless a trained person is not immediately available and the circumstances are rare and present an unavoidable and unforeseen emergency; and</li> <li>(5) the restraint or seclusion is discontinued immediately when the student no longer poses an imminent danger of physical injury to the student or another person or when a less restrictive intervention is effective to stop the danger of physical injury.</li> </ol> <p>Seclusion is defined as:</p>

<sup>1</sup> Ala. Admin. Code r. 290-3-1-.02.

<sup>2</sup> Alaska Stat. § 14.33.125.

State	Language
	<p>“the involuntary confinement of a student alone in a room or area that the student is physically prevented from leaving; "seclusion" does not include a classroom time-out, supervised detention, or suspension from school under AS 14.30.045.”</p>
AZ <sup>3</sup>	<p>A school may permit the use of restraint or seclusion techniques on any pupil if both of the following apply:</p> <ol style="list-style-type: none"> <li>1) The pupil's behavior presents an imminent danger of bodily harm to the pupil or others.</li> <li>2) Less restrictive interventions appear insufficient to mitigate the imminent danger of bodily harm.”</li> </ol> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a pupil alone in a room from which egress is prevented. Seclusion does not include the use of a voluntary behavior management technique, including a timeout location, as part of a pupil's education plan, individual safety plan, behavioral plan or individualized education program that involves the pupil's separation from a larger group for purposes of calming.”</p>
AR <sup>4</sup>	<p>Use of a “time out seclusion room” is permissible, which is “an extension of such techniques as turning a chair away from a group or placing a student in a corner or in the hallway.”</p> <p>Such a room is to be between 4ft square and 6ft square, properly lit, properly ventilated, free of objects and fixtures, continuously monitored, with a door that cannot be locked, and meet fire and safety codes.</p> <p>“Time-out seclusion should be used only for behaviors that are destructive to property, aggressive toward others or severely disruptive to the class environment...[and] should be used only as a last resort if and when less restrictive means of controlling behavior have proven ineffective.”</p>
CA <sup>5</sup>	<p>“Locked seclusion [is prohibited], unless it is in a facility otherwise licensed or permitted by state law to use a locked room.”</p> <p>Seclusion is not further defined.</p>

<sup>3</sup> Ariz. Rev. Stat. § 15-105.

<sup>4</sup> Ark. Code R. §§ 005.18.20 to 20.01, 20.03.

<sup>5</sup> Cal. Educ. Code § 56521.1.

State	Language
CO <sup>6</sup>	<p>Seclusion, included as a type of restraint, is permitted and defined, for most state agencies, including education, as:</p> <p>“the placement of a person alone in a room from which egress is involuntarily prevented.”</p> <p>“Subject to the provisions of this article, an agency may only use restraint:</p> <ul style="list-style-type: none"> <li>(a) In cases of emergency; and</li> <li>(b) (I) After the failure of less restrictive alternatives; or (II) After a determination that such alternatives would be inappropriate or ineffective under the circumstances.”</li> </ul> <p>“(1) Restraints shall only be used:</p> <ul style="list-style-type: none"> <li>(a) In an emergency and with extreme caution; and</li> <li>(b) After <ul style="list-style-type: none"> <li>(i) The failure of less restrictive alternatives (such as Positive Behavior Supports, constructive and non-physical de-escalation, and re-structuring the environment); or</li> <li>(ii) A determination that such alternatives would be inappropriate or ineffective under the circumstances.</li> </ul> </li> </ul> <p>(2) Restraints must never be used as a punitive form of discipline or as a threat to control or gain compliance of a student’s behavior.</p> <p>(3) School personnel shall:</p> <ul style="list-style-type: none"> <li>(a) Use restraints only for the period of time necessary and using no more force than is necessary; and</li> <li>(b) Prioritize the prevention of harm to the student.”</li> </ul>
CT <sup>7</sup>	<p>“No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student in a room, whether alone or with supervision, in a manner that prevents the student from leaving. . . .”</p> <p>As further described in guidance:</p> <p>“seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. Seclusion does not include (1) time outs in the back of the classroom or in the</p>

<sup>6</sup> Colo. Rev. Stat. §§ 26-20-102, 26-20-103; 1 CCR 301-45:2620-R-2.01.

<sup>7</sup> Conn. Gen. Stat. § 10-236b; Guidance Related to Recent Legislation Regarding Restraint and Seclusion in Schools (July 1, 2015).

State	Language
	hallway, meant to give the student a minute to pull themselves together (where a student is not prevented from leaving) or (2) in-school suspensions.”
DE <sup>8</sup>	<p>Seclusion is prohibited, except by waiver from the state department of education:</p> <p>“for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving. In a public school, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. Seclusion does not include (1) time outs in the back of the classroom or in the hallway, meant to give the student a minute to pull themselves together (where a student is not prevented from leaving) or (2) in-school suspensions.”</p> <p>“No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative...”</p>
DC <sup>9</sup>	<p>“Seclusion. Individual is placed in a location where he or she is alone, and where he or she is physically prevented from leaving that environment.”</p> <p>”Seclusion is appropriate only when a student is displaying physical behavior that presents imminent risk of injury to the student or others [,] should only be employed as a last resort after other methods of de-escalating a dangerous situation have been attempted without success[,], should only be employed as long as the threat of imminent injury is present and should be discontinued when the student is no longer a threat to others.”</p> <p>“The use of a mechanical locked door is prohibited. The staff member can hold a door closed. When the staff member is not holding the door closed it will automatically release.”</p>

<sup>8</sup> Del. Code Ann. tit. 14, § 4112F.

<sup>9</sup> D.C. Pub. Sch., Guidelines for Physical Restraint and Seclusion (Aug. 2011).

State	Language
FL <sup>10</sup>	“Seclusion.—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.”
GA <sup>11</sup>	“Seclusion - a procedure that isolates and confines the student in a separate area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion may also be referred to as monitored seclusion, seclusion timeout, or isolated timeout. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1)(g) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. <b>Use of seclusion is prohibited in Georgia public schools and educational programs.</b> ”
HI <sup>12</sup>	<p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room or structure from which the student is physically denied voluntary egress.”</p> <p>“The use of seclusion, chemical restraint, or mechanical restraint shall be prohibited in public schools regardless of any consent of the student, parents, or guardians.”</p>
ID <sup>13</sup>	No laws or guidance on seclusion.
IL <sup>14</sup>	<p>“Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment.”</p> <p>Isolated time out is defined as:</p>

<sup>10</sup> Fla. Stat. § 1003.573.

<sup>11</sup> Ga. Comp. R. & Regs. 160-5-1-.35.

<sup>12</sup> Haw. Rev. Stat. §§ 302A-1141.3 to 302A.1141.4.

<sup>13</sup> Task force established in Aug. 2010 with proposed rules (IDAPA 08.02.03.160-161) however no action was taken.

<sup>14</sup> Ill. Admin. Code tit. 23, § 1.285.

State	Language
	<p>“the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted.”</p> <p>“A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.”</p>
IN <sup>15</sup>	<p>Enabling legislation for required rulemaking:</p> <p>“(E) A statement ensuring that if a procedure listed in clause (B) [which includes seclusion] is used, the procedure will be used:</p> <p>as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and</p> <p>in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.</p> <p>(F) An indication that restraint or seclusion may be used only for a short time period, or until the imminent risk of injury has passed.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room or area from which the student physically is prevented from leaving. The term does not include a supervised time-out or scheduled break, as described in a student’s individualized education program, in which an adult is continuously present in the room with the student.”</p> <p>“Every effort shall be made to prevent the need for the use of restraint or for the use of seclusion on a student.</p> <p>(b) Seclusion or physical restraint shall not be used except when used as a last resort in situations where:</p> <p>(1) the student's behavior poses imminent risk of injury to self or others; and</p> <p>(2) other less restrictive interventions are ineffective.</p> <p>(c) Any use of seclusion or restraint:</p> <p>(1) may only be used for a short period of time; and</p> <p>(2) shall be discontinued as soon as the imminent risk of injury to self or others has dissipated.”</p>

<sup>15</sup> Ind. Code. § 20-20-40-9; 513 Ind. Admin. Code 1-2-4, 1-2-19.

State	Language
IA <sup>16</sup>	<p>[P]hysical confinement and detention shall not be used as discipline for minor infractions and may be used only after other disciplinary techniques have been attempted, if reasonable under the circumstances. . . .”</p> <p>Physical confinement and detention is defined as:</p> <p>“the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student’s egress is restricted.”</p>
KS <sup>17</sup>	<p>“Emergency safety interventions [which include seclusion] shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety interventions. The use of emergency safety interventions shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.”</p> <p>“A student shall not be subjected to seclusion if the student is known to have a medical condition that could put the student in mental or physical danger as a result of seclusion. The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file.”</p> <p>Seclusion is permitted and defined as:</p> <p>“placement of a student in a location where all the following conditions are met:</p> <p>The student is placed in an enclosed area by school personnel;</p> <p>the student is purposefully isolated from adults and peers; and</p> <p>the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.”</p>
KY <sup>18</sup>	<p>“Seclusion shall not be used in a public school or educational program:</p>

<sup>16</sup> Iowa Admin. Code r. 281-103.6 to 281-103.7.

<sup>17</sup>Kan. Stat. Ann. §§ 72-89d02 to 72-89d03.

<sup>18</sup> 704 Ky. Admin. Regs. 7:160.

State	Language
	<p>As punishment or discipline;</p> <p>To force compliance or to retaliate;</p> <p>As a substitute for appropriate educational or behavioral support;</p> <p>To prevent property damage in the absence of imminent danger of physical harm to self or others;</p> <p>As a routine school safety measure;</p> <p>As a convenience for staff; or</p> <p>As a substitute for timeout.”</p> <p>“Seclusion may only be implemented in a public school or educational program if:</p> <p>The student’s behavior poses an imminent danger of physical harm to self or others;</p> <p>The student is visually monitored for the duration of the seclusion;</p> <p>Less restrictive interventions have been ineffective in stopping the imminent danger of physical harm to self or others; and</p> <p>School personnel implementing the seclusion are appropriately trained to use seclusion.</p> <p>“The use of seclusion shall end as soon as:</p> <p>The student’s behavior no longer poses an imminent danger of physical harm to self or others; or</p> <p>A medical condition occurs putting the student at risk of harm.” Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions.”</p>
LA19	<p>“Seclusion shall be used only:</p> <p>For behaviors that involve an imminent risk of harm.</p> <p>As a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.”</p>

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<sup>19</sup>La. Rev. Stat. Ann. § 17:416.21.

State	Language
	<p>“Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.”</p> <p>“A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.”</p> <p>“Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.”</p> <p>Seclusion is defined as:</p> <p>“a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.”</p>
ME <sup>20</sup>	<p>“Seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.”</p> <p>“The staff involved in the use of seclusion shall continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the seclusion must be discontinued as soon as possible.”</p> <p>“Seclusion may not be used for punitive purposes, staff convenience or to control challenging behavior[,] to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm[,] as a therapeutic or educational intervention[, or] take place in a locked room.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.”</p>
MD <sup>21</sup>	<p>Seclusion is prohibited unless:</p> <p>“(a) There is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;</p>

<sup>20</sup> 05-071-33 Me. Code R. § 2.

<sup>21</sup> Md. Code Regs. 13A.08.04.02, 13A.08.04.05.

State	Language
	<p>The student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used; or</p> <p>The parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room from which the student is physically prevented from leaving.”</p>
MA <sup>22</sup>	<p>“Mechanical restraint, medication restraint, and seclusion shall be prohibited in public education programs.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a time-out as defined in 603 CMR 46.02.”</p> <p>Time-out is defined as:</p> <p>“a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.”</p>
MI <sup>23</sup>	<p>“An emergency seclusion may not be used in place of appropriate less restrictive interventions.”</p> <p>“Seclusion shall not be used: for the convenience of staff[,] as a substitute for an educational program[,] as a form of discipline/punishment[,] as a substitute for less restrictive alternatives[,] as a substitute for adequate staffing[,] or as a substitute for staff training in positive behavior supports and crisis prevention and intervention.”</p> <p>“Seclusion is inappropriate for students who are severely self-injurious or suicidal.”</p> <p>Seclusion is defined as:</p>

<sup>22</sup> 603 Mass. Code Regs. 46.02-46.03.

<sup>23</sup> Mich. Dep’t of Educ., Supporting Student Behavior: Standards for the Emergency Use of Seclusion and Restraint, 18 (Dec. 2006).

State	Language
	<p>“the confinement of a student in a room or other space from which the student is physically prevented from leaving and which provides for continuous adult observation of the student. A room or area used for seclusion: must not be locked[,] must not prevent the student from exiting the area should staff become incapacitated or leave that area[,] and must provide for adequate space, lighting, ventilation, viewing, and the safety of the student.”</p>
MN <sup>24</sup>	<p>“[S]eclusion may be used only in an emergency. A school that uses . . . seclusion shall meet the following requirements:</p> <p>. . . seclusion is the least intrusive intervention that effectively responds to the emergency;</p> <p>. . . seclusion is not used to discipline a noncompliant child;</p> <p>. . . seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity. . . .”</p> <p>Seclusion is defined as:</p> <p>“confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.”</p>
MS <sup>25</sup>	<p>“School personnel may use seclusion to address a student’s behavior:</p> <p>If the student’s behavior unreasonably interferes with the student’s learning or the learning of others;</p> <p>If the student’s behavior constitutes an emergency and seclusion is necessary to protect a student or other person from imminent, serious physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;</p> <p>After less restrictive or alternative approaches have failed or have been determined to be inappropriate.”</p> <p>“Under no circumstances shall restraint or seclusion be utilized as a punitive measure.”</p>

<sup>24</sup> Minn. Stat. §§ 125A.094-125A.0942

<sup>25</sup> Miss. Dep’t of Educ., 4013 Restraint and Seclusion Policy.

State	Language
	<p>“The room used for seclusion may not be locked and staff must be present to monitor the student’s safety and to know when the student has regained control of their behavior.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student in an enclosure from which the student’s egress is restricted.’ Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques is physically present in the same unlocked room as the student, in-school suspension, detention, or alternative school.”</p>
MO <sup>26</sup>	<p>“The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.”</p> <p>“The policy shall include but not be limited to: (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district. . . .”</p> <p>The model policy defines seclusion as prohibited by statute, but permits isolation in what “should be a normal-sized meeting or classroom commonly found in a school setting.”</p>
MT <sup>27</sup>	<p>“Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.”</p> <p>Isolation time-out, as an aversive treatment procedure, is permitted and is defined as meeting the following conditions:</p> <ul style="list-style-type: none"> <li>the student is alone in the isolation room during the period of isolation;</li> <li>the student is prevented from exiting the isolation room during the period of isolation;</li> <li>the door to the isolation room remains closed during the period of isolation; and</li> <li>the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.</li> </ul>

<sup>26</sup> Mo. Rev. Stat. § 160.263; Mo. Dep’t of Elem. and Sec. Educ., Model Policy on Seclusion and Restraint, 2 (July 2010).

<sup>27</sup> Mont. Admin. R. 10.16.3346; Mont. Off. of Pub. Instr., Special Education in Montana, 102 (June 2015).

State	Language
	<p>“[I]solation in a locked room or mechanical restraint [is prohibited], except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law. . . .”</p> <p>Guidance states: “The use of a locking system that does not require the presence of staff to keep the door from opening is considered a locked room. Any system used to prevent exit from the isolation time-out room must allow the door to be opened if a staff person is not actively engaging the system.”</p>
NE <sup>28</sup>	<p>The Nebraska Department of Education includes among its quality indicators for school environment, the following tenet: “Each school system has a seclusion and restraints policy approved by the school board or local governing body.”</p> <p>At this time Nebraska does not have any statutes, regulations, or state policies regarding restraint or seclusion but schools are required to have school safety and security committees in charge of developing safety and security plans for each school in order to be accredited. Procedures related to these procedures “could be interpreted as coming under the scope of Nebraska’s school safety policies.”</p> <p>“Seclusion - Seclusion occurs when a person is placed in a location where he or she is alone, and prevented physically from leaving that environment. It is the act of physically confining a person alone in a room or limited space, or with an adult who is there to prevent the person from leaving. Seclusion should be distinguished from other forms of time out that do not entail isolation and restricted egress (see definitions and discussion later in this document).”</p>
NV <sup>29</sup>	<p>“A person employed by the board of trustees of a school district or any other person shall not use any aversive intervention on a pupil with a disability.”</p> <p>“Aversive intervention” means any of the following actions if the action is used to punish a pupil with a disability or to eliminate, reduce or discourage maladaptive behavior of a pupil with a disability....” Actions included in the list of aversive interventions include “[t]he placement of a person alone in a room where release from the room is prohibited by a mechanism, including, without limitation, a lock, device or object positioned to hold the door closed or otherwise prevent the person from leaving the room...”</p>

<sup>28</sup> 92 Neb. Admin. Code § 10-011.01E; Neb, Dep’t of Educ., Developing School Policies & Procedures for Physical Restraint and Seclusion in Nebraska Schools, (June 2010).

<sup>29</sup> Nev. Rev. Stat. §§ 388.473, 388.497-

State	Language
NH <sup>30</sup>	<p>“Each facility and school shall have a written policy and procedures for managing the behavior of children. Such policy shall describe how and under what circumstances seclusion ...is used and shall be provided to the parent, guardian, or legal representative of each child at such facility or school.”</p> <p>“Limitation on the Use of Seclusion. –</p> <p>Seclusion may not be used as a form of punishment or discipline. It may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or to others, and may only continue until that danger has dissipated.</p> <p>Seclusion shall only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.</p> <p>Seclusion shall not be used in a manner that that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.”</p>
NJ <sup>31</sup>	<p>No law on seclusion. “The New Jersey Department of Education, Office of Special Education, endorses the use of [the United States Department of Education, Office of Special Education and Rehabilitative Services (USDE OSERS) May 15, 2012, Guidance Document] when developing Individual Education Programs (IEPs) which address the behavioral needs of students with disabilities.”</p>

<sup>30</sup> N.H. Rev. Stat. Ann. §§ 126-U:1 to126-U:14.

<sup>31</sup> N.J. Dep’t of Educ., NJOSE Guidance Memo 2012-5 (Sept. 18, 2012). During the 217<sup>th</sup> Legislature, the New Jersey Senate introduced a bill addressing the use of seclusion. N.J. Senate, No. S2266.

State	Language
NM <sup>32</sup>	No laws on seclusion in school settings, although the State of New Mexico Department of Education provides guidance on use of time out rooms, which includes descriptions of isolation.
NY <sup>33</sup>	<p>“Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.”</p> <p>A time out room is defined as:</p> <p>“an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program.”</p> <p>“The school's policy and procedures shall minimally include: (i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised; (ii) factors which may precipitate the use of the time out room; (iii) time limitations for the use of the time out room. . . .”</p> <p>“The use of locked rooms or spaces for purposes of time out is prohibited.”</p>
NC <sup>34</sup>	<p>“Seclusion of students by school personnel may be used in the following circumstances:</p> <p>As reasonably needed to respond to a person in control of a weapon or other dangerous object.</p> <p>As reasonably needed to maintain order or prevent or break up a fight.</p> <p>As reasonably needed for self-defense.</p> <p>As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.</p> <p>When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan. . . .”</p> <p>Seclusion is defined as:</p>

<sup>32</sup> N.M. Dep’t of Educ., Policy of Use of Time-Out Rooms as a Behavioral Intervention, (Aug. 7, 2003); N.M. Leg. Educ. Study Comm., Bill Analysis of CS/SB 283 (Mar. 17, 2015). A bill was introduced during the 2015 legislative session, action on which was indefinitely postponed.

<sup>33</sup> N.Y. Comp. Codes R. & Regs., tit. 8, § 200.22(c).

<sup>34</sup> N.C. Gen. Stat. § 115C-391.1.

State	Language
	<p>“the confinement of a student alone in an enclosed space from which the student is: Physically prevented from leaving by locking hardware or other means. Not capable of leaving due to physical or intellectual incapacity.”</p>
ND <sup>35</sup>	<p>No laws or guidance on seclusion in school settings, although a study has been commissioned.</p>
OH <sup>36</sup>	<p>“The following practices are prohibited by school personnel under any circumstance: [s] Seclusion in a locked room or area.”</p> <p>“Seclusion may be used only</p> <p>If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective intervention is available;</p> <p>As a last resort to provide an opportunity for the student to regain control of his or her actions;</p> <p>For the minimum amount of time necessary for the purpose of protecting the student and others from physical harm. . . .”</p> <p>Seclusion is defined as:</p> <p>“the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.”</p>
OK <sup>37</sup>	<p>Proposed guidelines for use of seclusion state: “Seclusion shall not be used for the purposes of discipline or as a punishment, to force compliance, or as a convenience for staff. Seclusion should not be used to manage behavior. Seclusion should only be used under the following emergency circumstances and if these elements exist: A student’s actions pose an imminent risk of harm to him/herself or others [and p]ositive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student and specified in the student’s IEP or BIP, are currently being implemented but are not currently de-escalating the risk of injury. . . .”</p>

<sup>35</sup> N.D. Leg. Coun., Use of Restraint and Seclusion Procedures in Schools (Sept. 2015).

<sup>36</sup> Ohio Admin. Code 3301-35-15.

<sup>37</sup> Okla. Dep’t of Educ., Introduction to Minimizing the Use of Seclusion and Physical Restraint (Jan. 2009).

State	Language
	<p>Seclusion is defined in guidance as:</p> <p>“involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. This includes situations where a door is locked as well as where the door is blocked by other objects or held by staff. Any time a student is involuntarily alone in a room and prevented from leaving should be considered seclusion regardless of the intended purpose or the name applied to this procedure or the name of the place where the student is secluded.”</p>
OR <sup>38</sup>	<p>“The use of . . . seclusion on a student in a public education program in this state is prohibited unless used as provided in ORS 339.291, which includes the following:</p> <p>[S]eclusion may be used on a student in a public education program only if:</p> <p>The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and,</p> <p>Less restrictive interventions would not be effective.</p> <p>[S]eclusion may not be used for discipline, punishment or convenience of personnel of the public education program.</p> <p>If . . . seclusion is used on a student, the . . . seclusion must be:</p> <p>Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others. . . .”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. ‘Seclusion’ does not include: (a) The removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.”</p>
PA <sup>39</sup>	<p>“The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:</p> <p>(3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit...”</p>

<sup>38</sup> Or. Admin. R. 581-021-0550 to 581-021-0553.

<sup>39</sup> 22 Pa. Code § 14.133.

State	Language
	<p>Unlocked seclusion is not directly addressed, though may fall within the scope of the broader definition of an “aversive procedure” which is defined as “activities designed to establish a negative association with a specific behavior.”</p>
RI <sup>40</sup>	<p>“Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of ‘time out’ procedures during which a staff member remains accessible to the student shall not be considered “seclusion restraint.” The use of seclusion restraint is prohibited in public education programs.”</p> <p>Seclusion is defined as:</p> <p>“placing a child alone in a locked room without supervision. Such action is strictly prohibited in Rhode Island.”</p>
SC <sup>41</sup>	<p>“Since South Carolina law does not currently ban the use of seclusion in the public school, it is the purpose of these guidelines not only to strongly discourage the practice, but to restrict its use to extraordinary circumstances. If LEAs abide by the following guidelines, the perceived need to use seclusion in school settings should greatly diminish. The guidelines are as follows:</p> <p>Seclusion should only be used for the management of behavior when the student poses a threat of imminent, serious, physical harm to self and/or others, and the student has the ability to cause such harm.</p> <p>Seclusion should never be used as punishment, to force compliance, or as a substitute for appropriate educational support.</p> <p>Seclusion should only be used to control behavior when less restrictive measures have not effectively de-escalated the risk of injury.</p> <p>Seclusion should never be used as a response to verbal threats and profanity that do not rise to the level of physical harm unless that student demonstrates a means of carrying out the threats.</p> <p>Use of a locked door on a seclusion room is prohibited. . . .</p> <p>Seclusion should last only as long as necessary to resolve the actual risk of harm.”</p> <p>Seclusion is defined in guidance as:</p>

<sup>40</sup> R.I. Bd. of Regents for Elem. and Sec. Educ., Physical Restraint Regulations, 3.20, 3.24 (January 24, 2006) (ERLID #3826).

<sup>41</sup> S.C. Dep’t of Educ., Guidelines on the Use of Seclusion and Restraint (Aug. 20, 2012).

State	Language
	“the involuntary confinement of a student alone in a room or area where the student is prevented from leaving.”
SD <sup>42</sup>	No laws or guidance on seclusion. Proposed rules on emergency safety intervention were withdrawn and a public hearing cancelled because of concerns raised by the South Dakota Legislative Research Counsel regarding rulemaking authority and the volume of public comments received. The South Dakota Department of Education intends to gather additional feedback and comments and potentially address the issue through legislation in 2017.
TN <sup>43</sup>	<p>“The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.”</p> <p>“Any space used as an isolation room shall be: [u]nlocked and incapable of being locked. . . .”</p> <p>“A student receiving special education services . . . may be restrained or isolated only in emergency situations.”</p> <p>“Emergency situation’ means that a child’s behavior poses a threat to the physical safety of the student or others nearby...”</p> <p>Isolation or seclusion is defined as</p> <p>“(A) ...the confinement of a student alone in a room with or without a door, or other enclosed area or structure pursuant to § 49-10-1305(g) where the student is physically prevented from leaving; and</p> <p>(B) Does not include time-out, a behavior management procedure in which the opportunity for positive reinforcement is withheld, contingent upon the demonstration of undesired behavior; provided, that time-out may involve the voluntary separation of an individual student from others...”</p>
TX <sup>44</sup>	“A student with a disability who receives special education services . . . may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.”

<sup>42</sup> South Dakota Board of Education Agenda, Emergency Safety Intervention Rules Update (March 14, 2016).

<sup>43</sup> Tenn. Code Ann. §§ 49-10-1303 to 49-10-1305.

<sup>44</sup> Tex. Educ. Code § 37.0021; 19 Tex. Admin. Code § 89.1053(g).

State	Language
	<p>“A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion.” Seclusion is defined as:</p> <p>“a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:</p> <p>is designed solely to seclude a person; and</p> <p>contains less than 50 square feet of space.”</p> <p>“This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:</p> <p>(1) the student possesses a weapon; and</p> <p>(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.”</p> <p>Time-out means:</p> <p>“a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:</p> <p>(A) that is not locked; and</p> <p>(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.”</p> <p>Regarding use of time-out, the Texas Rules provide:</p> <p>“Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations:</p> <p>(1) Physical force or threat of physical force must not be used to place a student in time-out.</p> <p>(2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.</p> <p>(3) Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.”</p>

State	Language
UT <sup>45</sup>	<p>“The plan . . . shall include: policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of: (f) subject to the requirements of R277-609, seclusionary time out, except when a student presents an immediate danger of serious physical harm to self or others.”</p> <p>“‘Immediate danger’ means the imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm.”</p> <p>“If a public education employee uses seclusionary time out, the public education employee shall:</p> <ul style="list-style-type: none"> <li>use the minimum time necessary to ensure safety;</li> <li>use a release criteria (as outlined in LEA policies);</li> <li>ensure that any door remains unlocked; and</li> <li>maintain the student within line of sight of the public education employee.”</li> </ul> <p>“ ‘ Seclusionary time out’ means that a student is:</p> <ul style="list-style-type: none"> <li>placed in a safe enclosed area:</li> <li>by school personnel; and</li> <li>in accordance with the requirements of R392-200 and R710-4-3;</li> <li>purposefully isolated from adults and peers; and</li> <li>prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.”</li> </ul>
VT <sup>46</sup>	<p>“[S]eclusion shall not be used:</p> <ul style="list-style-type: none"> <li>For convenience of staff;</li> <li>As a substitute for an educational program;</li> <li>As a form of discipline or punishment;</li> <li>As a substitute for inadequate staffing or training;</li> <li>In response to a student's use of profanity or other verbal or gestural display of disrespect; or</li> </ul>

<sup>45</sup> Utah Admin. Code r. 277-609.

<sup>46</sup>22-000-036 Vt. Code R. §§ 4500.3, 4501.2, 4502.2,

State	Language
	<p>In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.”</p> <p>“Seclusion, not otherwise prohibited by these rules, may be used only:</p> <p>When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;</p> <p>When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury;</p> <p>As a temporary intervention;</p> <p>When physical restraint is contraindicated;</p> <p>When there is no known developmental, medical, psychological or other contraindication to its use;</p> <p>When the student is visually monitored at all times by an adult; and</p> <p>In a space large enough to permit safe movement that is adequately lit, heated, ventilated, free of sharp or otherwise dangerous objects; and in compliance with all fire and safety codes.”</p> <p>“In rare circumstances where the use of . . . seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, . . . seclusion may be included in an individual safety plan [subject to certain conditions.]”</p> <p>“Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision.”</p>
VA <sup>47</sup>	<p>No laws for public school settings. Virginia recently enacted a statute requiring the development of regulations on the use of seclusion in public elementary and secondary schools in Virginia.</p>
WA <sup>48</sup>	<p>“An individualized education program or plan developed under section 504 of the rehabilitation act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student's individual needs require more</p>

<sup>47</sup> See, Va. Code. Ann. § 22.1-279.1:1 (2015) (requiring the Board of Education to adopt regulations on the use of seclusion in public elementary and secondary schools).

<sup>48</sup> Wash. Rev. Code §§ 28A.600.485, [70.96B.010](#).

State	Language
	<p>specific advanced educational planning and the student's parent or guardian agrees.”</p> <p>“[I]solation of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm as defined in RCW 70.96B.010. Restraint or isolation must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated. Each school district shall adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances. . . .”</p> <p>“Likelihood of serious harm’ means:</p> <p>(a) A substantial risk that:</p> <p>(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;</p> <p>(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or</p> <p>(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or</p> <p>(b) The person has threatened the physical safety of another and has a history of one or more violent acts.”</p> <p>Isolation is defined as:</p> <p>“restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.”</p>
WV <sup>49</sup>	<p>The West Virginia Board of Education policy indicates that the statutory prohibition on corporal punishment includes “seclusion - a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior.”</p>

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<sup>49</sup> W.V. Code R. § 126-99-3 (Policy 4373).

State	Language
WI <sup>50</sup>	<p>“A covered individual may use seclusion on a pupil at school only if all of the following apply:</p> <p>The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.</p> <p>A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.</p> <p>The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.</p> <p>The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.</p> <p>The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.</p> <p>No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving.”</p> <p>“Construction. Nothing in this section prohibits a covered individual from doing any of the following at school if the pupil is not confined to an area from which he or she is physically prevented from leaving:</p> <p>(a) Directing a pupil who is disruptive to temporarily separate himself or herself from the general activity in the classroom to allow the pupil to regain behavioral control and the covered individual to maintain or regain classroom order.</p> <p>(b) Directing a pupil to temporarily remain in the classroom to complete tasks while other pupils participate in activities outside the classroom.”</p>
WY <sup>51</sup>	<p>“Each student has a right to be free from seclusion and restraint used as a means of coercion, punishment, convenience, or retaliation. Seclusion and restraint are not instructional tools for the development of prosocial behavior.”</p>

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<sup>50</sup> Wis. Stat. § 118.305.

<sup>51</sup> Wyo. Educ. R., ch. 42 §§ 1-8.

State	Language
	<p>“‘Locked Seclusion’ means a seclusion room with a locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact, which upon release immediately permits the door to be opened from the inside.”</p> <p>“‘Seclusion’ means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. There are two distinct categories: i) Seclusion from the Learning Environment, and ii) Isolation Room. The term does not include a student requested break or in-school-suspension, detention or other appropriate disciplinary measure.”</p> <p>“An Isolation Room may be used in a bona fide emergency.”</p> <p>“‘Emergency’ means a situation constituting an imminent risk to health or safety.”</p> <p>“‘Imminent Risk’ means an immediate and impending threat of a person causing substantial physical injury to self or others.” Seclusion from the learning environment and an isolation room are permissible, whereas locked seclusion is prohibited.</p>

## **Appendix C**

[Restraint and Seclusion Resource Document, U.S. Department of Education.](#)

## **Appendix D**

[Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities, U.S. Department of Education](#)