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A Report on Districts' Progress in Reducing the Use of Restrictive Procedures in Minnesota Schools

Fiscal Year 2014

Report

To the

Legislature

As required by

Minnesota Statutes,

section 125A.0942

COMMISSIONER:

Brenda Cassellius, Ed. D.

A Report on Districts' Progress in Reducing the Use of Restrictive Procedures in Minnesota Schools

February 28, 2014

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FY14

Report to the Legislature

As required by

Minnesota

Statutes

section 125A.042

Cost of Report Preparation

The total cost for the Minnesota Department of Education (MDE) to prepare this report was approximately $24,000. 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 Statutes 2011, 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

The Minnesota Legislature 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."[1] MDE has submitted to the Legislature reports in 2012 and 2013 providing summary data of prone restraint and restrictive procedures along with its progress and recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraints.

We commend the reporting school districts for their commitment and candor in their submission of the required data to MDE. For the 2012-13 school year, MDE received responses from all but one traditional school district and five charter schools. Data collected for the 2012 and 2013 legislative reports was submitted in varying forms by districts until statutory changes required that districts/charter schools use a form developed by MDE. Thus, data collected and reported after July 1, 2012, represents a consistent reporting format.

2012-2013 Stakeholder Work Group

MDE convened a restrictive procedures work group (2012 stakeholder group) during the 2012-13 school year as charged by the Minnesota Legislature. The stakeholder group included representatives from the following legislatively mandated participants: school districts, school boards, special education directors, intermediate school districts, and advocacy organizations. The stakeholder group met on five occasions between September 2012 and January 2013 to review restrictive procedures data and discuss areas of agreement about how to reduce the use of restrictive procedures.

The statewide plan generated by the 2012 stakeholder group is set forth in the 2013 report available on MDE's website.[2] The group recommended 10 activities in the statewide plan and also recommended legislative changes to the restrictive procedure statutes. During the 2013 legislative session, most of the recommended changes, including extending the date for use of prone restraints to August 1, 2015, were passed by the Legislature. However, the Legislature did not authorize the requested appropriation funds targeted for use with students experiencing the highest frequency of restrictive procedures, specifically prone restraints. "Prone restraint" means placing a child in a face down position.[3] As set forth in Appendix A of this report, the current stakeholder group agrees that funds are still needed to provide intensive services to students undergoing a high use of restrictive procedures, specifically prone restraints.

Summary of Progress toward Implementing the Statewide Plan

During the 2013 legislative session, safe school levy funds were increased effective fiscal year 2015, and language was added to the levy fund statute to allow its use for co-locating and collaborating with mental health professionals who are not staff or contracted as staff. In

[1] Minn. Stat. § 125A.0942, Subd. 3(b) (2013).
[2] See 2013 "The Use of Prone Restraint in Minnesota Schools," *available at* http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html.
[3] Minn. Stat. § 125A.0941(e).

addition, the 2013 Omnibus Health and Human Services bill expanded the school-linked mental health grants program by $4.5 million for the 2014 and 2015 biennium.

During the 2013-14 school year, MDE provided training throughout the state on the changes to the restrictive procedures statutes and updated the sample forms on the MDE website. MDE also continues to work across the agency to develop a process for and to provide targeted technical assistance. In addition, MDE conducted a survey of school districts and continues to meet with the Department of Human Services (DHS) to assist in the development of an expert list. The list will be posted on MDE's website prior to the beginning of the 2014-15 school year. Further, MDE has continued to coordinate the school-wide positive behavior interventions and supports (PBIS) trainings across the state.

2013-2014 Stakeholder Work Group

MDE reconvened the restrictive procedure work group (2013 stakeholder group) during the 2013-14 school year as charged by the Legislature. This group was tasked with developing a statewide plan with "specific and measurable implementation and outcome goals for reducing the use of restrictive procedures..."[4] The 2013 stakeholder group included representation from the following legislatively mandated participants; advocacy organizations, special education directors, teachers, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts.[5]

The 2013 stakeholder group met on four occasions between November 2013 and February 2014 to review the restrictive procedures data and discuss areas of agreement about how to reduce the use of restrictive procedures. The statewide plan that was generated by this stakeholder group contains eight goals and proposed amendments to Minnesota Statutes section 125A.0942.[6] The current statewide plan reflects the consensus among the 2013 stakeholder group. The group believes there is a need to continue to meet on a quarterly basis to review prone restraint data, review the annual data for restrictive procedures, review progress in implementing the goals, and discuss any needed changes.

HISTORY OF RESTRAINT IN MINNESOTA

There is an ongoing debate in Minnesota about the legality, morality, and efficacy of using seclusion[7] or restraint on individuals with disabilities. Some are concerned that these procedures are subject to misapplication and abuse, placing students at equal or greater risk than their problem behavior(s) pose to themselves or others.[8]

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[4] Minn. Stat. § 125A.0942, Subd. 3(b).
[5] *Id.*
[6] See Appendix A.
[7] Minnesota's restrictive procedures statute defines "seclusion" as "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." Minn. Stat. § 125A.0941(g) (2013).
[8] U.S. Senate, Health, Education, Labor, and Pensions Committee, *Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficulty to Remedy: A Review of Ten Cases* (Majority Staff Report, issued February 12, 2014), Majority Committee Staff Report. Retrieved from

On February 1, 2012, MDE submitted a report to the Minnesota Legislature detailing the results of data on the use of prone restraint from August 1, 2011 through January 13, 2012.[9] MDE made important disclaimers about the quality of the data presented, which included the short reporting window, the lack of information about the use of other non/prone physical holding and seclusion, and inconsistency in reporting forms, with recommendations for improvements both in data reporting and in clarification regarding the use of restrictive procedures.

During the 2012 legislative session, Minnesota Statutes, sections 125A.0941 and 125A.0942, were amended to include a definition of prone restraint[10] and a revised definition of physical holding.[11] The statute limits the use of prone restraint to "children age five or older," but allows its use until August 1, 2013,[12] and requires districts to report the use of prone restraint on an MDE form.[13] Additionally, the Minnesota Legislature tasked MDE with developing a statewide plan "to reduce districts' use of restrictive procedures."[14] As noted above, MDE continued to collect data on prone restraint, gathered restrictive procedure summary data from the districts for the 2011-12 school year, and assembled a group of stakeholders to assist MDE with developing a statewide plan.[15]

In February 2013, MDE submitted a report to the Minnesota Legislature that detailed the results of data collected on the use of prone restraint from January 14, 2012 through December 31, 2012. The report provided summary data on the use of all reported restrictive procedures in Minnesota during the 2011-12 school year and also provided MDE's progress and recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraints.

Regulation of Restraint in DHS Facilities

In 2011, DHS entered into a settlement agreement enforced by the federal court in Minnesota regarding the inappropriate use of aversive and deprivation procedures, including the improper use of seclusion and restraint techniques. As part of the 2011 "METO Settlement",[16] DHS is currently undertaking a rulemaking process to amend Minnesota Rules, Parts 9525.2700 to 9525.2810 (commonly referred to as "Rule 40"), to reflect best practices regarding the use of aversive and deprivation procedures in facilities that serve persons with developmental disabilities, including through the use of positive behavioral approaches and the elimination of particular restraint practices. DHS will hold several public forums this summer to get feedback on the draft rule. A proposed rule will be published by the end of December 2014 and a final rule will be adopted by August 2015. For further information related to the rule making process,

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http://www.help.senate.gov/imo/media/doc/Seclusion%20and%20Restraints%20Final%20Report.pdf (last visited Feb. 19, 2014).

[9] For information related to the history of restraint in the educational setting prior to 2012, see 2012 and 2013 Legislative Reports, "The Use of Prone Restraint in Minnesota Schools," *available at* http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html.

[10] Minn. Stat. § 125A.0941(e) (2012).

[11] Minn. Stat. § 125A.0941(c) (2012).

[12] Minn. Stat. § 125A.0942, Subd. 3(7) (2012).

[13] Minn. Stat. § 125A.0942, Subd. 3(a)(7)(iv). (2012)

[14] Minn. Stat. § 125A.0942, Subd. 3(b) (2012).

[15] *Id.*

[16] METO Settlement, Case 0:09/cv/01775/DWF/FLN, Doc. 104/1, Attachment A, p. 5 (2011). Retrieved from http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&dID=137925.

please visit the DHS rulemaking webpage.[17] The Rule 40 Advisory Committee issued its final version of "Recommendations on Best Practices and Modernization of Rule 40" on July 2, 2013. To support the recommendations, DHS has begun holding Positive Supports Community of Practice meetings online on various training topics.[18]

REGULATORY DEVELOPMENTS

Recent Minnesota Developments

During the 2013 legislative session, Minnesota Statutes, sections 125A.0941 through 125A.0942 were amended to:

- Provide more content specificity for a district restrictive procedure plan, including the composition of the oversight committee and detailing its review responsibilities;[19]
- Address when a district must hold an IEP meeting following the use of restrictive procedures, and when additional members should be included to address the student's unique needs. Language was also added that the IEP team must review any medical information that the parent provides voluntarily to consider if restrictive procedures would be contraindicated;[20]
- Make clear that restrictive procedures are to be used only in an emergency and not for disciplinary reasons, extend the time period for the use of prone restraint until August 1, 2015, and task MDE with developing a statewide plan "to reduce districts' use of restrictive procedures;[21]
- Include paraprofessionals under the training section, ensure school staff are aware of school wide positive behavior strategies used by the school, and its policies and procedures related to timely reporting of the use of restrictive procedures;[22] and
- Require MDE to develop and maintain a list of experts to help individualized program teams reduce the use of restrictive procedures.[23]

Federal Developments

The Keeping All Students Safe Act (H. 1893), legislation aimed at regulating restraint and seclusion on the federal level, was introduced in the United States House of Representatives by

[17] Minnesota Department of Human Services, Rulemaking Webpage, *available at:* http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_169508# (last visited Feb. 20, 2014).
[18] Minnesota Department of Human Services Positive Supports Community of Practice website, available at: http://mn.gov/dhs/partners-and-providers/continuing-care/provider-information/positive-support-cop.jsp (last visited Feb. 20, 2014).
[19] 2013 Minn. Laws Ch. 116, Art., 5, Sec. 4.
[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Id.*

Representative George Miller on May 8, 2013, and the bill was referred to the Subcommittee on Early Childhood, Elementary, and Secondary Education.[24]

At a news conference on February 12, 2014, Senator Tom Harkin, Chairman of the Senate Health, Education, Labor, and Pensions (HELP) Committee, released the findings of an investigation into the use of seclusion and restraints. The majority staff report is titled, "Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases." The report highlighted cases in which restraint was used as a form of punishment or control.[25] At the event, Harkin announced the Keeping All Students Safe Act, a bill to ensure the effective implementation of positive behavioral interventions in the education setting. The bill has not yet been introduced in the Senate this session.

Currently, 33 states and the District of Columbia have legislation and/or education agency regulations or policies that prohibit the use of prone restraints or restraints that impede a child's ability to breathe within the school setting. Thirteen states specifically prohibit the use of prone restraint in educational settings by state statute, rule, or policy. In addition, 23 of the 34 states have legislation and/or education agency regulations or policies that encompass all students, rather than only students with a disability. This is in accordance with Principle Four in the U.S. Department of Education, Office of Special Education and Rehabilitation Services (USDE OSERS) guidance document issued May 15, 2012, *Restraint and Seclusion: Resource Document*.[26]

Only four states (Vermont, Massachusetts, Rhode Island, and Minnesota) prohibit the use of restraints that impede a child's ability to breathe and specifically allow the use of prone restraint in limited circumstances. Appendix B contains a citation to and a description of the provisions in place for each state addressing restrictive procedures.

MINNESOTA'S PRONE RESTRAINT DATA

Important Disclaimers Regarding the Data

Reporting Window. School districts have been statutorily required to report to MDE regarding their use of prone restraint since August 1, 2011. To prepare the 2012 legislative report, MDE included data from all prone restraint reports received August 1, 2011 through January 13, 2012. The 2013 report included data from prone restraint reports received January 13, 2012 through December 31, 2012. The 2014 report includes data from prone restraint reports received January 1, 2013 through December 31, 2013, with relevant comparisons to the previous data.

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[24] U.S. Library of Congress website http://beta.congress.gov/bill/113th-congress/house-bill/1893 (last visited February 20, 2014).

[25] U. S. Senate, Health, Education, Labor, and Pensions Committee, *Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases*, Majority Committee Staff Report (Feb. 12, 2014), Retrieved at http://www.help.senate.gov/imo/media/doc/Seclusion%20and%20Restraints%20Final%20Report.pdf (Last visited Feb. 20, 2014).

[26] U.S. Department of Education, Office of Special Education and Rehabilitation Services guidance document, *Restraint and Seclusion: Resource Document* (Issued May 15, 2012), Retrieved *at* http://www2.ed.gov/policy/seclusion/index.html#resourcedocument (last visited Feb. 20, 2014).

Not the Whole Picture. We acknowledged in our 2012 and 2013 reports that the use of prone restraint is best evaluated within the context of the statewide use of all other types of restrictive procedures by Minnesota school districts. Districts are required to maintain data on their use of restrictive procedures, including physical holding or seclusion[27] and are required to report a summary of this data annually to MDE by June 30 of each year.[28] As summary data, the restrictive procedures data has some limitations not present with the prone restraint data. The summary data necessarily lacks information about the range of numbers of physical holds and uses of seclusion per individual student. The data also lacks information about the length of time students were physically held and secluded and the types of restraints being used.

We received a response from over 99 percent of all districts, including charter schools for the 2012-13 school year.[29] This is the baseline for future comparisons. It is important to note that the number of restrictive procedure incidents that districts reported in the annual summary may not be aligned with MDE's definition of an "incident" of restrictive procedure, as discussed below. Therefore, incident/level comparisons between restrictive procedures incidents and prone restraint report incidents are not likely to be valid. However, as a result of the summary data, we are able to provide policy makers with data to substantiate the percentage of students in the state that have been reported as restricted compared to the data specific to prone restraint.

Form Consistency. Since the statute was amended in 2012 to require districts to report use of prone restraint on a MDE form, the consistency of reporting for prone restraint has increased markedly.

Outliers. For the 2013 calendar year, 1 student accounted for 11 percent, or 70 of the 644 prone incident reports. Cumulatively, 5 students accounted for 29 percent, or 189 of the 644 prone incident reports; and 10 students accounted for 42 percent, or 270 of the 644 prone incident reports. These figures are similar to outliers for data collected in 2011 and 2012.

In the 2013 report to the legislature, 1 student accounted for 6 percent, or 58 of the 942 prone restraint incident reports. Cumulatively, 6 students accounted for 24 percent, or 230 of the 942 prone incident reports, and 10 students accounted for 35 percent, or 325 of the 942 reports of prone restraint.

In the 2012 report to the legislature, 1 student accounted for 8 percent, or 23 of the 286 reports. Cumulatively, 4 students accounted for 21 percent, or 61 of the 286 reports, and 10 students accounted for 36 percent, or 104 of the 286 reports of prone restraint.

Of the 10 students who experienced the highest use of prone restraint during the 2013 calendar year, 6 students were found eligible for special education services through meeting criteria for Autism Spectrum Disorder. Two students were found eligible through meeting criteria for

[27] Minn. Stat. § 125A.0942, Subd. 3(a).
[28] Minn. Stat. § 125A.0942, Subd. 3(b).
[29] MDE has not received restrictive procedures summary data report for 2012-2013 from the following six districts after numerous attempts by the department to acquire the data: Cook County Public Schools, Glacial Hills Elementary, Metro Tech Academy (closed in 2013), Minnesota Internship Center, New Discoveries Montessori Academy, and Riverway Learning Community Charter School.

Emotional or Behavioral Disorders, and the other 2 students each met a different area of eligibility.

Including these unique situations in the overall data counts skews the appearance of the demographic data by incidents. However, this data is important for understanding the issues and potential solutions. The data illustrates that a relatively small number of students underlie the total number of reports and incidents. Though the specific students who make up this group change over time, intensive services targeted to these students are likely to have the greatest impact on diminishing the use of restrictive procedures.

Prone Restraint Data

Districts submitted written reports to MDE through a secure website. Individual reports necessarily included personally identifying information related to specific students, and as such constitute non-releasable data under the Minnesota Government Data Practices Act.[30] MDE prepared and posted a summary of reported data by quarter on its Restrictive Procedures webpage.

Districts that Reported Use of Prone Restraint

District	2013 Reports	2012 Reports
Austin (492)	0	3
Bagley (162)	0	5
Bemidji (31)	2	0
Benton/Stearns Ed. Dist. (6383)	72	0
Brainerd (181)	1	2
Buffalo/Hanover/Montrose (877)	2	0
Crosby/Ironton (182)	0	1
Elk River (728)	0	1
Goodhue County Ed District (6051)	0	3
Hendricks (402)	2	0
Intermediate District 287	79	216
Intermediate District 917	218	207
Lake Park Audubon (2889)	0	1
Mankato (77)	36	22
Marshall (413)	12	59
Minneapolis (1)	0	1

[30] Minn. Stat. § 13.02, Subds. 5, 8a (2011).

District	2013 Reports	2012 Reports
Monticello (882)	0	1
Moorhead (152)	15	16
New London Spicer (345)	0	5
Northeast Metro 916	74	267
Pine City (578)	9	1
Pipestone Area (2689)	0	1
Rochester (535)	0	1
Southwest West Central (991)	85	77
Waterville/Elysian/Morristown (2143)	1	0
West Central Area (2342)	1	4
Willmar (347)	35	48
Total Prone Restraint Reports	**644**	**942**

Incidence of Prone Restraint by District

For the purposes of reporting, we consider prone restraint to begin when the child is placed in a prone position by one or more trained staff persons holding onto the child; it ends when the child is no longer being held. That cycle—a hold followed by the release of the hold—is one incident of prone restraint**.**

In more complex situations related to the same precipitating incident, this hold/release pattern was repeated a number of times before the child was returned to the classroom or other activity. Given that the statutory definition of a "physical hold" is based on the presence or absence of "body contact" or "physical contact," we determined that this situation involved several incidents of prone restraint, all of which were included on one written report. This explains the difference between the number of "incidents" that occurred (936) and the number of "reports" MDE received (644).

MDE received reports of 936 prone restraint incidents that occurred during the 2013 calendar year, a substantial decrease from the 1,756 prone restraint incidents reported for the 2012 data collection period.[31] During the 2013 calendar year, 16 districts reported the use of prone restraint, a decrease from 22 during calendar year 2012.[32] During the 2013 calendar year, 178 students were restrained in a prone restraint by a staff member, a decrease from 256 students during calendar year 2012.

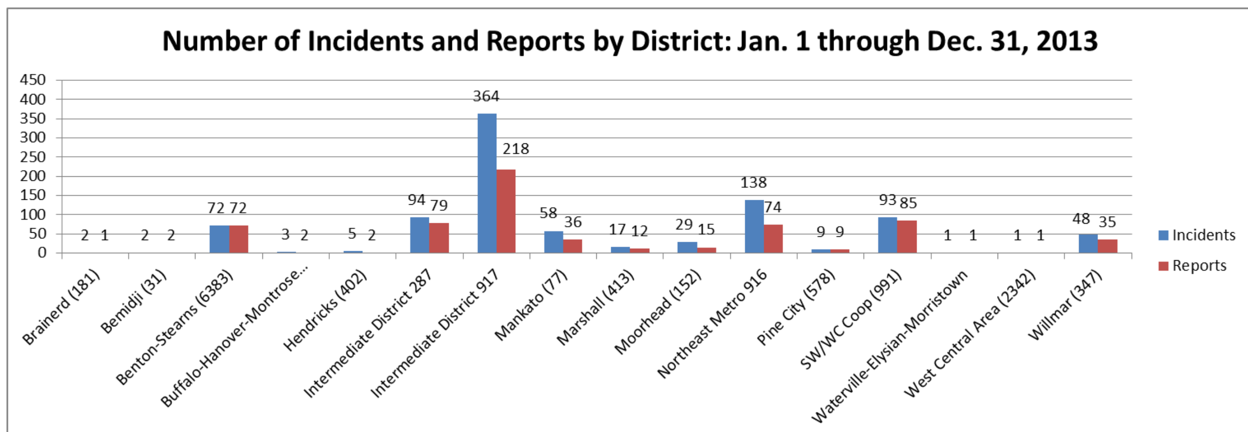
The majority of both prone restraint incidents and reports involved students at one of Minnesota's three intermediate school districts. This is not surprising given that the intermediate

[31] The 2012 data collection period for prone restraint usage was January 14, 2012-December 31, 2012.
[32] *Id.*

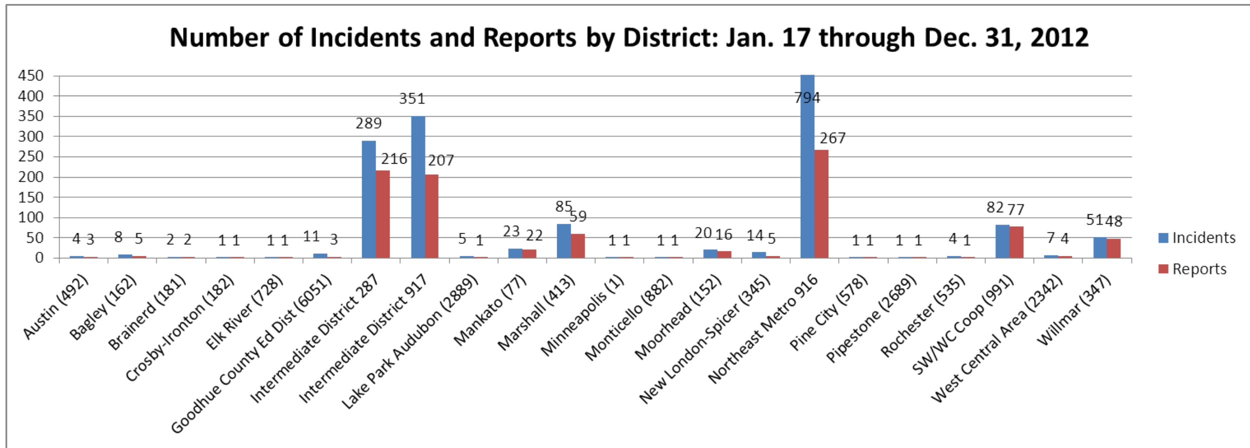
districts provide, among other important services, a program of integrated services for special education students.[33] As a rule, the intermediate districts provide services to special education students who have not experienced success at their original district, and a significant percentage of these students exhibit atypical behavioral challenges in a school setting. Two of the three intermediate districts show a substantial decrease in both the number of reports and incidents of prone restraint from the previous legislative report. At the stakeholder meetings, the intermediate districts shared the efforts made to implement data-driven positive behavior strategies and to review the restrictive procedures data on an ongoing basis, as well as staffing and environmental changes.

While the majority of incidents and reports of prone restraint in the previous legislative report came from the intermediate school districts, use of prone restraint appears to have held steady or slightly increased in greater Minnesota, where the use is mostly reported by special education programs at cooperatives or education districts and districts that are regional centers. In greater Minnesota, these programs and districts function similarly to the intermediate school districts in the Twin Cities metropolitan area, in part by serving students with the most challenging behaviors.

The following two charts represent the distribution of both prone restraint incidents and reports for the last two reporting periods. Statewide, the number of reports submitted, incidents reported, and students involved, and the number of districts using prone restraint during the 2013 calendar year have all decreased compared to the 2012 data; although, on a district level, some districts have reported increases.



[33] Minn. Stat. § 136D.01 (2011).

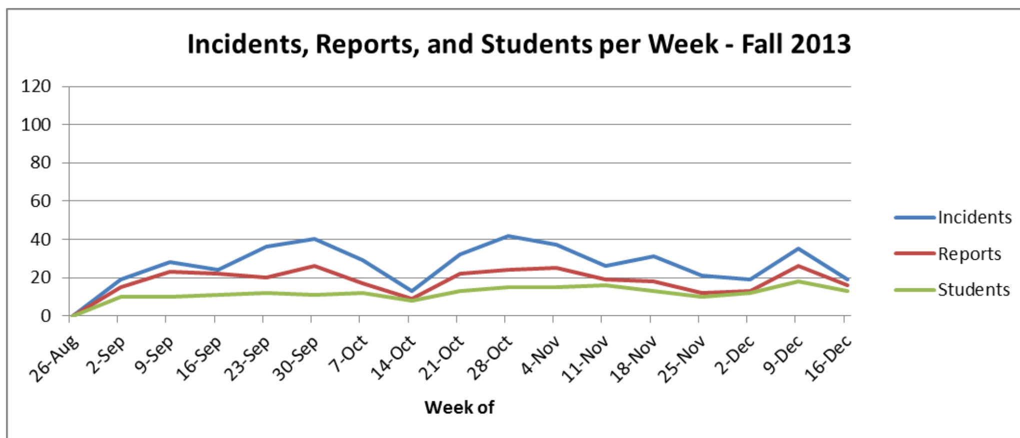


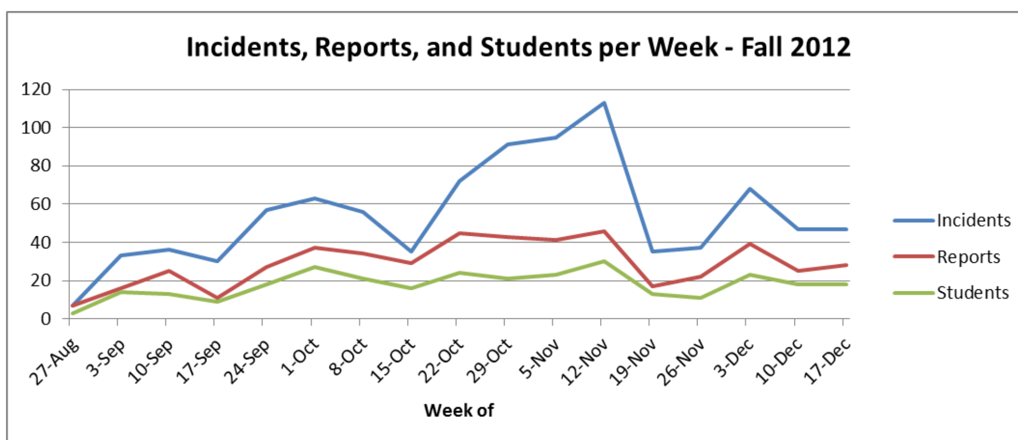
Number of Students in Prone Restraint

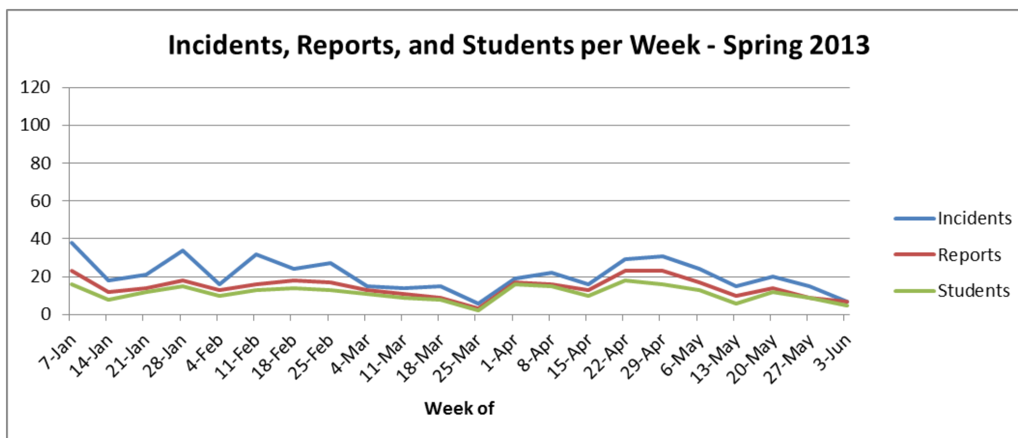
For the 2013 calendar year, districts reported that 178 students were restrained using prone restraint. When comparing the 2013 data in a week-by-week comparison for a parallel period of time in 2012, there is a decrease. The average number of students per week who were restrained using prone restraint during the fall decreased from approximately 17 students in 2012 to approximately 12 students in 2013. The average number of students per week who were restrained using prone restraint during the spring decreased from approximately 15 in the spring of 2012 to approximately 11 students in the spring of 2013.

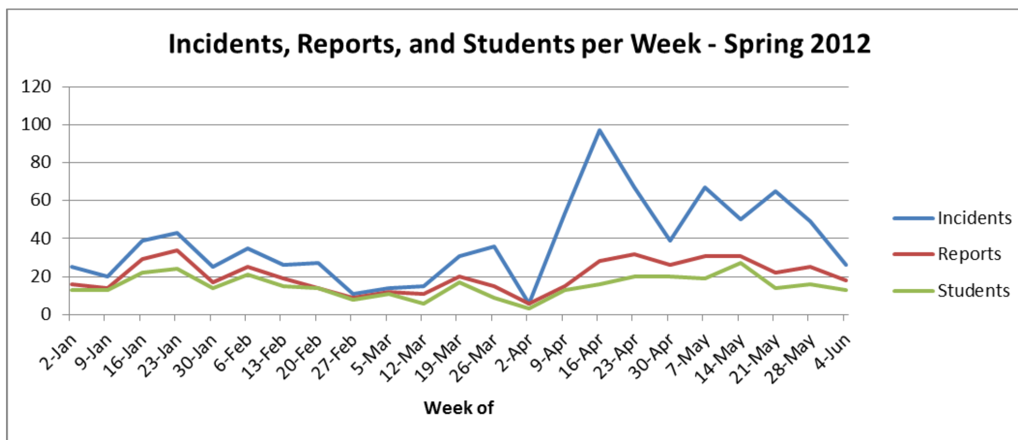
The total number of students also decreased when comparing the two time periods. The total reported number of students restrained using prone restraint decreased from 119 students in the fall of 2012 to 86 students in the fall of 2013. In comparing students across different reporting periods, 41 of those 86 students had also been reported as restrained using prone restraint during the 2012 calendar year. When looking at the 2011, 2012, and 2013 reporting periods, 18 students were restrained using prone restraint during all three reporting periods.

The following graphs show the number of incidents, reports, and students per week for comparisons of 2013 and 2012, fall and spring, respectively.







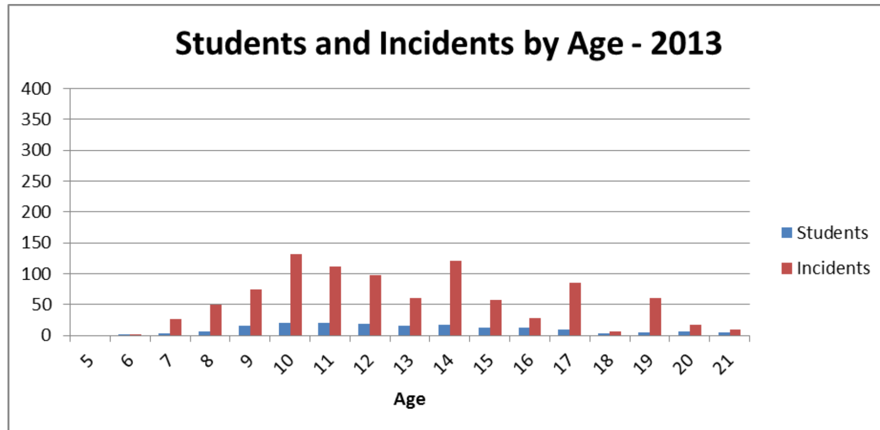


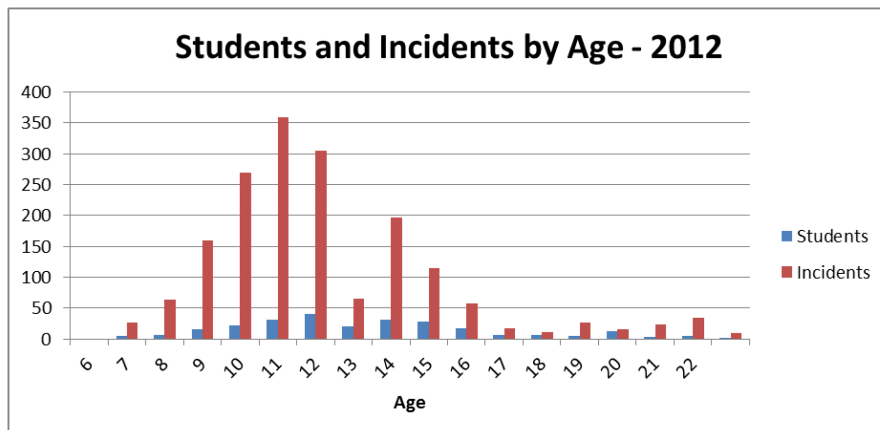
Length of Incident of Prone Restraint

The 2013 data indicates that 56 percent of the 928 incidents of prone restraint lasted 5 minutes or less, compared to 68 percent during the 2012 reporting period. At the same time, the number of restraints of 5 minutes or less also decreased from 1,193 in 2012 to 524 incidents in 2013. More than 90 percent of the reported incidents of prone restraint lasted 15 minutes or less.

Age of Students Placed in Prone Restraint

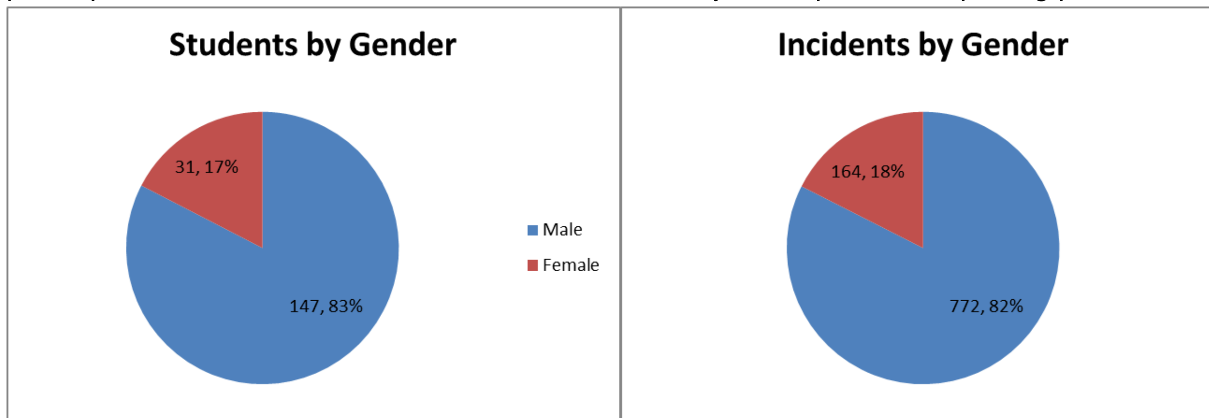
During the 2013 calendar year, prone restraint was used on children as young as 6 years old and as old as 21. This is consistent with the 2012 data. Though the number of students and incidents are both down from the previous reporting period, the relative peak usage of prone restraint by age, both by number of incidents and number of students, continues to be with middle school students. The peaks of incidents at ages 14, 17, and 19 are due to the skewed effect of the outliers described earlier in this report.





Gender of Students Placed in Prone Restraint

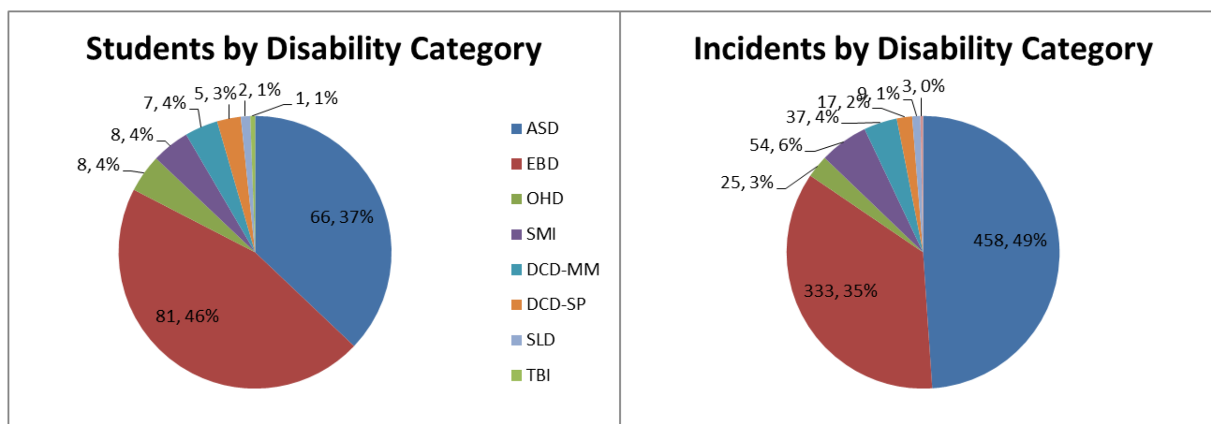
The data shows that boys are more than five times more likely than girls to be restrained in a prone position, which is down from six times more likely in the previous reporting period.

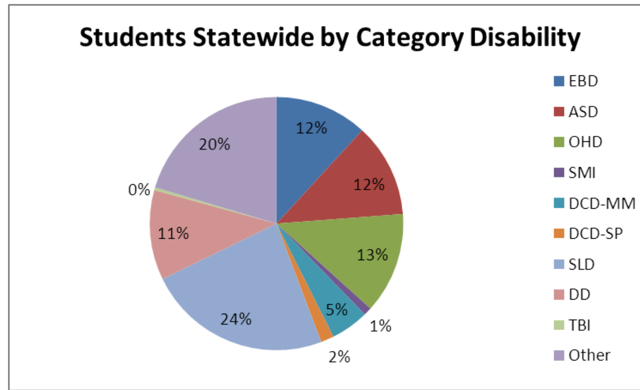


Students and Incidents by Disability Category

Overall, 84 percent of all incidents of prone restraint reported during the 2013 calendar year involved students who were eligible for special education under the following eligibility criteria: Autism Spectrum Disorders (ASD), or Emotional or Behavioral Disorders (EBD). Compared to the 2012 calendar year, this is a slight increase from 83 percent of the incidents.

The first chart below illustrates the number and percentage of students subjected to prone restraint. The second chart illustrates the percentage of incidence represented by each specific category. For example, while ASD students represent 37 percent of all students subjected to prone restraint, that same population represents 49 percent of all incidents reported for the same time period. For further comparison, the percentages of these students within the state's total special education population are illustrated in the third chart. Specifically, the same ASD students who represent 37 percent of all students subjected to prone restraint and represent 49 percent of all incidents reported, are represented in 12 percent of the state's total special education population.





Key

EBD = Emotional or Behavioral Disorders

ASD = Autism Spectrum Disorders

OHD = Other Health Disabilities

SMI = Severely Multiply Impaired

DCD/MM = Developmental Cognitive Disability/Mild to Moderate

DCD/SP = Developmental Cognitive Disability/Severe to Profound

SLD = Specific Learning Disability

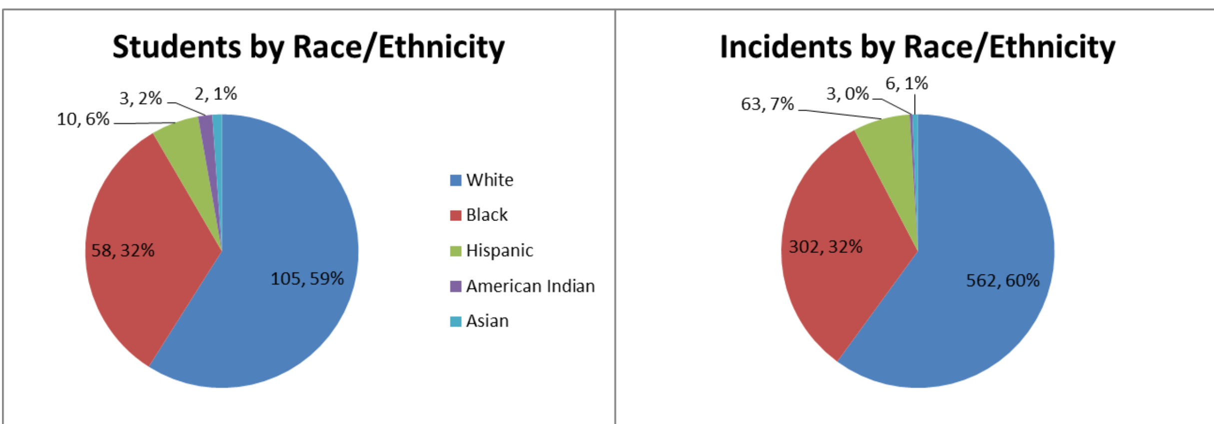
DD = Developmental Delay

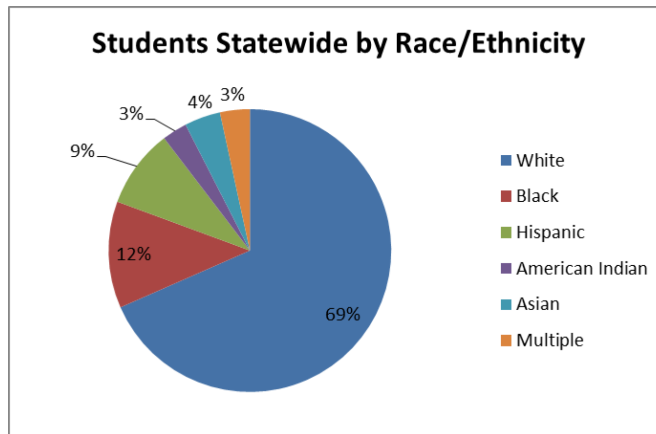
TBI = Traumatic Brain Injury

Students Involved In Prone Restraint by Race/Ethnicity

Compared to data from the 2012 calendar year, the proportion of Black students in prone restraint decreased from 37 percent to 32 percent. In contrast, the proportion of incidents for Black students increased from 29 percent to 32 percent. At the same time, the proportion of incidents for White students increased from 41 percent to 58 percent and the proportion of incidents for Asian students increased from 1 percent to 11 percent.

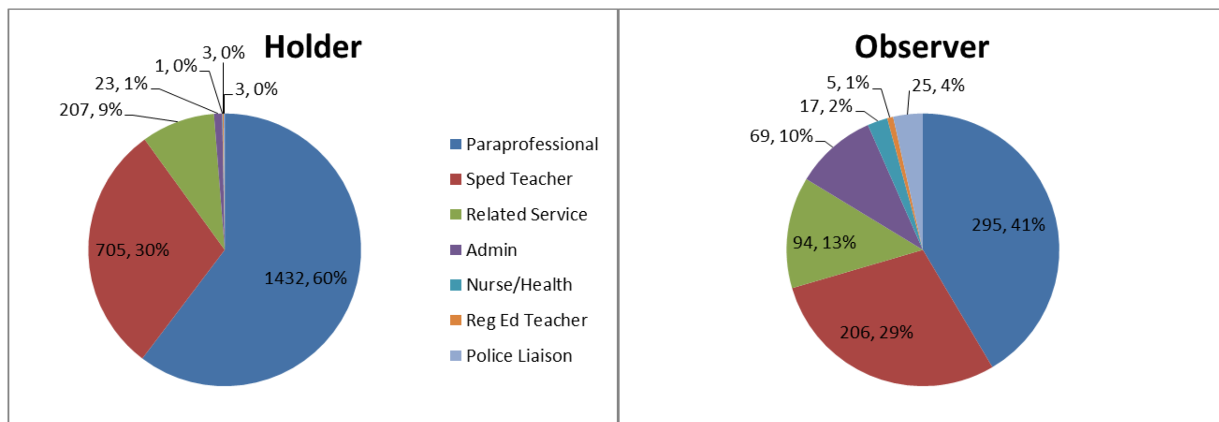
Much of the change in incidents by race/ethnicity can be attributed to the change in students who fall into the group of outliers described earlier in this report. In comparison to the statewide population of special education students, Black students continue to be overrepresented in prone restraint by number of students.





Staff Involved in the Use of Prone Restraint

Data for this reporting period about the number and types of staff involved in the use of prone restraint is new. Approximately 520 staff have been involved in the use of prone restraint during the 2013 calendar year, either as a holder or an observer. The median number of times a staff person was involved was two times, with a range of up to 70 times. Most reports included at least one paraprofessional as a holder (603 reports); few reports include only paraprofessionals as holders (104). The chart below shows the percentage of times various staff were holders or observers. For example, paraprofessionals were reported as holders 1,432 times across all reports during this reporting period. Police liaison officers were reported as holders three times in reports that also included physical holding by education staff.



Injuries Related to the Use of Prone Restraint

Across 644 prone restraint reports submitted for the 2013 calendar year, districts reported 7 student injuries and 36 staff injuries. Injury descriptions for staff included scratches, bruises, and bites, which included bleeding. Some of the injuries described for staff suggest they were not a direct result of the use of prone restraint, but instead occurred prior to the use of prone restraint. Injury descriptions for students included carpet burn, bit lip, and bruises.

RESTRICTIVE PROCEDURES SUMMARY DATA

Following the 2012-13 school year, districts reported summary data to MDE on the use of restrictive procedures, which was due by June 30, 2013. On a form provided by MDE, districts reported:

- the total number of special education students in the district;
- the total number of incidents of restrictive procedures (including physical holds, prone restraint and seclusion);
- the total number of students on whom a restrictive procedure was used;
- the total incidents of physical holding (including prone restraint);
- the total number of uses of seclusion;
- demographic information for the students (disability, age, race, and gender); and
- the number of injuries to students and staff.

MDE received summary data from 513 districts (which includes independent and special school districts, charter schools, cooperatives, education districts, and intermediate school districts). Six districts have not responded to repeated requests for the legislatively required data reporting.[34]

Districts that Reported Use of Restrictive Procedures

Of the 513 districts that reported summary data to MDE, 252 of those districts reported use of restrictive procedures, whether physical holding, seclusion, or a combination of both.

- 197 of 338 traditional districts.
- 3 of 3 intermediate school districts.
- 16 of 31 cooperatives and education districts.
- 34 of 141 charter schools.

[34] The districts who have not submitted legislatively required data after repeated requests by the department are: Cook County Public Schools, Glacial Hills Elementary, Metro Tech Academy (closed in 2013), Minnesota Internship Center, New Discoveries Montessori Academy, and Riverway Learning Community Charter School.

While intermediate districts, cooperatives, and education districts comprise approximately 4 percent of the total reporting districts, combined they reported 28 percent of the restrictive procedure use in the state. By contrast, charter schools represent approximately 27 percent of the reporting districts, but reported nearly no use of restrictive procedures. Traditional districts represent approximately 66 percent of the reporting districts and reported 71 percent of restrictive procedure use. Of the 252 districts that reported use of restrictive procedures, 177 (70%) reported use of only physical holding, 2 (1%) reported use of only seclusion, and 73 (2%) reported use of both physical holding and seclusion.

Statewide Data on the Use of All Restrictive Procedures

Across the state, districts reported 15,738 physical holds and 6,425 uses of seclusion for a total of 22,163 restrictive procedures during the 2012-13 school year. These figures are similar to the data from the 2011-12 school year. When comparing the data, it should be noted that for the 2011-12 school year, 474 districts submitted a summary restrictive procedure form, as compared to 513 districts responding for the 2012-13 school year.

School Year	Physical Holds	Uses of Seclusion	Restrictive Procedures
2012-13	15,738	6425	22,163
2011-12	16,604	5236	21,840

Of 134,148 special education students, [35] restrictive procedures were used with 2,962 students, [36] which is approximately 2 percent of the special education population. This percentage is the same as reported in the 2013 legislative report. Physical holding was used with 2,604 students, up from the data reported in the 2013 legislative report (2,318) and seclusion was used with 957 students, also up from the data reported in the 2013 legislative report (790).[37] The average number of physical holds per physically held student was 6.0; the average number of uses of seclusion per secluded student was 6.7; and the average number of restrictive procedures per restricted student was 7.5.[38]

Age of Students in Restrictive Procedures

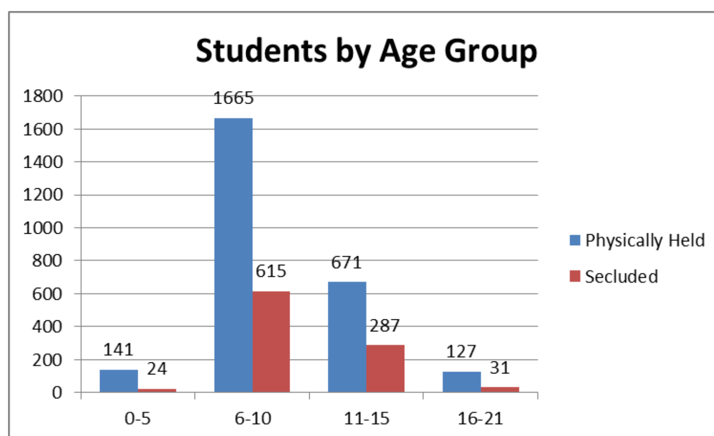
The majority of restrictive procedures reported for the 2012-13 school year were used with elementary through middle school students, with fewer uses with early childhood and high school students, consistent with the 2011-12 data reporting in the 2013 legislative report.

[35] The number of special education students is based on an aggregation of district's self-reporting data in conjunction with the restrictive procedures reporting and may not match exactly with other aggregations by MDE of the number of special education students in the state.

[36] Two districts included within their reports the use of restrictive procedures with three non-disabled students, though the restrictive procedures statute applies only to students with disabilities. See Minn. Stat. § 125A.094.

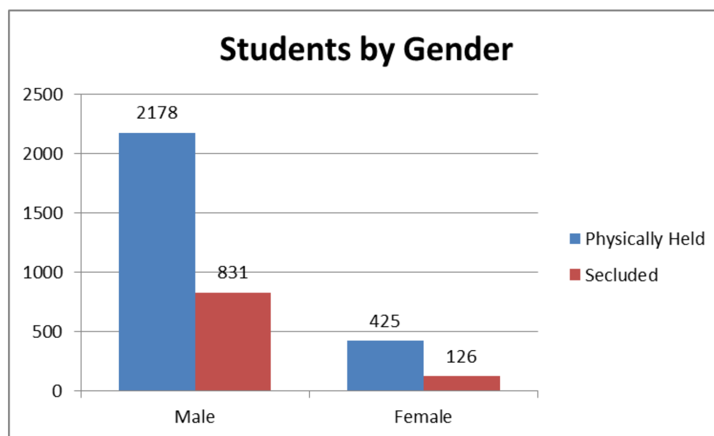
[37] The number of physically held students plus the number of secluded students is greater than the total number of students with whom restrictive procedures were used because a number of students where reported as both physically held and secluded.

[38] As with the previous footnote, the average number of restrictive procedures per restricted student is higher than the averages for both physical holding and seclusion because a number of students were both physically held and secluded.



Gender of Students in Restrictive Procedures

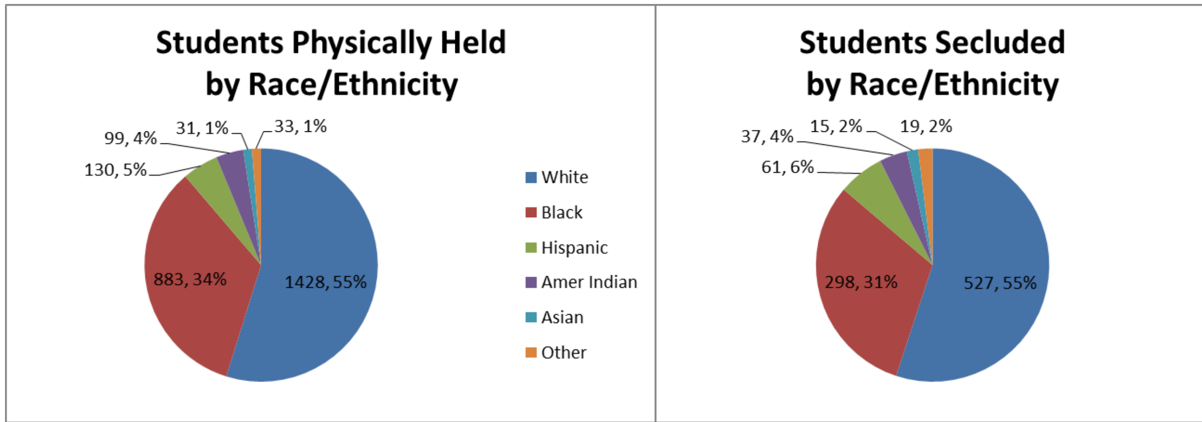
The data shows that regarding use of restrictive procedures, boys are 5.1 times more likely to be physically held and 6.6 times more likely to be secluded than girls, consistent with the previous year.

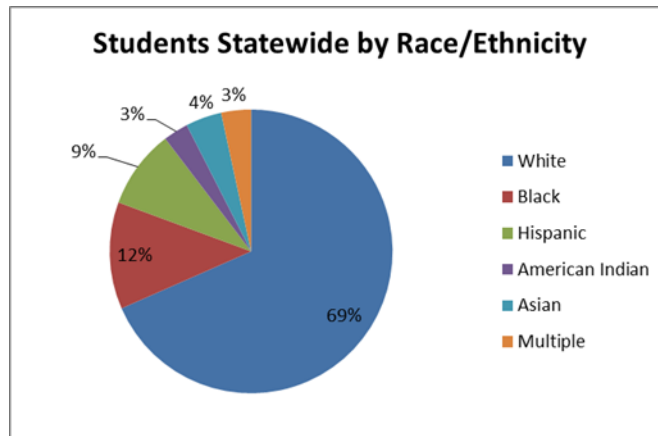


Race/Ethnicity of Students in Restrictive Procedures

Black students, who account for approximately 12 percent of the special education student population,[39] are overrepresented in both the physical holding and seclusion data, consistent with the previous year. 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.

[39] 2013 Child Count Totals by December 2012 by Disability, Race/Ethnicity and Age, retrieved from MDE Data Reports and Analytics, *available at* http://w20.education.state.mn.us/MDEAnalytics/Data.jsp.

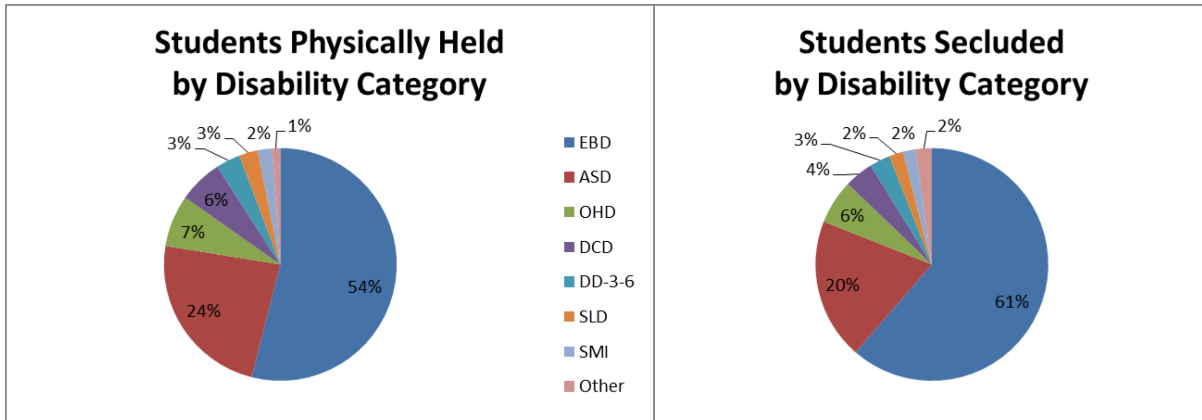




Disability Categories for Students in Restrictive Procedures

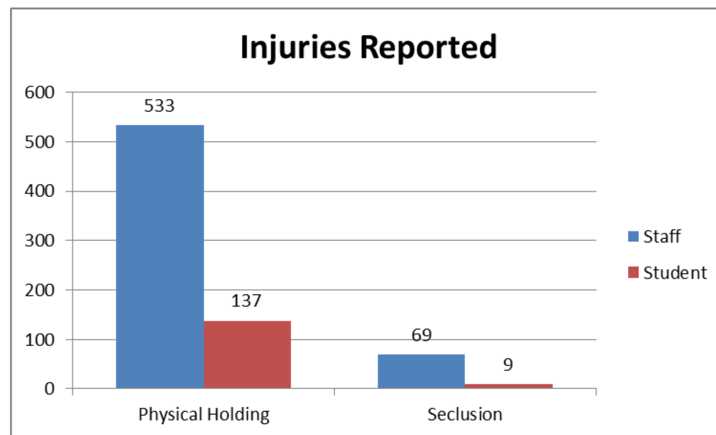
During the 2012-13 school year, students who receive special education services due to eligibility under the primary disability category of Emotional or Behavioral Disorder (EBD) or Autism Spectrum Disorder (ASD) account for more than three-fourths of the students on whom restrictive procedures have been used, consistent with the previous year. ASD students make up approximately 12 percent of the special education student population and EBD students make up approximately 12 percent.[40] The remaining one-fourth of restrictive procedures were used on students with Developmental Cognitive Disability (DCD), Other Health Disabilities (OHD), Developmental Delay, ages three through six (DD 3-6), Specific Learning Disability (SLD), and Severely Multiply Impaired (SMI). The categories of disabilities included in the "Other" category are Speech or Language Impairment (SLI), Traumatic Brain Injury (TBI), Physical Impairment (PI), and Developmental Delay for children ages birth through two.[41]

[40] 2013 Child Count Totals by December 2012 by Disability, Race/Ethnicity and Age, retrieved from MDE Data Reports and Analytics, *available at* http://w20.education.state.mn.us/MDEAnalytics/Data.jsp.
[41] The reported data for students eligible under the Developmental Delay for children, ages birth through two, is very small and may not be accurately reported.



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 new for this reporting period. There is some likelihood that injury data is underreported, inaccurately reported, and/or inconsistently reported. Several districts called to inquire what constitutes an "injury" that should be reported, including questions about the severity and connection to the incident.



STATEWIDE PLAN

MDE is committed to ensuring that all students and all staff are safe in 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 eliminate the use of prone restraint and reduce the use of restrictive procedures. Please refer to Appendix A for the statewide plan, including recommendations and goals.

CONCLUSION

MDE respectfully submits this report to provide the Legislature with objective data to inform its continuing policy discussions regarding restrictive procedures and prone restraint. While the number of students affected by this discussion is small, about 0.2 percent of the special

education student population in the case of prone restraint and about 2 percent for restrictive procedures, it is clear that these students have significant and complex needs.

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

2013 Statewide Plan to Reduce the Use of Restrictive Procedures and Eliminate Prone Restraint in Minnesota

I. Purpose

During the 2013 legislative session, the Minnesota Legislature 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."[1] To assist with developing a plan, MDE assembled a group of stakeholders. The stakeholder group included representation from advocacy organizations, special education directors, teachers, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts.[2] The group developed implementation and outcome goals that would move the state toward a reduction of restrictive procedures in the educational setting.

II. Stakeholder Work Group Charge

By March 1, 2014, stakeholders must 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 prone restraints. 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 prone restraints; 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. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner.[3]

Minnesota Department of
Education

[1] Minn. Stat. § 125A.0942, Subd. 3(b) (2013).
[2] *Id.*
[3] Id.

III. Stakeholder Group Members

ARC Minnesota .... Jacki McCormack
Autism Society of Minnesota .... Jean Bender
Council for Children with Behavioral Disorders .... Lonnie Moline
Education Minnesota .... Katy Perry
Institute on Community Integration .... Tim Moore
Intermediate District 287 .... Dolly Lastine
Intermediate District 917 .... Melissa Schaller
Minnesota Administrators for Special Education .... Jill Skarvold
Minnesota Association for Children Mental Health .... Deborah Saxhaug
Minnesota Council of Child Caring Agencies .... Mary Regan
Minnesota Department of Human Services .... Charles Young
Minnesota Department of Human Services .... Karry Udvig
Minnesota Disability Law Center .... Dan Stewart
Minnesota School Board Association .... Grace Keliher
National Alliance on Mental Illness .... Sue Abderholden
Northeast Metro 916 .... Connie Hayes
Northeast Metro 916 .... Dan Naidicz
PACER Center .... Jody Manning
PACER Center .... Virginia Richardson

IV. Minnesota Department of Education Participants

Division of Compliance and Assistance .... Marikay Canaga Litzau
Division of Compliance and Assistance .... Adele Ciriacy
Office of Government Relations .... Daron Korte
Division of Compliance and Assistance .... Ross Oden
Division of Compliance and Assistance .... Sara Winter
Division of Compliance and Assistance .... Pamela Hinze
Division of Special Education .... Phil Sievers
Division of Special Education .... Robin Widley

V. Process

Between November 2013 and February 2014, MDE convened the 2013 stakeholder work group (stakeholder group) to review the restrictive procedures data and identify possible components of a statewide plan to result in the reduction in the use of all restrictive procedures for students with disabilities. The stakeholder group's contributions were compiled and resulted in this statewide plan. Prior to the initial meeting, MDE conducted a survey of each member of the stakeholder group in order to garner input on the topic. The survey also requested information about which activities from last year's statewide plan, set forth in Appendix A of the 2013 legislative report, had been implemented as well as other activities implemented to reduce restrictive procedures. The results were shared with the stakeholder group members and ultimately contributed to the drafting of the statewide plan. The initial questions posed in the survey are included below:

A. Survey Questions

1a. The statewide plan must include measurable implementation and outcome goals for reducing the use of restrictive procedures. In addition to the goal of "reducing district's use of restrictive procedures," are there other measurable implementation and outcome goals that you think the statewide plan can and should address, including action items covered in Section V of Appendix A? If so, please list below in a measurable implementation and outcome goal format and provide support for your position.

1b. Which of the goals/action items in Section V of Appendix A have you focused on during the last calendar year? Please describe any implementation efforts and any results you would like to share.

2a. The statewide plan is to address "the resources needed to significantly reduce districts' use of prone restraints." In addition to the areas covered in the action items in Section V of Appendix A, what other resources do you view as necessary to significantly reduce districts' use of restrictive procedures and specifically prone restraints?

2b. Has the group you represent had the opportunity to focus or receive additional resources to reduce the use of restrictive procedures, specifically prone restraint, during the last calendar year? If so, please describe the additional resources utilized and any results you would like to share.

3. The statewide plan is to address, "the training needed to significantly reduce districts' use of prone restraints." In addition to the training areas covered in the action items in Section V of Appendix A, what other training do you view as necessary to reduce districts' use of restrictive procedures and specifically prone restraints?

4a. The statewide plan is to address "the technical assistance needed to significantly reduce district's use of prone restraints." In addition to the areas covered in the action items in Section V of Appendix A, what other technical assistance do you view as necessary to reduce districts' use of restrictive procedures and specifically prone restraints? Who should be responsible to develop and conduct the technical assistance? What technical assistance should be available from MDE? What other

entities should provide technical assistance that you think is necessary? If you have suggested multiple types of technical assistance, please pair the need with the recommended technical assistance provider.

4b. Has the group you represent provided technical assistance or been provided technical assistance targeted toward reducing the use of restrictive procures during the last calendar year? If so, please describe the technical assistance, who provided it, and any comments about its effectiveness that you would like to share.

5. Section V B of Appendix A [in the 2013 Legislative Report] recommends increasing access to school-linked mental health services. Describe whether students that the group you represent works with, have access to school-linked mental health services, and if so, what service models services are currently being used?

6. The statewide plan is to address "the collaborative efforts that are needed to significantly reduce districts' use of prone restraint." What collaborative efforts have you undertaken that are targeted at the reduction of the use of restraint procedures and specifically prone restraint?

7. The statewide plan is to address and make recommendations to "clarify and improve the law governing districts' use of restrictive procedures." Based upon recommendations made by the stakeholder group last year, the restrictive procedure statutes have been amended. What other changes would you recommend to the state statutes to clarify the law regarding the use of restrictive procedures?

B. Stakeholder Group Meetings

MDE staff convened members of the stakeholder group four times between November 19, 2013 and February 6, 2014. MDE staff facilitated an exchange of information and stakeholder input through review of:

- Aggregate data from districts' self-reported use;
- Summary survey responses;
- Existing statutory language;
- Strategies employed by intermediate districts to reduce prone restraint;
- Strategies employed by other districts to reduce prone restraint;
- Work accomplished from the prior statewide plan as set forth in Appendix A of the 2013 legislative Report;
- Modernization of Rule 40; and
- The education sections of the Olmstead Plan and status.

During the initial work group meeting, stakeholders from the intermediate school districts shared written materials and provided a short presentation on the strategies and resources employed to reduce the use of restrictive procedures; specifically prone restraint. Another stakeholder shared strategies implemented in an outstate district employed to reduce the use of restrictive challenges.

The Department of Human Services (DHS) presented on the modernization of Rule 40 and their efforts to provide training and resources about this topic. Prone restraint has been eliminated from facilities licensed by DHS. Other stakeholders shared information about recent statutory changes related to accessing mental health services.

Through large and small group discussion, the stakeholder group identified areas of mutual agreement, including a shared desire to develop a plan to reduce restrictive procedures, including prone restraint. Based upon a review of the prone restraint data during the last two years as well as the discussions held during the restrictive procedure work group meetings, the stakeholders all agreed on the need to focus resources on those students who experience a high use of restrictive procedures; specifically prone restraint. Upon establishing areas of agreement, the stakeholder group identified eight goals that should be implemented by one or more state agencies, school districts, or community level entities.

Discussion was held relating to the application of the reasonable force statute, Minnesota Statutes, section 121A.582, to emergency situations. The group concluded that there was insufficient data to determine the extent to which reasonable force is used and which use results in the use of a restrictive procedure on a student with a disability. To obtain baseline data to determine the extent reasonable force is used, and to monitor whether its use increases with the elimination of prone restraint, the stakeholders agreed to collect and report data on a limited basis. The stakeholder work group determined that it would review the data next year and decide whether additional statutory changes would be needed to ensure that districts are not using reasonable force to avoid the reporting requirements in the restrictive procedure statute.

In general, the process underscored the stakeholders' desire to reduce or eliminate restrictive procedures. There is shared belief that emergency situations in educational settings could be greatly reduced or eliminated with additional resources – especially mental health services and additional training on positive behavior intervention. Further, that training and an exchange of successful strategies would assist districts in reducing the need for restrictive procedures. For purposes of this report, the goals developed by the workgroup were synthesized into the top eight goals.

The stakeholders discussed the barriers to accessing appropriate day and residential treatment, which was part of the prior statewide plan. Much discussion centered on the lack of day treatment facilities that worked with students with severe emotional outbursts. Those students are reportedly "kicked out" of day treatment facilities and many are then enrolled in level three or level four programs. While the stakeholders did not believe they could adequately address this goal within the next year, it was noted that some stakeholders are currently involved in other work to address these issues.

Ensuring adequate provider training was an activity in last year's statewide plan. The 2013 stakeholder group built on this activity with the goals addressing training models, discussion panels, and a statutory change to require school districts to include a description of how de-escalation techniques training takes place in schools with restrictive procedure plans, and is tied to in-service clock hours, along with the current early warning signs for mental illness.

Finally, the stakeholder group discussed proposed statutory revisions needed to provide clarification or to support the implementation of some pieces of the proposed statewide plan.

As indicated by the recommendations of the 2013 stakeholder group, the work on a statewide plan to greatly reduce or eliminate the use of restrictive procedures requires ongoing discussion and study to review what is successful, continue to monitor the data and revise the goals, as appropriate. The group proposes to continue to meet on a quarterly basis, while MDE continues to collect and report the restrictive procedures data and convene the stakeholder meetings. The work group developed goals first by the areas identified by the Legislature and as contained in the prior statewide plan, and then synthesized the goals.

VI. Goals Recommended by Stakeholder Group

The following action items are recommended by the stakeholder group, and are reflected in a format that includes corresponding stakeholder support and commitment to action. All recommendations by the stakeholder group are intended to reduce school districts' use of restrictive procedures. The work group provided MDE and DHS with flexibility in determining the priority and scope of implementing goal number two, based upon resource issues and data demonstrating effectiveness.

Goal 1: On or before July 1, 2014, MDE will:

a. Based upon a review of the prone restraint reports received by MDE, MDE will develop a process to identify outliers in prone restraint reporting which will assist MDE in identifying schools and/or school districts that may need targeted technical assistance and thereafter contact and offer technical assistance to the identified schools and/or school districts. In determining whether an outlier exists, and in determining where data is an "outlier," MDE will consider whether the prone restraint data is markedly different from other prone restraint data from a comparable school district.

b. Develop a process for school districts to use for state targeted technical assistance related to reducing the use of restrictive procedures, including eliminating prone restraints.

c. Develop and post on its website a Post-use Debriefing Form.

d. Update the MDE Sample Restrictive Procedures Plan and post it on its website in accordance with Minnesota Statutes section 125A.0942.

e. Amend the MDE Restrictive Procedures Summary Form to allow school districts the option to identify one to two staff training needs, and to review the need to add or amend additional reporting requirements to address the unintended impacts of reducing restrictive procedures. MDE will update the form to clarify that districts must report all incidents involving students with a disability in which a staff member uses restrictive procedures as defined in Minnesota Statutes, Section 125A.0941.

f. Make publically accessible, in an electronic format on MDE's website, information pertaining to how schools/school districts may access local mental health services for their students including Assertive Community Treatment (ACT) teams and mobile crisis response teams.

g. Make publically accessible, in an electronic format on MDE's website, information and training pertaining to DHS's Positive Support Community of Practice bi-weekly Livestream meetings.

Goal 1 Action Items

- **MDE:** Responsible to implement Goal 1, a-h.
- **DHS:** Provide information to MDE related to Goal 1, g and h.
- **School Districts:** Request or utilize offered targeted technical assistance, identify, develop, and implement post-use debriefing and oversight committee procedures and forms based on model examples; collect and report in summary form the use of reasonable force when it results in the use of a physical hold or seclusion on a student with a disability; and to utilize the resources made available on the MDE website regarding accessing local mental health services and the DHS live stream meetings.

Goal 2: Beginning in March 2014, MDE will continue collaboration with DHS by:

a. Supporting implementation of evidence-based practices for positive behavior strategies through the channels already developed by DHS's Continuing Care Administration and Children's Mental Health Division, Positive Support Community of Practice;

b. Identifying systems for culturally responsive resource identification, consistent with the Positive Support Community of Practice, by collaborating with the Children's Mental Health and Disability Services Division of DHS, including at least the following:

   i. Prevention;
   ii. Quality improvement;
   iii. Intensive intervention; and
   iv. Systems collaboration.

c. Researching three cross-expertise training models for state-wide use:

   i. A continuum of treatment and educational service options for students with a combination of severe mental illnesses and developmental disabilities, including Fetal Alcohol Spectrum Disorder;

   ii. In collaboration with EBD experts and mental health experts, develop an EBD training model that addresses strategies to reduce restrictive procedures used on students with severe aggressive/self-injurious behaviors; and

   iii. In collaboration with ASD experts, develop an ASD training model that addresses strategies to reduce restrictive procedures used on students with severe intellectual impairments and aggressive/self-injurious behaviors.

d. Identifying options for experts and expert review, funding and other supports for students in need of long term, systemic and intensive interventions;

e. Supporting the coordinated implementation of the ASD Medical Assistance benefit authorized by the 2013 Legislature with regard to the respective roles of the education, human services, and healthcare systems in providing effective interventions and improving outcomes, including reduction in the use of restrictive procedures; and

f. Supporting increased access to mental health treatment, including evidence-based practices, and awareness of mental health services in order to address the symptoms and behaviors of children and youth with mental illnesses, including those with intensive service needs, covered through the MA-IEP program, School CTSS program, School-

linked Mental Health Grant program, co-located Mental Health Services, and Mental Health in Schools Act.

Goal 2 involves collaboration between MDE and DHS. Its purpose is to continue the current work and to share expertise for maximum use of resources as the agencies continue to work toward identifying evidence-based practices to address the needs of students with disabilities who are experiencing high rates of restrictive procedures. The work group provided MDE and DHS with the flexibility to determine the priority and scope of implementing goal number 2, based upon resource issues and data demonstrating effectiveness.

Goal 2 Action Items

- **MDE and DHS:** Identify resources and experts external to districts, develop referral lists posted to MDE website, and ensure cultural responsiveness.
- **School Districts**: Provide input to MDE regarding resources and experts.
- **Advocacy Organizations:** Identify resources and experts external to districts and ensure parents are informed of the resource directory.

Goal 3: The Restrictive Procedure Workgroup will provide input to the Mental Health Workforce Summit in order to recommend training to reduce the use of restrictive procedures.

Goal 3 Action Items

- **MDE, DHS and Stakeholder Group:** participate in listening sessions and planning for the Workforce Summit.

Goal 4: By August 1, 2014, MDE will collaborate with school districts, including, but not limited to, intermediate school districts, DHS, parent advocacy groups, and community partners to develop a restrictive procedures discussion panel on the legal and practical aspects of reducing the use of restrictive procedures and eliminating the use of the prone restraints to be available to the education community. Panel discussions will be scheduled beginning with the 2014-15 school year.

Goal 4 Action Items

- **MDE:** Coordinate setting up the discussion panel.
- **DHS:** Participate in the discussion panel about evidence based best practices.
- **School Districts:** Intermediate and other districts will participate to share effective strategies and resources. School districts will make staff available to attend the panel discussions.

Goal 5: Consistent with Minnesota's 2013 Olmstead Plan, by June 30, 2015, and each subsequent year, a minimum of 40 additional schools will use the evidence-based practice of positive behavioral interventions and supports (PBIS) so that students are supported in the most integrated setting. Within this environment of school-wide positive behavior support, districts will train school staff and ensure that compatible school-wide and individual positive behavior approaches align.

Goal 6: During the 2014 legislative session, the Legislature will consider increasing the general education revenue to allocate state funding for supporting school districts to maintain focus and sustain fidelity of PBIS sites beyond the current two-year support for PBIS implementation. Districts will apply to MDE for state funding through an application process, which will include a

requirement that school districts collect and report implementation data. The current cost is anticipated to be $240,000 and will increase as additional school sites complete two years of PBIS training.

Goals 5 and 6 Action Items

- **MDE:** Provide ongoing technical assistance support and strive to adjust the fiscal burden partially away from special education.
- **School Districts:** Strive to create staff investment in the PBIS culture and make staff available for training.
- **University of Minnesota**: Provide training and technical assistance for “Tier 3” level of PBIS.
- **Legislature:** Legislative action to establish a general fund stream to sustain PBIS training in school sites beyond the current two-year training, which is federally funded.

Goal 7: Annually, beginning February 1, 2015, MDE will submit a report to the Legislature summarizing the state’s progress on reducing the use of restrictive procedures statewide with recommendations on how to further reduce their use.

As set forth in the prior statewide plan, the continued meetings of the 2013 stakeholder group will allow the group to continue policy work to ensure that positive school outcomes, positive school success for students with mental health and behavior health needs, including the receipt of necessary services and delivery, is reviewed and modified as necessary.

Goal 7 Action Items

- **MDE:** Submit a report annually and coordinate quarterly meetings of the stakeholder group.
- **School Districts**: Collection and reporting of summary restrictive procedure data and individual incidents of prone restraint.
- **Stakeholder Group**: Meet quarterly to review the data and progress toward goals and to review and revise goals as needed,

Goal 8: During the 2014 legislative session, the Legislature will consider establishing a task force to make recommendations on how to integrate planning between the K-12 and post-secondary systems to assist students with disabilities with their transition from school to post-school activities. The task force members would include school districts representatives, community based providers representatives, and county social service representatives.

While this goal is broader than the scope of this work group, the stakeholders wanted to emphasize the need for alignment of resources to allow for a positive transition from K-12 to post-school activities. For students with more significant needs, this planning is essential. The 2013 stakeholder group believes that implementation of these goals will result in the reduction of the use of restrictive procedures in the educational setting.

VII. Recommendations

1. Support Stakeholder-Driven Changes to Statute

The 2013 stakeholder group addressed the need to clarify the current restrictive procedures statute. The proposed revisions address the need to collect summary data on the use of

reasonable force in an emergency when it results in the use of a restrictive procedure on a student with a disability. There was concern regarding this issue and whether some districts are using the reasonable force statute to avoid reporting restrictive procedures. To obtain baseline data on how often the use of reasonable force results in the use of a restrictive procedure on a student with a disability, the 2013 stakeholder group recommended that data should be collected in a summary manner on the annual restrictive procedures summary form submitted by districts to MDE.

As recommended in its February 2013 report, MDE continues to recommend that Minnesota Statutes, section 125A.0942, Subd.3(v) be revised to allow the use of prone restraint only if a district or charter school has obtained medical certification of no contraindication prior to its use. This statute then would more closely mirror the Rule 40 limitations that apply to prone restraint in DHS-licensed facilities, which require prior consultation with an individual's treating physician "to determine whether the procedure is medically contraindicated."[4] This would assure that medical conditions that are not obvious are considered. MDE believes that this proposed language, though more prescriptive than the language recommended by the stakeholder group, is consistent with the intent to ensure that medically contraindicated restrictive procedures are not used.

The stakeholder group also recommended that the restrictive procedure plan developed by districts provide a description of its de-escalation techniques training, consistent with renewal of hours through the board of teaching. Finally, the 2013 stakeholder group again included in the statute a request for a $250,000 appropriation to help districts address the needs of students who have experienced a high use of prone restraints. The stakeholder group agrees that the funds are needed to provide the types of intensive services those students need. MDE's recommended revisions to the statute are as follows:

125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES

Subdivision 1. **Restrictive procedures plan.** (a) Schools that intend to use restrictive procedures shall maintain and make publicly accessible in an electronic format on a school or district Web site or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities that at least:

(1) lists the restrictive procedures the school intends to use;

(2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services;

<u>(3) describes how the school will provide training on de-escalation techniques, in accordance with 122A.09 Subd. 4.</u>

(3) describes how the school will monitor and review the use of restrictive procedures, including:

[4] Minn. R. 9525.2750, Subp. 1, H.

(i) conducting post-use debriefings, consistent with subdivision 3, paragraph (a), clause (5); and

(ii) convening an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and

(4) includes a written description and documentation of the training staff completed under subdivision 5.

(b) Schools annually must publicly identify oversight committee members who must at least include:

(1) a mental health professional, school psychologist, or school social worker;

(2) an expert in positive behavior strategies;

(3) a special education administrator; and

(4) a general education administrator.

Subd. 2. **Restrictive procedures**. (a) Restrictive procedures may be used only by a licensed special education teacher, school social worker, school psychologist, behavior analyst certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed education professional, paraprofessional under section 120B.363, or mental health professional under section 245.4871, subdivision 27, who has completed the training program under subdivision 5.

(b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph ~~(d)~~ (f).

(c) The district must hold a meeting of the individualized education program team, conduct or review a functional behavioral analysis, review data, consider developing additional or revised positive behavioral interventions and supports, consider actions to reduce the use of restrictive procedures, and modify the individualized education program or behavior intervention plan as appropriate. The district must hold the meeting: within ten calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days or a pattern of use emerges and the child's individualized education program or behavior intervention plan does not provide for using restrictive procedures in an emergency; or at the request of a parent or the district after restrictive procedures are used. The district must review use of restrictive procedures at a child's annual individualized education program meeting when

the child's individualized education program provides for using restrictive procedures in an emergency.

(d) If the individualized education program team under paragraph (c) determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on ten or more school days during the same school year, the team, as appropriate, either must consult with other professionals working with the child; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the child.

(e) At the individualized education program meeting under paragraph (c), the team must review any known medical or psychological limitations, including any medical information the parent provides voluntarily, that contraindicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the individualized education program or behavior intervention plan.

(f) An individualized education program team may plan for using restrictive procedures and may include these procedures in a child's individualized education program or behavior intervention plan; however, the restrictive procedures may be used only in response to behavior that constitutes an emergency, consistent with this section. The individualized education program or behavior intervention plan shall indicate how the parent wants to be notified when a restrictive procedure is used.

Subd. 3. **Physical holding or seclusion**. (a) Physical holding or seclusion may be used only in an emergency. A school that uses physical holding or seclusion shall meet the following requirements:

(1) physical holding or seclusion is the least intrusive intervention that effectively responds to the emergency;

(2) physical holding or seclusion is not used to discipline a noncompliant child;

(3) physical holding or seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;

(4) staff directly observes the child while physical holding or seclusion is being used;

(5) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes, the following information:

(i) a description of the incident that led to the physical holding or seclusion;

(ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;

(iii) the time the physical holding or seclusion began and the time the child was released; and

(iv) a brief record of the child's behavioral and physical status;

(6) the room used for seclusion must:

(i) be at least six feet by five feet;

(ii) be well lit, well ventilated, adequately heated, and clean;

(iii) have a window that allows staff to directly observe a child in seclusion;

(iv) have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;

(v) have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and

(vi) not contain objects that a child may use to injure the child or others;

(7) before using a room for seclusion, a school must:

(i) receive written notice from local authorities that the room and the locking mechanisms comply with applicable building, fire, and safety codes; and

(ii) register the room with the commissioner, who may view that room; and

(8) until August 1, 2015, a school district may use prone restraints with children age five or older if:

(i) the district has provided to the department a list of staff who have had specific training on the use of prone restraints;

(ii) the district provides information on the type of training that was provided and by whom;

(iii) only staff who received specific training use prone restraints;

(iv) each incident of the use of prone restraints is reported to the department within five working days on a form provided by the department; and

> (v) the district, before using prone restraints, or by the first IEP meeting held in response to the use of restrictive procedures, must, with the consent of the parent, obtain from the child's medical provider a certification that the child has no ~~review any~~ known medical or psychological limitations that contraindicate the use of prone restraints.

The department must collect data on districts' use of prone restraints and publish the data in a readily accessible format on the department's Web site on a quarterly basis.

(b) By ~~March 1, 2014~~ February 1, 2015, and annually thereafter, stakeholders must 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 prone restraints. 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 prone restraints; 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. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner. This includes reporting the use of restrictive procedures, which overlap with 121A.582.

Subd. 4. **Prohibitions**. The following actions or procedures are prohibited:

(1) engaging in conduct prohibited under section 121A.58;

(2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;

(3) totally or partially restricting a child's senses as punishment;

(4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;

(5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

(6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556;

(7) withholding regularly scheduled meals or water;

(8) denying access to bathroom facilities; and

(9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso.

Subd. 5. **Training for staff.** (a) To meet the requirements of subdivision 1, staff who use restrictive procedures, including paraprofessionals, shall complete training in the following skills and knowledge areas:

(1) positive behavioral interventions;

(2) communicative intent of behaviors;

(3) relationship building;

(4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;

(5) de-escalation methods;

(6) standards for using restrictive procedures only in an emergency;

(7) obtaining emergency medical assistance;

(8) the physiological and psychological impact of physical holding and seclusion;

(9) monitoring and responding to a child's physical signs of distress when physical holding is being used;

(10) recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used;

(11) district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and

(12) schoolwide programs on positive behavior strategies.

(b) The commissioner, after consulting with the commissioner of human services, must develop and maintain a list of training programs that satisfy the requirements of paragraph (a). The commissioner also must develop and maintain a list of experts to help individualized education program teams reduce the use of restrictive procedures. The district shall maintain records of staff who have been trained and the organization or professional that conducted the training. The district may collaborate with children's community mental health providers to coordinate trainings.

Subd. 6. **Behavior supports**. School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports.

Subd. 7. **Reasonable Force.** Nothing in this section or section 125A.0941 precludes the use of reasonable force under sections 121A.582; 609.06, subdivision 1; and 609.379. Beginning with the 2014-15 school year, districts will collect and submit summary data on the use of reasonable force that meets the definition of physical holding or seclusion for a child with a disability, consistent with subdivision 3(b).

Subd. 8. **Funding.** $250,000.00 is appropriated to assist districts in addressing the needs of children who have experienced a high use of prone restraints. In addition, the Commissioner of Education and the Commissioner of Human Services will discuss how to coordinate use of the appropriated funds with existing resources and expertise available within the Department of Human Services.

2. Support Stakeholder Planned Action Items

MDE supports the consensus-based recommendations reached by the 2013 stakeholder group regarding actions that various stakeholders, agencies and the legislature can take to best ensure a reduction in the use of restrictive procedures in the Minnesota education system. As such, MDE recommends the above goals to reduce the use of restrictive procedures and eliminate prone restraints.

3. Strengthen Pre-Enrollment Screening

Pre/enrollment screening for change of placement should be conducted for students exhibiting challenging behaviors in order to pair consequences (both in emergency and in modification) with individual needs. This screening data should include a current (within the past 30 days) functional behavior assessment to ensure that receiving districts are able to design behavior response plans that are specific to the needs of the student.

Very often, intermediate school districts are the receiving districts in these situations. By relying on thorough pre-enrollment screening based on a detailed report of what prior interventions were used and their effect, intermediates and other receiving districts will be better equipped to address student needs. With this data, intermediate districts will have more effective tools for designing individualized and instructional behavior improvement plans that reflect interventions that are least restrictive for students.

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Legislative Language or **Policy Guidance** currently in effect in all states relating specifically to prone restraint or restraint that restricts or impairs a child’s ability to breathe within the school setting.

State	Citation	Language	Applicable
Alabama	Ala. Admin. Code r. 290-3-1-.02(1)(f)(1)	Prohibits: “(iv) Physical Restraint that restricts the flow of air to the student's lungs—Any method (face-down, face-up, or on your side) of physical restraint in which physical pressure is applied to the student's body that restricts the flow of air into the student's lungs. Use of this type of restraint is prohibited in Alabama public schools and educational programs.”	Applies to all children
Alaska[1]	State of Alaska Department of Education & Early Development, Special Education Handbook, p. 146 (2013)	“Restraint may not prevent the student from breathing or speaking. Prone or supine restraint (when the student is placed on his or her stomach or back) is prohibited.”	Applies to children with disabilities
Arizona	H.B. 2476[2] (2013)	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child’s ability to breathe within the school setting.	Applies to all children

[1] AK Stat. § 14.33.120 mandates that each school district adopt a written school disciplinary and safety program. *See also*, Ak Admin. Code tit. 4, § 07.010.

[2] H.B. 2476 passed April 2013 and is silent on the use of restraint. The bill has a provision for pupils left alone in an enclosed space. The bill calls for the governing board of any school district to prescribe rules for the discipline, suspension and expulsion of pupils, the rules shall be consistent with the constitutional rights of pupils and shall include … procedures for the use of corporal punishment if allowed by the governing board and procedures for the reasonable use of physical force by certificated or classified personnel in self-defense, defense of others and defense of property. In 2009, as a result of the passage of S.B. 1197, a Task Force on Best Practices in Special Education and Behavior Management recommended the use of corporal punishment, mechanical restraints and physical restraints that restrict the student’s ability to breath and communicate (such as prone restraints) be prohibited. Each school district was then required to hold a public meeting to review and consider the adoption of the best practice recommendations by 2010. The governing board is not required to adopt the recommendations and may choose to modify the recommendations to accommodate the needs of the district. Task Force repealed Sept. 2010.

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State	Citation	Language	Applicable
Arkansas	Arkansas Dept. of Educ. Special Education and Related Services 20.00 Time-out Seclusion Room[3]	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to children with disabilities
California	Cal. Code Reg. tit. 5, § 3052(i)(4)(B)-(C) and (I)(1) and (5)	(i)(4) Emergency interventions may not include:…(B) employment of a device or material or objects which simultaneously immobilize all four extremities except that techniques such as prone containment may be used as an emergency intervention by staff trained in such procedures; and (C) an amount of force that exceeds that which is reasonable and necessary under the circumstances. (I) Prohibitions. (1) Any intervention that is designed to, or likely to, cause physical pain; (5) "Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subdivision (i)."	Applies to children with disabilities

[3] There is no mention of restraint and no updated information since 2010 despite efforts to do so.

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State	Citation	Language	Applicable
Colorado	Colo. Code Reg. tit. 1, §§ 301-45, 2620-R-2.00 et seq. (2009)	2620-R-2.00(4) defines "positional asphyxia" to mean "an insufficient intake of oxygen as a result of body position that interferes with one's ability to breathe." 2620-R-2.02(1)(a) "the public education program shall ensure that: (i) no restraint is administered in such a way that the student is inhibited or impeded from breathing or communicating; (ii) no restraint is administered in such a way that places excess pressure on the student's chest, back, or causes positional asphyxia."	Applies to all children
Connecticut	Conn. Gen. Stat. §§ 46a-150(4) and 46a-151 Conn. Admin. Regs. §§ 10-76b-510-76b-11	46a-150(4) defines "life-threatening physical restraint" to mean "any physical restraint or hold of a person that restricts the flow of air into a person's lungs, whether by chest compression or any other means." 46a-151 prohibits the use of life-threatening physical restraint.	Applies to children with disabilities
Delaware	Del. Code Chapt. 41, tit. 14 § 4112F (effective 7.1.14)	(b) Prohibitions and restriction on use. (2) Public school personnel may impose physical restraint only in conformity with all of the following standards: … (b) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication; (c) the physical restraint does not interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck; (d) the physical restraint does not recklessly exacerbate a medical or physical condition of the student …	Applies to all children
District of Columbia	57 D. C. Reg. 9457	2818.1 "Nonpublic special education school or program shall not use any form of prone restraint on a District of Columbia student. Use of such restraints as a policy or practice shall be grounds for denying or revoking a certificate of approval."	Applies to children with disabilities

State	Citation	Language	Applicable
Florida	Fla. Stat. § 1003.573	(4) Prohibited restraint. “School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student’s breathing.”	Applies to children with disabilities
Georgia	Ga. Comp. R. & r. 160-5-1-3.5	“(2)(b) The use of prone restraint is prohibited in Georgia public schools and educational programs.”	Applies to all children
Hawaii	Haw. Rev. Stat. § 302A-1141[4]	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child’s ability to breathe within the school setting.	Applies to children with disabilities
Idaho[5]		No laws or guidance on restraints.	
Illinois	105 Ill. Comp. Stat. § 5/10-20.33 Ill. Admin. Code, tit. 23, § 1.285	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child’s ability to breathe within the school setting.	Applies to all children

[4] Provides: No physical punishment of any kind may be inflicted upon any pupil, but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting oneself or any other person or property, and reasonable force may be used … by a principal or the principal’s agent only with another teacher present and out of the presence of any other student but only for the purpose outlined in § 703-309(2)(a).”

[5] Task force established in Aug. 2010 with proposed rules (IDAPA 08.02.03.160-161) however no action was taken.

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State	Citation	Language	Applicable
Indiana	Indiana SB 0345 (passed 5.13.13) Commission on Seclusion and Restraint in Schools, Model Seclusion and Restraint Plan[6] (8.1.13)	Requires a commission to adopt rules and model policy pertaining to seclusion and restraint. Model plan provides: IG. "Prone and supine forms of restraint are not authorized and shall be avoided." IH. "Seclusion and restraint shall never be used in a manner that restricts a child's breathing or harms the child."	Applies to all children
Iowa	Iowa Admin. Code r. 281-103.8	"(1) No employee shall use any prone restraints. For the purposes of this rule, "prone restraints" means those in which an individual is held face down on the floor. Employees who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint."	Applies to all children
Kansas	32 Kansas Register No. 14, 317 (April 4, 2013)	91-42-2(a)(1)(A) "Policies and procedures shall prohibit the following: (i) The use of prone, face-down, physical restraint; or face-up, physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication."	Applies to all children
Kentucky	704 Kentucky Admin. Regs. 7:160 (2013)	Section 3(2) "School personnel shall not impose the following on any student at any time: … (d) Physical restraint that is life-threatening; (e) Prone or supine restraint; or (f) Physical restrict if they know that physical restraint is contraindicated based on the student's disability, health care needs, or medical or psychiatric condition."	Applies to all children

[6] Schools are free to adopt a model plan as they see fit. However, any plan adopted by a school must contain, at a minimum, the elements listed in Indiana Code 20-20-40-13.

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State	Citation	Language	Applicable
Louisiana	La. Rev. Stat. § 17:416.21(C)	(1)"Physical restraint shall be used only … (c) In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others;" . . . (3) "No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia; (4) A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior."	Applies to children with disabilities
Maine	LD 243[7] (passed 2013) 05-071 Department of Education, Chapter 33, Section 6	"2. Prohibited forms and uses of physical restraint … C) No physical restraint may be used that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of a student; D) No physical restraint may be used that relies on pain for control, including but not limited to joint hypertension, excessive force, unsupported take-down (e.g. tackle), the use of any physical structure (e.g. wall, railing or post), punching and hitting."	Applies to all children
Maryland	Md. Regs. Code tit. 13A. § 13A.08.04.05(A)(1)(e)	Provides: "In applying restraint, school personnel may not: (i) Place a student in a face down position; (ii) Place a student in any position that will obstruct a student's airway or otherwise impair a student' s ability to breathe, obstruct a staff member's view of a student's face, restrict a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or (iii) straddle a student's torso."	Applies to all children

[7] Revised existing statutory provisions pertaining to physical holding and seclusion.

State	Citation	Language	Applicable
Massachusetts	Mass. Regs. Code, tit. 603, § 46.05(3)	"Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present."	Applies to all children
	§ 46.05(5)(a)	"Safety requirements. Additional requirements for the use of physical restraint: (a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration."	

State	Citation	Language	Applicable
Michigan	Supporting Student Behavior: Standards for the Emergency Use of Seclusion and Restraint, p. 18 Dec. 2006 Michigan Department of Education	"E. Prohibited Practices. The following procedures are prohibited under all circumstances, including emergency situations: … any restraint that negatively impacts breathing; prone restraint: school personnel who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint." "Prone restraint is the restraint of a person face down." "restraints that negatively impact breathing include floor restraints, facedown position, or any position in which a person is bent over in such a way that it is difficult to breathe. This includes a seated or kneeling position in which a person being restrained is bent over at the waist. Sitting or lying across a person's back or stomach can interfere with breathing. When a person is lying facedown, even pressure to the arms and legs can interfere with a person's ability to move their chest or abdomen in order to breathe effectively."	Applies to all children

State	Citation	Language	Applicable
Minnesota	Minn. Stat. §§ 125A.094 - .0942 (2013)	Minn. Stat. § 125A.0942, Subd. 4(9) prohibits "physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso." Minn. Stat. § 125A.0942, Subd. 3(a)(8) provides "until August 1, 2015, a school district may use prone restraints with children age five or older if: (i) the district has provided to the department a list of staff who have had specific training on the use of prone restraints; (ii) a district provides information on the type of training that was provided and by whom; (iii) only staff who received specific training use prone restraints; (iv) each incident of the use of prone restraints is reported to the department within five working days on a form provided by the department; and (v) the district, before using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints."	Applies to children with disabilities
Mississippi		No laws or guidance on restraints.	

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State	Citation	Language	Applicable
Missouri	Mo. Rev. Stat. § 160.263 Missouri Dep't of Elementary and Secondary Educ., Model Policy on Seclusion and Restraint (July, 2010), p. 2	State statute requires all school districts to adopt a written policy addressing the use of restrictive behavioral interventions, including but not limited to definitions of restraint, seclusion, and time-out and descriptions of circumstances under which a restrictive behavioral intervention is allowed and prohibited. It also required the state education agency to develop a model policy. The model policy states that "[t]his policy is not an endorsement of the use of seclusion and restraint. A school district may adopt a policy prohibiting the use of seclusion, isolation or restraint." It further provides that "[p]hysical restraint shall: not place pressure or weight on the chest, lungs sternum, diaphragm, back, neck or throat of the student which restricts breathing."	Applies to all children
Montana	Montana Admin. R. 10.16.3346[8]	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to children with disabilities

[8] Provides: (3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted corporal punishment on a pupil. (4)(a) A person who is employed or engaged by a school district must use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to: (i) quell a disturbance; (ii) provide self –protection; (iii) protect the pupil or others from physical injury; (iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil; (v) maintain orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or (vi) protect property from serious harm.

State	Citation	Language	Applicable
Nebraska	Nebraska Adim. Code, tit. 92, R. 10, § 011.01(E) Nebraska Educ. Dept., Developing School Policies & Procedures for Physical Restraint and Seclusion in Nebraska Schools, (June, 2010), pp. 12, 27, 29, and 34	"Each school system has a seclusion and restraints policy approved by the school board or local governing body." 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. 12. Each school district may choose to format its policies according to its own practices, p. 27. Model policies include the following language: "The only physical restraints to be used are those taught by the approved Crisis Intervention Training Program," p. 29 and "Prone or supine forms of physical restraint are not authorized and should be avoided," p. 34.	Applies to all children
Nevada	Nev. Rev. Stat. §§ 388.521 – 388.5317[9] (1999)	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to children with disabilities

[9] Meaning protections against seclusion and restraint but no specific prohibitions on prone restraint or restraints that restrict or impair a child's ability to breathe.

State	Citation	Language	Applicable
New Hampshire	N.H. Rev. Stat. Ann. §§ 126-U:1 – 126-U:13	126-U: 4 “Prohibition of Dangerous Restraint Techniques. No school or facility shall use or threaten to use any of the following restraint and behavior control techniques: I) Any physical restraint or containment technique that: a) obstructs a child’s respiratory airway or impairs the child’s breathing or respiratory capacity or restricts the movement required for normal breathing; b) places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child; c) obstructs the circulation of blood; d) involves pushing on or into the child’s mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths; or e) endangers a child’s life or significantly exacerbates a child’s medical condition.”	Applies to all children
New Jersey	New Jersey Dept. of Educ. Guidance Memo 2012-5 (9.18.12)	“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.”	Applies to all children

State	Citation	Language	Applicable
New Mexico[10]	State of New Mexico Public Educ. Dep't, Use of Physical Restraint as a Behavioral Intervention for Students with Disabilities, Memorandum (March 14, 2006)	Memorandum, pp. 3-4 "Offers the following guidance to IEP teams and building administrators: . . . No form of physical restraint may be used that restricts a student from speaking or breathing."	Applies to children with disabilities
New York	N.Y. Comp. R. and Regs., tit. 8, §§ 19.5(b) and 200.22[11] (2009)	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to all children
North Carolina	N.C. Gen. Stat. §§ 115C-391.1[12]	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to all children
North Dakota		No laws or guidance on restraints.	

[10] New Mexico does have a Children's Mental Health and Developmental Disabilities Act, which provides, under N.M. Stat. Ann. § 32A-6A-10(I), "In applying physical restraint, a mental health or developmental disabilities professional shall use only reasonable force as is necessary to protect the child or other person from imminent and serious physical harm." Additionally, in 2010, a legislative education study committee was proposed and a Restraint & Seclusion Work Group was created.

[11] New York has meaningful protections against the use of seclusion and restraint, however, such does not include any prohibition on prone restraint or restraints that restrict or impair a child's ability to breathe.

[12] North Carolina has meaningful protections against the use of seclusion and restraint, however, such does not include any prohibition on prone restraint or restraints that restrict or impair a child's ability to breathe.

State	Citation	Language	Applicable
Ohio	Ohio Admin. Code § 3301-35-15 (Effective Aug. 1, 2013)	(C) "Prohibition on certain practices. The following practices are prohibited by school personnel under any circumstance: (1) prone restraint; (2) Any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that: (a) involves the use of pinning down a student by placing knees to the torso, head, or neck of the student; (b) uses pressure point, pain compliance, or joint manipulation techniques; or (c) otherwise involves techniques that are used to unnecessarily cause pain." (D) "Physical restraint. (1) Prone restraint is prohibited … (2) Physical restraint may be used only if …(b) The physical restraint does not obstruct the student's ability to breathe; (c) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication…"	Applies to all children
Oklahoma	Oklahoma State Dep't of Educ., Guidelines for Minimizing the Use of Physical Restraint for Students with Disabilities in Oklahoma (May 2010)	"Prone restraints (restraints that position a student face down on his or her stomach or face up on the back) or any maneuver that places pressure or weight on the chest, sternum, lungs, diaphragm, neck, throat, or back must not be used. No restraint that prevents a student from speaking or breathing is allowed."	Applies to children with disabilities

State	Citation	Language	Applicable
Oregon	OR Admin. R. 581-021-0550 to -0570 (2013)	OAR 581-021-0553: (1) "The use of a chemical restraint, mechanical restraint or prone restraint on a student in a public education program in this state is prohibited." "Prone restraint means a restraint in which a student is held face down on the floor." OAR 581-021-0550. "'Physical restraint' does not include prone restraint." OAR 581-021-0550.	Applies to all children
Pennsylvania	22 Pa. Code § 14.133(c)(3)	Provides "The use of prone restraints is prohibited in educational programs. Prone restraints are those in which a student or eligible young child is held face down on the floor."	Applies to children with disabilities

State	Citation	Language	Applicable
Rhode Island	R.I. Bd. of Regents for Elementary and Secondary Education, Physical Restraint Regulations, 6.2(e) and 7.3(a) (September 1, 2002)	"6.2 Prohibitions: Physical restraint/crisis intervention are prohibited in the following circumstances:… (e) As in a restrictive intervention which employs a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment may be used by trained personnel as a limited emergency intervention when a documented part of a previously agreed upon written behavioral intervention plan." "7.3 Safety Requirements. Additional requirements for the use of physical restraint/crisis intervention are: (a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration. A restraint shall be released immediately upon a determination by the staff member administering the restraint that the student is no longer at risk of causing imminent physical harm to him or herself or others. (b) Restraint shall be administered in such a way so as to prevent or minimize physical harm. If, at any time during a physical restraint/crisis intervention, the student demonstrates significant physical distress, the student shall be released from the restraint immediately, and school staff shall take steps to seek medical assistance. (c) Program staff shall review and consider any known medical or psychological limitations and/or behavioral intervention plans regarding the use of physical restraint/crisis intervention on an individual student."	Applies to all children

State	Citation	Language	Applicable
South Carolina	South Carolina Dep't of Educ., Guidelines on the Use of Seclusion and Restraint (2011), p. 8	"Prone restraints (with the student face down on his or her stomach) or supine restraints (with the student face up on the back) or any maneuver that places pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat are prohibited."	Applies to children with disabilities
South Dakota		No laws or guidance on restraints.	
Tennessee	Tenn. Code Ann. § 49-10-1305(d)	"Any form of life threatening restraint, including restraint that restricts the flow of air into a person's lungs, whether by chest compression or any other means, to a student receiving special education services … is prohibited."	Applies to children with disabilities
Texas	19 Tex. Admin. Code § 89.1053(c)	"Use of restraint. A school employee, volunteer, or independent contractor may use restraint only in an emergency … with the following limitations. (1) Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency… (3) Restraint shall be implemented in such a way as to protect the health and safety of the student and others. (4) Restraint shall not deprive the student of basic human necessities."	Applies to children with disabilities

State	Citation	Language	Applicable
Utah	Utah Code §§ 53A-11-805 Utah State Office of Education, Least Restrictive Behavioral Interventions LRBI Guidelines, Positive Behavioral Supports and Selection of Least Restrictive Behavioral Interventions[13]	"Behavior reduction intervention which is in compliance with section 76-2-401 and with state and local rules adopted under section 53A-15-301 is excepted from this part."	Applies to children with disabilities

[13] Utah has guidance found in this document. Nothing that discusses prone or restricts and impairs a child's ability to breathe.

State	Citation	Language	Applicable
Vermont	Vt. Code R. §§ 4500 et seq.	4500.3(9) defines prone physical restraint "means holding a student face down on his or her stomach using physical force for the purpose of controlling the student's movement." 4502.1.1 provides "prone and supine physical restraints are more restrictive than other forms of physical restraint and may be used only when the student's size and severity of behavior require such a restraint because a less restrictive restraint has failed or would be ineffective to prevent harm to the student or others." 4501.1(c) prohibits school personnel and contract service providers from imposing on a student "any physical restraint, escort, or seclusion that restricts or limits breathing or communication, causes pain or is imposed without maintaining direct visual contact."	Applies to all children
Virginia	Virginia Depart. of Educ., Guidelines for the Development of Policies and Procedures For Managing Student Behaviors in Emergency Situations in Virginia Public Schools (2009)	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to all children

State	Citation	Language	Applicable
Washington	Wash. Admin. Code § 392-172A-03125 (2013)	3(a) “Force and restraint in general. No force or restraint which is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law may be used. See RCW 9A.16.100 which cites the following uses of force or restraint as uses which are presumed to be unreasonable and therefore unlawful … (iv) interfering with a student’s breathing.”	Applies to all children
West Virginia	W. Va. Code St. R. § 126-99	“A school employee and/or independent contractor may use restraint in an emergency as defined above with the following limitations: Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency. Procedures and maneuvers that restrict breathing (e.g. prone restraint), place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat, or may cause physical harm are prohibited.”	Applies to all children
Wisconsin	Wisc. Laws 146 (SB 353) (March 2012)	Section 2(3)(d) “None of the following maneuvers or techniques are used: 1) Those that do not give adequate attention and care to protecting the pupil’s head. 2) Those that cause chest compression by placing pressure or weight on the pupil’s chest, lungs, sternum, diaphragm, back, or abdomen. 3) Those that place pressure or weight on the pupil’s neck or throat, on an artery, or on the back of the pupil’s head or neck, or that otherwise obstruct the pupil’s circulation or breathing.”	Applies to all children
Wyoming	Wyo. Stat. § 21-2-202 Wyo. Educ. Rules 42-1 to 42-8 (Jan. 2012)	42-7(b)(i)(B): “Schools shall not utilize aversive interventions, mechanical restraints, or prone restraints at any time”	Applies to all children