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

Report to the Legislature

As required by Minnesota Statutes, section 125A.0942

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As requested by Minnesota Statutes, section 3.197: This report cost approximately \$20,000 to prepare, including staff time, printing, and mailing expenses.

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## Legislative Charge

In accordance with Minnesota Statutes section 125A.0942 subdivision 3(b):

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

The 2017-18 Restrictive Procedures Stakeholders' Workgroup (2017 Workgroup) included representation from the following legislatively mandated participants:

- Advocacy Organizations
- Special education directors,
- Teachers,
- Paraprofessionals,
- Intermediate school districts,
- School boards,
- County social services,
- State human services department staff,
- Mental health professionals, and
- Autism experts.

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

## Executive Summary

The legislative report includes an analysis of the quarterly seclusion data for the 2016-17 school year and the first quarter of the 2017-18 school year. That data is disaggregated by race, gender, disability category, age, free or reduced-price lunch eligibility, and federal instructional setting<sup>1</sup>. In addition, the data is broken down at a student level for duration of the seclusion and number of incidents per student. The report also includes an analysis of the summary 2016-17 restrictive procedures data (physical holds and seclusion). Districts provide that data to MDE in summary form and it is disaggregated by race, gender, disability categories, age, free or reduced-price lunch eligibility, and federal setting. However, it is not disaggregated at the student level. The report also provides an update on the Minnesota Olmstead Plan's positive support goals that are aligned with the legislative charge described above. Appendix A of this report summarizes progress toward the statewide plan goals, any changes made to the statewide plan, and recommendations of the Restrictive Procedures Stakeholders Workgroup (Workgroup). Appendix B is an update on other state's policies in effect relating specifically to seclusion of students in the school setting.

The 2016-17 summary restrictive procedure data in this report, as well as the fourth quarter of individual seclusion incidents for 2016-17 (April through June 2017) and the first quarter of the 2017-18 school year (July through September 2017), was shared with the 2017 Workgroup in July, September and December 2017. We commend the reporting school districts for their commitment and candor in their submission of the required data to the Minnesota Department of Education (MDE). During the 2016-17 school year, there was an increase in both the number and percentage of students who experienced the use of restrictive procedures, as well as an increase in the number of incidents of restrictive procedures. There was a slight decrease in the rate of incidents per student, meaning a decrease in the number of times a student experienced the use of a restrictive procedure.

As more training occurs by MDE and by districts, we receive more consistent reporting. During the 2016-17 and beginning of the 2017-18 school year, MDE has worked with school districts to ensure that they are reporting

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<sup>1</sup> The term "federal instructional setting" refers to the amount of time a student with a disability (defined as a student who has an individualized education plan or individual family services plan) spends outside of the regular education setting. For example, a student with a disability in federal setting one spends less than 21 percent of the time receiving special education instruction and related services outside of the regular education classroom. A student with a disability in federal instructional setting two spends between 21 and 60 percent of the school day outside of the regular education setting. A student with a disability in federal instructional setting three spends more than 60 percent of the day outside of the regular education setting. This includes students with disabilities in a self-contained classroom on a regular school campus. A student with a disability in federal instructional setting four attends a public separate school facility where the student spends more than 50 percent of the days in the public day school for students with disabilities. (This includes federal instructional level four programs operated by independent school districts, intermediate school districts, and special education cooperatives.)

physical transports/escorts, that involve more than minimal resistance by the student, as a physical hold.<sup>2</sup> This has and may continue to result in an increase in reporting of physical holds. Districts are still working to operationalize the definitions of physical holds and seclusion, when they can be utilized, and when incidents must be reported. All public school districts and charter schools reported to MDE whether they used restrictive procedures during the 2016-17 school year, and seclusion data for the first quarter of the 2017-18 school year. That data helped to inform the stakeholders' work.

## Introduction

Beginning with the passage of the restrictive procedures legislation in 2009, to go into effect in 2011, and subsequent statutory revisions, the Minnesota Legislature in Minnesota Statutes, section 125A.0942, subdivision 3, paragraph (b), tasked the MDE with developing a statewide plan “with specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.” As set forth in the legislation, as amended in 2016, the statewide plan includes the following components:

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

Since the fall of 2012, MDE has annually convened the Restrictive Procedures Stakeholders' Workgroup to develop a statewide plan, and has submitted annual reports to the legislature providing restrictive procedures summary data along with recommendations for reducing the use of restrictive procedures. The reports summarize the progress made in reducing the use of restrictive procedures, and specifically the progress made leading to the elimination of the use of prone restraint in the school setting, as well as the efforts made to eliminate the use of seclusion. A summary of progress toward the goals in the 2016 statewide plan and the 2017 statewide plan can be found in Appendix A of this report.

## Status of Restraints and Seclusion in the School Setting

### Prone Restraint in the School Setting

During the 2016 legislative session, prone restraint was added to the list of prohibited procedures. The elimination of prone restraint was a result of building district capacity and was achieved through implementation of the statewide plan, which was supported by a 2015 legislative appropriation. Six entities (three intermediate school districts and three independent school districts) received funding and developed

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<sup>2</sup> The term “physical holding” does not mean physical contact that is needed to physically escort a child when the child does not resist or the child's resistance is minimal. Minn. Stat. § 125A.0941(c). See also USDE, [Restraint and Seclusion: Resource Document](#) (May 2012). (Last visited January 24, 2018)



work plans to address their specific needs. Those funds, totaling \$150,000, were expended from November 2015 through June 30, 2016.

## Status of Seclusion in the School Setting

During the 2016 legislative session, the restrictive procedures statute was amended to add “seclusion” as a specific area of focus for the workgroup and statewide plan. Minnesota Statutes section 125A.0941, paragraph (g), 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.”** This report includes the first quarter of seclusion data collected for the 2017-18 school year (July 1, 2017, through September 30, 2017), as well as the quarterly seclusion data for the 2016-17 school year (July 1, 2016, through June 30, 2017).

In order to reduce the emergency use of restrictive procedures in the school setting, and specifically, to work toward the elimination of seclusion, the Restrictive Procedures Stakeholders’ Workgroup recommended changes to the statewide plan and requested a legislative appropriation.

## Funding for Mental Health Services and Staff Development

### *Existing:*

During the 2016 Minnesota Legislative session, the legislature appropriated funds to intermediate districts and special education cooperatives operating federal instructional setting IV programs<sup>3</sup> for staff development grants over a three-year period. The funds are to be used for activities related to enhancing services to students with disabilities in setting IV programs who may have challenging behaviors and/or mental health issues and/or be suffering from trauma. Specific qualifying staff development activities include, but are not limited to: 1) proactive behavior management, 2) personal safety training, 3) de-escalation techniques, and 4) adaptation of published curriculum and pedagogy for students with complex learning and behavioral needs all believed to reduce the use of restrictive procedures. The first year of funding was distributed to 18 entities in November 2016 for the 2016-17 school year. For the second year of funding, grants were distributed to 19 entities at the start of the 2017-18 school year. The new or revised work plans were written to cover activities through the 2018-19 school year. Progress reports from implementation of the first year’s work plan activities (2016-17) include:

- an increase in training opportunities,
- curriculum revisions,
- development of mentor-mentee programs, and

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<sup>3</sup> See Footnote 1 for a definition of the term “federal instructional setting.”

- increased staff development.

Many districts reported that they do not anticipate seeing changes in student data until staff have the opportunity to implement the new learning. The second year funding work plans were structured to cover two years for two reasons: to allow time for professional development/training and implementation of the new learning, and recognizing that there will not be enough funds to fully cover the third year grant requests for the 2018-19 school year.

School districts, especially districts with federal instructional setting III and IV programs, continue to report their struggles in meeting the needs of students with disabilities who exhibit aggressive or self-injurious behavior and have co-existing mental health issues which are not fully addressed given the limitation of services currently available through the Department of Human Services (DHS)'s children's mental health continuum of care.

#### *Recommended Funding:*

The 2017 Workgroup supports DHS's efforts to build the continuum of care for children's mental health services, and stakeholders expressed support for increased school-linked mental health services, and to build and maintain collaborative partnerships between school districts and DHS and county-funded or community mental health service providers to provide needed wrap-around services for students with complex mental health needs,

### **Barriers in Reducing the Use of Restrictive Procedures in the School Setting:**

#### *Data Reporting*

MDE and the 2017 Workgroup believe that the increase in the number of students and incidents of restrictive procedures is due in part to better reporting. However, within districts and between districts, there is still inconsistent reporting. Until we have more consistent data reporting both within districts and between districts, we cannot be confident that we have an accurate baseline that we can use to determine improved outcomes.

#### *Availability of Mental Health Services Across the State*

MDE continues to hear from districts how difficult it is to maintain training, resources, support, wrap-around, and/or mental health services. The 2017 Workgroup reports that there is inconsistency in the availability of consistent and effective mental health services offered throughout the state. Some districts are unable to obtain needed county/community level supports for their students. The Minnesota DHS is in the process of fully developing and implementing a statewide "Children's Mental Health Continuum of Care."

#### *Funding for Professional Development/Training*

The legislature has not funded additional training and supports needed by districts and charter schools with federal instructional settings I, II, and III to build capacity to address students' behavioral and mental health

challenges for settings I, II, and III. The 2017 Workgroup considered a number of stakeholder proposals as follows:

- Continuing the funding recommendations detailed in the 2017 RP legislative report.
- A one-year grant funding process to support additional professional development opportunities for independent school districts to target the reduction and/or the elimination of seclusion rooms and restrictive procedures.
- Providing schools that have early childhood and federal instructional settings I, II, and III programming and are using seclusion rooms, and their staff, with targeted professional development training on alternative interventions.
- Professional development revenue to fund various site visits to see districts/programs that have been successful in reducing restrictive procedures, and specifically, seclusion incidents. (Reimbursement for travel expenses and substitutes, as well as the expenses for the host site.)

Stakeholders also discussed the need for increased professional development for general and special education teachers in effective classroom management, the use of positive supports, and de-escalation techniques. They also discussed supporting the continuation of the staff development grants beyond FY19, and the need to review evaluative data from the grantees to determine what types of strategies were most successful, and what strategies were not successful. As set forth in sections VI and VII of Appendix A, the 2017 Workgroup reached consensus on funding, and it requests funding to implement goal three, as well as to continue staff development funding for federal instructional setting IV programs.

## Minnesota's Olmstead Plan

On September 29, 2015, the State of Minnesota's Olmstead Plan was approved by the Federal District Court (2015 Olmstead Plan). The 2015 Olmstead Plan addresses meeting the needs of persons with disabilities in the most integrated settings. The February 2017 Revision of Minnesota's Olmstead Plan was adopted by the Olmstead subcabinet on February 27, 2017 (2017 Olmstead Plan).

As part of the 2017 Olmstead Plan, MDE is responsible for two positive supports goals which address reducing the emergency use of restrictive procedures incidents in the public school setting, and reducing the number of students subjected to the emergency use of restrictive procedures in the public school setting. As set forth in the 2017 Olmstead Plan:

**Goal Four:** By June 30, 2020, the number of students receiving special education services who experience an emergency use of restrictive procedures at school will decrease by 318 students or decrease to 1.98 percent of the total number of students receiving special education services.

**Goal Five:** By June 30, 2020, the number of incidents of emergency use of restrictive procedures occurring in schools will decrease by 2,251 or by 0.8 incidents of restrictive procedures per student who experiences the use or restrictive procedures in the school setting.

The Strategies section of the positive support goals section of the 2017 Olmstead Plan, on page 84, includes the following strategies under the subheading “Reduce the Use of Seclusion in Educational Settings”:

- Engage the Restrictive Procedures Work Group at least annually to review restrictive procedure data, review progress in implementation of the Statewide Plan, and discuss further implementation efforts and revise the Statewide Plan as necessary.
- Engage the Restrictive Procedures Work Group to make recommendations to MDE and the 2016 legislature on how to eliminate the use of seclusion in schools on students receiving special education services and modify the Statewide Plan to reflect those recommendations. The recommendations shall include the funding, resources, and time needed to safely and effectively transition to a complete elimination on the use of seclusion on students receiving special education services.

These goals align with the work of the restrictive procedures stakeholder group. In addition, under the work plan associated with positive supports goals four and five, MDE is responsible to convene the Restrictive Procedures Stakeholders’ Workgroup to make progress toward reducing all restrictive procedures, and specifically make progress toward eliminating the emergency use of seclusion in the school setting. Minnesota DHS representatives attend the Workgroup meetings and inform the stakeholders of DHS initiatives in the area of children’s mental health. MDE also collaborates with DHS on the Olmstead Plan’s crisis services goal, prevention of abuse and neglect goals, and the associated work plan strategies, and activities.

## **2017 Olmstead Positive Support Workplan**

On October 23, 2017, the Olmstead subcabinet approved the updated Olmstead Plan Workplan for the goals set forth in the 2017 Revised Olmstead Plan. The relevant strategies under the Positive Supports Section are Strategy 2, “Reduce the use of restrictive procedures in working with people with disabilities,” and Strategy 3, “Reduce the use of seclusion in educational settings.”

A number of the activities under the second and third strategies of the Positive Supports Section are aligned with the restrictive procedures statewide plan.

Under Strategy 2, MDE is responsible to implement the following key activities:

- Implement MDE’s statewide plan to reduce the use of restrictive procedures. The restrictive procedures workgroup will meet four times per year by June 30, 2018, and annually thereafter.
- Document progress in statewide plan implementation and summarize restrictive procedures data in the annual restrictive procedures legislative report by February 1, 2018, and annually thereafter.
- MDE will provide at least three trainings and technical assistance to districts on the topic of restrictive procedures and positive supports. This includes training held at a specific district with their staff by June 30, 2018, and annually thereafter.

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

- Beginning with the 2016-17 school year, districts must report data quarterly to MDE about individual students who have been secluded. MDE will share these reports with the restrictive procedures workgroup at meetings held during the school year. The workgroup will identify areas of concern and develop strategies for eliminating the use of seclusion. The workgroup will provide recommendations to MDE leadership by January 31, 2018, and annually thereafter. The recommendations will be included in the February 1, 2018, legislative report.

MDE is on track to complete all of the activities under Strategy 2 and Strategy 3 within the allotted time frame, and is addressed in Appendix A. Future quarterly seclusion data will be shared at upcoming Restrictive Procedures Stakeholders' Workgroup meetings.

## **Summary of Progress Toward Implementing the 2016 Statewide Plan**

The statewide plan generated by the 2016-17 Restrictive Procedures Stakeholders' Workgroup (2016 Workgroup) contained three goals and attendant objectives. Highlights of progress made toward implementation of the 2016 statewide plan goals are:

- Positive Behavioral Interventions and Supports (PBIS) continues to expand across Minnesota schools. The number of students affected by schoolwide PBIS has reached 311,280 with 645 schools (35.6 percent of Minnesota schools) trained or being trained in PBIS.
- MDE conducted training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disability and included information from and references to the Positive Intervention Strategies Training Modules and the positive outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraints Grants. MDE provided this training during the 2016-17 school year 16 times to over 600 individuals. During the 2017-18 school year, as of December 31, 2017, MDE has conducted this training 11 times to over 560 individuals. This includes training across programs at an intermediate school district in collaboration with the special education director. MDE anticipates providing additional trainings throughout the remainder of the 2017-18 school year.
- MDE continues to collaborate with other state agencies through ongoing cross-agency workgroups.

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

## **2017-18 Restrictive Procedures Stakeholders' Workgroup**

MDE reconvened the 2017 Workgroup during the 2017-18 school year. The 2017 Workgroup operated under the current legislative mandate to develop, and update as needed, a statewide plan with specific measurable implementation and outcome goals to reduce restrictive procedures and eliminate seclusion. In addition, the 2017 Workgroup was charged with aligning its work with the 2017 Olmstead Plan and associated work plan strategies and activities to significantly reduce the use of restrictive procedures and eliminate the emergency use of seclusion in the school setting. Accordingly, the 2017 Workgroup was charged with the "how" of reducing

all restrictive procedures in the school setting and, specifically, moving toward the elimination of the emergency use of seclusion.

The 2017 Workgroup has met four times—July, September, and December 2017, and January 2018—to review the quarterly seclusion data and annual restrictive procedure summary data, and to meet in subgroups to work on developing strategies to reduce the use of restrictive settings across federal settings one through four. In addition, the 2017 Workgroup met on January 10, 2018, to review the statewide plan and discuss proposed changes to the Statewide Plan and recommendations for the legislature. The statewide plan generated by the 2017 Workgroup contains three goals. Goal three is premised on a legislative appropriation. For goal 3a, the 2017 Workgroup requests a two-year legislative appropriation totaling 1.6 million dollars. The funding is needed to provide three pilot grantees the ability to build capacity in inclusive elementary programs, as students in that age group most frequently experience the use of restrictive procedures. The goal is to proactively address targeted positive behavior supports needed to reduce restrictive procedures, including seclusion, to enable students to remain in their current setting with the needed supports in place so they can remain engaged and access the general education curriculum. This is in addition to PBIS training. The funding will cover the costs for the team of experts, including behavior and mental health experts, to spend three months with each grantee, training staff in an elementary program, and provide ongoing consultation the following school year. For goal 3b, the 2017 Workgroup requests a two-year legislative appropriation totaling one million dollars. The funding is needed to develop and implement a cross-agency panel to provide comprehensive supports across school, county, and state systems for highly challenged students in need of long-term, systemic, and intensive interventions. The funding is for the small percentage of students who are experiencing the highest number of restrictive procedures, specifically seclusion.

### **Summary of 2017-18 Workgroup Discussions Related to Updating the 2017 Restrictive Procedures Statewide Plan**

At the September 29, 2017, Workgroup meeting, MDE reviewed the current statewide plan with the restrictive procedures stakeholders and sought their feedback on any needed changes. No changes were requested at that time. During the December 15, 2017, meeting, two subgroups met to further discuss the seclusion data, and begin the discussion of possible new strategies to move the work forward, and then shared their results with the large group. At the end of the meeting on December 15, 2017, there was a request for clarification over how to make any additional recommendations to the current Restrictive Procedures (RP) Statewide Plan. Based upon that request, and timing issues as the legislative report is due to the legislature on February 1, 2018, the stakeholders were given until January 5, 2018, to submit recommendations. Those recommendations were then forwarded to the 2017 Workgroup members and an additional Workgroup meeting was scheduled for January 10, 2018. Written recommendations were received from Minnesota Disability Law Center (MDLC); Brent Brunetta, special education director in Grand Rapids; and Department of Human Services (DHS) staff. Prior to the meeting, comments were received from stakeholders representing Intermediate 916 and the National Alliance of Mental Illness-Minnesota (NAMI).

At the January 10, 2018, Workgroup meeting, the stakeholders present were: Tom Delaney, Minnesota Department of Education (MDE); Maggie Helwig, Goodhue County Education District; Kate Hulse, Intermediate

School District 287; Cherie Johnson, Minnesota Administrators for Special Education; Tish Kalla, Southwest West Central Service Cooperative; Sarah Knoph, MDE; Marikay Canaga Litzau, MDE; Jody Manning, Parent Advocacy Coalition for Educational Rights (PACER) Center; Tony Miller, Southwest West Central Service Cooperative; Julie Neururer, MDE; Ross Oden, MDE; Garrett Petrie, MDE; Melissa Schaller, Intermediate School District 917; Dan Stewart, Minnesota Disability Law Center (MDLC); Sara Winter, MDE; and Sara Wolf, MDE. At that meeting, the three recommendations that had been submitted to MDE and sent to the restrictive procedures stakeholders on the 2017-18 workgroup roster were discussed.

In light of the responses during the Workgroup meeting, MDE sent proposed changes for the Statewide Plan to the 2017 Workgroup Stakeholders for comment by January 17, 2018. Those comments were then summarized under the relevant areas of the Proposed Statewide Plan, and sent to the 2017 Workgroup Stakeholders on January 19, 2018, to see if any consensus could be reached by January 22, 2018. On January 23, 2018, PACER sent a new proposal which was sent out to the 2017 Workgroup for comment. Further discussion occurred at the January 26, 2018, workgroup meeting.

At the January 26, 2018, Workgroup meeting, the stakeholders were unable to reach consensus on an outcome goal to measure the reduction in the number of incidents of seclusion, and in the duration of seclusion incidents. Multiple stakeholders expressed concern over the increases in the use of seclusion statewide during the 2016-17 school year and the first quarter of the 2017-18 school year, and supported adding in a date certain for elimination of seclusion and measurable goals specific to the reduction of seclusion in the school setting. Other stakeholders raised concerns over the lack of wrap-around services for students, the gaps in the continuum of mental health supports for children, and safety concerns for staff and students as well as concerns over the validity of the restrictive procedure data being used to inform decision-making.

After lengthy discussions, the 2017 Workgroup reached consensus on an implementation goal with two subparts to address the needs of students with disabilities in federal settings one through three in elementary programs, as well as the needs of students who experience the highest use of restrictive procedures, specifically seclusion. The implementation goal is conditioned upon the requested legislative appropriation. The outcome data from the pilot program and the cross-agency panel will be used to determine the timeline needed, as well as needed funding and resources to safely and effectively transition to a complete eliminate of the use of seclusion on students receiving special education services. The 2017 Workgroup was able to reach consensus on the legislative funding needed to implement the 2017 Statewide Plan. In addition to the funding needed to implement the goal in the amount of 2.6 million over a two year period, the 2017 Workgroup also supports extending the time period for the three-year staff development grants ending FY19.

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

When comparing the data from the last two reporting periods, there has been an overall increase in the use of restrictive procedures during the 2016-17 school year and, specifically, an increase in both the use of seclusion and physical holds. The increase in the use of physical holds is due in part to better reporting and due to MDE's

discussions with school districts to ensure that districts report a physical hold if one is used to transport/escort a student, using more than minimal resistance, to a seclusion room.<sup>4</sup>

In addition, the total number of students receiving special education services increased during the 2016-17 school year as reported by school districts. (151,407)<sup>5</sup>. During the 2016-17 school year, the number of students experiencing the emergency use of restrictive procedures in the school setting increased as did the number of students with disabilities. The following is how the restrictive procedures data changed between the 2015-16 and 2016-17 school years:

- The number of reported students receiving special education services increased by 3,625 for the 2016-17 school year (2.45 percent increase).
- Districts reported that the number of students with disabilities who experienced the emergency use of a restrictive procedure in the school setting increased by 14.6 percent.
- Districts reported an increase of 1,616 incidents of physical holding (10.4 percent increase).
- Districts reported an increase of 660 incidents of seclusion (10.3 percent increase).
- A net decrease of eight independent school districts and a net increase of 14 charter schools reported the use of one or more restrictive procedures in the school setting.
- A net increase of one cooperative/education district reported the use of a restrictive procedure in the school setting.
- A net decrease of 11 school districts reported the use of one or more physical holds in the school setting.
- A net increase of one school district reported the use of seclusion one or more times in the school setting.

## Regulatory Developments

### Recent Minnesota Developments

During the 2015 legislative session, Minnesota Statutes, section 125A.0942, was amended to make revision of the statewide plan permissible. In addition, prone restraint was not allowed effective August 1, 2015, and during the 2016 legislative session, prone restraint was specifically added to the list of prohibited procedures and the restrictive procedures statute was amended to add “seclusion” as a specific area of focus for the workgroup and

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<sup>4</sup> See definition of physical holding. [Minn. Stat. Section 125.0941 \(c\)](#).

<sup>5</sup> The number of reported students receiving special education services (151,407) is greater than the December 1, 2016 state special education child count. (137,601). The difference is due to a student being counted more than one time when the student has enrolled in more than one school district during the 2016-17 school year. From [MDE Data Analytics](#) (last visited January 24, 2018).



statewide plan. Minnesota Statutes, section 125A.0941, paragraph (g), 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.”

## Federal Developments

On May 12, 2012, the Office of Special Education Programs at the United States Department of Education issued a document titled “Restraint and Seclusion: Resource Document” (Resource Document).<sup>6</sup> It defined the terms “prone restraint” and “seclusion” and included 15 principles to assist states and districts to consider when developing or revising restrictive procedures policies and procedures.

On December 28, 2016, the United States Department of Education, Office of Civil Rights Division, issued a significant guidance document, titled: “Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities.”<sup>7</sup> As set forth in that document:

In particular, this guidance informs school districts how the use of restraint and seclusion in the school setting may result in discrimination against students with disabilities, in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the American with Disabilities Act of 1990 (Title II) (both as amended). Based upon the most recent civil rights data collected for the 2013-14 school year, students with disabilities and receiving services under the Individual Disabilities Education Act (IDEA) represented 12 percent of students enrolled nationally in public schools; however, they represented 67 percent of the students who were subjected to restraint and seclusion in the school setting.<sup>8</sup>

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

The guidance also reiterates that, “there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.” Through a series of questions and answers, the documents provide guidance on how school districts should respond to students with or without disabilities that engage in physical aggression/self-injurious behavior. In addition, resources are listed that address positive behavioral interventions, evidence-based positive classroom

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<sup>6</sup>[Resource Document](#) (Last visited January 24, 2018)

<sup>7</sup> [Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities](#), pages1-2. (Last visited January 24, 2018)

<sup>8</sup> Currently, Minnesota does not have a requirement or mechanism to collect data on general education students who were subjected to the use of restrictive procedures.

strategies, and student trauma. Those resources include trauma-informed care and information on the serious impact of traumatic stress on children.

### Other State Laws

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

## Quarterly Seclusion Data Analysis

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

### Districts that Reported Use of Seclusion

MDE received reports of 651 seclusion incidents that occurred during the first quarter of the 2016-17 school year and 710 that occurred during the first quarter of the 2017-18 school year (July 1, 2017 through September 30, 2017). MDE now has a baseline to compare the first quarter of seclusion data. Forty (40) districts reported the use of seclusion during the first quarter of 2017-18, as compared with 46 districts during first quarter of 2016-17. This included 31 independent school districts, three intermediate school districts, six cooperative/education districts, and no charter schools. During the entirety of the 2016-17 school year, 70 districts reported 7,085 incidents of seclusion. Below is a comparison, year over year, of the first quarters.

District	2017-18 First Quarter Seclusion Incidents	2016-17 First Quarter Seclusion Incidents
Independent and Special School Districts	442	331
Charter Schools	0	4
Intermediate District 287	0	1
Intermediate District 917	25	117
Northeast Metro 916	124	118
SouthWest Metro Intermediate 288	15	15

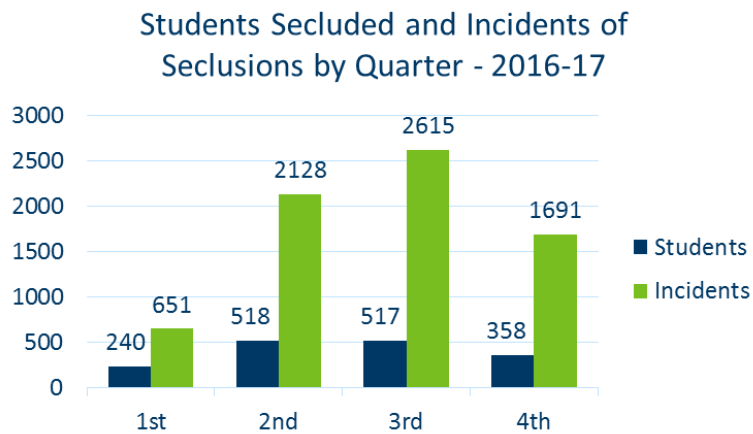
<b>District</b>	<b>2017-18 First Quarter Seclusion Incidents</b>	<b>2016-17 First Quarter Seclusion Incidents</b>
Bemidji Regional Interdistrict Council (988)	0	1
Fergus Falls Area Special Education Cooperative (935)	20	3
Goodhue County Education District (6051)	7	4
Hiawatha Valley Education District (6013)	0	15
Meeker and Wright Special Education Cooperative (938)	0	4
Mid State Education District (6979)	9	2
Minnesota Valley Education District (6027)	0	7
Rum River Special Education Cooperative (6079)	14	13
Southern Minnesota Education Consortium (6083)	2	0
Southwest West Central (991)	52	17
<b>Total Seclusion Incidents</b>	<b>710</b>	<b>651</b>

### **Number of Students in Seclusion**

For the first quarter of the 2017-18 school year, 239 students with disabilities experienced seclusion one or more times, compared to 240 students during the first quarter of 2016-17. Seven students experienced more than 15 incidents of seclusion during the first quarter of the 2017-18 school year, compared to four students during the first quarter of 2016-17. The highest use of seclusion for the first quarter of the 2017-18 school year involved students at Minnesota’s intermediate school districts, as with 2016-17. This is not surprising given that the intermediate districts provide services to students with disabilities who have not experienced success at their original district, and a significant percentage of these students, exhibit atypical behavioral challenges in a school setting. In greater Minnesota, the cooperatives and education districts function similarly to the intermediate school districts in the Twin Cities metropolitan area, in part by serving students with the most challenging behaviors.

## Students and Incidents by Quarter for the 2016-17 School Year

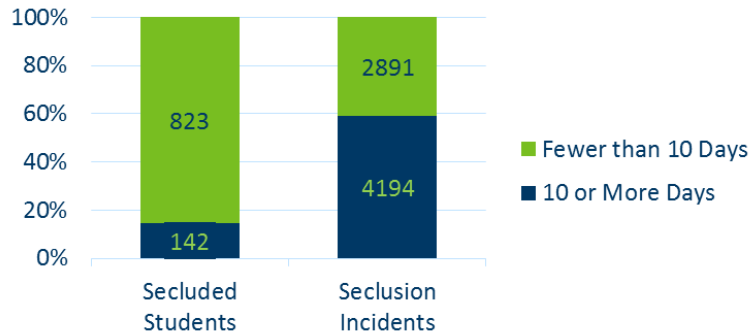
Below is a chart showing the number of students secluded and incidents of seclusion during the 2016-17 school year. During the 2016-17 school year, districts reported a total of 7,085 incidents of seclusion with 965 students, 11 of whom were secluded in two different districts (during the same school year). In addition, 463 of the total number of secluded students were secluded during two or more quarters (approximately 50 percent).



## Incidents Attributable to Students Secluded 10 or More Days

Minnesota Statutes, section 125A.0942, subdivision 2(d), requires that districts take additional steps if restrictive procedures have been used with a student on 10 or more school days during the same school year. During the 2016-17 school year, districts reported that 142 students were secluded for 10 or more school days. These 142 students account for 4,194 incidents of seclusion, or an average of about 30 incidents per student. However, some of the 142 secluded students were secluded at a much higher rate. For example: the students with the highest number of seclusion incidents experienced 172 seclusion incidents, across 43 days, aggregated to approximately 18 hours of seclusion. The student who spent the most time in seclusion experienced 73 seclusion incidents, across 46 days, aggregated to approximately 36 hours of seclusion. The median number of seclusion incidents per student for 2016-17 was three incidents and the mode was one seclusion incident per student.

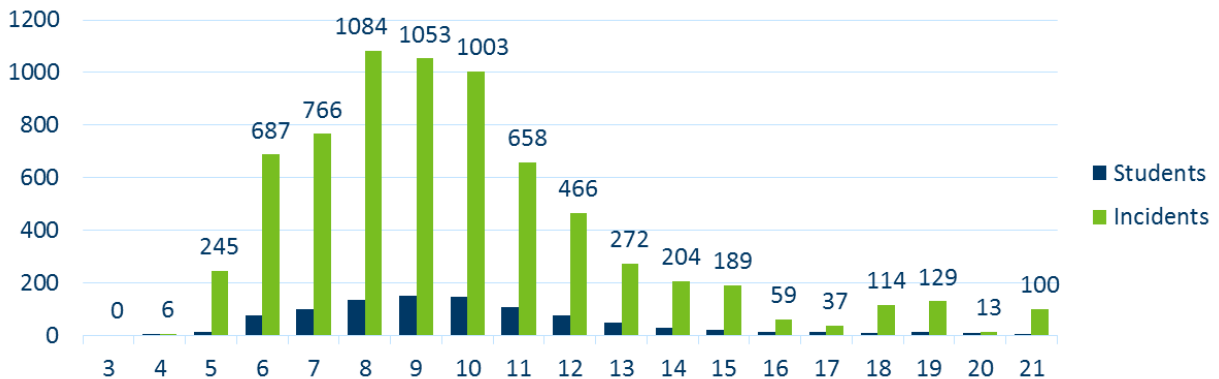
### Incidents Attributable to Students Secluded 10 or More Days - 2016-17



### Age of Students Placed in Seclusion

During the 2016-17 school year, seclusion was used on students as young as 4 years old and as old as 21. Students ages 6 to 12 experienced the highest use of seclusion.

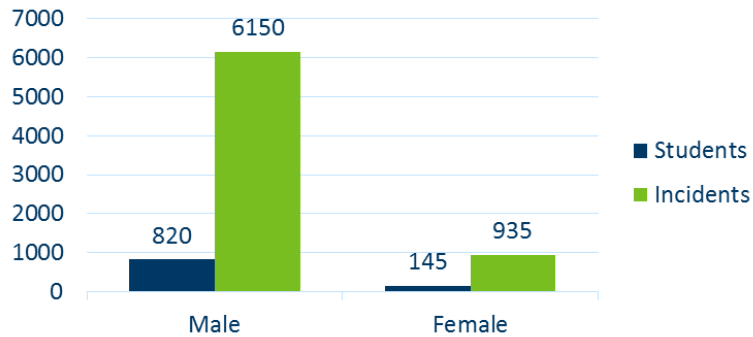
### Students Secluded and Incidents of Seclusions by Age - 2016-17



### Gender of Students Placed in Seclusion

The data reported for the 2016-17 school year shows that male students were more than five-to-six times more likely than female students to be placed in seclusion.

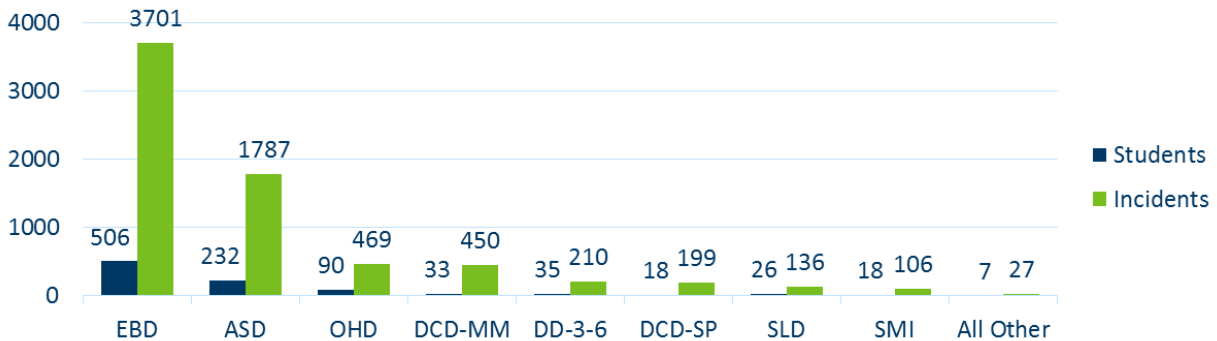
Students Secluded and Incidents of Seclusions by Gender - 2016-17



### Disability Categories of Students Placed in Seclusion

During the 2016-17 school year, more than three-fourths of all students secluded, and more than three-fourths of the total incidents of seclusion, involved students who met special education eligibility criteria under two categories: Autism Spectrum Disorders (ASD) and Emotional or Behavioral Disorders (EBD). Students eligible under the ASD disability category represent 14 percent of the state’s total special education population; however, they represent 24 percent of all students who experienced the use of seclusion and represent 25 percent of all incidents reported. Students eligible under the EBD disability category represent 12 percent of the state’s total special education population; however, they represent 52 percent of all students who experienced the use of seclusion and 52 percent of all incidents reported.

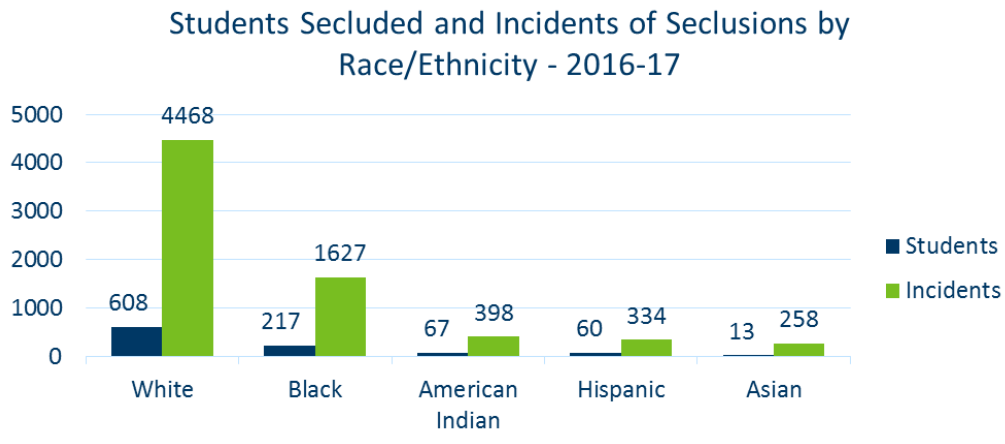
Students Secluded and Incidents of Seclusions by Disability Category - 2016-17



### Race/Ethnicity of Students Placed in Seclusion

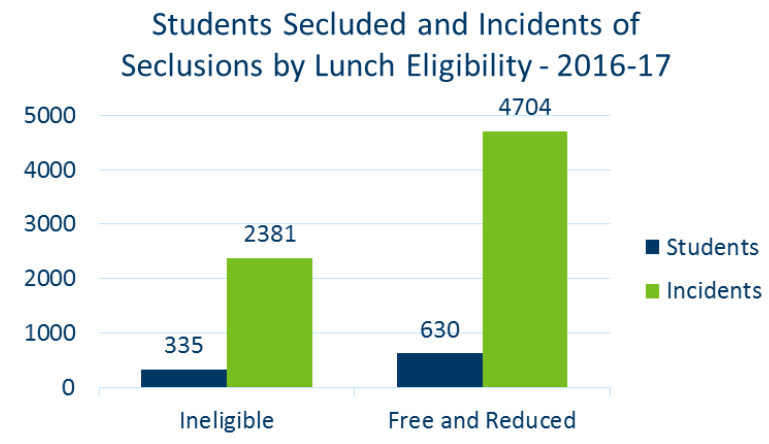
During the 2016-17 school year, black students represented 23 percent of the total number of students who were secluded and total incidents of seclusion, even though they comprised only 12 percent of the state’s total special education population. American Indian students represented 7 percent of the total number of students who were secluded and total incidents of seclusion, even though they comprised only 3 percent of the state’s

total special education population. White students were secluded (63 percent) in proportion to the statewide population of white students in special education (65 percent) and in proportion to the number of incidents of seclusion (63 percent).



### Free or Reduced-Price Lunch Eligibility of Students Placed in Seclusion

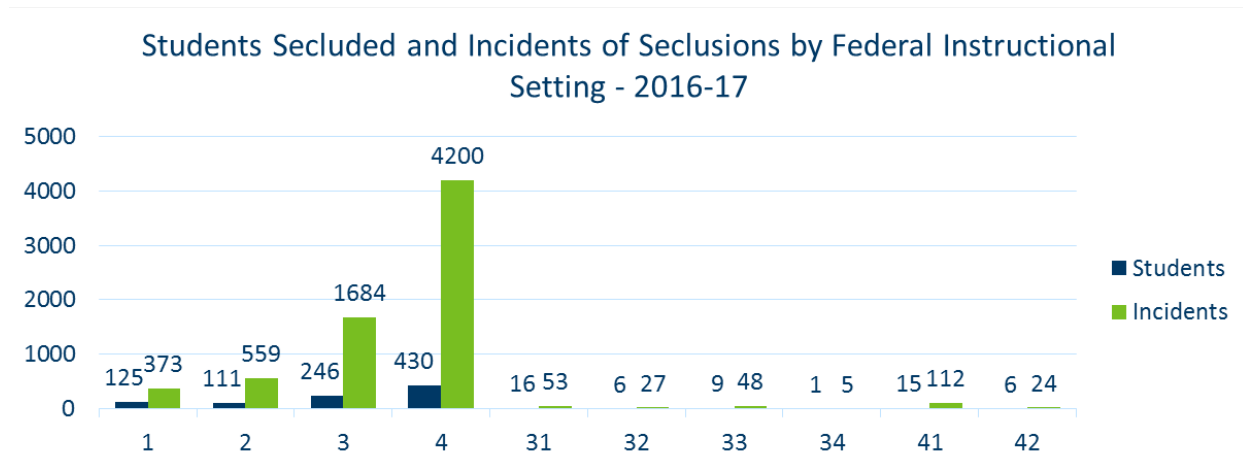
During the 2016-17 school year, slightly more than two-thirds of the students with disabilities who were secluded reported eligibility for free or reduced-price lunch.<sup>9</sup> Statewide, approximately 38 percent of students are eligible for free or reduced-price lunch.



<sup>9</sup> For a family of four during the 2016-17 school year, free lunch required an annual household income of less than \$31,591 and reduced-price lunch required an annual household income less than \$44,956.

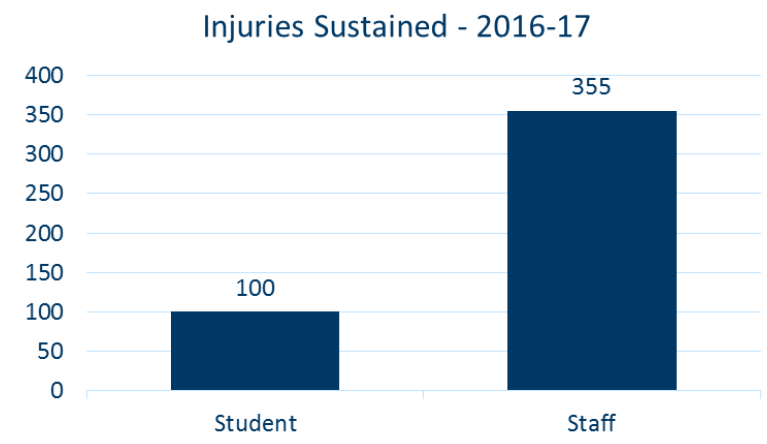
## Federal Instructional Settings of Students Placed in Seclusion

Districts reported the use of seclusion most often in the separate school setting (i.e., federal instructional setting four), with 4,200 incidents reported during the 2016-17 school year. This results in an average of approximately nine incidents per secluded student. Federal instructional settings for students can and do change throughout the school year. The chart below represents the last federal instructional setting in which seclusion was reported for a student, whereas the incident figures represent the setting at the time each incident occurred.



## Injuries Related to the Use of Seclusion

During the 2016-17 school year, districts reported 100 student injuries and 335 staff injuries related to the use of seclusion.

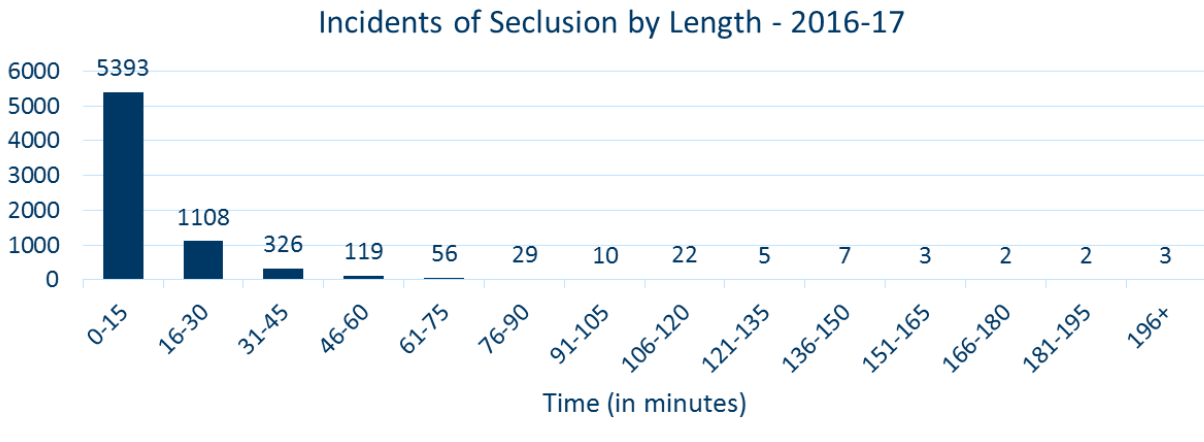


## Length of Incidents of Seclusion

During the 2016-17 school year, the majority of the seclusion incidents were of short duration with 44.0 percent of the incidents lasting five minutes or less, and the next highest group, (20.2 percent), lasting six to 10 minutes



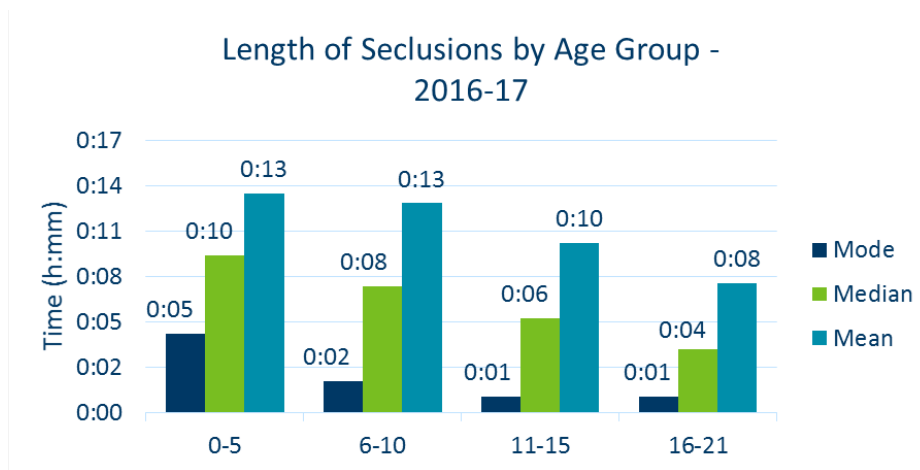
in length. The longest duration reported was 245 minutes. The district involved has requested training from the department.



In the aggregate during the 2016-17 school year, districts reported approximately 1,448 hours of seclusion. Below are a series of charts showing lengths of seclusion by various demographic categories, with the mode (most frequent number) median (middle number) and mean (the arithmetic average).

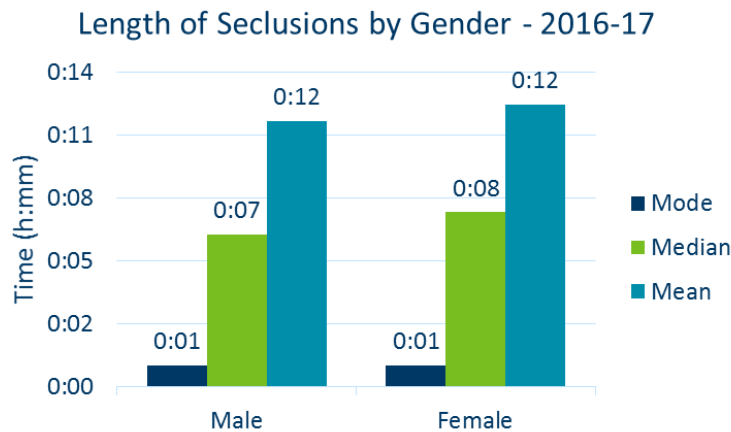
### Age and Length of Seclusion

During the 2016-17 school year, districts reported 251 incidents of seclusion with students ages zero through 5, 4,593 incidents with students ages 6 to 10, 1,600 incidents with students ages 11 to 15, and 641 incidents with students ages 16 to 21. On average, the younger the student, the longer the reported incident of seclusion.



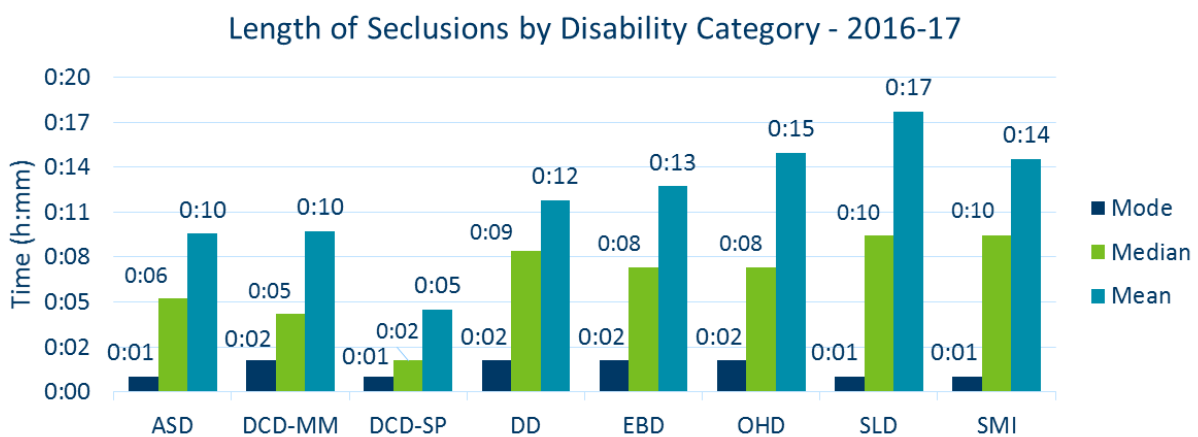
### Gender and Length of Seclusion

During the 2016-17 school year, male students were six times more likely to be secluded; however, the length of each reported seclusion was similar for both genders.



## Disability Categories and Length of Seclusion

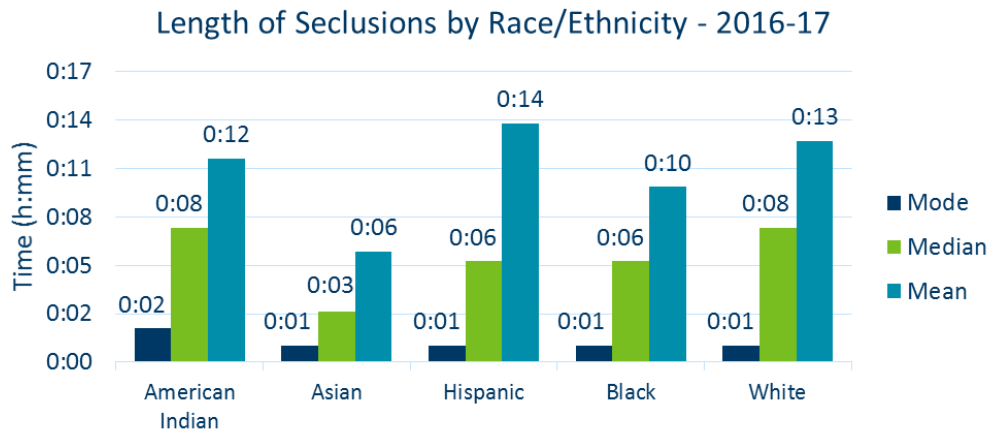
During the 2016-17 school year, most of the students who were secluded were reported eligible for the eight disability categories listed below.<sup>10</sup> Students under the EBD and ASD categories were most often secluded (3,701 incidents and 1,787 incidents, respectively), though students under the ASD category experienced, on average, shorter incidents.



<sup>10</sup> This does not include secluded students who were reported eligible under the following categories: deaf/hard of hearing, speech language impaired, traumatic brain injury, and vision impaired. (Total number of students secluded that were under those categories was seven.)

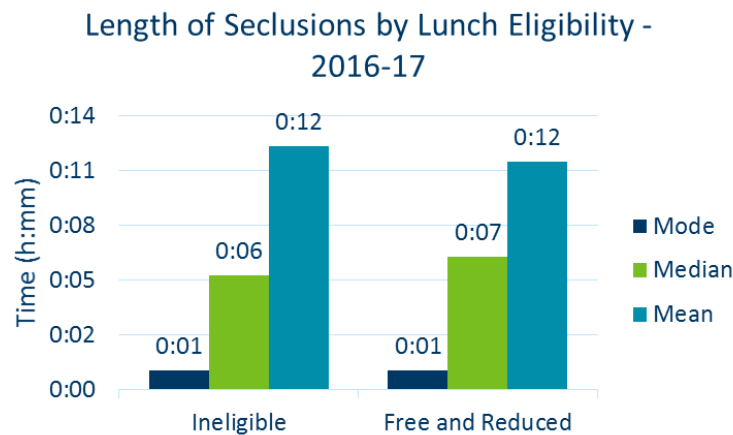
## Race/Ethnicity and Length of Seclusion

As stated above, black students are overrepresented in the use of seclusion, both by the number of students and incidents. However, on average, the length of incidents for black students are shorter than for both American Indian students, who are also overrepresented in the use of seclusion, and white students.



## Free and Reduced-Price Lunch Eligibility and Length of Seclusion

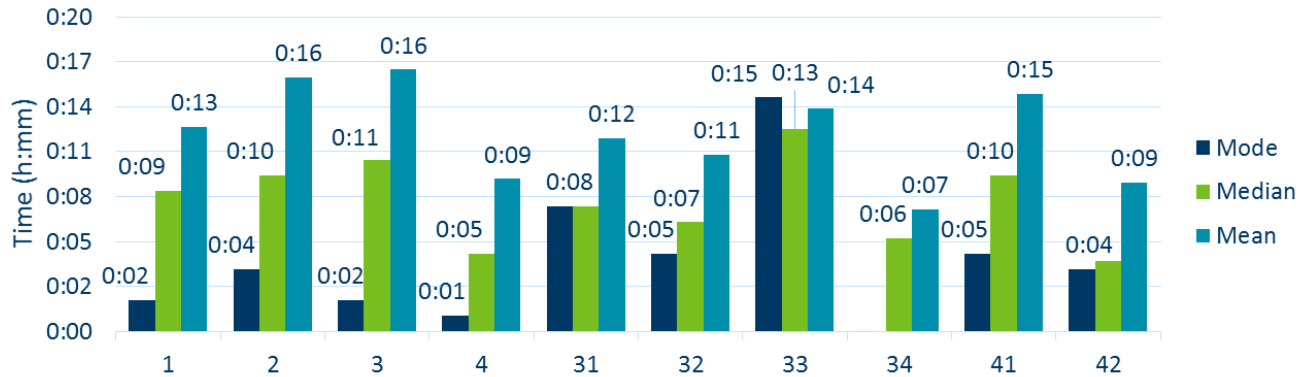
Although students eligible for free and reduced-price lunch were secluded twice as often as students who were not eligible, the length of seclusion for each group was similar.



## Federal Instructional Setting and Length of Seclusion

During the 2016-17 school year, the majority of the seclusion incidents were reported in setting four (separate school). This totaled 4,200 incidents, aggregated to approximately 679 hours. However, the length of each incident, on average, was shortest in setting four. The chart includes settings for students ages 3 to 5 as well (settings 31 through 42), though the data is a much smaller set, with 53 students and 269 incidents.

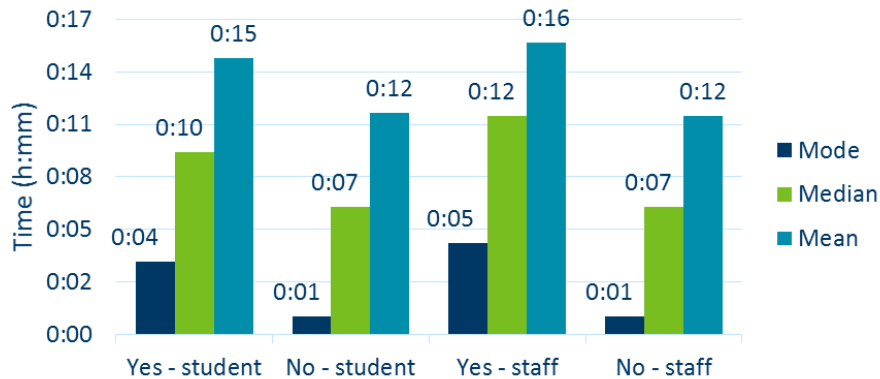
Length of Seclusions by Federal Instructional Setting - 2016-17



### Injuries and Length of Seclusion

During the 2016-17 school year, when an injury of a student or staff was reported, the duration of the seclusion incident was, on average, longer.

Length of Seclusions by Injury - 2016-17



### Restrictive Procedures Summary Data

Following the 2016-17 school year, districts reported summary data to MDE on the use of restrictive procedures, which was due by July 15, 2017. On a form provided by MDE, school districts reported:

- Total number of students receiving special education services served by the district during the school year (whether currently enrolled or not).
- Total number of incidents of restrictive procedures (both physical holding and seclusion) during the school year (including during extended school year (ESY) services, as applicable).

- Total number of students receiving special education services upon whom a restrictive procedure was used.<sup>11</sup>
- Total number of students receiving special education services upon whom restrictive procedures were used 10 or more school days during the school year.
- Total number of uses / incidents of physical holding.
- Total number of uses / incidents of seclusion.
- Training needs.
- Demographic information for the students (disability, age, race/ethnicity, gender, and federal instructional setting) who were physically held.
- Number of injuries to students and staff related to physical holding.

MDE received summary data from 538 districts (which includes independent and special school districts, charter schools, special education cooperatives, education districts and intermediate school districts). This was a 100 percent response rate, which included district responses of no use of restrictive procedures.

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

Of the 538 districts that reported summary data to MDE, 281 of those school districts reported use of restrictive procedures, whether physical holding, seclusion, or a combination of both. They include:

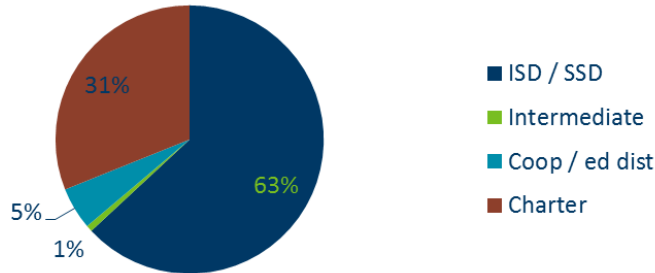
- 202 of 335 traditional school districts.
- Four intermediate school districts.
- 18 of 27 cooperatives and education districts.
- 65 of 165 charter schools.

While intermediate districts, special education cooperatives, and education districts comprise approximately six percent of the total reporting districts, combined they reported 33 percent of the restrictive procedures use in the state. By contrast, charter schools represent approximately 31 percent of the reporting districts, but reported minimal use of restrictive procedures (three percent). Traditional districts represent approximately 63 percent of the reporting districts and reported 64 percent of restrictive procedures use. The proportion of restrictive procedures reported for the 2016-17 school year is similar to the 2015-16 data.

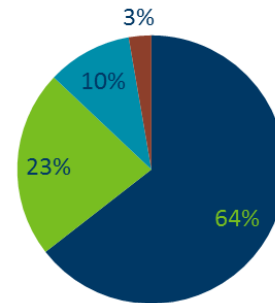
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<sup>11</sup> This total includes the use of reasonable force. [Minn. Stat.125A.0942, subd. 3 \(b\)](#). (Last visited January 24, 2018)

Districts Reporting  
by District Type



Restrictive Procedures  
by District Type



Of the 289 districts that reported use of restrictive procedures:

- 222 (77 percent) reported use of only physical holding.
- Three (one percent) reported use of only seclusion.
- 64 (22 percent) reported use of both physical holding and seclusion.

The number of districts reporting usage of restrictive procedures increased over the previous school year, up from 281. It should be noted that the districts reporting usage changed as well. Of the 289 districts reporting use of restrictive procedures during the 2016-17 school year, 67 districts increased from zero usage in 2015-16 to some usage in 2016-17, and 59 districts decreased to zero usage in 2016-17 from some usage in 2015-16. This resulted in a net increase of eight districts reporting the use of restrictive procedures for the 2016-17 school year as compared to the prior school year.

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

Statewide, during the 2016-17 school year, districts reported 17,200 physical holds and 7,085 uses of seclusion for a total of 24,285 restrictive procedures incidents. This was an increase of approximately 10.2 percent from the 2015-16 school year reporting and the highest number of restrictive procedures since reporting began in 2011-12. Stakeholders again believe that the reported number of incidents and number of students for the 2016-17 school year better reflected the actual baseline from which to measure the reduction of restrictive procedures. In addition, the total number of reported students with disabilities served increased by 3,625 for the 2016-17 school year, which is also a contributing factor in the increase in the number of students who experienced the use of a restrictive procedure during the 2016-17 school year.

School Year	Physical Holds	Uses of Seclusion	Restrictive Procedures
2016-17	17,200	7,085	24,285
2015-16	15,584	6,425	22,028
2014-15	15,511	6,547	22,119
2013-14	13,214	6,323	19,537
2012-13	15,738	6,425	22,163
2011-12	16,604	5,236	21,840

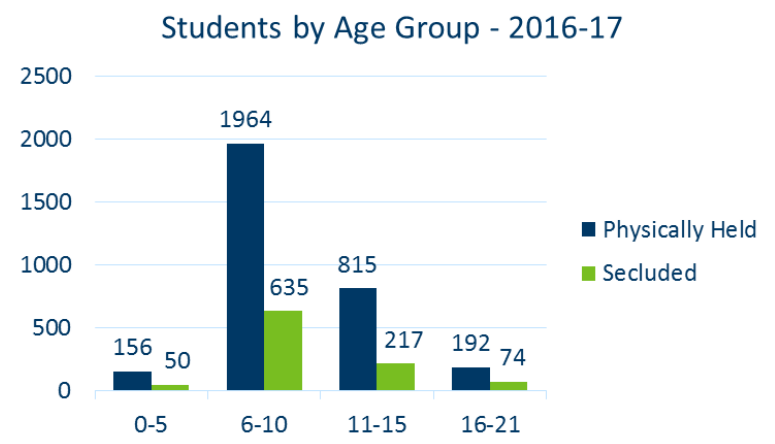
Of 151,407 students receiving special education services, restrictive procedures were used with 3,476 students. The percentage of students who experienced the use of restrictive procedures increased slightly from 2.1 to 2.3 percent of the special education population for the 2016-17 school year.

Physical holding was used with 3,127 students, up from the data reported in the 2017 legislative report (2,743) and seclusion was used with 976 students, also up slightly from the data reported in the 2017 legislative report (848). There is one area in which slight progress was made. Compared to the 2015-16 school year, the average number of physical holds per physically held student is 5.5, down from 5.7; the average number of uses of seclusion per secluded student is 7.3, down from 7.6; and the average number of restrictive procedures per restricted student was 7.0, down from 7.3.

Upon analysis of the 2016-17 data broken out by district, eight districts (five traditional school districts and three intermediate) accounted for 50.5 percent of the total number of reported restrictive procedures incidents statewide. Looking at the seclusion data for the same time period, six districts (four traditional districts and two intermediate) accounted for 57.9 percent of the total number of reported seclusion incidents statewide.

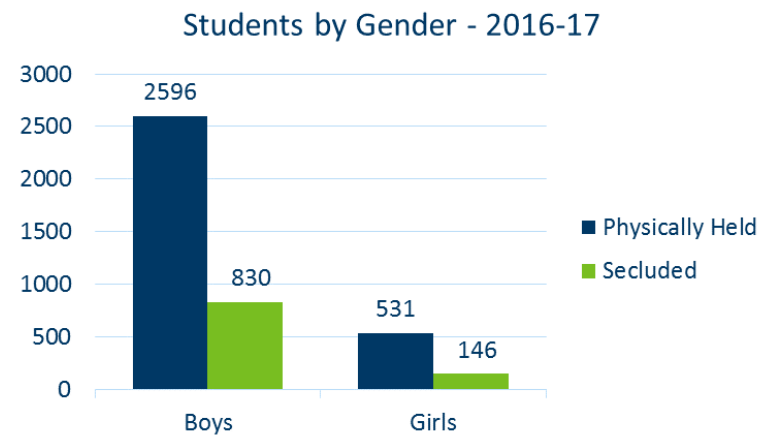
### **Age of Students in Restrictive Procedures**

The majority of restrictive procedures reported for the 2016-17 school year were used with elementary through middle school students, with fewer uses with early childhood and high school students, consistent with the data in previous legislative reports.



### Gender of Students in Restrictive Procedures

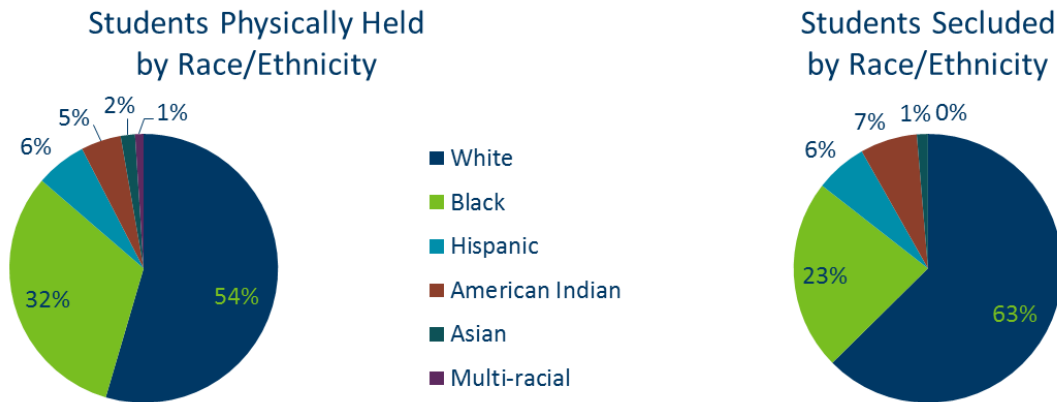
Based upon the data reported for the 2016-17 school year, male students were 4.9 times more likely to be physically held and 5.7 times more likely to be placed in seclusion than female student. This is consistent with data in previous legislative reports, though there was a slightly smaller gap compared to 2015-16. The data shows a downward trend in the gender gap since the 2014-15 school year.



### Race/Ethnicity of Students in Restrictive Procedures

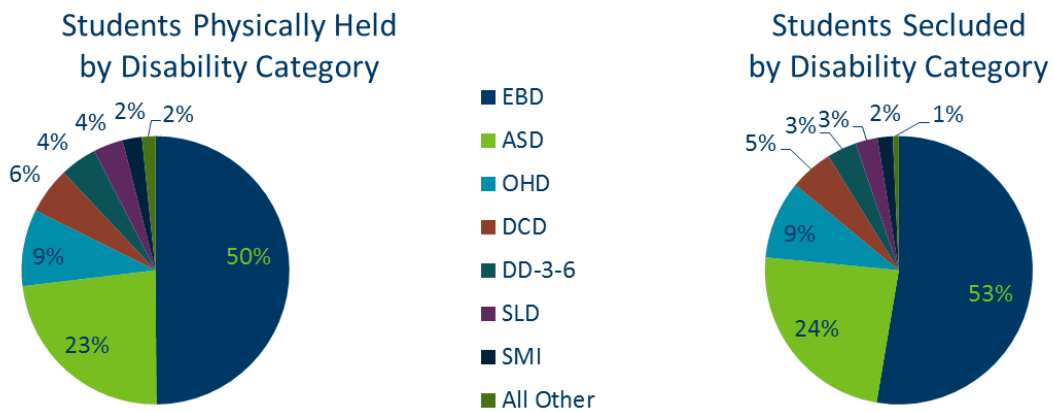
Black students, who account for approximately 12 percent of the special education student population, are overrepresented in both the physical holding and seclusion data, consistent with previous legislative reports. American Indian students, who account for approximately 3 percent of the special education population, are also overrepresented in the physical holding and seclusion data.





### Disability Categories of Students in Restrictive Procedures

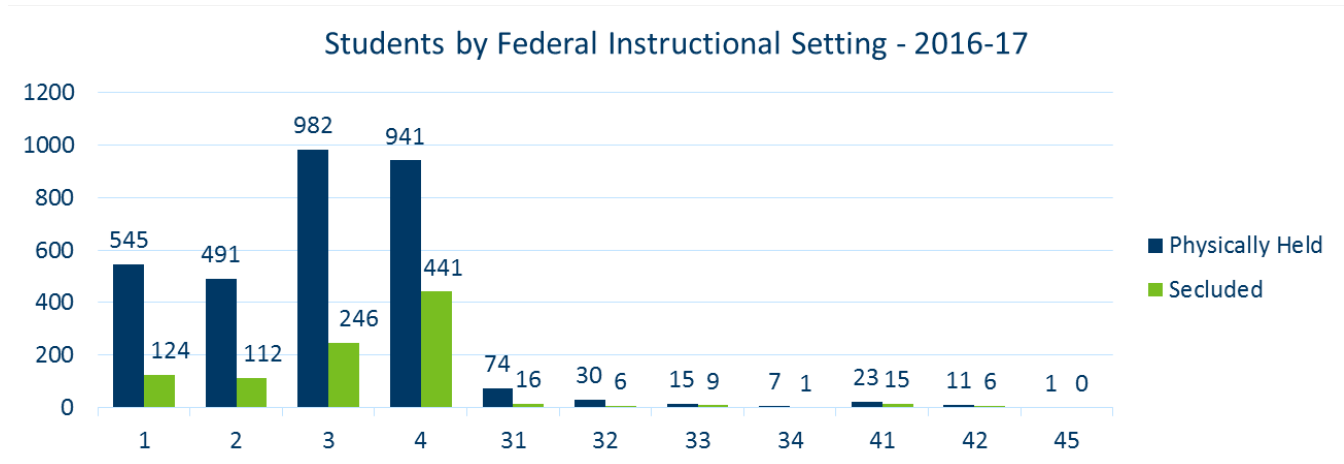
During the 2016-17 school year, students who received special education services by meeting eligibility criteria under the primary disability category of EBD or ASD accounted for more than three-fourths of the students who experienced the use of restrictive procedures, consistent with previous legislative reports. Students with ASD make up approximately 14 percent of the special education student population and students with EBD make up approximately 12 percent. The remaining one-fourth of restrictive procedures were used on students with Other Health Disabilities (OHD), Developmental Cognitive Disability (DCD), Developmental Delay Ages 3 through 6 (DD 3-6), Specific Learning Disability (SLD), and Severely Multiply Impaired (SMI). The categories of disabilities included in the “All Other” category are, in order of prevalence: Speech or Language Impairments (SLI), Traumatic Brain Injury (TBI), Deaf and Hard of Hearing (DHH), Physically Impaired (PI), Visually Impaired (VI), and Developmental Delay Birth through age 2 (DD 0-2).



### Federal Instructional Setting of Students in Restrictive Procedures

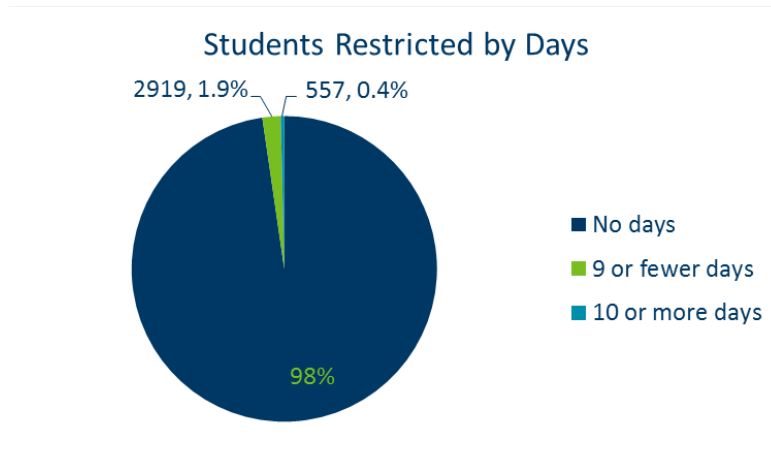
Consistent with data from the 2015-16 school year, most restrictive procedures occurred either with students who were in a separate school specially designed for students receiving special education services (federal

instruction setting four) or with students who were outside of the regular education classroom more than 60 percent of the day (federal instructional setting three). Students who spend 21 to 60 percent of their day outside the regular education classroom are in federal instructional setting two. Students who spend less than 21 percent of their day outside the regular education classroom are in federal instructional setting one.



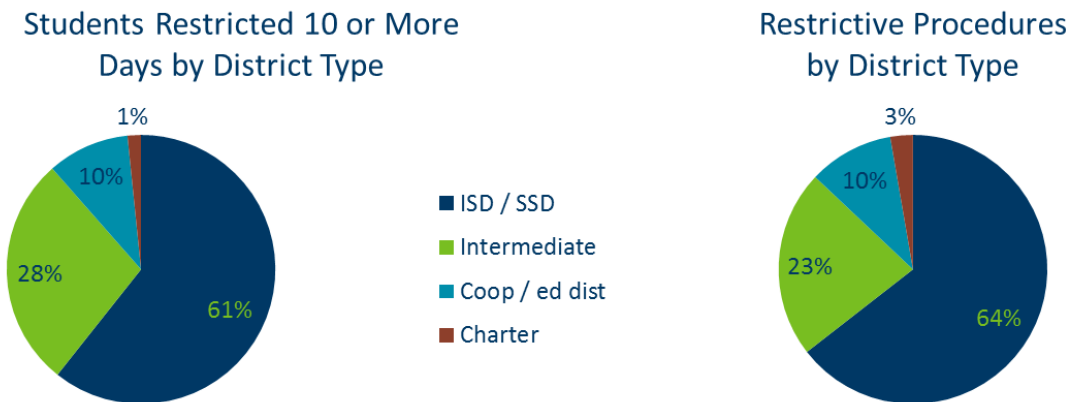
### Students Restricted 10 or More Days

A threshold of 10 or more days was chosen for this restrictive procedures summary data point to be consistent with districts' obligation under statute to take additional action when restrictive procedures have been used 10 or more days within a school year. Districts reported that a total of 557 students receiving special education services experienced the use of restrictive procedures over 10 or more days during the 2016-17 school year, which is an increase from the previous year (437). These students account for approximately 0.4 percent of the population of students receiving special education.



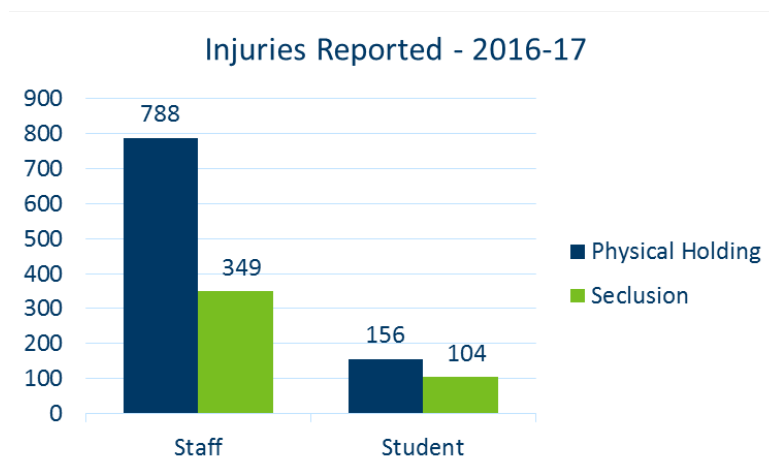
While the restrictive procedures summary data does not allow for the same disaggregated analysis by student as the quarterly seclusion data, the district level data for these outliers in the restrictive procedures population suggest the average number of restrictive procedures may be about 22 incidents of restrictive procedures per

student who experiences a restrictive procedure over 10 or more days. The students who experienced the use of restrictive procedures over 10 or more days (557 students) were served across all district types.



### Injuries Related to the Use of Restrictive Procedures

Data about the number of injuries to both students and staff related to the use of restrictive procedures is reported as increased for all categories; however, when considering this data, please note each district makes its own determination as to when to report a staff or student injury.



### Statewide Plan

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

## Conclusion

MDE and the Restrictive Procedures Workgroup respectfully submit this report to provide the legislature with objective data to inform its continuing policy discussions regarding restrictive procedures. The report details factors contributing to the 2016-17 increase in the number of restrictive procedures incidents and increase in the number of students who experienced the use of a restrictive procedure. The report also addresses Minnesota's 2017 Revised Olmstead Plan and seclusion data for the first quarter of the 2017-18 school year in more detail. While the number of students affected by this discussion is small, about 2.3 percent of the total special education student population experience the use of restrictive procedures,<sup>12</sup> it is clear that these students have significant and complex needs. In order to move forward, the 2017 Workgroup made a number of recommendations, including a legislative appropriation, that are detailed in Appendix A. In addition, Appendix B is revised to include each state's seclusion laws and policies.

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.

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<sup>12</sup>For the 2016-17 school year, the percentage of students who experienced the use of physical holding was 2.07 percent. The percentage of students who experienced the use of seclusion was .64 percent. The total of those percentages is greater than the total percentage of 2.3 percent as there is a duplication of students who experienced the use of both physical holding and seclusion.

# Appendix A

## 2017 Statewide Plan to Reduce the Use of Restrictive Procedures and Eliminate Seclusion in Minnesota

### I. Purpose

The Minnesota Legislature continues to task the Minnesota Department of Education (MDE) with convening the Restrictive Procedures Workgroup, consistent with the legislative charge set forth in Minnesota Statutes, section 125A.0942, subdivision 3(b). In accordance with the legislative charge, MDE assembled a group of stakeholders for the 2017-18 school year (2017 Workgroup). The 2017 Workgroup included representation from advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, state human services department staff, mental health professionals, school resource officers, and autism experts. Although invited, the Workgroup did not have a day treatment provider representative. The 2017 Workgroup reviewed the annual restrictive procedure data and the quarterly seclusion data and discussed changes to the goals in the 2016 Statewide Plan. The 2017 Workgroup developed goals that, if funded, will move the state toward a reduction of restrictive procedures in the educational setting.

### II. Workgroup Charge

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

### III. Stakeholder Group Members

Anoka-Hennepin School District.....	Stacey Dahlby
Anoka-Hennepin School District.....	Erin Jensen
Anoka-Hennepin School District .....	Stephanie Mars
ARC Greater Twin Cities.....	Wendy Watson
Autism Society of Minnesota .....	Jean Bender
Autism Society of Minnesota .....	Heather Tidd
Bloomington School District.....	Jennifer McIntyre
Eden Prairie School District .....	Erin Farrell
Grand Rapids School District .....	Brent Brunetta
Intermediate District 287 .....	Tina Houck
Intermediate District 287 .....	Kate Hulse
Intermediate District 916 .....	Connie Hayes
Intermediate District 916 .....	Dan Naidicz
Intermediate District 917 .....	John Christiansen
Intermediate District 917 .....	Melissa Schaller
Intermediate District 917 .....	Amy Swaney
Minneapolis School District.....	Ginny Nyhus
Minnesota Administrators for Special Education.....	Cherie Johnson
Minnesota Administrators for Special Education.....	John Klaber
Minnesota Association of County Social Service Administrators – Hennepin County.....	Mark Sander
Minnesota Association of County Social Services .....	Eric Ratzmann
Minnesota Council of Child Care Agencies.....	Kirsten Anderson
Minnesota Department of Human Services .....	Jason Flint
Minnesota Department of Human Services .....	Amber Maki
Minnesota Department of Human Services .....	William Wyss
Minnesota Disability Law Center.....	Dan Stewart
Minnesota School Board Association .....	Bill Kautt
National Alliance on Mental Illness.....	Sue Abderholden

National Alliance on Mental Illness .....	Sam Smith
Olmsted County.....	Pat McEvoy
Olmsted County.....	Amy Shillabeer
PACER Center.....	Paula Goldberg
PACER Center.....	Jody Manning
PACER Center.....	Virginia Richardson
Ramsey County Sheriff’s Office .....	Dan Young
Southwest Metro Intermediate District .....	Melanie Kray
Southwest West Central Service Cooperative.....	Tony Miller
Southwest West Central Service Cooperative.....	Amber Bruns
Southwest West Central Service Cooperative.....	Tish Kalla
St. Paul Public Schools .....	Catherine Butcher
St. Paul Public Schools .....	Gail Ghere
St. Paul Public Schools .....	Katie Pfalz
St. Paul Public Schools .....	Fhonda Contreras

**IV. Minnesota Department of Education Participants**

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

## V. 2016 Statewide Plan and Updates

### *Goal 1: 2017 Legislative Report*

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

### *Goal 1 Update*

The 2018 legislative report summarizes the 2016-17 restrictive procedure data. Attached to the 2018 report: Appendix A: 2017 statewide plan to reduce the use of restrictive procedures and eliminate seclusion in Minnesota. Appendix B: Legislative language or policy guidance currently in effect in all states relating specifically to seclusion within the school setting. Appendix C and Appendix D.

### *Goal 1a*

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

- i) Determine how many additional meetings and subgroup meetings are necessary to allow the workgroup to accomplish the work outlined in the February 1, 2017 legislative report and reach consensus on recommendations for the February 1, 2018 legislative report.

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

During the April 21, 2017, restrictive procedures workgroup meeting, the workgroup determined the following meetings are necessary to accomplish the goals outlined in the FY17 legislative report.

- July 21, 2017 (9 a.m. to 12:30 p.m.)
- September 29, 2017 (9 a.m. to 4 p.m.)
- December 15, 2017 (9 a.m. to 12:30 p.m.)
- January 26, 2018 (9 a.m. to 12:30 p.m.)
- April 27, 2018 (9 a.m. to 12:30 p.m.)

### *Goal 1a (ii)*

- ii) Review the quarterly seclusion data collected by MDE.

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

During the April 21, 2017 meeting, Ross Oden, J.D., MDE Division of Compliance and Assistance, presented the quarterly seclusion data on the use of seclusion in Minnesota schools during the third quarter of the 2016-17 school year (January through March 2017). By way of example, Mr. Oden reported on:

- i. The number of school districts reporting use of seclusion (51)



- ii. The number of incidents of seclusion (2,486)
- iii. The number of students secluded (483)
- iv. Average minutes in seclusion (10)
- v. Rate per hundred (1.9 incidents per 100 special education students)
- vi. Injuries sustained (27 students/121 staff)

### *Goal 1b*

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

- i) Review quarterly seclusion data collected by MDE

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

During the July 21, 2017, meeting, Ross Oden, J.D., MDE Division of Compliance and Assistance, presented the quarterly data on the use of seclusion in Minnesota schools during the fourth quarter of the 2016-17 school year (April through June 2017). By way of example, Mr. Oden reported on:

- i. The number of school districts reporting use of seclusion (43)
- ii. The number of incidents of seclusion (1,627)
- iii. The number of students secluded (405)
- iv. Average minutes in seclusion (12)
- v. Rate per hundred (1.2 incidents per 100 special education students)
- vi. Injuries sustained (23 students / 87 staff)

### *Goal 1c*

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

- i) Review Positive Behavioral Interventions and Supports (PBIS) data collected by MDE.

### *Goal 1c (i) Update*

During the September 29, 2017, meeting, Garrett Petrie, MDE Division of Special Education, presented the data on the use of restrictive procedures – summary data, which included a comparison with prior years’ data. By way of example, Mr. Oden reported on:

- i) The number of school districts that have been or are in PBIS training (222)
- ii) The number of schools that have been or are in PBIS training (645; 31%)
- iii) The number of students impacted by school-wide use of PBIS (311,280; 35.6%)

Mr. Petrie also shared resources including [“A 5-Point Intervention: Approach to Enhance Equity in School Discipline”](#) and [“Using Data to Address Racial Disproportionality in Discipline Practices.”](#)

### *Goal 1c (ii)*

- ii) Review restrictive procedures summary data collected by MDE, including data on student and staff injuries and data on disproportionalities.

### *Goal 1c (ii) Update*

During the September 29, 2017, meeting, Ross Oden, J.D., MDE Division of Compliance and Assistance, presented the Data on the Use of Restrictive Procedures – Summary Data, which included a comparison with prior years' data. By way of example, Mr. Oden reported on:

- i) The number of school districts reporting use of restrictive procedures (289)
- ii) The number of school districts reporting physical holding (286)
- iii) The number of school districts reporting physical holding, but no seclusion (222)
- iv) The number of school districts reporting seclusion (67)
- v) The number of school districts reporting seclusion, but no physical holding (3)
- vi) The number of school districts reporting changes compared to 2015-16 (59 school districts decreased to zero usage; 89 school districts decreased by incidents; 67 school districts increased from zero usage; 114 school districts increased by incidents; 19 school districts reported same number of incidents)
- vii) Statewide total usage of restrictive procedures (24,264 incidents)
- viii) Statewide total usage of physical holds (17,187 incidents affecting 3,127 students)
- ix) Statewide total use of seclusion (7,086 incidents affecting 976 students)
- x) The number of days restricted (2,926 [9 or fewer; 557 10 or more])
- xi) The age group with the most physical holds (6-10)
- xii) The age group with the most seclusion (6-10)
- xiii) The gender group with the most physical holds (male)
- xiv) The gender group with the most seclusion (male)
- xv) The race/ethnicity group with the most physical holds (white; although black students continue to be disproportionately held)
- xvi) The race/ethnicity group with the seclusions (white; although black students continue to be disproportionately secluded)
- xvii) The disability category with the most physical holds (EBD then ASD)
- xviii) The disability category with the most seclusions (EBD then ASD)
- xix) The federal instructional setting with the most physical holds (federal instructional setting 3)
- xx) The federal instructional setting with the most seclusions (federal instructional setting 4)
- xxi) The number of staff injuries reported relating to physical holds (792)
- xxii) The number of student injuries reported relating to physical holds (152)
- xxiii) The number of staff injuries reported relating to seclusions (348)
- xxiv) The number of student injuries reported relating to seclusions (105)

Mr. Oden also reported that the number of students receiving special education services increased from the 2015-16 school year.

### *Goal 1c (iii)*

- iii) Review quarterly seclusion data collected by MDE.

### *Goal 1c (iii) Update*

During the December 15, 2017, restrictive procedure workgroup meeting, Ross Oden, J.D., MDE Division of Compliance and Assistance, presented the Quarterly Data on the Use of Seclusion in Minnesota Schools for the first quarter of the 2017-18 school year (July through September 2017). By way of example, Mr. Oden reported on:

- i) The number of school districts reporting use of seclusion (38)
- ii) The number of incidents of seclusion (700)
- iii) The number of students secluded (232)
- iv) Average minutes in seclusion (10)
- v) Rate per hundred (0.5 incidents per 100 special education students)
- vi) Injuries sustained (9 student/36 staff)

### *Goal 1c (iv)*

- iv) Review the progress of the Staff Development Grants updates.

### *Goal 1c (iv) Update*

During the September 29, 2017, restrictive procedure workgroup meeting, Rachel Centinario, J.D., MDE Division of Compliance and Assistance, presented the progress reported by the 18 recipients of the Staff Development Grants for Intermediate School Districts and Other Cooperative Units appropriated by the 2016 Regular Legislative Session under Minnesota Laws 2016, chapter 189, article 24, section 22. The funds are to be used for activities related to enhancing services to students who may have challenging behaviors or mental health issues or be suffering from trauma. By way of example, Ms. Centinario reported on:

- i) Commonalities on what is working to reduce the emergency use of restrictive procedures: Life Space Crisis Intervention; ACES/Trauma-Informed Training; Crisis Prevention Institute; Boy's Town Training; and Monthly/Quarterly Staff Meetings.
- ii) Individually what is working to reduce the emergency use of restrictive procedures: Handle with Care Training; Conscious Discipline; "Mind Up" Curriculum; Strategies for Teaching based on Autism Research.
- iii) Common opportunities for Improvement/Barriers to success: Inconsistent data reporting; Lack of time; Staff injuries.

## *Goal 2*

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

### *Goal 2a*

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

#### *Goal 2a Update*

During the April 21, 2017, restrictive procedure workgroup meeting, the members agreed upon a revision to the Use of Restrictive Procedures 2016-17 District Summary Data form reporting to clarify use/incident and also to not require duplicative seclusion data reporting. The new form was posted on MDE's website in May 2017. Additional revisions were made to reflect more accurate setting, race, and ethnicity collection of data.

### *Goal 2b*

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

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

#### *Goal 2b Update*

MDE has provided onsite training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities. This training has, and continues to be revised to include information from and references to, the Positive Intervention Strategies training modules and the positive outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraints Grant and the Staff Development Grants for Intermediate School Districts and Other Cooperative Units.

MDE conducted this training during the 2016-17 school year 16 times throughout the State of Minnesota to over 600 individuals. To date, during the 2017-18 school year, MDE has conducted this training 11 times to over 560 individuals.

### *Goal 2c*

Based upon a review of the annual summary of restrictive procedures data and the quarterly review of the school districts' use of seclusion data, MDE will contact school districts with high usage or atypical patterns of restrictive procedures, particularly seclusion, using the rates per 100 method for identification. MDE will offer to conduct a comprehensive review of the school districts' plans, policies, and procedures for using restrictive procedures, PBIS, and positive supports, and to identify areas and review what is working, what is not working, and concerns from staff and parents. MDE will then facilitate the provision of onsite targeted technical assistance and training to address the identified needs. MDE will also make this review process available to all school districts upon request.

### *Goal 2c Update*

The MDE Division of Compliance and Assistance has contacted three school districts with high usage or atypical patterns of restrictive procedures, particularly seclusion.

Minnesota Valley Schools (MVS) submitted data to MDE that showed high usage of restrictive procedures, placing them in the top 10 districts in Minnesota for incidents of seclusion per 100 students, overall minutes of seclusion, number of incidents per student, minutes per incident, and minutes per secluded student. Additionally, MVS is 12th in the state in incidents of restrictive procedures use per 100 students. As a result of our partnership, MDE staff trained all MVS staff members on restrictive procedures standards and due process, reviewed the district's plans, policies, and procedures for using restrictive procedures, and have had a number of conversations with staff at varying levels regarding implementing positive behavior interventions and the use of restrictive procedures.

Intermediate School District 916 submitted data to MDE that showed high usage of restrictive procedures. Its numbers placed it in the top 10 districts in Minnesota for number of students secluded, incidents of seclusion, minutes of seclusion, incidents of seclusion per 100 special education students, and number of incidents per secluded student. Additionally, Intermediate 916 is 10th in the state in incidents of restrictive procedures use per 100 students. In partnership with district administrators, MDE staff trained all staff members working at District 916 federal setting IV programs on restrictive procedures standards and due process, reviewed the District's plans, policies, and procedures for using restrictive procedures, and have had a number of conversations with staff a varying levels regarding implementing positive behavior interventions and the use of restrictive procedures. Additionally, District 916 has invited MDE to attend their district's restrictive procedures oversight committee meetings.

Jefferson Elementary in New Ulm self-reported high usage of restrictive procedures and requested support from MDE. MDE staff have been working with school administrators to address the building culture surrounding addressing student behavioral needs. MDE staff have provided training to general education staff on special

education law and to special education staff on the standards for using restrictive procedures. MDE staff have reviewed the school's restrictive procedures policy and had numerous conversations on varying levels regarding implementing positive behavior supports and the use of restrictive procedures. Together, MDE staff and school administrators are exploring the possibility of implicit bias training for staff. The school principal unofficially reports a dramatic decrease in the use of restrictive procedures.

### *Goal 2d*

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

### *Goal 2d Update*

Sara K. Wolf from MDE's Division of Compliance and Assistance along with the training subgroup of the restrictive procedures workgroup spearheaded the development of the "Special Education Bootcamp" workshop. This workshop was designed for new teachers, teachers with variant licenses, and anyone else who wanted to brush up on and expand their experience in areas that are relevant to supporting students with disabilities. The workshop was held Monday, August 21, 2017, with 140 in attendance. The topics included: general due process, relationship building and effective IEP team meetings, restrictive procedures basics, with a section on student maltreatment and the role and responsibility of the school resource officer, the function of behavior, mental health, the tales from Belview Learning Center, a glance at Section 504, and a glance at due process monitoring.

### *Goal 2e*

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

### *Goal 2e Update*

In the spring of 2017, MDE added information about the Restrictive Procedures Workgroup on its active groups [Advisory Boards, Councils and Task Forces](#) webpage. This page is intended to provide both external and internal customers information about the workgroup, pertinent upcoming events, and new and helpful information about reducing, and eliminating, the use of seclusion and restraint as well as identifying disproportionalities related to the use of restrictive procedures.

During this development, the resource subgroup of the Restrictive Procedures Workgroup updated and linked to [MDE's webpage](#) on Restrictive Procedures.

### *Goal 2f*

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

### *Goal 2f Update*

The training subgroup of the Restrictive Procedures Workgroup gathered and disseminated the information necessary to develop a teacher exchange program to promote the easy exchange of programs that are successful in working toward the elimination of seclusion and identifying disproportionalities related to the use of restrictive procedures.

This information is now displayed on MDE's restrictive procedures webpage.

### *Goal 2g*

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

### *Goal 2g Update*

Ross Oden, J.D., MDE Division of Compliance and Assistance, developed a standard presentation for the comparison of summary restrictive procedure data as well as the quarterly seclusion data. This information was shared and used at the workgroup meetings on April 21, July 21, September 29, and December 15, 2017.

### *Goal 3:*

In the event that MDE receives a legislative appropriation targeted to assist in the reduction of the emergency use of restrictive procedures for the FY 2018 and FY 2019 biennium, the funds will be used to secure additional resources and activities outlined in this report and through the activities listed below.

#### *Goal 3a*

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

#### *Goal 3a Update*

MDE did not receive a legislative appropriation during the 2017 legislative session to assist in the reduction of the emergency use of restrictive procedures.

#### *Goal 3b*

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

#### *Goal 3b Update*

MDE did not receive a legislative appropriation during the 2017 legislative session to assist in the reduction of the emergency use of restrictive procedures.

## **VI. Goals Recommended by the 2017 Restrictive Procedures Stakeholder Group**

The 2017 workgroup focused its work on reviewing data and implementation of the prior statewide plan, which is incorporated into the February 1, 2017, legislative report. All recommendations by the 2017 Workgroup are intended to reduce school districts' use of restrictive procedures and work toward the elimination of seclusion. On January 31, 2018, four organizations who are represented in the 2017 workgroup submitted the following written statement to MDE to be included in the 2018 legislative report:

“The Minnesota Disability Law Center, PACER Center, Autism Society of Minnesota, and The Arc Minnesota continue to object to the Statewide Plan’s absence of the “time needed” to eliminate seclusion in Minnesota’s



public schools. The “time needed” must be included according to the State’s Olmstead Plan and is especially important because the use of seclusion creates health and safety risks for students and staff.”

The four organizations continue to support the 2017 Statewide Plan set forth below and Section VII which sets forth the legislative appropriations request and recommendations.

### *Goal 1*

By February 1, 2019, MDE will submit a report to the Minnesota Legislature summarizing the state’s progress on reducing the use of restrictive procedures, working toward the elimination of seclusion, and identifying disproportionalities related to the use of restrictive procedures.

#### *Strategies for implementing Goal 1*

1. The restrictive procedures workgroup will meet in the spring of 2018 to:
  - (i) Determine how many additional meetings and subgroup meetings are necessary to allow the workgroup to accomplish the work outlined in the February 1, 2018, legislative report and reach consensus on recommendations for the February 1, 2019, legislative report, and
  - (ii) Review quarterly seclusion data collected by MDE.
2. The restrictive procedures workgroup will meet in the summer of 2018 to:
  - (i) Review quarterly seclusion data collected by MDE.
3. The restrictive procedures workgroup will meet in the fall of 2018 to:
  - (i) Review Positive Behavioral Interventions and Supports (PBIS) data collected by MDE,
  - (ii) Review restrictive procedures summary data collected by MDE, including data on student and staff injuries and data on disproportionalities,
  - (iii) Review quarterly seclusion data collected by MDE, and
  - (iv) Review the progress of the Staff Development Grants updates.

### *Goal 2*

By June 30, 2019, in alignment with the Olmstead Positive Support Goals, schools will reduce the emergency use of restrictive procedures at schools and increase the use of PBIS and other positive supports so that students are supported in the most integrated educational setting. Schools will continue to work toward the elimination of seclusion and to identify and consider strategies to address disproportionalities related to the use of restrictive procedures.

#### *Strategies for implementing Goal 2*

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

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

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

3. Based upon a review of the annual summary restrictive procedures data and the quarterly review of the school districts use of seclusion data, MDE will contact school districts with high usage or atypical patterns of restrictive procedures, particularly seclusion, using the rates per 100 method for identification. MDE will offer to conduct a comprehensive review of the school district's plans, policies, and procedures for using restrictive procedures, PBIS, and positive supports, and to identify areas and review what is working, what is not working, and concerns from staff and parents. MDE will then facilitate the provision of onsite targeted technical assistance and training to address the identified needs. MDE will also make this review process available to all school districts upon request.
4. The workgroup will develop a Special Education 101 training for new teachers and teachers on variant licenses to be provided in August 2018 to assist in working toward the elimination of seclusion and identifying disproportionalities related to the use of restrictive procedures. The stakeholders will determine the most beneficial topics to include in the training, based on survey information and presenters available, that will assist new teachers and teachers on variant licenses to understanding the state's goal to reduce the use of restrictive procedures and eliminate the use of seclusion, including but not limited to, resources on PBIS, positive behavior supports, mental health resources, working effectively with school resource officers or police officers, and the standards for using restrictive procedures in emergency situations.
5. The workgroup will continue to gather, develop and review information to share with school districts to assist in working toward the elimination of seclusion and will help to identify and consider strategies to address disproportionalities related to the use of restrictive procedures. This information will come from other state agencies, other state task forces and workgroups, as well as federal agencies. Additionally, the workgroup will develop information as determined appropriate. A particular area of focus will be for preschool children who experience the use of seclusion and determine needed collaboration with interagency partners to provide needed services to reduce emergency situations where restrictive procedures, specifically seclusion are used. MDE will continue to update its Restrictive Procedures Workgroup webpage on its website with resources. The workgroup will gather and review information

to post on this page. This will include reviewing definitions related to student and staff injuries occurring before, during, and after the use of a restrictive procedure.

6. The workgroup will develop a framework for a teacher exchange program to assist in working toward the elimination of seclusion, and identifying disproportionalities related to the use of restrictive procedures. MDE will create a restrictive procedures workgroup webpage on its website with a link for teachers to use if they wish to participate in a teacher exchange.
7. The workgroup will develop a standard data presentation template to assist in comparing and reporting the progress in working toward the elimination of seclusion, and identifying and considering strategies to address disproportionalities related to the use of restrictive procedures. The workgroup will review the content of the data collection form related to staff and student injuries.

### *Goal 3*

Funding for Pilot Projects for federal setting one through three and Funding for Students Experiencing the Highest Number of Restrictive Procedures, Specifically Seclusion.

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

#### *Goal 3a*

The Restrictive Procedures Workgroup will develop a pilot implementation model and MDE will provide grants to three school districts in three different regions of the state to engage in a two-year pilot program. The pilot districts will be provided support services, including behavior and mental health experts or practitioners in a focused effort to build the internal capacity of inclusive elementary programs to proactively address targeted positive supports needed to reduce the use of restrictive procedures, specifically seclusion. Outcomes of the pilot program will be used to determine funding, resources, and time needed to safely and effectively transition to a complete elimination of the use of seclusion on students receiving special education services.

#### *Goal 3b*

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

- i) Identify children and youth who have complex educational and mental health needs and who have experienced exceptionally high rates of restrictive procedures, and/or are likely to need a high level of coordinated care across service systems;

- ii) Review service needs for those children and youth for the purpose of evaluating the sufficiency and effectiveness of current services, determining gaps in services, and proposing recommendations to ensure access to effective services in appropriate settings; and
- iii) Designate and facilitate access to those services and settings across service systems, including finding existing funding, and if it is not available, funding these services and settings.

## VII. Recommendations

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

The 2017 Workgroup does not recommend any amendments to Minnesota Statutes, sections 125A.0941 or 125A.0942.

The 2017 Workgroup recommends that \$2.6 million be appropriated to MDE over the FY19 and FY20 biennium.

The requested appropriation is needed to implement Goal 3a and Goal 3b. For Goal 3a, the 2017 Workgroup requests a two-year legislative appropriation totaling 1.6 million dollars. The funding is needed to provide pilot grantees the ability to build capacity in inclusive elementary programs, as students in that age group most frequently experience the use of restrictive procedures. The goal is to proactively address targeted positive behavior supports needed to reduce restrictive procedures, including seclusion, to enable students to remain in their current setting with the needed supports in place so they can remain engaged and access the general education curriculum. This is in addition to PBIS training. The funding will cover the costs for the team of experts, including behavior and mental health experts, to spend three months training staff in an elementary program, and provide ongoing consultation the following school year. For Goal 3b, the 2017 Workgroup requests a two year legislative appropriation totaling 1 million dollars. The funding is needed to develop and implement a cross agency panel to provide comprehensive supports across school, county and state systems for highly challenged students in need of long-term, systemic, and intensive interventions. The funding is for the small percentage of students who are experiencing the highest number of restrictive procedures, specifically seclusion.

The intended result is that the recommendations, as summarized in the 2017 Statewide plan, will move the state forward toward the reduction of all restrictive procedures; specifically, the elimination of seclusion in the school setting. The requested funding for Goals 3a and 3b will not be used for staffing at MDE, but rather will be distributed to school districts through a pilot project, and for costs associated with obtaining needed services for students who experience the highest rates of restrictive procedures, specifically seclusion. The funding serves two purposes:

- (i) \$1,600,000 over a two-year period to fund a pilot program in three separate school districts to help build staff capacity in the area of positive supports by employing a team of experts in a focused effort to build the internal capacity of inclusive elementary programs to proactively address targeted positive behavior supports needed to reduce restrictive procedures, specifically seclusion. This is in addition to the PBIS process.

- (ii) \$1,000,000 over a two-year period to MDE will create a cross-agency panel, to include MDE, DHS, other state agencies and experts as appropriate, to ensure children and youth ages 0 - 21 have access to a comprehensive array of services as needed to address their needs. The panel would have the authority to make recommendations and designate funds necessary to facilitate access to services and settings.

MDE continues to provide training and technical assistance to school districts for more consistent restrictive procedures reporting. In addition, restrictive procedures stakeholders have also provided training and technical assistance to staff to obtain clarity of definitions. This resulted in more consistent reporting, however, MDE and the 2017 Workgroup acknowledge that it is still unclear if we have consistent enough reporting to establish a true baseline. Despite the progress made by MDE and the restrictive procedures stakeholders, we have not yet achieved our goal of substantially reducing the use of restrictive procedures, specifically seclusion, in the school setting.

The funding is needed to implement the 2017 Statewide plan and move the state forward in the reduction of all restrictive procedures; specifically, the elimination of seclusion in the school setting.

The continued staff development funds for intermediate districts and special education cooperatives is necessary to enable them to have continual training of staff and to have resources to provide consultative services to their member districts.

The Restrictive Procedures stakeholders group supports DHS's efforts to build the continuum of care for children's mental health services, including children's crisis residential services. The Restrictive Procedures stakeholders also recommend the need for collaborative partnerships between school districts with DHS and community mental health providers, and increasing school-linked mental health services to provide needed wrap-around services for students with complex mental health needs.

## Appendix B

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

State	Language
AL <sup>13</sup>	<p>Seclusion is prohibited in Alabama public schools and educational programs, as follows:</p> <p>“Seclusion - a procedure that isolates and confines the student in a separate, locked area until he or she is no longer an immediate danger to himself/herself or others.</p> <p>The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1.)(vi) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Alabama public schools and educational programs.”</p>

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<sup>13</sup> Ala. Admin. Code r. 290-3-1-.02(1)(f)1.(v).

State	Language
AK <sup>14</sup>	<p>Seclusion is prohibited, unless:</p> <p>“(1) the student's behavior poses an imminent danger of physical injury to the student or another person;</p> <p>(2) less restrictive interventions would be ineffective to stop the imminent danger to the student or another person;</p> <p>(3) the person continuously monitors the student in face-to-face contact or, if face-to-face contact is unsafe, by continuous direct visual contact with the student;</p> <p>(4) the person has received training in crisis intervention and de-escalation and restraint techniques that has been approved by the department under AS 14.33.127, unless a trained person is not immediately available and the circumstances are rare and present an unavoidable and unforeseen emergency; and</p> <p>(5) the restraint or seclusion is discontinued immediately when the student no longer poses an imminent danger of physical injury to the student or another person or when a less restrictive intervention is effective to stop the danger of physical injury.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or area that the student is physically prevented from leaving; ‘seclusion’ does not include a classroom time-out, supervised detention, or suspension from school under AS 14.30.045.”</p>

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<sup>14</sup> Alaska Stat. § 14.33.125(a)(1); (b)(1)-(5); (g)(5).

State	Language
AZ <sup>15</sup>	<p>“A school may permit the use of restraint or seclusion techniques on any pupil if both of the following apply:</p> <ol style="list-style-type: none"> <li>1. The pupil's behavior presents an imminent danger of bodily harm to the pupil or others.</li> <li>2. Less restrictive interventions appear insufficient to mitigate the imminent danger of bodily harm.”</li> </ol> <p>If a seclusion technique is used on a pupil:</p> <ol style="list-style-type: none"> <li>“1. School personnel shall maintain continuous visual observation and monitoring of the pupil while the ... seclusion technique is in use.</li> <li>2. The ... seclusion technique shall end when the pupil’s behavior no longer presents an immediate danger to the pupil or others.</li> <li>3. The ... seclusion technique shall be used only by school personnel who are trained in the safe and effective use of ... seclusion techniques unless an emergency situation does not allow sufficient time to summon trained personnel. ...”</li> </ol> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a pupil alone in a room from which egress is prevented. Seclusion does not include the use of a voluntary behavior management technique, including a timeout location, as part of a pupil's education plan, individual safety plan, behavioral plan or individualized education program that involves the pupil's separation from a larger group for purposes of calming.”</p>

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<sup>15</sup> Ariz. Rev. Stat. § 15-105 A.; B.1.-3.; G.3.



State	Language
AR <sup>16</sup>	<p>Use of a “time out seclusion room” is permissible, which is “an extension of such techniques as turning a chair away from a group or placing a student in a corner or in the hallway.”</p> <p>“Time-out seclusion should be used only for behaviors that are destructive to property, aggressive toward others or severely disruptive to the class environment...[and] should be used only as a last resort if and when less restrictive means of controlling behavior have proven ineffective.”</p> <p>Such a room is to be between 4ft square and 6ft square, properly lit, properly ventilated, free of objects and fixtures, continuously monitored, with a door that cannot be locked, and meet fire and safety codes.</p>
CA <sup>17</sup>	<p>“Locked seclusion [is prohibited], unless it is in a facility otherwise licensed or permitted by state law to use a locked room.”</p> <p>Seclusion is not further defined in the Education Code. However, seclusion is defined in the Health and Safety Code as “the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. ‘Seclusion’ does not include a ‘timeout,’ as defined in regulations relating to facilities operated by the State Department of Developmental Services.”</p>

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<sup>16</sup> Ark. Code R. §§ 005.18.20-20.01; 20.03; 20.04.

<sup>17</sup> Cal. Educ. Code §§ 56521.1; 56521.2; Cal. Health & Safety Code § 1180.1(e).

CO <sup>18</sup>	<p>In state statute, seclusion, included as a type of restraint, is permitted and defined, for most state agencies, including education, as:</p> <p>“the placement of an individual alone in a room or area from which egress is involuntarily prevented, except during normal sleeping hours.”</p> <p>“Subject to the provisions of this article, an agency may only use restraint or seclusion on an individual:</p> <p>(a) In cases of emergency, as defined in section 26-20-102(3); and</p> <p>(b)(I) After the failure of less restrictive alternatives; or</p> <p>(II) After a determination that such alternatives would be inappropriate or ineffective under the circumstances.</p> <p>(1.5) Restraint and seclusion must never be used:</p> <p>(a) As a punishment or disciplinary sanction;</p> <p>(b) As part of a treatment plan or behavior modification plan;</p> <p>(c) For the purpose of retaliation by staff; or</p> <p>(d) For the purpose of protection, unless:</p> <p>(I) The restraint or seclusion is ordered by the court; or</p> <p>(II) In an emergency, as provided for in subsection (1) of this section.</p> <p>(2) An agency that uses restraint or seclusion pursuant to the provisions of subsection (1) of this section shall use such restraint or seclusion:</p> <p>(a) Only for the purpose of preventing the continuation or renewal of an emergency;</p> <p>(b) Only for the period of time necessary to accomplish its purpose; or</p> <p>(c) In the case of physical restraint, only if no more force than is necessary to limit the individual’s freedom of movement is used.”</p> <p>“Relief periods from seclusion shall be provided for reasonable access to toilet facilities.”</p> <p>In state regulations, seclusion, included as a type of restraint, is defined as: “the placement of a student alone in a room from which egress is involuntarily prevented. ‘Seclusion’ does not mean:</p> <p>(i) Placement of a student in residential services in his or her room for the night; or</p>
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<sup>18</sup> Colo. Rev. Stat. §§ 26-20-102; 26-20-103; 26-20-104(3); 1 Colo. Code Regs. §§ 301-45:2620-R-2.00(6)(d); 301-45:2620-R-2.01; 301-45:2620-R-2.02(1)(a), (2)(d) (eff. Nov. 30, 2017).

(ii) 'Time-out' which is the removal of a student from potentially rewarding people or situations. A Time-out is not used primarily to confine the student, but to limit accessibility to reinforcement. In a Time-out, the individual is not physically prevented from leaving the designated Time-out area. Such a Time-out requires effective monitoring by staff."

State regulations further provide:

"(1) Restraints shall only be used:

(a) In an emergency and with extreme caution; and

(b) After

(i) The failure of less restrictive alternatives (such as Positive Behavior Supports, constructive and non-physical de-escalation, and re-structuring the environment); or

(ii) A determination that such alternatives would be inappropriate or ineffective under the circumstances.

(2) Restraints must never be used as a punitive form of discipline or as a threat to control or gain compliance of a student's behavior.

(3) School personnel shall:

(a) Use restraints only for the period of time necessary and using no more force than is necessary; and

(b) Prioritize the prevention of harm to the student."

"(1)(a) When restraints, including seclusion, are used, 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;

(iii) Restraints are administered only by staff who have received training, in accordance with Section 2.03 of these Rules;

(iv) Opportunities to have the restraint removed are provided to the student who indicates that (s)he is willing to cease the violent or dangerous behavior;

(v) When it is determined by trained staff that the restraint is no longer necessary to protect the student or others (i.e., the emergency no longer exists), the restraint must be removed. In the case

State	Language
	<p>of seclusion, staff must reintegrate the student or clearly communicate to the student that (s)he is free to leave the area used to seclude the student; and</p> <p>(vi) Student is reasonable monitored to ensure the student’s physical safety.</p> <p>...</p> <p>(2)(d) ‘Seclusion’</p> <p>(i) Relief periods from seclusion shall be provided for reasonable access to toilet facilities; and</p> <p>(ii) Any space in which a student is secluded must have adequate lighting, ventilation, and size. To the extent possible under the specific circumstances, the space should be free of injurious items.”</p>

<p>CT<sup>19</sup></p>	<p>Most recently enacted in 2015, Section 10-236b provides the following:</p> <p>“No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative. No student shall be placed in seclusion unless (1) such student is monitored by a school employee during the period of such student’s seclusion pursuant to subsection (m) of this section, and (2) the area in which such student is secluded is equipped with a window or other fixture allowing such student a clear line of sight beyond the area of seclusion.”</p> <p>If seclusion exceeds fifteen minutes, certain statutorily-designated school personnel “shall determine whether continued . . . seclusion is necessary to prevent immediate or imminent injury to the student or to others. Upon a determination that such . . . seclusion is necessary, such individual shall make a new determination every thirty minutes thereafter regarding whether such . . . seclusion is necessary to prevent immediate or imminent injury to the student or to others.”</p> <p>“No school employee shall . . . place a student in seclusion unless such school employee has received training on the proper means for performing such . . . seclusion pursuant to subsection (o) of this section.”</p> <p>“. . . Any student who is involuntarily placed in seclusion shall be frequently monitored by a school employee. Each student . . . in seclusion shall be regularly evaluated by a school employee for indications of physical distress. The school employee conducting the evaluation shall enter each evaluation in the student’s education record. For purposes of this subsection, ‘monitor’ means (1) direct observation, or (2) observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student in a room, whether alone or with supervision, in a manner that prevents the student from leaving. . .”</p> <p>As further described in guidance:</p> <p>“In a public school setting, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. Seclusion does not include (1) time outs in the back of the classroom or in the hallway, meant to give the student a minute to pull themselves together (where a student is not prevented from leaving); or (2) in-school suspensions.”</p> <p>Section 10-76b-8, enacted earlier than the statute mentioned above, provides additional requirements related to the implementation of Section 10-236B and remains in effect where it does not conflict with the intent of Section 10-236b or the requirements or relief provided through</p>
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<sup>19</sup> Conn. Gen. Stat. §§ 10-236b(a)(5), (d), (f), (i), (m); 46a-150(7); 46a-152(b); 10-76b-8; [Guidance Related to Recent Legislation Regarding Restraint and Seclusion in Schools](#) (August 2017) (last accessed January 24, 2018); Connecticut State Department of Education Guidance titled "[Understanding the Laws and Regulations Governing the Use of Restraint and Seclusion in Schools: August 2017](#)" (last accessed January 24, 2018).

State	Language
	<p>Substitute Bill 7276 (Effective July 1, 2017) and any subsequent legislation. Section 10-76b-8, applying to children requiring special education and found in the Connecticut Special Education Regulations, limits the use of seclusion in public schools to the following:</p> <p>“Except for an emergency intervention to prevent immediate or imminent injury to the person or to others conforming to the requirements of subsection (b) of section 46a-152 of the Connecticut General Statutes, seclusion may only be used if (1) this action is specified in the IEP of the person at risk in accordance with the provisions of subsection (b) of this section and (2) if other less restrictive, positive behavior interventions appropriate to the behavior exhibited by the person at risk have been implemented but were ineffective.”</p> <p>There, “[a]ny period of seclusion (1) shall be limited to that time necessary to allow the person at risk to compose him or herself and return to the educational environment and (2) shall not exceed one hour. The use of seclusion may be continued with the written authorization of the building principal or designee to prevent immediate or imminent injury to the person at risk or to others. In the case where transportation of the person at risk is necessary, the written authorization to continue the use of seclusion is not required if immediate or imminent injury to the person at risk or to others is a concern.”</p> <p>Additionally, “. . . [a] person at risk shall not be placed in seclusion if such person is known to have any medical or psychological condition that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion. . . .”</p> <p>Section 10-76b-8 further requires monitoring “as described in the child’s IEP by a provider or assistant specifically trained in physical management, physical restraint and seclusion procedures . . .” detailed thereafter. The statute explains the requirements for seclusion rooms as well, requiring, inter alia, that the room “[b]e of a size that is appropriate to the chronological and developmental age, size, and behavior of the person at risk; . . . [b]e free of any object that poses a danger to the person at risk who is being placed in the room; . . . and [h]ave an unbreakable observation window located in a wall or door to permit frequent visual monitoring . . .”</p> <p>Finally, Section 10-76b-5 defines seclusion consistent with Section 46a-150, “provided seclusion does not include any confinement of a person at risk in which the person is physically able to leave the area of confinement including, but not limited to, in-school suspension and time-out.” Section 46a-150 defines seclusion as “the confinement of a person in a room, whether alone or with staff supervision, in a manner that prevents the person from leaving, except that in the case of seclusion at Long Lane School, the term does not include the placing of a single child or youth in a secure room for the purpose of sleeping.”</p>



State	Language
DE <sup>20</sup>	<p>Seclusion is prohibited, except by waiver from the state department of education:</p> <p>“for an individual student based on compelling justification and subject to specific conditions and safeguards which must include a requirement of continuous visual staff monitoring and parental notice of each use of mechanical restraint or seclusion.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room, enclosure, or space that is either locked or, while unlocked, physically disallows egress. The use of a ‘timeout’ procedure during which a staff member remains accessible to the student shall not be considered ‘seclusion.’”</p>
DC <sup>21</sup>	<p>D.C. Public Schools published guidelines for physical restraint and seclusion in August 2011, but, as of December 12, 2017, those guidelines have been removed from the D.C. Public School’s website, as they are being rewritten.</p>
FL <sup>22</sup>	<p>The following rule only applies to special education students, not general education students:</p> <p>“Seclusion.—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.”</p>

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<sup>20</sup> Del. Code Ann. tit. 14, § 4112F; 14 Del. Admin. Code § 610 2.0.

<sup>21</sup> D.C. Pub. Sch., Guidelines for Physical Restraint and Seclusion (Aug. 2011).

<sup>22</sup> Fla. Stat. § 1003.573; Fla. Dep’t of Educ. Documenting, Reporting, and Monitoring the Use of Seclusion and Restraint on Students with Disabilities (January 2011).

State	Language
GA <sup>23</sup>	<p>The use of seclusion is prohibited, as detailed here:</p> <p>“Seclusion - a procedure that isolates and confines the student in a separate area until he or she is no longer an immediate danger to himself/herself or others. The seclusion occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving. Seclusion may also be referred to as monitored seclusion, seclusion timeout, or isolated timeout. Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student, time-out as defined in paragraph (1)(g) of this rule, in-school suspension, detention, or a student-requested break in a different location in the room or in a separate room. Use of seclusion is prohibited in Georgia public schools and educational programs.”</p>
HI <sup>24</sup>	<p>The use of seclusion “shall be prohibited in public schools regardless of any consent of the student, parents, or guardians.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room or structure from which the student is physically denied voluntary egress.”</p>
ID <sup>25</sup>	<p>No laws or guidance on seclusion.</p>

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<sup>23</sup> Ga. Comp. R. & Regs. 160-5-1-.35.

<sup>24</sup> Haw. Rev. Stat. §§ 302A-1141.3 to 302A.1141.4.

<sup>25</sup> Task force (Safe and Supportive Schools Task Force) established in Aug. 2010 with proposed rules (IDAPA 08.02.03.160-161); however, no action was taken.

State	Language
IL <sup>26</sup>	<p>“Isolated time out and physical restraint as defined in this Section shall be used only as means of maintaining discipline in schools (that is, as means of maintaining a safe and orderly environment for learning) and only to the extent that they are necessary to preserve the safety of students and others. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment.”</p> <p>Isolated time out is defined as:</p> <p>“the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student's egress is restricted.”</p> <p>The regulation also sets out requirements for space used for “isolated time outs,” which include, inter alia, ceiling heights similar to surrounding rooms, particular materials to ensure the safety of the students, specifically-constructed locking mechanisms, and a design so as “to permit continuous visual monitoring of and communication with the student.” Responsible supervising adults “shall remain within two feet of the enclosure,” if an enclosure is used for the isolated time out.</p> <p>“A student shall not be kept in isolated time out for longer than is therapeutically necessary, which shall not be for more than 30 minutes after he or she ceases presenting the specific behavior for which isolated time out was imposed or any other behavior for which it would be an appropriate intervention.”</p> <p>The regulation sets forth additional requirements where an isolated time out exceeds 30 minutes or where repeated episodes have occurred during any three-hour period, including, inter alia, a written evaluation of the situation by a licensed educator knowledgeable about the use of isolated time out, and consideration of the appropriateness of continuing the isolated time out, “including the student’s potential need for medication, nourishment, or use of a restroom, and the need for alternate strategies . . .”</p>

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<sup>26</sup> Ill. Admin. Code tit. 23, § 1.285(a); (e); (f)(4).

State	Language
IN <sup>27</sup>	<p>Enabling legislation for required rulemaking:</p> <p>“(2)(E) A statement ensuring that if a procedure listed in clause (B) [which includes seclusion] is used, the procedure will be used:</p> <p>(i) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and</p> <p>(ii) in a situation in which there is an imminent risk of injury to the student, other students, school employees, or visitors to the school.</p> <p>(F) An indication that restraint or seclusion may be used only for a short time period, or until the imminent risk of injury has passed.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room or area from which the student physically is prevented from leaving. The term does not include a supervised time-out or scheduled break, as described in a student’s individualized education program, in which an adult is continuously present in the room with the student.”</p> <p>“Every effort shall be made to prevent the need for the use of restraint or for the use of seclusion on a student.</p> <p>(b) Seclusion or physical restraint shall not be used except when used as a last resort in situations where:</p> <p>(1) the student's behavior poses imminent risk of injury to self or others; and</p> <p>(2) other less restrictive interventions are ineffective.</p> <p>(c) Any use of seclusion or restraint:</p> <p>(1) may only be used for a short period of time; and</p> <p>(2) shall be discontinued as soon as the imminent risk of injury to self or others has dissipated.”</p>

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<sup>27</sup> Ind. Code. §§ 20-20-40-9; 20-20-40-13(2)(E), (2)(F); 513 Ind. Admin. Code 1-2-4, 1-2-19.

State	Language
IA <sup>28</sup>	<p>“[P]hysical confinement and detention shall not be used as discipline for minor infractions and may be used only after other disciplinary techniques have been attempted, if reasonable under the circumstances. . . .”</p> <p>Physical confinement and detention is defined as:</p> <p>“the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student’s egress is restricted.”</p> <p>Regulations set forth requirements as to the space used for such physical confinement and detention, which include, inter alia, an area of reasonable dimensions, free from “hazards and dangerous objects or instruments;” “sufficient light and adequate ventilation;” the maintenance of a “comfortable temperature;” “reasonable break periods . . . to attend to bodily needs;” a “period of detention and confinement [that] is reasonable” considering the student; “adequate and continuous adult supervision;” restrictions on the use of material restraints; and restrictions on the use of locking mechanisms.</p>

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<sup>28</sup> Iowa Admin. Code r. 281-103.6; 281-103.7.

State	Language
KS <sup>29</sup>	<p>Seclusion is permitted and defined as:</p> <p>“placement of a student in a location where all the following conditions are met:</p> <p>(1) The student is placed in an enclosed area by school personnel;</p> <p>(2) the student is purposefully isolated from adults and peers; and</p> <p>the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.”</p> <p>“Emergency safety interventions [which include seclusion] shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety interventions. The use of emergency safety interventions shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.”</p> <p>Regulations indicate that the “[u]se of [seclusion] for purposes of discipline or punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.”</p> <p>“A student shall not be subjected to [seclusion] if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the [seclusion.] The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file. . . .”</p> <p>The law sets forth additional requirements for the use of seclusion, which include that “a school employee shall be able to see and hear the student [placed in seclusion] at all times;” restrictions on the use of locking mechanisms; and a requirement that the “seclusion room [] be a safe place with proportional and similar characteristics as other rooms where students frequent. . . . free of any condition that could be a danger to the student, and . . . well-ventilated and sufficiently lighted.”</p>

<sup>29</sup> Kan. Stat. Ann. §§ 72-89d02(g), (t); 72-89d03(a)-(e); Kan. Admin. Regs. § 91-42-1(g), (p); 91-42-2(a)-(f).

<p>KY<sup>30</sup></p>	<p>“Section 4. (1) Seclusion shall not be used in a public school or educational program:</p> <ul style="list-style-type: none"> <li>(a) As punishment or discipline;</li> <li>(b) To force compliance or to retaliate;</li> <li>(c) As a substitute for appropriate educational or behavioral support;</li> <li>(d) To prevent property damage in the absence of imminent danger of physical harm to self or others;</li> <li>(e) As a routine school safety measure;</li> <li>(f) As a convenience for staff; or</li> <li>(g) As a substitute for timeout.</li> </ul> <p>(2) Seclusion may only be implemented in a public school or educational program if:</p> <ul style="list-style-type: none"> <li>(a) The student’s behavior poses an imminent danger of physical harm to self or others;</li> <li>(b) The student is visually monitored for the duration of the seclusion;</li> <li>(c) Less restrictive interventions have been ineffective in stopping the imminent danger of physical harm to self or others; and</li> <li>(d) School personnel implementing the seclusion are appropriately trained to use seclusion.</li> </ul> <p>(3) The use of seclusion shall end as soon as:</p> <ul style="list-style-type: none"> <li>(a) The student’s behavior no longer poses an imminent danger of physical harm to self or others; or</li> <li>(b) A medical condition occurs putting the student at risk of harm.</li> </ul> <p>(3) A setting used for seclusion shall:</p> <ul style="list-style-type: none"> <li>(a) Be free of objects and fixtures with which a student could inflict physical harm to self or others; or</li> <li>(b) Provide school personnel a view of the student at all times;</li> <li>(c) Provide adequate lighting and ventilation;</li> <li>(d) Be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use;</li> <li>(e) Have an unlocked and unobstructed door; and</li> </ul>
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State	Language
	<p>(f) Have at least an annual fire and safety inspection.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or area from which the student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions.”</p>

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<sup>30</sup> 704 Ky. Admin. Regs. 7:160, sec. 1(15), 4.



LA <sup>31</sup>	<p>Louisiana’s rules on seclusion apply specifically to “students with exceptionalities,” which is defined as follows:</p> <p>“A ‘student with an exceptionality’, [sic] including a student with a disability, is any student who is evaluated according to state and federal regulation or policy and is deemed to have a mental disability, hearing loss (including deafness), multiple disabilities, deaf-blindness, speech or language impairment, visual impairment (including blindness), emotional disturbance, orthopedic impairment, other health impairment, specific learning disability, traumatic brain injury, autism, or is deemed to be gifted or talented, and as a result requires special education and related services. A student with an exceptionality may include, as determined by the local education agency, a student experiencing developmental delay ages three through eight.”</p> <p>The use of seclusion for students with exceptionalities is limited as follows:</p> <p>“B. (1) Seclusion shall be used only:</p> <p>(a) For behaviors that involve an imminent risk of harm.</p> <p>(b) As a last resort when de-escalation attempts have failed and the student continues to pose an imminent threat to self or others.</p> <p>(2) Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.</p> <p>(3)(a) A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm.”</p> <p>“D. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.”</p> <p>“F. A student shall not be placed in seclusion or physically restrained if he or she is known to have any medical or psychological condition that precludes such action, as certified by a licensed health care provider in a written statement provided to the school in which the student is enrolled.</p> <p>G. A student who has been placed in seclusion . . . shall be monitored continuously. Such monitoring shall be documented at least every fifteen minutes and adjustments made accordingly, based upon observations of the student’s behavior.”</p> <p>Seclusion is defined as:</p>
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State	Language
	<p>“a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.”</p>
ME <sup>32</sup>	<p>“Seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.”</p> <p>“Seclusion may not be used for punitive purposes, staff convenience or to control challenging behavior[,] . . . to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm[,] . . . as a therapeutic or educational intervention[, or] . . . take place in a locked room.”</p> <p>“At least one adult must be physically present to continuously monitor a student in seclusion. The adult, while not present in the room or defined area, must be situated so that the student is visible at all times. Students must be continuously monitored until the student no longer presents a risk of injury or harm to self or others. . . .”</p> <p>“The staff involved in the use of seclusion shall continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the seclusion must be discontinued as soon as possible.”</p> <p>Regulations set forth additional requirements as to the space used for seclusion, which include “any part of a school building with adequate light, heat, ventilation, and of normal room height. If a specific room is designated as a seclusion room, it must be a minimum of 60 square feet with adequate light, heat, ventilation, be of normal room height, contain an unbreakable observation window in a wall or door and be free of hazardous material and objects with which a student could self-inflict bodily injury.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.”</p>

<sup>31</sup> La. Rev. Stat. Ann. §§ 17:1942(B); 17:416.21(A)(6), (B)(1)-(3)(a), (D), (F), (G); *see also* 2011 La. Sess. Law Serv. Act 328 (S.B. 59) (West) (permitting adoption of seclusion rules and guidelines for “students with exceptionalities as defined in R.S. 17:1942); La. Admin. Code tit. 28, §§ 540(5), 541 (setting identical limits for the use of seclusion on students with disabilities).

<sup>32</sup> 05-071-33 Me. Code R. §§ 2(19); 5.

<p>MD<sup>33</sup></p>	<p>Seclusion is defined by statute as:</p> <p>“the confinement of a student alone in a room, an enclosure, or any other space from which the student is physically prevented from leaving.”</p> <p>Recent legislation created a task force, which is required to consider, inter alia, “[t]he circumstances under which, and the schools or types of schools in which, restraint and seclusion shall be prohibited; [and] [contraindications for restraint and seclusion and who may authorize restraint and seclusion[.]” The task force is further required to “[r]eview existing regulations relating to seclusion” and, on or before October 1, 2017, make recommendations to the State Board and General Assembly regarding:</p> <p>“(i) Findings and recommendations determined under this section, including consideration of the following factors if the task force determines that there are circumstances under which seclusion may be used:</p> <ol style="list-style-type: none"> <li>1. The types of doors and locking mechanisms that may be used;</li> <li>2. The safety of the rooms used for seclusion;</li> <li>3. The requirements for observation of the rooms used for seclusion;</li> <li>4. The period of time for the use of seclusion; and</li> <li>5. The requirements for the discontinuation of seclusion; and</li> </ol> <p>(ii) Changes that are needed to update regulations to be consistent with § 7-1103 of this subtitle or any other findings and recommendations.”</p> <p>Additionally, the State Department of Education “shall submit proposed regulations to the State Board of Education on or before December 1, 2017.”</p> <p>The current regulations prohibit seclusion unless:</p> <p>“(a) There is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;</p> <p>(b) The student's IEP or behavioral intervention plan describes the specific behaviors and circumstances in which seclusion may be used; or</p> <p>(c) The parents of a nondisabled student have otherwise provided written consent for the use of seclusion while a behavior intervention plan is being developed.”</p> <p>Additionally, school personnel are only permitted to use seclusion:</p>
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State	Language
	<p>(1) After less restrictive or alternative approaches have been considered, and;</p> <p>(a) Attempted; or</p> <p>(b) Determined to be inappropriate;</p> <p>(2) In a humane, safe, and effective manner;</p> <p>(3) Without intent to harm or create undue discomfort; and</p> <p>(4) Consistent with known medical or psychological limitations and the student’s behavioral intervention plan.”</p> <p>Regulations prescribe requirements for rooms used for seclusion, including, inter alia, that such rooms “[b]e free of objects and fixtures with which a student could self-inflict bodily harm; [] [p]rovide school personnel an adequate view of the student from an adjacent area; and [] [p]rovide adequate lighting and ventilation.” Additionally, school personnel are required to “[v]iew a student placed in seclusion at all times . . .”</p> <p>Finally, regulations require:</p> <p>“(5) A seclusion event:</p> <p>(a) Shall be appropriate to the student’s development level and severity of the behavior;</p> <p>(b) May not restrict the student’s ability to communicate distress; and</p> <p>(c) May not exceed 30 minutes.”</p> <p>Regulations define seclusion slightly differently than statute as: “the confinement of a student alone in a room from which the student is physically prevented from leaving.”</p>

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<sup>33</sup> Md. Code Regs. 13A.08.04.02; 13A.08.04.03; 13A.08.04.05; Md. Code Ann., Education §§ 7-1101(f); 7-1102.

State	Language
MA <sup>34</sup>	<p>“Mechanical restraint, medication restraint, and seclusion shall be prohibited in public education programs.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. Seclusion does not include a time-out as defined in 603 CMR 46.02.”</p> <p>Time-out is defined as:</p> <p>“a behavioral support strategy developed pursuant to 603 CMR 46.04(1) in which a student temporarily separates from the learning activity or the classroom, either by choice or by direction from staff, for the purpose of calming. During time-out, a student must be continuously observed by a staff member. Staff shall be with the student or immediately available to the student at all times. The space used for time-out must be clean, safe, sanitary, and appropriate for the purpose of calming. Time-out shall cease as soon as the student has calmed.”</p>

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<sup>34</sup> 603 Mass. Code Regs. 46.02; 46.03.

MI <sup>35</sup>	<p>Seclusion, other than emergency seclusion, is “prohibited for school personnel in the public schools of [Michigan] under all circumstances. . .”</p> <p>“‘Emergency seclusion’ means a last resort emergency safety intervention involving seclusion that is necessitated by an ongoing emergency situation and that provides an opportunity for the pupil to regain self-control while maintaining the safety of the pupil and others. To qualify as emergency seclusion, there must be continuous observation by school personnel of the pupil in seclusion, and the room or area used for confinement must comply with state and local fire and building codes; must not be locked; must not prevent the pupil from exiting the area if school personnel become incapacitated or leave that area; and must provide for adequate space, lighting, ventilation, viewing, and the safety and dignity of the pupil and others, in accordance with department guidelines. Emergency seclusion does not include the confinement of preschool children or of pupils who are severely self-injurious or suicidal; seclusion that is used for the convenience of school personnel, as a substitute for an educational program, as a form of discipline or punishment, as a substitute for less restrictive alternatives, as a substitute for adequate staffing, or as a substitute for school personnel training in positive behavioral intervention and support; or a practice prohibited under section 1307b. Emergency seclusion does not include seclusion when contraindicated based on a pupil's disability, health care needs, or medical or psychiatric condition, as documented in a record or records made available to the school.</p> <p>The Michigan Department of Education is statutorily tasked with creating state policy that “[e]nsures that seclusion and physical restraint are used only as a last resort in an emergency situation and are subject to diligent assessment, monitoring, documentation, and reporting by trained personnel[,]” among other things, and complies with the following:</p> <p>“(a) Emergency seclusion . . . may be used only under emergency situations and only if essential to providing for the safety of the pupil or safety of another[;] (b) . . . may not be used in place of appropriate less restrictive interventions[; and] (c) . . . shall be performed in a manner that, based on research and evidence, is safe, appropriate, and proportionate to and sensitive to the pupil’s severity of behavior, chronological and developmental age, physical size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of physical or sexual abuse or other trauma.”</p> <p>“(f) Emergency seclusion should not be used any longer than necessary, based on research and evidence, to allow a pupil to regain control of his or her behavior to the point that the emergency situation necessitating the use of emergency seclusion is ended and generally no longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil. If an emergency seclusion lasts longer than 15 minutes for an elementary school pupil or 20 minutes for a middle school or high school pupil, all of the following are required:</p>
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<sup>35</sup> Mich. Stat. §§ 380.1307; 380.1307a; 380.1307b(d); 380.1307c; 380.1307e; 380.1307h(e); 388.1654b(3). *See also* [Mich. Dep't of Educ., Policy for the Emergency Use of Seclusion and Restraint](#) (Mar. 2017) Mich. Dep't of Educ., Supporting Student Behavior: Standards for the Emergency Use of Seclusion and Restraint (Dec. 2006, last updated April 18, 2017). (Last visited January 24, 2018)

(i) Additional support, which may include a change of staff, or introducing a nurse, specialist, or additional key identified personnel.

(ii) Documentation to explain the extension beyond the time limit.”

“(h) While using emergency seclusion . . . , school personnel must do all of the following:

(i) Involve key identified personnel to protect the care, welfare, dignity, and safety of the pupil.

(ii) Continually observe the pupil in emergency seclusion . . . for indications of physical distress and seek medical assistance if there is a concern.

(iii) Document observations.

(iv) Ensure to the extent practicable, in light of the ongoing emergency situation, that the emergency physical restraint does not interfere with the pupil’s ability to communicate using the pupil’s primary mode of communication.

(v) Ensure that at all times during the use of emergency seclusion . . . there are school personnel present who can communicate with the pupil using the pupil’s primary mode of communication.”

Parties, including school personnel, parent or guardian, and a team including a teacher, individual knowledgeable about the legally permissible use of emergency seclusion, and an individual knowledgeable about the use of positive behavioral intervention and support to eliminate the use of seclusion and restraint, should develop a written emergency intervention plan for any “pupil exhibit[ing] a pattern of behavior that poses a substantial risk of creating an emergency situation in the future that could result in the use of emergency seclusion . . . The emergency intervention plan should be developed and implemented by taking all of the following documented steps:

(i) Describe in detail the emergency intervention procedures.

(ii) Describe in detail the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.

(iii) Make inquiry to the pupil’s medical personnel, with parental consent, regarding any known medical or health contraindications for the use of emergency seclusion or emergency physical restraint.

(iv) Conduct a peer review by knowledgeable school personnel.

(v) Provide the parent or guardian with all of the following, in writing and orally:

(A) A detailed explanation of the positive behavioral intervention and support strategies that will be utilized to reduce the risk of the pupil’s behavior creating an emergency situation.



State	Language
	<p>(B) An explanation of what constitutes an emergency situation as defined in section 1307h, including examples of situations that would fall within the definition and situations that would fall outside the definition.</p> <p>(C) A detailed explanation of the intervention procedures to be followed in an emergency situation, including the potential use of emergency seclusion and emergency physical restraint.</p> <p>(D) A detailed explanation of the legal limits on the use of emergency seclusion and emergency physical restraint, including examples of legally permissible and prohibited use.</p> <p>(E) A description of possible discomforts or risks.</p> <p>(F) Answers to any questions.</p> <p>(b) A pupil who is the subject of an emergency intervention plan should be told or shown the circumstances under which emergency seclusion or emergency physical restraint could be used.</p> <p>(c) Emergency seclusion . . . must only be used in response to an ongoing emergency situation and not as a planned response for the convenience of school personnel, as discipline or punishment, or as a substitute for an appropriate educational program. The development of an emergency intervention plan shall be solely for the purpose of protecting the health, safety, and dignity of the pupil and does not expand the legally permissible use of emergency seclusion . . .”</p> <p>Additionally, the legislature has appropriated funds for the Michigan Department of Education to “provid[e] training to intermediate districts and districts related to the safe implementation of emergency restraints and seclusion. . . .”</p>

State	Language
MN <sup>36</sup>	<p>“[S]eclusion may be used only in an emergency. A school that uses . . . seclusion shall meet the following requirements:</p> <p>(1) . . . seclusion is the least intrusive intervention that effectively responds to the emergency;</p> <p>(2) . . . seclusion is not used to discipline a noncompliant child;</p> <p>(3) . . . seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;</p> <p>(4) staff directly observes the child while . . . seclusion is being used . . .”</p> <p>Seclusion is defined as:</p> <p>“confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.”</p>

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<sup>36</sup> Minn. Stat. §§ 125A.094-125A.0942

State	Language
MS <sup>37</sup>	<p>Regulations permit seclusion but require a local school district policy on physical restraint and seclusion if such restraint and seclusion is utilized:</p> <p>“A Restraint and Seclusion Policy is defined through written local school board-approved policies and procedures that define appropriate means of restraint and seclusion to provide for a safe and orderly education. These policies and procedures shall apply to all students in the local school district and shall not focus on one or more subgroups of students.</p> <p>... Restraint and/or seclusion shall not be utilized as a punitive measure.”</p> <p>“a. . . . The room or space used for seclusion may not be locked and staff shall be present to monitor the student. Seclusion shall cease once the student regains control of his or her behavior.</p> <p>Only school personnel trained in the use of restraint and seclusion should be used to observe and monitor these students. . . .</p> <p>b. The room or space used for seclusion shall not contain any objects or fixtures with which a student could reasonably be harmed. Additionally, the room shall provide adequate lighting and ventilation.</p> <p>c. School personnel may use seclusion to address a student’s behavior:</p> <p>i. If the student’s behavior constitutes an emergency and seclusion is necessary to protect a student or other person from imminent, serious physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate;</p> <p>ii. After less restrictive or alternative approaches have failed or have been determined to be inappropriate.”</p> <p>“ . . . The student shall not be kept in seclusion for more than 20 minutes. If additional time is needed, school personnel shall reassess the student and document why the extra time is needed, or after this time, if the physical behavior is still manifested, the student shall be assessed for transport to a medical facility for evaluation by a physician and the parent notified[.]”</p> <p>“Seclusion is defined as ‘the confinement of a student in an enclosure from which the student’s egress is restricted.’ Seclusion does not include in-school suspension, detention, or alternative school.”</p>

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<sup>37</sup> Miss. Code R. § 7-3:38.13(2), (3)(s), (4), (5)(a); Miss. Dep’t of Educ., 4013 Restraint and Seclusion Policy.

State	Language
MO <sup>38</sup>	<p>“The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.”</p> <p>“The policy shall include but not be limited to: (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district. . . .”</p> <p>The Missouri Department of Elementary and Secondary Education’s model policy defines seclusion as prohibited except for an emergency situation while awaiting the arrival of law enforcement personnel as per statute, but permits isolation in what “should be a normal-sized meeting or classroom commonly found in a school setting.” Isolation may only be used: “[a]fter de-escalating procedures have failed[;] [i]n an emergency situation . . . [;] [w]ith parental approval, as specified in a student’s Individualized Education Program (IEP), Section 504 plan, or behavior intervention plan.”</p> <p>The model policy also defines “emergency situation” as “one in which a student’s behavior poses a serious, probable threat of imminent physical harm to self or others. [District option to also include ‘or destruction of school or another person’s property.’]”</p>

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<sup>38</sup> Mo. Rev. Stat. § 160.263 (1), (2)(1); Mo. Dep’t of Elem. and Sec. Educ., Model Policy on Seclusion and Restraint, 1-2, 5 (July 2010).

State	Language
MT <sup>39</sup>	<p>Montana permits but restricts the use of “isolation time-out” in its regulations governing special education.</p> <p>“Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.”</p> <p>Isolation time-out, an aversive treatment procedure, is permitted and defined as meeting the following conditions:</p> <ul style="list-style-type: none"> <li>(i) the student is alone in the isolation room during the period of isolation;</li> <li>(ii) the student is prevented from exiting the isolation room during the period of isolation;</li> <li>(iii) the door to the isolation room remains closed during the period of isolation; and</li> <li>(iv) the student is prohibited from participating in activities occurring outside the isolation room and from interacting with other students during the period of isolation.</li> </ul> <p>“Any student in isolation time-out must be under the direct constant visual observation of a designated staff person throughout the entire period of isolation.”</p> <p>“[I]solation in a locked room or mechanical restraint [is prohibited], except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law. . .”</p> <p>Guidance states: “The use of a locking system that does not require the presence of staff to keep the door from opening is considered a locked room. Any system used to prevent exit from the isolation time-out room must allow the door to be opened if a staff person is not actively engaging the system.”</p>

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<sup>39</sup> Mont. Admin. R. 10.16.3346; Mont. Off. of Pub. Instr., Special Education in Montana, 115 (August 2017).

State	Language
NE <sup>40</sup>	<p>The Nebraska Department of Education includes among its quality indicators for school environment the following tenet: “Each school system has a seclusion and restraints policy approved by the school board or local governing body.”</p> <p>At this time Nebraska does not have any statutes, regulations, or state policies regarding restraint or seclusion, but schools are required to have school safety and security committees in charge of developing safety and security plans for each school in order to be accredited. The use of these procedures “could be interpreted as coming under the scope of Nebraska’s school safety policies.”</p> <p>“Seclusion - Seclusion occurs when a person is placed in a location where he or she is alone, and prevented physically from leaving that environment. It is the act of physically confining a person alone in a room or limited space, or with an adult who is there to prevent the person from leaving. Seclusion should be distinguished from other forms of time out that do not entail isolation and restricted egress (see definitions and discussion later in this document).”</p>
NV <sup>41</sup>	<p>“A person employed by the board of trustees of a school district or any other person shall not use any aversive intervention on a pupil with a disability.”</p> <p>Aversive intervention “means any of the following actions if the action is used to punish a pupil with a disability or to eliminate, reduce or discourage maladaptive behavior of a pupil with a disability . . .” Actions included in the list of aversive interventions include “[t]he placement of a person alone in a room where release from the room is prohibited by a mechanism, including, without limitation, a lock, device or object positioned to hold the door closed or otherwise prevent the person from leaving the room...”</p>

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<sup>40</sup> 92 Neb. Admin. Code § 10-011.01E; Neb. Dep’t of Educ., Developing School Policies & Procedures for Physical Restraint and Seclusion in Nebraska Schools (June 2010).

<sup>41</sup> Nev. Rev. Stat. §§ 388.473, 388.497.

State	Language
NH <sup>42</sup>	<p>“Each facility and school shall have a written policy and procedures for managing the behavior of children. Such policy shall describe how and under what circumstances seclusion . . . is used and shall be provided to the parent, guardian, or legal representative of each child at such facility or school.”</p> <p>“Limitation on the Use of Seclusion. –</p> <p>I. Seclusion may not be used as a form of punishment or discipline. It may only be used when a child's behavior poses a substantial and imminent risk of physical harm to the child or to others, and may only continue until that danger has dissipated.</p> <p>II. Seclusion shall only be used by trained personnel after other approaches to the control of behavior have been attempted and been unsuccessful, or are reasonably concluded to be unlikely to succeed based on the history of actual attempts to control the behavior of a particular child.</p> <p>III. Seclusion shall not be used in a manner that that unnecessarily subjects the child to the risk of ridicule, humiliation, or emotional or physical harm.”</p> <p>There are restrictions for rooms in which seclusion may be imposed, including, inter alia, age- and developmentally-appropriate rooms, being free of dangerous objects, specific restrictions on the use of locks, and unbreakable observation windows. Further, “[e]ach use of seclusion shall be directly and continuously visually and auditorially monitored by a person trained in the safe use of seclusion.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.”</p>

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<sup>42</sup> N.H. Rev. Stat. Ann. §§ 126-U:1(V-a); 126-U:5-a; 126-U:5-B; *see also* N.H. Code Admin. R. Ann. ED 1201.01; 1202.1-.03, 1203.01-.03.-.

State	Language
NJ <sup>43</sup>	<p>No law on seclusion. “The New Jersey Department of Education, Office of Special Education, endorses the use of [the United States Department of Education, Office of Special Education and Rehabilitative Services (USDE OSERS) May 15, 2012 Guidance Document] when developing Individual Education Programs (IEPs) which address the behavioral needs of students with disabilities.”</p>
NM <sup>44</sup>	<p>Seclusion is only permitted if “both of the following apply:</p> <p>(1) the student’s behavior presents an imminent danger of serious physical harm to the student or others; and</p> <p>(2) less restrictive interventions appear insufficient to mitigate the imminent danger of serious physical harm.”</p> <p>If seclusion is used on a student:</p> <p>“(1) school employees shall maintain continuous visual observation and monitoring of the student while the . . . seclusion technique is in use;</p> <p>(2) the . . . seclusion technique shall end when the student’s behavior no longer presents an imminent danger of serious physical harm to the student or others;</p> <p>(3) the . . . seclusion technique shall be used only by school employees who are trained in the safe and effective use of . . . seclusion techniques unless an emergency situation does not allow sufficient time to summon those trained school employees . . .”</p> <p>Seclusion is defined as “the involuntary confinement of a student alone in a room from which egress is prevented. ‘Seclusion’ does not mean the use of a voluntary behavior management technique, including a timeout location, as part of a student’s education plan, individual safety plan, behavioral plan or individualized education program that involves the student’s separation from a larger group for purposes of calming.”</p>

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<sup>43</sup> N.J. Dep’t of Educ., NJOSE Guidance Memo 2012-5 (Sept.18, 2012). During the 217<sup>th</sup> Legislature, the New Jersey House and Senate introduced a bill addressing the use of seclusion, which stalled in committee. S.B. 1163, 217<sup>th</sup> Leg., 1<sup>st</sup> Annual Sess. (N.J. 2016); H.B. 503, 217<sup>th</sup> Leg., 1<sup>st</sup> Annual Sess. (N.J. 2016).

<sup>44</sup> N.M. Stat. Ann. § 22-5-4.12.



State	Language
NY <sup>45</sup>	<p>Regulations address the use of “time outs” for students with disabilities as follows:</p> <p>“Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.”</p> <p>A time out room is defined as:</p> <p>“an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program.”</p> <p>“The school's policy and procedures shall minimally include: (i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised; (ii) factors which may precipitate the use of the time out room; (iii) time limitations for the use of the time out room. . . .”</p> <p>“The use of locked rooms or spaces for purposes of time out is prohibited.”</p>

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<sup>45</sup> N.Y. Comp. Codes R. & Regs., tit. 8, § 200.22(c).

State	Language
NC <sup>46</sup>	<p>Seclusion is not permitted except as set forth here:</p> <p>“Seclusion of students by school personnel may be used in the following circumstances:</p> <ol style="list-style-type: none"> <li>a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.</li> <li>b. As reasonably needed to maintain order or prevent or break up a fight.</li> <li>c. As reasonably needed for self-defense.</li> <li>d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.</li> <li>e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and <ol style="list-style-type: none"> <li>1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.</li> <li>2. The student is release from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student’s IEP or Section 504 plan.</li> <li>3. The space in which the student is confined has been approved for such use by the local education agency.</li> <li>4. The space is appropriately lighted.</li> <li>5. The space is appropriately ventilated and heated or cooled.</li> <li>6. The space is free of objects that unreasonably expose the student or others to harm.”</li> </ol> </li> </ol> <p>“Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in an enclosed space from which the student is:</p> <ol style="list-style-type: none"> <li>a. Physically prevented from leaving by locking hardware or other means.</li> <li>b. Not capable of leaving due to physical or intellectual incapacity.”</li> </ol>
ND <sup>47</sup>	No laws or guidance on seclusion in school settings, although a study was commissioned.

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<sup>46</sup> N.C. Gen. Stat. § 115C-391.1(b)(10), (e).

<sup>47</sup> N.D. Leg. Council, Use of Restraint and Seclusion Procedures in Schools (Sept. 2015). During the 65<sup>th</sup> Legislative Assembly, the North Dakota Education Committee introduced a bill relating to the adoption of a restraint and seclusion policy by school districts and the reporting of incidents of restraint and seclusion; to provide an appropriate; and to provide for a report to legislative management, which failed to pass. S.B. 2275, 65th Leg. (N.D. 2017).

State	Language
OH <sup>48</sup>	<p>“The following practices are prohibited by school personnel under any circumstance: [s] Seclusion in a locked room or area.”</p> <p>“Seclusion may be used only</p> <p>(a) If a student's behavior poses an immediate risk of physical harm to the student or others and no other safe or effective intervention is available;</p> <p>(b) As a last resort to provide an opportunity for the student to regain control of his or her actions;</p> <p>(c) For the minimum amount of time necessary for the purpose of protecting the student and others from physical harm;</p> <p>(d) In a room or area that:</p> <p>(i) Is not locked;</p> <p>(ii) Does not prevent the student from exiting the area should staff become incapacitated or leave the area; and</p> <p>(iii) Provides adequate space, lighting, ventilation, and the ability to observe the student; and</p> <p>(e) Under constant supervision by staff who are trained to be able to detect indications of physical or mental distress that require removal and/or immediate medical assistance and who document their observations of the student.</p> <p>(2) Seclusion may not be used for punishment or discipline, for the convenience of staff, or as a substitute for other less restrictive means of assisting a student in regaining control.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.”</p>

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<sup>48</sup> Ohio Admin. Code 3301-35-15(A)(10), ; Ohio Rev. Code Ann. § 3319.46. During the 132<sup>nd</sup> Legislative General Assembly, a Senate Bill was introduced that would prohibit the use of seclusion on students. S.B. 104, 132<sup>nd</sup> Leg. (Ohio 2017). That bill was last referred to the Education Committee on April 5, 2017.

State	Language
OK <sup>49</sup>	<p>Seclusion is prohibited in the Oklahoma School for the Blind and Oklahoma School for the Deaf.</p> <p>Proposed guidelines for use of seclusion state: “Seclusion shall not be used for the purposes of discipline or as a punishment, to force compliance, or as a convenience for staff. Seclusion should not be used to manage behavior. Seclusion should only be used under the following emergency circumstances and if these elements exist: A student’s actions pose an imminent risk of harm to him/herself or others [and</p> <p>p]ositive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student and specified in the student’s IEP or BIP, are currently being implemented but are not currently de-escalating the risk of injury. . . . Any student who is placed in seclusion must be continuously monitored visually and aurally by a school employee. . . .”</p> <p>Seclusion is defined in guidance as:</p> <p>“involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. This includes situations where a door is locked as well as where the door is blocked by other objects or held by staff. Any time a student is involuntarily alone in a room and prevented from leaving should be considered seclusion regardless of the intended purpose or the name applied to this procedure or the name of the place where the student is secluded.”</p>

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<sup>49</sup> Okla. Admin. Code § 612:20-3-7; Okla. Dep’t of Educ., Introduction to Minimizing the Use of Seclusion and Physical Restraint (Jan. 2009). During the 56<sup>th</sup> Legislative Regular Session, a House Bill was introduced that would limit the use of seclusion on students with disabilities to only certain emergency situations. H.B. 1520, 56th Leg. (Okla. 2017). That bill was last passed by the Common Education Committee on February 28, 2017.

State	Language
OR <sup>50</sup>	<p>“The use of . . . seclusion on a student in a public education program in this state is prohibited unless used as provided in ORS 339.291, which includes the following:</p> <p>(a) . . . [S]eclusion may be used on a student in a public education program only if:</p> <p>(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and,</p> <p>(B) Less restrictive interventions would not be effective.</p> <p>(b) . . . [S]eclusion may not be used for discipline, punishment or convenience of personnel of the public education program.</p> <p>(c) If . . . seclusion is used on a student, the . . . seclusion must be:</p> <p>(A) Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;</p> <p>...</p> <p>(C) Continuously monitored by personnel of the public education program for the duration of the . . . seclusion.”</p> <p>If the seclusion continues for more than 30 minutes, “[t]he student must be provided with adequate access to the bathroom and water every 30 minutes . . . [and] [e]very 15 minutes after the first 30 minutes of the . . . seclusion, an administrator for the public education program must provide written authorization for the continuation of the . . . seclusion, including providing documentation for the reason the . . . seclusion must be continued.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. ‘Seclusion’ does not include the removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.”</p>

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<sup>50</sup> Or. Admin. R. 581-021-0550(6), 581-021-0553; Or. Rev. Stat. §§ 339..285(3); 339.291. *See also* Or. Admin. R. 581-021-0568 (setting forth standards for seclusion rooms).

State	Language
PA <sup>51</sup>	<p>“The following aversive techniques of handling behavior are considered inappropriate and may not be used by agencies in educational programs:</p> <p>(3) Locked rooms, locked boxes or other structures or spaces from which the student cannot readily exit...”</p> <p>Unlocked seclusion is not directly addressed, though may fall within the scope of the broader definition of an “aversive procedure,” which is defined as “activities designed to establish a negative association with a specific behavior.”</p>
RI <sup>52</sup>	<p>“Seclusion Restraint: Physically confining a student alone in a room or limited space without access to school staff. The use of ‘time out’ procedures during which a staff member remains accessible to the student shall not be considered ‘seclusion restraint.’ The use of seclusion restraint is prohibited in public education programs.”</p> <p>Seclusion is defined as:</p> <p>“placing a child alone in a locked room without supervision. Such action is strictly prohibited in Rhode Island.”</p> <p>“Physical restraint/crisis intervention are prohibited in the following circumstances:</p> <p>...</p> <p>(f) As in seclusion, unless under constant surveillance and observation when documented as part of a previously agreed upon written behavioral intervention plan.”</p>

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<sup>51</sup> 22 Pa. Code § 14.133(b), (e)(3).

<sup>52</sup> R.I. Code R. 21-2-39:3.0, 21-2-39:6.0

State	Language
SC <sup>53</sup>	<p>“Since South Carolina law does not currently ban the use of seclusion in the public school, it is the purpose of these guidelines not only to strongly discourage the practice, but to restrict its use to extraordinary circumstances. If LEAs abide by the following guidelines, the perceived need to use seclusion in school settings should greatly diminish. The guidelines are as follows:</p> <ul style="list-style-type: none"> <li>• Seclusion should only be used for the management of behavior when the student poses a threat of imminent, serious, physical harm to self and/or others, and the student has the ability to cause such harm.</li> <li>• Seclusion should never be used as punishment, to force compliance, or as a substitute for appropriate educational support.</li> <li>• Seclusion should only be used to control behavior when less restrictive measures have not effectively de-escalated the risk of injury.</li> <li>• Seclusion should never be used as a response to property destruction.</li> <li>• Seclusion should never be used as a response to verbal threats and profanity that do not rise to the level of physical harm unless that student demonstrates a means of carrying out the threats.</li> <li>• Use of a locked door on a seclusion room is prohibited.</li> <li>• Seclusion should last only as long as necessary to resolve the actual risk of harm.</li> <li>• While in seclusion, the student must be observed by staff both visually and audibly during all times.</li> <li>• Students must be permitted to go to the restroom and drink water if requested during seclusion.</li> <li>• School personnel must be prepared to act immediately should the student exhibit any signs of medical distress.”</li> </ul> <p>Seclusion is defined in guidance as:</p> <p>“the involuntary confinement of a student alone in a room or area where the student is prevented from leaving.”</p>

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<sup>53</sup> S.C. Dep’t of Educ., Guidelines on the Use of Seclusion and Restraint (Aug. 20, 2012) (emphasis omitted).



State	Language
SD <sup>54</sup>	No laws or guidance on seclusion. Proposed rules on emergency safety intervention were withdrawn and a public hearing cancelled because of concerns raised by the South Dakota Legislative Research Counsel regarding rulemaking authority and the volume of public comments received. The South Dakota Department of Education intends to gather additional feedback and comments and potentially address the issue through future legislation.

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<sup>54</sup> South Dakota Board of Education Agenda, Emergency Safety Intervention Rules Update (March 14, 2016); *see also* 2016 S.D. Reg.416657 (setting forth proposed rules that were not adopted).

State	Language
TN <sup>55</sup>	<p>Seclusion is regulated with respect to students with disabilities as follows:</p> <p>“A student receiving special education services . . . may be restrained or isolated only in emergency situations.”</p> <p>“(f) The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.”</p> <p>“(g) Any space used as an isolation room shall be:</p> <ol style="list-style-type: none"> <li>(1) Unlocked and incapable of being locked;</li> <li>(2) Free of any condition that could be a danger to the student;</li> <li>(3) Well ventilated and temperature controlled;</li> <li>(4) Sufficiently lighted for the comfort and well-being of the student;</li> <li>(5) Where school personnel are in continuous direct visual contact with the student at all times;</li> <li>(6) At least forty square feet (40 sq. ft.); and</li> <li>(7) In compliance with all applicable state and local fire, health, and safety codes.” <p>“‘Emergency situation’ means that a child’s behavior poses a threat to the physical safety of the student or others nearby...”</p> <p>Isolation or seclusion is defined as</p> <p>“(A) . . . the confinement of a student alone in a room with or without a door, or other enclosed area or structure pursuant to § 49-10-1305(g) where the student is physically prevented from leaving; and</p> <p>(B) Does not include time-out, a behavior management procedure in which the opportunity for positive reinforcement is withheld, contingent upon the demonstration of undesired behavior; provided, that time-out may involve the voluntary separation of an individual student from others[.]”</p> </li></ol>

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<sup>55</sup> Tenn. Code Ann. §§ 49-10-1303(3), (4); 49-10-1304(a); 49-10-1305(f), (g); *see also* Tenn. Comp. R. & Regs. 0520-01-09-.23 (authorizing, *inter alia*, local educational agencies to develop policies and procedures relating to isolation and restraint).

TX <sup>56</sup>	<p>“A student with a disability who receives special education services . . . may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.”</p> <p>“A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion.”</p> <p>Seclusion is defined as:</p> <p>“a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:</p> <p>(A) is designed solely to seclude a person; and</p> <p>(B) contains less than 50 square feet of space.”</p> <p>“This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:</p> <p>(1) the student possesses a weapon; and</p> <p>(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.”</p> <p>Time-out means:</p> <p>“a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:</p> <p>(A) that is not locked; and</p> <p>(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.”</p> <p>Regarding use of time-out, the Texas Rules provide:</p> <p>“Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations:</p> <p>(1) Physical force or threat of physical force must not be used to place a student in time-out.</p> <p>(2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.</p>
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State	Language
	(3) Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student’s IEP.”
UT <sup>57</sup>	<p>“The plan . . . shall include: policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of: (f) subject to the requirements of R277-609, seclusionary time out, except when a student presents an immediate danger of serious physical harm to self or others.”</p> <p>“‘Immediate danger’ means the imminent danger of physical violence/aggression towards self or others likely to cause serious physical harm.”</p> <p>“If a public education employee uses seclusionary time out, the public education employee shall:</p> <ul style="list-style-type: none"> <li>(a) use the minimum time necessary to ensure safety;</li> <li>(b) use a release criteria as outlined in LEA policies;</li> <li>(c) ensure that any door remains unlocked; [and]</li> <li>(d) maintain the student within line of sight of the public education employee[.] . . .”</li> </ul> <p>“‘Seclusionary time out’ means that a student is:</p> <ul style="list-style-type: none"> <li>(a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4-3;</li> <li>(b) purposefully isolated from adults and peers; and</li> <li>(c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.”</li> </ul>

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<sup>56</sup> Tex. Educ. Code Ann. § 37.0021; 19 Tex. Admin. Code § 89.1053(g).

<sup>57</sup> Utah Admin. Code r. 277-609

VT <sup>58</sup>	<p>“[S]eclusion shall not be used:</p> <ul style="list-style-type: none"> <li>a. For convenience of staff;</li> <li>b. As a substitute for an educational program;</li> <li>c. As a form of discipline or punishment;</li> <li>d. As a substitute for inadequate staffing or training;</li> <li>e. In response to a student's use of profanity or other verbal or gestural display of disrespect; or</li> <li>f. In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.”</li> </ul> <p>“Seclusion, not otherwise prohibited by these rules, may be used only:</p> <ul style="list-style-type: none"> <li>a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;</li> <li>b. When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury;</li> <li>c. As a temporary intervention;</li> <li>d. When physical restraint is contraindicated;</li> <li>e. When there is no known developmental, medical, psychological or other contraindication to its use;</li> <li>f. When the student is visually monitored at all times by an adult; and</li> <li>g. In a space large enough to permit safe movement that is adequately lit, heated, ventilated, free of sharp or otherwise dangerous objects; and in compliance with all fire and safety codes.”</li> </ul> <p>“In rare circumstances where the use of . . . seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, . . . seclusion may be included in an individual safety plan [subject to certain conditions.]”</p> <p>“Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision.”</p> <p>“Neither the State Board nor the Agency shall regulate the use of . . . seclusion on school property by a school resource officer . . .”</p>
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State	Language
VA <sup>59</sup>	No laws for public school settings. Virginia enacted a statute requiring the development of regulations on the use of seclusion in public elementary and secondary schools in Virginia. The Virginia Board of Education approved proposed draft regulations on March 23, 2017, but the regulations are not yet in effect.

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<sup>58</sup> 22-000-036 Vt. Code R. §§ 4500.3; 4501.2; 4502.2; Vt. Stat. Ann. § 1167(a)

<sup>59</sup> See, Va. Code. Ann. § 22.1-279.1:1 (2015) (requiring the Board of Education to adopt regulations on the use of seclusion in public elementary and secondary schools); see also <http://www.doe.virginia.gov/boe/meetings/2017/03-mar/agenda-items/item-a.pdf> at pp 20-62 (proposed regulations as amended) (last accessed December 11, 2017), <http://www.doe.virginia.gov/boe/meetings/2017/03-mar/minutes.pdf> at p 5 (approving proposed draft recommendations as amended).

State	Language
WA <sup>60</sup>	<p>“An individualized education program or plan developed under section 504 of the rehabilitation act of 1973 must not include the use of restraint or isolation as a planned behavior intervention unless a student's individual needs require more specific advanced educational planning and the student's parent or guardian agrees.”</p> <p>“[I]solation of any student is permitted only when reasonably necessary to control spontaneous behavior that poses an imminent likelihood of serious harm as defined in RCW 70.96B.010. Restraint or isolation must be closely monitored to prevent harm to the student, and must be discontinued as soon as the likelihood of serious harm has dissipated. Each school district shall adopt a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff under such circumstances.”</p> <p>“‘Likelihood of serious harm’ means:</p> <p>(a) A substantial risk that:</p> <p>(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;</p> <p>(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or</p> <p>(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or</p> <p>(b) The person has threatened the physical safety of another and has a history of one or more violent acts.”</p> <p>Isolation is defined as:</p> <p>“restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.”</p>

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<sup>60</sup> Wash. Rev. Code §§ 28A.600.485, 70.96B.010.

State	Language
WV <sup>61</sup>	The West Virginia Board of Education policy provides that the statutory prohibition on corporal punishment of any student by a school employee, found at West Virginia Code, section 18A-5-1(e), includes “seclusion - a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior.”

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<sup>61</sup> W.V. Code R. § 126-99-3 (Policy 4373); W.V. Code § 18A-5-1(e).



State	Language
WI <sup>62</sup>	<p>“A covered individual may use seclusion on a pupil at school only if all of the following apply:</p> <p>(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.</p> <p>(b) A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.</p> <p>(c) The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.</p> <p>(d) The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.</p> <p>(e) The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.</p> <p>(f) No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving.”</p> <p>“Construction. Nothing in this section prohibits a covered individual from doing any of the following at school if the pupil is not confined to an area from which he or she is physically prevented from leaving:</p> <p>(a) Directing a pupil who is disruptive to temporarily separate himself or herself from the general activity in the classroom to allow the pupil to regain behavioral control and the covered individual to maintain or regain classroom order.</p> <p>(b) Directing a pupil to temporarily remain in the classroom to complete tasks while other pupils participate in activities outside the classroom.”</p>

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<sup>62</sup> Wis. Stat. § 118.305.

<p>WY<sup>63</sup></p>	<p>“Each student has a right to be free from seclusion and restraint used as a means of coercion, punishment, convenience, or retaliation. Seclusion and restraint are not instructional tools for the development of prosocial behavior.”</p> <p>Seclusion from the learning environment and an isolation room are permissible, whereas locked seclusion is prohibited.</p> <p>“School policies shall, at a minimum, include the following procedural components:</p> <p>. . .</p> <p>(ii) Seclusion:</p> <p>(A) School staff shall be able to see and hear the student in seclusion at all times.</p> <p>(B) Student placed in seclusion shall be permitted to access to normal meals and personal hygiene opportunities. Meals and bathroom breaks may be separate and supervised if needed to ensure safety.</p> <p>(C) Schools shall document each occurrence of seclusion consistent with the Mandatory Documentation requirements specified in Section (c) below.</p> <p>(D) Using timeout without seclusion is not regulated by these rules.</p> <p>(E) Seclusion from the Learning Environment:</p> <p>(i) Seclusion from the Learning Environment may be used as a planned behavior intervention strategy.</p> <p>(ii) School shall develop [S]eclusion from the [L]earning Environment duration guidelines.</p> <p>(F) Isolation Room:</p> <p>(I) An isolation room may be used in an emergency.</p> <p>(II) Schools shall develop Isolation Room duration guidelines including a reentry strategy based on the student’s ability to regain control and staff’s ability to reestablish safety.</p> <p>(III) Isolation Room seclusion exceeding the durational limits set forth in school’s guidelines shall require immediate administrative review to determine if and under what conditions the Isolation Room seclusion may continue.</p> <p>(IV) Schools shall develop an incident review strategy or debriefing strategy. The incident review or debriefing process shall address what, if any, subsequent actions need to be taken. . . .”</p>
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State	Language
	<p>The regulations also provide for physical space requirements for isolation rooms, which include, inter alia: “continuous visual and auditory monitoring of the student;” “adequate[] light[ing];” “adequate[] ventilat[ion];” a normal and comfortable temperature; being “clean and free of objects and fixtures that could be potentially dangerous to a student and must meet all fire and safety codes;” and dimensions of “adequate width, length, and height to allow the student to move about and recline comfortably.” “‘Locked Seclusion’ means a seclusion room with a locking device that is engaged by leverage of an inanimate object, key, or other mechanism to keep the door closed without constant human contact. The term does not include a securing mechanism requiring constant human contact, which upon release immediately permits the door to be opened from the inside.”</p> <p>“‘Seclusion’ means removing a student from a classroom or other school activity and isolating the student in a separate area. Seclusion occurs when a student is placed in a room or location by school personnel, purposefully separated from peers, and prevented from leaving that location. Separation in an area where the student is prevented from leaving is always considered seclusion. The term does not include a student requested break or in-school suspension, detention, or other appropriate disciplinary measure.</p> <p>(i) ‘Seclusion from the Learning Environment’ means visually or auditorally isolating the student from the classroom or other school activity or away from peers in an area that obstructs the student’s ability to participate in regular classroom or school activities.</p> <p>(ii) ‘Isolation Room’ means placing the student in an enclosed room built in compliance with all relevant health and safety codes.”</p> <p>“‘Imminent Risk’ means an immediate and impending threat of a person causing substantial physical injury to self or others.”</p>

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<sup>63</sup> Wyo. Educ. R., ch. 42 §§ 1-8.