



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

For more information:

Marikay Canaga Litzau
Division of Compliance and Assistance
Minnesota Department of Education
1500 Highway 36 West
Roseville, MN 55113
(651) 582-8459
marikay.litzau@state.mn.us
education.mn.gov

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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 (2018 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
- 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 2017-18 school year and the first quarter of the 2018-19 school year. The data are disaggregated by race, gender, disability category, age, free or reduced-price lunch eligibility, and federal instructional setting.¹ In addition, the data are 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 2017-18 restrictive procedures data (physical holds and seclusion). Districts provide these data to MDE in summary form and they are disaggregated by race, gender, disability categories, age, free or reduced-price lunch eligibility, and federal setting. However, they are 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, a new set of goals added to the 2018 Statewide Plan, and legislative recommendations of the Restrictive Procedures Stakeholders Workgroup (Workgroup). Appendix B is an update on other states' policies in effect relating specifically to seclusion of students in the school setting.

The 2017-18 summary restrictive procedures data in this report, as well as quarterly seclusion data for the 2017-18 school year and the first quarter of the 2018-19 school year (July through September 2018), were shared with the 2018 Workgroup during its quarterly meetings. We commend the school districts for their commitment and candor in their submission of the required data to the Minnesota Department of Education (MDE). Compared to 2016-17, the total number of restrictive procedure uses increased by 3.7 percent in 2017-18, which entailed a 9.8 percent increase of physical hold uses, and an 11.2 percent decrease in seclusion uses. Despite the overall increase in restrictive procedure uses, the percentage of all special education students who experienced a restrictive procedure (2.5 percent) did not increase. Similar to the change in uses, there was an increase (2 percent) in the total number of students who experienced a restrictive procedure, with a 10.8 percent increase in the number of students who were physically held and a 16 percent decrease in the number of students who were secluded. During that same time period, the rate of physical holds per physically held student decreased slightly to 5.4, while the rate of seclusions per secluded student increased to 7.6.

¹ 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 (IEP) or individualized family services plan (IFSP)) 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 day 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.)

As more training occurs by MDE and by districts, MDE receives more consistent reporting. During the 2017-18 and beginning of the 2018-19 school years, MDE continued to work with school districts to ensure that they are reporting physical transports/escorts, that involve more than minimal resistance by the student, as a physical hold.² This has and may continue to result in an increase in reporting of physical holds. Districts continue to work on operationalizing 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 2017-18 school year and seclusion data for the first quarter of the 2018-19 school year. That data helped to inform the stakeholders' work.

Introduction

Beginning with the passage of the restrictive procedures legislation in 2009, whose requirements went 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 2017 statewide plan and the updated 2018 statewide plan can be found in Appendix A, Sections VI and VII, 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

² 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 23, 2019)

(three intermediate school districts and three independent school districts) received funding and developed work plans to address their specific needs. Those funds, totaling \$150,000, were disbursed 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 2018-19 school year (July 1, 2018 through September 30, 2018) as well as the quarterly seclusion data for the 2017-18 school year (July 1, 2017 through June 30, 2018).

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 reached consensus on a set of recommended goals for the 2018 statewide plan. These goals include a specific target to reduce the use of seclusion and students experiencing the use of seclusion and includes active support for a continuing legislative appropriation for staff development funding, expanded mental health services, and increased technical assistance funding.

Recommended Funding for Staff Development, Expanded Mental Health Services and Increased Technical Assistance for Districts

The 2018 Workgroup discussed a number of recommendations for the 2018 Statewide Plan. With broad support from the stakeholders representing advocacy organizations, special education directors, intermediate school districts, special education cooperatives, and school boards, the 2018 Workgroup reached consensus on a set of new goals, which includes a specific target for a reduction in the use of seclusion and the number of students experiencing the use of seclusion, and active stakeholder support for continued staff development funding, expansion of mental health services, and additional funding for technical assistance. Data from the fiscal year 2017 grants can be found in Appendix A, Section VI, Staff Development Grants Update, and more detail on the recommendations can be found in Appendix A, Section VII.

Recommendation for Staff Development Funding:

The 2018 Workgroup recommends and actively supports continued staff development funding.³ 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. The funds are necessary for districts to continue to make school/program improvement efforts with fidelity to build staff capacity and reduce the use of restrictive procedures, specifically seclusion. The FY17 initial grant work plans for 18 eligible entities' work plans, which were extended through June 30, 2018, are finalized. Many of the grantees reported success in the reduction in the use of restrictive procedures/and or seclusion, as well as more successful transitions for students returning to their home districts. Common keys to improvement were ongoing training and additional meeting time for staff to ensure consistent implementation and to share what works and does not work. Many grantees reported a change in how staff view student behavior. More detailed information on the FY17 grant outcomes can be found in Appendix A, Section VI. 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. The final FY19 grants are being finalized and were reduced by approximately 40 percent due to the inability to fully fund the grantees based on the number of employed staff.

Recommendation for Expanded Mental Health Services:

The 2018 Workgroup actively supports expanded mental health services to provide needed services for students with complex mental health needs. This would include expanding school-linked mental health grants, community mental health services for children, addressing federal Medicaid funding changes related to residential care and treatment programs, and increased funding for district staff for professional development related to better understanding mental health issues and suicide prevention.

Recommendations for Technical Assistance Funding:

The 2018 Workgroup actively supports technical assistance funding. Funding would be available for districts to obtain supports, as needed, in order to build staff capacity to reduce the number of emergency situations in which a physical hold and/or seclusion is used. This would be similar to funding the Minnesota Department of Human Services (DHS) received in order to work directly with providers as they worked to reduce the use of restrictive procedures, and specifically, to eliminate the use of seclusion.

³ During the 2016 Minnesota legislative session, the Legislature appropriated 4.5 million dollars to intermediate districts and special education cooperatives operating federal instructional setting four programs 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 four 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.

Barriers in Reducing the Use of Restrictive Procedures in the School Setting

Data Reporting

MDE and the 2018 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 processes, and/or mental health services. The 2018 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.

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 March 2018 Revision of Minnesota's Olmstead Plan was adopted by the Olmstead subcommittee on March 26, 2018 (2018 Olmstead Plan).

As part of the 2018 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 on Page 30 in the 2018 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 [current] 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 Workgroup. 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; 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 workplan strategies, and activities.

2018 Olmstead Positive Support Workplan

On October 29, 2018, the Olmstead Subcabinet approved the updated Olmstead Plan work plan for the goals set forth in the 2018 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, 2019 and annually thereafter.
- Document progress in statewide plan implementation and summarize restrictive procedures data in the annual restrictive procedures legislative report by February 1, 2019 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, 2019 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, [2019] legislative report.

MDE is on track to complete all of the activities under Strategies 2 and 3 within the allotted time frame, which 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 2017 Statewide Plan

The statewide plan generated by the 2016-17 Restrictive Procedures Stakeholders' Workgroup (2017 Workgroup) contained three goals and attendant objectives. Highlights of progress made toward implementation of the 2017 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 222 districts/charters and 645 schools currently using PBIS, which is 31 percent of Minnesota schools and 35.6 percent of the state's students implementing PBIS.
- MDE conducted training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities and included information from and references to the Positive Intervention Strategies Training Module and positive outcomes resulting from grantee workplan activities. MDE provided this training during the 2017-18 school year 12 times across the state to over 600 individuals. In addition, during the fall of 2018, MDE conducted a training of all paraprofessionals employed by a large district, with over 600 participants.
- Positive Outcomes from the FY17 staff development grants.
- 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 2017 Statewide Plan.

2018 Workgroup Process and Discussions Related to Updating the 2017 Restrictive Procedures Statewide Plan

MDE reconvened the 2018 Workgroup during the 2017-18 school year. The 2018 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 2018 Workgroup was charged with aligning its work with the 2018 Olmstead Plan and associated workplan strategies and activities to significantly reduce the use of restrictive procedures and eliminate the emergency use of seclusion in the school setting. Accordingly, the 2018 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 2018 Workgroup met September 14, 2018, December 14, 2018, and January 4, 2019, and reached consensus on the 2018 Statewide Plan via email prior to the January 18, 2019, meeting. The 2018 Workgroup reviewed the quarterly seclusion data and annual restrictive procedure summary data, and discussed successes and barriers to meet its charge of recommending goals to the commissioner for reducing the use of restrictive procedures and eliminating the use of seclusion. Prior to the December 14, 2018, meeting, MDE obtained the

services of a facilitator through the Management Analysis Division (MAD) of the Minnesota Department of Management and Budget (MMB). During the December 14, 2018, meeting, the facilitator and MDE obtained input from each of the stakeholders present on their recommendations for new or revised goals for the statewide plan. An additional discussion occurred on January 4, 2019, regarding working toward the elimination of seclusion and setting targets to reduce the use of seclusion and the number of students experiencing the use of seclusion. Additional discussion centered on the tools districts need to build staff capacity and implement positive supports and evidence-based practices to reduce the need for the use of restrictive procedures. Stakeholders also made recommendations on specific funding requests. Based upon those discussions, MDE sent a set of proposed recommendations to the stakeholders via email and requested they respond by January 14, 2019. Based upon agreement from stakeholders representing advocacy organizations, intermediate school districts, and special education directors, the 2018 Workgroup reached consensus on a set of recommendations for goals for the 2018 Statewide Plan. The recommendations include a specific target for reduction of the use of seclusion and the number of students experiencing the use of seclusion, piloting improvement activities in which MDE will partner with one or two districts based upon a review of seclusion data across federal instructional settings, active support for staff development funding to continue beyond FY19, expanded mental health funding, and technical assistance funding.

Summary of the Use of Restrictive Procedures in Minnesota Schools

Restrictive procedures use must be considered within the context of the total population of students receiving special education services, which has been steadily increasing for years. The total enrollment of students in special education increased by 3.4 percent in 2017-18, the largest increase since restrictive procedures data collection began. Compared to 2016-17, there was an overall increase in total restrictive procedures uses and the number of students who experienced a restrictive procedure during the 2017-18 school year. The overall increase was driven by an increase in physical holding, as seclusion uses and the number of students secluded decreased.

The data below summarizes the change in restrictive procedure use from 2016-17 to 2017-18:

- The official enrollment of students receiving special education services increased by 3.4 percent, from 137,601 to 142,270.
- The percentage of students who experienced a restrictive procedure, 2.5 percent, did not increase.
- Districts reported 18,884 total uses of physical holding, an increase of 1,684 uses (9.8 percent), and 3,465 students who were physically held, an increase of 338 students (10.8 percent).
- Districts reported 6,291 seclusion uses, a decrease of 794 uses (11.2 percent), and 824 students who experienced seclusion, a decrease of 152 students (16 percent).
- Of those students who experienced a restrictive procedure, the overall rate of restrictive procedure use per student increased from 7.0 to 7.1 uses per student. The rate of physical holds per student who were physically held decreased from 5.5 to 5.4, and the rate of seclusions per secluded student increased from 7.3 to 7.6.

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. 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 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).⁴ 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 guidance document entitled: “Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities.”⁵ 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 Americans 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 Individuals with 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.⁶

⁴[Resource Document](#) (Last visited January 24, 2019)

⁵ [Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities](#), pages 1-2. (Last visited January 24, 2019)

⁶ Currently, Minnesota does not have a requirement or mechanism to collect data on general education students who were subjected to the use of restrictive procedures.

The federal guidance focuses on students enrolled in kindergarten through grade 12; 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 who engage in physical aggression/self-injurious behavior. In addition, resources are listed that address positive behavioral interventions, evidence-based positive classroom strategies, and student trauma. Those resources include trauma-informed care and information on the serious impact of traumatic stress on children.

On November 14, 2018, the Keeping All Students Safe Act was introduced before the United States House Education and Workforce and Armed Services Committees, and subsequently referred to the Subcommittee on Military Personnel. The Act would make seclusions in school a prohibited procedure and limit the use of physical holding.⁷

Laws of Other States

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.

Restrictive Procedures Data Analysis

Currently, public school districts, including intermediate school districts and charter schools, are required to submit summary data regarding the overall use of restrictive procedures and physical holds and more detailed data regarding seclusion use. Beginning in the 2011-12 school year, districts began submitting annual summary data to MDE on the use of restrictive procedures and physical holds. Since the start of the 2016-17 school year, following 2016 legislative changes, public school districts are required to quarterly submit a form collecting detailed data for individual seclusion uses to MDE through a secure website. This section of the report provides a brief overview of all students who received special education services, a summary of all restrictive procedure uses and students who experienced a restrictive procedure, followed by an analysis of the use of physical holds and seclusions with the available data.

Methods

The data elements, tools, and strategies to measure the progress of the Restrictive Procedures Workgroup have evolved over time, depending on the focus of the Workgroup, as well as available resources.

⁷ [Keeping All Students Safe Act](#) (last visited January 23, 2019)

The Compliance and Assistance Division of MDE is responsible for working with the Workgroup to determine the data to collect, as well as develop and implement data collection and analysis. As all public school districts are required to report any use of seclusion or a physical hold, data collection efforts must also consider the reporting burden to districts. In the 2018-19 school year, there were 533 active local educational agencies (LEAs), which includes public school districts and charter schools, subject to the restrictive procedures reporting requirements.

MDE developed separate forms for districts to submit the annual summary data, as well as the detailed quarterly seclusion data. To protect the privacy of students, all forms must be submitted via the secure portal on the MDE website. All districts are required to submit the required forms for the reporting periods, even if they have zero physical holds or seclusion uses to report. During the 2016-17 school year, districts were not required to submit a quarterly seclusion form or notify MDE when they had zero seclusions to report during a quarter. While this practice reduced the burden on districts, it made a comprehensive data analysis more difficult. Therefore, starting in the 2018-19 school year, MDE began requiring both forms from all districts to better track district response and compliance.

Following the end of the school year, districts must submit summary data for overall restrictive procedure use and physical holds, as well as demographic information for students who were physically held on the Restrictive Procedures Annual Summary Data Form (Summary Form). That data must be submitted to MDE by July 15 of each year. Summary data school districts report include: total number of students who received special education services, total number of restrictive procedure uses, total number of students upon whom a restrictive procedure was used, total physical holds, and demographic information of students who were physically held.

In addition, all districts are required to submit the Quarterly Seclusion Reporting Form by specified deadlines following the end of each reporting quarter. Details of distinct seclusion uses that are collected include the start and end time of each seclusion use, the student's unique identification number, and whether any staff or student injuries resulted from the use. The student's unique identification number is then used to pull demographic data from MDE's student database such as the student's birthdate, grade, race, primary disability, and instructional setting. Collecting details for each unique seclusion use allows for a more comprehensive analysis to examine patterns of seclusion use over time and to consider the factors that may influence use in order to identify potential intervention points. Personally identifying information related to specific students constitute private data that cannot be released under the Minnesota Government Data Practices Act and the Family Education Rights and Privacy Act (FERPA).

Quarterly reporting deadlines mark time periods for which districts must report seclusion use in order for MDE to compile and present the data in a timely manner to the Workgroup. Each school year is divided into the quarters as outlined below:

- Quarter 1: July 1 through September 30
- Quarter 2: October 1 through December 31
- Quarter 3: January 1 through March 31
- Quarter 4: April 1 through June 30

This division of the school year into quarters does not carry any significance beyond the selection of a time frame that balanced districts' ability to document and report seclusion uses with MDE's ability to coordinate collection and analysis efforts for a manageable amount of data. Each quarter includes a different number of school days, which affects the number of seclusion uses that are reported during the quarter, and is important to consider when identifying trends over time.

Data Limitations

There are several limitations specific to the restrictive procedures data available to MDE. Although MDE now has seven full school years of summary data for overall restrictive procedures use, physical holds, and demographic information of physically held students, an analysis is limited by the fact that the data is summarized at the district level. Patterns of physical holding can be examined between districts or groups of students along several demographic categories, but it is not possible to know which students were physically held multiple times or how often.

On the other hand, the seclusion data allows for a deeper analysis, but MDE currently has data for just two full school years (2016-17 and 2017-18) and the first quarter of 2018-19. MDE is in the process of reviewing different data reporting and analysis tools to develop data validation processes.

Ensuring consistent interpretation of terms and definitions of data elements among the districts has presented challenges. However, within districts and between districts, there is still inconsistent reporting. MDE continues to provide restrictive procedure training to districts to help with consistent reporting, and to update reporting forms as needed to improve data collection.⁸ MDE and the 2018 Workgroup believe that the integrity of the restrictive procedures data continues to improve.

Minnesota Students Receiving Special Education Services

For more than 20 years, the number of Minnesota students receiving special education services has been steadily increasing. In order to compare the students who experience restrictive procedures with the greater population of students receiving special education services in Minnesota, a brief overview of students receiving special education services in Minnesota schools is provided below. The description includes the demographic characteristics collected on the Restrictive Procedures Annual Summary Form and how the special education population is changing over time.

⁸ In addition, during the 2018-19 school year, MDE transitioned to new technology to maintain and analyze data, which created some discrepancies in previously reported numbers.

Table 1. Demographics of Minnesota Students Receiving Special Education Services, 2017-18 and 2018-19

Gender	2017-18	2018-19
Female	32.8%	33.0%
Male	67.2%	67.0%
<i>Total</i>	<i>100%</i>	<i>100%</i>
Age Group	2017-18	2018-19
0-5 years	16.1%	16.2%
6-10 years	33.5%	33.4%
11-15 years	17.9%	17.5%
16-21 years	32.6%	32.9%
<i>Total</i>	<i>100%</i>	<i>100%</i>
Race	2017-18	2018-19
2 or More Races	5.9%	6.1%
American Indian/Alaska Native	2.7%	2.8%
Asian	4.2%	4.3%
Black/African American	11.9%	11.8%
Hispanic	10.8%	11.0%
Pacific Islander/Hawaiian Native	0.1%	0.1%
White	64.5%	63.9%
<i>Total</i>	<i>100%</i>	<i>100%</i>
Instructional Setting	2017-18	2018-19
1 Outside of Regular Classroom	52.2%	52.4%
2 Resources Room	19.4%	19.2%
3 Separate Classroom	8.4%	8.3%
4 Public Separate Facility	3.2%	3.2%
Early Childhood	11.9%	11.9%
Other	4.9%	5.0%
<i>Total</i>	<i>100%</i>	<i>100%</i>
Primary Disability	2017-18	2018-19
Specific Learning Disabilities (SLD)	22.7%	22.9%
Speech/Language Impaired (SLI)	15.6%	15.5%
Autism Spectrum Disorder (ASD)	13.6%	13.9%
Other Health Disabilities (OHD)	13.9%	13.6%
Developmental Delay (DD)	12.9%	13.1%
Emotional/Behavioral Disorders (EBD)	11.2%	11.4%
Developmental Cognitive Disabilities: Mild-Moderate (DCDMM)	3.9%	3.7%
Deaf – Hard of Hearing (DHH)	1.8%	1.7%
Developmental Cognitive Disabilities: Severe-Profound (DCD – SP)	1.4%	1.3%
Physically Impaired (PI)	1.1%	1.1%
Severely Multiply Impaired (SMI)	1.1%	1.0%
Visually Impaired (VI)	0.4%	0.3%
Traumatic Brain Injury Disabled (TBI)	0.3%	0.3%
Deaf – Blind (DB)	0.1%	0.1%
<i>Total</i>	<i>100%</i>	<i>100%</i>

Minnesota schools reported 147,605 students receiving special education services in the 2018-19 school year, or about 15 percent of total public and charter school enrollment. Figure 1 shows the annual growth of students receiving special education services since the 2011-12 school year and highlights the increasing rate that the population has grown since the 2014-15 school year. For the last two years, the number of students receiving special education services increased by over 3 percent—3.7 percent in the 2018-19 school year and 3.4 percent in the 2017-18 school year—a rate higher than all previous years.

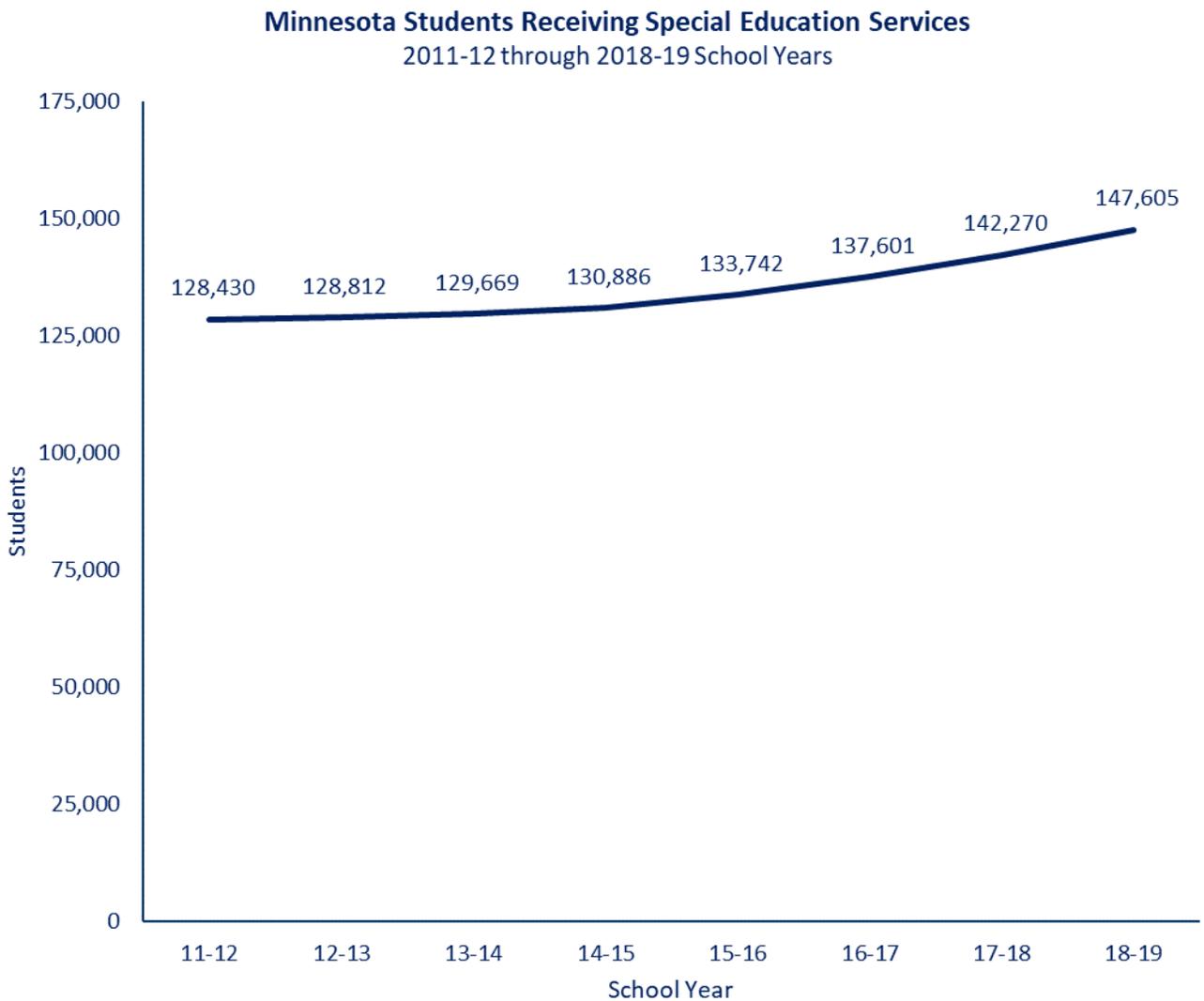
Since 2011-12, the demographic characteristics of Minnesota students receiving special education services have remained largely stable, with the exception of race and ethnicity. Table 1 shows the percentage of students by gender, age group, race and ethnicity, primary disability, and the most common instruction settings for the 2017-18 and 2018-19 school years. The percentage of students across the groups within each category displayed in Table 1 has fluctuated within 2 percentage points over the last seven school years, with the exception of race and ethnicity. There have been no consistent trends for any one group within the categories listed. However, there have been greater changes between the race and ethnicity groups of students who receive special education services. Within race and ethnicity groups, the greatest change is a 5.5 percentage point decrease in the proportion of students identified as white from 2011-12 to the 2018-19 school year. As the percentage of white students declined, students identified as two or more races and Hispanic increased by 3.2 and 2.5 percentage points, respectively.

Districts determine a student's eligibility for special education services based upon meeting criteria in one of 14 categories of disability types. The most prevalent disability type is Specific Learning Disabilities, accounting for 22.9 percent of students receiving special education services in Minnesota. Students with speech or language impairments account for just over 15 percent of students with disabilities, a number that has slightly decreased nearly every year since 2011-12. During the same time, the percentage of students with Autism Spectrum Disorder or Developmental Delay have slightly increased nearly every year. Table 1 shows the percentage of students in each of the 14 disability types.

Students receive special education services in different types of instructional settings depending on their age and needs. The instructional setting a student is placed in is one indicator of the level of his or her needs, but setting alone is insufficient to describe the student's needs. Over time, the percentage of students receiving special education services in each setting has remained constant. Students receiving special education services in kindergarten through grade 12 are most commonly in federal instruction settings one through four, with students in a higher setting number spending less time in class with their non-disabled peers. More than half of students receiving special education services in kindergarten through 12th grade, 52.4 percent, are in setting one and spend most of their time (at least 79 percent) in a regular classroom. Students in setting four, 3.2 percent, spend more than 50 percent of the day in a separate school facility for students with disabilities. This includes federal instructional level four programs operated by independent school districts, intermediate school districts, and special education cooperatives.

Minnesota students in early childhood education programs, 3 to 5 years of age, can also receive special education services in different settings. Nearly 10 percent of Minnesota students receiving special education services are early childhood students in settings 31 through 34, and spend at least part of their week with their non-disabled peers.

Figure 1. Annual Enrollment of Minnesota Students Receiving Special Education Services



Restrictive Procedures Annual Summary Data

This section provides an overview of the annual summary data submitted by districts, including overall restrictive procedure use, physical holding use and trends, and the demographic characteristics of students who experienced physical holding.

Reporting Districts

For the 2017-18 school year, MDE received 536 Summary Forms representing 526 unique districts. More forms than districts were received because some special education cooperatives and education districts, which are LEAs that provide services to multiple schools or districts in an area, choose to submit separate forms for each program or location in which it provides services.

Of the 526 districts that reported summary data to MDE, 299 of those school districts reported use of at least one restrictive procedure, whether physical holding, seclusion, or a combination of both. The number of districts reporting restrictive procedure use increased from 287 in the previous school year. The types of districts that reported restrictive procedure use during the 2017-18 school year include:

- 211 of 335 traditional school districts.
- Four of four intermediate school districts.
- 12 of 27 cooperatives and education districts.
- 62 of 164 charter schools.

The proportion of restrictive procedures reported by district type for the 2017-18 school year is similar to what was reported for 2016-17. Intermediate districts comprised less than 1 percent of the total reporting districts, but reported approximately 27 percent of the total restrictive procedure use in the state. By contrast, charter schools represent approximately 31 percent of districts, but reported just over 2 percent of total restrictive procedure use. Traditional districts represent approximately 62 percent of the reporting districts and reported 57 percent of restrictive procedures use.

It is not surprising that intermediate districts report a disproportionate share of statewide restrictive procedures use because they provide services to students with disabilities who have not experienced success at their original district, and a significant percentage of these students exhibit atypical behavioral challenges in a school setting. In greater Minnesota, the 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.

Of the 299 districts that reported use of restrictive procedures:

- 232 (77 percent) reported use of only physical holding.
- 62 (22 percent) reported use of both physical holding and seclusion.

Overall Restrictive Procedure Use

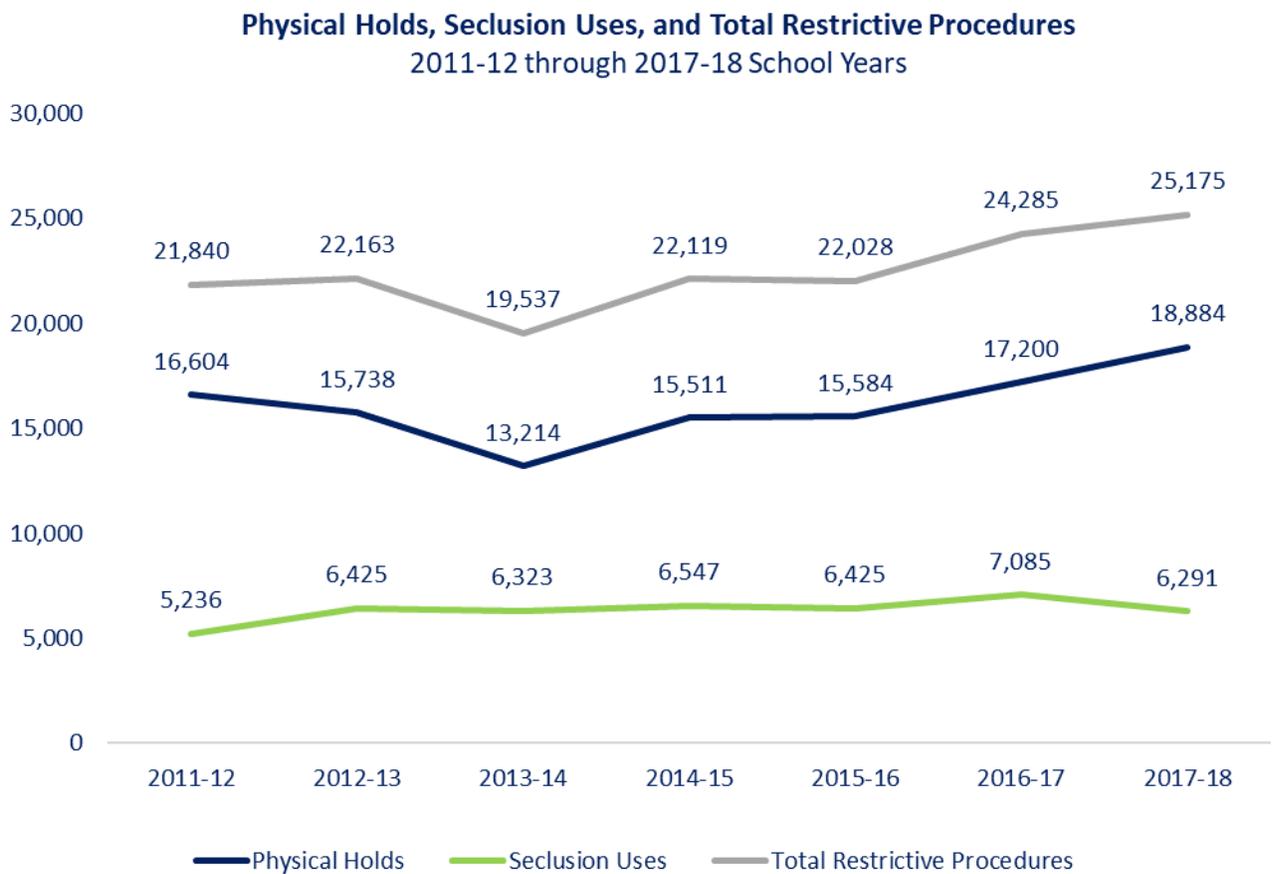
Figure 2 shows the trend of total restrictive procedures use, as well as physical holds and seclusions, reported by Minnesota districts since reporting began in the 2011-12 school year. Statewide, during the 2017-18 school year, districts reported a total of 25,175 restrictive procedures uses, including 18,884 physical holds and 6,291 seclusion uses. Total restrictive procedures use increased from the 2016-17 school year by 3.7 percent and was the highest total number of restrictive procedures uses since 2011-12. The average number of restrictive procedures per restricted student slightly increased from 7.0 to 7.1.

Districts reported using restrictive procedures with 3,546 students during the 2017-18 school year, or about 2.5 percent of the total number of students who received special education services. Although the number of students who experienced a restrictive procedure increased from the previous year, the proportion of students who experienced a restrictive procedure did not increase because the total number of students receiving special education services also increased.

Table 2. Annual Physical Holds, Seclusion Uses, and Total Restrictive Procedures Uses, 2011-12 through 2017-18

School Year	Physical Holds	Seclusion Uses	Total Restrictive Procedures
2017-18	18,884	6,291	25,175
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

Figure 2. Annual Restrictive Procedures Use since the 2011-12 School Year



As Figure 2 shows, the number of physical holds has been increasing since the 2013-14 school year, but the number of seclusions has remained relatively constant. In fact, when comparing the reported number of physical holds (18,884) as well as the total number of students with whom physical holding was used (3,465) both increased from the 2016-17 school year by 9.8 percent and 2.4 percent respectively. As noted previously,

the increase in the use of physical holds is due in part to better reporting and due to MDE's discussions and training 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.⁹

However, for two consecutive years in a row, the average number of physical holds per physically held student decreased from 5.5 to 5.4. In contrast, the total number of seclusion uses (6,291) decreased by 11.2 percent, while the average number of seclusion uses per secluded student increased from 7.3 to 7.6.

Students Restricted 10 or More Days

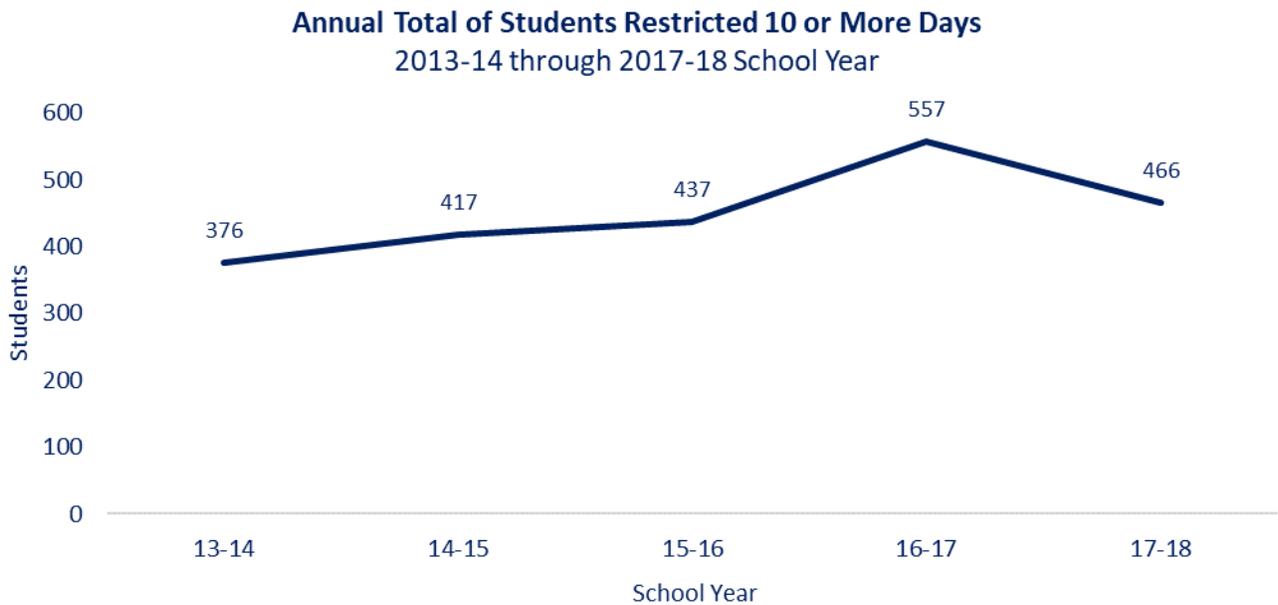
Minnesota Statutes, section 125A.0942, subdivision 2(b),¹⁰ obligates districts to take additional action when restrictive procedures have been used 10 or more days for a single student within one school year. Therefore, MDE requires districts to report the number of students who experienced any restrictive procedure on 10 or more days. Figure 3 shows the total number of students who were restricted at least 10 days since MDE began collecting this specific piece of data in the 2013-14 school year.

For the first time since 2013-14, districts reported a decrease in the number of students receiving special education services who were restricted on 10 or more days, down to 466 from 557 in the previous year, or a decrease of just over 16 percent. These students account for approximately 2 percent of all students who experienced a restrictive procedure and less than 1 percent of all students receiving special education.

⁹ See definition of physical holding. [Minn. Stat. § 125.0941 \(c\)](#). (last visited January 23, 2019)

¹⁰ [Restrictive Procedures](#) (last visited January 23, 2019)

Figure 3. Students Restricted 10 or More Days, 2013-14 through 2017-18

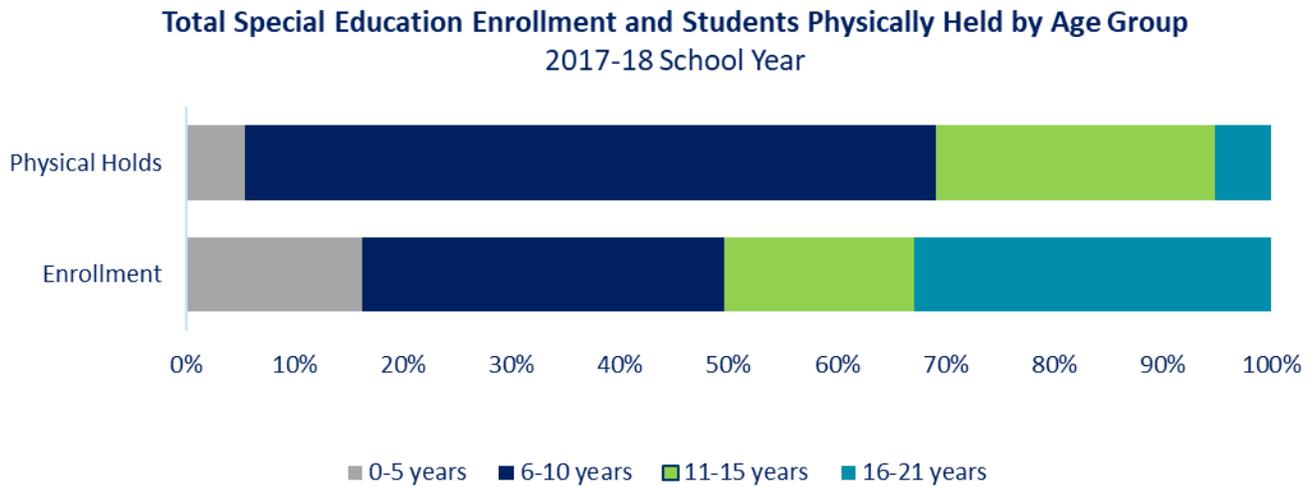


Physical Holding: Student Demographics

Age

Over time, physical hold use among students in different age groups has been constant. Approximately 90 percent of physical holds during the 2017-18 school year were used for students ages 6 through 15, with 64 percent for students ages 6 through 10, and 26 percent for students ages 11 through 15. In comparison, Figure 4 shows that students ages 6 through 15 represent about 40 percent of the enrollment of students receiving special education services.

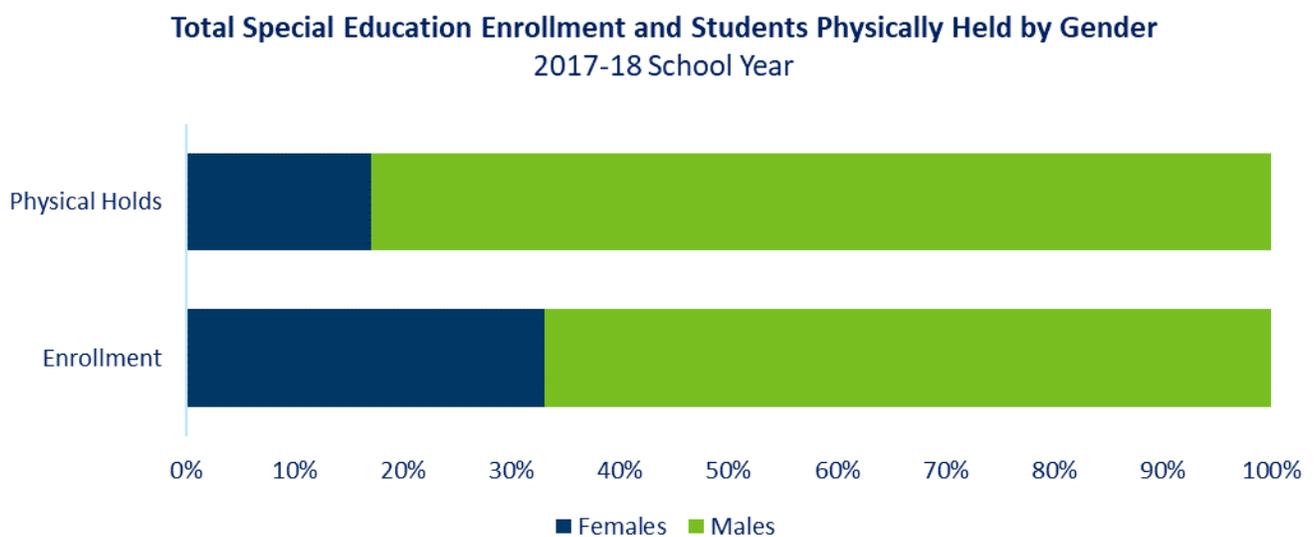
Figure 4. Enrollment and Physically Held Students by Age Group, 2017-18



Gender

Male students have comprised a greater proportion of students receiving special education services and a greater proportion of students experiencing physical holding since the 2011-12 school year. Approximately 67 percent of students receiving special education services in the 2017-18 school year were males and 33 percent females, a ratio of approximately two males to every female. During the same time period, approximately 83 percent of students experiencing physical holds were male and 17 percent were female, as shown in the second graph of Figure 5.

Figure 5. Enrollment and Students Physically Held by Gender, 2017-18

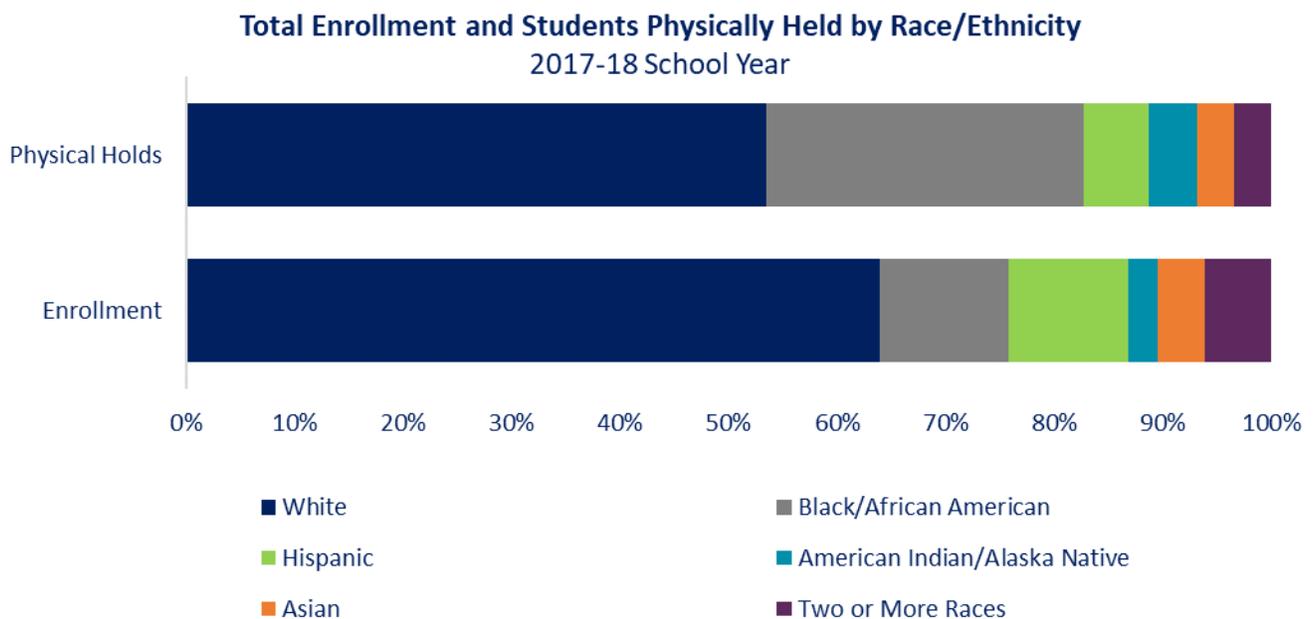


Race/Ethnicity

Prior to the 2017-18 school year, MDE collected the race and ethnicity of students who experienced physical holds on the Restrictive Procedures Annual Summary Data form (Summary Form) according to the State of Minnesota's **five** race and ethnicity categories. MDE began collecting race data using the **seven** federal race and ethnicity categories on the Summary Form in the 2017-18 school year, making historical comparisons of students by race and ethnicity less reliable. Federal race categories include two additional groups, Pacific Islander/Native Hawaiian and Two or More Races, which were not specifically identified on the Summary Forms for the reporting periods of FY12 through FY17.

Figure 6 compares the proportion of students enrolled in special education services with the proportion of students who experienced physical holding during the 2017-18 school year. Black/African American students, who accounted for approximately 12 percent of the special education student population, were overrepresented in the use of physical holds. A greater percentage of American Indian students, who account for just under 3 percent of the special education population, also accounted for a greater percentage of students who experienced a physical hold.

Figure 6. Enrollment and Students Physically Held by Race/Ethnicity, 2017-18



Disability

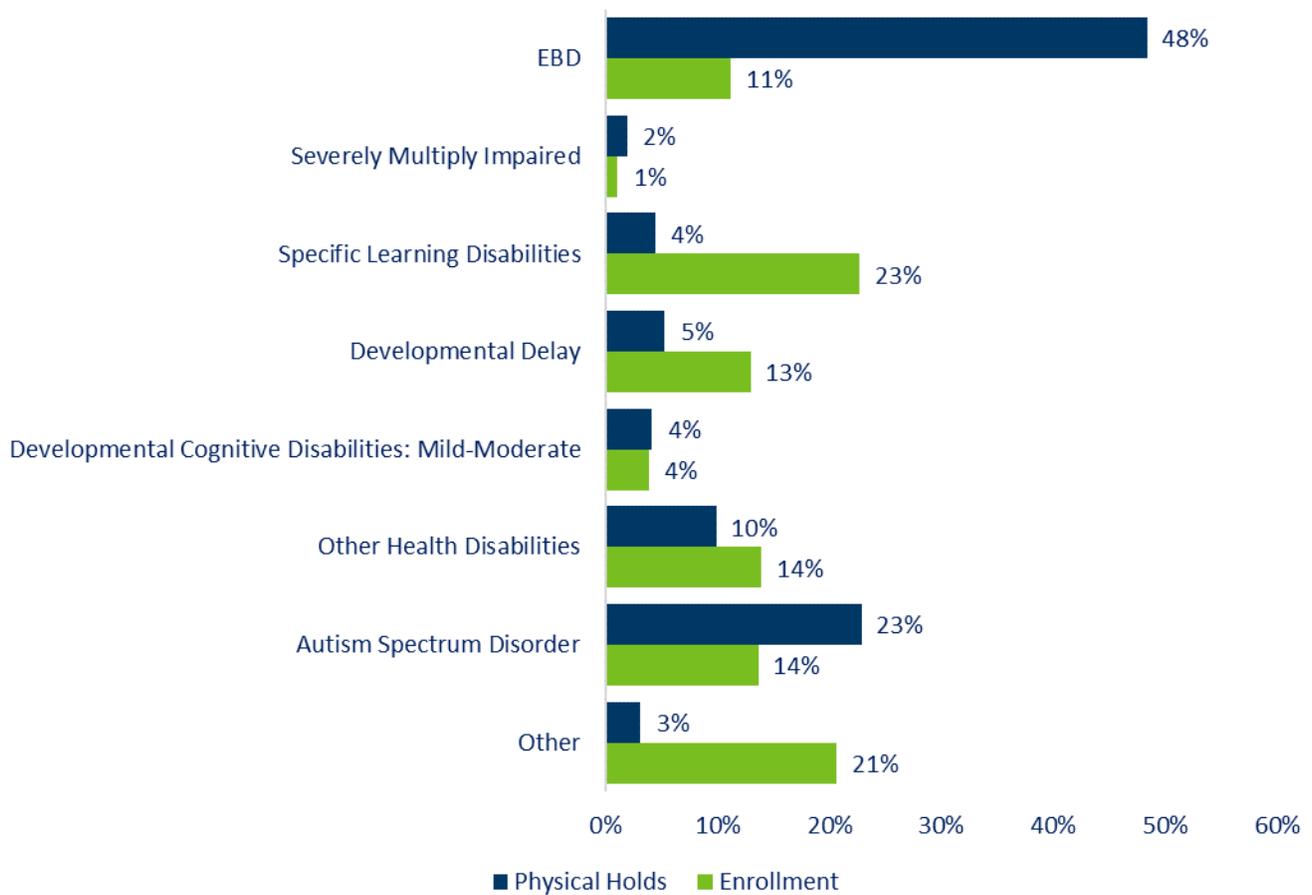
During the 2017-18 school year, students whose primary disability was reported as EBD or ASD accounted for just under 75 percent of the students who experienced physical holding. Students receiving special education services under the ASD category made up approximately 14 percent of the special education student population and students receiving special education services under the EBD category made up approximately 11 percent. However, since 2011-12, the percentage of students with ASD who were physically held has been steadily

decreasing, from about 54 percent to 50 percent. This shift is not occurring in the overall special education student population.

Figure 7 shows the seven disability categories with the largest percentage of students who experienced physical holding during the 2017-18 school year, which include the following disability categories: OHD, DCD, DD, SLD, and SMI. Three percent of students who experienced physical holding, and 21 percent of all students in special education, had one of the following disabilities, which are listed under miscellaneous in Figure 7: SLI, TBI, DHH, PI, or VI (see Table 1 on page 18 for a list of all possible disability categories and abbreviations).

Figure 7. Special Education Enrollment and Students Physically Held by Disability, 2017-18

**Special Education Enrollment and Students Physically Held by Disability Type
2017-18 School Year**

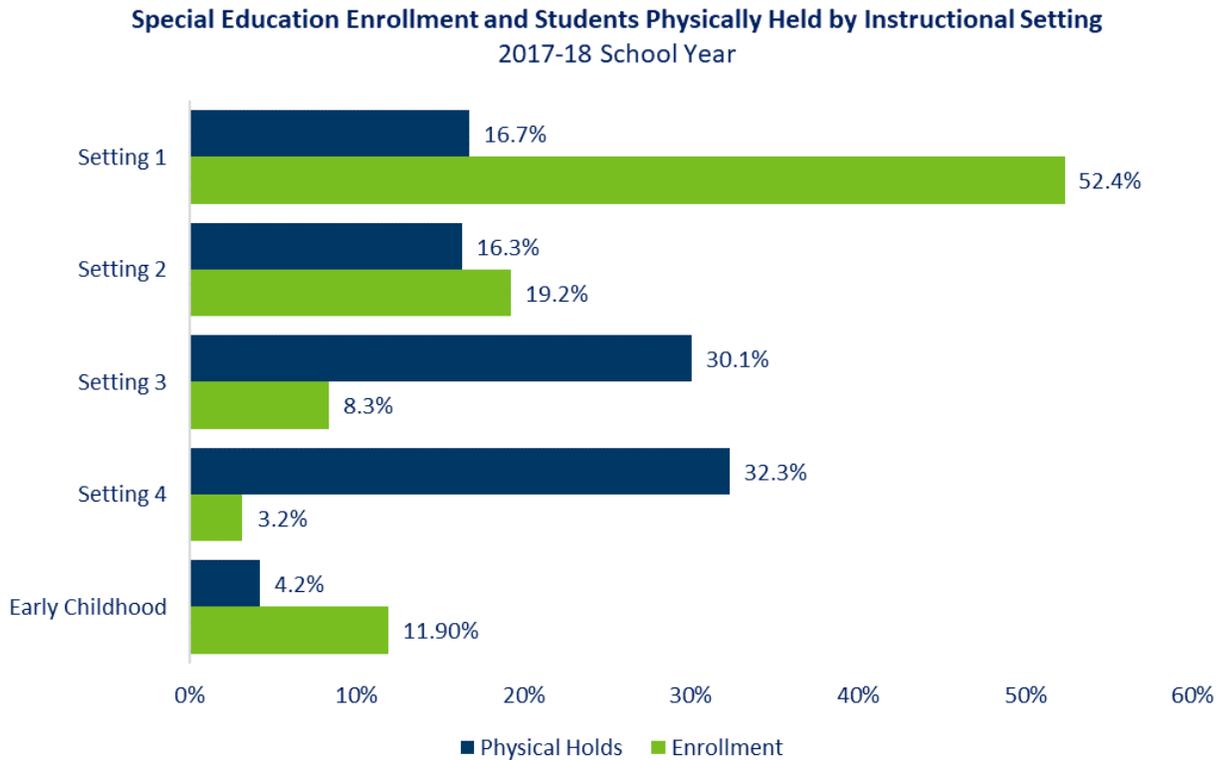


Federal Instructional Setting

The Summary Form was amended for the 2014-15 school year to include federal instruction demographic data. Since then, the pattern of physical holding use across students in different instructional settings has been generally consistent. Relative to the proportion of all special education students in federal instructional setting four programs, a disproportionate number of students who are physically held are in setting four, a trend that is consistent with data from the 2016-17 school year. As Figure 8 shows, most physical holds in 2017-18 occurred either with students in federal instruction setting four (32 percent), 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,¹¹ or students in setting three (30 percent) who were outside of the regular classroom more than 60 percent of the school day. Since the 2014-15 school year, the proportion of physically held students in setting three has decreased every year, resulting in a total decrease of 4 percentage points over four school years. In contrast, just under 12 percent of students in special education are in federal instruction settings three and four, about 8 and 3 percent, respectively. Approximately 33 percent of students who experienced a physical hold were in settings one and two, but comprise 76 percent of all students receiving special education services.

¹¹ This includes federal instructional level four programs operated by independent school districts, intermediate school districts, and special education cooperatives.

Figure 8. Special Education Enrollment and Students Physically Held by Instructional Setting, 2017-18 School Year

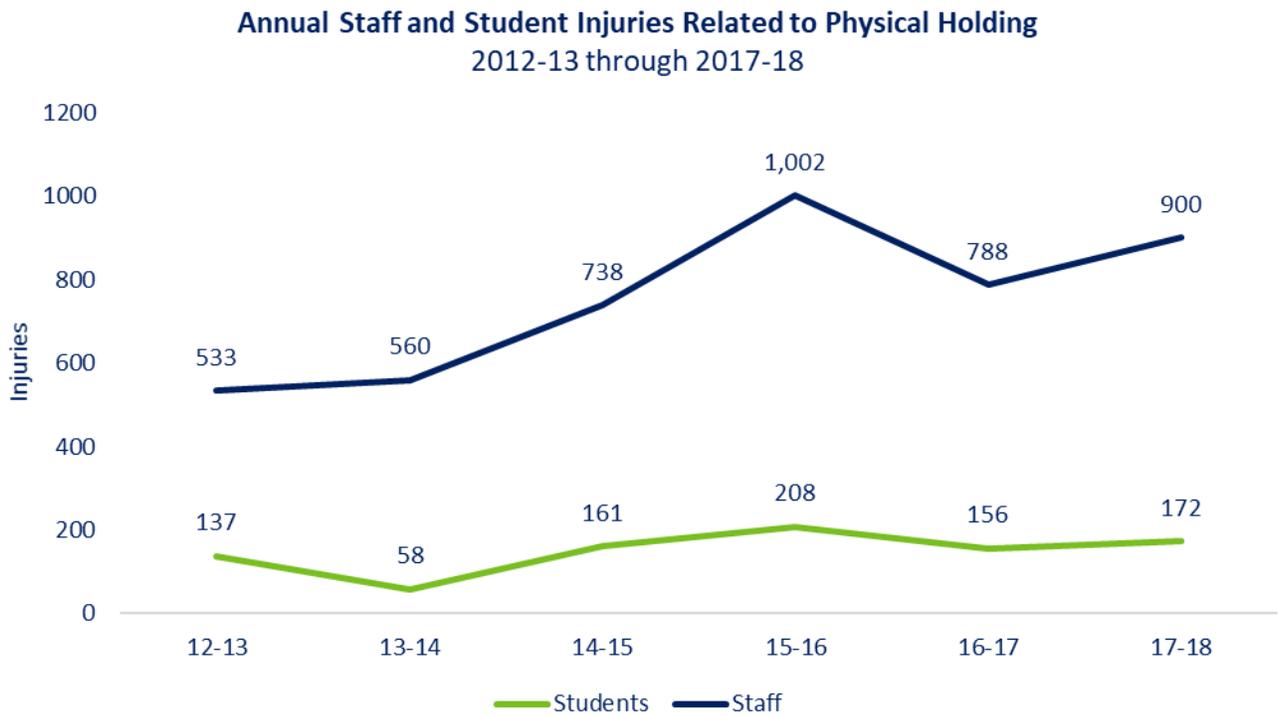


Student and Staff Injuries

Overall, the number of injuries sustained by students and staff that result from physical holding uses has increased since the 2012-13 school year. Figure 9 shows that the number of injuries reported has fluctuated over the last several school years.

A factor that may confound the number of injuries reported is the subjectivity in defining an injury and whether it resulted from a physical hold use. Given the lack of a consistent definition of an injury, districts locally determine a threshold for the level of injury and how close in time it must occur to the physical hold use when deciding whether to include it in their yearly counts.

Figure 9. Annual Physical Holding Injuries, 2012-13 through 2017-18



Quarterly Seclusion Data

MDE now has detailed data of individual seclusion uses for two full school years, 2016-17 and 2017-18, and the first quarter of the 2018-19 school year. As mentioned in the Methods section above, the number of school days in each reporting quarter varies, leading to a wide variance in the total number of students secluded and seclusion uses during each quarter. Therefore, quarterly statistics should only be compared for the same reporting quarter across school years. The following sections present a longitudinal analysis of the seclusion data received through the first reporting quarter of the 2018-19 school year, as well as a comparison of the same reporting quarter across school years.

Reporting Districts

A total of 71 districts reported seclusion use during the 2017-18 school year, an increase from 69 reporting districts reporting use during the 2016-17 school year. Although the number of districts reporting seclusion use increased during the 2017-18 school year, the number of districts reporting seclusion use during the first quarter

of each school year since 2016-17 has decreased. Thirty-six (36) districts reported seclusion uses during the first quarter of 2018-19, down from 47 districts during first quarter of 2016-17.¹²

The types of districts that reported seclusion use during the 2017-18 school year include:

- 211 of 335 traditional school districts.
- Four of four intermediate school districts.
- 12 of 27 cooperatives and education districts.
- 62 of 164 charter schools.

Traditional districts reported the most seclusion uses and students who were secluded during the first quarter of 2018-19, 289 and 206 respectively, compared to all other district types. Intermediate districts reported the second highest totals during the same time, 206 seclusion uses and 63 students who were secluded. As mentioned in the discussion of overall restrictive procedure use, this pattern of seclusion use is not surprising given the number of students traditional districts serve and the needs of students with disabilities intermediate districts serve who have not experienced success in their prior district.

Overall Seclusion Use

Annual statistics indicate an overall decrease in seclusion use during 2017-18 from the previous school year. In 2017-18, districts reported a total of 6,291 seclusion uses and 824 students who experienced seclusion, reductions of 15 and 12 percent from the previous year respectively. As Table 3 shows, nearly all annual summary statistics indicate a reduction in total seclusion use, except the average number of seclusion uses per student, which increased from 7.3 in the 2016-17 school year to 7.6 in the 2017-18 school year.

The average length of all seclusion uses also slightly decreased to 12.2 minutes in 2017-18 from 12.3 minutes the previous year. During the 2017-18 school year, 55 percent of seclusion uses lasted 10 minutes or less. Just over 36 percent of all seclusion uses lasted less than five minutes, and just over 19 percent lasted six to 10 minutes. The longest seclusion use reported in the 2017-18 school year was 227 minutes, down from a maximum of 245 minutes during the previous year. MDE is working with the district to discuss this particular use and the availability of restrictive procedure training.

Figure 10 highlights the overall downward trend of seclusion uses and shows a decline in the number of seclusion uses occurring each quarter relative to the same quarter in the previous year, with the exception of the first quarter of 2017-18. The data in Table 1 also documents a downward trend in the number of minutes per secluded use.

Data from the first quarter of 2018-19 cannot be compared to a full year of data, but can be compared to the same time period during previous years. During the first quarter of the 2018-19 school year, 216 students

¹² The 2017-18 first quarter district count was reported as 46 districts in the 2018 legislative report. Based upon an analysis with new software, we believe the number above (47) is most accurate.

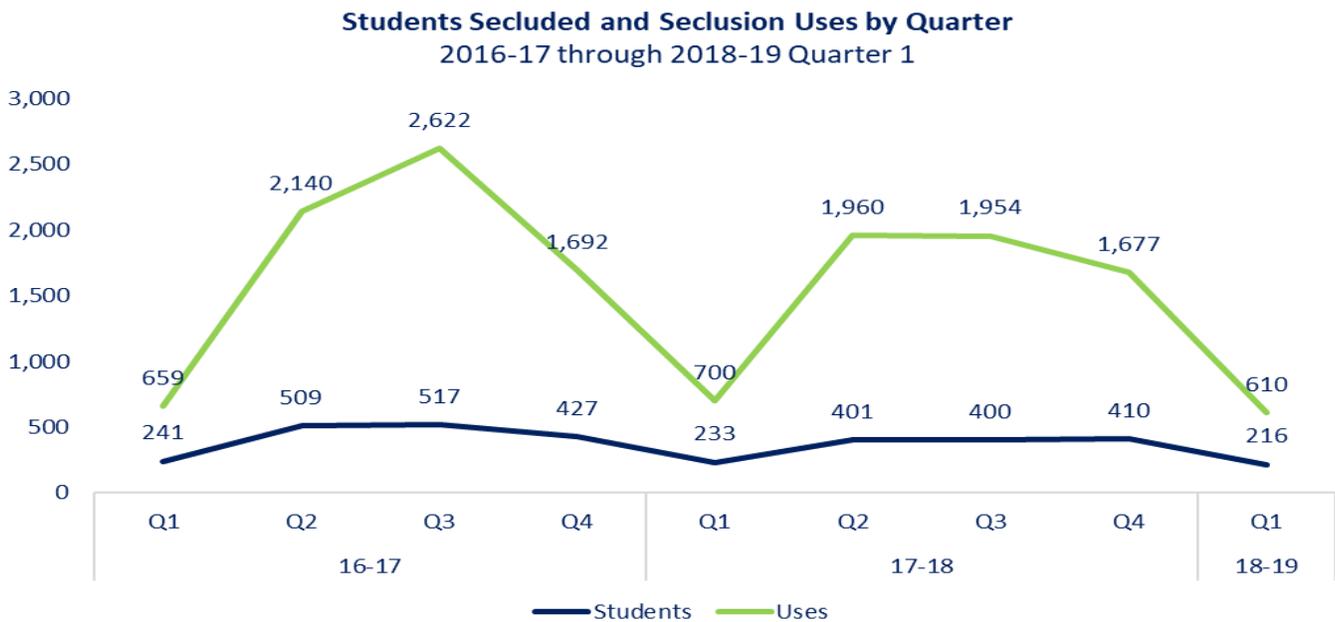
experienced seclusion for a total of 610 seclusion uses, at an average rate of 2.82 seclusion uses per secluded student. This is compared to 233 students, 700 uses, at an average rate of three seclusion uses per student during the first quarter of 2017-18, and 241 students, 659 uses, at an average rate of 2.73 uses per students during the first quarter of 2016-17.

The most seclusion uses a single student experienced during the first quarter of 2018-19 was 26, compared to a maximum of 40 uses during the first quarter of 2017-18, and 27 uses during the first quarter of 2016-17. In 2018-19 quarter one, the longest amount of time a single seclusion use lasted was 280 minutes or four hours and 36 minutes, which is the longest seclusion use reported to date. MDE identified the district and is working with the district to review their restrictive procedure practices and identify training needs. During the first quarter of 2017-18, the longest reported seclusion was 110 minutes, or just under two hours, and in the first quarter of 2016-17, the longest reported seclusion was 175 minutes, just under three hours.

Table 3. Average Seclusion Uses Per Student, Seclusion Days Per Student, and Minutes Per Seclusion, 2016-17 and 2017-18

	2016-17				2017-18			
	Average	Median	Max	Std Dev	Average	Median	Max	Std Dev
Uses Per Student	7.3	3	172	13.7	7.6	3	159	14.3
Seclusion Days Per Student	5	2	54	6.8	4.9	2	62	6.9
Minutes Per Use	12.3	7	245	17.1	12.2	7.00	227	15.7

Figure 10. Students Secluded and Seclusion Uses, 2016-17 through 2018-19 Quarter 1

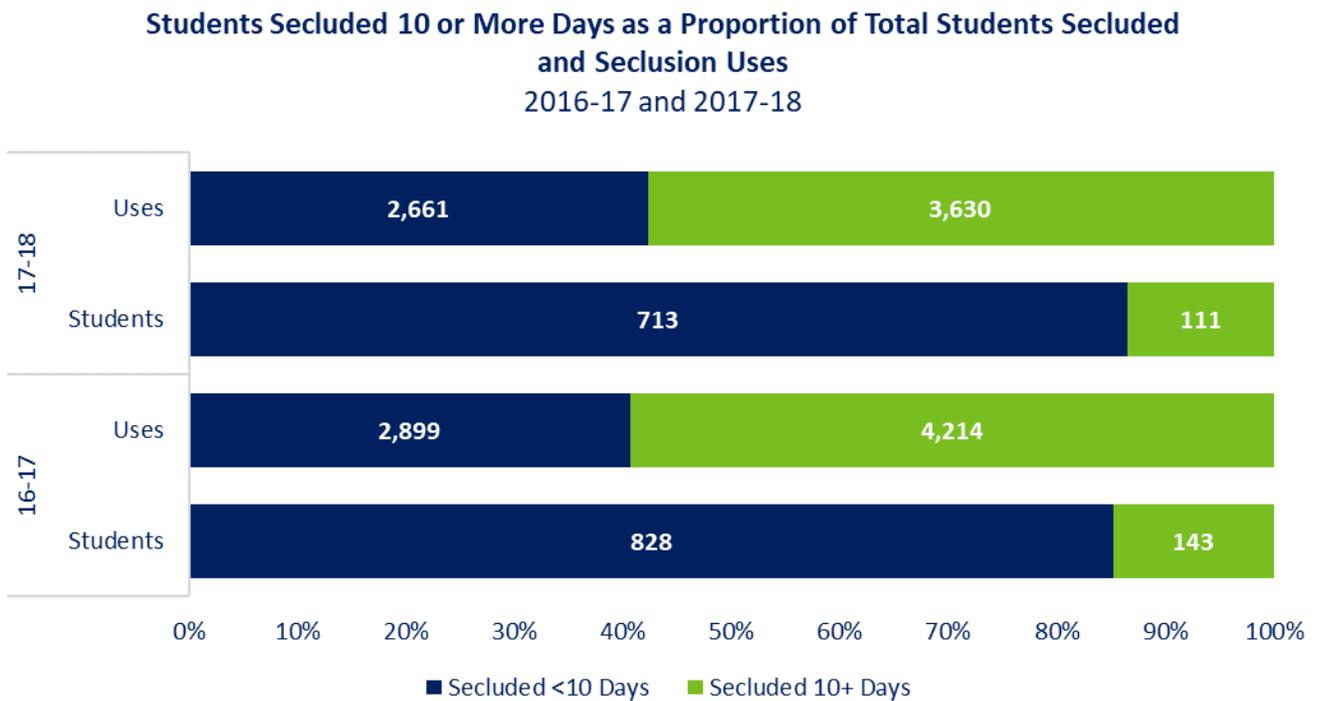


Students Secluded 10 or More Days

During the 2017-18 school year, districts reported that 111 students were secluded for 10 or more school days, or just over 13 percent of all students secluded during that time, and a decrease from 143 students,¹³ or nearly 15 percent of all students secluded during the previous school year. These 111 students account for 3,630 of all reported seclusion uses during the year, or an average of nearly 34 uses per student, as shown in Figure 11. The student who spent the most time in seclusion was secluded 118 times, across 62 days, for a total of 24 hours and 40 minutes in seclusion. This student’s experience is an outlier relative to the average rate of seclusion use described in Table 3, who was secluded 9.6 standard deviations over the average number of uses and nine standard deviations over the average number of days.

A total of three students were secluded for 10 or more days during 2018-19 quarter 1, accounting for 49 seclusion uses, or 1 percent of all students who experienced seclusion and 8 percent of all seclusion uses during that time. Note that quarter 1 includes the fewest number of school days of all of the reporting quarters and that there are still three reporting quarters left of the 2018-19 school year.

Figure 11. Students Secluded 10 or More Days as a Proportion of Total Students Secluded and Seclusion Uses, 2016-17 and 2017-18



¹³ Due to an analysis with updated software, the number of students secluded on 10 or more school days in the 2016-17 school year was revised from 142 in the 2018 legislative report to 143.

Seclusion: Student Demographics

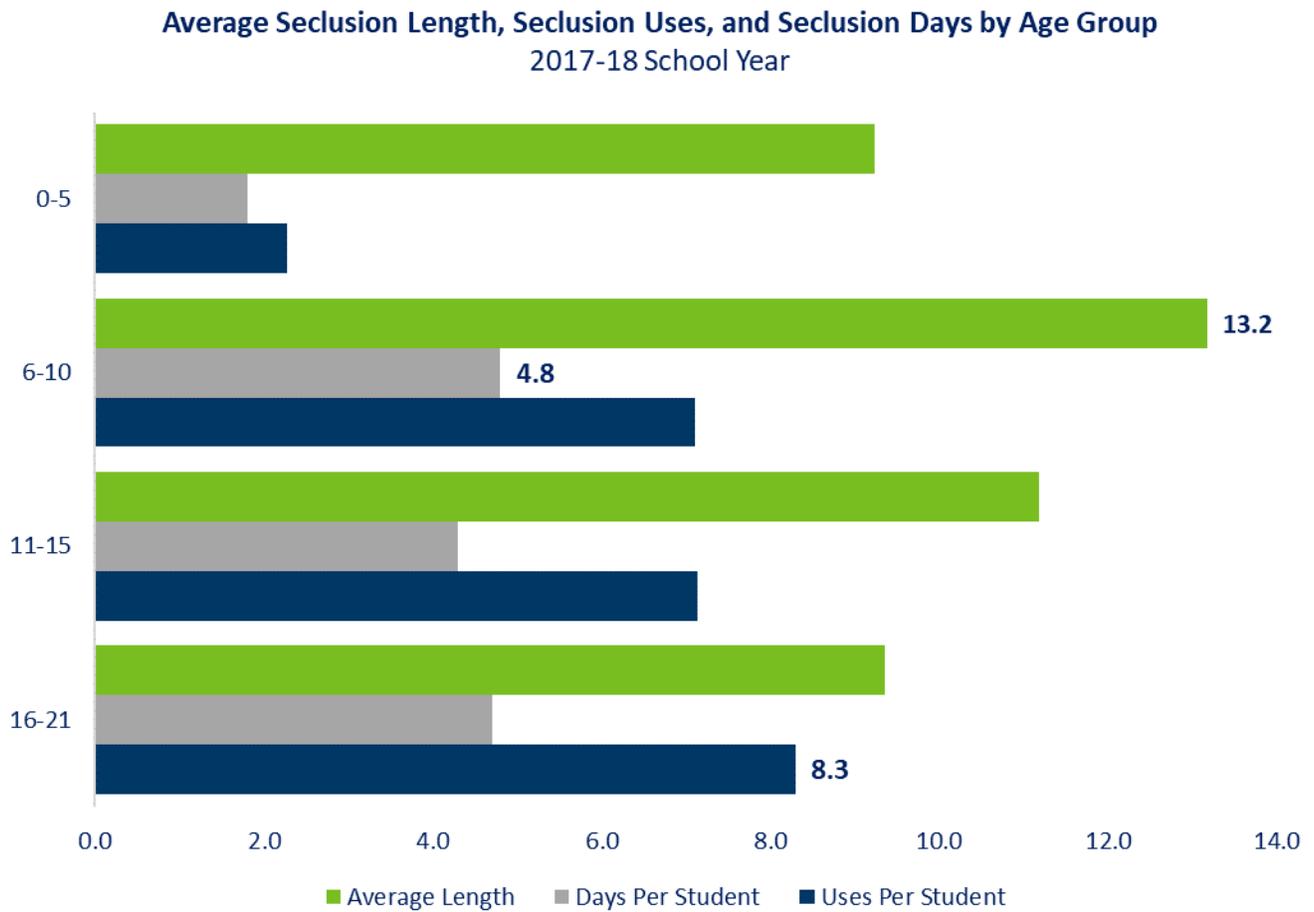
Age

Table 4 shows a decline in the number of students who were secluded during 2017-18 for all age groups, and a decline in the number of seclusion uses for all age groups except the oldest students, ages 16 to 21. However, the average number of uses per student declined only for the youngest age group, students up to 5 years. No students under 5 years of age were reported secluded during the 2017-18 school year, nor the first quarter of 2018-19. Although the highest number of seclusions and seclusion uses were reported for students ages 6 through 10, Figure 12 shows that students ages 16 through 21 had the high rate of uses per student, 8.3.

Table 4. Average Seclusion Length, Seclusion Uses, and Seclusion Days by Age Group, 2017-18 and 2018-19

	Students	Uses	Uses Per Student	Days Per Student	Average Length
2017-18					
0-5 Years	11	25	2.3	1.8	9.2
6-10 Years	522	3,705	7.1	4.8	13.2
11-15 Years	286	2,039	7.1	4.3	11.2
16-21 Years	61	506	8.3	4.7	9.4
2016-17					
0-5 Years	28	104	3.7	3.25	15.0
6-10 Years	632	4,268	6.8	4.9	13.4
11-15 Years	318	2,171	6.8	4.3	11.0
16-21 Years	62	470	7.6	5.2	9.8

Figure 12. Seclusion Summary Statistics by Age Group, 2017-18



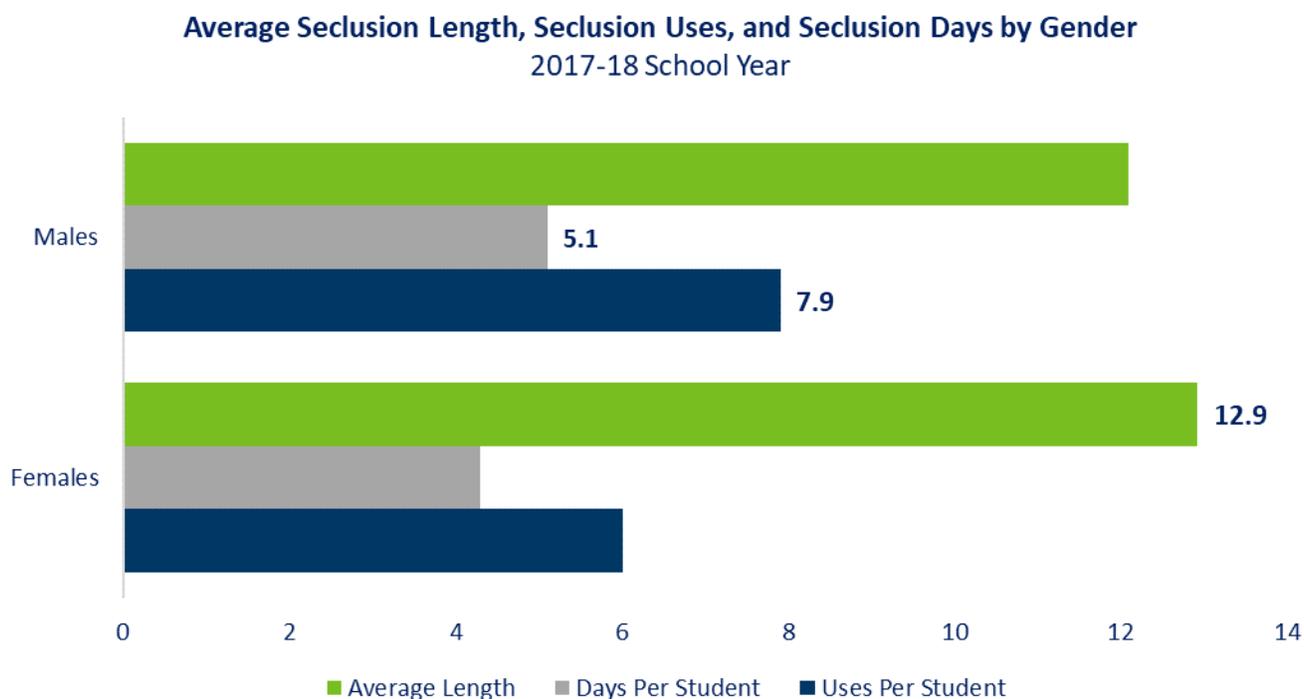
Gender

The 2017-18 data shows that total seclusion use decreased for both female and male students from the previous school year, as shown in Table 5. Aligned with historical physical holding usage trends, males are consistently overrepresented in seclusion use, for each quarter and year. Males accounted for 86 percent of all students who were secluded and 89 percent of all seclusion uses during the 2017-18 school year, both a slight increase from the previous year. For the last two school years, seclusions lasted slightly longer for females than males, 12.9 minutes compared with 12.1 minutes during the 2017-18 school year respectively.

Table 5. Average Seclusion Length, Seclusion Uses, and Seclusion Days by Gender, 2017-18 and 2018-19

	Students	Uses	Uses Per Student	Days Per Student	Average Length
2017-18					
Females	118	709	6.0	4.3	12.9
Males	706	5,582	7.9	5.1	12.1
2016-17					
Females	148	945	6.4	4.5	13.1
Males	823	6,168	7.5	5.5	12.2

Figure 13. Seclusion Summary Statistics by Gender, 2017-18



Disability

Table 6 lists all of the disability types and summary statistics for which districts reported at least 10 students who were secluded during the 2016-17 and 2017-18 school years. These measures were not calculated for disability types with fewer than 10 students who were secluded, which include the following: DHH, TBI, SLI, VI, and PI.

Consistent with the previous school year, as well as physical holding usage patterns, the highest number of seclusion uses and students secluded were those with EBD, ASD, or OHD, respectively. Students with these disabilities accounted for 77 percent of all students secluded and 77 percent of all seclusion uses in 2017-18. However, the total number of students secluded and seclusion uses for each of these disability types declined in the 2017-18 school year, with the greatest reductions for OHD. The number students with OHD who were

secluded decreased by 39 percent and the number of seclusion uses for students with OHD decreased by 26 percent.

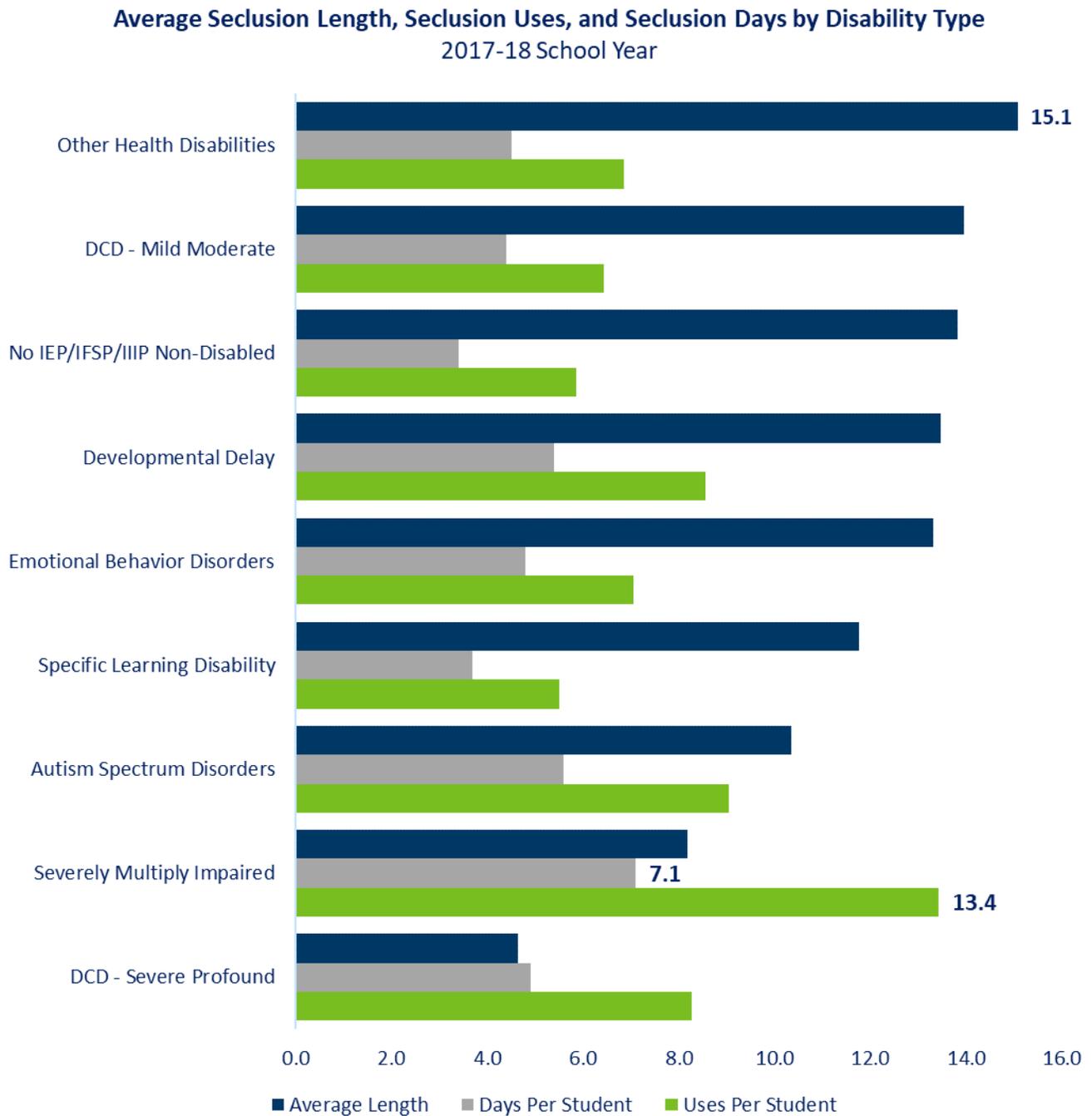
Table 6. Average Seclusion Length, Seclusion Uses, and Seclusion Days by Disability Type, 2017-18 and 2018-19

	Students	Uses	Uses Per Student	Days Per Student	Average Length
2017-18					
Emotional Behavior Disorders	416	2,935	7.1	4.8	13.3
Autism Spectrum Disorders	168	1,520	9.0	5.6	10.4
Other Health Disabilities	57	391	6.9	4.5	15.1
Developmental Delay	49	419	8.6	5.4	13.5
DCD - Mild Moderate	39	251	6.4	4.4	14.0
No IEP/IFSP/IIIP Non-Disabled ¹⁴	28	164	5.9	3.4	13.8
Specific Learning Disability	24	132	5.5	3.7	11.8
DCD - Severe Profound	22	182	8.3	4.9	4.6
Severely Multiply Impaired	14	188	13.4	7.1	8.2
2016-17					
Emotional Behavior Disorders	503	3,541	7.0	4.9	13.1
Autism Spectrum Disorders	234	1,778	7.6	5.1	10.2
Other Health Disabilities	94	527	5.6	4.1	13.6
No IEP/IFSP/IIIP Non-Disabled ¹⁵	40	133	3.3	3	22.8
Developmental Delay	39	234	6.0	5.1	11.9
DCD - Mild Moderate	33	450	13.6	8.1	10.3
Specific Learning Disability	24	124	5.2	4.4	18.8
DCD - Severe Profound	17	197	11.6	5.2	5.1
Severely Multiply Impaired	17	105	6.2	4.1	15.1

¹⁴ When merging district seclusion data with MDE student data, some student records indicated that the student was not receiving special education services or did not have a disability at the time of the seclusion use. Further investigation revealed that most of these students received special education services and reported a disability during the same school year.

¹⁵ Ibid.

Figure 14. Annual Seclusion Summary Statistics by Disability Type, 2017-18



Race/Ethnicity

Since 2016-17 school year, students identified as Black/African American and Two or More Races have been overrepresented in the total number of students secluded and seclusion uses, a pattern that is consistent with physical holding. In fact, in the 2017-18 school year, students of Two or More Races accounted for 11 percent of

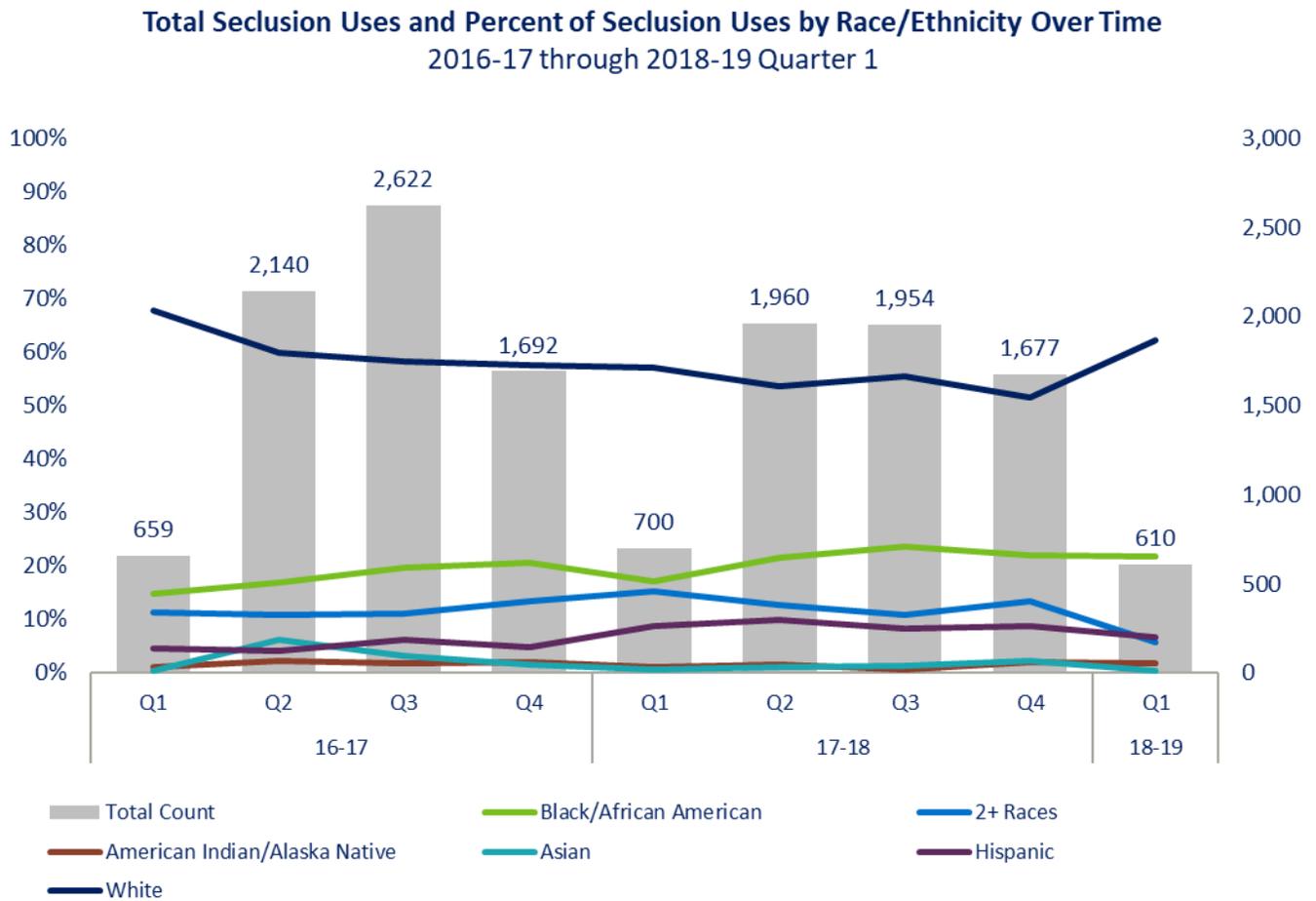
all students secluded and 13 percent of all seclusion uses even though they comprised approximately 5 percent of the state’s total special education population. Black/African American students represented 20 percent of all students who were secluded and 22 percent of all seclusion uses though they comprised just under 12 percent of the state’s total special education population. In fact, Figure 15 shows that the proportion of total seclusion uses for Black/African American and Hispanic students has been increasing since the first quarter of 2016-17 while the proportion of seclusion uses for white students is decreasing.

Table 7 shows that seclusion use varies between race and ethnicity groups in other ways as well. On average, Hispanic students who experienced seclusion in 2017-18 were secluded the most number of days during the school year, though not overrepresented in total seclusion use. American Indian/Alaska Native students had the longest average seclusion time, just over 20 minutes per seclusion use. However, it is important to note that 22 American Indian/Alaska Native students were secluded 80 times during the 2017-18 school year, which makes for a relatively small sample size that is more likely to be skewed by an outlier.

Table 7. Average Seclusion Length, Seclusion Uses, and Seclusion days by Race/Ethnicity, 2016-17 and 2017-18

	Students	Uses	Uses Per Student	Days Per Student	Average Length
2017-18					
Two or More Races	93	791	1.9	8.5	12.7
American Indian/ Alaska Native	22	80	1.9	3.6	20.6
Asian	11	88	3.3	8.0	6.1
Black/ African American	167	1,370	1.1	8.2	11.0
Hispanic	61	567	2.7	9.3	10.4
White	472	3,395	0.5	7.2	12.8
2016-17					
Two or More Races	104	820	1.7	7.9	11.7
American Indian/ Alaska Native	33	140	2.7	4.2	18.7
Asian	9	240	6.8	26.7	6.0
Black/ African American	164	1,322	1.2	8.1	10.1
Hispanic	67	362	2.0	5.4	14.9
White	598	4,229	0.4	7.1	13.0

Figure 15. Total Seclusion Uses and Percentage of Seclusion Uses by Race, 2016-17 through 2018-19 Quarter 1



Instructional Setting

Districts reported using seclusion most often for students receiving services in federal instructional setting four. This includes federal instructional level four programs operated by independent school districts, intermediate school districts, and special education cooperatives. During the 2017-18 school year, 392 students in setting four were secluded 4,089 times, representing 48 percent of all students who were secluded and 65 percent of all seclusion uses reported. Shown in Table 8, these students also had the highest average rate of seclusion uses per secluded student (10.4) and the highest average of seclusion days per secluded student (5.4). In contrast, Figure 16 shows that students in setting four were secluded for the shortest period of time. On average, students in setting four were secluded 11 minutes per seclusion use, while students in setting three were secluded for the longest amount of time per seclusion use, just under 15 minutes per seclusion use.

The total number of students secluded and seclusion uses decreased for all settings in the 2017-18 school year, with the largest decline for students in setting one. The total number of students secluded and seclusion uses decreased by 34 percent and 35 percent, respectively. However, the average number of seclusion uses, seclusion days, and length of seclusion did not decrease for all settings. The average rate of seclusion uses per

secluded student increased for students in setting four, and the average duration of each seclusion use increased for students in settings one and four.

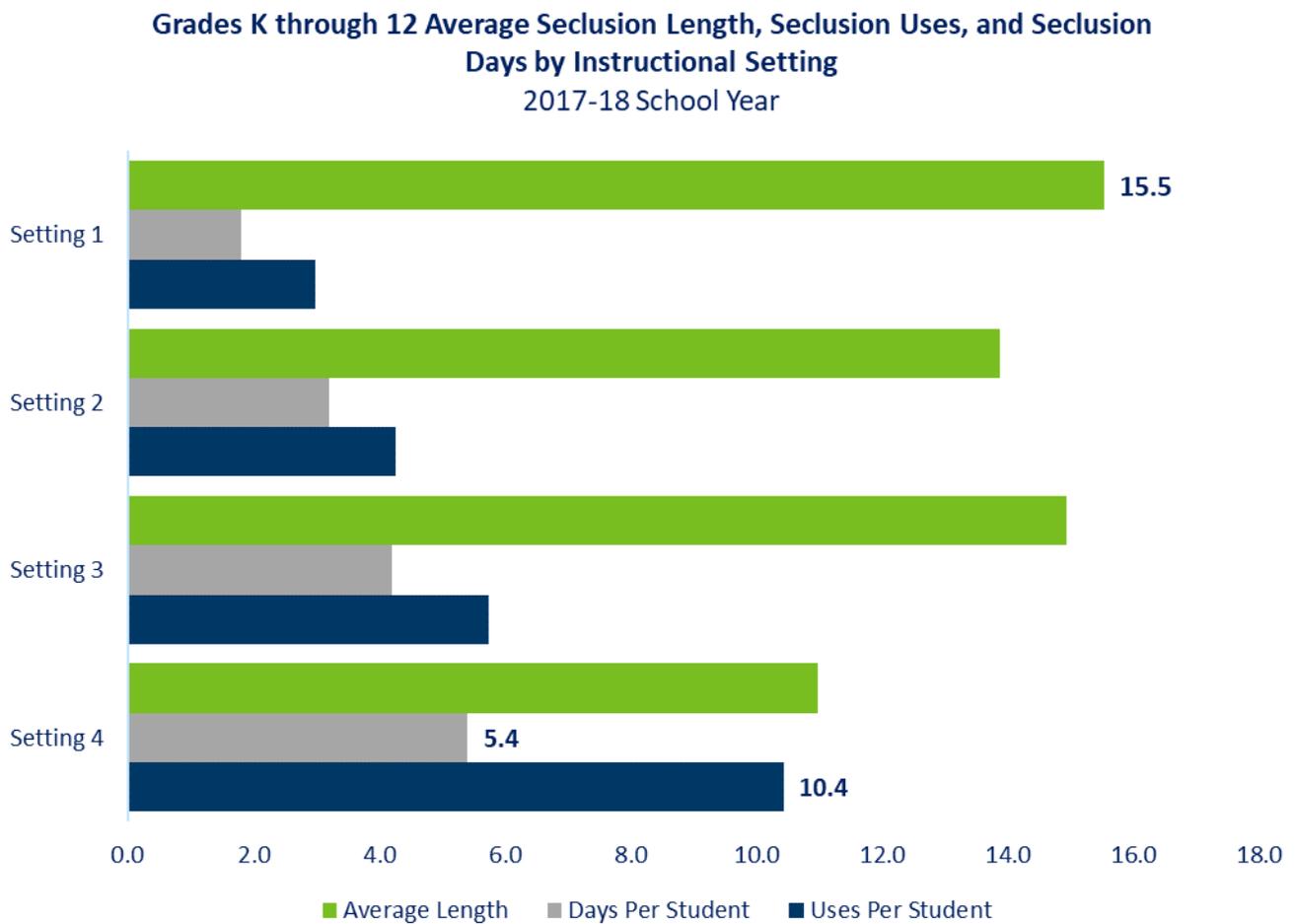
Table 8. Average Seclusion Length, Seclusion Uses, and Seclusion Days by Instructional Setting, 2016-17 and 2017-18

	Students	Uses	Uses Per Student	Days Per Student	Average Length
2017-18					
0 No IEP/IFSP/IIIP¹⁶	28	164	5.9	3.4	13.8
01 Regular Classroom	80	239	3.0	1.8	15.5
02 Resource Room	102	435	4.3	3.2	13.9
03 Separate Classroom	215	1,234	5.7	4.2	14.9
04 Public Separate Facility	392	4,089	10.4	5.4	11.0
Early Childhood	33	108	3.1	2.4	13.1
2016-17					
0 No IEP/IFSP/IIIP¹⁷	40	133	3.3	3.0	22.8
01 Regular Classroom	121	368	3.0	2.4	13.5
02 Resource Room	120	517	4.3	3.5	15.1
03 Separate Classroom	276	1,644	6.0	4.9	16.1
04 Public Separate Facility	448	4,171	9.3	5.6	9.8
Early Childhood	59	280	4.7	3.8	14.1

¹⁶ When merging district seclusion data with MDE student data, some student records indicated that the student was not receiving special education services or did not have a disability at the time of the seclusion use. Further investigation revealed that most of these students received special education services and reported a disability during the same school year.

¹⁷ Ibid.

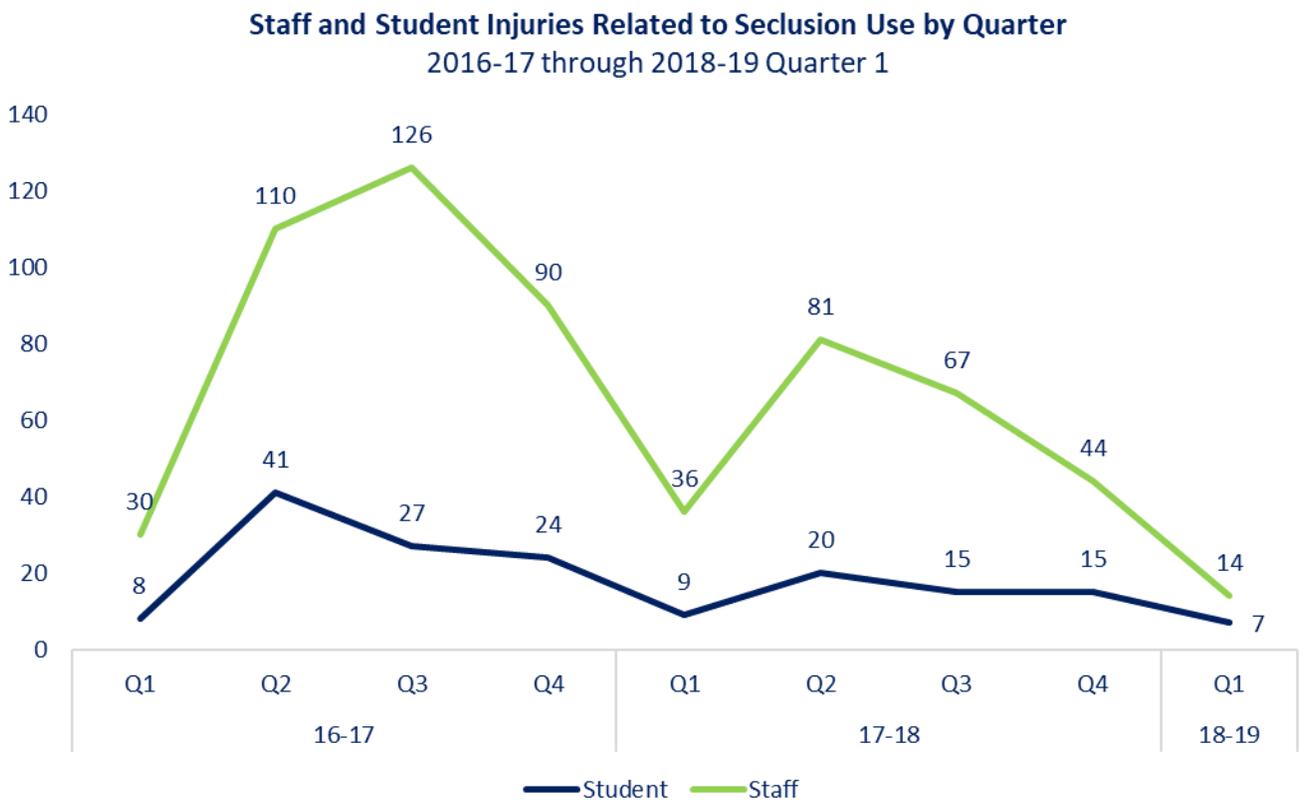
Figure 16. Seclusion Summary Statistics by Instructional Setting, 2017-18



Student and Staff Injuries Resulting from Seclusion Use

Both student and staff injuries resulting from seclusion use have been declining since the first quarter of the 2016-17 school year. Districts reported the fewest number of injuries for both staff and students during the first quarter of the 2018-19 school year. Less than 1 percent of all seclusion uses during the 2017-18 school year resulted in a student injury and less than 4 percent resulted in an injury to staff.

Figure 17. Staff and Student Injuries Related to Seclusion, 2016-17 through 2018-19 Quarter 1



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 2017-18 increase in the number of physical hold uses and increase in the number of students who experienced the use of physical holding. The report also details the decrease in the number of uses of seclusion and the number of students experiencing the use of seclusion. The report addresses Minnesota’s 2018 Olmstead Plan and seclusion data for the first quarter of the 2018-19 school year in more

detail. While the number of students affected by this discussion is small, about 2.5 percent of the total special education student population experiences the use of restrictive procedures,¹⁸ it is clear that these students have significant and complex needs. In order to move forward, the 2018 Workgroup reached consensus on a number of recommendations, including increased legislative funding to continue the staff development grants, expanded mental health services, and increased technical supports for districts. The recommendations 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.

¹⁸When comparing the 2016-17 and 2017-18 physical holds and seclusion data, the uses of physical holds increased by 9.8 percent and the number of students experiencing the use of restrictive procedures increased by 2.4 percent. However, the uses of seclusion decreased by 11.6 percent and the number of students being secluded decreased by 15.1 percent.

Appendix A

2018 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 seeking recommendations from stakeholders from specific entities, 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 2018-19 school year (2018 Workgroup). The 2018 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. For the past two years, we have had additional districts request to be part of the Workgroup. The 2018 Workgroup reviewed the annual restrictive procedures data and the quarterly seclusion data and discussed changes to the goals in the 2017 Statewide Plan. **The 2018 Workgroup discussed a number of recommendations for the 2018 Statewide Plan. With broad support from the stakeholders representing advocacy organizations, special education directors, intermediate school districts, special education cooperatives and school boards, the 2018 Workgroup reached consensus on a set of new goals which includes a specific target for a reduction in the use of seclusion and the number of students experiencing the use of seclusion, and active support for continued staff development funding, expansion of mental health services, and additional funding for technical assistance.**

II. 2018 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. 2018 Stakeholder Group Members

Anoka-Hennepin School District	Stacey Dahlby
Anoka-Hennepin School District	Stephanie Diaz-Celon
Anoka-Hennepin School District	Stephanie Mars
Autism Society of Minnesota.....	Jean Bender
Goodhue County Education District.....	Maggie Helwig
Grand Rapids School District 318	Brent Brunetta
Intermediate District 287	Tina Houck
Intermediate District 287	Kate Hulse
Intermediate District 288.....	Melanie Kray
Intermediate District 916	Val Rae Boe
Intermediate District 917	Melissa Schaller
Intermediate District 917	Amy Swaney
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.....	Mary Paulson
Minnesota Department of Human Services.....	Charles Young
Minnesota Disability Law Center.....	Dan Stewart
Minnesota Management Analysis and Development (Facilitator)	Beth Bibus
Minnesota School Board Association	Bill Kautt and Maria Lonis
National Alliance on Mental Illness.....	Sue Abderholden
National Alliance on Mental Illness.....	Sam Smith
PACER Center.....	Paula Goldberg

PACER Center.....	Jody Manning
PACER Center.....	Virginia Richardson
Southwest Metro Intermediate District.....	Melanie Kray
Southwest West Central Service Cooperative.....	Amber Bruns
Southwest West Central Service Cooperative.....	Bailey Rettman
Southwest West Central Service Cooperative.....	Marissa Stordahl
St. Paul Public Schools.....	Marcy Doud
St. Paul Public Schools.....	Amy Johnson
The Arc Minnesota.....	Wendy Watson
Waconia School District.....	Jenn Froelich

IV. Minnesota Department of Education Participants

Assistant Commissioner.....	Daron Korte
Director, Compliance and Assistance.....	Marikay Canaga Litzau
Supervisor, Fiscal Monitoring.....	Bridgette Ramaley
Supervisor, Special Education Interagency Partnerships.....	Tom Delaney
Supervisor, Special Education.....	Eric Kloos
Compliance and Assistance, Data Analyst.....	Carly Lykes
Compliance and Assistance.....	Sara K. Wolf
Special Education.....	Janet Christiansen
Special Education.....	Garrett Petrie

V. Process

On September 14, 2018, MDE convened the 2018 Workgroup to review the annual restrictive procedures data for the 2017-18 school year, and the fourth quarter seclusion data for 2018 (April through June 2018). Additional meetings scheduled occurred or will occur to review the quarterly seclusion data and review progress and any needed changes to the statewide plan as follows: December 14, 2018; January 4, 2019; January 18, 2019; April 12, 2019; and July 19, 2019.

As set forth in the 2017 statewide plan, the stakeholders focused on reviewing data, ongoing implementation efforts of the 2017 statewide plan, and to discuss successes and barriers in reducing the use of restrictive procedures; specifically, the use of seclusion in the school setting.¹⁹

Stakeholder Workgroup Meetings Summary

On September 14, 2018, MDE staff convened members of the Stakeholder Workgroup to review progress/updates on implementation of the 2017 statewide plan and to review restrictive procedures summary data and quarterly seclusion data. Beginning in September of 2018, MDE hired a data analyst, Carly Lykes, whose duties include restrictive procedures data collection and analysis. Beginning with the December 14, 2018, meeting, MDE has utilized the services of a facilitator, through the MMB's MAD, Beth Bibus, to assist in the meeting preplanning process, and facilitating the exchange of information and stakeholder input. During the 2018-19 school year, MDE and MAD staff facilitated an exchange of information through review of:

- Aggregate data from districts' self-reported use of restrictive procedures for the 2017-18 school year.
- Quarterly aggregate data from districts' self-reported use of seclusion.
- Existing statutory language.
- Strategies employed by intermediate districts and special education cooperatives to reduce the use of restrictive procedures and work toward the elimination of seclusion.
- Strategies employed by other districts to reduce the use of restrictive procedures and work toward the elimination of seclusion.
- Work accomplished from the 2017 statewide plan as set forth in the goals progress/update section set forth in Appendix A Section VI and input on ongoing implementation and revision of that plan.
- The positive supports sections of the Omstead Plan and status, and other related goals and work plan.
- Summary of the FY17 staff development grants work plan activities and outcomes.

At the December 14, 2018, meeting, MDE introduced the new facilitator, Beth Bibus from MMB MAD. MDE staff provided data updates and listened to feedback regarding the revised seclusion reporting form. During this meeting, the current 2017 statewide plan was reviewed and each stakeholder was given the opportunity to generate ideas for additional goal recommendations and share them with the entire workgroup. Those ideas were summarized for the workgroup and then discussed at the January 4, 2019, meeting. In addition, MDE provided additional seclusion data analysis disaggregated by race/ethnicity. The stakeholders discussed goals related to the elimination/prohibition of seclusion and targeted reductions, and the need for additional funding to continue the current work and training made possible through the staff development grants and mental health funding. Department of Human Services staff provided information on steps taken to eliminate seclusion in programs they license. Funding for technical assistance to work directly with providers was key to those efforts.

¹⁹ The January 19, 2019 meeting was cancelled after the stakeholders reached agreement on the statewide plan goals and recommendations via email.

Prior to the scheduled January 18, 2019, stakeholders meeting, MDE and the facilitator presented a set of recommended goals that both addressed the advocates recommendations for accountability through an objective target for reduction of seclusion uses and the number of students using seclusion, and the districts' recommendations for continued and extended funding for professional development made possible by the three-year staff development grants, and additional staff development/technical assistance funding and expanded mental health funding. The stakeholders reviewed the set of recommended goals by email and responded with widespread support for those recommendations. The recommended goals will be added to the 2018 statewide plan and communicated to the commissioner and the Legislature.

VI. Current 2017 Statewide Plan and Recommended 2018 statewide plan

2017 Statewide Plan Goals and Goal Updates

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 1 Update

The 2019 legislative report summarizes the 2017-18 restrictive procedures data and quarterly seclusion data with year-over-year comparisons. Attached to the 2019 report: Appendix A: 2018 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. The 2019 legislative report provides data that documents a racial disproportionality for students with disabilities who

experience the use of restrictive procedures. For the 2017-18 physical holds summary data, comparing the enrollment percentage with the student data for physical holds, Students who were Black/African American and American Indian accounted for a disproportionately higher percentage of students experiencing the use of physical holds. In comparing the last two years of seclusion data, White students had the largest reduction in the use and number of students experiencing the use of seclusion. Students who were Black/African American were the only group that saw an increase in the number of students experiencing the use of seclusion. Only two racial ethnicity groups saw an increase in uses of seclusions: Hispanic and Black/African American.

The 2017 Workgroup met in the spring of 2018 and scheduled four meetings to be held prior to February 1, 2019: September 14, 2018; December 14, 2018; January 4, 2019; January 18, 2019; April 12, 2019; and July 19, 2019. At those meetings, MDE presented annual aggregate data on the use of restrictive procedures, and presented and/or will present aggregate data to the 2018 Workgroup for quarterly seclusion data for the fourth quarter of the 2017-18 school year and the first three quarters of the 2018-19 school year. The September 14, 2018 presentations included data on student and staff injuries and disproportionality data. On the same date, an update on PBIS schools and questions surrounding PBIS were discussed. Garrett Petrie presented the PBIS update with 222 districts/charters and 645 schools currently implementing PBIS, which is 31 percent of the state's schools and 35.6 percent of the state's students. Based on past questions from the Workgroup, the presentation also included data on how districts can determine if they are implementing PBIS with fidelity, and also discussed using a program improvement framework, which includes looking at effort data, fidelity data, and outcome data.

Staff Development Grants Update:

At the September 14, 2018, restrictive procedures 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 with instructional setting four programming. Funds were 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. The recipients include the four intermediate school districts and special education cooperative entities providing instruction setting four programming. The grants ranged in size from \$3,000 to \$608,800, based upon the number of staff working directly with students in setting four programming. The grantees' locations were spread across the state. The grant work activities and outcomes for FY17, which were completed by June 30, 2018, were shared with the 2018 Workgroup. The summary included:

1. Commonalities on what is working to reduce the emergency use of restrictive procedures with outcome data:
 - (i) Training that works well with PBIS (e.g., Life Space Crisis Intervention (LSCI), Conscious Discipline, Mind Up Curriculum)
 - i. Life Space Crisis Intervention; Education District A restraints decreased by 28 percent in the first year after implementing LSCI, staff feel more prepared to manage crisis in supportive ways. Restraints also decreased from 27 in the first half of the 2017-18 school year to only six in the

- second half of the school year after staff had additional time to hone their skills after receiving LSCI training.
- (ii) Adverse Childhood Experiences (ACES)/Trauma-Informed Training: all Districts are reporting that ACES/Trauma-Informed Training are creating a definite shift in the lens through which staff view student behavior.
 - (iii) Crisis Prevention Institute (CPI) provided the ability to train more staff annually and to have more extensive trainings)
 - (i) Individually what is working to reduce the emergency use of restrictive procedures:
 - a. Handle with Care Training; Conscious Discipline; and “Mind Up” Curriculum;
 - b. Collaborative and Proactive Solutions model: Education District B with instruction setting four programming used Collaborative and Proactive Solutions (CPS) model to significantly reduce the use of seclusions and physical holds, as well as discipline. For example, in 2016-17, one of their setting four programs had 10 seclusions, but during the 2017-18 school year, it only used two seclusions. Likewise, in 2016-17, the WIN program used 107 seclusions; in 2017-18 school year, another of their setting four programs only used three seclusions. As a whole, the education district’s use of restrictive procedures decreased from 129 restrictive procedures in 2016-17 to 16 restrictive procedures in 2017-18. This education district set a goal to create a culture change within its member districts transitioning students to and from setting four programming, so it has been outreaching to member districts to train them on de-escalation techniques as well.
 - c. Nurtured Heart Approach: Education District C stated it has seen growth in proactive behavior management. In turn, two of its buildings had great success in reducing the use of restrictive procedures, with one building seeing a 20 percent reduction and another seeing an almost 60 percent reduction in the use of restrictive procedures over the grant period.
 - (ii) Change in Academic Instruction, Environment or class scheduling:
 - a. Special Education Cooperative A saw great success in implementing a change in scheduling 90 minutes at the end of the day in which students who used to be lying in the hallways were now engaged in project-based learning and would make bridges, art shows, science fairs, etc., which in turn decreased emergency situations that tend to happen at the end of the school day.
 - b. Strategies for Teaching based on Autism Research (STAR) in Special Education Cooperative B- this curriculum saw two students go from non-verbal (less than five words) to using over 300 words and are no longer being considered for assistive technology devices.
2. Common keys to improvement were ongoing training and additional weekly/monthly/quarterly
- (i) Common keys to improvement:
 - a. Ongoing training and
 - b. Additional weekly/monthly/quarterly meeting time for staff to ensure consistent implementation and to share what works and does not work.
 - (ii) Barriers to Success:
 - a. Inconsistent data reporting,
 - b. Staff turnover, and
 - c. Staff capacity (e.g., not enough time to take on mentorship roles, need for additional time to foster their newly-learned skills as a result of staff development trainings).

- d. For districts that had an increase in the use of restrictive procedures; they are regularly reporting that they have a particular difficult student or two accounting for that increase. Districts are commonly reporting that the overall number of students involved in the use of a restrictive procedure has decreased.
- (iii) Grantees' Feedback
 - a. Increase in calling ambulance/decrease in calls to law enforcement. Districts realizing it is a mental health issue as opposed to behavioral issue (Intermediate District A)
 - b. Student Safety Coach (SSC) instead of using someone in uniform who's clearly law enforcement. Use someone more relatable, not in uniform (Intermediate District A)
 - c. Shadow Model. One district shadowed another district to see how those programs worked to inform their programming.
- 3. Data trends
 - (i) Successful Transitions: Several Districts are reporting an increase in successful transitions to home districts.
 - a. Education District D had only one complete and one part-day transition in 2015-16, and one complete and three part-day transitions in 2016-17. However, after receiving the staff development funding, it had four complete transitions by December of the 2017-18 school year.
 - b. Education District E saw a nearly 20 percent increase in successful transitions to home districts over three years: 2015-16 – seven out of 56 students transitioned; 2016-17 – seven of 51 students transitioned; and 2017-18 – 17 of 54 students transitioned.

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.

Strategy 1 Update: The seclusion data reporting form was updated and made available for districts' submissions for the first quarter of the 2018-19 school year. Based upon feedback from the stakeholder group, a use of seclusion lasting less than one minute can now be reported with the specific duration. The document also includes more automated features to reduce manual entry for the user and improved tracking of emergency incidents and uses.

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, 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.

Goal 2, Strategy 2 and 3 Update: MDE has provided on-site 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 Staff Development Grants for Intermediate School Districts and Other Cooperative Units. MDE conducted this training during the 2017-18 school year 12 times throughout the state of Minnesota, and during the special education boot camp and restrictive procedures administrators training to over 600 individuals. In addition, during the fall of 2018, the school district with the largest student enrollment in the state, recognizing the need for additional training to reduce its use of restrictive procedures, requested that MDE provide training to all of its paraprofessionals. That training took place over multiple days and MDE trained over 600 paraprofessionals.

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. 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.
6. The workgroup will develop a framework for a teacher exchange program to assist in working toward the elimination of seclusion, and identifying disproportionalities 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 2, Strategies 4 through 7 Update: This group of strategies was developed based upon the work of the Workgroup's prior subgroups.

Bootcamp Training: During the 2017-18 school year, Sara K. Wolf from MDE's Division of Compliance and Assistance, along with interested restrictive procedures workgroup stakeholders, developed the agenda for the second "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 Friday, August 24, 2018, with 140 in attendance. The topics included how to get the most out of individualized education program (IEP) team meetings, restrictive procedures training, student maltreatment training, behavior basis and applications of positive behavior supports to classroom management, and mental health and trauma informed care. Presenters included, Maren Hulden J.D. and Dan Stewart J.D. from the Disability Law Center, Erin Farrell, who is the MDE autism specialist and certified behavior analyst, and Sue Abderholden, executive director of the National Association of Mental Illness Minnesota.

Resources and Teacher Exchange Program: MDE developed and maintains the Restrictive Procedure Workgroup webpage. During the fall of 2018, the 2018 Workgroup identified resources, such as enrollment data broken out by special education and race/ethnicity, which would be helpful to have as stand-alone documents. The MDE networking template continues to be posted on the MDE's restrictive procedures webpage. However, MDE has not received networking requests. During the 2017-18 school year, many districts reported to MDE that they were directly networking with other districts and visiting each other's programs to see what works well and to get new ideas to use in their own programs. During

the 2018-19 school year, the Workgroup agreed this strategy was no longer needed and should be removed from the 2018 statewide plan.

Data: During the 2017-18 school year, due to staffing changes, there were some changes in the quarterly seclusion data presentation template. MDE continues to seek feedback from the 2018 Workgroup on the type of data they wish shared. In September 2018, the MDE Division of Compliance hired a data analyst who has sought feedback during the 2018-19 meetings held to date.

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:

1. 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.
2. 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.
3. Designate and facilitate access to those services and settings across service systems, including finding existing funding, and if it is not available, funding these services and settings.

Goal 3 Update: No funds were allocated for the activities in Goal 3 and no work activities occurred.

Goals recommended by the 2018 Restrictive Procedures Stakeholders

Goal 1: Continue Current Goal with Dates Changed

By February 1, 2020, 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: Continue Current Goal with Dates Changed

The 2018 Workgroup recommended that Goal 2 continue, with updated dates. The only change was to delete the networking strategy.

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, 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 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 on-site 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 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.

The Restrictive Procedures Stakeholders Workgroup recommends and supports these goals and actions as a set:

1. (New Goal 3): Reduce seclusion statewide by 10 percent by the end of the 2020 school year: Ten (10) percent reduction in number of students experiencing seclusion and 10 percent reduction in the number of uses of seclusion. The Workgroup will reevaluate the goal using data from SY18-19, data from the final work plan summaries for the FY18 staff development grants for intermediate districts and special education cooperatives with instructional setting four programs, lessons from the pilot initiatives described below, and research/analysis conducted as part of workgroup or subgroup activities.
2. (New Goal 4): MDE will partner with one or two districts to pilot the Improvement Tree approaches for federal instructional levels one through three and level four settings. MDE will identify potential partner districts by reviewing data on use of seclusion. [Note: the Improvement Tree approaches were developed in consultation with the Workgroup in 2018. MDE shared copies at the January 4, 2019, Workgroup meeting and will send electronic versions to the Workgroup. Changes/additions will include: clarification that “staff” includes all district staff (including bus drivers, custodians, lunchroom staff, paraprofessionals, teachers, and administrators); a section on parent education (to include participation of advocacy groups); and inclusion of disproportionality as an area of analysis.]
3. (New Goal 5): The Workgroup will actively support:
 - a. funding for staff development grants.
 - b. expansion of mental health services.
 - c. additional funding for technical assistance.
4. The Workgroup will establish and participate in subgroups to work on these three specific areas in 2019: data/research, resources, and training.
5. The Workgroup endorses MDE’s ongoing efforts to obtain consistent data from districts, including MDE’s efforts to obtain quarterly seclusion reports from each district/LEA (even if there are none to report).

VII. Recommendations

Support Stakeholder-Driven Changes to Statute and Funding Request

The 2018 Workgroup does not recommend any amendments to Minnesota Statutes, sections 125A.0941 or 125A.0942.

As set forth in Section VI above, both district and advocates reached consensus on the need for both a specific target to reduce the use of seclusions and need for additional funding for staff development grants and

enhanced mental health spending to address the complex needs for the 2.5 percent²⁰ of students with disabilities who are experiencing the use of restrictive procedures, and specifically the use of seclusion. Students with complex needs experience multiple uses of physical holds and multiple of uses of seclusion. The staff development grants are needed in order for districts and cooperatives to increase staff capacity in developing tools, related to changes in adult behavior, environmental considerations, increased student engagement in instruction and positive relationships with staff, positive behavioral supports and increased job retentions through increased job satisfaction and fewer staff injuries. And, as part of the 2018 statewide plan, the 2018 Workgroup recommends that the Legislature appropriate additional funding for staff development grants. The 2016 4.5 million dollar appropriation provided full funding for FY17 and FY18. The FY19 grants were reduced by approximately 40 percent to reflect the remaining funds available from the appropriation. The FY17 grantees' work plan activities and outcomes demonstrated that the additional funding made a positive difference for many of the grantees. (See Staff Development Grants Update on [Page 51](#)). However, without additional funding, those grantees will not be able to continue the level of current and necessary professional development to maintain the workplan activities. The continued staff development funds for intermediate districts and special education cooperatives is necessary to enable them to make school program/improvement efforts with fidelity in order to reach the desired outcome of a reduction of restrictive procedures, and specifically seclusion. The funds are being used for continual training of staff and resources to provide consultative services to their member districts. The Workgroup recommendations also include expansion of mental health services and technical assistance funding.

Goal 4 of the 2018 Statewide Plan will allow MDE to gather additional data from its partner districts on the specific needs of districts using restrictive procedures, specifically seclusion, and help to identify appropriate evidence-based practices tailored to their specific needs. Data from this goal will help inform the Workgroup on any additional needed recommendations.

The intended result is that the recommendations, as summarized in the 2018 Statewide Plan, will move the state forward toward the reduction of all restrictive procedures; specifically, the elimination of seclusion in the school setting.

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 2018 Workgroup acknowledge that it is still unclear if we have consistent enough reporting to establish a true baseline. With the addition of a data analyst to assist in reviewing the restrictive procedures data, working with the data subgroup of the Workgroup, and partnership within one or two districts to assist with

²⁰ The percentage is based upon the special education child count totals for the 2017-18 school year. For the 2017-18 school year, 2.4 percent of students with disabilities experienced the use of physical holding, and .06 percent experienced the use of seclusion. The total of those percentages is greater than the total percentage of 2.5 percent as there is duplication of students who experienced the use of both physical holding and seclusion.

improvement activities including data fidelity, we will continue to move toward improving the quality of the data submission. 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 in the school setting. While there was an increase in the use of physical holds, there was a reduction in the number of students and uses of seclusion when comparing the 2016-17 and 2017-18 seclusion data. Please note that the number of students receiving special education services during the 2017-18 school year was 3.4 percent higher than the prior school year.²¹

²¹ When comparing the 2016-17 and 2017-18 physical holds and seclusion data, the uses of physical holds increased by 9.8 percent and the number of students experiencing the use of restrictive procedures increased by 2.4 percent. However, the uses of seclusion decreased by 11.6 percent and the number of students being secluded decreased by 15.1 percent.

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 ²²	<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>
AK ²³	<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>

²² Ala. Admin. Code r. 290-3-1-.02(1)(f)1.(v).

²³ Alaska Stat. § 14.33.125(a)(1); (b)(1)-(5); (g)(5).

AZ ²⁴	<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"> 1. The pupil's behavior presents an imminent danger of bodily harm to the pupil or others. 2. Less restrictive interventions appear insufficient to mitigate the imminent danger of bodily harm.” <p>If a seclusion technique is used on a pupil:</p> <p>“1. School personnel shall maintain continuous visual observation and monitoring of the pupil while the ... seclusion technique is in use.</p> <p>2. The ... seclusion technique shall end when the pupil’s behavior no longer presents an immediate danger to the pupil or others.</p> <p>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. ...”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a pupil alone in a room from which egress is prevented. Seclusion does not include the use of a voluntary behavior management technique, including a timeout location, as part of a pupil's education plan, individual safety plan, behavioral plan or individualized education program that involves the pupil's separation from a larger group for purposes of calming.”</p>
AR ²⁵	<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>

²⁴ Ariz. Rev. Stat. § 15-105 A.; B.1.-3.; G.3.

²⁵ Ark. Code R. §§ 005.18.20-20.01; 20.03; 20.04.

CA ²⁶	<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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²⁶ Cal. Educ. Code §§ 56521.1; 56521.2; Cal. Health & Safety Code § 1180.1(e).

CO ²⁷	<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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²⁷ 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)(e) (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

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

(vi) Student is reasonable monitored to ensure the student's physical safety.

...

(2)(d) 'Seclusion'

(i) Relief periods from seclusion shall be provided for reasonable access to toilet facilities; and

(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>CT²⁸</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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²⁸ Conn. Gen. Stat. §§ 10-236b(a)(5), (d), (f), (i), (m); 46a-150(7); 46a-152(b); 10-76b-a; [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).

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:

“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.”

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.”

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. . . .”

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 . . .”

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.”

DE ²⁹	<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 ³⁰	<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 ³¹	<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>
GA ³²	<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 ³³	<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>

²⁹ Del. Code Ann. tit. 14, § 4112F; 14 Del. Admin. Code § 610 2.0.

³⁰ D.C. Pub. Sch., Guidelines for Physical Restraint and Seclusion (Aug. 2011).

³¹ 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).

³² Ga. Comp. R. & Regs. 160-5-1-.35.

³³ Haw. Rev. Stat. §§ 302A-1141.3 to 302A.1141.4.

ID ³⁴	No laws or guidance on seclusion.
IL ³⁵	<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>

³⁴ 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.

³⁵ III. Admin. Code tit. 23, § 1.285(a); (e); (f)(4).

IN ³⁶	<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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³⁶ Ind. Code. §§ 20-20-40-9; 20-20-40-13(2)(E), (2)(F); 513 Ind. Admin. Code 1-2-4, 1-2-19, 1-1-19, 1-2-4, 1-2-11.

IA ³⁷	<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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³⁷ Iowa Admin. Code r. 281-103.6; 281-103.7.

<p>KS³⁸</p>	<p>Seclusion is permitted and defined as:</p> <p>“placement of a student in a location where all the following conditions are met:</p> <p>(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>
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³⁸ Kan. Stat. Ann. §§ 72-6152(g), 72-6153 (a)-(e); Kan. Admin. Regs. § 91-42-1(g), (p); 91-42-2(a)-(f).

<p>KY³⁹</p>	<p>“Section 4. (1) Seclusion shall not be used in a public school or educational program:</p> <ul style="list-style-type: none"> (a) As punishment or discipline; (b) To force compliance or to retaliate; (c) As a substitute for appropriate educational or behavioral support; (d) To prevent property damage in the absence of imminent danger of physical harm to self or others; (e) As a routine school safety measure; (f) As a convenience for staff; or (g) As a substitute for timeout. <p>(2) Seclusion may only be implemented in a public school or educational program if:</p> <ul style="list-style-type: none"> (a) The student’s behavior poses an imminent danger of physical harm to self or others; (b) The student is visually monitored for the duration of the seclusion; (c) Less restrictive interventions have been ineffective in stopping the imminent danger of physical harm to self or others; and (d) School personnel implementing the seclusion are appropriately trained to use seclusion. <p>(3) The use of seclusion shall end as soon as:</p> <ul style="list-style-type: none"> (a) The student’s behavior no longer poses an imminent danger of physical harm to self or others; or (b) A medical condition occurs putting the student at risk of harm. <p>(3) A setting used for seclusion shall:</p> <ul style="list-style-type: none"> (a) Be free of objects and fixtures with which a student could inflict physical harm to self or others; or (b) Provide school personnel a view of the student at all times; (c) Provide adequate lighting and ventilation; (d) Be reviewed by district administration to ensure programmatic implementation of guidelines and data related to its use; (e) Have an unlocked and unobstructed door; and
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³⁹ 704 Ky. Admin. Regs. 7:160, sec. 1(15), 4.

(f) Have at least an annual fire and safety inspection.”

Seclusion is defined as:

“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>LA⁴⁰</p>	<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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⁴⁰ 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 a doption 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).

	<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>
<p>ME⁴¹</p>	<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>

⁴¹ 05-071-33 Me. Code R. §§ 2(19); 5.

MD ⁴²	<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"> 1. The types of doors and locking mechanisms that may be used; 2. The safety of the rooms used for seclusion; 3. The requirements for observation of the rooms used for seclusion; 4. The period of time for the use of seclusion; and 5. The requirements for the discontinuation of seclusion; and <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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⁴² Md. Code Regs. 13A.08.04.02 (17); 13A.08.04.03; 13A.08.04.05; Md. Code Ann., Education §§ 7-1101(f); 7-1102.

- (1) After less restrictive or alternative approaches have been considered, and;
 - (a) Attempted; or
 - (b) Determined to be inappropriate;
- (2) In a humane, safe, and effective manner;
- (3) Without intent to harm or create undue discomfort; and
- (4) Consistent with known medical or psychological limitations and the student’s behavioral intervention plan.”

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 . . .”

Finally, regulations require:

- “(5) A seclusion event:
 - (a) Shall be appropriate to the student’s development level and severity of the behavior;
 - (b) May not restrict the student’s ability to communicate distress; and
 - (c) May not exceed 30 minutes.”

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>MA⁴³</p>	<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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⁴³ 603 Mass. Code Regs. 46.02; 46.03.

<p>MI⁴⁴</p>	<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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⁴⁴ Mich. Stat. §§ 380.1307; 380.1307a; 380.1307b(d); 380.1307c; 380.1307e; 380.1307h(e). *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.

(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.

(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.

(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.

(E) A description of possible discomforts or risks.

(F) Answers to any questions.

(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.

(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 . . .”

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. . . .”

MN ⁴⁵	<p>“[S]eclusion may be used only in an emergency. A school that uses . . . seclusion shall meet the following requirements:</p> <ul style="list-style-type: none"> (1) . . . seclusion is the least intrusive intervention that effectively responds to the emergency; (2) . . . seclusion is not used to discipline a noncompliant child; (3) . . . seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity; (4) staff directly observes the child while . . . seclusion is being used . . .” <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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⁴⁵ Minn. Stat. §§ 125A.094-125A.0942

MS ⁴⁶	<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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⁴⁶ Miss. Code R. § 7-3:38.13(2), (3)(s), (4), (5)(a); Miss. Dep’t of Educ., 4013 Restraint and Seclusion Policy.

MO ⁴⁷	<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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⁴⁷ Mo. Rev. Stat. § 160.263 (1), (2)(1); Mo. Dep’t of Elem. and Sec. Educ., Model Policy on Sedusion and Restraint, 1-2, 5 (July 2010).

<p>MT⁴⁸</p>	<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"> (i) the student is alone in the isolation room during the period of isolation; (ii) the student is prevented from exiting the isolation room during the period of isolation; (iii) the door to the isolation room remains closed during the period of isolation; and (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. <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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⁴⁸ Mont. Admin. R. 10.16.3346; Mont. Off. of Pub. Instr., Special Education in Montana, 115 (August 2017).

NE ⁴⁹	<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 ⁵⁰	<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>

⁴⁹ 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).

⁵⁰ Nev. Rev. Stat. §§ 388.473, 388.497.

<p>NH⁵¹</p>	<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>
<p>NJ⁵²</p>	<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>

⁵¹ N.H. Rev. Stat. Ann. §§ 126-U:1(V-a); 126-U:5-a; 126-U:5-6; *see also* N.H. Code Admin. R. Ann. ED 1201.01; 1202.1-.03, 1203.01-.03.-.

⁵² N.J. Dep't of Educ., NJOSE Guidance Memo 2012-5 (Sept.18, 2012). During the 217th Legislature, the New Jersey House and Senate introduced a bill addressing the use of seclusion, which stalled in committee. S.B. 1163, 217th Leg., 1st Annual Sess. (N.J. 2016); H.B. 503, 217th Leg., 1st Annual Sess. (N.J. 2016).

<p>NM⁵³</p>	<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>
<p>NY⁵⁴</p>	<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>

⁵³ N.M. Stat. Ann. § 22-5-4.12.

⁵⁴ N.Y. Comp. Codes R. & Regs., tit. 8, § 200.22(c).

NC ⁵⁵	<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"> a. As reasonably needed to respond to a person in control of a weapon or other dangerous object. b. As reasonably needed to maintain order or prevent or break up a fight. c. As reasonably needed for self-defense. 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. e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and <ol style="list-style-type: none"> 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. 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. 3. The space in which the student is confined has been approved for such use by the local education agency. 4. The space is appropriately lighted. 5. The space is appropriately ventilated and heated or cooled. 6. The space is free of objects that unreasonably expose the student or others to harm.” <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"> a. Physically prevented from leaving by locking hardware or other means. b. Not capable of leaving due to physical or intellectual incapacity.”
ND ⁵⁶	No laws or guidance on seclusion in school settings, although a study was commissioned.

⁵⁵ N.C. Gen. Stat. § 115C-391.1(b)(10), (e).

⁵⁶ N.D. Leg. Council, Use of Restraint and Seclusion Procedures in Schools (Sept. 2015). During the 65th 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).

OH ⁵⁷	<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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⁵⁷ Ohio Admin. Code 3301-35-15(A)(10), ; Ohio Rev. Code Ann. § 3319.46. During the 132nd Legislative General Assembly, a Senate Bill was introduced that would prohibit the use of seclusion on students. S.B. 104, 132nd Leg. (Ohio 2017). That bill was last referred to the Education Committee on April 5, 2017.

OK ⁵⁸	<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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⁵⁸ 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 56th 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.

OR ⁵⁹	<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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⁵⁹ 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 sedusion rooms).

PA ⁶⁰	<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 ⁶¹	<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>

⁶⁰ 22 Pa. Code § 14.133(b), (e)(3).

⁶¹ R.I. Code R. 21-2-39:3.0, 21-2-39:6.0

<p>SC⁶²</p>	<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"> • 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. • Seclusion should never be used as punishment, to force compliance, or as a substitute for appropriate educational support. • Seclusion should only be used to control behavior when less restrictive measures have not effectively de-escalated the risk of injury. • Seclusion should never be used as a response to property destruction. • 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. • Use of a locked door on a seclusion room is prohibited. • Seclusion should last only as long as necessary to resolve the actual risk of harm. • While in seclusion, the student must be observed by staff both visually and audibly during all times. • Students must be permitted to go to the restroom and drink water if requested during seclusion. • School personnel must be prepared to act immediately should the student exhibit any signs of medical distress.” <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>
<p>SD⁶³</p>	<p>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.</p>

⁶² S.C. Dep't of Educ., Guidelines on the Use of Seclusion and Restraint (Aug. 20, 2012) (emphasis omitted).

⁶³ 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).

<p>TN⁶⁴</p>	<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"> (1) Unlocked and incapable of being locked; (2) Free of any condition that could be a danger to the student; (3) Well ventilated and temperature controlled; (4) Sufficiently lighted for the comfort and well-being of the student; (5) Where school personnel are in continuous direct visual contact with the student at all times; (6) At least forty square feet (40 sq. ft.); and (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>
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⁶⁴ 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 ⁶⁵	<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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⁶⁵ Tex. Educ. Code Ann. § 37.0021; 19 Tex. Admin. Code § 89.1053(g).

	<p>(3) Use of time-out must not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student’s IEP.”</p>
<p>UT⁶⁶</p>	<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"> (a) use the minimum time necessary to ensure safety; (b) use a release criteria as outlined in LEA policies; (c) ensure that any door remains unlocked; [and] (d) maintain the student within line of sight of the public education employee[.] . . .” <p>“‘Seclusionary time out’ means that a student is:</p> <ul style="list-style-type: none"> (a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4-3; (b) purposefully isolated from adults and peers; and (c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.”

⁶⁶ Utah Admin. Code r. 277-609

VT ⁶⁷	<p>“[S]eclusion shall not be used:</p> <ul style="list-style-type: none"> a. For convenience of staff; b. As a substitute for an educational program; c. As a form of discipline or punishment; d. As a substitute for inadequate staffing or training; e. In response to a student's use of profanity or other verbal or gestural display of disrespect; or f. In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.” <p>“Seclusion, not otherwise prohibited by these rules, may be used only:</p> <ul style="list-style-type: none"> a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others; b. When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury; c. As a temporary intervention; d. When physical restraint is contraindicated; e. When there is no known developmental, medical, psychological or other contraindication to its use; f. When the student is visually monitored at all times by an adult; and 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.” <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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⁶⁷ VT Admin. Code 7-1-12:4500.3; 4501.2; 4502.2; 22-000-036 Vt. Code R. §§ 4500.3; 4501.2; 4502.2; Vt. Stat. Ann. § 1167(a)

VA ⁶⁸	<p>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.</p>
WA ⁶⁹	<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>

⁶⁸ 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).

⁶⁹ Wash. Rev. Code §§ 28A.600.485.

WV ⁷⁰	<p>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.”</p>
WI ⁷¹	<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>

⁷⁰ W.V. Code R. § 126-99-3 (Policy 4373); W.V. Code § 18a-5-1(e).

⁷¹ Wis. Stat. § 118.305.

<p>WY⁷²</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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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.”

“‘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.

(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.

(ii) ‘Isolation Room’ means placing the student in an enclosed room built in compliance with all relevant health and safety codes.”

“‘Imminent Risk’ means an immediate and impending threat of a person causing substantial physical injury to self or others.”

⁷² WY R. Regs. 206.0002.42 §§ 1-7.