



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

Fiscal Year 2016

Report

To the

Legislature

As required by

Minnesota Statutes,

section 125A.0942

COMMISSIONER:

Brenda Cassellius, Ed. D.

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Reducing the Use of Restrictive
Procedures in Minnesota Schools**

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Report to the Legislature

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section

125A.0942

Cost of Report Preparation

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

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INTRODUCTION

Beginning with the enactment of the “Restrictive Procedures Act” in 2011, and subsequent statutory revisions, the Minnesota Legislature tasked the Minnesota Department of Education (MDE) with developing a statewide plan “with specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.”¹ As set forth in the legislation, the statewide plan includes the following components:

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

In addition, the legislation required districts and charter schools to submit data related to prone restraint incidents beginning August 1, 2011. On February 1, 2012, MDE submitted its first legislative report, which analyzed prone restraint data for a five month period and made recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraint. Since the fall of 2012, MDE has annually convened the restrictive procedures work group to develop a statewide plan, and has submitted annual reports to the Legislature providing summary data of prone restraint and restrictive procedures along with its progress and recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraint. Prior statewide plans and a summary of progress toward the goals in those plans can be found in Appendix A and C of this report.

Status of Prone Restraint in the School Setting

Due in large part to the efforts and recommendations of MDE and the restrictive procedures stakeholders, the use of prone restraint was significantly reduced during the 2014-15 school year and has now been eliminated in the school setting. This was achieved through implementation of the statewide plan, which was supported by a legislative appropriation. School districts report a continued struggle to meet the needs of students with disabilities who exhibit aggressive or self-injurious behavior, which is addressed in this year’s statewide plan and recommendations.

Minnesota’s Olmstead Plan

On September 29, 2015, the State of Minnesota’s Olmstead Plan was approved by the Federal District Court (Approved Olmstead Plan).² The Approved Olmstead Plan addresses meeting the needs of persons with disabilities in the most integrated settings. As part of the Approved Olmstead Plan, MDE is responsible for two positive support goals which address reducing the number of restrictive procedures incidents and the number of students experiencing the use of

¹ Minn. Stat. § 125A.0942, subd. 3(b).

² Approved Olmstead Plan can be found at the DHS website: http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc_home. (last visited Jan 25, 2016).

restrictive procedures in the public school setting over the time period of June 30, 2015, to June 30, 2017. These goals align with the work of the restrictive procedures stakeholder group. In addition, under the Court Approved Olmstead Work Plan, MDE is responsible to convene the restrictive procedures stakeholder group to make progress toward reducing all restrictive procedures, specifically toward the elimination of seclusion in the school setting.³

2015-16 Restrictive Procedure Stakeholder's Charge

The 2015-16 restrictive procedures stakeholder group operated under the legislative mandate and the mandate from the Approved Olmstead Plan and associated work plan to develop goals for a statewide plan that would significantly reduce the use of restrictive procedures and work toward the elimination of seclusion in the school setting. The summary data in this report was shared with the 2015 Stakeholder Group in the fall of 2015. We commend the reporting school districts for their commitment and candor in their submission of the required data to MDE. As was true for the 2013-14 school year, all public school districts and charter schools reported to MDE whether or not they used restrictive procedures during that school year.⁴ That data helped to inform the stakeholder's work.

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

2014-15 Stakeholder Work Group

MDE reconvened the restrictive procedures work group (2014 Stakeholder Group) during the 2014-15 school year as charged by the Legislature. This group continued to be tasked with developing a statewide plan with "specific and measurable implementation and outcome goals for reducing the use of restrictive procedures..."⁵ The 2014 Stakeholder Group included representation from the following legislatively mandated participants:

- advocacy organizations,
- special education directors, teachers,
- paraprofessionals,
- intermediate school districts,
- school boards,
- day treatment providers,
- state human services department staff,
- mental health professionals, and
- autism experts.⁶

³ Details of the Olmstead Plan process and the work plan can be found in a later section of the report entitled "History of Restraint in DHS Facilities."

⁴ For the 2012-13 school year, MDE received responses from all but one traditional school district and five charter schools.

⁵ Minn. Stat. § 125A.0942, subd. 3(b) (2014).

⁶ *Id.*

The 2014 Stakeholder Group met in September 2014 to review the restrictive procedures data from the annual summary report for the 2013-14 school year and the prone restraint data for the quarter ending June 30, 2014. The 2014 Stakeholder Group met quarterly through July 2015 to review the prone restraint data.

The statewide plan generated by the 2014 Stakeholder Group contained nine goals and proposed amendments to Minnesota Statutes, section 125A.0942. The 2014 Stakeholder Group requested \$250,000 in appropriation funds targeted for use with students with disabilities experiencing the highest frequency of restrictive procedures, specifically prone restraint. During the 2015 legislative session, the House proposed a \$750,000 appropriation and the Senate proposed a \$100,000 appropriation to assist school districts in building capacity to reduce the use of restrictive procedures in the school setting. However, funding was not included in the final education bill.

Summary of Progress toward Implementing the 2014 Statewide Plan

Highlights of progress made toward implementation of the 2014 statewide plan goals are:

- MDE awarded six grants to districts who were using prone restraint and had students with disabilities experiencing the highest frequency of restrictive procedures; specifically prone restraint. During the summer of 2015, the time period was amended to June 30, 2016, to enable the districts to complete the activities in their work plans. The following is a summary of work that has been completed:
 - More consistent definitions for reporting across school teams within a district. Crisis Prevention Institute (CPI) trainers facilitated peer coaching outside of the regular school day to help teams develop strategies to help students. While helpful, the district reports issues related to cost and time for staff to stay for an extended day.
 - Outside consultants hired to help develop positive strategies and develop effective sensory supports within the school setting. The outside consultant then re-observed and further refinements were made. Some positive changes included providing students with autism spectrum disorders (ASD) small choices to give them some control, increased the space for students, and purchasing a new curriculum.
 - Review and revision of all teacher integrated proactive management plans, hired a district-wide mental health specialist that worked with 24 students and families, and hired a psychiatric consultant. In addition, the district implemented and conducted Positive Behavioral Intervention and Supports (PBIS) staff training.
 - Private crisis service interventions purchased to refine improvement in all student behaviors. Continued barriers are parental refusal of treatment options or inability to pay.
- MDE approved a Request for Proposal (RFP) application for the development of three online training modules that walked through evidence-based practices for positive supports for use with students with disabilities with aggressive or self-injurious behaviors. The modules were completed by June 30, 2015, and posted on the MDE website on September 1, 2015. Supplementary materials for classroom teachers and other personnel are also posted on the website. Teachers can obtain continuing education credit for viewing the online modules. MDE informed the special education directors of the training through the state list service as well as at MDE's September 2015 Special Education Directors' Forum.

- From January 26 through December 31, 2015, MDE conducted five trainings onsite at individual districts. Approximately 85 district staff attended. In addition, MDE staff created a poster session for the May 2015 Special Education Directors' Forum and informed special education administrators about the training. In addition, MDE staff presented the restrictive procedures training at a break-out session at the September 2015 Special Education Directors' Forum. Special Education administrators could also view the training online.
- MDE has continued to coordinate the school-wide PBIS trainings across the state and is on track to add 40 additional schools by June 30, 2015, and each subsequent year. At this time, 26.5 percent of all public schools in Minnesota have completed the PBIS training. This is in accordance with goal number six of the 2014 Work Plan and a similar goal in the Approved Olmstead Plan.
- MDE and the Minnesota Department of Human Services (DHS) continue to collaborate through ongoing cross-agency work groups as set forth in goal number two, which is also aligned with the Olmstead Plan approved on September 15, 2015.
- MDE added links to DHS resources on its website.

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

2015-16 Stakeholder Work Group

MDE reconvened the restrictive procedures work group (2015 Stakeholder Group) during the 2015-16 school year. The 2015-16 stakeholder group operated under the current legislative mandate to develop a statewide plan with specific measurable implementation and outcome goals to reduce restrictive procedures and eliminate prone restraint.⁷ In addition, the 2015 Stakeholder Group was charged with aligning its work with the Approved Olmstead Plan and associated work plan strategies and activities to significantly reduce the use of restrictive procedures and eliminate the use of seclusion in the school setting. Based upon negotiations between various parties through the assigned federal court magistrate, an agreement was reached that MDE would use the stakeholder group process to work toward the elimination of seclusion in the school setting. Accordingly, the 2015 Stakeholder Group was charged with the “how” of reducing all restrictive procedures in the school setting, and specifically, moving toward the elimination of the use of seclusion.

The 2015 Stakeholder Group met three times—in October, December, and January—to review the work plan and make recommendations for revisions and legislative recommendations. The statewide plan generated by the 2015 Stakeholder Group contains three goals with attendant objectives and proposed amendments to Minnesota Statutes, section 125A.0942. In addition, the 2015 Stakeholder Group requests a legislative appropriation to enable the stakeholders, along with MDE and DHS, to implement the goals in the statewide plan. The current statewide plan in Appendix A reflects the consensus among the 2015 Stakeholder Group.

⁷ Prone restraint had been eliminated in the school setting at the time the 2015 Stakeholder Group met in the fall of 2015.

Summary of the Decreased Use of Restrictive Procedures in Minnesota Schools

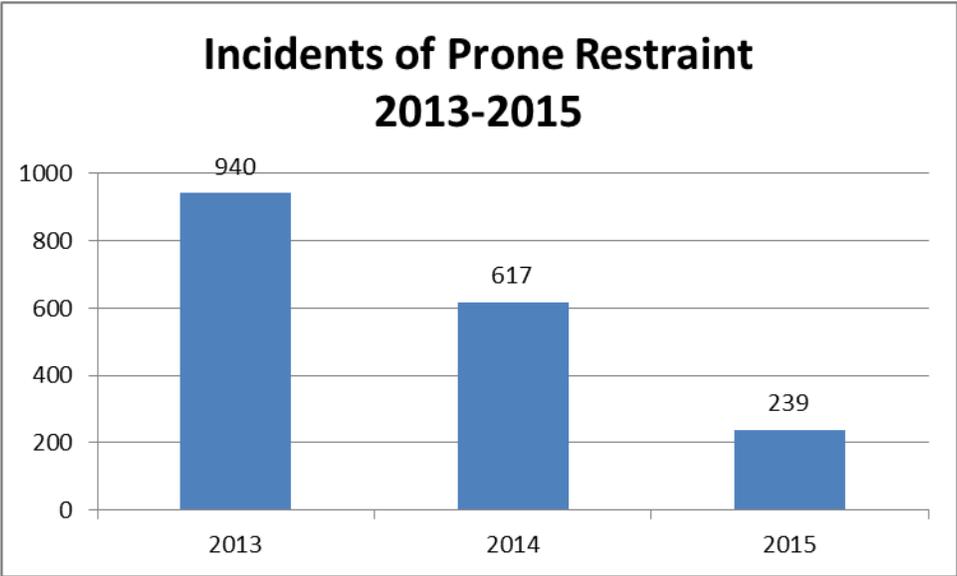
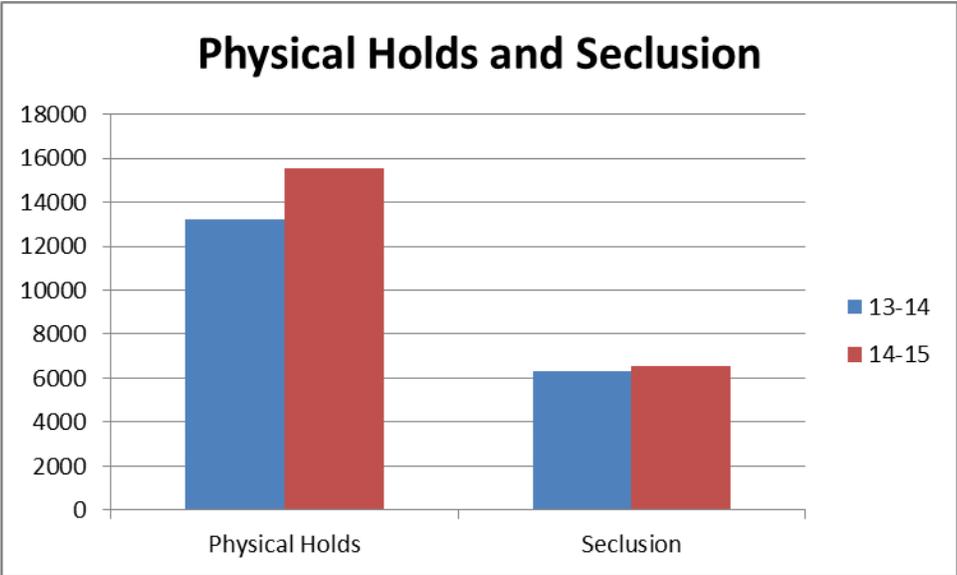
Based upon the data school districts submitted to MDE over the last three reporting periods, there has been an overall decrease in the number of prone restraint incidents, the number of restrictive procedures incidents, and the number of students experiencing the use of restrictive procedures. However, when comparing the data from the last two reporting periods⁸, there has been, an increase in the use of restrictive procedures during the 2014-15 school year, a continued reduction in the use of prone restraint during the 2015 calendar year, and a slight increase in the use of seclusion.

During the October 2015 stakeholder meeting, administrators from multiple districts reported that more consistent reporting of restrictive procedures incidents during the 2014-15 school year resulted in an increase in the number of reported incidents. This occurred through both trainings conducted by districts as well as MDE trainings. Some stakeholders reported at the 2015-16 stakeholder meetings that the reported number of incidents and number of students for the 2014-15 school year better reflected the actual baseline from which to measure the reduction of restrictive procedures. In addition, the total number of special education students also increased during the 2014-15 school year as reported by districts. Accordingly, there was no change in the percentage of students who experienced the use of restrictive procedures during the 2014-15 school year. The following is how the restrictive procedures data changed between the 2013-14 and 2014-15 school years:

- 61 percent fewer incidents of prone restraint reported
- 65 percent fewer students with disabilities who experienced the use of prone restraint
- 38 percent fewer districts reported the use of prone restraint⁹
- 71 percent fewer Black students with disabilities experienced the use of prone restraint
- 68 percent fewer White students with disabilities experienced the use of prone restraint
- 17 percent more incidents of physical holding reported
- four percent more incidents of seclusion reported

⁸ The reporting periods for restrictive procedures are 2013-14 and 2014-15. The reporting periods for prone restraint are the 2014 and 2015 calendar years.

⁹ Because prone restraint ended as of August 1, 2015, the following is a comparison between the 2013-14 and 2014-15 school years: FY 2015: 77 incidents of prone restraint across 377 reports involving 95 students. FY 2014: 837 incidents of prone restraint across 607 reports involving 159 students.



HISTORY OF RESTRAINT IN MINNESOTA

There is an ongoing debate in Minnesota about the legality, morality, and efficacy of using seclusion¹⁰ or restraint on individuals with disabilities. Some are concerned that these procedures are subject to misapplication and abuse, placing students at equal or greater risk than their problem behavior(s) pose to themselves or others.¹¹

On February 1, 2012, MDE submitted a report to the Minnesota Legislature detailing the results of data on the use of prone restraint from August 1, 2011, through January 13, 2012.¹² MDE made important disclaimers about the quality of the data presented, which included the short reporting window, the lack of information about the use of other non-prone physical holding and seclusion, and inconsistency in reporting forms, along with recommendations for improvements both in data reporting and in clarification regarding the use of restrictive procedures.

During the 2012 legislative session, Minnesota Statutes, sections 125A.0941 and 125A.0942, were amended to include a definition of prone restraint¹³ and a revised definition of physical holding.¹⁴ The statute limited the use of prone restraint to “children age five or older,” but allowed its use until August 1, 2013,¹⁵ and required districts to report the use of prone restraint on an MDE form.¹⁶ Additionally, the Minnesota Legislature tasked MDE with developing a statewide plan “to reduce districts’ use of restrictive procedures.”¹⁷ MDE continued to collect data on prone restraint, gathered restrictive procedures summary data from districts for the 2011-12 school year, and assembled a group of stakeholders to assist MDE with developing a statewide plan.¹⁸

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

During the 2013 legislative session, Minnesota Statutes, sections 125A.0941 and 125A.0942, were amended to provide more content specificity for the oversight committee for a district’s

¹⁰ Minnesota’s restrictive procedures statute defines “seclusion” as “confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.” Minn. Stat. § 125A.0941(g) (2015).

¹¹ U.S. Senate, Health, Education, Labor, and Pensions Committee, *Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficulty to Remedy: A Review of Ten Cases* (Majority Staff Report, issued February 12, 2014), Majority Committee Staff Report. Retrieved from <http://www.help.senate.gov/imo/media/doc/Seclusion%20and%20Restraints%20Final%20Report.pdf> (last visited Jan. 25, 2016).

¹²For information related to the history of restraint in the educational setting prior to 2012, see 2012 and 2013 Legislative Reports, “The Use of Prone Restraint in Minnesota Schools,” available at <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html>.

¹³ Minn. Stat. § 125A.0941(e) (2012).

¹⁴ Minn. Stat. § 125A.0941(c) (2012).

¹⁵ Minn. Stat. § 125A.0942, subd. 3(7) (2012).

¹⁶ Minn. Stat. § 125A.0942, subd. 3(a)(7)(iv). (2012)

¹⁷ Minn. Stat. § 125A.0942, subd. 3(b) (2012).

¹⁸ *Id.*

restrictive procedures plan, clarified requirements for when an individual education program (IEP) team meeting must be held following the use of a restrictive procedure, clarified that restrictive procedures can only be used in an emergency and not for disciplinary reasons, extended the time period for use of prone restraint until August 1, 2015, tasked MDE with developing a statewide plan to reduce the use of restrictive procedures, included paraprofessionals under the training section, added to the training requirements to ensure school staff are aware of school-wide positive behavior strategies used by the school and procedures related to timely reporting of the use of restrictive procedures, and required MDE to develop and maintain a list of experts to help IEP teams reduce the use of restrictive procedures.

In February 2014 and February 2015, MDE submitted reports to the Minnesota Legislature that detailed the results of data collected on the use of prone restraint from January 1, 2013, through December 31, 2014. The reports provided summary data on the use of all reported restrictive procedures in Minnesota during the 2012-13 and 2013-14 school years and also provided MDE's progress and recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraint.

The 2015 Stakeholder Group recommended that the Minnesota Legislature amend Minnesota Statutes, section 125A.0942, to make prone restraint a prohibited procedure effective August 1, 2015. This recommendation aligns with the Minnesota Olmstead Plan. The Legislature did not make any changes to those provisions and accordingly, the sunset date for prone restraint occurred and prone restraint is no longer allowed to be used in the school setting effective August 1, 2015.

Regulation of Restraint in DHS Facilities

In 2011, DHS entered into a settlement agreement, enforced by the federal court in Minnesota, regarding the inappropriate use of aversive and deprivation procedures, including the improper use of seclusion and restraint techniques. As part of the 2011 "METO Settlement,"¹⁹ DHS undertook a rulemaking process to amend Minnesota Rules, Parts 9525.2700 to 9525.2810 (commonly referred to as "Rule 40"), to reflect best practices regarding the use of aversive and deprivation procedures in facilities that serve persons with developmental disabilities, including through the use of positive behavioral approaches and the elimination of particular restraint practices.

The Rule 40 Advisory Committee issued its final version of "Recommendations on Best Practices and Modernization of Rule 40" on July 2, 2013. To support the recommendations, DHS held Positive Supports Community of Practice meetings online on various training topics.²⁰

¹⁹ METO Settlement, Case 0:09/cv/01775/DWF/FLN, Doc. 104/1, Attachment A, p. 5 (2011). Retrieved from http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&noSaveAs=1&Rendition=Primary&allowInterrupt=1&dDocName=opc_jensenv_pdf (last visited Jan. 25, 2016).

²⁰ Minnesota Department of Human Services Positive Supports Community of Practice website, available at: <http://mn.gov/dhs/partners-and-providers/continuing-care/provider-information/positive-supports/positive-support-cop.jsp> (last visited Jan. 25, 2016).

On December 24, 2014, DHS published proposed rules.²¹ The new rules went into effect on August 31, 2015, and are entitled “Positive Support Strategies and Restrictive Interventions.”²²

As part of the 2011 Jensen stipulated class action settlement²³, the State of Minnesota agreed to develop an Olmstead Plan to move the state forward toward greater integration and inclusion for people with disabilities. The initial Olmstead Plan was submitted to Federal District Court (Court) on November 1, 2013.²⁴ On August 10, 2015, the State of Minnesota submitted a second Revised Olmstead Plan that was approved by the Court on September 29, 2015 (Approved Olmstead Plan).²⁵

Approved Olmstead Plan

As part of the Approved Olmstead Plan, MDE is responsible for Positive Support Goals four and five, which address reducing the number of incidents and the number of students experiencing the use of restrictive procedures in the public school setting over the time period of June 30, 2015, to June 30, 2017. The two goals state:

Goal 4: By June 30, 2017, the number of students receiving special education services who experience an emergency use of restrictive procedures at school will decrease by 316. (Baseline in 2013-14 school year was 2,740 students.)

Goal 5: By June 30, 2017, the number of incidents of emergency use of restrictive procedures occurring in school will decrease by 2,251. (Baseline in 2013-14 school year was 19,537 incidents.)

MDE also collaborates with DHS on the crisis services goal, strategies, and activities.

2015 Olmstead positive support work plan.

On October 10, 2015, the State of Minnesota submitted proposed Olmstead work plans which were approved by the Court on November 6, 2015. The relevant strategies under the Positive Supports Section are Strategy 2, “Reduce the use of restrictive procedures in working with people with disabilities,” and Strategy 3, “Reduce the use of seclusion in educational settings.”

A number of the activities under the second strategy are aligned with the restrictive procedures statewide plan. Activities include convening the stakeholder group four times per year, and submitting an annual restrictive procedures legislative report that documents progress toward

²¹ Proposed Rules Governing Positive Support Strategies, Person-Centered Planning, Limits on Use of Restrictive Interventions and Emergency Use of Manual Restraint, and Repeal of Rules Governing Aversive and Deprivation Procedures in *Minnesota Rules*, 9525.2700 to 9525.2810; Revisor’s ID No. R-04213.

²² <https://www.revisor.mn.gov/rules/?id=9544> (last visited Jan. 25, 2016).

²³ http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc_searchresults.

²⁴ The State of Minnesota submitted Proposed Plan modifications to the Court, most recently on November 10, 2014 (Revised Olmstead Plan). On January 9, 2015, Justice Donovan Frank provisionally approved the State of Minnesota’s Revised Olmstead Plan, subject to the Court’s review of the State’s modifications in accordance with the Order, which were submitted by the State of Minnesota on March 20, 2015. On May 6, 2015, the Court declined to approve the March 2015 proposed Olmstead Plan as written and ordered that a new Plan be developed.

²⁵ Approved Olmstead Plan can be found at the DHS website: http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc_documents (last visited Jan. 25, 2016).

implementation of the statewide plan and summarizes the statewide restrictive procedures data. Additional activities address MDE training and technical assistance related to evidence-based positive supports and restrictive procedures.

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

- Seek support from the 2015 Stakeholders Workgroup to add reporting requirements by school districts to include seclusion. (With the Restrictive Procedures Stakeholders Workgroup support, seek legislative change to the reporting requirements.) This is to be completed by June 30, 2016.
- Require districts to report individual incident reports of each use of seclusion. This is to be completed by July 1, 2017.
- Share these reports with the 2016 Stakeholders Workgroup for analysis. The 2016 Stakeholders Workgroup will identify areas of concern and develop strategies for eliminating the use of seclusion. The sharing of the reports and development of a work plan is to be completed by January 30, 2017.

Progress toward Implementing the Approved Olmstead Plan Positive Support Goals and the 2015 Work Plan

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

MDE has done the following to meet the activities under Strategy 3. On October 2015, MDE reconvened the 2015 Stakeholders Workgroup, which continued to be tasked with developing a statewide plan with “specific and measurable implementation and outcome goals for reducing the use of restrictive procedures...”²⁶ At the time the 2015 Stakeholders Workgroup met in October 2015, prone restraint was no longer allowed in schools. The 2015 Stakeholders Workgroup was also charged with aligning its work with Minnesota’s Approved Olmstead Plan. Based upon negotiations between various parties through the assigned federal court magistrate, an agreement was reached that MDE would use the stakeholder group process to work toward the elimination of seclusion in the school setting. Accordingly, the 2015 Stakeholders Workgroup was charged with the “how” of reducing all restrictive procedures in the school setting; and specifically, moving toward the elimination of the use of seclusion in the school setting. The 2015 Stakeholders Workgroup met three times—in October, December, and January—to review the statewide plan and make recommendations for revisions and legislative recommendations. As set forth in Appendix A, the 2015 Stakeholders Workgroup reached consensus on legislative changes for submitting a quarterly report of individual uses of seclusion and the number of students involved, beginning with the first quarter of the 2015-16 school year.

²⁶ Minn. Stat. § 125A.0942, subd. 3(b) (2014).

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. With the sunset provision for the use of prone restraint in the school setting, as of August 1, 2015, prone restraint may no longer be used in the school setting.

Federal Developments

On May 12, 2012, the Office of Special Education Programs at the United States Department of Education issued a document entitled “Restraint and Seclusion: Resource Document” (Resource Document).²⁷ 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.

The Keeping All Students Safe Act (H. 1893), legislation aimed at regulating restraint and seclusion on the federal level, was introduced in the United States House of Representatives by Representative George Miller on May 8, 2013, and the bill was referred to the Subcommittee on Early Childhood, Elementary, and Secondary Education.²⁸ That legislation did not move forward and the bill expired.

At a news conference on February 12, 2014, Senator Tom Harkin, Chairman of the Senate Health, Education, Labor, and Pensions (HELP) Committee, released the findings of an investigation into the use of seclusion and restraint. The majority staff report is titled, “Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases.” The report highlighted cases in which restraint was used as a form of punishment or control.²⁹ At the event, Harkin announced the Keeping All Students Safe Act, a bill to ensure the effective implementation of positive behavioral interventions in the education setting. On February 24, 2014, the bill was introduced in the Senate, read twice, and referred to the Committee on HELP.

On February 12, 2015, United States House of Representative Donald Beyer, Jr. introduced to the House the “Keeping all Students Safe Act” On April 29, 2015, it was referred to the Subcommittee on Early Childhood, Elementary, and Secondary Education.

In reviewing the state laws and guidance for the 50 states and the District of Columbia, the vast majority of the states define seclusion as placing a student alone in a room in which egress is

²⁷ OSEP Resource document, found at: <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited on Jan. 25, 2016).

²⁸ U.S. Library of Congress website <http://beta.congress.gov/bill/113th-congress/house-bill/1893>. (last visited Jan. 25, 2016).

²⁹ U. S. Senate, Health, Education, Labor, and Pensions Committee, *Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases*, Majority Committee Staff Report (Feb. 12, 2014), Retrieved at <http://www.help.senate.gov/imo/media/doc/Seclusion%20and%20Restraints%20Final%20Report.pdf> (last visited Jan. 25, 2016).

barred. This definition is consistent with the seclusion definition in the Resource Document.³⁰ One state prohibits the use of locked seclusion, but does not further define whether unlocked seclusion is permissible.³¹ One state prohibits seclusion, but does not define the term.³²

Nineteen states prohibit locked and/or unlocked seclusion in the school setting. Fifteen states prohibit the use of locked seclusion in the education setting.³³ Of those states, Missouri has an exception for an emergency situation while waiting for the arrival of law enforcement. Rhode Island's and Wyoming's prohibition is for a locked room without supervision. Texas' prohibition is limited to a locked room less than 50 square feet. Four states prohibit the use of seclusion in which a student is alone in a room and egress is barred in the school setting.³⁴ An additional 20 states prohibit the use of seclusion except for emergencies, or upon receipt of a waiver from the state department of education. Appendix B contains a citation to and a description of the provisions in place for each state's laws, rules, or policy guidance addressing seclusion in the school setting.

MINNESOTA'S PRONE RESTRAINT DATA

Important Disclaimers Regarding the Data

Reporting Window. School districts have been statutorily required to report to MDE regarding their use of prone restraint since August 1, 2011. As described in the 2012 report, the initial data only covered prone restraint reports received over a five-month period (August 1, 2011, through January 13, 2012). The 2013 report included data from prone restraint reports received January 13, 2012, through December 31, 2012. For the 2014 and 2015 reports, the included data on the use of prone restraint is over a 12 month calendar period (January 1 through December 31), with relevant comparisons to previous years' data. Beginning in September 2012, districts have been required to use the MDE form for reporting prone restraint and the data has been more consistent since that occurred. For this 2016 report, the prone restraint data covers a nine month period (January 1 through July 30, 2015), as effective August 1, 2015, prone restraint may no longer be used in the school setting.

School Year Comparison. For consistency with prior reports, prone restraint data is reported throughout this report over a calendar year period.

Not the Whole Picture. We acknowledged in prior reports that the use of prone restraint is best evaluated within the context of the statewide use of all other types of restrictive procedures by Minnesota school districts. Districts are required to maintain data on their use of restrictive procedures, including physical holding or seclusion,³⁵ and are required to report a summary of

³⁰ Resource Document page 10 found at: <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited Jan. 25, 2016).

³¹ California

³² Hawaii

³³ Alabama, California, Michigan, Missouri, Montana Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, West Virginia, Wisconsin, and Wyoming.

³⁴ Georgia, Hawaii, Massachusetts, and Nevada.

³⁵ Minn. Stat. § 125A.0942, subd. 3(a).

this data annually to MDE by June 30 of each year.³⁶ As summary data, the restrictive procedures data has some limitations not present with the prone restraint data. The summary data necessarily lacks information about the range of numbers of physical holds and uses of seclusion per individual student. The data also lacks information about the length of time students were physically held and secluded and the types of restraints being used.

Limitations in the Restrictive Procedures Data. We received close to or a 100 percent response rate from all public school districts, including charter schools, for the last three school years (2012-13, 2013-14, and 2014-15). It is important to note that the number of restrictive procedures incidents that districts reported in the annual summary may not be aligned with MDE's definition of an "incident" of restrictive procedures, as discussed below. Therefore, incident level comparisons between restrictive procedures incidents and prone restraint report incidents are not likely to be valid. However, as a result of the summary data, we are able to provide policy makers with data to substantiate the percentage of students in the state that have been reported as restricted compared to the data specific to prone restraint.

Outliers. For the 2015 calendar year, one student accounted for 13 percent, or 24 of the 183 reports of prone restraint. Cumulatively, two students account for 25 percent, or 46 of the 183 reports, and 10 students accounted for 57 percent, or 105 of the 183 reports. The remaining 45 students accounted for 43 percent of the reports. These percentages figures are similar to outliers for data collected in prior years, though the aggregate number of reports is lower.³⁷

Of those students who experienced the highest use of prone restraint during the 2015 calendar year, they were found eligible for special education services by meeting state criteria for ASD (four), Emotional or Behavioral Disorders (EBD) (three), Other Health Disabilities (OHD) (two) and Developmental Cognitive Disability (DCD) (one).

Including these unique situations in the overall data counts skews the appearance of the demographic data by incidents. However, this data is important for understanding the issues and potential solutions. The data illustrates that a relatively small number of students underlie the total number of reports and incidents. Though the specific students who make up this group change over time, intensive services targeted to these students are likely to have the greatest impact on diminishing the use of restrictive procedures. The 2015 Restrictive Procedures Stakeholders Workgroup recommendations described in Appendix A address this group specifically in goal three and in its request for additional funding.

Prone Restraint Data

Districts submitted written prone restraint reports to MDE through a secure website. Individual reports necessarily included personally identifying information related to specific students, and as such constitute non-releasable data under the Minnesota Government Data Practices Act.³⁸ MDE prepared and posted a summary of reported data by quarter on its Restrictive Procedures webpage.

³⁶ Minn. Stat. § 125A.0942, subd. 3(b).

³⁷ See prior Legislative Reports, *available at* <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html>.

³⁸ Minn. Stat. § 13.02, subds. 5, 8a (2014).

Districts that Reported Use of Prone Restraint

District	2015 Reports	2014 Reports
Albert Lea (840)	0	1
Benton-Stearns Ed. Dist. (6383)	3	57
Brainerd (181)	3	6
Cambridge-Isanti (911)	0	1
Chisago Lakes (2144)	1	0
Goodhue County Ed. Dist. (6051)	0	2
Intermediate District 287	2	55
Intermediate District 917	85	137
Mankato (77)	3	23
Moorhead (152)	0	11
New London Spicer (345)	0	1
Northeast Metro 916	35	119
Southwest West Central (991)	51	74
Willmar (347)	0	2
Total Prone Restraint Reports	183	489

Incidence of Prone Restraint by District

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

In more complex situations related to the same precipitating incident, this hold/release pattern was repeated a number of times before the child was returned to the classroom or other activity. Given that the statutory definition of a “physical hold” is based on the presence or absence of “body contact” or “physical contact,” we determined that this situation involved several incidents of prone restraint, all of which were included on one written report. This explains the difference between the number of “incidents” that occurred (239) and the number of “reports” MDE received (183).

MDE received reports of 239 prone restraint incidents that occurred during the 2015 calendar year, a substantial decrease from the 617 prone restraint incidents reported for calendar year 2014. During the 2015 calendar year:

- Eight districts reported the use of prone restraint, a decrease of 38 percent from 13 during calendar year 2014.³⁹
- Fifty-five students were restrained in a prone position by a staff member, a decrease of 65 percent from 158 students during calendar year 2014.

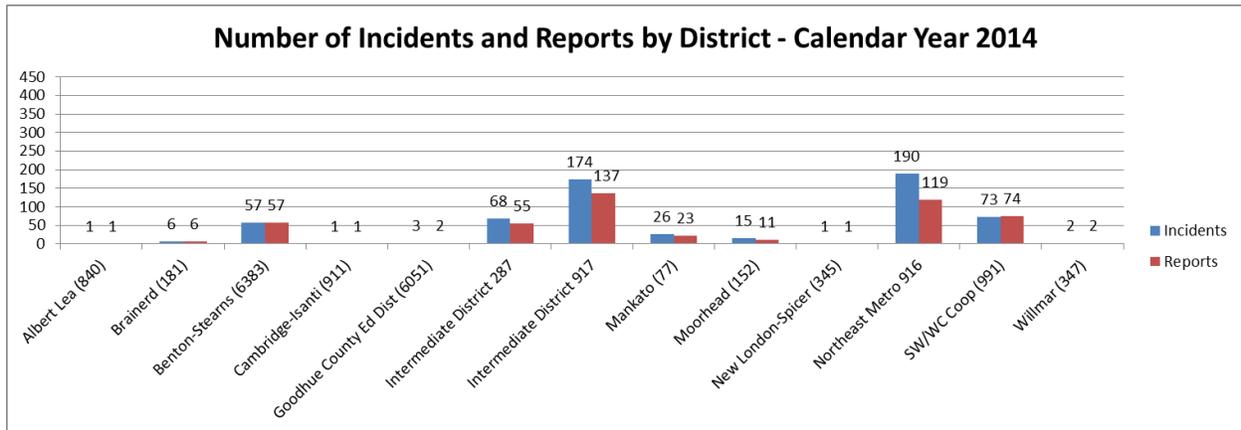
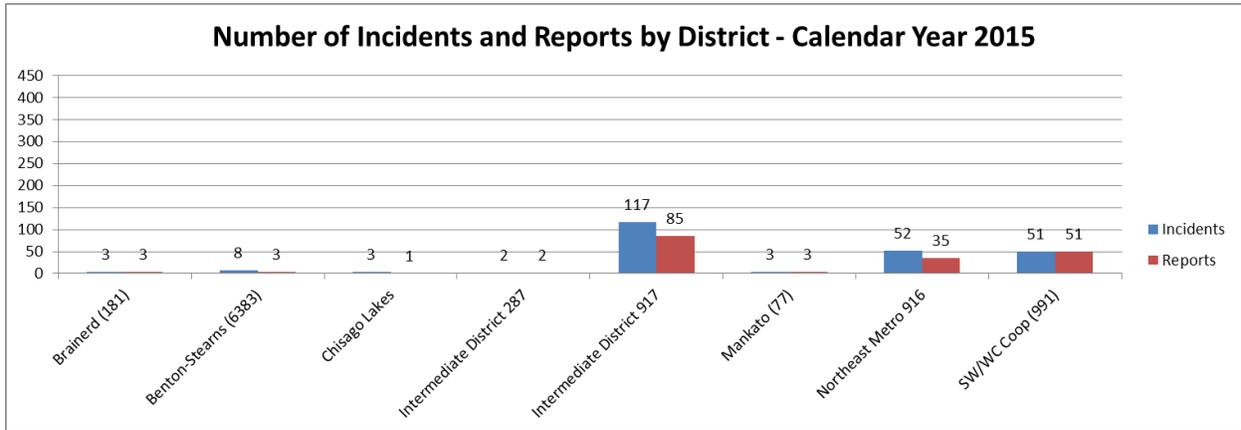
The majority of both prone restraint incidents and reports involved students at two of Minnesota's intermediate school districts and by one service cooperative in greater Minnesota, which provides level four services for its member districts. This is not surprising given that the intermediate districts provide, among other important services, a program of integrated services for special education students.⁴⁰In addition, they provide services to students with disabilities who have not experienced success at their original district, and a significant percentage of these students exhibit atypical behavioral challenges in a school setting. In greater Minnesota, the service cooperatives function similarly to the intermediate school districts in the Twin Cities metropolitan area, in part by serving students with the most challenging behaviors. All of the intermediate districts continued to show a decrease in both the number of reports and incidents of prone restraint from the previous legislative report. At the stakeholder meetings, the intermediate districts shared the efforts made to implement data-driven positive behavior strategies and to review the restrictive procedures data on an ongoing basis, as well as staffing and environmental changes. In addition, three other districts that received grants also showed appreciable reductions in the use of prone restraint.

All districts with reported use of prone restraint in calendar year 2014 showed a year-over-year decrease, some to zero for calendar year 2015, even prior to the elimination of prone restraint on August 1, 2015. In addition, one district reported use of prone restraint in calendar year 2015, though no use was reported in the prior year. The use of prone restraint in greater Minnesota continued to be reported by special education programs at cooperatives or education districts and districts that are regional centers.

The following two charts represent the distribution of both prone restraint incidents and reports for the last two annual reporting periods. Statewide, the number of reports submitted, incidents reported, students involved, and the number of districts using prone restraint during the 2015 calendar year have all decreased compared to the 2014 data.

³⁹ *Id.*

⁴⁰ Minn. Stat. § 136D.01 (2014).

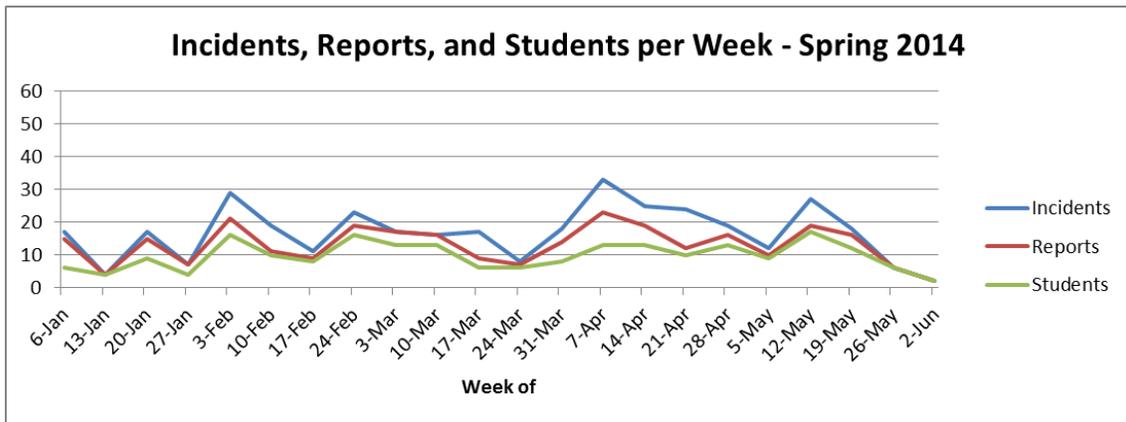
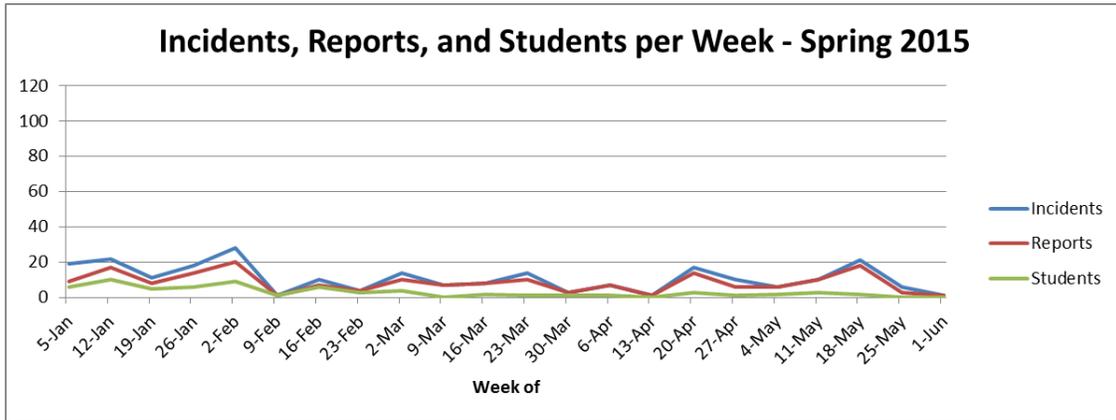


Number of Students in Prone Restraint

For the 2015 calendar year, districts reported that 55 students with disabilities were restrained using prone restraint one or more times. In comparing individual students who experienced prone restraint over multiple calendar years:

- 14 students experienced prone restraint during the last three calendar reporting periods (2013-2015).
- Nine students experienced prone restraint during the last four calendar reporting periods (2012-2015).
- Two students experienced prone restraint at least once within all five reporting periods (2011-2015).

The following graphs show the number of incidents, reports, and students per week for comparisons of spring 2015 and 2014.



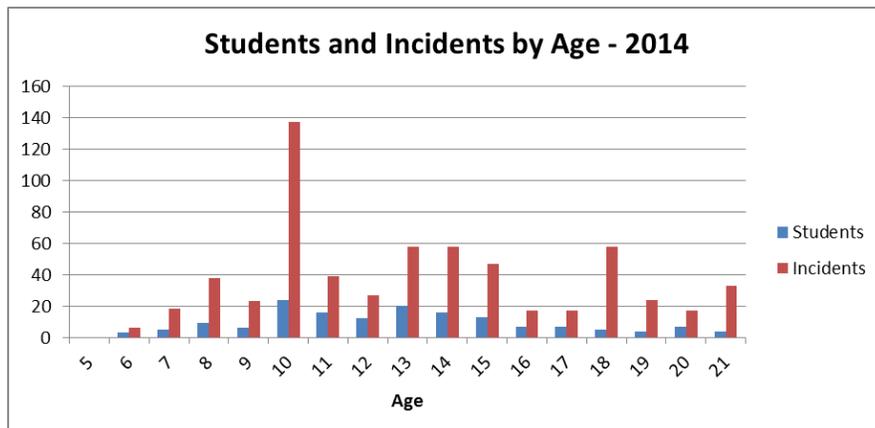
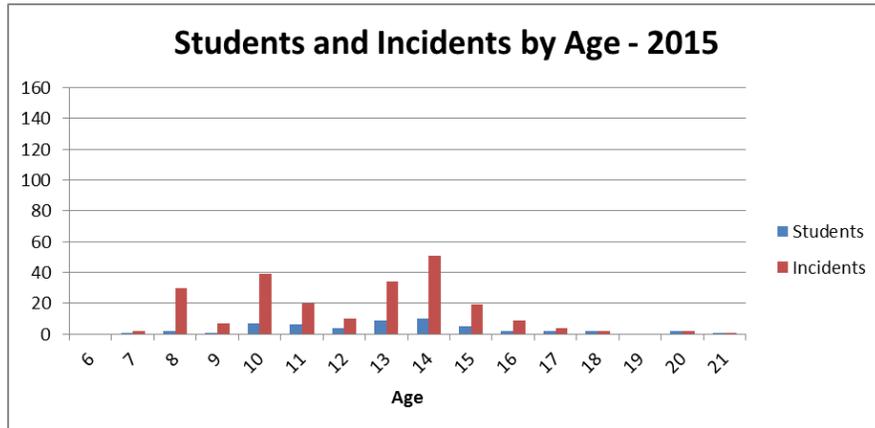
Length of Incident of Prone Restraint

The 2015 data indicates the following:

- 57 percent of the 239 incidents of prone restraint lasted five minutes or less, compared to 50 percent during 2014.
- The number of restraints of five minutes or less decreased from 310 in 2014 to 137 incidents in 2015.
- More than 94 percent of the reported incidents of prone restraint lasted 15 minutes or less.

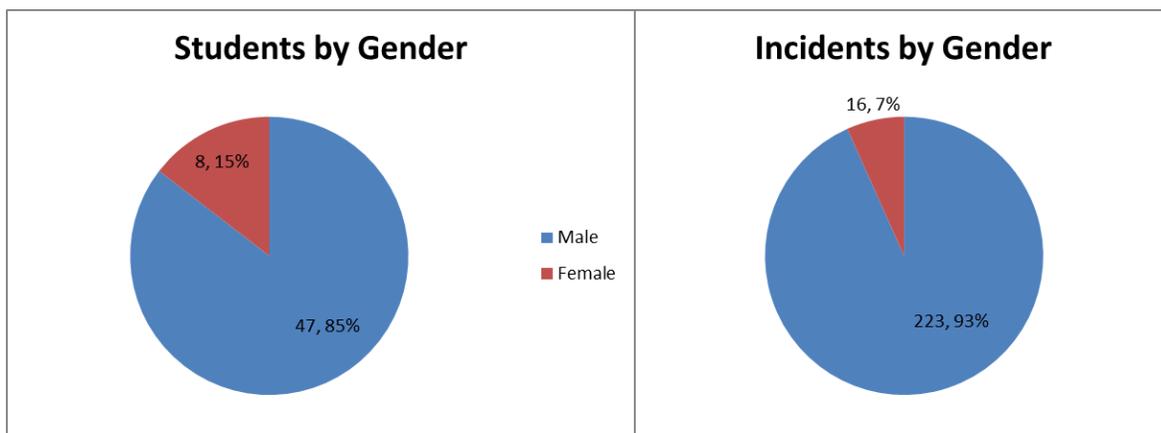
Age of Students Placed in Prone Restraint

During the 2015 calendar year, prone restraint was used on children as young as six years old and as old as 21. This is consistent with prior years. During past reporting periods, the peak usage was with middle school students. Taking into consideration that the peaks of incidents at ages 8, 10, 11, 13, and 14 are due to the skewed effect of the outliers described earlier in this report, and the significant reduction of both students and incidents from the previous reporting periods, there is no peak usage during this reporting period.



Gender of Students Placed in Prone Restraint

The 2015 calendar year data shows that boys were more than six times more likely than girls to be restrained in a prone position, consistent with previous reporting periods.



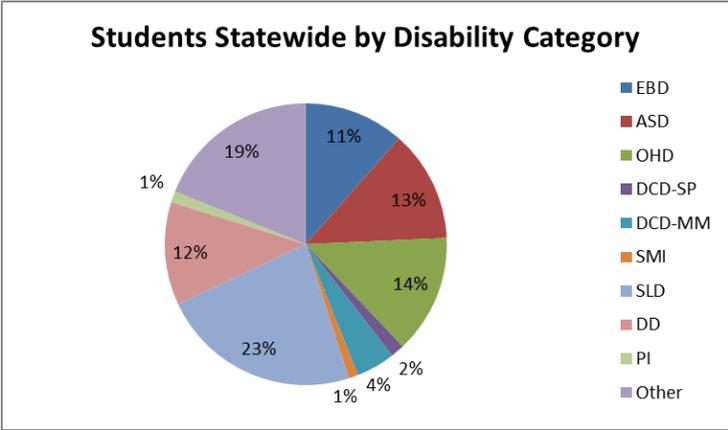
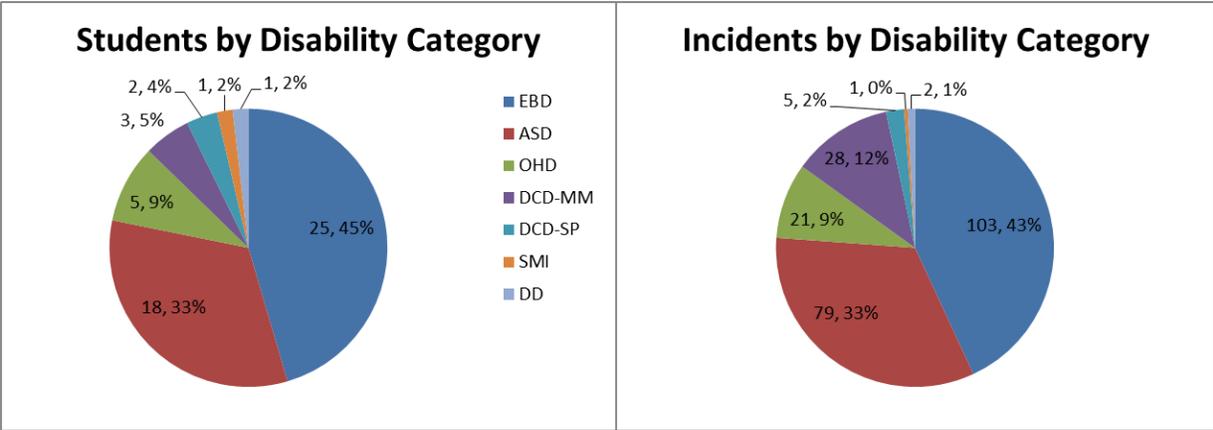
Students and Incidents by Disability Category

Overall, 76 percent of all incidents of prone restraint reported during the 2015 calendar year involved students who were eligible for special education under the following eligibility criteria: ASD or EBD.

The first chart below illustrates the number and percentage of students with disabilities subjected to prone restraint. The second chart illustrates the percentage of incidence represented by each specific category. For example, ASD students represent 33 percent of all students who experienced the use of prone restraint and represent 33 percent of all incidents reported for the same time period. For further comparison, the percentages of these students within the state's total special education population are illustrated in the third chart. For example, ASD students represent 13 percent of the state's total special education population; however, they represent 33 percent of all students who experienced the use of prone restraint and represent 33 percent of all incidents reported.⁴¹ EBD students represent 11 percent of the state's total special education population; however, they represent 45 percent of all students who experienced the use of prone restraint and 43 percent of all incidents reported.⁴²

⁴¹ 2016 Child Count Totals by December 1, 2015 by Disability, Race/Ethnicity, and Age, retrieved from MDE Data Reports and Analytics, available at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>.

⁴² *Id.*



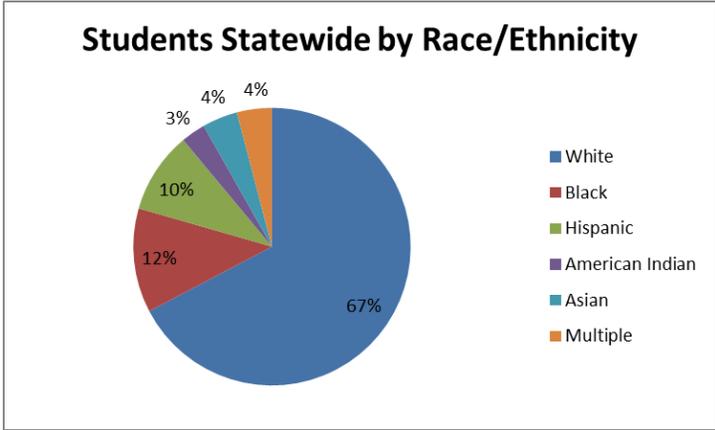
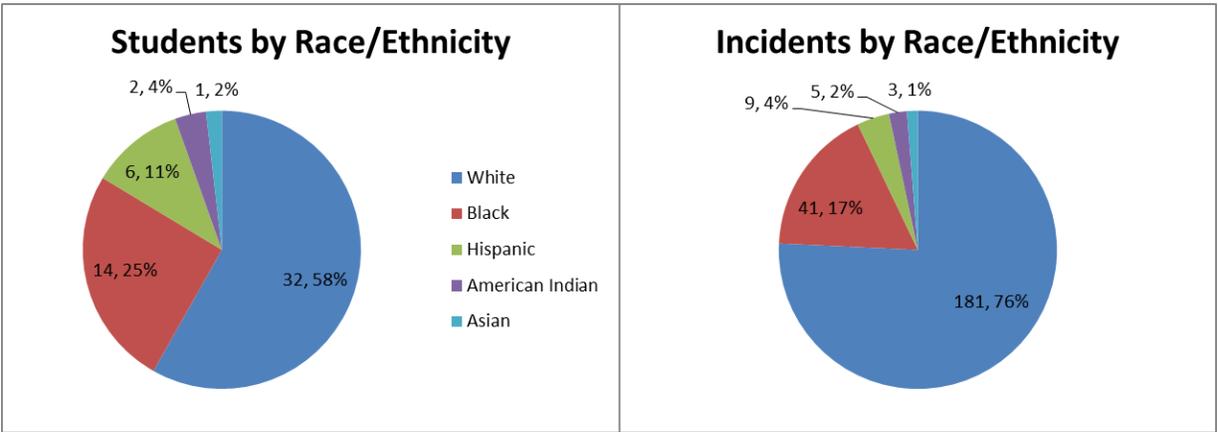
Key

- EBD = Emotional or Behavioral Disorders*
- ASD = Autism Spectrum Disorders*
- OHD = Other Health Disabilities*
- DCD-MM = Developmental Cognitive Disability-Mild to Moderate*
- DCD-SP = Developmental Cognitive Disability-Severe to Profound*
- SMI = Severely Multiply Impaired*
- SLD = Specific Learning Disability*
- DD = Developmental Delay*
- PI = Physically Impaired*

Students Involved In Prone Restraint by Race/Ethnicity

Compared to data from the 2014 calendar year, the proportion of Black students in prone restraint during the 2015 calendar year decreased from 31 percent to 25 percent. The proportion of incidents for Black students also decreased from 26 percent to 17 percent. At the same time, the proportion of incidents for White students increased from 63 percent to 76 percent.

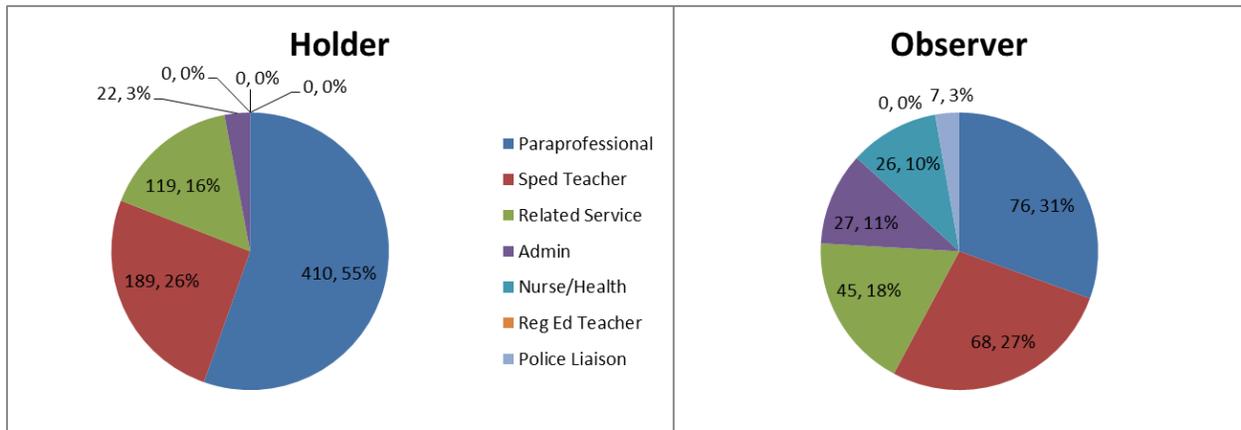
Much of the change in incidents by race/ethnicity can be attributed to the change in students who fall into the group of outliers described earlier in this report, more of whom continued to be White students during 2015 and 2014, compared to a larger proportion of Black students in 2013 and prior years. In comparison to the statewide population of students with disabilities, Black students continued to be overrepresented in prone restraint by number of students and incidents.



Staff Involved in the Use of Prone Restraint

Approximately 189 staff were involved in the use of prone restraint during the 2015 calendar year, either as a holder or an observer, down from approximately 420 in the previous calendar year. The median number of times a staff person was involved was three times (up from two in previous years), with a range of up to 39 times, which is down from 48 times in 2014. As in 2014, most reports included at least one paraprofessional as a holder (178 reports) and few reports included only paraprofessionals as holders (27). On one report, education staff was reported as a holder and listed as not trained.¹ The chart below shows the percentage of times various staff were holders or observers. For example, paraprofessionals were reported as holders 410 times across all reports during this reporting period.

¹ This was a reduction from last year's report when seven prone restraint reports reported untrained staff.



Injuries Related to the Use of Prone Restraint

Across 183 prone restraint reports submitted for the 2015 calendar year, districts reported three student injuries and seven staff injuries, compared with two and 24 respectively, as reported for 2014. Injury descriptions to students and staff included scratches, bruises, and bites, which included bleeding and loss of an already loose baby tooth. One injury was reported to the ombudsman.

RESTRICTIVE PROCEDURES SUMMARY DATA

Following the 2014-15 school year, districts reported summary data to MDE on the use of restrictive procedures, which was due by June 30, 2015. On a form provided by MDE, districts reported:

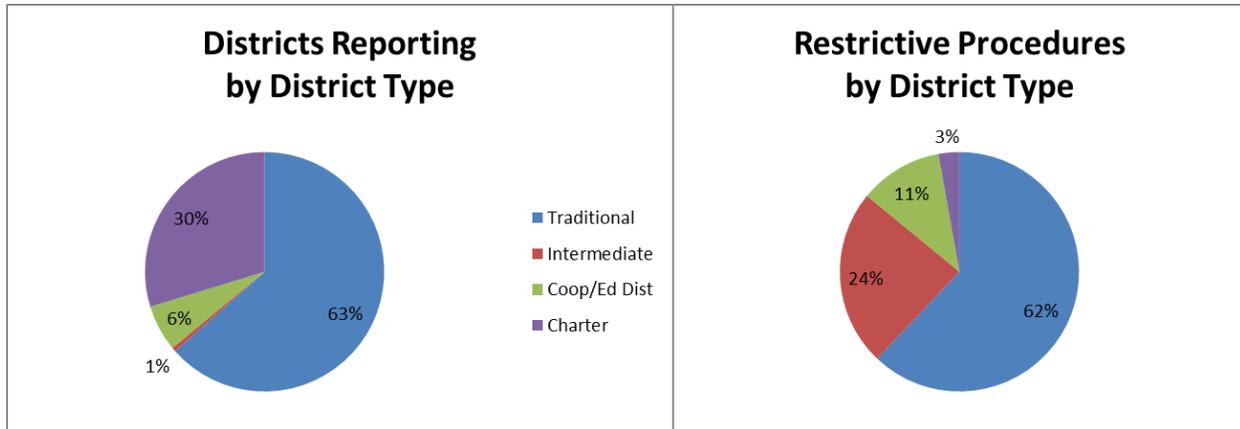
- the total number of students receiving special education services served by the district;
- the total number of incidents of restrictive procedures (includes physical holding, prone restraint, and seclusion);
- the total number of students receiving special education services upon whom a restrictive procedure was used;
- the total number of students receiving special education services upon whom restrictive procedures were used ten or more school days during the school year;
- the total number of incidents of physical holding (including prone restraint);
- the total number of incidents of seclusion;
- the demographic information for the students (disability, age, race, gender, and federal instructional setting);
- the number of injuries to students and staff.

MDE received summary data from 528 districts (which includes independent and special school districts, charter schools, cooperatives, education districts, and intermediate school districts). This was a 100 percent response rate, which included district responses of no use of restrictive procedures.

Districts that Reported Use of Restrictive Procedures

Of the 528 districts that reported summary data to MDE, 255 of those districts reported use of restrictive procedures, whether physical holding, seclusion, or a combination of both. They include:

- 193 of 335 traditional districts
- three of three intermediate school districts
- 18 of 33 cooperatives and education districts
- 41 of 157 charter schools



While intermediate districts, cooperatives, and education districts comprise approximately seven percent of the total reporting districts, combined they reported 35 percent of the restrictive procedures use in the state. By contrast, charter schools represent approximately 30 percent of the reporting districts, but reported nearly no use of restrictive procedures. Traditional districts represent approximately 63 percent of the reporting districts and also reported 62 percent of restrictive procedures use. The proportion of restrictive procedures reported for the 2014-15 school year is higher as compared to the 2013-14 data for intermediate districts, with cooperatives, education districts, and traditional districts down slightly. Stakeholders, which included stakeholders from intermediate districts, reported at the 2015-16 stakeholder meetings that the reported number of incidents and number of students for the 2014-15 school year better reflected the actual baseline from which to measure the reduction of restrictive procedures.

Of the 255 districts that reported use of restrictive procedures:

- 180 (71 percent) reported use of only physical holding,
- 2 (<one percent) reported use of only seclusion, and
- 73 (29 percent) reported use of both physical holding and seclusion.

While this is consistent with previous reporting, it should be noted that the districts reporting usage changed. Of the 255 districts reporting use of restrictive procedures during the 2014-15 school year, 61 districts increased from zero usage in 2013-14 to some usage in 2014-15, and 54 districts decreased to zero usage in 2014-15 from some usage in 2013-14. This resulted in a

net increase of seven districts reporting the use of restrictive procedures for the 2014-15 school year as compared to the prior school year.

Statewide Data on the Use of All Restrictive Procedures

Across the state, during the 2014-15 school year, districts reported 15,519 physical holds and 6,547 uses of seclusion for a total of 22,119 restrictive procedures incidents. This was an increase of approximately 13 percent from the 2013-14 school year reporting and roughly equivalent to the reporting for 2012-13. During the October 2015 stakeholders meeting, administrators from multiple districts reported that more consistent reporting of restrictive procedures incidents during the 2014-15 school year resulted in an increase in the number of reported incidents. This occurred through both trainings conducted by districts as well as trainings provided by MDE. Stakeholders believed that the reported number of incidents and number of students for the 2014-15 school year better reflected the actual baseline from which to measure the reduction of restrictive procedures. In addition, the total number of reported students with disabilities increased by 1,102 for the 2014-15 year, which is also a contributing factor in the increase in the number of incidents of restrictive procedures and the number of students who experienced the use of a restrictive procedure during the 2014-15 school year.

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

School Year	Physical Holds	Uses of Seclusion	Restrictive Procedures
2014-15	15,519	6547	22,119
2013-14	13,214	6323	19,537
2012-13	15,738	6425	22,163
2011-12	16,604	5236	21,840

Of 139,985 special education students,² restrictive procedures were used with 2,779 students with disabilities. Please note that the actual number of reported special education students increased by 1,102 for the 2014-15 school year. The percentage of students who experienced the use of a restrictive procedures remained unchanged at approximately two percent of the special education population for the 2013-14 and 2014-15 school years.

Physical holding was used with 2,541 students, up from the data reported in the 2015 legislative report (2,433) and seclusion was used with 840 students, also up from the data reported in the 2015 legislative report (837).³ Compared to the 2013-14 school year, the average number of physical holds per physically held student was 6.1, up from 5.4; the average number of uses of

² The number of special education students is based on an aggregation of districts' self-reported data in conjunction with the restrictive procedures reporting and may not match exactly with other aggregations by MDE of the number of special education students in the state.

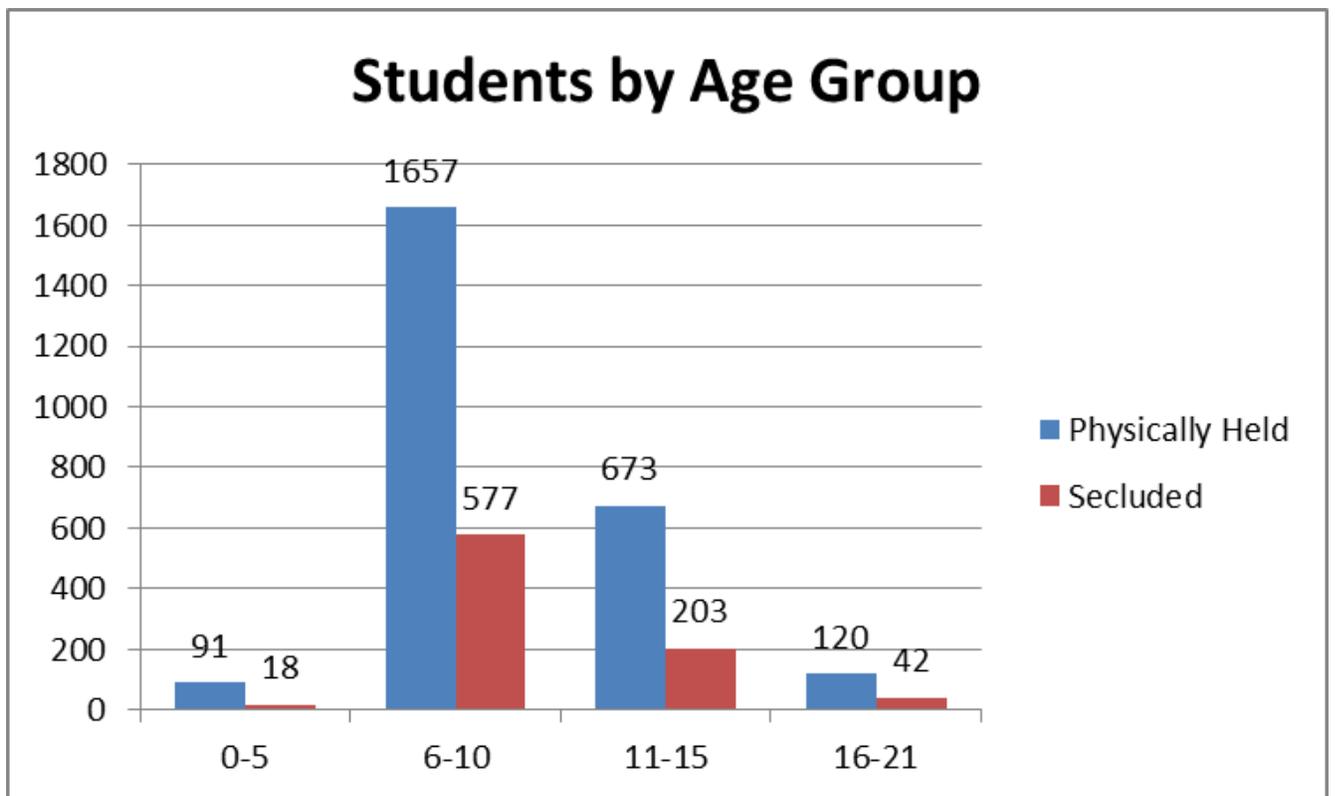
³ The number of physically held students plus the number of secluded students is greater than the total number of students with whom restrictive procedures were used because a number of students were reported as both physically held and secluded.

seclusion per secluded student was 7.8, up from 7.6; and the average number of restrictive procedures per restricted student was 7.8, up from 7.2.⁴

Upon analysis of the 2014-15 data by district, ten districts (seven traditional districts and three intermediate) accounted for 58.2 percent of the total number of reported restrictive procedures incidents statewide. Looking at the seclusion data for the same time period, ten districts (seven traditional districts, two intermediate and one special education cooperative) accounted for 69.4 percent of the total number of reported seclusion incidents statewide.

Age of Students in Restrictive Procedures

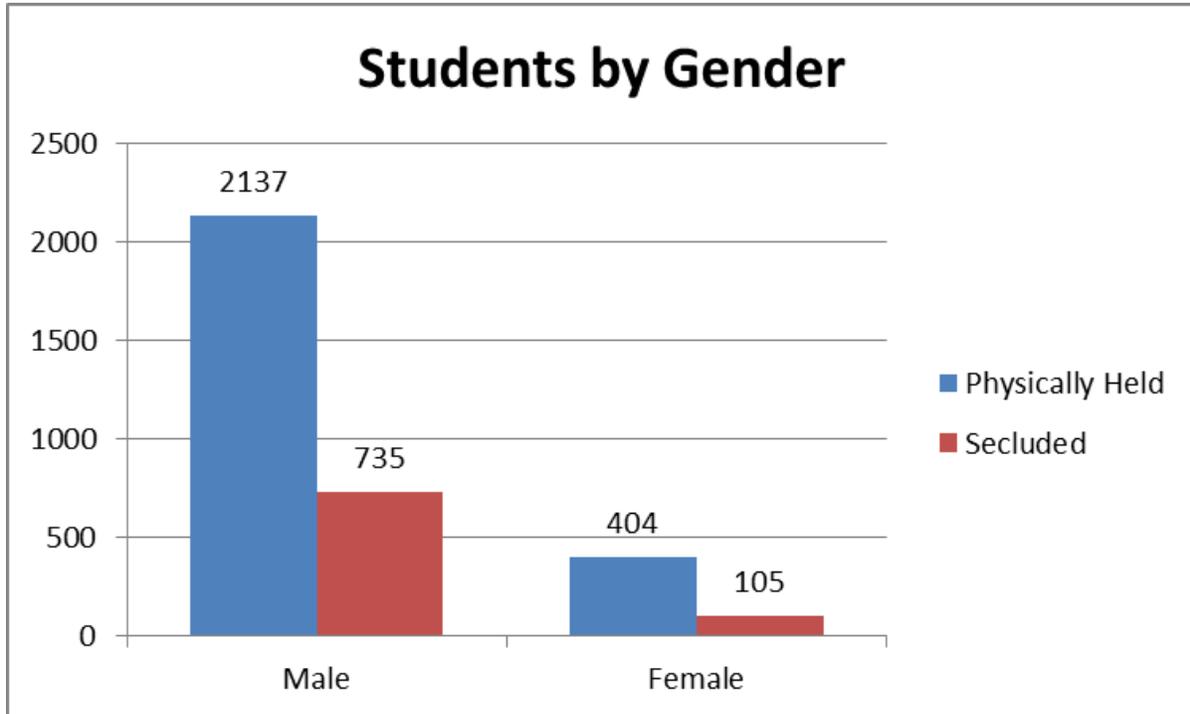
The majority of restrictive procedures reported for the 2014-15 school year were used with elementary through middle school students, with fewer uses with early childhood and high school students, consistent with the previous legislative reports.



⁴ As with the previous footnote, the average number of restrictive procedures per restricted student may be higher than the averages for both physical holding and seclusion because of the number of students both physically held and secluded.

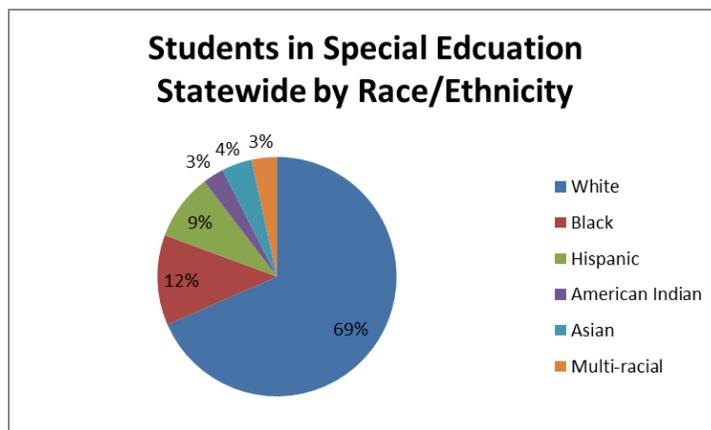
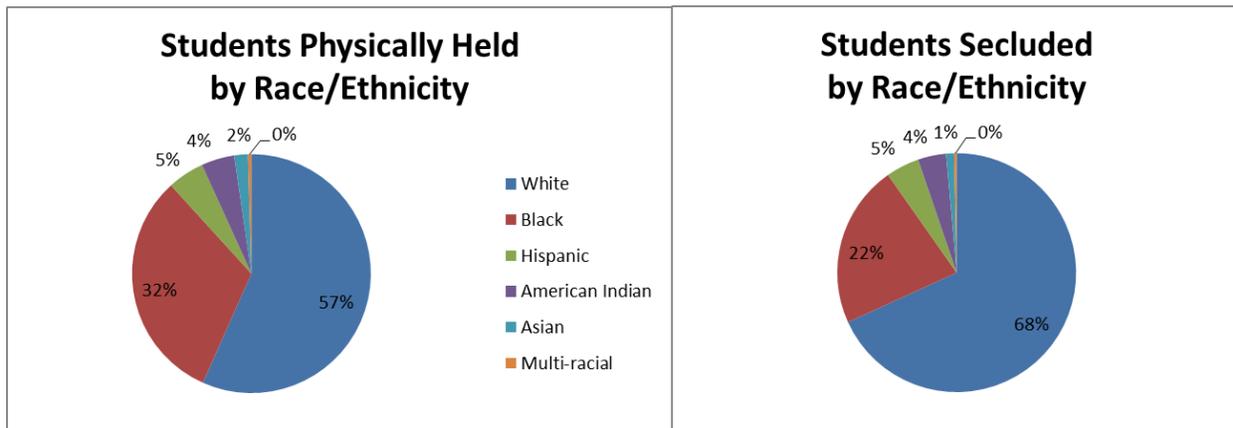
Gender of Students in Restrictive Procedures

Based upon the data reported for the 2014-15 school year, boys are 5.3 times more likely to be physically held and 7.0 times more likely to be placed in seclusion than girls, consistent with previous legislative reports, though a slightly larger gap compared to 2013-14. All of the increased usage for 2014-15 was with boys, whereas usage with girls dropped slightly.



Race/Ethnicity of Students in Restrictive Procedures

Black students, who account for approximately 12 percent of the special education student population,⁵ are overrepresented in both the physical holding and seclusion data, consistent with previous legislative reports, though the overrepresentation decreased six percentage points for seclusion in 2014-15. American Indian students, who account for approximately three percent of the special education population, are also overrepresented in the physical holding and seclusion data, though not to as great a degree.



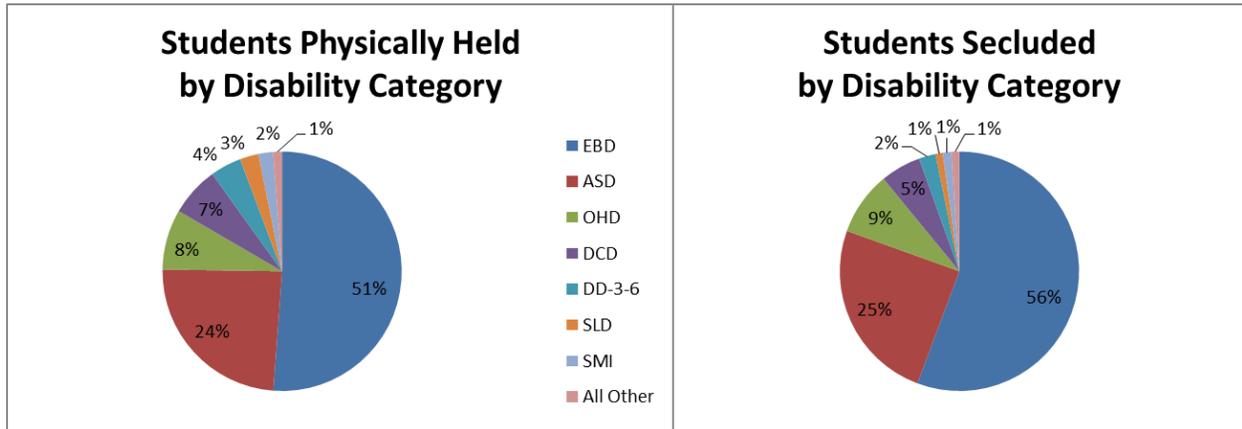
Disability Categories for Students in Restrictive Procedures

During the 2014-15 school year, students who received special education services by meeting eligibility criteria under the primary disability category of EBD or ASD accounted for three-fourths of the students who experienced the use of restrictive procedures, consistent with previous legislative reports. ASD students make up approximately 13 percent of the special education student population and EBD students make up approximately 11 percent.⁶ The remaining one-fourth of restrictive procedures were used on students with OHD, DCD, Developmental Delay, ages three through six (DD 3-6), Specific Learning Disability (SLD), and Severely Multiply Impaired (SMI). The categories of disabilities included in the “All Other”

⁵ 2016 Child Count Totals by December 1, 2015 by Disability, Race/Ethnicity, and Age, retrieved from MDE Data Reports and Analytics, available at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>.

⁶ 2016 Child Count Totals by December 1, 2015 by Disability, Race/Ethnicity, and Age, retrieved from MDE Data Reports and Analytics, available at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>.

category are, in order of prevalence: Speech or Language Impairments (SLI), Traumatic Brain Injury (TBI), Physically Impaired (PI), Visually Impaired (VI), and Deaf and Hard of Hearing (DHH).



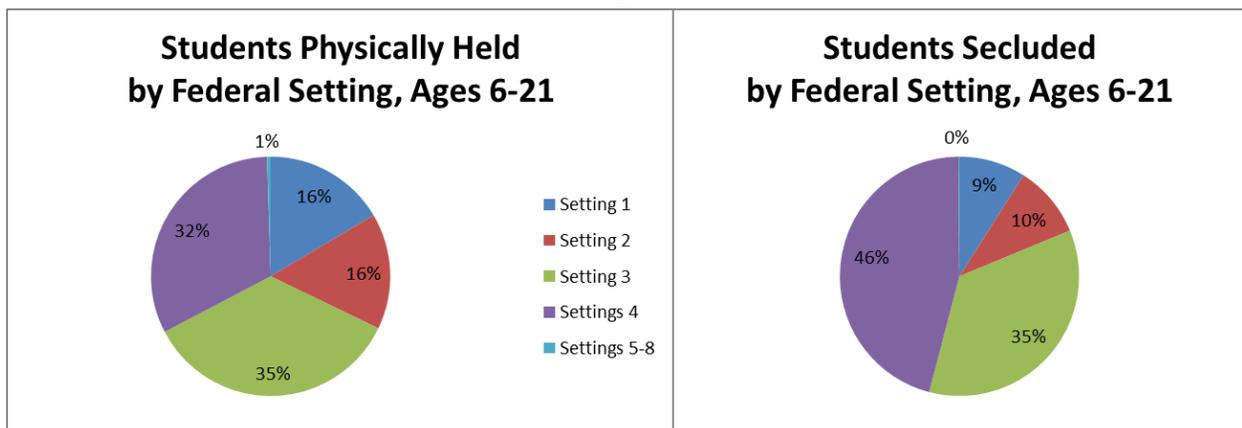
Federal Instructional Setting for Students in Restrictive Procedures

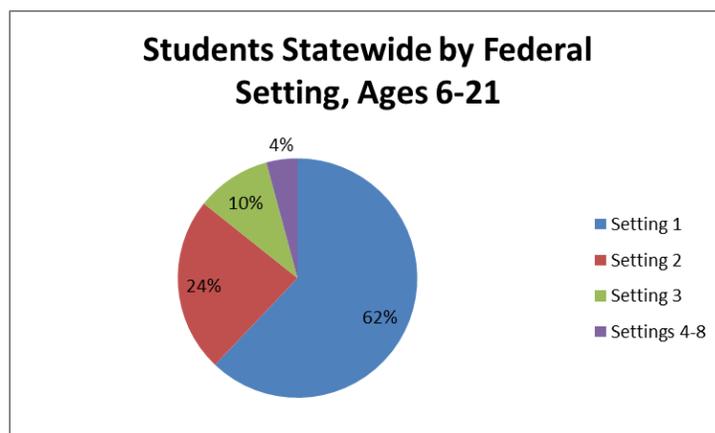
New in this legislative report is data on the federal instructional setting for students who have experienced the use of a restrictive procedure. Most restrictive procedures occurred either with students who were in a separate school specially designed for special education students (setting four) or with students who were outside of the regular education classroom more than 60 percent of the day (setting three). Students who spend 21 to 60 percent of their day outside the regular education classroom are in setting two. Students who spend less than 21 percent of their day outside the regular education classroom are in setting one.

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

- Districts used physical holding more than seclusion for students who were in federal setting one or two.
- Districts reported the same percentage for the use of a physical holding or seclusion for students in federal setting three.
- Districts used seclusion more than physical holding for students who were in federal setting four.

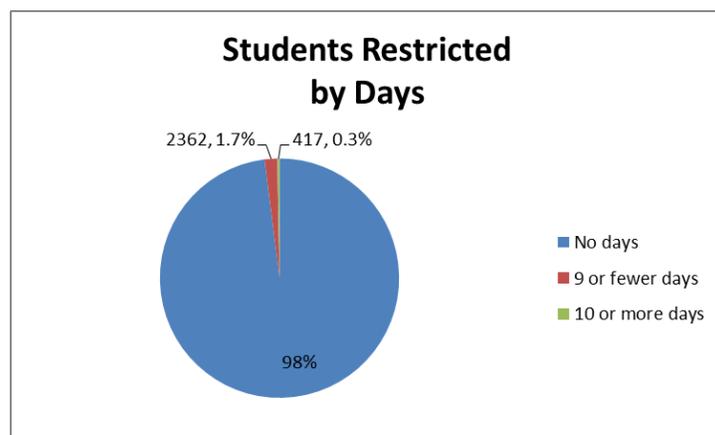
1 or 2





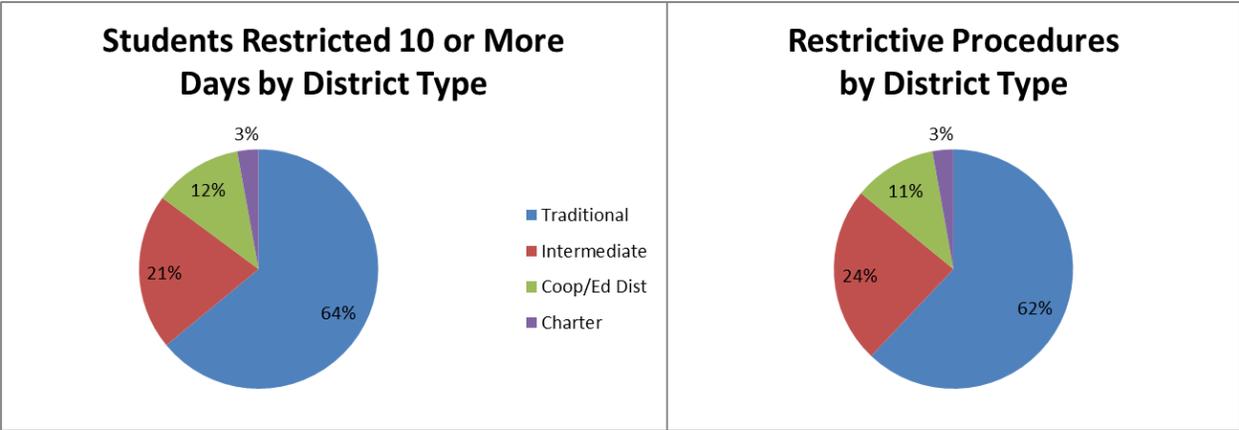
Students Restricted Ten or More Days

As had been noted in the prone restraint data since reporting began, a small number of students accounted for a large portion of the incidents of prone restraint. A threshold of ten or more days was chosen for this restrictive procedures summary data point to be consistent with districts' obligation under statute to take additional action when restrictive procedures have been used ten or more days within a school year.⁷ Districts reported that a total of 417 special education students experienced the use of restrictive procedures over ten or more days during the 2014-15 school year, which is an increase from the previous year (376). These students account for approximately 0.3 percent of the special education student population.



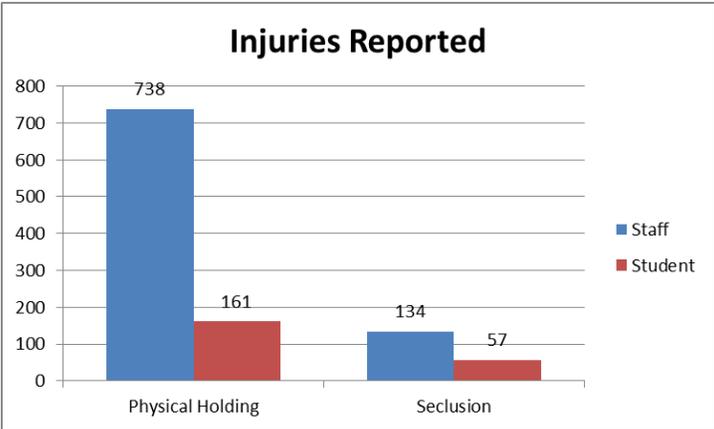
While the restrictive procedures summary data is more limited than individual incident prone restraint reports, the district level data for these outliers in the restrictive procedures population suggest the average number of restrictive procedures may be about 30 incidents of restrictive procedures per student, with ten or more days of restriction. This would be consistent with the average for the outliers in the prone restraint data. Students who experienced the use of restrictive procedures over ten or more days across all district types are in rough proportion to the number of incidents of restrictive procedures by district type.

⁷ See Minn. Stat. § 125A.0942, subd. 2(d).



Injuries Related to the Use of Restrictive Procedures

Data about the number of injuries to both students and staff related to the use of restrictive procedures is reported as increased for all categories, with the exception of fewer staff injuries related to seclusion. As stated in the previous legislative report, there is still some likelihood that injury data is underreported, inaccurately reported, and/or inconsistently reported because of no common definition of “injury” for the purposes of reporting.



STATEWIDE PLAN

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

CONCLUSION

MDE respectfully submits this report to provide the Legislature with objective data to inform its continuing policy discussions regarding restrictive procedures. As noted in this report, the use of

prone restraint declined sharply during the 2014-15 school year and it is no longer permitted as of August 1, 2015. The report details factors contributing to the 2014-15 increase in the number of restrictive procedures incidents and the number of students who experienced the use of a restrictive procedure. The report also addresses Minnesota's Approved Olmstead Plan and seclusion in more detail. In order to move forward, the 2015 stakeholders made a number of recommendations that are detailed in Appendix A. In addition, Appendix B is revised to include each state's seclusion laws and policies. While the number of students affected by this discussion is small, about two percent of the special education student population experience the use of restrictive procedures, it is clear that these students have significant and complex needs.⁸

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.

⁸ Based on the 2014-15 data, approximately 2% of all special education students experienced the use of physical holding, and approximately .6% of all special education students experienced the use of seclusion.

Appendix A

2015 Statewide Plan to Reduce the Use of Restrictive Procedures and Eliminate Prone Restraint in Minnesota

I. Purpose

During the 2015 legislative session, the Minnesota Legislature tasked the Minnesota Department of Education (MDE) with developing a statewide plan with specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.¹ To assist with developing a plan, MDE assembled a group of stakeholders. The stakeholder group included representation from advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, state human services department staff, mental health professionals, school resource officers, and autism experts.² Although invited, the stakeholder group did not have a representative from county social services. The group developed implementation and outcome goals that would move the state toward a reduction of restrictive procedures in the educational setting.

II. Stakeholder Work Group 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 prone restraints. The statewide plan includes the following components: measurable goals; the resources, training, technical assistance, mental health services, and collaborative efforts needed to significantly reduce districts' use of prone restraints; and recommendations to clarify and improve the law governing districts' use of restrictive procedures. The commissioner must consult with interested stakeholders when preparing the report, including representatives of advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts. By June 30 each year, districts must report summary data on their use of restrictive procedures to the department, in a form and manner determined by the commissioner. The summary data must include information about the use of restrictive procedures, including use of reasonable force under section 121A.582.³



¹ Minn. Stat. § 125A.0942, Subd. 3(b) (2015).

² *Id.*

³ *Id.*

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III. Stakeholder Group Members

Anoka-Hennepin School District.....	Cherie Peterson
Anoka-Hennepin School District.....	Marsha Polys
ARC Minnesota.....	Steve Larson
ARC Minnesota.....	Wendy Watson
Autism Society of Minnesota.....	Jean Bender
Autism Society of Minnesota.....	Jonah Weinberg
Cambridge School District.....	Pauline Bangma
Catholic Charities.....	Lynn Starr
Department of Human Services, Disability Services Division.....	Carol Anthony
Department of Human Services, Disability Services Division.....	Charles Young
Department of Human Services, Children’s Mental Health Division.....	Karry Udvig
Department of Human Services, Children’s Mental Health Division.....	Jill Johnson
Department of Human Services.....	Richard Amado
Department of Human Services.....	Tim Moore
Department of Human Services.....	William Wyss
Fraser Day Treatment.....	Shelly Brandl
Grand Rapids School District 318.....	Brent Brunetta
Intermediate District 287.....	Tina Houck
Intermediate District 917.....	Melissa Schaller
Intermediate District 917.....	John Christiansen
Minnesota Administrators for Special Education.....	Cherie Johnson
Minnesota Administrators for Special Education.....	John Klaber
Minnesota Association for Children’s Mental Health.....	Deborah Saxhaug
Minnesota Association of County Social Services.....	Eric Ratzmann
Minnesota Disability Law Center.....	Dan Stewart
Minnesota School Board Association.....	Bill Kautt
National Alliance on Mental Illness.....	Sue Abderholden
Northeast Metro 916, social worker.....	Jenn Bulmer
Northeast Metro 916.....	Connie Hayes
Northeast Metro 916.....	Dan Naidicz
Olmstead County.....	Jodi Wentland
PACER Center.....	Paula Goldberg
PACER Center.....	Jody Manning
PACER Center.....	Virginia Richardson
Ramsey County.....	Kimberly Young

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Ramsey County Sheriff’s Office	Dan Young
Robbinsdale School District, Paraprofessional	Karen Krussow
Southwest South Center Service Cooperative, Program Lead	Tony Miller
St. Paul Public Schools	Elizabeth Keenan

IV. Minnesota Department of Education Participants

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

V. Process

On October 12, 2015, MDE convened the 2015 Stakeholder Work Group (2015 Stakeholder Group) to review the annual restrictive procedures data for the 2014-15 school year. Additional meetings scheduled occurred or will occur December 7, 2015, January 22, 2016, April 22, 2016 and July 22, 2016.

As set forth in the 2014 statewide plan, the stakeholders chose to meet quarterly and focus on reviewing the data, ongoing implementation efforts of the 2014 statewide plan, and to discuss successes and barriers in reducing restrictive procedures.

2015 Stakeholder Group Meetings

MDE staff convened members of the 2015 Stakeholder Group three times during the time period of October 12, 2015 and January 22, 2016. MDE staff facilitated an exchange of information and stakeholder input through review of:

- Aggregate data from districts’ self-reported use of restrictive procedures for the 2014-15 school year;
- Quarterly aggregate data from districts’ self-reported use of prone restraint;
- Existing statutory language;
- Strategies employed by intermediate districts to reduce restrictive procedures and eliminate prone restraint;
- Strategies employed by other districts to reduce restrictive procedures and eliminate prone restraint;
- Work accomplished from the 2014 statewide plan as set forth in Appendix A of the 2015 Legislative Report and input on ongoing implementation of that plan; and

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- The positive supports sections of the Olmstead Plan and status, and other related goals and work plans.

During the initial 2015 Stakeholder Group meeting, DHS gave a presentation on positive supports and an update on Minnesota's Olmstead Plan, which was approved by the federal district court on September 29, 2015 (Approved Olmstead Plan). MDE reported back on the Olmstead negotiations and that the Olmstead draft positive supports work plan addressed using the restrictive procedure stakeholder process to move toward the elimination of seclusion in the school setting. MDE informed the stakeholders that it would consider the 2015 Stakeholder Group's recommendations for possible inclusion in the agency's budget proposals, which were to be aligned with the statutory charge as well as aligning with the Approved Olmstead Plan's Positive Supports Goals and associated work plan strategies. At the initial meeting, stakeholders reviewed the annual restrictive procedures data and prone restraint data for the quarter ending September 30, 2015. Stakeholders that received "The Assistance to Schools Using Prone Restraints Grant" informed the group of their work plan and status. MDE provided a summary for grantees not present or not part of the 2015 stakeholder group. The grants were amended to allow grantees to complete their work by June 30, 2016. MDE also reported back on the implementation status for the goals in the 2014 work plan.

During the second 2015 Stakeholder Group meeting, MDE provided an update on the Approved Olmstead Plan's Positive Supports Goals and the Court Adopted Work Plan Strategies. MDE staff also reviewed the DHS statute and rule related to positive supports. The stakeholders had small and large group discussions related to what changes should be made to the current statewide plan.

During the third 2015 Stakeholder Group meeting, MDE staff provided revised draft goals based upon the 2015 stakeholder work group's prior discussions. The 2015 stakeholder group had a lengthy discussion related to the challenges in meeting the needs of students with the most complex needs, and a discussion over shared responsibility to meet those needs. There was an agreement to continue that discussion at future stakeholder meetings. The 2015 Stakeholder Group discussed the goals, recommendations for additional funding, and statutory changes.

As indicated by the recommendations of the 2015 Stakeholder Group, the work on a statewide plan to greatly reduce the use of restrictive procedures and to work towards the elimination of seclusion in the school setting requires providing needed supports to students with disabilities who experience the highest use of restrictive procedures and providing funding to enable districts to access training and consultation from experts to develop more effective positive supports for students experiencing restrictive procedures. In addition, there is a need for ongoing discussion and study to review what is successful, and continue to monitor the data and revise the goals, as appropriate. MDE will continue to collect and report the restrictive procedures data and convene the stakeholder meetings, once in the fall of 2016 and subsequent meetings as needed. If the proposed legislation is passed, MDE will also collect and report on the individual seclusion data on a quarterly basis, beginning with the quarter ending September 30, 2016.

VI. 2014 Statewide Plan and Updates

Goal 1

On or before August 1, 2015, MDE will:

Goal 1a: Based upon a review of the restrictive procedure data, MDE staff will contact the districts using prone restraint, and/or high usages of restrictive procedures, prior to August 1, 2015, to identify the areas of technical assistance needed and then facilitate the provision of onsite targeted technical assistance for individual students as needed. The 2014 Stakeholder workgroup supports legislative proposals during the 2015 Legislative Session for the creation of PRTF in the Twin Cities, Youth Assertive Community Treatment (ACT) Teams, and reciprocity for teachers from other states as well as alternative licensure options.

Goal 1a Update: MDE received prone restraint reports from the beginning of the 2011-12 school year through the end of the 2014-15 school year. Prone restraint is no longer allowed to be used effective August 1, 2015.

MDE immediately developed a system to review prone reports within two business days. This review included contacting the district when the report did not appear consistent or the staff was not trained. MDE provided technical assistance to districts when a high usage of prone was reported on an individual. During the 2014-15 school year, MDE identified outliers as any district currently intending to use and rely on the use of prone restraint. Districts using prone restraint during the 2014-15 school year that did not apply/receive monies through the Assistance to Schools Using Prone Restraints Grant, were contacted by MDE's special education division for targeted technical assistance. The districts that received monies through the Assistance to Schools Using Prone Restraints Grant included: 1) Intermediate School District 287; 2) Northwest Metro Intermediate School District 916; 3) Intermediate School District 917; 4) Mankato Area Public Schools; 5) Moorhead Area Public Schools, and 6) Benton Stearns Education District. Additional districts using prone included: 1) S/WC and 2) Brainerd. Districts reporting the use of prone restraint during the first half of the 2014-15 school year were targeted to attend the Restrictive Procedures Reduction Discussion Panel held on December 16, 2014. Panel members shared evidence based best practices and effective strategies and resources to remove the barriers to eliminating the use of prone restraint in schools. All identified districts attended.

Goal 1b: Develop a process for school districts to use for state targeted technical assistance related to reducing the use of restrictive procedures, and eliminating prone restraint by August 1, 2015. MDE will meet with the restrictive procedures stakeholders, including DHS, to discuss training and resources, and also partner with the National Alliance on Mental Illness (NAMI) and other appropriate advocacy agencies regarding parent resources. Targeted technical assistance may include teams from the intermediate districts or other level four programs to help provide expertise, including practical tools. The Stakeholder Group will explore the possibility of developing a video and contacting the regional centers to notify districts of this training opportunity.

Goal 1b Update: In addition to the restrictive procedures reduction discussion panel trainings, MDE provides the following training: Restrictive Procedures Overview for Individual Districts. This is an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities, including requirements that must be met before using restrictive procedures and the standards for use. This presentation is intended to assist individual districts that have questions about new statutory changes and requires the

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individual district requesting the training to actively participate in the presentation process along with, and with assistance from, MDE. To date, during the 2015-16 school year, MDE has provided this training on seven occasions throughout the state. This included a Restrictive Procedures training at a break-out session of the September 2015 Special Education Director's Forum. Special Education administrators could also view the training online.

Goal 1c: Update the MDE Sample Restrictive Procedures Plan and post it on its website in accordance with Minnesota Statutes section 125A.0942.

Goal 1c Update: MDE developed a model restrictive procedures plan to provide guidance and a documentation model for schools. This document originally posted in November 2011 and has been updated in April 2012, January 2014 and September 2014, in accordance with statutory changes to Minnesota Statutes section 125A.0942.

Goal 1d and Goal 1e:

Goal 1d: Make publically accessible, in an electronic format on MDE's website, information pertaining to how schools/school districts may access local mental health services for their students including ACT teams and mobile crisis response teams.

Goal 1e: Make publically accessible, in an electronic format on MDE's website, information pertaining to DHS's Positive Supports Community of Practice bi-weekly live stream meetings.

Goal 1d and Goal 1e Update: The Minnesota Department of Human Services, Children's Mental Health Division, administers policy and practice to ensure effective and accessible mental health services and supports for children and families in Minnesota. The division works together with many public and private partners across the state so that children and youth with mental health needs can develop and function as fully as possible in all areas of their lives.

Please see additional resources DHS provides to support children's mental health:

- Positive Supports Community of Practice (PSCoP)
- Youth ACT (Assertive Community Treatment)
- Children's Mental Health Crisis Response Services (CRS)
- Children's Therapeutic Services and Supports (CTSS) School Providers
- Children with Autism Spectrum Disorders
- Minnesota Mental Health County Crisis Numbers
- School-linked Mental Health Services
- Suicide Prevention

On March 7, 2014, MDE posted the information for the Positive Supports Community of Practice on its restrictive procedure webpage. The other links listed above were added to the MDE webpage on November 21, 2014, and have remained updated since. An individual

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from the Division of Compliance and Assistance has been assigned to annually ensure the DHS links are updated and working.⁴

Goal 2

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

Goal 2a: Supporting implementation of evidence-based practices for positive behavior strategies through the channels already developed by DHS's Continuing Care Administration and Children's Mental Health Division, Positive Supports Community of Practice.

Goal 2a Update: MDE continues to work with the DHS division of children's mental health and disability services related to Olmstead work on positive behavior goals and associated activities. MDE also continues to work on developing common definitions and website for positive behavior resources and supports.

Goal 2b: Identifying systems for culturally responsive resource identification, consistent with the Positive Supports Community of Practice, by collaborating with the Children's Mental Health and Disability Services Division of DHS, including at least the following:

- i. Prevention;
- ii. quality improvement;
- iii. intensive intervention; and
- iv. systems collaboration.

At future stakeholder meetings, MDE will share resources from the PBIS Center that address cultural inequity.

2b Update: MDE continues ongoing participation on:

- Minnesota Olmstead Plan crisis workgroup;
- DHS workgroups on mental health benefits for children; and
- DHS foster care workgroup – the purpose of the work group is to review the child foster care system to assess practices, especially at critical decision points, to ensure children are safe, improve their well-being, and help them find permanent homes.

Goal 2c: Researching three cross-expertise training models for statewide use:

- i. a continuum of treatment and educational service options for students with a combination of severe mental illnesses and developmental disabilities, including Fetal Alcohol Spectrum Disorder;
- ii. in collaboration with emotional and behavioral disorders (EBD) experts and mental health experts, develop an EBD training model that addresses

⁴ The DHS links can be found on the [MDE website](http://education.state.mn.us/MDE/SchSup/ComplAssist/RestProc/index.html):
(<http://education.state.mn.us/MDE/SchSup/ComplAssist/RestProc/index.html>)

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strategies to reduce restrictive procedures used on students with severe aggressive/self-injurious behaviors; and

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

If a request for proposal (RFP) application is accepted and the training materials are developed in accordance with the RFP, the training will be disseminated on MDE's website and DVDs will be made available as an alternate format.

Goal 2c Update: On July 23, 2015, MDE posted Positive Intervention Strategies Training Modules. Specifically, MDE's website provides: In 2011 the MDE convened a restrictive procedures work group tasked with creating a statewide plan to reduce the use of restrictive procedures and eliminate the use of prone restraint. The stakeholders reached consensus on goal recommendations which can be found in Appendix A of MDE's 2015 Restrictive Procedures Legislative Report.

As set out in Goal 2c of the statewide plan, MDE contracted with an outside vendor to develop three online training modules for statewide use that provide positive strategies for school staff to use with students with disabilities. These stand-alone modules and reference documents are designed for districts to use in independent staff training. Each training module is comprised of four parts: Welcome, Digging Deeper, Application to Practice, and Using What You Have Learned. CEUs became available for watching these Modules effective September 16, 2015. The three modules are described below:

Module 1: Supporting Learners with Autism Spectrum Disorder who have Additional Learning Issues.

Module 2: Supporting Learners with Complex Emotional Behavior Disorders.

Module 3: Supporting Learners with Complex Learning Needs.

Goal 2d: Identifying options for experts and expert review, funding, and other supports for students in need of long term, systemic, and intensive interventions.

Goal 2d Update: A list of experts for district and school use when reducing restrictive procedures is available on MDE's website on the restrictive procedures page. Further, materials are provided to assist districts in developing their Restrictive Procedures Plan to meet requirements outline in Minnesota Statutes section 125A.0942, subd. 1.

Goal 2e: Supporting the coordinated implementation of the ASD Medical Assistance benefit authorized by the 2013 Legislature with regard to the respective roles of the education, human services, and healthcare systems in providing effective interventions and improving outcomes, including reduction in the use of restrictive procedures;

Goal 2e Update: In 2013, the Minnesota Legislature passed a law to create a new Medical Assistance autism early intensive intervention benefit for children from birth to 18 years with autism spectrum disorder (ASD). Later amendments added children with related conditions and young adults up to age 21. The purpose of the benefit is to provide autism-specific,

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medically necessary treatment for children, parent training and support to improve long-term outcomes and quality of life for children and their families. The Early Intervention Developmental and Behavioral Intervention (EIDBI) launched July 1, 2015, and began enrolling providers. With only one provider enrolled, it is difficult for children to currently access this service. In the meantime, it is suggested that the children access CTSS through “skills training” if they have an ASD diagnosis.

MDE continues to house links to both the Children with Autism Spectrum Disorders and Children’s Therapeutic Services and Supports (CTSS) School Providers, services on its [restrictive procedures webpage](http://education.state.mn.us/MDE/SchSup/ComplAssist/RestProc/index.html): (<http://education.state.mn.us/MDE/SchSup/ComplAssist/RestProc/index.html>)

Goal 2f: Supporting increased access to mental health treatment, including evidence-based practices, and awareness of mental health services in order to address the symptoms and behaviors of children and youth with mental illnesses, including those with intensive service needs, covered through the Medical Assistance – individualized education program (MA-IEP) program, School CTSS program, School-linked Mental Health Grant program, co-located Mental Health Services, and Mental Health in Schools Act.

Goal 2f Update: MDE and DHS held training sessions in the fall of 2015 on the ongoing implementation of using Medical Assistance funds for IEP health related services. Ongoing technical assistance and consultation is provided by DHS and MDE staff related to the school CTSS program. MDE staff continue to participate in the School-linked Mental Health grantee meetings.

Goal 3

The Restrictive Procedures Workgroup will provide input to any follow-up meetings related to the Mental Health Workforce Summit in order to recommend training to reduce the use of restrictive procedures.

Goal 3 Update: The 2014 Mental Health Workforce Summit is completed and a legislative report was developed in January 2015. The focus shifted to mental health professionals and there were no follow-up meetings to recommend training to reduce the use of restrictive procedures.

MDE and DHS staff, as well as members of the stakeholder group, participated in listening sessions and planning for the 2014 Mental Health Summit. One stakeholder then attended “HealthForce Minnesota: Mental Health Summit” at Hennepin Technical College on May 28, 2014. No documentation that any training specific to the reduction of restrictive procedures was developed as part of the Summit. The Mental Health Workforce Summit is completed and a legislative report was developed in January 2015.

Goal 4

By August 1, 2015, MDE will collaborate with school districts, including, but not limited to, intermediate school districts, DHS, parent advocacy groups, and community partners to discuss different types of trainings related to the reduction of restrictive procedures to be available to the education community. Stakeholders who will participate in the discussions will include ARC, PACER, and Intermediates 287 and 917.

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Goal 4 Update: MDE continues to collaborate with stakeholders to enhance existing trainings and develop new trainings targeted to reduce restrictive procedures. MDE continues to provide consultation and technical assistance to school districts upon request, including charter schools, outstate Minnesota schools, and special education cooperatives. MDE continues to provide onsite training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities and assistance in ensuring accurate reporting of restrictive procedures. The 2015 Stakeholders Group has ongoing discussions on how to identify training needs and how to best meet the needs.

Goal 5

Consistent with Minnesota's 2013 Olmstead Plan, by June 30, 2015 and each subsequent year, a minimum of 40 additional schools will use the evidence-based practice of PBIS so that students are supported in the most integrated setting. Within this environment of school-wide positive behavior support, districts will train school staff and ensure that compatible school-wide and individual positive behavior approaches align. During the fall of 2015, the stakeholders will review the data from the MDE and DHS case studies of seven sites with effective universal PBIS and effective school linked mental health services.

Goal 5 Update: Minnesota continues the expansion of PBIS which improves the capacity of school districts to include students in integrated classroom. As of June 30, 2015, there were 479 schools implementing PBIS. Another 53 new schools started training in August 2015, as part of cohort 11. Applications became available for Cohort 12 in October 2015, with applications due in January 2016. Cohort 12 will start training in August 2016.

For the 2015-16 school year, there are 532 or 26.5 percent of Minnesota schools implementing PBIS, impacting 247,009 students (30 percent of all students).

MDE continues to work with school-linked mental health grants and MDE staff participate in all SLMH grantee meetings as a technical assistance resource. MDE and DHS continue to work together to identify exemplar sites who are implementing both of these efforts effectively.

Goal 6

During the 2015 legislative session, the Legislature will consider increasing the general education revenue to allocate state funding for supporting school districts to maintain focus and sustain fidelity of PBIS sites beyond the current two-year support for PBIS implementation. Districts will apply to MDE for state funding through an application process, which will include a requirement that school districts collect and report implementation data. The current cost is anticipated to be \$240,000 and will increase as additional school sites complete two years of PBIS training. MDE will assign a priority for schools where students are experiencing high usages of restrictive procedures.

Goal 6 Update: During the 2015 legislative session, the House appropriated \$750,000 and the Senate appropriated \$100,000, however, no funds were appropriated for the purpose of reducing restrictive procedures during the 2015 legislative session in the final education bill passed.

Goal 7

Annually, beginning February 1, 2015, MDE will submit a report to the Legislature summarizing the state's progress on reducing the use of restrictive procedures statewide with recommendations on how to further reduce their use. The 2015 Stakeholder Group will meet in the fall to review annual summary data from the 2014-15 school year, and will determine if additional meetings are necessary. The purpose of the meeting(s) is to allow the group to continue policy work to ensure that positive school outcomes, positive school success for students with mental health and behavior health needs, including the receipt of necessary services and delivery, is reviewed and modified as necessary.

Goal 7 Update: MDE has submitted an annual legislative report related to the use of restrictive procedures in Minnesota public schools beginning on February 1, 2012. Based upon the recommendations in the 2014 statewide plan, the Legislature authorized ongoing meetings of the restrictive procedures stakeholder group and annual legislative reports. MDE coordinated 2015 Stakeholder Group meetings, which were held in October, December, and January, to review summary restrictive procedures data and individual incidents of prone restraint. At each meeting, stakeholders were given the opportunity to provide input and share strategies and barriers in reducing the use of restrictive procedures. The Stakeholder Group currently has additional meetings scheduled for April and July, 2016.

At the January 22, 2016 Stakeholder Group meeting, MDE staff reviewed the draft goals and draft statutory changes with the 2015 Stakeholder Group and there was an opportunity for input, discussion, and final recommendations. The data contained in the 2016 Legislative Report has been shared at the 2015-16 restrictive procedures work group meetings. The 2016 Legislative Report includes a summary of progress in implementing the 2014 statewide plan, and contains additional recommendations to the Legislature to assist in the reduction of restrictive procedures and to work towards the elimination of seclusion. The reports also include data to inform the Legislature and the public on the use of restrictive procedures in public schools, and to provide data comparisons between reporting periods. Appendix A of each report includes a statewide plan and recommendations for legislative changes to the restrictive procedure statutes, and Appendix B provides a summary of other state statutes. This goal will be completed by February 1, 2016.

Goal 8

During the fall 2015 Stakeholder Group meeting, MDE staff and stakeholders will review the grantees' work plans and outcome results to determine if there are successful models that can be applied to other districts. During the 2015-16 school year, the stakeholders will discuss ways to share the results.

Goal 8 Update: In September 2015, MDE began collecting the work plans and outcome results of six recipients of the Assistance to Schools Using Prone Restraints Grant. The information collected was shared by the grantee and MDE at the October 2015 Stakeholder Group meeting. Additional discussion included how to share the results so that the work can be applied to other districts. During the summer of 2015, the time period was amended to

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June 30, 2016, to enable the districts to complete the activities in their work plans. The following is a summary of work that has been completed:

- More consistent definitions for reporting across school teams within a district. Crisis Prevention Intervention (CPI) trainers facilitated peer coaching, outside of the regular school day, to help teams develop strategies to help students. While helpful, the district reports issues related to cost and time resource issues for staff to stay for an extended day.
- Outside consultants hired to help develop positive strategies and develop effective sensory supports within the school setting. The outside consultant then re-observed and further refinements were made. Some positive changes included providing students with autism spectrum disorders small choices to give them some control, increased the space for students, and new curriculum.
- Review and Revisions of all teacher integrated proactive management plans, hired a district-wide mental health specialist that worked with 24 students and families, and hired a psychiatric consultant. In addition, the district implemented and conducted PBIS staff training.
- Private crisis service interventions purchased to refine improvement in all student behaviors. Continued barriers are parental refusal of treatment options or inability to pay.

Goal 9

During the fall 2015 Stakeholder Group meeting, MDE staff and stakeholders will review the student and staff injury data reported by districts in the annual restrictive procedure summary report for the 2013-14 and 2014-15 school years.

Goal 9 Update: MDE presented summary data, which included student and staff injury data reported by districts in the annual restrictive procedure summary report for the 2013-14 and 2014-15 school years at the October 2015 Stakeholders Group meeting.

During the 2014-15 school year, reports indicated that 738 staff were injured and 161 students were injured during physical holds; 134 staff were injured and 57 students were injured during seclusion.

During the 2013-14 school year, reports indicated that 559 staff were injured and 58 students were injured during physical holds; 221 staff were injured and 27 students were injured during seclusion.

VII. Goals Recommended by the 2015 Stakeholder Group

The 2015-16 Stakeholder Group focused its work on reviewing data and implementation of the prior statewide plan, which is incorporated into the February 1, 2015 legislative report. All recommendations by the 2015 Stakeholder Group are intended to reduce school districts' use of restrictive procedures and work toward the elimination of seclusion.

Goal 1: 2017 Legislative Report

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

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- 1a. The restrictive procedures workgroup will meet in the fall of 2016, to:
 - i) Review Positive Behavioral Interventions and Supports (PBIS) data collected by MDE;
 - ii) Review the annual summary restrictive procedures data collected by MDE;
 - iii) Share resources from the PBIS Center that address cultural inequity;
 - iv) Work to clarify definitions found in Minnesota Statute, section 125A.0941, to ensure accurate and consistent reporting;
 - v) Discuss the possibility of developing and implementing an expert review panel to serve as a resource for school districts and parents⁵ to use in reducing the use of restrictive procedures, particularly seclusion, and promoting school safety for staff and students; and,
 - vi) Discuss the possibility of developing and implementing a high risk pool to provide comprehensive supports across school, county and state systems for highly challenged students in need of long-term, systemic, and intensive interventions.
- 1b. At the fall 2016 restrictive procedures workgroup meeting, MDE will report on its ongoing collaboration with the Department of Human Services (DHS) and other state agencies, pertaining to its:
 - i) Continued development and implementation, evaluation, and required reporting activities in Minnesota's Approved Olmstead Plan;
 - ii) Continued efforts to ensure implementation of statutory requirements pertaining to the use of medical assistance funds for IEP health related services, the Autism Spectrum Disorders medical assistance benefit, and the school Children's Therapeutic Services and Supports program; and
 - iii) Continued participation at school-linked mental health grantee meetings and the First Episode of Psychosis workgroup meetings.
- 1c. At the fall 2016 restrictive procedure workgroup meeting, the members will determine how many additional meetings are necessary to allow the workgroup to accomplish the work outlined in the February 1, 2016 legislative report and reach consensus on recommendations for the February 1, 2017 legislative report.

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

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

- 2a. MDE will continue to maintain updated model forms in response to legislative changes under Minnesota Statute, section 125A.0942, and maintain links to DHS's children's mental health services applicable to the goals outlined in this report, including the

⁵ "[Parent](#)" is defined as outlined in 34 C.F.R. § 300.30.

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positive supports community of practice bi-weekly live stream meeting, the positive supports webpage, and the crisis response services webpage.

- 2b. MDE will continue to offer onsite training that provides an overview of Minnesota's restrictive procedures statutes pertaining to children with disabilities, including requirements that must be met before using restrictive procedures and the standards for use. This training will be revised to include information from, and references to, the Positive Intervention Strategies Training Modules posted on MDE's website, as well as the successful school district work plan outcomes resulting from the receipt of the Assistance to Schools Using Prone Restraints Grant.
- 2c. MDE will continue to collaborate with DHS, school districts, parent advocacy groups, the National Alliance on Mental Illness, community partners, higher education, professional educational associations, Regional Low Incidence Facilitators (RLIFs), Regional Centers of Excellence, and school resource officers, to discuss targeted technical assistance, training, and resource needs related to the use of positive supports and the reduction of restrictive procedures, particularly seclusion, mental health services, pre-service training, and licensing requirements.
- 2d. Based upon a review of the 2015-16 annual summary restrictive procedures data, MDE staff will contact school districts with high usage or atypical patterns of restrictive procedures, particularly seclusion, prior to September 1, 2016, to offer to conduct a comprehensive review of the school district's plans, policies, and procedures for using restrictive procedures, PBIS and positive supports, 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.
- 2e. By June 30, 2018, the workgroup will develop a plan for an annual conference on the use of positive supports to showcase successful efforts to improve educational outcomes for students with disabilities and reduction in the emergency use of restrictive procedures.

Goal 3: Additional Funding

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

- 3a. MDE will develop a process for school districts and/or RLIFs to apply for and receive funding for the development and implementation of training by school district staff who have a documented decrease in their school district's use of restrictive procedures, and by external providers, to serve as resources for other school districts experiencing high usage of restrictive procedures.
- 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 - 21 have access to a

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comprehensive array of services as needed to address their needs. The panel would have the authority to make recommendations and designate funds necessary to facilitate access to services and settings, and have the following responsibilities:

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

VIII. Recommendations

1. Support Stakeholder-Driven Changes to Statute.

The 2015 stakeholder group recommended that the Minnesota Legislature amend Minnesota Statutes, section 125A.0942 to make prone restraint a prohibited procedure. This recommendation aligns with the Minnesota Revised Olmstead Plan.

The 2015 stakeholder group also recommended that the Minnesota Legislature amend Minnesota Statutes, section 125A.0942 subdivision 3(b) to substitute seclusion for prone restraint and to require districts to submit to MDE in a format determined by the commissioner, individual seclusion reports on a quarterly basis, beginning with the first quarter of the 2016-17 school year. The 2015 stakeholder group also recommended that the reporting deadline be extended to July 15 and that the statute specify that the reporting period is from July 1 through June 30 to clarify that extended school year services provided in June would be included in the annual reporting.

The 2015 stakeholder group also recommended that the Legislature appropriate \$1,500,000 to be available beginning with the 2016-17 school year, to ensure students can continue to be educated in the least restrictive environment with appropriate behavior interventions, supports, and expertise, and to avoid student placements into more restrictive environments to receive such services. \$1,000,000 of the funds will be used to contract for consultative/expert services and reimburse expert teams, as described in Goal 3a. The 2015 stakeholder group also recommended in Goal 3b that the Legislature appropriate \$500,000 for creation of an infrastructure with DHS and MDE to identify students with complex needs, determine existing accessed services, and determine gaps in services. The funds would be used to fill in any service gaps that cannot be leveraged through existing federal, state and county funding. The 2015 stakeholder group agreed that the funds are needed to provide training and services to district staff so that students can be educated in the least restrictive environment.

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125A.0942 STANDARDS FOR RESTRICTIVE PROCEDURES.

Subdivision 1. Restrictive procedures plan.

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

- (1) lists the restrictive procedures the school intends to use;
- (2) describes how the school will implement a range of positive behavior strategies and provide links to mental health services;
- (3) describes how the school will provide training on de-escalation techniques, consistent with section [122A.09, subdivision 4](#), paragraph (k);
- (4) describes how the school will monitor and review the use of restrictive procedures, including:
 - (i) conducting post-use debriefings, consistent with subdivision 3, paragraph (a), clause (5); and
 - (ii) convening an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and
- (5) includes a written description and documentation of the training staff completed under subdivision 5.

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

- (1) a mental health professional, school psychologist, or school social worker;
- (2) an expert in positive behavior strategies;
- (3) a special education administrator; and
- (4) a general education administrator.

Subd. 2. Restrictive procedures.

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

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

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

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

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

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

Subd. 3. Physical holding or seclusion.

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

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

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

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

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

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

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

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

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

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

(6) the room used for seclusion must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(v) the district, before using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints.~~

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

(b) By 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 ~~prone restraint~~ 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 ~~prone restraint~~ 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. ~~By June 30~~Beginning 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, of 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](#).

Subd. 4. **Prohibitions.**

The following actions or procedures are prohibited:

- (1) engaging in conduct prohibited under section [121A.58](#);
- (2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;
- (3) totally or partially restricting a child's senses as punishment;
- (4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;
- (5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

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

(7) withholding regularly scheduled meals or water; ~~and~~

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

(10) prone restraint.

Subd. 5. **Training for staff.**

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

(1) positive behavioral interventions;

(2) communicative intent of behaviors;

(3) relationship building;

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

(5) de-escalation methods;

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

(7) obtaining emergency medical assistance;

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

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

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

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

(12) schoolwide programs on positive behavior strategies.

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

Subd. 6. **Behavior supports; reasonable force.**

(a) School districts are encouraged to establish effective schoolwide systems of positive behavior interventions and supports.

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(b) Nothing in this section or section [125A.0941](#) precludes the use of reasonable force under sections [121A.582](#); [609.06, subdivision 1](#); and [609.379](#). For the 2014-2015 school year and later, districts must collect and submit to the commissioner summary data, consistent with subdivision 3, paragraph (b), on district use of reasonable force that is consistent with the definition of physical holding or seclusion for a child with a disability under this section.

2. Support Stakeholder Planned Action Items

MDE supports the consensus-based recommendations reached by the 2015 stakeholder group regarding actions that various stakeholders, agencies and the legislature can take to best ensure a reduction in the use of restrictive procedures in the Minnesota education system. As such, MDE recommends the above goals to reduce the emergency use of restrictive procedures and work toward the elimination seclusion. The 2015 stakeholder group also supports:

- The Board of Teaching's rule making process to streamline and make licensing easier for out of state licensed teachers.
- Funding for psychiatric treatment residential facilities (PTRFs) and to ensure that they are available throughout the state
- Increased PBIS funding which is contained in a separate appropriation.
- Increased state funding for professional development for intermediate districts and districts serving students with disabilities in level four programs.

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

State	Language
AL ¹	<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. 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 ²	<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>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>
AZ ³	<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>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>

¹ Ala. Admin. Code r. 290-3-1-.02

² Alaska Stat. § 14.33.125

³ Ariz. Rev. Stat. § 15-105

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State	Language
AR ⁴	<p>Use of a “time out seclusion room” is permissible, which is “an extension of such techniques as turning a chair away from a group or placing a student in a corner or in the hallway.”</p> <p>Such a room is to be between 4ft square and 6ft square, properly lit, properly ventilated, free of objects and fixtures, continuously monitored, with a door that cannot be locked, and meet fire and safety codes.</p> <p>“Time-out seclusion should be used only for behaviors that are destructive to property, aggressive toward others or severely disruptive to the class environment . . . [and] should be used only as a last resort if and when less restrictive means of controlling behavior have proven ineffective.”</p>
CA ⁵	<p>“Locked seclusion [is prohibited], unless it is in a facility otherwise licensed or permitted by state law to use a locked room.”</p> <p>Seclusion is not further defined.</p>
CO ⁶	<p>Seclusion, included as a type of restraint, is permitted and defined, for most state agencies, including education, as:</p> <p>“the placement of a person alone in a room from which egress is involuntarily prevented.”</p> <p>“Subject to the provisions of this article, an agency may only use restraint:</p> <p>(a) In cases of emergency; 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>
CT ⁷	<p>“No school employee shall place a student in seclusion except as an emergency intervention to prevent immediate or imminent injury to the student or to others, provided the seclusion is not used for discipline or convenience and is not used as a substitute for a less restrictive alternative.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student in a room, whether alone or with supervision, in a manner that prevents the student from leaving. . . .”</p> <p>As further described in guidance:</p> <p>“seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement including in-school suspension and time-out. Seclusion does not include (1) time outs in the back of the classroom or in the 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>

⁴ Ark. Dep’t of Educ., Spec. Educ. and Related Services, 20.00, 20.03 Time-Out Seclusion Room (2015).

⁵ Cal. Educ. Code § 56521.1.

⁶ Colo. Rev. Stat. §§ 26-20-102, 26-20-103.

⁷ Conn., Pub. Act No. 15-141; Conn. Dep’t of Educ., Guidance Related to Recent Legislation (July 1, 2015) Regarding Restraint and Seclusion in Schools.

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State	Language
DE ⁸	<p>Seclusion is prohibited, except by waiver from the state department of education: “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: “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 ⁹	<p>“Seclusion. Individual is placed in a location where he or she is alone, and where he or she is physically prevented from leaving that environment.”</p> <p>”Seclusion is appropriate only when a student is displaying physical behavior that presents imminent risk of injury to the student or others [,] should only be employed as a last resort after other methods of de-escalating a dangerous situation have been attempted without success[,] should only be employed as long as the threat of imminent injury is present and should be discontinued when the student is no longer a threat to others.”</p> <p>“The use of a mechanical locked door is prohibited. The staff member can hold a door closed. When the staff member is not holding the door closed it will automatically release.”</p>
FL ¹⁰	<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 ¹¹	<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>

⁸ Del. Code Ann. 41, tit. 14 § 4112F

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

¹⁰ Fla. Stat. § 1003.573.

¹¹ Ga. Comp. r. & regs. 160-5-1-.35.

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State	Language
HI ¹²	<p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room or structure from which the student is physically denied voluntary egress.”</p> <p>“The use of seclusion, chemical restraint, or mechanical restraint shall be prohibited in public schools regardless of any consent of the student, parents, or guardians.”</p>
ID ¹³	<p>No laws or guidance on seclusion.</p>
IL ¹⁴	<p>“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>
IN ¹⁵	<p>Enabling legislation for rulemaking required:</p> <p>“(E) A statement ensuring that if a procedure listed in clause (B) [which includes seclusion] is used, the procedure will be used:</p> <ul style="list-style-type: none"> (i) as a last resort safety procedure, employed only after another, less restrictive procedure has been implemented without success; and (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>(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>
IA ¹⁶	<p>[P]hysical confinement and detention shall not be used as discipline for minor infractions and may be used only after other disciplinary techniques have been attempted, if reasonable under the circumstances. . . .”</p> <p>Physical confinement and detention is defined as:</p> <p>“the confinement of a student in a time-out room or some other enclosure, whether within or outside the classroom, from which the student’s egress is restricted.”</p>
KS ¹⁷	<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</p>

¹² Haw. Rev. Stat. §§ 302A-1141.3 to 302A.1141.4.

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

¹⁴ Ill. Admin. Code, tit. 23, § 1.285.

¹⁵ Ind. Code. § 20-20-40-9; see also 513 Ind. Admin. Code 1-2-4.

¹⁶ Iowa Admin. Code r. 281-103.6 to 281-103.7.

¹⁷Kan. Stat. Ann. §§ 72-89d02 to 72-89d03.

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	<p>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>Seclusion is permitted and defined as:</p> <p>“placement of a student in a location where all the following conditions are met:</p> <ul style="list-style-type: none"> (1) The student is placed in an enclosed area by school personnel; (2) the student is purposefully isolated from adults and peers; and (3) the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.”
KY ¹⁸	<p>“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>“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>“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>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or area from which the</p>

¹⁸ 704 Ky. Admin. Regs. 7:160.

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	student is prevented from leaving but does not mean classroom timeouts, supervised in-school detentions, or out-of-school suspensions.”
LA ¹⁹	<p>“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>“Seclusion shall not be used to address behaviors such as general noncompliance, self-stimulation, and academic refusal. Such behaviors shall be responded to with less stringent and less restrictive techniques.”</p> <p>“A seclusion room shall be used only as a last resort if and when less restrictive measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student’s environment, have failed to stop a student’s actions that pose an imminent risk of harm.”</p> <p>“Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.”</p> <p>Seclusion is defined as:</p> <p>“a procedure that isolates and confines a student in a separate room or area until he or she is no longer an immediate danger to self or others.”</p>
ME ²⁰	<p>“Seclusion may be used only as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others, and only after other less intrusive interventions have failed or been deemed inappropriate.”</p> <p>“The staff involved in the use of seclusion shall continually assess for signs that the student is no longer presenting a risk of injury or harm to self or others, and the seclusion must be discontinued as soon as possible.”</p> <p>“Seclusion may not be used for punitive purposes, staff convenience or to control challenging behavior[,] to prevent property destruction or disruption of the environment in the absence of a risk of injury or harm[,] as a therapeutic or educational intervention[, or] take place in a locked room.”</p> <p>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room or clearly defined area from which the student is physically prevented from leaving. Seclusion is not timeout.”</p>
MD ²¹	<p>Seclusion is prohibited unless:</p> <p>“(a) There is an emergency situation and seclusion is necessary to protect a student or another person after other less intrusive interventions have failed or been determined to be inappropriate;</p> <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</p>

¹⁹La. Rev. Stat. § 17:416.21.

²⁰ 05-071-33 Code Me. R. § 2.

²¹ Md. Code Regs. 13A.08.04.02, 13A.08.04.05.

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State	Language
	<p>the use of seclusion while a behavior intervention plan is being developed.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room from which the student is physically prevented from leaving.”</p>
MA ²²	<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>
MI ²³	<p>“An emergency seclusion may not be used in place of appropriate less restrictive interventions.”</p> <p>“Seclusion shall not be used: for the convenience of staff[,] as a substitute for an educational program[,] as a form of discipline/punishment[,] as a substitute for less restrictive alternatives[,] as a substitute for adequate staffing[,] or as a substitute for staff training in positive behavior supports and crisis prevention and intervention.”</p> <p>“Seclusion is inappropriate for students who are severely self-injurious or suicidal.”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student in a room or other space from which the student is physically prevented from leaving and which provides for continuous adult observation of the student. A room or area used for seclusion: must not be locked[,] must not prevent the student from exiting the area should staff become incapacitated or leave that area[,] and must provide for adequate space, lighting, ventilation, viewing, and the safety of the student.”</p>
MN ²⁴	<p>“[S]eclusion may be used only in an emergency. A school that uses . . . seclusion shall meet the following requirements:</p> <ol 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. . . .” <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>

²² 603 Mass. Code Regs. 46.02-46.03.

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

²⁴ Minn. Stat. §§ 125A.094-125A.0942

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State	Language
MS ²⁵	<p>“School personnel may use seclusion to address a student’s behavior:</p> <ul style="list-style-type: none"> a. If the student’s behavior unreasonably interferes with the student’s learning or the learning of others; b. 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; c. After less restrictive or alternative approaches have failed or have been determined to be inappropriate.” <p>“Under no circumstances shall restraint or seclusion be utilized as a punitive measure.”</p> <p>“The room used for seclusion may not be locked and staff must be present to monitor the student’s safety and to know when the student has regained control of their behavior.”</p> <p>Seclusion is defined as:</p> <p>“‘the confinement of a student in an enclosure from which the student’s egress is restricted.’ Seclusion does not include situations in which a staff member trained in the use of de-escalation techniques is physically present in the same unlocked room as the student, in-school suspension, detention, or alternative school.”</p>
MO ²⁶	<p>“The school discipline policy under section 160.261 shall prohibit confining a student in an unattended, locked space except for an emergency situation while awaiting the arrival of law enforcement personnel.”</p> <p>“The policy shall include but not be limited to: (1) Definitions of restraint, seclusion, and time-out and any other terminology necessary to describe the continuum of restrictive behavioral interventions available for use or prohibited in the district. . . .”</p> <p>The model policy defines seclusion as prohibited by statute, but permits isolation in what “should be a normal-sized meeting or classroom commonly found in a school setting.”</p>
MT ²⁷	<p>“Aversive treatment procedures must be designed to address the behavioral needs of an individual student, be approved by the IEP team, and may not be used as punishment, for the convenience of staff, or as a substitute for positive behavioral interventions.”</p> <p>Isolation time-out, as an aversive treatment procedure, is permitted and is defined as meeting the following conditions:</p> <ul style="list-style-type: none"> (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

²⁵ Miss. Dep’t of Educ., 4013 Restraint and Seclusion Policy.

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

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

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State	Language
	<p>(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> <p>“[I]solation in a locked room or mechanical restraint [is prohibited], except in residential treatment facilities and psychiatric hospitals as defined in 20-7-436, MCA, when prescribed by a physician as part of a treatment plan and when implemented in compliance with relevant federal and state law. . . .”</p> <p>Guidance states: “The use of a locking system that does not require the presence of staff to keep the door from opening is considered a locked room. Any system used to prevent exit from the isolation time-out room must allow the door to be opened if a staff person is not actively engaging the system.”</p>
NE ²⁸	<p>“Each school system has a seclusion and restraints policy approved by the school board or local governing body.”</p> <p>At this time Nebraska does not have any statutes, regulations, or state policies regarding restraint or seclusion but schools are required to have school safety and security committees in charge of developing safety and security plans for each school in order to be accredited. Procedures related to these procedures “could be interpreted as coming under the scope of Nebraska’s school safety policies.”</p> <p>“Seclusion - Seclusion occurs when a person is placed in a location where he or she is alone, and prevented physically from leaving that environment. It is the act of physically confining a person alone in a room or limited space, or with an adult who is there to prevent the person from leaving. Seclusion should be distinguished from other forms of time out that do not entail isolation and restricted egress (see definitions and discussion later in this document).”</p>
NV ²⁹	<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 interventions are defined as including:</p> <p>“The 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>
NH ³⁰	<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 or restraint 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>

²⁸ 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).

²⁹ Nev. Rev. Stat. §§ 388.521-388.5317.

³⁰ N.H. Rev. Stat. Ann. §§ 126-U:1-126-U:14.

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	<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>Seclusion is defined as:</p> <p>“the involuntary placement of a child alone in a place where no other person is present and from which the particular child is unable to exit, either due to physical manipulation by a person, a lock, or other mechanical device or barrier. The term shall not include the voluntary separation of a child from a stressful environment for the purpose of allowing the child to regain self-control, when such separation is to an area which a child is able to leave. Seclusion does not include circumstances in which there is no physical barrier between the child and any other person or the child is physically able to leave the place. A circumstance may be considered seclusion even if a window or other device for visual observation is present, if the other elements of this definition are satisfied.”</p>
NJ ³¹	<p>No law on seclusion. “The New Jersey Department of Education, Office of Special Education, endorses the use of [the United States Department of Education, Office of Special Education and Rehabilitative Services (USDE OSERS) May 15, 2012, Guidance Document] when developing Individual Education Programs (IEPs) which address the behavioral needs of students with disabilities.”</p>
NM ³²	<p>No laws on seclusion, though guidance on use of time out rooms, which includes descriptions of isolation.</p>
NY ³³	<p>“Except for unanticipated situations that pose an immediate concern for the physical safety of a student or others, the use of a time out room shall be used only in conjunction with a behavioral intervention plan that is designed to teach and reinforce alternative appropriate behaviors.”</p> <p>A time out room is defined as:</p> <p>“an area for a student to safely deescalate, regain control and prepare to meet expectations to return to his or her education program.”</p> <p>“The school's policy and procedures shall minimally include: (i) prohibiting placing a student in a locked room or space or in a room where the student cannot be continuously observed and supervised; (ii) factors which may precipitate the use of the time out room; (iii) time limitations for the use of the time out room. . . .”</p> <p>“The use of locked rooms or spaces for purposes of time out is prohibited.”</p>
NC ³⁴	<p>“Seclusion of students by school personnel may be used in the following</p>

³¹ N.J. Dep’t of Educ., NJOSE Guidance Memo 2012-5 (Sept.18, 2012). A bill introduced would define seclusion as “locked isolation” and prohibit the use be written into a student’s individualized education program, though not prohibit the usage in general. N.J. Senate, No. 533.

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

³³ N.Y. Comp. Codes R. & Regs., tit. 8, § 200.22.

³⁴ N.C. Gen. Stat. § 115C-391.1.

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	<p>circumstances:</p> <ul 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. . . .” <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in an enclosed space from which the student is:</p> <ul 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 ³⁵	No laws or guidance on seclusion, though a study has been commissioned. .
OH ³⁶	<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> <ul style="list-style-type: none"> (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; (b) As a last resort to provide an opportunity for the student to regain control of his or her actions; (c) For the minimum amount of time necessary for the purpose of protecting the student and others from physical harm. . . .” <p>Seclusion is defined as:</p> <p>“the involuntary isolation of a student in a room, enclosure, or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier.”</p>
OK ³⁷	Proposed guidelines for use of seclusion state: “Seclusion shall not be used for the purposes of discipline or as a punishment, to force compliance, or as a convenience for staff. Seclusion should not be used to manage behavior. Seclusion should only be used under the following emergency circumstances and if these elements exist: A student’s actions pose an imminent risk of harm to him/herself or others [and p]ositive behavior intervention strategies and less restrictive measures appropriate to the behavior exhibited by the student and specified in the student’s IEP or BIP, are currently being implemented but are not currently de-escalating the risk of injury. . . .”

³⁵ N.D. Leg. Coun., Use of Restraint and Seclusion Procedures in Schools (Sept. 2015); N.C. Senate, Concurrent Resolution No. 4018;

³⁶ Ohio Admin. Code 3301-35-15.

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

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	<p>Seclusion is defined in guidance as:</p> <p>“involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. This includes situations where a door is locked as well as where the door is blocked by other objects or held by staff. Any time a student is involuntarily alone in a room and prevented from leaving should be considered seclusion regardless of the intended purpose or the name applied to this procedure or the name of the place where the student is secluded.”</p>
OR ³⁸	<p>“The use of . . . seclusion on a student in a public education program in this state is prohibited unless used as provided in Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), 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>Seclusion is defined as:</p> <p>“the involuntary confinement of a student alone in a room from which the student is physically prevented from leaving. ‘Seclusion’ does not include: (a) The removal of a student for a short period of time to provide the student with an opportunity to regain self-control if the student is in a setting from which the student is not physically prevented from leaving.”</p>
PA ³⁹	<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 an aversive procedure as “activities designed to establish a negative association with a specific behavior.”</p>
RI ⁴⁰	<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>

³⁸ Ore. Admin. R. 581-021-0550 to 581-021-0553.

³⁹ 22 Pa. Code § 14.133.

⁴⁰ R.I. Bd. of Regents for Elem. and Sec. Educ., Physical Restraint Regulations, 3.20, 3.24 (Sept. 1, 2002) (ERLID #3826).

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State	Language
	<p>“placing a child alone in a locked room without supervision. Such action is strictly prohibited in Rhode Island.”</p>
<p>SC⁴¹</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 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.” <p>Seclusion is defined in guidance as: “the involuntary confinement of a student alone in a room or area where the student is prevented from leaving.”</p>
<p>SD⁴²</p>	<p>No laws or guidance on seclusion, though new rules in draft form.</p>
<p>TN⁴³</p>	<p>“The use of a locked door, or any physical structure, mechanism, or device that substantially accomplishes the function of locking a student in a room, structure, or area, is prohibited.”</p> <p>“Any space used as an isolation room shall be: [u]nlocked and incapable of being locked. . . .”</p> <p>“A student receiving special education services . . . may be restrained or isolated only in emergency situations.”</p> <p>Isolation or seclusion: “(A) Means 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 (B) Does not include time-out, a behavior management procedure in which the</p>

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

⁴² S.D. Dep’t of Educ., Special Education Programs Information, News, and Events (Oct. 2015).

⁴³ Tenn. Code Ann. §§ 49-10-1303, 49-10-1305.

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	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;”
TX ⁴⁴	<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>
UT ⁴⁵	<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>“If a public education employee uses seclusionary time out, the public education employee shall:</p> <p>(a) use the minimum time necessary to ensure safety;</p> <p>(b) use a release criteria (as outlined in LEA policies);</p> <p>(c) ensure that any door remains unlocked; and</p> <p>(d) maintain the student within line of sight of the public education employee.”</p> <p>Seclusionary time out is defined as a student:</p> <p>(1) placed in a safe enclosed area:</p> <p>(a) by school personnel; and</p> <p>(b) in accordance with the requirements of R392-200 and R710-4-3;</p> <p>(2) purposefully isolated from adults and peers; and</p> <p>(3) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.</p>
VT ⁴⁶	<p>“[S]eclusion shall not be used:</p> <p>a. For convenience of staff;</p> <p>b. As a substitute for an educational program;</p> <p>c. As a form of discipline or punishment;</p>

⁴⁴ Tex. Educ. Code § 37.0021.

⁴⁵ Utah Admin. Code R277-609.

⁴⁶22-000-036 Vt. Code R. § 4500 et seq.

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	<p>d. As a substitute for inadequate staffing or training;</p> <p>e. In response to a student's use of profanity or other verbal or gestural display of disrespect; or</p> <p>f. In response to a verbal threat unaccompanied by demonstrated means of or intent to carry out the threat.”</p> <p>“Seclusion, not otherwise prohibited by these rules, may be used only:</p> <p>a. When a student's behavior poses an imminent and substantial risk of physical injury to the student or others;</p> <p>b. When less restrictive interventions have failed or would be ineffective in stopping such imminent risk of physical injury;</p> <p>c. As a temporary intervention;</p> <p>d. When physical restraint is contraindicated;</p> <p>e. When there is no known developmental, medical, psychological or other contraindication to its use;</p> <p>f. When the student is visually monitored at all times by an adult; and</p> <p>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> <p>“In rare circumstances where the use of . . . seclusion may be necessary due to a student's pattern of dangerous behavior that is not responsive to less restrictive interventions, . . . seclusion may be included in an individual safety plan [subject to certain conditions.]”</p> <p>“Seclusion means the confinement of a student alone in a room or area from which the student is prevented or reasonably believes he or she will be prevented from leaving. Seclusion does not include time-out where a student is not left alone and is under adult supervision.”</p>
VA ⁴⁷	<p>“The following actions are prohibited:</p> <p>1. [S]eclusion, except when it is necessary to protect the student or others from personal harm, injury, or death and other less restrictive interventions were unsuccessful;</p> <p>9. Application of aversive stimuli. . . .”</p> <p>Seclusion is defined as:</p> <p>“the confinement of a student alone in a room from which the student is physically prevented from leaving.”</p> <p>Aversive stimuli are defined to include:</p> <p>“Placement of a student alone in a room, where the door is locked or held shut and the student is prevented from leaving the room.”</p>

⁴⁷ 8 Va. Admin. Code §§ 20-671-650, 20-671-660.

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WA ⁴⁸	<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. . . .”</p> <p>Isolation is defined as:</p> <p>“restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavior intervention plan.”</p>
WV ⁴⁹	<p>Board of education policy indicates that the statutory prohibition on corporeal punishment includes “seclusion - a removal in which a student is left unsupervised in a dark area or in any space as an intervention or consequence to inappropriate behavior.”</p>
WI ⁵⁰	<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>
WY ⁵¹	<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>“‘Locked Seclusion’ means a seclusion room with a locking device that is engaged by</p>

⁴⁸ Wash. Rev. Code § 28A.600.485.

⁴⁹ W.V. Code R. § 126-99-3 (Policy 4373).

⁵⁰ Wis. Stat. § 118.305.

⁵¹ Wyo. Educ. R. 42-1 to 42-8.

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

Appendix C

Summary of 2012-13 and 2013-14 Stakeholder Work Plans and Progress on Implementation of Those Plans

2012-13 Stakeholder Work Group

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

The statewide plan generated by the 2012 stakeholder group is set forth in the 2013 legislative report available on MDE's website. The 2012 stakeholder group recommended 10 activities in the statewide plan and also recommended legislative changes to the restrictive procedure statutes. During the 2013 legislative session, most of the recommended changes, including extending the date for use of prone restraints to August 1, 2015, were passed by the Legislature. However, the Legislature did not authorize the requested appropriation funds targeted for use with students with disabilities experiencing the highest frequency of restrictive procedures, specifically prone restraints. "Prone restraint" means placing a child in a face down position. As described more fully below, the 2014 Legislature authorized \$250,000 in state funds targeted for use with those students.

Summary of Progress Toward Implementing the 2012 Statewide Plan

During the 2013 legislative session, safe school levy funds were increased effective fiscal year 2015, and language was added to the levy fund statute to allow its use for co-locating and collaborating with mental health professionals who are not staff or contracted as staff. In addition, the 2013 Omnibus Health and Human Services bill expanded the school-linked mental health grants program by \$4.5 million for the 2014 and 2015 biennium.

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

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2013-14 Stakeholder Work Group

MDE reconvened the restrictive procedure work group (2013 stakeholder group) during the 2013-14 school year, as charged by the Legislature.¹ This group was tasked with developing a statewide plan with “specific and measurable implementation and outcome goals for reducing the use of restrictive procedures. . .”² The 2013 stakeholder group included representation from the following legislatively mandated participants: advocacy organizations, special education directors, teachers, intermediate school districts, school boards, day treatment providers, county social services, state human services department staff, mental health professionals, and autism experts.³

The 2014 stakeholder group met on four occasions between November 2013 and February 2014 to review the restrictive procedures data and discuss areas of agreement about how to reduce the use of restrictive procedures. The statewide plan that was generated by the 2013 stakeholder group contained eight goals and proposed amendments to Minnesota Statutes section 125A.0942.⁴ As set forth in the 2013 statewide plan, the 2013 stakeholder group believed there was a need to continue to meet on a quarterly basis to review prone restraint data, review the annual data for restrictive procedures, review progress in implementing the goals, and discuss any needed changes.

Summary of Progress toward Implementing the 2013 Statewide Plan

During the 2014 legislative session, the Legislature passed the recommended changes, including the requested \$250,000 in appropriation funds targeted for use with students with disabilities experiencing the highest frequency of restrictive procedures, specifically prone restraints.

During the summer of 2014, MDE began the process of developing a grant application targeted to seven districts who were using prone restraints and had students with disabilities experiencing the highest frequency of restrictive procedures; specifically prone restraint. Six districts submitted grant applications, and after a review and revision process, six grants totaling \$150,000 were approved. Each district was to complete their work under the grant by June 30, 2015. The time period was amended to June 30, 2016 to enable the districts to complete the activities in their work plans. The six districts developed work plans to focus on one or more of the following areas to reduce the use of all restrictive procedures and eliminate the use of prone restraint:

- Consistent training to develop common language and standards for reporting restrictive procedures and clarify expectations;
- Keeping law enforcement calls for service stable as restrictive procedures are reduced and prone restraint is eliminated;

¹ The work group had initially met during the 2012-2013 school year. Information about that work group and the 2012 workplan can be found in the 2013 legislative report or Appendix C.

² Minn. Stat. § 125A.0942, subd. 3(b) (2013).

³ *Id.*

⁴ See Appendix A. of the 2014 legislative Report. available <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html> (last visited Jan. 26, 2015).

APPENDIX C

- Building staff capacity in the area of proactive behavior interventions to provide resources and targeted interventions to students with disabilities who have significant behavior challenges and mental health needs who are experiencing a high usage of restrictive procedures and a high usage of prone restraint;
- Increasing capacity related to data collection, understanding student behavior, using preventative and de-escalation strategies more consistently, and implementing interventions with fidelity; or
- Providing crisis services in the school setting to reduce the need for 911 calls and subsequent student hospitalization.

In addition, MDE developed a request for proposal (RFP) for three online training modules to address the three subsets of students with disabilities who experience the highest rate of prone restraint, as set forth in Goal 2(c) in the 2013 statewide plan. MDE approved a RFP application and, the three online training modules were completed by June 30, 2015.

In July 2014, MDE completed and posted the restrictive procedure expert list, after obtaining input from DHS and special education directors. This was a goal in the 2012 statewide plan and is also a goal in the Revised Olmstead Plan⁵. The list will continue to be edited as additional experts are identified and requests submitted to MDE for inclusion. In accordance with Goal 4 of the 2013 statewide plan, MDE collaborated with school districts, advocacy groups, and DHS and facilitated two panel discussions on the reduction of restrictive procedures to provide targeted assistance to districts continuing to use prone restraint. The first panel was held at MDE and the second panel discussion was held at DHS and district staff participated both in person and through a live video stream.

MDE has continued to coordinate the school-wide PBIS trainings across the state and added 40 additional schools by June 30, 2014, and is on track to add a minimum of 40 additional schools by June 30, 2015, and each subsequent year thereafter. At this time, 27 percent of all public schools in Minnesota have completed the positive behavior interventions and supports (PBIS) training. This is in accordance with Goal 6 of the 2013 Work Plan and a similar goal in the Revised Olmstead Plan.

In addition, MDE updated and posted the *Use of Restrictive Procedures District Summary* form in accordance with Goal 1(a) and the 2014 legislative amendment to Minnesota Statute section 125A.0942 subdivision 6. Additional forms were updated and posted and MDE added links to DHS resources on its website. More detail is provided in Appendix A.

⁵http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=Lates tReleased&dDocName=opc_documents (last visited January 26, 2015)