



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

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**Fiscal Year 2015**

**Report**

**To the**

**Legislature**

**As required by**

**Minnesota Statutes,**

**section 125A.0942**

**COMMISSIONER:**

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**FOR MORE INFORMATION CONTACT:**

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**Marikay Canaga Litzau, J.D.**

**Report to the Legislature**

**Division of Compliance and Assistance**

**651-582-8459**

**marikay.litzau@state.mn.us**

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**Minnesota**

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**section**

**125A.0942**

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**Reducing the Use of Restrictive**

**Procedures in Minnesota Schools**

**Cost of Report Preparation**

The total cost for the Minnesota Department of Education (MDE) to prepare this report was approximately \$20,000. Most of these costs involved staff time in compiling and analyzing data, staffing the stakeholder group, and preparing the written report. Incidental costs include paper, copying, and other office supplies.

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

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## INTRODUCTION

The Minnesota Legislature tasked MDE with developing a statewide plan “with specific and measurable implementation and outcome goals for reducing the use of restrictive procedures.”<sup>1</sup> MDE has submitted reports to the Legislature in 2012, 2013, and 2014, providing summary data of prone restraint and restrictive procedures along with its progress and recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraints.

We commend the reporting school districts for their commitment and candor in their submission of the required data to MDE. For the 2013-14 school year, MDE received responses from all public school districts and charter schools. For the 2012-13 school year, MDE received responses from all but one traditional school district and five charter schools. Data collected for the 2012 and 2013 legislative reports was submitted in varying forms by districts until statutory changes required that districts/charter schools use a form developed by MDE. Thus, data collected and reported after July 1, 2012, represents a consistent reporting format.

### 2012-2013 Stakeholder Work Group

MDE convened a restrictive procedures work group (2012 stakeholder group) during the 2012-13 school year, as charged by the Minnesota Legislature. The 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.<sup>2</sup> 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.<sup>3</sup> 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

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

<sup>2</sup> See 2013 “The Use of Prone Restraint in Minnesota Schools,” *available at* <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html>

<sup>3</sup> Minn. Stat. § 125A.0941(e).

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

During the 2013-14 school year, MDE provided training throughout the state on the changes to the restrictive procedures statutes and updated the sample forms on the MDE website. MDE also 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.

### **2013-2014 Stakeholder Work Group**

MDE reconvened the restrictive procedure work group (2013 stakeholder group) during the 2013-14 school year, as charged by the Legislature. This group was tasked with developing a statewide plan with "specific and measurable implementation and outcome goals for reducing the use of restrictive procedures..."<sup>4</sup> 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.<sup>5</sup>

The 2013 stakeholder group met on four occasions between November 2013 and February 2014 to review the restrictive procedures data and discuss areas of agreement about how to reduce the use of restrictive procedures. The statewide plan that was generated by the 2013 stakeholder group contained eight goals and proposed amendments to Minnesota Statutes section 125A.0942.<sup>6</sup> 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

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<sup>4</sup> Minn. Stat. § 125A.0942, subd. 3(b) (2013).

<sup>5</sup> *Id.*

<sup>6</sup> See Appendix A. of the 2014 legislative Report. available at <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html>. (last visited Jan. 26, 2015).

\$150,000 were approved. Each district is to complete their work under the grant by June 30, 2015. 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;
- 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, and
- 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 No. 2(c) in the 2013 statewide plan. The RFP application deadline was January 15, 2015, and the MDE review should be completed by January 30, 2015. If MDE approves a RFP application, the three online training modules are to be 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 Plan<sup>7</sup>. The list will continue to be edited as additional experts are identified and requests submitted to MDE for inclusion. In accordance with Goal No. 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 is on track to add a minimum of 40 additional schools by June 30, 2014, and each subsequent year thereafter. At this time, 24 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.

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<sup>7</sup> [http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc\\_documents](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc_documents). (last visited Jan. 26, 2015).

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.

### **2014-2015 Stakeholder Work Group**

MDE reconvened the restrictive procedure 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...”<sup>8</sup> 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.<sup>9</sup> The 2014 stakeholder group met in September 2014 to review the 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 continues to meet quarterly with meetings scheduled through July 2015 to review the prone restraint data. The statewide plan generated by the 2014 stakeholder group contains nine goals and proposed amendments to Minnesota Statutes, section 125A.0942. The current statewide plan reflects the consensus among the 2014 stakeholder group.

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

In reviewing the data school districts submitted to MDE over the last three reporting periods, there has been a decrease in: the number of districts using restrictive procedures (including prone restraint), the number of students with disabilities experiencing the use of restrictive procedures, and the number of total restrictive procedure incidents.

A comparison of the last two reporting periods<sup>10</sup> demonstrates a reduction in the use of restrictive procedures during the 2013-14 school year, and a reduction in the use of prone restraint during the 2014 calendar year as follows:

- 34 percent fewer incidents of prone restraint reported
- 12 percent fewer students with disabilities who experienced the use of prone restraint
- 19 percent fewer districts report the use of prone restraint
- 18 percent fewer Black students with disabilities experienced the use of prone restraint
- 9 percent fewer White students with disabilities experienced the use of prone restraint

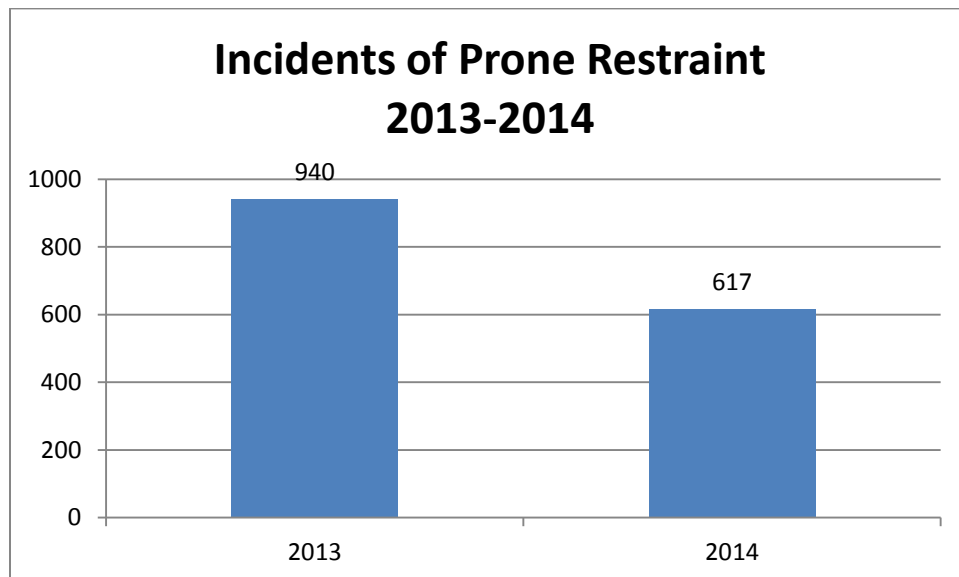
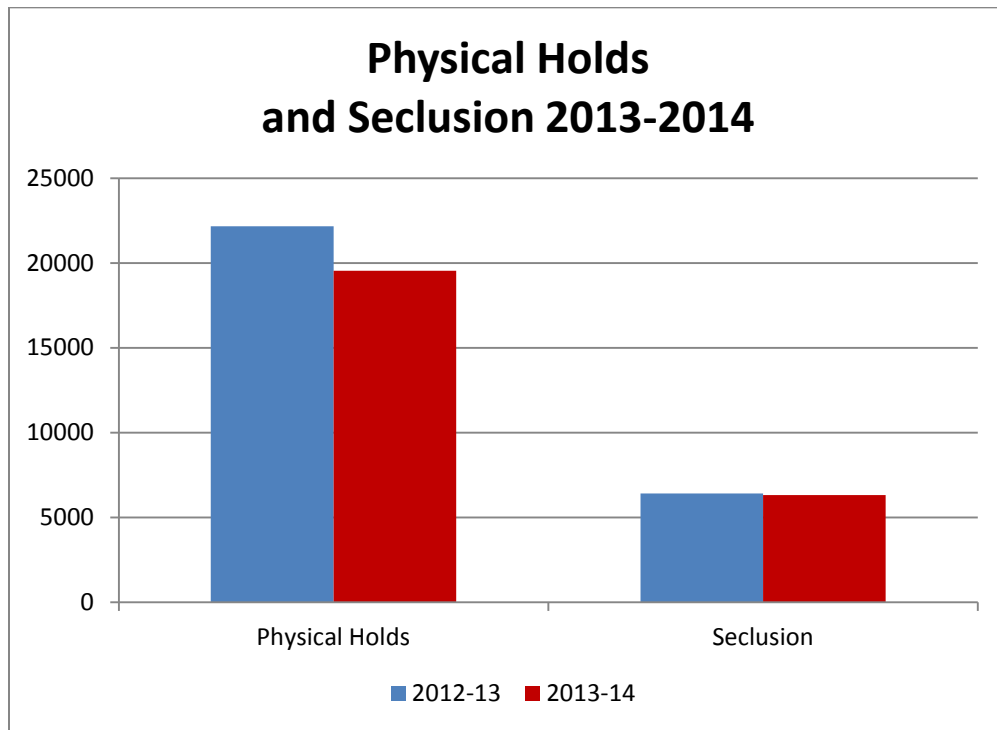
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<sup>8</sup> Minn. Stat. § 125A.0942, subd. 3(b) (2014).

<sup>9</sup> *Id.*

<sup>10</sup> The reporting periods for restrictive procedures are 2012-13 and 2013-14. The reporting periods for prone restraint are the 2013 and 2014 calendar years.

- 16 percent fewer incidents of physical holding reported
- 2 percent fewer incidents of seclusion reported



## HISTORY OF RESTRAINT IN MINNESOTA

There is an ongoing debate in Minnesota about the legality, morality, and efficacy of using seclusion<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup> MDE made important disclaimers about the quality of the data presented, which included the short reporting window, the lack of information about the use of other non/prone physical holding and seclusion, and inconsistency in reporting forms, with recommendations for improvements both in data reporting and in clarification regarding the use of restrictive procedures.

During the 2012 legislative session, Minnesota Statutes, sections 125A.0941 and 125A.0942, were amended to include a definition of prone restraint<sup>14</sup> and a revised definition of physical holding.<sup>15</sup> The statute limited the use of prone restraint to “children age five or older,” but allowed its use until August 1, 2013,<sup>16</sup> and required districts to report the use of prone restraint on an MDE form.<sup>17</sup> Additionally, the Minnesota Legislature tasked MDE with developing a statewide plan “to reduce districts’ use of restrictive procedures.”<sup>18</sup> As noted above, MDE continued to collect data on prone restraint, gathered restrictive procedure summary data from districts for the 2011-12 school year, and assembled a group of stakeholders to assist MDE with developing a statewide plan.<sup>19</sup>

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

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<sup>11</sup> 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) (2014).

<sup>12</sup> 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. 26, 2015).

<sup>13</sup> For information related to the history of restraint in the educational setting prior to 2012, see 2012 and 2013 Legislative Reports, “The Use of Prone Restraint in Minnesota Schools,” available at <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html>.

<sup>14</sup> Minn. Stat. § 125A.0941(e) (2012).

<sup>15</sup> Minn. Stat. § 125A.0941(c) (2012).

<sup>16</sup> Minn. Stat. § 125A.0942, subd. 3(7) (2012).

<sup>17</sup> Minn. Stat. § 125A.0942, subd. 3(a)(7)(iv). (2012)

<sup>18</sup> Minn. Stat. § 125A.0942, subd. 3(b) (2012).

<sup>19</sup> *Id.*

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 restrictive procedure plan, clarified requirements for when an individual education plan (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 side 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, MDE submitted a report to the Minnesota Legislature that detailed the results of data collected on the use of prone restraint from January 1, 2013 through December 31, 2013. The report provided summary data on the use of all reported restrictive procedures in Minnesota during the 2012-13 school year and also provided MDE's progress and recommendations for reducing the use of restrictive procedures and eliminating the use of prone restraints.

### **Regulation of Restraint in DHS Facilities**

In 2011, DHS entered into a settlement agreement enforced by the federal court in Minnesota, regarding the inappropriate use of aversive and deprivation procedures, including the improper use of seclusion and restraint techniques. As part of the 2011 "METO Settlement,"<sup>20</sup> DHS is currently undertaking a rulemaking process to amend Minnesota Rules, Parts 9525.2700 to 9525.2810 (commonly referred to as "Rule 40"), to reflect best practices regarding the use of aversive and deprivation procedures in facilities that serve persons with developmental disabilities, including through the use of positive behavioral approaches and the elimination of particular restraint practices. On December 24, 2014, DHS published proposed rules.<sup>21</sup> A public hearing on the proposed rules is scheduled for February 23, 2015.

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 is holding Positive Supports Community of Practice meetings online on various training topics.<sup>22</sup>

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<sup>20</sup> METO Settlement, Case 0:09/cv/01775/DWF/FLN, Doc. 104/1, Attachment A, p. 5 (2011). Retrieved from [http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&dID=137925](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&dID=137925). (last visited Jan. 26, 2015).

<sup>21</sup> 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.

<sup>22</sup> 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. 26, 2015).

As part of the 2011 Jensen stipulated class action settlement, 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. 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 must be submitted by the State of Minnesota on March 20, 2015. As part of the Revised Olmstead Plan, MDE is responsible for two activities related to the elimination of the use of prone restraint in the public school setting by August 1, 2015, and reducing the use of restrictive procedures in the public school setting over the time period of June 30, 2015 to June 30, 2019.

<sup>23</sup>

## **REGULATORY DEVELOPMENTS**

### **Recent Minnesota Developments**

During the 2014 legislative session, Minnesota Statutes, sections 125A.0941 through 125A.0942 were amended to:

- Provide more content specificity for a district restrictive procedure plan, by including a description of how the school will provide training on de-escalation techniques, consistent with Minnesota Statutes, section 122A.09, subdivision 4, paragraph (k);<sup>24</sup>
- Amend the date the legislative report is due and to make the workgroup ongoing; and
- Require districts to report the use of reasonable force, as defined in section 121A.582, which results in a physical hold as defined in section 125A.0941.25.

### **Federal Developments**

The Keeping All Students Safe Act (H. 1893), legislation aimed at regulating restraint and seclusion on the federal level, was introduced in the United States House of Representatives by Representative George Miller on May 8, 2013, and the bill was referred to the Subcommittee on Early Childhood, Elementary, and Secondary Education.<sup>26</sup>

At a news conference on February 12, 2014, Senator Tom Harkin, Chairman of the Senate Health, Education, Labor, and Pensions (HELP) Committee, released the findings of an investigation into the use of seclusion and restraints. The majority staff report is titled, "Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult to Remedy: A Review of Ten Cases." The report highlighted cases in which restraint was used as

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<sup>23</sup> [http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc\\_home](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=opc_home). (last visited Jan. 26, 2015).

<sup>24</sup> 2014 Minn. Laws ch. 1X, art. 17, sec. 1.

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Library of Congress website <http://beta.congress.gov/bill/113th-congress/house-bill/1893>. (last visited Jan. 26, 2015).

a form of punishment or control.<sup>27</sup> 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.

Currently, 40 states and the District of Columbia have legislation and/or education agency regulations or policies that prohibit the use of prone restraints or restraints that impede a child's ability to breathe within the school setting. Fifteen states specifically prohibit the use of "prone" restraint in educational settings by state statute, rule, or policy.<sup>28</sup>

Thirteen states specifically prohibit the use of prone restraint in educational settings by state statute, rule, or policy. In addition, 29 states have legislation and/or education agency regulations or policies that encompass all students, rather than only students with a disability. This is in accordance with Principle Four in the U.S. Department of Education, Office of Special Education and Rehabilitation Services (USDE OSERS) guidance document issued May 15, 2012, *Restraint and Seclusion: Resource Document*.<sup>29</sup>

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

## MINNESOTA'S PRONE RESTRAINT DATA

### Important Disclaimers Regarding the Data

**Reporting Window.** School districts have been statutorily required to report to MDE regarding their use of prone restraint since August 1, 2011. 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.

**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

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<sup>27</sup> 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. 26, 2015).

<sup>28</sup> Arkansas, District of Columbia, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, West Virginia, Wyoming.

<sup>29</sup> U.S. Department of Education, Office of Special Education and Rehabilitation Services guidance document, *Restraint and Seclusion: Resource Document* (Issued May 15, 2012), Retrieved at <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>. (Last visited Jan. 26, 2015).

Minnesota school districts. Districts are required to maintain data on their use of restrictive procedures, including physical holding or seclusion,<sup>30</sup> and are required to report a summary of this data annually to MDE by June 30 of each year.<sup>31</sup> 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 two school years (2012-13 and 2013-14). It is important to note that the number of restrictive procedure incidents that districts reported in the annual summary may not be aligned with MDE's definition of an "incident" of restrictive procedure, as discussed below. Therefore, incident level comparisons between restrictive procedures incidents and prone restraint report incidents are not likely to be valid. However, as a result of the summary data, we are able to provide policy makers with data to substantiate the percentage of students in the state that have been reported as restricted compared to the data specific to prone restraint.

**Outliers.** For the 2014 calendar year, one student accounted for 11 percent, or 53 of the 489 reports of prone restraint. Cumulatively, five students account for 24 percent, or 116 of the 489 reports, and 10 students accounted for 35 percent, or 173 of the 489 reports. The remaining 148 students accounted for 65 percent of the reports. These figures are similar to outliers for data collected in prior years.<sup>32</sup>

Of those students who experienced the highest use of prone restraint during the 2014 calendar year, they were found eligible for special education services by meeting state criteria for Autism Spectrum Disorders (five), Emotional or Behavioral Disorders (two), Other Health Disabilities (two) and Developmental Cognitive Disability (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.

### **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.<sup>33</sup>

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<sup>30</sup> Minn. Stat. § 125A.0942, subd. 3(a).

<sup>31</sup> Minn. Stat. § 125A.0942, subd. 3(b).

<sup>32</sup> See prior Legislative Reports, available at <http://education.state.mn.us/MDE/Welcome/Legis/LegisRep/index.html>.

<sup>33</sup> Minn. Stat. § 13.02, subds. 5, 8a (2014).

MDE prepared and posted a summary of reported data by quarter on its Restrictive Procedures webpage.

### **Districts that Reported Use of Prone Restraint**

<b>District</b>	<b>2014 Reports</b>	<b>2013 Reports</b>
Albert Lea (840)	1	0
Bemidji (31)	0	2
Benton-Stearns Ed. Dist. (6383)	57	72
Brainerd (181)	6	1
Buffalo-Hanover-Montrose (877)	0	2
Cambridge-Isanti (911)	1	0
Goodhue County Ed. Dist. (6051)	2	0
Hendricks (402)	0	2
Intermediate District 287	55	83
Intermediate District 917	137	218
Mankato (77)	23	36
Marshall (413)	0	12
Moorhead (152)	11	15
New London Spicer (345)	1	0
Northeast Metro 916	119	74
Pine City (578)	0	9
Southwest West Central (991)	74	85
Waterville-Elysian-Morristown (2143)	0	1
West Central Area (2342)	0	1
Willmar (347)	2	35
<b>Total Prone Restraint Reports</b>	<b>489</b>	<b>647</b>

### **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 (617) and the number of “reports” MDE received (489).

MDE received reports of 617 prone restraint incidents that occurred during the 2014 calendar year, a substantial decrease from the 940 prone restraint incidents reported for calendar year 2013. During the 2014 calendar year:

- 13 districts reported the use of prone restraint, a decrease of 19 percent from 16 during calendar year 2013.<sup>34</sup>
- 158 students were restrained in a prone position by a staff member, a decrease of 12 percent from 180 students during calendar year 2013.

The majority of both prone restraint incidents and reports involved students at one of Minnesota’s three intermediate school districts. This is not surprising given that the intermediate districts provide, among other important services, a program of integrated services for special education students.<sup>35</sup> As a rule, the intermediate districts provide services to students with disabilities who have not experienced success at their original district, and a significant percentage of these students exhibit atypical behavioral challenges in a school setting. Two of the three intermediate districts continued to show a decrease in both the number of reports and incidents of prone restraint from the previous legislative report. One intermediate district showed a year-over-year increase, though it was still down substantially from the 2012 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.

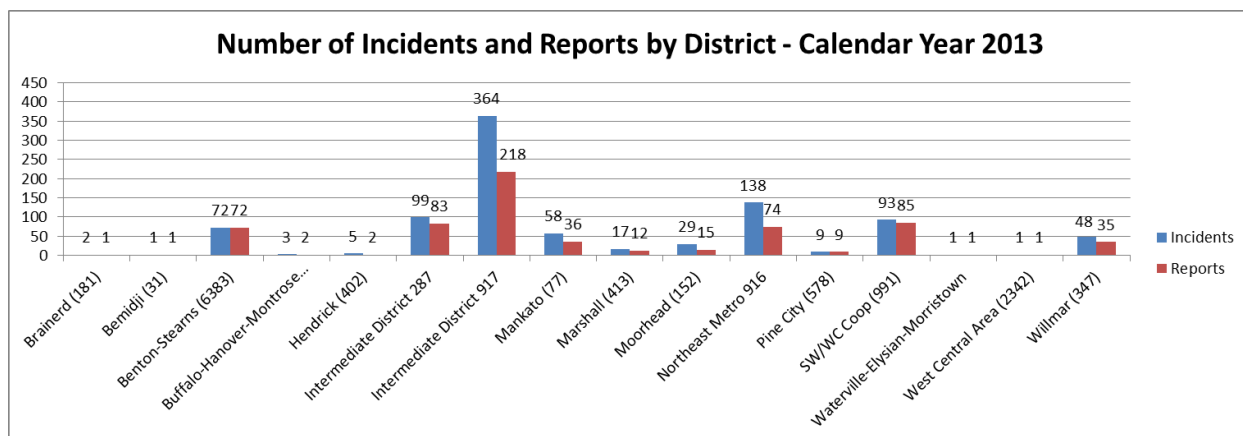
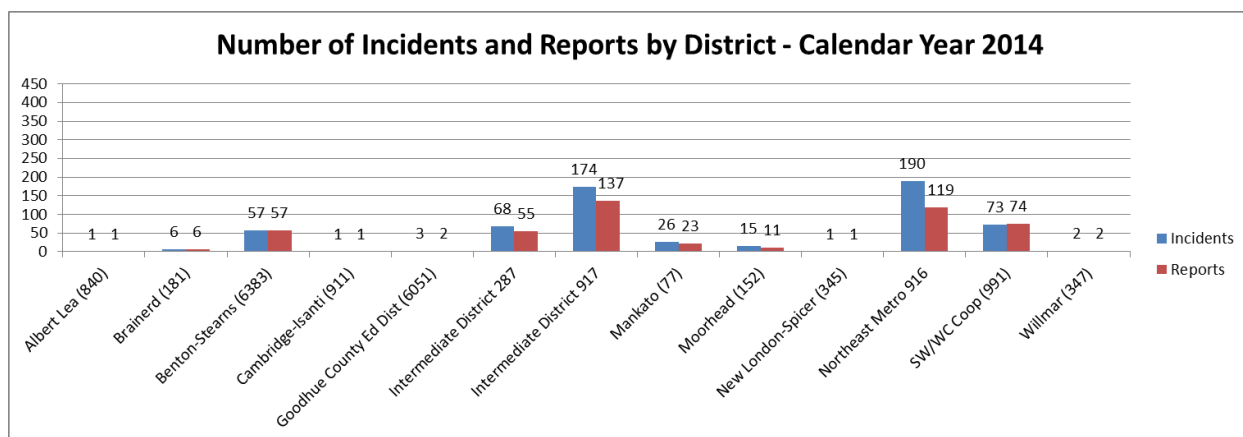
With the exception of the intermediate district described above and one independent school district, all other districts with reported use of prone restraint in calendar year 2013 showed a year-over-year decrease, some to zero for calendar 2014. In addition, four districts reported use of prone restraint in calendar year 2014, though no use was reported in the prior year. The use of prone restraint in greater Minnesota continues to be mostly reported by special education programs at cooperatives or education districts and districts that are regional centers. In greater Minnesota, these programs and districts function similarly to the intermediate school districts in the Twin Cities metropolitan area, in part, by serving students with the most challenging behaviors.

The following two charts represent the distribution of both prone restraint incidents and reports for the last two annual reporting periods. Statewide, the number of reports submitted, incidents reported, and students involved, and the number of districts using prone restraint during the 2014 calendar year have all decreased compared to the 2013 data, though, on a district level, two districts reported increases.

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<sup>34</sup> *Id.*

<sup>35</sup> Minn. Stat. § 136D.01 (2014).

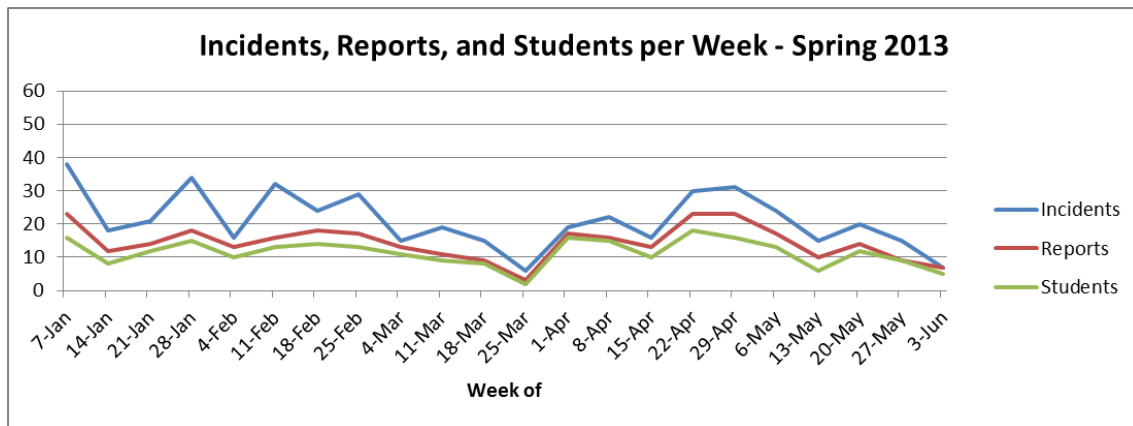
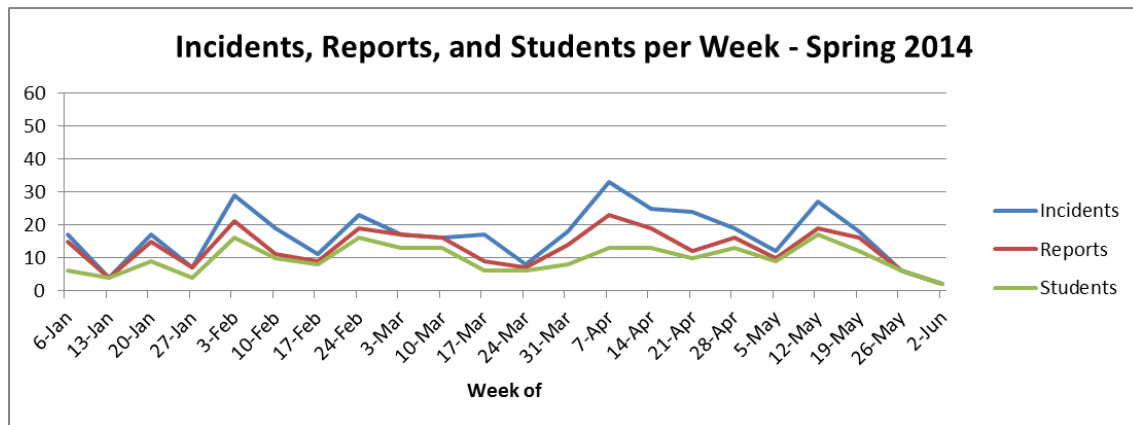
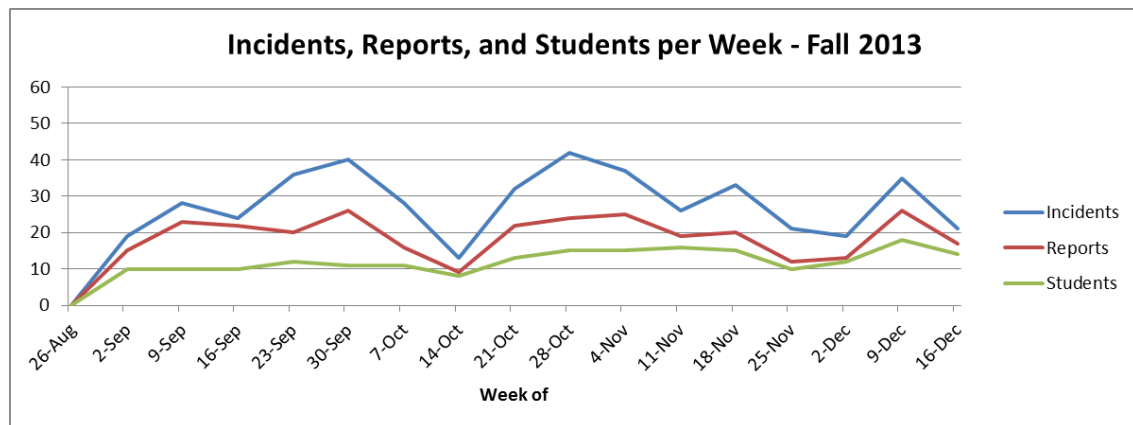
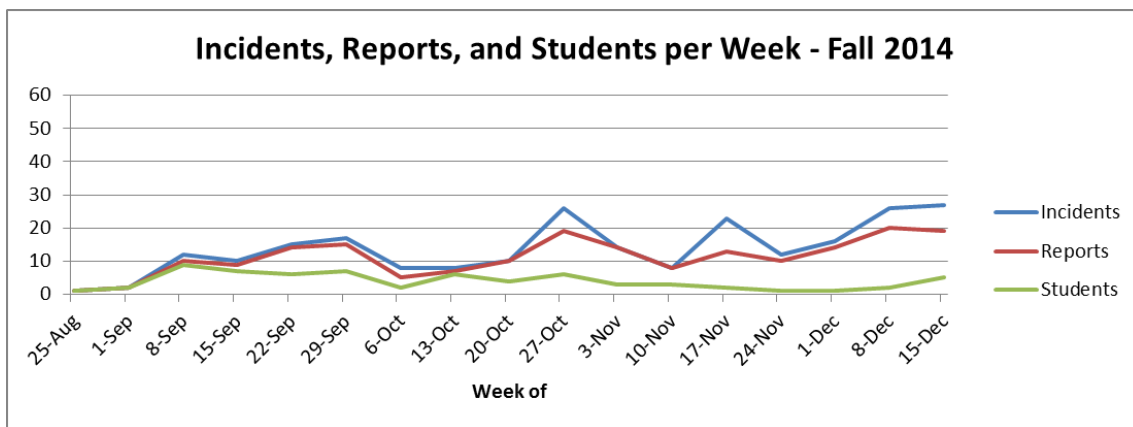


### Number of Students in Prone Restraint

For the 2014 calendar year, districts reported that 158 students with disabilities were restrained using prone restraint one or more times. In comparing individual students who experienced prone restraint over multiple calendar years:

- 62 students experienced prone restraint during the 2013 and 2014 calendar reporting periods.
- 27 students experienced prone restraint during the 2012, 2013, and 2014 calendar reporting periods.
- 6 students experienced prone restraint at least once within all four reporting periods.

The following graphs show the number of incidents, reports, and students per week for comparisons of 2014 and 2013, fall and spring, respectively.



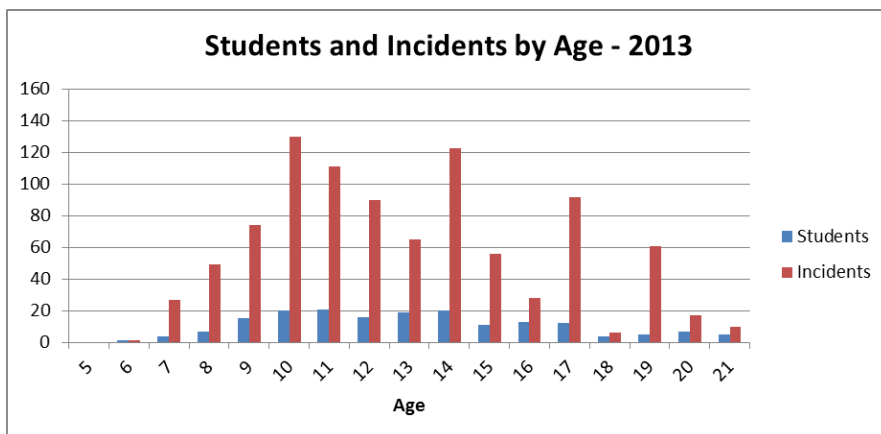
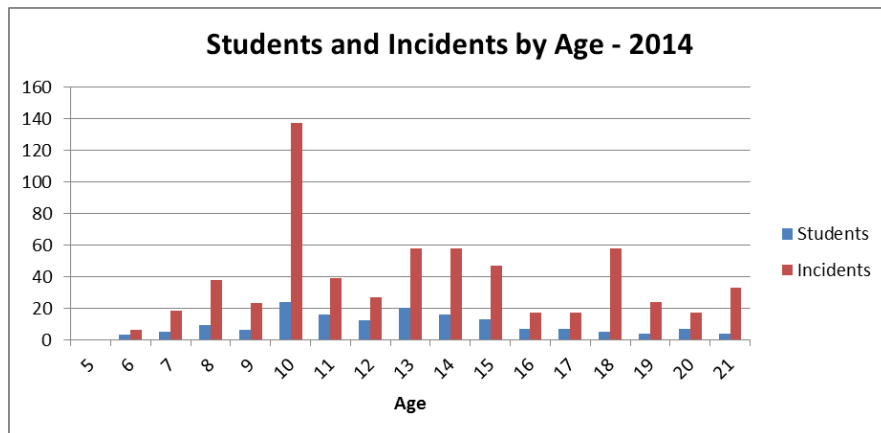
## Length of Incident of Prone Restraint

The 2014 data indicates the following:

- 50 percent of the 617 incidents of prone restraint lasted five minutes or less, compared to 56 percent during 2013.
- The number of restraints of five minutes or less also decreased from 525 in 2013 to 310 incidents in 2014.
- Nearly 90 percent of the reported incidents of prone restraint lasted 15 minutes or less.

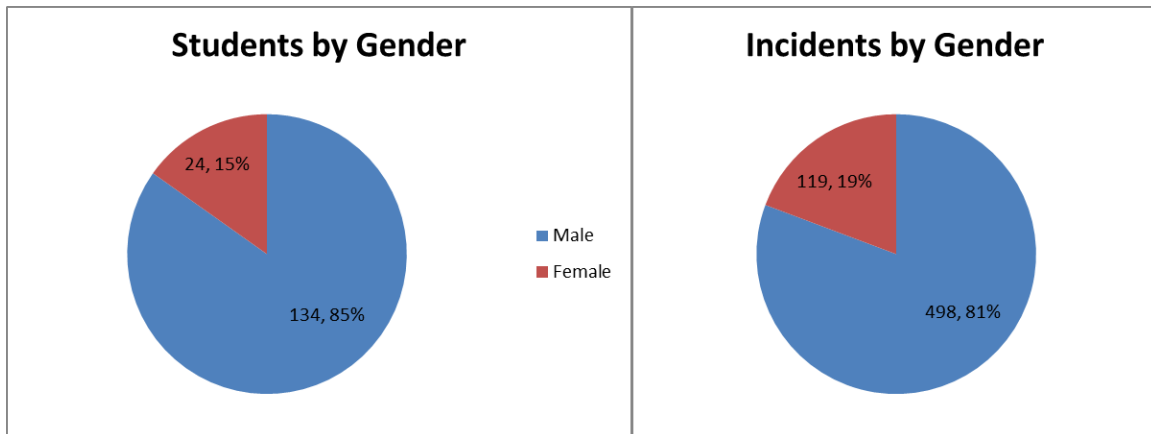
## Age of Students Placed in Prone Restraint

During the 2014 calendar year, prone restraint was used on children as young as 6 years old and as old as 21. This is consistent with prior years. Though the number of students and incidents are again down from the previous reporting periods, the relative peak usage of prone restraint by age, both by number of incidents and number of students, continues to be with middle school students. The peaks of incidents at ages 18 and 21 are due to the skewed effect of the outliers described earlier in this report, whereas the peak at age 10 is more the result of an aggregation: 137 incidents across 24 students.



## Gender of Students Placed in Prone Restraint

The 2014 calendar year data shows that boys are more than six times more likely than girls to be restrained in a prone position, which is up from five times more likely in the previous reporting period, though consistent with the 2012 reporting period.

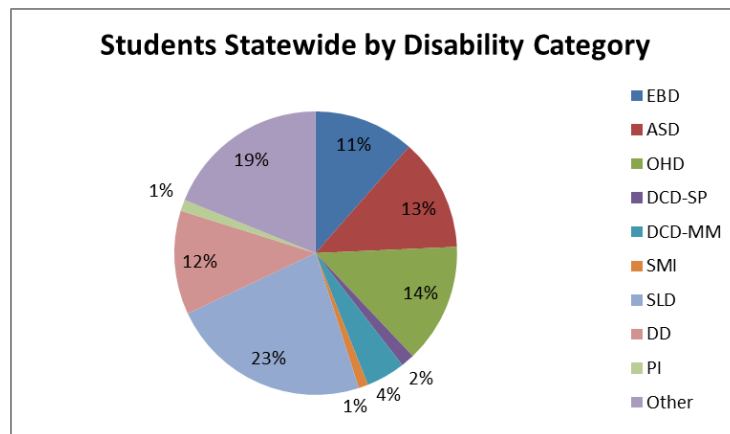
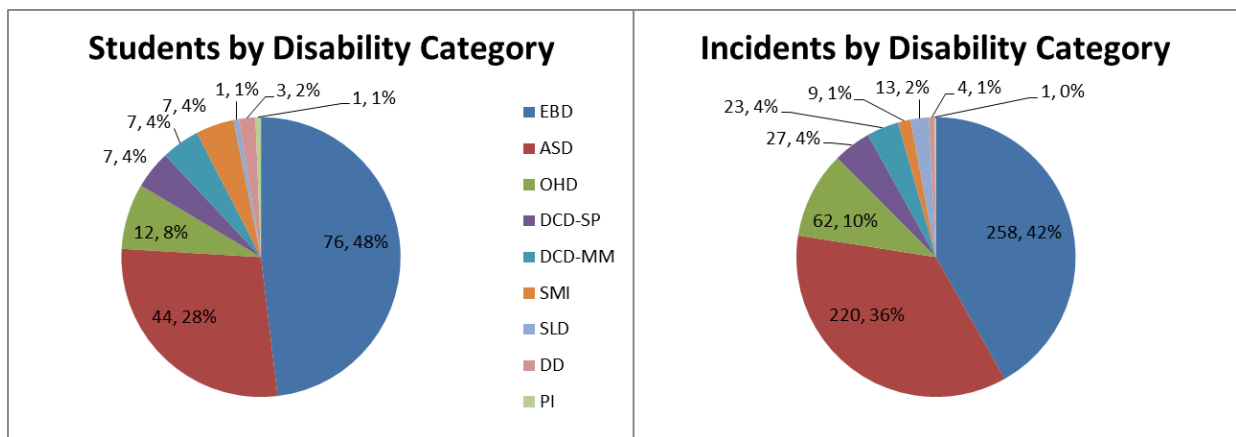


## Students and Incidents by Disability Category

Overall, 68 percent of all incidents of prone restraint reported during the 2014 calendar year involved students who were eligible for special education under the following eligibility criteria: Autism Spectrum Disorders (ASD) or Emotional or Behavioral Disorders (EBD). Compared to the 2013 calendar year, this is a decrease from 84 percent of the incidents. Reduced relative usage with students under the ASD category accounts for the decrease.

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, while ASD students represent 29 percent of all students who experienced the use of prone restraint, that same population represents 36 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, the same ASD students who represent 29 percent of all students who experienced the use of prone restraint and represent 36 percent of all incidents reported, are represented in 13 percent of the state's total special education population.<sup>36</sup>

<sup>36</sup> 2014 Child Count Totals by December 1, 2013 by Disability, Race/Ethnicity, and Age, retrieved from MDE Data Reports and Analytics, available at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>.



### 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*

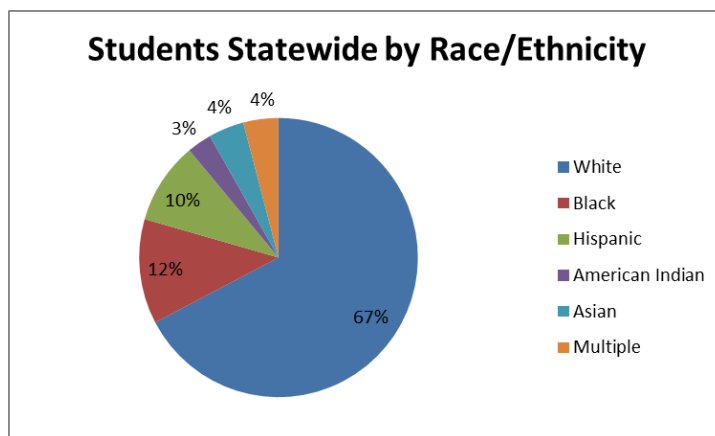
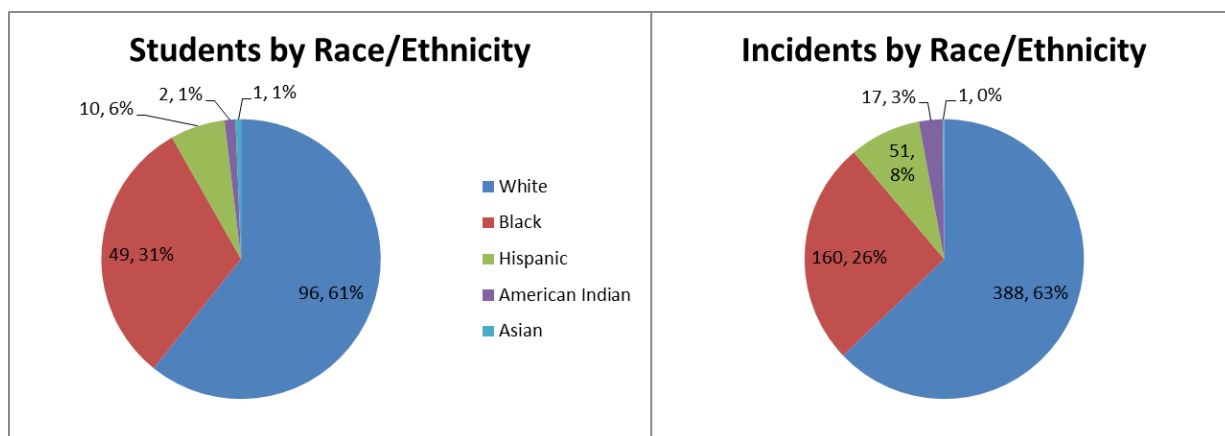
*PI = Physically Impaired*

### Students Involved In Prone Restraint by Race/Ethnicity

Compared to data from the 2013 calendar year, the proportion of Black students in prone restraint during the 2014 calendar year decreased from 32 percent to 31 percent. The proportion of incidents for Black students also decreased, from 32 percent to 26 percent. At the same time, the proportion of incidents for White students increased from 60 percent to 63 percent, for Hispanic students from seven percent to eight percent, and for American Indian students from less than one percent to three percent.

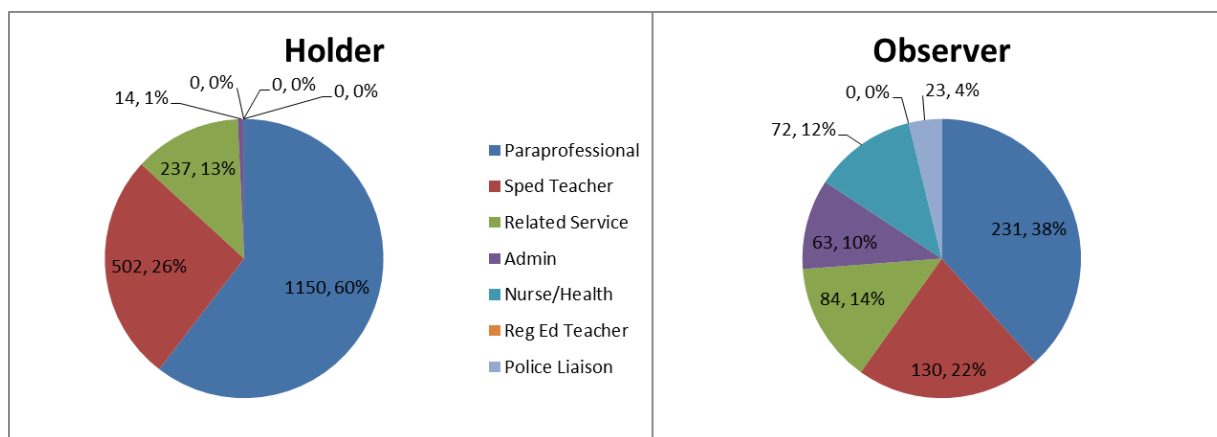
Much of the change in incidents by race/ethnicity can be attributed to the change in students who fall into the group of outliers described earlier in this report, more of whom were White students during 2014, compared to a larger proportion of Black students in 2013. In comparison

to the statewide population of students with disabilities, Black students continue to be overrepresented in prone restraint by number of students and incidents.



### Staff Involved in the Use of Prone Restraint

Approximately 420 staff were involved in the use of prone restraint during the 2014 calendar year, either as a holder or an observer, down from approximately 520 in the previous calendar year. The median number of times a staff person was involved was two times (same as 2013), with a range of up to 48 times, which is down from 70 times in 2013. As in 2013, most reports included at least one paraprofessional as a holder (465 reports) and few reports included only paraprofessionals as holders (97). Across seven reports, 10 education staff were reported as holders and listed as not trained. The chart below shows the percentage of times various staff were holders or observers. For example, paraprofessionals were reported as holders 1,150 times across all reports during this reporting period.



## Injuries Related to the Use of Prone Restraint

Across 489 prone restraint reports submitted for the 2014 calendar year, districts reported two student injuries and 24 staff injuries, down from seven and 36, respectively, as reported for 2013. Injury descriptions to staff included strained muscles, scratches, bruises, and bites, which included bleeding. The two reported student injuries were not clearly described; however, neither injury was indicated as necessitating a report to the ombudsman.

## RESTRICTIVE PROCEDURES SUMMARY DATA

Following the 2013-14 school year, districts reported summary data to MDE on the use of restrictive procedures, which was due by June 30, 2014. On a form provided by MDE, districts reported:

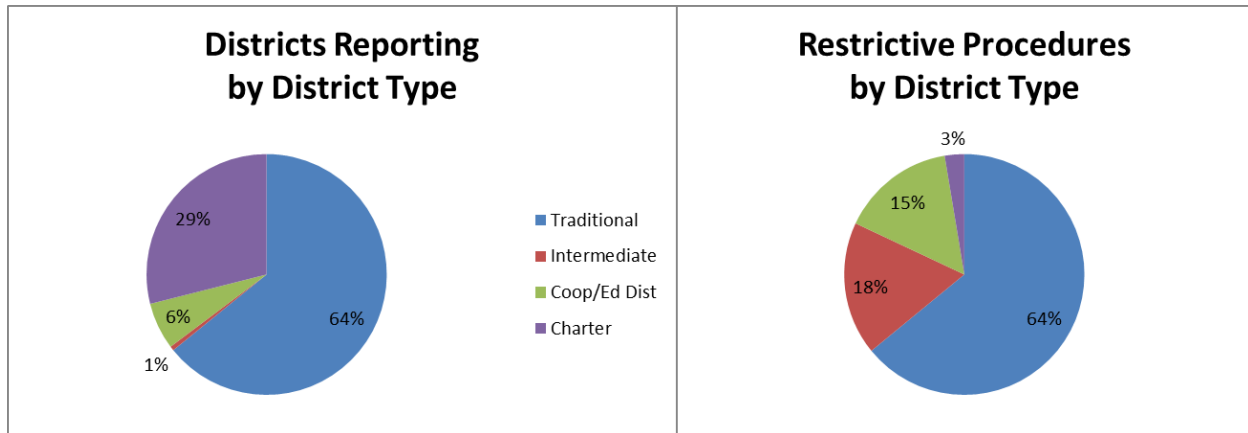
- the total number of students receiving special education services served by the district;
- the total number of incidents of restrictive procedures (includes physical holding, prone restraint, and seclusion);
- the total number of students receiving special education services upon whom a restrictive procedure was used;
- the total number of students receiving special education services upon whom restrictive procedures were used 10 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, and gender);
- the number of injuries to students and staff.

MDE received summary data from 522 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 522 districts that reported summary data to MDE, 249 of those districts (compared to 252 districts in 2013) reported use of restrictive procedures, whether physical holding, seclusion, or a combination of both. They include:

- 195 of 335 traditional districts
- 3 of 3 intermediate school districts
- 15 of 33 cooperatives and education districts
- 33 of 151 charter schools



While intermediate districts, cooperatives, and education districts comprise approximately seven percent of the total reporting districts, combined they reported 33 percent of the restrictive procedure use in the state. By contrast, charter schools represent approximately 29 percent of the reporting districts, but reported nearly no use of restrictive procedures. Traditional districts represent approximately 64 percent of the reporting districts and also reported 64 percent of restrictive procedure use. The proportion of restrictive procedures reported for the 2013-14 school year is higher as compared to the 2012-13 data for cooperatives, education districts, and charter schools, with intermediate and traditional districts down slightly.

Of the 249 districts that reported use of restrictive procedures:

- 172 (69 percent) reported use of only physical holding,
- 3 (1 percent) reported use of only seclusion, and
- 74 (30 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 249 districts reporting use of restrictive procedures during the 2013-14 school year, 51 of the districts reported no usage of restrictive procedures the previous school year.

## Statewide Data on the Use of All Restrictive Procedures

Across the state, during the 2013-14 school year, districts reported 13,214 physical holds and 6,323 uses of seclusion for a total of 19,537 restrictive procedures. This was a decrease of approximately 11 percent from the 2012-13 school year reporting.

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

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

Of 138,883 special education students,<sup>37</sup> restrictive procedures were used with 2,740 students with disabilities, which is approximately two percent of the special education population. This percentage is the same as reported in the 2014 legislative report. Physical holding was used with 2,433 students, down from the data reported in the 2014 legislative report (2,604) and seclusion was used with 837 students, also down from the data reported in the 2014 legislative report (957).<sup>38</sup> Compared to the 2013-14 school year, the average number of physical holds per physically held student was 5.4, down from 6.0; the average number of uses of seclusion per secluded student was 7.6, up from 6.7; and the average number of restrictive procedures per restricted student was 7.2, down from 7.5.<sup>39</sup>

## Age of Students in Restrictive Procedures

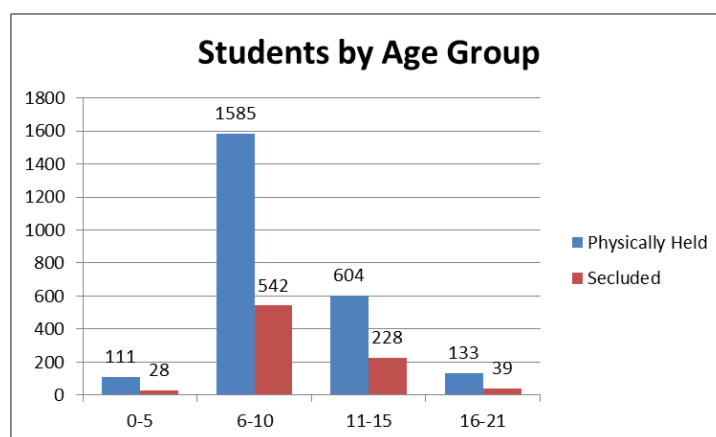
The majority of restrictive procedures reported for the 2013-14 school year were used with elementary through middle school students, with fewer uses with early childhood and high school students, consistent with the previous legislative reports.

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<sup>37</sup> 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.

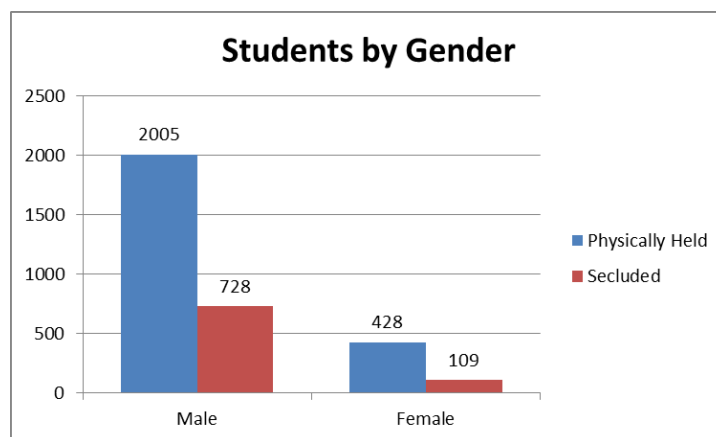
<sup>38</sup> The number of physically held students plus the number of secluded students is greater than the total number of students with whom restrictive procedures were used because a number of students were reported as both physically held and secluded.

<sup>39</sup> As with the previous footnote, the average number of restrictive procedures per restricted student may be higher than the averages for both physical holding and seclusion because of the number of students both physically held and secluded.



### Gender of Students in Restrictive Procedures

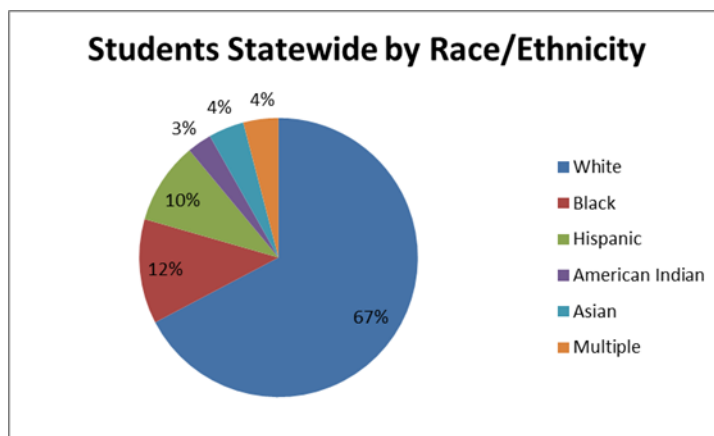
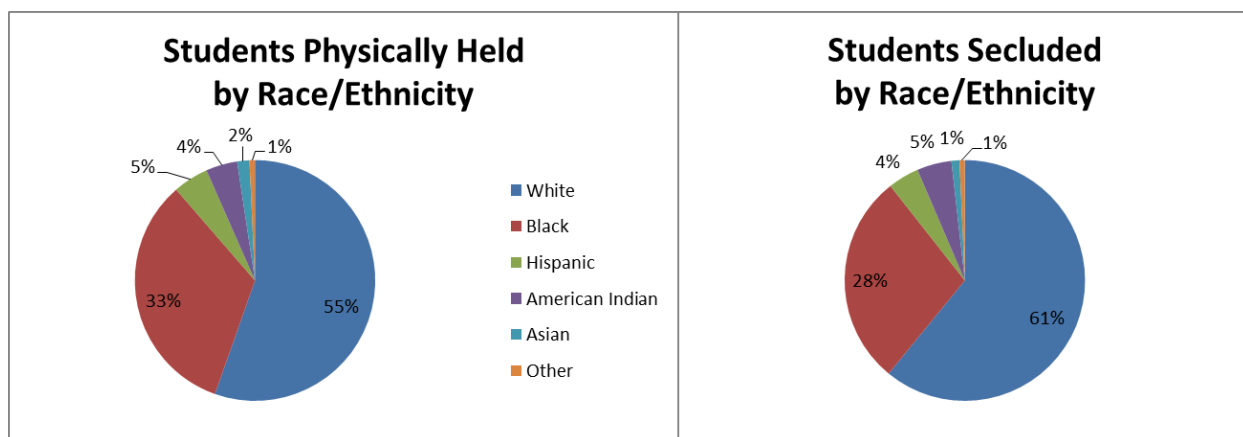
Based upon the data reported for the 2013-14 school year, boys are 4.7 times more likely to be physically held and 6.7 times more likely to be placed in seclusion than girls, consistent with previous legislative reports.



### Race/Ethnicity of Students in Restrictive Procedures

Black students, who account for approximately 12 percent of the special education student population,<sup>40</sup> are overrepresented in both the physical holding and seclusion data, consistent with previous legislative reports. 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.

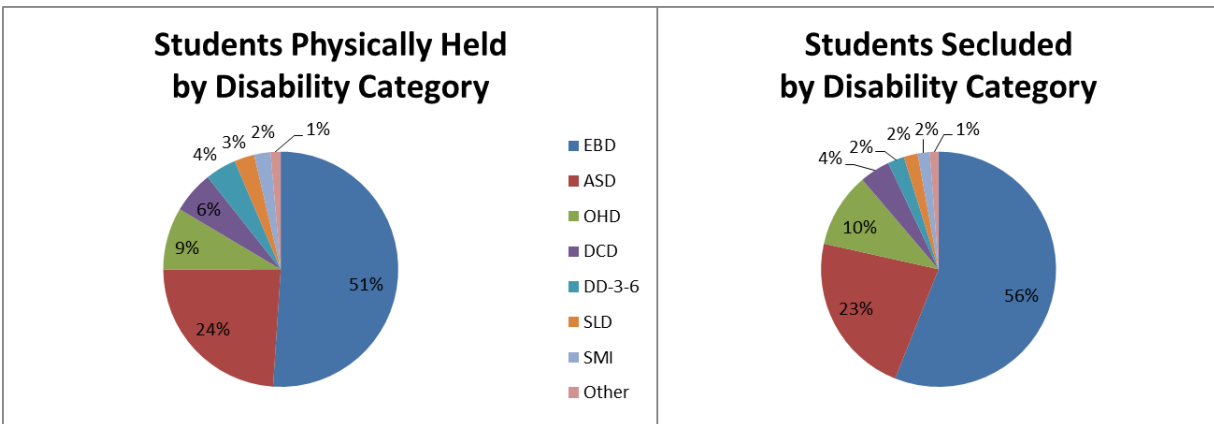
<sup>40</sup> 2014 Child Count Totals by December 1, 2013 by Disability, Race/Ethnicity, and Age, retrieved from MDE Data Reports and Analytics, available at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>.



### Disability Categories for Students in Restrictive Procedures

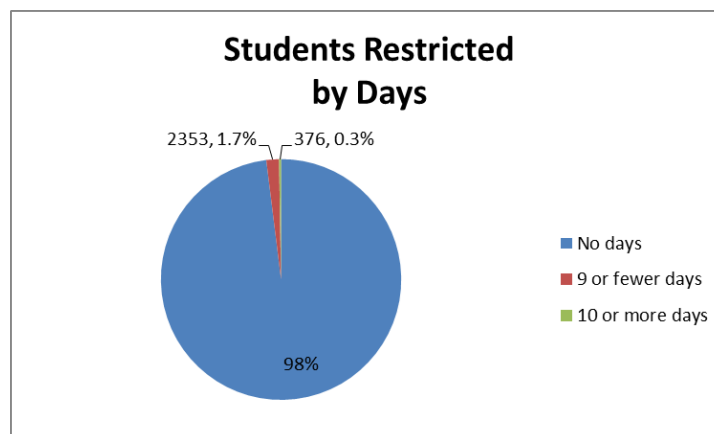
During the 2013-14 school year, students who received special education services by meeting eligibility criteria under the primary disability category of EBD or ASD accounted for three-fourths of the students who experienced the use of restrictive procedures, consistent with previous legislative reports. ASD students make up approximately 13 percent of the special education student population and EBD students make up approximately 11 percent.<sup>41</sup> The remaining one-fourth of restrictive procedures were used on students with Other Health Disabilities (OHD), Developmental Cognitive Disability (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 “Other” category are, in order of prevalence: Deaf and Hard of Hearing (DHH), Speech or Language Impairments (SLI), Traumatic Brain Injury (TBI), and Physically Impaired (PI).

<sup>41</sup> 2014 Child Count Totals by December 1, 2013 by Disability, Race/Ethnicity, and Age, retrieved from MDE Data Reports and Analytics, available at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>.



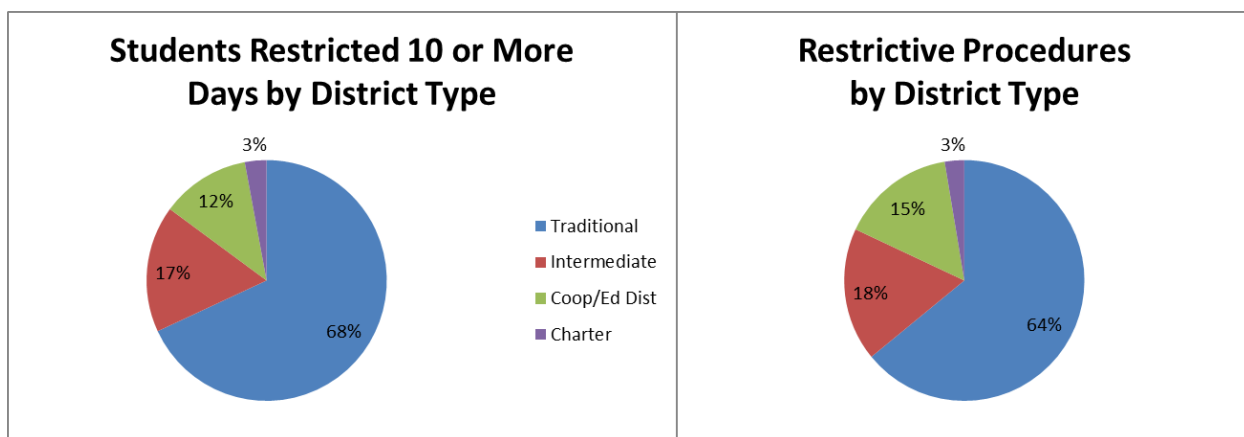
### Students Restricted Ten or More Days

New in this legislative report is data on the number of students restricted 10 or more days. As has been noted in the prone restraint data since reporting began, a small number of students account for a large portion of the incidents of prone restraint. A threshold of 10 or more days was chosen for this restrictive procedures summary data point to be consistent with districts' obligation under statute to take additional action when restrictive procedures have been used 10 or more days within a school year.<sup>42</sup> Districts reported that a total of 376 special education students experienced the use of restrictive procedures over 10 or more days during the 2013-14 school year. These students account for approximately 0.3 percent of the special education student population.



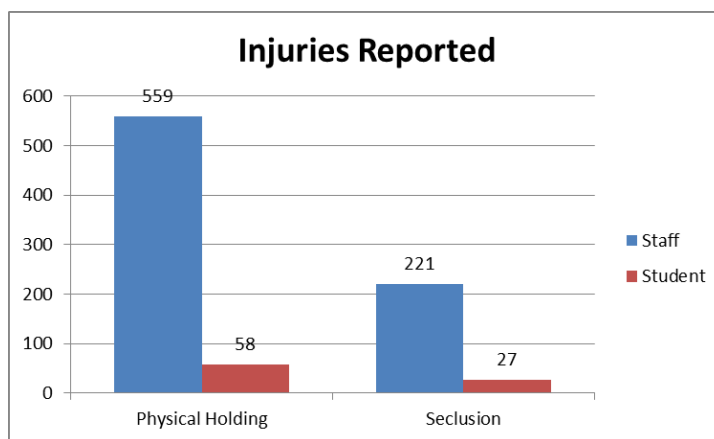
While the restrictive procedure summary data is more limited than individual incident prone restraint reports, the district level data for these outliers in the restrictive procedures population suggest the average number of restrictive procedures may be about 25 incidents of restrictive procedures per student, with 10 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 10 or more days across all district types are in rough proportion to the number of incidents of restrictive procedures by district type.

<sup>42</sup> 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 injuries related to physical holding for students. However, the data was new for the previous reporting period, so may reflect better reporting more than an actual increase in injuries. As stated in the previous legislative report, there is still some likelihood that injury data is underreported, inaccurately reported, and/or inconsistently reported. Several districts again called to inquire what constitutes an “injury” that should be reported, including questions about the severity and connection to the incident.



### STATEWIDE PLAN

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

## **CONCLUSION**

MDE respectfully submits this report to provide the Legislature with objective data to inform its continuing policy discussions regarding restrictive procedures and prone restraint. While the number of students affected by this discussion is small, about 0.1 percent of the special education student population in the case of prone restraint and about two percent for restrictive procedures, it is clear that these students have significant and complex needs.

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

# Appendix A

## 2014 Statewide Plan to Reduce the Use of Restrictive Procedures and Eliminate Prone Restraint in Minnesota

### I. Purpose

During the 2014 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.<sup>43</sup> To assist with developing a plan, MDE assembled a group of stakeholders. The stakeholder group included representation from advocacy organizations, special education directors, teachers, paraprofessionals, intermediate school districts, school boards, day treatment providers, state human services department staff, mental health professionals, and autism experts.<sup>44</sup> Although invited, the stakeholder group did not have a representative from County Social Services. The group developed implementation and outcome goals that would move the state toward a reduction of restrictive procedures in the educational setting.

### II. Stakeholder Work Group Charge

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

Minnesota Department of  
**Education**

<sup>43</sup> Minn. Stat. § 125A.0942, Subd. 3(b) (2014).

<sup>44</sup> *Id.*

## APPENDIX A

### III. Stakeholder Group Members

ARC Minnesota.....	Jacki McCormack
Autism Society of Minnesota .....	Jean Bender
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 .....	Nelly Torori
Department of Human Services .....	Richard Amado
Education Minnesota .....	Katy Perry
Paraprofessional, Robbinsdale School District.....	Karen Krussow
Intermediate District 287 .....	Jennifer McIntyre
Intermediate District 917 .....	Melissa Schaller
Minnesota Administrators for Special Education .....	Jill Skarvold
Minnesota Disability Law Center .....	Dan Stewart
Minnesota School Board Association .....	Grace Keliher
National Alliance on Mental Illness.....	Sue Abderholden
Northeast Metro 916 .....	Connie Hayes
Northeast Metro 916 .....	Dan Naidicz
PACER Center.....	Jody Manning
PACER Center.....	Virginia Richardson

### IV. Minnesota Department of Education Participants

Director, Compliance and Assistance.....	Marikay Canaga Litzau
Supervisor, Compliance and Assistance .....	Sara Winter
Assistant Commissioner.....	Daron Korte
Compliance Monitoring .....	Ross Oden
Compliance and Assistance .....	Pamela Hinze
Supervisor, Interagency Partnerships .....	Robyn Widley
Supervisor, Special Education.....	Eric Kloos
Special Education .....	Aaron Barnes

## APPENDIX A

### V. Process

On September 26, 2014, MDE convened the 2014 Stakeholder Work Group (2014 Stakeholder Group) to review the annual restrictive procedures data for the 2013-14 school year. Additional meetings scheduled to review the quarterly prone restraint data occurred or will occur October 27, 2014, January 23, 2015, April 24, 2015, and July 24, 2015.

As set forth in the 2013 statewide plan, the stakeholders chose to meet quarterly and focus on reviewing the data, ongoing implementation efforts of the 2013 statewide plan, and to discuss successes and barriers in reducing restrictive procedures and the elimination of prone restraint.

#### **Stakeholder Group Meetings**

MDE staff convened members of the 2014 stakeholder group three times during the time period of September 26, 2014 and January 23, 2015. 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 2013-14 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 2013 statewide plan as set forth in Appendix A of the 2014 Legislative Report and input on ongoing implementation of that plan;
- The legislative appropriation and the process to utilize those funds to assist students experiencing the highest use of restrictive procedures, specifically prone restraint; and
- The education sections of the Olmstead Plan and status.

During the initial 2014 Stakeholder Group meeting, MDE informed the stakeholders that it had submitted a Form A proposing that the restrictive procedure statute be amended to specifically prohibit the use of prone restraint as of August 1, 2015, in accordance with the implementation requirements from the Revised Olmstead Plan, Education and Life Long Learning Action Item 1D (Proposed modifications July 10, 2014 and November 6, 2014). As set forth in action item 1D, stakeholders will discuss and recommend revisions to Minnesota Statutes section 125A.0942 subdivision 3(a)(8) to clarify that prone restraint will be prohibited by August 1, 2015 in Minnesota school districts, and will apply to children of all ages. Action item 1E requires MDE to report to the legislature on the districts' progress in reducing the use of restrictive procedures in Minnesota Schools and on stakeholder recommendations regarding Minnesota Statutes section 125A.0942 subdivision 3(a)(8). At the initial meeting, stakeholders did not raise any objection, and the meeting focused on a review of the annual restrictive procedures data and prone restraint data for the quarter ending June 30, 2014.

MDE staff and the stakeholders then reviewed the 2013 statewide plan goals and implementation efforts. MDE also provided an update on the \$250,000 legislative appropriation.

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MDE developed a grant process to target seven districts, including the three intermediate districts with students who experienced the highest usage of restrictive procedures and prone restraint. In addition, MDE was in the process of producing a request for proposal (RFP) for the development of three online training modules addressed in Goal 2(c) of the 2013 statewide plan. During a working lunch, there was a discussion to strategize ways MDE and the Minnesota Department of Human Services (DHS) could leverage services to support students who are experiencing high use of restrictive procedures, specifically prone restraint. MDE staff provided an update on the Olmstead Plan, and stakeholders were given the opportunity to share effective strategies as well as barriers in their efforts to reduce restrictive procedures and eliminate prone restraint.

During the second 2014 Stakeholder Group meeting, MDE sought input from stakeholders on venues for advertising the RFP. Prone restraint data from the quarter ending September 30, 2014 was reviewed. MDE staff provided a summary of the status of the implementation of the goals in the 2013 statewide plan. There was a brief discussion at the meeting about the October 15, 2014 Restrictive Procedures Reduction Discussion Panel (Panel) held to assist the education community in reducing the use of restrictive procedures and eliminating prone restraints in schools by sharing evidence-based best practices and effective strategies and resources. MDE staff, DHS staff, and 2014 Stakeholder Group members who participated on the Panel provided an overview of the training. The 2014 Stakeholder Group discussed what future panel discussions would look like. The 2014 Stakeholder Group also worked on developing questions to gather data about specific students to assist in identifying the students experiencing the highest usage of prone restraint. Ultimately, the 2014 Stakeholder Group chose not to proceed with the questionnaire. Time was again provided for stakeholders to seek ideas and feedback about challenging students.

The 2014 Stakeholder Group focused on the task of eliminating prone restraint and addressing successes and barriers toward reaching that ultimate goal. The stakeholders continued to share a desire to implement and revise as necessary, the 2013 statewide plan to reduce restrictive procedures, including eliminating prone restraint. Based upon a review of the prone restraint data, as well as the discussions held during the restrictive procedures 2014 Stakeholder Group meetings, the stakeholders all agreed on the need to focus resources on those students who experience a high use of restrictive procedures; specifically, prone restraint.

At the January 23, 2015 meeting, the 2014 Stakeholder Group reached consensus to: revise multiple goals, delete one goal from the 2013 Work Plan, add two additional goals, and work toward implementation of the nine goals that should be implemented by one or more state agencies, school districts, or community level entities. A brief discussion on the December 16, 2014 Restrictive Procedures Reduction Discussion Panel: Eliminating Prone Restraint in Schools was also held and included a discussion of future trainings.

In general, the process underscored the stakeholders' desire to reduce or eliminate restrictive procedures. There is shared belief that emergency situations in educational settings could be greatly reduced or eliminated with additional resources – especially mental health services and additional training on positive behavior supports and intervention. Further, that training and an exchange of successful strategies would assist districts in reducing the need for restrictive procedures. For purposes of this report, the goals in the 2013 statewide plan are listed in VI

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below with a corresponding update on whether they have been completed or are in progress. The 2014 Stakeholder Group reviewed progress on the eight goals in the 2013 Work Plan and then made recommendations to revise those goals and to add additional goals. The goals in the 2014 statewide plan are listed in VII below.

During the 2014-15 meetings, the stakeholders continued to discuss the barriers to accessing appropriate day and residential treatment. Much discussion centered on the lack of day treatment facilities that worked with students with severe emotional outbursts. Those students are reportedly “kicked out” of day treatment facilities, and many are then enrolled in level three or level four programs. At one of the meetings, a stakeholder described a successful collaboration between the Minneapolis School District and a co-located day treatment center. While the stakeholders did not believe they could adequately address this goal within the next year, it was noted that some stakeholders are currently involved in other work to address these issues.

Finally, the stakeholder group discussed proposed statutory revisions needed to provide clarification or to support the implementation of some pieces of the proposed statewide plan. As set forth in Appendix A of the 2014 Legislative Report, the 2013 Stakeholder Group previously concluded that there was insufficient data to determine the extent to which reasonable force was being used that resulted in the use of a restrictive procedure on a student with a disability. In the fall of 2015, the 2014 Stakeholder Group will review the data collected related to the use of reasonable force on the 2014-15 annual summary report, and decide whether additional statutory changes would be needed to ensure that districts are not using reasonable force to avoid the reporting requirements in the restrictive procedure statute, or increasing removals of students from the school setting.

As indicated by the recommendations of the 2013 Stakeholder Group, the work on a statewide plan to greatly reduce or eliminate the use of restrictive procedures requires ongoing discussion and study to review what is successful, 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 2015 and subsequent meetings as needed.

## VI. 2013 Statewide Plan and Updates

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

- a. Based upon a review of the prone restraint reports received by MDE, MDE will develop a process to identify outliers in prone restraint reporting which will assist MDE in identifying schools and/or school districts that may need targeted technical assistance and thereafter contact and offer technical assistance to the identified schools and/or school districts. In determining whether an outlier exists, and in determining where data is an outlier, MDE will consider whether the prone restraint data is markedly different from other prone restraint data from a comparable school district. MDE has been receiving prone reports since the beginning of the 2011-12 school year.

**1a Update:** Since the first prone reporting began in August 2011, MDE developed a system to review prone reports within two business days. This review included contacting the district when

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the report did not appear consistent or the staff was not trained. MDE staff in the Compliance and Assistance and Special Education divisions met when a high usage of prone restraint was reported on an individual student. During the summer of 2014, MDE staff met to discuss a more formal method to determine where data is an outlier. Beginning with the 2014-15 school year, MDE has identified outliers as any district currently intending to use and rely on the use of prone restraint. As set forth in more detail in goal four below, MDE provided targeted technical assistance by inviting the seven districts still using prone restraint to participate in a December 2014 restrictive procedures panel discussion. Based upon the quarterly report for prone restraint data ending December 31, 2014, five school districts used prone restraint one or more times. Only four districts reported the use of prone restraint during December 2014.

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

**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 individual district requesting the training to actively participate in the presentation process along with, and with assistance from, MDE. MDE provided this training on January 26, 2015. MDE will also review training needs identified by districts in the annual summary forms to determine future trainings.

- c. Develop and post on its website a Post-use Debriefing form. Developed and posted October 2014.

**1c Update.:** Completed. Delete 1c.

- d. Update the MDE Sample Restrictive Procedures Plan and post it on its website in accordance with Minnesota Statutes section 125A.0942. Update: Original post: November 2011. Edited: April 2012. Edited: January 2014. Edited: September 2014.

**1d Update:** Completed. Ongoing goal.

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

**1e Update:** MDE updated and posted the electronic *Use of Restrictive Procedures District Summary Data* form in April 2014. The amendments include a change to the definition of physical holding to include reasonable force covered by Minnesota Statutes, section 121A.6582, when the actions meet the definition of physical holding in Minnesota Statutes, section 125A.0941. Districts are required to report this data beginning with the

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2014-15 school year and submit the report by June 30, 2015. In addition, the annual summary form was updated to include a training needs section and gives districts the opportunity to describe areas of training related to the reduction of restrictive procedures summary data reports for the 2013-14 school year, which contained training needs. Districts will again report training needs when they submit their annual reports on June 30, 2015. Completed. Delete 1e,

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

**1f Update:** MDE posted the relevant links to the DHS website on June 30, 2014. Completed. Update link as needed

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

**1g Update:** Posted link to Positive Supports Community of Practice February 2014. Completed. Update link as needed.

### Goal 1 Action Items

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

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

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

**2a Update:** Goal 2(a) is incorporated in the Olmstead work related to children's mental health and continuing care. Currently, DHS is the lead to develop common definitions and MDE has provided input. An initial report has been completed by Rebecca Freeman, DHS consultant from the University of Minnesota, Institute on Community Integration.

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

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

**2b Update:** MDE and DHS have collaborated in the following activities related to Goal 2(b), which are designed to increase awareness of cross agency and community resources and provide enhanced opportunities to work together to address children's and system needs to create the support needed to reduce the use of restrictive procedures:

- Olmstead activity related to mental health crisis,
- Suicide prevention planning workgroup with MDH and DHS,
- Workgroups regarding the development of new mental health benefits for children- e.g. psychosocial education, consultation, new option for psychiatric residential treatment facility (PRTF) setting, and school linked mental health project activities.

c. 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 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.

**2c Update:** MDE sent a RFP for development of the three training models in an electronic format. The RFP proposals submission deadline was January 15, 2015. They are in the process of being reviewed, and a final review will take place on January 30, 2015. The work is to be completed by June 30, 2015. If MDE approves an RFP vendor and resulting work product, MDE will then post the trainings for Districts and provide additional training as needed.

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

**2d Update:** MDE and DHS have held statewide training on children's therapeutic services and supports (CTSS) funding that incorporated the (Positive Behavior Interventions and Support (PBIS) tier model, including Tier 3, as a service delivery model. MDE and DHS are working together on the School Mental Health Services Frameworks workgroup where MDE and DHS staff, together with county and school district staff, discuss, develop, and

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disseminate integrated frameworks of mental health services delivery in schools (PBIS, CTSS, ACEs, etc.).

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

**2e Update:** Interagency meetings are held to coordinate services. This particular topic has not yet been addressed.

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

**2f Update:** DHS and MDE staff meet on an ongoing basis to discuss different topics. MDE and DHS held a joint CTSS training in October 2014. At the December 5, 2014 Special Education Directors Forum held at MDE, MDE and DHS staff presented on MA-IEP issues, including behavior services and special education transportation. Current discussions between MDE and DHS include a discussion of the interplay between school linked mental health providers, community providers, and the provision of services under a student's IEP.

MDE and DHS staff, along with intermediate district staff, participate in an ongoing DHS work group on the issue of crisis services. The work group has discussed the need to develop a process that includes defining what crisis services are, how to access crisis services, and how to track school district use of crisis services. For purposes of the Olmstead Plan, this activity is focusing on DHS mobile crisis teams, which are funded through MA. Note: Some intermediate districts will continue to set up services with external crisis providers.

Goal 2 involves collaboration between MDE and DHS. Its purpose is to continue the current work and to share expertise for maximum use of resources as the agencies continue to work toward identifying evidence-based practices to address the needs of students with disabilities who are experiencing high rates of restrictive procedures. The 2013 Stakeholder Group provided MDE and DHS with the flexibility to determine the priority and scope of implementing goal number two, based upon resource issues and data demonstrating effectiveness.

### Goal 2 Action Items

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

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

### **Goal 3 Action Items**

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

**Goal 3 Update:** 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, 2014, MDE will collaborate with school districts, including, but not limited to, intermediate school districts, DHS, parent advocacy groups, and community partners to develop a restrictive procedures discussion panel on the legal and practical aspects of reducing the use of restrictive procedures and eliminating the use of the prone restraints to be available to the education community. Panel discussions will be scheduled beginning with the 2014-15 school year.

**Goal 4 Update:** On July 29, 2014, MDE held a collaboration meeting with stakeholders from DHS, districts, and parent advocacy groups. Subsequently, MDE scheduled and facilitated discussion panels on October 15, 2014 and December 16, 2014. The purpose of the October 15, 2014 discussion panel was to assist the education community in reducing the use of restrictive procedures and eliminating the use of prone restraints in schools by sharing evidence-based best practices and effective strategies and resources. After feedback and input from the 2014 Stakeholder Group, the December 16, 2014 discussion panel’s purpose was to share evidence based best practices and effective strategies and resources to remove the barriers to eliminating the use of prone restraints in schools. That discussion panel targeted districts currently using prone restraint, and persons could attend in person or participate through a live stream. The barriers to eliminating prone restraint identified by the registrants were: 1) students with significant behaviors; 2) unintended negative consequences; 3) insufficient support for schools; 4) costs; and 5) lack of clarity about the laws.

### **Goal 4 Action Items**

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

**Goal 5:** Consistent with Minnesota’s 2013 Olmstead Plan, by June 30, 2015 and each subsequent year, a minimum of 40 additional schools will use the evidence-based practice of 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.

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**Goal 5 Update:** MDE is on target to meet this goal. Four hundred eighty-eight (24 percent) of all schools have gone through the PBIS training. Applications for the next PBIS cohort training closed on January 20, 2015. MDE and DHS continue to meet as part of the mental health advisory committee to address PBIS and school linked mental health grants and issues related to mental health. During the 2014-15 school year, the committee will study seven sites that have effective universal PBIS and effective school linked mental health services. The study will include looking at the alignment of school-wide and individual positive behavior approaches.

**Goal 6:** During the 2014 legislative session, the legislature will consider increasing the general education revenue to allocate state funding for supporting school districts to maintain focus and sustain fidelity of PBIS sites beyond the current two-year support for PBIS implementation. Districts will apply to MDE for state funding through an application process, which will include a requirement that school districts collect and report implementation data. The current cost is anticipated to be \$240,000 and will increase as additional school sites complete two years of PBIS training.

**Goal 6 Update:** The state legislature did not increase revenue for this purpose. There may be proposed legislation during the 2015 legislative session to accelerate the number of schools completing PBIS training each year.

### Goals 5 and 6 Action Items

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

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

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

**Goal 7 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 2013 statewide plan, the legislature authorized ongoing meetings of the restrictive procedures Stakeholder Group and annual legislative reports. MDE coordinated 2014 Stakeholder Group meetings, which were held in September, October, 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 and eliminating the use of prone restraint.

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At the January 23, 2015 Stakeholder Group meeting, MDE staff reviewed the draft Appendix A for input, discussion, and final recommendations. The data contained in the 2015 Legislative Report has been shared at the restrictive procedures work group meetings. The legislative reports include a summary of progress in implementing the statewide plan, and contain additional recommendations to the Legislature to assist in the reduction of restrictive procedures and the elimination of prone restraint. 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, 2015.

### Goal 7 Action Items

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

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

While this goal is broader than the scope of the 2014 Stakeholder Group, the stakeholders wanted to emphasize the need for alignment of resources to allow for a positive transition from K-12 to post-school activities. For students with more significant needs, this planning is essential. The 2013 stakeholder group believes that implementation of these goals will result in the reduction of the use of restrictive procedures in the educational setting.

**Goal 8 Update:** The Legislature did not create a task force for this purpose.

## VII. Goals Recommended by Stakeholder Group

The 2014 Stakeholder Group focused its work on reviewing data and implementation of the 2013 statewide plan. All recommendations by the 2014 Stakeholder Group are intended to reduce school districts' use of restrictive procedures and eliminate the use of prone restraint. As set forth in the 2013 statewide plan, the 2014 Stakeholder Group has provided MDE and DHS with flexibility in determining the priority and scope of implementing goal number two, based upon resource issues and data demonstrating effectiveness.

### Goal 1: On or before 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

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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 1b:** Develop a process for school districts to use 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 1c:** Update the MDE Sample Restrictive Procedures Plan and post it on its website in accordance with Minnesota Statutes section 125A.0942.

**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 Support Community of Practice bi-weekly live stream meetings.

### **Goal 1 Action Items**

- **MDE:** Responsible to implement Goal 1, a-e.
- **DHS:** Collaborate with MDE for Goal 1b. Provide information to MDE related to Goal 1d and 1e.
- **School Districts:** Request or utilize offered targeted technical assistance, collect and report in summary form the use of reasonable force when it results in the use of a physical hold or seclusion on a student with a disability; and to utilize the resources made available on the MDE website regarding accessing local mental health services and the DHS live stream meetings.
- **All Stakeholders:** Support the Legislative Proposals outlined in Goal 1a.

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

- a. Supporting implementation of evidence-based practices for positive behavior strategies through the channels already developed by DHS's Continuing Care Administration and Children's Mental Health Division, Positive Support Community of Practice;
- b. Identifying systems for culturally responsive resource identification, consistent with the Positive Support Community of Practice, by collaborating with the Children's Mental Health and Disability Services Division of DHS, including at least the following:
  - i. prevention;
  - ii. quality improvement;

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- iii. intensive intervention; and
- iv. systems collaboration.

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

- c. 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 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.

- d. Identifying options for experts and expert review, funding, and other supports for students in need of long term, systemic, and intensive interventions;
- e. Supporting the coordinated implementation of the ASD Medical Assistance benefit authorized by the 2013 Legislature with regard to the respective roles of the education, human services, and healthcare systems in providing effective interventions and improving outcomes, including reduction in the use of restrictive procedures;
- f. Supporting increased access to mental health treatment, including evidence-based practices, and awareness of mental health services in order to address the symptoms and behaviors of children and youth with mental illnesses, including those with intensive service needs, covered through the MA-IEP program, School CTSS program, School-linked Mental Health Grant program, co-located Mental Health Services, and Mental Health in Schools Act.

Goal 2 involves collaboration between MDE and DHS. Its purpose is to continue the current work and to share expertise for maximum use of resources as the agencies continue to work toward identifying evidence-based practices to address the needs of students with disabilities who are experiencing high rates of restrictive procedures. The 2014 Stakeholder Group provided MDE and DHS with the flexibility to determine the priority and scope of implementing goal number two, based upon resource issues and data demonstrating effectiveness.

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### Goal 2 Action Items

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

**Goal 3:** The Restrictive Procedure Workgroup will provide input to 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 Action Items

- **MDE, DHS and Stakeholder Group:** Participate in any meetings and planning for a follow-up session to the Workforce Summit.

**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.

### Goal 4 Action Items

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

**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 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.

### Goals 5 and 6 Action Items

- **MDE:** Provide ongoing technical assistance support and strive to adjust the fiscal burden partially away from special education.

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- **School Districts:** Strive to create staff investment in the PBIS culture and make staff available for training.
- **University of Minnesota:** Provide training and technical assistance for Tier 3 level of PBIS.
- **Legislature:** Legislative action to establish a general fund stream to sustain PBIS training in school sites beyond the current two-year training, which is federally funded.

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

- **MDE:** Submit a report annually and coordinate meetings of the stakeholder group.
- **School Districts:** Collection and reporting of summary restrictive procedures data, and individual incidents of prone restraint until August 1, 2015.
- **Stakeholder Group:** Meet to review the data and progress toward goals and to review and revise goals as needed,

**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 Action Items:

- **MDE:** Provide copies of the grantees' work plans and outcome results to the 2014 Stakeholder Group at the fall 2015 meeting.
- **Grantees:** Timely provide to MDE outcome results for their work plans and participate in discussions at the fall 2014 workgroup meeting.
- **Stakeholder Group:** Meet to review the grantees' work plans and outcome results and determine if there are successful models that can be applied to other districts. Discuss how to share the results.

**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 Action items:

- **MDE:** Provide a summary of the student and staff injury data reported by districts on the annual summary form for the 2013-14 and 2014-15 school years at the fall 2015 Stakeholder Group meeting.

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- **Districts:** Provide staff and student injury data to MDE on the annual summary restrictive procedure summary form.
- **Stakeholder group:** Review the data at the fall 2015 Stakeholder Group meeting.

### VIII. Recommendations

#### 1. Support Stakeholder-Driven Changes to Statute.

The 2014 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 Revised Olmstead Plan.

The 2014 stakeholder group also recommended that the Minnesota Legislature amend Minnesota Statutes, section 125A.0942 subdivision 3(b) to make the development of a statewide plan permissive. This allows the 2014 stakeholder group to work on the 2014 statewide plan and only make revisions to that plan as necessary.

The 2014 stakeholder group also recommended that the Legislature appropriate \$250,000 to be available beginning with the 2015-16 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. The funds will be used to reimburse expert teams, as described in Goal 1b. The 2014 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.

#### 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 website 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, in accordance with 122A.09 Subd. 4.
- (3) 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

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involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used schoolwide and for individual children; the number and types of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and

- (4) includes a written description and documentation of the training staff completed under subdivision 5.
- (b) Schools annually must publicly identify oversight committee members who must at least include:
  - (1) a mental health professional, school psychologist, or school social worker;
  - (2) an expert in positive behavior strategies;
  - (3) a special education administrator; and
  - (4) a general education administrator.

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

- (b) A school shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the child, or if the school is unable to provide same-day notice, notice is sent within two days by written or electronic means or as otherwise indicated by the child's parent under paragraph (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 [IEP] team under paragraph (c) determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district

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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 [IEP] 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 [IEP] or [BIP].
- (f) An [IEP] 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 [IEP] or [BIP] shall indicate how the parent wants to be notified when a restrictive procedure is used.

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

- (1) physical holding or seclusion is the least intrusive intervention that effectively responds to the emergency;
- (2) physical holding or seclusion is not used to discipline a noncompliant child;
- (3) physical holding or seclusion ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;
- (4) staff directly observes the child while physical holding or seclusion is being used;
- (5) each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes, the following information:
  - (i) a description of the incident that led to the physical holding or seclusion;
  - (ii) why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;
  - (iii) the time the physical holding or seclusion began and the time the child was released; and
  - (iv) a brief record of the child's behavioral and physical status;
- (6) the room used for seclusion must:
  - (i) be at least six feet by five feet;
  - (ii) be well lit, well ventilated, adequately heated, and clean;

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- (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 (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. 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.
- ~~(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 in 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; and~~
  - ~~(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.~~

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

- (1) engaging in conduct prohibited under section 121A.58;
- (2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;
- (3) totally or partially restricting a child's senses as punishment;
- (4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;
- (5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;
- (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556;
- (7) withholding regularly scheduled meals or water;
- (8) denying access to bathroom facilities;
- (9) Effective August 1, 2015, prone restraint, and
- (10) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso.

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

- (1) positive behavioral interventions;
- (2) communicative intent of behaviors;
- (3) relationship building;
- (4) alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;
- (5) de-escalation methods;
- (6) standards for using restrictive procedures only in an emergency;
- (7) obtaining emergency medical assistance;

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- (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) school-wide 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 [IEP] 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.
- (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 2014-15 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 2014 stakeholder group regarding actions that various stakeholders, agencies and the legislature can take to best ensure a reduction in the use of restrictive procedures in the Minnesota education system. As such, MDE recommends the above goals to reduce the use of restrictive procedures and eliminate prone restraints.

## 3. Strengthen Pre-Enrollment Screening

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

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

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**Legislative Language or Policy Guidance** Currently in Effect in All States Relating  
Specifically to Prone Restraint or Restraint that Restricts or Impairs a Child's Ability to Breathe  
Within the School Setting

State	Citation	Language	
Alabama	Ala. Admin. Code r. 290-3-1-.02(1)(f)(1) (2014)	Prohibits: "(iv) Physical Restraint that restricts the flow of air to the student's lungs—Any method (face-down, face-up, or on your side) of physical restraint in which physical pressure is applied to the student's body that restricts the flow of air into the student's lungs. Use of this type of restraint is prohibited in Alabama public schools and educational programs."	Applies to all children
Alaska	HB 210 amends Alaska Stat. 14.33.120(c) (2014)	"A teacher, teacher's assistant, or other person responsible for students may not ...(3) physically retrain a student by placing the student on the student's back or stomach or in a manner that restricts the student's breathing."	Applies to children with disabilities
Arizona	The Use of Seclusion and Restraint: A Guidance Document on Best Practices  Arizona Dept. Of Educ. (2014)	Prohibit some disciplinary procedures including a "physical restraint that places excess pressure on the chest or back or impedes the ability to breathe or communicate is prohibited."	Applies to all children with disabilities
Arkansas	Arkansas Dept. of Educ. Advisory Guidelines for the Use of Student Restraints in Public School or Educational Settings, p. 13 (2014)	Prone restraint or other restraints that restrict breathing should never be used because they can cause serious injury or death."	Applies to all children

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State	Citation	Language	
California	Cal. Code Reg. tit. 5, § 3052(i)(4)(B)-(C) and (l)(1) and (5) (2013)	<p>(i)(4) Emergency interventions may not include:...(B) employment of a device or material or objects which simultaneously immobilize all four extremities except that techniques such as prone containment may be used as an emergency intervention by staff trained in such procedures; and (C) an amount of force that exceeds that which is reasonable and necessary under the circumstances.</p> <p>(l) Prohibitions. (1) Any intervention that is designed to, or likely to, cause physical pain; (5) “Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subdivision (i).”</p>	Applies to children with disabilities
Colorado	Colo. Code Reg. tit. 1, §§ 301-45, 2620-R-2.00 et seq. (2009)	<p>2620-R-2.00(4) defines “positional asphyxia” to mean “an insufficient intake of oxygen as a result of body position that interferes with one’s ability to breathe.”</p> <p>2620-R-2.02(1)(a) “the public education program shall ensure that: (i) no restraint is administered in such a way that the student is inhibited or impeded from breathing or communicating; (ii) no restraint is administered in such a way that places excess pressure on the student’s chest, back, or causes positional asphyxia.”</p>	Applies to all children
Connecticut	<p>Conn. Gen. Stat. §§ 46a-150(4) and 46a-151</p> <p>Conn. Admin. Regs. §§ 10-76b-510-76b-11</p>	<p>46a-150(4) defines “life-threatening physical restraint” to mean “any physical restraint or hold of a person that restricts the flow of air into a person’s lungs, whether by chest compression or any other means.”</p> <p>46a-151 prohibits the use of life-threatening physical restraint.</p>	Applies to children with disabilities

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State	Citation	Language	
Delaware	Del. Code Chapt. 41, tit. 14 § 4112F (effective 7.1.14)	(b) Prohibitions and restriction on use.  (2) Public school personnel may impose physical restraint only in conformity with all of the following standards: ... (b) The physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication; (c) the physical restraint does not interfere with the student's ability to breathe or place weight or pressure on the student's head, throat, or neck; (d) the physical restraint does not recklessly exacerbate a medical or physical condition of the student ...	Applies to all children
District of Columbia	57 D. C. Reg. 9457	2818.1 "Nonpublic special education school or program shall not use any form of prone restraint on a District of Columbia student. Use of such restraints as a policy or practice shall be grounds for denying or revoking a certificate of approval."	Applies to children with disabilities
Florida	Fla. Stat. § 1003.573	(4) Prohibited restraint. "School personnel may not use a mechanical restraint or a manual or physical restraint that restricts a student's breathing."	Applies to children with disabilities
Georgia	Ga. Comp. R. & r. 160-5-1-3.5	"(2)(b) The use of prone restraint is prohibited in Georgia public schools and educational programs."	Applies to all children
Hawaii	Haw. Rev. Stat. § 302A-1141 <sup>45</sup>	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child's ability to breathe within the school setting.	Applies to children with disabilities
Idaho <sup>46</sup>		No laws or guidance on restraints.	

<sup>45</sup> Provides: No physical punishment of any kind may be inflicted upon any pupil, but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting oneself or any other person or property, and reasonable force may be used ... by a principal or the principal's agent only with another teacher present and out of the presence of any other student but only for the purpose outlined in § 703-309(2)(a)."

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State	Citation	Language	
Illinois	105 Ill. Comp. Stat. § 5/10-20.33  Ill. Admin. Code, tit. 23, § 1.285	No applicable language relating specifically to prone restraint or restraint that restricts or impairs a child's ability to breathe within the school setting.	Applies to all children
Indiana	Indiana SB 0345 (passed 5.13.13)  Commission on Seclusion and Restraint in Schools, Model Seclusion and Restraint Plan <sup>47</sup> (8.1.13)	Requires a commission to adopt rules and model policy pertaining to seclusion and restraint.  Model plan provides: IG. "Prone and supine forms of restraint are not authorized and shall be avoided."  IH. "Seclusion and restraint shall never be used in a manner that restricts a child's breathing or harms the child."	Applies to all children
Iowa	Iowa Admin. Code r. 281-103.8	"(1) No employee shall use any prone restraints. For the purposes of this rule, "prone restraints" means those in which an individual is held face down on the floor. Employees who find themselves involved in the use of a prone restraint as the result of responding to an emergency must take immediate steps to end the prone restraint."	Applies to all children
Kansas	32 Kansas Register No. 14, 317 (April 4, 2013)	91-42-2(a)(1)(A) "Policies and procedures shall prohibit the following: (i) The use of prone, face-down, physical restraint; or face-up, physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student's primary mode of communication."	Applies to all children

<sup>46</sup> Task force established in Aug. 2010 with proposed rules (IDAPA 08.02.03.160-161) however no action was taken.

<sup>47</sup> Schools are free to adopt a model plan as they see fit. However, any plan adopted by a school must contain, at a minimum, the elements listed in Indiana Code 20-20-40-13.

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State	Citation	Language	
Kentucky	704 Kentucky Admin. Regs. 7:160 (2013)	Section 3(2) “School personnel shall not impose the following on any student at any time: ... (d) Physical restraint that is life-threatening; (e) Prone or supine restraint; or (f) Physical restrict if they know that physical restraint is contraindicated based on the student’s disability, health care needs, or medical or psychiatric condition.”	Applies to all children
Louisiana	La. Rev. Stat. § 17:416.21(C)	(1)“Physical restraint shall be used only ... (c) In a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student’s breathing or ability to communicate with others;” . . . (3) “No student shall be physically restrained in a manner that places excessive pressure on the student’s chest or back or that causes asphyxia; (4) A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student’s size, age, and severity of behavior.”	Applies to children with disabilities
Maine	LD 243 <sup>48</sup> (passed 2013)  05-071 Department of Education, Chapter 33, Section 6	“2. Prohibited forms and uses of physical restraint ... C) No physical restraint may be used that restricts the free movement of the diaphragm or chest or that restricts the airway so as to interrupt normal breathing or speech (restraint-related positional asphyxia) of a student; D) No physical restraint may be used that relies on pain for control, including but not limited to joint hypertension, excessive force, unsupported take-down (e.g. tackle), the use of any physical structure (e.g. wall, railing or post), punching and hitting.”	Applies to all children

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<sup>48</sup> Revised existing statutory provisions pertaining to physical holding and seclusion.

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State	Citation	Language	
Maryland	Md. Regs. Code tit. 13A. § 13A.08.04.05(A)(1)(e)	Provides: "In applying restraint, school personnel may not: (i) Place a student in a face down position; (ii) Place a student in any position that will obstruct a student's airway or otherwise impair a student's ability to breathe, obstruct a staff member's view of a student's face, restrict a student's face, restrict a student's ability to communicate distress, or place pressure on a student's head, neck, or torso; or (iii) straddle a student's torso."	Applies to all children
Massachusetts	Mass. Regs. Code, tit. 603, § 46.05(3)  § 46.05(5)(a)	<p>"Safest method. A person administering physical restraint shall use the safest method available and appropriate to the situation subject to the safety requirements set forth in 603 CMR 46.05(5). Floor or prone restraints shall be prohibited unless the staff member administering the restraint has received in-depth training according to the requirements of 603 CMR 46.03(3) and, in the judgment of the trained staff member, such method is required to provide safety for the student or others present."</p> <p>"Safety requirements. Additional requirements for the use of physical restraint: (a) No restraint shall be administered in such a way that the student is prevented from breathing or speaking. During the administration of a restraint, a staff member shall continuously monitor the physical status of the student, including skin color and respiration."</p>	Applies to all children

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

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

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

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State	Citation	Language	
Nebraska	<p>Nebraska Adim. Code, tit. 92, R. 10, § 011.01(E)</p> <p>Nebraska Educ. Dept., Developing School Policies &amp; Procedures for Physical Restraint and Seclusion in Nebraska Schools, (June, 2010), pp. 12, 27, 29, and 34</p>	<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. 12.</p> <p>Each school district may choose to format its policies according to its own practices, p. 27. Model policies include the following language: “The only physical restraints to be used are those taught by the approved Crisis Intervention Training Program,” p. 29 and “Prone or supine forms of physical restraint are not authorized and should be avoided,” p. 34.</p>	Applies to all children
Nevada	Nev. Rev. Stat. §§ 388.521 – 388.531 <sup>49</sup> (1999)	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child’s ability to breathe within the school setting.	Applies to children with disabilities

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<sup>49</sup> Meaningful protections against seclusion and restraint but no specific prohibitions on prone restraint or restraints that restrict or impair a child’s ability to breathe.

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State	Citation	Language	
New Hampshire	N.H. Rev. Stat. Ann. §§ 126-U:1 – 126-U:14	126-U: 4 “Prohibition of Dangerous Restraint Techniques. No school or facility shall use or threaten to use any of the following restraint and behavior control techniques: l) Any physical restraint or containment technique that: a) obstructs a child’s respiratory airway or impairs the child’s breathing or respiratory capacity or restricts the movement required for normal breathing; b) places pressure or weight on, or causes the compression of, the chest, lungs, sternum, diaphragm, back, or abdomen of a child; c) obstructs the circulation of blood; d) involves pushing on or into the child’s mouth, nose, eyes, or any part of the face or involves covering the face or body with anything, including soft objects such as pillows, blankets, or washcloths; or e) endangers a child’s life or significantly exacerbates a child’s medical condition.”	Applies to all children

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State	Citation	Language	
New Jersey	New Jersey Dept. of Educ. Guidance Memo 2012-5 (9.18.12)	“The New Jersey Department of Education, Office of Special Education, endorses the use of [the United States Department of Education, Office of Special Education and Rehabilitative Services (USDE OSERS) May 15, 2012, Guidance Document] when developing Individual Education Programs (IEPs) which address the behavioral needs of students with disabilities.”	Applies to all children
New Mexico <sup>50</sup>	State of New Mexico Public Educ. Dep’t, Use of Physical Restraint as a Behavioral Intervention for Students with Disabilities, Memorandum (March 14, 2006)	Memorandum, pp. 3-4 “Offers the following guidance to IEP teams and building administrators: . . . No form of physical restraint may be used that restricts a student from speaking or breathing.”	Applies to children with disabilities
New York	N.Y. Comp. R. and Regs., tit. 8, §§ 19.5(b) and 200.22 <sup>51</sup> (2009)	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child’s ability to breathe within the school setting.	Applies to all children
North Carolina	N.C. Gen. Stat. §§ 115C-391.1 <sup>52</sup>	No applicable language relating specifically to prone restraint or restraint that restricts of impairs a child’s ability to breathe within the school setting.	Applies to all children

<sup>50</sup> New Mexico does have a Children’s Mental Health and Developmental Disabilities Act, which provides, under N.M. Stat. Ann. § 32A-6A-10(I), “In applying physical restraint, a mental health or developmental disabilities professional shall use only reasonable force as is necessary to protect the child or other person from imminent and serious physical harm.” Additionally, in 2010, a legislative education study committee was proposed and a Restraint & Seclusion Work Group was created.

<sup>51</sup> New York has meaningful protections against the use of seclusion and restraint, however, such does not include any prohibition on prone restraint or restraints that restrict or impair a child’s ability to breathe.

<sup>52</sup> North Carolina has meaningful protections against the use of seclusion and restraint, however, such does not include any prohibition on prone restraint or restraints that restrict or impair a child’s ability to breathe.

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

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

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

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

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State	Citation	Language	
Utah	<p>Utah Code §§ 53A-11-805</p> <p>Utah State Office of Education, Least Restrictive Behavioral Interventions LRBI Guidelines, Positive Behavioral Supports and Selection of Least Restrictive Behavioral Interventions<sup>53</sup></p>	<p>“Behavior reduction intervention which is in compliance with section 76-2-401 and with state and local rules adopted under section 53A-15-301 is excepted from this part.”</p>	<p>Applies to children with disabilities</p>
Vermont	<p>Vt. Code R. §§ 4500 et seq.</p>	<p>4500.3(9) defines prone physical restraint “means holding a student face down on his or her stomach using physical force for the purpose of controlling the student’s movement.” 4502.1.1 provides “prone and supine physical restraints are more restrictive than other forms of physical restraint and may be used only when the student’s size and severity of behavior require such a restraint because a less restrictive restraint has failed or would be ineffective to prevent harm to the student or others.”</p> <p>4501.1(c) prohibits school personnel and contract service providers from imposing on a student “any physical restraint, escort, or seclusion that restricts or limits breathing or communication, causes pain or is imposed without maintaining direct visual contact.”</p>	<p>Applies to all children</p>

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<sup>53</sup> Utah has guidance found in this document. Nothing that discusses prone or restricts and impairs a child’s ability to breathe.

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State	Citation	Language	
Virginia	Virginia Depart. of Educ., Guidelines for the Development of Policies and Procedures For Managing Student Behaviors in Emergency Situations in Virginia Public Schools  (2009)	No applicable language relating specifically to prone restraint or restraint that restricts or impairs a child's ability to breathe within the school setting.	Applies to all children
Washington	Wash. Admin. Code § 392-172A-03125  (2013)	3(a) "Force and restraint in general. No force or restraint which is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law may be used. See RCW 9A.16.100 which cites the following uses of force or restraint as uses which are presumed to be unreasonable and therefore unlawful ...  (iv) interfering with a student's breathing."	Applies to all children
West Virginia	W. Va. Code St. R. § 26-99	"A school employee and/or independent contractor may use restraint in an emergency as defined above with the following limitations: Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency. Procedures and maneuvers that restrict breathing (e.g. prone restraint), place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck or throat, or may cause physical harm are prohibited."	Applies to all children

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State	Citation	Language	
Wisconsin	2011 Act 125 Seclusion and Restraint (2012)	Section 2(3)(d) "None of the following maneuvers or techniques are used: 1) Those that do not give adequate attention and care to protecting the pupil's head. 2) Those that cause chest compression by placing pressure or weight on the pupil's chest, lungs, sternum, diaphragm, back, or abdomen. 3) Those that place pressure or weight on the pupil's neck or throat, on an artery, or on the back of the pupil's head or neck, or that otherwise obstruct the pupil's circulation or breathing. 4) Those that constitute corporal punishment."	Applies to all children
Wyoming	Wyo. Stat. § 21-2-202 Wyo. Educ. Rules 42-1 to 42-8 (Jan. 2012)	42-7(b)(i)(B): "Schools shall not utilize aversive interventions, mechanical restraints, or prone restraints at any time"	Applies to all children