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Restraint and Seclusion of Children in Minnesota Public Schools



Minnesota Disability Law Center
Minnesota's Protection and
Advocacy (P & A) Agency

Restraint and Seclusion in Minnesota Schools

Introduction

There is increased scrutiny of the use of restraint and seclusion in our nation's public schools. National and local media outlets have reported children being injured or even killed as a result of being restrained or secluded in school.¹ Advocacy organizations for people with disabilities, including the federally-established Protection and Advocacy (P & A) organizations, have reported that children with disabilities have been inappropriately restrained and secluded in schools and have called for further attention to the restraint and seclusion of children in schools.²

Additionally, the membership organization for the P & A's, the National Disability Rights Network, issued a report entitled "School is Not Supposed to Hurt" that identified deaths, severe physical injuries, and emotional trauma suffered by children in schools because of restraint and seclusion practices.³ Furthermore, statements by a federal oversight organization and

Minnesota Disability Law Center

The Legal Aid Society of Minneapolis, through its statewide project, the Minnesota Disability Law Center (MDLC), is the state's designated Protection and Advocacy (P & A) agency for people with disabilities and their families. MDLC provides legal advocacy for children to ensure they receive an education designed to meet their disability-related needs. As the P & A, MDLC investigates complaints regarding abuse and neglect of children with disabilities, including students who have been restrained and secluded in school settings.

¹ See, e.g., *Discipline Methods Endanger Disabled Kids* (National Public Radio broadcast May 19, 2009), available at <http://www.npr.org/templates/story/story.php?storyId=104277070> ; *Students Suffer Abusive Restraint, GAO Says* (U.S. News and World Report July 7, 2009), available at <http://www.usnews.com/education/articles/2009/07/07/students-suffer-abusive-restraint-gao-says.html>. Some experts call 'time out' rooms 'abuse,' (USA Today, October 20, 2008)) available at: http://www.usatoday.com/news/education/2008-10-20-time-out-discipline_N.htm

² P & A's in different states have issued reports on the use of restraint and seclusion in public schools. The reports include those done in Alabama, <http://www.adap.net/Seclusion%20&%20Restraint%20Final.pdf>, California, <http://www.disabilityrightsca.org/pubs/702301.htm>, Indiana, http://www.in.gov/ipas/files/S_R_Final_Report_Full_IPAS_2-C.pdf and Michigan, http://www.mpas.org/MPASFiles/MPAS_RS.pdf.pdf.

³ See, e.g., *School is Not Supposed to Hurt* (National Disability Rights Network (NDRN), January 2009), available at [http://www.ndrn.org/srestraint and seclusionR-Report.pdf](http://www.ndrn.org/srestraint%20and%20seclusionR-Report.pdf).

commission acknowledge the inherent risks associated with the use of restraint and seclusion.⁴

Responding to these concerns, the U.S. Congress asked the Government Accountability Office (GAO) to research these allegations. The GAO report on “seclusions and restraints” documented hundreds of allegations at public schools across the nation.⁵ Importantly, the GAO report noted that there is not a “single web site, federal agency, or other entity that collects comprehensive information on [the nature and extent of restraint and seclusion use].”

To address what he considers the “deeply troubling” results of the GAO study, U.S. Secretary of Education Arne Duncan requested that all school districts review, revise, and develop their current policies regarding the use of restraints and seclusion. He assigned a Department staff person to follow up with each state.⁶

In the fall of 2009, the United States Department of Education proposed to collect data from selected public schools across the nation on the use of restraint and seclusion as part of its Civil Rights Data Collection, which is part of the larger *EDFacts* elementary and secondary education data collection system.⁷ This proposed data collection system, if formally adopted, will provide important information on the scope, type and extent of restraint and seclusion use in schools.

On December 9, 2009, the U.S. House and Senate proposed federal restraint and seclusion legislation. This legislation, if enacted, would significantly change the legal parameters surrounding restraint and seclusion use in schools. On February, 4, 2010, the U.S. House Education and Labor Committee passed its version of a bill on a 34-10 bipartisan vote. The proposed changes include:

- Adopting relevant definitions found in the Public Health Service Act (42 U.S.C. § 290).

⁴ See, e.g., *2006 Hospital Accreditation Standards* (The Joint Commission on Accreditation of Healthcare Organizations) (stating that the use of restraint or seclusion poses an inherent risk to the physical safety and psychological well being of the individual and the staff); *Achieving the promise: Transforming mental health care in America* (President’s New Freedom Commission on Mental Health, 2003) (stating that the use of restraint or seclusion creates significant risks for adults and children, including serious injury or death, retraumatization of people with a history of trauma, loss of dignity, and other psychological harm).

⁵ *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers* (United States Government Accountability Office May 19, 2009), available at <http://www.gao.gov/new.items/d09719t.pdf>

⁶ Letter from Arne Duncan to Chief State School Officers (July 31, 2009). <http://www.ed.gov/policy/elsec/guid/secletter/090731.html>

⁷ The notice of this proposal is available at: <http://edocket.access.gpo.gov/2009/pdf/E9-21935.pdf>

- Allowing restraint and seclusion only when “imminent danger of physical harm” exists, when less invasive measures will not work, when performed by trained staff (from a state-approved program) and when the student is closely monitored.
- Prohibiting restraint and seclusion done for convenience, discipline, therapy, for longer than necessary, or if done by untrained staff.
- Prohibiting restraint practices that restrict breathing or any aversive interventions that compromise health and safety.
- Forbidding restraint and seclusion in IEPs or behavior plans, but allowing schools to have non-individualized safety and crises responses that include restraint and seclusion.
- Requiring reporting, a state enforcement system, and compliance by states within two years.
- Establishing a grant program for training, professional development, and PBIS.
- Allowing withholding federal funds and requiring corrective action plan as sanctions.

These federal efforts emphasize data reporting. Six states that have current data reporting requirements on restraint or seclusion include California, Connecticut, Kansas, Massachusetts, North Carolina, and Texas. Only California, Kansas and Texas have available reports.

- Texas only collects data on restraints. Locked seclusion is prohibited and there are no statewide reports on time out room use. Texas reported 18,741 restraints for its population of 472,749 students eligible for special education services during the September 2007 through June 2008 academic year. Texas reported 4,202 students were restrained.⁸
- In the same period, California identified 14,354 instances of restraints, seclusion or other undefined “emergency interventions” in public and private schools for its 678,105 children eligible for special education services.⁹ California did not report the number of students who were the subject of emergency interventions.

⁸ See GAO Report at <http://www.gao.gov/new.items/d09719t.pdf>

⁹ *Id.*

- The Kansas Department of Education only collects data on seclusion. Kansas reported that 229 of its 65,357 students eligible for special education services were secluded in a public school during one three-month reporting period in 2009. In the same report, Kansas reported a frequency of seclusion use of between 1 and 15 times for the students. Kansas also reported that approximately 14 percent of its public schools have seclusion rooms, although not all rooms are in use.¹⁰

Rationale for Report

Following more than three years of contentious debate in rulemaking proceedings and in the field over the extent and scope of Minnesota’s statute and regulations on restraint and seclusion, the 2009 Minnesota Legislature made significant changes to the laws by revising the statutory scheme and by repealing many related Minnesota Department of Education Rules. These changes will go into effect in 2011. As Minnesota prepares to implement these changes, MDLC is issuing this report to assist policymakers, school districts and parents in understanding the use of restraint and seclusion in Minnesota.

MDLC investigated the use of restraint and seclusion practices on children in Minnesota’s schools by analyzing different sources of information regarding restraint and seclusion use. This report answers common questions about the scope and extent of restraint and seclusion use in Minnesota schools, what the most common problems are, where they are most likely to occur, and the strategies schools and advocates use to ensure the appropriate use of restraint and seclusion.

One goal of this report is to provide factual information on the scope and extent of restraint and seclusion. Without this critical information, schools, parents, advocacy groups, and policymakers battle over anecdotes, horror stories, and incomplete information. Schools are rightly concerned about administrative burdens and parents are rightly concerned about the well-being of their children. Both are concerned with the lack of available funding and non-school placement alternatives. With this report, we hope to create a framework for a more informed dialogue.

Acknowledgements and Contact Information

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Please contact Dan Stewart, MDLC Supervising Attorney, djstewart@midmnlegal.org or 612.332.1441 with any questions about this report.

¹⁰ See Kansas Department of Education’s website for the 2008 and 2009 reports available at: <http://www.ksde.org/Default.aspx?tabid=3119>

Fundamental Questions

A fundamental difficulty in addressing restraint and seclusion use in Minnesota schools is the lack of available data and information. We identified five fundamental questions to address this lack of information as follows:

1. What is a reasonable estimate on how often restraint and seclusion practices are used in Minnesota Public Schools?
2. Which students are most likely to be restrained and secluded?
3. Which regions are most likely to use restraint and seclusion?
4. What are the most common restraint and seclusion allegations and violations?
5. What strategies do schools and advocates most often use to ensure appropriate restraint and seclusion use?

Overview of Report

After discussing the key definitions and terminology used in the report, we present an executive summary of findings and recommendations.

- The first section in the report describes in further detail each of the sources of information and what conclusions can be reached from those sources.
- The second section answers the five questions listed above and forms the bases for our recommendations.
- The final section of this report reviews our recommendations for policymakers, schools, and parents.

Definitions and Terminology

Minnesota law has a number of categories to define the use of restraint, time out and seclusion in public schools. These categories include: contingent observation, exclusionary time out, and locked time out in Minnesota Statutes¹¹ and aversive procedures, aversive stimuli, deprivation procedures, conditional procedures, manual restraint, mechanical restraint, time out for exclusion, and time out for seclusion in Minnesota Rules.¹² The rules also refer to conditional interventions and prohibited procedures. These definitions, however, are somewhat inconsistent and can be confusing.

¹¹ Minn. Stat. § 121A.66, subdiv. 7.

¹² Minn. R. 3525.0210, subdivs. 5, 6, 9, 13, 29, 30, 46, 47.

To address these inconsistencies and potential confusion, we adopted different, more common sense, definitions for use in our surveys. In our surveys, we defined *manual restraint* as a “physical intervention or bodily contact that holds or immobilizes a student,” a *mechanical restraint* as the “use of devices, straps, or chairs to hold or immobilize a student,” a locked seclusion room as a room “with a locking mechanism where the child is placed alone and prohibited from leaving,” and an unlocked seclusion room as a room “such as stop to think, freedom, blue, quiet, or detention room or any room with NO locking mechanism where the child is placed alone.”

We acknowledge that the definitions are different from state law definitions; but we believe that they more accurately capture the concepts of restraint and seclusion as used in schools.

This report uses the phrase “appropriate uses of restraint and seclusion.” We recognize that this is a controversial term. Some organizations and individuals propose complete bans on restraint or seclusion. Others seek relatively few limits on school district ability and discretion to implement restraint and seclusion. While the available research literature includes a variety of positions, some common principles or guidelines emerge. These include:

- Restraint and seclusion can be used to protect against immediate harm to a person.
- Restraint and seclusion procedures that pose a substantial risk of serious emotional or physical harm should be prohibited in schools.
- Restraint and seclusion should only be implemented by staff who have the requisite initial, comprehensive, and ongoing training.
- Restraint and seclusion use must be documented, reported, and reviewed.
- Restraint and seclusion by themselves do not prevent a student’s negative behaviors; restraint and seclusion are responses to protect against harm.
- Restraint and seclusion can be part of a school’s continuum of interventions but, if included, should only be done if other interventions are not effective or are not appropriate.
- Restraint and seclusion use in non-emergency situations can be part of a research-based process that incorporates positive behavioral supports, data collection, review of baseline, skill development, teaching of replacement behaviors, progress measures, a plan for phasing out restraint and seclusion, and parental consent.
- If restraint and seclusion use cannot be reduced or eliminated, their use must be stopped and changes to a student’s behavior plan, his or her environment, and school placement must be considered.

As we analyze data and make recommendations, this report adopts these guidelines as a baseline for “appropriate” uses of restraint and seclusion.

Executive Summary of Findings

We reviewed seven sources of information (MDLC Intakes, Parent Survey, Complaints and Hearings, List of Locked Time Out Rooms, WCCO Survey, Special Education Director Survey, and Advocates Survey) to examine restraint and seclusion use in Minnesota public schools. From this review, we make the following findings:

1. MDLC Client Intake Analysis

MDLC reviewed client intake information over the past five years to identify parent concerns, frequency of restraint and seclusion, allegations raised, types of cases, and the student's age, gender and disability.

We report that:

- *MDLC is seeing an increase in parent allegations involving restraint and seclusion in school settings.*
- *The majority of parental complaints were of repeated use of restraint and seclusion, use that endangered a child's physical and mental health, excessive use, inappropriate use, and long-term ineffectual use.*
- *Children, particularly boys, eligible for special education under the autism spectrum disorders and emotional or behavioral disorders categories, between the ages of 11-15, were the most likely to be the subject of the parents' concerns.*

2. MDLC's Parent Survey

MDLC currently maintains a restraint and seclusion survey for parents on its website.¹³ This survey asks parents about their child's experiences with restraint and seclusion in terms of frequency, trigger for the use of restraint or seclusion, whether or not their children had behavior plans and their child's disability type or classification. As of December 2009, 22 parents had responded.

A majority of parents reported that:

- *Their children were frequently restrained or secluded – on a weekly basis and totaling more than 15 times per year.*

¹³ A copy of the parent survey is included in the Appendix and is available at: <http://www.mylegalaid.org/mdlc/current-projects/school-restraint-and-seclusion-project>

- *Their children were both restrained and secluded.*
- *The restraint or seclusion resulted from not only their child's physical aggression but also as a result of a power struggle between an adult and the child.*
- *Even though students experienced repeated use of restraint and seclusion, those interventions were often not addressed in an IEP or a behavior plan.*

3. Minnesota Department of Education Complaints and Hearings

MDLC analyzed complaint and hearing decisions available on MDE's website between 1998 and 2008.¹⁴ For each decision that substantively dealt with a restraint and seclusion issue, we identified the restraint and seclusion allegation, student age or grade and disability category, and any related violation.

We found that:

- *The most common violation was that restraint and seclusion were used in non-emergency situations and they were not included in the student's IEP or behavior plan.*
- *Other common violations included a district's failure to complete the necessary evaluations (especially functional behavioral assessments) and failures to meet notification, meeting, documentation, and seclusion room requirements.*
- *The annual rate of complaints filed with MDE has dropped from a high of 16 in 2003 and has remained mainly consistent at 4-6 per year between 2004-2009.*
- *Children classified under the autism spectrum disorders, emotional or behavioral disorders, and developmental cognitive disability special education eligibility categories, who are between 10-14, were most often the subject of complaints and hearings in this area.*

¹⁴ The MDE search engine is available at: <http://education.state.mn.us/WebsiteContent/ComplianceSearch.jsp>. We used a variety of terms, including conditional procedures, restraint, seclusion, time out, isolation and prohibited procedures as well as law citations to identify the complaints or hearings that substantively addressed restraint or seclusion allegations. Decisions that did not substantively address these types of allegations were not included.

4. The Minnesota Department of Education’s list of school districts with locked seclusion rooms

Minnesota public school districts and charter schools must report whether or not they have a locked time out room.¹⁵ We obtained and analyzed MDE’s most recent list of districts that have a locked time out room.

We found that:

- *Sixty-one districts, or 13 percent of all districts, reported having locked time out rooms.*
- *Most of the reported locked time out rooms were in the metro area. Outside of the metro area, there were more reported locked time out rooms in the southeast, east central, and lake country regions than in other regions.¹⁶*

5. WCCO-TV data request to school districts

In 2008, WCCO-TV requested school districts and charter schools to respond to a list of questions. We reviewed and analyzed the data WCCO reported on its website.¹⁷ This data contained information about the location of districts that had a room used for seclusion or “time out.”

We learned that:

- *There were 60 districts that reported having time out or seclusion rooms.*
- *Geographically, metro area districts had the highest number of reported rooms. Districts from the southeast, east central and mid-central regions reported the next highest totals.*

¹⁵ Minn. Stat. § 121A.67, subdiv. 1 (7).

¹⁶ We used the Minnesota Department of Education’s Regional Service Cooperative map, available at <http://education.state.mn.us/mdeprod/groups/InformationTech/documents/Maps/032992.pdf> to categorize districts into the respective regions.

¹⁷ <http://wcco.com/iteam/time.out.rooms.2.866996.html> ; <http://wcco.com/specialreportsprojects#schooltimeout>

6. MDLC's Questionnaire for Minnesota Special Education Directors

In the summer of 2009, MDLC emailed an online questionnaire to all Minnesota public school special education directors.¹⁸ For special education directors who were responsible for more than one school district or charter school, the questionnaire was adapted to minimize response time. We received responses from 116 of 338 (34 percent) independent, intermediate, or special school districts. We received responses from 12 of 153 (8 percent) charter schools. Given the response rate, this report focuses primarily on independent, intermediate and special school districts.

To encourage candid responses, we promised to ensure confidentiality to directors that responded to the survey. Therefore, we do not identify any specific district, and we limit our analysis to statewide or regional totals.

We report that:

- *Using a conservative calculation based on the director survey responses, we estimate there are between 2,100 and 3,800 uses of restraint, seclusion and time out per year, or approximately 12-23 per day statewide.*
- *Over 40 percent of districts do not have specific policies regarding restraint or seclusion despite a legal requirement to have one.*
- *The reported use of restraints by police in schools and use of mechanical restraints by schools are very low.*
- *The use of locked time out (or seclusion) rooms occurs at about a rate of half of either unlocked seclusion or manual restraint use.*
- *Time out (or unlocked seclusion) and manual restraints are used at nearly the same frequency.*
- *Districts use a number of common strategies to ensure the appropriate use of restraint and seclusion, including staff training, crisis-management teams, employing behavior*

¹⁸ A copy of the special education directors' surveys is included in the Appendix.

intervention specialists, and implementing positive behavioral interventions and supports (PBIS).

- *Some directors hoped for more resources and time available for training, more funding for high-needs students, and more cooperation from outside agencies to provide programs and wrap-around models that truly support students.*

7. MDLC's Disability Advocates Survey

MDLC surveyed Minnesota-based advocates from a variety of advocacy organizations, including PACER, Arc, and other advocacy groups. MDLC obtained 16 responses from advocates. The survey requested information on the frequency and types of restraint and seclusion-related reports in their offices, what strategies they employed in their advocacy efforts and what barriers they saw to ensuring appropriate use of seclusion and restraint.

Advocates report:

- *They each received about five complaints from parents per year about the use of restraint or seclusion in the past calendar year. The typical complaint involved restraint and seclusion use on a weekly basis.*
- *Middle-school-aged students eligible for services under autism or emotional or behavioral disorders categories were the most likely to be restrained.*
- *The majority of parent concerns were that the restraint or seclusion occurred too frequently, followed minor behaviors, was an unnecessary response to the situation, was a punishment, and was used when the student's behavior plan or other legal requirements were not followed.*
- *The most common advocacy steps taken included advocacy with the school for functional behavioral assessments, behavior plans, positive behavior intervention strategies, criteria for permitting the restraint or seclusion, data collection, IEP meeting, and enhanced staff training.*
- *Advocates identified fewer district resources, training barriers, reliance on police officers, school culture, and lack of recordkeeping as the main barriers to ensuring the appropriate use of restraint and seclusion.*

Executive Summary of Recommendations

Based on the information in this report, MDLC recommends ten specific actions by policymakers, school districts, and parents. We provide additional rationale for the recommendations in Section Three of this Report.

Public Policy Recommendations

1. Require reporting of each use of restraint or seclusion on a district, regional and state level.
2. Support structural changes in the availability of school-based supports, alternative placements, and funding for children most likely to be subjected to restraint and seclusion.
3. Designate appropriate levels of state and federal funding for training and Positive Behavioral Interventions and Supports (PBIS).

Recommendations for School Districts

1. School districts should develop specific policies or plans regarding restraint and seclusion use.
2. School district policies and plans should include a clear data reporting, collection, and monitoring process to ensure the appropriate use of restraint and seclusion.
3. School districts should develop and implement positive behavioral interventions and supports systems on a school and district level.
4. School districts should start developing cost-efficient staff training systems.

Recommendations for Parents and Advocates

1. Participate in IEP meetings and develop a plan to document, review and address restraint and seclusion use.
2. Request copies of the school district's conditional procedures policy or, beginning in 2011, its restrictive procedures plan.
3. Become involved in the School District's Special Education Parent Advisory Council.

Restraint and Seclusion in Minnesota Schools

SECTION ONE: Analysis of Sources

1. Minnesota Disability Law Center Intakes

MDLC reviewed all of its restraint and seclusion cases from the last five years to gain insight into how often restraint and seclusion are used, provide some examples of the cases we learn about from parents, and determine which children are most likely to be subjected to the procedures.

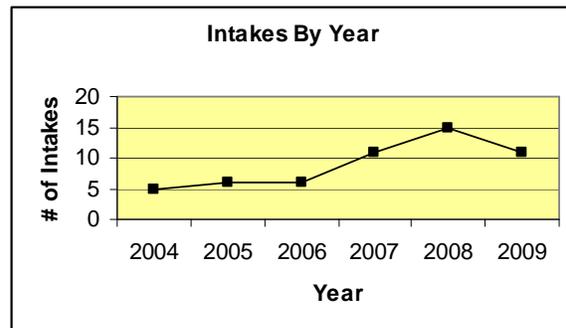
How often are restraint and seclusion concerns raised with MDLC?

Between 2004 and 2009, MDLC has had 54 cases in which parents have alleged that their children were restrained or secluded at school. MDLC saw an increase in the number of cases it received regarding restraint and seclusion each of the last three years. While these numbers do not necessarily reflect how often restraint and seclusion is used in school, they are one indicator as to whether use is increasing or decreasing. In 2004, MDLC had only 4 restraint or seclusion cases. By 2008 and 2009, we had between 10 - 15 cases annually.

What are some case examples?

Parents' allegations ranged from instances of excessive and inappropriate use of restraint or seclusion, use of police, sending a child home or placing the child on homebound instead of developing an effective behavior plan, to a school's failure to follow the appropriate procedural processes. Some of the incidents and concerns parents have reported to MDLC include:

- Parents alleged that their 14-year-old, eighth grade student with diagnoses of ADHD and autism was subjected to an increasing number of physical restraints. The parent stated that the child was physically restrained about five times in an eight-week period and the restraints were being used for progressively longer periods of time. One of these restraints was a two-person prone hold for nearly 10 minutes, even though an autism



consultant had advised the IEP team not to use physical restraints because of the child's small size. The school frequently sent the child home, suspended him or called parents to pick him up early from school. MDLC worked with the parents and the school to develop better processes for the eventual reduction and elimination of restraint use.

- Parents alleged that their 7-year-old, first grade student with diagnoses of developmental delay and autism was physically restrained about three or four times per week, sometimes by four people at once who were not trained in restraints and who did not implement calming strategies required by the IEP. The school frequently sent the child home, suspended him or called parents to pick him up early from school. The parents also believed that staff's behavior provoked and triggered the student's behavior, which resulted in him being restrained. MDLC worked with the parents and the school to develop better processes for the eventual reduction and elimination of restraint use.
- Parents of a child with autism and mild developmental delays who was in a district's Level IV setting alleged that their son was routinely restrained by a police liaison officer in handcuffs and shackles. In negotiations with the district, we assisted the parents in finding an alternative placement. This placement failed and the student went to a group home following a crisis. Later, the child returned to the original district where we assisted the parents to develop an appropriate placement and services. When the child's needs changed, we worked with the district to secure a different placement in an intermediate district.
- Parent of 11-year-old with autism contacted MDLC with a concern that the school had been repeatedly directing their child to a closet for misbehavior and prohibiting him from leaving. The child's misbehavior was identified in the child's IEP and behavior intervention plan (BIP). The BIP did not authorize the use of the closet for responding to the child's behavior and, indeed, required other steps. The parent, after reviewing her available options, decided to enroll her child in a different school district. The new district reviewed the child's disabilities and drafted an appropriate IEP and BIP, which is now being implemented.
- Parent of 9-year-old with autism alleged the school district used mechanical restraints without including those restraints in child's IEP or BIP and without informing parent of their use. The child felt embarrassed about being tied up and felt as though he deserved being restrained as punishment. Other school staff not involved in the restraint learned of

incident and reported it to the police who contacted the mother and school administration. The district implemented corrective steps.

Common Parental Concerns:

Repeated Use

One of the most common concerns raised by parents is the repeated use of restraint or seclusion. Most parents acknowledge that schools must be able to respond effectively to challenging behaviors, especially when those behaviors pose a risk to others or the child. However, if a school's use of restraint or seclusion occurs frequently and increases, parents have concerns that the available services and placements are not being effectively implemented or that they are inappropriate.¹⁹ Continued and repeated use also results in less time on academics and more risk to the child and others.

Improper Use

Parents are also concerned that time out practices are not done according to professional standards. For example, time out is supposed to be a removal from a setting with positive reinforcements and not a removal to a preferred setting,²⁰ happen repeatedly or for long durations, and are sometimes done in inappropriate settings such as closets, storage rooms, rooms with dangerous items, or locked rooms. Moreover, parents report that schools do not keep documentation that can inform the parents of what happened and that can help in preventing future use.

Potentially Harmful

Another frequent parental concern is that the restraint or seclusion practice is potentially emotionally or physically harmful. Parents have indicated that their children are subject to prone restraints, restraints done by multiple staff, seclusion or isolation without observation, and to restraints or seclusion that may exacerbate an underlying physical or emotional condition, when contraindicated by medical information or medications, and when the child has been previously subjected to emotional trauma.

¹⁹ Similarly, parents report that districts offer to provide homebound services as a temporary resolution to the parents' concerns. Unfortunately, we have learned that this approach often becomes a long-term strategy that results in the school not providing the necessary services to address the underlying student behaviors and results in the students not being educated in the least restrictive environment.

²⁰ For examples of research-based, effective time out strategies, see guidelines for use in Colorado schools available at: <http://www.cde.state.co.us/spedlaw/download/TimeOutGuidelines.pdf>; see also Wolf, TL, McLaughlin, TF & Williams, RL; Time out interventions and strategies: A brief review and recommendations. International Journal of Special Education, v21, no. 3 (2006) available at: <http://www.internationalsped.com/documents/3wolf%20etc.doc>

Cycle of Restraint

Parents also report that students who have been restrained or secluded in schools because of challenging behaviors stemming from their disabilities are then placed in a day treatment or residential treatment facility to address the behaviors. The day treatment or residential facilities may have more and different types of services, resources and staffing to address the child's needs. However, the day treatment or residential facility terminates the student's stay when the child or program is not successful. The students are then returned to the school where the challenging behaviors were first demonstrated even though the school typically has less services, training and resources. The students are then restrained and secluded again. This cycle puts schools and students alike in a frustrating no-win situation. As the students' behaviors increase, there is more likelihood for more and potentially improper or risky use of restraint or seclusion, but there is a lack of effective programming to address the behaviors in other ways.

Police Involvement

MDLC received an increased number of parental complaints about police intervention, including restraint by police in schools. After investigating, we often learned that the police liaison officer does not have any training on working with children who have disabilities or on a school's special education responsibilities. Police use in schools is common in programs (such as a Level IV or day treatment) that are specifically designed to address difficult behaviors. In these programs where children are supposed to be given help and skills to address and prevent their negative behavior, they are also subject to arrest and criminal charges for demonstrating the very behavior that got them into that program. Moreover, even if a school follows a student's individual behavior plan, we received a number of parent reports that police still intervened and referred the child to a county prosecutor for a criminal consequence for the behavior. In this situation, police involvement served to undermine a school's ability to follow the behavior plan.

Which children are most likely to be restrained or secluded?

Our cases showed that 11 to 15-year-old males eligible for special education services under the Autism Spectrum Disorder (ASD), Emotional or Behavior Disorder (EBD), or a Developmental Cognitive Disability (DCD) category are most likely to be restrained or secluded. Out of the 52 cases analyzed, just over 50 percent of the complainants were aged 11-15, while 70 percent were 8 to 15 years old. Clear trends were also evident in gender and disability type. Almost 90 percent of clients were male and close to 75 percent were eligible for special education services under the ASD or EBD categories.

Summary

MDLC received more parental complaints of restraint and seclusion in school settings. The complaints focused on repeated use of restraint and seclusion and a number of instances where the child's physical and mental health was implicated. Excessive use, increasing use, inappropriate use, and long-term ineffectual use form the majority of parental concerns. Additionally, MDLC's intakes show that boys with ASD and EBD, between the ages of 11-15, were the most likely to be the subject of the parents' concerns.

2. Parent Surveys

We posted an online survey for parents on MDLC's website and 22 parents responded to it. Nineteen parent responders were located in the metro area. We asked about the frequency and types of restraint or seclusion that were used with their children, the disability categories of their children, what they understood led to the restraint or seclusion, and whether or not restraint or seclusion was included in an IEP or behavior plan. The majority of parent responders indicated that their children who were subject to restraint and seclusion were eligible for special education services under the ASD category.

What is the scope and extent of use reported by parents?

The survey asked whether their children were subjected to restraint or seclusion. Out of the 21 parents who responded to this question, 18 said restraint was used and 19 said seclusion was used. These responses show that children were frequently subjected to *both* restraint and seclusion, meaning that districts used both types of interventions, not just one type.

The majority of parents indicated relatively frequent use of restraint or seclusion. Out of the 19 parents who responded, only 2 said that restraint or seclusion was used 3 times in a year or less. The other parents indicated daily (7), weekly (5), and monthly (1) use. Six parents were unsure of how often restraint and seclusion was used.

When asked how many times total restraint or seclusion was used, 13 said they could not give a total, but commented that there were "too many" to count. Others indicated an annual total of about 25 times, 10-12 times, "several," 2-4 times, twice, and once.

What are the reported triggers to use?

In their open-ended responses, seven parents said that the child's physical or verbal aggression towards staff or property led to the restraint or seclusion. Six parents described situations that led to restraint or seclusion because their children were over-

stimulated or were having “meltdowns” or outbursts. Five parents noted that a power struggle with a staff member, typically resulting from a child’s failure to follow directions, led to the restraint or seclusion.

Other reasons for the restraint or seclusion included to prevent an escape attempt, after the child pushed a chair, to control a seizure, after the child was swearing and speaking out, and as a part of a plan from an outside consultant. Over half of the parents who responded noted that restraint or seclusion was not in their child’s BIP and thus not subject to planned use.

Summary

The parent responders indicated that their children were subjected to relatively frequent uses of restraint and/or seclusion, often occurring on a weekly basis and totaling more than 15 times per year.

They also reported their children were both restrained and secluded, and that the restraint or seclusion resulted from not only their child’s physical aggression but also as a result of a power struggle between an adult and the child. According to the majority of the parents, restraint or seclusion use was not addressed in an IEP or a behavior plan.

3. Minnesota Department of Education Complaints and Hearings

MDLC analyzed all complaint and hearing decisions available from the Minnesota Department of Education’s (MDE) website concerning restraint or seclusion from 1998-2009.²¹ These decisions provide information on how often restraint and seclusion are the subject of allegations, which children are most likely to be subjected to restraint and seclusion, which regions of districts have the most complaints, and what are the most common types of violations.²²

Complaints/Hearings Summary

TOTALS

- 100 total complaints
- 10 total hearings

- 47 restraint
- 33 seclusion
- 30 involving both

VIOLATIONS

- 65 complaints and hearings
- 59% violation rate for restraint/seclusion in complaint decisions

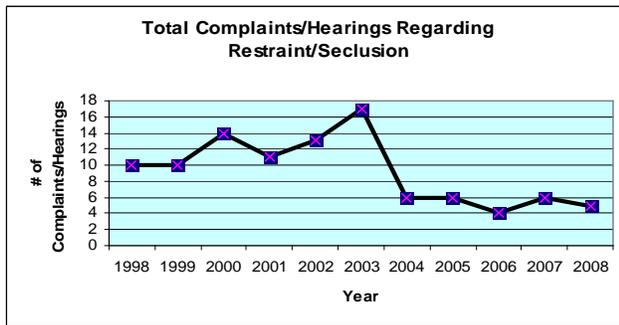
²¹ Data was compiled by using the Complaints and Hearings Search Engine on the Minnesota Department of Education website, <http://education.state.mn.us/WebsiteContent/ComplianceSearch.jsp> .

²² Of course, not all uses of restraint or seclusion result in formal complaints or hearings; however, the relative number of complaints or hearings from year to year is one indicator of the extent of use.

How often are restraint and seclusion violations alleged and found?

Since 1998, we found 110 complaints and 10 hearings in which restraint and seclusion use has been raised and decided upon as a legal issue. Approximately about a third of the complaints and hearings noted that the students were subjected to both restraint and seclusion. Of the 100 complaint decisions, 62 included at least one violation of restraint and seclusion laws. Most of these decisions included multiple violations of restraint and seclusion laws. For the 10 hearings, there were 3 that resulted in violations.

The total number of complaints and hearings regarding restraint and seclusion at MDE, as well as the number of violations, has decreased.

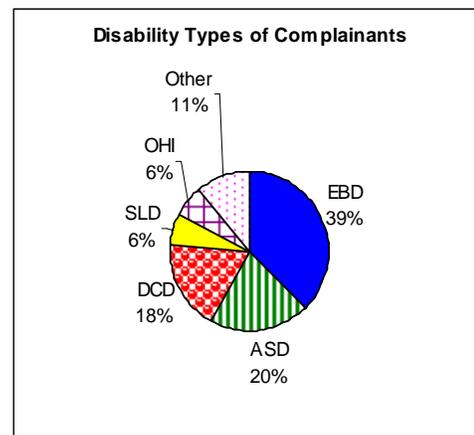


Yearly totals peaked between 2000 to 2003, with a high of 17 total complaints and 11 violations in 2003, then dropped to the lowest rates of the time period from 2004-2008, with the total number of complaints falling to around 4-6 per year and the total number of violations falling to around 2-4 per year.

Which children are most likely to be restrained or secluded?

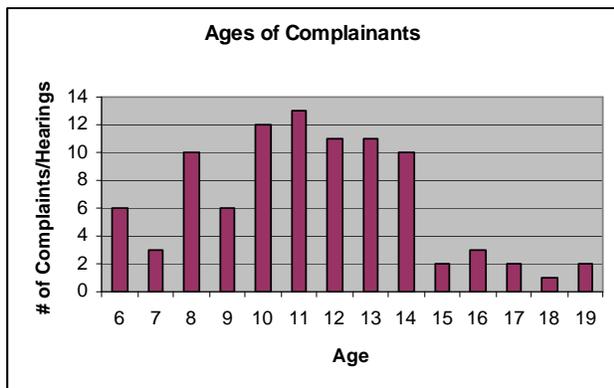
The analysis of the students’ disability, gender, and age found predominant trends in each category.²³ Information on the student’s racial background was not available.

Disability. Largely consistent with the analysis of MDLC intakes in the preceding section, MDE’s complaints and hearings suggested that a 10-14-year-old male categorized with Emotional or Behavioral Disorders (EBD), Autism Spectrum Disorders (ASD), or Developmental Cognitive Disability (DCD) is the type of student most likely to be restrained or secluded. Over three-fourths of all complaints had one of three disability types, as 76 percent of children were eligible for special education services under the EBD, ASD, or DCD categories.



²³ Not every complaint or hearing identified the complainant’s age, disability, and gender. The calculations in this section represent only those complaints or hearings where the complainant’s identifying information was included.

Gender. The most prevalent trend concerned gender. Almost 80 percent of those identified in the legal decisions were male.



Age. About 60 percent of all identified complainants were aged from 10 to 14 years old while 75 percent fell between the ages of 8 to 14. The decisions suggest that high-school-aged students are far less likely to be restrained or secluded than any other age group and that young-elementary-aged students are less likely to be subjected than older elementary and middle school students.

Which regions of districts reported the highest and lowest levels of restraint or seclusion use?

We first categorized school districts into the state’s Educational Service Cooperative Regions.²⁴ These comprise nine regions as follows: Northwest (Regions 1 and 2); Northeast (Region 3); Lake Country, located in the west central part of the state (Region 4); Region 5, located in central Minnesota; Southwest/West Central (Regions 6 and 8); Region 7, located in the east central part of the state; Central, located in south central Minnesota (Region 9); Southeast (Region 10); and Metro (Region 11).

Districts in the metro area, Region 11, have the greatest frequency of being involved in complaint decisions.²⁵ Of the 110 complaints and hearings from 1998-2009, 62 percent of all complaints and hearings came from the metro area, where there is the majority of the state’s population. The regions with the next highest total were Northeast and Region 7 (5). Districts in Northwest, Lake Country, Region 5, and Central had the fewest hearings and complaints.

²⁴ We did this for two reasons. First, we wanted to honor the confidentiality of districts in the report. Second, we wanted to see if there were any regional patterns that could be found. The map is located in Appendix 5 and is available at: <http://education.state.mn.us/mdeprod/groups/InformationTech/documents/Maps/032992.pdf>

²⁵ The special education populations of the regions vary considerably. Appendix 6 lists the special education population by region and includes information on the numbers of children reported to be in Level III and Level IV settings.

What are the most common violations?

The most common type of violation was the use of restraint or seclusion in non-emergency situations or when restraint or seclusion was not included in the student's IEP or behavior plan.²⁶ The second most common violation was a failure of the district to complete the necessary evaluations and steps prior to including restraint and seclusion in an IEP or behavior plan. In particular, districts did not complete the required functional behavioral assessments or identify any potential contraindications for restraint or seclusion use.

The next two most common violations included a failure to notify parents of restraint or seclusion use and to hold required meetings to follow up on the use of restraint or seclusion. Other common violations included failure to complete the necessary documentation and locked time out room violations (including violations of the requirements regarding size, safety, and ability to continuously monitor students).

Summary

The most common violations were 1. the use of restraint or seclusion in non-emergency situations or when restraint or seclusion was not included in the student's IEP or behavior plan and 2. the failure of a district to complete the necessary evaluations (such as functional behavioral assessments and to find any contraindications for use) and steps needed to include restraint and seclusion into an IEP or behavior plan. Other violations included a failure to meet notification, meeting, documentation, and seclusion room requirements.

The number of complaints filed with MDE has dropped from a high of 16 in 2003 and has remained mainly consistent at 4-6 per year between 2004-2009.

Students eligible for special education services under the EBD, ASD, and DCD categories were the most common disability type of the students who were the subject of the complaint. These students were 80 percent male. Sixty percent of all students were ages 10-14.

Most of the legal decisions involved the metro area, Region 11. The next highest totals were from the northeast Region 3 and east central Region 7.

²⁶ Minnesota law permits restraint and seclusion use in emergency situations or as planned interventions documented in an IEP. A violation of this provision means that restraint or seclusion was used when there was not an emergency situation and the student's IEP or BIP did not include those interventions.

4. Minnesota Department of Education Locked Time Out Room Report

In order to help answer the questions of how often locked time out/seclusion takes place and who uses it, MDLC sent a request to MDE pursuant to Minnesota Data Practices laws for a list of all school districts with locked time-out rooms.²⁷ Locked time out rooms are also, but not exclusively, called seclusion rooms.

As of 2008, MDE reported 61 of 471 (13 percent) districts or charter schools had these types of seclusion rooms.²⁸ Geographically, just under half of the districts with locked time out rooms were in Region 11 (Metro), followed by Region 10, Region 7, and Region 4.

Number of Districts with Locked Time Out Rooms By Region

Region	1-2	3	4	5	6-8	7	9	10	11	All
Number of Districts	2	2	6	3	2	7	4	9	26	61

Summary

A relatively small percentage of districts, 13 percent, indicated to MDE that they have locked seclusion rooms. Most of the reported locked seclusion rooms were in the metro-area, followed by southeast Region 10, east central Region 7 and lake country Region 4.

²⁷ A locked time-out is different from other forms of time-out in that it involves “placing the pupil in a specially designed and continuously supervised isolation room that the pupil is prevented from leaving.” Minn. Stat. § 121A.66, subdiv. 7.

²⁸ *Locked Time Out Rooms (LTOR) Report*, Minnesota Department of Education. Eleven districts did not respond to the MDE’s request for data.

5. WCCO Data

In August 2008, WCCO-TV, a metro-area television news network, sent out a data request to 433 school districts and charter schools in Minnesota regarding time out or seclusion rooms. Just over half of the districts responded. Among the requests was for each district to indicate whether it had a “time out” or “seclusion” room. Because WCCO’s request asked about “time out” while MDE used the term “locked time out room,” school responses are not necessarily consistent with the data reported by MDE, as discussed above. The WCCO data, however, provides another perspective on how often seclusion takes place and which region of districts is most likely to use seclusion.

Of the 249 responses, 25 percent or 60 districts indicated that they had some type of seclusion or time out room. Geographically, the metro area had the most seclusion rooms followed by southeast (6), east central (6) and mid-central (5). This regional breakdown – the metro area with the most followed by southern and central Minnesota – is largely consistent with MDE’s list of districts with locked time out rooms, as well as with the total number of MDE complaints and hearings per region.

Number of Districts Reporting Time Out or Seclusion Rooms by Region

Region	1-2	3	4	5	6-8	7	9	10	11	All
Number of Districts	4	1	2	5	6	6	4	3	29	60

Summary

Geographically, metro area districts had the most rooms. Districts from the southeast, east central and mid-central regions reported the next highest totals.

This regional breakdown is largely consistent with MDE’s list of districts with locked time out rooms. The difference between the number of seclusion rooms in WCCO’s survey (25 percent) and the MDE list (13 percent) appears to be due to differences in response rates and differences in terminology used by WCCO (which asked for both time out rooms and seclusion rooms) and by MDE (which only asks for reporting on locked time out rooms).

6. Special Education Director Survey

MDLC surveyed all special education directors in Minnesota to help answer the questions of how often restraint and seclusion are used and how school districts approach their use. A total of 42 directors filled out the survey.²⁹ We received responses representing 116 of 338 (34 percent) of independent, intermediate, or special school districts. We received responses representing 12 of 153 (8 percent) charter schools. Given the relatively low number of responses from charter schools, this report is more applicable to independent, intermediate and special school districts.

The directors' responses revealed new and important information about restraint and seclusion use, how schools approach restraint and seclusion use, concerns with restraint and seclusion use, and potential strategies and ideas to ensure appropriate use of restraint and seclusion.

It is important to note that a substantial number of directors stated that their responses on the frequency of restraint or seclusion were influenced by a relatively small number of students frequently subject to those procedures, and the existence of a Level IV or a day treatment program within the district. Our report acknowledges that the districts with more students and those that have Level IV or day treatment facilities are more likely to report a higher frequency of uses.

How frequently are children manually restrained?

According to the special education directors, manual restraint is used by the overwhelming majority of districts. However, districts vary in the frequency with which it is used. Notably, although 32 percent of districts report relatively rare use (less than 5 uses per year), approximately 50 percent of the districts have six or more restraints per year.

The following table describes the director responses. The “Low Estimate” is calculated by multiplying the number of responses in each column by the lowest number in the appropriate range. Similarly, the “High Estimate” is calculated by multiplying the number of responses in each column by the highest number in the appropriate range, with one exception.³⁰

²⁹ MDLC sent out the survey to all 141 special education directors representing Minnesota's 541 school districts and charter schools (as of 2009).

³⁰ For example, the low estimate for the number of responses in the 6-10 categories is 6 responses (which is the number of districts that indicated a frequency of 6-10 uses) times 6 total uses for a total of 36. The high estimate for the same category is 6 responses times 10 uses for a total of 60. Note: for the high estimate in the “more than 20” uses category, this report uses a conservative estimate of 30 in the calculation, even though there could be considerably more uses. So, the high estimate for 8 responses is 8 times 30, or 240.

Manual Restraint	No Uses	Less than 5	6-10	11-20	More than 20	Total Reported
Responses	6	12	6	5	8	37
Low Estimate	0	12	36	55	160	263
High Estimate	0	60	60	100	240	460

The director responses also show that districts that use manual restraints tend to use it either rarely (less than 5 times) or on a more frequent basis (more than 20 times).

How often are children Mechanically Restrained?

While most districts use manual restraint to some degree, the same is not true in the case of mechanical restraints. Almost 90 percent of directors indicated that their district did not use these types of restraints last year.

Mechanical Restraint	No Uses	Less than 5	6-10	11-20	More than 20	Total Reported
Responses	37	1	1	2	0	4
Low Estimate	0	1	6	11	0	18
High Estimate	0	5	10	20	0	35

How often are children restrained by police in schools?

The survey also asked about restraints completed by police officers in the schools. According to the directors, 68 percent of all districts never use police liaison officers to restrain students, and the remainder does so less than 5 times a year.

Police Restraint	No Uses	Less than 5	6-10	11-20	More than 20	Total Reported
Responses	25	12	0	0	0	12
Low Estimate	0	12	0	0	0	12
High Estimate	0	60	0	0	0	60

How often are children placed in Seclusion or Locked Time Out?

Over two-thirds of school districts said that they never use locked seclusion rooms. However, there was a wide variation in the number of seclusion room uses from district to district. A fourth of responding districts indicated that they placed students in locked seclusion rooms at least 11 times last year.³¹ The highest frequency of responses occurred in the “More than 20” uses category.

Locked Time Out	No Uses	Less than 5	6-10	11-20	More than 20	Total Reported
Responses	27	2	2	3	5	39
Low Estimate	0	2	12	33	60	107
High Estimate	0	10	20	60	150	240

³¹ Sixty-five percent of directors indicated that the data they provided regarding both restraint and seclusion use was influenced by a small number of students who were often subjected to the procedures.

How often are children placed in Unlocked Time Out?

The extent to which districts use unlocked rooms³² varies greatly from district to district according to special education directors. While about a fourth of school districts did not use unlocked seclusion once, over a third of districts used it more than 20 times.

Based on the special education director responses, and extrapolating to the remaining 66 percent of districts, there are approximately 480-770 uses of time out practices per year.

Unlocked Time Out	No Uses	Less than 5	6-10	11-20	More than 20	Total Reported
Responses	11	4	7	3	12	37
Low Estimate	0	4	42	22	240	319
High Estimate	0	20	70	60	360	510

How frequently are all forms of restraint and seclusion used?

We calculated a low and high estimated total use for all forms of restraint or seclusion. Our estimates are based on extrapolating the 34 percent of (or 116) districts represented in the survey to the remaining 66 percent (222) districts that were not represented in the survey. As noted above, 42 directors responded.³³

Based on the directors' self-reported responses and using a conservative calculation, we estimate there are between 2,100 and 3,800 uses of all forms of restraint and seclusion.³⁴

³² MDLC defined unlocked seclusion in its survey as placing a child alone in a stop to think, freedom, blue, quiet, or detention room or any room with NO locking mechanism.

³³ These 42 directors represent a total of 116 districts since a number of directors (typically directors of cooperatives or directors hired by multiple districts) answered on behalf of more than one district.

³⁴ We believe the estimate is conservative because our "high" estimate in the "more than 20" uses category uses a total of 30 in the calculation, even though there could be considerably more uses.

The table below shows the estimate for a low and high range. Based on a 170 school-day year, we estimate that there are about 12-23 instances of restraint, seclusion or time out room use across the state per day.

Type	Low Estimate	High Estimate
Manual Restraint	766	1340
Mechanical Restraint	52	102
Police Restraint	35	175
Locked Time Out	312	700
Unlocked Time Out	930	1486
Extrapolated Statewide Estimate	2095	3803
% of special education population (119,720)	2%	3%

We believe our estimate is reasonable from three main perspectives. First, the estimate is in line with reports from other states. Texas has a “restraint rate” of 4 percent, which was calculated by dividing the number of restraints by the overall special education population.³⁵ Texas, where locked seclusion is banned, does not have reports available on time out room use. California has an “emergency intervention rate” of 2 percent. For Minnesota’s public school enrollment of children eligible for special education services, about 120,000, there is an estimated rate of restraint, locked time out and unlocked time out rate of 2-3 percent. Excluding unlocked time out room use in Minnesota results in a locked time out and restraint use rate of 1-2 percent.

Second, the estimates make sense in the context of the number of students in more restrictive settings. For example, in Minnesota, approximately 5 percent of all students receiving special education services are in Level IV settings. These children are more likely to be restrained or secluded because of the intensity of their behavior needs. In comparison, our estimate suggests that between 2-3 percent of students are restrained, secluded or placed in time out. Since not all children in Level IV settings are restrained, secluded or placed in time out, and because restraint and seclusion is not limited to Level IV settings, our estimate seems neither too high nor too low. The estimate is also

³⁵ Because the available data from Minnesota only addresses the estimated number of *uses* of restraint or seclusion (and not the number of *students* who were restrained or secluded), we compared Minnesota’s estimated total of uses with California’s and Texas’s reported total of uses.

generally in line with our anecdotal experience with parents and with our perspective of working in this field.

Third, the directors who responded constituted a generally representative sample of districts. Districts in the group of responders included those in the metro area, typically smaller rural districts in cooperatives, and larger independent rural districts.

Furthermore, a 30 percent response rate for an online survey has been deemed acceptable in general research protocols for this form of surveys. We obtained a response rate of 34 percent of all districts (excluding charter schools).

Our study also showed that use of time out/unlocked seclusion occurs at approximately the same frequency as manual restraint use. This is somewhat puzzling because manual restraints are generally more intrusive than time out/unlocked seclusion, yet they occur at about the same rate. The similar frequency of using time out/unlocked seclusion and manual restraint and the reasons for using each of them deserves further study.

What strategies do school districts use with respect to restraint and seclusion?

MDLC sought to discover what strategies districts employed to ensure the appropriate use of restraint and seclusion, whether specific policies regarding their use were in place, and how directors themselves felt about what was working in their district and what changes were needed to ensure appropriate use.

The results demonstrated that districts are employing a variety of promising strategies and practices. The most frequently used strategies include:

- specialized planning for individual students through the IEP process (such as with FBAs or BIPs),
- training staff on prevention techniques,
- employing school-wide positive behavior interventions,
- consulting with non-district professionals and county staff,
- using crisis management teams.³⁶

³⁶ All directors reported that they specialize planning through the IEP team process. Ninety-three percent said that they train staff on de-escalation and prevention techniques (most use CPI). Eighty-six percent of the districts consulted with non-district professionals. Seventy-five percent indicated that they use crisis management teams or plans, and that they employ school-wide positive behavior interventions and supports.

Less common strategies include reviewing incident reports on individual students, reviewing incident reports on the school or district level and contracting with police liaison officers.

What strategies are most beneficial?

When asked about what practices were effective in ensuring appropriate use, over half of the directors wrote highly of Crisis Prevention Institute (CPI) training. Several directors specified that some type of “refresher” training was particularly successful. Those who had used crisis-management teams or employed behavior intervention specialists believed those were promising and worthwhile practices. Many directors also indicated that their positive behavior intervention system was a success. In response to a survey question asking how directors could “change the world,” they would have more resources and time available for training, more funding for high-needs students, and more cooperation from outside agencies to provide programs and wrap-around models that truly support students.

What barriers or hurdles are most common?

The survey results showed common issues that stood in the way of ensuring the appropriate use of restraint and seclusion. A primary concern was providing effective training for their staff. While directors appear to feel that training is effective (especially CPI training), they raised concerns about lack of time and resources to provide the amount of training they feel is necessary. A few wrote specifically about how high staff turnover or heavy substitute teacher use makes efficient training difficult.

A number of directors felt that nothing stood in the way of ensuring appropriate use, as they felt their districts already ensured it.

Policies

The survey also showed that over 40 percent of districts who were represented in the survey do not have specific policies regarding restraint or seclusion. We note that districts that have not developed policies are in violation of a state law requirement found in Minn. R. 3525.1100.³⁷

³⁷ Minn. R. 3525.1100, subpt. 2 reads in part, “A district shall submit to the commissioner the district’s plan for providing instruction and related services...[t]he plan shall include...[a] policy describing the district’s procedures for implementing the use of conditional interventions with pupils.”

Summary

The directors' survey revealed critical information about the scope, extent, and use of restraint and seclusion in Minnesota schools. From a conservative calculation, we estimate, from the responses, that there are between 2,100 and 3,800 uses of restraint, seclusion and time out per year, or approximately 12-23 per day.

Time out (or unlocked seclusion) and manual restraints are used at nearly the same frequency. The nearly equivalent use of manual restraints and unlocked seclusion is surprising. We expected unlocked seclusion to be much more widely used than manual restraints because unlocked seclusion or time out is used in a wide set of circumstances (for example to allow a student to calm down to shorter, more episodic responses to minor misbehavior) and manual restraint is typically used when children have more serious violent behavior. It is possible that there are more uses of time out/unlocked seclusion, but these uses are not consistently reported or documented.

The reported use of restraints by police and mechanical restraints are very low.

The use of locked time out rooms occurs at about a half the rate of either unlocked seclusion or manual restraint use. Locked time out is also more likely used in response to serious or violent behavior, the same general standard for use as manual restraints. However, relatively few districts report having a locked time out room. Districts that do not have or do not use locked time out may use restraint in higher numbers than those districts that do have locked time out rooms. The similar frequency of time out/unlocked seclusion and manual restraint deserves further study.

Districts use a number of common strategies to ensure the appropriate use of restraint and seclusion. Training (particularly CPI training), crisis-management teams, employing behavior intervention specialists, and implementing positive behavioral interventions and supports (PBIS) were frequently noted as successful strategies. Further, some directors wished for more resources and time available for training, more funding for high-needs students, and more cooperation from outside agencies to provide programs and wrap-around models that truly support students. Other directors believed they have identified and met all concerns in this area.

The survey also suggested that over 40 percent of districts do not have specific policies regarding restraint or seclusion despite a legal requirement to have one.

7. Advocates Survey

MDLC surveyed disability rights advocates to discover how they responded to and understood complaints raised by parents concerning restraint and seclusion. Fifteen

advocates responded to questions about frequency of complaints, frequency of restraint and seclusion use, types of complaints raised, advocacy strategies, and perceived barriers.

What are the Types and Contents of Parent Complaints?

Advocates indicated that they received, on average, about five parent concerns over the use of restraint or seclusion in the past calendar year. The advocates reported that parents believed that the restraint and seclusion occurred on a weekly basis, and that middle-school-aged students eligible for special education services under the ASD or EBD categories were the most likely to be restrained.

The majority of parent concerns were that the restraint or seclusion occurred too frequently, followed minor behaviors, was an unnecessary response to the situation, was a punishment, and was used when the student's behavior plan or other legal requirements were not being followed.

What are the Most Common Advocacy Steps and the Most Common Perceived Barriers to Appropriate Restraint and Seclusion Use?

The most common advocacy steps used by advocacy organizations were seeking a new or updated functional behavioral assessment, creating or revising a behavior plan, implementing positive behavior intervention strategies on an individual level, trying to develop specific criteria for permitting the restraint or seclusion, asking for an IEP team meeting, requesting data be collected surrounding the use of restraint or seclusion, and requiring training for staff.

The advocates reported that their strategies involving functional behavioral assessments, behavior plans, positive behavior intervention strategies on an individual level, and recordkeeping were the most effective. Similarly, a number of advocates agreed that having a "point person," consulting with experts in the field, training, preventative measures, and having a high standard for allowing restraint and seclusion were promising and effective practices.

Conversely, the advocates recognized that a lack of district resources, problems with staff training (a general lack of training, inconsistent training, lack of resources), reliance on police officers who were not trained, having a school culture allowing restraint and seclusion, and systems without data and recordkeeping were the main barriers to ensuring appropriate restraint and seclusion use.

Four main barriers to success exist according to advocates. There is (1) a lack of objective data, (2) a lack of alternatives – in terms of both placements for children with disabilities and options for staff to deal with behavior problems, (3) not enough staff training on conditional procedure use, and (4) unfamiliarity among school staff with

mental health conditions and their manifested behaviors. If advocates could “change the world,” many would ban the use of seclusion, mechanical restraints, and prone restraints in schools. Others would emphasize the creation of FBAs and behavior plans, and make sure they are done by professionals with training in behaviors; would make sure that staff had a larger menu of options to deal with behavior, and would ensure consistent and clear statewide or nationwide data reporting requirements.

Summary

Advocates reported that they received about five complaints from parents about the use of restraint or seclusion in the past calendar year. The typical complaint involved restraint and seclusion use on a weekly basis. This frequency of restraint and seclusion is largely consistent with what parents indicated on the parent survey, but more than what directors reported. Advocates indicated that middle-school-aged students with ASD or EBD were the most likely to be restrained. This information is consistent with MDE data and MDLC intakes.

The majority of parent concerns were that the restraint or seclusion occurred too frequently, followed minor behaviors, was an unnecessary response to the situation, was a punishment, and was used when the student’s behavior plan or other legal requirements were not followed. These are similar to the violations found in complaint and hearing decisions.

Advocates take a number of common steps. The steps include requesting new or revised functional behavioral assessments, behavior plans, positive behavior intervention strategies and proposing criteria for permitting the restraint or seclusion, data collection, IEP meeting triggers. Advocates also commonly push for enhanced staff training.

Advocates identified fewer district resources, training barriers, reliance on police officers, school culture, and lack of recordkeeping as the main barriers to ensuring the appropriate use of restraint and seclusion. While some advocates would like to see a ban on the use of seclusion, mechanical restraints, and prone restraints in schools, others would emphasize efforts around FBAs, BIPs, training, data systems, and other available options on the continuum of available services and placements.

SECTION TWO: Conclusions

The preceding section reviewed each source of information individually. This section brings the data from each source together in order to draw conclusions on the following questions:

- How often are restraint and seclusion used in Minnesota Public Schools?
- Which students are most likely to be restrained and secluded?
- Which regions are most likely to use restraint and seclusion?
- What are the most common restraint and seclusion allegations and violations?
- What strategies do schools and advocates most often use to ensure appropriate use?

1. *How often are restraint and seclusion used in Minnesota Public Schools?*

Based on the directors' responses, we estimate that there are between 2,100 and 3,800 uses of all forms of restraint and seclusion,³⁸ or approximately 12-23 instances of use per day across the state in a typical 170 school-day year. Minnesota's estimate rate is less than Texas' restraint rate and similar to California's emergency intervention rate.

We found that an estimated 60-70 school districts have locked time out rooms or use unlocked seclusion. Sixty-one districts reported to MDE that they have a locked time out room. Just about the same number of districts, but some different districts, indicated to WCCO that they had "time-out rooms" or "seclusion rooms."

Districts that use any form of restraint or seclusion typically either uses them rarely (5 times or less per year) or frequently (more than 20 times per year). There are not many in the middle range. Similarly, the parent survey indicated that their children were subjected to relatively frequent uses of restraint and/or seclusion, often occurring on a weekly basis and totaling more than 15 times per year. Parents also reported their children were not subjected to just restraint or seclusion, but that the children were often subjected to both. Legal decisions also reflect the co-occurrence of restraint and seclusion with an individual child.

Districts vary in how often they use the different forms of restraint and seclusion. With respect to all form of restraint and seclusion, districts tended to use manual restraint and unlocked seclusion most frequently. Districts use locked seclusion at

³⁸ Due to limitations in the data, we do not estimate the number of students who are restrained or secluded.

about half the rate of manual restraint or unlocked seclusion. Restraints by police and mechanical restraints are rarely used, according to the directors; MDLC and advocates report more use of police restraints in schools.

2. Which students are most likely to be restrained and secluded?

MDLC's intakes, the parent survey, the advocates' survey, and MDE's complaints and hearings suggest a clear answer to who is most likely to be restrained or secluded.³⁹ This information shows that an upper elementary to middle school-aged male with Emotional or Behavioral Disorders (EBD), Autism Spectrum Disorders (ASD), or a Developmental Cognitive Disability (DCD) is most likely to be restrained or secluded. High school-aged students appear to be the least likely to be restrained or secluded.

3. Which regions are most likely to use restraint and seclusion?

Because there is no central data collection or uniform method for reporting restraint and seclusion use to provide a clear picture of restraint and seclusion use by region, we looked at a number of indicators of restraint and seclusion use. These indicators, which are listed in Appendix 7, do not reflect an absolute total, but they do provide some information on how often restraint and seclusion is used in the different regions.

As expected, the metro area, where the vast majority of the student population resides, is represented the most in legal decisions, reported locked time out rooms, reports to WCCO on seclusion rooms, and self-reports from the directors. Outside of the metro, based on the same indicators, the regions with the highest totals were Region 7, Region 3, and Region 10. Again, outside of the metro, the regions with the fewest totals of indicators were Region 9 and Region 5.

4. What are the most common restraint and seclusion allegations and violations?

MDE's complaints and hearings indicate that the most common violations have to do with procedural issues such as not implementing pre-use procedures, for example completing required FBAs or behavior plans. MDLC intakes and the parent surveys also reflected these types of violations. Parents indicate that restraint or seclusion was often not addressed in an IEP or in behavior plans, and that the required evaluation steps were not completed. The frequency of pre-use procedural violations

³⁹ This information was not asked for as part of the special education director survey.

suggests that not enough emphasis is placed on individualized planning and determining the appropriateness of use for each student.

Other common violations included a district's use of restraint or seclusion in a non-emergency situation, or when it is not part of the student's IEP. Parents reported that restraint or seclusion sometimes resulted from a power struggle between an adult and the child. Similarly, MDLC's intakes show that parents who express concerns about restraint and seclusion use often allege that the use of those procedures happens excessively in a number of instances. The use of the procedures in repeated, unauthorized, and/or non-emergency situations is a common problem.

Additionally, the survey suggested that over 40 percent of districts do not have specific policies regarding restraint or seclusion. Current law requires districts to have a policy. The new restraint and seclusion state law effective in 2011 requires districts to have a plan that identifies which restraint and seclusion procedures the district intends to use. The policies districts now use to comply with Minn. R. 3525.1100 may be adapted to the new law's requirements.

5. *What strategies do schools and advocates most often use to ensure appropriate use?*

Special education directors and advocates generally agree on many strategies that can be used to ensure the appropriate use of restraint and seclusion. For example, the directors and advocates both rely on IEP process tools, PBIS, non-district consultation, and record keeping. Directors also rely on systemic tools such as crisis management teams and use of police liaison officers. Advocates focus more on individual approaches such as risk assessments and specific criteria for individual use. The chart on the next page compares the most common responses from directors and advocates.

Special Education Directors	Advocates
IEP Process (FBA, BIP, Placement, etc)	IEP Process (BIP, FBA, Placement)
Training	PBIS
School PBIS	Record keeping system and review
Consultation with non-district professionals	Risk assessment
Crisis Management Teams	IEE
Reviewing Reports on individual and school basis	Have specific criteria for restraint/seclusion use
Police Liaison Use	Avoid Criminal Charges/police liaison use

In contrast, directors and advocates disagree about how and why police are used in schools as a measure to ensure the appropriate use of restraint and seclusion; directors view this as an important tool, while advocates try to avoid reliance on police to address behavior at school. MDLC intake analysis also reveals that parents view police involvement with their children as highly problematic, especially when there is a strong link between the child’s disability and their behavior. In short, parents are concerned that their children’s disability-related behavior is increasingly subject to restraint and seclusion as well as criminal sanction.

SECTION 3: Recommendations

Based on the information in this report, MDLC recommends 10 specific actions by policymakers, school districts, and parents. We include the rationale for each recommendation below.

Public Policy Recommendations

1. Require reporting of each use of restraint or seclusion on a district, regional and state level.

This report shows that there is no central or definitive reporting requirements about how often and what types of restraint and seclusion practices are being used in the state's public schools. Having this clear picture is critical given the variety of practices in schools, the types and extent of concerns raised by parents, the types of violations found, and, most importantly, the potential for serious harm to students.

To remedy this information gap, the state should develop a process for the collection and reporting of district, regional, and state-level data. This data could be reported to the state's Special Education Advisory Panel. The Minnesota Department of Education's existing disciplinary incident reporting (DIRS) system could be adapted to accomplish the necessary collection and reporting.

2. Support structural changes in the availability of school-based supports, alternative placements, and funding for children most likely to be subjected to restraint and seclusion.

Our study shows that students with emotional or behavioral disabilities are among those most likely to be subject to restraint and seclusion. At the same time, there is a growing body of literature and documentation of the effectiveness of school-based mental health programs and clinics. Despite the effectiveness of these programs, numerous funding, privacy, and structural barriers inhibit their use in schools. In particular, the lack of funding is a significant hurdle.

Additionally, schools are often concerned that if a child's mental health needs are evaluated and discussed in a special education process, schools will become financially responsible for addressing those needs even though they do not typically have the staffing, requisite training, or resources to do so. This creates a disincentive for schools to identify the full range of a child's needs. While currently Minnesota assigns the "payor of last resort" responsibility to schools, the law could be modified to establish

joint financial responsibility among different school and non-school systems and to ensure the child receives services.

A different approach would include the development of a state fund for “high cost” students. Some students, due to their individual needs and disabilities, may pose a disproportionately high cost for many districts, especially smaller districts. If districts had access to a state fund for unusually high costs and/or knew there may be a financial and service provider partner, they might be more able and willing to identify the full range of a child’s needs.

Another area for structural change concerns the availability of non-school placements for children with severe disabilities. Federal law requires a school district to offer a full continuum of services and placements both in and out of the school. Unfortunately, MDLC’s intakes show that children with challenging behavior in school may be subject to restraint or seclusion, or may become involved with the police, because other non-school placement alternatives refuse to serve high-risk or high-cost students. In response, the state could develop a policy to limit the ability of day treatment and residential providers to terminate services. In addition, the state should provide additional funds to schools so that the schools have better access to resources for serving these children in a school setting.

3. Increase state and federal funding for training and Positive Behavioral Interventions and Supports (PBIS).

The new restraint and seclusion law becomes effective in 2011. This new law includes additional training responsibilities for school districts. This training is critical to ensure the appropriate use of restraint and seclusion in Minnesota schools. A variety of funds are available to pay for the training, including federal stimulus funds. The state should consider matching or supplementing these funds. Additionally, as PBIS strategies may include effective and appropriate restraint and seclusion practices at the tertiary level, funds may be directed for precisely those purposes.

Appropriate and timely training will reduce the potential for harm to students and staff. It will also reduce the administrative costs necessitated by restraint and seclusion use. With sufficient funds for such training, the state would make its commitment to ensuring the appropriate use of restraint and seclusion clear to its schools, families, and children.

Recommendations for School Districts

1. School districts should develop specific policies or plans regarding restraint and seclusion use.

Our investigation found that many of Minnesota's school districts do not have specific restraint or seclusion policies. School districts should act now to comply with the long-standing requirement under Minn. R. 3525.1100. Such policies can be a critical component for districts to ensure clear standards and consistency across the district, and to otherwise ensure appropriate use of restraint and seclusion at the school level. These policies can also be used to explain to parents when and why a restraint or seclusion practice may be used. Further, the new restraint and seclusion law effective in 2011 requires a plan for the use of restrictive procedures.⁴⁰

2. School district policies and plans should include a clear data reporting, collection, and monitoring process to ensure the appropriate use of restraint and seclusion.

Our report indicates that many legal violations stem from improper or excessive use of restraint and seclusion. Schools can work to ensure that these violations do not occur by having a clear data collection, reporting and monitoring process. This process can be described in a policy or plan and can be individually tailored in a student's IEP or behavior plan. In whatever form the process appears, it should include a form for documenting use, a well defined place to maintain the documentation (such as a student file), and an established timeframe (such as every 30-60 days) for reviewing the documentation. This process can serve as a vehicle to monitor the use of restraint and seclusion and to focus the central question of whether or not their use is effective in reducing or positively addressing the student's behavior. If the restraint and seclusion practice is not effective, it must be stopped and other alternatives (including placement changes) should be considered.

The new Minnesota law, effective in 2011, requires a school district oversight committee. This oversight committee should create the review process for individual school districts.

⁴⁰ See Minn. Stat. § 125A.0942 (effective 2011)

3. School districts should develop and implement Positive Behavioral Interventions and Supports (PBIS) systems on a school and district level.

The special education directors and advocates both agree that PBIS can be an effective tool to reduce restraint and seclusion use. It is noteworthy that this report's estimate of 2,100 to 3,800 uses per year represents about 2-3 percent of the special education student population. PBIS literature includes specific suggestions for this group. As such, school districts should focus on PBIS and, PBIS's recommendations for the most challenging group of students in particular.

Moreover, since our study shows that students with an EBD eligibility designation are more likely to be subjected to restraint and seclusion than children with most other disability designations, schools should consider developing and funding school-based mental health clinics, programs or services for this group. PBIS models often include such efforts.

The frequency of restraint or seclusion is strongly influenced by a relatively small number of students subject to those procedures, district size, and the existence of a Level IV or a day treatment program within a district. We recommend that school districts target their PBIS, school-based mental health clinics, and other types of restraint and seclusion reduction efforts on the programs and facilities that are most likely to restrain or seclude students.

4. School districts should start developing cost-efficient training systems.

Special education directors reported that the most effective practice they employed to ensure the appropriate use of restraint and seclusion was training their staff. Conversely, the directors also indicated that actually providing that training effectively and efficiently is difficult because of funding, availability of satisfactory initial and refresher training options, and high staff turnover.

The new restraint and seclusion law will go into effect in 2011. This gives school districts over a year to plan their training budget, schedule and contents to ensure legal compliance. It should be noted that there are a variety of funds available for PBIS efforts that may be applied to pay for training in this area.

Recommendations for Parents and Advocates

1. Parents should actively participate in IEP meetings and help develop a plan to document, review and address restraint and seclusion use.

Parents and advocates routinely meet with school districts to address a student's challenging behavior. The IEP team meeting, conciliation or mediation may be used to effectively and positively discuss concerns and ideas about preventing the need for restraint or seclusion or otherwise ensuring appropriate use of such practices. A commitment to the process is essential in addressing questions, concerns, and disputes before they reach unacceptable levels. If there is a stalemate or fundamental disagreement over restraint or seclusion use, parents may contact advocates and/or engage in alternative dispute resolution (such as mediation, conciliation, administrative complaints or due process hearings).

An important tool for parents and advocates is requesting, obtaining, and reviewing documentation and notices of any and all uses of restraint and seclusion. Parents can request that documentation requirements and a schedule for review of restraint and seclusion uses be written into the student's IEP or behavior plan. If restraint or seclusion practices are not effective, parents and advocates can request that they not be used and that other options (including other services, supports, and placements) be considered. Additionally, parents can review any documentation on their children that is maintained by school districts. By having satisfactory documentation, review, and revision processes in place, parents and school districts can take critical steps to ensure and monitor appropriate restraint and seclusion use.

2. Parents should request copies of the school district's conditional procedures policy or, beginning in 2011, its restrictive procedures plan.

Parents can obtain additional understanding and information on how a district approaches the use of restraint and seclusion by requesting its policy on restraint and seclusion use. Under Minn. R. 3525.1100, each school district must have a policy on conditional procedures use. If a school district does not have such a policy, a parental request may trigger its creation. School districts, as of 2011, must have a restrictive procedures plan. Having the school policy or plan can be a useful starting point for discussions on how the policy or plan is applied to an individual situation.

3. Parents should become involved in the district's Special Education Parent Advisory Council.

Under Minnesota law, Minn. Stat. § 125A.24, each school district must have a Special Education Parent Advisory Council, and this Council must include parents. This Council is designed to increase the involvement of parents of children with disabilities in policy matters. Each district can create its own guidelines, agendas, and meeting times for the Council. Parents can contact the school district's administrative offices or its special education department for additional information.

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Appendix 1 – Parent Survey

Minnesota Disability Law Center Parent/Guardian Survey

The Minnesota Disability Law Center is gathering information on the use of restraint and seclusion in Minnesota Public Schools and in other facilities.

If your child has been restrained or secluded (placed in a room by him or her self) during school, we would appreciate you filling out a short survey by clicking on the link below.

The survey will take about 10-15 minutes and we will keep your name, your child's name and any contact information confidential. You also have the option of not providing any contact information.

We will be collecting survey responses and will prepare a summary of the responses – the summary will consist of aggregate data and will not include information about any individual child or parent.

If you would like a copy of the summary report when it is completed or if you have any questions, please contact Peter Christian at pchristian@midmnlegal.org or 612-746-3753.

1. Please check all that have occurred:
 - My child has been restrained by adults at school because of his or her behavior.
 - My child has been placed in a restraint device at school because of his or her behavior.
 - My child has been placed in a room alone (in seclusion) in school because of his or her behavior.

2. When did the use of restraint or seclusion first occur?

3. Since the first time, approximately how many times has your child been restrained or placed in seclusion?

4. How often has your child been restrained or placed in seclusion?
 - One time
 - Monthly
 - Weekly
 - Daily
 - Other _____

5. Who performed the restraint or seclusion? (Please select all that apply.)

- Teacher
- Paraprofessional
- Aide
- Speech Therapist
- Occupational Therapist
- Police Liaison Officer
- Other (title) _____

6. Where did the restraint or seclusion take place?

School: _____

District: _____

7. Please describe the situation leading up to the restraint or seclusion or summarize a typical incident, including how long the restraint or seclusion lasted.

8. Is your child currently receiving special education services?

- Yes
- No

9. If yes, were seclusion and/or restraint practices written into your child's Individual Education Plan (IEP)?

- Yes
- No

10. If yes, does your child have a behavior intervention plan, positive behavior support plan, etc?

- Yes
- No

11. How old is your child now? _____

12. What grade is your child in now? _____

13. What is your child's disability? _____

14. May we contact you with any follow-up questions?

- Yes
- No, I wish to remain anonymous.

If yes, please list contact information.

Name: _____

Email: _____

Phone: _____

15. Please list any comments or questions.

Appendix 2 – Special Education Directors Survey – Single District

Minnesota Disability Law Center School District Questionnaire

1. What strategies does your district use to ensure the appropriate use of restraint and time-out for seclusion? Please check all that apply.
 - School-wide positive behavior intervention and supports
 - District-wide positive behavior intervention and supports
 - Crisis management plans or teams
 - Contracting with police liaison officers
 - Specialized planning for individual students through the IEP team process (e.g. FBA, BIP, etc.)
 - Consulting with non-school district professionals
 - Consulting with county staff
 - Reviewing incident reports to identify potential misuse on individual student level
 - Reviewing incident reports to identify potential misuse on school or district level
 - Training of staff on de-escalation and other prevention techniques
 - Other _____

2. If your district provides staff training, please indicate whether this training is done by the school district or by an outside organization such as Crisis Prevention Institute (CPI), Institute for Crisis Management (ICM), Crisis Consultant Group (CCG), or Barbara Schneider Foundation (BSF):
 - The school district conducts its own training.
 - An outside organization conducts the training. (Please specify)

3. Does your district have specific policies or guidelines regarding when restraints or seclusion are to be used? *See Minn. R. 3525.1110.*⁴¹
 - Yes
 - No

If yes, is the policy or guideline available on-line through the district's main website? YES/NO. If not available on-line, please indicate the school board policy or guideline reference (e.g. Board Policy 532 or Board Policy 806).

⁴¹ This is a request for public data made pursuant to the Minnesota Governmental Data Practices Act, Chapter 13.

4. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities manually restrained (defined as a physical intervention or bodily contact that holds or immobilizes a student in response to misbehavior) by a school staff person?
- Not once
 - Less than five times
 - Between six and ten times
 - Between 11-20 times
 - More than 20 times
5. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities manually restrained by a school-contracted police liaison officer?
- Not once
 - Less than five times
 - Between six and ten times
 - Between 11-20 times
 - More than 20 times
6. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities mechanically restrained (defined as the use of devices, straps, or chairs to hold or immobilize a student in response to misbehavior and not use for a student's medical needs) by a school staff person?
- Not once
 - Less than five times
 - Between six and ten times
 - Between 11-20 times
 - More than 20 times
7. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities placed in a LOCKED seclusion room (meaning any room with a locking mechanism where the child is placed alone and prohibited from leaving)?
- Not once
 - Less than five times
 - Between six and ten times
 - Between 11-20 times
 - More than 20 times

8. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities placed in an UNLOCKED seclusion room (meaning a room such as stop to think, freedom, blue, quiet, or detention rooms or any room with NO locking mechanism where the child is placed alone)?
- Not once
 - Less than five times
 - Between six and ten times
 - Between 11-20 times
 - More than 20 times
9. Is the data you provided in questions #4-8 influenced by a small number of students who are frequently subject to restraint or seclusion?
- Yes
 - No
10. Does the district have a policy on the appropriate use of peace officers and crisis teams to remove students from school? *See Minn. Stat. § 121A.55(c).*⁴²
- Yes
 - No
- If yes, is the policy or guideline available on-line through the district's main website? YES/NO. If not available on-line, please indicate the school board policy or guideline reference (*e.g.* Board Policy 532 or Board Policy 806).
11. Please list any promising practices, structural or staffing components, and any other strategies or approaches that serve to ensure the appropriate use of restraint and seclusion of children in your district.
12. Please list any significant barriers or hurdles to your district's approaches to ensure the appropriate use of restraint and seclusion.
13. If you could "change the world," what changes would you make in policies, laws, and/or general approaches regarding restraint or seclusion in school settings?
14. May we contact you to discuss any of your answers or for further information on your district's approach to this topic?
- Yes
 - No

⁴² This is a request for public data made pursuant to the Minnesota Governmental Data Practices Act, Chapter 13.

Appendix 3 - Special Education Directors Survey – Multiple or Cooperative Districts

Minnesota Disability Law Center School District Questionnaire

1. What strategies do your districts use to ensure the appropriate use of restraint and time-out for seclusion? Please check all that apply.
 - School-wide positive behavior intervention and supports
 - District-wide positive behavior intervention and supports
 - Crisis management plans or teams
 - Contracting with police liaison officers
 - Specialized planning for individual students through the IEP team process (*e.g.* FBA, BIP, etc.)
 - Consulting with non-school district professionals
 - Consulting with county staff
 - Reviewing incident reports to identify potential misuse on individual student level
 - Reviewing incident reports to identify potential misuse on school or district level
 - Training of staff on de-escalation and other prevention techniques
 - Other _____

2. If your districts provide staff training, please indicate whether this training is done by the school district/cooperative or by an outside organization such as Crisis Prevention Institute (CPI), Institute for Crisis Management (ICM), Crisis Consultant Group (CCG), or Barbara Schneider Foundation (BSF).
 - The school district/cooperative conducts its own training.
 - An outside organization conducts the training. (Please specify)

3. Do your districts have specific policies or guidelines regarding when restraints or seclusion are to be used? *See Minn. R. 3525.1110.*⁴³
 - Yes, all districts do.
 - Some districts do, some do not.
 - No.

4. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities manually restrained (defined as a physical intervention or bodily contact that holds or immobilizes a student in response to misbehavior) by school staff?

⁴³ This is a request for public data made pursuant to the Minnesota Governmental Data Practices Act, Chapter 13.

NOTE: For Special Education Directors who serve more than one district, please answer with respect to the district that has the most uses.

- Not once
- Less than five times
- Between six and ten times
- Between 11-20 times
- More than 20 times

If there is a unique reason or factor causing this district to have more uses, please indicate it below? (*E.g.* the district has the only Level IV facility in the cooperative.)

5. How do the other districts compare to the district described in Question #4?

- The other districts had about the SAME amount of manual restraints by school staff.
- The other districts had LESS manual restraints by school staff.

6. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities manually restrained by a school-contracted police liaison officer?

NOTE: For Special Education Directors who serve more than one district, please answer with respect to the district that has the most uses.

- Not once
- Less than five times
- Between six and ten times
- Between 11-20 times
- More than 20 times

If there is a unique reason or factor causing this district to have more uses, please indicate it below? (*E.g.* the district has the only Level IV facility in the cooperative.)

7. How do the other districts compare to the district described in Question #6?
- The other districts had about the SAME amount of manual restraints by a school-contracted police liaison officer.
 - The other districts had LESS manual restraints by a school-contracted police liaison officer.
8. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities mechanically restrained (defined as the use of devices, straps, or chairs to hold or immobilize a student in response to misbehavior and not use for a student's medical needs) by school staff?

NOTE: For Special Education Directors who serve more than one district, please answer with respect to the district that has the most uses.

- Not once
- Less than five times
- Between six and ten times
- Between 11-20 times
- More than 20 times

If there is a unique reason or factor causing this district to have more uses, please indicate it below? (*E.g.* the district has the only Level IV facility in the cooperative.)

9. How do the other compare to the district described in Question #8?
- The other districts had about the SAME amount of mechanical restraints by school staff.
 - The other districts had LESS mechanical restraints by school staff.
10. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities placed in a LOCKED seclusion room (meaning any room with a locking mechanism where the child is placed alone and prohibited from leaving)?

NOTE: For Special Education Directors who serve more than one district, please answer with respect to the district that has the most uses.

- Not once
- Less than five times
- Between six and ten times
- Between 11-20 times
- More than 20 times

If there is a unique reason or factor causing this district to have more uses, please indicate it below? (*E.g.* the district has the only Level IV facility in the cooperative.)

11. How do the other districts compare to the district described in Question #10?
- The other districts had about the SAME amount of uses of locked seclusion rooms.
 - The other districts had LESS uses of locked seclusion rooms.
12. Without providing any individual or private student data, approximately how often in the past school year were children with disabilities placed in an UNLOCKED seclusion room (meaning a room such as stop to think, freedom, blue, quiet, or detention rooms or any room with NO locking mechanism where the child is placed alone)?

NOTE: For Special Education Directors who serve more than one district, please answer with respect to the district that has the most uses.

- Not once
- Less than five times
- Between six and ten times
- Between 11-20 times
- More than 20 times

If there is a unique reason or factor causing this district to have more uses, please indicate it below? (*E.g.* the district has the only Level IV facility in the cooperative.)

13. How do the other districts compare to the district described in Question #12?
- The other districts had about the SAME amount of uses of unlocked seclusion rooms.
 - The other districts had LESS uses of unlocked seclusion rooms.
14. Is the data you provided in questions #4-13 influenced by a small number of students who are frequently subject to restraint or seclusion?
- Yes
 - No
15. Do your districts have a policy on the appropriate use of peace officers and crisis teams to remove students from school? *See Minn. Stat. § 121A.55(c).*⁴⁴
- Yes, all districts do.
 - Some districts do, some do not.
 - No.
16. Please list any promising practices, structural or staffing components, and any other strategies or approaches that serve to ensure the appropriate use of restraint and seclusion of children in your district.
17. Please list any significant barriers or hurdles to your district’s approaches to ensure the appropriate use of restraint and seclusion.
18. If you could “change the world,” what changes would you make in policies, laws, and/or general approaches regarding restraint or seclusion in school settings?
19. May we contact you to discuss any of your answers or for further information on your district’s approach to this topic?
- Yes
 - No

⁴⁴ This is a request for public data made pursuant to the Minnesota Governmental Data Practices Act, Chapter 13.

Appendix 4 - Advocates Survey

1. Within the last calendar year, approximately how many parents or guardians have raised concerns with the use of restraint (defined as a physical intervention or bodily contact by school staff that holds or immobilizes a student in response to misbehavior) in public school?
2. Please indicate how often the following concerns over the use of restraint were raised.

Concern	Not raised	Rarely raised	Sometimes but less than half the time	Often – around 50-75% of the time	Almost Always
Restraint involved injury to child					
Restraint involved injury to staff					
Restraint occurs too often					
Restraint follows minor behaviors					
Restraint is unnecessary					
Restraint is used to punish not prevent further problems					
Behavior Plan was not followed					
Legal Requirements on restraint were not followed					

3. Within the last calendar year, approximately how many parents or guardians have raised concerns with the use of seclusion or a time out room (defined as placing a child alone in a locked room and prohibiting the child from leaving or

placing the child alone in an unlocked room such as a blue, stop-to-think, or freedom room) in public school?

4. Please indicate how often the following concerns over the use of seclusion were raised.

Concern	Not raised	Rarely raised	Sometimes but less than half the time	Often – around 50-75% of the time	Almost Always
Seclusion/Time Out Rooms involved injury to child					
Seclusion/Time Out Rooms involved injury to staff					
Seclusion/Time Out Rooms occurs too often					
Seclusion/Time Out Rooms follows minor behaviors					
Seclusion/Time Out Rooms is unnecessary					
Seclusion/Time Out Rooms is used to punish not prevent further problems					
Behavior Plan was not followed					
Legal Requirements on seclusion or time out were not followed					

5. Please indicate how frequently you propose the following strategies when advocating for the appropriate use of seclusion and restraint.

Strategy	Never propose	Rarely propose	Sometimes but less than half the time	Often – around 50-75% of the time	Almost Always
Complete or revise functional behavioral assessment (FBA)					
Complete or revise behavioral intervention plan					
Ask school to review any risk factors that restraint or seclusion could trigger or aggravate					
Require training for individuals who perform restraint or seclusion					
Push for positive behavioral interventions and supports for individual					
Push for positive behavioral interventions and supports for building or program					

Monitor restraint or seclusion with record keeping					
Ask for restraint technique to be demonstrated					
Ask to see seclusion room					
Require specific criteria for using restraint or seclusion					
Hold IEP team meeting on regular basis to review use of restraint and seclusion					
Request independent educational evaluation					
Advise parents or guardians to revoke consent for restraint or seclusion					
Require school to “debrief” incident with child (where appropriate) or parent					
Request a change in school setting or placement					

Request that police liaison officer NOT be involved					
Advocate for future IEP team discussion					
Try and ensure criminal charges are not filed					

6. Of all the strategies listed in Question 5, which are the THREE most successful?

1. _____
2. _____
3. _____

7. Taking all cases into account, on average, how many times did the parents say the child was restrained or placed in seclusion?

- One time
- Monthly
- Weekly
- Daily
- Other _____

8. Who performed the restraint or seclusion? (Please select all that apply)

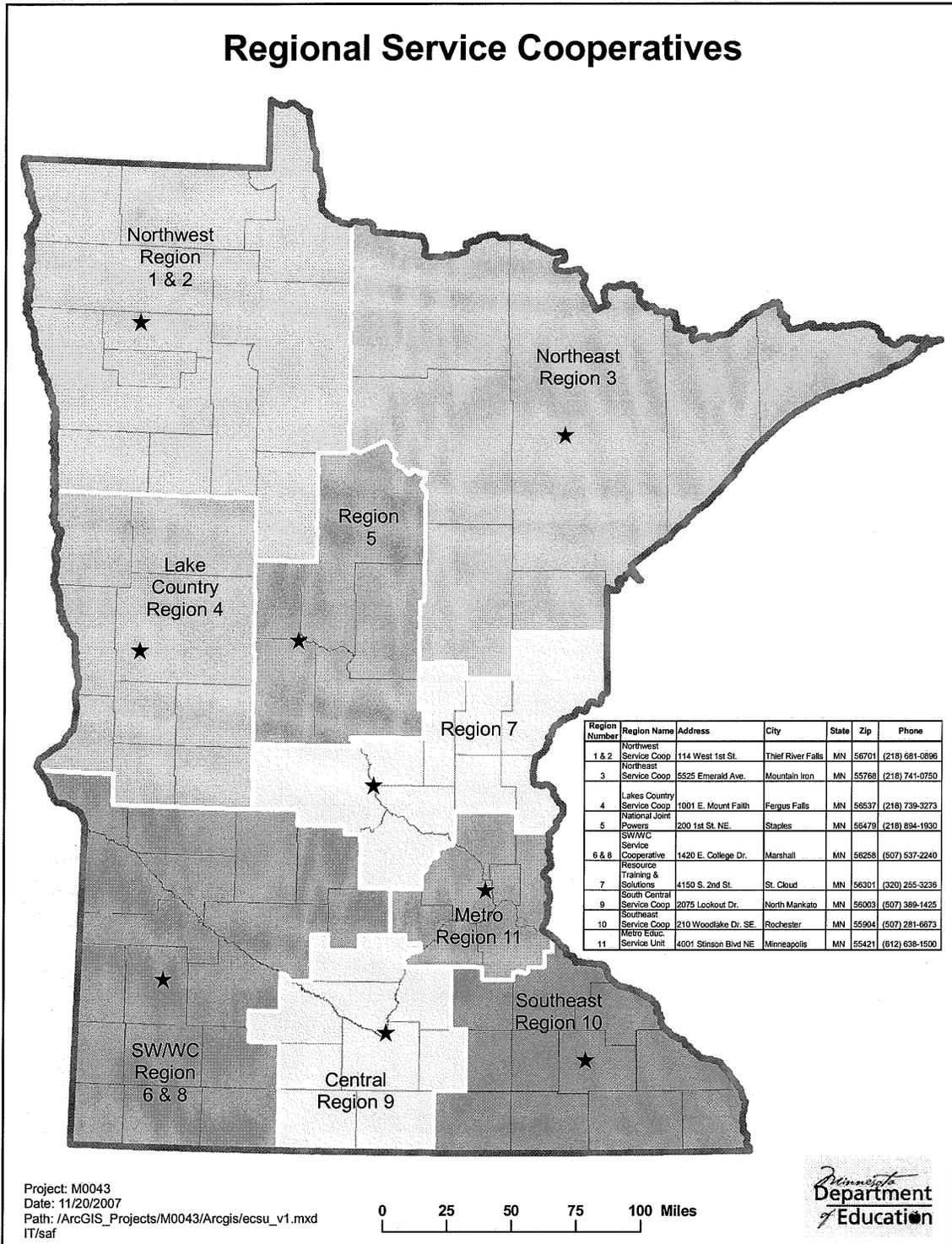
- Teacher
- Paraprofessional
- Aide
- Speech Therapist
- Occupational Therapist
- Police Liaison Officer
- Other (title) _____

9. In your opinion, what is the most common age range of children that are subjected to restraint and seclusion?

10. In your opinion, what is the most common disability category of children that are subjected to restraint and seclusion?

11. Please list any promising practices, structural or staffing components, and any other strategies or approaches that serve to ensure the appropriate use of restraint and seclusion in school settings.
12. Please list any significant barriers or hurdles to ensuring the appropriate use of restraint and seclusion in school settings.
13. If you could “change the world,” what changes would you make in policies, laws, and/or general approaches regarding restraint or seclusion in school settings?
14. May we contact you with any follow up questions?
 - Yes
 - No, I wish to remain anonymous.
15. Please list any other comments or questions.

Appendix 5 – Regional Map



Appendix 6 – Special Education Enrollment Data⁴⁵

Region	Total Public and Nonpublic Enrollment	Total and % Public and Nonpublic Receiving Special Education Services	Total and % Level III and IV Setting
Northwest (Regions 1 and 2)	30,137	4,763 (16%)	326 (7%) 157 (3%)
Northeast (Region 3)	48,332	6,431 (13%)	604 (9%) 238 (4%)
Lake Country (Region 4)	34,844	5,289 (15%)	532 (10%) 145 (3%)
Region 5	28,038	4,472 (16%)	412 (9%) 140 (3%)
Southwest/West Central (Regions 6 and 8)	50,917	6,947 (14%)	552 (8%) 285 (4%)
Region 7	104,413	13,124 (13%)	1056 (8%) 621 (5%)
Central (Region 9)	38,657	5,760 (15%)	554 (10%) 209 (4%)
Southeast (Region 10)	82,565	10,090 (12%)	1036 (10%) 576 (6%)
Metro (Region 11)	503,834	62,844 (12%)	8,564 (14%) 3,768 (6%)
Total	921,737	119,720 (13%)	13,636 (11%) 6,139 (5%)

⁴⁵ Compiled from Minnesota Department of Education Statistics available at: http://education.state.mn.us/MDE/Accountability_Programs/Program_Finance/Special_Education/Child_Count/index.html

Appendix 7 – Listing of Restraint and Seclusion Use Indicators

Column	1	2	3	4	5	6	7	8	9
Region	MDE Dec	MDE Locked Time Out Rooms	WCCO Data Request	Manual Re- straint	Police Re- straint	Mech. Re- straint	Locked Time Out	Un- locked Time Out	Total
Regions 1 and 2 (Northwest)	3	2	4	4/5	3/5	0/5	1/5	3/5	20
Region 3 (Northeast)	10	2	1	3/4	1/4	1/4	1/4	4/4	23
Region 4 (Lake Country)	3	6	2	2/2	2/2	1/2	1/2	2/2	19
Region 5	2	3	5	3/3	1/3	0/3	1/3	2/3	17
Regions 6 and 8 (Southwest/ West Central)	4	2	6	Insuff. Data	Insuff. Data	Insuff. Data	Insuff. Data	Insuff. Data	12
Region 7	5	7	6	3/4	1/4	0/4	1/4	3/4	26
Region 9 (Central)	2	4	4	1/2	0/2	0/2	2/2	2/2	15
Region 10 (Southeast)	4	9	3	3/4	0/4	0/4	0/4	2/4	21
Region 11 (Metro)	61	26	29	10/12 6 did not answer	5/14 4 did not answer	1/14 4 did not answer	4/14 4 did not answer	9/14 4 did not answer	145
Total	94	61	60	29	13	3	11	27	298

Columns 1-3 reflect the totals in each region. Columns 4-8 show the number of districts represented in the director survey that reported at least one use of the named procedure out of the total number of districts that are represented in the survey. For example, Column 4 shows that, in Region 3, there were 3 districts that reported at least one use of manual restraint and that there were 4 districts total represented in the director survey responses. There was an insufficient response in Regions 6 and 8 for reporting purposes. Column 9 includes a basic total of all indicators.