



K-12 EDUCATION

Education Needs to Address Significant Quality Issues with its Restraint and Seclusion Data

Accessible Version

April 2020

GAO Highlights

Highlights of [GAO-20-345](#), a report to congressional committees

Why GAO Did This Study

Every 2 years, Education requires nearly all school districts to report incidents of restraint and seclusion. Generally, restraint is restricting a student's ability to move, and seclusion is confining them alone in a space they cannot leave.

The House Committee on Appropriations' explanatory statement accompanying the Consolidated Appropriations Act of 2018 included a provision for GAO to evaluate the CRDC's restraint and seclusion data. This report examines (1) the effectiveness of CRDC data quality control procedures, (2) selected districts' interpretation of CRDC's restraint and seclusion definitions, and (3) selected districts' use of data. GAO analyzed CRDC's quality control processes for school year 2015-16, and interviewed officials from seven stakeholder groups and over 50 school and district officials in three states. GAO selected states, districts, and schools to obtain a range of perspectives on using restraint and seclusion data and interpreting CRDC definitions of restraint and seclusion. Selection criteria included changes in reported incidents year to year and laws requiring districts to report incidents to states.

What GAO Recommends

GAO made six recommendations, including that Education expand its CRDC business rules to cover all districts, develop additional quality controls to address misreporting, address factors underlying misreporting, and refine and clarify its definitions. Education agreed with these recommendations.

View [GAO-20-345](#). For more information, contact Jacqueline Nowicki at (617) 788-0580 or nowickj@gao.gov.

April 2020

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Education Needs to Address Significant Quality Issues with its Restraint and Seclusion Data

What GAO Found

The Department of Education's (Education) quality control processes for data it collects from public school districts on incidents of restraint and seclusion are largely ineffective or do not exist, according to GAO's analysis of school year 2015-16 federal restraint and seclusion data—the most recent available. Specifically, Education's data quality control processes were insufficient to detect problematic data in its Civil Rights Data Collection (CRDC)—data Education uses in its efforts to enforce federal civil rights laws (see figure). For example, one rule Education used to check the quality of data submitted only applied to very large school districts, although GAO and Education's own analyses found erroneous reporting in districts of all sizes. Education also had no rules that flagged outliers that might warrant further exploration, such as districts reporting relatively low or high rates of restraint or seclusion. GAO tested for these outliers and found patterns in some school districts of relatively low and high rates of restraint or seclusion. Absent more effective rules to improve data quality, determining the frequency and prevalence of restraint and seclusion will remain difficult. Further, Education will continue to lack information that could help it enforce various federal civil rights laws prohibiting discrimination.

Data Quality Issues GAO Identified in Department of Education 2015-16 CRDC Restraint and Seclusion Data



Erroneous "zero" reporting

70 percent of all districts reported zero incidents, but CRDC rule requiring districts to verify zeros only applied to 30 of the nation's 17,000 districts.



Relatively low rates of incidents

No rule exists to identify potential underreporting. We identified some very large districts that reported very low rates of restraint and seclusion.



Relatively high rates of incidents

No rule exists to identify high rates of restraint or seclusion. We identified some districts with relatively high rates of restraint and seclusion. Most serve high proportions of students with disabilities.



Illogical data submitted

Almost 600 schools reported more students restrained or secluded than incidents, but the rule to identify those cases only applied to less than 1 percent of schools.

Source: GAO analysis of Department of Education's Civil Rights Data Collection (CRDC) for school year 2015-16 data. | [GAO-20-345](#)
Note: All analyses used public-use file, except illogical data, which used a restricted-use file.

Officials in the nine school districts GAO visited lacked a common understanding of the CRDC's restraint and seclusion definitions. Similarly, officials GAO interviewed in all three state educational agencies (Kentucky, Washington, and Wisconsin) and all seven stakeholder groups expressed similar concerns about the clarity of these definitions. For example, officials inconsistently interpreted the word *alone* in the definition of seclusion and, therefore, on whether to count an incident if a teacher was in the room. Absent clearer definitions, Education will continue to lack quality information on restraint and seclusion in public schools.

Officials in school districts GAO visited identified several benefits to collecting these data, including identifying patterns in student behavior and developing interventions that can reduce the need for restraint and seclusion. Officials also said that analyzing their data helped them identify needs for additional staff training and student support services.

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April 21, 2020

The Honorable Roy Blunt
Chairman
The Honorable Patty Murray
Ranking Member
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Rosa DeLauro
Chairwoman
The Honorable Tom Cole
Ranking Member
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
Committee on Appropriations
House of Representatives

Although Department of Education (Education) data show that the number of incidents of restraint and seclusion of students in K-12 public schools is small, data analyzed for our June 2019 report showed that the true nationwide extent of these practices cannot be determined because the data do not reflect all incidents of restraint and seclusion.¹ This is particularly concerning because, as we reported earlier, some of the most vulnerable public school students—students with disabilities—are disproportionately affected. Our June 2019 report found that many of the nation’s largest school districts erroneously reported to Education that they had zero incidents of restraint or seclusion during the 2015-16 school year. In all, 70 percent of school districts nationwide reported having zero incidents during that school year. As a stop-gap measure to improve the quality of the 2017-18 school year data before it was published, we made several recommendations to improve the accuracy and completeness of that data. Education has taken some steps to address them. At the same time, school districts around the country have been in the spotlight for misreporting and underreporting incidents of

¹GAO, *K-12 Education: Education Should Take Immediate Action to Address Inaccuracies in Federal Restraint and Seclusion Data*, [GAO-19-551R](#) (Washington, D.C.: June 18, 2019).

restraint and seclusion, further undermining confidence in the accuracy of the data.

In broad terms, Education defines restraint as restricting a student's ability to freely move their torso, arms, legs, or head, and defines seclusion as involuntarily confining a student alone in a room or area from which the student is physically prevented from leaving.² Education's most recent general resource document on the use of restraint and seclusion states that restraint or seclusion should never be used except when a child's behavior poses imminent danger of serious physical harm to self or others.³

As part of its Civil Rights Data Collection (CRDC), Education collects and publicly reports a range of data from nearly all public school districts, including data on the use of restraint and seclusion.⁴ Education's Office for Civil Rights (OCR) uses CRDC data in its enforcement of various federal civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, and disability, making its accuracy of paramount importance.

The explanatory statement from the House Committee on Appropriations accompanying the Consolidated Appropriations Act of 2018 includes a provision for us to study the CRDC's restraint and seclusion data and provide examples of practices schools are adopting to reduce the

²According to Education, the CRDC definitions for restraint and seclusion have remained unchanged since the 2009-10 CRDC.

³U.S. Department of Education, *Restraint and Seclusion: Resource Document* (Washington, D.C.: May 15, 2012). According to Education, this document is a resource for states, localities, and school districts to consider when developing policies and procedures on restraint and seclusion. In 2016, Education also issued a "Dear Colleague Letter" which addresses how the use of restraint and seclusion may result in discrimination against students with disabilities, thereby violating Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II) (both as amended). U.S. Department of Education, Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities (December 28, 2016). <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>

⁴According to Education, school districts in U.S. territories are not required to collect and submit data for the CRDC at this time. However, Puerto Rico chose to submit data for the 2017-18 school year. Similarly, tribal schools operated by the Department of the Interior's Bureau of Indian Education and schools operated by the Department of Defense Education Activity are also not required to collect and submit data, according to Education.

incidence of restraint and seclusion.⁵ This report examines (1) the effectiveness of CRDC data quality control procedures for its restraint and seclusion data, (2) how selected districts interpret the CRDC definitions of restraint and seclusion, and (3) how selected districts use data on restraint and seclusion and encourage staff to report incidents.

To gather information on the extent to which Education ensures the quality of federally reported data, we analyzed Education’s CRDC for the 2015-16 and 2013-14 school years. (The CRDC is administered every two years; these were the most recent available during our review.) To assess the effectiveness of Education’s procedures in identifying inaccuracies, we reviewed the data quality control procedures Education had in place for both the 2015-16 and 2017-18 school years, including automated system checks, which Education refers to as “business rules.” We reviewed the CRDC contractor’s post-collection data quality report for the 2015-16 school year. Education did not identify any quality issues related to restraint and seclusion data during its 2015-16 review.⁶ We also reviewed documentation related to Education’s efforts to follow up with school districts that had reported potentially inaccurate data, such as correspondence between Education and school districts concerning data quality issues.

To gather information on how selected districts use the restraint and seclusion data and interpret federal restraint and seclusion definitions, we visited nine school districts and 11 schools in Kentucky, Washington, and Wisconsin. We interviewed over 50 school and district officials and teachers. We selected states, districts, and schools to obtain a range of perspectives on federal reporting of restraint and seclusion data and to account for other criteria. Examples of selection criteria included districts that had significant changes—an increase or decrease—in the number of incidents of restraint and seclusion they reported to the CRDC across reporting periods and states that had laws that require school districts to

⁵164 Cong. Rec. H2706 (daily ed. March 22, 2018).

⁶Education has collected information for 2017-18, but as of April 2020, the 2017-18 CRDC data is not yet publicly available. After we completed our audit work for this engagement, Education provided us with an excerpt of its post-collection data quality report for school year 2017-18. When it transmitted the excerpt to us at that time, and when it provided technical comments on a draft of this report, Education stated that it considers its 2017-18 data quality review to be confidential. Further, as of March 23, 2020 Education stated the 2017-18 data quality review was not yet complete. Therefore, we are generally unable to include information about the 2017-18 data quality review in this report. In its formal comments on a draft of this report, Education provided a high-level description of analyses it reportedly conducted on the 2017-18 CRDC data (see Appendix II.)

report incidents of restraint and seclusion to the state. Information we collected from our nine selected districts and 11 selected schools, while not generalizable to all districts and schools, offers insights into how some districts use their data and interpret the CRDC definitions of restraint and seclusion. We also interviewed representatives from several nonfederal advocacy organizations, including some that represent parents and families of individuals with disabilities, and others that represent relevant professional associations.

Finally, to inform all our objectives, we interviewed federal agency officials and examined relevant federal statutes, regulations, guidance, and selected state statutes. For more information on our methodology, see appendix I.

We conducted this performance audit from November 2018 to April 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

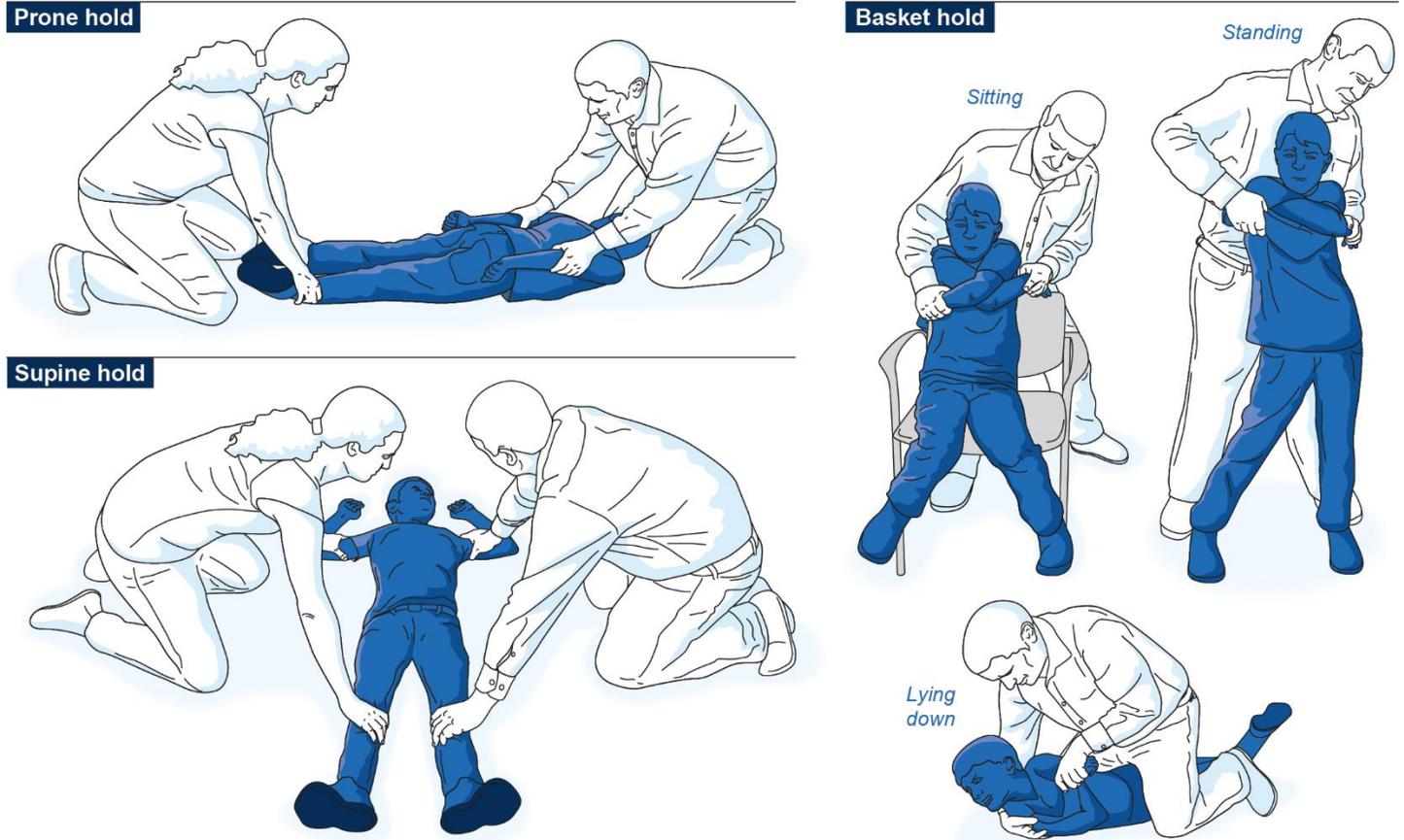
Schools generally report incidents of restraint and seclusion to their district, and districts are responsible for reporting incidents of restraint and seclusion to Education's CRDC. Districts are expected to report the number of incidents and the number of students affected for all schools in their district and to use Education's definitions of restraint and seclusion to determine whether an incident occurred. Education defines two types of restraint: physical and mechanical (see table 1). Education's definition of a physical restraint makes a distinction between a restraint and a physical escort. Similarly, Education's definition of seclusion makes a distinction between seclusion and a timeout (see figures 1 and 2).

Table 1: Restraint and Seclusion of K-12 Students as Defined in the Department of Education’s Civil Rights Data Collection

Category	CRDC Definition
<p>Mechanical Restraint</p>	<p>The use of any device or equipment to restrict a student’s freedom of movement. The term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional and are used for the specific and approved purposes for which such devices were designed, such as:</p> <ul style="list-style-type: none"> • Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; • Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle; • Restraints for medical immobilization; or • Orthopedically prescribed devices that permit a student to participate in activities without risk of harm. <p>When a student is handcuffed by law enforcement personnel but no arrest is made, it is to be reported as a mechanical restraint. However, if the student is subsequently arrested, it is not to be reported.</p>
<p>Physical Restraint</p>	<p>A personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location.</p>
<p>Seclusion</p>	<p>The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.</p>

Source: U.S. Department of Education <https://www2.ed.gov/about/offices/list/ocr/docs/2017-18-crdc-school-form.pdf>. | GAO-20-345

Figure 1: Examples of Physical Restraint Holds



Source: Alberto Cairo, ProPublica. | GAO-20-345

Note: These are examples of restraint holds that might be used. This is not an exhaustive list.

Figure 2: Seclusion Room in a Classroom



Source: GAO. | GAO-20-345

Every two years, OCR administers the CRDC to nearly every public school district in the country. In turn, districts self-report information on a wide variety of topics, including course offerings, discipline, and restraint and seclusion. Education collects these data through an online submission tool. CRDC activities, such as data collection and quality, are managed by a company under contract with Education.¹ The data submission period for the 2017-18 school year ended June 21, 2019. School districts have one year from the end of the submission period to make a request to amend submitted data. As of March 2020, Education had not announced when it will publicly release these data.

Education's primary data quality checks for the CRDC data, including the restraint and seclusion data, are built into the CRDC submission tool. The online CRDC submission tool automatically performs checks that flag data errors or potential errors. These "business rules" occur in real time

¹The contractor also provides technical assistance to assist school districts with their reporting obligations.

as districts enter data or after they upload files. The 2015-16 submission tool used three business rules related to restraint and seclusion; for the purpose of this report, we focused on the two rules most relevant to our work.²

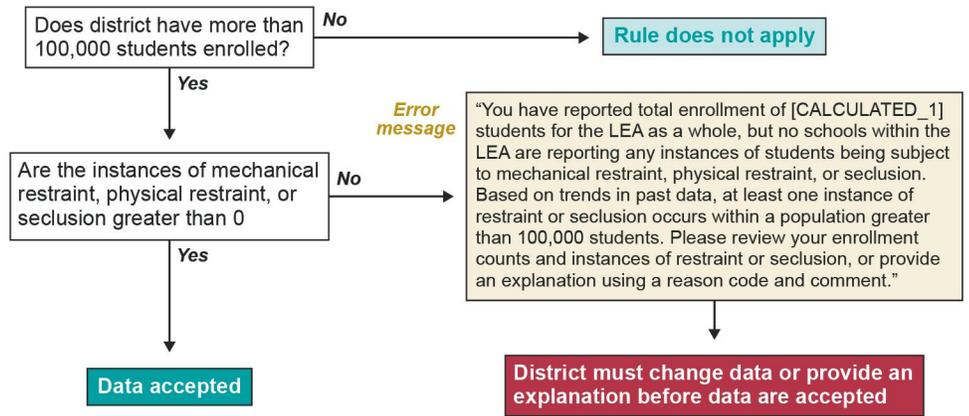
- The first business rule pertains to the reporting of zeros for very large districts only—that is, those districts with 100,000 or more enrolled students (see fig. 3). If a very large school district enters zero incidents of restraint and seclusion, it receives a message prompting it to review its enrollment counts and reported incidents, or provide an explanation using a reason code and comment. Importantly, if districts have not collected the data required for the CRDC—or if the data are unavailable for some other reason—districts are to leave relevant data cells blank. A zero in a data cell should represent an actual count—that is, the district restrained or secluded zero students.
- The second rule applies to schools that both report more than 100 incidents of restraint or seclusion and enter a greater number of students affected by restraint or seclusion than the number of incidents reported (see fig.4).³ Districts are asked to resolve this error by adjusting their counts so the number of students subjected to restraint or seclusion is less than the number of incidents of restraint or seclusion, or to provide an explanation using a reason code and comment.

²The third business rule ensures that if a district reports that a certain subgroup of students grouped by disability status is affected by restraint or seclusion, there must also be incidents reported for that subgroup.

³In a past iteration of the rule, the tool flagged schools with 100 incidents or more where the number of incidents and the number of students affected were equal because Education made a policy decision that when the number of incidents exceeds 100, it is unlikely that the number of students affected is the same as the number of incidents.

Figure 3: Education’s Business Rule Identifying School Districts Reporting Zero Incidents of Restraint or Seclusion

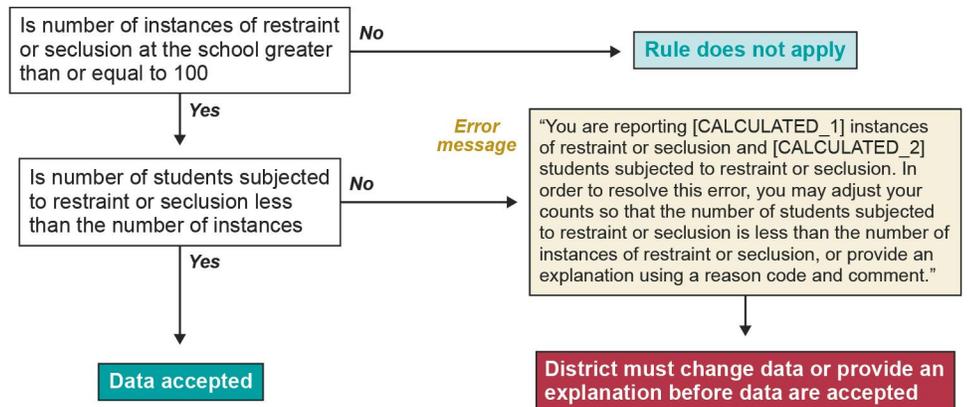
Rule: If LEA enrollment is greater than 100,000 students, then instances of mechanical restraint, physical restraint, or seclusion should be greater than 0.



Source: GAO analysis of Department of Education’s Civil Rights Data Collection business rule. | GAO-20-345

Figure 4: Education’s Business Rule Identifying Schools Reporting Inconsistent Data on Instances of and Number of Students Affected by Restraint or Seclusion

Rule: If the number of instances of restraint or seclusion is greater than or equal to 100, then the number of students subjected to restraint or seclusion should be less than the number of instance of restraint or seclusion.



Source: GAO analysis of Department of Education’s Civil Rights Data Collection business rule. | GAO-20-345

The last step in the data submission process is the district certification. To complete this step, the district superintendent or an authorized designee must indicate agreement with a statement that acknowledges that they are responsible for verifying the data, the information provided is “true and correct,” and a willfully false statement is punishable by law. The CRDC submission tool is designed so that it should not allow a district to

certify its submission unless all required data pass the system validation checks, or all errors are explained.

Education also reviews CRDC data quality during other phases of data collection to identify potential data quality issues to improve future collections. For school year 2015-16, Education's contractor reviewed data quality during and after the collection phase. Education's contractor contacted school districts about potential errors that Education determined were easily adjustable and asked them to review and correct data or provide an explanation if no corrections were determined to be necessary.

Further, some states and school districts have laws, regulations, and/or policies regarding restraint and seclusion. These laws vary from state to state, and sometimes require schools or districts to annually report incidents of restraint and seclusion to either the state or local education agency.

In January 2019, Education announced an initiative to address inappropriate use of restraint and seclusion on children with disabilities. As part of this initiative, OCR announced plans to conduct 50 data quality reviews of the 2015-16 restraint and seclusion CRDC data submitted across each of OCR's 12 enforcement regions. This review had not been completed at the time of our review.

In August 2019, Education announced plans for OCR to work collaboratively with Education's National Center for Education Statistics (NCES). Education stated that the collaboration would help ensure that CRDC data are reliable and authenticated in a manner that provides a more accurate picture of key civil rights issues in education. According to the announcement, under a new agreement, NCES and OCR will work together to improve the quality of the CRDC data by providing school districts with technical assistance, and by reviewing and revising data quality procedures. NCES is the primary federal entity responsible for collecting and analyzing statistical data related to education.

Key Quality Control Processes for Restraint and Seclusion Are Ineffective or Do Not Exist

We identified four key issues for which Education’s quality control processes for its CRDC restraint and seclusion data are largely ineffective or do not exist (see table 2).

Table 2: Summary of Data Quality Issues GAO Identified in Department of Education 2015-16 Civil Rights Data Collection (CRDC) Restraint and Seclusion Data

CRDC data quality issue	Situation	CRDC business rule	Issue with CRDC business rule
Erroneous reporting of zeros	Seventy percent of school districts reported zero incidents of restraint and seclusion. Both Education’s data quality review and GAO’s own analysis have shown significant inaccuracies with these data.	For districts with at least 100,000 students enrolled instances of mechanical restraint, physical restraint, and seclusion should be greater than 0.	CRDC business rule only applied to districts with at least 100,000 students enrolled. Only 30 of the more than 17,000 districts nationwide met this criterion.
Relatively low rates of incidents	Some of the largest districts (more than 100,000 students) reported much lower than average rates of restraint or seclusion, with incidents often clustered in very few schools.	N/A	No business rule exists.
Relatively high rates of incidents	Some districts reported much higher than average incidents of physical restraint.	N/A	No business rule exists.
Illogical data	Over 590 schools reported more students affected by restraint or seclusion than incidents of restraint or seclusion.	For schools with at least 100 instances of restraint or seclusion, the number of students affected should be less than the number of incidents.	CRDC business rule only applied when a schools has at least 100 incidents. Only 462 of the approximately 100,000 schools nationwide met this criterion.

Source: GAO analysis of Department of Education’s Civil Rights Data Collection (CRDC) for school year 2015-16 data. | GAO-20-345

Note: To test for schools with illogical data, we analyzed the restricted-use restraint and seclusion data file instead of the public-use file. We used the restricted-use file to avoid errors caused by data privacy rules Education applied to the public-use file. We used the public-use data file for other analyses.

CRDC Business Rule Targeting Zero Reporting Is Largely Ineffective

Education’s business rule to detect potentially erroneous reporting of zero incidents applied to only 30 of the more than 17,000 school districts nationwide, rendering it largely ineffective for checking the 70 percent of districts that reported zero incidents of restraint or seclusion. This is because the rule only applied to districts with over 100,000 enrolled students. However, in its January 2019 data quality review of 50 districts’ restraint and seclusion data, OCR found erroneous reporting of zeros in districts of all sizes.⁴ Of the 50 districts OCR contacted, OCR determined that 40 districts should amend their original 2015-16 submissions.

When we analyzed the 2015-16 CRDC restraint and seclusion data, we found that almost three-quarters of small districts reported zeros, while about one-third of large and one-fourth of very large districts reported zero incidents (see table 3). The findings from Education’s data quality review, along with those from our analysis, suggest that misreporting is a problem among districts of all sizes.

Table 3: School Districts Reporting Zero Incidents of Restraint and Zero Incidents of Seclusion by Size, School Year 2015-16

Category	Subcategory	Total	Small (fewer than 5,000 students)	Medium (5,000 to 24,999 students)	Large (25,000 to 99,999 students)	Very Large (100,000 or more students)
Total number of districts	Number	17,337	15,353	1,699	255	30
Districts reporting all zeros	Number	12,085	11,292	702	84	7
Districts reporting all zeros	Percent	69.7	73.6	41.3	32.9	23.3

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education’s Civil Rights Data Collection (CRDC). | GAO-20-345

Note: Some districts reported a mix of zeros and missing data.

For the 2017-18 CRDC data collection, Education lowered the threshold for the rule to detect potentially erroneous reporting of zeros to include districts with 50,000 enrolled students, rather than only districts with more than 100,000. However, the new rule counts students with disabilities and students without disabilities separately. To trigger the rule, a district would have to have at least 50,000 students with disabilities and report zero incidents for them, or have at least 50,000 students without disabilities and report zero incidents for them. Of the nation’s more than 17,000

⁴As part of a new initiative to improve data quality, in January 2019 Education sent letters to 50 school districts. All but two had reported zero incidents for the 2015-16 school year.

school districts, only 3 (Chicago, Los Angeles, and New York) have at least 50,000 students with disabilities; only 95 have at least 50,000 students without disabilities.

Education's CRDC data show that restraint and seclusion disproportionately affect students with disabilities and its data quality review showed that substantial portions of districts of all sizes inaccurately reported zeros. However, Education could not provide a data-driven basis for the 100,000 or 50,000 student enrollment thresholds or for creating separate thresholds for students with and without disabilities. Rather, Education stated that the thresholds were a management policy decision inherited from previous administrations.

Because Education's business rule targeting districts that report zeros was inadequate, in June 2019, GAO recommended, among other things, that for the 2017-18 data collection Education contact districts that reported all zeros for restraint and seclusion to ask them to ensure that the zeros actually represented zero incidents, and Education did so after the data collection closed.⁵ Absent a business rule targeting all districts reporting zeros during data submission, inaccuracies in future data collections will likely be missed, and Education risks expending more time and resources with repeated manual follow up after the fact. Federal standards for internal control state that management should evaluate both internal and external sources of data for reliability.⁶ Absent reliable and accurate data, the public's confidence in the CRDC restraint and seclusion data may be further undermined, and the utility of a dataset intended to assist with federal civil rights monitoring, enforcement, and oversight will remain limited.

While it is clear that some school districts have reported inaccurate restraint and seclusion data, Education officials do not fully understand why this is occurring.⁷ In technical comments on a draft of this report, Education stated that it is committed to learning more about why this is occurring. While we do not know all of the reasons districts fail to report

⁵[GAO-19-551R](#).

⁶GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

⁷As a result of our June 2019 report, Education's contractor identified some system issues that may have contributed to inaccurate zeros. To date, Education has not shared the contractor's findings with us.

accurate data, our interviews with over 50 school and district officials provide some insight. School officials in the nine districts we visited cited a variety of reasons districts might not report, including that they were not collecting the data because their state did not require reporting, and that their school district only required them to collect data for students with Individualized Education Programs (IEPs).⁸ More fully understanding why districts report inaccurate data is key to correcting the issue. Federal standards for internal control also state that managers should use quality information to achieve the entity's objectives, assess the risks facing the entity as it seeks to achieve its objectives, and use this assessment to develop appropriate risk responses. By not identifying school districts' reasons for reporting zero incidents of restraint and seclusion, Education will not know how to best support districts in improving the accuracy of their reported data. Future CRDC data will remain inaccurate, significantly limiting the utility of a key tool on which OCR relies to help it enforce federal civil rights laws.

CRDC Lacks Business Rules to Detect Very Low or Very High Rates of Restraint or Seclusion

Education has no business rules that flag school districts reporting very low or very high rates of restraint or seclusion, nor has it completed initial efforts to determine a range of rates that might warrant further exploration.⁹ Given widespread concerns about misreporting, we devised two possible ways to test for these types of outliers.

First, we looked beneath the district level to examine school-level reporting patterns within districts. When we tested the nation's 30 largest

⁸An Individualized Education Program (IEP) is a written statement developed by a team composed of a student's teachers, parents, school district officials, the student (if appropriate), and, at the discretion of the parent or district, other individuals who have knowledge or special expertise regarding the student. The IEP includes, among other information, a statement of the child's present levels of academic achievement and functional performance, annual goals, and a statement of the special education and related services and supplementary aids and services needed to attain those goals. 20 U.S.C. § 1414(d). IEPs are required under the Individuals with Disabilities Education Act, which is administered by Education's Office of Special Education Programs—Office of Special Education and Rehabilitative Services.

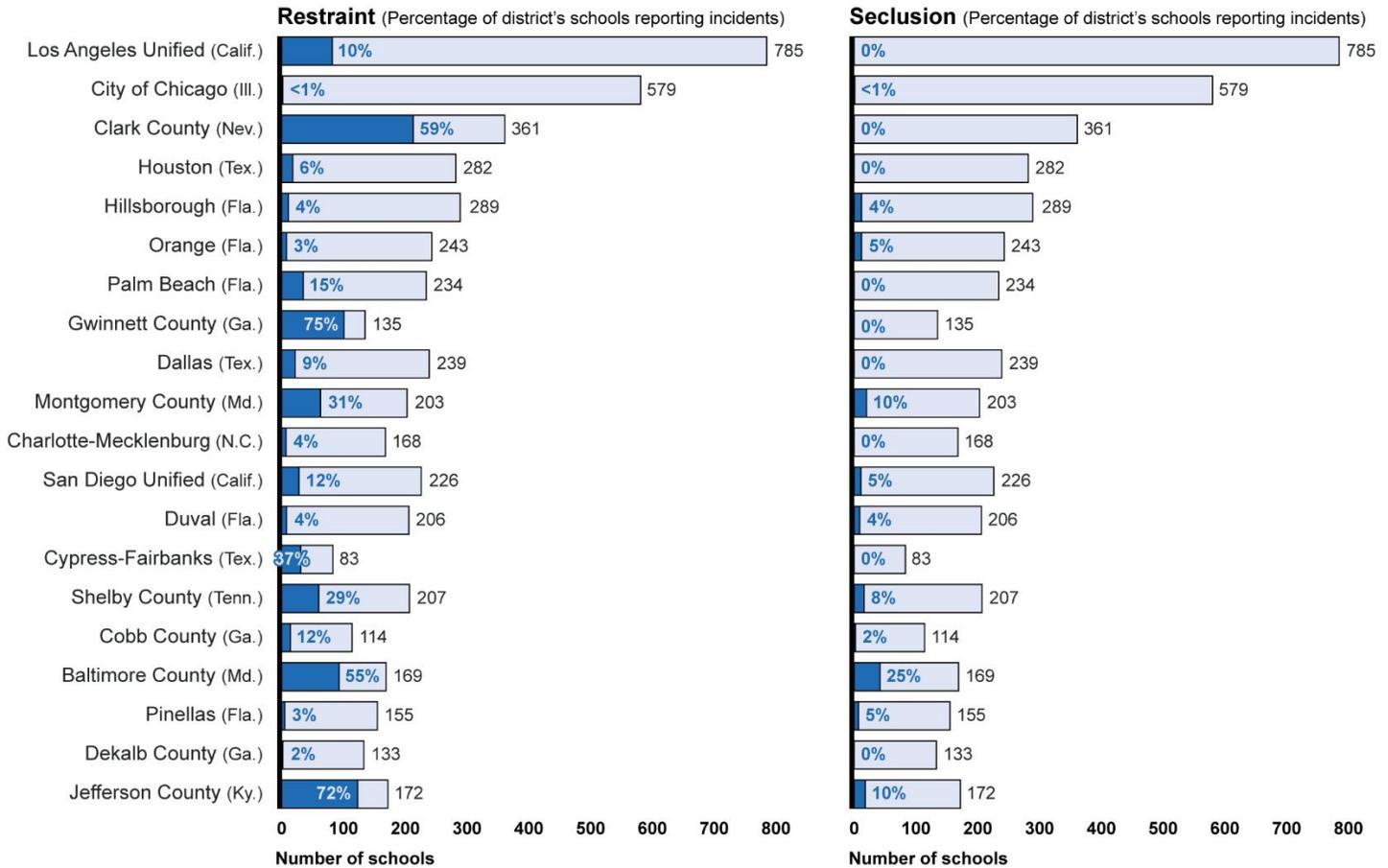
⁹For the 2017-18 data collection, Education's contractor pilot tested some post-collection data quality checks to detect outliers. However, because the 2017-18 data collection is still not public, we were unable to review how these quality checks were applied. In addition, Education has designated the contractor's report confidential until the data collection is publicly available. Due to these factors, we can neither determine the efficacy of these efforts nor comment on the methodology.

school districts (those with more than 100,000 students), we found patterns that may suggest underreporting in at least 13 of them, in addition to the 10 that reported zeros for the 2015-16 school year. In these 13 districts, we found that all of the incidents of restraint reported occurred in no more than 15 percent of a district's schools; the rest of the schools in those districts reported zero incidents. (See fig. 5.) For example, the Chicago Public School District—the third largest school district in the country, with nearly 400,000 students enrolled—reported a total of 47 incidents of restraint for school year 2015-16. All of these incidents were reported by just two of its 579 schools. The district's six incidents of seclusion were clustered in one school. In the Los Angeles Unified school district, the second largest school district in the country, 82 of its 785 schools reported a total of 108 incidents of restraint, with 65 schools reporting exactly one incident each. The district reported no incidents of seclusion.¹⁰

Education has a business rule that targets large districts (for 2017-18, those with over 50,000 students), but only when all schools in a district report zeros. Thus, as long as a large district reports at least one incident of either restraint or seclusion, the business rule would not be triggered. Education's post-collection data quality reviews for school year 2015-16 did not test below the district level to look for potential underreporting within a district.

¹⁰Los Angeles Unified School District permits seclusion but bans schools from locking the doors while students are secluded.

Figure 5: Percent of Schools in Districts with Over 100,000 Enrolled Students Reporting Any Incidents of Restraint and Seclusion, School Year 2015-16.

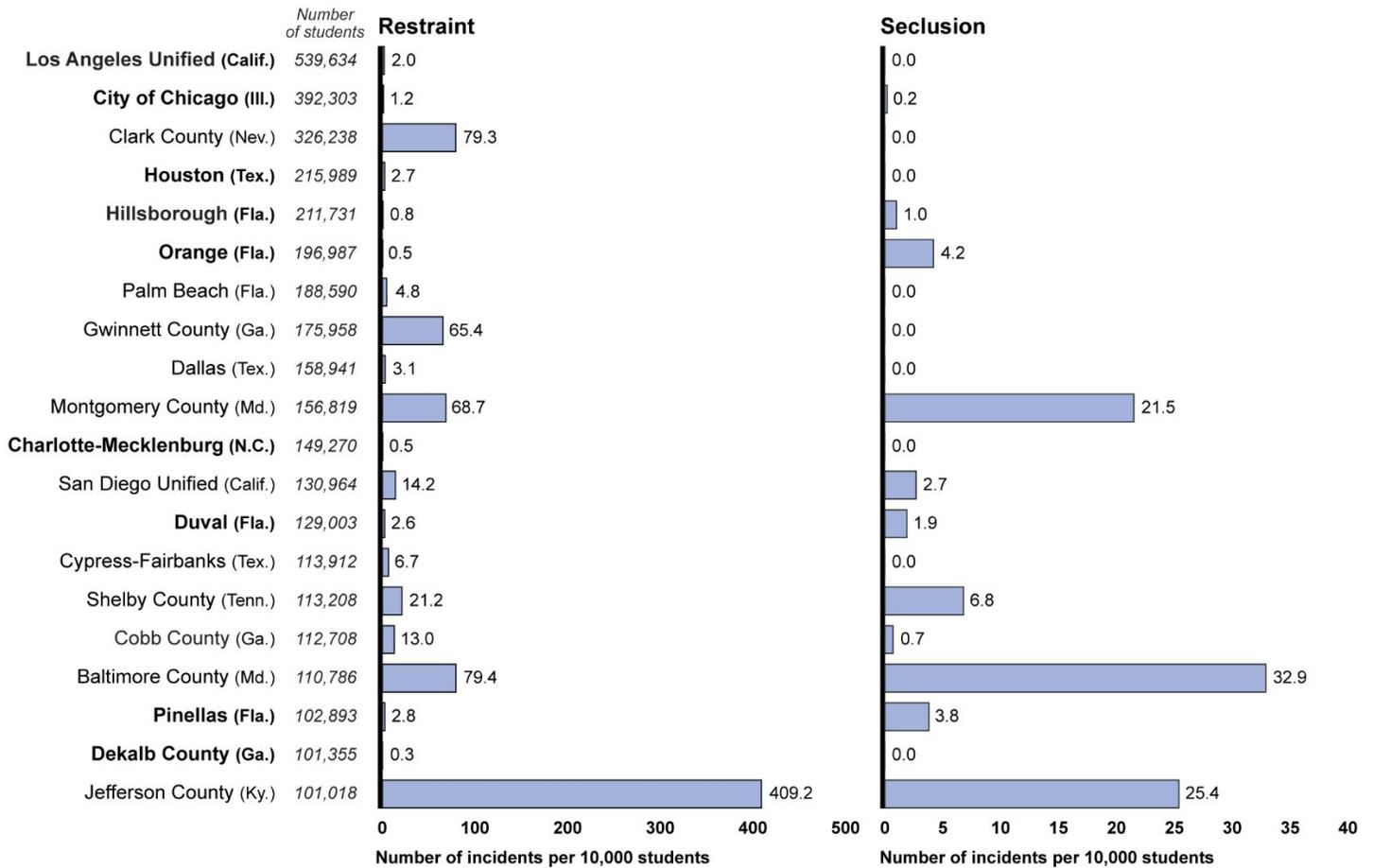


Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education’s Civil Rights Data Collection (CRDC). | GAO-20-345

Note: Of the 30 school districts nationwide with over 100,000 students enrolled, 20 reported at least one incident of seclusion or restraint. Please see [GAO-19-551R](#) for analysis of those districts that did not report any incidents.

Second, we tested for outliers by comparing per capita rates of restraint or seclusion in the 30 very largest districts (over 100,000 students enrolled) to average rates in all school districts. In the 30 districts, we found that in addition to the 10 districts that reported zeros, nine districts reported fewer than three incidents of physical restraint per 10,000 students, which is lower than 95 percent of all districts reporting incidents. (See fig. 6.) For example, DeKalb County school district in Georgia reported 0.3 incidents per 10,000 students, and Charlotte Mecklenburg school district in North Carolina reported 0.5 incidents per 10,000 students.

Figure 6: Number of Incidents of Restraint and Seclusion per 10,000 Students in School Districts with Over 100,000 Enrolled Students That Reported Incidents, School Year 2015-16



Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Note: This figure does not include the 10 districts that reported zeros. Please see [GAO-19-551R](#) for analysis of those districts. Districts in bold are those with fewer than three incidents of restraint per 10,000 students.

We also tested for districts with very high rates of physical restraint. For the 2015-16 school year, we found 52 districts that were outliers, most of which served comparatively large populations of students with disabilities. Forty-nine of these 52 districts had rates of physical restraint per enrolled student higher than 99 percent of all districts that reported incidents of

physical restraint.¹¹ Almost half reported an average of 10 or more incidents per student affected, and almost two-thirds of the districts reported restraining from 25 to 100 percent of their students. The Learning Tree preschools in Alabama, which enrolled a combined 135 preschool students ages 3 to 5, reported that it restrained nearly two-thirds of its students in school year 2015-16.¹² Further, Learning Tree reported 5,963 incidents of physical restraint affecting 84 students, or an average of 71 incidents of physical restraint per preschooler. The Morris-Union Jointure Commission School District in New Jersey, where almost all of its 281 students were identified as having a disability, reported restraining over one-third of its students.¹³ These students were restrained an average of 20 times in school year 2015-16. (See table 4.)

Table 4: Fifty-two School Districts with Highest Rates of Physical Restraint by Incidents per Enrolled Student in School Year 2015-16

District Name	State	Grades served	Total enrolled students	Incidents of physical restraint	Incidents per enrolled student	Students affected	Share of students affected	Average incidents per student affected
Learning Tree Inc.	AL	PK	135	5,963	44.2	84	62%	71
Morris-Union Jointure Commission School District	NJ	PK-12	281	2,186	7.8	107	38%	20
Northeast Wyoming BOCES	WY	No data	41	314	7.7	23	56%	14

¹¹Fifty-two districts had more incidents of restraint than students enrolled and 36 districts had more incidents of seclusion than students enrolled. Some districts had more incidents of both restraint and seclusion than students enrolled. The majority are special districts that specifically include only schools serving students receiving special educational services. Many of these districts are cooperatives or organizations that provide special education services to students within a certain region that encompass multiple traditional school districts. The 52 districts also included six districts with juvenile justice facilities, two districts with only alternative schools, and two traditional school districts. Districts can logically have more incidents of restraint or seclusion than students enrolled; this may be indicative of high rates of restraint.

¹²The Learning Tree is a nonprofit organization providing educational, residential, and support services for children and adolescents with developmental disabilities, including autism. The preschools operated by this organization serve children with developmental challenges alongside their typically developing peers in Anniston, Auburn, and Mobile, Alabama.

¹³The Morris-Union Jointure Commission (MUJC) is a regional collaborative public school district that provides services and programs to 30 constituent school districts. MUJC provides public school programs for students with autism or autistic-like behavior at the two developmental learning centers it operates in New Providence and Warren, New Jersey.

Letter

District Name	State	Grades served	Total enrolled students	Incidents of physical restraint	Incidents per enrolled student	Students affected	Share of students affected	Average incidents per student affected
Northwest Regional ESD	OR	1-12	211	1,332	6.3	29	14%	46
S Will Co Coop For Spec Ed	IL	K-12	72	441	6.1	28	39%	16
Chi Health Immanuel Residential Treatment Center	NE	1-12	24	145	6.0	10	42%	15
Woodside Juvenile Rehabilitation Center	VT	7-12	17	93	5.5	13	76%	7
Brewer-Porch Children's Center	AL	PK-10	162	820	5.1	66	41%	12
Montgomery County Esc	OH	K-12	270	1,304	4.8	154	57%	8
Kendall Co Spec Educ. Coop	IL	K-12	128	595	4.6	25	20%	24
Coop Assoc. For Spec. Educ.	IL	1-12	36	165	4.6	11	31%	15
Yellowstone Academy Elem	MT	1-8	19	75	3.9	7	37%	11
Southside Sp. Srvs. of Marion Co	IN	K-12	125	453	3.6	49	39%	9
North Dupage Sp. Ed Cooperative	IL	2-12	53	181	3.4	11	21%	16
Intermediate School District 917	MN	PK-12	649	2,175	3.4	77	12%	28
Monroe 1 BOCES	NY	K-12	499	1,470	2.9	150	30%	10
A E R O Spec Educ. Coop	IL	PK-12	186	518	2.8	71	38%	7
Sangamon Area Spec Ed Dist.	IL	1-12	74	196	2.6	16	22%	12
Henry-Stark County Spec Ed Dist.	IL	K-12	65	172	2.6	17	26%	10
Northwest Indiana Spec Ed Coop	IN	K-12	101	265	2.6	31	31%	9
Rum River Special Education Coop	MN	1-12	115	288	2.5	42	37%	7
Clinton-Essex-Warren-Washington BOCES	NY	K-12	220	536	2.4	55	25%	10
Northern Suburban Spec Ed Dist.	IL	PK-12	263	615	2.3	75	29%	8
Southeastern Coop Ed Pgm.	VA	K-12	356	822	2.3	150	42%	5
Boyd School	AL	3-10	15	33	2.2	11	73%	3
Multnomah ESD	OR	K-12	278	601	2.2	84	30%	7
South Bergen Jointure Commission School District	NJ	PK-12	343	707	2.1	53	15%	13
Gloucester County Special Services School District	NJ	PK-12	685	1,392	2.0	166	24%	8
Cooperative Ed Serv. Agcy. 06	WI	1-12	54	99	1.8	26	48%	4
Meeker And Wright Special Education	MN	1-12	126	226	1.8	23	18%	10
Otsego-Delaware-Schoharie-Greene BOCES	NY	1-12	108	180	1.7	7	6%	26

Letter

District Name	State	Grades served	Total enrolled students	Incidents of physical restraint	Incidents per enrolled student	Students affected	Share of students affected	Average incidents per student affected
Tennessee Department of Children's Services	TN	7-12	454	665	1.5	42	9%	16
Regn. 6 And 8-Sw/Wc Srv. Cooperative	MN	1-12	240	347	1.4	32	13%	11
Northwest Educational Service District 189	WA	1-12	168	241	1.4	72	43%	3
NW Suburban Spec Educ. Org	IL	PK-12	424	591	1.4	118	28%	5
Montcalm Area ISD	MI	PK-12	220	305	1.4	26	12%	12
Division of Youth Services	CO	8-12	184	241	1.3	139	76%	2
Eisenhower Cooperative	IL	PK-8	210	260	1.2	37	18%	7
Salem County Special Services School District	NJ	PK-12	249	305	1.2	54	22%	6
Bnd/Chrstn/Effngh/Fytt/Mntgmr ROE	IL	6-12	151	183	1.2	42	28%	4
Roger Amos McMurtry Adm.	MS	7-12	48	58	1.2	34	71%	2
Hunterdon County Educational Services Commission	NJ	2-12	59	71	1.2	22	37%	3
ESC Of Lake Erie West	OH	K-12	37	44	1.2	12	32%	4
New York State School For The Blind	NY	No data	61	71	1.2	8	13%	9
Red Top Meadows – Administration Office	WY	8-11	9	10	1.1	6	67%	2
The Autism Academy Of Learning	OH	K-12	56	62	1.1	4	7%	16
Buckeye United School District	OH	8-12	327	359	1.1	356	109%	1
Piedmont Regional Ed.	VA	K-12	83	90	1.1	23	28%	4
Shiawassee Regional ESD	MI	K-12	212	220	1.0	19	9%	12
Brownfield ISD	TX	PK-12	1,868	1,924	1.0	496	27%	4
Centralia School District	WA	PK-12	3,608	3,702	1.0	893	25%	4
West Central Education District	MN	4-12	49	50	1.0	5	10%	10

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Note: The CRDC does not contain information about whether the specific incidents of physical restraint reported by districts were appropriate uses of physical restraint. Percent of students affected may be higher than 100 percent, because enrollment is measured at a point in time whereas the count of students affected is cumulative and because some data elements have been rounded or suppressed in the public-use dataset to protect the individually identifiable information.

We found a similar pattern in the 2015-16 seclusion data, identifying 36 outlier school districts. For 22 of the 36 districts, the rates of seclusion were higher than 99 percent of districts reporting. (See appendix IV for more information.) For example, CRDC data for the Sangamon Area

Special Education District in Illinois, which enrolled 74 students in grades 1 through 12, showed the district secluded one-third of its students an average of 27 times each in school year 2015-16. Similarly, data for the Bi-County Special Education Cooperative, also in Illinois, showed the district secluded over two-thirds of its 48 enrolled students an average of 13 times each in school year 2015-16.

Federal standards for internal control state that management is to determine if controls individually and in combination with other controls are capable of achieving an objective and addressing related risks. An internal control design may be deficient when a control necessary to meet an objective is missing. Without business rules or similar analytical processes to flag these outliers, they may continue to go undetected by Education and other stakeholders. Education may be missing an opportunity to identify districts with disproportionately low or high incidents of restraint and seclusion to determine where technical assistance or other intervention may be warranted. Such information is particularly critical given widespread concerns about underreporting and misreporting, and its stated interest in protecting students' civil rights.

CRDC Business Rule Targeting Illogical Data Is Largely Ineffective

Education has a business rule that identifies illogical data; that is, when schools report more students affected than incidents of either restraint or seclusion. However, the rule is largely ineffective because it was not designed in a way that would detect logical inconsistencies in the majority of cases, as the rule would have only applied to schools with at least 100 incidents. When we tested Education's rule on the 462 schools that reported at least 100 incidents in 2015-16, we found no logical inconsistencies in the data. However, when we tested the rule on all schools, we found logical inconsistencies in the data reported by 592 schools with fewer than 100 incidents.¹⁴ For example, a school in Indiana reported that it restrained 156 students, but only reported 80 incidents. (See table 5.) Education could not provide any data-driven basis for its threshold of 100 incidents for this business rule. Education officials said

¹⁴For the illogical data analysis only, we used the CRDC restricted -use file so that we could accurately determine if schools reported more students affected than incidents. Because the CRDC public-use data file uses rounded numbers and suppresses individually identifiable information, it cannot be used to accurately determine if the number of students affected exceeded the number of incidents.

that the threshold was inherited from previous administrations' business rules.

Table 5: Number and Percentage of Schools with Restraint and Seclusion Incidents That Reported Illogical Data, in School Year 2015-16

Some schools reporting incidents reported a number of students affected by restraint or seclusion that exceeded the number of incidents reported.

Category	Number of schools reporting an incident	Number of schools where affected students exceeded incidents	Percent of schools where affected students exceeded incidents
At least one category (Physical Restraint, Mechanical Restraint, or Seclusion)	16,987	592	3.49
Mechanical Restraint	1,188	73	6.14
Physical Restraint	15,415	406	2.63
Seclusion	5,167	180	3.48

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Note: Some schools had illogical data in more than one category.

Collecting accurate data is key to the Office for Civil Rights' (OCR) mission to ensure equal access to education and to promote educational excellence throughout the nation. In addition, federal standards for internal control state that when evaluating the design of internal controls, such as business rules, management should determine if controls are capable of achieving an objective and addressing related risks. An internal control design is deficient if, even though it operates as designed, it does not meet the control objectives. Our analysis shows that the business rule is not effective in its current form, because 592 schools were able to report illogical, and therefore incorrect, data.

School and School District Officials Lacked a Common Understanding of Federal Restraint and Seclusion Definitions

We talked to more than 50 officials in nine school districts in Kentucky, Washington, and Wisconsin about their interpretations of the CRDC's definitions of restraint and seclusion. These school districts all reported incidents of restraint and seclusion in 2015-16, but officials we interviewed differed in their interpretations of terms used in the CRDC definitions, such as *alone* and *escort*. As a result, districts varied in how they counted incidents of restraint and seclusion. Further, officials we spoke with in the three state educational agencies and all seven

stakeholder groups with expertise on the use of restraint and seclusion in public schools also said there was ambiguity regarding terms used in the definitions. For example, an official from one stakeholder group that represents some of the nation's largest school districts said that its constituents provided feedback that restraint and seclusion terms were ambiguous, open to interpretation, and do not provide enough clarity.

Civil Rights Data Collection Definition of Seclusion:

Seclusion is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

Source: Department of Education's Civil Rights Data Collection form. | GAO-20-345

With respect to the definition of seclusion, district and school officials varied in their interpretations of the word alone, and consequently, whether the incident should be counted as seclusion. Officials in three districts said that an incident was not seclusion as long as a teacher was in the room with the student, while officials in several other districts said that even if a teacher was present, it could still be seclusion if the student was prevented from leaving. (See sidebar.)

Officials in the nine districts we visited also varied in their interpretation of the word *area*. Because the CRDC's definition of seclusion states that seclusion can occur in an area, officials from one stakeholder group representing thousands of school administrators wondered whether it should be considered seclusion if a child is in a classroom with 20 other students and is required to stay alone in the corner of the room. Officials from a district in Wisconsin said that if a student is taken away from peers and placed in one area of the same room, but cannot leave that area, it still might be seclusion, even if the student and peers are in the same room. Officials in another district in Wisconsin said that sending a student to a corner does not count as seclusion. However, they said that the use of mobile partitions to close off an area of a room could constitute seclusion.

The phrase physically *prevented from leaving* also elicited differing interpretations. Officials from the stakeholder group representing administrators said the definition is not clear about what counts as "prevented from leaving": a barrier, such as a door; the presence of another adult watching the child; or both. School officials we spoke with had differing interpretations of this phrase, which affected how they counted and reported incidents of seclusion. School officials in a district in Kentucky said that the phrase means closing the door and keeping it closed. However, officials in another school in the same district did not specify the use of a door, stating instead that "physically prevented from leaving" means the student cannot walk out of the room. A school official in Washington said that it would count as seclusion if staff put a student in a motorized wheelchair in a room and deactivated the wheelchair's power.

Civil Rights Data Collection Definition of Physical Restraint:

Physical restraint is a personal restriction that immobilizes or reduces the ability of a student to freely move their torso, arms, legs, or head. The term does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location.

Source: Department of Education's Civil Rights Data Collection form. | GAO-20-345

With respect to the definition of physical restraint, school district officials we interviewed varied in their interpretations of the term escort, which the CRDC definition specifies is not a physical restraint. (See sidebar.) While officials in three districts said that an escort meant providing a physical prompt to a student who was not resisting relocation, officials in four districts said that moving a student who was resisting staff still counted as an escort. For example, officials in a school in Wisconsin said that if the student who is resisting is “carried away” from a location, that action would not meet the definition of escort and would count as restraint. Yet a district in Kentucky counted moving students against their will—including by carrying them—as escorts and did not report them as restraints. Further demonstrating differing interpretations of these terms, officials in four districts said they reported all escorts as restraints in the CRDC.

Education does not provide schools or school districts with any information that could help clarify its definitions or provide examples on how schools and school districts should apply the definitions of restraint and seclusion to common classroom situations. For example, while Education’s “Restraint and Seclusion: Resource Document” includes the CRDC definitions of restraint and seclusion, it does not include clarifying information or examples about how to apply the definitions.¹⁵

Officials in the schools and districts we visited inconsistently interpreted the definitions for restraint and seclusion; moreover, officials from the seven stakeholder groups we interviewed said the definitions were unclear. These findings raise concern about whether restraint and seclusion data reported by school districts to the CRDC are being reported in a way that is consistent with the CRDC definitions. Federal guidance on data reliability states that data should be well defined enough to yield similar results in similar analyses.¹⁶ In addition, federal standards for internal control state that agency management should use quality information to achieve the entity’s objectives, noting that such data should be reasonably free from error and bias and faithfully represent what they purport to represent.¹⁷ Absent data on restraint and seclusion that is what it purports to be, Education will continue to lack quality

¹⁵U.S. Department of Education, *Restraint and Seclusion: Resource Document*, (Washington, D.C.: May 2012).

¹⁶GAO, *Assessing Data Reliability*, [GAO-20-283G](#) (Washington, D.C.: December 2019).

¹⁷[GAO-14-704G](#).

information key to fulfilling its mission of ensuring equal access to education nationwide.

All Nine School Districts We Visited Used Data to Reduce Incidence of Restraint and Seclusion and Developed Strategies for Improved Reporting

All Nine Districts Used their Data on Restraint and Seclusion to Reduce Use of Restraint and Seclusion

Officials in all nine school districts we visited said they used their data on restraint and seclusion to help reduce its use. In addition to collecting data for CRDC reporting purposes, these districts also collected and used more current and more detailed data to help reduce the use of restraint and seclusion. Officials in seven of the nine districts said they began collecting the data when their state passed a law requiring reporting.¹⁸ District officials identified several benefits to collecting data and using it to develop strategies to reduce use of restraint and seclusion. Specifically, officials said that the data helped them identify the following:

Behavior patterns. Officials in several districts told us that collecting and reviewing data on restraint and seclusion helps them identify patterns in staff and student behavior that may contribute to use of these practices. Specifically, by identifying the circumstances under which a student's behavior tends to escalate, staff can strategize how to more effectively respond so as to prevent the need to use restraint or seclusion. For example, one official in an elementary school in Wisconsin said that if staff notice more incidents occur on particular weekdays, they can examine those days to understand what may be affecting students' behavior. Similarly, a teacher of students with autism in a middle school in Washington said that reviewing data helps staff, such as teachers, paraprofessionals, and administrators, determine what triggered a student's behavior and then determine what to do differently to avoid

¹⁸Of the remaining two districts, officials from one said that they were already collecting this data prior to when the state law was passed. Officials in the other district said that the district began collecting data on restraint and seclusion in 2015, however they did not know why the district began collecting this data because they were not employed at the district at that time.

triggering the student. In all three states, we visited districts that required staff to participate in a debriefing after each incident in an effort to understand what might have triggered the event and to discuss strategies to deescalate future incidents. For example, officials in Washington said that the building administrator and all staff involved discuss every incident. District officials consider this an important step for reducing use of restraint and seclusion, and said holding the discussions was a “game-changer.”

Need for training. Officials in several districts said they examine data on restraint and seclusion at the classroom and school level to determine if staff need additional training, including on how to manage student behavior, or appropriately use restraint or seclusion. For example, a behavior coach for a Kentucky school district said that the data on restraint and seclusion helps her determine if certain teachers could benefit from more training on de-escalation techniques. A director of student services in Washington said that he was concerned about the rates of restraint and seclusion in the district, and after implementing more training for teachers, the rates declined. Officials in another Washington district said that after the district began collecting data in response to state law, they discovered that staff were using restraint and seclusion as punishment.¹⁹ As a result, district officials said that they coached teachers on how to manage behavior differently and emphasized that restraint and seclusion should not be an everyday occurrence. Officials at an elementary school in Wisconsin said that de-escalation training helps staff understand that students are trying to communicate with their behaviors. They said that when staff adopt the perspective that students are trying to communicate, staff also see the value of collecting data to improve how they respond to the students’ behaviors.

Need for student supports. Officials in five of the nine districts we visited spoke about using restraint and seclusion data to assess when a student required additional support services to be successful in the classroom. For example, officials in one district in Kentucky said their data provides evidence for obtaining additional staff or social emotional learning resources for students. Similarly, officials in one Wisconsin district said the data can be used to allocate funding for school-based

¹⁹Pursuant to Washington statute, any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must, among other things, submit a written report of the incident to the district office. Wash. Rev. Code § 28A.600.485(5).

services to help address underlying causes of behavior. Officials in another Wisconsin district said that a jump in restraints or seclusions of a particular student could indicate that the student's individualized education program needs to be adjusted.

All Selected Districts Developed Strategies to Encourage Reporting of Incidents

Officials in all the districts we visited also shared strategies on how they improved their CRDC data reporting, including communicating with staff about how data are used, training on how to report, and developing processes that encourage reporting. Specifically:

Communication and culture. Officials in the majority of school districts said they routinely reviewed their data with school staff and emphasized the value of collecting data on restraint and seclusion. Officials in a district in Wisconsin said that they monitor data on restraint and seclusion on a monthly basis for students with and without disabilities, which increases interest among school staff about what causes the incidents. Officials in three districts we visited said that they explain to staff that documenting incidents of restraint or seclusion ensures that students obtain the support services they need. In a Wisconsin district, officials said they emphasize that reporting helps the students and keeps the school safe by making the district aware that more supports are needed. Officials at a school in Wisconsin said that some staff might worry that the data reflect poorly on them or might fear repercussions, but district officials have worked to shift the culture of reporting to focus on continuous improvement and problem solving. Similarly, officials in another Wisconsin district said that schools might be concerned about the data being used against them; therefore, district officials try to create a culture of curiosity around the data, rather than a culture of punishment.

Accountability. To encourage staff to report incidents, officials in some districts developed processes that increased accountability for reporting. For example, school officials at an elementary school in Wisconsin said an administrative assistant in the main office immediately logs calls from classroom teachers requesting help managing a student's behavior. Officials said this process provides accountability. Two districts said that they used a team approach for restraint or seclusion, which included someone to observe and someone to record details of the intervention, such as the time it began or the events that preceded it. Having multiple people involved increased the likelihood that relevant facts were

recorded. Officials in a district in Washington said that keeping teachers and staff honest about reporting requires reiterating the process and procedures, reviewing the forms with staff, and following up with schools that fail to submit reports. Officials in a district in Wisconsin said they have advised staff to write the incident down on paper until staff are able to enter it in the district's electronic reporting system.

Training. Officials from all nine districts said they encourage reporting by providing training on how to report incidents. Generally, this information was incorporated into trainings on when to use restraint and seclusion and how to deescalate a student's behavior.²⁰ Officials from five stakeholder groups we interviewed, all of whom have expertise related to the use of restraint and seclusion in public schools, stated that training was necessary to both raise awareness of the requirement to report incidents and to ensure that incidents were reported accurately. For example, in de-escalation training for teachers in a Washington district, the trainer provides examples of restraint and seclusion; presents a variety of scenarios, including ambiguous ones, for discussion; and reviews the appropriate staff response.

Conclusions

The Civil Rights Data Collection (CRDC) is a longstanding and critical aspect of Education's Office for Civil Rights' overall enforcement and monitoring strategy. Collecting accurate data through the CRDC can help Education in its mission to ensure equal access to education, promote educational excellence for all, and enforce various federal civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, and disability. However, the significant data quality problems that both Education and we identified with the CRDC data on restraint and seclusion, combined with the significant weaknesses we found in Education's data quality control processes, cast serious doubt on the accuracy of these data. As a result, it is impossible to accurately determine the frequency and prevalence of restraint and seclusion among K-12 public school students. The four recommendations in our June 2019 report urged Education to take immediate steps to address the

²⁰In most districts only certain staff were allowed to perform a restraint and these staff received training on how to conduct restraints. The staff that received training generally included special education teachers, principals, and paraprofessionals. However, some of the districts we visited trained all staff on de-escalation and other tactics that potentially reduce the need to use restraint and seclusion.

widespread potential misreporting of zeros for its 2017-18 CRDC. Education took some steps to address the issues we raised, but has not yet fully addressed them. Moreover, those recommendations were intended as stop-gap measures to improve the quality of the 2017-18 data being collected in real time precisely *because* the CRDC's business rules related to restraint and seclusion are inadequate. Therefore, addressing our recommendations would not solve the issues that are the subject of this report. Our work makes it clear that an overhaul of the quality control processes is needed to correct fundamental problems with federal restraint and seclusion data collected through the CRDC.

Two of the CRDC's key business rules meant to check data quality and flag potential errors in restraint and seclusion data are poorly designed and the thresholds that trigger these rules have no data-driven basis. Further, Education does not have business rules designed to flag outlier schools and school districts that report relatively low or high rates of restraint and seclusion, nor has it determined a range of rates that might warrant further exploration. Until Education more fully understands why so many school districts are underreporting and misreporting federal restraint and seclusion data, it will likely not be able to help districts improve their reporting, thereby improving the accuracy and utility of the data.

There were widely varied interpretations of federal restraint and seclusion definitions among the 50 school and district officials with whom we spoke and officials from the seven key stakeholder groups we interviewed echoed these concerns. As a result, we have concerns that school districts may be inconsistently counting and reporting instances of restraint and seclusion for federal reporting purposes. Clarifying the definitions, for example by explaining to districts how they can be applied to common classroom scenarios, could help produce more consistency in reporting.

Ultimately, the issues we found with Education's restraint and seclusion data have consequences for the students who are restrained or secluded in school and whose restraint or seclusion goes un-reported. When federal data are misreported to the public, it undermines confidence in that data and fails to provide decision makers with reliable information on which to make informed policy decisions to protect students. In addition, Education lacks information that could help it determine whether schools' use of these practices may be excessive, discriminatory, or both.

Recommendations for Executive Action

GAO is making six recommendations on restraint and seclusion to the Department of Education's Office for Civil Rights.

The Assistant Secretary for the Office for Civil Rights should revise its CRDC business rule to require that every school district reporting zeros, regardless of district size or numbers of students with disabilities, affirm the zeros are correct during the CRDC data submission process. (Recommendation 1)

The Assistant Secretary for the Office for Civil Rights should develop and implement a CRDC business rule that targets schools and school districts that report very low numbers of incidents and set data-driven thresholds to detect such incidents. (Recommendation 2)

The Assistant Secretary for the Office for Civil Rights should develop and implement a CRDC business rule that targets schools and schools districts that report very high number of incidents and set data-driven thresholds to detect such incidents. (Recommendation 3)

The Assistant Secretary for the Office for Civil Rights should apply the CRDC business rule targeting illogical data at the school level to all schools, regardless of the number of incidents reported. (Recommendation 4)

The Assistant Secretary for the Office for Civil Rights should identify the factors that cause underreporting and misreporting of restraint and seclusion and take steps to help school districts overcome these issues. (Recommendation 5)

The Assistant Secretary for the Office for Civil Rights should further refine and clarify federal restraint and seclusion definitions and take steps to ensure that this information is conveyed to school districts. This could include providing common classroom scenarios that highlight the differences between a restraint and an escort, and a time out and a seclusion. (Recommendation 6)

Agency Comments and Our Evaluation

We provided a draft of this report to the Department of Education for review and comment. In its formal comments, which are reproduced in appendix II, Education agreed with all six recommendations. Education also provided technical comments, which we incorporated, as appropriate.

In agreeing with GAO's six recommendations, Education stated that it would determine the best means to implement them. Education also stated that it is fully committed to working with public schools, state educational agencies, and school districts to help ensure accurate reporting of federal restraint and seclusion data, and to improve the quality of the information for all users of CRDC data. We appreciate Education's willingness to address the serious data quality issues affecting the CRDC restraint and seclusion data.

In its response, Education stated that the agency has already made significant improvements to the CRDC in general and has made specific improvements with respect to restraint and seclusion data, especially in response to the four recommendations we made in our June 2019 correspondence. Education asked that we acknowledge the progress it feels it has made in this regard, and we have done so. Importantly, however, our June 2019 recommendations were intended as stop-gap measures to improve the quality of the 2017-18 data that was already being collected in real time precisely because the CRDC's business rules related to restraint and seclusion were inadequate. Therefore, steps Education has taken toward addressing them do not address the underlying data quality issues that are the subject of this report. In other words, the recommendations in this report urge Education to address data quality problems at the front-end by applying adequate business rules at the time districts submit their data. This could reduce the need for follow-up with districts to correct potentially inaccurate data. More information about our assessment of the steps Education has taken to address the four recommendations from the June 2019 report are available on our website.

Education also stated that because our draft report did not mention the methodological improvements OCR made to address the quality of restraint and seclusion data for the 2017-18 CRDC data collection, our draft report overstates the relevance of the data issues from the 2015-16 collection. Education also stated that it provided us with information about

the methodological improvements in December 2019, and, in its formal response, requested that we reflect the information in this report. We disagree with this perspective. After we completed our audit work for this engagement, Education provided us an excerpt from its post-collection data quality report for school year 2017-18. At that time and again in its technical comments on this report, Education stated that “information shared with GAO about the results of the 2017-18 data quality review process and what might be addressed is still confidential.” As of March 23, 2020 Education described the 2017-18 data quality control process as “incomplete.” Lastly, the 2017-18 CRDC data, which are the topic of the excerpt Education provided to us, are not yet available. Under our auditing standards, we cannot opine on the quality of data we could not independently assess or on the efficacy of process improvements associated with those data.

Education also raised concerns about how we weighted our interviews with school officials, and it questioned the relevance of our discussions about selected school districts’ use of restraint and seclusion data not reported for CRDC purposes. We disagree.

- Education was concerned about the weight GAO placed on information obtained from 50 officials in 11 school districts across 3 states whom we interviewed during the course of our audit work. As stated in the report, this information cannot be generalized to all districts. However, we believe it provides useful insights into how some districts use their restraint and seclusion data to reduce the incidence of these practices and improve the accuracy of their data. The widespread disagreement among the 50 school officials with whom we spoke also highlights confusion about how to accurately and consistently apply CRDC definitions of restraint and seclusion. This finding is supported by the views of seven nonfederal advocacy organizations that represent parents and families; individuals with disabilities; and other stakeholders, such as representatives of relevant school and special education professional associations.
- Education questioned the relevance of discussing the benefits that selected school districts said they derive from using restraint and seclusion data not reported for CRDC purposes. Education stated that “attempting to generalize comments about how these nine school districts use restraint and seclusion data” seems inconsistent with Governmental Accounting Standards Board (GASB) statistical principles. We believe that describing selected

school districts' use of their restraint and seclusion data is within the scope of our stated audit objectives. In addition, the explanatory statement from the House Committee on Appropriations accompanying the Consolidated Appropriations Act of 2018 includes a provision for us to provide examples of how schools are adopting effective alternatives to these practices and reducing the incidence of seclusion and restraint, among other things. Further, Education mistakenly asserts that none of the data and analyses that the school districts collected, performed, or used are part of the CRDC and none could be feasibly collected by the CRDC. We have further clarified in the final report that portions of the data these school districts collect are used for CRDC reporting purposes. For example, some of the data elements are the same ones that districts use to calculate aggregate incident counts, which are required by the CRDC. We do not recommend that Education collect such detailed data or perform such analyses. Regarding Education's concern about "GASB statistical principles" and case selection, all GAO performance audits are subject to Generally Accepted Government Auditing Standards (GAGAS); in contrast, GASB's Generally Accepted Accounting Principles apply to financial audits of public entities. The applicable methodological guidance we followed -- *Selecting a Sample of Nongeneralizable Cases for Review in GAO Engagements* -- is designed to ensure that GAO policies on evidence and GAGAS are met, and conforms to the generally accepted principles and practices of the appropriate disciplines. When providing illustrative examples, it is neither necessary nor appropriate to use statistical methods to analyze and interpret evidence.

Finally, in its comments, Education stated that it is critical that we emphasize that the CRDC is an aggregate of self-collected and self-reported data from school districts and that the district superintendent or an authorized designee certifies that the data they submit are "true and correct." We agree, and acknowledged this in several places in both the draft and final reports. At the same time, we believe that self-certified data does not absolve Education of its responsibility to ensure the quality of the data it collects and publicly reports -- especially given the CRDC's longstanding role in Education's overall enforcement of various federal civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, and disability. Self-reported data by nature are subject to error, making the need for effective quality control measures before, during, and after collection a necessity.

We are sending copies to the appropriate congressional committees, the Secretary of Education, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (617) 788-0580 or nowickij@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



Jacqueline M. Nowicki,
Director, Education, Workforce,
and Income Security Issues

Appendix I: Objectives, Scope, and Methodology

This report examines (1) the effectiveness of CRDC data quality control procedures for its restraint and seclusion data, (2) how selected districts interpret the CRDC definitions of restraint and seclusion and (3) how selected districts use data on restraint and seclusion and encourage staff to report incidents. Below are the details of our analysis to determine the extent to which Education ensures the quality of restraint and seclusion data reported by school districts, and of our interviews with officials in selected districts about how they apply Civil Rights Data Collection (CRDC) definitions of restraint and seclusion and use restraint and seclusion data.

To inform all of our objectives, we interviewed federal agency officials, representatives from several nonfederal advocacy organizations that represent parents and families, individuals with disabilities, and other stakeholders, such as representatives of professional associations. We also reviewed agency documentation, relevant federal laws, regulations and policies, and selected state laws.

Analysis of National Restraint and Seclusion Data

To determine the extent to which Education ensures the quality of restraint and seclusion data reported by school districts, we analyzed Education's Civil Rights Data Collection (CRDC) for school year 2015-16. Specifically, we analyzed the CRDC to determine the extent to which districts reported zero incidents of restraint and seclusion, to identify outliers (districts that reported a high or low incidence of restraint and seclusion), and to identify illogical data. CRDC is a biennial survey that is mandatory for nearly every public school and school district in the United

States and is conducted by Education's Office for Civil Rights.¹ The CRDC collects data on the nation's public schools (pre-K through 12th grade) that includes the use of restraint and seclusion, student demographics and enrollment numbers, educational and course offerings, and disciplinary actions. In school years 2013-14 and 2015-16, the CRDC collected data from nearly every public school in the nation (approximately 96,000 schools in 17,000 school districts in school year 2015-16).²

CRDC data are self-reported by districts and schools, and consequently there is potential for misreporting of information. After reviewing their CRDC data, school districts can submit revised data to Education. The public-use data file of the CRDC for school year 2015-16 was the primary source of data for our analyses and the most recent data available at the time.³ We also used restraint and seclusion data from school year 2013-14 primarily to analyze how use of restraint and seclusion may have changed between the two time periods.

The CRDC collected data on (1) mechanical restraint, (2) physical restraint, and (3) seclusion. Using these data, we performed the following analyses to determine potential inaccuracies or underreporting in the CRDC.

Analysis of Extent of Districts Reporting Zeros

To examine the extent to which school districts reported zeros, we calculated the percentage of districts and schools reporting zeros for restraint (both mechanical and physical) and for seclusion. We performed this calculation for both districts and schools nationally and by state, district size, and school type (e.g., charter, traditional, and special

¹The Assistant Secretary for Civil Rights in the Department of Education is authorized "to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights [OCR]." 20 U.S.C. § 3413(c)(1). OCR has been collecting this data since 1968. See <https://ocrdata.ed.gov/>. School districts in U.S. territories are not required to collect and submit data for the CRDC at this time. However, Puerto Rico chose to submit data for the 2017-18 school year. Similarly, tribal schools operated by the Department of the Interior's Bureau of Indian Education and schools operated by the Department of Defense Education Activity are also not required to collect and submit data, according to Education.

²These were the most recent CRDC data available at the time of our analysis. The response rates for this mandatory data collection were 99.5 percent for school year 2013-14 and 99.8 percent for school year 2015-16.

³The data collection phase for school year 2017-18 had closed at the time of our review.

education schools). Although Education has a business rule that targets very large districts that report zero incidents of restraint or seclusion, we calculated the number of all districts and schools that reported zeros to understand the prevalence of zeros in the reported data.

Analysis of Relatively Low Rates of Restraint and Seclusion Incidents

To test for potential underreporting, we first limited our analysis to the restraint and seclusion data reported by the 30 largest school districts in the nation (districts with over 100,000 students enrolled). Because of these districts’ size, we reasoned that they would be more likely to have incidents of restraint and seclusion to report. Our analysis found that 20 of the 30 largest school districts reported incidents, and thus we focused our analysis of underreporting on the 20 largest districts that reported incidents. For each of the 20 districts, we calculated the percentage of schools that reported incidents. To compare the 20 largest districts that reported incidents with all 5,252 districts that reported incidents, we calculated the rates of restraint and seclusion per enrolled student and calculated percentile ranges. (See table 6.) We determined that nine of the 20 districts had incidents of physical restraint per enrolled student that were below the 5th percentile of all districts reporting incidents of physical restraint.

Table 6: School District Rates of Restraint and Seclusion per Student by Percentile for Districts Reporting Incidents in the 2015-16 School Year

na	Mechanical restraint	Physical restraint	Seclusion
Percentile	Rate per student	Rate per student	Rate per student
1st Percentile	0.0000	0.0001	0.0001
5th Percentile	0.0001	0.0003	0.0002
10th Percentile	0.0001	0.0005	0.0004
25th Percentile	0.0002	0.0014	0.0014
75th Percentile	0.0030	0.0126	0.0211
90th Percentile	0.0200	0.0422	0.0762
95th Percentile	0.0635	0.1098	0.2200
99th Percentile	0.6601	1.0377	1.8522

Source: GAO Analysis of the Department of Education’s Civil Rights Data Collection. | GAO-20-345

**Analysis of Relatively High Rates of Restraint and Seclusion
Incidents**

To identify school districts with relatively high rates of restraint and seclusion, we examined districts that reported having more incidents than students enrolled. This analysis potentially indicates that some students may have been restrained or secluded multiple times. To illustrate, if a school district reported that it had 24 students enrolled, and also reported that it had 100 incidents of restraint, these reported data would indicate that the reporting was erroneous or that some students were restrained multiple times. Based on this analysis, we then calculated the average number of incidents (of restraint and seclusion) per student affected.

Analysis of Extent of Illogical Data

To test for illogical data, we analyzed the restricted-use restraint and seclusion data file for schools that reported more students affected than incidents.⁴ To illustrate, if a district reported that a school had restrained 80 students, and also reported that the school had 40 incidents of restraint, these reported data are illogical. Education has a business rule to detect illogical data at the school level, but the rule applies only to schools with more than 100 incidents. For our analysis, we looked for all schools with illogical data to determine the prevalence.

School District Interviews on Interpreting CRDC Definitions of Restraint and Seclusion

To determine how selected school districts interpret the CRDC definitions of restraint and seclusion, we selected 11 schools and nine school districts in three states to serve as illustrative examples. In total, we interviewed about 50 school officials. Information we collected from our 11 selected schools and nine districts cannot be generalized to all districts and schools nationwide.

We selected states, districts, and schools to obtain a range of perspectives on federal reporting of restraint and seclusion data. Our selection also accounted for other criteria, such as selecting states that had laws requiring reporting; high or low rates of reporting zeros among districts; relatively high or low rates of restraint or seclusion per capita; grade levels served (e.g., K-6 or 9-12); school type (e.g., traditional or charter); and significant changes—increase or decrease—in incidents across reporting periods. We also selected districts that had reported incidents. As a result, we selected nine school districts to visit: two in Kentucky, three in Washington, three in Wisconsin, and a charter district in Wisconsin (see table 7).

⁴For this analysis only, we used the restricted-use file of the CRDC so that we could accurately determine if schools reported more students affected than incidents. Because the public data file of the CRDC, rounds and suppresses individually identifiable information, it could not be used to determine if the number of students affected exceeded the number of incidents.

Table 7: Descriptive Information on Selected Public School Districts, School Year 2015-16

Districts	Approximate total district enrollment (to nearest 5,000)	Locale	Selected school type
Dist. 1	10,000 students	Town	Elementary Alternative Middle and High
Dist. 2	20,000 students	Suburb (Large)	2 Elementary
Dist. 3	5,000 students	Suburb (Large)	Middle
Dist. 4	5,000 students	Suburb (Small)	Elementary
Dist. 5	10,000 students	Suburb (Large)	High
Dist. 6	25,000 students	City (Large)	Elementary
Dist. 7	75,000 students	City (Large)	Middle
Dist. 8	10,000 students	Suburb (Large)	Elementary
Charter district	5,000 students	City (Large)	Charter (PK-12)

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC) and Common Core of Data. | GAO-20-345

To determine how district and school officials, such as assistant superintendents, program managers, department directors, principals, and teachers, were interpreting the CRDC definitions of restraint and seclusion, we made the following statements and asked the following questions in our interviews.

1. We are going to talk to you about the definitions of restraint and seclusion that appear in the CRDC. We have heard that these definitions are not always clear to educators, so we want to get your feedback.
 - **Mechanical Restraint:** *the use of any device or equipment to restrict a student's freedom of movement.*
 - Do you think this definition is clear or does it leave room for ambiguity?
 - **Physical Restraint:** *a personal restriction that immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely. The term does not include a physical escort. Physical escort means a temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a student who is acting out to walk to a safe location*
 - Do you think this definition is clear or does it leave room for ambiguity?

- How do you differentiate between physical escort and physical restraint?
 - Does breaking up a fight constitute a restraint?
 - **Seclusion:** *the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.*
 - Do you think this definition is clear or does it leave room for ambiguity?
 - How do you differentiate between timeout and seclusion?
 - What does physically prevented (from leaving) mean?
 - In what types of physical spaces can seclusion occur?
 - Does your district have dedicated spaces for seclusion rooms? Can you describe where they are generally located, e.g., which types of schools or classrooms?
2. How do staff determine when an incident needs to be recorded as a restraint?
 3. How do staff determine when an incident needs to be recorded as a seclusion?

We conducted this performance audit from November 2018 to April 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Education

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of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

March 23, 2020

Ms. Jacqueline Nowicki, Director
Education, Workforce,
and Income Security Issues
Government Accountability Office
Washington, D.C. 20548

Dear Director Nowicki:

On behalf of the U.S. Department of Education (Department), I am pleased to know that the Government Accountability Office (GAO) recognizes the importance of the Office for Civil Rights' (OCR) Civil Rights Data Collection (CRDC). Your June 2019 report¹ on the data collection for the 2015-16 school year regarding restraint and seclusion data coincided with our ongoing reform efforts and provided helpful recommendations for improvement. The Department agrees with your February 2020 draft report's² (February Draft Report) recommendations on restraint and seclusion and will implement them as part of our broader efforts to strengthen civil rights data quality. In the past two years since I have been the Assistant Secretary for Civil Rights, OCR has already made significant improvements to the CRDC in general and specifically with respect to restraint and seclusion.

Your February Draft Report's analysis of CRDC data focuses exclusively on the 2015-16 restraint and seclusion (R&S) data in the CRDC, which preceded this administration's reform efforts. The CRDC covers broad categories pertaining to student enrollment and educational programs and services, most of which are disaggregated by race/ethnicity, sex, disability, and English Learner status – collected from more than 17,000 school districts on a biennial basis. This vast data collection requires each school district to provide more than 1,700 individual responses. The R&S section alone has about 100 required responses. With respect to the R&S data quality improvements, OCR has made consistent improvements since R&S data were first collected in the 2009-10 collection. More recently, for the 2017-18 collection, OCR, in partnership with the Institute of Education Sciences' National Center for Education Statistics (NCES), has implemented more rigorous data review methods to improve the data as well as enhance our outreach efforts, many of which occurred prior to the release of the June 2019 GAO Report. I will highlight some of these actions more specifically below. Further, we are already taking action to improve data quality for the 2019-20 collection.

¹ *K-12 Education: Education Should Take Immediate Action to Address Inaccuracies in Federal Restraint and Seclusion Data*, GAO-19-551R, June 2019, available at <https://www.gao.gov/assets/700/699847.pdf>; Department's December 2019 reply letter, available at <https://www2.ed.gov/about/offices/list/ocr/correspondence/federal-entities/20191219-gao-response.pdf>.

² *K-12 Education: Education Needs to Address Significant Quality Issues with its Restraint and Seclusion Data*.

Your February Draft Report contains useful data and analyses. At the same time, we find that some of the data are presented in a way that could be misleading and that some of the analyses are incomplete or flawed. We also note that some of the study addresses data and information that is beyond the scope of the CRDC. I will address these issues below, and I am also attaching to this letter a separate document detailing technical edits for GAO's consideration.

As you know, we have undertaken many important steps over the last few years in the course of continuing efforts to improve the quality of the R&S data submitted by school districts. For the 2017-18 CRDC, OCR has utilized new tools in working with school districts with perceived reporting errors to encourage corrections; conducted greater outreach to school districts with potentially anomalous R&S data submissions; allocated additional technical support resources; clarified proper understandings of reporting requirements; where needed, worked with school districts to ensure detailed written corrective action plans were put into place; and increased collaboration with NCES. While these actions appear in greater detail in my December 2019 reply letter, several others are new, and I would like to mention some of them below.

For example, OCR recently posted various R&S technical assistance presentations³ on-line to further assist state education agencies (SEA) and local education agencies (LEA) or school districts to better understand their reporting obligations, including the appropriate use of nulls and zeros. In addition, on January 9, 2020, OCR and the Office of Special Education and Rehabilitative Services posted a webinar on-line, *Students with Disabilities and the Use of Restraint and Seclusion in K-12 Public Schools*, as technical assistance to support both students with disabilities and school systems serving those students.⁴ For the first time, OCR will implement, as necessary, a reporting methodology to remove anomalous (or outlier) R&S data from the 2017-18 collection, in advance of its public release. This methodology is utilized by other Departmental data collections to ensure that questionable data are not reported to, or relied on, by researchers or other members of the public. Any removal of anomalous R&S data from the final 2017-18 file will be described in the CRDC Data Notes.⁵ These are simply a few examples of our recent efforts.

As noted above, OCR has already implemented several of GAO's June 2019 recommendations, but these actions are missing from the February Draft Report. I believe it is appropriate and important that you include this information in the final report. GAO's first recommendation requested that the Assistant Secretary for Civil Rights immediately remind and clarify for all school districts that they are only to report zero incidents of R&S when there are none and that they are to leave cells blank to indicate when data are not collected or completed. On August 14, 2019, I sent a letter to all school districts and communicated both of these important points.⁶ The second of GAO's recommendations, as part of the 2017-18 CRDC quality assurance process, was for OCR to follow up with school districts that submitted reports of zero incidents of R&S to obtain assurances that such reports of zero incidents were, in fact, accurate, or else ask

³ See <https://www2.ed.gov/about/offices/list/ocr/data.html>.

⁴ See <https://sites.ed.gov/idea/education-department-releases-webinar-use-restraint-seclusion/>, and <https://www.youtube.com/watch?v=EZ9Yx0LC8TI&feature=youtu.be>.

⁵ Data notes provide the general public with an overview of each collection. For instance, data notes most typically include information covering such categories as response rate, privacy protection, data anomalies, data errors corrected, and data errors that are not corrected (e.g., the request is incomplete or is made past the corrections deadline). See <https://ocrdata.ed.gov/DataNotes>.

⁶ See *Supra* at 1.

the districts to submit corrected data. This recommendation was met, when on August 1, 2019, as part of the 2017-18 CRDC data quality review outreach period, an electronic message was sent to all LEAs that had reported zero incidents of R&S in the 2017-18 CRDC and to SEAs that closely collaborated with their LEAs for the 2017-18 CRDC reporting.

The third recommendation from GAO requested that OCR monitor compliance with OCR's action plan requirements and ensure that such plans address all missing data elements. Even prior to the release of GAO's report, OCR had taken steps to bolster the process by which it reviews and accepts action plans. For instance, OCR communicates with each school district that has an action plan to seek confirmation that it will take the needed steps to collect and report the data for the upcoming collection. Going forward, OCR will also contact each LEA that has an action plan before the start of each new collection and re-confirm that the LEA will take the needed steps to collect and report the data.

GAO's fourth and final recommendation asked OCR to "prominently disclose for past collections the potential problems with using R&S data given the known misreporting issues." OCR informed GAO that it will implement this recommendation by updating the 2015-16 data notes.⁷

By not including this information, the February Draft Report paints an incomplete and misleading portrayal of this issue. Indeed, it could be read to suggest, quite erroneously, that OCR is indifferent to the ways a data collection can be improved. Before I address the specifics of GAO's six recommendations, it is necessary to respond to significant problems in the February Draft Report and recommend changes so that it properly and fairly portrays the CRDC and OCR's handling of the R&S data.

The Draft February Report Omits R&S Data Quality Improvements Made for the 2017-18 Collection.

GAO's February Draft Report does not mention the methodological improvements OCR made to address the quality of R&S data for the 2017-18 collection. In this way, GAO's February Draft Report overstates the current relevance of the data issues from the 2015-16 collection, because OCR has already taken steps with school districts to correct the problems both OCR and GAO discovered. As I shared in my December 18, 2019, letter to GAO, OCR has already implemented data quality improvement measures with respect to the 2017-18 CRDC. I set forth a summary of those improvements below, which were shared with your office on December 19, 2019.

For the 2017-18 CRDC⁸, OCR's contractor performed a three-phase data quality check before, during, and after data were submitted by school districts. There were two types of analyses conducted: general and specific. General analyses focused on outliers detected for individual data elements (univariate), for entire modules (systematic), and for significant changes in data elements between the 2015-16 and 2017-18 data collections (year-to-year). Specific analyses were ad hoc data quality checks focused mostly on issues of internal consistency and data reasonableness (e.g., duplicate data, summation to totals, comparisons with other data sources).

⁷ See *Supra* at 5.

⁸ This is a high level summary and not a comprehensive accounting of all 2017-18 data quality efforts.

There were nine specific quality issues that were analyzed as part of the data quality review for the 2017-18 collection, all of which were new for 2017-18. Of the nine specific quality issues, four evaluated the data for duplicative entries; two checked the data for internal inconsistencies; and three evaluated the reasonableness of the data entered given the size of the school.

Importantly, each of the nine specific quality issues for the R&S module addressed one of four overarching quality issues:

- duplicative counts across mechanical restraint, physical restraint, and seclusion for non-IDEA and IDEA students⁹;
- reports of identical data entries for each of the following data items: mechanical restraint, physical restraint, and seclusion for non-IDEA and IDEA students (*e.g.*, if each entry were “25”);
- instances where overall enrollment by sex and race/ethnicity is smaller than students subjected to mechanical restraint, physical restraint, and seclusion by sex and race/ethnicity for non-IDEA and IDEA students; and
- LEAs with zero instances of mechanical restraint, physical restraint, or seclusion with enrollment that is greater than or equal to 25,000 students.

In addition to the foregoing specific data quality checks, general data quality checks were conducted on all R&S data elements. These post-collection data quality checks focused on detecting (a) outliers for individual data elements, (b) significant value changes in individual data elements between the 2015-16 and 2017-18 data collections, and (c) outliers within the entire R&S module. All general checks used the data-driven thresholds for identifying outliers and were included in subsequent outreach to the school districts.

The post-collection outreach to school districts was also conducted via email and, in some cases, phone calls. The main goal of outreach was to identify a subset of data quality issues across the data elements collected by the CRDC that were apparent errors and, if confirmed as errors by the school district, would be easily correctable, so that the outreach activities conducted by the Partner Support Center (PSC)¹⁰ would have the greatest likelihood of improving the data. R&S outreach messaging focused on the use of nulls and zeros, in addition to targeted outreach about the general and specific checks described above. In total, the CRDC’s PSC conducted outreach to 15,526 LEAs, a marked increase from 4,386 LEAs contacted for the 2015-16 outreach period. As a result of OCR’s proactive outreach efforts, 952 LEAs amended their original 2017-18 R&S data submissions from June 2019 to August 2019. During the extended data corrections, which ran from September to December 2019, another 196 LEAs corrected their 2017-18 R&S data submissions. GAO should include or reference the foregoing in its final report in order to present an accurate picture regarding the CRDC’s overall data quality improvement efforts.

⁹ See definitions appearing on the 2017-18 CRDC School Form, page 11, available at <https://www2.ed.gov/about/offices/list/ocr/docs/2017-18-crdc-school-form.pdf>.

¹⁰ The CRDC’s Partner Support Center provides technical assistance to LEAs that submit data through the CRDC submission system. The Partner Support Center is run by OCR’s contractor. See <https://crdc.grads360.org/#program>.

The February Draft Report Relies on a Limited Number of Interviews to Make Sweeping R&S Data Generalizations.

Another area of concern is the weight GAO places on the feedback provided by a very limited number of LEAs and school officials. GAO recognizes this contradiction, when it writes: “Information we collected from our 11 selected schools and nine districts cannot be generalized to all districts and schools nationwide.”¹¹ Further, the final report should emphasize that OCR has repeatedly informed SEAs and LEAs that they can reach out to OCR for technical assistance on the CRDC. This was made clear, for example, in my letter to all LEAs, sent on August 14, 2019.

The Report Should Emphasize the CRDC is Comprised of Self-Reported Certified Data.

It is critical to emphasize that the CRDC is an aggregate of self-collected and self-reported data. Almost all reporting entities are school districts, and the district superintendent or an authorized designee certifies that the data they submit are “true and correct.” As each certifies, they agree to the following information:

Your LEA’s certification of its CRDC data includes verifying the accuracy of the data that your LEA submitted to the state education agency. I certify that the information provided is true and correct to the best of knowledge and belief. A willfully false statement is punishable by law. (18 U.S.C. § 1001).

For more than 40 years, the certification statement has included the last two sentences presented in the certification statement above. Therefore, school districts are fully aware and acknowledge they are required to submit accurate data to the CRDC. This is an important part of assuring data quality.

The February Draft Report Misleadingly Describes Certain Data.

Page 22¹² of the February Draft Report contains a section commencing with “All Nine School Districts.” That section discusses how the nine school districts GAO visited use R&S data. While we acknowledge that the discussion in this section is interesting for the field, the data introduced and discussed in this section are not data the Department collects in the CRDC. This section references the benefits certain unidentified school districts have received from their usage of certain data which do not come from the CRDC. The February Draft Report references that the *unidentified* school districts used (i) information about one or more observation(s) by teacher(s) of specific student behavior triggering the use of R&S; (ii) data on *the day of the week* on which incidents of R&S occurred; (iii) information on incidents involving autistic children specifically; (iv) the benefits of post-incident teacher debriefing; (v) the benefits of coaching teachers; (vi) incidents with respect to a specific student; and (vii) one district’s monthly internal reporting of R&S data. None of the data and analyses that the various school districts collected, performed, and used is part of the CRDC, and none of it could be feasibly collected by the CRDC.

¹¹ GAO’s February Draft Report, Page 32.

¹² See February Draft Report, section titled: “All Nine School Districts We Visited Used Data to Reduce Incidence of Restraint and Seclusion and Developed Strategies for Improved Reporting,” at p. 22.

The February Draft Report's attempt to generalize these comments seems inconsistent with the Governmental Accounting Standards Board (GASB) statistical principles which govern the February Draft Report. See GASB Section 8.100.¹³

OCR Will Implement GAO's Recommendations.

For background to OCR's formal response to the February Draft Report's recommendations, as I shared as part of my December 18, 2019, letter to GAO, the CRDC is a biennial survey of public schools and school districts in the United States. The CRDC measures student access to courses, programs, staff, and resources that relate to OCR's jurisdiction. The CRDC also is a resource for other federal agencies, policymakers, researchers, educators, school officials, parents/guardians, students, other stakeholders, and members of the public. OCR is committed to continuous data improvement measures, including working to better enable SEAs and LEAs to accurately and completely report data. Accordingly, OCR will implement all of GAO's recommendations, within an appropriate timeframe, and OCR's formal responses to GAO's draft recommendations appear below.

GAO's First Recommendation:

The Assistant Secretary for the Office for Civil Rights should revise its CRDC business rule to require that every district reporting zeros, regardless of district size or numbers of students with disabilities, affirm the zeros are correct during the CRDC data submission process.

OCR will determine the best means to implement this recommendation and expects to do so in connection with the 2019-20 collection.

GAO's Second Recommendation:

The Assistant Secretary for the Office for Civil Rights should develop and implement a CRDC business rule that targets schools and districts that report very low numbers of incidents and set data-driven thresholds to detect such incidents.

OCR will determine the best means to implement this recommendation and expects to do so in connection with the 2019-20 collection.

GAO's Third Recommendation:

The Assistant Secretary for the Office for Civil Rights should develop and implement a CRDC business rule that targets schools and districts that report very high number of incidents and set data-driven thresholds to detect such incidents.

OCR will determine the best means to implement this recommendation and expects to do so in connection with the 2019-20 collection.

¹³ "When appropriate, auditors may use statistical methods to analyze and interpret evidence to assess its sufficiency." GASB 8.100.

GAO's Fourth Recommendation:

The Assistant Secretary for the Office for Civil Rights should apply the CRDC business rule targeting logical inconsistencies at the school level to all schools regardless of the number of incidents reported.

The CRDC currently uses this business rule in a limited fashion. For the 2015-16 and 2017-18 collections, it was triggered whenever an LEA had 100 incidents of restraints or seclusions. However, for the 2019-20 collection, OCR expects to apply it to all such logical inconsistencies referenced in the February Draft Report.

GAO's Fifth Recommendation:

The Assistant Secretary for the Office for Civil Rights should identify the factors underlying underreporting and misreporting of restraint and seclusion and take steps to help school districts overcome these issues.

OCR has already begun this effort. Over the past year as OCR has reached out to 50 LEAs which were reporting anomalous R&S data,¹⁴ it asked the LEAs to explain the cause of the reporting errors.¹⁵ An example of one of OCR's inquiries is "please include a description of the steps that you intend to take to improve quality of the data for the 2017-18 CRDC and all other future collections." OCR has received answers from multiple LEAs which will help in gathering correct data. OCR is also working on other legally permissible ways to identify these factors, such as using the aforementioned PSC to contact LEAs.

GAO's Sixth Recommendation:

The Assistant Secretary for the Office for Civil Rights should further refine and clarify federal restraint and seclusion definitions and take steps to ensure that this information is conveyed to school districts. This could include providing common classroom scenarios that highlight the differences between a restraint and an escort, and a time out and a seclusion.

OCR agrees with this recommendation. The Assistant Secretary will refine and clarify the restraint and seclusion definitions. In doing so, OCR will consult with counsel on appropriate ways of doing so consistent with applicable legal authorities.

OCR is fully committed to work with public schools, SEAs, and LEAs to help ensure accurate reporting of all CRDC data, including data on R&S, and to improve the quality of the information for use by all users of CRDC data. I hope that GAO will take into account the concerns expressed in this letter, as well as the Department's technical edits, as it further refines its draft report. I appreciate GAO's work on this area and its recommendations, which will help improve future collections.

¹⁴ As part of Initiative to Address the Inappropriate Use of Restraint and Seclusion, DQR letters.

¹⁵ Reflective of a request GAO made in December of 2019.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ken Marcus', with a long horizontal flourish extending to the right.

Kenneth L. Marcus
Assistant Secretary for Civil Rights

Enclosure

Appendix III: Restraint and Seclusion Data for 20 Largest School Districts Reporting Incidents

Table 8: Restraint and Seclusion Data for the 20 Largest School Districts That Reported Incidents in School Year 2015-16, with Potential Underreporting Highlighted

Rank by Size	Name of District	State	No. of Schools	No. of Students Enrolled	Physical Restraint Incidents	Physical restraint incidents per 10,000 students	Schools Reporting Physical Restraint (No.)	Schools Reporting Physical Restraint (Percent)	Seclusion Incidents	Seclusion incidents per 10,000 students	Schools Reporting Seclusion (No.)	Schools Reporting Seclusion (Percent)
2	Los Angeles Unified	CA	785	539,634	108	2	82	10%	0	0	0	0%
3	City of Chicago	IL	579	392,303	47	1.2	2	0%	6	0.2	1	0%
5	Clark County	NV	361	326,238	2,588	79.3	213	59%	0	0	0	0%
7	Houston	TX	282	215,989	58	2.7	18	6%	0	0	0	0%
8	Hillsborough	FL	289	211,731	17	0.8	11	4%	21	1	12	4%
9	Orange	FL	243	196,987	10	0.5	8	3%	82	4.2	12	5%
10	Palm Beach	FL	234	188,590	91	4.8	35	15%	0	0	0	0%
13	Gwinnett County	GA	135	175,958	1,150	65.4	101	75%	0	0	0	0%
15	Dallas	TX	239	158,941	49	3.1	22	9%	0	0	0	0%
16	Montgomery County	MD	203	156,819	1,078	68.7	63	31%	337	21.5	20	10%
17	Charlotte-Mecklenburg	NC	168	149,270	8	0.5	7	4%	0	0	0	0%
20	San Diego Unified	CA	226	130,964	186	14.2	28	12%	35	2.7	11	5%
21	Duval	FL	206	129,003	34	2.6	8	4%	24	1.9	9	4%
22	Cypress-Fairbanks	TX	83	113,912	76	6.7	31	37%	0	0	0	0%
23	Shelby County	TN	207	113,208	240	21.2	60	29%	77	6.8	16	8%
24	Cobb County	GA	114	112,708	147	13.0	14	12%	8	0.7	2	2%
25	Baltimore County	MD	169	110,786	880	79.4	93	55%	365	32.9	42	25%

**Appendix III: Restraint and Seclusion Data for
20 Largest School Districts Reporting
Incidents**

Rank by Size	Name of District	State	No. of Schools	No. of Students Enrolled	Physical Restraint Incidents	Physical restraint incidents per 10,000 students	Schools Reporting Physical Restraint (No.)	Schools Reporting Physical Restraint (Percent)	Seclusion Incidents	Seclusion incidents per 10,000 students	Schools Reporting Seclusion (No.)	Schools Reporting Seclusion (Percent)
27	Pinellas	FL	155	102,893	29	2.8	5	3%	39	3.8	7	5%
29	DeKalb County	GA	133	101,355	3	0.3	2	2%	0	0	0	0%
30	Jefferson County	KY	172	101,018	4,134	409.2	123	72%	257	25.4	18	11%

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Note: Shaded areas indicate potential underreporting—districts in which 15 percent or fewer schools reported any incidents and districts in which the incidents per 10,000 students were lower than 95 percent of districts. This figure does not include the 10 districts that reported zeros. Please see [GAO-19-551R](#) for analysis of those districts.

Appendix IV: School Districts with Relatively High Rates of Reported Seclusion

Table 9: School Districts with Relatively High Rates of Reported Seclusion in School Year 2015-16

District Name	State	Grades served	Total enrolled students	Incidents of seclusion	Incidents per student enrolled	Students affected	Share of students affected	Average incidents per student affected
Sangamon Area Spec Ed Dist.	IL	1-12	74	676	9.1	25	34%	27
Bi-County Special Educ. Coop	IL	K-12	48	436	9.1	34	71%	13
Woodside Juvenile Rehabilitation Center	VT	7-12	17	116	6.8	19	112%	6
Montgomery County ESC	OH	K-12	270	1,740	6.4	181	67%	10
Coop Assoc. For Spec Educ.	IL	1-12	36	204	5.7	8	22%	26
Piedmont Regional Ed.	VA	K-12	83	438	5.3	46	55%	10
Chi Health Immanuel Residential Treatment Center	NE	1-12	24	123	5.1	10	42%	12
Autism Model School	OH	K-12	124	494	4.0	15	12%	33
Southside Sp. Svcs. Of Marion Co	IN	K-12	125	472	3.8	47	38%	10
Henry-Stark County Spec Ed Dist.	IL	K-12	65	224	3.4	54	83%	4
North Dupage Sp. Ed Cooperative	IL	2-12	53	181	3.4	11	21%	16
Northeast Wyoming BOCES	WY		41	137	3.3	21	51%	7
Department Of Juvenile Justice	GA	6-12	1,022	3,119	3.1	181	18%	17
Northwest Indiana Spec Ed Coop	IN	K-12	101	265	2.6	31	31%	9
Southeastern Coop Ed Pgm.	VA	K-12	356	912	2.6	159	45%	6

Appendix IV: School Districts with Relatively High Rates of Reported Seclusion

District Name	State	Grades served	Total enrolled students	Incidents of seclusion	Incidents per student enrolled	Students affected	Share of students affected	Average incidents per student affected
Brewer-Porch Children's Center	AL	PK-10	162	391	2.4	51	31%	8
Boyd School	AL	3-10	15	33	2.2	11	73%	3
New Horizons Regional Educ. Ctr.- Spec. Ed	VA	1-12	287	623	2.2	131	46%	5
Van Buren ISD	MI	PK-12	502	1,007	2.0	26	5%	39
Cooperative Ed Serv. Agcy. 06	WI	1-12	54	108	2.0	26	48%	4
Northwest Educational Service District 189	WA	1-12	168	322	1.9	75	45%	4
Rum River Special Education Coop	MN	1-12	115	213	1.9	25	22%	9
Multnomah ESD	OR	K-12	278	513	1.8	95	34%	5
Traverse Bay Area ISD	MI	PK-12	400	714	1.8	60	15%	12
Montcalm Area ISD	MI	PK-12	220	369	1.7	35	16%	11
Hunterdon County Educational Services Commission	NJ	2-12	59	91	1.5	22	37%	4
Intermediate School District 917	MN	PK-12	649	934	1.4	67	10%	14
Monroe 2-Orleans BOCES	NY	PK-12	531	728	1.4	280	53%	3
Red Top Meadows - Administration Office	WY	8-11	9	12	1.3	4	44%	3
Meeker And Wright Special Education	MN	1-12	126	164	1.3	19	15%	9
Northwest Regional ESD	OR	1-12	211	259	1.2	26	12%	10
Manistee ISD	MI	PK-12	65	75	1.2	9	14%	8
Idaho Dept. Juvenile Correction	ID	8-12	343	394	1.1	86	25%	5
Mid State Education District	MN	1-12	66	70	1.1	17	26%	4
Regn. 6 And 8-Sw/Wc Srv. Cooperative	MN	1-12	240	252	1.1	23	10%	11
Centralia School District	WA	PK-12	3,608	3,702	1.0	893	25%	4

Appendix IV: School Districts with Relatively High Rates of Reported Seclusion

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Note: The CRDC does not contain information about whether the specific incidents of seclusion reported by school districts were appropriate uses of seclusion. Percent of students affected may be higher than 100 percent because enrollment is measured at a point in time whereas the count of students affected is cumulative and because some data elements have been rounded or suppressed in the public-use dataset to protect the individually identifiable information.

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Jacqueline M. Nowicki at (617) 788-0580 or nowickij@gao.gov

Staff Acknowledgments

In addition to the contact named above, Sherri Doughty (Assistant Director), Lara Laufer (Analyst-in-Charge), Morgan Jones, and Kristin Petroff, made key contributions to this report. Also contributing were James Bennett, Deborah Bland, Tonnye Conner-White, Holly Dye, Gretta Goodwin, Sheila R. McCoy, Jean McSween, John Mingus, James Rebbe, and Manuel Valverde.

Appendix VI: Accessible Data

Data Tables

Accessible Data for Data Quality Issues GAO Identified in Department of Education 2015-16 CRDC Restraint and Seclusion Data

- Erroneous “zero” reporting: 70 percent of all districts reported zero incidents, but CRDC rule requiring districts to verify zeros only applied to 30 of the nation’s 17,000 districts.
- Relatively low rates of incidents: No rule exists to identify potential underreporting. We identified some very large districts that reported very low rates of restraint and seclusion.
- Relatively high rates of incidents: No rule exists to identify high rates of restraint or seclusion. We identified some districts with relatively high rates of restraint and seclusion. Most serve high proportions of students with disabilities.
- Illogical data submitted: Almost 600 schools reported more students restrained or secluded than incidents, but the rule to identify those cases only applied to less than 1 percent of schools.

Source: GAO analysis of Department of Education’s Civil Rights Data Collection (CRDC) for school year 2015-16 data. | GAO-

Accessible Data for Figure 1: Examples of Physical Restraint Holds

Graphic shows three methods for restraining a young person:

- Prone (face down with the child’s arms behind his back);
- Supine (on the child’s back with arms and legs held down);
- and the Basket hold (with the child arms crossed and held from behind) that works sitting, standing, and lying down.

Accessible Data for Figure 3: Education’s Business Rule Identifying School Districts Reporting Zero Incidents of Restraint or Seclusion

Rule: If LEA enrollment is greater than 100,000 students, then instances of mechanical restraint, physical restraint, or seclusion should be greater than 0.

1. Does district have more than 100,000 students enrolled?
 - a. If not, rule does not apply
2. If the district does have more than 100,000 students enrolled, Are the instances of mechanical restraint, physical restraint, or seclusion greater than 0?
 - a. If not, this error message is produced: “You have reported total enrollment of [CALCULATED_1] students for the LEA as a whole, but no schools within the LEA are reporting any instances of students being subject to mechanical restraint, physical restraint, or seclusion. Based on trends in past data, at least one instance of restraint or seclusion occurs within a population greater than 100,000 students. Please review your enrollment counts and instances of restraint or seclusion, or provide an explanation using a reason code and comment.”
 - b. And the district must change data or provide an explanation before data are accepted
3. If there were at least 1 instance of mechanical restraint, physical restraint, or seclusion the data is accepted.

Source: GAO analysis of Department of Education’s Civil Rights Data Collection business rule. | GAO-20-345

Accessible Data for Figure 4: Education’s Business Rule Identifying Schools Reporting Inconsistent Data on Instances of and Number of Students Affected by Restraint or Seclusion

Rule: If the number of instances of restraint or seclusion is greater than or equal to 100, then the number of students subjected to restraint or seclusion should be less than the number of instance of restraint or seclusion.

1. Is number of instances of restraint or seclusion at the school greater than or equal to 100
 - a. If not, rule does not apply
2. If there were 100 or more instances: Is number of students subjected to restraint or seclusion less than the number of instances
 - a. If not, this error message is produced: “You are reporting [CALCULATED_1] instances of restraint or seclusion and [CALCULATED_2] students subjected to restraint or seclusion. In order to resolve this error, you may adjust your counts so that the number of students subjected to restraint or seclusion is less than the number of instances of restraint or seclusion, or provide an explanation using a reason code and comment.”
 - b. And the district must change data or provide an explanation before data are accepted
3. Is number of students subjected to restraint or seclusion less than the number of instances
4. If number of students subjected to restraint or seclusion is less than the number of instances, the data is accepted.

Source: GAO analysis of Department of Education’s Civil Rights Data Collection business rule. | GAO-20-345

Accessible Data for Figure 5: Percent of Schools in Districts with Over 100,000 Enrolled Students Reporting Any Incidents of Restraint and Seclusion, School Year 2015-16.

Location	Number of schools reporting restraint	Percentage of district's schools reporting restraint	Number of schools reporting seclusion	Percentage of district's schools reporting restraint
Los Angeles Unified (Calif.)	785	10%	785	0%
City of Chicago (Ill.)	581	0%	580	0%
Clark County (Nev.)	361	59%	361	0%
Houston (Tex.)	282	6%	282	0%
Hillsborough (Fla.)	289	4%	289	4%
Orange (Fla.)	243	3%	243	5%
Palm Beach (Fla.)	234	15%	234	0%
Gwinnett County (Ga.)	135	75%	135	0%
Dallas (Tex.)	239	9%	239	0%
Montgomery County (Md.)	203	31%	203	10%
Charlotte-Mecklenburg (N.C.)	168	4%	168	0%
San Diego Unified (Calif.)	226	12%	226	5%
Duval (Fla.)	206	4%	206	4%
Cypress-Fairbanks (Tex.)	83	37%	83	0%
Shelby County (Tenn.)	207	29%	207	8%
Cobb County (Ga.)	114	12%	114	2%
Baltimore County (Md.)	169	55%	169	25%
Pinellas (Fla.)	155	3%	155	5%
Dekalb County (Ga.)	133	2%	133	0%
Jefferson County (Ky.)	172	72%	172	10%

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Accessible Data for Figure 6: Number of Incidents of Restraint and Seclusion per 10,000 Students in School Districts with Over 100,000 Enrolled Students That Reported Incidents, School Year 2015-16

Location	Number of students	Number of restraint incidents per 10,000 students	Number of seclusion incidents per 10,000 students
Los Angeles Unified (Calif.)	539,634	2	0
City of Chicago (Ill.)	392,303	1.2	0.2
Clark County (Nev.)	326,238	79.3	0
Houston (Tex.)	215,989	2.7	0
Hillsborough (Fla.)	211,731	0.8	1
Orange (Fla.)	196,987	0.5	4.2
Palm Beach (Fla.)	188,590	4.8	0
Gwinnett County (Ga.)	175,958	65.4	0
Dallas (Tex.)	158,941	3.1	0
Montgomery County (Md.)	156,819	68.7	21.5
Charlotte-Mecklenburg (N.C.)	149,270	0.5	0
San Diego Unified (Calif.)	130,964	14.2	2.7
Duval (Fla.)	129,003	2.6	1.9
Cypress-Fairbanks (Tex.)	113,912	6.7	0
Shelby County (Tenn.)	113,208	21.2	6.8
Cobb County (Ga.)	112,708	13	0.7
Baltimore County (Md.)	110,786	79.4	32.9
Pinellas (Fla.)	102,893	2.8	3.8
Dekalb County (Ga.)	101,355	0.3	0
Jefferson County (Ky.)	101,018	409.2	25.4

Source: GAO analysis of school year 2015-16 data in the U.S. Department of Education's Civil Rights Data Collection (CRDC). | GAO-20-345

Agency Comment Letter

Accessible Text for Appendix II Comments from the Department of Education

Page 1

March 23, 2020

Ms. Jacqueline Nowicki, Director

Education, Workforce, and Income Security Issues

Government Accountability Office

Washington, D.C. 20548

Dear Director Nowicki:

On behalf of the U.S. Department of Education (Department), I am pleased to know that the Government Accountability Office (GAO) recognizes the importance of the Office for Civil Rights' (OCR) Civil Rights Data Collection (CRDC). Your June 2019 report¹ on the data collection for the 2015-16 school year regarding restraint and seclusion data coincided with our ongoing reform efforts and provided helpful recommendations for improvement. The Department agrees with your February 2020 draft report's² (February Draft Report) recommendations on restraint and seclusion and will implement them as part of our broader efforts to strengthen civil rights data quality. In the past two years since I have been the Assistant Secretary for Civil Rights, OCR has already made significant improvements to the CRDC in general and specifically with respect to restraint and seclusion.

Your February Draft Report's analysis of CRDC data focuses exclusively on the 2015-16 restraint and seclusion (R&S) data in the CRDC, which preceded this administration's reform efforts. The CRDC covers broad categories pertaining to student enrollment and educational programs and services, most of which are disaggregated by race/ethnicity, sex, disability, and English Learner status – collected from more than 17,000 school districts on a biennial basis. This vast data collection requires each school district to provide more than 1,700 individual responses. The R&S

section alone has about 100 required responses. With respect to the R&S data quality improvements, OCR has made consistent improvements since R&S data were first collected in the 2009-10 collection. More recently, for the 2017-18 collection, OCR, in partnership with the Institute of Education Sciences' National Center for Education Statistics (NCES), has implemented more rigorous data review methods to improve the data as well as enhance our outreach efforts, many of which occurred prior to the release of the June 2019 GAO Report. I will highlight some of these actions more specifically below. Further, we are already taking action to improve data quality for the 2019-20 collection.

¹ K-12 Education: Education Should Take Immediate Action to Address Inaccuracies in Federal Restraint and Seclusion Data, GAO-19-551R, June 2019, available at <https://www.gao.gov/assets/700/699847.pdf>; Department's December 2019 reply letter, available at <https://www2.ed.gov/about/offices/list/ocr/correspondence/federal-entities/20191219-gao-response.pdf>.

² K-12 Education: Education Needs to Address Significant Quality Issues with its Restraint and Seclusion Data.

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Your February Draft Report contains useful data and analyses. At the same time, we find that some of the data are presented in a way that could be misleading and that some of the analyses are incomplete or flawed. We also note that some of the study addresses data and information that is beyond the scope of the CRDC. I will address these issues below, and I am also attaching to this letter a separate document detailing technical edits for GAO's consideration.

As you know, we have undertaken many important steps over the last few years in the course of continuing efforts to improve the quality of the R&S data submitted by school districts. For the 2017-18 CRDC, OCR has utilized new tools in working with school districts with perceived reporting errors to encourage corrections; conducted greater outreach to school districts with potentially anomalous R&S data submissions; allocated additional technical support resources; clarified proper understandings of reporting requirements; where needed, worked with school districts to ensure detailed written corrective action plans were put into place; and increased collaboration with NCES. While these actions appear in greater detail in my December 2019 reply letter, several others are new, and I would like to mention some of them below.

For example, OCR recently posted various R&S technical assistance presentations³ on-line to further assist state education agencies (SEA)

and local education agencies (LEA) or school districts to better understand their reporting obligations, including the appropriate use of nulls and zeros. In addition, on January 9, 2020, OCR and the Office of Special Education and Rehabilitative Services posted a webinar on-line, *Students with Disabilities and the Use of Restraint and Seclusion in K-12 Public Schools*, as technical assistance to support both students with disabilities and school systems serving those students.⁴ For the first time, OCR will implement, as necessary, a reporting methodology to remove anomalous (or outlier) R&S data from the 2017-18 collection, in advance of its public release. This methodology is utilized by other Departmental data collections to ensure that questionable data are not reported to, or relied on, by researchers or other members of the public. Any removal of anomalous R&S data from the final 2017-18 file will be described in the CRDC Data Notes.⁵ These are simply a few examples of our recent efforts.

As noted above, OCR has already implemented several of GAO's June 2019 recommendations, but these actions are missing from the February Draft Report. I believe it is appropriate and important that you include this information in the final report. GAO's first recommendation requested that the Assistant Secretary for Civil Rights immediately remind and clarify for all school districts that they are only to report zero incidents of R&S when there are none and that they are to leave cells blank to indicate when data are not collected or completed. On August 14, 2019, I sent a letter to all school districts and communicated both of these important points.⁶ The second of GAO's recommendations, as part of the 2017-18 CRDC quality assurance process, was for OCR to follow up with school districts that submitted reports of zero incidents of R&S to obtain assurances that such reports of zero incidents were, in fact, accurate, or else ask

³ See <https://www2.ed.gov/about/offices/list/ocr/data.html>.

⁴ See <https://sites.ed.gov/idea/education-department-releases-webinar-use-restraint-seclusion/>, and <https://www.youtube.com/watch?v=EZ9Yx0LC8TI&feature=youtu.be>.

⁵ Data notes provide the general public with an overview of each collection. For instance, data notes most typically include information covering such categories as response rate, privacy protection, data anomalies, data errors corrected, and data errors that are not corrected (e.g., the request is incomplete or is made past the corrections deadline). See <https://ocrdata.ed.gov/DataNotes>.

⁶ See *Supra* at 1.

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the districts to submit corrected data. This recommendation was met, when on August 1, 2019, as part of the 2017-18 CRDC data quality review outreach period, an electronic message was sent to all LEAs that had reported zero incidents of R&S in the 2017-18 CRDC and to SEAs that closely collaborated with their LEAs for the 2017-18 CRDC reporting.

The third recommendation from GAO requested that OCR monitor compliance with OCR's action plan requirements and ensure that such plans address all missing data elements. Even prior to the release of GAO's report, OCR had taken steps to bolster the process by which it reviews and accepts action plans. For instance, OCR communicates with each school district that has an action plan to seek confirmation that it will take the needed steps to collect and report the data for the upcoming collection. Going forward, OCR will also contact each LEA that has an action plan before the start of each new collection and re-confirm that the LEA will take the needed steps to collect and report the data.

GAO's fourth and final recommendation asked OCR to "prominently disclose for past collections the potential problems with using R&S data given the known misreporting issues." OCR informed GAO that it will implement this recommendation by updating the 2015-16 data notes.⁷

By not including this information, the February Draft Report paints an incomplete and misleading portrayal of this issue. Indeed, it could be read to suggest, quite erroneously, that OCR is indifferent to the ways a data collection can be improved. Before I address the specifics of GAO's six recommendations, it is necessary to respond to significant problems in the February Draft Report and recommend changes so that it properly and fairly portrays the CRDC and OCR's handling of the R&S data.

The Draft February Report Omits R&S Data Quality Improvements Made for the 2017-18 Collection.

GAO's February Draft Report does not mention the methodological improvements OCR made to address the quality of R&S data for the 2017-18 collection. In this way, GAO's February Draft Report overstates the current relevance of the data issues from the 2015-16 collection, because OCR has already taken steps with school districts to correct the problems both OCR and GAO discovered. As I shared in my December 18, 2019, letter to GAO, OCR has already implemented data quality improvement measures with respect to the 2017-18 CRDC. I set forth a

summary of those improvements below, which were shared with your office on December 19, 2019.

For the 2017-18 CRDC⁸, OCR's contractor performed a three-phase data quality check before, during, and after data were submitted by school districts. There were two types of analyses conducted: general and specific. General analyses focused on outliers detected for individual data elements (univariate), for entire modules (systematic), and for significant changes in data elements between the 2015-16 and 2017-18 data collections (year-to-year). Specific analyses were ad hoc data quality checks focused mostly on issues of internal consistency and data reasonableness (e.g., duplicate data, summation to totals, comparisons with other data sources).

⁷ See Supra at 5.

⁸ This is a high level summary and not a comprehensive accounting of all 2017 -18 data quality efforts.

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There were nine specific quality issues that were analyzed as part of the data quality review for the 2017-18 collection, all of which were new for 2017-18. Of the nine specific quality issues, four evaluated the data for duplicative entries; two checked the data for internal inconsistencies; and three evaluated the reasonableness of the data entered given the size of the school.

Importantly, each of the nine specific quality issues for the R&S module addressed one of four overarching quality issues:

- duplicative counts across mechanical restraint, physical restraint, and seclusion for non- IDEA and IDEA students⁹;
- reports of identical data entries for each of the following data items: mechanical restraint, physical restraint, and seclusion for non-IDEA and IDEA students (e.g., if each entry were "25");
- instances where overall enrollment by sex and race/ethnicity is smaller than students subjected to mechanical restraint, physical restraint, and seclusion by sex and race/ethnicity for non-IDEA and IDEA students; and

- LEAs with zero instances of mechanical restraint, physical restraint, or seclusion with enrollment that is greater than or equal to 25,000 students.

In addition to the foregoing specific data quality checks, general data quality checks were conducted on all R&S data elements. These post-collection data quality checks focused on detecting (a) outliers for individual data elements, (b) significant value changes in individual data elements between the 2015-16 and 2017-18 data collections, and (c) outliers within the entire R&S module. All general checks used the data-driven thresholds for identifying outliers and were included in subsequent outreach to the school districts.

The post-collection outreach to school districts was also conducted via email and, in some cases, phone calls. The main goal of outreach was to identify a subset of data quality issues across the data elements collected by the CRDC that were apparent errors and, if confirmed as errors by the school district, would be easily correctable, so that the outreach activities conducted by the Partner Support Center (PSC)¹⁰ would have the greatest likelihood of improving the data. R&S outreach messaging focused on the use of nulls and zeros, in addition to targeted outreach about the general and specific checks described above. In total, the CRDC's PSC conducted outreach to 15,526 LEAs, a marked increase from 4,386 LEAs contacted for the 2015-16 outreach period. As a result of OCR's proactive outreach efforts, 952 LEAs amended their original 2017-18 R&S data submissions from June 2019 to August 2019. During the extended data corrections, which ran from September to December 2019, another 196 LEAs corrected their 2017-18 R&S data submissions. GAO should include or reference the foregoing in its final report in order to present an accurate picture regarding the CRDC's overall data quality improvement efforts.

⁹ See definitions appearing on the 2017-18 CRDC School Form, page 11, available at <https://www2.ed.gov/about/offices/list/ocr/docs/2017-18-crdc-school-form.pdf>.

¹⁰ The CRDC's Partner Support Center provides technical assistance to LEAs that submit data through the CRDC submission system. The Partner Support Center is run by OCR's contractor. See <https://crdc.grads360.org/#program>.

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The February Draft Report Relies on a Limited Number of Interviews to Make Sweeping R&S Data Generalizations.

Another area of concern is the weight GAO places on the feedback provided by a very limited number of LEAs and school officials. GAO recognizes this contradiction, when it writes: “Information we collected from our 11 selected schools and nine districts cannot be generalized to all districts and schools nationwide.”¹¹ Further, the final report should emphasize that OCR has repeatedly informed SEAs and LEAs that they can reach out to OCR for technical assistance on the CRDC. This was made clear, for example, in my letter to all LEAs, sent on August 14, 2019.

The Report Should Emphasize the CRDC is Comprised of Self-Reported Certified Data.

It is critical to emphasize that the CRDC is an aggregate of self-collected and self-reported data. Almost all reporting entities are school districts, and the district superintendent or an authorized designee certifies that the data they submit are “true and correct.” As each certifies, they agree to the following information:

Your LEA’s certification of its CRDC data includes verifying the accuracy of the data that your LEA submitted to the state education agency. I certify that the information provided is true and correct to the best of knowledge and belief. A willfully false statement is punishable by law. (18 U.S.C. § 1001).

For more than 40 years, the certification statement has included the last two sentences presented in the certification statement above. Therefore, school districts are fully aware and acknowledge they are required to submit accurate data to the CRDC. This is an important part of assuring data quality.

The February Draft Report Misleadingly Describes Certain Data.

Page 22¹² of the February Draft Report contains a section commencing with “All Nine School Districts.” That section discusses how the nine school districts GAO visited use R&S data. While we acknowledge that the discussion in this section is interesting for the field, the data introduced and discussed in this section are not data the Department collects in the CRDC. This section references the benefits certain unidentified school districts have received from their usage of certain data which do not come from the CRDC. The February Draft Report references that the unidentified school districts used (i) information about one or more observation(s) by teacher(s) of specific student behavior

triggering the use of R&S; (ii) data on the day of the week on which incidents of R&S occurred; (iii) information on incidents involving autistic children specifically; (iv) the benefits of post-incident teacher debriefing; (v) the benefits of coaching teachers; (vi) incidents with respect to a specific student; and (vii) one district's monthly internal reporting of R&S data. None of the data and analyses that the various school districts collected, performed, and used is part of the CRDC, and none of it could be feasibly collected by the CRDC.

¹¹ GAO's February Draft Report, Page 32.

¹² See February Draft Report, section titled: "All Nine School Districts We Visited Used Data to Reduce Incidence of Restraint and Seclusion and Developed Strategies for Improved Reporting, at p. 22.

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The February Draft Report's attempt to generalize these comments seems inconsistent with the Governmental Accounting Standards Board (GASB) statistical principles which govern the February Draft Report. See GASB Section 8.100.¹³

OCR Will Implement GAO's Recommendations.

For background to OCR's formal response to the February Draft Report's recommendations, as I shared as part of my December 18, 2019, letter to GAO, the CRDC is a biennial survey of public schools and school districts in the United States. The CRDC measures student access to courses, programs, staff, and resources that relate to OCR's jurisdiction. The CRDC also is a resource for other federal agencies, policymakers, researchers, educators, school officials, parents/guardians, students, other stakeholders, and members of the public. OCR is committed to continuous data improvement measures, including working to better enable SEAs and LEAs to accurately and completely report data. Accordingly, OCR will implement all of GAO's recommendations, within an appropriate timeframe, and OCR's formal responses to GAO's draft recommendations appear below.

GAO's First Recommendation:

The Assistant Secretary for the Office for Civil Rights should revise its CRDC business rule to require that every district reporting zeros, regardless of district size or numbers of students with disabilities, affirm the zeros are correct during the CRDC data submission process.

OCR will determine the best means to implement this recommendation and expects to do so in connection with the 2019-20 collection.

GAO's Second Recommendation:

The Assistant Secretary for the Office for Civil Rights should develop and implement a CRDC business rule that targets schools and districts that report very low numbers of incidents and set data-driven thresholds to detect such incidents.

OCR will determine the best means to implement this recommendation and expects to do so in connection with the 2019-20 collection.

GAO's Third Recommendation:

The Assistant Secretary for the Office for Civil Rights should develop and implement a CRDC business rule that targets schools and districts that report very high number of incidents and set data-driven thresholds to detect such incidents.

OCR will determine the best means to implement this recommendation and expects to do so in connection with the 2019-20 collection.

¹³ "When appropriate, auditors may use statistical methods to analyze and interpret evidence to assess its sufficiency." GASB 8.100.

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GAO's Fourth Recommendation:

The Assistant Secretary for the Office for Civil Rights should apply the CRDC business rule targeting logical inconsistencies at the school level to all schools regardless of the number of incidents reported.

The CRDC currently uses this business rule in a limited fashion. For the 2015-16 and 2017-18 collections, it was triggered whenever an LEA had 100 incidents of restraints or seclusions. However, for the 2019-20 collection, OCR expects to apply it to all such logical inconsistencies referenced in the February Draft Report.

GAO's Fifth Recommendation:

The Assistant Secretary for the Office for Civil Rights should identify the factors underlying underreporting and misreporting of restraint and seclusion and take steps to help school districts overcome these issues.

OCR has already begun this effort. Over the past year as OCR has reached out to 50 LEAs which were reporting anomalous R&S data,¹⁴ it asked the LEAs to explain the cause of the reporting errors.¹⁵ An example of one of OCR's inquiries is "please include a description of the steps that you intend to take to improve quality of the data for the 2017-18 CRDC and all other future collections." OCR has received answers from multiple LEAs which will help in gathering correct data. OCR is also working on other legally permissible ways to identify these factors, such as using the aforementioned PSC to contact LEAs.

GAO's Sixth Recommendation:

The Assistant Secretary for the Office for Civil Rights should further refine and clarify federal restraint and seclusion definitions and take steps to ensure that this information is conveyed to school districts. This could include providing common classroom scenarios that highlight the differences between a restraint and an escort, and a time out and a seclusion.

OCR agrees with this recommendation. The Assistant Secretary will refine and clarify the restraint and seclusion definitions. In doing so, OCR will consult with counsel on appropriate ways of doing so consistent with applicable legal authorities.

OCR is fully committed to work with public schools, SEAs, and LEAs to help ensure accurate reporting of all CRDC data, including data on R&S, and to improve the quality of the information for use by all users of CRDC data. I hope that GAO will take into account the concerns expressed in this letter, as well as the Department's technical edits, as it further refines its draft report. I appreciate GAO's work on this area and its recommendations, which will help improve future collections.

¹⁴ As part of Initiative to Address the Inappropriate Use of Restraint and Seclusion, DQR letters.

¹⁵ Reflective of a request GAO made in December of 2019.

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Sincerely,

Kenneth L. Marcus

Assistant Secretary for Civil Rights

Enclosure

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