



Testimony

Before the Subcommittee on Early
Childhood, Elementary and Secondary
Education, Committee on Education
and Labor, House of Representatives

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K-12 EDUCATION

Federal Data and Resources on Restraint and Seclusion

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Highlights of [GAO-19-418T](#), a testimony before the Subcommittee on Early Childhood, Elementary and Secondary Education, Committee on Education and Labor, House of Representatives

Why GAO Did This Study

GAO's work has shown that the use of restraint and seclusion in K-12 public schools nationwide is more prevalent among students with disabilities and boys. Education has issued guidance stating that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others. In January 2019, Education released information on a new initiative focused on the inappropriate use of restraint and seclusion, particularly for students with disabilities.

This testimony discusses (1) how Education collects data on the use of restraint and seclusion, (2) what Education's data tells us about the use of restraint and seclusion in public schools, and (3) resources or initiatives at the federal level to address the use of restraint and seclusion. It is based on a report GAO issued in March 2018. This testimony also includes updated data on Education's ongoing civil rights investigations related to the restraint and seclusion of students with disabilities and Education's recent initiative on the use of these practices.

View [GAO-19-418T](#). For more information, contact Jacqueline M. Nowicki at (617) 788-0580 or nowickij@gao.gov.

February 27, 2019

K-12 EDUCATION

Federal Data and Resources on Restraint and Seclusion

What GAO Found

The Department of Education (Education) collects a range of information—including incidents of restraint and seclusion of public school children—from nearly every public school and school district in the nation, as part of its biennial Civil Rights Data Collection (CRDC). Schools and districts are to use the CRDC's definitions of restraint and seclusion when counting and reporting incidents. Specifically, under Education's definitions, physical restraint broadly refers to restricting the student's ability to freely move his or her torso, arms, legs, or head. Mechanical restraint broadly refers to the use of any device or equipment to restrict a student's freedom of movement. Seclusion broadly refers to involuntarily confining a student alone in a room or area from which he or she cannot physically leave.

In March 2018, GAO reported on the use of discipline, including the prevalence of restraint and seclusion in K-12 public schools, using CRDC data for school year 2013-14, the most recent available data at the time of the work. Nationally, these data showed that the use of restraint and seclusion was very rare, but that some groups of students, in particular students with disabilities and boys, experience these actions disproportionately. For example, approximately 61,000 students were physically restrained in school year 2013-14, representing about 0.1 percent of all K-12 public school students. Mechanical restraint and seclusion were less prevalent, but again disproportionately affected the same groups of students.

Education's Office for Civil Rights and the Department of Justice's Civil Rights Division are responsible for enforcing a number of civil rights laws, which protect students from discrimination on the basis of certain characteristics. As part of their enforcement responsibilities, both agencies conduct investigations in response to complaints or reports of possible discrimination. Federal agencies have also provided guidance and resources on restraint, seclusion, and behavioral supports in recent years. For example, Education's 2012 Restraint and Seclusion Resource Document outlines principles for school districts and stakeholders to consider when developing policies to avoid the use of restraint and seclusion. In January 2019, Education announced a new initiative to address possible inappropriate use of restraint and seclusion in schools. According to Education, the Office for Civil Rights in partnership with the Office of Special Education and Rehabilitative Services will be conducting compliance reviews focused on the inappropriate restraint and seclusion of students with disabilities and will work with schools to correct noncompliance.

February 27, 2019

Chairman Sablan, Ranking Member Allen, and Members of the Subcommittee:

I am pleased to be here today to discuss the issue of restraint and seclusion in K-12 public schools. As you may know, while the restraint and seclusion of K-12 public school students nationwide is reported to be very rare, it disproportionately affects students with disabilities and boys. In broad terms, the Department of Education (Education) has defined restraint as restricting the student's ability to move his or her torso, arms, legs, or head freely, and seclusion as confining a student alone in a room or area that he or she is not permitted to leave. Education and the Department of Justice (Justice) are responsible for enforcing a number of civil rights laws protecting students from discrimination and protecting the rights of students with disabilities. Education has issued guidance stating that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others. Further, Education has said that schools' or districts' use of restraint and seclusion could result in a denial of a student with disability's right to receive a free appropriate public education (FAPE), which is required by Education's regulations.

We have issued a number of reports on other issues, such as students' access to college preparatory courses, analyzing data from Education's Civil Rights Data Collection (CRDC); public schools nationwide are required to report a range of information to the CRDC every 2 years. We also currently have work underway in response to the explanatory statement from the House Committee on Appropriations accompanying the Consolidated Appropriations Act, 2018, which includes language that provides for GAO to conduct further study on data reported to Education's Office for Civil Rights (OCR) on the use of restraint and seclusion for all students at the school and district level and on efforts to reduce the use of restraint and seclusion practices. My statement today is based largely on our previous work and will focus on (1) how Education collects data on the use of restraint and seclusion, (2) what Education's data tells us about the use of restraint and seclusion in public schools, and (3) resources or initiatives at the federal level to address the use of restraint and seclusion.

We used our previous work to obtain insight on the use of restraint and seclusion in public schools and to determine what steps Education and Justice are taking to address restraint and seclusion. Specifically, we

used our analysis of Education’s CRDC for 2013-14, which was the most recent data collection available at the time we did our work, and our interviews with agency officials and reviews of agency documentation, administrative data, relevant federal laws and regulations, and a non-generalizable selection of resolved school discipline investigations undertaken by Education and Justice. We determined these sources were sufficiently reliable for the purposes of our work by reviewing documentation, conducting electronic testing on data, and interviewing agency officials. More detailed information on our objectives, scope, and methodology for that work can be found in the issued report.¹

We conducted the work on which this statement is based 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.

Education Regularly Collects Data on Restraint and Seclusion in Public Schools

Every other year, Education collects a range of information, including incidents of restraint and seclusion of public school children, from nearly every public school and school district in the nation, as part of the CRDC. Education began collecting information on restraint and seclusion starting in school year 2009 and has now published four waves of data on its website and in reports. The CRDC collects information on physical and mechanical restraint of students and seclusion of students. Education defines these terms in the CRDC instructions, and schools and districts are to use them when counting and reporting incidents of restraint and seclusion. Specifically, under Education’s definitions:

- Physical restraint refers to restricting a student’s ability to freely move his or her torso, arms, legs, or head; it does not include a physical escort, such as temporary touching of the arm or other body part for the purpose of inducing a student who is acting out to walk to a safe location.

¹GAO, *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities*, [GAO-18-258](#), (Washington, D.C.: March 22, 2018). This original work was addressed to Representative Robert “Bobby” C. Scott of the House Committee on Education and Labor and Representative Jerrold Nadler of the House Judiciary Committee.

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- Mechanical restraint refers to the use of any device or equipment to restrict a student’s freedom of movement; this does not include vehicle safety restraints or medical devices.
 - Seclusion refers to involuntarily confining a student alone in a room or area from which he or she cannot physically leave; it does not include a timeout, which the CRDC instructions define as a behavior management technique that is part of an approved program, involves the monitored separation of a student in a non-locked setting, and is implemented for the purpose of calming.

The CRDC also collects information on the student’s race, gender, and disability status, as well as the type of school the student attends, which allows one to determine the demographic characteristics of students being restrained and secluded and where it is happening.

The CRDC is required by Education, and public schools and districts self-report their data.² Further, districts are to certify the accuracy of the data submitted by schools. However, because these data are self-reported, there is the potential for misreporting of information. Education has put in place quality control mechanisms to attempt to reduce misreporting of information to the CRDC, and we determined that the data we used from the CRDC were sufficiently reliable for the purposes of our work as mentioned above.

Reported Use of Restraint and Seclusion

In March 2018, we reported on the prevalence of restraint and seclusion in K-12 public schools using CRDC data for school year 2013-14.³ Nationally, these data showed that the use of restraint and seclusion was very rare. For example, approximately 61,000 students were physically restrained in 2013-14, representing about 0.1 percent of all K-12 public school students. Mechanical restraint and seclusion were less prevalent (see table 1).

²In school year 2013-2014, the CRDC collected data from nearly every public school in the nation, with a response rate of 99.2 percent.

³[GAO-18-258](#). The 2013-14 CRDC data were the most recent available at the time of our analysis. Education released CRDC data for school year 2015-16 in April 2018.

Table 1: Number and Percent of K-12 Public School Students Who Were Restrained or Secluded, School Year 2013-14

	Mechanical restraint	Physical restraint	Seclusion	Total enrollment
Number of students	7,001	61,440	33,578	50,035,746
Percent of enrolled students	0.01%	0.1%	0.1%	100%

Source: GAO analysis of Department of Education, Civil Rights Data Collection. | GAO-19-418T

We also reported on restraint and seclusion by student demographics (see table 2).

Table 2: Number and Percent of K-12 Public School Students Who Were Restrained or Secluded, by Student Characteristics, School Year 2013-14

		Mechanical restraint	Physical restraint	Seclusion	Total enrollment
Sex					
Boys	Number of students	5,220	48,530	25,682	25,711,953
	Percent of enrolled students	0.02%	0.2%	0.1%	
Girls	Number of students	1,781	12,910	7,896	24,323,793
	Percent of enrolled students	0.01%	0.1%	0.03%	
Students with disabilities					
	Number of students	2,376	46,435	19,857	5,851,455
	Percent of enrolled students	0.04%	0.8%	0.3%	
Race or Ethnicity					
White students	Number of students	2,322	33,320	19,870	25,167,453
	Percent of enrolled students	0.01%	0.1%	0.1%	
Black students	Number of students	2,346	15,200	7,449	7,754,355
	Percent of enrolled students	0.03%	0.2%	0.1%	
Hispanic students	Number of students	1,980	8,161	3,430	12,378,645
	Percent of enrolled students	0.02%	0.1%	0.03%	
Asian students	Number of students	53	904	437	2,634,715
	Percent of enrolled students	.002%	0.03%	0.02%	
American Indian/Alaska Native students	Number of students	106	886	562	568,837
	Percent of enrolled students	0.02%	0.2%	0.1%	
Two or more races students	Number of students	194	2,969	1,830	1,531,741
	Percent of enrolled students	0.01%	0.2%	0.1%	

Source: GAO analysis of Department of Education, Civil Rights Data Collection. | GAO-19-418T

The data in table 2 on the demographics of students experiencing restraint and seclusion show that students with disabilities were particularly overrepresented.⁴ Specifically, students with disabilities represented 11.7 percent of all public school students in school year 2013-14, though they accounted for 33.9 percent of students mechanically restrained, 75.6 percent of students physically restrained, and 59.1 percent of students secluded during that school year. In addition, boys were consistently restrained or secluded at higher rates than girls.

Federal Agencies' Role in Addressing the Use of Restraint and Seclusion

Education's Office for Civil Rights and Justice's Civil Rights Division are responsible for enforcing a number of civil rights laws, which protect students from discrimination on the basis of certain characteristics. As part of their enforcement responsibilities, both agencies conduct investigations in response to complaints or reports of possible discrimination. According to publicly available information on Education's website, as of February 1, 2019, its Office for Civil Rights had 86 open investigations of potential discrimination involving restraint and seclusion based on disability status at the elementary and secondary levels. The investigations dated back to 2014 (see table 3).

Table 3: Number of Ongoing Restraint and Seclusion Investigations Based on Disability Status, Education's Office for Civil Rights, by Year Opened, 2014-January 2019

	Number of restraint and seclusion investigations based on disability status opened at K-12 level
2014	8
2015	19
2016	20
2017	22
2018	13
2019 (Jan. only)	4

Source: Department of Education (Education) Office for Civil Rights website. | GAO-19-418T

⁴Disparities in experiencing restraint and seclusion may support a finding of discrimination, but taken alone, do not establish whether unlawful discrimination has occurred.

In addition to investigations, federal agencies have provided guidance and resources on restraint, seclusion, and behavioral support in recent years. These guidance and resource documents are publicly available on Education's and the Department of Health and Human Services' websites. For example, a 2016 Dear Colleague Letter explains the limits that federal civil rights laws enforced by Education impose on the use of restraint and seclusion by public K-12 school districts. In particular, this guidance informs school districts how the use of restraint and seclusion may result in unlawful discrimination against students with disabilities.⁵ In another 2016 Dear Colleague Letter, Education noted that schools are required to provide appropriate strategies to address behavior in individualized education programs (IEPs) for students with disabilities. Moreover, this letter states that providing behavioral interventions and supports to students with disabilities is part of ensuring FAPE and placement in the least restrictive environment.⁶

With regard to providing resources to the public, Education's 2012 Restraint and Seclusion Resource Document states that restraint or seclusion should not be used as routine school safety measures or as strategies to address instructional problems or inappropriate behavior.⁷ Instead, the document notes that physical restraint or seclusion should only be used when a child's behavior poses imminent danger of serious physical harm to self or others. This resource also outlines principles for school districts and stakeholders to consider when developing policies to avoid the use of restraint and seclusion. For example, one of the principles states that policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities. Another principle is that the repeated use of restraint and seclusion for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and potentially a revision of strategies in place to address behavior that poses imminent danger of serious physical harm to self or others.

⁵Specifically, the Dear Colleague letter states that such use may result in discrimination under 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). See <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>.

⁶See <https://www2.ed.gov/policy/gen/guid/school-discipline/files/dcl-on-pbis-in-ieps-08-01-2016.pdf>.

⁷See <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf>.

The federal government has encouraged the use of positive behavioral interventions and supports (PBIS) as alternatives to restraint and seclusion. In particular, Education's Office of Special Education Programs funds the PBIS Technical Assistance Center, which supports implementation of a multi-tiered approach to social, emotional and behavior support. In addition, it offers resources on cultural responsiveness, addressing discipline disproportionality, and interconnecting mental health with behavior support systems, among other issues. According to Education, over 25,000 schools have implemented this approach. In addition, the Department of Health and Human Services funds a technical assistance center that develops approaches to eliminate the use of restraint and seclusion while advancing the knowledge base related to implementation of trauma-informed approaches.

In mid-January 2019, Education announced a new initiative to address the possible inappropriate use of restraint and seclusion in schools.⁸ According to Education, OCR in partnership with the Office of Special Education and Rehabilitative Services will be conducting compliance reviews focused on the inappropriate use of restraint and seclusion on children with disabilities and will work with schools to correct noncompliance. Education noted that OCR will also conduct data quality reviews and will provide technical assistance and work with school districts to review and improve restraint and seclusion data submitted to the CRDC. Education further noted that the two offices will work together to provide joint technical assistance to districts to help them understand how the relevant federal laws, such as the Individuals with Disabilities Education Act and Title II of the Americans with Disabilities Act of 1990, should inform the development of policies related to restraint and seclusion.

Chairman Sablan, Ranking Member Allen, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

⁸See <https://www.ed.gov/news/press-releases/us-department-education-announces-initiative-address-inappropriate-use-restraint-and-seclusion-protect-children-disabilities-ensure-compliance-federal-laws>.

GAO Contact and Staff Acknowledgments

For further information regarding this testimony, please contact Jacqueline M. Nowicki, Director of Education, Workforce, and Income Security Issues 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 statement.

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