

Coming Into the Light: An Examination of Restraint and Isolation Practices in Washington Schools

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Coming Into the Light: An Examination of Restraint and Isolation Practices in Washington Schools

“My son told me
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“My son told me that he couldn’t breathe, and he thought he was going to die.”¹ This is what one parent shared about their child’s harrowing experience being restrained by their teacher at school. Washington students are frequently subjected to restraint and isolation in schools. These practices — when students are physically immobilized by school staff (restraint) or placed in small, confined spaces they cannot leave (isolation) — cause death, injury, and trauma.² One recent, widely publicized case is that of Cornelius Frederick in Michigan schools. (Content Warning: death.) In the summer of 2021, at a residential school for youth from foster care or juvenile justice systems, six staff members restrained 16-year-old Black student Frederick after he allegedly threw a sandwich in the cafeteria.³ Video recordings of the incident showed two of the six staff laid across his torso, suffocating him until Frederick lost consciousness and went into cardiac arrest.⁴ Frederick never recovered and died two days later in a hospital. A lawsuit filed by the family said that Frederick struggled through the restraint, said “I can’t breathe,” and urinated himself. Frederick’s story is not an isolated incident.

National reports have long documented restraint and isolation deaths and serious injuries to students.⁶ Because restraint and isolation have no academic or therapeutic benefit,⁷ Washington state has limited the use of these practices to situations where there is an imminent

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likelihood of serious harm.⁸ But restraint and isolation are far more prevalent than the law permits.

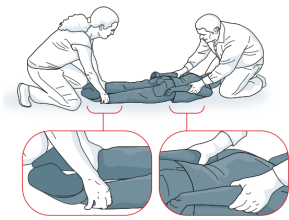
Disability Rights Washington (DRW) and the ACLU of Washington (ACLU-WA) conducted qualitative and quantitative research for more than a year investigating the use of restraint and isolation in Washington schools. The data reveal that restraint and isolation are used frequently in Washington schools and disproportionately against students with disabilities, even though state law states restraint and isolation should be rare. In 2020-21, students with disabilities made up 92.5% of those subject to restraint and over 96% of students subject to isolation, even though they comprise only 15% of student enrollment. Black, multi-racial, homeless, elementary, and foster care students are also disproportionately affected by these practices. Restraint and isolation are used primarily on elementary school students, young children who are still learning how to regulate their behavior and who are especially vulnerable to harm by restraint and isolation. These practices are disabling, emotionally and psychologically damaging, and profoundly impact students.⁹

Our investigation further revealed that although Washington law states that restraint and isolation should be used only when the student’s behavior causes an imminent likelihood of serious harm, students are often improperly restrained or isolated. Our data show that restraint and isolation are often used to punish students or to prematurely prevent potential risks from materializing. The research also shows that restraint and isolation frequently continue well after any risk of serious harm has dissipated.

As troubling as these findings are, they likely understate the harmful impact of restraint and isolation in schools. As many as 60 schools simply failed to report restraint and isolation in the Office of the Superintendent of Public Instruction’s (OSPI) most recent collection. Moreover, districts contract with external educational programs, like non-public agencies (NPAs) or Educational Service District-based schools (ESDs), which serve some of the most marginalized students in our state. Neither districts nor these contractual programs report program-level restraint and isolation data to OSPI, thus obfuscating these practices in those settings.¹⁰

Washington must put an end to isolation and eliminate misuse and overuse of restraint and can do so by 1) prohibiting isolation in schools; 2) investing in infrastructure for mental health and trauma supports; 3) investing in professional development to end the practice of isolation and limit restraint; 4) addressing needed statutory changes for restraint overuse; and 5) requiring more comprehensive data reporting for all educational institutions that use restraint and isolation to support restraint and isolation reduction.

Background



Prone Hold

Illustration of prone hold restraint. Prone restraint, which interferes with breathing, is prohibited by state law. <https://projects.propublica.org/graphics/restraint-techniques>.

Isolation and restraint are school-based practices designed for students in crisis. Although they are often discussed and show up together in law and policy, they are quite different practices.

What is restraint? ¹¹

Restraint involves physical intervention or force used to control a student by restricting their freedom of movement.¹² It is a personal restriction that immobilizes or reduces the ability to move one's torso, arms, legs, or head freely.¹³ To constitute restraint, the student's movement must be restricted to where they cannot move freely. A teacher may place a hand on a student's shoulder to directionally guide them or redirect them, and this is not restraint. Holding a student's hand and walking, or a brief voluntary hug offered by teacher or student in greeting or reassurance, is not restraint. Similarly, school staff may — and routinely do — use medical, orthopedic, or therapeutic devices for students,¹⁴ like wheelchairs or lift harnesses. So long as these devices are used for their intended purposes, they are not considered mechanical restraint.¹⁵ Moreover, in Washington, any hold (including supine, prone, and wall) or force that interferes with breathing is legally prohibited.¹⁶

A restraint may involve a physical hold, a restraint device, or the use of chemicals.¹⁷ Pepper spray (chemical), metal handcuffs (restraint device), and batons (restraint device) are all permissible per Washington statute.¹⁸ Chemical restraint is not defined, nor is it prohibited, in Washington's law on restraint in schools.^{19,20} The use of noxious sprays as chemical restraint is prohibited in special education rules.²¹ Nevertheless, the researchers' review of district policy and procedure documents show that "chemical spray" or "pepper spray" is allowed for restraint use in some Washington schools.²²



Isolation room door lock that requires a magnet to engage.

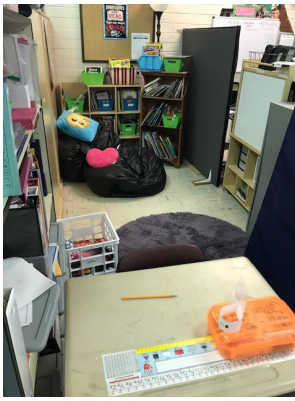
What is isolation?

Isolation involves the involuntary confinement of a student, alone, in a room or space where the student is not allowed to leave.²³ Isolation in federal guidance and regulation is referred to as "seclusion."²⁴ Seclusion in Washington state is referred to as "isolation."²⁵ They are the same practice.

Isolation rooms are built for the sole purpose of involuntarily confining students. Mostly found in classrooms for students with disabilities, these rooms are typically closet-sized, padded, with a thick door that generally contains an exterior lock. These locks commonly require a person to engage and activate the lock: for example, by holding a latch, pushing a magnet button, or leaning against a bar. These locks are designed to require adult presence when an isolation



Isolation room door with bar lock that requires a person to lean against to engage.



Quiet area in an elementary school classroom.

“School district personnel are prohibited from physically restraining or isolating any student, **except** when the student’s behavior poses an **imminent likelihood of serious harm.**”

room is in use, to comply with the law which says students must not be left unattended,²⁶ and to allow an adult to monitor the student who is in isolation.²⁷ Additionally, the room must be, “ventilated, lighted, and temperature controlled ... for purposes of human occupancy.”²⁸

A student may voluntarily go into an isolation room for self-calming purposes, or to sleep, and may even close an unlocked door, but this does not amount to isolation, per Washington law.²⁹ Isolation also does not include moving a student to an unlocked area, quiet area or sensory room, to assist the student with calming or self-regulation, or to carry out individualized support measures outlined in social-emotional curriculum, an individualized education plan (IEP), or a student behavior plan. Isolation does not occur when an adult goes into an isolation room and sits with a student, depending upon whether the student can voluntarily leave.³⁰ See Appendix A for more on restraint and isolation definitions.

Washington law limits restraint and isolation to situations posing an “imminent likelihood of serious harm.”

*“School district personnel **are prohibited** from physically restraining or isolating any student, **except** when the student’s behavior poses an **imminent likelihood of serious harm.**”³¹*

Imminent means “likely to occur at any moment.”³² Likelihood of serious harm is defined as “a substantial risk that 1) physical harm will be inflicted by a person upon his or her own person,” (i.e., suicide or self-harm); 2) “physical harm will be inflicted upon another person,” (i.e., behavior that places fear of harm in others, like school fights or threat of assault on the teacher); and 3) “physical harm will be inflicted upon property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others,” (e.g., throwing a computer or shattering a window); or 4) threats to physical safety of another person when one has a history of violent acts.³³ Restraint and isolation should end as soon as the likelihood of serious harm is gone.

The federal government and other states recognize the harm of restraint and isolation.

More than a decade ago, the United States Department of Education (ED) stressed that every effort should be made to prevent the use of restraint and isolation in schools.³⁴ ED further noted that “there continues to be no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques.”³⁵ In 2022 guidance, the U.S. Department of Education’s Office for Civil Rights found no evidence that restraint or seclusion is effective.³⁶ It warns districts that the use of restraint and isolation may result in discrimination against students

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“School district personnel are prohibited from physically restraining or isolating any student, except when the student’s behavior poses an imminent likelihood of serious harm.”

with disabilities “thereby violating Section 504 of the Rehabilitation Act ... and Title II of the Americans with Disabilities Act.”³⁷ Accordingly, many state legislatures limit the use of restraint and isolation to cases of imminent likelihood of harm. These efforts vary, ranging from bans of isolation practices for students with disabilities as seen in Illinois, Hawaii, Georgia, and Florida (Hawaii and Georgia ban the practice for all students), to states that completely fail to address isolation in their statutes and defer instead to each school district, as seen in Missouri, Idaho, Nebraska, and North Dakota. For a more detailed analysis of state laws, please see Appendix B.

Methodology

The researchers relied on both qualitative and quantitative data to examine the prevalence and impact of restraint and isolation in Washington. Washington is one of 27 states³⁸ that requires school districts to report restraint and isolation data to their respective state education agencies.³⁹ For each school, districts are required to annually report the number of individual incidents of restraint and isolation, the number of students subjected to restraint and isolation, the number of injuries to students and staff, and the types of restraint or isolation used.⁴⁰ Districts collect data from each public school, as well as data on district-placed students in non-public agencies or other contractual placements,⁴¹ and report this to OSPI which publishes the data to their website.⁴² DRW used federal access authority to secure public school data on restraint and isolation in every school and every student group in Washington.⁴³ This included two years’ worth of data,⁴⁴ not generally available to the public, about restraint and isolation of individual student groups.⁴⁵

The team conducted 144 interviews and spoke with community education advocates, education policymakers, and worked extensively with school district attorneys, OSPI, schools, NPAs, and the Department of Children, Youth, and Families (DCYF) to clear access and collect and analyze quantitative data on restraint and isolation.

As part of DRW’s broader monitoring of schools (please see Appendix C for the monitoring letter sent to all schools), the researchers interviewed district personnel responsible for administering restraint and isolation policy and training, special education directors, superintendents, principals, teachers, paraeducators or instructional assistants, counselors, wraparound coordinators, and students. Moreover, the team conducted additional interviews with parents and former students who are currently adults (hereinafter “survivors”), to understand what potential impacts the practices they encountered may have on their adult lives.

For a more detailed description of the methodology and research questions, please see Appendix D.

Findings

Restraint and isolation are supposed to be rare practices, but they are not. Students who are restrained or isolated are likely subjected to the practices repeatedly.

Washington law permits the use of restraint and isolation in cases where there is “an imminent likelihood of serious harm.”⁴⁶ According to the Washington Office of the Education Ombuds (OEO), these practices are “only allowed as *emergency* measures,” when there is a “substantial risk that a person will cause physical harm to themselves or another person, or substantial loss or damage to another person’s property” (based on behavior that has caused substantial damage in the past).⁴⁷ The circumstances under which restraint and isolation application are legally permissible are quite narrow, and their occurrence should be rare. But OSPI data show these practices are not rare, especially as they impact certain student groups. This suggests restraint and isolation are used under circumstances that don’t meet the high bar of “imminent likelihood of serious harm.”

In both years, which were truncated by the COVID-19 pandemic, a relatively small group of students (compared to statewide student enrollment) was subject to a staggering number of occurrences of restraint or isolation.⁴⁸ In other words, the same group of students was subject to restraint or isolation repeatedly. In the 2019-20 school year, 3,866 students were subject to 24,873 occurrences of restraint or isolation (6.4 occurrences per student on average). In the 2020-21 school year, 1,306 students were subject to 7,117 occurrences of restraint or

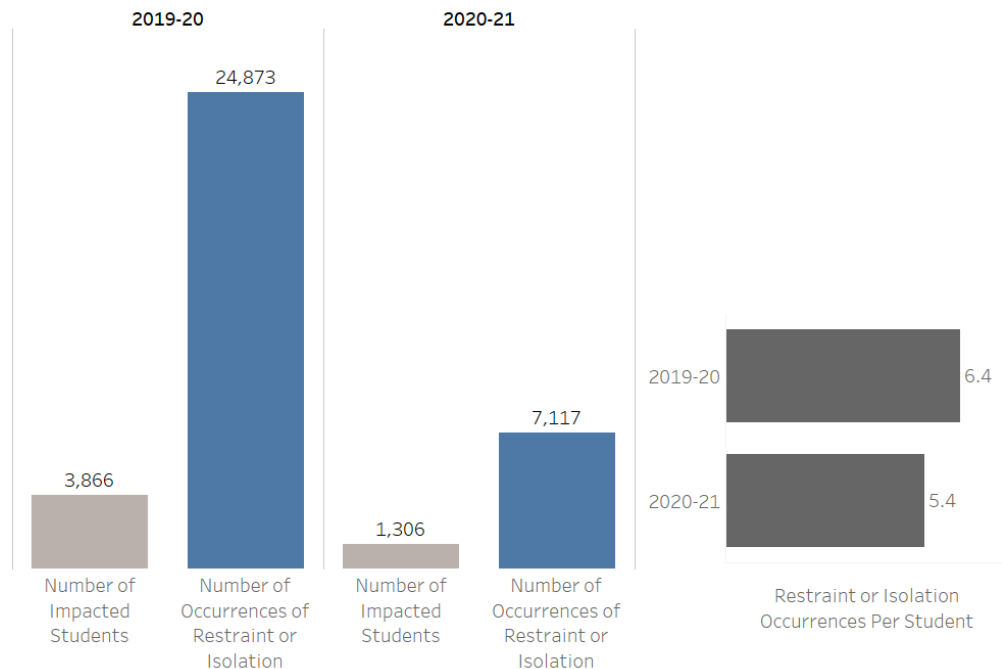


Figure 1: Occurrences of Restraint or Isolation and Number of Impacted Students By School Year.

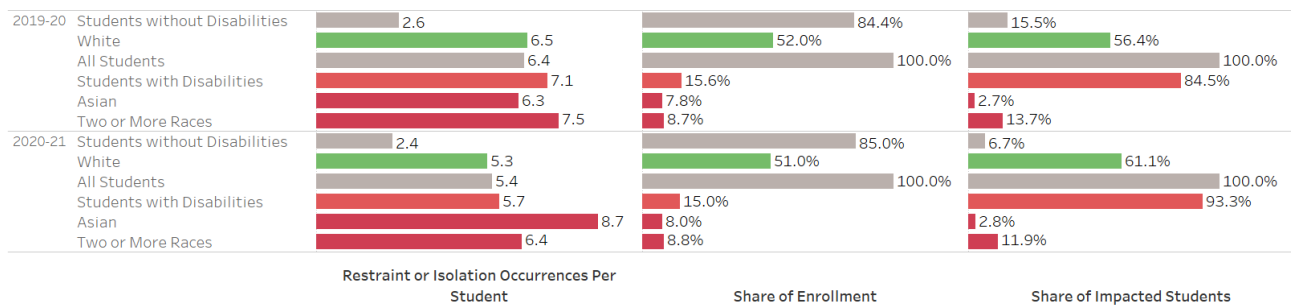


Figure 2: Occurrences of Restraint or Isolation Per Student by Select Student Group

isolation (5.4 occurrences per student on average) (Figure 1). These averages obscure the fact that certain student groups — including students with disabilities, Asian students, and multi-racial students — disproportionately experienced restraint or isolation on a per student basis (Figure 2).⁴⁹

Given the frequency of restraint and isolation, it seems implausible that each occurrence rose to the level of “imminent likelihood of serious harm” and that these practices are being used to keep students safe. Instead, the data strongly suggests that restraint and isolation are being used (abused) for other ends. This will be discussed in more detail below.

The overwhelming majority of students subject to restraint or isolation practices are elementary school (K-5) students.

In both years, the vast majority of students subject to restraint or isolation — about 82% in 2019-20 and 74% in 2020-21 — were elementary school students (K-5) (Figure 3). Similarly, in both years, K-5 students were subject to the overwhelming proportion of occurrences of restraint or isolation — about 87% in 2019-20 and about 75% in 2020-21 (Figure 4). Thus, as students advanced from elementary to middle school, there was a dramatic drop-off in the number of impacted students and in the number of occurrences of both restraint and isolation.

The use of restraint and isolation against young children is particularly harmful for several reasons. These practices can cause a child significant mental anguish and trauma that leads to post-traumatic stress disorder.⁵⁰ Students who are restrained or isolated lose valuable instructional time.⁵¹ Restraint and isolation may also impact a child’s ability to develop secure relationships because adults place them in situations that are scary and frightening and they may not understand what is happening.⁵² Furthermore, without therapeutic benefit, small children subjected to restraint and isolation are not learning positive behavioral alternatives, which can lead to a cyclical pattern of restraint or isolation use without positive outcomes.⁵³

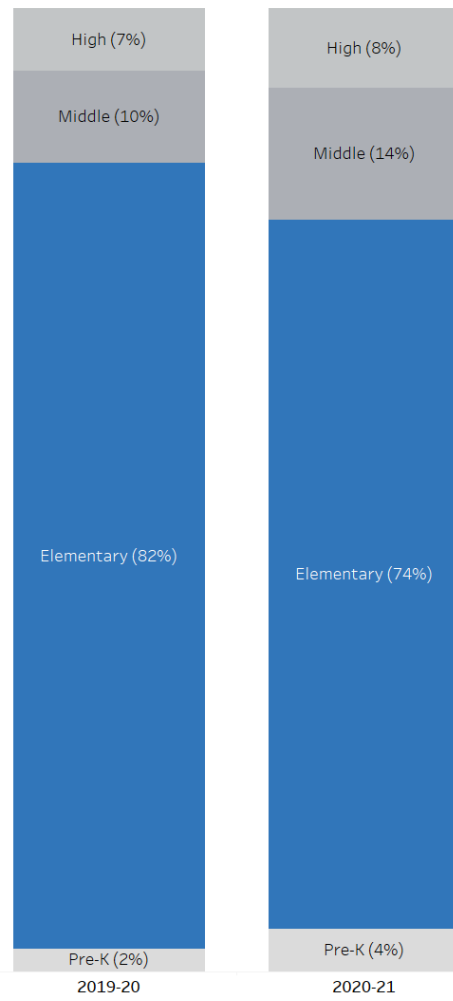


Figure 3: Proportion of Students Impacted by Restraint or Isolation By Grade Level

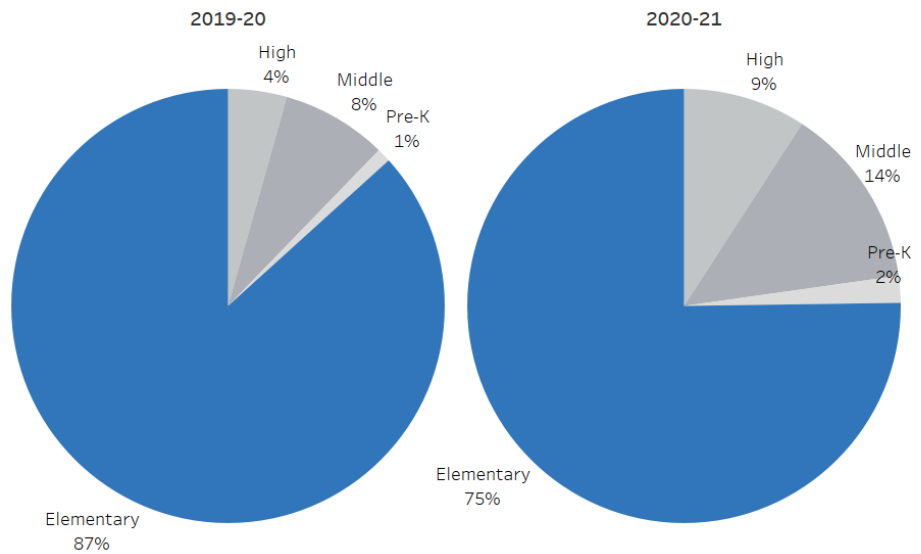


Figure 4: Proportion of Restraint and Isolation Occurrences by Grade Level

Regardless of grade level, most students subjected to restraint or isolation are students with disabilities, male, and/or students from low-income families.

Although the number of students impacted by restraint or isolation declined steeply after fifth grade, the student groups that were most impacted by these practices in each grade level did not change. At every grade level, impacted students were largely made up of three groups — students with disabilities, males, and/or low-income students. These three groups also experienced the majority of occurrences of restraint and isolation, with males and students with disabilities experiencing the overwhelming share⁵⁴ (Table 1).

Table 1: Share of Restraint and Isolation Occurrences by Student Group

School Year	Student Group	Share of Enrollment	Share of restraints	Share of isolations
2019-20	Students with Disabilities	15%	93%	93%
	Male Students	52%	87%	88%
	Low-Income Students	46%	67%	65%
2020-21	Students with Disabilities	15%	96%	94%
	Male Students	52%	85%	89%
	Low-Income Students	45%	64%	62%

Students with Disabilities

Students with disabilities made up approximately 15% of student enrollment in both years, but by contrast, they constituted 84% and 93% in 2019-20 and 2020-21, respectively (Figure 5). In 2019-20, they were 84.5% of students impacted by restraint and nearly 90% of students impacted by isolation. In many grades, students with disabilities made up 100% of those isolated. In 2020-21, they were 92.5% of students subject to restraint and over 96% of students subject to isolation.

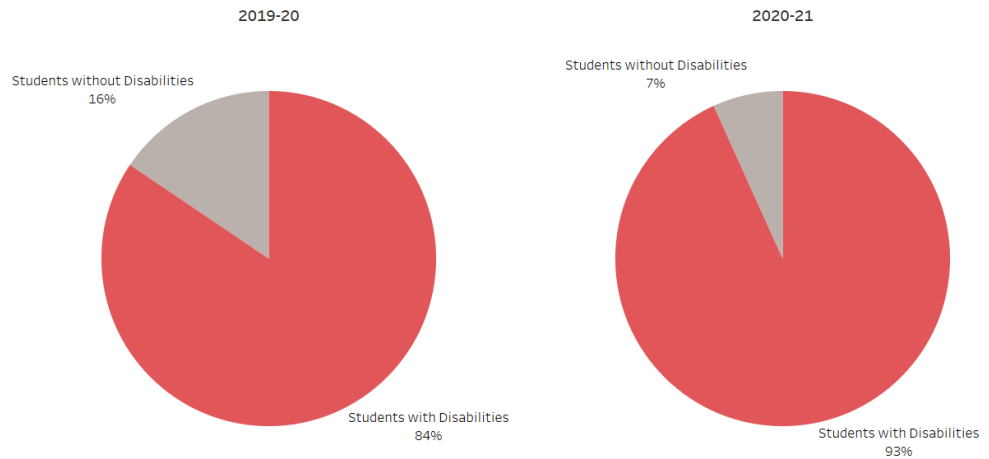


Figure 5: Proportion of Students Impacted by Restraint or Isolation by Year

Male Students

In both years, male students were a little over half (52%) of statewide student enrollment, but they made up over 80% of the students subject to restraint or isolation (Figure 6). In 2019-20, male students were 84% of students impacted by restraint and 85% of students impacted by isolation. Similarly in 2020-21, male students made up 85% of students impacted by restraint and 87% of students impacted by isolation. In some grade levels that year, males made up over 90% and as high as 100% of the share of impacted students.

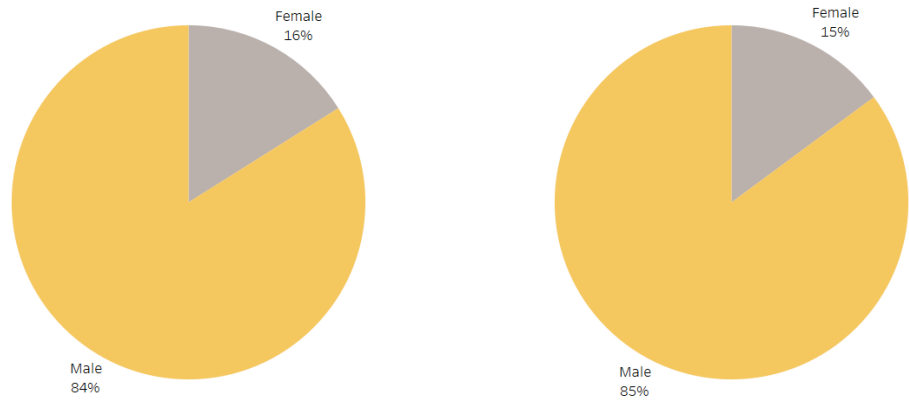


Figure 6: Proportion of Students Impacted by Restraint or Isolation By Year

Low-income students

Low-income students made up between 45% and 46% of student enrollment, but they represented nearly 70% of students impacted by both restraint and isolation in both 2019-20 and 2020-21 (Figure 7).

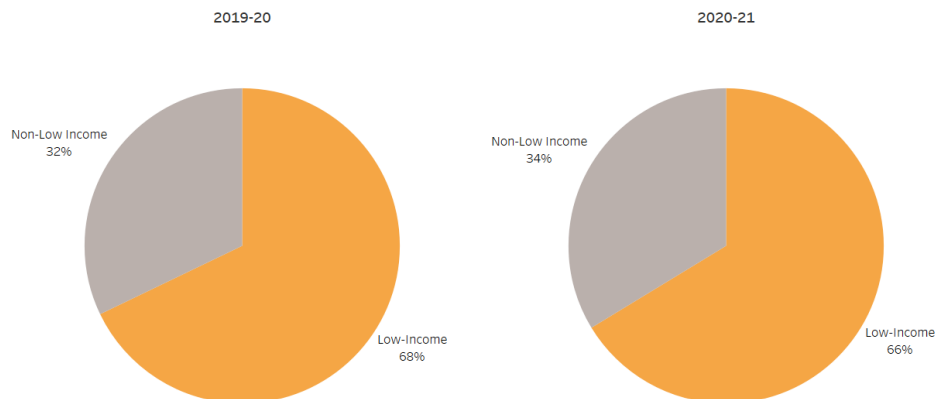


Figure 7: Proportion of Students Impacted by Restraint or Isolation By Year

There are egregious disparities in the practices of restraint and isolation based on student group membership.

In both school years, male students, students with disabilities, and low-income students not only made up the overwhelming share of students impacted by restraint or isolation, but they also made up a *disproportionate* share of impacted students compared to all the students not in their student group. Black students, students experiencing homelessness, and multi-racial students also disproportionately experienced both restraint and isolation, although they make up a smaller share of impacted students compared to male students, students with disabilities, and low-income students. OSPI’s own analysis of 2019-20 data shows that foster care students are also disproportionately subject to restraint and isolation practices, compared to their representation in student enrollment.⁵⁵

Students with disabilities are disproportionately likely to be subject to restraint or isolation, compared to their peers without disabilities.

In 2019-20, students with disabilities were 29 times more likely to be restrained and 45 times more likely to be placed in isolation than their peers without disabilities (Figure 8). In 2020-21, students with disabilities were 69 times more likely to be restrained and 151 times more likely to be placed in isolation than their peers without disabilities (Figure 8).

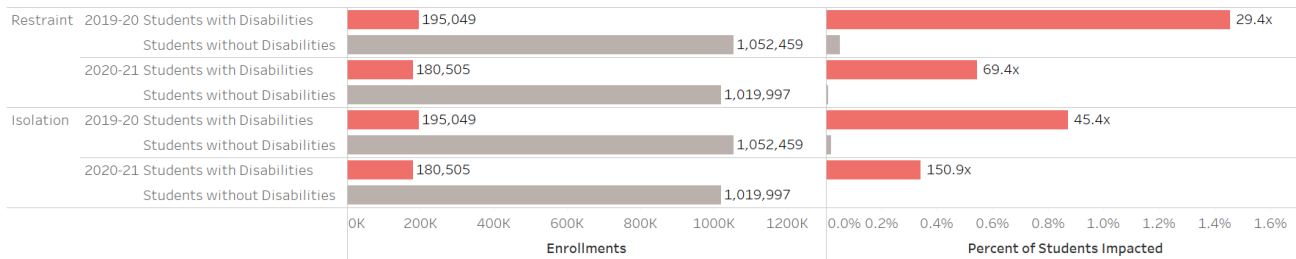


Figure 8: Disparities in Restraint and Isolation Practices—Students with Disabilities



Row of isolation rooms in the hallway of one NPA.

Although “[d]ata disparity alone does not prove discrimination,” the existence of a disparity does raise a question regarding whether school districts are implementing restraint and isolation in discriminatory ways.⁵⁶ For example, according to the ED, a school district discriminates on the basis of disability in its use of restraint or seclusion by “unnecessarily treating students with disabilities different from students without disabilities,” among other things.⁵⁷ Monitoring and interviews helped provide context for these dramatic rates, revealing that restraint and isolation resources were largely concentrated

in special education classrooms (as opposed to general education classrooms) and in NPAs, schools for students with disabilities. In some of the NPAs, researchers observed rows of these isolation rooms, suggesting heavy reliance on isolation (i.e., the need for multiple rooms to isolate multiple students at once).

Black and multi-racial students are disproportionately likely to be subject to restraint or isolation, compared to their white peers.

In 2019-20, Black students were 1.9 times more likely to be restrained than white students (Figure 9). Black students and multi-racial students (students of two or more races) were each 1.4 times more likely to be placed in isolation than their white peers (Figure 9, 10).⁵⁸

In 2020-21, compared to white students, Black students and multi-racial students were restrained and isolated at similar rates (Figure 9, 10).

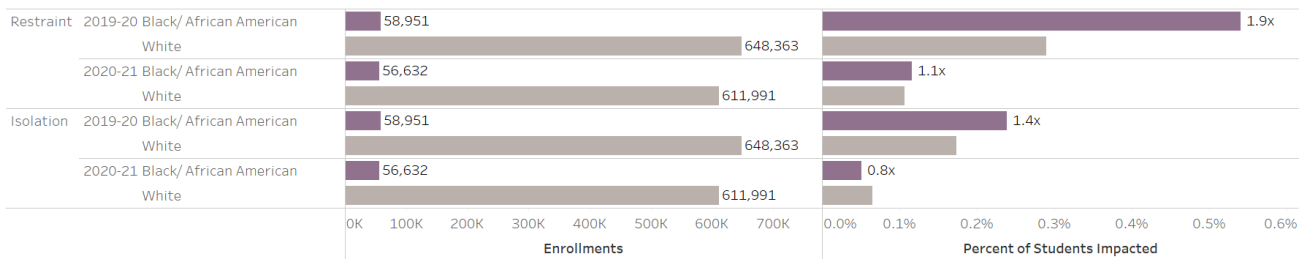


Figure 9: Disparities in Restraint and Isolation Practices--Black/African American Students

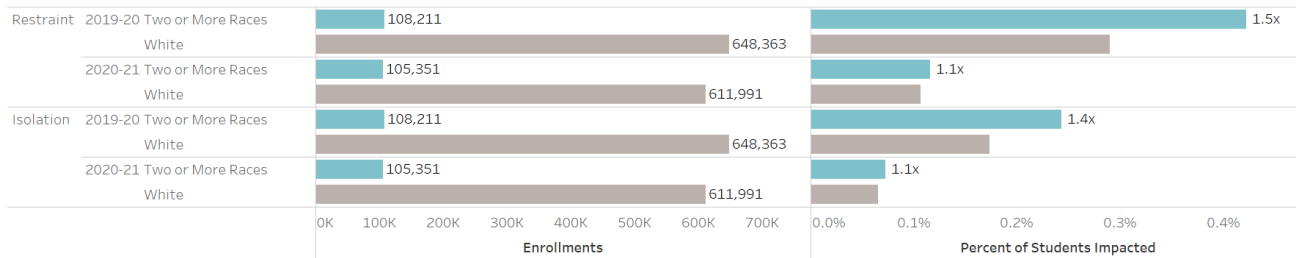


Figure 10: Disparities in Restraint and Isolation Practices--Multi-Racial Students

Low-income students and students experiencing homelessness are disproportionately likely to be subject to restraint or isolation compared to their counterparts not in those groups.

In 2019-20, low-income students were 2.5 times more likely to be restrained and 2.5 times more likely to be placed in isolation than non low-income students (Figure 11). Students experiencing homelessness were 2.8 times more likely to be restrained and 2.4 times more likely to be isolated than students not experiencing homelessness (Figure 12).

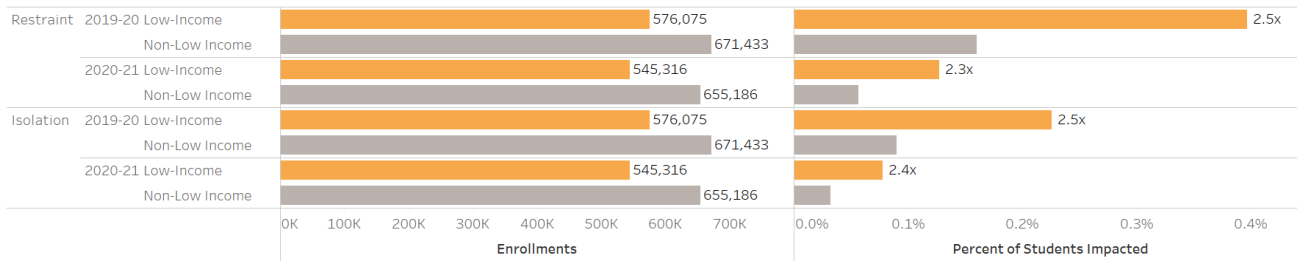


Figure 11: Disparities in Restraint and Isolation Practices--Low-Income Students

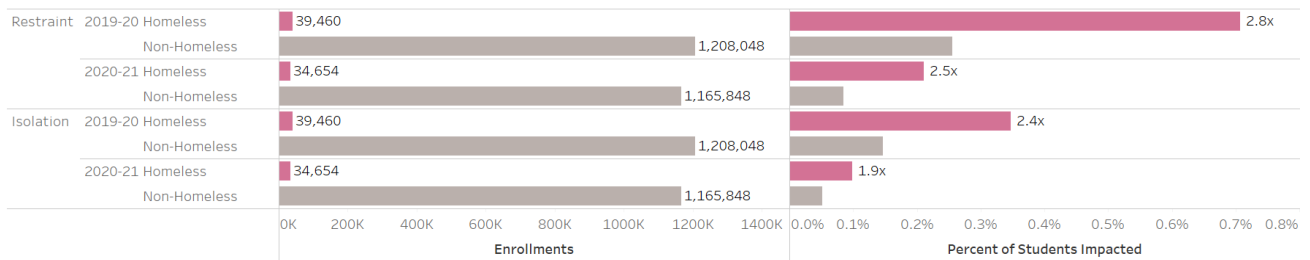


Figure 12: Disparities in Restraint and Isolation Practices--Homeless Students

In 2020-21, low-income students were 2.3 times more likely to be restrained and 2.4 times more likely to be isolated than their peers who were not from low-income families (Figure 11). Students experiencing homelessness were 2.5 times more likely to be restrained and 1.9 times more likely to be placed in isolation, compared to their peers who were not homeless (Figure 12).

Based on OSPI’s analysis, which is limited to 2019-20 data, students in foster care are disproportionately likely to be subject to restraint or isolation compared to their representation in student enrollment.

OSPI’s analysis combines restraint and isolation and assesses the treatment of student groups by grade level.⁵⁹ Its findings show that across grade levels, foster care students are subject to restraint or

Table 2: 2019-20 Disparities in Restraint and Isolation Practices -- Students in Foster Care

Grade Level	Share of Enrolled Students	Share of Impacted Students	Share of Enrolled Students Relative to Share of Impacted Students
K-5	0.9%	7.1%	7.9
6-8	0.8%	10.2%	12.8
9-12	0.8%	4.0%	5.0

isolation at rates significantly higher than their enrollment in the student population — nearly 8 times higher for grades K-5, about 13 times higher for grades 6-8, and 5 times higher for grades 9-12 (Table 2).

OSPI data does not fully capture the extent of disparities in the use of restraint and isolation because data reporting requirements hide the prevalence of these practices in NPAs.

When the special education needs of a student cannot be met by their resident school district, the district may contract with an outside educational program to provide services, including NPAs. ESDs also house these programs. Some NPAs have faced criticism from disability advocates who argue that they segregate the most marginalized students in our state from their peers and communities, fail to deliver them academic curriculum, and exist because of insufficient district-level funds and resources to address the unique needs of these students.⁶⁰ Recent reporting on one of these NPAs, which shows that the educational program relies heavily on the use of restraint and isolation, has brought renewed attention to the lack of oversight and accountability of these institutions.⁶¹

Although restraint and isolation data from NPAs are included in our datasets from OSPI, NPA data are reported with the restraint and isolation data from the student’s neighborhood school, even though that’s not where the restraint and/or isolation occurred. The practical effect of this is not only to inflate restraint and isolation numbers for certain public schools but to then also shroud restraint and isolation practices in NPA settings, which frustrates the legislative intent of tracking the use of these practices against some of Washington’s most vulnerable students.

Data obtained directly from NPAs shows that the use of restraint and isolation against students is rampant. Students with the greatest number of marginal, intersecting identities are disproportionately subject to these practices.

To circumvent OSPI data reporting gaps, the researchers requested data directly from the NPAs that DRW monitored. However, the team faced additional hurdles. Only five institutions were responsive, one of which shockingly did not track racial demographic data at all.⁶² Another

did not track federally qualifying categories demographics (e.g., low-income, homeless, etc.).⁶³

Data from the programs that were responsive show that the use of restraint and isolation within NPAs, where 100% of student enrollment consists of students with disabilities, is rampant and far exceeds the rates of restraint and isolation against students statewide. For example, at NPA M,⁶⁴ all students were designated as “low-income” in 2018-19 and 2019-20. At this institution, the use of isolation had been eliminated but restraint was used against most students enrolled in the school — and used consistently. In 2018-19, 76% of student enrollment at the school was subject to restraint. Each of these students was on average subject to 17.6 occurrences of restraint — four times higher than the average statewide rate for restraint (4.5 occurrences per student).⁶⁵ In 2019-20, 69% of student enrollment at the school was subject to restraint. Each of these students was on average subject to 11.6 occurrences of restraint — 2.6 times higher than the statewide rate for restraint for that year (Figure 13).

At NPA P.F.,⁶⁶ in 2019-20 about 67% of student enrollment was considered “low-income.” 73% of enrolled students were subject to restraint and 68% were subject to isolation. Each of these students was on average subject to 22.6 occurrences of restraint (5 times higher than the average statewide rate for restraint that year) and 19.8 occurrences of isolation (nearly 4 times higher than the average statewide rate for isolation that year — 5 occurrences per student) (Figure 13). Consistent with statewide trends, the vast majority of restraints and isolations occurred in the K-5 years.

These averages, however, do not tell the full story. In some NPAs,

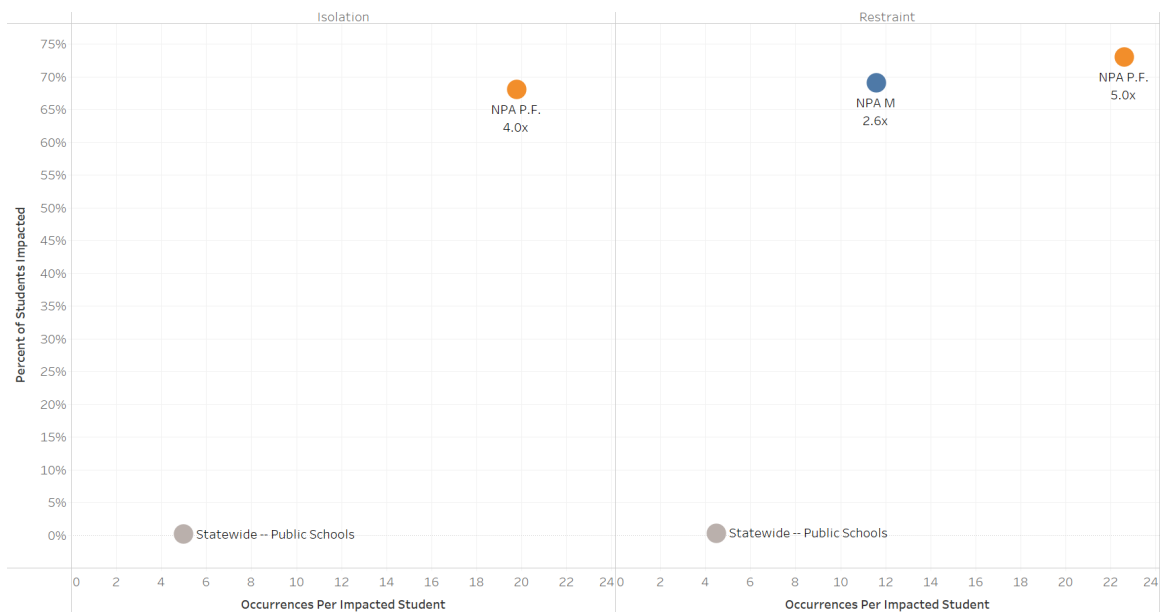


Figure 13: Disparities in Restraint and Isolation Practices--NPAs Compared to Public Schools Statewide

students with multiple, intersecting identities — the most vulnerable students in our state with the most needs — face the highest concentrations of restraint and isolation. In other words, factors like race and socioeconomic status compound the disparities that students face in these NPAs.

For example, at NPA M,⁶⁷ restraint and isolation practices were concentrated against students of color, who also have disabilities and are low-income. In 2018-19, low-income, multi-racial students with disabilities at this institution were subject to 44 occurrences of restraint per student. That rate is 2.5 times higher than NPA M's average schoolwide rate for that year (17.6 occurrences per student), which is already staggeringly high. It is also about ten times higher than the average statewide rate (4.5 occurrences per student).

That year, low-income Hispanic students with disabilities at NPA M were subject to 34.7 occurrences of restraint per student. This is about twice the average schoolwide rate and about 8 times higher than the average statewide rate. In contrast, low-income white students with disabilities were subject to 11.1 occurrences of restraint per student, about two-thirds of the average schoolwide rate. Compared to white students, multi-racial students were subject to 4 times more occurrences of restraint per student and Hispanic students were subject to 3 times more occurrences of restraint per student.

Similarly, at NPA M in 2019-20, Hispanic students were subject to 24.7 occurrences of restraint per student. That is more than twice the average schoolwide rate of 11.6 occurrences of restraint per student, and 5.5 times higher than the average statewide rate for that year. Multi-racial students were subject to 17.8 occurrences of restraint per student (1.5 times higher than the average schoolwide rate and 4 times more than the average statewide rate). By contrast, the average rate for white students — 5.6 occurrences of restraint per student — was about half of the average schoolwide rate. Compared to white students, Hispanic students were subject to over 4 times more occurrences of restraint per student and multi-racial students were subject to over 3 times more occurrences of restraint per student.

At NPA P.F.,⁶⁸ in 2019-20 white students (with disabilities) were subject to an average of 20 occurrences of restraint per student (4.5 times higher than the average statewide rate for that year) and about 16 occurrences of isolation (more than 3 times the average statewide rate--5 occurrences per student). However, because this school provided (de-identified) student level data, the researchers learned that certain white students were subject to the bulk of those. For example, one white student, who was also homeless (and relatedly designated as low-income), was subject to 91 occurrences of restraint (nearly 4 times higher than the average schoolwide rate and 20 times higher than the average statewide rate) and 86 occurrences of isolation (4 times higher than the average schoolwide rate and 17 times higher than the average

statewide rate). This student was also flagged as a youth having “developmental concerns.”

Together, the only two multi-racial students at NPA P.F., who are also low-income and have disabilities, were subject to 103 occurrences of restraint and 105 occurrences of isolation. However, one of those students, who was flagged as a youth with “developmental concerns,” was subject to the bulk of those — 85 incidents of restraint (nearly 4 times higher than the average schoolwide rate and almost 19 times higher than the average statewide rate) and 70 occurrences of isolation (about 4 times higher than the average schoolwide rate and 14 times higher than the average statewide rate).

The case of NPA P.F. demonstrates the importance of examining restraint and isolation data not only at the student group level but at the student level as well, as averages may hide the fact that certain individual students, in already vulnerable student groups, may be disproportionately subject to these practices compared to the rest of the individuals in their group. Moreover, both NPA P.F. and NPA M are illustrative of the fact that the true impacts of restraint and isolation cannot be ascertained unless they are examined intersectionally.

Current data reporting requirements for OSPI are not adequate for conveying the prevalence of restraint and isolation practices, who they harm, and the extent of that harm.

OSPI began collecting student level restraint and isolation data in 2019-20, but they don’t publicly share it, pursuant to the Family Educational Rights and Privacy Act (FERPA).⁶⁹ OSPI could report the raw student group data on restraint and isolation aggregated at the state level without violating FERPA, but it has not done that. Without student group level data, the datasets on OSPI’s website are inadequate to examine how restraint and isolation impacts differ by, for example, race and disability status, and for students with several intersecting,⁷⁰ marginalized identities (e.g., multi-racial, low-income students with disabilities).

Last fall, OSPI presented findings from its restraint and isolation data for the first time.⁷¹ The agency can conduct its own analysis of restraint and isolation data without violating FERPA.⁷² This analysis showed, based on data from the 2019-20 school year, disparities in the use of restraint and isolation against the same student groups identified in our report, but it did not report findings on intersecting student groups even though it has the data. Moreover, although the presentation included strategies for reducing the use of restraint and isolation, it’s not clear who those findings reached and whether any action was taken to address and ultimately close these gaps.

OSPI’s own analysis of restraint and isolation is valuable, especially in the absence of data availability, but it’s noteworthy that without

making the raw student group data available, there is no mechanism to provide any accountability for the potential biases OSPI might have in its findings.

These barriers to data access limit transparency into restraint and isolation practices and systematically disadvantage the most vulnerable student groups. More specific data would also help to identify systemic problems with restraint and isolation use.

School personnel and administrators use restraint and isolation in circumstances where there is no imminent likelihood of serious physical harm to the student or others.

Although restraint and isolation are supposed to be rare, data and interviews with school personnel, administrators, parents, and students show that they are not. Interview data showed a gap between what district administrators and school personnel said would constitute an appropriate (lawful) reason to use restraint and/or isolation, and what they did in practice. When asked in interviews under what circumstances they were permitted by law to use restraint and isolation, staff, teachers, and administrators repeatedly cited the same examples, consistent with the statutory requirement for “imminent likelihood of serious harm.” However, further questioning about specific instances when they used restraint and isolation revealed school staff implemented restraint and isolation in situations that did not meet this high bar.

For example, staff and administrators spoke of using restraint when there was the *possibility* of elopement (i.e., wandering off or running away) and against students with a history of property damage or injury with pencils or scissors, even when the student is *calm* but is holding a pencil or scissors, or where those items were within reach of the student.⁷³ These reasons suggest that the requirement for “imminent likelihood of serious harm” is broadly interpreted to include situations where teachers, staff and administrators anticipated the possibility of harm, but the likelihood of serious harm was not “imminent.”

Interviews with staff, teachers, and administrators also show that they isolated students even after the emergency had ended and the imminent risk of harm had dissipated. According to the OEO, restraint, and isolation “can continue only as long as the emergency continues.”⁷⁴ Thus, “any use of restraint or isolation must be closely monitored to prevent harm to the student and *must be stopped as soon as the likelihood of serious harm has ended.*”⁷⁵ Nevertheless, school personnel discussed situations where after being restrained, students walked by themselves into the isolation room, or, regardless of whether they were restrained first, were “escorted” into the isolation room.⁷⁶ During monitoring at one of these schools,⁷⁷ the researchers observed staff guide a student, dejected but calm in demeanor, into the isolation room with the door left open. Many of the survivors also shared that

“Any use of restraint or isolation must be closely monitored to prevent harm to the student and *must be stopped as soon as the likelihood of serious harm has ended.*”

they were directed to go into the isolation room, so they would walk in themselves.⁷⁸ One said her teacher would bring her schoolwork for her to do while she was locked in there.⁷⁹ Thus, students are placed in isolation rooms even when the emergency (and the risk of harm) has ended.

Another survivor explained that school personnel would place him in the isolation room for “bad behavior” like refusing to do his assigned schoolwork or for “being mouthy.”⁸⁰ If he did not leave the classroom and go to the isolation room himself when he was instructed, teachers and support staff would restrain him and “drag” him there.

“[It would] start in the classroom,” he recalled:

“Then they would try to negotiate you out of the classroom. And if you said no, I don’t want to leave, then they would call in support staff. The support staff would come in, tell you [that] you need to leave. You said no, then they would go hands on, and as soon as they went hands on and you start struggling, then they went full on. Then they would call in another teacher or supporting staff member to help and then they would remove you from the classroom physically and take you into the isolation room.”⁸¹

Although there was no emergency and his behavior was not escalated, he was subject to not only isolation, but to restraint to facilitate that isolation. Our interviews revealed that restraint was frequently used to facilitate isolation. School personnel and administrators often viewed and treated restraint and isolation as tandem practices even though they are legally and practically distinct.

Relatedly, parents and survivors spoke about being placed in isolation for hours at times and/or multiple times a week.⁸² One parent described how her kindergartener was placed in isolation, frequently for “cussing,” multiple times a week for 5 to 30 minutes at a time for months.⁸³ Several survivors described incidents where they were placed in an isolation room for nearly the entire school day.⁸⁴ One survivor described witnessing restraint at an NPA school as “an everyday thing” in all classrooms.⁸⁵



A sign in an elementary school isolation room instructing students to sit cross-legged and keep their hands in their lap.



The instructions "Back to wall" written on the wall of an isolation room.

Restraint and isolation are used as classroom management tools — to induce compliance or otherwise punish or discipline students for non-compliant behavior, in violation of state law.

According to the OEO, “schools in Washington State are not allowed to use restraint or isolation as a form of discipline or punishment, or as a way to correct a child’s behavior.”⁸⁶ Nevertheless, the interviews show that school personnel and administrators often use restraint and isolation to induce compliance when students were irreverent or disruptive — but did not pose even a remote possibility of physical harm to anyone. One administrator claimed restraint with isolation was justified for a student who was ripping paper off school bulletin boards.⁸⁷ Another said they restrained a student for spitting.⁸⁸

Moreover, students who were interviewed said isolation was used for students’ swearing.⁸⁹ Survivors mentioned that they were subject to restraint and isolation for not following directions, like refusing to work on classroom assignments.⁹⁰ Many teachers described restraint and isolation as classroom “management” tools or strategies.

This compliance-based view of restraint and isolation was similarly reflected in student educational documents. Emergency response protocols, school documents sometimes used to provide direction or guidance with restraint use, indicated restraint would be used for compliance, when a student was not following directions.⁹¹

As further evidence of the expectation of compliance (rather than a nexus to imminent harm), at some schools, isolation rooms were outfitted with signs instructing students how long they were required to sit in the room quietly before they were permitted to leave the isolation room and return to the classroom. At one school, the words “Back to Wall” were written on the wall of the isolation room, and students were expected to stand against the wall for two minutes before they were allowed to leave the room.⁹² In another school, students were not allowed to leave the isolation room until a timer sounded and they could comply with instructions.⁹³ Relatedly, one principal shared, “Kids always go to seclusion after restraint until they show they can be physically calm, have a calm demeanor.”⁹⁴

As mentioned above, students have also been placed in isolation rooms for extended periods of time (for hours or sometimes for nearly the entire school day), and/or they have been subjected to it multiple times a day for multiple days of the week.⁹⁵ It seems implausible in these situations that the emergency lasted the duration of the isolation time or that there were multiple emergencies a day or week, and it is inconsistent with state law which requires that school districts adopt (and ostensibly follow) a policy providing for the least amount of restraint or isolation appropriate to protect the safety of students and staff.⁹⁶ Thus, in these situations, isolation is arguably being used in

“All the self-regulation strategies I had were considered wrong behaviors, like stimming [i.e., coping mechanism] and just reducing my sensory input by closing my eyes and ears.”

violation of state law, not in response to likelihood of serious harm, but for other reasons (discipline, punishment, convenience, etc.).

Moreover, the expectation of compliance assumes that compliance is a choice. For traumatized students during a “fight, flight, or freeze” nervous system response,⁹⁷ compliance may not be possible. Additionally, students with disabilities may not always be choosing to ignore or disregard adult instruction; instead, they may comply in ways that are not typical, or need something other than a threat of punishment to support desired behavior. One survivor with emotional and behavioral disabilities described how restraint and isolation were used by staff to punish her for disability-related behavior.⁹⁸ Specifically, when she used self-regulation skills like flapping hands and rocking back and forth, teachers would react negatively and instruct her to stop, and that would escalate her. In response to an interview question about what led to school personnel restraining and isolating her, she recounted:

“Typically, what they would characterize as non-compliance, for me...I was experiencing...[as] an inability to do something that I was being asked to do, because of my disability... All the self-regulation strategies I had were considered wrong behaviors, like stimming [i.e., coping mechanism] and just reducing my sensory input by closing my eyes and ears.”⁹⁹

Similarly, she explained that after the restraint and/or a period of isolation, school personnel would “ask if I understood what I did was incorrect and then why. That was the extent of explaining the situation to me. If I did not satisfactorily answer then, I would continue to be [in] isolation, regardless of my emotional state.”¹⁰⁰

For students who have experienced trauma, their behavior may be a trauma response. In other words, the behavior may not be volitional at all, but may be a stress response during which compliance or following directions is not possible.¹⁰¹ Studies show that brain circuitry responsible for self-regulation is highly vulnerable to even mild stress, and when this shuts down, mental paralysis sets in.¹⁰² Calming oneself and following directions in this state may be impossible for a child. Thus, students who are incapable of compliance are being punished via restraint and isolation for something they are not capable of doing.

The repeated use of restraint and isolation on students with disabilities, as demonstrated by the quantitative OSPI data, suggests that restraint and isolation are used routinely as ways for school personnel to cope with and address (albeit ineffectively) a range of behavioral challenges in special education classrooms. It is a blanket

response, rather than an individualized one that meets student need. One survivor with disabilities described these practices as default responses for school personnel dealing with student conflict in the classroom, rather than tools of last resort.¹⁰³ As a result, their use was frequent against her and her peers.

Although sometimes restraint and isolation are used under the guise of trying to calm students in an escalating situation, another important insight from parent, student, and survivor interviews is that school personnel's expectation of compliance often played a central role in escalating students, thereby, in a perverse turn of events, providing the justification teachers and administrators needed to use restraint and isolation. According to another survivor, when asked if she had a sense for why school personnel restrained and isolated her, she shared that it was a "[c]ombination of me already being overwhelmed with a sensory issue and then being asked to do something and saying no. [School personnel] interpreted that as aggression or going to be violent at some point, and started being defensive and looking like they were going to get physical, which would escalate me."¹⁰⁴ She cited the example of her resistance to doing a writing assignment in English class and her paraeducator's ensuing response "pushing" and "pestering" her to comply which escalated her and culminated in her restraint and isolation.¹⁰⁵

In another example, a survivor recounted being asked to walk into the isolation room and when he refused to comply, he was restrained and physically moved there. Thus, he didn't start escalating until he was asked repeatedly to essentially isolate himself. About that experience, he stated: "when people are telling you to do something you don't want to do, to go into a room you don't want to go into, there is no 'calm down.' As a kid, even as a young teenager... you couldn't tell me to calm down in those rooms." This survivor's experience highlights not only the role of compliance expectation in escalating the situation but how the isolation room itself exacerbated those feelings and contributed to the student's escalation.¹⁰⁶



An isolation room with a substantial part of the window covered by black paper, obstructing the student's view outside the room.

Beyond violating the standard of "imminent harm," school personnel and administrators practice restraint and isolation in ways that don't meet legal requirements.

Isolation

Monitoring and interviews revealed that school personnel and administrators routinely violate provisions governing the conditions of isolation rooms and their use. Washington law requires isolation rooms to be, "ventilated, lighted, and temperature controlled ... for purposes of human occupancy."¹⁰⁷ Despite this requirement, not all isolation rooms observed during monitoring were lit and interviewees shared information about improper conditions including rooms so cold

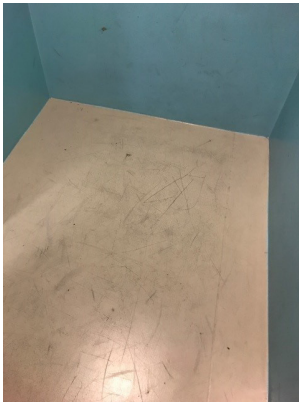
students wore winter coats anticipating isolation.¹⁰⁸ Some staff said they purposely did not provide lights in the rooms because students repeatedly broke the lights with their shoes. Students confirmed these accounts in their interviews.¹⁰⁹ During monitoring the researchers observed locks to isolation rooms that did not require adult presence to engage and activate, indicating that adults may not be present when an isolation room is in use, in violation of Washington law.¹¹⁰ Furthermore, although windows in the isolation room door are required in order to allow an adult to monitor the student who is in isolation,¹¹¹ the researchers observed numerous rooms where staff taped over isolation room windows with construction paper or magazines.¹¹²

School personnel routinely failed to follow notification protocols, which require that parents or guardians be notified of restraint and isolation in a timely manner. Washington law requires that parents must be verbally notified of incidents of restraint or isolation within 24 hours of the incident, and that written notification be provided within 5 business days of an incident.¹¹³ In one particularly egregious example, a parent shared that her kindergartener with disabilities was regularly placed in isolation for a three-month period before she was informed by the school.¹¹⁴ The parent discovered this after picking the student up from school one day and the staff informed her “we only had to close the door on him once today.” That was the first time she learned of what was happening to her child daily. The parent never received verbal or written notification before that point and was unaware that there was an isolation room in her son’s classroom, despite being given a tour of the classroom before the school year began.

The researchers also found that school personnel would sometimes engage in what one administrator referred to as “blurring [the] lines,”¹¹⁵ using isolation rooms in ways that did not technically meet the statutory definition to avoid reporting. For example, interviews with administrators and parents revealed that school personnel would place a student in an isolation room but keep the door open to avoid having to report the incident as an “isolation.”¹¹⁶ At other schools, school personnel claimed that students “elected” to go into isolation rooms, implying that the confinement was voluntary,¹¹⁷ but parent interviews revealed staff would still restrict when the child was allowed to leave.¹¹⁸ Some schools claimed they did not isolate their students and characterized isolation rooms as “quiet” or “calming” spaces, despite evidence from parent interviews that they were still effectively used to isolate students.¹¹⁹

Restraint

Similarly, monitoring and interviews revealed that restraint was improperly applied under state law. For example, in some schools, untrained adults engaged in restraint of children,¹²⁰ or training had lapsed even though re-certification was necessary to stay up to date.¹²¹



A dimly lit, furniture-less, uncarpeted isolation room with scuffs and scratches on the floor.

“There was a medieval style lock, a big sliding bar that dropped down into a hook... What are they holding back, an elephant?”

There were many schools that admittedly struggled with certification requirements for in-person training due to COVID-19 school closures; however, some schools were well beyond re-certification requirements, even accounting for the pandemic.¹²²

In other examples, staff did not follow the training they received. A district behavior analyst explained that staff are required to “keep tabs” on the duration of a restraint, document the restraint (consistent with Washington law¹²³), and be available to intervene during a restraint and tap out escalated staff, but he admitted that these things do not always happen because there are not enough personnel. As he put it, the training they receive “is not like real life in a school,” where there are formidable staffing and resource shortages.

Moreover, there are at least two certification programs in Washington that teach prone and/or supine restraint,¹²⁴ which are both expressly prohibited by law because they interfere with students’ breathing.¹²⁵ During interviews, administrators were quick to point out that though it is in the training, they don’t use these restraints in their schools.¹²⁶ However, in one school monitoring interview, staff did walk through an example of a prone restraint used in 2021 with a student.¹²⁷ Additionally, a parent recounted an incident of restraint where staff used a desk to push a student up against a wall, even though wall restraints are also prohibited,¹²⁸ and parents and students recounted past prone and supine restraints in interviews.¹²⁹

Restraint and isolation are punitive and penal experiences for students.

Restraint and isolation are not only wielded as punishment by school administrators and personnel for non-compliance and disability-related behavior, but students also experience it as both punitive and penal. This manifested in different ways, as depicted in student, survivor, and parent interviews. One was the way in which survivors described isolation rooms. In vivid detail, survivors and parents recalled them as small, uncomfortable, dark, cold, and ultimately evocative of a prison or jail cell. One survivor described the isolation rooms he experienced in the following way:

“They have two rooms, side by side, that are essentially a 4 [foot] by 5 [foot] cell [with a] concrete floor with plastic laminate material on the wall and a solid steel door and a small window for [school personnel] to peer into. There was a medieval style lock, a big sliding bar that dropped down into a hook ... What are they holding back, an elephant?”¹³⁰

“I’ve never spent a day in jail... But because of my experience [being restrained and isolated at school], I know what prison feels like.”

He noted that while the room appeared clean, in the past, students had defecated and urinated in there and spread excrement around.¹³¹

Relatedly, one parent repeatedly referred to the isolation room her son was put in as a “lockbox.”¹³² The word “locked” or “locked up” was a common refrain by survivors, parents, and students to describe what was happening to the student. As one survivor put it, “they would lock me ... in a room ... they put a desk in and left me in there.” He explicitly used the word “punishment” to describe his experience being placed in the isolation room.¹³³

According to one survivor, “I’ve never spent a day in jail ... But because of my experience [being restrained and isolated at school], I know what prison feels like.”¹³⁴

Students and survivors internalized the negative self-image projected around them and described feelings of self-blame and wrongdoing after repeatedly being subject to restraint or isolation by school personnel. Evocative of these practices’ punitive nature, students sometimes framed the isolation room as where they would be sent when they were being “bad.” One survivor encapsulated those feelings in the following way:

“It felt like nothing I did was working ... I felt tired and upset with myself. I felt like I had failed to properly act and that I had done something wrong to deserve being put in the isolation room. The overall message from that program was that any instance of restraint was your fault — you had done something wrong.”¹³⁵

Especially when she was restrained and isolated in the general education context, she stated she felt she “didn’t deserve to be with my peers.”¹³⁶

The punitive experience of restraint and isolation was also evident in the threat of restraint and isolation that students experienced. The threat itself served as punishment to students: looming, shaping or controlling behavior, creating fear and worry, and breeding distrust of adults. That threat is evidenced in several ways as articulated in student, parent, and survivor interviews. One source of the threat was the witnessing of restraint and isolation of other students by school personnel: “Whatever positive supports I had (and I had vaguely good relationships with teachers at times) was ruined by constant threats of restraint and isolation. I would see it pretty much every day in elementary school and once a month in middle school.”¹³⁷

Another source of the threat was the physical, stark presence of the isolation room, either in their classroom or in proximity to it, serving as a “reminder,”¹³⁸ and the presence of staff themselves, who could restrain and/or isolate them at any time. As one survivor put it, “the isolation

“He’s telling us he’s afraid to be in that building because he’s afraid of what’s going to happen to him, and he doesn’t feel safe.”



Photos of a survivor as a child and as an adult.

room was always there, the staff was always there.”¹³⁹ This was part of a larger theme in survivor, student, and parent interviews of the anticipation of restraint and isolation happening to them. Parents described how their students didn’t want to go to school or expressed fear of going to school because they were worried about getting restrained and/or isolated.¹⁴⁰ “He’s telling us he’s afraid to be in that building because he’s afraid of what’s going to happen to him, and he doesn’t feel safe,” one parent said about her son. “I don’t think he was capable of articulating that in words, but he certainly communicated it through his repeated refusals to go to school.”¹⁴¹

Survivors similarly expressed this fear and anxiety. One was keenly aware of and anticipated “escalation patterns” that would lead to her restraint and isolation: “I could always tell where I was on that spectrum. If I acted in a certain way, it would lead to certain scenarios [where I would be restrained and isolated].”¹⁴²

Another survivor alarmingly described how he would dress in warm layers for school every day in anticipation of being placed inside the cold isolation room for hours at a time:

“They say they’re heated rooms but they’re not heated rooms. They’re on a concrete slab with no blanket, no chair, no padding, no nothing. It’s like 64 degrees, 65 degrees in the room but you’re also on the concrete which is not absorbing the heat ... It’s like 50 degrees, 40 degrees at best on the concrete. I would get to the point where I would wear extra layers, my thick Carhart jacket just to be able to sleep.”¹⁴³

Restraint and isolation are framed as practices that help keep students safe, but they are disabling, and have lasting harmful effects on students.

Washington law describes restraint and isolation as practices deployed to keep students and staff safe from serious harm.¹⁴⁴ OSPI similarly frames its data collection efforts as “school safety-related.”¹⁴⁵ One survivor shared that the isolation room in their elementary school was referred to by school personnel as a “safe room.”¹⁴⁶ Nevertheless, no student, survivor, or parent (in discussing their student’s experience) claimed they ever felt safe as a result of being restrained or isolated. Many of them stated the opposite — that they did not feel safe or suggested that they felt less safe as a result of these practices. Students, survivors, and parents (in discussing their students’ experiences) described feelings of alienation, fear, shame, hopelessness, powerlessness, anger, and distrust. When asked what was going through their mind during restraint and/or isolation, survivors

described similar experiences that all they wanted to do was leave: “I didn’t want to be there. I had the freedom to go home every day but then I would have to come back.”¹⁴⁷ This was also reflected in student and parent interviews describing how students did not want to go to school or that they were afraid of and/or didn’t like school because they knew they would be restrained and/or isolated.¹⁴⁸

As elaborated on below, interviews also show that many students suffered real harms because of restraint and isolation. Many of these harms are consistent with those suffered by youth subjected to corporal punishment, including higher likelihood of aggressive or antisocial behavior, increased mental health issues (especially depression, anxiety, distress, and trauma), and eroded relationships.¹⁴⁹

.....
“Very depressed, sometimes I would feel suicidal. In middle school, I was already feeling that way [and] restraint and isolation exacerbated that.”
.....

Restraint and isolation cause physical harm/injuries.

Students suffered physical pain and harm from restraint and isolation. One survivor explained that because of the “violence” that restraint entails and “the amount of strength being used” against him with four adults trying to restrain him, on occasion his head “smacked the wall,” or he “got an arm to the back of the head ... Not necessarily intentional but because of the brute strength being used, it’s inevitable.”¹⁵⁰ He said he suffered “[b]ruises, hand marks [from school personnel] grabbing me and restraining me. The amount of muscle it would take to move a kid like me, they would have to grab onto me pretty damn hard and they’ve left full handprints on me. On my arms, back, neck.”¹⁵¹ Students also experienced bruises and rug burns from being physically dragged to the isolation room.

Restraint and isolation exacerbate students’ behavioral and mental health problems.

A consistent theme throughout student, survivor and parent interviews was that these practices worsened the impacted students’ behavioral and mental health problems. Research shows that restraint and isolation have a negative impact on mental health, irrespective of previous trauma exposure.¹⁵² Before the pattern of restraint and isolation began, many of these students were coping with emotional dysregulation, depression, and suicidal ideation from trauma associated with poverty, foster care placement, homelessness, ableism, and racism.¹⁵³ Restraint and isolation practices only served to exacerbate those problems, making them more severe or sometimes leading to the development of new diagnoses, such as post-traumatic stress disorder, depression, or anxiety.¹⁵⁴ Research and interviews showed sexual assault survivors “recalled the experience of being physically restrained as representing a reenactment of their original trauma.”¹⁵⁵ As one survivor, who experienced neglect as well as physical



Photo of a survivor.

and verbal abuse from family members growing up, stated: “The school wasn’t the problem. It’s only where [my problems] got worse.”¹⁵⁶

For example, in describing how repeated restraint and isolation had made her feel, one survivor stated, “Very depressed, sometimes I would feel suicidal. In middle school I was already feeling that way [and] restraint and isolation exacerbated that.”¹⁵⁷ Another parent shared that her young son newly expressed suicidal ideation after repeated restraint and isolation, and she attributed this to the restraint and isolation.¹⁵⁸

One parent shared her observations that her student, who had excelled in her school program with strong community and school engagement, and growing social skills, became increasingly withdrawn and experienced substantial regression after she was repeatedly subject to restraint and isolation:

“Her aggression is worse, and she is not happy. She doesn’t want to do things she used to do. She doesn’t want to go to the job site or do her schoolwork ... She deteriorated — and she does not want to go to school ... She used to go out to work in the store ... to hang clothes and fold clothes ... They were training [her], increasing time ... But now if you ask her to do something, she will say no, in a very, very high volume.”¹⁵⁹

Similarly, another parent described how restraint and isolation practices have made her student more dysregulated, making it even more challenging for him to manage his emotional responses. She described him as more irritable, angry, and aggressive. When the bus arrived at daycare to take him to school, he had “complete meltdowns.”¹⁶⁰ Her student’s daycare teacher had remarked to her that his behavior had changed and that he was not the same as before.¹⁶¹

Restraint and isolation create distrust of adult relationships and educational institutions.

Research shows that up to five years after restraint, children and adolescents experience intrusive thoughts, recurrent nightmares, avoidance behaviors, startle responses associated with being held in benign situations, and mistrust.¹⁶² Interview data showed restraint and isolation practices bred distrust in impacted students, which negatively affected their mental well-being and undermined their relationships with parents and teachers who they should otherwise have been able to rely on for care and support. “In elementary school ... I ... had a lot of paranoia around the program and the wider world around me,” shared

one survivor. “[I thought] that people were out to get me a lot ... [I]t’s what I was thinking as a six-year-old or eight-year-old.”¹⁶³ She said that she “could not build good relationships with teachers because I hated them or was scared of them.”¹⁶⁴

A parent similarly stated that her high school student, who experienced restraint and isolation in elementary school, still “... finds it hard to trust anyone, even his own parents, [w]hich I understand because we were the ones telling him he needs to go to school every day, not fully realizing he was being abused at school. I can understand why the lack of trust extends to us as well as other adults.”¹⁶⁵ Even with the distance from those experiences that time has provided, and despite resources and supports he has since received that have facilitated his success in middle school and high school, those past restraint and isolation practices continue to negatively impact him, his relationships with family members, and potentially his life outcomes:

“We see under the surface this pretty deep and profound mistrust of the world around him and mistrust of other people. I think it isolates him and has the potential, as he tries to achieve his goals, of holding him back because of that inability to trust. That is the biggest impact that it’s had on him and on our whole family dynamic.”¹⁶⁶

This distrust also extends to educational institutions and internal systems of support for people with disabilities. One survivor, who has children of his own, shared: “I don’t trust anybody. I don’t trust the school system in any way. [Restraint and isolation experiences have made] me even more skeptical and untrusting of educational institutions.” Another survivor divulged:

“One big reason I had trouble in college was that I refused to go through the accommodations process with the disability services center because I still associate disability accommodations with harm, either like surveillance, watching everything I’m doing, or something bad happening in a general sense. I’m struggling to get over that and I don’t have any accommodations at my current college.”¹⁶⁷

Many school administrators and personnel were unaware or otherwise did not acknowledge the harmful toll of restraint and isolation on their relationship with students, on students’ mental health

.....
“People look at me
as an assaultive
Black African
American teenager.
I get looked at way
differently. I’m a
regular kid.”
.....

more generally, and the difficulty in restoring trustful relationships. However, one principal aptly characterized it in the following way: “It changes a person when you physically restrain them. It’s not easy to get trust back.”¹⁶⁸

Restraint and isolation traumatize students, with lasting impacts.

As previously discussed, restraint and isolation can generate severe and long-lasting physical, psychological, and emotional harm. Students and survivors said they experienced trauma from restraint and isolation as punishment and felt targeted because of disability, identity, race, and even suicidal ideation. What they wanted from adults was acceptance and support.

“If I get put in a restraint, it is traumatizing,” said a student and sexual assault survivor. “I can find a way out, but it gives me PTSD and trauma, going hands on. I don’t like to be touched.”¹⁶⁹ This student also shared that teachers assumed he was aggressive because he is Black. “You get blamed for things. You get looked at as a weapon. I don’t like that. People look at me as an assaultive Black African American teenager. I get looked at way differently. I’m a regular kid.”¹⁷⁰

A survivor with disabilities similarly reported that their self-regulation strategies were considered wrong behaviors: “I had to wait to do these [behaviors] until I was in the isolation room.”¹⁷¹ They further shared, “I think they could have learned to give me space when I needed it or be more proactive for [my] self-regulation instead of managing manifestations of my disability.”¹⁷²

Survivors also attributed repeated restraint and isolation trauma to lost education, limited employment prospects, poverty, exacerbated disability, and compromised adult living. One survivor poignantly stated: School “made me want to walk away from everything. That school didn’t give me life. It only took the life out of me ... They never provided me with tools to escape what was going on with me, to fix what was going on with me. I have had no drive for a long time, [and I’m] still working to find that drive.”¹⁷³

Though Washington law requires students subjected to restraint or isolation be assessed for injury,¹⁷⁴ reporting requirements do not capture the full extent of harm suffered by students.

OSPI publishes the number of student and staff injuries reported during the applications of restraint and isolation.¹⁷⁵ Data from 2017-18 and 2018-19 show that the number of staff reported injured is significantly higher than the number of students reported injured. The number of staff reported injured during restraint applications was 4-5 times higher than the number of students reported injured. For both years, the number of staff reported injured during isolations was 3

times higher than the number of students reported injured. In 2019-20, OSPI began reporting the number of student and staff injuries rather than the number of injured students and staff. That year, 6 times more staff injuries were reported than student injuries during restraint, and 3 times more staff injuries were reported than student injuries during isolation.¹⁷⁶

The gap between reported staff and student injuries/injured staff and students suggests injury reporting requirements don't adequately account for all student injuries. One reason for the discrepancy may be that staff are not questioning students and properly assessing potential injuries. There may also be a reliance on the expectation that students self-report. This presents challenges, because not all students use speech to communicate, and by the time an injury occurs, the trust between a student and staff may have eroded, causing a student to feel less safe reporting. Adding to the complexity of this issue is a lack of a formal definition of what constitutes an injury. Staff thus have discretion to interpret what an injury is and whether it has occurred.

Some schools in Washington have significantly reduced or even eliminated restraint and isolation, illuminating pathways to reform.

Monitoring, research, and interview data showed Washington schools and districts that successfully reduced restraint and isolation implemented similar practices, including: 1) changing their policy and procedures; 2) building and embedding teams to track restraint and isolation reduction based on data analysis; 3) debriefing, in these same teams, every incident of restraint and isolation to assess what could have been done differently and ensure students had appropriate interventions, supports, and their own debrief and recovery; 4) equipping schools to use appropriate student interventions with fidelity; and 5) infusing coaching and staff development where needed to meet these objectives.

Changed policy and procedure

A second-grade boy repeatedly locked, barefoot, in a chained enclosure on an elementary school playground,¹⁷⁷ garnered significant media attention, and created an uproar among parents, community organizations, and activists. This resulted in the district's decision to ban isolation and update their policy and procedure on restraint and isolation use. The district used a community-centered approach, holding a series of listening sessions before creating a new policy. The updated policy and procedure require annual reporting to the superintendent, a complaint process, a team-based incident review, updated reporting requirements (including length of incident, de-escalation strategies attempted, and injuries sustained), and a



Former isolation room re-purposed into a storage room with no door.

requirement that all staff be trained in trauma-informed de-escalation strategies.¹⁷⁸ Annual reporting to the superintendent must include data aggregated by race, disability category, and school.¹⁷⁹

Embedded school and/or district teams use data and review incidents to reduce restraint and isolation use

One public school principal described a two-year process wherein their school went from more than 700 annual incidents of restraint to roughly a dozen incidents per year.¹⁸⁰ The principal set the expectation that they would reduce restraint use to the greatest extent possible, brought in a new teacher, redesigned staff, hired a behavior analyst trained in de-escalation, implemented team-based reviews to track reduction, and continuously updated and implemented intervention strategies and supports for students.¹⁸¹ The principal said when they started, the students were not able to leave the classroom for fear of property damage or elopement, but within two years, they could go out into the community successfully with supports. “The school changed. The students became part of the community. We were able to avoid the feel of institutionalization.”¹⁸²

Teams to debrief every incident of restraint and isolation to (1) assess adult behavior; (2) assess what could have been done differently; (3) assure appropriate student interventions and supports; and (4) assure student debrief and recovery

In another school district, the special education director sought to address high isolation and restraint incidents in a school with a behavior program.¹⁸³ The director met with school administrators and behavior program staff for one afternoon weekly over the course of a year to review each incident of restraint for each student to assess de-escalation and intervention strategies. Evolved student interventions allowed them to demonstrably shrink the size of their behavior program and return many students to their home schools. They also eliminated isolation use and were able to repurpose isolation rooms.¹⁸⁴

Several schools used restorative practices to debrief with students and restore relationships after restraint or isolation incidents.¹⁸⁵

Schools that successfully eliminated these practices emphasized the importance of student recovery after isolation or restraint and stressed this allows the student to take ownership in self-regulating behaviors and learning new behavior strategies. The researchers did see examples where this process was made accessible, even for students with developmental disabilities who do not use speech.¹⁸⁶

Equip schools to use appropriate student interventions

Schools already use evidence-based practices to identify student needs and provide appropriate intervention. Schools provide behavior, social-emotional, and academic interventions for struggling students. These are generally delivered in a model commonly referred to as multi-tiered systems of support.¹⁸⁷ Schools also identify students who need additional disability accommodations for 504 plan referrals,¹⁸⁸ or specially (individually) designed instruction, for special education referral.¹⁸⁹ Additionally, schools infuse classroom and instruction with accommodations, technology, and strategies to boost intervention access in a process called universal design.¹⁹⁰ Universal design is also utilized to advance accessibility for equity purposes.¹⁹¹ Research shows targeted use of these interventions helps eliminate the need for restraint and isolation in schools.¹⁹²

Some schools were able to use staff professional development to strengthen their ability to identify and use appropriate interventions.¹⁹³ One school performed annual behavior screenings of all students and allowed any student to opt into an “academy” that provided behavioral and social-emotional support for students. Students who needed additional behavioral or social emotional intervention were required to attend. A team, which included the school counselor and school psychologist, built academy objectives, which included self-regulation strategy, the neuroscience of trauma and learning, and self-care strategies for students. Students gave input on what they wanted to learn, related to objectives.¹⁹⁴

Infuse coaching and staff development where needed to meet these objectives

Washington schools that effectively reduced restraint and isolation provided coaching and training to teachers to provide supportive interventions in all settings. This included additional training in discipline, enforcement, and de-escalation to encourage teachers to provide supportive interventions without resorting to discipline or removal from general education classrooms. “Administrators also said coaching and professional development were needed to address staff practice of discipline, enforcement of and compliance with policies, and to bolster staff de-escalation skills.”¹⁹⁶

Accordingly, several principals engaged in individual coaching and schoolwide staff development. One school spent a year going through “Conscious Discipline” curriculum with all staff to incorporate de-escalation strategies.¹⁹⁷ Another school did the same with the “Restorative Practices Playbook.”¹⁹⁸

One administrator described needing to create an expectation of a positive and supportive school culture, and the importance of holding staff accountable to those expectations.

Mental health and trauma support needed

Special education directors, school administrators, teachers, school psychologists, and paraeducators at length stressed they needed better mental health supports for students and staff, and that families needed these too. They felt this was a critical, missing component in addressing restraint and isolation reduction.¹⁹⁹

Recommendations

Eliminate isolation.

Washington's legislature should ban isolation.

The researchers found no evidence that Washington students benefit from the continued practice of isolation. In fact, qualitative and quantitative data establishes that restraining and isolating students causes unnecessary physical harm and trauma. This harm is disproportionately being borne by elementary students with disabilities, who are homeless, low-income, in foster care and who are Black or students of color. Washington's legislature should prohibit isolation in all Washington schools and educational programs.

Invest in mental health and trauma supports.

Washington's legislature must invest in mental health infrastructure and trauma support for students, families, and educators.

The qualitative data collected during our research revealed that school personnel uniformly desired mental health supports for students and staff. Personnel expressed frustration that there were not more robust mental health school services for students, that community supports like wraparound services had long waitlists and were not available for students in crisis, and that there is a critical shortage of mental health personnel who can work with students with developmental disabilities and behavioral challenges at the intersections of race, low-income, foster care, and homelessness status. School personnel also said family engagement was critical and parents desperately needed parenting, trauma, and mental health resources as well.

Invest and Fund Training for Alternative Approaches to Restraint and Isolation

Washington's legislature must mandate and allocate funding so districts can track, evaluate, and develop alternatives to restraint and isolation.

Districts that realized dramatic reduction in restraint or isolation each had teams comprised of administrators, educators, behavioral analysts, and other staff who reviewed every incident of restraint or isolation, and who assessed overall reduction of restraint and isolation in their schools. These teams informed school programming, staff development and support, student intervention strategy, and realized a transformation in school climate. The state should fund these teams in every district.

Washington's legislature and districts should expand professional development and targeted coaching on student supports.

Districts that reduced the use of restraint and isolation were able to build programming to support schoolwide implementation of social emotional, behavioral, and academic interventions with targeted staff development and coaching, especially around how to use these practices in conjunction with special education. Districts that reduced restraint and isolation also trained teachers in de-escalation. These intervention strategies keep students in class and engaged, foster strong relationships between students and staff, provide students emotional and relational safety, and contribute to student success.

Districts should prioritize positive student relationships.

Administrators in schools with low restraint numbers, or schools that had dramatically reduced the use of restraint, emphasized strong relational safety for students. Staff were trained to build in time for daily check-ins with students and provided additional support for struggling students. Students and administrators reported that strong relationships made it easier to de-escalate students in crisis and to repair relationships as needed. They also emphasized additional time was necessary for this but that it made a demonstrable difference. Additional time and planning require a fully staffed and trained team and the Washington Legislature should provide funding to ensure this reality.

The Washington Legislature should immediately ban extreme practices and clarify the limits on restraint and isolation.

Washington’s legislature should define and prohibit chemical restraint.

Medication or drugs that are not part of one’s medical or psychiatric treatment plan should not be used to control a student’s behavior or restrict a student’s movement. Pepper or other noxious sprays to a student’s face are already prohibited under Washington rules for several categories of person, and these chemicals should not be used in conjunction with restraint practice in Washington schools.

Washington’s legislature should define and prohibit mechanical restraint.

We found no evidence that mechanical restraint is necessary, nor does it provide any therapeutic benefit to students. Mechanical restraint only serves to traumatize and harm a student while impairing their ability to learn. Use of tasers, for example, falls under prohibited school practices in state rules yet are listed as restraint devices in Washington law.²⁰⁰ These must be expressly prohibited.

Washington’s legislature should define and provide a clear threshold for “imminent likelihood of serious harm.”

Our findings indicate that the interpretation of “imminent likelihood of serious harm” by school personnel is broad, inconsistent, and erroneously applied throughout Washington. The legislature should update the definition of imminent likelihood of serious harm, to make clear that restraint should never be used for coercion, punishment, or compliance.²⁰¹ Additionally, the legislature should clarify that the standard does not apply to property damage, unless the property damage creates risk of injury or death.

Modify data collection requirements.

Washington’s legislature should modify restraint and isolation data reporting requirements to improve school program transparency and accountability.

Every educational program must report program and building-based restraint and isolation use to OSPI. Currently, educational programs housed within educational service districts, non-public agencies, and DCYF juvenile rehabilitation programs use restraint and isolation in educational settings and are not obligated to collect and report these

data to OSPI. Additionally, reporting must require assessment of student injury. These practices can lead to severe injury or death, and education programs must assess and report restraint or isolation-based student injury.

Conclusion

The Washington state Legislature, the State Board of Education, Washington State School Directors' Association, School Districts, School Boards, Educational Service Districts, Washington Education Association, OSPI, DCYF, and others should develop and, where appropriate, implement model policy, procedure, and practice to effectively eliminate isolation and reduce restraint. Adopting the recommendations above will enable Washington schools to implement best practices with consistency across the state.

- 1 ACLU, DRW. *Parent Interview Notes*, P.4, 1 (Q1 2022).
- 2 *Promoting Alternatives to the Use of Seclusion and Restraint*, SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, 1. “In the United States each year, it is estimated that 50 to 150 individuals die because of seclusion and restraint practices in mental health inpatient residential facilities and many others are injured or traumatized by these events (Weiss et al., 1998). In fact, seclusion and restraint are dangerous and traumatic not only to the individuals subjected to these practices, but also for the staff implementing them.” Available at https://www.samhsa.gov/sites/default/files/topics/trauma_and_violence/seclusion-restraints-1.pdf (last visited Nov. 10, 2022).
- 3 Tyler Kingkade, *Video shows fatal restraint of Cornelius Frederick, 16, in Michigan foster facility*, NBC NEWS (2020), <https://www.nbcnews.com/news/us-news/video-shows-fatal-restraint-cornelius-fredericks-16-michigan-foster-facility-n1233122> (last visited Oct. 31, 2022).
- 4 Kristina Sgueglia, *Cornelius Frederick: 3 staff members charged over teen’s death released on bond*, CNN (2021), <https://www.cnn.com/2020/07/01/us/michigan-teen-death-staff-arraigned/index.html> (last visited Oct. 31, 2022).
- 5 Tyler Kingkade. *Supra* note 3.
- 6 *See e.g. consecutive reports; School is Not Supposed to Hurt: Investigative Report on Abusive Restraint and Seclusion in Schools*, NATIONAL DISABILITY RIGHTS NETWORK (2009), <https://www.ndrn.org/wp-content/uploads/2019/03/SR-Report2009.pdf> (last visited Oct. 31, 2022); *School is Not Supposed to Hurt: Update on Progression 2009 to Prevent and Reduce Restraint and Seclusion in Schools*, NATIONAL DISABILITY RIGHTS NETWORK (2010), <https://www.ndrn.org/images/Documents/Resources/Publications/Reports/School-is-Not-Supposed-to-Hurt-NDRN.pdf> (last visited Oct. 31, 2022); *School Is Not Supposed to Hurt: The U.S. Department of Education Must Do More to Protect School Children from Restraint and Seclusion*, NATIONAL DISABILITY RIGHTS NETWORK (2012), https://www.ndrn.org/images/Documents/Resources/Publications/Reports/School_is_Not_Supposed_to_Hurt_3_v7.pdf (last visited Oct. 31, 2022). See also: Wanda Mohr. et. al., *Adverse Effects Associated with Physical Restraint*, CANADIAN JOURNAL OF PSYCHIATRY. 334 (2003), <https://journals.sagepub.com/doi/epdf/10.1177/070674370304800509> (Last visited Nov. 1, 2022). See also generally ACLU, DRW. *Survivor Interviews 11, 12, 13, 14* (Q2 2022).
- 7 2015 K-12 EDUCATION - RESTRAINT OR ISOLATION OF STUDENTS, ch. 206 Wash. 64th Sess. Laws. §1, 1, Available at <https://lawfilesexternal.wa.gov/biennium/2015-16/Pdf/Bills/Session%20Laws/House/1240-S.SL.pdf?q=20221031191649> (last visited Oct. 31, 2022).
- 8 RESTRAINT OF STUDENTS 28A.600.485 (3)(b). Available at [https://app.leg.wa.gov/rcw/default.aspx?cite=28a.600.485#:~:text=\(b\)%20Restraint%20or%20isolation%20of,010](https://app.leg.wa.gov/rcw/default.aspx?cite=28a.600.485#:~:text=(b)%20Restraint%20or%20isolation%20of,010). (Last visited Nov. 10, 2022). See also LIKELIHOOD OF SERIOUS HARM. WAC 392-172A-01109. Available at <https://app.leg.wa.gov/wac/default.aspx?cite=392-172A-01109> (last visited Nov. 12, 2022).
- 9 Wanda Mohr. et. al., *Adverse Effects Associated with Physical Restraint*, CANADIAN JOURNAL OF PSYCHIATRY. 332-334

- (2003), <https://journals.sagepub.com/doi/epdf/10.1177/070674370304800509> (Last visited Nov. 1, 2022).
- 10 Individual instances of restraint and isolation in these contractual programs trace back to and are reported with the student’s original school district. The district includes the incident with its data count and reports to OSPI. Therefore, there is no way to use that data to tell how much restraint and isolation happens within a given contractual educational program. Lee Collyer. *Data Presentation for Legislative Workgroup. Restraint & Isolation Advisory Workgroup Meeting #5*, University of Washington School Mental Health Assessment Research and Training and the Office of Superintendent of Public Instruction. (2022).
- 11 For further definitions, see Appendix C.
- 12 RESTRAINT OF STUDENTS. 28A.600.485, *supra* note 8 at 1(b).
- 13 Guy Stephens, *About seclusion and restraint*, ALLIANCE AGAINST SECLUSION AND RESTRAINT (2022), available at <https://endseclusion.org/> (last visited Dec. 6, 2022).
- 14 *Id.* at (1)(b)-(c).
- 15 RESTRAINT OF STUDENTS. 28A.600.485, *supra* note 8 at 1(b).
- 16 PROHIBITED PRACTICES WAC 392-172A-02076 2(j). Available at <https://app.leg.wa.gov/wac/default.aspx?cite=392-172A-02076> (Last visited Dec. 19, 2022).
- 17 ISOLATION OR RESTRAINT - CONDITIONS. WAC 392-172A-02110 (2)(c) (2022), available at <https://app.leg.wa.gov/wac/default.aspx?cite=392-172A-02110> (last visited Oct 31, 2022).
- 18 *Id.*
- 19 RESTRAINT OF STUDENTS. 28A.600.485, *supra* note 8.
- 20 Yet it is defined and/or prohibited by law for other populations, including Washington’s Long-Term Care Resident Rights statute, which it defines as “a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident’s medical symptoms.” RESTRAINTS – PHYSICAL OR CHEMICAL. RCW 70.129.120. (1994), available at <https://app.leg.wa.gov/RCW/default.aspx?cite=70.129.120> (last visited Dec. 6, 2022). DEFINITIONS. RCW 70.129.010 (1) (2021), available at <https://app.leg.wa.gov/RCW/default.aspx?cite=70.129.010> (last visited Dec. 6, 2022).
- 21 PROHIBITED PRACTICES. WAC 392-172A-02076 *supra* note 16 at 2(h).
- 22 DRW, ACLU, *See e.g., Procedure for Restraint, Isolation, and Other Use of Reasonable Force*, District Q (Q4 2022).
- 23 RESTRAINT OF STUDENTS 28A.600.485, *supra* note 8 at 1(a) (emphasis added).
- 24 *Restraint and Seclusion: Resource Document*, U.S. DEPARTMENT OF EDUCATION, 14 (2012), available at <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited Oct 31, 2022).
- 25 RESTRAINT OF STUDENTS 28A.600.485, *supra* note 8 at 1(a).
- 26 *Id.* at 3(b). “Restraint or isolation must be closely monitored to prevent harm to the student ...”
- 27 ISOLATION OR RESTRAINT, WAC 392-172A-02110 *supra* note 17 at (1)(c), “Isolation enclosure shall permit continuous visual monitoring.”
- 28 *Id.* at 1(b).
- 29 *See* ISOLATION OR RESTRAINT WAC 392-172A-02110, *supra* note 17 at 1(e).
- 30 RESTRAINT OF STUDENTS 28A.600.485, *supra* note 8 at 1(a).
- 31 *Id.* at 3(b).
- 32 *Id.* *See Reviser’s note.*
- 33 LIKELIHOOD OF SERIOUS HARM WAC 392-172A-01109 *supra* note 8.
- 34 *Restraint and Seclusion: Resource Document*, *supra* note 24 at iii.
- 35 *Id.* at iii.
- 36 *See: Restraint and Seclusion of Students with Disabilities*, Dear Colleague Letter from U.S. Department of Education Office for Civil Rights, note 23, (“More recently, the Department has stated that there continues to be no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques, and that every effort should be made to prevent the need for the use of restraint and seclusion.”) citing *Restraint and Seclusion: Resource Document*, *supra* note 24 at iii.
- <https://sites.ed.gov/idea/idea-files/dcl-implementation-of-idea-discipline-provisions/> (last visited Nov 1, 2022).
- 37 *Id.* at 2.

- 38 Jessica Butler, *How Safe is the Schoolhouse? An Analysis of State Seclusion and Restraint Laws and Policies*, (2019), <https://www.autcom.org/pdf/HowSafeSchoolhouse.pdf> (last visited Nov 1, 2022). (cross-referenced with the more updated compilation of statutes found at Guy Stephens, *Laws and policies for the use of restraint and seclusion in schools in North America - Alliance Against Seclusion and Restraint*, (2022), <https://endseclusion.org/resources/laws-and-policies-for-the-use-of-restraint-and-seclusion-in-schools-in-north-america/> (last visited Nov 1, 2022) (See generally, states that require restraint and isolation data reporting to state education agencies: AL, AK, AR, CA, CT, DE, FL, HI, IN, KS, KY, LS, ME, MA, MI, MS, NC, NH, NV, OH, OR, RI, TN, TX, UT, WA, WY.)
- 39 RESTRAINT OF STUDENTS RCW 28A.600.485 *supra* note 8 at (4)-(6).
- 40 *Id.* at 7(a).
- 41 In non-public agencies, individual instances of restraint or isolation are reported to the student's school district, and the school district incorporates that number in its count; but it is not possible to see number of incidents per setting, as it is in public schools. Lee Collyer, *supra* note 10.
- 42 RESTRAINT OF STUDENTS RCW 28A.600.485, *supra* note 8 at §7(a)-(b).
- 43 As Washington's designated Protection and Advocacy System (P&A), Disability Rights Washington (DRW) has federal authority to access service providers of people with disabilities in connection to monitoring activities. 42 U.S.C. § 15043(a)(2)(H); 42 U.S.C. § 10805(a)(3). Pursuant to 42 U.S.C. § 15043(a)(2)(H), a P&A is permitted to "have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual[.]" See also *Conn. Office of Protection & Advocacy for Persons with Disabilities v. Hartford Bd. of Educ.*, 464 F.3d 229, 242 (2d Cir. 2006) (holding that P&A statutes authorize P&A access to schools and students for monitoring and investigatory purposes).
- 44 The authors requested the OSPI datasets on restraint and isolation for the 2019-20 and 2020-21 school years; these datasets are smaller than would be expected in a typical year because for both years, a significant portion of the school year was remote because of the COVID-19 pandemic. Nevertheless, patterns in the practice of restraint and isolation and impacted groups are not materially different from one year to the next.
- 45 We requested and received data for the following student groups: American Indian/Alaskan Native, Asian, Black/African American, Female, Male, Gender X, Hispanic/Latino of any race(s), White, Two or more races, Non-English language learners, Students experiencing homelessness, Students not experiencing homelessness, Students from low-income families, Students from non low-income families, Migrant students, Non-migrant students, Students with 504 plans, Students without 504 plans, Students with disabilities, and
- Students without disabilities. Despite multiple requests for data on students in foster care, at the time of this writing, OSPI has declined to share these data.
- 46 HB 1240 (2015-16). RESTRAINT OF STUDENTS RCW 28A.600.485, *supra* note 8 at §3(b).
- 47 *Restraint and Isolation of Students*, WASHINGTON STATE GOVERNOR'S OFFICE OF THE EDUCATION OMBUDS. Available at <https://www.oeo.wa.gov/en/education-issues/restraint-and-isolation-students> (last visited Nov. 1, 2022).
- 48 The use of the phrase "restraint *or* isolation" signifies three different possible permutations — the application of restraint only, the application of isolation only, or the application of both restraint and isolation.
- 49 Please note there is overlap between student groups. For example, a Black, male student with disabilities will be counted once in each of the three student groups — Black/African American, male, and student with disabilities. As a result, the percentages for share of impacted students and share of enrollment don't add up to 100%.
- 50 Darcie Lyons. *Restraint and Seclusion of Students with Disabilities*, INTERNATIONAL JOURNAL OF CHILDREN'S RIGHTS 23. University of Melbourne, Australia. 202-203. (2015) See also U.S GOVERNMENT ACCOUNTABILITY OFFICE. TESTIMONY BEFORE THE COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES. SECLUSIONS AND RESTRAINTS: SELECTED CASES OF DEATH AND ABUSE AT PUBLIC

- AND PRIVATE SCHOOLS AND TREATMENT CENTERS, 2,8,18 (2009), available at <https://www.gao.gov/assets/gao-09-719t.pdf>.
- 51 *Restraint and Isolation of Students*, *supra* note 47.
- 52 Glen Dunlap, et al. *Preventing the Use of Restraint and Seclusion with Young Children: The Role of Effective, Positive Practices*. TECHNICAL ASSISTANCE CENTER ON SOCIAL EMOTIONAL INTERVENTION. (2011) Available at https://challengingbehavior.org/docs/IssueBrief_preventing-restraint-seclusion.pdf. (Last visited Oct. 19, 2022).
- 53 *Id.*
- 54 Please note that there is overlap between student groups. Thus, a Black male with disabilities who experienced restraint or isolation would be counted once in each of these student groups — Black, male, and student with disabilities. This explains why the percentages for these groups are not cumulative, i.e., they do not add up to 100%.
- 55 Lee Collyer. *OSPI Restraint and Isolation: Data, Best Practices, and Policies*, WASHINGTON OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION 25 (2021) Available at <https://www.k12.wa.us/sites/default/files/public/safetycenter/pubdocs/9-23-21%20Restraint%20and%20Isolation%20PPT.pdf>. (Last visited Nov. 1, 2022). Author’s note: The state has declined to share restraint and isolation data for youth in foster care with DRW and ACLU-WA for the purposes of this report. As a result, the researchers are reliant on OSPI’s analysis and necessarily use a different benchmark for disproportionality here than for the other student groups.
- 56 *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities*, *supra* note 36 at 2.
- 57 *504 Discipline Guidance*, U.S. DEPARTMENT OF EDUCATION 3 (2016) Available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>. (Last visited Dec. 20, 2022).
- 58 According to OSPI, if a student is identified as being in more than one race category (from American Indian/Alaska Native, Asian, Black, Native Hawaiian/Other Pacific Islander, or White) then they are aggregated to “Two or More Races,” and therefore only counted once.
- 59 Lee Collyer, *supra* note 55.
- 60 Wilson Criscione, *Why Washington is shipping more disabled students out of state, splitting up families and costing taxpayers millions*, INVESTIGATEWEST (2022), <https://www.invw.org/2022/02/22/why-washington-is-shipping-more-disabled-students-out-of-state-splitting-up-families-and-costing-taxpayers-millions/> (last visited Nov. 1, 2022).
- 61 Mike Reicher and Lulu Ramadan, *At Washington State Special Education Schools, Years of Abuse Complaints and Lack of Academics*, SEATTLE TIMES / PROPUBLICA (Nov. 26, 2022) Available at <https://www.propublica.org/article/therapeutic-schools-northwest-soil-invisible-washington#:~:text=The%20lack%20of%20state%20oversight%20has%20allowed%20Northwest,three%20police%20departments%20and%20the%20state%20education%20department.> (Last visited Dec. 19, 2022).
- 62 Email from C. to DRW, ACLU. (Sept. 30, 2022) (on file with authors).
- 63 Email from K. to DRW, ACLU. (May 20, 2022) (on file with authors).
- 64 ACLU, DRW. *Dataset M*. (Q3 2022). *See also* ACLU, DRW. *Admin Interview M.3*, 2 (Q2 2022) noting this school had eliminated hands-on restraint and gone to use of Ukeru mats after 2019-20.
- 65 The statewide rate used here is for 2019-20 since no restraint and isolation data are available for 2018-19.
- 66 ACLU, DRW. *Dataset P.F.* (Q1 2020).
- 67 *Dataset M*, *supra* note 64.
- 68 *Dataset P.F.*, *supra* note 66.
- 69 FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT. 34 C.F.R. §§ 99.30 (2022).
- 70 Scholar Kimberlé Crenshaw, describes “intersectionality” as “a lens for seeing how forms of inequity often operate together and exacerbate each other.” “We tend to talk about race inequality as separate from inequality based on gender, class, sexuality, or immigrant status. What’s often missing is how some people are subject to all of these, and the experience is not just the sum of its parts.” *See: She Coined the Term ‘Intersectionality’ Over 30 Years Ago. Here’s What it Means to Her*

- Today*. TIME (2020) <https://time.com/5786710/kimberle-crenshaw-intersectionality/> (Last visited Nov. 1, 2022).
- 71 Lee Collyer, *supra* note 55.
- 72 *Family Educational Rights and Privacy Act (FERPA)*. U.S. DEPARTMENT OF EDUCATION. See guidance that FERPA 34 C.F.R. §99.31 allows schools to disclose records without consent under specified conditions. Available at <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>. (Last visited Nov. 16, 2022).
- 73 ACLU, DRW. *Parent Debrief P.6, 1* (Q1 2022). See also *Teacher Interview B.5, 5* (Q1 2022). (Though staff did not identify student, they corroborated parent's story during their interview.)
- 74 *Restraint and Isolation of Students, supra* note 47.
- 75 *Restraint of Students RCW 28A.600.485, supra* note 8 at 3(b) (emphasis added). See also *Restraint and Isolation of Students, supra* note 47.
- 76 ACLU, DRW. *Admin Interview N.1, 8* (Q2 2022), *Admin Interview P.O.1 2* (Q1 2020).
- 77 ACLU, DRW. *Admin Interview P.O.1, supra* note 76 at 2.
- 78 ACLU, DRW. See e.g., *Survivor Interviews P.12, P.13*, (Q2 2022).
- 79 ACLU, DRW. *Survivor Debrief P.12, 1* (Q2 2022).
- 80 ACLU, DRW. *Survivor Interview Notes P.11, 3* (Q1 2022).
- 81 *Id.*
- 82 *Id.*
- 83 *Parent Debrief P.6 supra* note 73 at 1.
- 84 See *Survivor Interviews P.12, P.13, supra* note 78 and *Survivor Interview Notes P.11, supra* note 80.
- 85 *Survivor Interview Notes P.11, supra* note 80 at 2.
- 86 *Restraint and Isolation of Students, supra* note 47.
- 87 ACLU, DRW. *Teacher Interview E.3, 3*, (Q2 2022).
- 88 ACLU, DRW. *Admin Interview F.1, 1* (Q2 2022).
- 89 ACLU, DRW. *Student Interview, C.6, 2* (Q1 2022).
- 90 See e.g., *Survivor Interview, P.13, supra* note 78 at 2.
- 91 See e.g., ACLU, DRW. *P.O. Emergency Response Protocol 1* (Q1 2020).
- 92 See e.g., ACLU, DRW. *Photos* at B.
- 93 See e.g., ACLU, DRW. *Admin Interview B.3, 6* (Q1 2022).
- 94 DRW. ACLU. *Principal Interview P.P.1, 2* (Q1 2020).
- 95 See e.g., *Survivor Interview Notes P.11, supra* note 80 at 1, 4, also generally *Survivor P.13 supra* note 78, and *Student Interview N.2*.
- 96 RESTRAINT OF STUDENTS 28A.600.485 3(b) *supra* note 8.
- 97 *What Does Fight, Flight, Freeze, Fawn Mean?* Web MD (2022) <https://www.webmd.com/mental-health/what-does-fight-flight-freeze-fawn-mean#:~:text=The%20fight%20response%20is%20your,please%20someone%20to%20avoid%20conflict.> (Last visited Oct. 19, 2022).
- 98 *Survivor Interview Audio P.13* (Q2 2022).
- 99 *Id.* at 16:54, 26:32, 33:05-20.
- 100 *Id.* at 27:07– 27:56.
- 101 *The problem with behaviorism. Alliance Against Seclusion and Restraint.* <https://end-seclusion.org/articles/the-problem-with-behaviorism/>. (Last visited Oct. 19, 2022).
- 102 Amy Amsten, *Neural Circuits responsible for conscious self-control are highly vulnerable to even mild stress. When they shut down, primal impulses go unchecked and mental paralysis sets in.* NATIONAL LIBRARY OF MEDICINE. (2012). Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4774859/>. (Last visited Nov. 11, 2022).
- 103 *Survivor Interview P.12, supra* note 78 at 2.
- 104 *Survivor Interview Notes P.13, supra* note 78 at 2.
- 105 *Id.*
- 106 *Survivor Interview Audio P.11, 23:20 – 23:35.* (Q1 2022).
- 107 *Isolation or restraint – Conditions, supra* note 17 at (1)(b).
- 108 *Survivor Interview Notes P.11, supra* note 80 at 4.
- 109 ACLU, DRW. *Teacher Interview G.4, 5* (Q2 2022).
- 110 *Interview P.O.1. supra* note 76 at 2. Also see *Photos* at C (Q1 2022).
- 111 ISOLATION OR RESTRAINT – CONDITIONS. WAC

- 392-172A-02110, *supra* note 17 at (1) (a)-(e).
- 112 ACLU, DRW. *Photos at D.* (Q1 2022).
- 113 RESTRAINT OF STUDENTS. RCW 28A.600.485, *supra* note 8 at (6).
- 114 *Parent Debrief P.6*, *supra* note 73 at 1.
- 115 *Admin Interview N.1*, *supra* note 76 at 7.
- 116 ACLU, DRW. *Parent Interview Transcript P.1*, 20:18 – 20:25 (Q1 2022).
- 117 ACLU, DRW. *Admin Interview B.2, 2* (Q1 2022).
- 118 *Parent Interview Transcript P.1*, *supra* note 116.
- 119 ACLU, DRW. *Admin interview A.3, 5* (Q1 2022). *See also* ACLU, DRW. *Parent Interview P.2, 2* (Q1 2022).
- 120 ACLU, DRW. *Teacher Interview A.6, 2,3* (Q1 2022), ACLU, DRW. *Parent Debrief P.6*, *supra* note 73 at 1.
- 121 ACLU, DRW. *Paraeducator Interview A.2, 2* (Q1 2022).
- 122 ACLU, DRW. *Admin Interview E.2, 2* (Q2 2022).
- 123 RESTRAINT OF STUDENTS. 28A.600.485, *supra* note 8 at 5 (a)-(f).
- 124 *Training Workshop Curriculum*. RIGHT RESPONSE. *See*: “Toolkit interventions include wall holds and prone holds but not supine floor restraints.” <https://rightresponse.org/training-workshop/curriculum#:~:text=These%20techniques%20may%20be%20taught,Rooms%20and%20Protection%20from%20Weapons>. (Last visited Nov. 10, 2022).
- See also* Nonviolent Crisis Intervention with Advanced Physical Skills. CRISIS PREVENTION INSTITUTE. “<https://www.crisisprevention.com/Our-Programs/Nonviolent-Crisis-Intervention-APS,%20and%20see%20e.g>” <https://www.crisisprevention.com/Our-Programs/Nonviolent-Crisis-Intervention-APS>, and *see e.g.*, *Requirements for the Use of Isolated Time out and Physical Restraint*. Crisis Prevention Institute. “Certified Instructors qualified to teach NCI 2nd Edition with Advanced Physical Skills are trained to respond to high-risk behaviors that result in a student going to the floor in a supine or prone position.” <https://www.crisisprevention.com/CPI/media/Media/Resources/alignments/20-CPI-LEG-0618-IL-Restraint-and-Seclusion-Alignment.pdf>. (Last visited Nov. 10, 2022).
- 125 PROHIBITED PRACTICES. WAC 392-172A-02076 *supra* note 16 at (2)(j), ISOLATION OR RESTRAINT. WAC 392-172A-02110 *supra* note 17 at (2)(b), (3) (b).
- 126 ACLU, DRW. *Admin Interview, B.1, 1* (Q1 2022).
- 127 ACLU, DRW. *Staff Interview K.3, 2* (Q2 2022).
- 128 ACLU, DRW. *Parent Interview P.E 2, 1* (Q1 2020).
- 129 *See e.g.*, *Student Interview N.2 supra* note 95, *Parent Interview P.4, supra* note 1.
- 130 *Id.* at 18:12.
- 131 *Id.* at 18:40.
- 132 *Parent Interview Notes P.6, supra* note 73 at 1.
- 133 *Survivor Interview Notes P.11 supra* note 80 at 1.
- 134 *Id.* at 4.
- 135 *Survivor Interview Audio P.13, supra* note 98 at 42, 46.
- 136 *Survivor Interview Debrief P.13, supra* note 78 at 1.
- 137 *Survivor Interview Notes P.13, supra* note 78 at 2.
- 138 *Id.*
- 139 *Id.*
- 140 *See e.g.*, *Parent Interview Debrief P.6, supra* note 73 at 1 and *Parent Interview Debrief P.4 supra* note 1 at 1.
- 141 *Parent Interview Audio P.4, 44:43 – 46:02* (Q1 2020).
- 142 *Survivor Interview Notes P.13, supra* note 78 at 2.
- 143 *Survivor Interview Notes P.11, supra* note 80 at 4.
- 144 K-12 EDUCATION - RESTRAINT OR ISOLATION OF STUDENTS, *supra* note 7. *See* “The legislature finds that there is no educational or therapeutic benefit to children from physically restraining or isolating them as part of their public school programs when not necessary for immediate safety.” at § 1.
- 145 *Restraint and Isolation*. WASHINGTON OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION. <https://www.k12.wa.us/student-success/health-safety/school-safety-center/restraint-and-isolation>. (Last visited Nov. 11, 2022.)

- 146 *Survivor Interview*
Notes P.13, *supra* note 78 at 1.
- 147 *Id.* at 4.
- 148 *See generally e.g.,* ACLU DRW. *Parent Interviews P.2, P.3, P.4, P.6, P.7.* (Q1 2022).
- 149 Elizabeth Gershoff, *More Harm than Good: A Summary of Scientific Research on the Intended and Unintended Effects of Corporal Punishment on Children.* NATIONAL LIBRARY OF MEDICINE. (2010) Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8386132/> (Last visited Nov. 11, 2022).
- 150 *Survivor Interview*
Notes P.11, *supra* note 80 at 2.
- 151 *Id.*
- 152 *Trauma, challenging behavior, and restrictive interventions in schools.* CENTRE FOR MENTAL HEALTH. 1 (2020) Available at [Briefing_54_traumainformed_schools_0.pdf](https://www.centreformentalhealth.org.uk/Briefing_54_traumainformed_schools_0.pdf) (centreformentalhealth.org.uk) (Last visited Nov. 11, 2022).
- 153 *See Childhood Adverse Experience classifications including bullying, foster care, discrimination, and homelessness in Homelessness & Adverse Childhood Experiences: The health and behavioral health consequences of childhood trauma Fact Sheet.* NATIONAL HEALTH CARE FOR THE HOMELESS COUNCIL. 1 (2019). *See also* Collyer, *supra* note 55, where OSPI data shows disproportionate restraint and isolation in Washington for students in poverty, foster care, homelessness, students with disabilities, and students who are Black and/or two or more races.
- 154 Wanda Mohr, *supra* note 9 at 5.
- 155 *Id.* at 5. *See also* ACLU, DRW. *Student Interview M.1*, 3 (Q2 2022).
- 156 *Survivor Interview*
Notes P.11, *supra* note 80 at 4.
- 157 *Survivor Interview*
Notes P.13, *supra* note 78 at 3.
- 158 *Parent Interview Audio P.4*, *supra* note 141 at 23:03.
- 159 ACLU, DRW. *Parent Interview P.2*, 4. (Q1 2022).
- 160 ACLU, DRW. *Parent Interview Audio P.6*, 3:38 (Q1 2022).
- 161 *Id.* at 3:49.
- 162 Wanda Mohr, *supra* note 9 at 334.
- 163 *Survivor Interview*
Notes P.13, *supra* note 78 at 3.
- 164 *Id.* at 6.
- 165 *Parent Interview Audio P.4*, *supra* note 141 at 32:30 -33:05
- 166 *Id.* at 34:49 – 35:34.
- 167 ACLU, DRW. *Email from Survivor P.13 to DRW.* (Nov. 15, 2022) (on file with authors).
- 168 ACLU, DRW. *Admin Interview O.4* 1 (Q2 2022).
- 169 *Student Interview M.1*, *supra* note 155 at 1.
- 170 *Id.* at 4.
- 171 *Survivor Interview Audio P.13*, *supra* note 98 at 36:08.
- 172 *Id.* at 35:50.
- 173 *Survivor Interview*
Notes P.11, *supra* note 80 at 6.
- 174 RESTRAINT OF STUDENTS. RCW 28A.600.485, *supra* note 8 at (5)(e).
- 175 *Restraint and Isolation.* WASHINGTON OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION. (2021) Available at <https://www.k12.wa.us/student-success/health-safety/school-safety-center/restraint-and-isolation> (Last visited Dec. 19, 2022).
- 176 Although 2020-21 data are available, as of the writing of this report, OSPI has reported the number of staff injuries but not the number of student injuries. Instead, they have reported the number of injured students. Because these are different measures, they cannot be compared.
- 177 Ann Dornfeld. *Locked in 'the cage.' Report finds disturbing discipline measures at Seattle School,* KUOW. (2020) Available at <https://www.kuow.org/stories/locked-in-the-cage-report-finds-disturbing-discipline-measures-at-seattle-school> (Last visited Nov. 11, 2022).
- 178 *See Policy 3246SP, Restraint, Isolation and Other Uses of Physical Crisis Intervention, and Superintendent Procedure 3246SP Restraint, Isolation and Other Uses of Physical Crisis Intervention,* SEATTLE PUBLIC SCHOOLS. (2021) Available at <https://www.seattleschools.org/about/school-board/policies/3246-restraint-isolation-and-other-uses-of-physical-intervention/> and <https://www.seattleschools.org/wp-content/uploads/2021/09/3246SP.pdf>. (Last visited Nov. 11, 2022).

- 179 *Id.*
- 180 ACLU, DRW. *Admin Interview P.B.1*, 1 (Q1 2020).
- 181 *Id.*
- 182 *Id.*
- 183 ACLU, DRW. *School District Leadership Interview O.7*, 1,4-5 (Q2 2022).
- 184 *Id.* at 1.
- 185 *See e.g.*, ACLU, DRW. *Admin Interview O.8*, 1 (Q2 2022).
- 186 *See e.g.*, ACLU, DRW. *Admin Interview P.N.1*, 2 (Q1 2020).
- 187 Multi-Tiered System of Supports (MTSS) WASHINGTON OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION. Available at <https://www.k12.wa.us/student-success/support-programs/multi-tiered-system-supports-mtss>. (Last visited Nov. 12, 2022).
- 188 504 Plans and Students with Disabilities. WASHINGTON OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION. Available at <https://www.k12.wa.us/policy-funding/equity-and-civil-rights/resources-school-districts-civil-rights-washington-schools/504-plans-and-students-disabilites> (Last visited Nov. 12, 2022).
- 189 Special Education. WASHINGTON OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION. Available at <https://www.k12.wa.us/student-success/special-education>. (Last visited Nov. 12, 2022).
- 190 UNIVERSAL DESIGN OF LEARNING. WAC 392-172A-01197. (2021) Available at <https://app.leg.wa.gov/wac/default.aspx?cite=392-172A-01197#:~:text=UNIVERSAL%20DESIGN%20FOR%20LEARNING.&text=THE%20GOAL%20OF%20UDL%20IS,155.090> (Last visited Nov. 12, 2022).
- 191 ANDRATESHA FRITZGERALD. ANTI-RACISM AND UNIVERSAL DESIGN FOR LEARNING. Westchester Publishing Services. 2020.
- 192 *See e.g.*, Terrance Scott, *Using Staff and Student Time Engaged in Disciplinary Procedures to Evaluate the Impact of School-Wide PBS*, JOURNAL OF POSITIVE BEHAVIOR INTERVENTIONS 21 (2004); Kathy Wilson. *Promoting Positive Discipline Approaches and Reducing Restraint and Seclusion: The American School for the Deaf's Model of Success*. CENTER ON POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS (2022); Positive Behavior Supports and Interventions: Preventing the Use of Restraints and Seclusion in Early Intervention. Early Intervention Teacher's Reference Guide, PENNSYLVANIA EARLY INTERVENTION (2011)
- 193 Monitoring revealed several school principals were meeting regularly with schoolwide staff and working through one or more of the following: JOHN HANNIGAN, DON'T SUSPEND ME! AN ALTERNATIVE DISCIPLINE GUIDE Corwin (2016); JESSICA HANNIGAN, THE MTSS START-UP GUIDE: ENSURING EQUITY, ACCESS, AND INCLUSIVITY FOR ALL STUDENTS, (2020); BECKY A BAILEY, CONSCIOUS DISCIPLINE: BUILDING RESILIENT CLASSROOMS ZCUOO (2015); ELENA AGUILAR, ONWARD: CULTIVATING EMOTIONAL RESILIENCE IN EDUCATORS John Wiley & Sons (2018);
- ZACHARY SCOTT ROBBINS, THE RESTORATIVE PRACTICES PLAYBOOK: TOOLS FOR TRANSFORMING DISCIPLINE IN SCHOOLS Corwin (2022). *See generally* ACLU, DRW. *Admin Interviews H.4* (Q2 2022), *Admin Interview O.8* *supra* note 185, *Admin Interview D.2*, (Q1 2022), and *Admin Interview O.9* (Q2 2022).
- 194 *Admin Interview O.8*, *supra* note 185 at 1-2,4.
- 195 *Id.* *See also*, *Admin Interview D.2*, *supra* note 193 at 3,6,9.
- 196 *See e.g.*, *Admin Interview O.8*, *supra* note 185 at 4. "It comes down to educating the adults on those practices. Punitive, compliance: what good does that do? Paraeducators struggled with restorative practices, so we supplied them with restorative practices from the PBIS trainer."
- 197 *Id.*
- 198 *Id.*
- 199 *See generally e.g.*, *Admin Interviews B.3, D.2, F.1, H.4, and Teacher Interviews E.3, G.5, J.2.*
- 200 RESTRAINT OF STUDENTS. RCW 28A.600.485, *supra* note 8 at (1)(c) and PROHIBITED PRACTICES. WAC 392-172A-02076, *supra* note 16 at (2)(a).
- 201 LIKELIHOOD OF SERIOUS HARM. WAC 392-172A-01109, *supra* note 8, and RESTRAINT OF STUDENTS. RCW 28A.600.485, *supra* note 8 see Revisor's note.

Appendix A: Definitions

Physical restraint is often referred to as a “hold” and generally involves between 1 and 4 adults per student. It is taught to designated school district personnel through various professional crisis training programs. State law requires the training to be trauma-informed and any staff who use restraint must have up-to-date training and certification. Physical restraint is done without chemicals or the use of devices. Restraint holds that interfere with breathing are prohibited by state law:

- Supine restraint involves restraining a student while they lie on the floor on their back.
- Prone restraint involves restraining a student while they lie face-down on the floor on their belly.
- Wall restraint involves restraining a student while they are standing against or held against a wall.

Mechanical restraint is a restraint that utilizes a restraint device to restrict a student’s movement. Permissible restraint devices in Washington include metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, pepper spray, tasers or batons. Seatbelts do not constitute restraint when used for student transportation safety, but could be used as a restraint device if not used as intended, that is, if used to restrict movement, as defined above.

Chemical restraint is the administration of any drug or chemical, that is not standard treatment for a medical or psychiatric condition, to manage student behavior or restrict student movement. Nineteen states explicitly prohibit school-based chemical restraint in statute, but Washington is not one of them. Washington statutes address chemical restraints for long term care, but not in the school context. Report findings show that chemical restraint is used in Washington schools. For example, one educational service district defines “spray” in its restraint and isolation procedure as “pepper spray, OC spray, or other similar chemicals that are used to control a student or limit a student’s freedom of movement.”

Appendix B: State Laws on Restraint and Isolation

Some examples of the trend to limit or eliminate restraint and isolation include:

- Georgia banned the use of seclusion (isolation) for all students in 2010, more than a decade ago. In addition to seclusion, Georgia has banned the use of chemical, mechanical, and prone restraints. Physical restraint is permissible, but only if a student is an immediate danger to themselves or others and other de-escalation techniques have failed.
- In 2021, Hawaii updated its statute to ban the use of seclusion for all students. The Hawaii statute also bans the use of chemical and mechanical restraint, regardless of any consent provided by the student, parent, or guardians.
- In 2022, Maryland significantly narrowed the permitted use of restraint to situations of imminent harm to the student or others, and only once other less intrusive means have been unsuccessful. Unlike Washington, this law applies to government-run schools as well as non-public agency (NPA) schools. This act also bans the use of isolation in public schools, and significantly narrows the circumstances under which an NPA can isolate a student. In NPAs, isolation is permitted only when there is a threat of harm to individuals and with the direct observation of a health care provider. This act significantly reduces opportunities for the use of restraint and isolation in schools.
- Kansas limits the use of restraint and isolation to situations of immediate threats of danger or physical harm. More specifically, the act only permits use of restraint and isolation when the student “presents a reasonable and immediate danger of physical harm” to themselves or others; the student has “the present ability to effect such physical harm”; and less intrusive steps have been ineffective or are deemed inappropriate for this situation. This specification allows educators and administrators more clarity in determining when immediate danger is realistically occurring and aims to limit use of restraint and isolation when there is not a threat of immediate harm to a student or school staff. Another important distinction between Kansas and Washington is that Kansas defines “school” as any learning environment, including any nonprofit institutional day or residential school or accredited non-public school, that receives public funding.
- In 2021, the Arkansas Legislature passed a law limiting the permissible use of restraint and isolation. For example, while isolation is permissible, definitive limits of 5, 15, and 20 minutes are required for preschool, elementary, and middle school students respectively. Providing explicit direction that articulates when restraint and isolation is not permissible provides staff with

a clearer understanding and potentially creates less room for misuse or abuse of these techniques.

- In 2021, the Maine State Legislature raised the standard for when restraint and isolation are allowed from “risk of injury” to “imminent danger of serious physical injury.” Another notable amendment is the change in the language to include a more inclusive, student-focused definition of isolation/seclusion. The definition notes that seclusion entails not just when a student is not free to exit an area but when “the student does not feel free to go...”.
- Connecticut, Delaware, Louisiana, and Kentucky have removed destruction of property from consideration, except in some specific circumstances such as trespassing.
- Pennsylvania has a law on the books since 2001 which states that the use of a restraint device triggers a ten-day period in which the district must provide notice to the student’s parents and convene an IEP meeting.

Appendix C: Template Monitoring Letter

Principal X,

I am writing to introduce to you Disability Rights Washington (DRW). DRW is a private, non-profit organization that is the designated Protection and Advocacy System for Washington. DRW monitors, reviews, and investigates services for individuals with disabilities. DRW will be monitoring at _____ on or after XX , 202X .

I. Legal Authority for DRW Access

As Washington’s designated Protection and Advocacy System (P&A), Disability Rights Washington (DRW) has federal authority to access service providers of people with disabilities in connection to monitoring activities. 42 U.S.C. § 15043(a)(2)(H); 42 U.S.C. § 10805(a)(3). Pursuant to 42 U.S.C. § 15043(a)(2)(H), a P&A is permitted to “have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual[.]” See also *Conn. Office of Protection & Advocacy for Persons with Disabilities v. Hartford Bd. of Educ.*, 464 F.3d 229, 242 (2d Cir. 2006) (holding that P&A statutes authorize P&A access to schools and students for monitoring and investigatory purposes.). P&A regulations clarify that “a P&A system shall have reasonable unaccompanied access to service providers for routine circumstances,” including access to areas “used by” or “accessible to” individuals with disabilities. 45 C.F.R. § 1326.27(c); see also 42 C.F.R. § 51.42(c) (providing for access to facilities serving people with mental illness). Service providers must afford access “immediately upon an oral or written request by the P&A.” 45 C.F.R. § 1326.27(c)(1). Neither the Family Educational Rights and Privacy Act of 1974 (FERPA) nor the Individuals with Disabilities Education Act (IDEA), which incorporates FERPA’s privacy protections, bar DRW from accessing schools or students. See *Conn. Office of Protection and Advocacy*, 464 F.3d 229, at 235-36 (noting defendants deferred to federal agency interpretation of FERPA and P&A Acts that FERPA does not bar access to schools by P&A and upholding district court decision); see also *Disability Law Center of Alaska, Inc. v. Anchorage School Dist.*, 581 F.3d 936, 940 (11th Cir. 2009) (deferring to agency interpretation of P&A Acts and FERPA).

Additionally, DRW’s authority to access records is not affected by the regulations implementing the Health Insurance Portability and Accountability Act (HIPAA). The HIPAA regulations provide that health care providers and other entities covered under the regulations “may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies

with and is limited to relevant requirements of such law.” 45 C.F.R. §164.512(a)(1). That section also provides that covered entities may disclose protected health information about the written authorization of the individual to whom the information pertains. The disclosures of information to DRW discussed above clearly are “required by law” within the meaning of the regulation. (See the definition of that term, at 45 C.F.R. §164.103, which states that “required by law means a mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. Required by law includes . . . a civil or authorized investigative demand . . . and statutes or regulations that require the production of information.”) As discussed above, DRW’s enabling legislation contains express, judicially enforceable, requirements for the disclosure of records of individuals, including medical information. Further, state law restrictions on the disclosure of records or other information are preempted by DRW’s federal access authority to the extent such restrictions may pose an obstacle to such authority. 42 C.F.R. §1386.21(f); 42 C.F.R. §51.31.

While monitoring at X Schools, DRW staff will access and monitor any areas used by or accessible to enrolled students with disabilities, including but not limited to, classrooms, hallways, isolation/seclusion rooms, calming/processing/debriefing rooms and areas, libraries, cafeterias, auditoriums, gyms, indoor and outdoor play/exercise areas. In doing so, DRW will respect the privacy of students and staff, and will minimize to the extent practicable any disturbance to programming.

II. Interviews

While monitoring, DRW staff may speak privately with students and staff who wish to do so. 45 C.F.R. § 1326.27(d); 42 C.F.R. § 51.42(d). “Unaccompanied access to individuals with disabilities includ[es] but is not limited to the opportunity to meet and communicate privately with individuals regularly, both formally and informally, by telephone, mail and in person.” 45 C.F.R. § 1326.27(d). This authority includes the opportunity to communicate privately with any individual with a disability, including a person thought to be abused or whom DRW reasonably believes has knowledge of an incident under investigation or of noncompliance regarding the rights and safety of individuals with disabilities. 45 C.F.R. § 1326.27(d); 42 C.F.R. § 51.42(b). Generally, DRW is not required to identify the individual with a disability with whom it plans to meet or justify its interactions with such a person. 45 C.F.R. § 1326.27(d). DRW’s right to speak informally with minors exists despite any state or local laws that restrict informal access to minors. 42 C.F.R. § 51.42(e). DRW staff may also interview, formally or informally, school staff who wish to speak with DRW. 45 C.F.R. § 1326.27(b)(2); 42 C.F.R. § 51.42(b).

While at X Schools, DRW intends to speak informally with individuals and may interview individuals who express a desire to speak immediately with DRW staff. DRW will respect the wishes of any individual to terminate an interview, and will work cooperatively with your facility regarding logistics, such as finding an interview room or other space affording privacy and bringing the individual to that room or space.

III. Education

DRW has authority to educate individuals with disabilities about their rights, available P&A services, and other appropriate referrals. See 42 U.S.C. § 15043(a)(2)(A)(ii) (stating P&A's authority to "provide information on and referral to programs and services addressing the needs of individuals with developmental disabilities"); see also 42 C.F.R. § 51.42(c)(1). In addition, DRW is permitted to post information about available P&A services, including DRW's contact information. 45 C.F.R. § 1326.27(c)(2)(i); 42 C.F.R. § 51.42(c)(1). Providing this information to individuals with disabilities is a critical "purpose" of access authority. 45 C.F.R. § 1326.27(c)(2). Thus, while visiting your facility, DRW intends to educate individuals regarding their rights, services available from DRW, and other appropriate referrals.

IV. Inspection, Photography, and Video Recording

Finally, DRW may take photographs or videos of certain areas of X Schools during monitoring visits. Under the regulations promulgated pursuant to the P&A Acts, reasonable "[a]ccess includ[es] but is not limited to inspecting, viewing, photographing, and video recording all areas of a service provider's premises or under the service provider's supervision or control which are used by individuals with disabilities or are accessible to them." 45 C.F.R. § 1326.27(c)(2)(iii); see also 42 C.F.R. § 51.42(c)(3). Accordingly, DRW intends to inspect areas of your school that are used by or are accessible to individuals with disabilities and may take photographs or videos for monitoring purposes. DRW does not plan to photograph or video record individuals and will not do so without the individual's written consent. 45 C.F.R. 1326.27(c)(2)(iii).

Sincerely,

Appendix D: Research Methodology

Background

Disability Rights Washington (DRW), the designated protection and advocacy (P&A) system for Washington State, has federal access authority to monitor entities that provide services to people with disabilities, such as schools. DRW can review facility records, data, conduct staff interviews and talk to people with disabilities in those settings. In 2019, DRW began monitoring schools to review use of restraint and isolation and monitored 16 educational programs before schools closed in March 2020 due to the COVID-19 pandemic. DRW resumed monitoring in 2021 and monitored an additional 18 educational programs through June 2022. Through monitoring, it became clear to DRW that there were startling disparities in the application of restraint and isolation and that these practices were being implemented in ways that violated state law. As a result, DRW partnered with the ACLU-WA in the fall of 2021 to develop this report to educate Washington policymakers and stakeholders on the practices of restraint and isolation in our state, and to make recommendations based on our findings.

Research Questions

This research examines the following questions:

- How prevalent are restraint and isolation practices in Washington schools?
- Statewide, how do the practices of restraint and isolation differ by grade, race, placement, IDEA disability category, and federally qualifying category (homeless, English language learner, foster care-involved, students with 504 plans, migrant status, low income)?
- Which student groups experience the highest rates of restraint and isolation?
- What are the reasons teachers and staff use restraint and isolation on students? Are these uses consistent with law and policy?
- What is the experience of restraint like for students? What is the experience of isolation like for students?
- What are the short- and long-term impacts of Washington state restraint and isolation policies and practices on youth/students?

Data Collection

To examine our research questions and provide a comprehensive picture of the practices of restraint and isolation and their impacts in Washington state, we collected and analyzed a wide range of quantitative and qualitative data:

- Restraint and isolation data (occurrences and student count by student group) from public schools statewide.
- Restraint and isolation data (occurrences and student count by student group) from select NPAs.
- Count of student and staff injuries incurred during restraint and isolation, and count of staff and students injured during restraint and isolation.
- In-depth, semi-structured interviews with school personnel: (9) paraeducators, (25) teachers, (1) counselor, (2) behavior analysts, (1) school psychologist, (1) IEP liaison, (33) principals, and (9) assistant principals in 34 educational programs or schools.
- In-depth, semi-structured interviews with district personnel: (2) superintendents, (5) special education directors, (3) district safety or compliance managers, (7) support or student services, and (1) union representative.
- In-depth, semi-structured interviews with (4) adult survivors of restraint and isolation.
- In-depth, semi-structured interviews with (12) parents of students who have experienced restraint and isolation.
- In-depth, semi-structured interviews with (29) students, most of whom have experienced restraint and isolation
- Observation of (34) schools or educational programs and their classrooms, and all isolation rooms in those settings

Quantitative Data

Since 2015, state law has required school districts to collect and report summary restraint and isolation data to OSPI each academic year, and OSPI is required to publish it. 2019-20 was the first year that OSPI collected student level data for restraint and isolation. Citing student privacy concerns under the Family Educational Rights and Privacy Act (FERPA), however, OSPI does not make student level data publicly available, even aggregated at the student group level (i.e., by gender, race, disability status, etc.) or at the grade level. These more granular data are key for understanding how the practices of restraint and isolation impact different student groups, which is one of the central research questions of this report. As a result, we requested 2019-20 (and, eventually, 2020-21) student group level restraint and isolation data directly from OSPI. Although the authors eventually received student group and grade level restraint and isolation data from OSPI, they faced significant barriers throughout the process. These barriers inform the report recommendations.

In addition to the OSPI data, the authors requested restraint and isolation data directly from select NPAs within Washington.

Limitations of the OSPI data

As with any dataset, the OSPI data on restraint and isolation suffers from some limitations. These limitations have largely to do with the way data are reported by schools, districts, and OSPI itself. First, districts only started reporting student level data to OSPI in 2019-20. As a result, we only have two years' worth of comprehensive restraint and isolation data. Without data for prior years, we are unable to examine trends in restraint and isolation practices over time. Moreover, given that districts self-report, there may be inconsistent or underreporting of cases. Inconsistency may also arise from the fact that there is variation in who is tasked with reporting the data to OSPI in each district. Data are reported to OSPI via the Comprehensive Education Data and Research System (CEDARS). Some districts utilize data teams while others have registrars or administrative personnel input the data. There is no systematic approach. As a result, reporting practices may differ across districts and there may be inconsistencies.

Just as districts self-report, so do schools and non-public agencies. This creates another layer of challenges. Teachers or administrators may fail to report or may over- or underreport based on an understanding of restraint and isolation that is incongruent with the law. In recent years, OSPI has followed up with schools that didn't report and aided schools that were unsure how to report, thereby bolstering reliability of data. OSPI has also targeted schools with high restraint and isolation numbers for technical assistance/monitoring.

Another limitation of the dataset is the way OSPI reported student group data. Ostensibly, all if not most students belong to multiple student groups — e.g., male, Black, student with disabilities. However, the dataset does not help us understand the impact of restraint and isolation on students with multiple, intersectional identities. Student groups are individually and separately reported by OSPI. So, although the data tell us, for example, how many impacted Black students vs. students with disabilities vs. male students there are, they do not tell us how many impacted Black, male students with disabilities there are. This critical piece of the puzzle on the impact of restraint and isolation is missing.

Disruptions to the school year caused by the COVID-19 pandemic also mean the dataset is likely smaller than it would be for prior years. Most schools closed their doors starting in March 2020, so students were doing remote learning for about a quarter of the 2019-20 school year, and many schools were remote or partially remote the vast majority of the 2020-21 school year. As a result, compared to a typical academic year, there were fewer in-person interactions between students and staff alike, and therefore fewer opportunities for students to be subject to restraint or isolation. For 2020-21, some school districts targeted certain student groups for in-person instruction, including groups identified in our research as being disproportionately subject to

restraint and isolation practices (e.g., students with disabilities and students experiencing homelessness). Students from these groups may thus have been overrepresented in the on-campus population that school year. This may be one potential explanation for any dramatic increases in disproportionality between 2019-20 and 2020-21.

Despite these limitations, there are important reasons why the OSPI dataset is useful for the purposes of this report. Although the data may be inconsistently reported, they are likely under-reported, not over-reported for the reasons stated above. Thus, even as the data show disproportionately more restraint and isolation use against certain marginalized student groups, the analysis is likely a conservative one.

In addition, our findings are consistent with national findings on restraint and isolation. They are also corroborated by the findings in the interview data. Finally, in the absence of data from more years, these data are necessary and important starting points for examining how restraint and isolation are being implemented in schools and which young people they impact the most.

Limitations of NPAs Data

Because OSPI does not track restraint and isolation practices within NPAs, the authors requested the data directly from a select number of NPAs. Out of the requests that were made, only a small fraction of schools were responsive.

Qualitative Data

While quantitative data are important, they do not capture the experience of isolation or its impact. In order to truly understand these aspects, it was imperative that DRW and ACLU-WA gather some of the stories behind the numbers and provide context for the quantitative data. Accordingly, the researchers conducted semi-structured in-depth interviews with the major stakeholders and impacted groups in the issue of restraint and isolation. Semi-structured, in-depth interviews are a useful research tool because they allow for the exploration of several pre-determined themes. Questions were designed to elicit rich details about the implementation, experience, and impact of restraint and isolation. Interviews with students, teachers, staff, and administrators were conducted as part of DRW's broader work to monitor school compliance with the state's restraint and isolation policies.

Schools in this sample vary in terms of their grade level (pre-K, elementary, middle, high schools, transition (18-21) and therapeutic programs), geographic location (urban, rural, or mixed), and size. Monitoring occurred in 16 school districts, 21 public schools, 8 non-public agency programs, 1 tribal school, 1 early learning program, 1 transition program, and 2 educational service district programs. The

researchers aimed to select schools from across the state, although most were selected from the west side of the state where most schools in Washington state are located. DRW also prioritized schools for monitoring if they had received complaints about restraint and isolation practices from families with impacted students at those schools.

DRW arranged interviews with schools in advance and tasked the school with selecting the interviewees from the groups the authors were interested in. These individuals were interviewed in person on campus by DRW and/or ACLU-WA staff during the school day. In some cases, interviews occurred in a group setting, with teachers, staff and/or administrators interviewed together in one room, but, when possible, interviews were conducted separately with each person. Detailed type-written notes were taken. District counsel and/or union representatives were at times present for interviews.

Student Interviews

DRW and ACLU-WA faced significant challenges interviewing students, which limited the number of meaningful student interviews we could conduct. Schools were reluctant to approach parents about DRW's presence or interview requests; they believed DRW's monitoring presence could create a chill or concern among parents and were worried that parents would not want their children to talk to DRW staff. When student interviews were permitted, the presence of school staff or administrators during some student interviews may have put undue pressure on students, preventing them from speaking candidly about their experiences.

Thus, in addition to scheduled sit-down interviews, students were also informally interviewed spontaneously in hallways or during visits to classrooms, in a manner that did not interfere with student learning. For DRW and the ACLU-WA, conducting interviews in a manner that did not exacerbate lived trauma experience was the greatest concern with student interviews. Before the researchers proceeded with any questions on restraint or isolation, students were asked if they had a safe adult they could talk to when upset. Some students preferred to have a trusted teacher or administrator present for the interview, which was encouraged for student comfort and support. Parents were given a crisis line for children's mental health. When reasonable, staff also checked in with school administrators if students disclosed difficult information or struggled with interviews, to make sure students had additional support as needed throughout the school day. Staff did this without disclosing information shared in the student interview. While this was generally not a concern in public school settings, it did come up in some of the more therapeutic schools where students had a history of significant trauma.

Parent and Survivor Interviews

The researchers also conducted parent and survivor interviews. Parents provided perspective on their student's experience with restraint and isolation and their effects on the family. Survivors were uniquely positioned to provide details on the qualitative experience of being subject to restraint and isolation, as well as on the long-term impacts of these practices on their lives.

Other Qualitative Data

In addition to interviews, DRW and ACLU-WA engaged in classroom observation and captured photos of isolation rooms.