

Protect Children's Safety and Dignity: Recommendations on Restraint and Seclusion in Schools

For the past ten years, Disability Rights California¹ (DRC), other disability rights organizations, and educational advocates have warned about the dangerous and traumatizing impact of restraint and seclusion in California schools. The California Legislature adopted some restrictions on the use of restraint and seclusion in schools by passing Assembly Bill 2657

(AB 2657) in 2018. However, recent events have demonstrated that California must do more to protect children's safety and their right to be treated with dignity.

This Report contains our review of restraint and seclusion complaints filed with California's Office of Administrative Hearings, the California Department of Education (CDE), and the U.S. Department of Education's Office for Civil Rights. We looked at a total of 56 incidents of restraint during the 2015-16 through 2018-19 school years. Based on this review, we draw the following conclusions:

1. Restraint in schools has resulted in the death and serious injury of children. For example, at the end of 2018, a student with autism died while held in a prone restraint for over an hour. In another case, two students were sent to the emergency room as a result of excessive restraint by staff.

¹ DRC is the state's designated protection and advocacy system, charged with protecting the rights of people with disabilities. 42 U.S.C. § 10801 et seq., 42 U.S.C. § 15001 et seq., 29 U.S.C § 794e; CAL. WELF. & INST. CODE §§ 4900 et seq. ([Return to Main Document](#))

2. Prone restraint, which can restrict a pupil's airway, is particularly dangerous.²
3. Several districts have used restraints on students hundreds of times during a single school year, in lieu of positive behavior intervention plans.
4. School districts fail to timely notify parents and complete documentation of use of restraint or seclusion. In one case, parents did not receive notice until 22 days after their child was restrained.

Based on these findings, DRC strongly urges California to enact further reforms consistent with federal recommendations and best practices.

These recommendations include:

- Prohibit the use of mechanical and prone restraint.
- Impose reasonable and safe time limits on the use of all restraint and seclusion.
- Require parental notice and written documentation following each incident of restraint and seclusion.
- Implement Positive Behavior Interventions and Systems (PBIS).
- Train school staff in positive behavioral strategies, de-escalation techniques, and crisis prevention.
- Expand data collection and reporting requirements to include Non-Public Schools,³ and require school districts to self-monitor restraint and seclusion data for overuse.
- Authorize the CDE to proactively monitor restraint and seclusion data and conduct investigations of districts that report high usage patterns.

² See, generally, DISABILITY RIGHTS CALIFORNIA, THE LETHAL HAZARD OF PRONE RESTRAINT: POSITIONAL ASPHYXIATION (2008) <https://www.disabilityrightsca.org/system/files/file-attachments/701801.pdf> (last visited Mar. 27, 2019). ([Return to Main Document](#))

³ Non-Public Schools are segregated educational placements for students with disabilities certified by the California Department of Education. CAL. EDUC. CODE § 56366.1; Cal. Code Regs. Tit. 5, §§ 3060, et seq. ([Return to Main Document](#))

Restraint and Seclusion Throughout California

Too often, students with the most significant disabilities, such as autism and emotional disturbance, are placed into dangerous and inappropriate restraints and seclusion throughout California. For several years, DRC has tracked restraint and seclusion cases and complaints filed with California's Office of Administrative Hearings, CDE, and Office for Civil Rights. The following is a selection of recent decisions released in 2018:

Student dies following prone restraint

On November 28, 2018, a thirteen-year old Davis Unified School District student with autism died following prolonged prone restraint at Guiding Hands Non-Public School. Guiding Hands' staff held the student in prone restraint for over an hour and a half.⁴ CDE's investigation revealed that the student warned his teacher he was going to vomit and pleaded to use the restroom, but was forced to urinate on himself.⁵ He became unresponsive during the restraint and later died.⁶ CDE investigated the school site and revoked Guiding Hand's license to operate in January 2019.⁷

Excessive force used during restraint

In August 2018, CDE investigated Tobinworld Non-Public School and found that staff used excessive force against two Los Angeles Unified School District students during restraint, causing both students to suffer

⁴ Respondent's Opposition to Order to Show Cause re: Preliminary Injunction, at 2, Guiding Hands School, Inc. v. Thurmond (2019) (No. 34-2019-80003050). ([Return to Main Document](#))

⁵ Id. ([Return to Main Document](#))

⁶ Id. ([Return to Main Document](#))

⁷ Id. ([Return to Main Document](#))

contusions. Both students required treatment at an emergency room following the restraint incidents.⁸

Student placed in chokehold by SROs who had not been trained on restraints

In August 2018, CDE found that a school resource officer used excessive force when they placed a student in a chokehold from behind. CDE's investigation found that the officer had not been trained on restraint techniques, in violation of the Non-Public School's contract with local school districts.⁹

District responsible for misuse of restraint at a Non-Public School

In November 2018, CDE found that Guiding Hands staff had restrained an eight-year old student from Elk Grove Unified School District with autism 14 times in less than two months. CDE concluded that the school district failed to ensure that restraint was only used in response to a behavior emergency.¹⁰

Excessive time in an unsafe seclusion room

⁸ Letter from Tina Tranzor, Focus Monitoring and Technical Assistance Unit Six, Interagency-Nonpublic Schools/Agencies, Special Education Division, CDE to Edward Okolo, County of Los Angeles Dept. of Children and Family Services (Oct. 29, 2018) (on file with author) ([Return to Main Document](#))

⁹ Bright Futures Academy, Adelanto, Non-Public School Investigation Report (CDE, Complaint rec'd Aug. 23, 2018) (on file with author). ([Return to Main Document](#))

¹⁰ Guiding Hands School, Inc. Non-Public School Investigation Report (CDE, Jan. 18, 2019) (on file with author). Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student that cannot be immediately prevented by a less restrictive intervention. CAL. EDUC. CODE § 56521.1(a). ([Return to Main Document](#))

CDE ordered Altus Academy Non-Public School to stop the use of an empty and windowless room adjacent to a janitor's closet containing hazardous chemicals to seclude a child with a disability for 45 minutes.¹¹

Failure to complete restraint incident report

In March 2018, CDE found the Madera County Office of Education restrained a student but waited until 77 days after the incident before completing a behavior emergency report, instead of reporting it immediately as required by California law.¹²

Similarly, DRC reviewed dozens of reports of restraint and seclusion in schools dating back to the start of the 2015-16 school year. The following is a selection of cases decided in that period:

- In 2016, Office for Civil Rights ordered Oakland Unified School District to stop contracting with Anova Non-Public School due to failure to take steps to prevent excessive prone restraint.¹³
- In 2017, a student with disability died following an arm restraint on a school bus.¹⁴

¹¹ Letter from Tina Tranzor, Focus Monitoring and Technical Assistance Unit Six, Interagency-Nonpublic Schools/Agencies, Special Education Division, CDE to Denise Yeomans, Administrator, Altus Academy (August 17, 2018) (on file with author). ([Return to Main Document](#))

¹² Madera County Office of Education, Investigation Report Case S-0560-17/18 (CDE Mar. 8 2018) (on file with author). CAL. EDUC. CODE § 56521.1(e) requires school districts to immediately complete and maintain a behavior emergency report whenever there is an emergency intervention is used on a special education student. ([Return to Main Document](#))

¹³ Oakland Unified School District, 116 LRP 34961 (Office for Civil Rights Jun. 24, 2016). ([Return to Main Document](#))

¹⁴ Letter from Kirsten Wright, Director, Special Education Division, CDE to Betti Colucci, President, Bright Futures Academy (March 24, 2017) (on file with author). ([Return to main Document](#))

- In 2017, CDE ordered Newhall School District to perform training of all staff after finding close to 600 incidents of restraint at three district-operated programs serving students with special needs.¹⁵
- In 2017, Office for Civil Rights found that of more than 1000 incidents of restraint reported in Hayward Unified School District over a 3-year period, 90% occurred at a single Non-Public School, which the district had failed to properly oversee.¹⁶
- In 2017, CDE found Monrovia Unified School had failed to timely notify parents following a restraint of their child. The parents received notification by email 22 days after the incident.¹⁷

Recommendations

California provides minimal safeguards for children who are at risk of being restrained and secluded at school. Although AB 2657 was an important first step, California can do more to protect the safety and welfare of its students. Below, we offer specific recommendations for the Legislature and the California Department of Education to bring the state in line with best practices and federal recommendations.¹⁸

¹⁵ Newhall Elementary School District, Investigation Report Case S-0249-17/18 (CDE Dec. 8, 2017) (on file with author). ([Return to Main Document](#))

¹⁶ Hayward Unified School District, 117 LRP 41780 (Office for Civil Rights Jun. 29, 2017). ([Return to Main Document](#))

¹⁷ Monrovia Unified School District, Investigation report Case S-0325-17/18 (CDE Dec.18, 2017) (on file with author). ([Return to Main Document](#))

¹⁸ U.S. Department of Education's comprehensive resource guide, RESTRAINT AND SECLUSION: RESOURCE DOCUMENT, outlines recommendations to states and local school districts protect students from the risks associated with restraint and seclusion. U.S. DEP'T OF EDUC., RESTRAINT AND SECLUSION: RESOURCE DOCUMENT (May 2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited Mar. 27, 2019) [hereinafter RESOURCE DOCUMENT]. ([Return to Main Document](#))

Recommendation 1: Ban Prone and Mechanical Restraints, the Most Dangerous Types of Restraint

The Legislature should pass laws that limit the most dangerous forms of restraint in schools.

Prohibit mechanical restraint.

AB 2657 defined mechanical restraint “as the use of a device or equipment to restrict a pupil’s freedom of movement”; however AB 2657 did not prohibit its use.¹⁹ Existing protections for special education students only prohibit mechanical restraints that “simultaneously immobilize all four extremities.”²⁰

U.S. Department of Education guidance recommends that mechanical restraints never be used.²¹ 20 states ban the use of mechanical restraint in schools,²² and an additional three states ban its use on children with disabilities.²³ California should follow their example and ban the use of mechanical restraints on all students in California schools.

¹⁹ CAL. EDUC. CODE § 49005.1(d). ([Return to Main Document](#))

²⁰ CAL. EDUC. CODE § 56521.2(a)(5). ([Return to Main Document](#))

²¹ RESOURCE DOCUMENT, supra note 18, at 2. ([Return to Main Document](#))

²² See, U.S. DEP’T OF EDUC., COMPENDIUM OF SCHOOL DISCIPLINE LAWS AND REGULATIONS FOR THE 50 STATES, DISTRICT OF COLUMBIA AND THE U.S. TERRITORIES (2018)
<https://safesupportivelearning.ed.gov/sites/default/files/discipline-compendium/School%20Discipline%20Laws%20and%20Regulations%20Compendium.pdf> (last visited Mar. 27, 2019) [hereinafter COMPENDIUM OF SCHOOL DISCIPLINE LAWS]. Alabama, Alaska, Colorado, Georgia, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Michigan, Mississippi, New Hampshire, Ohio, Oregon, Utah, Vermont, West Virginia, Wisconsin, and Wyoming ban mechanical restraints for all children.
([Return to Main Document](#))

²³ See id. Louisiana, Montana, and Tennessee prohibit the use of mechanical restraints on children with disabilities only. ([Return to Main Document](#))

Ban the use of prone restraint.

U.S. Department of Education specifically recommends banning the use of prone restraints.²⁴ Current California law does not ban prone restraint. Instead, California law says that if prone restraint techniques are used, the student's hands cannot be held or restrained behind their back and a staff member shall observe the pupil for any signs of physical distress throughout the use of prone restraint²⁵ and prohibits the use of breath-impairing restraint techniques.²⁶ The Education Code currently expressly permits prone restraint on special education students by "trained personnel."²⁷

Prone restraint is one of the most dangerous forms of restraint used in schools.²⁸ 21 states ban the use of prone restraint on all students.²⁹ An

²⁴ RESOURCE DOCUMENT, supra note 18, at 16. ([Return to Main Document](#))

²⁵ CAL. EDUC. CODE § 49005.8(a)(3)-(5), (d). Whenever possible, the staff member monitoring the pupil shall not be involved in restraining the pupil. ([Return to Main Document](#))

²⁶ CAL. EDUC. CODE § 49005.8(a)(3). ([Return to Main Document](#))

²⁷ CAL. EDUC. CODE § 56521.2. ([Return to Main Document](#))

²⁸ See, DISABILITY RIGHTS CALIFORNIA, RESTRAINT AND SECLUSION IN CALIFORNIA SCHOOLS: A FAILING GRADE 42-43 (2007) <https://www.disabilityrightsca.org/system/files/file-attachments/702301.pdf> (last visited Mar. 27, 2019); See, also, DISABILITY RIGHTS CALIFORNIA, THE LETHAL HAZARD OF PRONE RESTRAINT: POSITIONAL ASPHYXIATION, supra note 2. ([Return to Main Document](#))

²⁹ See COMPENDIUM OF SCHOOL DISCIPLINE LAWS, supra note 22. Colorado, Connecticut, Georgia, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Ohio, Oregon, Pennsylvania, Utah, West Virginia, and Wyoming ban prone restraint by name. Six additional states, Alabama, Alaska, Delaware, Maine, New Hampshire, and Wisconsin, ban the actions that constitute a prone restraint for all student ban the actions that constitute a prone restraint, i.e. restraint in a face-down position. ([Return to Main Document](#))

additional two states prohibit restraining students face down if they have disabilities.³⁰ California should ban prone restraint on all students.

Recommendation 2: Limit the Use of Restraint and Seclusion to 15 Minutes

California should create standards for how long a child can be held in restraints or confined to a seclusion room.

Establish a 15-minute time limit on the use of restraint and seclusion in schools, similar to time limits for adults in facilities.

Current law prohibits the use of “a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the pupil or others.”³¹ However, the absence of clear timelines can lead to children being restrained and secluded for dangerous, even fatal, lengths of time.

In contrast, adults in California are afforded the protections of strict time limits on the use of restraint. Adults in psychiatric hospitals, crisis stabilization units, skilled nursing facilities, mental health rehabilitation centers and developmental centers can only be restrained for 15 minutes at a time.³² However, when it comes to children, staff can restrain and seclude students for unlimited periods of times, far in excess of what is permissible for adults in secure settings. Furthermore, extended incidents of restraint are not subject to requirements for parent notice or administrator approval.

Children should be entitled to the same protections against excessive and lengthy restraints as adults. California should institute a 15-minute time limit on restraint and seclusion use. A firm time limit, in conjunction with accountability measures, such as immediate notice to parents and school

³⁰ See *id.* Louisiana and Tennessee ban the actions that make up a prone restraint for students with disabilities only. ([Return to Main Document](#))

³¹ CAL. EDUC. CODE § 49005.8(a)(6). ([Return to Main Document](#))

³² CAL. HEALTH & SAFETY CODE § 1180.2(h); see, also, Cal. Code. Regs. Tit. 22, § 85112 (e)(6)(A). Exceptions to the 15-minute time limit are only permitted when there is an imminent risk of serious injury and an administrator approves the exception. ([Return to Main Document](#))

administrators, would protect children from the most dangerous risks posed by extended restraint and seclusion.

Recommendation 3: Ensure Parental Communication and Involvement to Address Behavior Problems

Parents must be fully informed of the student's behavioral needs, and empowered to work with school staff to develop appropriate behavioral interventions and strategies.

Ensure all parents have the right to notice and documentation of restraints and seclusion.

U.S. Department of Education's "Restraint and Seclusion: Resource Document" recommends that schools communicate with and involve parents whenever their children are restrained or secluded. Current California law imposes robust requirements on school districts to notify parents and complete documentation when a special education student is restrained or secluded. Parents must receive notice of an emergency incident within one school day, and the school district must complete and maintain a behavior emergency report of the incident.³³ Unfortunately, AB 2657 does not give parents of non-special education students, including students with disabilities served under 504 accommodation plans, these same rights. There is no requirement to notify parents or document the use of restraint or seclusion for non-special education students.

Consistent with U.S. Department of Education recommendations, school districts should be required to inform parents of their restraint and seclusion policies every year, and to immediately notify parents and to maintain accurate and complete documentation after each incident of restraint and seclusion.³⁴ All parents should be afforded these rights, regardless of whether their children receive special education.

Require school districts to meet with parents after each incident of restraint and seclusion to discuss positive behavior interventions.

Best practices advise school districts to use a debrief procedure so that relevant educational team members, including parents, can discuss the restraint or seclusion incident and develop and implement behavior

³³ CAL. EDUC. CODE § 56521.1(e)-(f). ([Return to Main Document](#))

³⁴ RESOURCE DOCUMENT, supra note 18, at 20-23. ([Return to Main Document](#))

strategies designed to prevent the use of restraint and seclusion in the future.³⁵ Under current California law, when an emergency behavioral intervention is used on a special education student, school districts must schedule a team meeting to discuss implementing or modifying a student's individualized behavior intervention plan.³⁶ Similar debriefing and behavioral planning measures are not required when a non-special education students, including students with disabilities, are restrained or secluded. This process should be required for all students.

Recommendation 4: Promote Positive Behavioral Approaches, such as Positive Behavioral Interventions and Services

School Districts should be required to adopt positive approaches and interventions, instead of resorting to restraint and seclusion in response to problem behavior.

Require school districts to use behavioral strategies that are positive and effective.

The U.S. Department of Education urges that in order to be effective, behavioral strategies must include strategies for identifying and addressing the setting, events, antecedents, triggers, and consequences that result in problem behaviors, and teaching appropriate replacement behaviors.³⁷ For students with the most significant behavioral needs, this includes gathering student data through a functional behavioral assessment and the development of individualized behavioral intervention plans to address the underlying causes of problem behaviors.³⁸

Positive Behavioral Interventions and Services are school-wide systemic initiatives based on evidence-based practices and data-driven decision-

³⁵ RESOURCE DOCUMENT, supra note 18, at 22-23. ([Return to Main Document](#))

³⁶ CAL. EDUC. CODE § 56521.1(g)-(h). ([Return to Main Document](#))

³⁷ RESOURCE DOCUMENT, supra note 18, at 18. ([Return to Main Document](#))

³⁸ Id. ([Return to Main Document](#))

making to improve school climate and culture.³⁹ They include a range of systemic and individualized behavioral strategies to encourage and reinforce positive behavior and address and decrease problem behaviors. Positive Behavioral Interventions and Services have been embraced by leading experts as an effective and valuable tool for addressing the behaviors of children with disabilities that interfere with learning.⁴⁰ School districts should adopt initiatives, such as Positive Behavioral Interventions and Services that reduce restraint and seclusion and promote positive behavioral approaches.

Recommendation 5: Require School Personnel to be Trained in Positive Behavioral Approaches

Require teachers and other school staff to be trained in crisis de-escalation techniques and positive behavioral strategies.

The U.S. Department of Education recommends regular training for teachers and other personnel on appropriate use of effective alternatives to restraint and seclusion, such as de-escalation techniques and positive behavioral interventions and supports.⁴¹ School personnel should receive training and periodic coaching in restraint avoidance techniques and skills to defuse crisis and conflict situations. School personnel must also receive training in positive behavioral interventions and other established techniques to help students learn alternative behaviors that do not interfere with learning.

A highly effective means by which school districts could provide this training is through an evidence-based school-wide system for positive behavioral supports and interventions, such as Positive Behavioral

³⁹ OSEP Technical Assistance Center, Positive Behavioral Interventions & Supports (PBIS) <https://www.pbis.org/> (2019) (last visited Mar. 27, 2019). ([Return to Main Document](#))

⁴⁰ See, e.g., Catherine P. Bradshaw et al., Examining the Effects of Schoolwide Positive Behavioral Interventions and Supports on Student Outcomes Results from a Randomized Controlled Effectiveness Trial in Elementary Schools, 12(3) JOURNAL OF POSITIVE BEHAVIOR INTERVENTIONS 133–48 (2010). ([Return to Main Document](#))

⁴¹ RESOURCE DOCUMENT, supra note 18, at 18-19. ([Return to Main Document](#))

Interventions and Services. Funding should be made available to train all school staff at every level, including, but not limited to, teachers, paraprofessional staff, school security and resource officers, and bus drivers.

Recommendation 6: California Should Strengthen Restraint and Seclusion Data Reporting Requirements and Require School Districts to Monitor Data for Overuse

Current data reporting requirements should be improved to ensure that school districts and CDE identify problems and correct any policies or practices that result in inappropriate use of restraint or seclusion.

Require school districts to report more comprehensive data to CDE.

School districts should be required to track and report more comprehensive data. Under current California law, school districts are only required to report total numbers of restraint and seclusion incidents disaggregated by race, sex, and disability status to the CDE.⁴² Unfortunately, critical data points are not required. For example, school districts are not required to report restraint and seclusion data regarding the age and grade of the student, or whether the student is economically disadvantaged, an English language learner, or migrant.

Under current reporting requirements, it is impossible to determine whether certain staff, classrooms, or individual children exhibit high rates of restraint or seclusion. A process of reporting that tracks back to individual students would allow school district administrators to better track this information.

Require school districts to adopt procedures to regularly review restraint and seclusion data to identify overuse.

U.S. Department of Education recommends that school districts have procedures to trigger district review in cases of repeated use of restraint and/or seclusion on an individual child in the same classroom or by same staff members.⁴³ Current California data reporting requirements do not

⁴² CAL. EDUC. CODE § 49006; local educational agencies must report the number of students with a special education individual education plan or disability accommodation plan under Section 504 of the federal Rehabilitation act of 1973 (29 U.S.C. § 794). ([Return to Main Document](#))

⁴³ RESOURCE DOCUMENT, supra note 18, at 17. ([Return to Main Document](#))

require school districts to have “heightened attention and review” in response to over-use of restraint and seclusion.

California should require school districts to periodically review restraint and seclusion data to identify patterns and trends. If individual students are subjected to high numbers of restraint or seclusion, the student’s Behavior Intervention Plans or other prescribed behavioral strategies should be reevaluated through the debriefing/behavior planning procedures described above. If certain school sites, classrooms, or school staff use high numbers of restraints, the school district should assess and address deficits in staff training and skills. Improved data reporting and review would help school districts identify systemic issues and training deficits.

Impose independent data reporting requirements on Non-Public Schools.

Non-public schools do not have an independent data reporting requirement. AB 2657 only requires local educational agencies, such as school districts and county offices of education, to report restraint and seclusion data to CDE. Evidence indicates that restraint and seclusion are frequently used at non-public school sites.⁴⁴ However, there is little data regarding restraint and seclusion in non-public schools. Under current requirements, incidents of restraint or seclusion at non-public schools are reported by students’ home school districts. Because non-public schools typically serve multiple school districts, and school districts hold contracts with multiple non-public schools, data regarding the total incidents of restraint and seclusion at non-public school sites are currently not required to be publicly available.

The Office for Civil Rights also collects data on restraint and seclusion in its Civil Rights Data Collection process but this system is limited to public schools and does not collect data from non-public schools. In response to public comment from national advocacy groups about this loophole, Office for Civil Rights acknowledged that collecting data from non-public schools is “important for gauging possible discrimination and educational inequities;” unfortunately, Office for Civil Rights has not yet implemented

⁴⁴ See, e.g., Hayward Unified Sc. Dist. 117 LRP 41780 (Office for Civil Rights 2017) (Office for Civil Rights determined that in 2013-14, 94% of restraint and 95% of seclusion in the district occurred in Non-Public School settings.) ([Return Main Document](#))

any changes.⁴⁵ The California legislature should require non-public schools to independently report restraint and seclusion data.

Recommendation 7: Require CDE to Proactively Monitor Restraint and Seclusion at School Districts and Non-Public Schools

CDE currently is not required to affirmatively monitor Local Education Agency compliance with restraint and seclusion laws.⁴⁶ Although it has robust authority to investigate school districts, CDE has typically responded to reports and complaints about restraint and seclusion usage rather than proactively reviewing school district policies and data. CDE can and has ordered effective corrective actions when it identifies noncompliant districts and non-public schools in response to complaints.

On January 17, 2019, Office for Civil Rights launched an initiative to conduct compliance reviews of restraint and seclusion data and provide technical assistance to school districts.⁴⁷ CDE should adopt a similar compliance review process using the data it collects, to identify school districts that inappropriately utilize restraint and seclusion, identify needs for training and support, and correct noncompliance.

In addition, CDE should include non-public schools in a new compliance review process and as part of that process identify and certify them before they are permitted to operate. Currently, CDE only requires non-public schools to sign an annual assurance of compliance with Education Code

⁴⁵ U.S. DEP'T OF EDUC., CRDC DATA SET FOR SCHOOL YEAR 2017–18: RESPONSE TO SECOND ROUND PUBLIC COMMENT (Oct. 2017). ([Return to Main Document](#))

⁴⁶ CAL. EDUC. CODE § 56523 says only that the Superintendent “may monitor local educational agency compliance with this chapter and may take appropriate action.” (Emphasis added.) ([Return to Main Document](#))

⁴⁷ U.S. Dep't of Educ., U.S. Department of Education Announces Initiative to Address the Inappropriate Use of Restraint and Seclusion to Protect Children with Disabilities, Ensure Compliance with Federal Laws (2019), <https://www.ed.gov/news/press-releases/us-department-education-announces-initiative-address-inappropriate-use-restraint-and-seclusion-protect-children-disabilities-ensure-compliance-federal-laws> (last visited Mar. 27, 2019). ([Return to Main Document](#))

requirements; a school does not have to establish that it actually is in compliance nor does CDE look behind the paper assurances.⁴⁸ CDE should adopt an annual recertification review process⁴⁹ to identify non-public schools that overly or inappropriately use restraint and seclusion and issue corrective actions to address overuse.

Conclusion

Restraint and seclusion are dangerous and traumatizing practices. Without additional protections, children's welfare and lives are at stake. AB 2657 was an important first step, but its protections do not go far enough. California must meet the behavioral needs of students using proven best practices and appropriate behavioral supports, not restraints and seclusion. The next step for the Legislature and the CDE should be to implement the recommendations in this report. California has a responsibility to its children, to ensure that they are protected from abuse, treated with dignity, and attend schools that are safe. We must do more to protect them.

⁴⁸ Cal. Code Regs. Tit. 5, § 3060(d). [\(Return to Main Document\)](#)

⁴⁹ CAL. ED. CODE § 56366.1. [\(Return to Main Document\)](#)