

Legal Aid and Solutions not Suspensions

Testimony on Misuse of Seclusion

Seclusion Working Group

November 19th, 2025

1. Defining “Misuse” or “Illegal” Seclusion.

Senator Seeberger seems to be focused on the *illegal* use of seclusion, that is, seclusion that occurs outside the confines of current Minnesotan statutes. The illegal use of seclusion is broad and can include:

- Seclusion is used for non-emergency situations (disciplinary, non-compliance).
- Seclusion does not end when the emergency is over.
- Parent or guardian is not informed of the seclusion.
- Seclusion takes place in a non-registered room.
- Seclusion takes place in a room that does not meet specifications under Minn. Stat. 125A.0942, subd. 3(a)(6).
- No one is consistently observing the child while they are secluded.
- Seclusion is not properly documented (e.g., multiple seclusions occur but only one is documented, documentation does not include all requirements under law, etc.)
- Seclusion takes place for a child outside the age limits (under grade 3).
- Meals, restroom, or water are withheld during seclusion.
- Seclusion is conducted by a person who has not been trained on the use of restrictive procedures.

Seclusion is also illegal or misused when it impacts certain populations more than others. MDE and nationwide data consistently demonstrate that seclusion disproportionately affects boys of color with disabilities, particularly autism or emotional behavioral disabilities.

The U.S. Department of Education and U.S. Department of Justice, under both Republican and Democratic administrations, have repeatedly found seclusion of students violates the Americans with Disabilities Act (ADA) and other federal civil rights laws in multiple states, most recently in July 2025. “Students with disabilities should never be discriminated against by experiencing the trauma of seclusion or improper restraint,” said Assistant Attorney General Harmeet K. Dhillon of the Justice Department’s Civil Rights Division, in the July 2025 statement.

See resources attached and linked:

PDF: *Exploring the Disproportionate Use of Restraint and Seclusion Among Students with Disabilities, Boys, and Students of Color* (Katsiyannis, et. al. 2020)

[Civil Rights Division | Combating Improper Seclusion in Schools](#)

[Restraints and Seclusion: Schools | National Alliance on Mental Illness \(NAMI\)](#)

2. Quantitative Data.

Because the illegal use of seclusion is broadly defined, there is no quantitative data or resource on the illegal use of seclusion in Minnesotan schools. The only indication of illegal use of seclusion is when a parent or guardian reports the allegedly illegal use to an authority figure. This requires the parent or guardian to:

- a) know seclusion was used on their child (the school or child reports it to the parent);
- b) know their child's legal rights regarding seclusion;
- c) know their legal options for holding the school district accountable or remedying the situation;
- d) wanting to pursue legal action;
- e) having the resources to pursue legal action; and
- f) actually contacting or following through with legal action.

With language, cultural, financial, and disability barriers, the vast majority of families never report illegal seclusion or pursue legal action at all. As long as the onus is on families to report illegal seclusion, it will go dramatically under-counted.

Families who *do* know seclusion was used and believe it was used illegally may contact MDE, an advocate, or an attorney. There are both private and non-profit advocates and attorneys, but they all keep different quantitative data on the calls they receive about illegal seclusion. There is no central database.

One recipient of these calls is Minnesota Disability Law Center, the protection and advocacy agency for the state of Minnesota. During the last school year, Minnesota Disability Law Center has received about one case a month with allegations of secluding a child in school. All clients were boys with autism. Some also had diagnoses of EBD, ADHD, and/or developmental delay. Of the five clients, three clients were white and two were children of color. Of the five clients, four were age 10 or younger. All of the clients' parents pulled them out of that school following the seclusion for at least a period of time; several went to homeschooling. Our preliminary analysis was that all five of these cases may have valid legal claims for "illegal" seclusion under MN Stat. 125A.0942. Three of the five clients opted to pursue legal action.

Another recipient of these calls is PACER Center, which provides free advocacy services to families of children with disabilities. PACER Center reports that a majority of their received calls are about

behavior/discipline, and a substantial number of those are about restraint/seclusion, but they do not keep codified data on illegal use of seclusion in schools.

3. Qualitative Data

There is plenty of qualitative data regarding the illegal use of seclusion. The Seclusion Working Group has received testimony from.

4. Suggestions for Data Collection

Nationwide data demonstrates that seclusion is underreported, and that which is reported, shows significant disproportionate use on boys of color with disabilities. We are attaching some resources to be shared with the group on the “misuse” of seclusion.

Data indicates the reporting of seclusion is far below what is actually occurring. We support the gathering of data across the state to better assess which seclusion incidents are “illegal.” Some suggestions include:

- Identification of which school buildings – not just the district – that use seclusion every school year to identify if a specific building over-relies on seclusion
- Identification of staff who used seclusion to identify staff members who may not be appropriately trained or who may be over-relying on seclusion
- Identification of student who was secluded, with demographic information, to identify students who are overly targeted for seclusion
- Duration of each incident of seclusion
- A checkbox on MDE complaints for restraint & seclusion so it’s easy to track those complaints