

Massachusetts Department of Elementary and Secondary Education

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Mitchell D. Chester, Ed.D.
Commissioner

MEMORANDUM

To: Members of the Board of Elementary and Secondary Education
From: Mitchell D. Chester, Ed.D., Commissioner
Date: November 14, 2014
Subject: Update Regarding Physical Restraint and the Proposed Changes to Regulation

At the September 2014 meeting, Board members asked for information that would help establish the context for considering the regulation of physical restraint in Massachusetts public schools, including approved private day and residential special education schools that serve special education students. I hope the following information is useful.

The first section of the memo presents the most recent data from restraint reports filed with the Department. The second part provides additional detail about the use of restraints in restrictive settings such as collaborative programs and private day and residential special education programs. The final section highlights the issues most frequently addressed in the comments we have received during the public comment period.

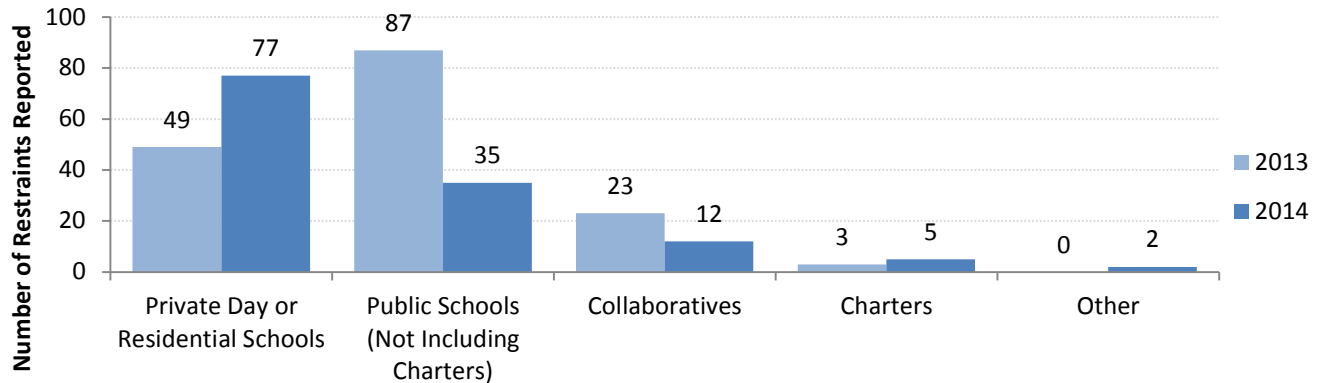
Current Reporting Requirements: Current regulations at 603 CMR 46.00 require that schools file individual written reports with the Department whenever a physical restraint of a student lasts longer than 20 minutes. A restraint of such length is called an “extended restraint” in the regulations. Schools must also report when a restraint of any duration results in serious injury to staff or students. Most of the data that has been reported in response to the requirements is for students with disabilities. Following is a summary of the data for the past two full school years, referred to here as SY13 and SY14.

Data Review (Students with Disabilities): The Department regulates the use of restraints in settings in which elementary and secondary students are enrolled, including traditional public schools, public charter schools, education collaboratives, and private special education schools. The Department approves private day and residential schools to serve publicly funded students with disabilities. The Department of Early Education and Care licenses the residential component of approved private residential schools. Typically, students served in private day and residential programs as well as in education collaboratives have more complex disabilities and/or behavioral needs.

In SY14, Massachusetts schools served 164,847 students with disabilities. Private special education schools served almost four percent of this population, or about 7,000 students. Education collaboratives are organized to serve multiple school districts and may run programs within the public schools or in a separate day school setting. Collaborative programs serve

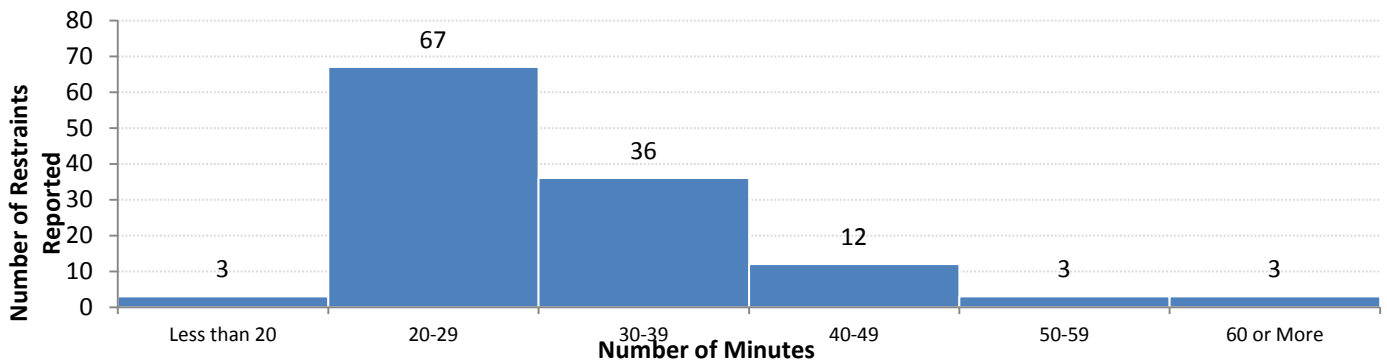
approximately three percent of students with disabilities, or about 5,000 students. Over 90% of students with disabilities are served within public school districts (including charter schools). Out-of-district settings are considered more restrictive as they do not include students without disabilities.

Reported Restraints by School Type



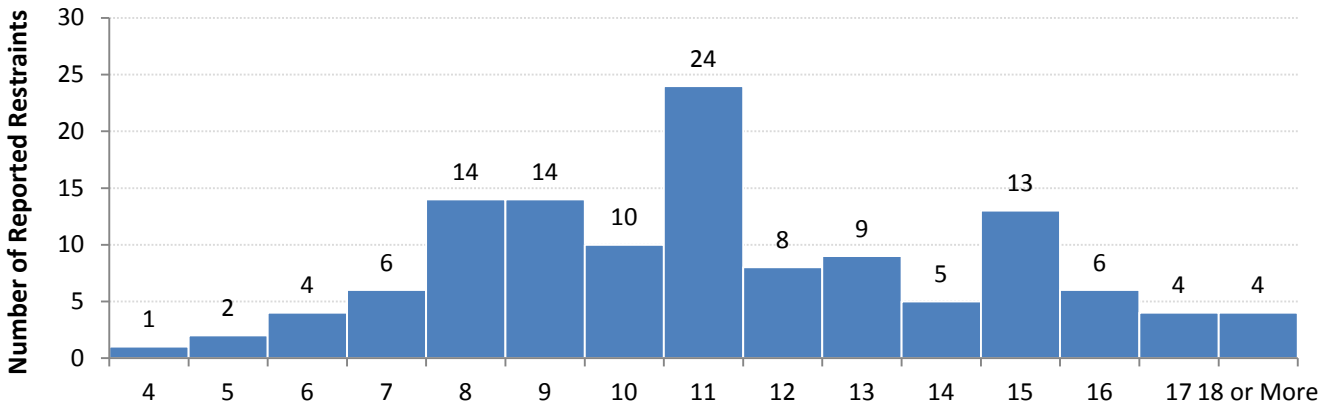
School Type	Number of Reports SY2013	Percentage of Reports SY2013	Number of Reports SY2014	Percentage of Reports SY2014
Private Day or Residential Schools	49	30%	77	59%
Public School (not including charters)	87	54%	35	27%
Collaboratives	23	14%	12	9%
Charters	3	2	5	4%
Other	0	0%	2	2%
TOTAL	162	100%	131	100%

Duration of Reported Restraints SY 2014
(Range from 20 minutes to 80 minutes, with one outlier of 130 minutes.)



*Note that restraints lasting less than 20 min do not have to be reported, unless they involve a serious injury to the student or staff.

Reported Restraints by Student Age (2014)



Percent of Total Reported Restraints, By Age Group

	Under 5	6-7	8-10	11-13	14-18	18+
2014	1%	10%	30%	33%	23%	3%
2013	0%	22%	33%	17%	22%	5%

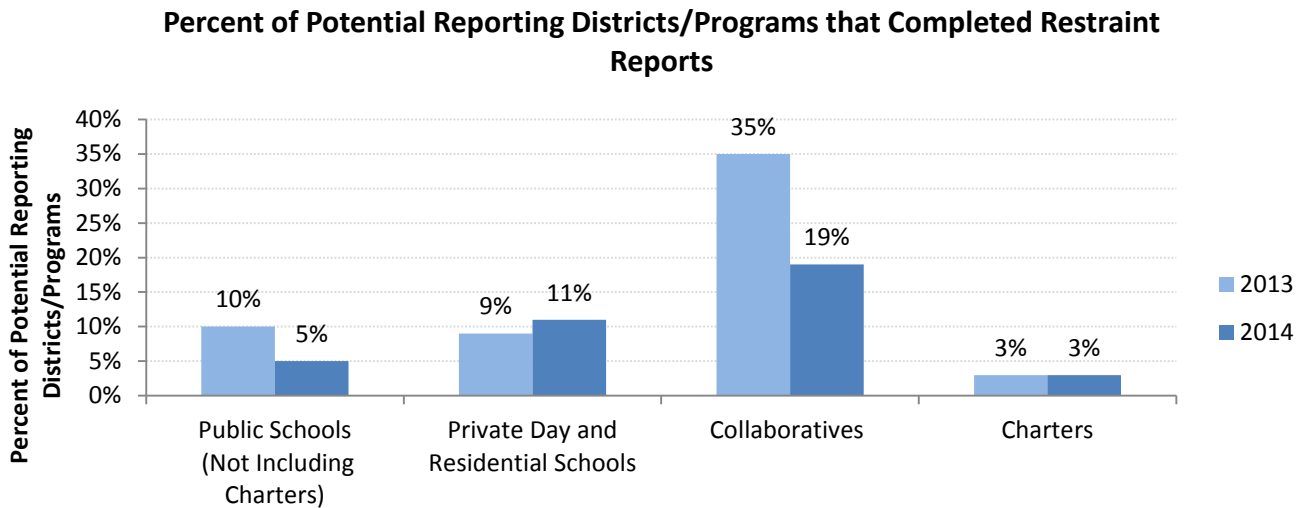
- Most reports did not describe the type of restraint (e.g. “prone restraint”), but rather gave information on the general nature of the restraint (e.g. CPI – a training methodology and organization, the Crisis Prevention Institute; or Security Hold; or Team Control Position; or Floor; full hold; safety chair; CPI-child support hold; and so on).
- The majority of the reports on use of extended restraint come from more restrictive settings (out-of-district) serving only students with disabilities (66 percent for SY13 and 69 percent for SY14).
- The vast majority of restraint reports involve students with disabilities (158 of the 168 SY13 reports, or 94 percent; and 129 of the 131 SY14 reports, or almost 99 percent).
- A surprising and concerning number of restraints occur with younger children. In SY13, 55 percent (83 out of 150) involved students ten years of age or younger, and of the injury reports 64 percent (9 out of 14) were age ten or younger. In SY14, 41 percent (50 out of 122 reports) were for students ten years of age or younger, with the injury reports showing 25 percent (3 out of 12 reports) involving students ten years of age or younger.

Reason for Report Submission	2014	2013
Restraint Longer than 20 Minutes ONLY	119	148
Serious Injury to Staff and/or Student ONLY	5	7
Restraint Longer than 20 Minutes and Serious Injury	7	7
TOTAL	131	162

- SY 13 restraint-related injury reports show five student injuries and ten staff injuries. In SY14, there were five student injuries and seven staff injuries. Note also that for these numbers, the injury reports represent “serious” injury.

- The majority of extended restraints happen in a small percentage of the programs or districts serving students. The Department does not currently collect any data on restraints lasting 20 minutes or less. The Department also does not currently require reporting of injuries that are not considered “serious.”

Below is a chart representing the number of restraint reports by program (unduplicated) as compared to the number of potential reporting programs or districts:



	Total Number	SY13 & % of whole	SY14 & % of whole
Public Schools (not charters)	328	32 (10%)	18 (5%)
Approved Private Day and Residential Schools	167	15 (9%)	19 (11%)
Collaboratives	26	9 (35%)	5 (19%)
Charter Districts	81	2 (3%)	2 (3%)

- 90 percent of public school districts do not report any use of extended restraints or injuries from restraints. There are 328 public school districts (not including charters), and these districts have 1,779 school buildings in total.
- Almost 90 percent of private day and residential schools do not report any extended restraints or injuries from restraints (there are 167 approved programs and 90 approved providers).
- Almost 80 percent of education collaborative programs (in SY14) and 97 percent of charter schools do not report any extended restraints or injuries from restraints.

Brief Public Comment Update: The period for public comment on the proposed amendments to 603 CMR 46 and 603 CMR 18 closed on November 10. The Department received over 100 written public comments and 27 individuals testified at the public hearing (with some duplication

from the written comment). Staff are actively reviewing the public comments and will prepare a complete report for the December 16 Board meeting, when the Board is scheduled to vote on the final regulations. Most commenters addressed one or more of the following proposed amendments:

1. The proposed ban on prone restraint.
2. The new definition of “time out.”
3. New review requirements.
4. Required hours for training.
5. Required reporting of all restraints.

Russell Johnston, Senior Associate Commissioner; Marcia Mittnacht, State Director of Special Education; and Deputy General Counsel Dianne Curran will be present at the November 25 Board meeting to answer your questions.