

July 12, 2023

# MEMORANDUM

To: Members of the Board of Education

From: Michael J. Martirano, Ed.D. Superintendent

Subject: Restraint Data

The purpose of this memorandum is to provide you with an update on the status of the FY21-22 and FY22-23 incidents of restraint data that is reported to the Maryland State Department of Education (MSDE) and to share with you other updates related to HCPSS restraint procedures.

Staff have been able to identify an issue that impacted the FY21-22 restraint data. The student management system, Synergy, correctly logged every incident of restraint which included students having multiple incidents on the same day. When those incidents were totaled for reporting to MSDE, however, the report did not count more than one incident per day per student. Although the number of students who had been restrained was correct, this problem led to an underreporting of the number of incidents of restraint in the FY21-22 data.

This problem has been rectified and will not impact the FY22-23 data when it is reported to MSDE or data collection and reporting going forward. Staff will be working with MSDE to correct the FY21-22 data which had been reported to the state before these problems were identified.

Staff have also received a number of questions from community members related to restraint data, procedures, and policy. Those questions and staff's responses have been attached to this memo (Attachment A). We would also like the Board to be aware that additional training on restraint procedures is continuing this summer with administrators and school-based staff when they return, to ensure that HCPSS practices align with Maryland law, existing and proposed COMAR regulations, and MSDE best practices. We will keep the Board informed on the progress of these professional development efforts.

If you have any questions, please contact Caroline Walker, Executive Director of Program Innovation and Student Well-Being, and Terri Savage, Executive Director of Special Education.

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## **ATTACHMENT A: Community Questions & Staff Answers**

 Policy 9400 which governs restraint and seclusion requires that students be evaluated by health room staff following either of these events. In a confidential memo to the board dated January 5, 2022 (see MPIA 2023-11; <u>https://mpia.hcpss.org/requests/2023-011</u>), the table below shows percentages of those evaluations which identified injuries to students. If policy 9400 has been followed, those percentages would translate into hundreds of documented injuries. How many of these events since 12/16/2021 have resulted in injuries? What was the nature and severity of all of these injuries? What has HCPSS done to ensure the safety of these kids? Why are these injury data shown as percentages rather than actual counts?

	Seclusion		Restraint		Both		TOTAL	TOTAL
s	Acute Injury	Evaluation						
2021-2022								
(as of 12/16/21)	40.00%	60.00%	14.29%	85.71%	44.44%	55.56%	22.78%	77.22%
2020-2021	63.64%	36.36%	50.00%	50.00%	50.00%	50.00%	54.05%	45.95%
2019-2020	6.52%	93.48%	19.27%	80.73%	14.58%	85.42%	16.67%	83.33%
2018-2019	11.27%	88.73%	14.66%	85.34%	10.68%	89.32%	13.41%	86.59%

Physical restraint may only be implemented when it is necessary to protect a student or another individual from imminent serious physical harm. Not all injuries noted are the direct result of the physical restraint. Sometimes a student's behavior results in an injury, which then prompts the need for restraint. Reported or observed injuries by the school staff may have occurred prior to, during, or after the physical restraint. We do not have data readily available on the details of the injuries; with the way the data is currently reported, we would need to pull each individual student incident to access the details. The data are shown as percentages to best address a question that was posed by a Board member.

2. The board report on Ukeru presented on June 23, 2022 was encouraging but also noted poor fidelity to training. Have staff members trained as part of the pilot study received any refresher training? What else is HCPSS doing to ensure that Ukeru is being used with fidelity?

HCPSS was also encouraged by the initial Ukeru implementation across program classrooms. The program evaluation involved only a sampling of the classrooms to check implementation. The report can be found at

https://go.boarddocs.com/mabe/hcpssmd/Board.nsf/files/CFEK894FCBCE/\$file/06%2023%20202 2%20Program%20Evaluation%20of%20Ukeru%20Systems%20BR.pdf. As noted in the report, the evaluation did not include multiple observations of all classes across the day or over time. This was a limitation that informed our next steps. Plans for monitoring, support, and training are in place. DSE central staff assigned to support the classroom included in the program evaluation are the district's Ukeru trainers. As part of their responsibilities, they are observing Ukeru implementation and providing job-embedded training. This includes reviewing content from training, real-time feedback with correction as needed, modeling, and guided practice. Given the expansion efforts to other specialized programs, there will also be eight initial courses this summer. Of 113 staff who have been certified to implement Ukeru, 24 staff have completed a mandatory refresher due to certification expirations. To maintain certification, staff must attend a certification course within one year of their training date. Refresher courses continue this summer.

3. The Ukeru approach to de-escalation (Comfort vs. Control) is fundamentally different from what is taught by Safety-Care, which is grounded partly in ABA (Applied Behavior Analysis). Safety-Care is described as "evidence-based" but (unlike Ukeru) there is absolutely no peer-reviewed, published research evaluating Safety-Care. ABA relies on operant conditioning; it is inherently control-based. While it will be necessary to have a small number of staff trained to perform restraint (though not necessarily using Safety-Care), it will be confusing to students if one staff member uses Ukeru de-escalation one day, and the next day another staff member uses what is taught by Safety-Care. This contradiction was noted by staff in the Ukeru report that you gave (see, for example, page 10). Ideally HCPSS would choose one mode of de-escalation and train ALL of its staff using that method. The K-5 regional ED programs were a logical place to start this Ukeru training, but restraint occurs in every school in Howard County, and all staff can benefit from effective training. What is the plan to roll Ukeru out county-wide?

Since the initial implementation that included all elementary regional programs serving students with emotional disabilities, staff in all elementary regional program classrooms, the public separate day school, and comprehensive schools have been trained based on individual's needs. As noted in the Board Report presented on June 23, 2022, the plan was to expand Ukeru to additional special education program classrooms as part of the ongoing work of the DSE. Feedback from staff who work in the program classrooms indicate that Ukeru provides an additional strategy for them to respond to individual student needs. This remains consistent with what was reported during the program evaluation. Staff rely upon their first-hand knowledge of what the student needs to identify what approach, tool, strategy, etc. is most helpful for that individual student. Parents also provide input to inform what is planned for possible approaches to implement with their child.

4. Ukeru is largely reactive; true change in restraint practices will require changes in culture and introduction of proactive strategies (including, for example, Collaborative and Proactive Solutions; <u>https://livesinthebalance.org/</u>). What steps has HCPSS taken with regard to institutional culture and proactive/preventive strategies?

HCPSS continues to stress the importance of welcoming and supportive learning and working environments at all HCPSS schools and offices. We continue our emphasis on community and relationship-building and restorative practices across all initiatives. However, it is a small proportion of students who will need restraint as a behavioral response. We are drawing clear connections between supportive relationships, trauma-informed instruction and behavior management practices, and reduction of the use of restraint. However, restraint is more appropriately addressed with those staff who serve the relatively small number of students who need these practices, rather than as a system-wide or institutional strategy. To that end, HCPSS solicited additional approaches that could be evaluated and considered for potential adoption and implementation through a formal request for proposals (RFP) process. Due to non-satisfactory submission results, HCPSS will be repeating this effort. 5. The majority of kids with IEPs spend the majority of their time in general education classrooms. You have mentioned several times that DSE would be rolling out optional disability-specific training modules. What is the status of that rollout (e.g., which modules are complete)? Have you sought out input on these modules from people with each of these disabilities? Why are they optional? Is it the position of DSE that it is appropriate to, for example, place a child with autism full-time in a general education classroom with a teacher with no (or outdated) training on how to work with autistic kids? If not, then these trainings should not be optional.

There is a mandated module that all staff take to get information about IDEA and their roles/responsibilities as educators to serve children who receive special education services. This module does not replace training that can be provided to staff. It was meant to be one enhancement. The DSE central support team **is still expected to provide training at the school level** to customize the staff training based on programs, services, and individual student needs as necessary. This type of training is done in a variety of ways (e.g., full staff meetings, team meetings, individual).

Additional modules are planned to become available at the beginning of the school year. They are optional because it is the system position that disability specific modules can never fully address the type of differentiated professional learning staff may need. The DSE central support team **is still expected to provide training at the school level** for teachers/teams to customize the staff training based on individual student needs in this situation too. This type of training is also done in a variety of ways (e.g., full staff meetings, team meetings, individual).

The modules in Vector are not to replace facilitator-led training we are required to provide since the module content is more broad. They are considered supplemental for learning additional information about educational disabilities and are meant to be another enhancement to add to the direct training led by a staff facilitator.

Other training for specific areas occurs as part of the countywide professional development days and this needs to be expanded. Training that incorporates a focus on needs of students, strategies, etc. also occurs as part of school improvement training plans, grant training plans, etc.

6. I believe you have said that all of the former seclusion rooms in Howard County have had their doors removed prior to the start of the 2022-2023. Is this correct, and can you confirm that none of those rooms currently have doors?

All seclusion spaces are now referred to as regulation rooms. By design, the regulation room is a place for instruction and learning. Staff must receive training to use these spaces for their students. Materials are also included with the training. Ten out of ten of these spaces, across six elementary schools, have non-locking doors like a large/small classroom space in these buildings. The magnetized locking doors were all removed. There is absolutely no need, or exception, to have a locking mechanism on these learning spaces.

7. We have received reports from the community that some students who have access to a calming space/regulation room/sensory room in their IEPs are being denied access due to lack of staffing. They ask to go there, and are told there is nobody to accompany them, so they can't go. Is this the case and if so what is the plan to address this IEP noncompliance?

Students who have access to a calming space/regulation room/sensory room in their IEP should never be denied access to this type of space when it is required to address the student's needs. While the regulation room is one space designated in some schools, there may be additional spaces identified in a school building available to address this type of student need. If a situation of denial or any other lack of IEP implementation occurs, HCPSS asks that parents/guardians report this to the student's case manager and/or school administrator immediately. If the concern continues after being brought to the school's attention, parents/guardians are urged to contact the Department of Special Education. It is expected that DSE central support staff assigned to that school will follow up with school administration to address the concerns.

8. The restraint and seclusion numbers for SY 2021-2022 appeared to be substantially lower than previous in-person years (though it's now unclear whether those numbers were accurate), but we have reason to believe that use of restraint has increased substantially (relative to SY 2021-2022) during the current (2022-2023) school year. How many restraints have occurred in HCPSS to date? If incidents of restraint are being reviewed centrally on a regular basis this number should be readily available. Why do you think this is happening and what is the plan to address it?

We do not yet have final, validated numbers for SY22-23. However, preliminary numbers look similar to last year's actuals and not what was incorrectly reported.

9. The SY 2022-2023 operating budget included 500K for restraint reduction and seclusion replacement. How much of this money has been spent, and what exactly was it spent on? How will ongoing and future efforts to reduce and replace restraint be funded?

Some of these funds were used for training and materials/supplies related to de-escalation practices and spaces. Most of the funding, however, was targeted for additional behavioral management resources. As mentioned above, HCPSS put out a request for proposals (RFP) but did not receive sufficient quality responses. Staff are planning to re-issue the RFP in the near future. If appropriate supports are identified, there is sufficient funding in both the special education and general education operating budgets to initiate contracts for services.

10. It is our understanding that students who move to the SESI classroom at Hanover Hills go through the CEPT process as if it were a nonpublic placement. Do restraints that happen in that classroom get added to the HCPSS annual totals or do they get tabulated separately?

### Restraints that happen in the SESI classroom are added to the HCPSS annual totals.

Per HB1295, seclusion is illegal in public schools but still legal in nonpublic schools. What is the status of the SESI classroom with regard to that law - are the staff in the SESI classroom permitted to seclude students?

SESI staff are not permitted to use seclusion.

What restraint training do the SESI staff receive?

SESI staff received Safety Care and Ukeru training.

Who provides that training - HCPSS or SESI?

HCPSS trainers provided the training. Additionally, some SESI staff are trained to be certified instructors as well.

Placement in the Therapeutic Support Classroom is made through the Central Education Placement Team (CEPT) process beginning Summer 2023. Yes, any restraint of a student placed in this classroom is documented and reported in accordance with the processes in place for all students in HCPSS schools. There is no seclusion room in any HCPSS school/classroom, including the Therapeutic Support Classroom. Staff in this classroom are not permitted to seclude students. The staff receive the same training (e.g., Safety Care, Ukeru, instructional interventions specific to the student's current IEP) all other HCPSS staff receive. The HCPSS trainer certified to train others in Safety Care and Ukeru conduct all training for staff working in HCPSS who may use these approaches.

 11. The most recent targeted review of HCPSS Special Education by MSDE included review of restraint and seclusion practices: <u>https://drive.google.com/file/d/1T4IZc5oMRWDzKqI0cMZLvFb9s8ra2BOj/vie</u> <u>W</u> That report (see page 16) noted **systemic noncompliance** in 8 of the 17 compliance metrics, and narrowly missed that designation for a ninth (failure to document that less intrusive interventions were tried). Of particular concern are the lack of documentation that restraint was necessary and lack of review of contraindications (including medical contraindications). How is this noncompliance being remediated?

During 2022-2023, the Restraint Review Team has met weekly to review restraint documentation that includes a review of the submission to ensure completion of documentation, a coaching session with schools where documentation is not complete or is inaccurate, and a periodic evaluation to examine patterns of errors.

HCPSS will review the comprehensive monitoring results to examine trends in the data. Additional targeted professional learning will be provided to the identified schools based on this trend data. We also plan to progress monitor restraint reporting for students with disabilities during the 2023-2024 school year. Based on these results, HCPSS will determine if additional professional learning is required.

During county-wide professional learning, all staff will receive training in Policy 9400 which includes general and special educators. Additional training will be provided to special educators and providers servicing students in specialized programs.

Updated restraint guidance has been included in the Safety Care Basics and the Safety Care Training in response to new MSDE statute and technical assistance.

12. In December of 2021 a highly publicized video was shared on social media showing a HS Assistant principal, a security assistant, and an SRO placing a child in a prone restraint (face down, on the floor) in the cafeteria at Howard High School. Prone restraint, particularly when perpetrators use their body weight to force the victim down and to keep them there is **extremely dangerous**. For that reason, it has been illegal to use prone restraint in Maryland public schools since 2003. What rules and training are in place to prevent security assistants and SROs from placing children in prone restraints?

The SRO is a police officer and trained by HCPD. HCPSS provided Safety Care/First Aid and CPR training to the Security Assistants which it employs and offered to review HCPSS practices and training with SROs. There was discussion around having the SROs become Safety Care trained but HCPSS staff were unable to coordinate the necessary training with the SROs.

The Howard County Police Department is aware of the potential danger that placing a person in a prone position can create. The Howard County Police Department notes this in their General Orders, OPS 04: Arrest Procedures (IV. Section F):

- Howard County Police Department General Orders OPS 04 Arrest Procedures
  - o IV. Handcuffing procedures
    - F. Officers shall not kneel or sit on an arrestee's neck or back while handcuffing. Any time the arrestee spends on his stomach must be minimized. Detainees shall be removed from their stomach as soon as possible. Officers must be aware of the potential risks and monitor arrestees for signs of breathing, respiratory distress, etc.

HCPD would respectfully note, police officers engaged in lawful uses of force are not perpetrators and young people engaged in criminal activity are not victims of lawful use of force. The prohibition of the face down position applies to school personnel. School Resource Officers are not school personnel.

HCPSS does not train any staff to place children in prone restraints or to use force in any situation. The security assistant involved in the referenced incident no longer works for HCPSS.

13. There continue to be substantial disproportionalities in the use of physical restraint with regard to race, disability, and their intersection. The Department of Education's Office of Civil Rights has been clear in its message that these patterns are discriminatory and

contribute to denial of FAPE (see, for example:

<u>https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf</u>) What is the plan to address these disproportionalities?

The Department of Special Education includes a team created specifically for this work. They are known as the Comprehensive Coordinated Early Intervening Services (CCEIS) team. MSDE holds every local accountable for addressing areas of significant disproportionality that they identify through an approved plan which they also monitor. In collaboration with the Discipline work group and the Department of Program Innovation and Student Well Being staff, the DSE CCEIS team members work in identified schools where they carry out a variety of planned actions not limited to:

- Designing and leading professional learning to address root causes of disproportionality
- Providing direct support to school teams or staff
- Consulting with school teams to make procedural shifts in how discipline is given
- Facilitating a mentoring program across schools
- Serving as a liaison to the Office of Diversity, Equity, and Inclusion



October 10, 2023

# CONFIDENTIAL MEMORANDUM

To:	Members of the Board of Education
From:	Michael J. Martirano, Ed.D. Superintendent
Subject:	SY2022-23 Restraint Data

The purpose of this memorandum is to provide information regarding restraint data for the 2022-2023 school year. The Maryland State Department of Education (MSDE) Restraint and Seclusion Annual Report will be published in December and will provide official data. The SY2023 data are not yet verified by MSDE and should not be shared publicly.

## HCPSS Data: SY 2022-2023

Table 1

In HCPSS in 2022-23, there were 0.89 restraint incidents per 100 enrolled students. Incidences of seclusion were not requested by the Maryland State Department of Education in SY22-23 since seclusion was not permitted in public schools.

Table 1 displays 2021-22 and 2022-23 restraint and seclusion incident counts.

#### Total Restraints School Seclusions enrolled Incidents year Rate Incidents Rate (per 100 stdts enrolled) (per 100 stdts enrolled) 2022 57,325 645 1.13 154 0.27 2023 57,676 513 0.89 0 0.00

HCPSS Restraint and Seclusion Incidents per 100 Students Enrolled

Note. SY2023 data not yet verified. Do not share publicly.

In HCPSS, less than 1% of all students were restrained. For the group of students who were restrained in 2022-23, they experienced an average of 5.2 restraint incidents. The median number of restraint incidents for students who were restrained was 2. See Table 2.

# Table 2

*HCPSS Average Number of Restraints per Student Restrained and Average Number of Seclusions per Student Secluded: 2021-22 and 2022-23* 

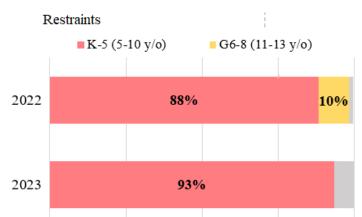
School year	Students restrained	Restraint incidents	Incidents per student restrained	Median incidents per student restrained	secluded	Seclusion incidents	Incidents per student secluded	Median incidents per student secluded
2022	108	645	6.0	3.0	30	154	5.1	4.5
2023	98	513	5.2	2.0	0	0	n/a	n/a

Note. SY2023 data not yet verified. Do not share publicly.

Figure 1 displays restraint incidents by grade band. When disaggregated by grade band, 93% of restraints in 2022-23 occurred at the elementary school level.

## Figure 1

Proportion of Restraint Incidents by Grade Band

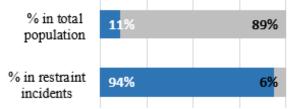


*Note*. Grade bands with less than or equal to 5% of incidents are suppressed as gray, unlabeled blocks. SY2023 data not yet verified. Do not share publicly.

As illustrated in Figure 2, restraints were disproportionately more likely to be used for students with an IEP than for students without an IEP. Whereas about 11% of the total student population had an IEP, 94% of all restraint incidents involved students with IEPs.

## Figure 2

Percentage of the Student Population with IEPs as of September 30 and the Percentage of Restraint Incidents Involving Students With and Without an IEP in 2022-23



Note. SY2023 data not yet verified. Do not share publicly.

Table 3 displays the demographic of students who were restrained in 2023. Despite restraints being infrequently used in HCPSS, disproportionate use of restraints by race/ethnicity is observed.

- 93% of all restraints were for male students.
- Even though Black/African American students made up 25% of the enrolled population, 64% of restraints were for Black/African American students.
- Whereas about 11% of the total student population had an IEP, 94% of all restraint incidents involved students with IEPs.
- The majority of restraint incidents occurred in the K-5 grade band.

#### Table 3

2023 HCPSS Number of Physical Restraint Incidents

		Total er	nrolled	Physical restraints		
		n	% of		% of	
Student	group	students	enrolled	incidents	incidents	
All	All	57676		513		
Gender	Female	27973	49%	34	7%	
	Male	29629	51%	479	93%	
Race/	American Indian/AK Native	*	≤5%	*	*	
ethnicity	Asian	13592	24%	*	≤5%	
	Black/African Am	14293	25%	330	64%	
	Hispanic/Latino	7860	14%	45	9%	
	Native HI/Pac. Islander	*	≤5%	*	*	
	Two or More	3773	7%	57	11%	
	White	17939	31%	70	14%	
IEP	IEP	6103	11%	480	94%	
status	Not IEP	51573	89%	33	6%	
Grade/	PreK (3-4 y/o)	*	≤5%	*	*	
Age	K-5 (5-10 y/o)	24620	43%	479	93%	
band	G6-8 (11-13 y/o)	13189	23%	*	≤5%	
	G9-12 (14-18 y/o)	18416	32%	*	≤5%	

Note . Total enrollment counts are based on September 30 attendance file. Following MSDE data suppression practices: Enrollment values for percentages less than or equal to 5% are suppressed. Restraints and seclusions with fewer than 10 unique students or fewer than 10 incidents are suppressed. 2022-23 data not yet verified by MSDE; do not share publicly. Table 4 disaggregates restraint and seclusion data by students' primary disability categories. In 2023, restraints were most frequently used for students with IEPs with the following as their primary disability: Autism (33% of all restraint incidents), emotional disability (25%), Other Health Impairment (16%), multiple disabilities (11%), and developmental delay (8%).

#### Table 4

	2022					2023				
	Physical r	estraints	aints Seclusions		Physical	restraints	Seclusions			
		% of		% of		% of		% of		
IEP primary disability	incidents	incidents	incidents	incidents	incidents	incidents	incidents	incidents		
All	645		154		513		0			
Autism	137	21%	*	*	171	33%	*	*		
Hearing Impairment	*	*	*	*	*	*	*	*		
Deaf/Blind	*	*	*	*	*	*	*	*		
Developmental Delay	14	2%	*	*	42	8%	*	*		
Emotional Disability	223	35%	61	40%	127	25%	*	*		
Intellectual Disabilibility	24	4%	*	*	*	*	*	*		
Multiple Disabilities	53	8%	23	15%	57	11%	*	*		
Orthopedic Impairment	*	*	*	*	*	*	*	*		
Other Health Impairment	81	13%	47	31%	81	16%	*	*		
Specific Learning Disabilities	*	*	*	*	*	*	*	*		
Speech/Language Impairment	*	*	*	*	*	*	*	*		
Traumatic Brain Injury	*	*	*	*	*	*	*	*		
Visual Impairment	*	*	*	*	*	*	*	*		
Deaf	*	*	*	*	*	*	*	*		
No IEP	106	16%	*	*	33	6%	*	*		

Restraints and Seclusions by IEP Primary Disability

*Note*. Following MSDE data suppression practices, results for groups with fewer than 10 incidents are not reported. SY2023 data not yet verified by MSDE; do not share publicly.

Table 5 disaggregates restraint data by student race/ethnicity, gender, IEP, and ESOL statuses, as well as the crosstabulation of race/ethnicity with gender, IEP, and ESOL statuses. The majority of restraint incidents were for Black/African American male students with an IEP.

#### Table 5

School							Not	ESOL
year	Student group	A11	Female	Male	No IEP	Has IEP	ESOL	eligible
2022	All	645	35	610	106	539	633	12
	Am Indian/AK Native	*	*	*	*	*	*	*
	Asian	36	*	35-40	*	35-40	30-35	*
	Black/African Am	433	25	408	41	392	423	10
	Hispanic/Latino	54	*	50-55	42	12	50-55	*
	Native HI/Pac Island	*	*	*	*	*	*	*
	Two or More	54	*	50-55	*	45-50	50-55	*
	White	68	*	55-60	18	50	65-70	*
2023	All	513	34	479	33	480	508	*
	Am Indian/AK Native	*	*	*	*	*	*	*
	Asian	11	*	10-15	*	*	*	*
	Black/African Am	330	12	318	17	313	330-335	*
	Hispanic/Latino	45	*	40-45	*	40-45	40-45	*
	Native HI/Pac Island	*	*	*	*	*	*	*
	Two or More	57	*	50-55	*	50-55	55-60	*
	White	70	13	57	*	60-65	70-75	*

Restraint Incidents by Race/Ethnicity and Gender and Services

Note. SY2023 data not yet verified by MSDE; do not share publicly. Data for groups with fewer than 10 incidents are suppressed. Data blurring applied to protect student privacy.

If you have any questions, please contact Dr. Caroline Walker, Executive Director, Program Innovation and Student Well-Being and Dr. Terri Savage, Executive Director, Special Education.

Copy to: **Executive Staff Board of Education Office**