

---

## TESTIMONY

**Testimony To:** House Committee on Education

**Respectfully Submitted by:** Ted Fisher, Director of Communications and Legislative Affairs

**Subject:** H.409

**Date:** April 13, 2023

---

Thank you for the opportunity to provide testimony to the House Committee on Education on H.409.

The below data is structured in a way that allows us to report numbers with minimal suppression, which we would likely need to do significantly with a more traditional table or data set.

A few up-front qualifications:

1. This data set reflects 125 reports from October 14, 2022 to the beginning of April. Prior to this, the Agency used a different reporting system, which makes comparison with older data more difficult.
2. Data only comes to AOE in the following cases:
  - There is death, injury requiring outside medical treatment or hospitalization to staff or student as a result of a restraint or seclusion; or
  - Physical restraint or seclusion has been used for more than thirty (30) minutes; or
  - Physical restraint or seclusion has been used in violation of these rules, including the use of any prohibited restraint or seclusion.
3. All reports are reviewed by AOE staff, with technical assistance provided to SUs or schools when a need is identified.
4. Restraint and Seclusion are most often the result of extreme student behaviors. Students with a history of these behaviors are usually identified as having a disability.
5. Untrained staff, including those with contractual arrangements (e.g., designated agency staff), should not restrain or seclude a student, and when they do it should be reported by the Superintendent to the AOE as a policy violation.
6. Restraint and Seclusion should only be used for safety reasons, not for discipline.



7. A functional Behavior Assessment (FBA) is recommended for a student who has Restraint or Seclusion to ensure that incidents do not happen again.
8. Schools *should* have tiered support for all students, staff and families who are involved in or witness Restraint and Seclusion.

**Available data from October 14, 2023:**

- There were 125 cases reported from October 2022 to date. Of those:
  - 69 were reported at public schools and 55 at independent schools. All of the independent entities represent therapeutic schools or specialized educational entities.
  - 80 represented cases where physical restraint was used more than 30 minutes (49 public / 31 independent schools)
  - 36 represented cases where physical restraint or seclusion was used in violation of rule Series 4500 (17/19)
  - 5 represented cases of injury or death
- 55 individual students are represented in the data; 40 at public schools, 15 at independent schools. Of these
  - 36 (28 public / 8 independent schools) account for only one case of restraint or seclusion.
  - 14 (9/5) students had between 2 and 5 reported incidents
  - 5 students had 6 or greater reported incidents.
  - the greatest number of incidents per student was 25
- Students on IEPs account for 24 of the students
  - 16 at public schools
  - 8 at independent schools
- For gender, there were:
  - 45 boys (33 public / 12 independent)
  - 10 girls (7/3)
- 39 were FRL eligible (28/11)
- 48 were white (35/13)
- For Age of Students:
  - 21 under 7 years old (19/2)
  - 27 were between ages 8 and 14 (16/11)
  - 7 were 15 and older (5/2)
- For Grade Level
  - 9 were in PreK or Kindergarten (9/0)
  - 24 represented grades 1 through 4 (18/6)
  - 15 represented grades 5 through 8 (8/6)
  - 8 represented grade 9 and above (5/3)