



STATE OF MAINE
DEPARTMENT OF EDUCATION
23 STATE HOUSE STATION
AUGUSTA, ME 04333-0023

JANET T. MILLS
GOVERNOR

PENDER MAKIN
COMMISSIONER

May 4, 2021

Senator Joseph Rafferty, Co-chair
Representative Michael Brennan, Co-chair
Members of the Joint Standing Committee on Education and Cultural Affairs

Dear Senator Rafferty, Representative Brennan, and Members of the Joint Committee,

LD 1373, An Act To Keep All Maine Students Safe by Restricting the Use of Seclusion and Restraint in Schools. The Department of Education Rule Chapter 33: *Rule Governing Physical Restraint and Seclusion* is a general education initiative designed to prevent misuse and abuse of restraint and seclusion procedures. The bill amendment seeks to add new definitions and language to statute that differs from existing Chapter 33 rule as well as eliminate the use of seclusion as an available form of emergency student intervention. There is ambiguous language within the bill regarding the use of “another relevant record made available to the covered entity” to prohibit the use of seclusion or restraint in Title 20-A, Section 4014 (1)(H)(5)(e). There is no definition of “relevant” record which could garner a multitude of interpretations and implications.

Research indicates that the use of seclusion is not an effective means of reducing negative behavior and ongoing use may lead to physical and/or psychological harm. From the data in table 2 we can see that publicly funded schools regularly account for more than half of reported uses of seclusions, with Special Purpose Private Schools covering the majority of remaining reports. In alignment with Chapter 33, the Department’s Office of School and Student Supports provides a list of certified training programs to reduce violent or disruptive behavior, as well as a series of trainings on best practices in trauma informed approaches, and restorative approaches. The Department intends to update Chapter 33 during the summer of 2021 to align with much of the language included within this bill.

For the elimination of seclusion to not lead to an increase in restraints or underreporting, all schools will need to adopt a systemic preventative approach for educators and support staff to ensure a high level of training and understanding of the complexities in working with dysregulated students (including the use of evidenced-based practices that eliminate the use of seclusion, reduce the use of physical restraint, and decrease student behavior leading to the use of physical restraint) and provide targeted coaching and support within districts. Staff will need time and resources to access these trainings as well as evaluate appropriate physical space to support students. They will also need additional training on how to accurately identify and report incidents of restraint and seclusion. Lastly, time will be needed to determine which resources are best suited for school staff as they work to support the academic and behavioral needs of students in their schools. While the DOE will have some trainings and technical support resources, these additional duties and responsibilities are beyond the current staffing of the Department.

Table 1: Incidents of Restraint by School Type

* Blank cells indicate no data received that year

Type of School	2017	2018	2019	2020
Applied Technology Regions	0	0	0	0
Charter School	20	1	1	27
Community School District	7	32	21	55
Maine Indian Education	0	11		
Maine School Administrative District	1689	1264	960	506
Municipal School Unit	1259	1736	1748	1352
Private - 60% Publicly Funded	1	0	0	0
Private Non-Sectarian	0		0	0
Private Sectarian	0		0	0
Private Special Purpose	7851	7080	12737	14463
Regional School Unit	801	1135	1078	858
State Operated	0		0	0
Unorganized Territory	12	13	4	1
Total Incidences of Restraint Reported	11640	11272	16549	17262

Table 2: Incidents of Seclusion by School Type

* Blank cells indicate no data received that year

Type of School	2017	2018	2019	2020
Applied Technology Regions	0	0	0	0
Charter School	0	97	0	67
Community School District	18	12	7	13
Maine Indian Education	0	0		
Maine School Administrative District	1107	958	1099	502
Municipal School Unit	802	1401	1589	1449
Private - 60% Publicly Funded	2	0	0	0
Private Non-Sectarian	0	0	0	0
Private Sectarian	0		0	0
Private Special Purpose	2291	1659	2092	1719
Regional School Unit	522	1123	1059	667
State Operated	0		0	0
Unorganized Territory	0	0	0	0
Total Incidences of Seclusion Reported	4742	5250	5846	4417

The Maine Department of Education is happy to provide additional information regarding LD 1373 and answer questions during the upcoming work session.


Sincerely,

DocuSigned by:

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Erin Frazier

Director, Birth to Age 22
 Office of Special Services

DocuSigned by:

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Bear Shea

Mental Health and School Counseling Specialist
 Chapter 33 Restraint and Seclusion Rule Specialist
 Office of Student and School Supports

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
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