



**U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section**

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Via E-Mail

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Re: Investigation of the Special School District of St. Louis County

Dear Mr. Williams, Mr. Banocy, and Ms. Scott:

We write to notify the Special School District of St. Louis County ("SSD" or "the District") that the United States Department of Justice ("DOJ") has found that the District's seclusion and restraint practices violate Title II of the Americans with Disabilities Act ("Title II"), 42 U.S.C §§ 1201 et. seq. This letter details those findings and offers SSD the opportunity to remedy the identified legal violations cooperatively without resort to litigation.

I. SUMMARY OF FINDINGS

Missouri parents and guardians entrust their vulnerable children with disabilities to SSD on the promise that the District will meet their unique needs and provide them with the interventions and supports they need to learn and thrive. But DOJ's investigation has found that SSD has broken both this promise and federal law by subjecting students to ineffective seclusion practices that are highly susceptible to abuse and restraining them without justification.

While Missouri law and District policy only permit the use of seclusion (which is the traumatizing confinement of a student alone in a small room) and restraint when there is an imminent danger of physical harm to the student or another person, SSD routinely and

systematically violates this requirement by using seclusion and restraint in response to non-compliance with school rules, verbal conduct, and other behaviors that cannot lead to any safety threat. For example, in one incident, a second-grade student was secluded for one and a half hours for knocking over her teacher's coffee. In another, a seclusion was used because a second-grade student refused to go into music class. Another student was secluded for three and a half hours for drawing on her chair, cursing, and "being disrespectful." The District frequently uses seclusion long after there could be any safety threat, sometimes for hours on end. Based on a review of incident reports, our expert concluded that SSD routinely uses seclusion and restraint as its initial response to misbehavior rather than as safety procedures of last resort.

SSD also routinely uses seclusion in cases where a student is engaging in self-harm, which not only fails to protect the student's safety, but can escalate the student to engage in more serious self-harm. For example, in one incident, a fourth-grade student was secluded for two hours and 15 minutes, during which time he was "bitting [sic] his hands and wrists," "[s]aying that he wants to kill himself," and "banging [his] head on [his] knee." During another nearly two-hour-long seclusion, a fifth-grade student tied her shoelaces around her neck to the point that staff had to cut them off her neck. Students in seclusion routinely engage in unsanitary, unsafe, and disturbing behaviors in seclusion without intervention from school staff. For example, during one seclusion, a third-grade student hit himself in the face with a shoe for two minutes, giving himself a bloody nose, and then proceeded to wipe his blood on the floor and wall of the seclusion room, yet the seclusion did not end for another hour.

SSD's abuse of seclusion and restraint is clear from the numbers. Over the 2022-23 and 2023-24 school years (the two years covered by DOJ's investigation "the investigative period"), the District secluded over 300 students almost 4,000 times and restrained almost 150 students 777 times at the schools serving students with disabilities. Across these schools, almost 40% of students were secluded during that time. One District school that enrolled fewer than 100 students used seclusion 1,667 times. Every student who attended that school was secluded or restrained at least once during the investigative period. Another school secluded one of its students 186 times in a single school year. That student spent 101 hours, or the equivalent of 17 school days in seclusion during that year. A different student at that same school was restrained 372 times over the two years for a total of almost 35 hours. SSD also used dangerous supine restraints over 400 times during the investigative period. These numbers demonstrate that the use of restraint and seclusion is routine, not a crisis response to be used in rare emergencies as Missouri law and SSD policy require.

To remedy these violations and provide its students with the care and education they deserve and federal law requires, SSD must fundamentally change its practices. It must ban the use of seclusion because DOJ's investigation shows that SSD never needs to seclude students to protect safety and too often instead increases the safety risk to vulnerable students by secluding them. SSD also needs to stop the use of supine restraints, which are more dangerous than other types of physical restraint and unnecessary. Steps need to be taken to ensure SSD only uses other types of physical restraint when it is required to prevent the imminent danger of physical harm and provides its students with the interventions and supports that are necessary to manage their behavior without resort to the use of seclusion and restraint. To ensure that its practices comply with federal law, SSD must also put in place systems to ensure sufficient reporting, oversight, and

monitoring. To respect the rights of parents and guardians, the District needs to give parents and guardians the tools they need to make sure their children are protected.

II. BACKGROUND

A. Background of Investigation

SSD, the largest special education provider in Missouri, is a Local Education Agency with an elected superintendent and a board of education. The District partners with twenty-two public school districts, which rely on SSD to provide all special education services. In addition to providing special education services in classrooms in its partner districts' schools, SSD operates six of its own schools ("SSD-operated schools"). Five of the six SSD-operated schools—Ackerman School ("Ackerman"), Litzsinger School ("Litzsinger"), Neuwoehner High School ("Neuwoehner"), Northview High School ("Northview"), and Southview School ("Southview")—serve only students with disabilities between the ages of 4 and 21 years old. The other, Bridges, is a half-day placement for students between the ages of 12 to 21 with social emotional needs. SSD also operates two technical high schools serving both students with disabilities and general education students.

On May 8, 2024, DOJ opened an investigation into the District's seclusion and restraint practices at the SSD-operated schools. Since that time, with the assistance of a consultant who is an expert in the provision of special education services, DOJ has reviewed the District's policies and procedures, Individualized Education Programs ("IEPs"), Behavioral Intervention Plans ("BIPs"), Functional Behavioral Assessments ("FBAs"), complaints, reports, disciplinary referrals, and incident reports regarding the use of seclusion and restraint from the investigative period. DOJ also conducted remote interviews with some District-level officials.

The District has failed to fully cooperate with DOJ's investigation. SSD repeatedly delayed in responding to DOJ's document requests, including missing deadlines for document production, providing incomplete responses without explanation, and repeatedly failing to produce additional information after promising to do so. The District denied multiple requests to allow DOJ to visit its schools while in operation or interview its staff in person. Instead, the District offered to allow DOJ to visit on a weekend with no students or staff present, a counterproposal that would not fulfill the purpose of the proposed visit—seeing the operations of schools and the treatment of students. DOJ notified the District on September 29, 2025, that it had concluded its investigation based on the incomplete but incriminating documentary evidence that had been produced to date. Only then did SSD produce documents that had first been requested in October of 2024, forcing DOJ to delay issuing this letter while it reviewed those documents. Despite the District's failure to cooperate fully with this investigation, DOJ has more than sufficient information to issue this letter identifying SSD's significant noncompliance with federal law.

At the same time, because of the District's refusal to fully cooperate, this letter may well understate the scope of this noncompliance. For example, DOJ is unable to make any findings about Bridges because, as discussed in more detail below, the District's noncooperation makes it impossible to assess whether that school's operations comply with federal law. Moreover, given the picture of District operations painted by the incident reports, visiting the District schools while in operation may well have led to the identification of additional violations.

B. State and District Law

District policy defines seclusion as “[t]he involuntary confinement of a student alone in a room or area that the student is physically prevented from leaving” SPECIAL SCHOOL DISTRICT BOARD OF EDUCATION POLICY JGGA-R. The definition excludes “time-out, in-school suspension, detention, or other appropriate disciplinary measures.” *Id.* The District defines restraint, which it refers to as “physical restraint,” as “[t]he use of person-to-person physical contact to restrict the free movement of all or a portion of a student’s body.” *Id.* The definition excludes brief holds for the purposes of instruction, calming, transporting, escorting, or intervening in a fight. *Id.* The District’s definitions largely mirror Missouri law definitions. *See* MO. ANN. STAT. tit. XI, § 160.263(1).

Missouri law requires districts to adopt policies that “reserve confining a student in seclusion for situations or conditions in which there is imminent danger of physical harm to self or others.” § 160.263(2). Missouri law also requires district policies to require that “[a]ny student placed in seclusion or restraint shall be removed from such seclusion or restraint as soon as the school district . . . determines that the student is no longer an imminent danger of physical harm to self or others.” § 160.263(5)(1).

III. FACTUAL FINDINGS

A. Shocking Overuse of Seclusion and Restraint

During the investigative period, the District treated seclusion and restraint not as crisis responses to be used in rare emergencies but as a routine response to student behavior. The abuse of these practices can be seen in the frequency with which they were used during the 2022-23 and 2023-24 school years.

The District reported secluding over 300 students 3,959 times during the investigative period at the SSD-operated schools, with 230 of those students secluded more than once. The District averaged 11 seclusions a day during the investigative period. The seclusion numbers from Litzinger are truly shocking. As referenced above, that school enrolled fewer than 100 students but used seclusion 1,667 times. Seclusion was not just used against a few students. In fact, Litzinger secluded 91% of its students during the investigative period. Ackerman also used seclusion at alarming rates. That school secluded 75% of its students and used seclusion 1,216 times.

The overuse of seclusion occurred District-wide at the SSD-operated schools. Across these schools, 38% of students were reportedly secluded during the investigative period. Northview and Southview together secluded students almost 1,000 times even though enrolling fewer than 400 students. Every SSD-operated school secluded at least 15% of its students. The average student who was secluded spent nearly 6 hours total in seclusion. The District-wide average seclusion lasted nearly 23 minutes, even though state law requires students to be removed from seclusion as soon as they no longer pose an imminent danger of physical harm to self or others.

Looking at particular students shows the true impact of this abuse of seclusion. As referenced above, Northview reported secluding one of its students 186 times in a single school

year, and that student spent 101 hours, the equivalent of almost 17 school days, in seclusion. Another student who attended Ackerman and Litzsinger during the investigative period was secluded 146 times for a total of almost 70 hours. The District secluded at least 28 students more than forty times each, including 16 students at Litzsinger and 8 students at Ackerman.

Very young students suffered large numbers of seclusions. Ackerman secluded a first grader 49 times for over 20 hours total. The District secluded four second graders more than 40 times each. These five students experienced a combined total of 308 reported seclusions for a total of 111 hours of lost instructional time.

The District also reported constantly restraining students during the investigative period at the SSD-operated schools. The District reported using restraint approximately 777 times during the two years. Like seclusion, restraint was not just used against a few students. The District reported restraining approximately 150 students. Litzsinger restrained over forty percent of its students. Every single Litzsinger student was either restrained or secluded during the investigative period. Ackerman restrained more than one third of its students. While the use of restraint was widespread, particular students suffered the most. Northview restrained one of its students an unbelievable 372 times.

B. Suspected Underreporting of Incidents

While the numbers described above are staggeringly high, they almost certainly do not capture the full picture of seclusions and restraints in the District. The numbers above include only the seclusions and restraints SSD reported on the spreadsheet it produced to DOJ during the investigation. However, our review of incident reports provides strong reasons to believe that the District has massively underreported its use of seclusion and restraint. We found incident reports not reflected on the spreadsheet. In addition, on many incident reports, both seclusions and restraints are described but only one was listed on the spreadsheet.

The District also almost certainly undercounts restraints because students are frequently described in incident reports as being moved from one place to another without the incident being treated as a restraint. In some cases, staff actions may meet the definition of transport or escort and therefore do not qualify as restraints under State law and District policy. But in other cases, given the force the staff used to overcome a struggling student, it seems clear the student was restrained, not merely escorted or transported, regardless of the label attached to the incident in the report. Other incident reports describe seclusions but not how the student got to the seclusion space from wherever the incident began. If the conduct posed an imminent danger of physical harm (the only time seclusion is permitted by State law and District policy), it is hard to believe the student could be involuntarily moved without the staff having to use sufficient force to qualify as a restraint. Thus, the District's true restraint numbers are potentially even higher than is possible to estimate.

Additionally, the District provided only two incident reports for Bridges. The District represented that no other restraints or seclusions occurred at Bridges during the investigative period or during the 2024-25 school year. However, Bridges is a school specifically for students with high needs in areas of social emotional skills—those who typically struggle with behavior management. In an interview with DOJ, a senior SSD official indicated that Bridges does not do

anything different in its programming as compared to other District schools. It is impossible to believe that a school that serves only students with the highest social emotional needs and does not address those needs any differently than the other District schools would not have more than two incidences of restraint and seclusion. However, without more information, and having been denied the opportunity to visit the school while in operation, DOJ cannot draw any conclusions as to the practices at Bridges.

C. Improper and Unsafe Use of Seclusion and Restraint

The District routinely secludes and restrains students without adequate justification. As noted previously, Missouri law requires District policy to only permit the use of seclusion and restraint when there is “imminent danger of physical harm” to the student or another person. § 160.263(2). Despite this strict standard, the District routinely secludes and restrains students for conduct that cannot lead to physical harm, including purely verbal conduct and non-compliance with school rules.¹ Missouri law also requires that restraints and seclusions end “as soon as” the imminent danger is no longer present. § 160.263(5)(1). However, descriptions in incident reports reveal that this is frequently not the case, with some seclusions lasting for hours on end. In addition, students are often secluded when they pose a danger to themselves. But locking students in a room is illogical in such cases because it does nothing to prevent them from harming themselves. In fact, placing students alone in a room renders staff unable to stop or prevent students from hurting themselves and therefore increases rather than decreases the risk to students. As described in greater detail below, the District placing a student in seclusion led to the student engaging in more serious self-harm. Incident reports also describe students engaging in unsanitary, unsafe, and disturbing behaviors while in seclusion without intervention from school staff.

1. Seclusion and Restraint When There is No Imminent Danger

The District’s incident reports reveal frequent instances of the use of seclusion and restraint when there is no indication of any imminent danger. For example, in one incident, a second-grade student was secluded for one and a half hours for knocking over her teacher’s coffee. Another second-grade student was secluded for refusing to go to music class, and a fifth-grade student was secluded for refusing to go to health class. Another student was secluded for three and a half hours for drawing on her chair, cursing, and “being disrespectful.” A student who uses a wheelchair or mobility chair was secluded for “engaging in self-harming behaviors, banging feet on desk, and hitting hands on wall while crying,” and she was transported to the seclusion room in the chair. Other students were secluded for attempting to take another student’s breakfast, yelling on the playground and making suicidal comments, disrupting class by crying and screaming about wanting to go home, not putting shoes on and running out of the room with a piece of tape, and various forms of non-compliance with instructions. Some incident reports indicate that a student’s behavior had already de-escalated prior to the use of seclusion. For example, one incident report describes that “staff waited until [a student] was calm and grabbed him to escort him to [a seclusion room].” Additionally, many incident reports indicate that students walked on their own to seclusion rooms. According to our expert (and common sense), if students are able to walk on their own to a designated location, there is no continuing imminent danger of physical harm.

¹ DOJ enforces federal law, not State law or District policy, but that the District violates all of the applicable standards for the use of seclusion and restraint demonstrates that those incidents are not necessary or proper.

Similarly, incident reports reveal restraints used in the absence of imminent danger. For example, one student was restrained for “disruptive vocalizations,” and another was restrained and then secluded for over two hours for walking out of the classroom and down the hall away from staff.

2. Excessive Time in Seclusion Far Beyond Cessation of Imminent Danger

Incident reports demonstrate that students are often kept in seclusion for extended periods of time absent continuing danger, contrary to the requirement that they be released as soon as there is no longer imminent danger. Students as young as first grade were secluded for multiple hours. One student was secluded for over four hours. As previously described, a student spent three and a half hours in seclusion for drawing on furniture, cursing, and being disrespectful. It was evident that there was no risk of harm at the time of the seclusion because the student reportedly voluntarily walked to the seclusion room. One student was secluded for 30 hours across 30 incidents. Many incident reports describe students engaging in non-threatening behaviors while in seclusion, yet they are kept in seclusion for extended periods of time. For example, for the second-grade student who was secluded for knocking over her teacher’s coffee, the report describes that while in seclusion, she was “[p]acing around [the seclusion] booth then able to sit calmly for timer and sit at a desk to work,” yet she was still secluded for one and a half hours. Another incident report describes a student’s behavior during an hour-long seclusion as “cursing at window, pacing around, dancing, leaning on door, sitting against back wall.”

Furthermore, the incident reports reveal that the District has a common practice of using timers to arbitrarily determine when a student can leave seclusion, rather than ending the seclusion when the student stops being a threat. For example, many incident reports document that staff required students to comply with an instruction, such as “stand or sit on back wall,” for the duration of a timer set for the number of minutes that corresponds with their age in order to be released from seclusion. For many students, including younger students and especially students with disabilities, complying with a direction to “sit quietly,” “calm down,” or have “a calm body” is a monumental task. According to our expert, students with difficulty with emotional regulation or executive functioning, impulsivity, sensory sensitivities, or adaptive behavior or processing deficits will have difficulty complying with such a request on demand. Similarly, students who have experienced trauma, including students who are recovering from a crisis event, may have difficulty following directions and may be tired and confused. In some cases, reports describe that staff required students to remain in seclusion for so long that they had fallen asleep by the time the timer expired. Thus, there is substantial evidence of the District improperly and illegally using restraints and seclusions in situations where no imminent danger of physical harm exists as well as extending restraints and seclusions far beyond the cessation of imminent danger.

3. Self-Harm in Seclusion

Even more concerning than secluding students in the absence of imminent danger, the District frequently secludes students who are engaging in self-harm or expressing suicidal ideation, which exacerbates the risk of serious harm to the student. Common self-harm behaviors include banging one’s head against the wall, door, or floor; hitting oneself; tying an item, such as a shoelace, around one’s neck; or using an item to cut oneself. Our expert identified more than 50 incidents involving students subjected to seclusion engaging in self-harm while in the seclusion room. For example, in one incident, a fourth-grade student was secluded for two hours and 15

minutes, during which time he was “bitting [sic] his hands and wrists,” “[s]aying that he wants to kill himself,” and “banging [his] head on [his] knee.” During another nearly two-hour-long seclusion, a fifth-grade student tied her shoelaces around her neck to the point that staff had to cut them off her neck. Another fifth-grade student was secluded for an hour for kicking his desk and cursing—notably, absent imminent danger—and while in seclusion choked himself while yelling about wanting to harm himself, such that emergency medical services had to come and take him to the hospital. The incident reports contain many other examples of this nature. These incidents evince that the District’s seclusion practices cause harm rather than prevent it.

4. Bleeding, Vomiting, and Toileting Behaviors in Seclusion

Students in SSD routinely engage in behaviors that result in unsanitary and harmful conditions in seclusion rooms with little to no intervention by staff. These behaviors include students wiping their blood around seclusion rooms as well as urinating, defecating, vomiting, and masturbating in seclusion rooms. For example, during one seclusion, a third-grade student hit himself in the face with a shoe for two minutes, giving himself a bloody nose, and then proceeded to wipe his blood on the floor and wall of the seclusion room, yet the seclusion did not end for another hour. In another incident, a second-grade student was restrained and secluded for over two and a half hours, with the stated reason being that she was “[o]ffered [a] second chance [to calm down] and laid on the floor screaming.” She engaged in self-injurious behaviors while in seclusion, including head-banging. Then, two hours into the seclusion, she said, “I’m going to pee myself,” and rather than take her to the bathroom, staff asked her to “sit up and follow directions.” She “refused,” which led to her urinating on the floor.

Other incidents are even more disturbing. In one, a student was secluded for 41 minutes, during which time the report describes that he was “pulling pants down,” “urinating,” “sliding in urine,” “took shirt off to wipe urine,” “squatting to defecate,” “defecating,” “picked up feces and wiping on window,” “screaming mommy pick up,” “hitting himself, biting arm,” “rubbing feces on the wall and body,” “rubbing feces in hair,” “smearing feces on arm and window,” and “yelling open and banging on door.” The only intervention by staff during this time that is described in the report was taking the urine-soaked shirt from the student, telling him his parents were coming to pick him up, and asking him to sit down. Shockingly, there are many other incidents that involve urine and feces in similar ways. Other seclusion reports describe students making themselves vomit and playing in the vomit, engaging in fecal digging, and masturbating, usually with little intervention by staff other than extending the seclusions until the students stopped engaging in the behavior on their own.

According to our expert, these kinds of behaviors are often a trauma response to being isolated in a small room following an escalated behavioral incident and are exacerbated by the restriction of toilet use by staff during seclusion. Our expert opines that seclusion of students with these tendencies is wholly inappropriate as it contributes to, reinforces, or sustains deeply troubling behaviors. These incidents are further evidence of the harm to students caused by the District’s seclusion practices.

5. Supine Restraint

Staff regularly used dangerous and unnecessary supine restraints, or restraints in which students are held down on their backs on the ground or another surface. There were over 400 reported restraints involving a supine restraint, nearly all of them at Northview. The number of incidents that included supine restraint indicate that this was a standard practice, particularly for a handful of students at Northview whose special education documents indicated that supine restraint was preferred by staff to other emergency interventions. Incident reports reflect instances where staff used this dangerous practice even in the absence of any risk of imminent physical harm, after staff escalated student behavior, or without first attempting de-escalation or other less intrusive interventions. Supine restraints are dangerous and have led to the death of children and adolescents because there is a high risk that the hold itself will put a student at risk of harm due to aspiration or asphyxiation. Supine restraint is never necessary because any risk of harm to the student or others can be addressed in other ways, including through the use of less dangerous modes of physical restraint.

D. Failure to Provide Needed Interventions and Supports

SSD's overuse and abuse of restraint and seclusion is the direct result of the District's failure to provide its students with proper interventions and supports to prevent and appropriately address student behavior issues. For students with chronic and serious behavior concerns, standard special education practice involves an evaluation to identify the student's behaviors and the function the behaviors serve (known as a Functional Behavioral Assessment, or FBA). Then, a Behavioral Intervention Plan (BIP) is created to establish interventions for preventing the behavior and for addressing the behavior when it does occur. Any time a student demonstrates a pattern of behaviors that is not effectively prevented or managed using the strategies in the BIP, the student's FBA and BIP should be reviewed and revised as appropriate. If a student exhibits behavior that is so intense that a seclusion or restraint is required, especially on more than one occasion, it must be concluded that the BIP is either ineffective or not being implemented appropriately.

Our expert conducted a review of the IEPs and BIPs provided and identified several BIPs that relied on FBAs conducted several years prior. For example, a student who experienced 398 restraint and seclusion incidents had a BIP that was based on an FBA that had been conducted six years prior. We identified several students who, despite having repeated crisis incidents between the most current FBA and the most current BIP, did not have an updated FBA. The true extent of this problem is unclear because nearly half of the IEPs and BIPs our expert reviewed did not report the date of the most recent FBA. The lack of current FBAs provided by SSD is alarming for several reasons. First, it confirms that FBAs are not regularly conducted in response to individual students' behavior and discipline data. It also demonstrates that BIPs and behavior goals are developed from outdated FBA data or are developed without an FBA. Our expert also identified significant similarities in BIP interventions across students—including functional communication training, requesting a break, and vague references to "coping strategies"—suggesting that BIPs may not be individualized for all students. Such inadequate special education practices are inexcusable in schools that exclusively serves students with significant disability-related needs. This inadequacy helps explain the District's heavy reliance on improper seclusion and restraint practices. Because the District fails to properly examine and update BIPs, the District repeatedly

subjects students to multiple incidents of seclusion and/or restraint without providing them with the interventions and supports they need to avoid such incidents in the future.

One specific example of this general failure to meet the needs of students is the District's failure to provide to students who tend to engage in elopement (a student exiting a classroom or the school building) a plan to address this behavior. Elopement can put a student in danger and often leads to seclusion or restraint (whether or not the student is in danger). Elopement can be a difficult behavior to address and requires specific strategies that reduce or eliminate the likelihood the student will leave. A plan (typically called a "safety" or "crisis" plan) that focuses on the procedures that staff will use to prevent or reduce the likelihood of elopement is critical for these students. However, although many incident reports described student elopements, we were only able to locate one such plan.

E. Shortened Schedules and Homebound Instruction

Despite only being provided with the relevant information for a small number of students across the District, our expert was able to identify several students who experienced a pattern of seclusions and restraints and were subsequently placed on a shortened schedule or homebound instruction due to their behavior. A change in placement to a more restrictive setting should include an increase in services, yet there is no evidence that these students were provided more intensive behavioral services after these placement changes. This practice is akin to removing a student with a reading disability from school because they struggle to read and then not providing additional reading support. Moreover, while we were not allowed to visit the school, our understanding is that the entire school program at the Bridges School is based on a modified schedule. As such, students who attend Bridges cannot and do not receive the minimum instructional minutes required by the state of Missouri and enjoyed by peers with no disabilities across the state. Our expert found that at least three of the five Bridges students whose files the District provided were on a modified day or homebound instruction from Bridges, including one who attended school for only 90 minutes per day. The other two students' files did not provide the information necessary to determine the length of their school day.

F. Inadequate Review and Monitoring of Seclusion and Restraint

The District fails to provide the kind of oversight regarding its schools that would address the pattern of improper seclusion and restraint described above. There is no evidence that District staff reviews incident reports and uses them in any meaningful way to evaluate staff use of physical interventions, prevent recurrence, and address gaps in services for students. Based on DOJ's interviews with District-level officials, District administrators seem to be unaware of ongoing patterns of restraint and seclusion incidents across and within schools. They also seem to lack an understanding of who is responsible for oversight of restraint and seclusion practices. Ongoing and timely oversight of restraint and seclusion practices is a critical procedure in any setting where the practices are used. Oversight should be led by a knowledgeable central administrator who has expertise in behavior and the crisis prevention and intervention program used by the district. The District should be prioritizing oversight over individual incidents as well as overall trends in the use of restraint and seclusion to determine whether students' needs are being met as well as to ensure compliance with district policy, state law, and crisis intervention and prevention protocols. Without this oversight, abuses of restraint and seclusion practices can easily go unchecked. The

evidence DOJ has obtained indicates that the District's oversight of its seclusion and restraint practices is severely inadequate.

This lack of oversight is likely perpetuated by the District's poor record-keeping. Missouri law requires school districts to have a policy that for each use of seclusion or restraint on a student, staff must complete a report that contains "a description of the incident and interventions," "any event leading to the incident and the reason for using seclusion or restraint," "a description of the methods of seclusion or restraint used," and "the nature and extent of any injury to the student," among other things. § 160.263(5)(3). While the District's incident report forms generally contain these required fields, many completed forms lack detail or contain fields that are left blank. Indeed, the field in which staff is meant to enter "specific details of the Restraint or Seclusion event" is often missing or contains only a few words. This lack of detail prevents the District from being able to assess whether a seclusion or restraint was appropriate and complied with the law and policy, whether additional staff training is needed, and whether the student's FBA and BIP need to be updated.

Additionally, Missouri law requires that school districts adopt policies requiring schools to provide parents or legal guardians with a copy of a restraint or seclusion incident report within five school days of the incident. § 160.263(5)(4). However, many incident reports indicate that the report was not sent to parents until weeks, or even months, after the incident. Several reports, many of which included a description that the student engaged in self-harm during the incident, were mailed between 12-19 days following the incident. One report was mailed seven months later. This delay in parental notification is not only contrary to state law, but it significantly infringes on parental rights to be informed of what happens to their children at school, especially when children may be experiencing severe trauma or physical harm at school. It also hinders meaningful oversight by the school community over the District's potentially abusive restraint and seclusion practices.

IV. LEGAL FINDINGS

Based on our investigation, we have found that SSD discriminates against students with disabilities through its restraint and seclusion practices in violation of Title II of the ADA. Specifically, SSD's practices violate Title II by: (1) denying students with disabilities the opportunity to participate in or benefit from the aid, benefit, or service offered by the District and (2) failing to reasonably modify its educational program for students with disabilities.

Our investigation found that, as a matter of practice, the District excludes students with disabilities from opportunities to participate in, and denies them the benefits of, its services, programs, or activities through its unnecessary and improper use of seclusion and restraint. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). In particular, as described in the examples above, the District's failure to implement appropriate procedures in the use of behavioral interventions for students with disabilities means that staff's default response to misbehavior by students with disabilities has been to unjustifiably restrain and seclude students, often without any evidence of imminent danger to self or others. We found that the District's use of seclusion during the investigative period frequently increased the risk of physical and emotional harm to students, including by secluding students engaging in self-harming, unsanitary, and traumatizing behaviors and by using supine restraint. As a result, students with disabilities were subjected to unnecessary

harms and lost hundreds of hours of instructional time while being secluded and restrained over the course of the investigative period. Thus, the District's restraint and seclusion practices denied its students at the schools covered by our investigation, all of whom are students with disabilities, the opportunity to receive the full educational benefits they should be receiving.

Our investigation also found that the District failed to reasonably modify its education program for students with emotional and behavioral disabilities by failing to use established techniques for addressing the behavior of those students. *See* 28 C.F.R. § 35.130(b)(7). As described above, instead of providing reasonable modifications to address individual students' disability-related behaviors, the District resorts to seclusion and restraint as a catch-all disciplinary response and often subsequently reduces instructional hours for the students with the greatest unmet needs. Rather than regularly updating FBAs and BIPs in response to clear inadequacies in a student's intervention plan, as evidenced by repeated restraints and seclusions, the District regularly relies on outdated FBAs and repeats the same ineffective interventions, resulting in students' inability to meaningfully participate in their educational program because of their unmet disability-related needs. Thus, the District has failed to make reasonable modifications to its policies and practices to meet the individualized needs of students with disabilities.

V. REQUIRED REMEDIAL MEASURES

The District must implement significant remedial measures to address the deficiencies discussed above and protect the civil rights of students with disabilities in their schools including the following:

1. Ending the use of seclusion and supine restraint.
2. Prohibiting the use of restraint unless the student's behavior poses an imminent danger of physical harm to the student or another person.
3. Implementing policies and procedures for suicide and self-harm prevention.
4. Properly documenting all uses of restraint and effectively reviewing and monitoring those incidents to ensure compliance with Missouri law and District policies.
5. Providing students with sufficient interventions and supports to address their behavior without resort to the use of restraint, including by developing an appropriate Behavior Intervention Plan, or revising an existing such Plan, based on a Functional Behavioral Assessment any time a student is subjected to a restraint and developing specific plans to address elopement.
6. Safeguarding the rights of parents and guardians by providing them with prompt and complete documentation of all incidents of restraint and ensuring that the District has an effective complaint process in place to address concerns regarding the use of restraint.
7. Ensuring students do not lose instructional time because of unnecessary shortened school schedules or by requiring parents and guardians to pick up students early without justification.

8. Providing students that were secluded and restrained with compensatory educational and counseling services to address physical and mental harm, trauma, and lost educational time.
9. Training staff to comply with the law and meet the needs of students.

VI. CONCLUSION

We are confident that you will give this letter careful consideration and that it can lead to addressing the legal violations caused by the District's improper seclusion and restraint of its students. While the Department may take appropriate action, including initiating a lawsuit under Title II if we are unable to reach a resolution regarding our concerns, we would prefer to resolve this matter by working cooperatively with the District to negotiate a settlement agreement that brings SSD into compliance with the law and assures that the above-cited violations will not recur. To this end, we attach a proposed settlement agreement, and the attorneys assigned to this matter will be in touch soon to discuss next steps.

If you have any questions regarding this letter, please contact Jim Eichner at James.Eichner@usdoj.gov and Kate Minchew at Katherine.Scandura@usdoj.gov.

Sincerely,

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