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**ND Protection & Advocacy Project Responds to  
Office of Civil Rights Report on Fargo Public Schools District's Use of Restraint**

(Bismarck, ND) The North Dakota Protection & Advocacy Project (P&A) is committed to advocating for the educational rights of students with disabilities particularly in the areas of least restrictive environment, positive behavioral supports, and elimination of seclusion and restraints. Each of these elements are essential to students with disabilities who are entitled to receive a free appropriate public education, a requirement of federal law. When students with disabilities are denied a free appropriate public education (FAPE) a complaint can be submitted to the Department of Education Office of Civil Rights (OCR) to investigate and remedy violations of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act.

In 2017 and 2018 the Office of Civil Rights received multiple complaints against the Fargo Public School District (FPS) regarding inappropriate use of seclusion and restraint on students. At the time of the complaints P&A was providing advocacy services to several of the students with disabilities being subjected to restraint. This led to the completion of an OCR compliance review initiated in 2019. Recently the final OCR report was released; report highlights include:

- The report examined 376 incidents of restraint for the 2017-2018 school year and 326 incidents of restraint for the 2018-2019 school year.
- The district disproportionately used restraints on student with disabilities. While students with disabilities make up only 14% of the district's population, they made up 70% of the students who were restrained.
- The majority of restraints were used on young children (21% kindergarten, 27% first grade, 16% second grade, 21% third grade).
- Evidence shows several students who were repeatedly subjected to restraint were diagnosed with PTSD as a result of the restraint.
- The OCR was unable to fully assess the extent to which "calming rooms" were used to seclude students due to the District's poor record keeping.
- The OCR report confirms Fargo Public School District failed to:
  - Perform timely evaluations for special education services despite students being repeatedly restrained.
  - Re-evaluate restrained students for special education services or to do so timely.
  - Appropriately implement individual education plan or behavior intervention plan provisions that minimized the need for restraint.
  - Provide students with education during and after a restraint.
  - Adequately document incidents of restraint and seclusion.

The Office of Civil Rights determined that the District's use of restraints from 2017-2018 and 2018-2019 school years denied students with disabilities a free appropriate public education. In response, the District

agreed to implement a Resolution Agreement that requires it to review and revise policies and procedures on seclusion and restraint, including a statement to limit the involvement of School Resource Officers in managing student behavior. Other elements of the agreement include implementing a system to ensure personnel are adequately and accurately documenting and monitoring restraint and seclusion.

P&A appreciates that OCR's report recognized the inappropriate seclusion and restraint practices taking place within Fargo Public School District. All students, including students with disabilities, are entitled to receive a free appropriate public education. P&A looks to schools as key partners and believes the Resolution Agreement, when implemented, will put safeguards in place to protect students with disabilities and allow them to succeed in the educational environment.

Brenda Ruehl, Program Director at P&A notes "Protection and Advocacy looks forward to continued collaboration with the District when advocating for students with disabilities, individually and systemically. The agreement will help make certain seclusion and restraint are not used in place of behavioral supports and the IEP team process, which should reduce and eliminate the use of seclusion and restraint in the Fargo Public Schools."

P&A is the leading civil rights organization for people with disabilities in North Dakota. P&A is a federally mandated, independent state agency established in 1977 to advance the human and legal rights of people with disabilities. P&A's mission is to champion the equality and inclusion of people with disabilities where we live, work, and play. For more information visit [ndpanda.org/](http://ndpanda.org/).

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