SOCAC

System of Care Advisory Council

The SOCAC racial equity review policy and procedure is adapted from the Racial Equity Toolkit developed by the Government Alliance on Race and Equity (GARE).

Background

The SOCAC acknowledges the harm and systemic oppression of historically marginalized groups at the hands of Oregon's governmental institutions and system partners. These systems include education, child welfare, criminal justice, health and disability services, and other systems where an over representation of marginalized populations exists. The SOCAC strives towards equitable consideration of policies and distribution of resources to address disproportionality in communities.

Racial equity tools are designed to integrate explicit consideration of racial equity in decisions, including policies, practices, programs, and budgets. It is both a product and a process. Use of a racial equity tool can help to develop strategies and actions that reduce racial inequities and improve success for all groups.

Too often, policies and programs have been developed and implemented without thoughtful consideration of racial equity. When racial equity is not explicitly brought into operations and decision-making, racial inequities are likely to be perpetuated. Racial equity tools provide a structure for institutionalizing the consideration of racial equity.

From the inception of the system of care, government at the local, regional, state, and federal level has played a role in creating and maintaining racial inequity. Despite progress in addressing explicit discrimination, racial inequities continue to be deep, pervasive, and persistent across the country. Racial inequities exist across all system of care indicators, including in education, child welfare, juvenile justice, housing, behavioral health and disability services. Without intentional intervention, system of care partners will continue to perpetuate racial inequities. The SOCAC has the ability to implement policy change at multiple levels and across multiple sectors to drive larger systemic change. Routine use of this racial equity tool explicitly integrates racial equity into SOCAC operations and decision making.

Leading with race

As described by GARE[1],

"Within other identities — income, gender, sexuality, education, ability, age, citizenship and geography — there are inequities based on race. Knowing this helps the [system of care] take an intersectional approach, while always naming the role that race plays in people's experiences and outcomes.

- *To have maximum impact, focus and specificity are necessary. Strategies to achieve racial equity differ from those to achieve equity in other areas. "One-size fits all" strategies are rarely successful.*
- *A racial equity framework that is clear about the differences between individual, institutional and structural racism, as well as the history and current reality of inequities, has applications for other marginalized groups.*
- *Race can be an issue that keeps other marginalized communities from effectively coming together. An approach that recognizes the inter-connected ways in which marginalization takes place will help to achieve greater unity across communities."*

Policy

The following questions will be discussed and satisfactorily answered prior to any Council decision (see Appendix A). In circumstances where an immediate decision is needed, the abbreviated procedure may be used (see Appendix B).

- Proposal: What is the policy, program, practice or budget decision under consideration? Does the policy, program, practice or budget decision center the expressed needs of youth and family? What are the desired results[2] and outcomes[3]?

- Data: What's the data? What does the data tell us?

- Community engagement: How have youth and families been engaged? Are there opportunities to expand engagement?

- Analysis and strategies: Who will benefit from or be burdened by your proposal? What are the strategies for advancing racial equity or mitigating unintended consequences?

- Implementation: What is the plan for implementation?

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[1] https://www.racialequityalliance.org/about/our-approach/race/
[2] Results are at the community level are the end conditions we are aiming to impact.
[3] Outcomes are a measurement of the intended result. Measures respond to questions quantity (How much?), quality (How well?) and impact (Is anyone better off?).

- Accountability and communication: How will SOCAC ensure accountability, communicate, and evaluate results?

Policy and Procedure Review

The SOCAC racial equity review policy and procedure will be reviewed bi-annually with Council Bylaws. The SOCAC will discuss whether the racial equity policy and procedure has had the intended effect of reducing inequities or improving equity to determine whether changes are needed to the policy and procedure.

Appendix A: Racial equity worksheet

Proposal: What is the policy, program, practice or budget decision under consideration?

1. What is the name of the proposal under consideration?
    SOCAC Omnibus bill

2. Does it center the expressed needs of youth and family?

    Yes, it does. The lack of access to residential and intensive services has been a long-standing concern for youth and families. The development process for the bill involved:

    Listening to parent advocates to understand the barriers their children face in accessing intensive treatment settings. These barriers included issues such as: lack of secure transportation for youth in crisis, a shortage of residential beds, and youth with histories of aggression being either turned away or discharged unexpectedly from treatment.

    Collaborating with treatment providers to identify what they perceive as barriers to providing services.

    Engaging with executive branch agencies to find actionable solutions for removing these barriers and improving access to services for youth and families.

3. What are the desired results[4] and outcomes[5]?

    The primary goal is to increase access to residential and intensive services for children with complex needs. This expansion of care access will be achieved through statutory changes to education statutes, child-caring agency regulations, child-in-care abuse statutes, minors' rights, secure transportation, limitations on in-state and out-of-state placements, and regulations and investigations regarding restraint and seclusion.

    The desired outcomes of LC 346 are increases in access to and quality of treatment for children, clarified standards related to child abuse, restraint, and seclusion, and improved child safety in schools.

4. What areas will the decision impact?

    ☐ Pregnancy and post-natal   ☐ Early childhood intervention

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[4] Results are at the community level are the end conditions we are aiming to impact.
[5] Outcomes are a measurement of the intended result. Measures respond to questions quantity (How much?), quality (How well?) and impact (Is anyone better off?).

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☒ Behavioral health services   ☐ Housing and other social determinants

☒ Intellectual/developmental   ☒ Child welfare
disability services
                                       ☒ Juvenile justice
☒ Education settings
                                       ☒ Other: Secure transportation
☐ Health care systems

Data: What does the data tell us?

1. What geographic areas will be impacted? If impacting specific counties or regions, please list.

☒ Statewide
☐ Metro areas
☐ Rural areas
☐ Other:

2. What are the racial demographics of those living in the identified geographic areas?

Oregon's racial demographics are detailed in the 2023 American Community Survey. Since this bill will impact youth, families, and service providers across the state, this overview includes all age groups. Oregon's population is approximately 4.2 million, with 87.1% identifying as a single race and 12.9% identifying as two or more races.

Of individuals identifying as one race, the breakdown is as follows with the US average in parentheses. denominators are all Oregonians and all individuals living in the US.

- 73.9% White (60.2%)
- 2.1% Black (12.1%)
- 1.1% American Indian or Alaska Native (1%)
- 4.6% Asian (6%)
- 0.4% Native Hawaiian or Other Pacific Islander (0.2%)

For those identifying as two or more races, the breakdown is below. The denominator is all Oregonians and all individuals living in the US.

- 0.8% White and Black or African American (1.2%)
- 1.9% White and American Indian or Alaska Native (0.9%)
- 1.7% White and Asian (0.9%)
- 6.9% White and Some Other Race (7.9%)

- 0.1% Black or African American and American Indian or Alaska Native (0.1%)
- 0.1% Black or African American and Some Other Race (0.4%)

Additionally, 14.9% of Oregonians identify as Hispanic or Latino of any race (US = 19.4%), with specific breakdowns as follows:

- 11.6% Mexican (11.3%)
- 0.5% Puerto Rican (1.7%)
- 0.2% Cuban (0.8%)
- 2.6% Other Hispanic or Latino (5.6%)

To summarize, Oregon is less Black, less Latino, and less Asian than the broader US. Oregon's racist history as a "Whites only" state is well documented (summary), and it is clear that Black, Latino, and Asian people continue to be underrepresented in our state.

For more detailed numeric estimates, please refer to the 2023 American Community Survey. This survey provides the most reliable data available, given the limitations of the 2020 Census.

3. Quantitatively, what do we know about existing racial inequities, including root causes?

General Summary

Race/ethnicity data is incomplete and inconsistently collected across systems, but Black, Hispanic, American Indian/Alaskan Native or multi-racial identified youth are under-represented in BH and I/DD services (Castro-Ramirez et al., 2021). Causes of this underrepresentation are generally believed to be lack of access to care, social determinant related barriers, lack of culturally/linguistically responsive workforce, and stigma and distrust in institutions and publicly funded services (Castro-Ramirez et al., 2021). Subsequently, Black, Hispanic and American Indian/Alaskan Native identified youth are over-represented in child welfare and juvenile justice systems due to institutional bias, racism, and lack of access to preventative services (Cantey et al., 2022).

Race and Equity Analysis on Impact of LC 346

The analysis of LC 346 is ~~broken down~~divided by areas of impact in five sections below, derived from the LC 346 executive summary, which captures the council's intent of LC 346. If there are significant ~~amendments of~~changes to the bill between the executive summary and any edits made throughout the legislative session, additional analysis may~~will~~ be conducted.~~.~~ There are many important questions that were brought up in DEI committee discussions of this LC; however, the purpose of the GARE tool is to examine the racial equity of the proposed bill. Other questions, while valid, fall outside the scope of this analysis: impact of restraint and

seclusion on JJ pipeline; restraint and seclusion in hospital settings; and differences in paradigms and modalities between treatment vs. training centers.

Restraint and Seclusion

This bill clarifies definitions of seclusion and restraint in a variety of settings, including in the education system and in child-caring agencies, such as CCA licensed foster homes (Licensed Agencies). ODE is statutorily required to reports the total instances of restraint and seclusion by school district, but these data are raw counts and not linked to race/ethnicity or disability; these reports do not provide analytic value to determine if or how rates of restraint and seclusion vary by demographic characteristics (2022-2023 ODE S&R). Specifically, the demographic tab of the ODE Excel file (2022-2023 ODE S&R) linked above *does* show numbers of seclusion and restraint by demographics. However, there is no denominator provided and we do not know the total number of children within the demographic groups listed for each district. This means we cannot assess the ratio of restraint per child in the demographic group. ODE also hides counts under 6 children, meaning that we cannot determine seclusion and restraint data for smaller school districts. Similarly, the Office of Training, Investigations and Safety (OTIS) dashboard does not differentiate by race or ethnicity. Therefore, we cannot compare the differences in race or ethnicity by OTIS data. A 2022 NAMI Report overviewed the negative experience that Black youth, Indigenous youth, or youth who identified as a person of color can have in psychiatric residential facilities. However, it is not clear how clarifying definitions of seclusion and restraint will impact the situations identified in the NAMI report.

ODHS is statutorily required to publish reports relating to restraint and involuntary seclusion and demographics of children receiving services from licensed child-caring agencies (ODHS S&R). Race, ethnicity, and disability data from the most recent quarterly reports (2024 Q1, Q2, and Q3) are described in the tables and charts below. The quarterly reports for specific agencies date back to 2021, but combined reports across child-caring agencies are not available before 2024. Please note that the tables and chart have neither been modified for accessibility or audited for accuracy and are not intended for publication or sharing at this time. Groups with *fewer* instances of seclusion and restraint per child served appear higher on the graph and have higher ratios in the tables, while groups with *more* instances of seclusion and restraint appear lower on the graph with lower numbers in the tables. The tables can be interpreted with the following example: in Quarter 1 of 2024, for every 182 Asian children receiving services from a child-caring agency, there was one instance of seclusion or restraint. Native Hawaiian is not represented on this graph as there were no instances of seclusion and restraint in Q1 and Q3. Other Pacific Islander is not reported for Q1 because there were no instances of seclusion or restraint. Statistical testing would be needed to determine the statistical differences between ratios, but it is clear that disabled individuals are the most likely to be secluded or restrained compared to all other groups. It is not known if clarifying the definitions of seclusion and restraint will disproportionately affect specific racial and ethnic groups or students with disabilities.
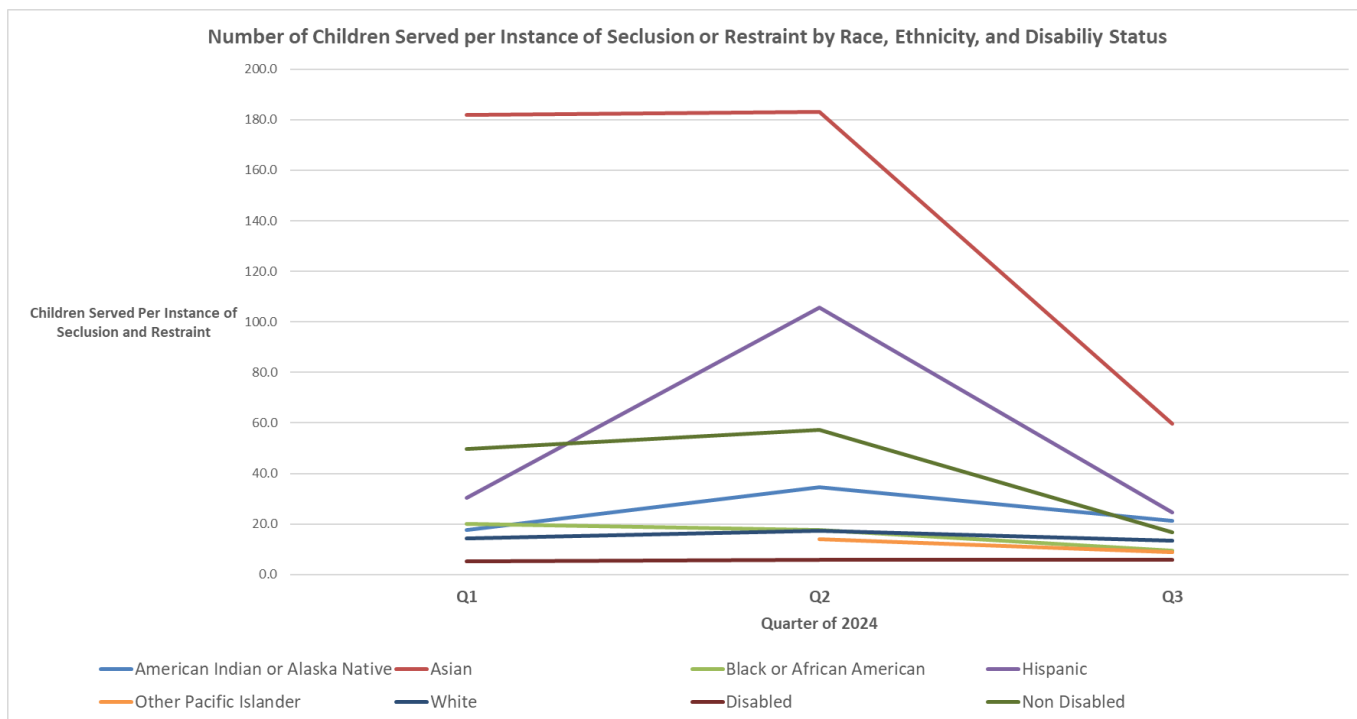
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Number of Children Served by Child-Caring Agencies compared to the number of times~~per Instance of~~ Seclusion or Restraints Happened in Child-Caring Agencies by ~~in Child-Caring Agencies by~~ Race, Ethnicity, and Disability Status in 2024*

Quarter	American Indian or Alaska Native	Asian	Black or African American	Hispanic	Native Hawaiian	Other Pacific Islander	White	Disabled	Non Disabled
Q1	17.5	182.0	19.9	30.2	n/a	n/a	14.2	5.1	49.8
Q2	34.5	183.0	17.7	105.8	7.0	14.0	17.4	5.8	57.3
Q3	21.4	59.7	9.6	24.6	n/a	9.0	13.3	5.7	16.7

*Includes *each* instance of seclusion and restraint, including times the intervention is re-initiated in one instance.

Combination of Q1, Q2, and Q3 2024 quarterly reports above

	American Indian or Alaska Native	Asian	Black or African American	Hispanic	Native Hawaiian	Other Pacific Islander	White	Disabled	Non Disabled
2024 Ratio	23.9	108.8	14.3	35.8	24.0	16.7	14.9	5.5	31.4
Total Served	454	544	743	1288	24	50	4607	1701	4991

Number of Children Served per Instance of Seclusion or Restraint by Race, Ethnicity, and Disabiliy Status

Legend: American Indian or Alaska Native, Asian, Black or African American, Hispanic, Other Pacific Islander, White, Disabled, Non Disabled

Y-axis: Children Served Per Instance of Seclusion and Restraint

X-axis: Quarter of 2024 (Q1, Q2, Q3)

Out of State Placement

This LC carves out exceptions to restrictions on out-of-state placements – intended to be rare - and requires accountability and transparency for each out of state placement for ODHS.

Currently, children in child welfare or foster care are precluded from receiving temporary care out of state by ORS 418.321, which requires out of state providers to be licensed in Oregon. This process takes at least 6 months, and no out of state provider has yet agreed to participate in Oregon licensure, so the impact is an effective ban on out of state placements for foster youth. Between June 2020 and June 2024, no children served by child welfare were placed out of state. Between July 2024 and September 2024, each monthly report indicated one child served out of state. In October 2024, the most recent available report, no children were served out of state.
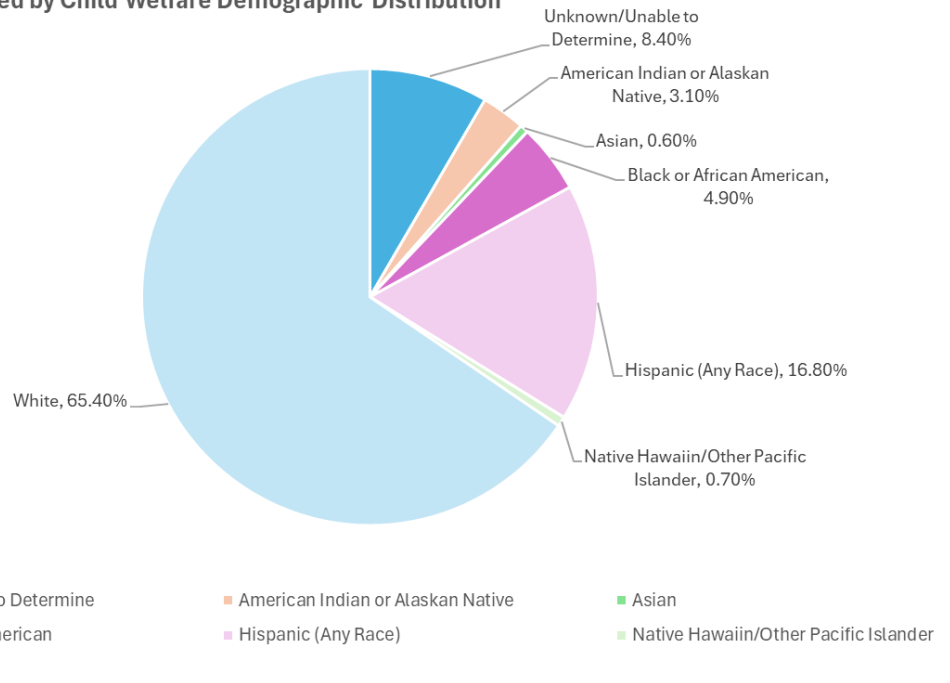
Prior to the 2020 effective ban on out of state placements for foster youth, children were placed into out of state residential treatment facilities and foster care placements by Child Welfare case workers. During this time, there was limited oversight of youth that were placed out of state, which resulted in numerous allegations of abuse in out state placement facilities. These experiences and the ensuing advocacy resulted in the 2020 ban on out of state placement for youth in Child Welfare. Between Jan 1, 2018 and June 3, 2020, 97 individual children were placed into these facilities. The reported primary race of these children were 74.2% White, 11.3% American Indian or Alaskan Native, 11.3% Black or African American, 2.1% Native Hawaiian or Other Pacific Islander, and 1.0% Asian. Further, 8.2% were Hispanic and 10.3% were eligible for Tribal enrollment. Consistent with the demographics of CW described

below, there was an over representation of Black or African American and American Indian or Alaskan Native youth placed in out of state treatment compared to the state population. These data were pulled from ODHS for this analysis.
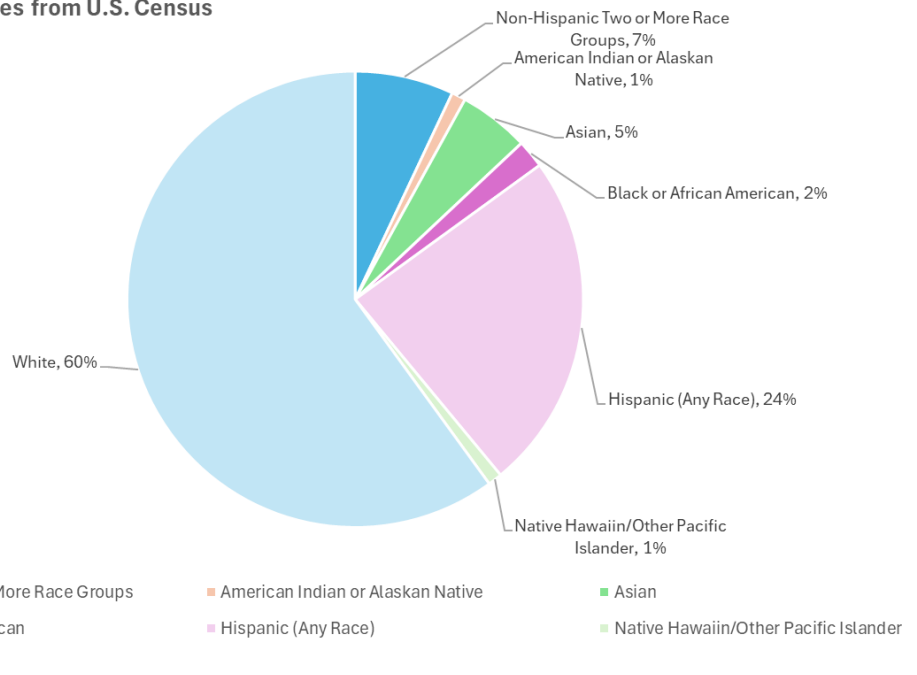
The demographics of youth ages 0-26 served in child welfare are indicated below for the time period of 01/01/2024 - 10/031/2024, the most recently available data on the SOC dashboard. Data collection for Oregon youth demographics is not standardized across systems, meaning there is no perfect comparison between the demographics of youth served by child welfare to all youth in Oregon. The chart below includes estimates from population estimates, compiled by the Kids Count Data Center (https://datacenter.aecf.org/). While we cannot perfectly determine which groups are overrepresented in Oregon, census estimates and historical context (reference) suggest an overrepresentation of Black or African American youth and American Indian or Alaskan Native youth in Child Welfare. Passed in 1978, the Indian Child Welfare Act (ICWA) was intended to protect American Indian and Alaska Native families from the overuse of child removal by child welfare agencies, which continued from the days of boarding schools and forced family separation which marked the early days of the United States. Oregon's own ICWA law was passed in 2020 and aligned Oregon's child welfare laws with national ICWA standards, prioritizing family bonds and tribal connections for tribal children involved with the child welfare system (Oregon and Federal ICWA).

The intention of the bill should also be considered when determining if Black and African American youth or American Indian or Alaskan Native Youth would benefit from this change. Youth in rural areas or eligible for tribal enrollment may have to travel long distances to receive services if they are barred from receiving services out of state. This bill aims to remedy that problem while providing significant oversight to the limited out of state placements from Child Welfare. Black or African American youth in Oregon have access to just one culturally specific Child-Caring Agency in Oregon, and there is historical context of Black or African American youth reporting negative experiences with Oregon services (NAMI). However, this is not sufficient evidence to conclude if Black or African American Children would be helped or harmed by this aspect of the legislation. ~~Black or African American youth and~~ American Indian or Alaskan Native youth would ~~thus~~ likely stand to gain the most benefit from the change in exceptions to out of state placement, as they are currently more likely to be shut out of these types of services and face significant barriers to culturally appropriate care.

2024 Youth 0-26 Served by Child Welfare Demographic Distribution

- Unknown/Unable to Determine, 8.40%
- American Indian or Alaskan Native, 3.10%
- Asian, 0.60%
- Black or African American, 4.90%
- Hispanic (Any Race), 16.80%
- Native Hawaiin/Other Pacific Islander, 0.70%
- White, 65.40%

Legend:
- Unknown/Unable to Determine
- American Indian or Alaskan Native
- Asian
- Black or African American
- Hispanic (Any Race)
- Native Hawaiin/Other Pacific Islander
- White

2023 Child Population Percentage by Race and Ethnicity: Estimates from U.S. Census

- Non-Hispanic Two or More Race Groups, 7%
- American Indian or Alaskan Native, 1%
- Asian, 5%
- Black or African American, 2%
- Hispanic (Any Race), 24%
- Native Hawaiin/Other Pacific Islander, 1%
- White, 60%

Legend:
- Non-Hispanic Two or More Race Groups
- American Indian or Alaskan Native
- Asian
- Black or African American
- Hispanic (Any Race)
- Native Hawaiin/Other Pacific Islander
- White

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Investigative Process by ODE

This bill establishes an investigative process by the Oregon Department of Education to investigate reported violations of school restraint and seclusion statutes. Currently, if the violations do not constitute an allegation of child abuse, parents and legal guardian can choose to file a claimant with the school district.

The legislative change will transition the current complaint process to ODE, which will independently investigate violations of restraint and seclusion statutes that are not allegations of child abuse. The Office of Training, Investigations, and Safety (OTIS) will continue to investigate violations of restraint and seclusion statutes that constitute allegations of child abuse.

Independent investigations provide more perceived objectivity and credibility than internal investigations. There is no available evidence on the equity differences of internal versus external investigations. However, there is an extensive history of institutional racism in the U.S. Education Systems (Vargas et al., 2023). ODE as an independent investigator, as opposed to the current system of internal investigations by the school district, may provide more transparency to youth and families who are impacted by institutional racism.

Interdisciplinary Institute at OHSU

This legislative proposal establishes an interdisciplinary institute based at Oregon Health & Science University to promote clinical best practices for the well-being of Oregon youth.

More detail regarding the proposed actions of the interdisciplinary institute are needed to determine the racial and ethnic impact of this section of the LC. According to a systematic review of race in pediatric clinical practice guidelines published in 2022, race is "frequently used in pediatric clinical practice guidelines in a way that could negatively affect health care inequities." (JAMA Pediatrics Article). This review identified five ways race was used to potentially, positively impact health inequities, and five ways race was used potentially, negatively impact health inequities. These are presented in the table below. Depending on the activities of the interdisciplinary committee, there is potential to either positively or negatively impact health inequities.

	Positive Impact on Health Inequities	Negative Impact on Health Inequities
1.	Race used to describe health disparity	Normalizing the majority group (centering Whiteness)
2.	Race used to describe inclusivity	Conflating race as a biological risk factor
3.	Establishing representative committee structures	Conflating race with negative stereotype
4.	Recommending cultural humility	Conflating race, ethnicity, and genetic risk
5.	Describing geographic risks	Establishing testing or treating thresholds or using racial coefficients

Video Use in Restraint and Seclusion Rooms

This bill requires the installation and use of video recordings in rooms designated by the school to be used for involuntary seclusion of students.

There is no significant evidence to suggest that use of camera or video reduces violent incidents in seclusion and restraint rooms, self-contained classrooms, or psychiatric settings (Appenzeller et al., 2020, Benites, 2024). However, there is evidence to suggest that use of camera and video devices may cause harm to both youth and providers (Amos, 2015). TASH, a disability rights organization, recommends against the installation of video camera surveillance in self-contained classrooms (Amos, 2015). Installation of video cameras in certain rooms can promote a false sense of safety, as any intentional use of violence can be moved away from camera view (Amos, 2015). Further, individuals with disabilities are more likely to engage in undressing or self-stimulating behaviors when under distress, such as times when seclusion and restraints are used (Benites, 2024). This poses a scenario where a child is undressing or self-stimulating while on recorded school cameras (Benites, 2024).
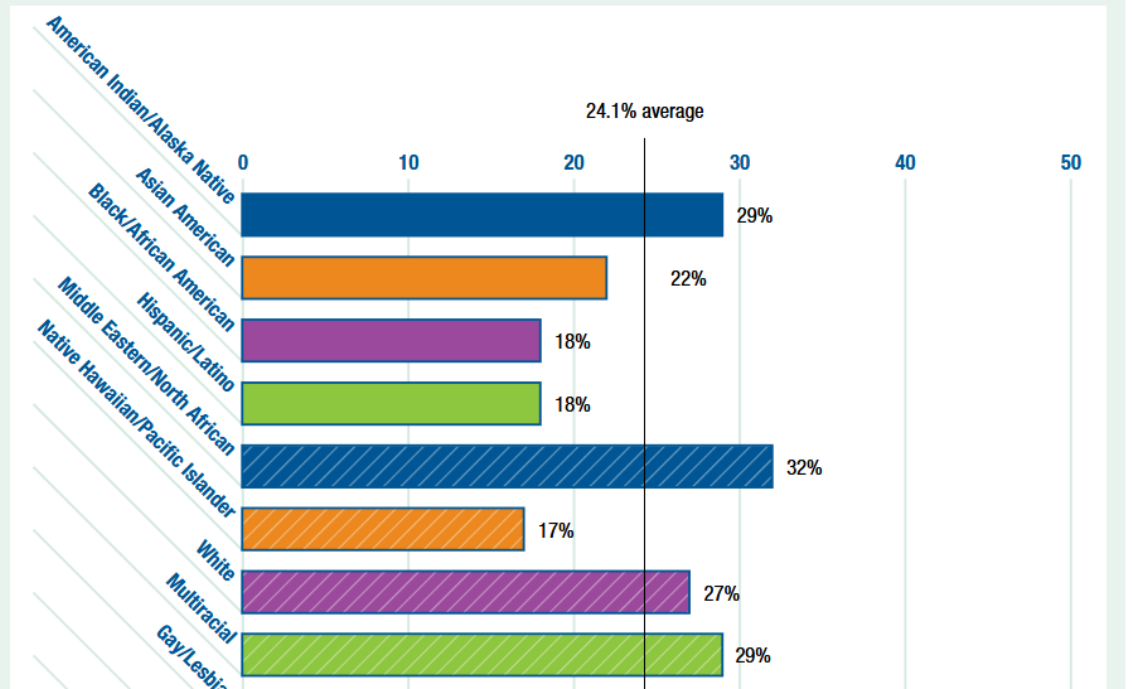
From a race and equity perspective, there is evidence that, "Schools serving primarily students of color are more likely to implement more intense surveillance measures than other schools, which may further exacerbate existing inequalities..." (Nance, 2016). There is potential for scope creep from these cameras, where they are used beyond their intended purpose and instead as a disciplinary tool for staff or students (Appenzeller et al., 2020). There are also significant privacy concerns, including instances of school video archive hacks (https://perma.cc/W3KQ-HNDN). Overall, the risk of harm from these video devices should be compared to the lack of evidence of abuse prevention.

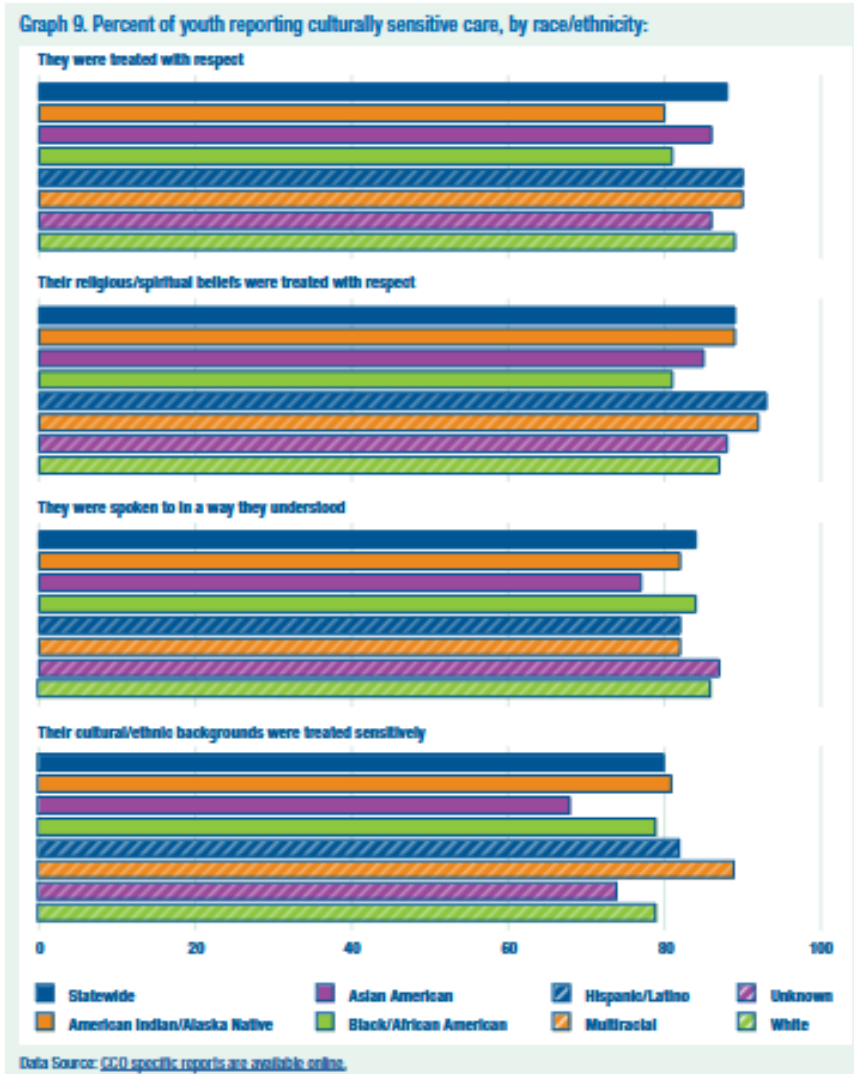4. What SOC outcome measures are related to this proposal?

   See 2023 SOC Data Report

- Outcome: Youth can access care when they need it
  - Measure: Decreased percent of youth who had an unmet mental heath care need.
    - 24% of 11th graders report having an unmet mental health care need (2021, Student Health Survey)

Graph 7. Percent of youth who had an unmet mental health care need by race/ethnicity:

American Indian/Alaska Native — 29%
Asian American — 22%
Black/African American — 18%
Hispanic/Latino — 18%
Middle Eastern/North African — 32%
Native Hawaiian/Pacific Islander — 17%
White — 27%
Multiracial — 29%
Gay/Lesbi...

24.1% average

- Measure: Increase percent of youth reporting culturally sensitive care.
  - 88% of youth report receiving culturally sensitive care (2022, Mental Health Statistics Improvement Program Survey)

Graph 9. Percent of youth reporting culturally sensitive care, by race/ethnicity:

They were treated with respect

Their religious/spiritual beliefs were treated with respect

They were spoken to in a way they understood

Their cultural/ethnic backgrounds were treated sensitively

Legend:
- Statewide
- American Indian/Alaska Native
- Asian American
- Black/African American
- Hispanic/Latino
- Multiracial
- Unknown
- White

Data Source: CCO specific reports are available online.

- Outcome: Children in child welfare custody are served in home, wherever safety permits.
  - Measure: Increase percent of children involved with child welfare who were served while residing in their parent's home by year.
    - 22% of children involved with child welfare were served while residing in their parent's home (2023, ODHS)
- Outcome: System involved youth have necessary independent living skills
  - Measure: Increase percent of OYA involved youth living independently, at home (on OYA parole/probation), or in OYA foster care who are engaged in school, work, or both within 30 days of placement by year
    - 71% of Oregon Youth Authority (OYA) involved youth were living independently, at home, or in OYA foster care who are engaged in school, work, or both within 30 days of placement
- Outcome: The Juvenile Justice System is not used as a gateway to behavioral health services.
  - Measure: Under development

5. Have we asked the right questions of the right people? What are the data gaps? What additional data would be helpful for analyzing the proposal, and how will this data be obtained?

To properly understand the racial and ethnic impact of this bill, intersectionality should be incorporated in our data and analysis. However, we are not able to measure the intersectionality of a vulnerable group: secluded or restrained children in child-caring facilities. These data are reported quarterly from child-caring agencies to ODHS and are publicly available here. Reports group children in care by race, ethnicity, migrant status, disability, and other categories rather than including the demographic information of each child included in the reports. The reports do not include information on whether the youth included in the report come from rural, suburban, or urban communities, either. This means that we are not able to assess if, for example, Black Disabled children are secluded or restrained more than White Disabled children. This data flaw makes intersectional analysis impossible unless a data reporting change is made.

Community Engagement: How have youth and families been engaged?

1. How have these youth and families been engaged in development of this proposal?

Youth and families have been actively engaged through several avenues, including:

- Participation in the Safety Workgroup
- Appointment of youth and family representatives to key groups such as the Governor's Behavioral Health Workgroup, CIRT, and others
- Involvement with the SOC Youth Council
- One-on-one and focus group conversations with youth and families
- Additional feedback gathering through emails, text messages, phone calls, meetings, and public testimony in SOCAC meetings.

These engagements have represented a broad range of experiences, including:

- Youth with lived experience of restraint and/or seclusion.
- Youth with disabilities and complex needs in residential and school settings, along with their families and service providers
- Youth in foster care, youth in temporary lodging, and those at imminent risk of suicide

- Family members, legal guardians, and caregivers of these children and youth.

Additionally, public comment and discussion have been received at SOCAC meetings on December 3rd and January 7th, as well as during SOCAC Legislative Committee meetings on January 8th and January 15th, 2025.

2. What do youth and family have to say about the burdens and benefits of this proposal?

The feedback from youth and families has been mixed.
While some have shown support for the overall concept, other family members—especially those of children with intellectual and developmental disabilities (I/DD)—have raised concerns. These concerns have included:

- Regulations of restraint and seclusion - which is a deeply controversial subject for many families who have either experienced it firsthand or fear how the amendments in this bill might impact its application and frequency of use.
- Concerns about the use of behaviorism, particularly the potential harms and trauma it can cause, as well as its ineffectiveness in addressing the needs of children.
- "The system is only protecting itself" – Some family advocates expressed concern that the intention of this bill may be to protect provider agencies by decreasing liability for staff who commit child abuse.
- One family advocate shared a request that perpetrators of child abuse in schools not be allowed to investigate themselves, noting a need for protection against this potential abuse of power.

Supportive feedback for this concept has shown appreciation for:
- Expanded access to services and improved care for youth with complex needs
- The comprehensive evaluation of constraints to safety and wellbeing for system-involved children and youth and the unintended consequences to agencies, providers, and families, of previous legislation
- The broadening of crisis intervention models

The feedback from youth and families has sparked meaningful dialogue and careful revisions to the language of the bill, ensuring it aligns with its intended goals while prioritizing the safety and well-being of all youth and families involved.

3. What have we heard about the factors that produce or perpetuate racial inequities and intersections of all marginalized identities related to this proposal?

Several factors have been identified that contribute to racial inequities and the marginalization of various communities:

Historical white supremacy in Oregon's child welfare system: The historical legacy of white supremacy in Oregon's child welfare system continues to affect how services are distributed and accessed, often disproportionately disadvantaging children and families from marginalized racial and ethnic backgrounds, particularly for Black and Native youth.

Implicit bias and medical racism: Concerns have been raised about the role of implicit bias and medical racism in decision-making processes, which may impact the care and treatment of marginalized youth, particularly youth of color.

Intersectionality: The overlapping and compounding effects of the factors listed in this section—racial inequities, ableism, implicit bias, and historical systemic oppression—create unique challenges for marginalized youth and families, exacerbating their struggle to access equitable services.

Ableism: The systemic ableism present in service delivery often leads to inadequate care for youth with disabilities, particularly those who face both racism and ablism.

Geographic inequities: The current ban on out-of-state placements has created significant hardship for families, particularly those in rural and frontier areas of the state. These families would have better access to specialized facilities in neighboring states like Idaho, California, or Washington, but instead, they are required to seek services hundreds of miles away, often in the Willamette valley, far from their communities.

Data Availability: Some systems do not allow for evaluating intersectionality due to data suppression or reporting guidance. For example, seclusion and restraint data are not able to be analyzed for interactions between multiple identities (e.g., Transgender AND disabled).

4. Is there a need to expand engagement to impacted groups before a decision is made?

    Extensive public engagement has already occurred, and additional opportunities for input will continue throughout the legislative process, particularly through public hearings on the bill in both the House and Senate. Further outreach will ensure that impacted groups have a continued voice as the bill evolves.

Analysis and strategies: What are the strategies for advancing racial equity?

1. How will proposal increase or decrease racial equity?

Overall, the proposed LC would have mixed effects on racial equity by each section of the LC. The impacts are summarized by section below.

Restraint and Seclusion Definitions
It is not known if clarifying the definitions of seclusion and restraint will disproportionately affect specific racial and ethnic groups or children with disabilities.

Out of State Placement
~~Black or African American youth and~~ American Indian or Alaskan Native youth would stand to gain the most benefit from the change in exceptions to out of state placement, as they are currently more likely to be shut out of these types of services; this would increase racial equity.

Investigative Process by ODE
ODE as an independent investigator, as opposed to the current system of internal investigations by the school district, may provide more transparency to youth and families who are impacted by institutional racism and/or ableism, which would increase racial and disability equity.

Interdisciplinary Institute at OHSU
Depending on the activities of the interdisciplinary committee, there is potential to either positively or negatively impact health inequities.

Video Use in Restraint and Seclusion Rooms
Implementation of video devices in seclusion and restraint rooms would likely decrease racial equity.

2. What are potential unintended consequences? What benefits may result?

   - In conversations with youth and families, we have heard concerns about the following potential unintended consequences:
       o Increased use of ABA or other behaviorism-based interventions which have caused trauma and PTSD for children and youth with disabilities.
       o Inadequate training and support resources for staff leading the implementation of this bill.
       o Fears that redefining terms of abuse, seclusion and restraint may make it easier to impose wrongful seclusion and/or wrongful restraint.
       o Fears that Child Welfare may use the newly created option to place children in care in out of state facilities leads to foster youth being placed in unsafe, unregulated, or inadequate facilities.

   - Benefits that may result from this concept include the following:
       o Oregon's children and youth have more options to access quality providers closer to where they live.

- o Tribal children have access to culturally appropriate care they are currently denied due to their involvement with the Child Welfare system, a violation of the Indian Child Welfare Act (ICWA) and the Oregon Indian Child Welfare Act (OR-ICWA).
- o Children in the custody of Child Welfare will have access to the same specialized medical services other Oregon children on Medicaid or in the juvenile justice system have today.
- o Secure transport service providers will likely resume providing secure youth transport services within Oregon.
- o Increased capacity for agencies to provide medical and behavioral health services and supports to children and youth.
- o More programs and increased staff retention for programs that certify, support, and oversee foster parents who provide specialized behavioral health treatment and supports.
- o Fewer children in temporary lodging and reduced boarding in emergency departments.
- o Clear, consistent definitions of third-party child abuse across all regulated settings, making it easier for youth and families to understand and advocate for their rights.
- o This bill is a step toward building a trauma-informed children's system, which learns from mistakes and prioritizes healthy relationships between youth, parents, caregivers, and regulatory bodies.

3. Are the impacts aligned with outcomes defined in Step #1?

Yes. The impacts most directly connected to the outcomes in Step 1 above are:
- *Youth can access care when they need it.* This bill is intended to increase access to care, with a focus on youth with complex needs. We anticipate a reduction in the number of youth indicating they have an unmet health need, though a small one, since this population is a small subset of the overall youth population included in the metric.
- *Youth receive culturally appropriate care.* As discussed above, some of the regulations this bill aims to amend have a disproportionate impact on Black youth, Native youth, and youth who are in the custody of Child Welfare. An increase in providers, and more flexibility in licensing providers (allowing LLCs to become child caring agencies, for example) has been indicated as a strategy to increase the diversity of providers, allowing for increased access to culturally appropriate care for some youth. In addition, the out of state placement exemption for Native youth will increase their access to culturally specific providers and restore tribal sovereignty in alignment with ICWA (Indian Child Welfare Act) and OR-ICWA (Oregon Indian Child Welfare Act).

- *Children in child welfare custody are served in home, wherever safety permits.* This policy is unlikely to impact this outcome, as it is primarily focused on third-party treatment settings.
- *System involved youth have necessary independent living skills.* It is expected that this policy would increase the opportunities for system involved youth to develop independent living skills, as research indicates that placement disruptions decreases youth's ability to gain these skills. It stands to reason, therefor, that reducing placement disruptions will increase the rate at which youth report having the independent living skills they need to thrive.
- *The Juvenile Justice system is not used as a gateway to behavioral health services.* While we have struggled to find a relevant administrative measure for this goal, it is believed that this policy would reduce the number of youth who encounter the juvenile justice system as a result of aggression. Currently, youth who use aggressive behaviors in treatment settings are frequently discharged, which they have reported creates hopelessness that the system can meet their needs, reducing their motivation to engage in therapeutic work. This dynamic sometimes leads to youth using aggressive behaviors to the extent that they are charged with a crime, putting them in the custody of the justice system. Other youth and their families have reported that they needs are 'too acute' for outpatient services, but they are not a 'fit' for any inpatient settings. These youth often go unserved until a crisis or self-medicating behaviors lead them into the juvenile justice system. Allowing youth with complex needs more stability within placements, which is the intent of this bill, is expected to reduce the number of youth who are seeking behavioral health services through the juvenile justice system.

Implementation: What is the plan for implementation?

1. Describe the plan for implementing the decision.

   If passed by the legislature, ODHS, ODE, and OHA will convene Rule Advisory Committees to incorporate the policy changes into Oregon Administrative Rules. SOCAC will ensure a committee focuses on data review and will work closely with OHSU's team under the Quality Improvement proposal to track data trends and produce regular reports. A comprehensive communications plan will be developed to inform the public, providers, and stakeholders within the children's systems of care about key policy changes, ensuring clear understanding and consistent implementation across the state.

2. Is the plan:
   ☒ Realistic
   ☒ Adequately funded
   ☒ Adequately resourced (staff/time)
   ☒ Adequately resourced (data collection/reporting/community engagement)

3. If the answer to any of the above is no, what resources or actions are needed?

   The plan is realistic, adequately funded and resourced for both staff time and data collection/evaluation as long as the bill is passed with the funding requests associated

with the fiscal impact statement (currently in development). In order to ensure adequate oversight, analysis of the impacts, and opportunities for ongoing improvement, SOCAC will need funded staff for research analysis and communications. The OHSU proposal will also need to be adequately funded for robust and intersectional data analyses. There is risk to adequate funding for this bill based on the instability and uncertainty regarding Federal funding for research, human services, and other funding streams which will be necessary for full funding of this concept.

Accountability and communication: How will SOCAC ensure accountability, communicate, and evaluate results?

1. How will impacts be documented and evaluated? How will we know the anticipated outcomes are achieved and impacted communities experienced the intended impact?

   The bill requires, the SOCAC to study the implementation of this bill by the Department of Human Services and the Oregon Health Authority and analyze the effects of that implementation. The council shall submit a report in the manner provided by ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to health care and human services no later than September 15, 2026.

   We will know the outcomes have been achieved and impacted communities have experienced the intended impacts if the OHSU research, created in partnership with impacted youth and families, indicates the outcomes measures are moving in the desired direction. Much of the outcomes tracking and reporting work will be co-developed in partnership with youth, families, researchers, and the agencies, so the specific details cannot be described until they are co-created upon passage of the bill.

2. How and when will impacts on racial equity be evaluated and reported?

   To understand this LC's impact on racial equity, Pre-LC implementation and post-LC implementation data measures will be required. The pre-implementation data lacks intersectionality, as discussed above. The post-implementation data will be collected with an intent to evaluate for intersectional impacts, so it will be hard to compare the post-passage outcomes with pre-passage outcomes.

   With that limitation in mind, the goals of this bill will be met if Oregon sees the following changes in our children's system data:

   - Decreased ER boarding for youth due to behavioral health crises,
   - Decreased wait times for intake for residential services (goal is days, not weeks or months)
   - Decreased temporary lodging rates,

- Decreased rates of unplanned discharges for youth in the custody of Child Welfare

Specific targets for each decrease, analysis plans for racial equity impact, and timeline goals will be established by the Youth/Family/OHSU research team upon passage of the bill.

3. What communication strategies will be used to ensure public accountability – especially for youth and families most impacted by the decision?
   a. SOCAC will periodically provide reports on implementation and outcomes in our public meetings, and OHSU will have a family advisory body to guide their work on assessment and accountability.
   b. SOCAC will submit this completed and approved analysis as written testimony to all legislative committees when hearings are held on this bill.
   c. The bill includes two required reports on impacts and outcomes to the Legislature, which SOCAC will provide on time.

Appendix B: Abbreviated worksheet

The reality of working in government is that there are often unanticipated priorities that are sometimes inserted on a fast track. Even with a short time frame, asking a few questions relating to racial equity can have a meaningful impact. The following abbreviated worksheet may be used when immediate decisions are needed.

• What are the racial equity impacts of this particular decision?

• Who will benefit from or be burdened by the particular decision?

• Are there strategies to mitigate the unintended consequences?

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2023