Emergency Safety Intervention
Parent Information

If an emergency safety intervention was used with a student, we invite and strongly encourage parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions. A parent can request and schedule this meeting by going to the back page for the person to contact who will work to schedule this meeting with the required participants. This meeting will be scheduled no later than 10-school days from when the parent makes the request unless the parent cannot meet within that time frame.

El Dorado – USD 490
www.usd490.org

Jenifer Davis, Superintendent
316-322-4800
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Standards for the use of Emergency Safety Interventions

Emergency safety interventions law sets forth standards for the use of restraint and seclusion to ensure that all Kansas students and staff have a safe learning environment. The standards found in the emergency safety intervention statutes and regulations are required to be followed in all Kansas public school districts and accredited private schools.

An emergency safety intervention is the use of seclusion or physical restraint. The use of an emergency safety intervention shall cease as soon as the immediate danger of physical harm and violent action ceases to exist.

Before using an emergency safety intervention, a school employee witnessing the student’s behavior must have determined that less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, were inappropriate or ineffective under the circumstances.

An emergency safety intervention shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Violent action that is destructive of property may necessitate the use of an emergency safety intervention if there is a reasonable and immediate danger of physical harm. An emergency safety intervention may not be used for purposes of discipline, punishment, or for the convenience of a school employee.

Physical restraint means bodily force used to substantially limit a student’s movement. Physical restraint is NOT:

- Consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction;
- physical escort;
- prescribed treatments for a student’s medical or psychiatric condition by a person appropriately licensed to issue these treatments;
- protective or stabilizing devices either ordered by an appropriately licensed professional or required by law;
- any device used by a law enforcement officer in carrying out law enforcement duties; and
- seatbelts and any other safety equipment when used to secure students during transportation.

Prohibited types of restraints:

- Prone, or face-down, physical restraint;
- supine, or face-up, physical restraint;
- any physical restraint that obstructs the airway of a student;
- any physical restraint that impacts a student’s primary mode of communication;
- chemical restraint (‘‘chemical restraint’’ means the use of medication to control a student’s violent physical behavior or restrict a student’s freedom of movement); and
- mechanical restraint (‘‘mechanical restraint’’ means any device or object used to limit a student’s movement).
**Seclusion** means placement of a student in a location where:
- The student is placed in an **enclosed area** by school personnel;
- the student is **purposefully isolated** from adults and peers; and
- the student is **prevented from leaving**, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

An emergency safety intervention may not be used with a student if the student is known to have a **medical condition** that could put the student in mental or physical danger as a result of the use of an emergency safety intervention unless not using an emergency safety intervention would result in significant physical harm to the student or others. The medical condition must be indicated in a written statement from the student’s licensed health care provider, and a copy of which shall be provided to the school and placed in the student’s file.

When a student is placed in seclusion, a school employee shall be able to **see and hear the student** at all times.

If a seclusion room has a locking door it must be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

A seclusion room must be a **safe place**. The room must have good ventilation and lighting, and be free of any condition that could be a danger to the student. The room must also be similar to other rooms where students frequent.

Seclusion is **not time-out**, which is a behavioral intervention in which a student is temporarily removed from a learning activity without being confined.
A Family Guide to the Use of Emergency Safety Interventions and Parental Rights: Seclusion and Restraint in Kansas
**What are Emergency Safety Interventions?**

Emergency Safety Interventions (ESI) are seclusion and restraint that are used when the student presents a reasonable and immediate danger of physical harm to self or others or a student engages in a violent action destructive of property.

**What is Seclusion?**

Seclusion means placement of a student in a location where all the following conditions are met:

1. the student is placed in an enclosed area by school personnel;
2. the student is purposefully isolated from adults and peers; and,
3. the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

Time-out is not the same as seclusion. Time-out is when a student is temporarily removed from the learning activity, but is not confined.

**What is Restraint?**

Restraint can take form in different ways. The definition of physical restraint is bodily force used to substantially limit a student’s movement. The use of prone physical restraint (face-down) and supine physical restraint (face-up) are prohibited. Physical restraint may not obstruct the airway of the student or impact the student’s primary mode of communication.

Mechanical restraint is defined as any device or object used to limit a student’s movement. The use of mechanical restraint is prohibited in Kansas except those protective or stabilizing devices ordered by a person appropriately licensed to issue the order for the device. Mechanical restraint used by a law enforcement officer in carrying out law enforcement duties is allowed. Seatbelts and/or other safety equipment when used to secure students during transportation are also allowed.

Chemical restraint is prohibited in Kansas. A student may take prescribed treatments for a medical or psychiatric condition when they are prescribed by a person who is properly licensed to prescribe medication.

Consensual, solicited, or unintentional contact and contact to provide comfort, assistance, or instruction is not physical restraint.
When May Emergency Safety Intervention be Used?

- May only be used when a student presents a reasonable and immediate danger of physical harm to self or others with the present ability to cause physical harm or property damage.

- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any ESI.

- The use of ESI must stop as soon as the immediate danger of physical harm ends.

- ESI cannot be used for purposes of discipline, punishment, or for the convenience of a school employee.

Students with a known medical condition.

- An emergency safety intervention may not be used with a student if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention.

- The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file.

- The written statement must include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions.

- An emergency safety intervention may still be used if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

Parents should be proactive and provide the district with written documentation from their child's licensed health care provider outlining any medical condition that could put the student in mental or physical danger as a result of the ESI. You may use this form if you wish, [http://ksdetasn.org/resources/843](http://ksdetasn.org/resources/843).
What are the Requirements for Seclusion?

When a student is placed in seclusion, a school employee must be able to see and hear the student at all times.

All seclusion rooms that have a locking door must be designed to make sure that the lock automatically disengages when the school employee watching the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

A seclusion room must be a safe place with proportional and similar characteristics as other rooms where students frequent. A seclusion room must be free of anything that could be a danger to the student and must be well-ventilated and sufficiently lighted.

What Can I Do if I Feel that ESI has been Used Inappropriately with My Child?

If a parent believes that ESIs have been used that violate the ESI statute, ESI regulations, or the district’s ESI policy, then the parent may file a complaint through the local dispute resolution process within 30 days of the use of ESI.

A parent may file a complaint through the Kansas State Board of Education’s complaint process within 30 days from the date that a parent receives a final decision through the local dispute resolution process or after 30 days have passed since the parent filed a complaint through the local dispute resolution process, if the parent has not received the local board’s final decision. The Administrative Review Request Form can be found at www.ksde.org/Default.aspx?tabid=524.

Tip!
If your child has a history of seclusion and restraint or challenging behavior, he or she could be eligible for additional supports and interventions. Parents are welcome to contact Families Together, Inc. to discuss possible options.
Are There Requirements for Meetings Following an Emergency Safety Intervention?

The written documentation of an emergency safety intervention incident must contain:

- a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and
- email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting.

After an emergency safety intervention incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such meeting verbally, in writing, or by electronic means. The focus of any meeting convened shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

If a parent requests a meeting the meeting must be held within 10 days. The time for calling this meeting shall be extended beyond the 10 day limit if the parent is unable to attend within that time period.

What are the Emergency Safety Intervention Meeting Requirements for Students Parentally Placed in Private Schools?

For students who have an individualized education program (IEP) and are placed in a private school by a parent, a meeting called by the parent must include the parent and the private school, who shall consider whether the parent should request an IEP team meeting. If the parent requests an IEP team meeting, the private school must help facilitate such meeting.

Are Students Required to Attend the Meeting?

The parent shall determine whether the student shall be invited to any meeting.
When Must a Parent be Notified an ESI has been Used?

• The school must notify the parent the same day the ESI was used. The school shall attempt to contact the parent using at least two methods of contact.

• Written documentation of the ESI used must be completed and provided to the parent by the following school day, ESI was used. Written documentation must include:
  • The events leading up to the incident;
  • student behaviors necessitating the ESI
  • steps taken to transition the student back into the educational setting
  • the date and time the incident occurred, the type of ESI used, the duration of the ESI and the school personnel who used or supervised the ESI
  • space or an additional form for parents to provide feedback or comments to the school regarding the incident
  • a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of ESIs
  • School email and phone contact for the parent to schedule the ESI meeting.

• The parent must be provided with the following information in writing or, upon the parent’s written request, by email, after the first ESI incident in a school year and provided with this information after subsequent ESI incidents through a web address:
  • A copy of the standards of when ESI can be used;
  • A flyer on the parent’s rights under ESI law;
  • Information on the parent’s right to file a complaint through the local dispute resolution process and the complaint process of the Kansas State Board of Education; and
  • Information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas.
A Focus on Prevention

Why focus on Positive Interventions?

Positive Interventions help build positive relationships and encourage new behaviors. Positive interventions also reinforce new skills and increase self-satisfaction and optimism among students, parents, and teachers. All students need to be recognized and rewarded when they are meeting the expectations that have been established. Current research suggests positive recognition (rewards, reinforcements, praise) must occur more frequently than negative recognition. A well-developed behavior intervention plan should include many positive interventions in order to effectively change behavior. The first consideration should be the appropriateness of the interventions. The team should select interventions that are based upon the student's developmental level, motor ability, communication mode and other factors relevant to the student and the disability. Environmental and context related factors should also be considered. These might include things such as classroom seating, noise levels, peer issues, instruction that is too hard or too easy, transitions, and changes in the setting.

De-escalation is helpful to begin to identify acting out behavior early and use proactive strategies to decrease the use of seclusion and restraint.
A Focus on Prevention

Functional Behavioral Assessments

All behaviors are functional and are maintained in environments that support them. If your child’s behavior impedes the learning of self or others, you can request a functional behavioral assessment (FBA). An FBA can help teams determine the when, where, how and why problematic behavior occurs. A comprehensive FBA includes interviews, record reviews, observation and data collection, graphing data collected, testing hypotheses, curriculum analysis, implementation of interventions and evaluation of effectiveness of the plan. FBAs should identify antecedents (what happens just before the behavior occurs), a clearly defined picture of the behavior that is occurring, and the reinforcers (what happens just after the behavior occurs). Teams need to determine what the function of the behavior is so that they may provide successful interventions or teach replacement behaviors that meet the same function for the student.

Behavior Intervention Plans

Behavior Intervention Plans (BIP) should focus on proactive strategies to support students, including positive behavior interventions and supports. BIPs should be positive and instructive and based upon a functional behavioral assessment. A BIP should address:

- The function of the behavior
  
  Effective teaching of the expected behavior
- Rewards and consequences that are meaningful to the student
- Opportunities to self-manage behaviors
- Teach appropriate replacement behaviors
A Focus on Prevention

Replacement Behaviors

A replacement behavior is when a student replaces an inappropriate behavior with an appropriate one that continues to serve the same function for the student. When selecting replacement behaviors, the team should address the following questions:

- Does the replacement behavior work as well as the challenging behavior in meeting the student’s needs?
- Will it be an acceptable alternative to the challenging behavior?
- Will the replacement behavior be something the student will choose to do and that his or her family and teachers support?
- Will the replacement behavior help build a positive reputation for the student?

Students should be recognized and rewarded for choosing to utilize replacement behaviors to be most effective.

The Kansas State Department of Education

- does not promote the use of emergency safety intervention with any student;
- recommends a focus on prevention;
- stresses that emergency safety intervention is not part of a tiered intervention system or student behavior plan – it is only to be used in an emergency; and,
- Views emergency safety interventions as reactive strategies that do not decrease the likelihood of a behavior from occurring.

Tip! An FBA can be conducted at any time for a student who does not respond to school-wide behavioral interventions. Following the assessment, a behavior intervention plan may be developed. As a parent, you have the right to request an FBA.
Where can I find out more information about Emergency Safety Interventions (Seclusion and Restraint)?

Families Together, Inc.
www.familiestogetherinc.org

Topeka Parent Center
1-800-264-6343
topeka@familiestogetherinc.org

Wichita Parent Center
1-888-815-6364
wichita@familiestogetherinc.org

Garden City Parent Center
1-888-820-6364
gardencity@familiestogetherinc.org

Kansas Parent Information Resource Center (KPIRC)
1-866-711-6711
www.kpirc.org

Kansas State Department of Education (KSDE)
1-800-203-9462
www.ksde.org
www.ksdetasn.org
Local Dispute Resolution Process

The board of education encourages parents to attempt to resolve issues relating to the use of ESI informally with the building principal and/or the superintendent before filing a formal complaint with the board. In the event that the complaint is resolved informally, the administrator must provide a written report of the informal resolution to the superintendent and the parents and retain a copy of the report at the school. The superintendent will share the informal resolution with the board of education and provide a copy to the state department of education.

If the issues are not resolved informally with the building principal and/or the superintendent, the parents may submit a formal written complaint to the board of education by providing a copy of the complaint to the clerk of the board and the superintendent within thirty (30) days after the parent is informed of the ESI.

Upon receipt of a formal written complaint, the board president shall assign an investigator to review the complaint and report findings to the board as a whole. Such investigator may be a board member, a school administrator selected by the board, or a board attorney. Such investigator shall be informed of the obligation to maintain confidentiality of student records and shall report the findings and recommended action to the board in executive session.

Any such investigation must be completed within thirty (30) days of receipt of the formal written complaint by the board clerk and superintendent. On or before the 30th day after receipt of the written complaint, the board shall adopt written findings of fact and, if necessary, appropriate corrective action. A copy of the written findings of fact and any corrective action adopted by the board shall only be provided to the parents, the school, and the state department of education. Once such a procedure has been developed, a parent may file a complaint under the state board of education complaint process within thirty (30) days from the date a final decision is issued pursuant to the local dispute resolution process.

For additional assistance:

Families Together, Inc. - Wichita Center Region
3033 West 2nd Street, Room 122
Wichita, KS 67203
Phone: 1-888-815-6364 (KS parents)
(316) 945-7747
Fax: (316) 945-7795
Wichita@familiestogetherinc.org

Disability Rights Center of Kansas
214 SW 6th Ave., Ste 100
Topeka, KS 66603
Topeka voice: 785-273-9661
Toll free Voice: 1-877-776-1541
Toll free TDD: 1-877-335-3725
Fax: 785-273-9414
Local Dispute Resolution Guide for Parents

Emergency Safety Intervention Incident Occurs, Parent Notified

- You receive documentation and feel emergency safety intervention was used appropriately.
  - You are strongly encouraged to schedule a meeting, using the contact information in this document, to discuss the incident and how to prevent future use of emergency safety interventions.
  - If this is effective, the building administrator should provide written documentation of the issues to the superintendent.

- You feel emergency safety intervention was used inappropriately or did not follow the district's emergency safety intervention policy, the emergency safety intervention law.
  - You may file a written complaint to your local board of education within 30 days of the emergency safety intervention incident.
  - Upon receiving a complaint, the local board will designate an individual to oversee an investigation, maintaining confidentiality.
  - The local board must mail the written findings of fact and proposed resolution within 30 days of receiving the complaint.
  - Upon receiving the report, you may determine the findings are sufficient and consider the dispute resolved.
  - Upon receiving the report, you may determine the findings are insufficient and the dispute was not resolved.
  - If findings are not agreeable, you may proceed to the state administrative review process.
State Board Administrative Review Process

Refer to K.A.R. 91-42-5 for complete information. The following provides a summary of the regulations regarding an administrative review initiated with the Kansas State Board of Education (KSBE).

- If a parent believes an emergency safety intervention was used in violation of K.S.A. 2016 Supp. 72-89d01 through -89d09 or K.A.R. 91-42-1 through -7 and the parent filed a written complaint with their local board of education, then this parent may request an administrative review of the local board’s decision from KSBE.
  - The request for administrative review must include the following information:
    - Name of the student and contact information;
    - Names and contact information for all involved parties (teachers, aides, administrators, and district staff), to the extent known;
    - A detailed statement of the reason for requesting an administrative review;
    - Any supporting facts and documentation; and
    - A copy of the complaint filed with the local board, the local board’s final decision (if issued).
  - The written request for administrative review must be typed or legibly written and signed by the parent.
  - Relevant documents must be attached or, if unavailable, the documents must be referenced in the request for administrative review.
  - Written consent to disclose any personally identifiable information from the student’s education records necessary to conduct an investigation

- The request for administrative review must be filed with the Commissioner of Education within 30 days of the local board issuing its final decision OR within 60 days from the date the parent filed a complaint with the local board, if the local board did not issue a final decision. You may mail this request to the Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Office of General Counsel, Room 102, Topeka, Kansas 66612.

- A Hearing Officer will be designated by KSBE. The Hearing Officer must send a copy of the request for administrative review to the local board.

- The Hearing Officer will consider the local board’s final decision and may initiate an investigation that could include:
  - A discussion with the parent, during which additional information may be gathered;
  - Contact with the local board or other district staff to allow the local board to respond to the request with information supporting its final decision; and
  - An on-site investigation by Kansas State Department of Education staff.
• If new information is discovered that was not made available to both the parent and the local board during the dispute resolution process, the Hearing Officer may send the issue back to the local board.
  o If sent back to the local board, the Hearing Officer’s case will be closed and the local board has 30 days to issue a written amended final decision.
  o If the parent feels the local board’s amended final decision does not adequately address the issue, the parent may file a new request for administrative review with the commissioner by following the above process for requesting administrative review. This must be done within 30 days of the local board issuing its amended final decision. If the local board does not issue an amended final decision within 30 days, then the parent has 30 days from the date the Hearing Officer sent the issue back to the local board to file a request for administrative review with the commissioner.

• Within 60 days of receiving the request for administrative review, the Hearing Officer will, in writing, inform the parents, school administrator, district superintendent, local board clerk, and the state board of the results of the review. This time frame may be extended for good cause upon approval of the commissioner.

• The results of the administrative review will contain findings of fact, conclusions of law, and any suggested corrective actions. The Hearing Officer’s determination will include one of the following:
  o The local board appropriately resolved the complaint.
  o The local board should re-evaluate the complaint with suggested findings of fact.
  o The Hearing Officer’s suggested corrective active is necessary to ensure that local board policies meet legal requirements.
State Administrative Review Guide for Parents

Written request must include:
- Name and contact information of student that emergency safety intervention was used with
- Name and contact information for all people involved
- Statement describing the basis for the review with all supporting facts and documentation
- The local board’s final decision, if one was issued
- Type or legibly write the complaint and sign it
- Written consent to disclose any personally identifiable information

You filed a complaint with the local board and you are not satisfied with the final decision about the use of an emergency safety intervention (ESI).

File a request for administrative review with the Kansas State Board of Education. You must do this within 30 days of the local board's final decision or, if the local board failed to issue a final decision, within 60 days of the date you filed a complaint with the local board.

The Kansas State Board of Education will designate a Hearing Officer to conduct a review of the local board’s final decision.

Investigation results will be provided to the parents, school administrator, district superintendent, local board, and state board within 60 days of the commissioner's receipt of the request for administrative review.

A request for an administrative review may be due but is not limited to the following allegations:
- An emergency safety intervention was used with your child when your child did not present a reasonable and immediate danger of physical harm to themselves or others with the present facts, to effect such physical harm.
- The defendant used a form of forceful restraint including prone suspension, physical restraint that obstructs the airway of your child, physical restraint that impacts your child's primary mode of communication, chemical or mechanical restraint that does not meet an exception, or less restrictive terms to emergency safety intervention were not deemed inappropriate or ineffective before emergency safety intervention was used.
- The use of emergency safety intervention with your child did not stop as soon as the immediate danger of physical harm stopped.
- Emergency safety intervention was used with your child for discipline, punishment, or convenience.
- Emergency safety intervention was used with your child and you have provided school staff with documentation from your child's licensed health care provider that your child would put your child in mental or physical danger.
- Seclusion was used with your child and school staff could not see and hear your child at all times.
- Your child was put in a secure room with a locking door that does not automatically engage when school staff walk away or in an emergency.
- Your child was put in a secure room that was unsafe, not well-ventilated, or not sufficiently lighted.

Mail this request to the Commissioner of Education, Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Office of General Counsel, Room 102, Topeka, Kansas 66612.

The Hearing Officer may initiate a separate investigation that may include:
- A discussion with the parent;
- Contacting the local board or other staff involved; and
- An on-site investigation.

If the Hearing Officer finds new information, they may send the issue back to the local board. If you are not satisfied with the local board's amended decision, the right to request administrative review begins again.
Contact Information

Local

District Administrator Contact for Emergency Safety Intervention Questions
Jenifer Davis, Superintendent
316-322-4800
jldavis@usd490.org

School Administrator Contact for Emergency Safety Intervention Questions or to Schedule a Meeting to Discuss the Use of Emergency Safety Intervention

Skelly Elementary  Blackmore Elementary  Grandview Elementary
Heath Henderson, Principal  Chad Schuetz, Principal  Midge Simmons, Principal
316-322-4860  316-322-4850  316-322-4830
hwhenderson@usd490.org  cschuetz@usd490.org  mlsimmons@usd490.org

El Dorado Middle School  El Dorado High School
Thomas Simmons, Principal  Erin Nichols, Principal
316-322-4820  316-322-4810
tmsimmons@usd490.org  emnichols@usd490.org

District Website for Information
www.usd490.org

State

General Emergency Safety Intervention Information:
http://ksdetasn.org/tasn/emergency-safety-interventions-esi-resources

Emergency Safety Intervention Questions:
Laura Jurgensen or Julie Ehler
Kansas State Department of Education
ljurgensen@ksde.org or jehler@ksde.org
785-296-5522 or 785-296-1944

Parent Training and Information Center:
Families Together
http://familiestogetherinc.org/
888-815-6364

Protection and Advocacy System:
Disability Rights Center of Kansas
http://www.drckansas.org/
877-776-1541 or 785-273-9661