Emergency Safety Interventions

Parent Information Packet

Emergency Safety Interventions (ESI) are seclusion and restraint that is used when a student presents a reasonable and immediate danger of physical harm to self or others or engages in violent action that is destructive of property. This packet contains important information for parents regarding the use of ESI and parents’ rights under ESI law.

July 2020
Parent Information Packet Contents

✓ WPS BOE Policy 5116 (ESI)
✓ Parents’ Rights Flyer
✓ Standards of When ESI Can Be Used
✓ Local Dispute Resolution Process
✓ Local Dispute Resolution Guide for Parents
✓ State Board Administrative Review Process
✓ State Board Administrative Review Guide for Parents
✓ Contact Information
BOARD POLICY:

Seclusion or physical restraint (Emergency Safety Interventions (ESI)) of any student may be employed only when the student presents a reasonable and immediate danger of physical harm to self or others or engages in violent action that is destructive of property. ESI should be used only after less restrictive or invasive alternatives have been considered and deemed infeasible. Certain modes of restraint are prohibited and any restraint utilized must be consistent with this policy. Restraint or seclusion will not be used as punishment or discipline, as a means of coercion or retaliation, or as a convenience for a school employee.

Administrative Implemental Procedures:

1. Definitions:
   a. “Administrative review” means review by the state board upon request of a parent.
   b. “Chemical Restraint” means the use of medication to control a student’s violent physical behavior or restrict a student’s freedom of movement.
   c. “Complaint” means a written document that a parent files with the board of education.
   d. “District” means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. 72-3115, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.
   e. “Emergency Safety Interventions” means the use of seclusion or physical restraint.
   f. “Incident” means each occurrence of the use of an emergency safety intervention.
   g. “Parent” means: (1) A natural parent; (2) an adoptive parent; (3) a person acting as a parent as defined in K.S.A. 72-3122, and amendments thereto; (4) a legal guardian; (5) an education advocate for a student with an exceptionality; (6) a foster parent, unless the student is a child with an exceptionality; or (7) a student who has reached the age of majority or is an emancipated minor.
   h. “Physical escort” means the temporary touching or holding of the hand, wrist, arm, shoulder, or back of a student who is acting out, for the purpose of inducing the student to walk to a safe location. Physical escort is not an ESI.
   i. “Physical Restraint” means bodily force used to substantially limit a student’s movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint.
   j. “Mechanical Restraint” means any device or object used to limit a student’s movement and includes, but is not limited to, the use of handcuffs.
   k. “Police officer means a full-time or part-time salaried officer or employee of the state, a county, or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic laws of this state or of any Kansas municipality.
   l. “School” means any learning environment, including any non-profit institutional day or residential school or accredited nonpublic school, that receives public funding or which is subject to the regulatory authority of the state board of education.
   m. “School resource officer” means a police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.
n. “School security officer” means a person who is employed by a board of education of any school district for the purpose of aiding and supplementing state and local law enforcement agencies in which the school district is located, but is not a police officer.

o. “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.
   3) The student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

Seclusion does not include a time-out. “Time-out” means a behavioral intervention in which a student is temporarily removed from a learning activity without being confined.

2. Use of Emergency Safety Interventions:
   Emergency Safety Interventions 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 or engages in violent action that is destructive of property. Less restrictive alternatives to ESI, such as proactive prevention techniques, de-escalation techniques, positive behavior interventions and supports, shall 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 shall cease as soon as the immediate danger of physical harm ceases to exist. Use of an ESI for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

a. Prohibited Types of Restraint:
   1) The use of prone, or face-down, physical restraint; supine, or face-up physical restraint; physical restraint that obstructs the airway of a student; or any physical restraint that impacts a student’s primary mode of communication;
   2) The use of chemical restraint, except as prescribed treatments for a student’s medical or psychiatric condition by a person appropriately licensed to issue these treatments;
   3) The use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device 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.

b. Seclusion Restrictions:
   1) When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.
   2) All seclusion rooms equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in case of emergency, such as fire or severe weather.
   3) A seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Such room shall be free of any condition that could be a danger to the student and shall be well-ventilated and sufficiently lighted.
c. Emergency Safety Intervention Restrictions:

1) A student shall not be subjected to an ESI 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 ESI. 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 has been provided to the school and placed in the student’s file. Such written statement shall include an explanation of the student’s diagnosis, a list of any reasons why an ESI would put the student in mental or physical danger and any suggested alternatives to the use of ESI. However, a student may still be subjected to an ESI if not subjecting the student to an ESI would result in significant physical harm to the student or others.

2) School resource officers and police officers are exempt from the requirements of the ESI regulations. School security officers are not exempt and so may not use prohibited restraints, including handcuffs.

3. Training:

a. All district personnel will annually review and acknowledge BOE P5116 Emergency Safety Interventions.

b. Annual training consistent with nationally recognized programs will be provided to school personnel. Training will emphasize that prevention techniques, de-escalation techniques, positive behavioral interventions and positive behavioral supports are preferred strategies which should be applied, if feasible, prior to use of an ESI. Training will meet the needs of personnel as appropriate to their roles, duties and potential need for emergency safety interventions.

c. District and/or building administrators will determine which personnel requires training in the most restrictive behavioral intervention techniques, i.e. restraint and seclusion.

d. Written or electronic documentation will be maintained on the training provided and the persons participating.

4. Documentation and Notification:

a. All schools are responsible for maintaining documentation for each use of an ESI, which must include:

1) date and time of the intervention;
2) type of intervention used (seclusion or restraint);
3) length of time (in minutes) the intervention was used;
4) a description of the behavior precipitating the ESI and alternative behavioral interventions considered;
5) the school personnel who participated in or supervised the intervention;
6) whether the student had an individualized education program (IEP) at the time of the incident; and
7) whether the student had a section 504 plan at the time of the incident.

b. Documentation maintained by a school on the use of ESI must be compiled and submitted, at least quarterly, to the Division of Student Support Services.

c. The Division of Student Support Services will provide quarterly reports of all incidents of ESI to the Kansas State Department of Education (KSDE), by the dates
and in the format required by KSDE. In addition, documentation of the district’s use of ESI will be provided to KSDE upon written request of KSDE.

d. At least annually, the principal of each school shall review ESI documentation to determine the appropriateness of the use of ESI. At least annually, the Division of Student Support Services will review ESI documentation regarding the proper administration of ESI in the district and its impact upon the content of training for district employees.

e. Parents shall be notified the same day an emergency safety intervention is used with their student by the principal or their designee. If the principal or designee is unable to contact the parent, they will attempt to contact the parent using at least two methods. A parent may designate a preferred method of contact to receive the same-day notification. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day. The principal or designee will document notification and notification attempts in the Student Information System. Written documentation of the ESI used shall be completed and provided to the parent no later than the school day following the day on which the ESI was used. Written documentation will include:

1) The events leading up to the incident;
2) student behaviors that necessitated the ESI;
3) steps taken to transition the student back into the educational setting;
4) 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;
5) an option for parents to provide feedback or comments to the school regarding the incident;
6) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of ESI; and
7) email and phone information for the parent to contact the school to schedule the ESI meeting.

Schools may group incidents together which occur on the same day when documenting items 1), 2), and 3) if the triggering issue necessitating the ESI is the same.

f. Upon the first occurrence of an incident involving the use of ESI in a school year, the parent shall be provided the following information in printed form or, upon the parent’s written request, by email. If there is a second or subsequent incident during the same school year, the parent shall be provided with a full and direct website address containing this information.

1) a copy of this policy and a copy of the standards which indicates when ESI can be used;
2) a flyer on the parent’s rights;
3) information on the parent’s right to file a complaint through the district’s dispute resolution process;
4) the complaint process of the state board of education;
5) information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas; and
6) a full website address containing this information.
g. If a school is aware that a police officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student, the principal or their designee will notify the parent the same day using the parent’s preferred method of contact. The principal or designee will document notification and notification attempts in the Student Information System. Mechanical restraint includes, but is not limited to, the use of handcuffs. Written documentation of the incident is not required.

5. Meeting Requirements:
   a. After each 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. A school shall hold a meeting requested within 10 school days of the parent’s request. The focus of any meeting convened shall be to discuss proactive ways to prevent the need for ESI and to reduce incidents in the future.
   b. For a student who has an IEP or a Section 504 plan, such student’s IEP team or Section 504 team shall discuss the incident and consider the need to conduct a Functional Behavior Assessment (FBA), develop a Behavior Intervention Plan (BIP) or amend either if already in existence.
   c. For a student with a section 504 plan, such student’s section 504 plan team shall discuss and consider the need for an evaluation for special education services.
   d. Parents of students with an IEP who are parentally placed in a private school may request an IEP team meeting.
   e. For a student who does not have an IEP or Section 504 plan, the parent and school shall discuss and consider the appropriateness of a referral for an evaluation for special education services, the need for a FBA, or the need for a BIP. Any such meeting shall include the student’s parent, a school administrator for the school where the student attends, one of the student’s teachers, a school employee involved in the incident, and any other school employees designated by the school administrator as appropriate for such meeting.
   f. The parent of a student younger than 18 shall determine whether the student shall be invited to any meeting requested by the parent.
   g. The time for calling such a meeting may be extended beyond the 10 school day limit if the parent of the student is unable to attend within that time period.
   h. Nothing in this section shall be construed to prohibit the development and implementation of a FBA or a BIP for any student if such student may benefit from such measures.

6. Dispute Resolution:
   a. The Board of Education designates the Chief Human Resources Officer as the complaint investigator to conduct investigations of written parental complaints.
   b. If a parent believes an ESI has been used in violation of this BOE policy and state regulations, then within 30 days from being informed of the use of ESI, the parent may submit a written complaint to the Chief Human Resources Officer of the Wichita Public Schools.
   c. The Chief Human Resources Officer will complete an investigation and provide to the parent, school, superintendent, Student Support Services and KSDE written findings of fact and, if necessary, corrective action, within 30-days of the filing of a complaint by a parent. The drafting and handling of the investigator’s report will conform to the requirements of the Family Educational Rights & Privacy Act
(FERPA) and will, to the extent possible, preserve confidentiality of personnel matters. The Chief Human Resources Officer’s decision will be a final decision.

d. A parent may file a complaint under the state board of education complaint process within 30-days from the date a final decision is issued by the Chief Human Resources Officer. 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. Parents may mail this request to the Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Suite 600, Topeka, Kansas 66612.

e. Additional information informing parents of their right to file a written complaint that includes contact information for the Chief Human Resources Officer and state board of education are posted on the district’s website.

7. This district has a policy governing the use of ESI which is made available to parents during annual enrollment. It is also posted on the district’s website with a link to the policy on individual school sites. The direct website address is included within the Student Code of Conduct and a printed copy of the policy is available from the student’s school and district offices upon request.

Administrative Responsibility: Student Support Services
Latest Revision: July 2016
Previous Revision: September 2015 P5116

Updated administratively for alignment purposes: March 2018
A Family Guide to the Use of Emergency Safety Interventions (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.

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 other 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 person’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.
- 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 ESIs.
- 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.
When Must a Parent be Notified an ESI has been Used?

- The school must notify the parent the same day the ESI was used. If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact.
- Written documentation of the ESI must be completed and provided to the parent no later than the school day following the day on which the 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, Inc. and the Disability Rights Center of Kansas.

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 called within 10 school days. The time for calling this meeting shall be extended beyond the 10 school 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.
De-escalation is helpful to begin to identify acting out behavior early and use proactive strategies to decrease the use of seclusion and restraint.

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.

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.

Identify Antecedents
What happens just before the behavior occurs?

Clear Picture of the Behavior and Reinforcers
What happens just after the behavior occurs?

The Function of the Behavior
What does the student get from the behavior?

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.
A Focus on Prevention

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

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 that emergency safety interventions are reactive strategies and do not decrease the likelihood of a behavior from occurring.

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.
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
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.
Local Dispute Resolution Process

- The Board of Education designates the Chief Human Resources Officer as the complaint investigator to conduct investigations of written parental complaints.

- The Chief Human Resources Officer may be contacted at 316-973-4610. Written complaints may be submitted to the Chief Human Resources Officer at:

  Wichita Public Schools  
  903 S. Edgemoor  
  Wichita, KS  67218

- If a parent believes an ESI has been used in violation of BOE policy and state ESI laws, then within 30 days from being informed of the use of ESI, the parent may submit a written complaint to the Chief Human Resources Officer of the Wichita Public Schools.

- A parent may file a complaint under the state board of education complaint process within 30 days from the date a final decision is issued by the Chief Human Resources Officer.

- The Chief Human Resources Officer will complete an investigation and provide to the parent, school, superintendent, Student Support Services and KSDE written findings of fact and, if necessary, corrective action, within 30-days of the filing of a complaint by a parent. The drafting and handling of the investigator’s report will conform to the requirements of the Family Educational Rights & Privacy Act (FERPA) and will, to the extent possible, preserve confidentiality of personnel matters. The Chief Human Resources Officer’s decision will be a final decision.

- A parent may file a complaint under the state board of education complaint process within 30 days from the date a final decision is issued by the Chief Human Resources Officer. 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. Parents may mail this request to the Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Suite 600, Topeka, Kansas 66612.

- Additional information informing parents of their right to file a written complaint that includes contact information for the Chief Human Resources Officer and state board of education are posted on the district’s website.

July 2020
Local Dispute Resolution Guide for Parents

ESI Incident Occurs, Parent Notified

You receive documentation and feel ESI was used appropriately.

You feel ESI was used inappropriately or did not follow the district’s ESI policy, the ESI regulations, or the ESI statute.

You may file a written complaint to the Chief Human Resources Officer within 30-days of the ESI incident at Wichita Public Schools 903 S. Edgemoor Wichita, KS 67218

Upon receiving a complaint, the Chief Human Resources Officer will oversee an investigation, maintaining confidentiality.

The Chief Human Resources Officer 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.

If findings are not agreeable, you may proceed to the state administrative review process.

Parents may request the Kansas State Dept. of Education Commissioner to conduct an administrative review within 30-days from the date USD259 issued its final decision or within 60-days from the date the parent filed a complaint with USD259 and a decision has not been issued.
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 (State Board).

- If a parent believes an emergency safety intervention was used in violation of state requirements 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 the State Board.
  - 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. KSDE has provided a form for you to use, if you wish, and you can find it on the Emergency Safety Interventions page of the KSDE website, www.ksde.org/Default.aspx?tabid=524.

- A Hearing Officer will be designated by the State Board. 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.
  - 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.
  - 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:
  - The local board appropriately resolved the complaint.
  - The local board should re-evaluate the complaint with suggested findings of fact.
  - The Hearing Officer’s suggested corrective action is necessary to ensure that local board policies meet legal requirements.
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 include, 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 ability to effect such physical harm.
- The district used a form of banned restraint including prone, supine, 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.
- Less restrictive alternatives 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 and you have provided school staff with documentation from your child's licensed health care provider that seclusion could 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 seclusion room with a locking door that does not automatically disengage when school staff walk away or in an emergency.
- Your child was put in a seclusion room that was unsafe, not well-ventilated, or not sufficiently lighted.

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


Mail this request to the Emergency Safety Intervention Administrative Review Request, Kansas State Department of Education, Office of General Counsel, 900 SW Jackson Street, 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.

August 2016
Contact Information

Local

District Administrator Contact for ESI
Amy Godsey
Wichita Public Schools
Office of Due Process
903 S. Edgemoor
Wichita, KS 67218
316-973-4488
agodsey@usd259.net

WPS ESI Resources: www.usd259.org/esi

State

General ESI Information:
http://ksdetasn.org/

ESI Questions:
Laura Jurgensen
Kansas State Department of Education
ljurgensen@ksde.org
785-296-5522

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