



Emergency Safety Interventions

**K.S.A. 72-6151 et seq.
K.A.R. 91-42-1 et seq.
Revised Guidance Document**

Kansas State Department of Education

6/5/2019

Guidance Document on Kansas Emergency Safety Interventions Regulations

Table of Contents

Emergency Safety Intervention (ESI)	1
Applicability of the Requirements	1
ESI, Individualized Education Program (IEP), and Behavior Intervention Plan (BIP)	2
Physical Restraint	2
Physical Restraint – Use and Restrictions	2
Mechanical Restraint	3
Chemical Restraint	3
Inclusion of a Mechanical Restraint or Chemical Restraint in an IEP	3
Seclusion	4
Seclusion – Use and Restrictions	4
Students with a Medical Condition.....	5
Parent Notification.....	6
Same-Day Notification.....	6
Documentation and Information.....	6
Meeting Requirements.....	7
Student with an Individualized Education Program or Section 504 Plan.....	7
Student without an IEP or Section 504 Plan.....	8
Law Enforcement Exemption.....	8
District Policies.....	8
Requirements.....	8
Documentation and Use of Data.....	9
School Personnel Training.....	10
Local Dispute Resolution Process.....	10

State Level Action

State Administrative Review.....11

Reporting to KSDE.....11

Appendix A: Kansas ESI Resource List.....13

Appendix B: Sample Form for ESI Documentation.....14

Appendix C: Emergency Safety Intervention Requirements Checklist.....16

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Emergency Safety Intervention (ESI)

An emergency safety intervention is the use of seclusion or physical restraint 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 ESI. Less restrictive alternatives to emergency safety intervention, such as positive behavior interventions, must have been deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety intervention. The use of an emergency safety intervention must stop as soon as the immediate danger of physical harm ceases to exist.

Safety for students and staff is always the number one concern. It is important to remember that behavior is learned and that every behavior serves a purpose. There may be times when a student's behavior escalates to the point where the student's actions present immediate potential for causing harm to persons or property. However, it is often possible to avoid such situations if proper prevention and de-escalation strategies are utilized. When the focus is on preventing or deescalating a verbal or physical outburst, early and calm intervention is key. There are training programs available that teach participants to recognize behavioral escalation levels and utilize effective, research-based responses. When students are provided appropriate supports, the potential for problem behavior is minimized.

The Kansas State Department of Education (KSDE) does **not** promote the use of emergency safety intervention with any student. Every effort should be made to prevent the need for the use of restraint or for the use of seclusion. Do not interpret state regulations or this guidance document to imply that KSDE endorses the use of seclusion or restraint with any student. The focus is on prevention. However, the requirements of state law, which include statutes and KSDE regulations, do NOT prohibit the use of seclusion or physical restraint. State law limits the use of an emergency safety intervention to situations 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 and requires parental notification. A blanket policy that staff should never put their hands on students is not appropriate. If the use of an emergency safety intervention is needed to keep a student or others safe, then student safety should be the priority.

The intent of this guidance is to standardize when and how an emergency safety intervention may be used, and if used, to delineate the next steps that must be taken. This includes prescribed parent notification procedures and practices to prevent or eliminate the need for the future use of an emergency safety intervention. The use of an emergency safety intervention should never be taken lightly and should always be the last resort. Again, if an emergency safety intervention is used with a student, school personnel must follow the process set out in state law and in their district's policies and procedures.

Applicability of the Requirements

Emergency safety intervention requirements apply to **all** students and to **any** learning environment, including any nonprofit institutional day or residential school and any accredited nonpublic school that receives public funding or over which KSDE has regulatory authority. This definition includes preschools run by public school districts and accredited nonpublic schools. For accredited nonpublic schools, the

use of “district” throughout the regulations and in this guidance refers to the governing body of the accredited nonpublic school. Regulations also apply to all school personnel and individuals hired by a district or school to perform work on behalf of the district or the school. If a student’s Individualized Education Program (IEP) team places a student in a private, specialized school, emergency safety intervention requirements apply to that student. If an emergency safety intervention was used with the student, the private school must follow the requirements with that student by notifying the home school, the parents and documenting the incident as required.

Cooperatives, interlocals, and independent contractors of a district are bound by the various policies adopted by the local boards of the students that they serve. An emergency safety intervention that occurs at a cooperative or interlocal facility or is used by an independent contractor of a school or district must be communicated to the student’s home school for reporting purposes. This communication ensures that the district with ultimate responsibility for the student is aware of the use of an emergency safety intervention with that student. If a parent wishes to file a complaint against the cooperative or interlocal, alleging that the Emergency Safety Intervention laws have not been followed with respect to their child, the cooperative or interlocal, through its member districts, should be clear in written communication with the parent regarding the appropriate venue for investigation and resolution of a complaint.

Emergency Safety Intervention, Individualized Education Program (IEP), and Behavior Intervention Plan (BIP)

It is not recommended to include emergency safety interventions in IEP’s or BIP’s. Seclusion and restraint should be used in emergency situations only. An emergency safety intervention should not be a planned intervention for a specific student under foreseeable circumstances. Behavior intervention plans should focus on positive behavior supports and teaching replacement behaviors for problem behavior. An emergency safety intervention is not an acceptable alternative to positive prevention and intervention. Including the use of an emergency safety intervention in an IEP gives the impression that the team accepts the use of an ESI as inevitable. Every effort should be made to prevent the need for an emergency safety intervention. However, if an IEP team decides to include the use of an emergency safety intervention in an IEP or BIP, both the IEP and ESI statutory requirements must be followed.

Physical Restraint

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. The use of prone, or facedown, 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 is prohibited. Physical restraint does not include physical escort, which is defined as the temporary touching or holding 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. However, a physical escort could escalate into a physical restraint and, if it does, ESI requirements must be followed.

Physical Restraint – Use and Restrictions

Physical restraint may not be used for purposes of discipline, punishment, or staff convenience. Physical restraint shall be used only when a student presents a reasonable and immediate danger of physical harm to self or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety intervention, such as positive behavior 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 emergency safety intervention. The amount of force used to restrain the student should be reasonable and only what is necessary to diffuse the emergency and ensure the safety of staff and students.

Before using physical restraint, a school employee should be trained, consistent with nationally recognized training programs, to ensure the safe use of this behavior intervention strategy. School districts should identify and/or develop training to be provided to employees prior to using physical restraint as an intervention. Any identified training program must address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies.

Restraint may be necessary to separate students who are involved in a fight, when the students are presenting an immediate danger to self or others. It is possible that a fight could be considered an emergency where it may be appropriate to use physical restraint. If physical restraint is used to separate students involved in a fight then the ESI requirements and the district's policy must be followed.

Mechanical Restraint

Mechanical restraint means any device or object used to limit a student's movement. The use of mechanical restraint is prohibited, except for those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device, required by law, used by a law enforcement officer in carrying out law enforcement duties, or seatbelts and any other safety equipment when used to secure students during transport.

If a mechanical restraint is ordered for a student, it may only be used for that student for the purpose written in the order. A school or district, in consultation with the district's attorney, should determine the individuals appropriately licensed to issue the order for a mechanical restraint. A mechanical restraint ordered for one student may not be used on another student, without an order. A mechanical restraint should not be used in a nontherapeutic (prescribed) manner.

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. Chemical restraint is prohibited, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments.

Inclusion of a Mechanical Restraint or Chemical Restraint in an IEP

Mechanical restraint ordered by a person appropriately licensed to issue the order for the device or chemical restraint as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments may be included in an IEP if approved by an IEP team. IEP teams choosing to include these types of restraints should evaluate the student and the environment to determine whether this type of restraint is appropriate, consider the triggers for the behavior that the restraint is being used to prevent, and try other interventions before using prescribed mechanical or chemical restraint. If the mechanical or chemical restraint is prescribed and placed in the IEP, the IEP should detail the circumstances under which the mechanical or chemical restraint should be used, how often it should be used, alternatives, or discontinuation of the use of the mechanical or chemical restraint as a goal.

Seclusion

Seclusion, when used with a student, means all of 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.

Seclusion – Use and Restrictions

Seclusion should **not** be used as a routine school safety measure. Seclusion should **not** be used for purposes of discipline, punishment, or staff convenience. Seclusion should only be used when a student presents a reasonable and immediate danger of physical harm to self or others, with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student’s behavior prior to the use of any emergency safety intervention.

Before using seclusion, a school employee should be trained, consistent with nationally recognized training programs, to ensure the safe use of this emergency safety intervention. School districts should identify and/or develop training to be provided to employees prior to using seclusion as an intervention. Any identified training program must address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies.

When a student is placed in seclusion, a school employee must be able to see and hear the student at all times. Observation of the student ensures the safety of the student who is being secluded and does not negate the first two requirements of the definition of seclusion. A student can be observed through a window or via an electronic monitoring device; an adult does not have to be physically present in the enclosed area to observe the student.

Purposefully isolating a student means removing the student from the learning environment, or isolating the student within the learning environment. Purposeful isolation can occur when an adult is present in the area used for seclusion but not meaningfully interacting with the student to assist in de-escalation. Districts may need to evaluate whether the student was isolated from adults if the sole purpose of the adult is to prevent the student from leaving. If the adult present during the seclusion is there solely to prevent egress, and if other components of the definition of seclusion are met, ESI regulations apply.

The law does not define what it means to “place” a student in seclusion. Placing a student in seclusion can occur by having that student go to another location, by removing other students and adults from that student’s location or using another method by which a student comes to be in an area where all the other elements of seclusion are met. There are multiple ways a student may be placed in an enclosed area. Placing does not imply that the student must be restrained and physically forced into a seclusion room for a seclusion to occur. A student could be told to go to the seclusion room, or directed to the seclusion room by school staff corralling the student and thereby guiding the student into the enclosed area. KSDE encourages schools to be transparent when communicating with parents. If an intervention could reasonably be considered seclusion, notify parents.

A student who self-initiates relocation to an enclosed area on their own as a strategy to calm down would not be considered to be secluded; personnel did not require the student to be in the enclosed

area and the student is free to leave the enclosed area when he/she chooses to do so.

An enclosed area means any separate area, regardless of size, configuration, whether it is a temporary or permanent enclosure, whether the door is left open or closed, or even regardless of whether the area has a door. An enclosed area could be any room. It could be an office, a room designed to seclude a student, a sensory room, the gymnasium, a classroom, etc. Again, all elements of the definition should be present for a seclusion to occur. For example, in a situation where all other students are removed because one student exhibits threatening behavior, that student is secluded if there is no adult present who is assisting with de-escalation (isolated from adult) and if the student reasonably believes he/she is prevented from leaving the classroom; egress is not permitted. Whether a student reasonably believes he/she is prevented from leaving the enclosed area must be evaluated from the perspective of the student. It is presumed that if the student was placed in an enclosed area that such student would reasonably believe he/she is prevented from leaving that enclosed area.

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 cases of emergency, such as fire or severe weather. Any enclosed area used for secluding a child should be of a size that is appropriate to the child's chronological and developmental age, size, and behavior. The area should have a ceiling height that is comparable to the ceiling height of the other rooms in the building in which it is located and should be equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other areas of the building. The area should be free of any condition that could be a danger to the child who is being placed in the area. Any child who is placed in seclusion should be monitored – visually and auditorily – at all times and should be removed from seclusion as soon as the immediate danger of physical harm ceases to exist.

Time-out is not seclusion. Time-out is defined in the regulations as a behavioral intervention in which a student is temporarily removed from a learning activity without being confined. If you are concerned that the time-out practices at your school are too similar to seclusion and you or other school employees are having trouble distinguishing between them, you should consider changing your practices regarding time-out so that they more closely resemble the definition given above and not the definition of seclusion. Whether a seclusion occurs is based on the circumstances meeting the regulatory definition of seclusion and is not based on the term the school uses. A school may use the term "time-out" but if all the elements of the definition of seclusion are met, then a seclusion has occurred, and the school must follow the notification, documentation, and reporting requirements in the law and the school's policy.

In-school suspension is not seclusion. In-school suspension does not typically involve the student being isolated from adults and peers, and thus does not meet the definition of seclusion. If you are concerned that the in-school suspension practices at your school are too similar to seclusion and you are having trouble distinguishing between them, you should consider changing your practices regarding in-school suspension.

Students with a Medical Condition

In general, emergency safety interventions should not be used with a student with a known medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention. The existence of the medical condition must be indicated in a written statement from the student's licensed health care provider. A copy of the written statement must be provided to the school

and placed in the student's file. The written statement shall 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. Notwithstanding this requirement, a student may be subjected to an emergency safety intervention, if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

Parent Notification

Parent Notification: Same-Day Notification

When an emergency safety intervention is used with a student, the school must notify the parent the same day that the emergency safety intervention was used. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection.

If there is difficulty contacting the parent, the school must attempt to contact the parent using at least two methods of contact, one of which must be the preferred method of contact if a method was designated by the parent. If the school could not contact the parent, the same-day notification requirement will be deemed satisfied if the school attempts at least two methods of contact. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day.

Parent Notification: Documentation and Information

No later than the school day following the use of an emergency safety intervention, the school shall provide more detail about the incident to the parent. This documentation must include the following:

- (A) The events leading up to the incident;
- (B) student behaviors that necessitated the emergency safety intervention;
- (C) steps taken to transition the student back into the educational setting;
- (D) the date and time the incident occurred, the type of emergency safety intervention used, the duration of the emergency safety intervention and the school personnel who used or supervised the emergency safety intervention;
- (E) space or an additional form for parents to provide feedback or comments to the school regarding the incident;
- (F) 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
- (G) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting.

Schools may group incidents together when documenting the items in (A) through (C) if the triggering issue necessitating the emergency safety interventions is the same.

In addition to the documentation of the incident, the school must provide the parent with information about emergency safety interventions in general. After the first incident, the school must provide the information in printed form. If the parent requests, the information may be sent via electronic mail. For subsequent incidents, the school may provide the additional information by giving the parent a full and direct website address where the information can be found. The information must include:

- (A) a copy of the standards of when emergency safety interventions can be used;
- (B) a flyer on the parent's rights;
- (C) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and
- (D) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system.

Resources, including examples of Emergency Safety Intervention documents, are available at the Kansas Technical Assistance System Network webpage under the "Emergency Safety Interventions Resources" tab, at www.ksdetasn.org.

Parent Notification: Meeting Requirements

A parent has a right to request a meeting with the school after each incident where an emergency safety incident was used with their child. This meeting is to discuss and debrief the incident. The parent may request the meeting verbally, in writing, or by electronic means. The school must hold the meeting within 10 days of the parent's request. The meeting may occur after 10 days only if the parent is unable to attend within that time period. The focus of the meeting shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future. The parent will decide if the student should be invited to the meeting.

There are specific meeting requirements outlined below for students with an IEP or Section 504 Plan. However, KSDE recommends that districts focus on preventing the need for using emergency safety interventions with students. Districts are required to review their emergency safety intervention data. Even if a parent does not request a meeting, school staff can discuss the incident and discuss proactive ways to reduce the need to use emergency safety interventions.

Student with an Individualized Education Program (IEP) or Section 504 Plan

The IEP team or section 504 plan team shall discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan or amend either. For a student with a section 504 plan, the student's section 504 plan team must also discuss and consider whether there is a need for an evaluation under the Special Education for Exceptional Children Act, K.S.A. 72-3403 et seq., and amendments thereto. For students who have an IEP and are placed in a private school by a parent, the meeting 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 individualized education program team meeting, the private school shall help facilitate such meeting.

Even if a parent of a student with an IEP does not request a meeting to discuss the use of emergency safety interventions, a school may need to initiate an IEP team meeting. The requirements of the Individuals with Disabilities Education Act (IDEA) apply here. A school may not ignore a failing IEP, and if the school is repeatedly using emergency safety interventions with a student it may be an indication that the IEP, at a minimum, should be reviewed by the IEP team, which includes the parent. Additionally, the use of emergency safety interventions may constitute a change in placement.

Student without an IEP or Section 504 Plan

For a student who does not have an individualized education program or section 504 plan, the parent and school shall discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, K.S.A. 2017 Supp. 72-3403 et seq., and amendments thereto, the need for a functional behavioral analysis or the need for a behavior intervention plan. Any meeting called pursuant to this subsection 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 such other school employees designated by the school administrator as appropriate for such meeting.

Law Enforcement Exemption

The emergency safety intervention law does not apply to police officers. There is an exemption for certain other law enforcement personnel. This exemption recognizes that law enforcement personnel have specialized training related to de-escalation, carrying weapons, and the use of mechanical restraint. **Campus police officers and school resource officers are exempt** from the requirements of the emergency safety intervention law when engaged in an activity that has a legitimate law enforcement purpose. If the school is aware that a **law enforcement officer or school resource officer** has used seclusion, physical restraint, or mechanical restraint on a student, the school must notify the parent the same day, but is not required to provide the written documentation and information. This is because there is likely other documentation, such as an incident or police report, that will be provided to the parents. Even though this may not be considered an emergency safety intervention for reporting to KSDE, KSDE encourages schools to be as transparent as possible and consider documenting these incidents as emergency safety intervention incidents. This documentation could assist the school in preventing future incidents with the child and transitioning him/her back into learning environment when appropriate.

School security officers are not exempt and must follow all the requirements of the emergency safety intervention law.

District Policies

Requirements

Each district must develop and implement written policies to govern the use of emergency safety interventions for all schools and all students. The written district policies must conform to the standards, definitions, and requirements of the Emergency Safety Intervention Law and include school personnel training, a local dispute resolution process, a system to collect and maintain documentation of emergency safety intervention incidents, procedures for the periodic review of the use of emergency safety interventions at each school, and a schedule for when and how parents are provided notice of the written policies on the use of emergency safety interventions.

Written policies shall be accessible on each school's web site and shall be included in each school's code of conduct, school safety plan, student handbook, or any combination of these. The intent behind this is that the policy be accessible and available to parents in two places. Even if your school's code of conduct, which includes the district's emergency safety intervention policy, can be found on your school's web site, the district's emergency safety intervention policy must be located both in the

school's code of conduct and in a separate location on the school's web site. Parents must be provided with these policies annually.

Documentation and Use of Data

Any time an emergency safety intervention is used with a student, it must be documented. This is the documentation required to be sent to parents that was listed earlier. These are the minimum requirements for documentation. A school may draft a form calling for more information than the regulations require. As suggested best practice, districts may want to document additional information, such as when parents were notified in writing of the use of an emergency safety intervention with their child or alternative interventions school staff tried prior to implementing an emergency safety intervention with a child. This information may help school staff determine how to prevent the need for using an emergency safety intervention in the future. This documentation becomes part of the student's educational record, which parents may view upon request.

Though the emergency safety intervention law does contain specific requirements, districts have the ability to adopt and implement policies that are more restrictive. This helps districts be more responsive to the specific circumstances in their district. Districts may want to compile their district data with the additional information that KSDE is required to include in their annual report. The following are some questions that districts could use to evaluate the use of emergency safety interventions:

- With how many students has seclusion/restraint been used more than once?
- Where does seclusion or restraint occur most often?
- When does seclusion or restraint occur most often?
- Which staff members are most often involved?
- What patterns do you see in the descriptions of events leading up to behavioral incidents necessitating the use of an emergency safety intervention?
- What behaviors are most often identified as leading to the need to use seclusion or restraint?
- What happened after the emergency safety intervention was terminated? What steps are most often taken to transition the student back into the educational setting?
- Was debriefing conducted with staff members involved in the seclusion or restraint?
- Was debriefing conducted with staff members involved in the seclusion or restraint? With the student? If debriefing was conducted, by whom and when?
- What were the outcomes of the debriefings? Have these debriefing practices helped to prevent the reoccurrence of an emergency safety intervention?
- What preventive strategies have been put in place? What was their impact?
- Have building-wide positive behavior support practices been implemented? If so, have they impacted your data?
- What other data might help us "dig deeper" to analyze any concerns?

District policies must include a system for the collection and maintenance of documentation for each use of an emergency safety intervention as set forth in K.S.A. 72-6154; and a procedure for the periodic review of the use of emergency safety interventions at each school, which shall be compiled and submitted at least biannually (twice per year) to the superintendent or the superintendent's designee.

School staff must follow the procedure set out by the district to review the emergency safety intervention data for that school. School administration is encouraged to review this data as frequently as necessary to ensure they are familiar with the incidents occurring in their school.

District-level staff must follow the district procedure for reviewing the emergency safety intervention data for all schools in the district. District administration is encouraged to review these data as frequently as necessary to ensure they are familiar with the incidents occurring in their schools.

This review of data is important, both at the school and district levels, because it is the information that administration will use to decide what school personnel training is appropriate. Decisions on school personnel training should be based on the needs of the students and the needs of school personnel as appropriate to their duties and potential need to use an emergency safety intervention.

The documentation of any school's or any district's use of an emergency safety intervention must be provided to KSDE upon written request from KSDE.

A sample form for documentation is provided in Appendix B.

School Personnel Training

District policies must include school personnel training consistent with nationally recognized training programs on the use of emergency safety interventions. Training must address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies. Training must be designed to meet the needs of personnel as appropriate to their duties and potential need to use an emergency safety intervention. Schools and programs must maintain documentation on training provided and those who attended. Training is required for **all** school personnel. However, it is recommended that professional development be differentiated based upon prior knowledge and experience, specific work requirements, and likelihood that that staff member will actually need to use ESI's.

The intention with this component of the regulations was never to require all school personnel to be trained in the most restrictive behavioral intervention techniques involving the use of physical restraint. This training component has been described as a continuum, allowing districts to (1) look at the data on the use of seclusion and restraint within the district; (2) evaluate what is already in place in the district with regards to training on prevention, de-escalation, and positive behavioral intervention strategies; and, (3) customize the additional training to meet the identified needs of that district with respect to the requirements of the regulations. Districts are also encouraged to look at the district's crisis plan, if one is in place. The use of an emergency safety intervention denotes a crisis, an emergency situation in which safety is in jeopardy. It may be appropriate in some districts for those school personnel who currently respond to a school crisis to be trained in the use of the most restrictive behavioral intervention techniques should the need for the use of a physical restraint arise.

Resources for training are available at the Kansas Technical Assistance System Network webpage under the "Emergency Safety Intervention Resources" tab. www.ksdetasn.org

Local Dispute Resolution Process

Districts must develop policies that establish local dispute resolution processes. Local dispute resolution processes must include: a complaint investigation procedure; a procedure for parents to present written complaints to the local board of education to initiate a complaint investigation by the local board of education; and a procedure for parents, the school, and KSDE to receive written findings of fact and, if necessary, corrective action from the local board of education within 30 days of the filing of a complaint.

Note: In order to retain objectivity in the local dispute resolution process, KSDE recommends that any

complaint investigation initiated under the regulations be conducted by the local board of education and not by school or district personnel. KSDE recognizes, in some instances, that it may be appropriate to designate another individual, such as the local board of education's attorney, to handle the complaint investigation.

The local dispute resolution process as established in the regulations does not preclude nor preempt any other applicable dispute resolution processes a parent may choose to employ. A parent may at any time file a complaint with the U.S. Department of Education's Office for Civil Rights (OCR), make a report to the Kansas Department for Children and Families' (DCF) Kansas Protection Report Center, file a lawsuit, make a report to local law enforcement that may lead to the filing of a criminal charge by the county or district attorney or utilize KSDE's special education dispute resolution procedures, if applicable to the child involved.

State Level Action

State Administrative Review

Any parent who filed a written complaint with a local board regarding the use of emergency safety intervention may request an administrative review by the state board of the local board's final decision. A parent has 30 days from the date the local board issued a final decision on the complaint to file a request for administrative review with the Commissioner of Education. If the local board did not issue a final decision, the parent has 60 days from the date the written complaint was filed with the local board to request administrative review.

Reporting to KSDE

Districts must report all incidents of emergency safety intervention to KSDE by the date and in the form specified by KSDE. Currently, districts report emergency safety intervention data twice a year to KSDE through the Kansas Integrated Accountability System (KIAS), a secure web-based application. More information on reporting procedures can be found at <https://www.ksde.org/Agency/Division-of-Learning-Services/Special-Education-and-Title-Services/KIAS-Kansas-Integrated-Accountability-System/Emergency-Safety-Interventions-ESI>. To ensure uniformity across the state, periods for emergency safety intervention incident reporting purposes are established annually and do not necessarily match district calendars. Emergency safety intervention reporting dates are sent to administrators as they become available and emergency safety intervention reporting reminders will be provided. All reported emergency safety intervention data will be used by KSDE to provide an annual report to the State Board, the Governor and the committees on education in the senate and the Kansas House of Representatives about the use of emergency safety intervention with all students in Kansas. KSDE's annual report must include the following information:

- (1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;
- (2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;
- (3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;
- (4) the total number of incidents in which emergency safety interventions were used on students;
- (5) the total number of students with behavior intervention plans subjected to an emergency safety

intervention;

(6) the number of students physically restrained;

(7) the number of students placed in seclusion;

(8) the maximum and median number of minutes a student was placed in seclusion;

(9) the maximum number of incidents in which emergency safety interventions were used on a student;

(10) the information reported under paragraphs (1) through (3) reported by school to the extent possible;

(11) the information reported under paragraphs (1) through (9) aggregated by age, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and

(12) any other information that the department deems necessary to report.

Kansas Emergency Safety Intervention Resource List

The Kansas State Department of Education (KSDE) and the Technical Assistance System Network (TASN) put together resources to help you navigate the requirements, they can be accessed at <http://ksdetasn.org/>; and include:

- Emergency Safety Intervention law;
- Training webinars and documents districts can use to train staff;
- Standards document for the use emergency safety intervention;
- Family Guide to the Use of Emergency Safety Intervention (English and Spanish versions);
- Templates for parent notification;
- Sample incident documentation form;
- Sample medical form;
- De-escalation of Behavior Modules;
- Emergency Safety Intervention Prevention trainings, addressing systems, individual student, and using data
- Guidance on reporting incidents to KSDE; and
- Spreadsheet for recording Emergency Safety Intervention data that must be reported to KSDE.

Templates are designed for districts to review and customize as needed.

Emergency Safety Intervention Documentation Form

Student's Name: _____	At the time of the incident, did the student have:
Student's KIDS ID Number: _____	An IEP <input type="checkbox"/> Yes <input type="checkbox"/> No
Date of incident: _____	A 504 Plan <input type="checkbox"/> Yes <input type="checkbox"/> No
	A behavior intervention plan <input type="checkbox"/> Yes <input type="checkbox"/> No

*Note: Enter seclusion and restraint as separate incidents, even if both occurred from one behavioral issue. For example, if a student is restrained during an incident and then secluded, enter restraint as one line item and seclusion as another.

Line #	Time ESI Started	Time ESI Ended	Total Minutes	Type of ESI (seclusion or restraint)	Staff Involved	(A)-(C) filled out?
1						
2						
3						
4						
5						
6						

7						
8						
9						
10						

For the following documentation, you may group incidents that occur on the same day **if the triggering issue necessitating the emergency safety interventions is the same**. You must provide the following information for each incident listed on the previous page, either on its own or grouped with other incidents. Please use as many copies of this page as needed to document each incident listed.

Incident Line Number(s): _____

(A) Describe the events leading up to the incident.

(B) Describe the student behaviors that necessitated the emergency safety intervention.

(C) Describe the steps taken to transition the student back into the educational setting.

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**EMERGENCY SAFETY INTERVENTION REQUIREMENTS CHECKLIST
(Includes Requirements from 2016 Statutes and 2017 Regulations)**

Name and Title: _____

USD Number and Building Name: _____

Date Completed: _____

Directions: You may use this checklist as a self-assessment to determine whether your building has all required components of emergency safety intervention law in place. Complete the checklist by recording Y for Yes, N for No, and NA for Not Applicable under “In Place?” for each item on the checklist. You should have written or electronic documentation of policies, procedures, or forms for items marked Y on the checklist.

In Place?	Emergency Safety Intervention (ESI) Requirement
	<i>Policy Requirements</i>
	1. The district has developed and implemented written policies to govern the use of emergency safety intervention for all schools and all students. Written policies have been updated to align with current emergency safety intervention statutes and regulations.
	2. All required definitions are included in district emergency safety intervention policies and those definitions conform to the emergency safety intervention statutes and regulations.
	3. Written policies include requirements that seclusion and physical restraint shall be used only when: <ul style="list-style-type: none"> • Student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm and • Less restrictive alternatives to emergency safety interventions, 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 emergency safety intervention.
	4. Written policies prohibit use of emergency safety intervention for purposes of discipline, punishment, or for the convenience of a school employee, as this does not meet the standard of immediate danger of physical harm.
	5. Written policies states that a student shall not be subjected to an emergency safety intervention 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

	<p>the student’s file. Such written statement shall 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. Notwithstanding this, a student may be subjected to an emergency safety intervention, if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.</p>
	<p>6. Written policies include prohibition of:</p> <ul style="list-style-type: none"> • prone restraint, • supine restraint, • physical restraint that obstructs the airway of a student, • any physical restraint that impacts a student’s primary mode of communication, • chemical restraint (except as prescribed treatments), or • mechanical restraint (except for protective or stabilizing devices ordered by an appropriately licensed person, device used by law enforcement, or safety equipment used to secure students during transportation).
	<p>7. Written policies include the following requirements for seclusion:</p> <ul style="list-style-type: none"> • 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.
	<p>8. Policies include requirement that use of an emergency safety intervention must stop as soon as the immediate danger of physical harm ends.</p>
	<p>9. Policies are in place for a local dispute resolution process, including:</p> <ul style="list-style-type: none"> • A complaint investigation procedure, • A procedure for parents to present written complaints to the local Board of Education (BOE) to initiate complaint investigation by the local BOE, and • A procedure for parents, the school and KSDE to receive written findings of fact and, if necessary, corrective action from the local BOE within 30 days of filing of a complaint by a parent.
	<p>10. Policies include a statement of the parent’s right to request administrative review by the state board as set forth in K.A.R. 91-42-5 including when such request must be received by the state board.</p>

	11. Parents are provided annually with notice of the district’s written policies on the use of emergency safety interventions.
	12. District has created a place on the school’s website that includes the following: <ul style="list-style-type: none"> • The district’s emergency safety intervention policy • A flyer on parents’ rights under emergency safety intervention law • Information on a parent’s right to file a complaint through the local dispute resolution process and the Kansas State Board of Education’s (State Board) administrative review process • Information that will assist a parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas
	13. Written policies are included in school’s code of conduct, school safety plan, or student handbook.
	<i>Training Requirements</i>
	14. School personnel training addresses prevention techniques, de-escalation techniques, and positive behavioral intervention strategies.
	15. Training is consistent with nationally recognized training programs.
	16. Training is designed to meet the needs of personnel as appropriate to their duties.
	17. All school personnel are trained to some degree.
	18. School maintains documentation on training provided.
	19. School maintains lists of participants for all trainings.
	<i>Documentation and Parent Notification</i>
	20. School correctly applies definitions to determine incidents of seclusion.
	21. School correctly applies definitions to determine incidents of physical restraint.
	22. Documentation of each incident of emergency safety intervention includes: <ul style="list-style-type: none"> • Events leading up to the incident, • Student behaviors that necessitated the emergency safety intervention, • Steps taken to transition the student back into the educational setting, • Date and time of intervention, • Type of intervention, • Length of time the intervention was used, and • School personnel who participated in or supervised the intervention.
	23. Parents are notified (or the school attempts at least two methods of contact) on the same day an emergency safety intervention incident occurs.
	24. Written documentation is provided to a parent no later than the school day following the incident. This written documentation includes a space or an additional form for parents to provide feedback or comments to the school regarding the incident and 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. Email and phone information for the parent to contact the school to schedule an emergency safety intervention meeting is also included.
	<p>25. After the 1st emergency safety intervention incident in a school year with every student, the school sends printed copies, or email upon the parent’s request, to the parent no later than the day after the event, including the following information:</p> <ul style="list-style-type: none"> • A copy of the standards of when seclusion or restraint can be used (you could use the district’s emergency safety intervention policy) • A flyer of the parent’s rights under emergency safety intervention law • Information about the local dispute resolution process • Information about the State Board’s administrative review process • Information to assist parents in navigating the dispute resolution process, including contact information for Families Together and the Disability Rights Center of Kansas
	26. After a subsequent emergency safety intervention incident in a school year, the school provides the complete website address where all emergency safety intervention documents listed above are contained.
	27. Parents are notified on the same day that the school is made aware of a law enforcement officer or school resource officer using physical restraint, seclusion, or mechanical restraint with a student.
	<i>Meeting Requirements</i>
	<p>28. If a parent requests a meeting with the school for a student who has an IEP, the school convenes a meeting of the student’s IEP team within 10 school days of the incident. The parent will determine whether the student will be invited to this meeting. All required notices for IEP team meetings are followed. At this meeting, the team:</p> <ul style="list-style-type: none"> • Discusses and debriefs the incident, • Considers whether a functional behavioral assessment (FBA) needs to be conducted or updated, and • Considers whether a behavior intervention plan (BIP) needs to be developed or updated.
	<p>29. If a parent requests a meeting with the school for a student who has a 504 plan, the school convenes a meeting of the student 504 team within 10 school days of the incident. The parent will determine whether the student will be invited to this meeting. At this meeting, the team:</p> <ul style="list-style-type: none"> • Discusses and debriefs the incident, • Considers whether a FBA needs to be conducted or updated, • Considers whether a BIP needs to be conducted or updated, and • Considers the need for a special education evaluation.
	30. If a parent requests a meeting with the school for a student who <u>does not</u> have an IEP or 504 plan, the school convenes a meeting with the following individuals within 10 school days of the incident:

	<ul style="list-style-type: none"> • Parent, • School administrator for the school where the student attends, • Teacher of the student, • School employee involved in the incident, and • Other school employees designated by the school administrator. <p>The parent will determine whether the student will be invited to this meeting. At this meeting, the group:</p> <ul style="list-style-type: none"> • Discusses and debriefs the incident, • Considers the appropriateness of a referral for a special education evaluation, • The need for an FBA, and • The need for a BIP.
	<p>31. If a parent requests a meeting regarding their child who has an IEP and has been parentally placed in a private school, the meeting will include the parent and the private school. At this meeting, the group:</p> <ul style="list-style-type: none"> • Discusses and debriefs the incident and • Considers whether the parent should request an IEP team meeting. <p>If the parent requests an IEP team meeting, the private school will help facilitate such meeting.</p>
<i>Data Reporting and Review</i>	
	<p>32. Procedures are established for the collection, maintenance, and periodic review of the use of emergency safety interventions at each school, including the documentation collected.</p>
	<p>33. Information maintained by the school is compiled and submitted, at least biannually, to the district superintendent or district designee.</p>
	<p>34. All incidents of emergency safety interventions, for all students for which this building is responsible regardless of where the student attends, were reported to KSDE through the KIAS web application by the reporting dates set by KSDE.</p>
	<p>35. Documentation of the school’s or district’s use of emergency safety interventions has been provided to KSDE upon written request of KSDE.</p>
	<p>36. Procedure established for this building to collect emergency safety interventions documentation on any student for which it is responsible that attends a different building (whether in- or out-of-district) and then report those incidents to KSDE.</p>
	<p>37. Procedure established for this building to disseminate emergency safety intervention documentation to a student's responsible building for any student that attends in this building, but whose responsible building is elsewhere (whether in- or out-of-district). This documentation was disseminated in time for the student's responsible building to complete its reports to KSDE.</p>

	38. Any cooperative, interlocal, or independent contractor that serves district students has provided information to parents regarding the appropriate venue for investigation and resolution of a complaint.
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