

Emergency Safety District Information/Parent Rights/Local Dispute Process

Freedom from Unsafe Restraint and Seclusion Act – HB 2170 (effective 6/5/2015)
GAFF Emergency Safety Interventions (See JRB, JQ, JQA, and KN)

The board of education is committed to limiting the use of Emergency Safety Interventions (“ESI”), such as seclusion and restraint, with all students. The board of education encourages all employees to utilize other behavioral management tools, including prevention techniques, de-escalation techniques, and positive behavioral intervention strategies. This policy shall be made available on the district website (www.indyschools.com) with links to the policy available on any individual school pages. In addition, this policy shall be included in at least one of the following: each school’s code of conduct, school safety plan, or student handbook.

Definitions (See K.A.R. 91-42-1): “Emergency Safety Intervention” means the use of seclusion or physical restraint. “Seclusion” means placement of a student in a location where all the following conditions are met: (1) the student is placed in an enclosed area by school personnel; (2) the student is purposefully isolated from adults and peers; and (3) the student is prevented from leaving, or the student reasonably believes such student will be prevented from leaving, the enclosed area. “Time-out” means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded. “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. “Mechanical restraint” means any device or object used to limit a student’s movement. “Physical escort” means 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. “Parent” means: 1) a natural parent; 2) an adoptive parent; 3) a person acting as a parent as defined in K.S.A. 72-1046(d)(2) 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. “School” means any learning environment, including any nonprofit 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. “Complaint” means a written document that a parent files with a local board.

Standards for the use of emergency safety Interventions: An emergency safety intervention shall be used only when a student presents a reasonable and immediate danger of physical harm to the student or others with the present ability to effect such physical harm. The use of emergency safety interventions shall cease as soon as the immediate danger of physical harm ceases to exist.

Prohibited Types of Restraint: All staff members are prohibited from engaging in the following actions with all students:

- face-down (prone) physical restraint;
- face-up (supine) physical restraint;
- physical restraint that obstructs the student’s airway;
- restraint that impacts a student’s primary mode of communication;
- chemical restraint, except as prescribed treatments for a student’s medical or psychiatric condition by a person appropriately licensed to issue these treatments; and
- mechanical restraint, except those protective or stabilizing devices required by law, any device used by law enforcement officers to carry out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation.

“Time-out” and Physical Escort” shall not be deemed an emergency safety intervention.

Training: All staff members shall be trained regarding the use of positive behavioral intervention strategies, de-escalation techniques, and prevention techniques. Such training shall be consistent with nationally recognized training programs on the use of emergency safety interventions. The intensity of the training provided will depend upon the employee’s position. Administrators, licensed staff members, and other staff deemed most likely to need to restrain a

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student will be provided more intense training than classified staff who do not work directly with students in the classroom. District and building administration shall make the determination of the intensity of training required by each position. Each school building shall maintain documentation regarding the training that was provided and a list of participants.

Documentation: Parents must be contacted the day of the event that ESI is used with their student, and the principal or designee shall provide written notification to the student's parents no later than one day after the event. In the event that a parent cannot be notified, the school shall notify the emergency contact person for the student. In addition, each building shall maintain documentation any time ESI is used with a student. Such documentation must include all of the following: date and time of the intervention, type of intervention, length of time the intervention was used, and school personnel who participated in or supervised the intervention. All such documentation shall be provided to the building principal, who shall be responsible for providing copies of such documentation to the superintendent on at least a biannual basis. At least once per school year, each building principal or designee shall review the documentation of ESI incidents with appropriate staff members to consider the appropriateness of the use of ESI in those instances. In the instance that a third ESI incident with a student occurs who has an IEP or 504 plan, a meeting should be convened consisting of that student's IEP or 504 team within 10 days of the ESI incident. The student must be invited to this meeting. If the IEP or 504 team agrees on a process other than holding a meeting, this decision must be documented. In the instance that a third ESI incident with a student occurs who does not have an IEP or 504 plan, a meeting should be convened between the student's parent and school employees within 10 days of the ESI Incident. Meetings convened following a third ESI incident should include discussion of the following: ESI incident, whether it would be appropriate to refer the student for an evaluation for special education, whether functional behavior analysis needs to be conducted, and whether a behavior intervention plan needs to be conducted. District administration shall report ESI data to the state department of education as required. The time for calling a meeting pursuant to this subsection shall be extended beyond the 10-day limit if the parent of the student is unable to attend within that time period.

Local Dispute Resolution Process: The board of education encourages parents to attempt to resolve issues relating to the use of ESI informally with the building principal and/or the superintendent before filing a formal complaint with the board. In the event that the complaint is resolved informally, the administrator must provide a written report of the informal resolution to the superintendent and the parents and retain a copy of the report at the school. The superintendent will share the informal resolution with the board of education and provide a copy to the state department of education. If the issues are not resolved informally with the building principal and/or the superintendent, the parents may submit a formal written complaint to the board of education by providing a copy of the complaint to the clerk of the board and the superintendent within 30 days from being informed of the use of emergency safety intervention. Upon receipt of a formal written complaint, the board president shall assign an investigator to review the complaint and report findings to the board as a whole. Such investigator may be a board member, a school administrator selected by the board, or a board attorney. Such investigator shall be informed of the obligation to maintain confidentiality of student records and shall report the findings and recommended action to the board in executive session. Any such investigation must be completed within thirty (30) days of receipt of the formal written complaint by the board clerk and superintendent. On or before the 30th day after receipt of the written complaint, the board shall adopt a report containing written findings of fact and, if necessary, appropriate corrective action. A copy of the report adopted by the board shall be provided to the parents, the school, and the state board of education.