

# Emergency Safety Intervention

## Parent Information

If an emergency safety intervention occurs, parents are strongly encouraged to schedule a meeting to: 1) discuss the incident and 2) discuss prevention of future use of emergency safety interventions. The district contact listed below is available to assist in scheduling this meeting. This meeting will be scheduled no later than ten (10) school days from when the parent makes the request unless the parent cannot meet within that time frame.

### Moundridge USD 423

Dr. Cody Rierson

[superintendent@usd423.org](mailto:superintendent@usd423.org)

Moundridge Elementary School

<https://www.usd423.org/district/about>

Rebecca Khosravipour, Principal

620-345-5500

[mesprincipal@usd423.org](mailto:mesprincipal@usd423.org)

Moundridge Middle & High School

<https://www.usd423.org/district/about>

Hilarie Hecox, Principal

620-345-5500

[mhprincipal@usd423.org](mailto:mhprincipal@usd423.org)

### Documents Included in this Packet

- District Emergency Safety Intervention Policy, including dispute resolution process
- Standards for the Use of Emergency Safety Interventions
- A Family Guide to the Use of Emergency Safety Interventions and Parental Rights: Seclusion and Restraint in Kansas
- Local Dispute Resolution Guide for Parents
- State Board Administrative Review Process
- State Administrative Review Guide for Parents
- State and Community Resources
- Families Together, Inc. ESI Flyer
- State Department of Education, Article 42

# Moundridge USD 423 Board Policy

## **Emergency Safety Interventions GAAP (See GAO, JRB, JQ, and KN)**

The board of education is committed to limiting the use of Emergency Safety Intervention ("ESI"), such as seclusion and restraint, with all students. Seclusion and restraint shall be used only when a student's conduct necessitates the use of an emergency safety intervention as defined below. 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 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. Notice of the online availability of this policy shall be provided to parents during enrollment each year.

### Definitions

"Area of purposeful isolation" means any separate space, regardless of any other use of that space, other than an open hallway or similarly open environment.

"Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-6146, and amendments thereto.

"Chemical Restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

"Emergency Safety Intervention" is the use of seclusion or physical restraint but does not include physical escort or the use of time-out.

"Incident" means each occurrence of the use of an emergency safety intervention. "Law enforcement officer" and "police officer" mean 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 law of this state or any Kansas municipality. This term includes a campus police officer.

"Legitimate law enforcement purpose" means a goal within the lawful authority of an officer that is to be achieved through methods or conduct condoned by the officer's appointing authority.

"Mechanical Restraint" means any device or object used to limit a student's movement.

"Parent" means:

- a natural parent;
- an adoptive parent;
- a person acting as a parent as defined in K.S.A. 72-3122(d)(2), and amendments thereto;
- a legal guardian;
- an education advocate for a student with an exceptionality;
- a foster parent, unless the student is a child with an exceptionality; or
- a student who has reached the age of majority or is an emancipated minor.

"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.

"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.

“Purposefully isolate” when used regarding a student, means that school personnel are not meaningfully engaging with the student to provide instruction and any one of the following occurs:

1. Removal of the student from the learning environment by school personnel;
2. Separation of the student from all or most peers and adults in the learning environment by school personnel; or
3. Placement of the student within an area of purposeful isolation by school personnel. “School resource officer” means a law enforcement officer or 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.

“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 law enforcement officer or police officer.

“Seclusion” means placement of a student for any reason other than for in-school suspension, detention, or any other appropriate disciplinary measure in a location where both of the following conditions are met:

- School personnel purposefully isolate the student; and
- The student is prevented from leaving or has reason to believe that the student will be prevented from leaving the area of purposeful isolation. Purposefully isolate means that school personnel are not meaningfully engaging with the student to provide instruction and any one of the following occurs:

1. Removal of the student from the learning environment by school personnel;
2. Separation of the student from all or most peers and adults in the learning environment by school personnel; or
3. Placement of the student within an area of purposeful isolation by school personnel.

“School resource officer” means a law enforcement officer or 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.

“Time-out” means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.

### Prohibited Types of Restraint

All staff members are prohibited from engaging in the following actions with all students:

- Using face-down (prone) physical restraint;
- Using face-up (supine) physical restraint;
- Using physical restraint that obstructs the student’s airway;
- Using physical restraint that impacts a student’s primary mode of communication;
- Using chemical restraint, except as prescribed treatments for a student’s medical or psychiatric condition by a person appropriately licensed to issue such treatments; and
- Use of mechanical restraint, except:
  - o Protective or stabilizing devices required by law or used in accordance with an order from a person appropriately licensed to issue the order for the device;
  - o Any device used by a certified law enforcement officer to carry out law enforcement duties; or

o Seatbelts and other safety equipment when used to secure students during transportation.

### Use of Emergency Safety Interventions

ESI 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 affect physical harm. Less restrictive alternatives to ESI, 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 ESI. The use of ESI shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an ESI. 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.

The following shall not be deemed an emergency safety intervention, its use does not otherwise meet the definition of an emergency safety intervention:

- Physical escort; and
- Time-out.

### ESI Restrictions

A student shall not be subjected to 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 ESI. The existence of such medical condition shall 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 ESI would put the student in mental or physical danger, and any suggested alternatives to ESI. In spite of the provisions of this subsection, a student may be subjected to ESI if not subjecting the student to ESI would result in significant physical harm to the student or others.

### Use of Seclusion

When a student is placed in seclusion, a school employee shall see and hear the student at all times. The presence of another person in the area of purposeful isolation or observing the student from outside the area of purposeful isolation shall not create an exemption from otherwise reporting the incident as seclusion. When a student is placed in or otherwise directed to an area of purposeful isolation, the student shall have reason to believe that the student is prevented from leaving.

If the area of purposeful isolation is equipped with a locking door designed to prevent a student from leaving the area of purposeful isolation, the door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the area of purposeful isolation, or in case of emergency, such as fire or severe weather.

An area of purposeful isolation shall be a safe place with proportional and similar characteristics as those of rooms where students frequent. Such area shall be free of any condition that could be a danger to the student, well-ventilated, and sufficiently lighted.

### 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 ESI. 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 student will be provided more intense training than 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 written or electronic documentation regarding the training that was provided and a list of participants, which shall be made available for inspection by the state board of education upon request.

#### Notification and Documentation

The principal or designee shall notify the parent the same day as an incident. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contacting the parent. A parent may designate a preferred method of contact to receive the same-day notification. Also, a parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day.

Documentation of the ESI used shall be completed and provided to the student's parents no later than the school day following the day of the incident. Such written documentation shall include:

- (A) The events leading up to the incident;
  - (B) student behaviors that necessitated the ESI;
  - (C) steps taken to transition the student back into the educational setting;
  - (D) 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;
  - (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 incidents; and
  - (G) email and phone information for the parent to contact the school to schedule the ESI meeting.
- Schools may group incidents together when documenting the items in subparagraphs (A), (B) and (C) if the triggering issue necessitating the ESIs is the same.

The parent shall be provided the following information after the first and each subsequent incident during each school year:

- A copy of this policy which indicates when ESI can be used;
- a flyer on the parent's rights;
- information on the parent's right to file a complaint through the local dispute resolution process (which is set forth in this policy) and the complaint process of the state board of education; and
- information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas.

Upon the first occurrence of an incident of ESI, the foregoing information shall be provided in printed form or, upon the parent's written request, by email. Upon the occurrence of a second or subsequent incident, the parent shall be provided with a full and direct website address containing such information.

#### Law Enforcement, School Resource, and Campus Security Officers

Campus police officers and school resource officers shall be exempt from the requirements of this policy

when engaged in an activity that has a legitimate law enforcement purpose. School security officers shall not be exempt from the requirements of this policy.

If a 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 shall notify the parent the same day using the parent's preferred method of contact. A school shall not be required to provide written documentation to a parent, as set forth above, regarding law enforcement use of an emergency safety intervention, or report to the state department of education any law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

#### Documentation of ESI Incidents

Except as specified above with regard to law enforcement or school resource officer use of emergency safety interventions, each building shall maintain documentation any time ESI is used with a student.

The documentation shall include all of the following:

- Date and time of the ESI,
- Type of ESI,
- Length of time the ESI was used,
- School personnel who participated in or supervised the ESI,
- Whether the student had an individualized education program at the time of the incident, · Whether the student had a section 504 plan at the time of the incident, and
- Whether the student had a behavior intervention plan at the time of the incident.

All such documentation shall be provided to the building principal, who shall be responsible for providing copies of such documentation to the superintendent or the superintendent's designee 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.

#### Reporting Data

District administration shall report ESI data to the state department of education as required. Parent

#### Right to Meeting on ESI Use

After each incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such a meeting verbally, in writing, or by electronic means. A school shall hold a meeting requested under this subsection within 10 school days of the parent's request. The focus of any such meeting shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

For a student with an IEP or a Section 504 plan, such student's IEP team or Section 504 plan team shall discuss the incident and consider the need to conduct a functional behavioral assessment, develop a behavior intervention plan, or amend the behavior intervention plan if already in existence. For a student with a section 504 plan, such student's section 504 plan team shall discuss and consider the need for a special education evaluation. For students who have an individualized education program and are placed in a private school by a parent, a meeting called under this subsection shall include the parent and the private school, who shall consider whether the parent should request an individualized education program team meeting. If the parent requests an individualized education program team meeting, the private school shall help facilitate such meeting.

For a student without an IEP or Section 504 plan, the school staff and the parent shall discuss the incident and consider the appropriateness of a referral for a special education evaluation, the need for a functional behavioral assessment, or the need for a behavior intervention plan. Any such meeting shall include the student's parent, a school administrator for the school 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.

The student who is the subject of such meetings shall be invited to attend the meeting at the discretion of the parent. The time for calling such a meeting may be extended beyond the 10-day limit if the parent of the student is unable to attend within that time period. Nothing in this section shall be construed to prohibit the development and implementation of a functional behavior assessment or a behavior intervention plan for any student if such student would benefit from such measures.

#### Local Dispute Resolution Process

If a parent believes that an emergency safety intervention has been used on the parent's child in violation of state law or board policy, the parent may file a complaint as specified below. 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. Once an informal complaint is received, the administrator handling such complaint shall investigate such matter, as deemed appropriate by the administrator. In the event that the complaint is resolved informally, the administrator must provide a written report of the informal resolution to the superintendent and the parents and retain a copy of the report at the school. The superintendent will share the informal resolution with the board of education and provide a copy to the state department of education.

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

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 of fact and recommended corrective action, if any, to the board in executive session.

Any such investigation must be completed within thirty (30) days of receipt of the formal written complaint by the board clerk and superintendent. On or before the 30th day after receipt of the written complaint, the board shall adopt written findings of fact and, if necessary, appropriate corrective action. A copy of the written findings of fact and any corrective action adopted by the board shall only be provided to the parents, the school, and the state department of education and shall be mailed to the parents and the state department within 30 days of the board's receipt of the formal complaint.

If desired, a parent may file a complaint under the state board of education administrative review process within thirty (30) days from the date a final decision is issued pursuant to the local dispute resolution process.

Approved: 6/17/24

KASB Recommendation – 6/13; 12/13; 6/15; 6/16; 6/18; 12/18; 6/23

# Standards for the use of Emergency Safety Interventions



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

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

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

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

**Physical restraint** means bodily force used to substantially limit a student's movement.

Physical restraint is **NOT**:

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

**Prohibited** types of restraints:

- **Prone**, or face-down, physical restraint;
- **supine**, or face-up, physical restraint;
- any physical restraint that **obstructs the airway** of a student;
- any physical restraint that **impacts a student's primary mode of communication**; • **chemical** restraint ("chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.);and
- **mechanical** restraint ("mechanical restraint" means any device or object used to limit a student's movement).

**Seclusion** means placement of a student in a location where:

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

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

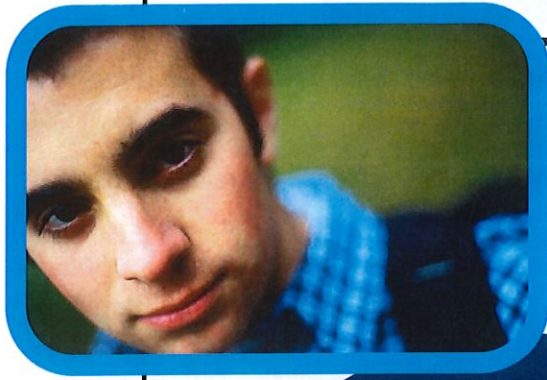
When a student is placed in seclusion, a school employee shall be able to **see and hear the student** at all times.

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

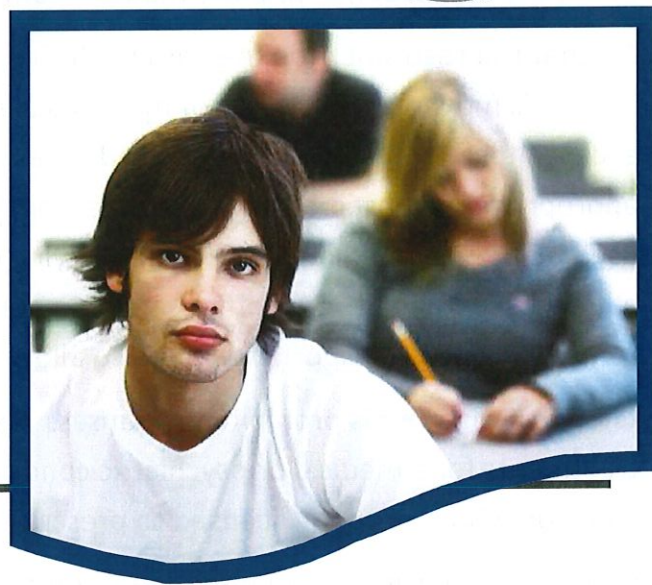
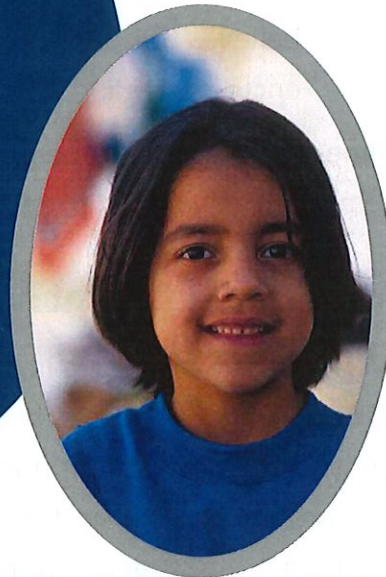
A seclusion room must be a **safe place**. The room must have good ventilation and lighting, and be free of any condition that could be a danger to the student. The room must also be similar to other rooms where students frequent.

Seclusion is **not time-out**, which is a behavioral intervention in which a student is temporarily removed from a learning activity without being confined.





**A Family Guide  
to the Use of  
Emergency Safety  
Interventions and  
Parental Rights:  
Seclusion and  
Restraint in  
Kansas**



## What are Emergency Safety Interventions?

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

## What is Seclusion?

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

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

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

## What is Restraint?

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

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

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

Consensual, solicited, or unintentional contact and contact to provide comfort, assistance, or instruction is not physical restraint.

## When May Emergency Safety Intervention be Used?

- May only be used when a student presents a reasonable and immediate danger of physical harm to self or others with the present ability to cause physical harm or property damage.
- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any ESI.
- The use of ESI must stop as soon as the immediate danger of physical harm ends.
- ESI cannot be used for purposes of discipline, punishment, or for the convenience of a school employee.



### **Students with a known medical condition.**

- An emergency safety intervention may not be used with a student if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention.
- The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file.
- The written statement must include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions.
- An emergency safety intervention may still be used if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

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

## What are the Requirements for Seclusion?



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

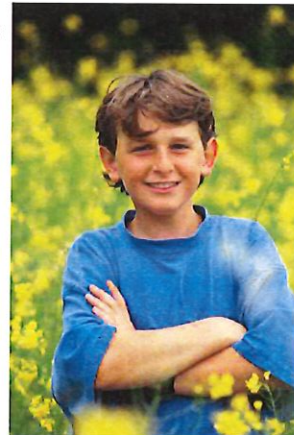
All seclusion rooms that have a locking door must be designed to make sure that the lock automatically disengages when the school employee watching the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

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

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

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

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



**Tip!**

If your child has a history of seclusion and restraint or challenging behavior, he or she could be eligible for additional supports and interventions. Parents are welcome to contact Families Together, Inc. to discuss possible options.

## Are There Requirements for Meetings Following an Emergency Safety Intervention?

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

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

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



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

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

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

## Are Students Required to Attend the Meeting?

The parent shall determine whether the student shall be invited to any meeting.

## When Must a Parent be Notified an ESI has been Used?

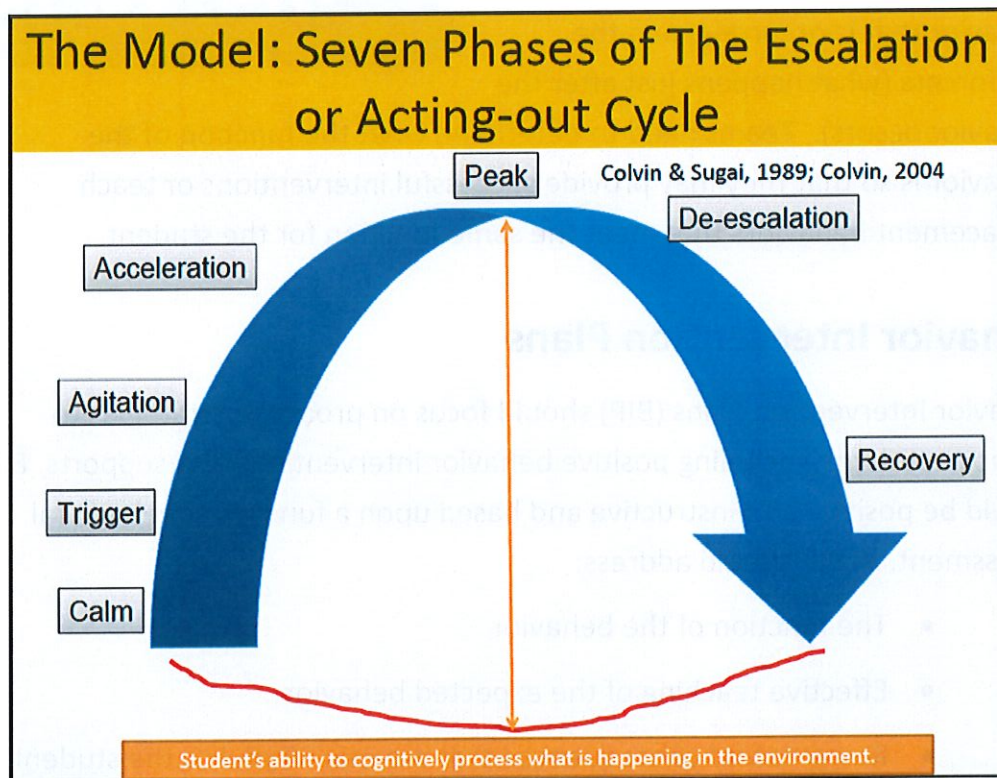
- The school must notify the parent the same day the ESI was used. The school shall attempt to contact the parent using at least two methods of contact.
- Written documentation of the ESI used must be completed and provided to the parent by the following school day, ESI was used. Written documentation must include:
  - The events leading up to the incident;
  - student behaviors necessitating the ESI
  - steps taken to transition the student back into the educational setting
  - the date and time the incident occurred, the type of ESI used, the duration of the ESI and the school personnel who used or supervised the ESI
  - space or an additional form for parents to provide feedback or comments to the school regarding the incident
  - a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of ESIs
  - School email and phone contact for the parent to schedule the ESI meeting.
- The parent must be provided with the following information in writing or, upon the parent's written request, by email, after the first ESI incident in a school year and provided with this information after subsequent ESI incidents through a web address:
  - A copy of the standards of when ESI can be used;
  - A flyer on the parent's rights under ESI law;
  - Information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the Kansas State Board of Education; and
  - Information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas.



# A Focus on Prevention

## Why focus on Positive Interventions?

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

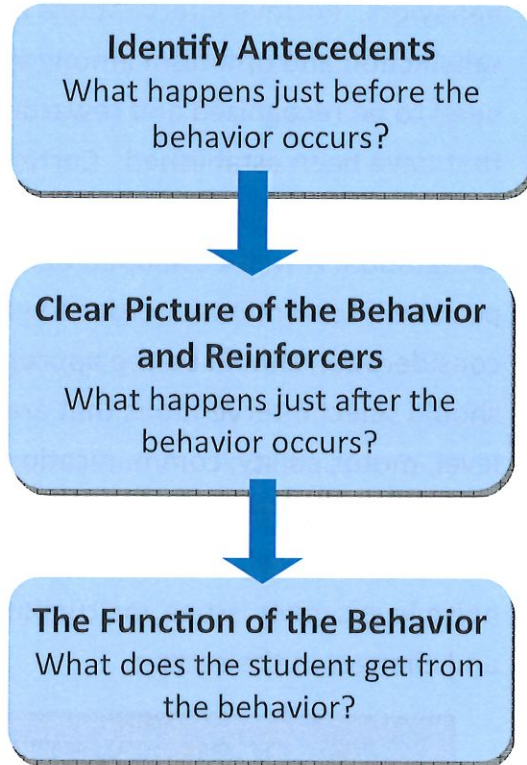


De-escalation is helpful to begin to identify acting out behavior early and use proactive strategies to decrease the use of seclusion and restraint.

# A Focus on Prevention

## Functional Behavioral Assessments

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



## Behavior Intervention Plans

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

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

# A Focus on Prevention

## Replacement Behaviors

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

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



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

### The Kansas State Department of Education

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

**Tip!**

An FBA can be conducted at any time for a student who does not respond to school-wide behavioral interventions. Following the assessment, a behavior intervention plan may be developed. As a parent, you have the right to request an FBA.

**Where can I find out more  
information about  
Emergency Safety Interventions  
(Seclusion and Restraint)?**



**Families Together, Inc.**  
[www.familiestogetherinc.org](http://www.familiestogetherinc.org)

Topeka Parent Center  
1-800-264-6343  
[topeka@familiestogetherinc.org](mailto:topeka@familiestogetherinc.org)

Wichita Parent Center  
1-888-815-6364  
[wichita@familiestogetherinc.org](mailto:wichita@familiestogetherinc.org)

Garden City Parent Center  
1-888-820-6364  
[gardencity@familiestogetherinc.org](mailto:gardencity@familiestogetherinc.org)



**Kansas Parent Information  
Resource Center (KPIRC)**  
1-866-711-6711  
[www.kpirc.org](http://www.kpirc.org)

**Kansas State Department  
of Education (KSDE)**  
1-800-203-9462  
[www.ksde.org](http://www.ksde.org)  
[www.ksdetasn.org](http://www.ksdetasn.org)



## **Local Dispute Resolution Guide for Parents**

If a parent believes that an emergency safety intervention has been used on the parent's child in violation of state law or board policy, the parent may file a complaint as specified below. 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. Once an informal complaint is received, the administrator handling such complaint shall investigate such matter, as deemed appropriate by the administrator. In the event that the complaint is resolved informally, the administrator must provide a written report of the informal resolution to the superintendent and the parents and retain a copy of the report at the school. The superintendent will share the informal resolution with the board of education and provide a copy to the state department of education. If the issues are not resolved informally with the building principal and/or the superintendent, the parents may submit a formal written complaint to the board of education by providing a copy of the complaint to the clerk of the board and the superintendent within thirty (30) days after the parent is informed of the incident.

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 of fact and recommended corrective action, if any, to the board in executive session.

Any such investigation must be completed within thirty (30) days of receipt of the formal written complaint by the board clerk and superintendent. On or before the 30th day after receipt of the written complaint, the board shall adopt written findings of fact and, if necessary, appropriate corrective action. A copy of the written findings of fact and any corrective action adopted by the board shall only be provided to the parents, the school, and the state department of education and shall be mailed to the parents and the state department within 30 days of the board's receipt of the formal complaint.

If desired, a parent may file a complaint under the state board of education administrative review process within thirty (30) days from the date a final decision is issued pursuant to the local dispute resolution process.

## **State Board Administrative Review Process**

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

- If a parent believes an emergency safety intervention was used in violation of K.S.A. 2016 Supp. 72-89d01 through -89d09 or K.A.R. 91-42-1 through -7 and the parent filed a written complaint with their local board of education, then this parent may request an administrative review of the local board's decision from 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](http://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.

# **State Administrative Review Guide for Parents**

Written request must include:

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

You may use the form on the KSDE website, [www.ksde.org/Default.aspx?tabid=524](http://www.ksde.org/Default.aspx?tabid=524).

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.

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 for discipline, punishment, or convenience.
- Emergency safety intervention was used with your child and you have provided school staff with documentation from your child's licensed health care provider that 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.

## **State and Community Resources**

### **General Emergency Safety Intervention Information:**

[www.ksdetasn.org](http://www.ksdetasn.org)

[www.ksde.org/Default.aspx?tabid=524](http://www.ksde.org/Default.aspx?tabid=524)

### **Emergency Safety Intervention Questions:**

Laura Jurgensen

Kansas State Department of Education

[ljurgensen@ksde.org](mailto:ljurgensen@ksde.org)

785-296-5522

### **Parent Training and Information Center:**

Families Together

<http://famielstogetherinc.org/>

888-815-6364

### **Protection and Advocacy System:**

Disability Rights Center of Kansas

<http://www.drckansas.org/>

877-776-1541 or 785-273-9661

An official State of Kansas government website. [Here's how you know.](#)

## Agency 91

### State Department of Education

#### Article 42.—Emergency Safety Interventions

[Printable Format](#)

**91-42-1. Definitions.** As used in this article of the department's regulations, each of the following terms shall have the meaning specified in this regulation: (a) "Administrative review" means review by the state board upon request of a parent.

(b) "Area of purposeful isolation" means any separate space, regardless of any other use of that space, other than an open hallway or similarly open environment.

(c) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

(d) "Commissioner" means commissioner of education.

(e) "Complaint" means a written document that a parent files with a local board as provided for in this article of the department's regulations.

(f) "Department" means the state department of education.

(g) "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.

(h) "Emergency safety intervention" means the use of seclusion or physical restraint.

(i) "Hearing officer" means the state board's designee to conduct an administrative review as specified in K.A.R. 91-42-5. The hearing officer shall be an officer or employee of the department.

(j) "Incident" means each occurrence of the use of an emergency safety intervention.

(k) "Local board" means the board of education of a district or the governing body of any accredited nonpublic school.

(l) "Mechanical restraint" means any device or object used to limit a student's movement.

(m) "Parent" means any of the following:

- (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 foster parent's child is a student with an exceptionality; or
- (7) a student who has reached the age of majority or is an emancipated minor.

(n) "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.

(o) "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.

(p) "Purposefully isolate," when used regarding a student, means that school personnel are not meaningfully engaging with the student to provide instruction and any one of the following occurs:

- (1) Removal of the student from the learning environment by school personnel;
- (2) separation of the student from all or most peers and adults in the learning environment by school personnel; or
- (3) placement of the student within an area of purposeful isolation by school personnel.

(q) "School" means any learning environment, including any nonprofit institutional day or residential school or accredited nonpublic school, that receives public funding or is subject to the regulatory authority of the state board.

(r) "Seclusion" means placement of a student for any reason other than for in-school suspension or detention or any other appropriate disciplinary measure in a location where both of the following conditions are met:

- (1) School personnel purposefully isolate the student.
- (2) The student is prevented from leaving, or the student has reason to believe, that the student will be prevented from leaving, the area of purposeful isolation.

(s) "State board" means Kansas state board of education.

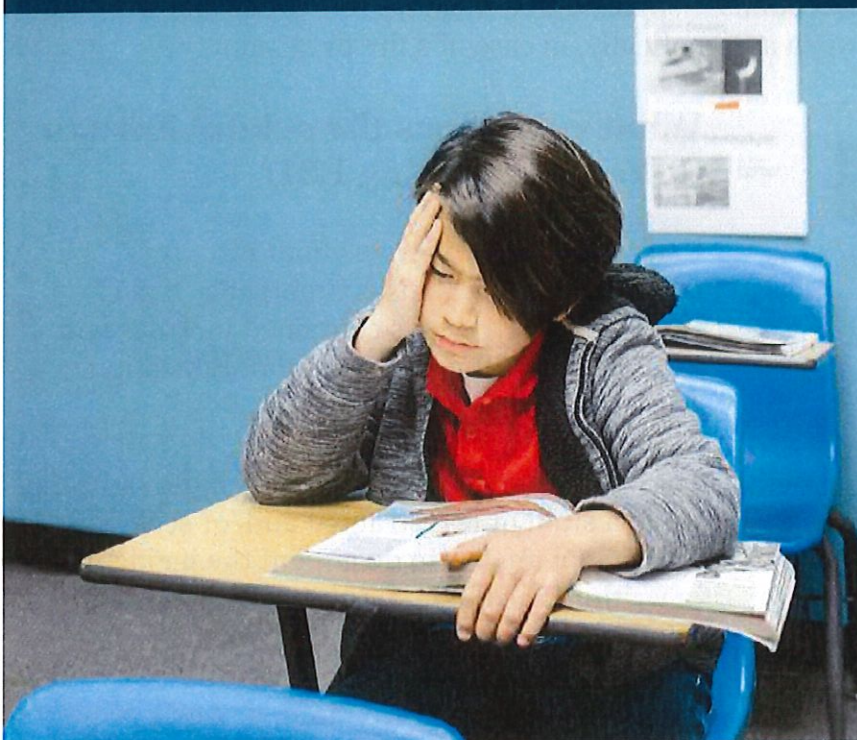
(t) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded.

(Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective April 19, 2013; amended, T-91-2-17-16, Feb. 17, 2016; amended June 10, 2016; amended July 7, 2017; amended June 9, 2023.)

[Printable Format](#)



# WHAT IS EMERGENCY SAFETY INTERVENTION (ESI)?



## KNOW YOUR SPECIAL EDUCATION RIGHTS: A GUIDE FOR PARENTS AND STUDENTS IN KANSAS

This flyer is part of a series of one-page flyers covering over 30 Special Education topics. They are designed to give you “just in time” information for each step of the Special Education process. You can download the whole series in the form of an extensive booklet, or simply choose the topics and view the individual flyers as you need them. See the whole series here.



SCAN ME

[drckansas.org/spedrights](http://drckansas.org/spedrights)

[famielstogethertnc.org/?page\\_id=5847](http://famielstogethertnc.org/?page_id=5847)

An Emergency Safety Intervention (ESI) is the restraint and/or seclusion of a student. The law allows it when a student is at immediate risk of hurting themselves or someone else or is damaging property. Seclusion and restraint must only be used in an emergency. Schools must attempt less restrictive ways first. When this is not possible, the law may allow restraint and/or seclusion. The school must stop the seclusion or restraint as soon as the student is no longer a threat to themselves or others.

Restraint and seclusion are not punishments. The school cannot use them in this way. They are only used when a student's behavior is immediately harmful.

## What is restraint?

Restraint is used to make a person move less. It is done in two ways:

- A person uses their body to stop a student from moving as much
- A tool is used to stop someone from moving as much (for example: handcuffs)

There are types of restraint that cannot ever be used. These include restraint where the student is face-down, face-up, or where the student can't breathe or cannot communicate.

## Restraint & Seclusion

<https://tinyurl.com/mvksh834>



SCAN ME

# What is seclusion?

Seclusion is all three of the following:

- A school employee puts a student in an enclosed area;
- The area is separated from other people on purpose; and
- The student is not allowed to leave the area or they think that they are not allowed to leave the area

Some schools have a separate seclusion room. Having a separate room is not a requirement for something to be seclusion. It may be a separate part of another room. A school person must be able to see and hear the student at all times. If the door is locked, it must open automatically, in case of a fire or storm.

## Sources & Additional Resources:



**[Notifying a parent of ESI](https://tinyurl.com/2j29a68m)**  
<https://tinyurl.com/2j29a68m>



**[Options for complaints after ESI](https://tinyurl.com/y4rfus92)**  
<https://tinyurl.com/y4rfus92>



**[Restraint & Seclusion](https://tinyurl.com/mvksh834)**  
<https://tinyurl.com/mvksh834>



**[A Family Guide to the Use of Emergency Safety Interventions and Parental Rights](https://tinyurl.com/edyrrzun)**. Families Together, Inc.  
<https://tinyurl.com/edyrrzun>



**[Emergency Safety Intervention \(ESI\) Regulations](http://tinyurl.com/36fzyuws)**. Kansas State Department of Education.  
<http://tinyurl.com/36fzyuws>

## What rules does the school have to follow when using ESI?

Kansas has a specific law about ESI. It is referred to as the Kansas Emergency Safety Intervention Law. It is contained in Rules and Regulations of the State Board of Education. The school must follow it.

The school must tell the parents on the same day when a student is restrained and/or secluded. The school must also document the incident in writing. See the first link on the left called "Notifying a parent of ESI."

If an ESI is used on your child, you may request a meeting with the school to talk about it. The school must hold this meeting within 10 school days of your request.

ESI cannot be used if your child has a health condition that will put them at risk of harm if it is used. To protect your child, have a health care provider write a statement explaining the health condition and why ESI cannot be used. It must also list things that the school could do instead of ESI. You must share that document with the school and they will put it in your child's file. If you do that, ESI cannot be used on your child.

**Disclaimer:** This fact sheet is not intended to provide specific legal advice. If you need legal advice, please contact an attorney. Only an attorney can give you specific legal advice based on your particular situation. We try to update our materials regularly, but the law can change frequently. This publication is based on the law at the time that it was written. Future changes in the law could make information in this fact sheet inaccurate.



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[info@drckansas.org](mailto:info@drckansas.org)



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1-800-264-6343  
[contactus@familiestogetherinc.org](mailto:contactus@familiestogetherinc.org)