



Emergency Safety Intervention Parent Information

2024-25

If an emergency safety intervention occurs, parents are strongly encouraged to contact the building principal to schedule a meeting to: 1) discuss the incident and 2) discuss prevention of future use of emergency safety interventions. 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.

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



1.1 Emergency Safety Interventions

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 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.

1.1.1 Emergency Safety Intervention Definitions

1.1.1.1 Area of Purposeful Isolation

“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.

1.1.1.2 Campus Police Officer

“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.

1.1.1.3 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.

1.1.1.4 Emergency Safety Intervention

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

1.1.1.5 Incident

“Incident” means each occurrence of the use of an emergency safety intervention.

1.1.1.6 Law Enforcement Officer/Police Officer

“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 office.



1.1.1.7 Legitimate Law Enforcement Purpose

“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.

1.1.1.8 Mechanical Restraint

“Mechanical Restraint” means any device or object used to limit a student’s movement.

1.1.1.9 Parent

“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;
- A student who has reached the age of majority or is an emancipated minor.

1.1.1.10 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. “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.

1.1.1.11 Purposefully Isolate

“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:

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



1.1.1.12 School Resource Officer

“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.

1.1.1.13 Seclusion

“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 to be 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.

1.1.1.14 Time-Out

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

1.1.2 *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:
 - 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.
 - Any device used by a certified law enforcement officers to carry out law enforcement duties; or
 - Seatbelts and other safety equipment when used to secure students during transportation.



1.1.3 *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 such 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.

1.1.4 *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.

1.1.5 *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 students frequent. Such area shall be free of any condition that could be a danger to the student, well-ventilated, and sufficiently lighted.

1.1.6 *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 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 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 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.

1.1.7 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: (1) a copy of this policy which indicates when ESI can be used; (2) a flyer on the parent's rights; (3) information on the parent's right to file a complaint through the local dispute resolution process (which is set forth in this policy) and the complaint process of the state board of education; and (4) 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.



1.1.8 *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.

1.1.9 *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, and
- School personnel who participated in or supervised the ESI.
- Whether the student has 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 shall review the documentation of ESI incidents with appropriate staff members to consider the appropriateness of the use of ESI in those instances.

1.1.10 *Reporting Data*

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

1.1.11 *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 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 such 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.

1.1.12 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.

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.

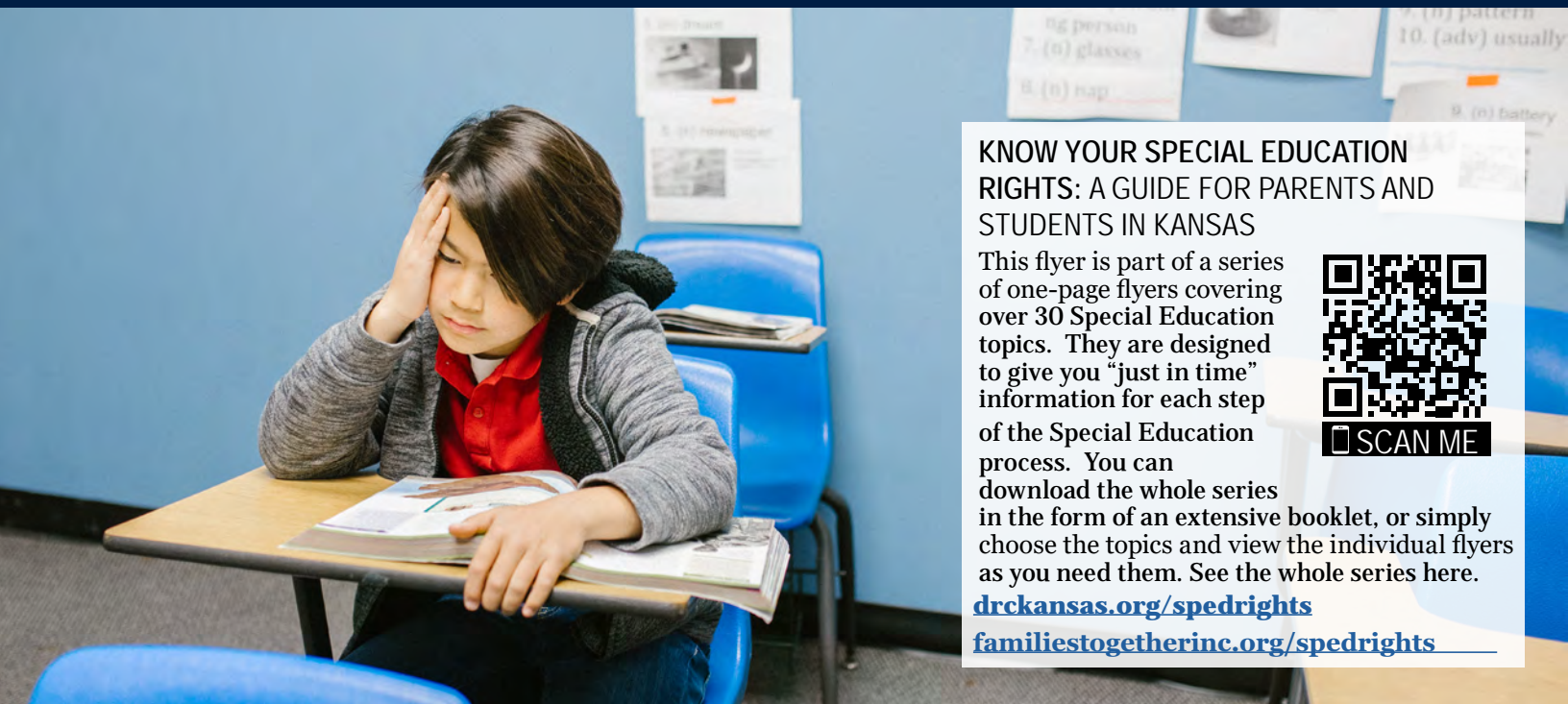
If a seclusion room has a locking door it must be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

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.



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.



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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>



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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/edyrzun). Families Together, Inc.
<https://tinyurl.com/edyrzun>



[Emergency Safety Intervention \(ESI\) Regulations](https://tinyurl.com/bae36ejs). Kansas State Department of Education.
<https://tinyurl.com/bae36ejs>

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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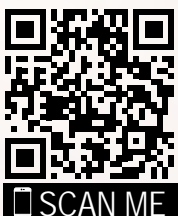
www.familiestogetherinc.org
1-800-264-6343
contactus@familiestogetherinc.org



RESTRAINT & SECLUSION

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

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Restraint is one form of an Emergency Safety Intervention (ESI). Kansas law allows restraint only in very limited situations. It must be an emergency situation. To be an emergency situation, the student must be actively hurting or about to hurt himself, herself or someone else. Or, the student must be significantly damaging property. Restraint is a last resort. Other things should be tried first.

Restraint is used to make a person move less. It is done when a person uses their body to stop a student from moving as much.

Not all types of touching are physical restraint. Kansas law lets school employees touch your child to offer comfort or to help them. They can briefly touch your child's arm, wrist, or back to help guide your child to go to a safe place.

There are some things that the school can never do. When using restraint, a school CANNOT:

- Lay a student on their stomach face down
- Lay a student on their back face up
- Do anything to block a student's airway
- Take away a student's ability to speak - If a student speaks with their hands, like sign language, the restraint cannot involve their hands.

- Use medication to stop a student from moving. There is one exception to this. If a student is prescribed medicine for a medical condition, the school can administer the medication in the prescribed dosage.

- Use any object or device to stop a student from moving (also called mechanical restraint).

There are two exceptions to this:

- A tool or object that is ordered by a professional can be used. This might be a stabilizing or protective device that the student needs.
- A tool or object that is required by law or law enforcement can be used. Examples of these are seatbelts and handcuffs. Only a law enforcement officer can use handcuffs.

If your child has a medical condition that will put them at risk if restraint is used, then restraint cannot be used. A health care provider must write a statement that says this. It will explain your child's diagnosis and why restraint cannot be used. It will also list things that the school could do instead of restraint. You must share that document with the school and they will put it in your child's file.

Seclusion is another form of an Emergency Safety Intervention (ESI). Kansas law sometimes allows it in emergency situations.

Seclusion is when three things happen:



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

These are some of the rules the school must follow during seclusion:

- A school employee can see and hear the student at all times
 - For example: If there is a closed door and the student is alone, a window is needed to see and hear the student
- There cannot be anything dangerous in the secluded area
- The student needs enough air flow and light
- The area needs to be similar to other rooms where students go
- The student cannot be locked alone in a room
 - If the room has a door that locks, it cannot stay locked if a school employee walks away from the area

This list does not include all seclusion rules.

Will the school tell me if they use restraint and/or seclusion on my child?

When restraint and/or seclusion is used with your child, the school must notify you the same day it was used. You can require a meeting with the school to discuss the use of restraint and/or seclusion on your child. Contact the school to set this meeting. The team has to meet within 10 school days of your request. The focus of the meeting is to help prevent the use of restraint or seclusion against your child in the future.

Additionally, if your child has an IEP or Section 504 plan, you can ask for a meeting with your child's team to discuss how to prevent the need for restraint or seclusion. In the meeting, you will talk about your concerns. The team will describe what happened with the use of restraint and/or seclusion. You and the team should focus on ways to prevent restraint or seclusion in the future. This could mean evaluating your child or creating a behavioral intervention plan. If your child already has a behavioral intervention plan, the team should think about making changes.

If you find out that restraint or seclusion was used on your child and you were not told or the ESI did not follow the law, contact the Disability Rights Center of Kansas at 1-877-776-1541.

Sources & Additional Resources:



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



[What is ESI?](https://tinyurl.com/hnab9pjw)
<https://tinyurl.com/hnab9pjw>



[Notifying a parent of ESI](https://tinyurl.com/2j29a68m)
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NOTIFYING A PARENT OF ESI

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What happens if the school uses restraint or seclusion on my child?

The school must let you know if they use restraint or seclusion on your child on the same day they used it. Restraint and Seclusion are also called Emergency Safety Interventions (ESI). If the school cannot reach you, they will contact your child’s emergency contact. In total you will get two notifications – the day of and the follow-up in writing.

The next day the school must give you a written record of information including:

- Date and time the ESI was used
- Type of restraint or seclusion
- How long it lasted
- Name of the school employee that used the ESI
- What happened before the restraint or seclusion was used
- Your child’s behavior that caused the ESI to be used
- Steps that the school took to get your child back to his or her classroom after the use of restraint or seclusion
- Statement encouraging you to schedule a meeting about the event
- Email and phone number of who you should contact to schedule that meeting

The written record from the school will include space for you to give comments, or the school will provide you with a separate form for your comments.



Sources & Additional Resources:



How can I file a complaint if ESI was used on my child?

<https://tinyurl.com/y4rfus92>



What is ESI?

<https://tinyurl.com/hnab9pjw>



Restraint & Seclusion

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Emergency Safety Intervention (ESI) Regulations. Kansas State Department of Education.

<https://tinyurl.com/bae36ejs>

After the first time an ESI is used with your child, the school has to provide you with a printed form including:

- A document explaining when ESI can be used
- A copy of your parent rights
- How to file a complaint
- Information that can help you during the complaint process.
 - This includes information on Families Together, Inc. and the Disability Rights Center of Kansas

You can request a meeting to talk to the school about what happened. It is a good idea to make this in writing. They have to hold the meeting within 10 school days of your request.

If you are upset with the ESI that was used on your child, you have options. See the first link on the left for options for complaints after the use of ESI.

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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HOW CAN I FILE A COMPLAINT IF ESI WAS USED ON MY CHILD?

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

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The use of seclusion and restraint is called Emergency Safety Interventions (ESI) in Kansas. If you have concerns, you have options when the school uses restraint or seclusion on your child. There are four ways to voice your concerns.

1. Have a meeting with the school about the ESI

You can request a meeting by either calling the school or making the request in writing. It is recommended to make your request in writing, either handwritten, typed, or by email. Then you have documentation. The school has to have the meeting within 10 school days of your request. You can ask for an extension if the school schedules a meeting at a time you can't go. The goal of this meeting is to try to prevent the need to use ESI in the future. The meeting should be about steps to take to reduce the use of ESI on your child. The meeting should include you, a school leader, one of your child's teachers, the school employee who used the ESI and others who are invited by the school. Your child can come to the meeting. In the meeting, you can talk about how to avoid restraint or seclusion in the future. You can also talk about your child's IEP or Section 504 plan. If changes need to be made to the IEP or 504 Plan, then an IEP or 504 plan team meeting should be scheduled. The team must talk about the ESI and consider a functional behavior analysis (FBA), make a behavior intervention plan (BIP) or change the FBA or BIP the student already has.

2. Have a meeting with the principal

You may want to talk to the principal if you are concerned about the incident. You may also want to talk to the principal if you are concerned that the law was not followed.

3. File a written complaint with the local school board

You can write a complaint to the local school board if you think that the school did not follow the law when they used restraint or seclusion on your child. You must file your complaint within 30 days after you were told about the incident. In your complaint, give details to the members of the school board why you believe that the law was not followed. The school board will do an investigation. They have 30 days to tell you the results of the investigation.

4. Request an administrative review by the state board of education

If you do not get a decision from the local school board within 30 days or you do not agree with the decision of the local school board's investigation, you can ask the State board of education to do an investigation. You must do this within 60 days of asking the local school board. The Kansas State Board of Education may talk to you and your local board or school staff. You will be informed of the decision 60 days after your complaint was received.

Sources & Additional Resources:



[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.](https://tinyurl.com/bae36ejs) Kansas State Department of Education.
<https://tinyurl.com/bae36ejs>



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



[What is ESI?](https://tinyurl.com/hnab9pjm)
<https://tinyurl.com/hnab9pjm>



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

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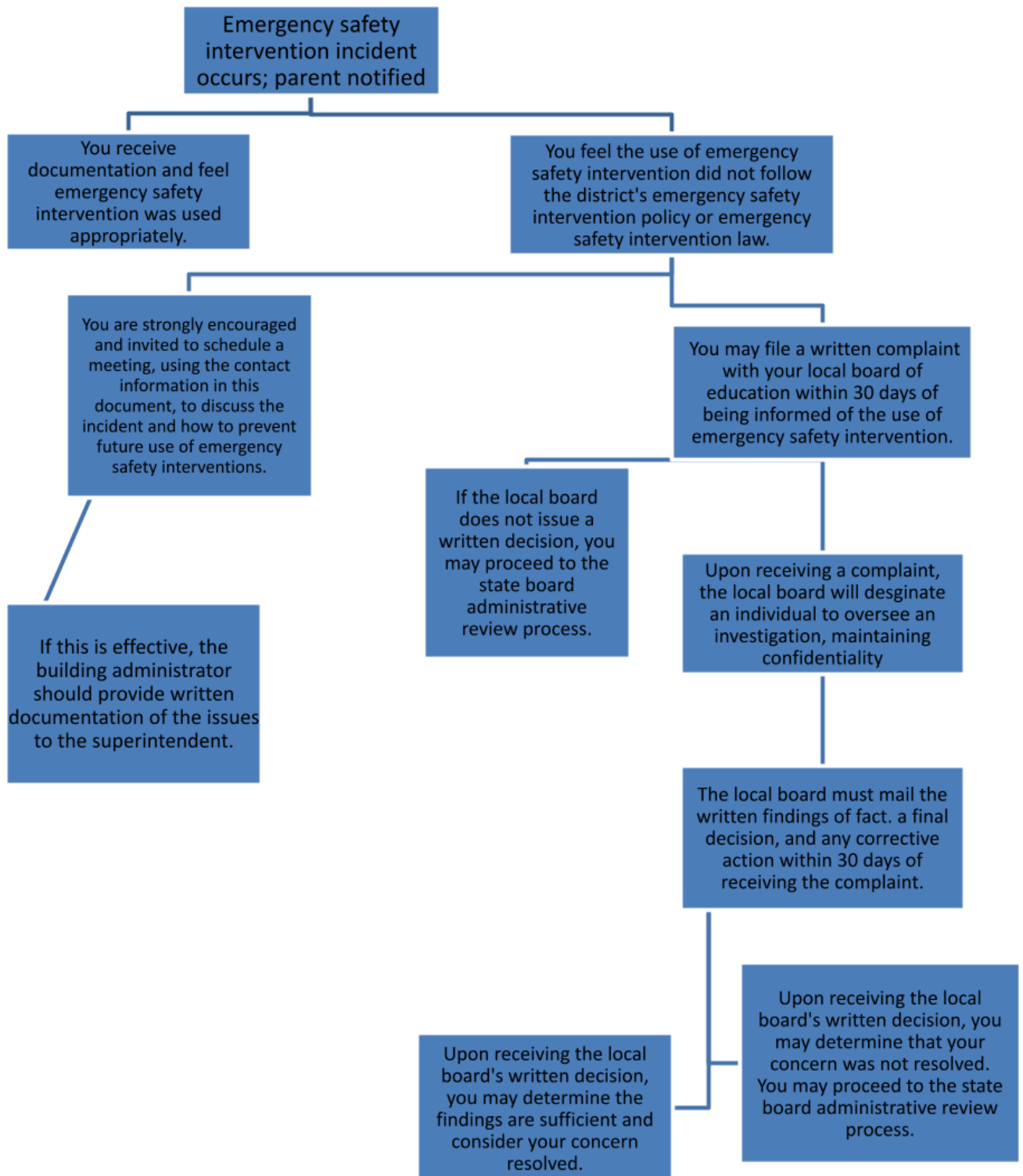
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Local Dispute Resolution Guide for Parents



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.
- 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.

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

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

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

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

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

www.ksde.org/Default.aspx?tabid=524

Emergency Safety Intervention Questions:

Brian Dempsey

Kansas State Department of Education

(785) 296-6518

bdempsey@ksde.org

Parent Training and Information Center:

Families Together

<http://familiestogetherinc.org/>

(888) 815-6364

Protection and Advocacy System:

Disability Rights Center of Kansas

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

(877) 776-1541 or (785) 273-9661