



## **Emergency Safety Intervention Parent Information**

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If an emergency safety intervention was used with a student, we invite and strongly encourage parents to schedule a meeting to discuss the incident and how to prevent future use of an emergency safety intervention. A parent can request and schedule this meeting by going to the back page for the person to contact who will work to schedule this meeting with the required participants. This meeting will be scheduled no later than 10-school days from when the parent makes the request unless the parent cannot meet within that time frame.

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**Abilene Elementary School**

**[www.usd262.net](http://www.usd262.net)**

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## 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.

# Emergency Safety Intervention

## DEFINITIONS

### Emergency Safety Intervention

- Means the use of seclusion or 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.

### Seclusion

- Means the placement of a student in a location where all of the following are met:
- The student is placed in an enclosed area by school personnel
- The student is purposefully isolated from adults and peers
- The student is prevented from leaving or the student reasonably believes that such student will be prevented from leaving the enclosed area

## What Parents Need to Know:

- ESI shall only be used when the student presents a reasonable and immediate danger of physical harm to self or others with the present ability to effect such physical harm.
- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances prior to emergency safety intervention being used.
- The use of emergency safety intervention must stop immediately when the danger of physical harm ends.
- Violent action that is destructive of property may necessitate the use of emergency safety intervention.
- Emergency safety intervention must not be used for discipline, punishment, or the convenience of a school employee.
- 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.
- When a student is placed in seclusion, a staff member must be able to see and hear the student at all times.

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

### **Families Together, Inc.**

Topeka Parent Center- 1-800-264-6343

[topeka@famiestogetherinc.org](mailto:topeka@famiestogetherinc.org)

Wichita Parent Center- 1-888-815-6364

[wichita@famiestogetherinc.org](mailto:wichita@famiestogetherinc.org)

Garden City Parent Center- 1-888-820-6364

[gardencity@famiestogetherinc.org](mailto:gardencity@famiestogetherinc.org)

Kansas City Parent Center- 1-877-499-5369

[kansascity@famiestogetherinc.org](mailto:kansascity@famiestogetherinc.org)

### **Disabilities Rights Center of Kansas**

214 SW 6th Ave Suite 100, Topeka, KS 66603

(785) 273-9661

### **Kansas Parent Information Resource Center**

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)

## **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.

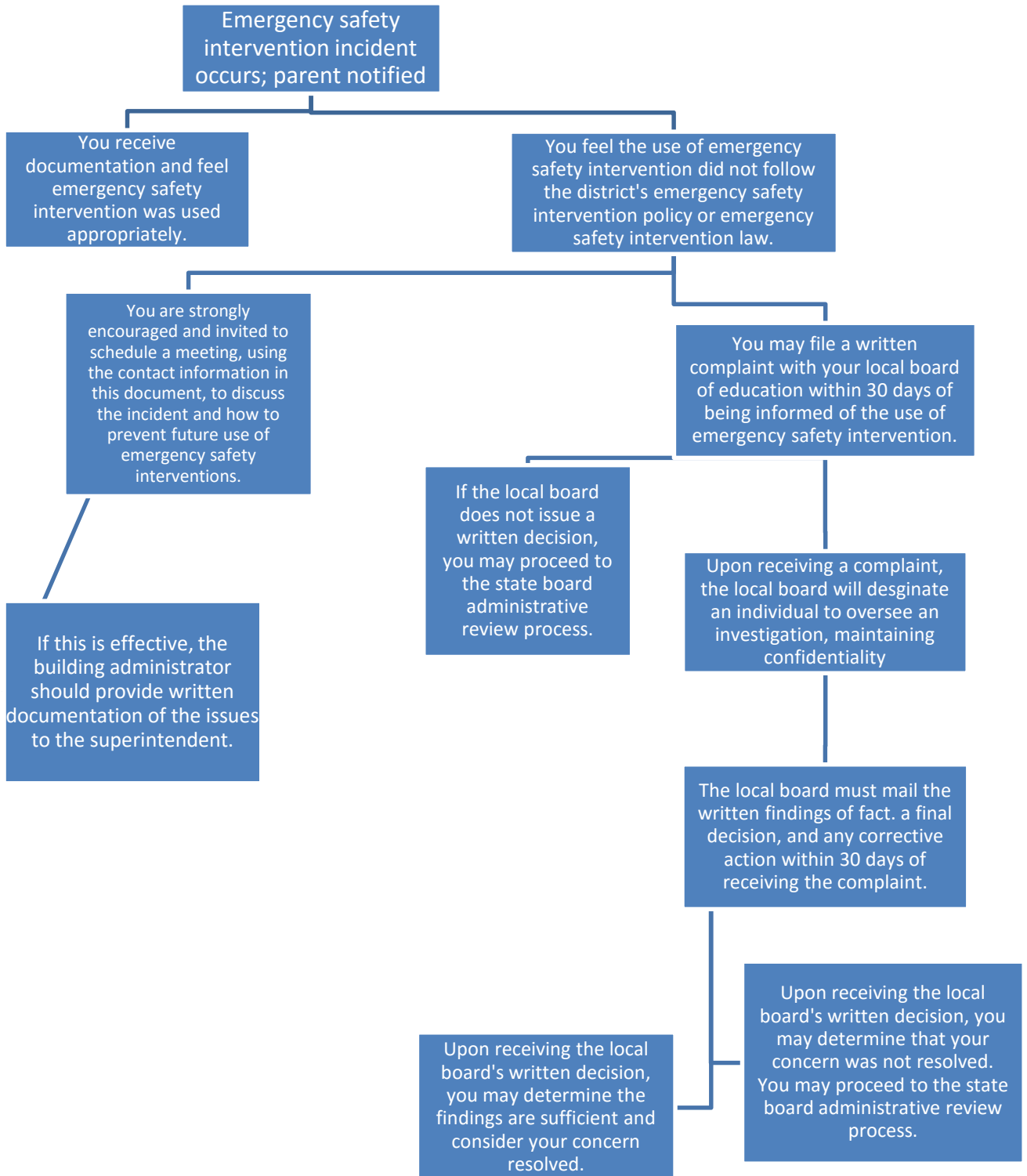
The board of education encourages parents to attempt to resolve issues relating to the use of ESI informally with the building principal and/or the superintendent before filing a formal complaint with the board. Once an informal complaint is received, the administrator handling such complaint shall investigate 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 of the school district and the parents and retain a copy of the report at the school. The superintendent will share the informal resolution with board and the superintendent will 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 district's board of education by providing a copy of the complaint to the clerk of the district's board of education or to the and the Superintendent or the 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 thirty (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.

# 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 (KSBE).

- 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 KSBE.
  - 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.
- A Hearing Officer will be designated by KSBE. 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 active 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 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.

Mail this request to the Commissioner of Education, Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Office of General Counsel, Room 102, Topeka, Kansas 66612

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

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.

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

A request for an administrative review may include, but is not limited to, the following allegations:

- An emergency safety intervention was used with your child when your child did not present a reasonable and immediate danger of physical harm to themselves or others with the present ability to effect such physical harm.
- The district used a form of banned restraint including prone, supine, physical restraint that obstructs the airway of your child, physical restraint that impacts your child's primary mode of communication, chemical or mechanical restraint that does not meet an exception.
- Less restrictive alternatives to emergency safety intervention were not deemed inappropriate or ineffective before emergency safety intervention was used.
- The use of emergency safety intervention with your child did not stop as soon as the immediate danger of physical harm stopped.
- emergency safety intervention was used with your child 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.

## **Contact Information**

### **Local**

#### **District Administrator Contact for Emergency Safety Intervention Questions**

Cory Gibson, Superintendent

316-755-7000

cory.gibson@usd262.net

#### **School Administrator Contact for Emergency Safety Intervention Questions or to Schedule a Meeting to Discuss the Use of Emergency Safety Intervention**

Mark Hoy, Principal Abilene Elementary School

316-755-7020

mark.hoy@usd262.net

[www.usd262.net](http://www.usd262.net)

### **State**

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

<http://ksdetasn.org/tasn/emergency-safety-interventions-esi-resources>

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

Laura Jurgensen or Julie Ehler

Kansas State Department of Education

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

785-296-5522 or 785-296-1944

#### **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