

### **Emergency Safety Interventions (ESI)**

Emergency Safety Interventions (ESI) refers to the use of seclusion or physical restraint. District personnel may use seclusion and/or physical restraint only when less restrictive alternatives were determined by a school employee to be inappropriate or ineffective, and when a student's behavior presents an immediate danger to self or others. Violent actions that are destructive of property may necessitate the use of ESI. The use of ESI shall stop as soon as the immediate danger of physical harm ceases to exist.

#### **ESI Restrictions**

1. Use of ESI for purposes of discipline, punishment or for the convenience of a school employee, is prohibited.
2. A student shall not be subjected to an ESI if the school has received appropriate written documentation provided by the student's licensed health care provider, stating the student has a medical condition that could put him/her in mental or physical danger because of an ESI. The written statement shall include the student's specific medical diagnosis, a list of reasons why ESI would be dangerous based on the diagnosis, and any suggested alternatives to ESI. A student may still be subject to an ESI if not using the ESI would result in significant physical harm to the student or others.

Campus Police Officers and School Resource Officers shall be exempt from the requirements of ESI when engaged in an activity with a legitimate law enforcement purpose. School security officers are not exempt from ESI requirements.

### **Seclusion**

"Seclusion" occurs when behaviors meet the conditions for conducting an ESI and a student is (1) purposely isolated from the learning environment and separated from most or all peers and adults by school personnel; and (2) is prevented from leaving, or has reason to believe he or she will be prevented from leaving the location of isolation. Both conditions must be present for seclusion to occur. The use of "Time Out" where a student is temporarily removed from a learning activity without being secluded, when used as part of a behavioral intervention, or the use of in-school suspension, out of school suspension, or any other appropriate disciplinary measures are not considered an ESI.

#### **Area of Isolation Restrictions**

1. During seclusion, a school employee shall see and hear the student at all times.
2. All areas of isolation equipped with a locking door to prevent exit, shall be designed to automatically disengage when the school employee moves away from the seclusion room.
3. All areas of isolation shall be a safe place with proportional and similar characteristics as those of other rooms where students frequent, including well-ventilated and sufficiently lighted.

### **Restraint**

"Physical restraint" occurs when student behaviors meet the conditions for conducting an ESI and bodily force is used to substantially limit a student's movement, except that consensual, solicited, or unintentional contact to provide comfort, assistance or instruction shall not be deemed physical restraint. Except in cases where the students' movements are substantially limited by bodily force the use of "Physical Escort" or 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 is not considered an ESI.

#### **Restraints Restrictions**

1. The use of prone physical restraint, supine physical restraint, physical restraint that obstructs the airway of a student, or any physical restraint that impacts a student's primary mode of communication is prohibited.
2. The use of chemical restraint, except as prescribed treatments for the student's medical or psychiatric condition by a person appropriately licensed to issue such treatments, is prohibited.

3. The use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a certified law enforcement officer in carrying out law enforcement duties, and seat belts or other safety equipment when used to secure students during transportation, is prohibited.

### **School Documentation of Incidence**

1. Each building shall maintain documentation any time ESI is used with a student. Such documentation must include all of the following: a) date and time of ESI; b) type of ESI; c) length of time the ESI was used; d) school personnel who participated in or supervised the ESI; and e) whether the student had an IEP, 504 plan, or behavior intervention plan at the time of the incident.
2. All documentation shall be provided to the building principal, or principal's designee who will maintain the documentation and review the data at least quarterly.
3. The principal or designee will submit the documentation on the final day of the fall and spring semester of each school year to the Superintendent or his/her designee.
4. The District designee will report incidents of using ESI to the Kansas State Department of Education ( "KSDE" ) as required.

### **Parent Notification and Documentation**

1. The principal or designee shall notify the parent the same day as the incident. The same-day notification requirement is satisfied if the school attempts at least two methods of contacting the parents (i.e. phone and text, or phone and email).
2. A parent may designate a preferred method of contact to receive notification.
3. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day.
4. Documentation of ESI shall be completed and provided to the parent within one (1) school day of the incident. The documentation will include: a) events leading up to the incident; b) student behaviors that necessitated the ESI; c) steps taken to transition the student back to the educational setting; d) the date and time of the incident, type of ESI used, 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 if the triggering issue necessitating the ESI's is the same.
5. Upon the first ESI each year, parents will be provided a printed copy, or upon written request, an email copy of: a) the ESI policy which indicates when ESI can be used; b) flyer of parent rights; c) information on the parent's right to file a complaint through the local dispute resolution process (which is set forth in this policy); d) the complaint process of the state board of education; and e) 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 second or subsequent incident, the parent shall be provided with a full and direct website address containing all such information.
6. If the school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint, including handcuffs, on a student, the school shall notify the parent the same day using the parents preferred method of contact. The school is not required to provide written documentation to the parent, nor document this law enforcement action as an ESI.

### **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. The student may be invited to attend the meeting at the discretion of the parent. The school shall hold this meeting within ten (10) school days of receiving the parent's request. The time for calling the meeting can be extended beyond the 10-day limit if the parent is unable to attend within that time period.

1. The focus of any such meeting shall be to discuss proactive ways to prevent the need for ESI and to reduce incidents in the future.

2. For a student with an IEP, the IEP Team shall also discuss the incident and consider whether to conduct a functional behavior assessment and/or whether a behavior intervention plan is needed, or existing plan needs to be modified.
3. For a student with a Section 504 Plan, the 504 Team shall also discuss the incident and consider whether to conduct a functional behavior assessment and/or whether a behavior intervention plan is needed, or existing plan needs to be modified. The Team should also discuss and consider if there is a need for a special education evaluation.
4. If the student with an IEP or Section 504 Plan is placed in a private school by the parent, the meeting shall include the parent and the private school. If a formal team meeting is held, the private school will help facilitate the meeting.
5. For a student without a Section 504 Plan or IEP, the school staff and parent shall discuss the incident and consider the appropriateness of a referral for special education evaluation, the need for a functional behavioral assessment, or the need for a behavior intervention plan. Any such meeting shall include the parent, a school administrator, at least one of the student's teachers, a school employee involved in the incident, and any other school employees designated by the school administrator.

Nothing in this section shall prohibit the development and implementation of a functional behavior assessment or a behavior intervention plan for any student if the student would benefit by the measures.

### **ESI Complaint Investigation Procedures**

1. If a parent believes that an ESI was used in violation of state law or board policy, the parent may file a written complaint within thirty (30) calendar days of notification of the disputed ESI. The "Request of Investigation of Emergency Safety Intervention (ESI)" shall be accessible on the Blue Valley District website.
2. The Board of Education has delegated to the Superintendent or his/her designee the authority to receive parental written complaints regarding the use of ESI.
3. Upon receipt of a complaint, the Superintendent or his/her designee will investigate the complaint and develop a written report which will include findings of fact, conclusions relevant to the requirements of this policy or regulations of the KSDE; and, if necessary, corrective actions to remedy an instance of noncompliance.
4. The written report will be submitted to the parents, the school, the Board of Education, and to the KSDE within thirty (30) calendar days from the date the complaint is received in the Superintendent's office.
5. A parent may file a request for administrative review by the Kansas State Board of Education within thirty (30) calendar days from the date a final decision is issued pursuant to the local dispute resolution process.

### **Annual Staff Training**

Staff members shall be trained regarding the use of positive behavioral intervention strategies, de-escalation techniques, and prevention techniques.

1. The District designee will schedule school personnel ESI training programs consistent with nationally-recognized training programs on the use of emergency safety interventions.
2. Training will be designed to meet the needs of personnel as appropriate to their duties and potential need for use of ESI procedures. Staff members deemed most likely to need to restrain a student will be provided a greater intensity of training.
3. The District designee will maintain written or electronic documentation of training provided and lists of participants in each ESI training program. This documentation will be made available for inspection by the state board of education upon request.

### **Appointment of Designee**

The Superintendent shall appoint a District staff member to implement the requirements of this policy for using Emergency Safety Interventions (ESI).

### **Board ESI Policy Notice**

Board Policy 3522 is published on the District's website, on each school's website, and the entire Board ESI Policy must be available in each school's student handbook, code of conduct, or school safety plan. Parents will be notified of the online availability of this policy annually during enrollment.

B.O.E. Adopted 12 Aug 2013  
B.O.E. Amended 08 Sep 2014  
B.O.E. Amended 10 Aug 2015  
B.O.E. Amended 08 Aug 2016  
B.O.E. Amended 18 Mar 2019

LEGAL REFERENCE: K.A.R.91-42-1 through 91-42-7.

Legal

K.A.R. 91-42-1 through 91-42-7|Office of KS Secretary of State

Cross References

3522 - Emergency Safety Interventions Guidelines