

Emergency Safety Interventions: What's New?

*Kansas State Department of
Education Annual Conference*

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AGENDA

- Review of emergency safety intervention statewide data from the two reporting periods in 2014-15
- Information from targeted technical assistance on-site visits regarding emergency safety interventions
- Information about the new emergency safety interventions state statutes and requirements



What Do the State Emergency Safety Intervention Data and School Visits Tell Us?

State Data for 2014-15

Reporting Period 1

- Buildings Reporting: 1380
- Schools reporting zero restraint: 947 (69%)
- Schools reporting zero seclusion: 1139 (83%)
- Average time per incident of restraint: 4 minutes
- Average time per incident of seclusion: 13 minutes

Reporting Period 2

- Buildings Reporting: 1445
- Schools reporting zero restraint: 1022 (71%)
- Schools reporting zero seclusion: 1181 (82%)
- Average time per incident of restraint: 3 minutes
- Average time per incident of seclusion: 11 minutes

State Emergency Safety Intervention Data for 2014-15 School Year

STATE DATA	NUMBERS OF PHYSICAL RESTRAINT	MINUTES OF PHYSICAL RESTRAINT	NUMBERS OF SECLUSION	MINUTES OF SECLUSION
Median - Reporting Period 1	0	0	0	0
Median - Reporting Period 2	0	0	0	0
+ 2 std. dev. Reporting Period 1	41	186	46	291
+ 2 std. dev. Reporting Period 2	27	81	32	328

What Corrections Were Needed Most Frequently?

- Posting a link to the district emergency safety intervention policy on the building website
- Including the complete policy in the student handbook, school safety plan, or code of conduct
- Ensuring that the district policy was consistent with the most recent revision of regulations

What Other Corrections Were Needed?

- Correctly applying the 3-part definition of seclusion
- Providing parents with notice of the written emergency safety intervention policy on an annual basis
- Written notification provided to parents for each occurrence of an emergency safety intervention
- Cooperative, interlocal, or service center programs providing information to parents regarding appropriate venue for complaints
- Establishing a process within the building for data review
- Providing data for Kan-Dis reporting to the responsible school
- Training requirements (all personnel trained to some degree, training addresses prevention techniques, de-escalation techniques, and positive behavioral intervention strategies, maintaining documentation about training, etc.)



School Interviews: Which students were emergency safety interventions used on most frequently?

- Most emergency safety interventions occurred in self-contained classes for students with an emotional disturbance
- Some emergency safety interventions occurred in self-contained classes for students with autism
- Emergency safety interventions were used rarely with students with other special education labels and very rarely with general education students
- A few emergency safety interventions occurred in general education with students who were in the process of being evaluated
 - These students were eventually identified as having an emotional disturbance and placed in a special class for students with a emotional disturbance

What patterns do school teams see in their emergency safety intervention data?

- Some patterns seen by some teams:
 - Students improve in their behavior across the year (in other words, most emergency safety interventions are occurring in the first quarter.)
 - Holidays are times when emergency safety interventions incidents increase.
 - The need for use of an emergency safety intervention decreases the longer that the student is in the special class.
- Some buildings reported seeing only student-specific patterns.
- Many buildings reported a link between restraint and seclusion, in that when students were being escorted to seclusion, that action often resulted in the need for a restraint as the student was being moved.

What do school teams see in their data?

- Many programs reported that medication issues (e.g., medication changes, medication washes, etc.) played a role in the need for an emergency safety intervention.
- Many programs reported challenges when students returned to the program from hospitalization or residential treatment facilities, or when foster home placement was changed.
- Special programs spend extensive time trying to identify setting events and triggers for challenging behaviors.

IEPs for students on whom emergency safety intervention is used

- The IEPs reviewed for students on whom an emergency safety intervention is used showed that the IEPs had behavioral goals, described the results of an FBA, and included Behavior Intervention Plans (BIPs).
- BIPs could be improved by clarifying the link between the FBA and the BIP, with clearer focus on more specific plans for teaching replacement behaviors.

Emergency Safety Interventions

New State Statute

2015 S Sub for Sub HB 2170

The Freedom from Unsafe Restraint
and Seclusion Act

Emergency Safety Intervention Statutes

- What is different as a result of the new statutes?
 - Definitions
 - When an Emergency Safety Intervention may be used
 - Notifying Parents of an Emergency Safety Intervention Incident
 - Local Dispute Resolution and Kansas State Board of Education Administrative Review of Local Dispute Resolution Process
 - Reporting Emergency Safety Interventions to KSDE
 - Helpful templates for districts and schools

Emergency Safety Intervention Statutes:

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

Prohibition of Certain Types of Restraint

- Types of restraint **prohibited** by the regulations:
 - Prone (face-down)
 - Supine (face-up)
 - Physical restraint that obstructs the airway of a student
 - Physical restraint that impacts a student's primary mode of communication
 - Chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments
 - Mechanical restraint, except those protective or stabilizing devices ordered by a person appropriately licensed to issue the order for the device or devices required by law



Emergency Safety Intervention Statutes:

Definitions

■ Seclusion

- Means the placement of a student in a location where all of the following conditions 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

When May Emergency Safety Interventions Be Used?

- Emergency Safety Interventions shall only be used when the student presents a reasonable and immediate danger of physical harm to self or others
- The use of Emergency Safety Interventions must stop immediately when the danger of physical harm ends
- Violent action that is destructive of property may necessitate the use of Emergency Safety Interventions

Section 3(a)

When May Emergency Safety Interventions Be Used?

- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances prior to an emergency safety intervention being used
- Emergency Safety Interventions must not be used for discipline, punishment, or the convenience of a school employee

Section 3(a)

When May Emergency Safety Interventions be Used?

- A student cannot be secluded if staff know that a student has a medical condition that could put the student in mental or physical danger.
- When a student is placed in seclusion, a staff member must be able to see and hear the student at all times.
- All seclusion rooms that have a locking door must be designed to ensure that the lock automatically disengages when the staff member watching the student walks away or in cases of emergency, such as fire or severe weather.
- If a school uses a seclusion room it must be a safe place, free of any dangerous conditions, well-ventilated, and sufficiently lighted.

Notifying Parents of Emergency Safety Intervention Incidents

- There are new requirements for notifying parents of emergency safety intervention incidents under the statutes.
- There are unique requirements for the **first emergency safety intervention incident of the school year** and for the **third incident of the school year**. The requirements for the second emergency safety intervention, the fourth incident, and all subsequent incidents are the same.



For all incidents you must provide to parents:

- A copy of the standards of when emergency safety interventions can be used
- A flyer on parents' rights under emergency safety intervention law
- Information on the parents' right to file a complaint through the local dispute resolution process and the administrative review process of the state board of education (*available no later than March 1, 2016*)
- Information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas

This is accomplished by providing a printed copy (first incident) or a web address with this information (all subsequent incidents)

Required Meeting After 3rd Emergency Safety Intervention Incident

- **3rd Emergency Safety Intervention Incident of the School Year**
 - 3rd incident on a student with an IEP or 504
 - IEP or 504 team meet within 10 days of incident
 - Discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan (BIP) or amend either the functional behavioral analysis or BIP



Required Meeting After 3rd Emergency Safety Intervention Incident

- **3rd Emergency Safety Intervention Incident of the School Year**
 - **3rd incident on a student without an IEP or 504**
 - Meeting between student's parent and school employees within 10 days of the incident
 - Discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, the need for a functional behavioral analysis, or the need for a BIP
 - Meeting should include: parent, school administrator, student's teacher, school employee involved in the incident, and other school employees designated appropriate for the meeting



State Statute Defines “Parent”

“Parent” means:

- (1) A natural parent;
- (2) an adoptive parent;
- (3) a person acting as a parent as defined in K.S.A. 72-1046(d)(2);
- (4) a legal guardian;
- (5) an education advocate for a student with an exceptionality; or
- (6) a foster parent, unless the student is a child with an exceptionality.

Documentation of the Use of an Emergency Safety Intervention

- Any time an emergency safety intervention is used with a student it must be documented.
- Documentation must include:
 - Date and time of the intervention
 - Type of intervention (seclusion or restraint)
 - Length of time (in minutes) the intervention was used *(for reporting to KSDE please round any incident less than one minute up to one minute)*
 - Names of school personnel who participated in or supervised the intervention

Reporting and Documentation

- If an emergency safety intervention occurs, it must be reported to
 - the parents of the student the same day
 - administration (per district policy)
 - KSDE, via reporting each reporting period (this may not match your school calendar)

Reporting of Emergency Safety Intervention Incidents to KSDE

- Reports to KSDE must be submitted at student level based on the KIDS Student ID number
 - From this KSDE staff will pull the student's race, ethnicity, and age
- Whether the student had an IEP at the time of the incident
- Whether the student had a 504 at the time of the incident
- Whether the student had a BIP at the time of the incident
- Date of incident
- Type of incident (seclusion or physical restraint)
- Duration of incident

Dispute Resolution Process

- Local policy must include a local dispute resolution process, including:
 - A complaint investigation procedure,
 - A procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board, and
 - A procedure for parents, the school and KSDE to receive written findings of fact and, if necessary, corrective action from the local board within 30 days of the filing of a complaint by a parent.

New Templates and Documents Are Available at www.ksdetasn.org

- Templates and documents include:
 - Emergency Safety Intervention standards document
 - Emergency Safety Intervention law (statutes and regulations)
 - Flyer of parents' rights under emergency safety intervention law (English and Spanish)
 - List of changes in requirements under the new statutes
 - Emergency Safety Intervention flow chart representing steps to take when an Emergency Safety Intervention occurs
 - Informational packet to distribute to parents after the 1st incident
 - Parental notification letter for subsequent Emergency Safety Intervention incidents
 - Parental notification letter for 3rd Emergency Safety Intervention incident with meeting notice
 - Emergency Safety Intervention changes flyer and bookmark for staff
 - Emergency Safety Intervention documentation form for staff

Emergency Safety Intervention Requirements

- What's the same?
 - Focus on prevention
 - Staff training
 - Continued regulatory requirements, including:
 - District policy
 - Prohibition on certain kinds of restraint
 - District procedure for data collection and review

Proposed Law Enforcement Exemption

- Would exempt campus police officers and school resource officers from the emergency safety intervention regulations when the officer is engaged in a legitimate law enforcement purpose.

Proposed Administrative Review of a Local Board's Decision

- Would permit a parent or eligible student to request an administrative review from the State Board regarding an emergency safety intervention concern.
- This administrative review would come after the local board had an opportunity to address the concern through the local dispute resolution process.
- State Board would appoint a hearing officer from KSDE to investigate the concern, make a determination, and issue any necessary corrective action.

Helpful Links and Contact Information

- More information will be available soon regarding:
 - Analysis of emergency safety intervention data
 - Best practices for conducting a functional behavioral assessment
 - Best practices for writing behavior intervention plans
 - Reporting requirements and documentation
- The following links contain the information described in this presentation:
 - Templates, guidance documents, emergency safety intervention statutes and regulations, and de-escalation documents: www.ksdetasn.org
 - Reporting emergency safety intervention data to KSDE through the Kan-Dis web application: <http://www.ksde.org/Default.aspx?tabid=571>
- For more information, on legal requirements contact Laura Jurgensen (ljurgensen@ksde.org or 785-296-5522) or Julie Ehler (jehler@ksde.org or 785-296-1944)
- For technical assistance questions, contact Deb McVey (deb4tasn@sunflower.com)