

### **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 emergency safety interventions. The 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. To schedule a meeting about the use of Emergency Safety Intervention, please contact your school principal.**

**For more information about Emergency Safety Intervention, please see:**

**[https://www.topekapublicschools.net/departments/emergency\\_safety\\_intervention](https://www.topekapublicschools.net/departments/emergency_safety_intervention)**

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**Standards of When Emergency Safety Intervention  
May Be Used**

**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. ESI shall not be used unless a student’s conduct presents an immediate danger of physical harm to self or others.**

91-42-2. Standards for the use of emergency safety interventions. (a) An emergency safety intervention shall be used only when a student presents a reasonable and immediate danger of physical harm to the student or others with the present ability to effect physical harm. Less restrictive alternatives to emergency safety interventions, including positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior before the use of any emergency safety interventions. The use of an emergency safety intervention 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 emergency safety intervention.

(b) Use of an emergency safety intervention for purposes of discipline or punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

(c)(1) A student shall not be subjected to an emergency safety intervention if the student is known to have a medical condition that could put the student in mental or physical danger as a result of the emergency safety intervention.

(2) The existence of the medical condition shall be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file. The written statement shall include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger, and any suggested alternatives to the use of emergency safety interventions.

(3) In spite of the provisions of this subsection, a student may be subjected to an emergency safety intervention if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

(d)(1) When a student is placed in seclusion, a school employee shall see and hear the student

at all times.

(2) 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.

(3) 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.

(4) 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 cases of emergency, including fire or severe weather.

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

(e) The following types of restraint shall be prohibited:

(1) Prone, or face-down, physical restraint;

(2) supine, or face-up, physical restraint;

(3) any restraint that obstructs the airway of a student;

(4) any restraint that impacts a student's primary mode of communication;

(5) chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(6) 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 law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation.

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

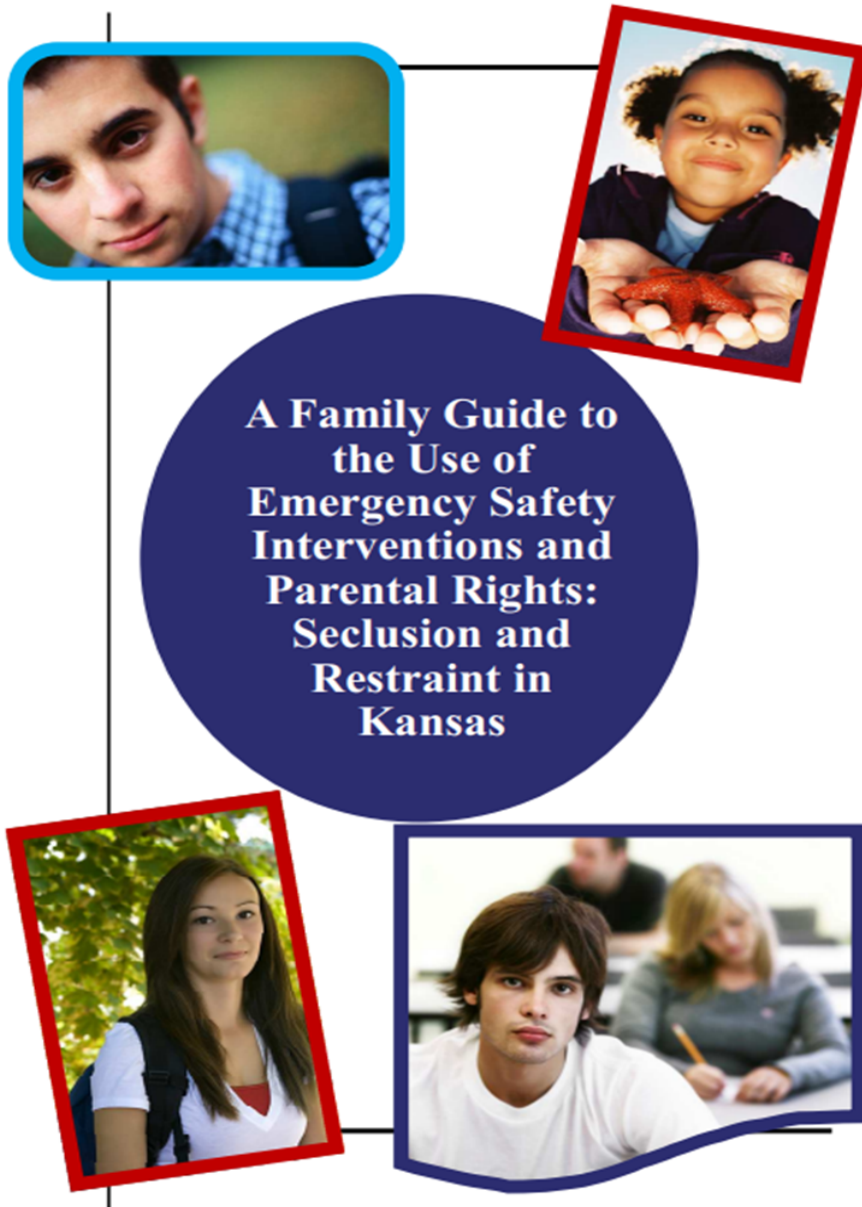
(1) Physical escort; and

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

For more information, see: [https://sos.ks.gov/publications/pubs\\_kar\\_Regs.aspx?KAR=91-42-1](https://sos.ks.gov/publications/pubs_kar_Regs.aspx?KAR=91-42-1)

## **Parents' Rights Flyer**

See the attached document created by Families Together and the Kansas State Department of Education titled "A Family Guide to the Use of Emergency Safety Interventions (Seclusion and Restraint) in Kansas" or download the flier at <https://ksdetasn.org/resources/915>



## What are Emergency Safety Interventions?

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

## What is Seclusion?

**Seclusion** means placement of a student in an area of purposeful isolation, that school personnel are not meaningfully engaging with the student to provide instruction and any one of the following occurs:

1. the student is removed from the learning environment by school personnel; or,
2. the student is separated from all or most peers and adults in the learning environment by school personnel; or,
3. the student is placed within an area of purposeful isolation by school personnel.



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

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

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

## What is Restraint?

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

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



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

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



## When May Emergency Safety Intervention be Used?

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

### Students with a known medical condition.



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



- An emergency safety intervention may still be used if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

Parents should be proactive and provide the district with written documentation from their child’s licensed health care provider outlining any medical condition that could put the student in mental or physical danger as a result of the ESI.

### **What are the Requirements for Seclusion?**

When a student is placed in seclusion, a school employee must be able to see and hear the student at all times. The presence of another person in the area of purposeful isolation or observing the student from outside the area of purposeful isolation does not create an exemption from reporting the incident as seclusion.

If the area of purposeful isolation has a locking door to prevent a student from leaving, the door must be designed to make sure that the lock automatically disengages when the school employee watching the student walks away from the area of purposeful isolation, or in cases of emergency, such as fire or severe weather.

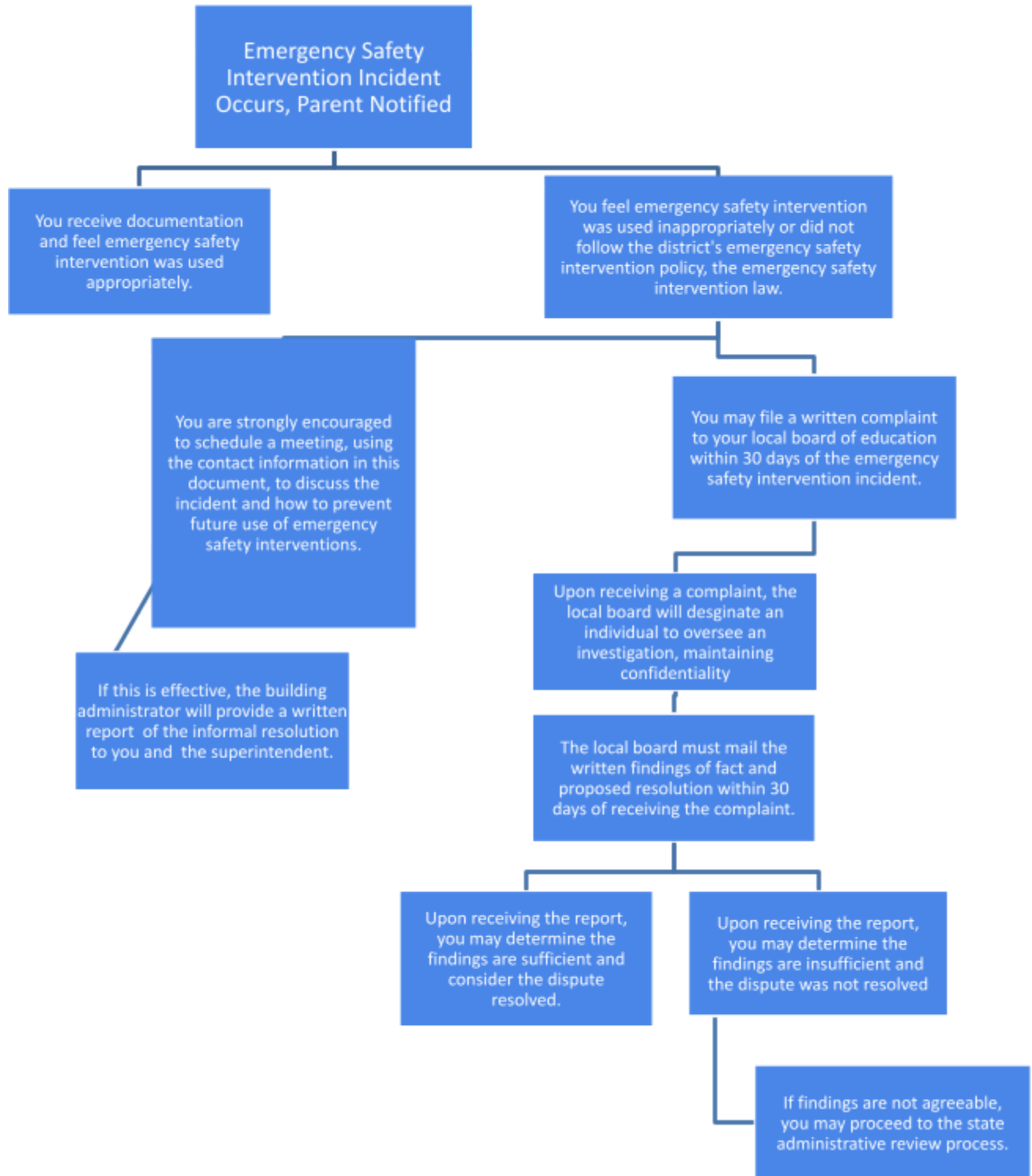
Each area of purposeful isolation must be a safe place with proportional and similar characteristics as those of rooms where students frequent. Each area of purposeful isolation must be free of anything that could be a danger to the student and must be well-ventilated and sufficiently lighted.



## Local Dispute Resolution Process

- A.** 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.
- B.** 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 of Education. Once an informal complaint is received, the administrator handling such complaint shall investigate the 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.
- C.** 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.
- D.** 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 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 of Education in executive session.
- E.** Any such investigation must be completed within thirty (30) days of receipt of the formal written complaint. On or before the 30th day after receipt of the written complaint, the Board of Education shall adopt a report containing 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 be provided to the parents, the school, and the State Department of Education and shall be mailed to the parents and the state department within 30 days of the board's receipt of the formal complaint.
- F.** 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 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 information about the regulations regarding an administrative review initiated with the Kansas State Board of Education (KSBE).**

(a) Any parent who filed a written complaint with a local board regarding the use of emergency safety intervention may request an administrative review by the state board of the local board's final decision.

(b) Each parent seeking administrative review shall provide the following information in the request:

(1) The name of the student and the student's contact information;

(2) the name and contact information, to the extent known, for all involved parties, including teachers, aides, administrators, and district staff;

(3) a detailed statement of the basis for seeking administrative review, with all supporting facts and documentation. The documentation shall include a copy of the complaint filed with the local board and shall include the local board's final decision, if issued. The request shall be legibly written or typed and shall be signed by the parent. Relevant written instruments or documents in the possession of the parent shall be attached as exhibits or, if unavailable, referenced in the request for administrative review; and

(4) written consent to disclose any personally identifiable information from the student's education records necessary to conduct an investigation pursuant to this regulation.

(c)(1) Each request for administrative review shall be filed with the commissioner within 30 days from the date a final decision is issued pursuant to the local dispute resolution process or, if a final decision is not issued, within 60 days from the date a written complaint was filed with the local board.

(2) The hearing officer shall forward a copy of the request for administrative review to the clerk of the local board from whom the administrative review is sought.

(d) Upon receipt of each request for administrative review, the hearing officer shall consider the local board's final decision and may initiate its own investigation of the complaint. Any investigation may include the following:

(1) A discussion with the parent, during which additional information may be gathered and specific allegations identified, verified, and recorded;

(2) contact with the local board or other district staff against which the request for administrative review is filed to allow the local board to respond to the request with facts and information supporting the local board's final decision; and

(3) an on-site investigation by department officers or employees.

(e) If the hearing officer receives information that the hearing officer determines was not previously made available to both parties during the local board dispute resolution process, the hearing officer may remand the issue back to the local board. The local board then has 30 days to issue a written amended final decision.

Upon remand, the hearing officer's case will be closed. All rights to and responsibilities of an administrative review shall begin again when the local board's amended final decision is issued or upon 30 days from when the hearing officer's remand is issued, whichever occurs first.

(f) Within 60 days of the commissioner's receipt of the request for administrative review, the hearing officer shall inform the parent, the school's head administrator, the district superintendent, the local board clerk, and the state board in writing of the results of the administrative review. This time frame may be extended for good cause upon approval of the commissioner.

(g) The results of the administrative review shall contain findings of fact, conclusions of law, and, if needed, suggested corrective action. The hearing officer shall determine whether the district is in violation of this article based solely on the information obtained by the hearing officer during the course of the investigation and the administrative review process. This determination shall include one of the following:

(1) The local board appropriately resolved the complaint pursuant to its dispute resolution process.

(2) The local board should reevaluate the complaint pursuant to its dispute resolution process with suggested findings of fact.

(3) The hearing officer's suggested corrective action is necessary to ensure that local board policies meet the requirements of law.

(h) Nothing in this regulation shall require exhaustion of remedies under this regulation before using procedures or seeking remedies that are otherwise available. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective, T-91-2-17-16, Feb. 17, 2016; effective, June 10, 2016.)

## 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

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 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.

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.

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**

Dr. Jennifer S. Harrington  
(785) 295-3089  
jharrington@tps501.org

[https://www.topekapublicschools.net/departments/emergency\\_safety\\_intervention](https://www.topekapublicschools.net/departments/emergency_safety_intervention)

### **State**

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

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

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

Trish Backman  
School Mental Health Services Coordinator  
Special Education and Title Services  
(785) 296-6937  
[tbackman@ksde.org](mailto:tbackman@ksde.org)

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

Families Together, Inc.  
[www.familiestogetherinc.org](http://www.familiestogetherinc.org)  
1-800-264-6343

Topeka Parent Center [topeka@familiestogetherinc.org](mailto:topeka@familiestogetherinc.org)

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

Disability Rights Center of Kansas  
<http://www.drckansas.org/>  
877-776-1541 or 785-273-9661

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