

# Emergency Safety Interventions (ESI) For All Students Seclusion and Physical Restraint Procedures and Guidelines



## **Purpose:**

1. Promote safety and prevent harm to students, school personnel, and visitors in the school district.
2. Foster a climate of dignity and respect in the use of discipline and behavior management techniques.
3. Provide school personnel with clear guidelines about the use of seclusion and restraint in response to emergency situations.
4. Provide parents/guardians information about state guidelines and district policies related to the use of discipline, behavior management, behavior interventions, and responses to emergency situations.
5. Promote the use of non-aversive behavioral interventions, including positive behavior support techniques.

## **Procedure Applicability:**

These guidelines apply to all district school personnel. School personnel assigned to programs not located on district premises (hospitals, detention centers, juvenile facilities, and mental health facilities) shall follow the policy and procedure of the facility/program where they work.

The terms of any written agreement between the district and any facility that provides services to district students will require that facility to have a policy on the use of ESI that complies with state and federal law.

Parents who consent to their child receiving services by facilities not located on district premises also consent to the use of that facility's ESI procedures.

## **Definitions:**

**Assistive Technology Device**-Any item, piece of equipment or product system that is used to increase, maintain, or improve the functional capacities of a student with a disability.

**Aversive Behavioral Intervention or Aversive Intervention**-An intervention that is intended to inflict pain or discomfort upon a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as: contingent application of noxious, painful, or intrusive stimuli or activities; any form of noxious, painful or intrusive spray, inhalant or tastes; or other similar interventions. The term does not include such interventions as voice control limited to loud, firm commands; time limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

**Behavioral Intervention**- An individualized instructional and environmental support that teaches students appropriate behaviors to replace problem behaviors. Behavioral interventions are guided by a functional behavioral assessment that identifies the communicative intent of the problem behavior and takes into consideration any known medical, developmental, or psychological limitation(s) of the student.

**Behavior Intervention Plan (BIP)**- A plan that sets forth the specific behavior interventions for a specific student who displays chronic patterns of problem behavior.

**Chemical Restraint**- Administration of a drug or medication to manage a student's behavior that is not a standard treatment and dosage for the student's medical condition.

**Confinement**- The act of preventing a student from leaving an enclosed space.

**Discipline**- Consequences for violating the district's student code of conduct.

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**Emergency Safety Intervention (ESI)**-The use of seclusion or physical restraint.

**Emergency Situation**- A situation in which a student's behavior poses a serious, probable threat of imminent physical harm to self or others, or destruction of property that will result in imminent bodily harm.

**Functional Behavior Assessment (FBA)**- A formal assessment to identify the function or purpose the behavior serves for the student so that classroom interventions and behavior support plans can be developed to improve behavior. The assessment could include observations and charting of the behavior and interviews with family, teachers, and the student to determine the frequency, antecedent, and response of the targeted behavior.

**Imminent risk of harm**- Immediate and impending threat of a person causing substantial physical injury to self or others. Violent action that is destructive of property may involve a substantial risk of injury to a person.

**Individualized Education Program (IEP)**- A student's Individualized Education Program as defined by the Individuals with Disabilities Education Act (IDEA).

**Law Enforcement Officer**- Any public servant having both the power and duty to make arrests for violations of the laws of this state.

**Locking Hardware**- Mechanical, electrical, or other material devices used to lock a door or to prevent egress from a confined area.

**Mechanical Restraint**- The use of any device or equipment to restrict a student's freedom of movement. This term does not include devices implemented by trained school personnel, or utilized by a student that have been prescribed by an appropriate medical or related services professional, and are used for the specific and approved purpose for which such devices were designed, such as:

- Adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports;
- Vehicle safety restraints when used as intended during the transport of a student in a moving vehicle;
- Orthopedically prescribed devices that permit a student to participate in activities without risk of harm.

This term does not include any device used by a law enforcement officer.

**Physical Escort**- The temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a student who is acting out or eloping to walk to a safe location.

**Physical Restraint**- Bodily force used to substantially limit a student's movement, but does not include consensual, solicited, or unintentional contact or contact to provide comfort, assistance, or instruction.

**Positive Behavior Interventions and Supports (PBIS)**- A multi-tiered school-wide approach to establishing the social culture that is helpful for schools to achieve social and academic gains while minimizing problem behavior for all students.

**School**-Any learning environment, including any nonprofit institutional day or residential school, and any accredited nonpublic school that receives public funding or is under the regulatory authority of the Department of Education.

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**School or District Employee or Personnel-** Employees of a local Board of Education; any person, paid or unpaid, working on school grounds in an official capacity; any person working at a school function under a contract or written agreement with the school system to provide educational or related services to students; any person working on school grounds or at a school function for another agency providing educational or related services to students.

**Seclusion-** The involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving, or reasonably believes that the student will be prevented from leaving. It does not include a timeout, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.

**Section 504 Plan-** A student's individualized plan as defined by Section 504 of the Rehabilitation Act of 1973.

**Time Out-** Brief removal from sources of reinforcement that does not meet the definition of seclusion. The purpose of time-out is to separate the student from the attention of staff and other students.

## Use of Seclusion and Restraint:

### Seclusion:

Seclusion shall only be used:

1. In an emergency situation, or
2. When less restrictive measures have not effectively de-escalated the situation.

Seclusion shall never be used as a form of punishment or for the convenience of district personnel. Seclusion is prohibited if the student is known to have a medical condition documented in a written statement by the student's licensed health care provider. A copy of the statement must be provided to the school and placed in the student's file.

Only district personnel who have been trained in seclusion and restraint should place a student in a seclusive setting, which includes getting the student to the seclusive setting. A student in seclusion must be monitored by district personnel who are in close proximity and able to see and hear the student at all times. Monitoring shall be face to face unless personal safety is significantly compromised; in which case technology-supported monitoring may be utilized. The total time in seclusion is to be reasonably calculated based on the age of the student and the circumstances, and is not to exceed 40 minutes without a reassessment of the situation and consultation with parents/guardians or administrative staff, unless otherwise specified in an IEP, Section 504 plan, or other parentally agreed upon plan to address a student's behavior. The seclusive setting characteristics are as follows:

1. Each seclusive setting to be used for any particular student should be of a size that is appropriate to the student's chronological and developmental age, size, and behavior.
2. Each seclusive setting should have a ceiling height that is comparable to the ceiling height of other rooms in the building in which it is located.
3. The seclusive setting should be equipped with heating, cooling, ventilation, and lighting systems that are comparable to the systems that are in use in the other rooms of the building in which it is located.
4. Each seclusive setting should be free of any object that poses a danger to the student who is being placed in the room.
5. Any seclusive setting should be equipped with a door that locks only if the lock is equipped with a device that automatically disengages the lock in case of an emergency, such as a fire or tornado. Such lock will automatically disengage when the school employee viewing the student walks away.

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## **Physical Restraint**

Physical restraint shall only be used:

1. In an emergency situation, or
2. When less restrictive measures have not effectively de-escalated the situation, the school has a plan for how to respond in such situations, or
3. With parental approval as specified in a student's IEP, Section 504 plan, or other agreed-upon plan to address a student's behavior.

Physical restraint will:

1. Only be used for as long as necessary to resolve the actual risk of danger or harm that warranted the use of physical restraint.
2. Be no greater than the degree of force necessary to protect the student or other persons from imminent physical harm.
3. Not place pressure or weight on the chest, lungs, sternum, diaphragm, back, neck, or throat that restricts breathing.
4. Only be done by district personnel trained in the proper use of physical restraint.

District personnel who use physical restraint shall only use restraint methods in which they have received district-approved training. Further, district personnel who use physical restraint may only do so in the presence of at least one (1) additional adult who is in the line of sight unless no other adult is immediately available due to unforeseeable emergency situation.

Physical restraint should never be used as a form of punishment or for the convenience of district personnel.

## **Mechanical Restraint: PROHIBITED**

Mechanical restraint shall only be used as specified in a student's IEP, Section 504 plan or other agreed-upon plan to address a student's behavior with one (1) exception:

1. Mechanical restraints employed by law enforcement officers in school setting should be used in accordance with appropriate professional standards and applicable polices.

## **Chemical Restraint: PROHIBITED**

Chemical restraints shall never be used by district personnel.

## **Positive Behavior Intervention Supports (PBIS):**

The superintendent or designee is responsible for implementing the district-wide use of appropriate PBIS designed to support or alter the behavior of all students.

## **Training:**

The superintendent shall ensure that all district personnel are trained annually with information about this policy. The superintendent shall ensure that designated district personnel are trained and know the procedures involving the use of seclusion and restraint as defined by the MANDT system.

1. A continuum of prevention and de-escalation techniques.
2. Environmental management techniques.
3. The appropriate use of physical restraint.
4. Professionally accepted practices in physical management and use of physical restraint.
5. Methods to explain the proposed restraint methods to students and parents/guardians.
6. The appropriate use of seclusion.
7. Appropriate documentation and notification procedures.

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The training for school employees should be consistent with nationally-recognized training programs to ensure that school employees are trained in the proper use of seclusion and physical restraint to prevent harm to students or others. Leavenworth USD 453 employs the use of the MANDT system, a nationally-recognized training system.

## **Use of Seclusive Setting and Physical Restraint; Reports and Notification**

The superintendent or designee will maintain records documenting the use of seclusion and restraint showing:

1. A building administrator was notified at the time a staff member initiated the use of a seclusive setting and 15 minutes after the initiation of the seclusive setting;
2. Date, time, location, and duration the seclusive setting or physical restraint used;
3. Events leading up to the incident;
4. Names of district personnel involved;
5. Whether students or school personnel were injured;
6. The name and age of the student;
7. Whether the student has an IEP, Section 504 plan, or BIP;
8. When the parents/guardians were notified;
9. If the student was disciplined; and
10. Plan to prevent the need for future use of seclusion and or physical restraint;

Further reporting is required by the state of Kansas for any building that has a seclusive setting. Each building administrator will report the following to the state director of special education annually:

1. Name of the school and the grades offered at the school; and
2. The length, width, and height of each of the seclusive settings located in the school.

Each building administrator that has a seclusive setting in the building will report the use of the seclusive setting quarterly to the state director of special education through the state reporting system KAN-DIS.

Information to be included is as follows:

1. The number of students placed in a seclusive setting during the reporting period;
2. The maximum amount of time any child was in a seclusive setting on a single occasion; and
3. The maximum number of times during a single day that a student was placed in a seclusive setting.

## **Notice to Parents/Guardians**

Except as otherwise specified in a student's IEP, Section 504 plan, or other agreed upon plan to address the student's behavior, following an emergency situation involving the use of seclusion or restraint, the parent/guardian of the student shall be notified through verbal or electronic means of the incident as soon as possible, but no later than the end of the day of the incident unless circumstances render it unreasonable or impossible to notify the parent/guardian by the end of the day, in which case the parent/guardian shall be notified through verbal or electronic means of the incident no later than noon the next day. Should the parent/guardian be unreachable, staff will notify the designated emergency contact person for the student.

The parent/guardian shall receive a written report of the emergency situation within five (5) school days of the incident. The written incident report shall include all of the following:

1. Date, time, location, and duration the seclusive setting or physical restraint was used;
2. Events leading up to the incident;
3. Names of district personnel involved;
4. Whether students or school personnel were injured;
5. The name and age of the student;
6. Whether the student has an IEP, Section 504 plan, or BIP;

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7. When the parents/guardians were notified;
8. If the student was disciplined; and
9. Plan to prevent the need for future use of seclusion and or physical restraint;
10. This documentation should be completed no later than the school day following the day on which the seclusive setting or physical restraint was used. Additionally parents will receive the following information.

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11. A copy of the standards for the use of restraint and seclusion;
12. A flier regarding parent's rights;
13. Information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the Board; and
14. Information to help navigate the complaint process, including contact information for the parent training and information center and protection and advocacy system.

On the first occurrence of an incident involving the use of ESI parents/guardians will receive the above information in written form.

In the event there is a third incident involving the use of ESI within a school year on a student who has an IEP or a section 504 plan, the student's IEP team or section 504 plan team will meet within ten days of the incident to discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan, or amend either if already in existence, unless the team has agreed on a different process.

## **Parental Appeal Rights**

If a parent believes ESI was used in violation of the Creation of Freedom from Unsafe Restraint and Seclusion Act; Sub. for Sub. for HB2170, rules and regulations adopted pursuant to the Act, or policies of the school district, a parent may file a complaint through the local dispute resolution process within 30 days of being informed of the use of ESI. Within 30 days of the final decision from the local dispute resolution process, parents may file a complaint under the Board complaint process.

## **Students with Disabilities**

If the IEP or Section 504 plan of a student with a disability includes the use of seclusion or restraint:

1. The IEP or Section 504 plan must specify the conditions under which seclusion or restraint may be used.
2. The IEP or Section 504 plan must include steps to eliminate the need for the use of seclusion or restraint.
3. Any use of seclusion, or restraint must be limited to what is set forth in the IEP or Section 504 plan unless otherwise provided for in these guidelines.

Before adding the use of seclusion or physical restraint to an IEP or Section 504 plan, the student must have undergone appropriate assessments including, but not limited to, a formal functional behavior assessment, and the student must have a BIP in place. If a student shows a pattern of needing seclusion or restraint, the IEP team must come together to review the BIP and make any necessary adjustments.