#12

KASEA

The Kansas Association of Special Education Administrators
www.ka-sea.org

Senate Standing Committee on Education
Sub HB 2170
Terry Collins, Ed.S. Director of Doniphan County Education Cooperative #616
on behalf of
The Kansas Association of Special Education Administrators (KASEA)

Thank you for the opportunity to represent the Kansas Association of Special Education Administrators today as "opponent" regarding S sub for HB 2170. The Kansas Association of Special Education Administrators, and the United School Administrators /Kansas, and the Special Education Advisory Council believe the Kansas State Board of Education and the Kansas State Department of Education diligently considered the safety of Kansas students and school staff in the process and development of the Regulations for Emergency Safety Interventions.

- We believe that the State Board has created, through stakeholder input, regulations that create consistent and enforceable standards for school and district staff to follow. (A, A1, A2, A3)
- The Current ESI regulations have been in effect for nearly two years. To this date only one parent with a concern went to a local board through the required dispute resolution process. Other complaints were resolved through Families Together, Inc. and at the local level using the current regulations, No evidence that would indicate a need for HB 2170 has been brought to the attention of the Kansas Association of Special Education Administrators (KASEA), The Special Education Advisory Council, (SEAC), or the Kansas State Department of Education (KSDE).
- One of the original stakeholders, Disability Rights Center (DRC), is no longer in agreement with the current regulations as is evidenced Sub HB 2170. DRC reported to the State Board of Education on numerous occasions that they receive daily complaints from parents regarding the current regulations. They have testified that the regulations did not alter the types of parental complaints received by DRC. (C,)
- DRC brought parents to testify at the House Hearing on HB 2170 but sadly, did not help them through the process at the local district level, did not make a simple telephone call to KSDE, and did not ask for assistance in resolving the issues presented by these parents from SEAC, KSDE or KASEA. One parent protested an incident that happened at least 7 years ago, many years before the regulations were approved. DRC reported that there are many more parents with concerns. DRC remains silent on the issues and individuals. KASEA, SEAC, and KSDE stand ready, willing, and able to help resolve any issues or concerns that parents have regarding ESI.
- KSDE, SEAC, and KASEA have repeatedly asked DRC to share those concerns in order

to resolve the issues. Apparently, DRC chooses not to use the system. A system cannot work for those who do not use it. (C, C1, B p.4-5)

- The current regulations have eliminated the use of seclusion and restraint as a behavioral management and can be used only in emergency situations. This is a major change in helping to keep students and staff safe. (D, D1, E)
- The enforceable standards in the current regulations cover a wide variety of topics including definitions of restraint and seclusion as well as prohibitions on certain types of restraint that are considered most dangerous to students. (B p. 7&8)
- The U.S. Department of Education does not endorse or recommend that state policies use the term "serious physical harm". The Restraint and Seclusion: Resource Document is meant as guidance only and clearly states that interpretation is "a matter for State and local school officials to decide using their professional judgment." No official endorsement of the term by the Department is intended or should be inferred. (G1)
- The current regulations provide a clear standard of when an ESI may be used with a student. Stakeholders thought long and hard in defining emergency safety intervention as "the use of seclusion and restraint when a student presents and immediate danger to self or others. Violent action that is destructive of property may necessitate the use of emergency safety intervention". The use of the term "serious" physical harm in HB 2170 could easily be confused with the term serious bodily injury or the OSHA definition for serious physical harm which will lead to confusion as to when to intervene. (G,G1, E)
- We believe that district staff has spent a great deal of time and effort training all staff to this standard and that there does not appear to be confusion in the districts about this standard or how to apply it.
- KSDE and the Technical Assistance System Network (TASN) has provided extensive training all across Kansas to district staff and parents to ensure that everyone involved has an understanding of the standards contained within the ESI regulations. (J)
- In addition, the State Board passed proposed regulations for an administrative review process. Parents may use it to appeal concerns regarding ESI to KSDE if they were not resolved in the local dispute resolution process. (H)
- This process provides a parent with the same right to be heard as is afforded to districts.
- Outside of the regulations, The Kansas Association of Special Education Administrators in collaboration with Families Together Inc., Keys for Networking, and The Disability Rights Center has created a statewide steering committee for the resolution of parental concerns regarding Emergency Safety Interventions. (I)

In short, we believe that the State Board has created, with stakeholder input, regulations that provide enforceable standards that:

1. Covers definitions as well as prohibitions of ESI.
2. Require that physical restraint and seclusion only be used when a student presents an immediate danger to self or others.
3. Provide for adequate training of staff.
4. Requires timely notification to parents if an ESI is implemented.
5. Clearly states where a district's policy must be located to ensure parents have access to it.
6. Require that all incidents must be documented.
7. Require procedures for district level review.

8. Require reporting ESI data to the State Department of Education.
9. Require a local dispute resolution process.
10. In addition the SBOE passed proposed regulations for an administrative review process that provides the parent with the same right to be heard as is afforded the district.
11. KASEA, Keys for Networking, Families Together Inc., and DRC are collaborating in order to assure parental concerns are addressed.

Again, the Kansas Association of Special Administrators thanks you for the opportunity to speak here today and we encourage you not to move forward with HB 2170.

KASEA / TASN

Inservice

Sub HB 2170

Opponent

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POLICY

March 2015

- SEAC held a special conference call to discuss HB 2170 (seclusion and restraint bill) and voted to permit the SEAC chair to provide written testimony to representatives regarding SEAC's opposition to HB 2170
- The SEAC chair provided testimony to representatives in opposition to HB 2170
- KSDE ECSET staff and KSDE General Counsel testified before the House Children and Seniors Committee regarding Sub for HB 2170
- SEAC held a special meeting to discuss Sub for HB 2170 and decided to provide public comment to the state board and testimony to the Senate Education meeting in opposition to Sub for HB 2170
- KSDE ECSET staff and KSDE General Counsel provided an update to KSBE on Sub for HB 2170

PRACTICE

- KSDE ECSET staff met with ESI service providers to discuss technical assistance for the 2014-15 school year

POLICY

February 2015

- SEAC held a special conference call to discuss HB 2170 (seclusion and restraint bill) and voted to permit the SEAC chair to provide written testimony to representatives regarding SEAC's opposition to HB 2170
- The SEAC chair provided testimony to representatives in opposition to HB 2170

- KSDE ECSET staff met with ESI service providers to discuss technical assistance for the 2014-15 school year
- TASN behavior specialists provided de-escalation training (Oakley)
- ESI targeted technical assistance was ongoing based on 2013-14 ESI data

PRACTICE

POLICY

January 2015

- KSDE ECSET staff met with staff from the KSDE General Counsel's office and the Kansas Department of Administration to discuss necessary changes to proposed K.A.R. 91-42-4

- KSDE ECSET staff met with ESI service providers to discuss technical assistance for the 2014-15 school year
- KSDE ECSET staff met with the executive director of Kansas Appleseed and ESI service providers to discuss ESI and discipline concerns
- KSDE ECSET team met with TASN behavior specialists to discuss ESI concerns and future training options
- KSDE ECSET staff provided an update to SEAC at its regularly-scheduled meeting
- KSDE ECSET staff met with the KSDE interim commissioner, KASEA representatives (special education directors), Keys for Networking, Families Together, and DRC staff to discuss parent concerns regarding ESI and how to work at a local level to resolve these concerns
- KSDE ECSET staff provided an update to KASEA at its winter conference
- ESI targeted technical assistance was ongoing based on 2013-14 ESI data

PRACTICE

POLICY

December 2014

- KSDE ECSET staff presented an ESI update to KSBE at its monthly meeting. KSBE recommended an administrative review process for ESI

- KSDE ECSET staff met with ESI service providers to discuss technical assistance for the 2014-15 school year
- KSDE ECSET staff met with KASEA, United School Administrators, and KASB representatives to discuss the possibility of a bill being introduced in the 2015 legislative session regarding ESI. At the time, these organizations were aligned regarding support for the ESI regulations
- KSDE ECSET staff attended a meeting of the KSDE Data Request Review Board where a request for ESI data was considered
- KSDE ECSET team met with TASN behavior specialists to discuss ESI concerns and future training options
- KSDE ECSET team spent 100s of hours emailing and on the phone with principals to assist with the submission of the ESI Report for Reporting Period 1
- ESI targeted technical assistance was ongoing based on 2013-14 ESI data

PRACTICE

POLICY

November 2014

- KSDE ECSET staff presented an ESI update to KSBE at its monthly meeting. KSBE discussed SEAC's recommendation for an administrative review process for ESI
- KSDE ECSET staff presented an ESI update to SEAC at it's regularly-scheduled meeting

- KSDE ECSET staff met with ESI service providers to discuss technical assistance for the 2014-15 school year
- KSDE ECSET staff held a conference call with Families Together staff to discuss ESI technical assistance
- TASN behavior specialists provided de-escalation training (Hiawatha)
- ESI targeted technical assistance was ongoing based on 2013-14 ESI data

PRACTICE

POLICY

October 2014

- KSDE ECSET staff presented an ESI update to KSBE at its monthly meeting. KSBE discussed SEAC's recommendation for an administrative review process for ESI
- KSDE ECSET staff met with KSDE General Counsel to discuss the proposed ESI regulations

- ECSET staff held a conference call with the SEAC chair to discuss the proposed administrative review process for ESI
- KSDE ECSET staff met with ESI service providers to discuss technical assistance for the 2014-15 school year
- KSDE ECSET staff met with IT staff to discuss a data request for ESI data
- KSDE ECSET team met with TASN behavior specialists to discuss ESI concerns and future training options
- TASN behavior specialists provided de-escalation trainings (Eudora and Girard)
- TASN-KITS presented the second part of a two-part webinar series for educators who work with young children with challenging behaviors
- ESI targeted technical assistance was ongoing based on 2013-14 ESI data

PRACTICE

POLICY

September 2014

- KSDE ECSET team twice met with KSDE General Counsel to discuss the proposed ESI regulations
- At its regularly-scheduled meeting SEAC voted to recommend that KSBE consider an administrative review process for ESI
- KSDE ECSET team presented an ESI update to KSBE at its monthly meeting
- KSDE ECSET team met with a school district to discuss the proposed amendment to the ESI regulations regarding the exception for law enforcement officers

PRACTICE

- KSDE ECSET team met with KSDE IT team to discuss changes to the ESI reports for the 2014-15 school year
- KSDE ECSET team met with TASN service providers regarding ESI concerns at a specialty private school
- KSDE ECSET team met with SEAC chair to discuss the proposed ESI regulations
- KSDE ECSET team met with TASN behavior specialists to discuss ESI concerns and future training options
- KSDE ECSET team met with ESI service providers to discuss technical assistance for the 2014-15 school year
- KSDE ECSET team held a conference call with a specialty private school regarding the technical assistance that school would be offered during the 2014-15 school year
- ESI targeted technical assistance was ongoing based on 2013-14 ESI data

August 2014

POLICY

- KSDE ECSET team presented to KSBE on the potential exception from the ESI regulations for law enforcement officers, a potential ESI appeal process, and other ESI updates.
- SEAC solicited input from stakeholders and discussed a potential ESI appeal process at a special meeting on August 22, 2014.

PRACTICE

- KSDE ECSET team met with KSDE IT team to discuss changes to the ESI reports for the 2014-15 school year
- TASN-KITS trained five new trainers in *Safety First* that were recruited from central and western Kansas
- TASN-KITS presented the first part of a two-part webinar series for educators who work with young children with challenging behaviors
- KSDE ECSET team met with ESI service providers on three occasions to discuss technical assistance for the 2014-15 school year
- KSDE ECSET team presented ESI updates to cooperative team in Burlington
- KSDE ECSET team met with KSDE Bus Driver Safety team to discuss training opportunities for the 2014-15 school year
- KSDE ECSET team met with the Kansas Association of Special Education Administrators (KASEA) legislative chair to discuss proposed changes to the ESI regulations
- KSDE ECSET team met with the SEAC chair to discuss proposed changes to the ESI regulations.

POLICY

July 2014

- Chair of SEAC presents draft of certified LEO exception to the ESI regulations to KSBE.
- KSDE ECSET team provides ESI update to KSBE, including appeals process.
- KSDE ECSET team provides an update to SEAC, including two draft versions of possible appeal process.
- DRC provides public comment to SEAC on the appeals process, provides written copy.

PRACTICE

- KSDE ECSET team met with service providers and Families Together to discuss the creation of a toolkit on the ESI regulations for families
- Kansas Special Education Leadership Conference (general session and breakout sessions on ESI and positive behavior supports)
- KSDE ECSET team met with the Kansas Parent Information Resource Center and service providers to discuss how to gather data on how districts are informing parents about the ESI regulations
- KSDE ECSET team met with KSDE transportation team to convey their continued support for transportation supervisors in receiving training in positive behavior supports
- TASN released its behavior training matrix for the 2014-15 school year, which includes training options for districts in the areas of positive behavior supports, prevention, and de-escalation
- TASN provided ten new "book in a bag" studies including books on de-escalation

POLICY

PRACTICE

June 2014

- ESI Part III webinar released
- TASN released a spreadsheet and instructions to assist districts in collecting and analyzing ESI data
- KSDE ECSET team met with service providers to discuss technical assistance for the 2014-15 school year
- KSDE ECSET team spent 100s of hours emailing and on the phone with principals to assist with the submission of Quarter 4 ESI reports

POLICY

May 2014

- KSDE GC, KSDE ECSET team, and DRC met to discuss appeals process.
- KSDE ECSET team assumed responsibility of possibility of appeals process.
- SEAC holds meeting via conference call to discuss approval of Certified LEO exception to the ESI regulations and agrees to bring before the KSBE in July. SEAC decides to continue the discussion of a possibility of an appeals process until the July 2014 meeting.
- Project EMPOWER (Lawrence, Junction City)
- KSDE ECSET team spoke with parent who had concern about the use of seclusion with their child and helped resolve this parents concern by working with the district.
- KSDE ECSET team met with KSDE IT team to discuss ESI reporting.
- TASN releases materials from regional de-escalation trainings.

PRACTICE

POLICY

April 2014

- KSDE GC inquired about KSDE ECSET team thoughts on appeals process and possibility of bringing the draft appeals process in front of SEAC.
- DRC provided public comment at April SEAC meeting on appeals process. No copies of the draft appeals process were distributed to SEAC members.
- KSDE ECSET team provided an ESI update to SEAC. KSDE GC addressed possible amendment process; no written copies were provided.

PRACTICE

- De-escalation Training (Haysville, Dodge City, Salina)
- CHAMPS and ParaPro Follow Up (Webinar)
- EC ESI Training (Beloit)
- KSDE ECSET team spent 100s of hours emailing and on the phone with principals to assist with the submission of Quarter 3 ESI reports
- KSDE ECSET team met with service providers to discuss Heartspring's work to fully implement the ESI regulations
- TASN-kits presented Safety First regional trainings (De Soto, Great Bend, Olathe, Fort Scott)
- ESI Part III (Salina)

POLICY

March 2014

- KSDE ECSET team and KSDE GC met to discuss possible appeals process.
- KSDE GC emailed KSDE ECSET team in late March a draft appeals process developed by DRC.
- KSDE ECSET team met to review draft.
- TASN released additional de-escalation materials

- ESI Compliance Action Planning (Lakemary)
- ESI Compliance Action Planning (Heartspring)
- ESI Technical Assistance Call (Wichita)
- De-escalation Training (Kansas City, Lakemary)

PRACTICE

POLICY

February 2014

- KSDE ECSET team met with DRC to discuss implementation of ESI regulations, including appeals process.

- ESI de-escalation training (Baldwin City)
- EC ESI Presentation (KDEC Conference)
- Project EMPOWER (Junction City)
- KSDE ECSET team spoke with Families Together to discuss the impact of the ESI regulations on parents
- KSDE ECSET team met with service providers to discuss technical assistance for districts
- TASN-kits presented Safety First regional trainings (Lyons, Baldwin City)

PRACTICE

POLICY

January 2014

- KSDE ECSET team and KSDE GC met with Ron Brown and Cindy Kelly with USD 501 to discuss their presentation to SEAC
- ESI update presented to SEAC by KSDE ECSET team.
- Ron Brown, Chief of Topeka Public Schools Police, presented to SEAC.
- SEAC considered exception to ESI regulations for certified law enforcement officers (LEOs).
- Meeting with Dr. Turnbull (KU)

- ESI/PBIS Presentation (Lakemary)
- In the Driver's Seat (Girard, Kansas City)
- ESI Onsite Visit and Presentation (Heartspring)
- SEAC Breakfast
- ESI Presentation (USA Conference)
- KSDE ECSET team met with early childhood team to provide guidance to KDHE on the ESI regulations in early childhood settings
- KSDE ECSET team met with KSDE IT team to discuss ESI reporting
- EC ESI Presentation (USA Conference)
- KSDE ECSET team released new ESI reports users' guide
- TASN-KITS presented Safety First regional trainings (Goddard, Olathe, Gardner, Phillipsburg, Garden City, Ozawkie, Topeka)

PRACTICE

POLICY

December 2013

- Updated ESI Guidance document by KSDE released.
- KSDE ECSET team met with DRC to discuss implementation of the ESI regulations.

- ESI Onsite Visit (Salina)
- ESI Onsite Visit (Lakemary)
- ESI Presentation (KASB Conference)
- In the Driver's Seat (Garden City, Salina)
- CHAMPS Follow Up (Webinar)
- Project EMPOWER (Junction City)
- KSDE ECSET team spent 100s of hours emailing and on the phone with principals to assist with the submission of Quarter 2 ESI reports
- TASN-kits presented Safety First regional trainings (Hillsboro, Iola)

PRACTICE

POLICY

November 2013

- KSDE ECSET team notified by GC that contact had been made with KSBE's attorney to discuss potential of an appeals process.
- Spanish version of the family guide on the ESI regulations released.
- KSDE ECSET team met with KSDE GC to discuss the potential law enforcement exception to the ESI regulations.

- CHAMPS training (Hays)
- ESI Part II (KSDE Annual Conference)
- ParaPro (Overland Park, Emporia, Wichita, Salina, Hays)
- In the Driver's Seat (Colby)
- EC ESI Presentation (Governor's Conference)
- KSDE ECSET team and TASN service providers held a conference call with a district to provide technical assistance
- KSDE ECSET team provided an ESI update to SEAC
- KSDE ECSET team presented to superintendents in Girard
- KSDE ECEST team spoke with a KSBE member to discuss the implementation of the ESI regulations
- TASN-KITS presented Safety First regional trainings (Chanute, Hays, Holton)

PRACTICE

POLICY

October 2013

- KSDE ECSET team met with DRC to discuss ESI implementation and next steps.
- KSDE update on ESI to KSBE.
- KSDE GC and KSDE ECSET team met with USD 501 attorney to discuss certified law enforcement exemption.

PRACTICE

- ESI Part II regional trainings (Overland Park, Wichita, Oakley, Dodge City, Girard)
- CHAMPS regional trainings (Overland Park, Emporia, Wichita)
- ParaPro regional trainings
- ESI EC regional trainings (Overland Park, Wichita, Oakley, Dodge City, Girard)
- ESI EC webinar released
- KSDE ECSET team met with KSDE IT team to discuss ESI reporting
- TASN-KITS released a guide on Safety First training
- TASN released the ESI Part II webinar
- TASN released a list of behavior training resources
- TASN-kits presented Safety First regional trainings (Overbrook, Haysville, Manhattan, Hutchinson)
- Parent Leadership Conference (presentation)

POLICY

September 2013

- KSDE ECSET team and KSDE GC meet to discuss a potential amendment to the ESI regulations to exempt sworn certified law enforcement officers.
- Memorandum clarifying the ESI regulations issued by KSDE.
- Orientation for transportation supervisors webinar released
- TASN-kits released a FAQ document and positive behavior interventions and supports training resources document for early childhood practitioners
- TASN released de-escalation materials

PRACTICE

- Technical Assistance calls with Local School Boards and Superintendents
- ESI update provided to SEAC by KSDE ECSET team
- Public comment to SEAC by Lakemary and Heartspring re: challenges implementing the regulations
- Public comment to SEAC by DRC re: supporting regulations prohibition on prone and supine restraint
- ESI update at the Council of Superintendents' Meeting by KSDE ECSET director
- ESI Part II training (Salina)
- TASN providers met with Heartspring regarding the regulations and full implementation
- CHAMPS regional trainings (Overland Park, Emporia, Wichita, Salina, Hays)

POLICY

August 2013

- KSDE ECSET, DRC, and Families Together meeting to discuss regulation implementation issues.
- TASN released its behavior training matrix for the 2013-14 school year, which includes training options for districts in the areas of positive behavior supports, prevention, and de-escalation
- ESI Part II (Clifton-Clyde, Topeka)
- TASN-kits presented a train-the-trainers workshop for *Safety First*, a training in positive behavior supports for young children
- ESI Update to KSBE.

PRACTICE

POLICY

July 2013

- Early Childhood (EC) Frequently Asked Questions (FAQ) on ESI released.

- Technical assistance provided to district and school team regarding ESI regulations implementation.
- Kansas Special Education Leadership Conference (general session and breakout sessions on ESI)
- KSDE ECSET Director and TASN met with Heartspring.

PRACTICE

POLICY

June 2013

- KSDE ESCET team met with KSDE GC and Disability Rights Center (DRC) to discuss appeals process and implementation of the ESI regulations.
- KSDE bookmark on ESI
- ESI guidance document by KSDE released
- KSDE memorandum on training requirements of the ESI regulations issued
- ESI Part I webinar released
- KSDE ECSET team met with Families Together to discuss how to incorporate information on ESI into parent trainings
- KSDE ECSET team met with Heartspring, Lakemary, and service providers to discuss implementation of the ESI regulations at these locations
- TASN Transition Summit (presentation)

PRACTICE

POLICY

May 2013

- KSDE ECSET team met with KSDE GC to discuss timeline of implementation of ESI regulations and KSDE GC drafting of an appeals process.
- KSDE ECSET team drafted a memo to KSDE GC discussing dispute resolution to provide assistance to KSDE GC in draft of possible appeals process.
- KSDE ECSET team updated Kansas State Board of Education (KSBE) on implementation of the ESI regulations.
- TASN-KITS released a toolkit on the application of the ESI regulations to early childhood environments

PRACTICE

- ESI regulations training webinar and facilitators' guide released
- ESI regulations regional trainings (Girard, Eudora, and Hays)
- KSDE ECSET team worked with TASN to coordinate training on positive behavior supports for the 2014-15 school year to support districts training requirement under the ESI regulations
- KSDE ECSET team met with KSDE IT to review the needed changes to the KSDE ESI reports due to the regulations
- KSDE ECSET team met with the Kansas Association of School Boards (KASB) to discuss how to support districts in the implementation of the ESI regulations
- KSDE ECSET team met with KSDE transportation team to discuss training on the ESI regulations for transportation supervisors
- KSDE ECSET team spoke with parent who had concern about the use of seclusion with their child prior to the ESI regulations and helped resolve this parents concern by working with the district

POLICY

April 2013

- KSDE Early Childhood, Special Education, and Title Services (ECSET) team set up a meeting with KSDE General Counsel (GC) to begin discussion of an appeals process to the Emergency Safety Interventions (ESI) regulations.
- Family guide on the ESI regulations released.
- Met with TASN providers and Dr. Rud Turnbull from KU to discuss the ESI regulations and to request Dr. Turnbull's assistance on helping districts implement the regulations.

PRACTICE

- ESI regulations regional trainings (Lenexa, Clearwater, Dodge City, Oakley)
- KSDE ECSET team met with KSDE IT team to review the needed changes to the KSDE ESI reports due to the regulations
- Presented an ESI update to the Special Education Advisory Council (SEAC)
- Presented an ESI update to superintendents
- Held a webinar to assist principals with completing the ESI reports
- Met with early childhood service providers to discuss training on the ESI regulations for early childhood educators
- Presented an ESI update to special education directors

KASEA / TASN

Inservice

Sub HB 2170

Opponent

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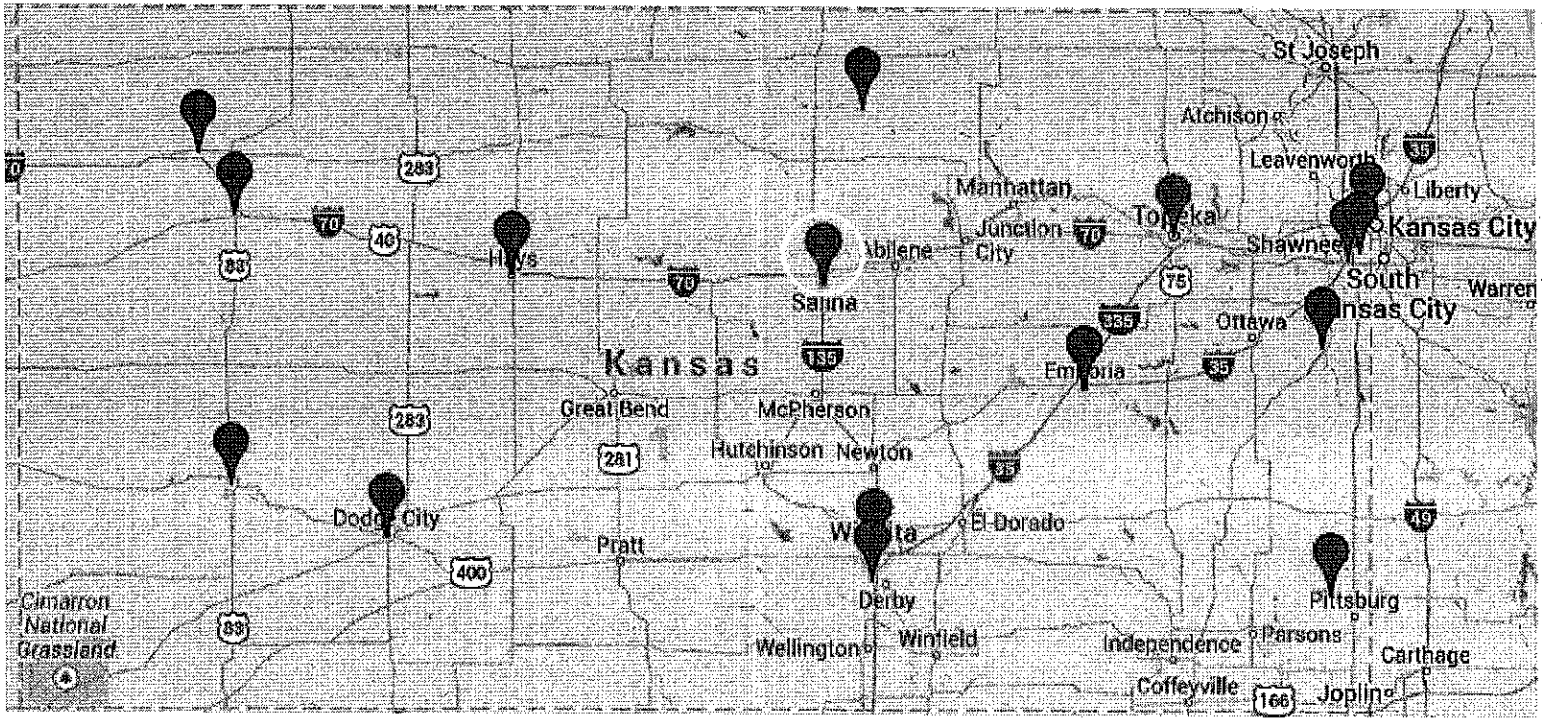
2013-14 School Year Training and Technical Assistance to Support the Implementation of the ESI Regulations



Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
8/20/13	ESI Part II	Clifton-Clyde	65
8/22/13	ESI Part II	Topeka	35
9/19/13	ESI Part II	Salina	60
9/23/13	CHAMPS – Dr. Sprick	Overland Park	157
9/24/13	CHAMPS – Dr. Sprick	Emporia	97
9/25/13	CHAMPS – Dr. Sprick	Wichita	111
9/26/13	CHAMPS – Dr. Sprick	Salina	89
9/27/13	CHAMPS – Dr. Sprick	Hays	84
10/1/13	ESI Part II	Overland Park	51

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
10/1/13	ESI: What Early Childhood Practitioners Need To Know	Overland Park	101
10/2/13	ESI Part II	Clearwater	23
10/2/13	ESI: What Early Childhood Practitioners Need To Know	Clearwater	30
10/3/13	ESI Part II	Oakley	14
10/3/13	ESI: What Early Childhood Practitioners Need To Know	Oakley	16

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
10/4/13	ESI Part II	Dodge City	7
10/4/13	ESI: What Early Childhood Practitioners Need To Know	Dodge City	14
10/14/13	ESI Part II	Girard	10
10/14/13	ESI: What Early Childhood Practitioners Need To Know	Girard	19
10/15/13	CHAMPS – ParaPro – Jane Harris	Hays	64
10/16/13	CHAMPS – ParaPro – Jane Harris	Salina	59
10/17/13	CHAMPS – ParaPro – Jane Harris	Clearwater	60

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Particpants
11/6/13	ESI Part II	KSDE Conference – Wichita	
11/12/13	CHAMPS – ParaPro – Jane Harris	Emporia	53
11/13/13	CHAMPS – ParaPro – Jane Harris	Lenexa	40
11/21/13	KSDE Transportation Forum – In the Driver's Seat	Colby	14
12/2/13	ESI Technical Assistance School Visit	Salina	10

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
12/5/13	ESI Technical Assistance School Visit	Paola	3
12/7/13	ESI Presentation	KASB Conference – Wichita	15
12/11/13	KSDE Transportation Forum – In the Driver's Seat	Garden City	26
12/12/13	CHAMPS Follow Up Call	Webinar	52
12/18/13	KSDE Transportation Forum – In the Driver's Seat	Salina	45

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
1/3/14	Positive Behavior Interventions and Supports and De-escalation Presentation	Paola	70
1/8/14	KSDE Transportation Forum – In the Driver's Seat	Girard	12
1/9/14	ESI Technical Assistance Visit and Presentation	Wichita	70

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
1/29/14	KSDE Transportation Forum – In the Driver's Seat	Kansas City	39
2/17/14	De-escalation Presentation	Baldwin City	35
3/3/14	ESI Regulations Compliance Action Planning	Paola	6
3/4/14	ESI Regulations Compliance Action Planning	Emporia	8

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
3/13/14	ESI technical assistance phone call with a district	Phone	8
3/26/14	De-escalation Presentation	Kansas City	30
3/28/14	De-escalation Presentation	Paola	70
4/23/14	De-escalation Presentation	Haysville	35
4/24/14	De-escalation Presentation	Dodge City	20
4/24/14	CHAMPS- Follow Up Call	Webinar	7
4/30/14	De-escalation Presentation	Salina	60

Training and Technical Assistance to Support the Implementation of the ESI Regulations

Date	Training	Location	Participants
3/13/14	ESI technical assistance phone call with a district	Phone	8
3/26/14	De-escalation Presentation	Kansas City	30
3/28/14	De-escalation Presentation	Paola	70
4/23/14	De-escalation Presentation	Haysville	35
4/24/14	De-escalation Presentation	Dodge City	20
4/24/14	CHAMPS- Follow Up Call	Webinar	7
4/30/14	De-escalation Presentation	Salina	60

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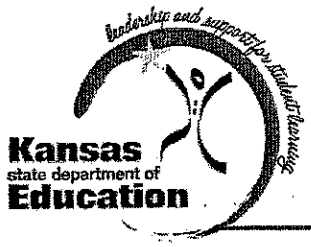

Early Childhood, Special Education, and Title Services
120 SE 10th Avenue, Topeka, Kansas 66612-1182 ★ Toll Free 800-203-9462 ★ www.ksde.org
Early Childhood Services: Phone 785-296-6602 ★ FAX 785-296-6715
Special Education Services: Phone 785-291-3097 ★ FAX 785-296-6715
Title Services: Phone 785-296-3069 ★ FAX 785-296-5867

To: Kansas Superintendents and Administrators

From: Colleen Riley, Director of Early Childhood, Special Education, and Title Services (ECSET);
Jana Rosborough, Assistant Director of ECSET;
Kerry Haag, Assistant Director of ECSET;
Norma Cregan, Assistant Director of ECSET; and
Sandy Guidry, Assistant Director of ECSET.

Re: Kansas State Board of Education Regulations on Emergency Safety Intervention (ESI) – Clarification for the Field

Purpose

The purpose of this memorandum is to provide clarification on Emergency Safety Intervention (ESI) regulations passed by the Kansas State Board of Education in February 2013. The Early Childhood, Special Education, and Title Services (ECSET) team has received a number of questions and comments since the passing of the regulations in February about not only how the regulations should be implemented but also why Kansas has regulations on the use of ESI with any Kansas student. This memorandum will address how the Kansas State Board of Education regulations on ESI came to be and what the regulations purport to do.

The ECSET team welcomes and appreciates the opportunities to have on-going dialogue about the Kansas State Board of Education regulations on ESI. The conversations about the Kansas State Board of Education regulations on ESI have brought the efforts of Kansas educators to address behavior in a positive and meaningful way across all school settings to the forefront. These efforts, occurring across Kansas, to ensure that all Kansas students have the opportunity to learn in a safe, inviting, and engaged environment are not only in support and accordance with the Kansas State Board of Education regulations on ESI but a make real difference for Kansas students and their families. Contact information for additional comments and questions on the Kansas State Board of Education regulations on ESI is listed at the end of this memorandum.

History

Emergency Safety Interventions (ESI), formerly referred to as seclusion and restraint, has been an issue of action and discussion in Kansas for the past nine years. Multiple attempts have been made by interest groups to have legislation regulating the use of seclusion and restraint in Kansas schools (2005 SB 241, 2012 HB 2444). Similar concurrent attempts for legislation have been made at the federal level with the most notable being the *Keeping All Students Safe Act* introduced by Senator Harkin in 2011. The United States Department of Education (USDOE) responded to the concerns that prompted the proposed legislation with data collection on state-level efforts to limit, prohibit, and or regulate the use of seclusion and restraint in schools and the issuance of the *Restraint and Seclusion Resource Document* in May 2012. The USDOE *Restraint and Seclusion Resource Document* identified 15 principles for consideration when policies and procedures are developed for the use, when appropriate, of restraint and seclusion with any student in school. Of note, the Kansas State Board of Education regulations on ESI embody the crux of the 15 principles put forth by the USDOE.

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In March 2012, the Kansas State Board of Education responded to the very real potential of legislation by requesting recommendations from key Kansas educational stakeholders, led by the Special Education Advisory Council (SEAC), on potential regulatory action regarding ESI. Stakeholders who informed and guided the drafting of the recommended regulations included the Kansas Association of School Boards (KASB), the Disability Rights Center (DRC), Families Together, Kansas Parent Information Resource Center (KPIRC), United School Administrators (USA), Kansas Association of Special Education Administrators (KASEA), parents, and behavior experts. In May 2012, the Kansas State Board of Education unanimously (9-0) approved the recommended regulations on Emergency Safety Interventions (ESI). After the Board's approval in May 2012, the ESI regulations under went review by the Department of Administration, the Attorney General's Office, and the Secretary of State. A public hearing was held on the ESI regulations on February 12, 2013 for final comment and discussion. On February 13, 2013, with no changes, the Kansas State Board of Education passed the Emergency Safety Intervention regulations, K.A.R. 91-42-1 and 91-42-2, for **all** students.

The Kansas State Board of Education regulations on ESI are the result of the proactive and purposeful response by the Kansas State Board of Education to the (imminent) legislation on seclusion and restraint in 2012. Regulation on ESI in Kansas schools came from and remains with the Kansas State Board of Education. The Kansas State Board of Education regulations on ESI went into effect April 19, 2013.

Clarifications

1. The Kansas State Board of Education regulations on ESI are **not** intended to prevent school personnel from using reasonable methods of instruction, care, or intervention to meet the educational, physical, or emotional needs of students **or** to prevent school personnel from ensuring the safety of all students and staff.

   - The ESI regulations **do not** and **should not** dictate if and when a school believes the involvement of law enforcement is necessary.

2. The primary purpose of the ESI regulations is to **standardize when an ESI may be appropriate to use, if ever**, and if used, to **delineate the steps** that must be taken to prevent, or eliminate, the need for the use of ESI in the future. If an ESI is used with a student:

   - School personnel must communicate with parents about the use within two (2) school days;
   - School personnel must maintain documentation of the use of the ESI for review at the school and district level; and
   - School personnel must report the use of the ESI to KSDE to inform policy recommendations and training.

3. Violations of a school's code of conduct **may** necessitate the use of an ESI **if** the violation constituted action by the student that resulted in an **immediate danger** to the student or others.

   - Not all violations of a school's code of conduct, such as failure to follow school rules or failure to follow teacher instruction, will constitute an immediate danger that would necessitate a permitted use of an ESI.

Attachments for Sub HB 2170

A KSDE Clarification Letter
A1 McNiece Letter
A2 Families Together Testimony
A3 ESI Flow Chart
B TASN Technical Assistance Document
C DRC Testimony on 2170
C1 DRC priorities
D1 KSDE Letter to Sup 5-21-13 Training Requirements
D1 9-13-14 ESI Data Analysis
E How Safe is the School House excerpt
F Emergency Safety Inter Resources (snapshot of TASN Web page)
G Brief Summary State Laws Seclusion and Restraint
G1 US Dept Rest and Sec Resource Document disclaimers
H 91-42-4 Administrative Review
I Minutes from Interagency Solutions for ESI

KASEA
Sub HB 2170
Opponent

4. School personnel, exercising professional and reasonable judgment based on training and guidance from the district and the Kansas State Department of Education (KSDE), determine if an ESI, as defined in the Kansas State Board of Education regulations, was used with a student.

   - If school or district personnel have a question (a "gray area") of whether or not the action taken by school personnel constituted the use of an ESI, school personnel should, at minimum, (1) communicate with parents about the action taken by school personnel and (2) document the incident **even if** school personnel ultimately determine that the action taken did not amount to the use of ESI as defined in the regulations.
   - For any "gray area" questions, school and district personnel can request assistance through the Technical Assistance System Network (www.ksdetasn.org) or by calling 1-800-203-9462.

KSDE Supported (Free or Low-Cost) Training and Guidance

All resources and opportunities listed below are available through TASN (www.ksdetasn.org).

- ESI Resources – The ESI Regulations, the ESI Guidance Document, and numerous resources, including webinars of past trainings and KAN-DIS reporting, to support school and district implementation of the regulations are available on the TASN website.
- ESI 101: Part 2 with TASN – A follow up to the state-wide "tour" conducted last year to disseminate basic information about the ESI regulations. This year, we will be conducting 2-3 hour Part 2 sessions which will focus on assisting districts to determine what training is needed, including support for using data to make those decisions. These workshops will take place in early October in 4 regional locations. Locations and registration is available on the TASN website.
- CHAMPS with Randy Sprick – Focuses on good classroom management, supporting the regulations mandate for training, and is appropriate for K-12 teachers. This is a 2-day workshop series for a cost of $50 per person which includes lunch both days as well as either the CHAMPS book or Discipline in the Secondary Classroom book for each participant. Available on the TASN calendar and with active registration links.
- ParaPro with Jane Harris – This is a one-day version of CHAMPS for paraeducators, aides, secretaries, cooks, and other non-certified staff. The cost for the workshop is $25 and which includes lunch and provides the accompanying book. Available on the TASN calendar and with active registration links.
- ESI 101: Early Childhood Focus – These will be 2-3 hour sessions focusing on disseminating information about the regulations pertaining to early childhood settings. These workshops will also take place in early October in 4 regional locations. Locations and registration are available on the TASN website.
- Safety First – Also for early childhood, a one day training that provides an early childhood emergency safety intervention curriculum, including de-escalation and introduces information regarding appropriate use, if ever, of physical restraint. Information is available on the TASN website.
- Support for Bus Drivers – KSDE has purchased training kits and has distributed the kits to each transportation supervisor in the state. The kit is a product of Safe and Civil Schools called "In the Driver's Seat". It is a comprehensive multimedia program that guides transportation departments in creating and maintaining a safe, responsible, and positive

school bus climate through effective student behavior management. Safe and Civil schools is providing webinars to assist transportation supervisors in the implementation and effective use of this excellent resource. Information is available on the TASN website.

Questions

The ECSET team welcomes and appreciates the opportunities to have on-going dialogue about the Kansas State Board of Education regulations on ESI and how the regulations support addressing behavior in a positive and meaningful way across all school settings with all students. Please feel free to contact Jana Rosborough, jrosborough@ksde.org, or any of the ECSET team with any questions or concerns. School and district personnel can also request assistance through the Technical Assistance System Network (TASN) (www.ksdetasn.org) or by calling 1-800-203-9462.

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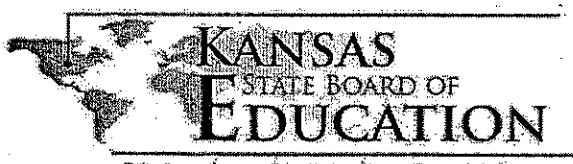

Janet Waugh District 1 | Steve Roberts District 2 | John W. Bacon District 3 | Carolyn L. Wims-Campbell District 4 | Sally Cauble District 5
Deena Horst District 6 | Kenneth Willard District 7 | Kathy Busch District 8 | Jim Porter District 9 | Jim McNiece District 10

Great students. Great teachers. Great leaders. Great citizens.

January 22, 2015

Representatives S. Mike Kiegerl and John Rubin
State Capitol, 50-S and 151-S
300 SW 10th Avenue
Topeka, Kansas 66612

Re: Emergency Safety Intervention Regulations

Dear Representatives Kiegerl and Rubin:

Thank you for your interest in the Kansas State Board of Education (State Board) regulations on emergency safety intervention (ESI). This is a subject that the State Board, as well as the Special Education Advisory Council (SEAC), has spent a great deal of time thoughtfully discussing and soliciting a wide variety of stakeholder input. State Board members take the safety of Kansas students and school staff very seriously and keep this foremost in our thoughts when discussing this important topic.

With regards to the comparison between the State Board's ESI regulations and 2012 HB 2444, as passed by the Kansas House of Representatives, we believe that the State Board has created, through stakeholder input, regulations that create an enforceable standard for school and district staff to follow, help keep students and staff safe, provide requirements around staff training, and ensure that parents are timely notified when an ESI is used with their child. The ESI regulations contain enforceable standards that cover a wide variety of topics including definitions of restraint and seclusion, prohibitions on certain types of restraint that are considered most dangerous to students, a clear standard of when an ESI may be used with a student, requirements regarding where a district's policy must be posted to ensure that parents have access to it, standards regarding training of all district staff, written parental notification whenever an ESI is used with their child, standards regarding documentation of all incidents of ESI, procedures for periodic district-level review of the district's ESI data, reporting of ESI data to the Kansas State Department of Education (KSDE), as well as a local dispute resolution process for parents to resolve any concerns regarding ESI. We believe that district staff has worked very hard to put these enforceable standards in place in each of their districts and we commend them for their dedication to this important matter. Recently, the State Board passed proposed regulations for an administrative review process which parents may use to appeal concerns regarding ESI to KSDE that were not resolved in the local dispute resolution process. We believe this process is fair and transparent and provides a parent with the same right to be heard as is afforded to districts.

Additionally, KSDE and the Technical Assistance System Network (TASN) has provided extensive training all across Kansas to district staff and parents to ensure that everyone involved has an understanding of the standards contained within the ESI regulations. These trainings have been offered to district staff of all types - from bus drivers to superintendents, and at every level -- secondary, elementary, and early childhood. TASN has brought national experts

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to Kansas to provide free or low-cost training to help districts meet the ESI regulations' requirement that all staff be trained in prevention techniques, de-escalation techniques, and positive behavioral intervention strategies. KSDE staff has also analyzed districts' ESI data and then focused extra technical assistance efforts to buildings reporting the highest numbers of seclusion and restraint. Technical assistance to these buildings focuses on whether the district and building are meeting the standards set out in the regulations, helping district staff to analyze patterns in their data to make more informed training decisions, and pointing staff to resources to help them reduce the need to use seclusion and restraint. KSDE staff and TASN have also created an extensive page of resources located on the TASN website that we invite you to review, http://ksdetasn.org/cms/index.php/esi-resources. These resources include information on professional learning opportunities; KSDE guidance on the ESI regulations; guidance specifically directed to families, early childhood, and transportation supervisors; multiple webinars on the standards in the ESI regulations; and a great deal of materials on de-escalation to provide staff with additional tools when working with students.

We believe that the standards set in the ESI regulations, as well as the extensive training provided for district staff and families, have created an understanding of when it is permitted to use physical restraint and seclusion. The ESI regulations require that physical restraint and seclusion only be used when a student presents an immediate danger to self or others. Violent action that is destructive of property may necessitate the use of an ESI. This standard was selected after many thoughtful discussions by SEAC, the State Board, and stakeholders. The State Board selected this language intentionally because many nationally recognized training programs use language very similar to this in training materials and we wanted to ensure that training selected by districts was consistent with what is required in the ESI regulations. Additionally, we wanted a standard that was easy for district staff to use their professional judgment when applying. We wanted to ensure that district staff could easily apply the standard to a given emergency situation to keep staff and students safe. We have received testimony from KSDE staff that district staff has spent a great deal of time and effort training all staff to this standard and that there does not appear to be confusion in the districts about this standard or how to apply it.

Thank you for your input and concern on this important topic. We will continue to work with parent and advocacy groups as future issues and concerns arise, as these ESI regulations apply to all Kansas students.

Respectfully,

Jim McNiece, Chairman
Kansas State Board of Education

Honorable Chair Representative O'Brien and committee members of the Children and Families Committee:

I want to thank you for your discussion of HB 2170 and commend you for your commitment to students and families in Kansas. My name is Lesli Girard, and I represent Families Together, Inc., a non-profit organization that serves Kansas families who have children with disabilities and/or special health care needs. It is our mission to encourage, educate and empower families and their sons and daughters with disabilities to be effective advocates. We currently are the recipients of the Parent Training and Information Center grant from the Federal Department of Education to assist families in understanding and navigating the special education system, and help them understand their rights and responsibilities under the federal Individuals with Disabilities Education Act and the Kansas Special Education for Exceptional Children Act.

Families Together has centers located in Topeka, Wichita, and Garden City. All of the offices are staffed by parents and/or appointed education advocates of students with disabilities. Every day we talk with parents across Kansas regarding school issues. Over the past several years we have experienced a continual increase in the number of parents calling for assistance related to behavior or discipline concerns at school.

As an agency, we have been a part of the discussion about seclusion and restraint since 2005 when a bill was first introduced to the Kansas legislature. We worked collaboratively with the Disability Rights Center (DRC), Kansas State Department of Education (KSDE), Special Education Advisory Council (SEAC), and Keys for Networking to get information out to families about the use of seclusion and restraint in schools. A great deal has happened around this topic over the past ten years and the progress has been dramatic. I commend DRC for their diligent work over the years; the collaborative work among all of the agencies resulted in the previous guidelines and current regulations on the use of Emergency Safety Interventions (ESI). In the same way, I applaud the extreme amount of work KSDE has done over the same period. I've witnessed firsthand the countless hours, energy, and effort that KSDE has put into ensuring that resources and training are readily available to administrators, educators, and families, so that everyone understands Emergency Safety Interventions (ESI). Local districts have exhibited the same level of work and commitment, particularly since the passage of the regulations in April 2013.

The priority of our organization is to assist parents in any way we can, and we strive to do so in a manner that enables them to be effective and valued members of their child's school and community teams. When parents contact us with concerns or questions about ESI, we do our best to provide them with appropriate support, information, and resources. Being able to reference the current regulations, and give parents a copy of the attached "A Family Guide to the Use of Emergency Safety Interventions (Seclusion and Restraint) in Kansas" has aided us tremendously in our work. Additionally, we have worked with KSDE staff to create, promote, and deliver training on ESI designed especially for parents. The majority of the time information and resources are what parents are seeking; however, sometimes parental concerns about the use of seclusion and restraint with their children rise to the level of us supporting them at meetings with their school team. These along with training and assistance from our TASN (Technical Assistance System Network) partners have proven to be very

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effective, and an overwhelming majority of the concerns are resolved without any need for additional assistance from local boards of education or KSDE. This is not to say that none of the situations are serious—quite the contrary. But in our experience this has been due to lack of knowledge and/or training rather than any deliberate misuse of seclusion and/or restraint. All parties welcome the opportunity to work together to resolve the problems and figure out additional supports for the students involved. Educators and parents alike are eager to work together to address the challenges.

Our organization tracks data on all contacts we have with parents. Data related to Emergency Safety Interventions (Seclusion and Restraint) is shared regularly with KSDE's Special Education Advisory Council, and the Kansas Association of Special Education Administrators (KASEA) to help them identify trends and/or focus their work in particular directions.

I hope that I've summarized our involvement and activities around this topic, as well as highlighted the work that continues to be done to assist families and educators about Emergency Safety Interventions (ESI). Please feel free to contact me if you need any clarification or if I can be of additional help. More information about Families Together, Inc., is available at www.familiestogetherinc.org.

Respectfully,

Lesli Girard, Project Director

Families Together, Inc.

785-233-4777

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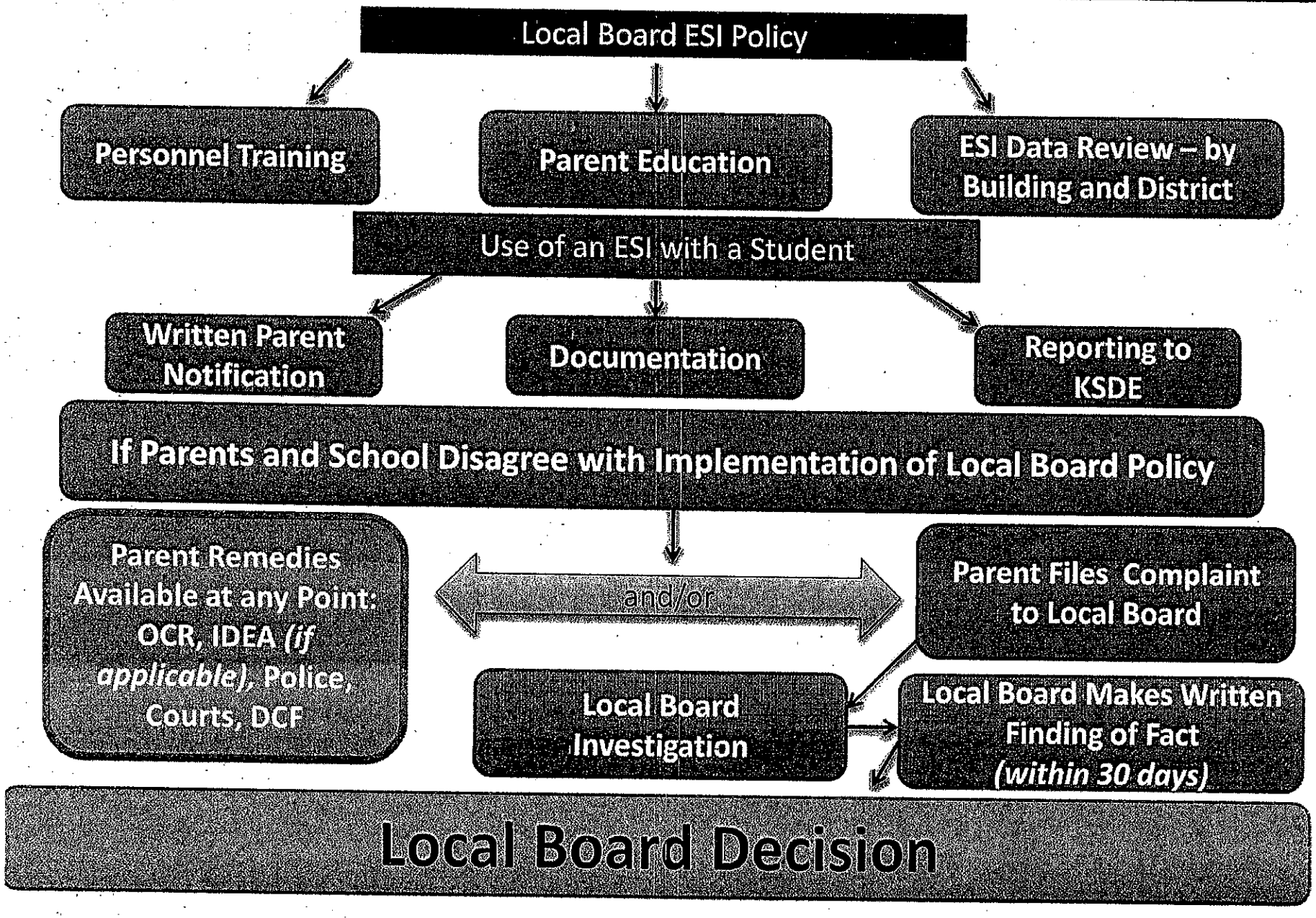
Kansas State Board of Education ESI Regulations



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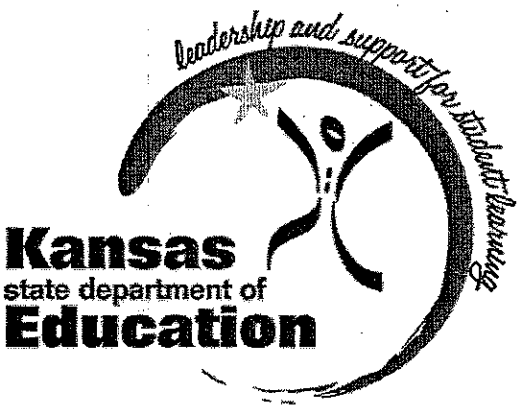


Emergency Safety Intervention (ESI)

Targeted Technical Assistance

Kansas State Department of Education
January 19, 2015

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies: KSDE General Counsel, Office of General Counsel, KSDE, Landon State Office Building, 900 SW Jackson, Suite 102, Topeka, KS 66612, (785) 296-3201

Overview of ESI Targeted Technical Assistance

This overview is designed to provide a description of the technical assistance that the Kansas State Department of Education (KSDE) will offer to schools and districts as a result of ESI data reported in the Kan-Dis web application, as well as other relevant information regarding ESI coming to KSDE's attention. The Kansas State Board of Education passed regulations on the use of seclusion and restraint (ESI) in April of 2013. These regulations require each district to report all incidents of ESI to KSDE. This reporting is done through the Kan-Dis web application. The Kan-Dis web application is accessed by logging in to the authentication portal on the KSDE website, https://svapp15586.ksde.org/authentication/login.aspx.

The Kan-Dis web application is set up to allow each building to report all incidents of seclusion and restraint, all minutes of seclusion and restraint, and the number of students that were secluded or restrained. To complete the ESI report the user provides the total number of seclusion incidents, total number of restraint incidents, total minutes of seclusion, total minutes of restraint, total number of students restrained, and total number of students secluded for each building for a given time period. Users submit this report to KSDE through the Kan-Dis web application two times per year, in December and June.

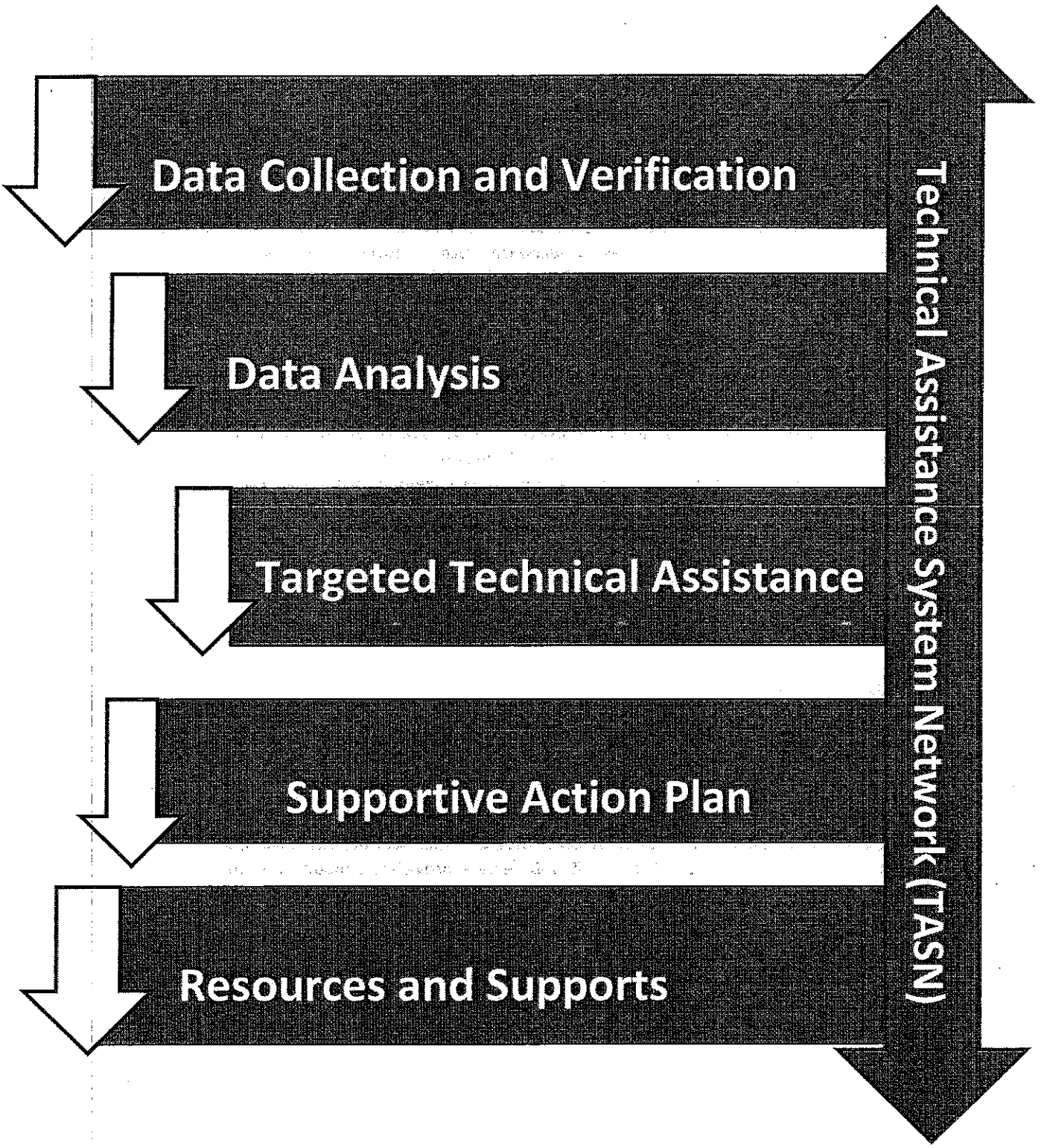
This overview is designed to inform users about what KSDE will do with the ESI data that buildings submit. KSDE's process includes information on what will happen if buildings do not submit their data as required. This process also includes information on the data analysis that KSDE undertakes after data are submitted. The process for providing targeted technical assistance as a result of the data analysis is outlined as well. KSDE staff undertakes this entire process for targeted technical assistance with a number of qualified behavior experts, many of which are TASN service providers.

Technical assistance is always available through Kansas' Technical Assistance System Network (TASN). The TASN website also includes ESI resources that may be of help to schools and districts as they work to implement the ESI regulations. More information regarding technical assistance is located at www.ksdetasn.org.

For questions on the ESI Targeted Technical Assistance Process please contact:

Laura N. Jurgensen
Early Childhood, Special Education and Title Services
Kansas State Department of Education
Landon State Office Building
900 SW Jackson Street, Suite 620
Topeka, Kansas 66612-1212
(785) 296-5522
ljurgensen@ksde.org
http://ksdetasn.org/cms/index.php/esi-resources
www.ksde.org

ESI Targeted Technical Assistance Process



Understanding the ESI Targeted Technical Assistance Process

Data Collection and Verification

Data Collection

The first step in the ESI targeted technical assistance process is the collection and submission of building-level ESI data to KSDE. This reporting is done through the Kan-Dis web application. The Kan-Dis web application is set up to allow each building to report all incidents of seclusion and restraint, all minutes of seclusion and restraint and the number of students that were secluded or restrained. To complete the ESI report the user provides the total number of seclusion incidents, total number of restraint incidents, total minutes of seclusion, total minutes of restraint, total number of students restrained, and total number of students secluded for each building for a given time period. Users submit this report to KSDE through the Kan-Dis web application two times per year, in December and in June.

Data Verification

If a report is not submitted for a building, KSDE sends a letter informing the building principal and the district superintendent that the ESI reports were not submitted for the previous reporting period. If a second consecutive report is not submitted, another letter is sent to the building principal and the district superintendent, and a copy is sent to the chair of the local board of education. If a third consecutive report is not submitted, another letter is sent to the building principal, superintendent, and chair of the local board of education, and a copy is sent to the members of the state board of education.

If the building principal believes a report was submitted prior to the deadline, the building principal has two weeks from the date the letter is sent in which to provide KSDE staff with a screenshot showing that the report was submitted prior to the deadline.

Data Analysis

When the submission window for a reporting period closes a list is compiled of each building that did not submit its ESI reports to KSDE. KSDE determines how many consecutive reporting ESI reports have not been submitted for each building.

KSDE staff and service providers review the data submitted by each building and take all of the totals submitted, calculate the median for each total, and then identify any buildings with totals two standard deviations above median. KSDE staff and service providers conduct any additional analysis deemed necessary.

Targeted Technical Assistance

A building may be selected for targeted technical assistance if it meets any of the criteria below:

1) A building does not submit ESI reports for one reporting period.
2) A building submits ESI totals to KSDE that are two standard deviations above the median.
3) A building reports zero incidents of ESI.
4) A building comes to the attention of KSDE staff through the following methods:
    a. Substantiated Office for Civil Rights (OCR) complaint concerning restraint or seclusion

OR

b. Substantiated Individuals with Disabilities Act (IDEA) formal complaint concerning restraint or seclusion
   AND one of the following
c. Phone call from school, district, cooperative, interlocal, or service center staff with a concern regarding restraint or seclusion
   OR
d. Phone call from a parent or other interested party with a concern regarding restraint or seclusion

Approximately ten percent of the buildings that reported zero incidents of ESI may be selected for targeted technical assistance. These buildings will be selected randomly.

Finally, a small number of buildings may be selected randomly for priority targeted technical assistance. This random selection will include buildings selected for priority targeted technical assistance. Buildings selected for priority targeted technical assistance are buildings that have

If a building is selected for targeted technical assistance the building principal will be contacted by KSDE. KSDE will give the building principal an ESI checklist to complete that must be completed in two weeks from the date of receiving the checklist. When the building principal is finished with the checklist they will send the completed version to the service provider. The ESI checklist is designed to ensure the building is complying with all parts of the ESI regulations. The ESI checklist is available for review in the appendix to this document.

Once the service provider receives the ESI checklist from the building principal, the service provider will review the checklist and determine whether technical assistance will be provided remotely or at the building. The service provider will also review the data submitted by the building principal through the Kan-Dis web application, if any, in making this determination.

When targeted technical assistance is provided remotely or on-site, the service provider may need to review the building's ESI documentation from the previous school year and the current school year. If the service provider requests to review the building's ESI documentation from the previous school year and the current school year please provide building-level data at the aggregate level or, if it is necessary to provide student-level data, please ensure all personally identifiable information from the data is removed or redacted. Additionally, please comply with district policies on the release of student data to a service provider. If district staff request that the service provider review personally identifiable information or observe a student in providing technical assistance, then please obtain informed written consent from the student's parent or guardian prior to any release of personally identifiable information or student observation.

Once the service provider has had the opportunity to review all necessary student data and talk with any relevant staff members, the service provider will identify the building's areas of needs and support the building in addressing those needs. The service provider will give a report to the building principal containing this information, as well as any necessary support to correct regulatory deficiencies. Addressing a building's needs could include a recommendation that building staff undertake training consistent with nationally recognized training programs on the use of ESI; training in prevention techniques, de-escalation techniques, and positive behavioral intervention strategies; working with a service provider to develop and implement positive behavior supports for a specific child or children; or

assistance in putting practices and procedures into place to more effectively implement the ESI regulations and the district's ESI policy.

Supportive Action Plan

As part of the targeted technical assistance, the service provider may support the building principal in implementing some changes needed to remedy regulatory deficiencies. The service provider will document this supportive action in the report described above that is provided to the building principal and KSDE. The service provider will work with the building principal to develop a timeline under which these changes will be fully implemented. Once this time period has ended the service provider will contact the building principal to discuss implementation of identified supports and practices and assess for the continued need for ongoing technical assistance.

KSDE and the service provider will continue to monitor a building targeted for technical assistance for at least one reporting period following the completion of any changes implemented at the building. This monitoring will include review of the data that the building principal submits through the Kan-Dis web application, and may include follow-up discussions with the building principal and additional targeted technical assistance. Within 30 days of the conclusion of the targeted technical assistance process the building principal will receive a brief survey asking them to assess their interaction with the service provider and the impact of the targeted technical assistance in their building. KSDE staff and service providers will use this information to continue to improve the targeted technical assistance process.

Resources and Support

Building staff may continue to contact the service provider and KSDE for assistance as they continue to implement the ESI regulations and any changes required by the targeted technical assistance process. Building staff should continue to check the ESI resources page at www.ksdetasn.org for additional resources as they become available. TASN will continue to provide training in prevention techniques, de-escalation techniques, and positive behavioral intervention strategies that building staff may participate in to reinforce any techniques learned during the targeted technical assistance process.

Appendix

ESI REQUIREMENTS CHECKLIST

Name and Title: _____
USD Number and Building Name: _____
Date Completed: _____

Directions: Complete the checklist by recording Y for Yes, N for No, and NA for Not Applicable under "In Place?" for each item on the checklist. Submit written or electronic documentation of policies, procedures, or forms for items marked Y on the checklist. For items documented on a website, please submit screen shots.

In Place?	Emergency Safety Intervention (ESI) Requirement
	1. The district has developed and implemented written policies to govern the use of ESIs for all schools and all students.
	2. All required definitions are included in district ESI policies and those definitions conform to the ESI regulations.
	3. School correctly applies definitions to determine occurrences of ESI.
	4. Written policies include requirement that seclusion and physical restraint shall be used only when student conduct meets the definition of necessitating an ESI.
	5. Written policies include prohibition of: • prone restraint, • supine restraint, • physical restraint that obstructs the airway of a student, • any physical restraint that impacts a student's primary mode of communication, • chemical restraint (except as prescribed treatments), or • mechanical restraint (except for protective or stabilizing devices ordered by an appropriately-licensed person, device used by law enforcement, or safety equipment used to secure students during transportation).
	6. Parents are provided annually with the written policies on the use of ESIs.
	7. Written policies are accessible on the school's web site.
	8. Written policies are included in school's code of conduct, school safety plan, or student handbook.
	9. School personnel training addresses prevention techniques, de-escalation techniques, and positive behavioral intervention strategies.
	10. Training is consistent with nationally recognized training programs.
	11. Training is designed to meet the needs of personnel as appropriate to their duties.

	12. School maintains documentation on training provided.
	13. School maintains lists of participants for all trainings.
	14. All school personnel are trained to some degree.
	15. Documentation of each incident of ESI includes: • Date and time of ESI, • Type of ESI, • Length of time the ESI was used, and • School personnel who participated in or supervised the ESI.
	16. Written parental notification provided whenever an ESI is used.
	17. Written parental notification provided within two school days.
	18. Procedures are established for the collection, maintenance, and periodic review of the use of ESI at each school.
	19. Policies are in place for a local dispute resolution process, including: • A complaint investigation procedure, • A procedure for parents to present written complaints to the local Board of Education (BOE) to initiate complaint investigation by the local BOE, and • A procedure for parents, the school and KSDE to receive written findings of fact and, if necessary, corrective action from the local BOE within 30 days of filing of a complaint by a parent.
	20. Information maintained by the school is compiled and submitted, at least biannually, to the district superintendent or district designee.
	21. All incidents of ESI, for all students for which this building is responsible regardless of where the student attends, were reported to KSDE through the Kan-Dis web application by the reporting dates set by KSDE.
	22. Documentation of the school's or district's use of ESI has been provided to KSDE upon written request of KSDE.
	23. Procedure established for this building to collect ESI documentation on any student for which it is responsible that attends a different building (whether in- or out-of-district) and then report those ESI incidents to KSDE.
	24. Procedure established for this building to disseminate ESI documentation to a student's responsible building for any student that attends in this building, but whose responsible building is elsewhere (whether in- or out-of-district). This ESI documentation was disseminated in time for the student's responsible building to complete its reports to KSDE.
	25. Any cooperative, interlocal, or independent contractor that serves district students has provided information to parents regarding the appropriate venue for investigation and resolution of a complaint.

Comments:

C

C-C1

EQUALITY • LAW • JUSTICE

Written-Only Testimony in Support of HB 2170

Disability Rights Center of Kansas
Catherine E. Johnson, Disability Rights Attorney

Madam Chair and honorable members of the Committee. My name is Catherine E. Johnson. I am an attorney at the Disability Rights Center of Kansas. The Disability Rights Center of Kansas is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocacy for Kansans with disabilities.

The Kansas State Board of Education implemented the Emergency Safety Intervention Regulations on April 19, 2013. This regulation did not alter the types of parental complaints received by DRC regarding the inappropriate use of seclusion and/or restraint on their child. Parents on the whole were not willing to file a complaint with the local school board as outlined in the regulation. Parents did not trust that a school system using inappropriate seclusion and/or restraint practices on their child would make an unbiased and impartial decision regarding their complaint of that use.

A few examples of common parent complaints are:

1. The amount of time their child spent in a seclusion room, frequently hours and sometimes a full school day.
2. The requirement that their child "earn" their way out of the seclusion room before being allowed to return to their classroom.
3. Time their child was removed from their classroom to a "safe room."
4. District's refusal to provide documentation of seclusion to parents for time in a "safe room."

5. The restraint performed on their child by staff.
6. Type of restraint.
7. Training of staff performing the restraint.
8. Reason for use of restraint.
9. Inadequate notice and documentation of restraint and seclusion involving their child.
10. Concerns regarding the local district's ability to render an impartial decision if the parent files an ESI complaint.
11. Unclear and difficult to find local appeal process.
12. Inability to file complaint with KSDE or to appeal local district determination on ESI complaint.

The current Emergency Safety Intervention Regulation and the proposed amendment to the Emergency Safety Intervention which incorporates an appeal of the local school boards' resolution of a complaint, fails to address the parental concerns and complaints identified above. The proposed complaint amendment grants deference to schools in the complaint process. The parent or student's complaint (version of the situation) MUST be considered in the same vein as the school's response to the complaint. Anything short of equal treatment in the complaint process, grants deference to schools. Deference in the complaint process will not alter a parent's perspective that a current conflict of interest exists when a local school board has sole decision-making power over a parental complaint. Parents seek equal treatment in the complaint process, the investigation process, in determining appropriate corrective action on founded complaints, and in ensuring that the Kansas State Board of Education has enforcement authority.

HB 2170 fully addresses and resolves the identified parental complaints and concerns noted above. HB 2170 ensures a uniform standard for use of seclusion and restraint, it provides an effective and constitutional means of regulating the use of seclusion and restraint by schools, and provides a means for parent to file an independent complaint. Parents have requested relief from seclusion and restraint practices for more than ten years. It is time to fully, fairly and appropriately pass legislation that provides meaningful and equal protections for our Kansas Students against seclusion and restraint practices.

C1

Priority 6: Special Education

DRC will provide advocacy for Kansas students to enforce their right to special education and related services in the least restrictive environment and protect against inappropriate discipline involving behavior, which is a manifestation of the student's disability.

Advocacy Services under Priority 6: DRC will provide legally based advocacy for 180 service requests under this priority (IDEA and Section 504), including but not limited to the following cases:

Objective 6.1: Protecting Students from Seclusion and Restraint in Schools – DRC will provide legally based advocacy for students who are subjected to improper use of seclusion and restraint.

Objective 6.2: Preventing Suspension for Behavior Related to Disability – DRC will provide legally based advocacy for students who are suspended or expelled for behavior related to their disability.

Objective 6.3: Stopping Change of Placement to More Restrictive Setting – DRC will provide legally based advocacy for students who are moved to a more restrictive setting due to their disability.

Objective 6.4: Preventing the School to Prison Pipeline – Impact Case – DRC will pursue civil remedies against a school district or special education co-op who is removing significant numbers of children from school due to disability-related behavior and sending them to the juvenile justice system [Note: this is designated as an Impact Case, which means it is intended to challenge or change systems by impacting larger groups of Kansans with disabilities].

Objective 6.5: Investigating Reductions in Special Education Services – Potential Impact Case – DRC will investigate decisions by school districts and/or special education co-ops to reduce Special Education services due to alleged lack of academic necessity [Note: this is designated as a potential impact case in the development phase].

Objective 6.6: Investigating Systems Change Opportunities for Transition Age Youth – Potential Impact Case–DRC will investigate the lack of transition age services being provided for youth, including but not limited to those who are in foster care, and develop options for potential systems change advocacy [Note: this is designated as a potential impact case in the development phase]

D

Kansas State Department of Education
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120 SE 10th Avenue • Topeka, KS 66612-1182 • (785) 296-6338 (TTY) • www.ksde.org

To: Superintendents, Special Education Directors, and Principals

Date: May 21, 2013

RE: Emergency Safety Interventions (ESI) Training Requirement of the Regulations

The regulations on the use of Emergency Safety Interventions (ESI) with all students went into effect on April 19, 2013. Our commitment at KSDE has been to provide workshops across the state and participate in meetings, when appropriate, to both notify the field of the regulations and to provide guidance on the regulatory requirements. If you have been unable to attend one of these presentations we encourage you to view the PowerPoint, available on the ESI page on the KSDE Technical Assistance System Network (TASN) website, http://ksdetasn.org/cms/index.php/esi-resources. Also available on the ESI page on the KSDE TASN website is a preliminary list of free and low-cost resources in prevention, de-escalation, and positive behavioral intervention strategies.

Since the regulations went into effect, KSDE has received several inquiries about the training requirements in the regulations. The regulations do require training. Any training on the use of seclusion and restraint must be consistent with nationally recognized training programs on the use of ESI. All school personnel are required to be trained. This includes administrative assistants, office personnel, bus drivers, lunch room staff, custodians, etc. The level of training needed for each person must meet that person's needs as appropriate to their duties and potential need for emergency safety interventions with the crux of all training, for all staff, focused on de-escalation, prevention, and positive behavior interventions and supports. The regulations do **not** require that every staff member be trained in the most restrictive behavior intervention techniques, i.e. the use of restraint. Based on the ESI data that schools have submitted to KSDE since 2008, we have not recognized any district or school where there would be a need to train every staff member in the most restrictive behavior intervention techniques. In almost all instances, we would anticipate that only a few school personnel would need to be trained in the most restrictive behavior intervention techniques, if any at all, based on the needs of that specific school. However, decisions on training are a district and school decision.

Schools are encouraged to review their data on the use of seclusion and restraint, review the duties of staff members, review the training that is already in place in the district and the school, and then determine training needs based on this information. We have described the training requirement in the workshops as a continuum of training. All school personnel should be aware of the requirements of the regulations and informed about prevention techniques, de-escalation techniques, and positive behavioral intervention strategies, at a basic level. Most school personnel will need a review of the

requirements of the regulations and a more in-depth knowledge of prevention techniques, de-escalation techniques; and positive behavioral intervention strategies. Few school personnel will need a review of the requirements, training on prevention, de-escalation, and positive behavior interventions strategies, and training in the most restrictive behavioral intervention techniques, i.e. restraint. Again, all training decisions are made at the district and school level.

Beginning this summer and going into the start of next school year, KSDE plans to provide options for training that will support schools in implementing a program that addresses prevention techniques, de-escalation techniques, and positive behavioral intervention strategies. KSDE intends to provide this training at a free or reduced cost. Please note: many schools may already have a program in place that addresses these components – prevention, de-escalation, and positive behavior interventions and supports. It may be appropriate for districts and schools to continue programs already in place and not seek additional training to meet the requirements of the regulations, provided the programs are consistent with nationally recognized training programs and meet the needs of district and school personnel.

Please feel free to contact Laura Jurgensen, ljurgensen@ksde.org or at (785)296-5522 with any additional questions or concerns. Thank you.

An Equal Employment/Educational Opportunity Agency

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities. The following person has been designated to handle inquiries regarding the non-discrimination policies: KSDE General Counsel, 120 SE 10th Ave., Topeka, KS 66612; 785-296-3201

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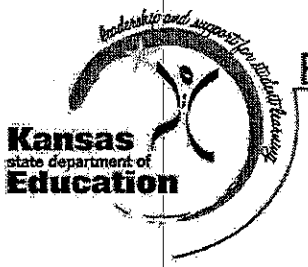

Early Childhood, Special Education and Title Services

Kansas State Department of Education
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900 SW Jackson Street, Suite 620
Topeka, Kansas 66612-1212

(785) 291-3097
(800) 203-9462
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www.ksde.org

To: Kansas School Administrators

Date: September 30, 2014

Re: 2013-14 Emergency Safety Intervention Data Analysis and Targeted Technical Assistance

A KSDE technical assistance team has completed the data analysis of emergency safety intervention (ESI) data for the 2013-14 school year. The main technical assistance efforts during the 2014-15 school year will be targeted technical assistance as guided by the 2013-14 data analysis. The targeted technical assistance process is explained in the process document which is located on the ESI Resources page of the TASN website, http://ksdetasn.org/cms/index.php/esi-resources, under the heading "ESI Resources – 1. General." Those buildings identified as needing targeted technical assistance will be contacted in the next week.

Below is an explanation of the 2013-14 ESI data analysis and the process of identifying buildings for targeted technical assistance.

The **restraint** data show the following key points:

- 1,468 buildings reported restraint data
- 1,095 schools (almost 75%) reported no use of restraint
- 4,450 incidents of restraint
- 20,236 minutes of restraint
- The median number of incidents of restraint was zero. The median is the score at the 50th percentile. The easiest way to picture this is to imagine all of the buildings' total number of incidents for Quarters 2, 3, and 4 in a column from the least (zero) to the most (502). The median score is the score in the middle. Since an overwhelming number of buildings reported zero incidents of restraint, it is easy to see why the median score was zero.
- The standard deviation for the total number of incidents of restraint for Quarters 2, 3, and 4 was 17.92. Standard deviation is a measure of variability of the data, or how spread out the data is distributed. Approximately 95.4% of scores are within two standard deviations of the median. This means about 95% of the total number of incidents of restraint reported by buildings for Quarter 2, 3, and 4 fell between zero and 36.
- The median amount of total time reported for restraint was zero.
- The standard deviation for the total amount of time for restraint for Quarters 2, 3, and 4 was 55.66 minutes. Approximately 95.4% of scores are within two standard deviations

of the median. This means about 95% of the total time for restraint reported by the buildings for Quarter 2, 3, and 4 fell between zero minutes and 108 minutes.

- A total of 53 buildings reported scores that were more than two standard deviations from the median for either total number of incidents or total time reported for restraint or both.

The seclusion data show the following key points:

- 1,467 buildings reported seclusion data
- 1,235 schools (about 84%) reported zero use of seclusion
- 6,295 incidents of seclusion
- 76,627 minutes of seclusion
- The median number of incidents of seclusion was zero. The median is the score at the 50th percentile. The easiest way to picture this is to imagine all of the buildings' total number of incidents for Quarters 2, 3, and 4 in a column from the least (zero) to the most (307). The median score is the score in the middle. Since an overwhelming number of buildings reported zero incidents of seclusion, it is easy to see why the median score was zero.
- The standard deviation for the total number of incidents of seclusion for Quarters 2, 3, and 4 was 20.78. Standard deviation is a measure of variability of the data, or how spread out the data is distributed. Approximately 95.4% of scores are within two standard deviations of the median. This means about 95% of the total number of incidents of seclusion reported by the buildings for Quarter 2, 3, and 4 fell between zero and 42.
- The median amount of total time reported for seclusion was zero.
- The standard deviation for the total amount of time for seclusion for Quarters 2, 3, and 4 was 234.79 minutes. Approximately 95.4% of scores are within two standard deviations of the median. This means about 95% of the total time for seclusion reported by the buildings for Quarters 2, 3, and 4 fell between zero minutes and 469 minutes.
- A total of 54 buildings reported scores that were more than two standard deviations from the median for either total number of incidents or total time reported for seclusion or both.

Targeted Technical Assistance

Twenty-one buildings were identified as scoring more than two standard deviations above the median for both seclusion and restraint. These buildings will engage in the entire targeted technical assistance process with a service provider. All of the buildings scoring more than two standard deviations above the median will be asked to fill out the ESI Checklist included in the ESI Targeted Technical Assistance Process Document. Additional buildings that were more than two standard deviations above the median for either restraint or seclusion or both may be asked to engage in the entire targeted technical assistance process as well.

Administrators of all buildings should watch the *ESI Part 3 Webinar: Analyze Your Own Data* on the ESI Resources page of the TASN website at http://ksdetasn.org/cms/index.php/esi-resources under the heading "ESI Part 3." This webinar can be helpful in identifying patterns of occurrences of ESI and exploring practices for prevention and intervention.

Please feel free to contact Laura Jurgensen, ljurgensen@ksde.org or (785) 296-5522 with any additional questions or concerns. Thank you.

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies: KSDE General Counsel, Office of General Counsel, KSDE, Landon State Office Building, 900 SW Jackson, Suite 102, Topeka, KS 66612, (785) 296-3201.

E

How Safe Is The Schoolhouse?
An Analysis of State Seclusion and Restraint Laws and Policies

Author: Jessica Butler
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Jan. 20, 2014 (Updated to include new laws that were effective as of Jan. 12, 2014)

Published by The Autism National Committee (AutCom). This report and updates will be available on the AutCom webpage, www.autcom.org, free of charge. The link is
http://www.autcom.org/pdf/HowSafeSchoolhouse.pdf

Important Technical Details (Read this!). (1) I use 51 "states" to include the District of Columbia. I did not have territorial materials. (2) For brevity, the term "laws" refers to statutes and regulations, which are legally binding. It distinguishes them from nonbinding state seclusion and restraint policies and guidelines.

II. PATCHWORK OF STATE LAWS AGAINST SECLUSION & RESTRAINT .....
A. Meaningful Protections in Law 7
B. Legal Protection from One but Not the Other 9
C. Weak Protections in Law 9
D. Non-Binding Guidance (No Legal Effect) 10
E. States with Neither Laws nor Voluntary Policies.....

II. SECLUSION & RESTRAINT

A. Meaningful Protections in Law

As of January 12, 2014, only 19 states by law protected all children equally from both restraint and seclusion: Alabama, Colorado, Georgia, Illinois, Indiana (2013), Iowa, Kansas (2013), Kentucky (2013), Massachusetts, Maryland, Maine, North Carolina, Ohio (2013), Oregon, Rhode Island, Vermont, West Virginia, Wisconsin, and Wyoming. These statutes and regulations have the force of law and must be obeyed. Thus, this report uses the term "laws" to refer to them.

On February 13, 2013, Kansas approved a regulation limiting restraint/seclusion to threats of physical danger. "Violent action that is destructive of property" is included within this definition. The term "violent" makes clear that property damage must entail an imminent threat of physical danger to qualify. Hence, the Kansas regulation is far different from other regulations that allow restraint for property destruction without regard to physical danger. For this reason, Kansas is counted among the emergency/danger states.

1. Restraint Only For Emergencies Threatening Physical Danger

Only 14 states by law limit restraint to imminent threats of physical danger for all children.[34] They are Alabama, Colorado, Delaware (2013), Georgia, Illinois, Indiana (2013), Kansas (2013), Maine, New Hampshire (serious physical harm), Ohio (2013), Oregon (serious physical harm), Rhode Island (serious physical harm), Vermont, and Wisconsin. The remaining 37 do not provide all children with this protection

Emergency Safety Intervention Resources

ESI Regulations (Effective April 19, 2013)	Updated	Format
K.A.R. 91-42-1 and 91-42-2, As passed by the Kansas State Board of Education	04/10/2013	PDF

2014-2015 Kansas Professional Learning Opportunities	Updated	Format
TASN Behavior Training Matrix	7/1/2014	PDF
Emergency Safety Intervention Trainings	7/1/2014	PDF
Emergency Safety Intervention Early Childhood Trainings	2/8/2015	PDF
Safety First Curriculum	7/1/2014	PDF
Prevent-Teach-Reinforce for Young Children	2/8/2015	PDF
Kansas Champs & Discipline in Secondary Classroom	7/1/2014	PDF
In the Driver's Seat	7/1/2014	PDF
MTSS Book Studies	7/28/2014	PDF
2014-2015 MTSS:CI3T Professional Learning Series	8/13/2014	PDF
Regional De-escalation Trainings	9/18/2014	PDF

ESI Resources	Updated	Format
1. General		
a. U.S. Department of Education Restraint and Seclusion: Resource Document	04/10/2013	PDF
b. ESI Bookmark	06/23/2013	PDF
c. Memo on ESI Training Requirement of the Regulations	06/19/2013	PDF
d. Emergency Safety Intervention Guidance Document	12/10/2013	PDF
e. Memorandum Clarifying the ESI Regulations	09/05/2013	PDF
f. ESI Regulations Flow Chart	09/23/2014	PDF
g. ESI Targeted Technical Assistance Process Document	01/15/2015	PDF
2. Families & Early Childhood		
a. A Family Guide to the Use of Emergency Safety Interventions (Seclusion and Restraint) in Kansas (English)	04/10/2013	PDF
b. A Family Guide to the Use of Emergency Safety Interventions (Seclusion and Restraint) in Kansas (Spanish)	11/14/2013	PDF
c. Safety First Training for Early Childhood	08/18/2014	PDF
d.Virtual Kit: Kanas ESI Regulations Apply to Preschoolers!	05/07/2013	WebLink

3. **Transportation Supervisors (Dr. Randy Sprick)**		
a. An Orientation for Transporation Supervisors PPT	09/18/2013	PDF
b. Sample Documents for Transportation Supervisors	09/18/2013	PDF
c. Webinar: Behavior Support Planning for Transportation Supervisors in Kansas (Randy Sprick)	12/11/2014	Link

2014-2015 Regional De-escalation Training Material	**Updated**	**Format**
2014-2015 De-escalation PowerPoint	10/29/2014	PPT
2014-2015 Participant Handouts	10/29/2014	PDF

ESI Regulations Webinar	**Updated**	**Format**
Emergency Safety Intervention Handouts	05/13/2013	PDF
Facilitators Guide and Slides	05/13/2013	PDF
Emergency Safety Interventions Webinar	05/13/2013	Link

ESI Part 1	**Updated**	**Format**
ESI Training Part 1	06/05/2013	PDF
ESI What Early Childhood Practitioners Need to Know - Presentation	10/7/2013	PDF
Training Module: Applying ESI Regulations to Early Childhood Scenarios Webinar	11/01/2014	SWF
Early Childhood ESI Scenarios	09/01/2013	PDF
Early Childhood ESI Scenarios-Key	10/27/2014	PDF
FAQs on ESI in Early Childhood Settings	07/03/2013	PDF
Early Childhood ESI and PBIS Training Resources	09/18/2013	PDF
ECRC PBIS Holdings Handout	09/17/2014	PDF
Safety First Training for Early Childhood	08/18/2014	PDF

ESI Part 2	**Updated**	**Format**
ESI Part 2 Webinar	06/06/2014	SWF
ESI Training Part 2	10/28/2013	PDF
Crisis Review Checklist for Educators	09/25/2013	PDF
Escalation Cycle Graphic	09/25/2013	PDF
Escalation Cycle List of Appropriate Responses	09/25/2013	PDF
Behavior Resource List	09/25/2013	PDF
Action Plan	09/25/2013	PDF

ESI Part 3	Updated	Format
ESI Part 3 Webinar	06/06/2014	SWF
District Building ESI Data Questions	06/06/2014	PDF
ESI Part 3 Sample Data Collection	06/06/2014	Excel
ESI Part 3 Presentation	06/06/2014	PPT

De-escalation	Updated	Format
Dr Geoff Colvin's "Key Elements of De-escalation" Ask the Experts Webinar.	03/14/2014	WebLink
Key Elements of De-escalation PowerPoint	03/14/2014	PDF
Behavior Associates Website	03/14/2014	WebLink

Regional De-escalation Training Material	Updated	Format
Preventing the Escalation of Challenging Behaviors in School Settings PowerPoint	05/06/2014	PDF
Notes Handout for Preventing the Escalation of Challenging Behaviors in School Settings	05/06/2014	PDF
De-escalation Web Resources	05/06/2014	PDF
De-escalation Worksheet	05/06/2014	PDF
Stages of Behavior Escalation	05/06/2014	PDF
A-B-C Analysis	05/06/2014	Word Doc

ESI Reporting	Updated	Format
Kan-Dis Login	01/03/2014	WebLink
Kan-Dis Information and Resources	01/03/2014	WebLink
Memo to Kansas Administrators Regarding Changes in Emergency Safety Intervention (ESI) Reporting for the 2014-15 School Year	09/23/2014	PDF
Memo to Kansas Administrators Regarding 2013-14 Emergency Safety Intervention Data Analysis and Targeted Technical Assistance		

G

My State's Seclusion & Restraint Laws

Brief Summaries of State Seclusion and Restraint Laws and Policies

Author: Jessica Butler
jessica@jnba.net

August 4, 2013 (contains state laws and policies in effect as of July 1, 2013)

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ALABAMA

AL permits restraint only in an emergency when its use is necessary to prevent an imminent threat of physical harm.

ALASKA

permitted only when activity threatens imminent physical danger

ARKANSAS

There are no statutes, regulations, or even nonbinding, suggested guidelines about restraint in schools.

ARIZONA

There are no statutes, regulations, or even nonbinding, suggested guidelines about restraint in schools.

CALIFORNIA

CA explicitly permits restraint and seclusion in "emergency" situations

COLORADO

CO allows restraint/seclusion only emergencies when their use is necessary to prevent an imminent threat of physical harm.

CONNECTICUT

CT allows restraint only in an emergency when its use is necessary to prevent an imminent threat of physical harm.

DELAWARE

DE permits physical restraint only for imminent serious threats of physical harm.

DISTRICT OF COLUMBIA

Guidelines urge limiting restraint and seclusion to emergencies where they are necessary to prevent physical harm

FLORIDA

restraint and seclusion be used only for imminent threat of serious physical harm.

GEORGIA

GA permits restraint only for imminent threats of physical harm.

HAWAII

Hawaii allows the use of reasonable force to prevent injury to a person or property.

IOWA

Restraint and seclusion are allowed for threats of physical harm, property destruction, or educational disruption.

IDAHO

No statute, regulation, or even nonbinding guidelines

ILLINOIS

IL permits restraint only for imminent threat of physical harm

INDIANA

Restraint/seclusion will be allowed only in an emergency where their use is necessary to prevent an imminent threat of physical harm.

KANSAS

KS permits restraint/seclusion only in an emergency when their use is necessary because a student "an immediate danger to self or others."

KENTUCKY

Restraint is limited to emergencies threatening physical danger and to certain criminal acts, such as criminal destruction of property.

LOUISIANA

LA permits restraint and seclusion only in an emergency when necessary to prevent an imminent threat of physical harm.

MASSACHUSETTS

MA permits restraint only (a) in an emergency when it is necessary to prevent an imminent threat of physical harm, or (b) as stated in a child's Individualized Education Program or Behavior Intervention Plan even when no one is in risk of any harm.

MARYLAND

MD allows restraint and seclusion only in an emergency when it is necessary to prevent an imminent threat of serious physical harm—or as stated in a child's Individualized Education Program or Behavior Intervention Plan.

MAINE

Restraint/Seclusion are limited to emergencies threatening a risk of physical harm. The new April 2013 statute permits the use of restraint/seclusion when a "reasonably prudent" person would take steps to protect people from physical harm.

MICHIGAN

Statute allows restraint for threats of physical harm, property destruction or educational disruption.

MINNESOTA

The MN statute appears intended to limit restraint to emergencies threatening physical injury.

MISSISSIPPI

No statute, regulation, or even nonbinding guidelines

MISSOURI

allowing restraint for threats of physical harm, property destruction, educational disruption, or as stated in the IEP for any reason whatsoever.

MONTANA

MT permits restraint for threats of physical harm, property destruction, or educational disruption.

NORTH CAROLINA

Restraint and seclusion are allowed for threats of physical harm, property destruction, or educational disruption or as stated in the IEP/BIP.

NORTH DAKOTA

No statute, regulation, or even nonbinding guidelines.

NEBRASKA

that restraint/seclusion be permitted only when necessary due to an imminent threat of physical harm.

NEW JERSEY

No statute, regulation, or even nonbinding guidelines.

NEW HAMPSHIRE

NH permits restraint only when necessary to stop an imminent threat of serious physical harm.

NEW MEXICO

suggests that restraint be limited to threats of physical harm and property destruction.

NEVADA

NV allows restraint only when necessary to prevent imminent threats of physical harm or serious property destruction.

NEW YORK

NY permits the use of restraint/seclusion to restrain a person when there is a threat of physical harm, property destruction, or educational disruption.

OHIO

OH permits restraint and seclusion only in emergencies where their use is necessary to prevent an imminent threat of physical harm.

OKLAHOMA

OK suggests, but does not require, limiting restraint and seclusion to emergencies where their use is necessary to prevent an imminent threat of physical harm.

OREGON

OR permits restraint and seclusion only in emergencies where their use is necessary to prevent an imminent threat of serious physical harm.

PENNSYLVANIA

PA permits restraint only in emergencies where its use is necessary to prevent an imminent threat of physical harm.

RHODE ISLAND

RI permits restraint only in emergencies where its use is necessary to prevent an imminent threat of serious/substantial physical harm.

SOUTH CAROLINA

SC's voluntary guidance suggests banning restraints that interfere with breathing and mechanical restraint. SC does not otherwise suggest limits on restraint,

SOUTH DAKOTA

No statute, regulation, or even nonbinding guidelines

TENNESSEE

TN permits restraint and seclusion only in emergencies where their use is necessary to prevent an imminent threat of physical harm.

TEXAS

TX permits restraint to prevent serious property damage or in emergencies where it is necessary to prevent an imminent threat of physical harm.

UTAH

UT suggest restricting restraint/seclusion to situations threatening imminent physical harm or serious property destruction.

VIRGINIA

VA suggests restraint /seclusion be limited to imminent threat of physical harm

VERMONT

VT permits restraint and seclusion only in emergencies where their use is necessary to prevent an imminent threat of physical harm.

WASHINGTON

For children with disabilities, WA allows restraints for threats of physical harm, property destruction, or educational disruption.

WISCONSIN

WI permits restraint and seclusion only in emergencies where their use is necessary to prevent an imminent threat of physical harm.

WEST VIRGINIA

WV permits physical restraint only for threats of physical harm or serious property destruction.

WYOMING WY imposes no limit on physical restraint.

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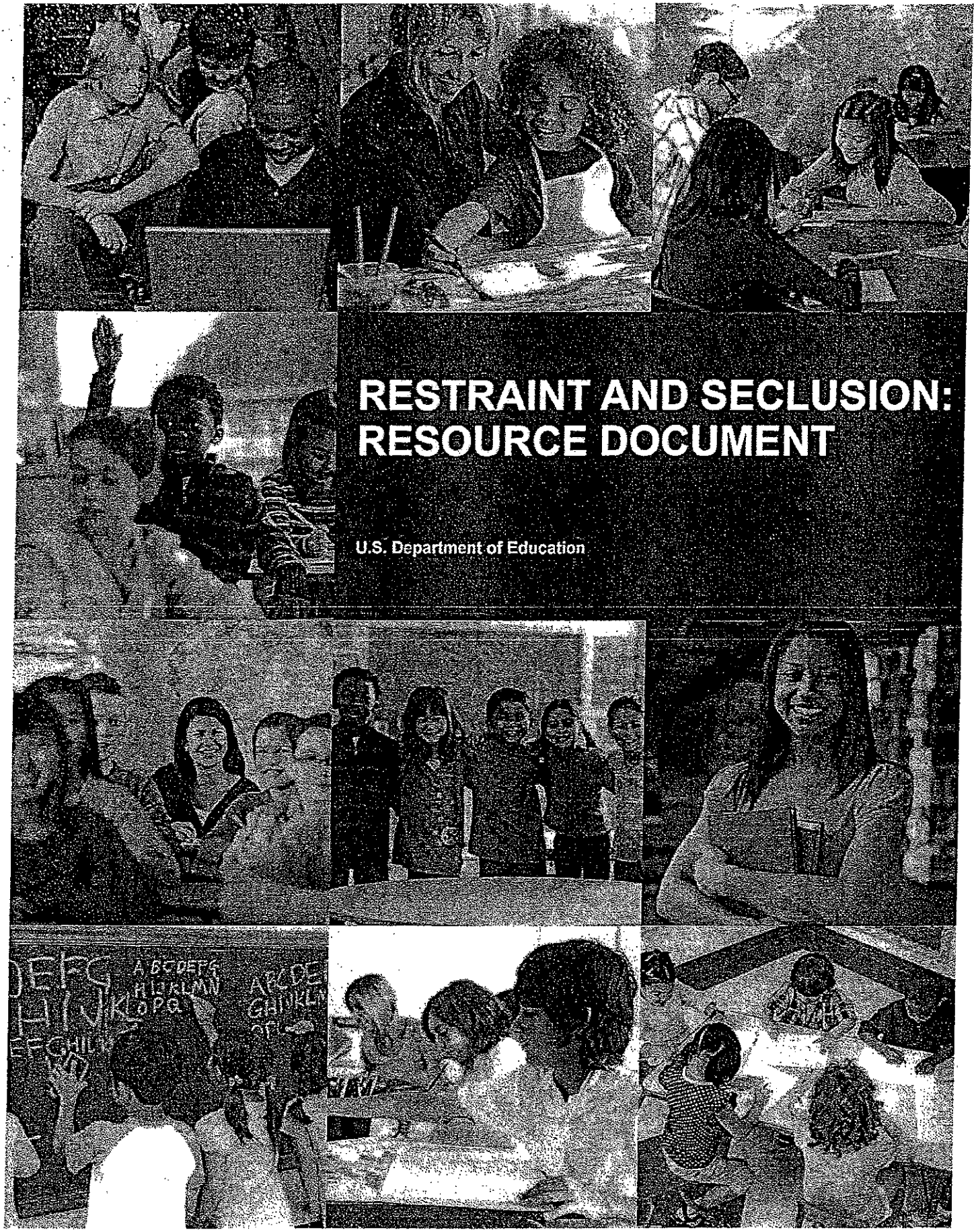

RESTRAINT AND SECLUSION: RESOURCE DOCUMENT

U.S. Department of Education

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U.S. Department of Education

Arne Duncan

Secretary

The U.S. Department of Education issues this Resource Document to provide guidance, and describe fifteen principles that States, school districts, school staff, parents, and other stakeholders may find helpful to consider when States, localities, and districts develop practices, policies, and procedures on the use of restraint and seclusion in schools. Our goal in providing this information is to inform States and school districts about how they can help to ensure that schools are safe learning environments for all students. As guidance, the extent to which States and school districts implement these principles in furtherance of that goal is a matter for State and local school officials to decide using their professional judgment, especially in applying this information to specific situations and circumstances. This document does not set forth any new requirements, does not create or confer any rights for or on any person or require specific actions by any State, locality, or school district.

We are interested in making this document as informative and useful as possible. If you are interested in commenting on this document, please e-mail your comments to Restraint.Seclusion@ed.gov or write to us at the following address: US Department of Education, 550 12th Street SW, PCP Room 4160, Washington, DC 20202-2600.

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OSHA "Serious physical harm" means that a part of the body is damaged so severely that it cannot be used or cannot be used very well.

Process Handbook

h. Serious Bodily Injury

Serious bodily injury means a bodily injury that involves one or more of the following: a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty (K.S.A. 72-991(g)(h)).

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91-42-4. Administrative Review.
(a) Any parent or eligible student, who filed a complaint with a local board of education (local board) pursuant to K.A.R. 91-42-2(a)(6)(c) may request an administrative review by the Kansas state board of education (State Board) of the local board's resolution of said complaint.

(b) A request for administrative review shall allege one or more of the following:

(1) the school district does not limit its use of seclusion or restraint to those circumstances described in 91-42-1(d) ;

(2) the school district uses prone, or face-down, physical restraint; supine, or face-up, physical restraint; physical restraint that obstructs the airway of a student, or physical restraint that impacts a student's primary mode of communication;

(3) the school district uses chemical restraint when not prescribed as treatment for a student's medical or psychiatric condition and/or by a person appropriately licensed to issue such treatment;

(4) the school district uses mechanical restraint other than safety equipment used to secure students during transportation when not ordered to do so by a person appropriately licensed to issue the order for use of a mechanical restraint or when such use is not required by law;

(5) the school district does not have written policies pertaining to the use of emergency safety intervention;

(6) the school district's written policies pertaining to the use of emergency safety intervention is not accessible from a school's website and a code of conduct, a school safety plan, or a student handbook;
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(7) the school district does not train school personnel as required by K.A.R. 91-42-2(a)(2).

(8) written parental notification is not provided within two school days of the use of emergency safety interventions; or

(9) the school district does not have procedures for a local dispute resolution process as required by 91-42-2(a)(6).

(c) Each eligible student or parent seeking administrative review shall set forth in the request the following information:

(1) the name, address of residence, or other contact information of the student,
(2) the name and contact information for all involved parties including teachers, aides, administrators, and/or district staff, and

(3) the basis for seeking administrative review with all supporting facts and documentation. Documentation should include a copy of the complaint filed with the local board and any written findings of fact given by the local board.
The request shall be legibly written or typed and signed by the parent or eligible student seeking administrative review. 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.

(d) (1)The request for administrative review shall be filed with the commissioner of education (Commissioner) within 15 days of the parent receipt of the written local dispute resolution determination or after 45 days have passed since the filing of the complaint with the local board, whichever occurs first.
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(2) The State Board shall designate a staff member of the Kansas state department of education (Department) to serve as the hearing officer. The hearing officer shall forward a copy of the request for administrative review to the clerk of the local board of whom the administrative review is sought.

(e) Upon receipt of a request for administrative review, the hearing officer shall review the results of the local dispute resolution process and may initiate its own investigation of the complaint. Each 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 school district staff against which the request is filed to allow the local board to respond to the request with facts and information supporting the local dispute resolution; and
(3) an on-site investigation by Department staff.

(f) The hearing officer shall determine whether the school district is in violation of 91-42-2 based solely on the information provided by the party seeking administrative review and the local board during the local dispute resolution process. If the hearing officer receives information not previously made available to both parties during that local dispute resolution process, the hearing officer may remand the issue back to the local board.

(g) Within 60 days of the Commissioner's receipt of the request for administrative review, the hearing officer will inform the parent, the building administrator, the superintendent of the school district, the clerk of the local board, and the State Board in writing of the results of the administrative review. The results of the administrative review shall set forth findings of fact, conclusions of law, and suggested corrective actions if needed. This timeframe is an administrative requirement for the Department and may not be used as a basis for negating the hearing officer's findings if the results of the administrative review are not made known within the specified timeframe.

(h) The hearing officer shall determine whether:
(1) the local board appropriately resolved the complaint pursuant to their local

dispute resolution process; or

(2) the local board should re-evaluate the complaint pursuant to their local dispute resolution process with suggested findings of fact; or

(3) the local board should comply with the hearing officer's recommended corrective action to ensure local board policies comply with K.A.R. 91-42-2.

(i)(1) If an administrative review requires corrective action by a local board that board shall, within 30 days of receiving the hearing officer's written findings, submit to the Commissioner one of the following:

(A) documentation of the completed corrective action or actions specified in the hearing officer's written findings; or

(B) a written request for an extension of time within which to complete one or more of the corrective actions specified in the written findings, together with justification for the request.

(2) If a local board files a request for an extension of time within which to complete one or more corrective actions required in the hearing officer's report, the hearing officer shall review the request and the offered justification for the extension of time. A decision on the request shall be made within five business days of the date the request was received and shall be final.

(3) If a local board fails to initiate corrective action within the time allowed by, the hearing officer shall inform the State Board during its next scheduled board meeting.

(j) This regulation creates only procedural rights and imposes only procedural duties. They are in addition to those created and imposed by other statutes.

(Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective P-_____.)

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WHAT: Interagency Solutions for Emergency Safety Interventions [IS-ESI] Still need a name...
DATE: January 14, 2015
WHERE: Families Together, Inc. 5611 SW Barrington Court South, Suite 120 Topeka, KS 66614
TIME: 1:30-3:30

PARTICIPANTS: Laura N. Jurgensen <ljurgensen@ksde.org>; Leslie Girard (lesli@familiestogetherinc.org); Vicki Vossler (v.vossler@holton.net); 'David Myers (dmyers@usd409.net)'; Jane Adams (jadams@keys.org); Doug Anderson wanderson@usd259.net; Catherine Johnson – DRC-Kansas; Brad Neuenswander (bneuenswander@ksde.org)

Unable to attend: Rocky Nichols (rocky@drckansas.org)

Minutes

Purpose of the meeting:

1) Obtain information from the participating agencies regarding the concerns of students/families about ESI across the state. Timely access to this information would help schools target professional development and address individual concerns.
2) Educate parents on the ESI regulation and the districts responsibilities under it. Make sure that they know about the regulation and the district policies/procedures developed as a result. (i.e. the appeal process and their right to take concerns to the local board)

Team Priorities/Agency Responsibilities

3) Educate sped and general education staff i.e. Safety First TASN training. Participants emphasized that this is a general education initiative and should impact ALL providers.
4) Families together (Leslie) is the state parent training and information center and will work with parents on ESI and other priorities. She reported that they work to keep the resolution at the lowest level so parents are encouraged to speak with school teams. Can provide the information pertaining to the number of calls and what it pertains to. Shared a summary of top 10 calls and disability categories requesting assistance.
5) Terry added that school staff need to collaborate with the agencies to provide FAPE and safety in our buildings.
6) Jane Adams reported that most people who call Keys haven't tried to contact anyone from the school prior to calling. Recommended that schools try to make it easier for families to figure out who to contact. Provide the contact information and what each person on the team is responsible for. Team members agreed that this is would be a good strategy to improve collaboration with families.
7) It was suggested that additional agency representatives including a) foster care, b) mental health association; c) juvenile justice might be needed on this committee.
8) District representatives discussed the addition of therapeutic foster care homes in some of our communities creates a large number of students with significant mental health/behavioral concerns in a short time. Sometimes adding and training the staff required to serve these students takes a great deal of time.
9) Jane Adams noted that there are places where sped directors don't have any power in the district and if the principals don't have the skills or desire to accommodate the challenging behaviors then there is nothing we can do.... Some building administrators

have unrealistic expectations for our troubled kids and they are not adequately trained to serve them. Timely, targeted information pertaining to "potential" problems gives us an opportunity to intervene.

10) Brad Neuenswander added that it is important to make sure that families know who their advocates are. No matter how difficult, you are talking about someone's child! If there are problems or questions about their services, where can they get a second opinion? Brad indicated that the state department was committed to providing targeted regional principal professional development to address key issues being discussed at this meeting.
11) Participants discussed the possibility of having a *regional advisory* to provide peer support to districts/administers struggling with ESI requirements.
12) The agencies don't have an operational definition of call-in topics so there wouldn't be reliability in comparing discussion topics across agencies. But Families Together/Keys For Networking agreed that sharing ESI concerns directly with the district, while complying with rules of confidentiality, would be a good idea and that parents are encouraged to articulate concerns directly with school administrators.
13) The DRC reported that funding comes from 8 grants and focuses on issues pertaining to: change in placement, discipline, consequence related to disability, seclusion/restraint issues. The agency serves all people with disabilities, not just those in schools.
14) Keys for Networking reports that their primary focus is students who are in foster care, out of home placement, or juvenile detention facilities.
15) All agencies indicated that prevention and facilitating communication among families and schools fit within their service model.

Closing Comments/Ideas:

- The goal of this group is to have parents learn to call and problem-solve issues within the local educational agencies. It's not necessarily to increase the number of service calls to the agencies.
- We will continue refine how to work collaboratively to meet the needs of our students and families who have children who may require ESI.
- This committee [IS-ESI?] will act as the liaison between the agencies and the KASEA region representatives.
- Participants recognized that together students will be better served. All participants recognize that there is a growing number of students with emotional illness requiring therapy and medications at a very early age. Multiple agencies will be required to meet the needs of those students.
- There is a need state-wide for training families and caregivers in crisis who need a nationally recognized de-escalation strategy (i.e. Mandt/CPI) like schools have now employed. Some families are not permitted to bring their kids home until they can document the completing of this training. Can they attend school trainings? It was reported that for liability reasons mental health agencies don't do the training. Can we teach "parenting" skills to these very difficult kids/families? Needs to be timely and cost-effective. Focus on de-escalation. April 11th is the Families Together training can something be prepared in time for that? Participants agreed to continue researching training solutions.