

USD 315 Colby Public Schools

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“To prepare all students to be life-long learners and responsible citizens.”



Emergency Safety Intervention (ESI) Parent Information

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Standards for the use of Emergency Safety Interventions

The emergency safety interventions (ESI) law set forth standards for the use of restraint and seclusion to ensure that all Kansas students and staff have a safe learning environment. The standards found in the ESI statutes and regulations are required to be followed in all Kansas public school districts and accredited private schools.

An ESI is the use of seclusion or physical restraint. The use of ESIs shall cease as soon as the immediate danger of physical harm and violent action ceases to exist. Before using an ESI, a school employee witnessing the student's behavior must have determined that less restrictive alternatives to ESI, such as positive behavior interventions support, were inappropriate or ineffective under the circumstances.

ESIs shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to affect such physical harm. Violent action that is destructive of property may necessitate the use of an ESI. ESIs may not be used for purposes of discipline, punishment, or for the convenience of a school employee.

Physical restraint means bodily force used to substantially limit a student's movement.

Physical restraint is NOT:

- Consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction;
- physical escort;
- prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments;
- protective or stabilizing devices either ordered by an appropriately licensed professional or required by law;
- any device used by a law enforcement officer in carrying out law enforcement duties; and
- seatbelts and any other safety equipment when used to secure students during transportation.

Prohibited types of restraints:

- Prone, or face-down, physical restraint;
- supine, or face-up, physical restraint;
- any physical restraint that obstructs the airway of a student;
- any physical restraint that impacts a student's primary mode of communication;
- chemical restraint ("chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement); and
- mechanical restraint ("mechanical restraint" means any device or object used to limit a student's movement).

Seclusion means placement of a student in a location where:

- The student is placed in an enclosed area by school personnel;
- The student is purposefully isolated from adults and peers; and
- The student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

A student may not be secluded if the student is known to have a medical condition that could put the student in mental or physical danger as a result of seclusion. The medical condition must be in a written statement from the student's licensed health care provider, and a copy of given to the school and placed in the student's file. When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.

If a seclusion room has a locking door it must be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

A seclusion room must be a safe place. The room must have good ventilation and lighting, and be free of any condition that could be a danger to the student. The room must also be similar to other rooms where students frequent.

Seclusion is not time-out, which is a behavioral intervention in which a student is temporarily removed from a learning activity without being confined.

Parent Information Flyer

Emergency Safety Interventions Key Requirements from the ESI Law

Physical Restraint: Bodily force used to substantially limit a student's movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint. The term physical restraint does not include a physical escort. Physical escort means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out for the purpose of inducing the student to walk to a safe location.

The use of prone (face-down) physical restraint, supine (face-up) physical restraint, physical restraint that obstructs the airway of a student, or any physical restraint that impacts a student's primary mode of communication is prohibited.

Mechanical Restraint (Prohibited): Any device or object used to limit a student's movement. This term does not include those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law. This term also does not include any device used by a law enforcement officer in carrying out law enforcement duties and seatbelts and any other safety equipment when used to secure students during transportation.

Chemical Restraint (Prohibited): Use of medication to control a student's violent physical behavior or restrict a student's freedom of movement. This term does not include prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments.

Seclusion: Placement of a student in a location where all the following conditions are met: (1) The student is placed in an enclosed area by school personnel; (2) The student is purposefully isolated from adults and peers; and (3) The student is prevented from leaving, or the student reasonably believes that the student will be prevented from leaving, the enclosed area. It does not include a time-out, which is a behavioral intervention in which a student is temporarily removed from a learning activity without being confined. A student cannot be secluded if staff knows that a student has a medical condition that could put the student in mental or physical danger. When a student is placed in seclusion, a staff member must be able to see and hear the student at all times. All seclusion rooms that have a locking door must be designed to ensure that the lock automatically disengages when the staff member watching the student walks away or in cases of emergency such as fire or

severe weather. If a school uses a seclusion room it must be a safe place, free of any dangerous conditions, well-ventilated, and sufficiently lighted.

When ESI May be Used:

- ESI shall only be used when the student presents a reasonable and immediate danger of physical harm to self or others with the present ability to effect such physical harm
- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances prior to ESI being used
- The use of ESI must stop immediately when the danger of physical harm ends
- Violent action that is destructive of property may necessitate the use of ESI
- ESI must not be used for discipline, punishment, or the convenience of a school employee

For more information contact:

Families Together, Inc
Topeka Parent Center- 1-800-264-6343
topeka@famielstogetherinc.org

Wichita Parent Center- 1-888-815-6364
wichita@famielstogehtherinc.org
Kansas City Parent Center- 1-877-499-5369

kansascity@famielstogehtherinc.org

Kansas Parent Information Resource Center (KPIRC)
1-866-711-6711 www.kpirc.org

Kansas State Department of Education (KSDE)
1-800-203-9462

Information from the KSDE publication: A Family Guide to the Use of Emergency Safety Interventions

What are Emergency Safety Interventions?

Emergency Safety Interventions (ESI) are seclusion and restraint that is used when the student presents an immediate danger to self or others. Violent destruction of property may also prompt the use of ESI.

What is Seclusion?

According to K.A.R. 91-42-1 (h), seclusion is defined when used with a student, and all the following conditions are met:

1. the child is placed in an enclosed area by school personnel;
2. the child is purposefully isolated from other adults and peers; and,
3. the child is prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

Time-out is not the same as seclusion. Time-out is when a student is temporarily removed from the learning activity, without being confined.

What is Restraint? (K.A.R. 91-42-1(a), (d), (f) Restraint can take form in different ways. **Mechanical restraint** is defined as any device or object used to limit a student's movement. The use of mechanical restraint is prohibited in Kansas except those protective or stabilizing devices ordered by a person appropriately licensed to issue the order for the device. Mechanical restraint used by a law enforcement officer in carrying out law enforcement duties is allowed. Seatbelts and/or other safety equipment when used to secure students during transportation are also allowed.

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

Chemical restraint is prohibited in Kansas, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments. Chemical restraint is defined as the use of medication to control violent physical behavior or restrict a student's freedom of movement.

When May Emergency Safety Intervention be Used?

- May only be used when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to cause physical harm.
- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any ESIs.
- The use of ESI must stop as soon as the immediate danger of physical harm ends.
- ESI cannot be used is used for purposes of discipline, punishment, or for the convenience of a school employee.
- A student may not be subjected to seclusion if the student is known to have a medical condition that could put the student in mental or physical danger as a result of seclusion. The existence of this medical condition must be indicated in a written statement from the student's licensed health care provider that is provided to the school and is placed in the student's file. Note that this exception does not apply to restraint.
- Violent destruction of property may also prompt the use of ESI.

What are the Requirements for Seclusion?

When a student is placed in seclusion, a school employee must be able to see and hear the student at all times. All seclusion rooms that have a locking door must be designed to make sure that the lock automatically disengages when the school employee watching the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather. A seclusion room must be a safe place with proportional and similar characteristics as other rooms where students frequent. A seclusion room must be free of anything that could be a danger to the student and must be well-ventilated and sufficiently lighted.

Restraint or seclusion should not be used as routine school safety measures; this is, they should not be implemented except in situations where a child's behavior poses imminent danger of serious physical harm to self or others and not as a routine strategy implemented to address instructional problems or inappropriate behavior (e.g., disrespect, noncompliance, insubordination, out of seat), as a means of coercion or retaliation, or as a convenience. In addition, preventive strategies to reduce the likelihood that restraint or seclusion will need to be used with a child should be established, documented, and communicated to the child's parents. *U.S.*

Department of Education, Restraint and Seclusion: Resource Document

Functional Behavioral Assessments

All behaviors have function and are maintained in environments that support them. If your child's behavior impedes the learning of self or others, you may consider requesting a functional behavioral assessment. A Functional Behavioral Assessment (FBA) can help teams determine the when, where, how and why problematic behavior occurs. A comprehensive FBA includes interviews, record reviews, observation and data collection, testing hypotheses, curriculum analysis, and implementation of interventions and evaluation of effectiveness of the plan. FBAs should identify antecedents (what happens just before the behavior occurs), a very clearly defined picture of the behavior that is occurring, and the reinforces (what happens just after the behavior

occurs). If a behavior meets a function for the student, the behavior will continue. Problematic behaviors occur for two reasons: to get something (power, attention, control, an object) or to avoid or escape something (work, a person, a situation). Teams need to determine what the function of the behavior is so that they may provide successful interventions or teach replacement behaviors that meet the same function for the student.

Behavior Intervention Plans

Behavior Intervention Plans (BIPs) should be positive and instructive and based upon a functional behavioral assessment. A BIP should address:

- Effective re-teaching of the expected behavior
- The function of the behavior
- Rewards and consequences that are meaningful to the student
- Opportunities to self-manage behaviors

A functional behavioral assessment can be conducted at any time for a student who does not respond to school-wide behavioral TIP interventions. Following the assessment, a behavior intervention plan may be developed. As a parent, you have the right to request a functional behavioral assessment. Contact Families Together for further assistance.

Why focus on Positive Interventions?

Positive Interventions help build positive relationships and encourage new behaviors. Positive interventions also reinforce new skills and increase self-satisfaction and optimism among youth, parents and teachers. All students need to be recognized and rewarded when they are meeting the expectations that have been established. Current research suggests positive recognition (rewards, reinforcements, and praise) must occur more frequently than negative recognition-- a ratio of 7 to 1! A well-developed behavior intervention plan should include many positive interventions in order to effectively change behavior. The first consideration should be the appropriateness of the interventions. The team should select interventions that are based upon the student's developmental level, motor ability, communication mode and other factors relevant to the student and the disability. Environmental and context related factors should also be considered. These might include things such as classroom setting, noise levels, peer issues, instruction that is too hard or too easy, transitions, and changes in the setting.

Replacement Behaviors

A replacement behavior is when a student replaces an inappropriate behavior with an appropriate one that continues to serve the same function for the student. When selecting replacement behaviors, the team should address the following questions:

- Does the replacement behavior work as well as the challenging behavior in meeting the student’s needs?
- Will it be an acceptable alternative to the challenging behavior?
- Will the replacement behavior be something the student will choose to do and that his or her family and teachers support?
- Will the replacement behavior help build a positive reputation for the student?

Students should be recognized and rewarded for choosing to utilize replacement behaviors to be most effective.

When Must a Parent be Notified an ESI has been Used?

- The school must notify the parent the same day the ESI was used. If the parent cannot be notified, then the school must notify an emergency contact person for the student.
- Documentation of the ESI used must be completed and provided to the parent by the school day following the day on which the ESI was used.
- The parent must be provided with the following information in writing after the first ESI incident in a school year and provided with this information after subsequent ESI incidents through a web address that contains this information:
 - A copy of the standards of when ESI can be used.
 - A flyer on the parent’s rights under ESI law.
 - Information on the parent’s right to file a complaint through the local dispute resolution process and the complaint process of the Kansas State Board of Education.
 - Information that will assist the parent in navigating the complaint process, including contact information for Families Together and the Disability Rights Center of Kansas.

What Can I Do if I Feel that ESI has been Used Inappropriately with My Child?

If a parent believes that ESIs have been used that violate the ESI statute, ESI regulations, or the district’s ESI policy, then the parent may file a complaint through the local dispute resolution process within 30 days of the use of ESI.

A parent may file a complaint through the Kansas State Board of Education’s complaint process within 30 days from the date that a parent receives a final decision through the local dispute resolution process or after 30 days have passed since the parent filed a complaint through the local dispute resolution process, if the parent has not received the local board’s final decision.

What Do Schools Have to Do? (K.A.R. 91-42-2)

Develop and implement policies. Kansas regulations require that districts develop and implement written policies to govern the use emergency safety interventions in all schools. The regulations require that district policies shall conform to the definitions and requirements set forth in the regulations. This means that seclusion and restraint may only be used when the student is presenting an immediate danger to self or others or if a violent destruction of property is occurring. The district's policies should be provided to parents once a year. The policies also should be available on the school's website and included in the school's code of conduct (school rules), school safety plan, or student handbook, or any combination of these.

Train staff. School personnel should receive training consistent with nationally recognized training programs on the use of seclusion and restraint. The training should address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies. Training should be designed to meet the needs of staff as appropriate to their duties and potential need to use ESI. Schools shall maintain written or electronic documentation on training provided and lists of participants in each training.

Document and notify. Parents must be notified in writing when an emergency safety intervention is used on their child within two school days. The school must document any incident of ESI including the date and time, the type, the length of time the intervention was used, and the school personnel who participated in or supervised the intervention. The district must develop a procedure for the collection, maintenance, and periodic review of the use of ESI.

Establish local dispute resolution processes. Each district shall develop policies that, at a minimum, shall include:

1. A complaint investigation procedure;
2. A procedure for parents to present written complaints to the local board of education to initiate complaint investigation by the local board of education; and,
3. Develop a procedure for parents, the school, and the Kansas State Department of Education to receive written findings of fact and, if necessary, a corrective action from the local board of education within 30 days of filing a complaint by a parent.

Local Dispute Resolution Process

The board of education encourages parents to attempt to resolve issues relating to the use of ESI informally with the building principal and/or the superintendent before filing a formal complaint with the board. In the event that the complaint is resolved informally, the administrator must provide a written report of the informal resolution to the superintendent and the parents and retain a copy of the report at the school. The superintendent will share the informal resolution with the board of education and provide a copy to the state department of education.

If the issues are not resolved informally with the building principal and/or the superintendent, the parents may submit a formal written complaint to the board of education by providing a copy of the complaint to the clerk of the board and the superintendent.

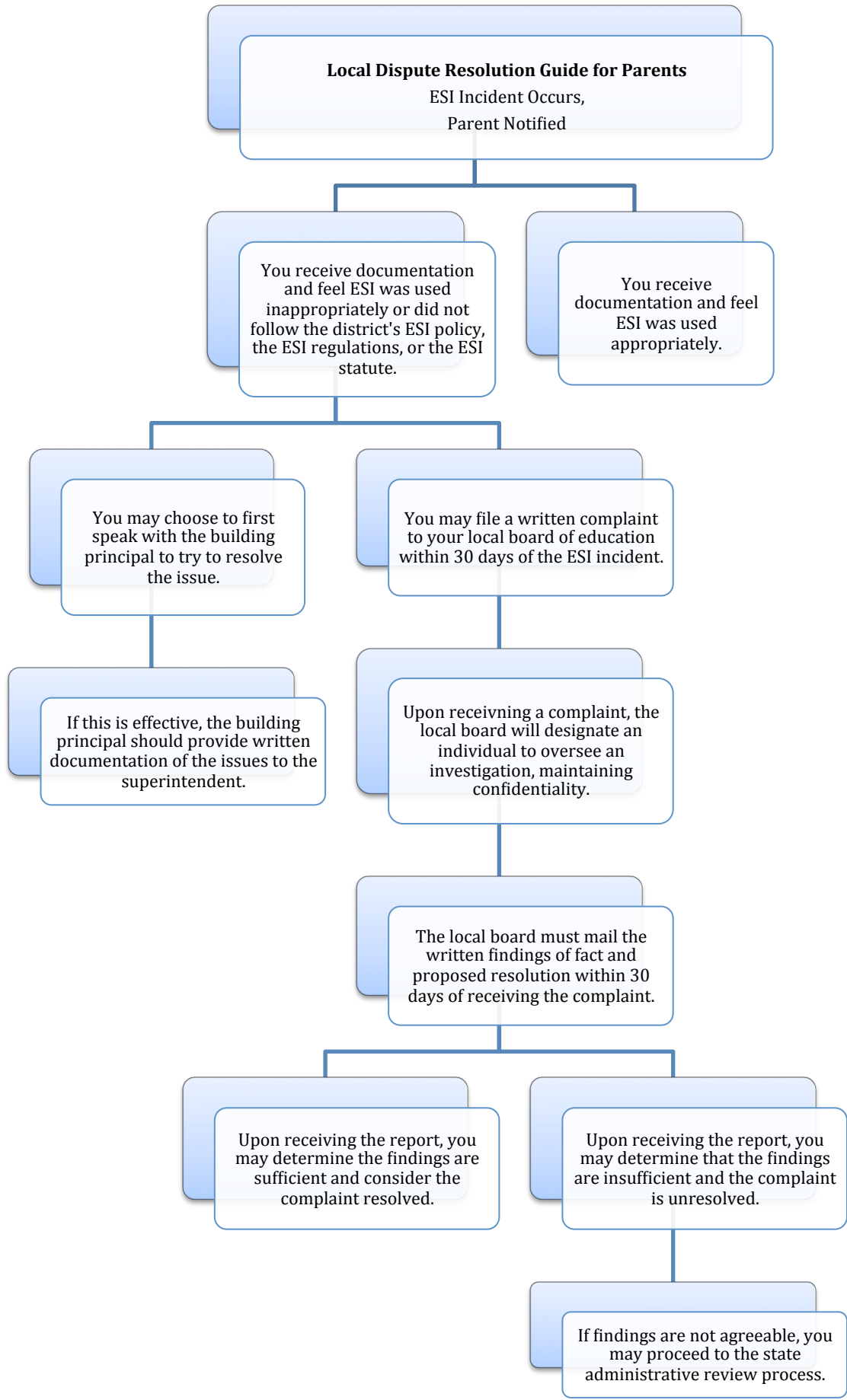
Upon receipt of a formal written complaint, the board president shall assign an investigator to review the complaint and report findings to the board as a whole. Such investigator may be a board member, a school administrator selected by the board, or a board attorney. Such investigator shall be informed of the obligation to maintain confidentiality of student records and shall report the findings and recommended action to the board in executive session.

Any such investigation must be completed within thirty (30) days of receipt of the formal written complaint by the board clerk and superintendent. On or before the 30th day after receipt of the written complaint, the board shall adopt written findings of fact and, if necessary, appropriate corrective action. A copy of the written findings of fact and any corrective action adopted by the board shall only be provided to the parents, the school, and the state department of education.

Adopted by Board 08/14

Complaint Investigation Procedure

The Board of Education has delegated to the District's Superintendent or his/her designee the authority to receive parental written complaints about the implementation of this guidance document. The "Request for Investigation of Emergency Safety Intervention (ESI)" is located on the District website. Upon receipt of a complaint, the Superintendent or his/her designee will investigate the complaint and develop a written report which will include findings of fact, conclusions relevant to the requirements of this policy, and, if necessary, corrective actions to remedy an instance of noncompliance. The written report will be submitted to the Board of Education and to the KSDE within 30 calendar days from the date the complaint was received in the superintendent's office. **Local Dispute Resolution Guide for Parents**



State Board Administrative Review Process

This process will be available no later than March 1, 2016. Information about this process will be available as soon as the proposed regulation is adopted by the Kansas State Board of Education.

State Board Administrative Review Guide for Parents

This process will be available no later than March 1, 2016. Information to help parents navigate this process will be available as soon as the proposed regulation is adopted by the Kansas State Board of Education.

ESI Fact Sheet

Key Requirements from the ESI Statute and ESI Regulations

Physical Restraint: Bodily force used to substantially limit a student's movement, except that consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint. The term physical restraint does not include a physical escort. Physical escort means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out for the purpose of inducing the student to walk to a safe location.

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It does not include a time-out, which is a behavioral intervention in which a student is temporarily removed from a learning activity without being confined. A student cannot be secluded if staff knows that a student has a medical condition that could put the student in mental or physical danger. When a student is placed in seclusion, a staff member must be able to see and hear the student at all times. All seclusion rooms that have a locking door must be designed to ensure that the lock automatically disengages when the staff member watching the student walks away or in cases of emergency such as fire or severe weather. If a school uses a seclusion room it must be a safe place, free of any dangerous conditions, well-ventilated, and sufficiently lighted.

When ESI May be Used?

- ESI shall only be used when the student presents a reasonable and immediate danger of physical harm to self or others with the present ability to effect such physical harm
- Less restrictive alternatives, such as positive behavior interventions support, must be deemed inappropriate or ineffective under the circumstances prior to ESI being used
- The use of ESI must stop immediately when the danger of physical harm ends
- Violent action that is destructive of property may necessitate the use of ESI ESI must not be used for discipline, punishment, or the convenience of a school employee

Parent Notification and Required Meetings

- Parents must be notified the same day that an ESI incident occurs
- Parents must be provided information about ESI, their rights, and the dispute resolution process the day following an ESI incident
- After the third ESI incident with a student in a school year, there must be a meeting within 10 days to discuss the incident and support for the student

Contact Information

Local

School Administrator Contact for ESI Questions

K-8: Robb Ross
785-460-5201
ross@colbyeagles.org

9-12: Troy Keiswetter
785-460-5301
tkeiswetter@colbyeagles.org

District Administrator Contact for ESI Questions

Katina Brenn
785-460-5000
kbrenn@colbyeagles.org

State

General ESI Information:

<http://ksdetasn.org>

ESI Questions:

Laura Jurgensen
Kansas State Department of Education
ljurgensen@ksde.org
785-296-5522

Parent Training and Information Center:

Families Together
<http://famielsttogetherinc.org>
888-815-6364

Protection and Advocacy System:

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