

Kansas Administrative Regulations

State Department of Education

Article 42.—Emergency Safety Interventions

91-42-2. Standards for the use of emergency safety interventions.

(a) An emergency safety intervention shall be used only when a student presents a reasonable and immediate danger of physical harm to the student or others with the present ability to effect physical harm. Less restrictive alternatives to emergency safety interventions, including positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior before the use of any emergency safety interventions. The use of an emergency safety intervention shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention.

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

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

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

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

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

(2) The presence of another person in the area of purposeful isolation or observing the student from outside the area of purposeful isolation shall not create an exemption from otherwise reporting the incident as seclusion.

(3) When a student is placed in or otherwise directed to an area of purposeful isolation, the student shall have reason to believe that the student is prevented from leaving.

(4) If the area of purposeful isolation is equipped with a locking door designed to prevent a student from leaving the area of purposeful isolation, the door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the area of purposeful isolation, or in cases of emergency, including fire or severe weather.

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

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

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

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

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

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

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

(6) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation.

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

(1) Physical escort; and

(2) time-out.

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

***** Authenticated Kansas Administrative Regulation *****