Emergency Safety Interventions

Presentation to the Kansas State Board of Education

May 9, 2012

Process of Development

Stakeholder Input

- 3/14 – Kansas State Board of Education (KSBE) requests recommendation from SEAC
- 3/16 – Dr. Ann Matthews, chair of SEAC, meets with Kansas State Department of Education (KSDE) staff to lay groundwork for how to proceed
- 3/19 – Meeting with TASN providers who provide technical assistance in and for behaviors
- 3/22- Meeting with Kansas Parents Information Regional Center (KPIRC) who work primarily with parents of students who are not identified or receiving special educations services
- 3/23- Meeting with the Disability Rights Center (DRC) and Families Together
- 3/23- Meeting with Kansas Association of School Boards (KASB) and United School Administrators (USA) of Kansas
- 3/26 – Meeting with Project STAY, a contracted provider for technical assistance on behavior
- 3/27 – Special Education Advisory Council (SEAC) Meeting via conference call to establish a roadmap leading to the SEAC meeting on 4/10
- 3/27 - Meeting with a parent in Wichita, who provided testimony on the use of Emergency Safety Interventions with his son
- 3/28– Follow up meeting with Families Together and KPIRC
- 3/30- Teleconference with members of the Kansas Association of Special Education Administrators (KASEA)
- 4/ 9 – Follow up meeting with DRC
- 4/10 – Meeting of SEAC
- 4/13 – Conference call with Families Together
- 4/13 – Follow up meeting with DRC and Families Together
- 4/17- Presentation of SEAC recommendations to KSBE; KSBE tasked KSDE staff to develop proposed regulations for consideration at May meeting of KSBE
- 4/30 – Meeting with DRC
- 4/30 – Phone conference with Families Together
- 5/9 – Presentation of KSDE recommendations for proposed regulations on the use of Emergency Safety Interventions

Process of Development

Research

- National - “Keeping All Students Safe Act” and Office of Civil Rights (OCR) report
    - Included a review of key stakeholder responses to the proposed legislation
    - Insight into what are the national trends on the use of seclusion and restraint in schools
- State – State policies and practices across the Nation
    - Inclusion of a policy and procedure for data collection and review at the local level
- Kansas
    - Review of the on-going process for the development of the Guidelines on Seclusion and Restraint from 2005 to the present
    - Reviewed notes and revisions made to draft versions for consideration
    - Studied HB 2444 to consider language and areas of difference from the Guidelines that addressed areas of concern

Data Review

- Data on the use of seclusion with students with disabilities collected since 2008
- Data on the use of seclusion and restraint with all students is being collected, currently, in Kansas for the 2011-2012 school year
- Data is presented annually to SEAC and the Kansas State Board of Education
- The collection of data informs the provision of technical assistance to the field and policy recommendations

Special Education Advisory Council (SEAC) Recommendations

1) Regulations are necessary.
2) Any regulations on the use of Emergency Safety Interventions (ESI) should be for all students.

Response to SEAC's First Recommendation

- In response to the recommendation for regulation made to the Kansas State Board of Education by SEAC and the task given to staff of the Kansas Department of Education, proposed regulations have been drafted for consideration by the Kansas State Board of Education.

Response to SEAC's Second Recommendation

- In response to the recommendation that any regulation be for all students, the proposed regulations are inclusive of all students in all learning environments, including nonprofit institutional day or residential schools and accredited nonpublic schools, that receive public funding or over with the Kansas state department of education has regulatory authority.

Four Key **Standards**

Proposed Regulations provide standards for:

1) Communication
2) Documentation
3) Training
4) Appropriateness

Proposed Regulations speak directly to:

1. What districts need to include and what is prohibited in policy;
2. What is, and is not, an Emergency Safety Intervention;
3. Where responsibilities lie at the local, district, and State level; and
4. What each parent can expect in terms of information on Emergency Safety Interventions regardless of what school a child attends

Appropriateness **Standard**

- 91-42-1. Definitions.
  - Newly defined terms.
    - (a) Chemical restraint
    - (c) Emergency Safety Interventions
    - (f) Physical escort
    - (j) Time-out
  - Shortened definitions (removal of non-exemplars)
    - (e) Mechanical restraint
    - (g) Physical restraint
    - (i) Seclusion

Appropriateness **Standard**

- 91-42-2. Requirements.
  - (a)(1) Written policies must include the policies and procedures for the use of emergency safety interventions.
  - (a)(1)(A) Policies and procedures shall prohibit:
    - (i) prone physical restraint, supine physical restraint, physical restraint that obstructs the airway of a student, or any physical restraint that impacts a student's primary mode of communication.
    - (ii) use of chemical restraint except in specific instances.
    - (iii) use of mechanical restraint except in specific instances.

Communication **Standard**

- 91-42-2. Requirements.
  - (a) Parents must be provided with the district's policies on the use of emergency safety interventions annually.
  - (a)(1)(B) Written policies developed pursuant to this section shall be included in each school's code of conduct, school safety plan and or student handbook.
  - (a)(3) Written parental notification when an emergency safety intervention is used within a reasonable time, not to exceed two (2) school days

Training **Standard**

- 91-42-2. Requirements.
  - (a)(2) School personnel training consistent with nationally-recognized training programs on the use of emergency safety interventions.
  - (a)(2)(A) Training shall address prevention techniques, de-escalation techniques, and positive behavioral intervention strategies.
  - (a)(2)(B) Training shall be designed to meet the needs of personnel as appropriate to their duties and potential need to use emergency safety interventions

Documentation **Standard**

- 91-42-2. Requirements.
  - (a)(2)(C) Schools and programs must maintain written or electronic documentation on trainings provided and lists of participants in each training.
  - (a)(4) Documentation of any incident of emergency safety intervention to include: date and time, type of intervention, length of time intervention was used, and school personnel involved (participated in or supervised).

Documentation **Standard**

- 91-42-2. Requirements.
  - (a)(5) Procedures for the collection, maintenance, and periodic review of the use of emergency safety interventions at each school, which shall include the documentation described in (a)(4).
  - (b) Each district shall develop a system to collect and maintain documentation for each emergency safety intervention occurrence, which shall include the information described in (a)(4).

Additional **Standard** Considerations

Local Dispute Resolution **Standard**

- 91-42-2. Requirements.
  - (a)(6) Local dispute resolution processes.
  - (a)(6)(A) Each local board of education shall develop policies that, at minimum, shall include:
    - (i) a complaint investigation procedure
    - (ii) a procedure for parents to present written complaints to the local board of education to initiate an investigation
    - (iii) a procedure for parents, the school, and the Kansas state department of education to receive written findings of fact and, if necessary, corrective action from the local board of education within thirty (30) days of the filing of the complaint.

Reporting **Standard**

- 91-42-2. Requirements.
  - (b)(A) Information maintained by the school shall be compiled and submitted, no less than bi-annually, to the district superintendent or district designee.
  - (b)(B) The Kansas state department of education may ask at any time for a school or a districts' documentation of the use of emergency safety interventions.
  - (b)(C) Districts shall report incidents of emergency safety interventions to the Kansas state department of education by the date and in the form established by the Kansas state department of education. The Kansas state department of education shall provide an annual report to the Kansas state board of education.

Responsibilities of KSDE

- Technical Assistance
  - Directing the assistance provided to the field
  - Coordinating with stakeholders to develop materials, trainings, etc.
- Policy Development
  - Working with KASB and others to help districts develop policies
  - Supporting though Technical Assistance Providers how the policies look in application
- Data
  - Looking at the Data at a whole
  - Providing guidance to schools and districts on how to use their data
    - Technical Assistance and Training
- Education
  - Making an investment into providing the resources to parents and districts
    - Families Together
  - Presentations at Conferences, Webinars to the field and to parents
- Review
  - Annual review of data
  - Presentation to the Board
  - On-going discussion about the regulations and what is translating to the field from stakeholder input
  - Quarterly updates to the Special Education Advisory Council (SEAC)

Responsibilities of Schools and School Districts

- Development of policies consistent with regulations
- Provide training consistent with regulation
- Communicate with parents
- Document any incidents of ESI and review incidents
- Communicate with District regarding ESI incidents
- FOLLOW the regulations

Responsibilities of Local School Board

- Local Board of Education shall establish a local dispute resolution policy and process.
- Policies must include:
  - Local BOE must establish a complaint investigation procedure.
  - Parent must submit a written complaint to the local BOE to initiate complaint investigation of local BOE
  - Local BOE investigates parent complaint and provides written findings of fact and corrective action, if necessary, to parent, school, and KSDE within 30 days.

Responsibilities of Parents and Advocacy Organizations

- Be aware of the regulations and guarantees afforded by the regulations
- If regulations are not followed, communicate with the school and, if necessary, take action and utilize the local dispute resolution process
- If no redress after utilizing the local process, then take additional action – district court, contacting authorities, etc.
- Provide education and training opportunities

Action Needed