

91-42-1. Definitions. As used in this article of the department's regulations, each of the following terms shall have the meaning specified in this regulation:

(a) "Administrative review" means review by the state board upon request of a parent.

(b) "Area of purposeful isolation" means any separate space, regardless of any other use of that space, other than an open hallway or similarly open environment.

(c) "Chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement.

(~~e~~) (d) "Commissioner" means commissioner of education.

(~~d~~) (e) "Complaint" means a written document that a parent files with a local board as provided for in this article of the department's regulations.

(~~e~~) (f) "Department" means the state department of education.

(~~f~~) (g) "District" means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. ~~72-1106~~ 72-3115, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.

(~~g~~) (h) "Emergency safety intervention" means the use of seclusion or physical restraint.

(~~h~~) (i) "Hearing officer" means the state board's designee to conduct an administrative review as specified in K.A.R. 91-42-5. The hearing officer shall be an officer or employee of the department.

(~~i~~) (j) "Incident" means each occurrence of the use of an emergency safety intervention.

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~~(j)~~ (k) “Local board” means the board of education of a district or the governing body of any accredited nonpublic school.

~~(k)~~ (l) “Mechanical restraint” means any device or object used to limit a student’s movement.

~~(l)~~ (m) “Parent” means any of the following:

- (1) A natural parent;
- (2) an adoptive parent;
- (3) a person acting as a parent, as defined in K.S.A. ~~72-1046~~ 72-3122 and amendments thereto;

(4) a legal guardian;

(5) an education advocate for a student with an exceptionality;

(6) a foster parent, unless the foster parent’s child is a student with an exceptionality; or

(7) a student who has reached the age of majority or is an emancipated minor.

~~(m)~~ (n) “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.

~~(n)~~ (o) “Physical restraint” means 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.

(p) “Purposefully isolate,” when used regarding a student, means that school personnel are not meaningfully engaging with the student to provide instruction and any one of the following occurs:

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(1) Removal of the student from the learning environment by school personnel;

(2) separation of the student from all or most peers and adults in the learning environment by school personnel; or

(3) placement of the student within an area of purposeful isolation by school personnel.

~~(p)~~ (q) “School” means any learning environment, including any nonprofit institutional day or residential school or accredited nonpublic school, that receives public funding or ~~which~~ is subject to the regulatory authority of the state board.

~~(p)~~ (r) “Seclusion” means placement of a student for any reason other than for in-school suspension or detention or any other appropriate disciplinary measure in a location where ~~all~~ both of 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.~~ School personnel purposefully isolate the student.

~~(3)~~ (2) The student is prevented from leaving, or the student has reason to believe, ~~reasonably believes~~ that the student will be prevented from leaving, the ~~enclosed~~ area of purposeful isolation.

~~(q)~~ (s) “State board” means Kansas state board of education.

~~(t)~~ (t) “Time-out” means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded. (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 P-

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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 such 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 ~~must~~ 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.

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(3) ~~Notwithstanding~~ 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 ~~be able to~~ 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.

(e) (4) ~~Each seclusion room~~ 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 ~~seclusion room~~ area of purposeful isolation, or in cases of emergency, including fire or severe weather.

(f) (5) ~~Each seclusion room~~ area of purposeful isolation shall be a safe place with proportional and similar characteristics as ~~other~~ those of rooms where students frequent. Each ~~room~~ 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.

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

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

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

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(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.

~~(h)~~ (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 P-\_\_\_\_\_.)

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