

To: Board of Education

From: Anna Stubblefield, assistant superintendent, educational support, ext. 1760
David Cunningham, executive director, human resources & legal counsel, ext. 4937

Re: Board Policy Update to GAAF - Emergency Safety Interventions

Date: August 4, 2016

Background:

The Board of Education adopted GAAF on October 28, 2013 to comply with the statutory requirement to have a policy on emergency safety interventions. The policy was last amended on August 10, 2015. During the 2016 legislative session, several statutory amendments were enacted requiring additional changes to the policy. The Kansas Association of School Boards has prepared a recommended policy that includes all of the required changes to ensure compliance with the statutory requirements. Several changes to the forms used for reporting have also been changed by the Kansas Department of Education and those modifications have been made by the district's Student Services Department. The board received a copy of the proposed amendments on July 21, 2016. The Board Policy Committee has not received any suggested changes.

Rationale:

The modifications to the existing policy (GAAF) are necessary to ensure compliance with the 2016 legislative enactments.

Recommendation:

Administration recommends that the board take final action to adopt the proposed changes to GAAF to ensure compliance with statutory requirements regarding emergency safety interventions.

Motion:

"I move the Board of Education take final action, adopting the proposed amendments to Board Policy GAAF effective August 8, 2016."

GAAF Emergency Safety Interventions (See GAO, JRB, JQ, and KN)GAAF

1 The board of education is committed to limiting the use of Emergency
2 Safety Intervention (“ESI”), such as seclusion and restraint, with all students.
3 Seclusion and restraint shall be used only when a student's conduct necessitates
4 the use of an emergency safety intervention as defined below. The board of
5 education encourages all employees to utilize other behavioral management tools,
6 including prevention techniques, de-escalation techniques, and positive
7 behavioral intervention strategies.

8 This policy shall be made available on the district website with links to the
9 policy available on any individual school pages. In addition, this policy shall be
10 included in at least one of the following: each school’s code of conduct, school
11 safety plan, or student handbook. Notice of the online availability of this policy
12 shall be provided to parents during enrollment each year.

13 Definitions

14 “Campus police officer” means a school security officer designated by the
15 board of education of any school district pursuant to K.S.A. 72–8222, and
16 amendments thereto.

17 “Chemical Restraint” means the use of medication to control a student’s
18 violent physical behavior or restrict a student’s freedom of movement.

19 “Emergency Safety Intervention” is the use of seclusion or physical
20 restraint, but does not include physical escort or the use of time-out.

21 “Incident” means each occurrence of the use of an emergency safety
22 intervention.

23 “Law enforcement officer” and “police officer” mean a full-time or part-
24 time salaried officer or employee of the state, a county, or a city, whose duties
25 include the prevention or detection of crime and the enforcement of criminal or

1 traffic law of this state or any Kansas municipality. This term includes a campus
2 police officer.

3 “Legitimate law enforcement purpose” means a goal within the lawful
4 authority of an officer that is to be achieved through methods or conduct condoned
5 by the officer’s appointing authority.

6 “Mechanical Restraint” means any device or object used to limit a student’s
7 movement.

8 “Parent” means: (1) a natural parent; (2) an adoptive parent; (3) a person
9 acting as a parent as defined in K.S.A. 72-1046(d)(2), and amendments thereto;
10 (4) a legal guardian; (5) an education advocate for a student with an
11 exceptionality; (6) a foster parent, unless the student is a child with an
12 exceptionality; or (7) a student who has reached the age of majority or is an
13 emancipated minor.

14 “Physical Escort” means the temporary touching or holding the hand, wrist,
15 arm, shoulder, or back of a student who is acting out for the purpose of inducing
16 the student to walk to a safe location.

17 “Physical Restraint” means bodily force used to substantially limit a
18 student’s movement, except that consensual, solicited, or unintentional contact
19 and contact to provide comfort, assistance, or instruction shall not be deemed to
20 be physical restraint.

21 “School resource officer” means a law enforcement officer or police officer
22 employed by a local law enforcement agency who is assigned to a district through
23 an agreement between the local law enforcement agency and the district.

24 “School security officer” means a person who is employed by a board of
25 education of any school district for the purpose of aiding and supplementing

1 state and local law enforcement agencies in which the school district is located,
2 but is not a law enforcement officer or police officer.

3 “Seclusion” means placement of a student in a location where all of the
4 following conditions are met: (1) the student is placed in an enclosed area by
5 school personnel; (2) the student is purposefully isolated from adults and peers;
6 and (3) the student is prevented from leaving, or reasonably believes that he or
7 she will be prevented from leaving the enclosed area.

8 “Time-out” means a behavioral intervention in which a student is
9 temporarily removed from a learning activity without being secluded.

10 Prohibited Types of Restraint

11 All staff members are prohibited from engaging in the following actions
12 with all students:

- 13 • Using face-down (prone) physical restraint;
- 14 • Using face-up (supine) physical restraint;
- 15 • Using physical restraint that obstructs the student’s airway;
- 16 • Using physical restraint that impacts a student’s primary mode of
17 communication;
- 18 • Using chemical restraint, except as prescribed treatments for a
19 student’s medical or psychiatric condition by a person appropriately
20 licensed to issue such treatments; and
- 21 • Use of mechanical restraint, *except*:
 - 22 ○ Protective or stabilizing devices required by law or used in
23 accordance with an order from a person appropriately licensed to
24 issue the order for the device;

- 1 ○ Any device used by a certified law enforcement officer to carry
- 2 out law enforcement duties; or
- 3 ○ Seatbelts and other safety equipment when used to secure students
- 4 during transportation.

5 Use of Emergency Safety Interventions

6 ESI shall be used only when a student presents a reasonable and immediate
7 danger of physical harm to such student or others with the present ability to effect
8 such physical harm. Less restrictive alternatives to ESI, such as positive behavior
9 interventions support, shall be deemed inappropriate or ineffective under the
10 circumstances by the school employee witnessing the student’s behavior prior to
11 the use of any ESI. The use of ESI shall cease as soon as the immediate danger
12 of physical harm ceases to exist. Violent action that is destructive of property
13 may necessitate the use of an ESI. Use of an ESI for purposes of discipline,
14 punishment, or for the convenience of a school employee shall not meet the
15 standard of immediate danger of physical harm.

16 ESI Restrictions

17 A student shall not be subjected to ESI if the student is known to have a
18 medical condition that could put the student in mental or physical danger as a
19 result of ESI. The existence of such medical condition must be indicated in a
20 written statement from the student’s licensed health care provider, a copy of
21 which has been provided to the school and placed in the student’s file.

22 Such written statement shall include an explanation of the student’s
23 diagnosis, a list of any reasons why ESI would put the student in mental or
24 physical danger, and any suggested alternatives to ESI. Notwithstanding the
25 provisions of this subsection, a student may be subjected to ESI, if not

1 subjecting the student to ESI would result in significant physical harm to the
2 student or others.

3 Use of Seclusion

4 When a student is placed in seclusion, a school employee shall be able to
5 see and hear the student at all times.

6 All seclusion rooms equipped with a locking door shall be designed to
7 ensure that the lock automatically disengages when the school employee viewing
8 the student walks away from the seclusion room, or in case of emergency, such as
9 fire or severe weather.

10 A seclusion room shall be a safe place with proportional and similar
11 characteristics as other rooms where students frequent. Such room shall be free
12 of any condition that could be a danger to the student, well-ventilated, and
13 sufficiently lighted.

14 Training

15 All staff members shall be trained regarding the use of positive behavioral
16 intervention strategies, de-escalation techniques, and prevention techniques.
17 Such training shall be consistent with nationally recognized training programs on
18 ESI. The intensity of the training provided will depend upon the employee's
19 position. Administrators, licensed staff members, and other staff deemed most
20 likely to need to restrain a student will be provided more intense training than
21 staff who do not work directly with students in the classroom. District and
22 building administration shall make the determination of the intensity of training
23 required by each position.

1 Each school building shall maintain written or electronic documentation
2 regarding the training that was provided and a list of participants, which shall be
3 made available for inspection by the state board of education upon request.

4 Notification and Documentation

5 The principal or designee shall notify the parent the same day as an
6 incident. The same-day notification requirement of this subsection shall be
7 deemed satisfied if the school attempts at least two methods of contacting the
8 parent. A parent may designate a preferred method of contact to receive the same-
9 day notification. Also, a parent may agree, in writing, to receive only one same-
10 day notification from the school for multiple incidents occurring on the same day.

11 Documentation of the ESI used shall be completed and provided to the
12 student's parents no later than the school day following the day of the incident.
13 Such written documentation shall include: (A) The events leading up to the
14 incident; (B) student behaviors that necessitated the ESI; (C) steps taken to
15 transition the student back into the educational setting; (D) the date and time the
16 incident occurred, the type of ESI used, the duration of the ESI, and the school
17 personnel who used or supervised the ESI; (E) space or an additional form for
18 parents to provide feedback or comments to the school regarding the incident; (F)
19 a statement that invites and strongly encourages parents to schedule a meeting to
20 discuss the incident and how to prevent future incidents; and (G) email and phone
21 information for the parent to contact the school to schedule the ESI meeting.
22 Schools may group incidents together when documenting the items in
23 subparagraphs (A), (B) and (C) if the triggering issue necessitating the ESIs is
24 the same.

1 The parent shall be provided the following information after the first and
2 each subsequent incident during each school year: (1) a copy of this policy which
3 indicates when ESI can be used; (2) a flyer on the parent’s rights; (3) information
4 on the parent’s right to file a complaint through the local dispute resolution
5 process (which is set forth in this policy) and the complaint process of the state
6 board of education; and (4) information that will assist the parent in navigating
7 the complaint process, including contact information for Families Together and
8 the Disability Rights Center of Kansas. Upon the first occurrence of an incident
9 of ESI, the foregoing information shall be provided in printed form or, upon the
10 parent’s written request, by email. Upon the occurrence of a second or subsequent
11 incident, the parent shall be provided with a full and direct website address
12 containing such information.

13 Law Enforcement, School Resource, and Campus Security Officers

14 Campus police officers and school resource officers shall be exempt from
15 the requirements of this policy when engaged in an activity that has a legitimate
16 law enforcement purpose. School security officers shall not be exempt from the
17 requirements of this policy.

18 If a school is aware that a law enforcement officer or school resource officer
19 has used seclusion, physical restraint, or mechanical restraint on a student, the
20 school shall notify the parent the same day using the parent’s preferred method
21 of contact. A school shall not be required to provide written documentation to a
22 parent, as set forth above, regarding law enforcement use of an emergency safety
23 intervention, or report to the state department of education any law enforcement
24 use of an emergency safety intervention. For purposes of

1 this subsection, mechanical restraint includes, but is not limited to, the use of
2 handcuffs.

3 Documentation of ESI Incidents

4 Except as specified above with regard to law enforcement or school resource
5 officer use of emergency safety interventions, each building shall maintain
6 documentation any time ESI is used with a student. Such documentation must
7 include all of the following:

- 8 • Date and time of the ESI,
- 9 • Type of ESI,
- 10 • Length of time the ESI was used,
- 11 • School personnel who participated in or supervised the ESI,
- 12 • Whether the student had an individualized education program at the time
13 of the incident,
- 14 • Whether the student had a section 504 plan at the time of the incident,
15 and whether the student had a behavior intervention plan at the time of
16 the incident.

17 All such documentation shall be provided to the building principal, who
18 shall be responsible for providing copies of such documentation to the
19 superintendent or the superintendent's designee on at least a biannual basis. At
20 least once per school year, each building principal or designee shall review the
21 documentation of ESI incidents with appropriate staff members to consider the
22 appropriateness of the use of ESI in those instances.

1 Reporting Data

2 District administration shall report ESI data to the state department of
3 education as required.

4 Parent Right to Meeting on ESI Use

5 After each incident, a parent may request a meeting with the school to
6 discuss and debrief the incident. A parent may request such meeting verbally, in
7 writing, or by electronic means. A school shall hold a meeting requested under
8 this subsection within 10 school days of the parent’s request. The focus of any
9 such meeting shall be to discuss proactive ways to prevent the need for emergency
10 safety interventions and to reduce incidents in the future.

11 For a student with an IEP or a Section 504 plan, such student’s IEP team or
12 Section 504 plan team shall discuss the incident and consider the need to conduct
13 a functional behavioral assessment, develop a behavior intervention plan, or
14 amend the behavior intervention plan if already in existence.

15 For a student with a section 504 plan, such student’s section 504 plan team
16 shall discuss and consider the need for a special education evaluation. For
17 students who have an individualized education program and are placed in a private
18 school by a parent, a meeting called under this subsection shall include the parent
19 and the private school, who shall consider whether the parent should request an
20 individualized education program team meeting. If the parent requests an
21 individualized education program team meeting, the private school shall help
22 facilitate such meeting.

23 For a student without an IEP or Section 504 plan, the school staff and the
24 parent shall discuss the incident and consider the appropriateness of a referral for
25 a special education evaluation, the need for a functional behavioral

1 assessment, or the need for a behavior intervention plan. Any such meeting shall
2 include the student's parent, a school administrator for the school the student
3 attends, one of the student's teachers, a school employee involved in the incident,
4 and any other school employees designated by the school administrator as
5 appropriate for such meeting.

6 The student who is the subject of such meetings shall be invited to attend
7 the meeting at the discretion of the parent. The time for calling such a meeting
8 may be extended beyond the 10-day limit if the parent of the student is unable to
9 attend within that time period. Nothing in this section shall be construed to
10 prohibit the development and implementation of a functional behavior assessment
11 or a behavior intervention plan for any student if such student would benefit from
12 such measures.

13 Local Dispute Resolution Process

14 If a parent believes that an emergency safety intervention has been used on
15 the parent's child in violation of state law or board policy, the parent may file a
16 complaint as specified below.

17 The board of education encourages parents to attempt to resolve issues
18 relating to the use of ESI informally with the building principal and/or the
19 superintendent before filing a formal complaint with the board. Once an informal
20 complaint is received, the administrator handling such complaint shall investigate
21 such matter, as deemed appropriate by the administrator. In the event that the
22 complaint is resolved informally, the administrator must provide a written report
23 of the informal resolution to the superintendent and the parents and retain a copy
24 of the report at the school. The superintendent will share the

1 informal resolution with the board of education and provide a copy to the state
2 department of education.

3 If the issues are not resolved informally with the building principal and/or
4 the superintendent, the parents may submit a formal written complaint to the board
5 of education by providing a copy of the complaint to the clerk of the board and
6 the superintendent within thirty (30) days after the parent is informed of the
7 incident.

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

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

23 If desired, a parent may file a complaint under the state board of education
24 administrative review process within thirty (30) days from the date a final
25 decision is issued pursuant to the local dispute resolution process.

GAAF Emergency Safety Interventions

GAAF-12

Approved: October 28, 2013

Amended: January 26, 2015

Amended: August 10, 2015

Amended: August 8, 201

