

Local Dispute Resolution Process

Atchison Public Schools follows Board of Education Policy GAAF as the local dispute resolution process for concerns/complaints regarding the use of Emergency Safety Interventions.

Local Dispute Resolution Process

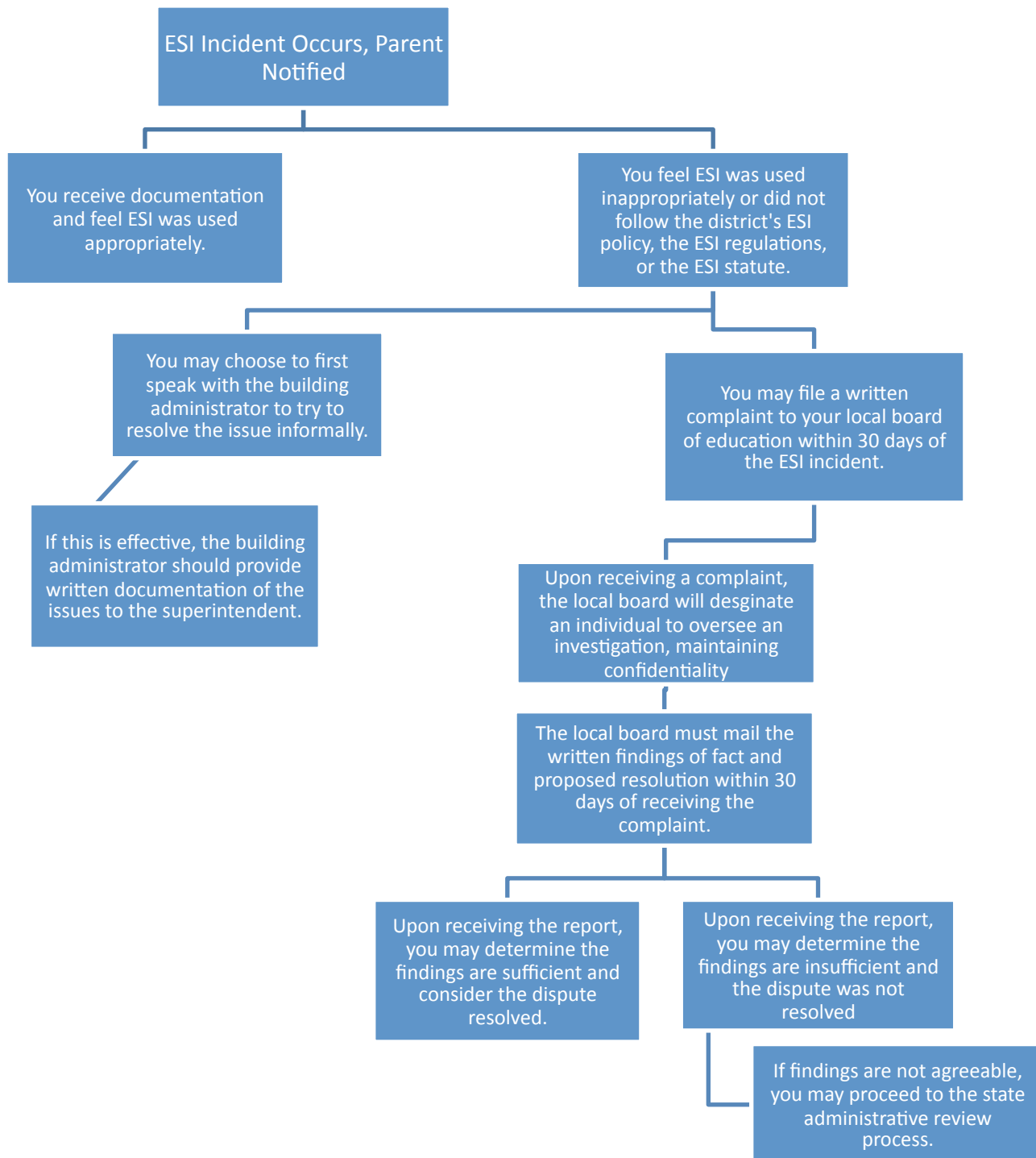
The board of education encourages parents to attempt to resolve issues relating to the use of ESI informally with the building principal and/or the superintendent before filing a formal complaint with the board. In the event that the complaint is resolved informally, the administrator must provide a 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 a report containing written findings of fact and, if necessary, appropriate corrective action. A copy of the report adopted by the board shall be provided to the parents, the school, and the state board of education.

Local Dispute Resolution Guide for Parents



State Board Administrative Review Process

Refer to K.S.A. 2015 Supp. 72-89d04(b) and K.A.R. 91-42-5 for complete information. The following provides a summary of the regulations regarding an administrative review initiated with the Kansas State Board of Education (KSBE).

- If a parent believes an emergency safety intervention was used in violation of K.S.A. 2015 Supp. 72-89d01 through -89d09 or K.A.R. 91-42-1 through -7 and the parent filed a written complaint with their local board of education, then this parent may request an administrative review of the local board's decision from KSBE.
 - The request for administrative review must include the following information:
 - Name of the student and contact information;
 - Names and contact information for all involved parties (teachers, aides, administrators, and district staff), to the extent known;
 - A detailed statement of the reason for requesting an administrative review;
 - Any supporting facts and documentation; and
 - A copy of the complaint filed with the local board, the local board's final decision (if issued).
 - The written request for administrative review must be typed or legibly written and signed by the parent.
 - Relevant documents must be attached or, if unavailable, the documents must be referenced in the request for administrative review.
 - Written consent to disclose any personally identifiable information from the student's education records necessary to conduct an investigation
- The request for administrative review must be filed with the Commissioner of Education within 30 days of the local board issuing its final decision OR within 60 days from the date the parent filed a complaint with the local board, if the local board did not issue a final decision. You may mail this request to the Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Suite 600, Topeka, Kansas 66612.
- A Hearing Officer will be designated by KSBE. The Hearing Officer must send a copy of the request for administrative review to the local board.
- The Hearing Officer will consider the local board's final decision and may initiate an investigation that could include:
 - A discussion with the parent, during which additional information may be gathered;
 - Contact with the local board or other district staff to allow the local board to respond to the request with information supporting its final decision; and
 - An on-site investigation by Kansas Department of Education staff.
- If new information is discovered that was not made available to both the parent and the local board during the dispute resolution process, the Hearing Officer may send the issue back to the local board.
 - If sent back to the local board, the Hearing Officer's case will be closed and the local board has 30 days to issue a written amended final decision.
 - If the parent feels the local board's amended final decision does not adequately address the issue, the parent may file a new request for administrative review with the commissioner by following the above process for requesting administrative review. This must be done within 30 days of the local board issuing its amended final decision. If the

local board does not issue an amended final decision within 30 days, then the parent has 30 days from the date the Hearing Officer sent the issue back to the local board to file a request for administrative review with the commissioner.

- Within 60 days of receiving the request for administrative review, the Hearing Officer will, in writing, inform the parents, school administrator, district superintendent, local board clerk, and the state board of the results of the review. This time frame may be extended for good cause upon approval of the commissioner.
- The results of the administrative review will contain findings of fact, conclusions of law, and any suggested corrective actions. The Review Officer's determination will include one of the following:
 - The local board appropriately resolved the complaint.
 - The local board should re-evaluate the complaint with suggested findings of fact.
 - The Hearing Officer's suggested corrective active is necessary to ensure that local board policies meet legal requirements.

State Administrative Review Guide for Parents

<p>You filed a complaint with the local board and you are not satisfied with the final decision about the use of an emergency safety intervention (ESI).</p>	<p>Written request must include:</p> <ul style="list-style-type: none"> • Name and contact information of student that emergency safety intervention was used with • Name and contact information for all people involved • Statement describing the basis for the review with all supporting facts and documentation • A copy of the complaint filed with the local board, the local board's final decision (if issued).
<p>File a request for administrative review with the Kansas State Board of Education. You must do this within 30 days of the local board's final decision or, if the local board failed to issue a final decision, within 60 days of the date you filed a complaint with the local board.</p>	<p>A request for an administrative review may include, but is not limited to, the following allegations:</p> <ul style="list-style-type: none"> • An ESI was used with your child when your child did not present a reasonable and immediate danger of physical harm to themselves or others with the present ability to effect such physical harm. • The district used a form of banned restraint including prone, supine, physical restraint that obstructs the airway of your child, physical restraint that impacts your child's primary mode of communication, chemical or mechanical restraint that does not meet an exception. • Less restrictive alternatives to ESI were not deemed inappropriate or ineffective before ESI was used. • The use of ESI with your child did not stop as soon as the immediate danger of physical harm stopped. • ESI was used with your child for discipline, punishment, or convenience. • Seclusion was used with your child and you have provided school staff with documentation from your child's licensed health care provider that seclusion could put your child in mental or physical danger. • Seclusion was used with your child and school staff could not see and hear your child at all times. • Your child was put in a seclusion room with a locking door that does not automatically disengage when school staff walk away or in an emergency. • Your child was put in a seclusion room that was unsafe, not well ventilated, or not sufficiently lighted.
<p>The Kansas State Board of Education will designate a Hearing Officer to conduct a review of the local board's final decision.</p>	<ul style="list-style-type: none"> • Mail this request to the Commissioner of Education, Kansas State Department of Education, Landon State Office Building, 900 SW Jackson Street, Suite 600, Topeka, Kansas 66612
<p>Investigation results will be provided to the parents, school administrator, district superintendent, local board, and state board within 60 days of the commissioner's receipt of the request for administrative review.</p>	<p>The Hearing Officer may initiate a separate investigation that may include:</p> <ul style="list-style-type: none"> • A discussion with the parent; • Contacting the local board or other staff involved; and • An on-site investigation. <p>If the Hearing Officer finds new information, they may send the issue back to the local board. If you are not satisfied with the local board's amended decision the right to request administrative review begins again.</p>



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.

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**.

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

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

District Administrator Contact for Emergency Safety Intervention Questions

Dr. David Myers
Director of Special Education
913-367-9519
dmyers@usd409.net

School Administrator Contact for Emergency Safety Intervention Questions

Bryon Hanson, Principal
Atchison High School
913-367-6142
Bryon.hanson@usd409.net

Chad Bilderback, Principal
Atchison Middle School
913-367-5363
Chad.bilderback@usd409.net

Kent Michel, Principal
Atchison Elementary School – Intermediate
913-367-3787
Kent.michel@usd409.net

Kari Kephart, Principal
Atchison Elementary School – Primary
913-367-1161
Kari.kephart@usd409.net

Gerre Martin, Principal
Central School
913-360-6540
Gerre.martin@usd409.net

District Website for ESI Information

www.usd409.net

State

General ESI Information:

<http://ksdetas.org/tasn/emergency-safety-interventions-esi-resources>

Emergency Safety Intervention 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