

Complaint #1- Received at KSDE on August 23, 2011, Report completed on September 14, 2011

1. Complaint alleged student was placed in seclusion/"timeout" even though not authorized by parents, his BIP, or IEP.
2. Space where student was alleged to be secluded did not meet the definition of seclusion as defined in the Kansas Seclusion and Restraint Guidelines.
 - a. Space was behind the bookshelf in the corner of the room.
 - b. Student could leave the space at any time.
 - c. Student would voluntarily go to the space.
3. Complaint was found to be unsubstantiated. No evidence that the district did not comply with special education laws and regulations.

Complaint #2- Received at KSDE on November 15, 2011, Report completed on December 14, 2011

1. Brought on behalf of the student by the Disability Rights Center
2. Complaint alleged district failed to provide a free and appropriate public education (FAPE) for student because it has not made available to the student services that are comparable to those described in the IEP, developed by another school. Specifically, the district refused to incorporate a Safety Plan that included the use of floor-based restraint into the student's IEP.
3. Safety plan developed by previous school was not a part of the student's IEP; therefore, the district was not required to develop a Safety Plan to offer comparable services.
 - a. District did develop an IEP that included a Positive Behavior Intervention Plan for student. Restraint included only as a last resort (Mandt) – no floor based restraint.
4. IF floor-based restraints had been a part of the student's IEP, the district would not be required to utilize the same methodology as the prior school to address the student's behavioral needs.
 - a. No parent consent needed for a change in methodology.
5. Complaint was found to be unsubstantiated. No evidence of noncompliance with special education laws and regulations.

*District was specifically opposed to using the type of "floor restraint" identified in the Safety Plan developed by prior school because of risk of serious injury. Parents advocated for inclusion of the "floor restraint" into their child's IEP.

Complaint #3 – Received at KSDE on January 27, 2012, Pending investigation

1. Alleges failure to follow student's IEP, which resulted in the use of restraint.
2. Student was allegedly injured, suffered bruising, as a result.

Reporting

From the Kansas Seclusion/Restraint Guidelines (adopted by KSBE in March 2007)

Guideline 5. Seclusion rooms and physical restraint; reports and notification.

(b)(1) Each school that uses a seclusion room as defined in guideline 1 must submit annually to the state director of special education the following information: (A) The name of the school and the grades offered at the school; and (B) The length, width and height of each of the seclusion rooms located in the school. (2) Each school that uses a seclusion room must submit a quarterly report to the state director of special education that includes the following information: (A) The number of students placed in seclusion during the reporting period; (B) the maximum amount of time any child was in seclusion on a single occasion; and (C) the maximum number of times during a single day that a student was placed in a seclusion room.

(c) The state director of special education will compile the reports from the schools and provide the results to the State Special Education Advisory Council, which is to consider the information and make any recommendations it believes appropriate to the State Board of Education.

KANSAS STATE BOARD OF EDUCATION, Meeting Minutes - June 14, 2011

Approved the following recommendations from the Special Education Advisory Council regarding seclusion and restraint: 1) Change KSBE terminology describing incidents of seclusion and restraint under the umbrella of emergency safety interventions; 2) KSDE collect data regarding incidents of restraint; 3) KSDE collect data on use of Positive Behavior Instructional Supports in all public schools; 4) KSDE collect data on the proper training of emergency safety interventions; 5) Data collections concerning seclusion and restraint be collected on all students involved (general and special education students) and 6) KSDE should monitor the discussions concerning legislation on seclusion and restraint at the general level to ensure that Kansas regulations mirror the federal position in either education legislation or reauthorization of ESEA and/or the IDEA.