

# **Emergency Safety Intervention Parent Information**

**Catholic Diocese of Wichita**

# Table of Contents

Standards of When ESI May Be Used .....	Page 3-4
Local Dispute Resolution Process .....	Page 5
Local Dispute Resolution Guide for Parents .....	Page 6
State Board Administrative Review Process .....	Page 7-8
State Board Administrative Review Guide for Parents .....	Page 9
Fact Sheet about ESI .....	Page 10-11
Contact Information .....	Page 12

# Standards for the use of Emergency Safety Interventions

The emergency safety interventions (ESI) law set forth standards for the use of restraint and seclusion to ensure that all Kansas students and staff have a safe learning environment. The standards found in the ESI statutes and regulations are required to be followed in all Kansas public school districts and accredited private schools.

An **ESI** is the use of seclusion or physical restraint. The use of ESIs shall **cease as soon as the immediate danger of physical harm and violent action ceases to exist.**

Before using an ESI, a school employee witnessing the student's behavior must have determined that **less restrictive alternatives** to ESI, such as positive behavior interventions support, were inappropriate or ineffective under the circumstances.

ESIs shall be used **only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm.** Violent action that is destructive of property may necessitate the use of an ESI. ESIs may not be used for purposes of discipline, punishment, or for the convenience of a school employee.

**Physical restraint** means bodily force used to substantially limit a student's movement. Physical restraint is **NOT**:

- Consensual, solicited or unintentional contact and contact to provide comfort, assistance or instruction;
- physical escort;
- prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments;
- protective or stabilizing devices either ordered by an appropriately licensed professional or required by law;
- any device used by a law enforcement officer in carrying out law enforcement duties;
  - seatbelts and any other safety equipment when used to secure students during transportation.

**Prohibited** types of restraints:

- **Prone**, or face-down, physical restraint;
- **supine**, or face-up, physical restraint;
- any physical restraint that **obstructs the airway** of a student;
- any physical restraint that **impacts a student's primary mode of communication**;
- **chemical** restraint ("chemical restraint" means the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement); and
- **mechanical** restraint ("mechanical restraint" means any device or object used to limit a student's movement).

Seclusion means placement of a student in a location where:

- The student is placed in an **enclosed area** by school personnel;
- the student is **purposefully isolated** from adults and peers; and
- the student is **prevented from leaving**, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

A student may not be secluded if the student is known to have a **medical condition** that could put the student in mental or physical danger as a result of seclusion. The medical condition must be in a written statement from the student's licensed health care provider, and a copy of given to the school and placed in the student's file.

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

If a seclusion room has a locking door it must be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

A seclusion room must be a **safe place**. The room must have good ventilation and lighting, and be free of any condition that could be a danger to the student. The room must also be similar to other rooms where students frequent.

Seclusion is **not time-out**, which is a behavioral intervention in which a student is temporarily removed from a learning activity without being confined.

## **Local Dispute Resolution Process**

### **Taken From Diocesan Policy Book**

#### **314 Conflict Resolution**

A conflict may occur as a result of an action, rule, decision, or other factor felt to be unjust or grounds for complaint. This procedure provides for the orderly and expeditious resolution of conflicts of individual parents, faculty, students, or employees associated with a Catholic school. Proceedings are to be kept as informal and confidential as may be appropriate at any level of the procedure. These procedures are to be invoked only after the parties to the dispute have met and failed to resolve the complaint. These procedures are imposed not to serve as impediments to resolution, but to serve the purposes of consistency and fairness.

#### **Hearing**

All formal complaints must be submitted to the building principal in writing. If possible, within three school days of receipt of the notice the administrator will meet with all parties to the conflict. If a resolution can be reached, it will be communicated promptly by the administrator to each party.

#### **Appeal**

##### **Parish Schools**

If the conflict is not resolved, a conference with the pastor, principal, and all parties will be held within five working days following the first conference, if possible. When a resolution has been reached, it will be communicated in writing to each party. The pastor's decision will be final.

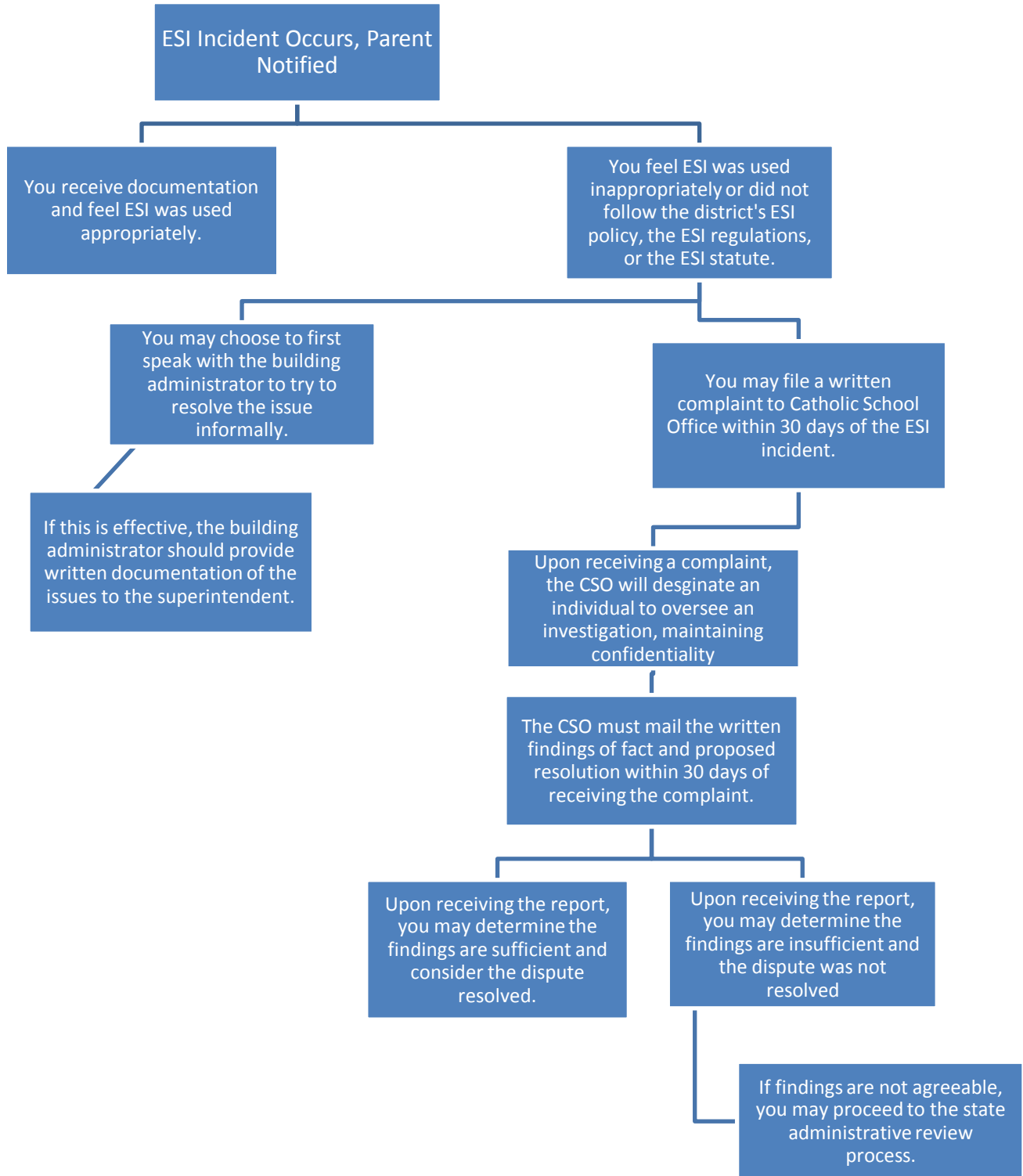
##### **Diocesan High Schools**

If the conflict is not resolved, a conference with the superintendent or the superintendent's designee, the president/principal, and all parties will be held within five working days, if possible, following the first conference. When a resolution has been reached, it will be communicated in writing to each party. The superintendent's decision will be final.

##### **Priests**

If a complaint is filed against a priest, it shall be referred to the Vicar General (or his designee) for resolution. The Vicar General's decision will be final.

# 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

Written request must include:

- 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
- The local board's final decision, if one was issued
- Type or legibly write the complaint and sign it
- Written consent to disclose any personally identifiable information

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).

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.

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

The Kansas State Board of Education will designate a Hearing Officer to conduct a review of the local board's final decision.

The Hearing Officer may initiate a separate investigation that may include:

- A discussion with the parent;
- Contacting the local board or other staff involved; and
- An on-site investigation.

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.

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.

A request for an administrative review may include, but is not limited to, the following allegations:

- 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.



## **Emergency Safety Intervention Fact Sheet**

### Key Requirements from the Emergency Safety Intervention Statutes and 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 Emergency Safety Intervention May Be Used**

- Emergency safety intervention 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 emergency safety intervention being used
- The use of emergency safety intervention must stop immediately when the danger of physical harm ends
- Violent action that is destructive of property may necessitate the use of emergency safety intervention
- Emergency safety intervention 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 emergency safety intervention incident occurs
- Parents must be provided information about emergency safety intervention, their rights, and the dispute resolution process the day following an emergency safety intervention incident
- After the third emergency safety intervention 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. Jamie Finkeldej, Associate Superintendent

316-269-3950

[finkeldej@catholicdioceseofwichita.org](mailto:finkeldej@catholicdioceseofwichita.org)

#### **School Administrator Contact for Emergency Safety Intervention Questions**

Mrs. Mary Carter

316-722-5171

[mcarter@stfranciswichita.com](mailto:mcarter@stfranciswichita.com)

### **State**

#### **General Emergency Safety Intervention Information:**

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

#### **Emergency Safety Intervention Questions:**

Laura Jurgensen

Kansas State Department of Education

[ljurgensen@ksde.org](mailto: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

## **15. EMERGENCY SAFETY INTERVENTION (ESI) POLICY**

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

This policy shall be made available on the schools website with links to the policy available on any individual school pages. In addition, this policy shall be included in at least one of the following: each school’s code of conduct, school safety plan, or student handbook.

### **A) Definitions**

Emergency safety intervention means the use of seclusion or physical restraint.

Seclusion means placement of a student in a location where all 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; and 3) the student is prevented from leaving, or the student reasonably believes that such student will be prevented from leaving, the enclosed area.

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.

Emergency Safety Interventions shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student’s behavior prior to 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 to property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

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. The existence of such medical condition must 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.

When the student is placed in seclusion, a school employee shall be able to see and hear the student at all times. All seclusion rooms equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather. A seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Such rooms shall be free of any condition that could be a danger to the student, and shall be well-ventilated and sufficiently lighted.

Prohibited types of restraints:

- Prone, or face-down, physical restraint;
- supine, or face-up, physical restraint;
- any physical restraint that obstructs the airway of a student;
- any physical restraint that impacts a student's primary mode of communication;
- chemical restraint, such as the use of medication to control a student's violent physical behavior or restrict a student's freedom of movement;
- mechanical restraint such as any device or object used to limit a student's movement

**B. Training:** School personnel training shall be designed to meet the needs of personnel as appropriate to their duties and potential need for the use of emergency safety interventions. Training shall address prevention techniques, de-escalation techniques and positive behavioral intervention strategies. Training shall be consistent with nationally recognized training programs. The school shall maintain written or electronic documentation on training provided a lists of participants in each training for inspection by the Kansas state board of education.

**C. Notification:** When a student is subjected to an emergency safety intervention, the school shall notify the parent on the same day of the emergency safety intervention was used. The school shall attempt to contact the parent using at least two methods of contact. A parent may designate a preferred method of contact to receive the same day notification. The school must complete the diocesan incident report and turn it in to the Catholic School Office within 24 hours of the incident.

### **Parent Notification**

***After the first ESI incident, written documentation to the parent shall be completed and provided to the parent no later than the school day following the day on which ESI was used.***

**Written documentation to the parent shall include the following information:**

1) The events leading up to the incident; 2) student behaviors that necessitated the emergency safety intervention; 3) steps taken to transition the student back into the educational setting; 4) the date and time the incident occurred, the type of emergency safety intervention used, the duration of the emergency safety intervention and the school personnel who used or supervised the ESI.

The parent shall be provided the following information after the first incident: 1) a copy of the standards of when emergency safety interventions can be used, 2) a flyer on the

parent's rights, 3) information on the parent's right to file a complaint, and 4) information that will assist the parent in the complaint process. The parent shall be provided foregoing information in printed form, or upon the parent's written request, by email.

After each incident, a parent may request a meeting with the school to discuss the incident. A parent may request such meeting verbally, in writing, or by electronic means. The school shall hold a meeting within 10 school days of the parent's request. The focus of any meeting shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

**Students with IEP or 504 Plan**

Convene a meeting of the student's IEP or 504 team to discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan or amend. The parent will determine whether the student is invited to the meeting. The time for calling a meeting will extend beyond the 10-school-day limit if the parent of the student is unable to attend within the time period.

**D. Reporting Data:** CSO shall report ESI data to the state department of education as required.

**E. Dispute Resolution:** If a parent feels the school has violated this policy they may file a complaint in writing to the pastor within 30 days of the date on which the parent was informed of the use of the use of emergency safety intervention. The pastor may choose to delegate the investigation to Diocesan Superintendent. The pastor, or his designee, will report their findings to the parent within 30 days of the pastor's receipt of the complaint.