Emergency Safety Intervention, data collection and privacy robust topics

Although it was not an action item, the Emergency Safety Intervention update generated robust board discussion at the August Kansas State Board of Education meeting. The ESI (previously known as seclusion and restraint) presentation was slated to last 30 minutes but stretched to three times that as numerous board members expressed concern about the new regulations. The new regulations were approved earlier this year and went into effect April 19, and could actually create situations where harm to a student could be the result of the regulations meant to protect them.

One board member observed many districts had much of their preschool in-services “hijacked” by the training demands of the unfunded mandate. As the discussion progressed, it became clear at least a significant minority of the board would, at the least, want to watch the impact of the regulations carefully and, at the most, revisit the language they felt was perhaps overreaching and put employees, districts and children in untenable situations.

As KASB legal staff has been providing training and resources on these regulations, several major issues have become apparent.

First, the removal of the altercation exception from the regulations may put districts in the untenable position of having staff members who are afraid to break up altercations because they have not been trained in the proper use of restraint versus having untrained staff members improperly restraining a student involved in an altercation and causing injury. Either set of circumstances could expose the district to lawsuits and liability. This is especially true because the regulations apply to both regular education and special education students.

Second, the regulations require all staff members be trained regarding positive behavior supports, de-escalation techniques, and prevention techniques. Some staff members will also need to be trained in the proper use of restraint. Not only does the training take time away from other issues that need to be addressed at the start of school, it can be quite costly depending upon the type of training used.

Third, all of the types of prohibited restraint apply to school law enforcement personnel except the mechanical restraint prohibition. Thus, districts’ law enforcement personnel cannot have a student lay down on the student’s stomach while being handcuffed, although outside law enforcement personnel are free to follow normal law enforcement procedures because they are not bound by district policies.

Fourth, the guidance document issued recently by KSDE indicates the local board members themselves are supposed to do the investigation of formal written complaints. Although the guidance document does condone the use of an attorney in some instances to conduct the

State Department reviewing federal waiver status

Kansas State Department of Education officials announced last week they are reviewing a letter from the U.S. Department of Education that placed the state’s No Child Left Behind waiver on “high risk status” because the state has not fully complied with waiver requirements regarding the use of student growth in teacher and administrator evaluation. The letter from U.S. Secretary of Education Arne Duncan approved the Kansas waiver through the end of the 2013-14 school year, but that approval is conditioned upon meeting specified requirements. Here is a link to the letter: www2.ed.gov/policy/eseaflex/secretary-letters/ksextendapproval.html

KSDE says it will submit its response to the USDE once staff has had an opportunity to determine an appropriate plan for the state of Kansas to move forward with the teacher and leader evaluations. In the Kansas waiver, the state chose to use multiple measures of growth in student achievement to inform teacher and principal evaluations. This will be the focus during the 2013-14 school year, including performance on state assessments.

“We have been pleased with what the original waiver has allowed us to do,” said Education Commissioner Dr. Diane DeBacker. “Kansas school districts have been piloting the use of new evaluation instruments, and will continue to pilot these during the 2013-14 school year in preparation for full implementation in 2014-15. The delay in using the data to inform personnel decisions is to ensure that data is completely analyzed and accurate before it is used in this manner. Kansas is committed to an evaluation system that helps educators become better at their profession, and tying student performance data to this process requires a great deal of time, effort, and insurance of quality.”

KASB supports making growth in student achievement the most important factor in teacher and administrator evaluation in the new state educator evaluation standards currently under development.

continued on page 3
FROM THE KASB EXECUTIVE DIRECTOR, DR. JOHN HEIM

The Last Cattle Drive: A story of connections

Robert Day’s The Last Cattle Drive is a humorous and poignant tale of a crusty old cowboy from Russell County, Kansas, who becomes so aggravated with the high price of trucking his herd to Kansas City, that he decides to drive them the old-fashioned way from Gorham to the Kansas City stockyards. He enlists the assistance of a newly minted University of Kansas teacher at Gorham High School who has just learned to ride a horse, his lifelong hired hand Jed, and the strength of the crew, his wife Opal. Having spent the summers of my youth on a Russell County ranch/farm, the characters all come to life, many closely resembling members of my own family. (A word of warning to would be readers, Day accurately captures the fact that Russell County ranchers and oilmen use a vernacular that some would describe politely as colorful.)

It also resonates because in 1981, I too was a newly-minted KU teacher headed to Bazine, Kansas, for a teaching gig. Gorham and Bazine are very similar, and I could probably still line up a crew of characters from Bazine as colorful as the ones in the book. Although I never drove cattle farther than the two or three miles from the South 40 to the Jones place south of Bunker Hill, Kansas, I did love the book so much that it was the motivation for a bicycle ride by a group of friends from Emporia. Starting in Gorham, we traced the route of the intrepid drovers from the book and had a great time seeing all of the sites that are described in the book.

Besides being funny and a great Kansas geography lesson, the book is about connections. It is about an old man who hates those “Kansas City Dentists” who come west to hunt pheasants, but learns to love a Kansas City-raised kid enough to make him one of the family. I was thinking about those kinds of connections when I was sitting in my dentist’s office last week. (See a previous column at www.kasb.org/dentist0312 for why this rings a bell.) I think we tend to take our connections for granted.

To illustrate this point, I asked all of the KASB staff to chart three generations of their families travels across Kansas. We started with lines connecting where our parents were born, graduated from high school, and live now. Then we charted ourselves, and our children. Our giant map of Kansas looks like a drunken spider wove a neon web all over the state. A few of us then connected all of the places in Kansas we have lived. The most lines for one person connected Gorham to Clifton to Colby to Lawrence to Manhattan to Emporia to Olathe to Independence to Hutchinson, back to Lawrence to Bazine, back to Manhattan to Brookeville, again back to Lawrence to Leoti to El Dorado, back to Hutchinson, back to Emporia to Shawnee. While this many connections may be extreme, it illustrates the point that for many of us, more than a village is involved in raising a child or a couple of generations of children, a whole state is involved.

As we are all interconnected, so are our communities. People are more mobile now than at any time in our history. I challenge you to map your own families travels around the state. How many connections do you have to different communities in Kansas? Can anyone match the KASB high for traversing the state in one lifetime?

We need to keep those connections in mind when our Legislature debates policies that effect us all. The diversity of our state means that a law can affect different areas in dramatically different ways, and that one size certainly does not fit all in Kansas. We need to consider not just the effect on us where we are now, but the potential effects on places where we have been, and where are children might be.

Our fictional lawn-mower shooting rancher from Gorham learned a lot from his new found Kansas City friend, but you will have to read the book to find out if he ever learns to appreciate Hays highway patrolmen, truckers in general, or Kansas City Dentists. We should learn from them and appreciate our connections. They make us strong.

LPA seeks volunteers for audits

The Legislative Division of Post Audit seeks volunteers for school district efficiency audits to be conducted during the 2013-14 school year. The objective of these audits is to find ways that districts can achieve cost savings while minimizing the impact on students and their performance. The audits are free and implementation of the recommendations is optional. However, state law requires that all findings and recommendations must be made public. This is done through a presentation to the Legislative Post Audit Committee and a mandatory posting on the school district’s website.

While all school districts are welcome to volunteer, the division is especially interested in larger school districts (more than 4,000 students) and smaller districts (less than 500 students).

Interested school districts should contact Scott Frank (scott.frank@lpa.ks.gov) or Justin Stowe (justin.stowe@lpa.ks.gov) by email or at 785-296-3792 by Sept. 1, 2013.

Grants for reading initiative available

School districts can apply for grants to finance K-5 reading programs through Education Design Services and the Lexia Reading Core 5 program. The 2013 Legislature appropriated $6 million for each of the next two years to fund pilot reading grants. The program is administered through the Children’s Cabinet under the Department of Children and Family Services. The funding source is the Children’s Initiative Fund, which receives revenue from the state tobacco settlement.

The program is projected to serve 171 schools already participating in the Lexia reading program, plus up to 200 additional schools. Each grant is expected to provide between $15,000 and $25,000, depending on the size of the school. Grants will be provided as they are submitted and rolling starts will begin as soon as possible after approval and staff training takes place. A brochure on the program is available here: http://educationaldesignsolutions.com/wp-content/uploads/2013/08/EDS-Kansas-Reading-Initiative-Grant-Brochure.pdf and the online application form is here: http://educationaldesignsolutions.com/apply-for-kri.
Equal access to student groups

The KASB legal staff encourages boards and administrators to review how the district handles facility and student access for non-school-sponsored student groups during the school day. Over the course of the last year, we have seen an increased number of complaints on how districts deal with this difficult matter.

The Equal Access Act, passed by Congress in 1984, prohibits any public secondary school, which receives Federal financial assistance and has created a limited open forum for student groups, from denying equal access or a fair opportunity to students who wish to conduct a meeting in the forum on the basis of the content of the student group’s speech. The act also prohibits discrimination against these students based on such a request for access.

A limited open forum is created by allowing noncurriculum related groups to meet on the school premises during noninstructional time. For example, you may presently have students holding “See You at the Pole” meetings before school or Fellowship of Christian Athletes meetings after school. Allowing these groups to meet on school property is no problem so long as groups with different viewpoints (Islamic or Wicca groups, 4-H, gay/lesbian/transsexual groups, and Boy and Girl Scouts, for example) are given equal access to facilities and students. In addition, the meetings must be conducted in such a way and at such a time that there is no coercion of students to attend or a perceived endorsement of a particular religious practice.

Once a district has created a limited open forum, the board can terminate it by closing the use of its facilities to all noncurriculum related groups. If the board opts to disallow facility use to outside groups, be sure to check your board policies, such as KG on facility use and JHC on student organizations, to ensure that the change is accurately reflected there as well.

Certainly, school boards in this state have Home Rule authority to make their children’s education a reflection of both state and community educational standards. However, the KASB legal staff urges districts to examine whether your district is (a) currently reflecting these standards and values in the form of either instruction on religious material during the instructional day, above and beyond what is an historical context of religions and religious movements in your social science courses, or (b) allowing access to students during the school day to local clergy or religion-based student groups while excluding similar access to other non-school sponsored groups.

If either of these are present practice, we strongly recommend discontinuing these activities during the school day and only allowing them access to the building in noninstructional time if you do so with other non-school sponsored groups.

The district may not sponsor religious student groups. School employees may attend meetings of religious student groups only in a nonparticipatory manner, and non-school persons may not direct, conduct, control, or regularly attend the meetings. The law similarly does not authorize a school district to expend public funds, beyond the incidental cost of providing space, for the meetings of religion-oriented student groups.

As always, if you have any questions on this policy issue, please feel free to call Angie Stallbaumer, KASB attorney and policy specialist, 800-432-2471 or email astallbaumer@kasb.org.

ESI, continued from page 1

investigations, the guidance document specifically states administrators should not be appointed as the investigator (even a neutral administrator who has not been involved) in order to maintain objectivity. Given that the regulations only allow 30 days to complete the investigation and make a determination, it would likely be very difficult for volunteer board members (many of whom have full-time jobs) to conduct investigations and submit proposed reports to the board in executive session within such a short time frame.

If your district has been struggling with these or any other issues relating to the implementation of the ESI regulations, please contact your State Board members and ask them to reconsider the regulations now.

Find contact information for the board members at www.ksde.org.

Data collection

Another presentation that engaged the board was Tuesday’s presentations on data collection and use. Following the presentation by KSDE staff, numerous board members asked if a number of statements made during the Open Forum regarding data collection through state assessments now and in the future were true and were told emphatically they were not. They included assertions about students’ religious and political views being part of the data collected. Board members posed very specific questions of the staff after the data collection/Personally Identifiable Information presentation. They often were questions purposefully posed to negate charges made during the Open Forum by critics of the Common Core, such as “Is personally identifiable data shared with the federal government?,” “Could the federal or state government or outside organization get information about my grandkid?,” and “You can tell how a person voted in the last election?” All were answered “No.” There was also a great deal of information shared on how the department works to provide security for the data it collects.

Other updates

The board also received an update on assessments. Commissioner DeBacker told the board to expect a recommendation on state assessments for Spring 2015 in October and wants the board to make a decision at its December meeting. She said the preferred recommendation from the field at this point would be a state-offered assessment coupled with the ability for a district to use a different assessment approved by KSDE if it thought that best for its students/community.

They also heard an update on Career Technical Education, specifically the impact of SB 155 passed in the 2012 session. The CTE report focused on the large increase in students enrolled in CTE classes at post-secondary institutions, which was a result of the $12 million infusion of state money to provide tuition for those classes. Staff also noted districts collected over $700,000 for students who earned an industry certificate; the most common were those in the health field.
KASB Presents: **2013 Fall Tour**

September 24, St. John  |  September 25, Sublette  |  September 26, Oakley  
October 1, Osborne  |  October 2, Hillsboro  |  October 3, Derby  
October 7, Erie  |  October 8, Riley  |  October 9, Tonganoxie  |  October 10, Topeka

*First in Education, The Kansas Way*

Ten **Regional Meetings** starting in September will focus on critical issues in education by bringing together education leaders, policy makers AND YOU to share information and ideas. **Registration 3 p.m.; Meeting from 3:30-7:30 p.m.; $65 per participant.**

The second session of the new board member training will be held in conjunction with the Regional Meetings. Topics include boardmanship, student achievement, policy, legal, finance and advocacy. These sessions build on knowledge gained through the **New Board Member Workshops** in the Spring, but are also a great refresher. No problem if you missed the Spring session, we’ll catch you up! **Registration 12:30 p.m.; Meeting from 1-3 p.m.; $20 per participant.**

For more information or to register visit www.kasb.org and click on the KASB Store tab.