



**Oral neutral testimony before
House Education Committee
on**

**HB 2143 — Establishing requirements for school district bullying policies and procedures for
investigating complaints.**

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Chairman, Members of the Committee:

Thank you for the opportunity to present neutral testimony on HB 2143.

KASB supports both the social and emotional growth of students and addressing the mental health needs of students and staff.

In recent years, much has been done to try to reduce bullying in Kansas schools.

In 2021, the State Board of Education approved a plan to help guide districts, which included providing school boards with an annual report on anti-bullying efforts.

The plan also included a Bullying Prevention Plan and Resources Toolkit, to be used by districts to assist in changing the climate and culture of a school building, providing curriculum and instructional resources and measuring social and emotional health on the local level. The toolkit provides numerous resources for schools. The State Board plan followed extensive research and meetings by the Blue Ribbon Task Force.

We are neutral on this bill because while we support advancing efforts to reduce bullying, we have some concerns about potential conflicts with other laws, including state and federal privacy laws and Title IX.

Here are some parts of this bill that are either vague, broad or legally problematic.

In Section 2 (b) (1), which requires that upon receiving a complaint of bullying, the designated administrator shall promptly and thoroughly investigate the incident.

Our concern is that many complaints of bullying are paired with other allegations, such as sexual harassment. Federal regulations require a specific sexual harassment grievance process that prescribes how the process will be handled. When sexual harassment allegations are intertwined with bullying complaints, districts would need to follow the grievance process under Title IX prior to taking any disciplinary action. So, we'd ask that the language on investigation be left more open to allow the district to use the investigatory process they already have in policy, or the process required in law and policy through Title IX, as needed.

Another issue is that the bill would require schools to disclose personally identifiable student information that is not allowed under federal and state law without parental consent.

In Section 2 (b)(3), we must be careful given federal and state student record and privacy law to only report the behaviors and not the consequences, the diagnosis or existence of an IEP, etc. of students to third parties without parental consent. In some cases, information on a student's disability is necessary to know if a student's act was truly intentionally bullying.

In Section 2 (b)(6), it provides that a timely report will be issued. While that is always the goal, there are times when the process, such as that in Title IX, will slow the process down. But the part that causes more concern is where it states the report will include "any disciplinary measures taken to all students, parents or staff members involved in the alleged incident, while maintaining the privacy and safety of the students." Sharing this amount of information with all parties involved (including all witnesses, regardless of if they have legitimate educational interests in this information), would be a violation of FERPA and Kansas law regarding sharing student record information. So, it is impossible to both share all that information and maintain the privacy of the student. Openly violating FERPA could endanger the district's ability to receive federal dollars. Title IX grievance procedure requires sharing the information with the respondent and the complainant, but it does not extend further.

Section 2 (c) takes away the ability for administrators to determine if an anonymous complaint is clearly false or to wade slightly into fact checking it and then dismiss it. It requires them to lock in and invest the same amount of time and effort into complaints that could be completely bogus. This would waste time and resources and give credence to false complaints.

Section 2 (g) provides any REPORTER of bullying rights to an appeal with an independent investigator. This is much broader than the parties (respondent and complainant, including parents of minor children). KASB strongly recommends striking this provision or limiting it to only allow the complainant and respondent to appeal.

Another example of this bill's broad language is that the definition of school vehicle is written to cover siblings bullying each other while in the family van on the way to school. The definition could also include staff members who are married, carpooling, and bickering in their own car. These are just a couple of the many areas in the bill that invite more questions.

In conclusion, Kansas school districts are extremely diverse, ranging from those with 50,000 students to some with fewer than 50. We believe that if the decision is made to try to address bullying beyond the recent work of the Blue-Ribbon Task Force and State Board of Education, KASB would suggest getting various education stakeholders together to come up with workable solutions.

Thank you

KASB is a non-profit service organization built on an abiding belief in Kansas public schools. We have put the needs of students and K-12 leaders first since 1917.