

M I N U T E S

SPECIAL COMMITTEE ON EDUCATION

June 26 and 27

The Chairman, Representative Sellers presided. All members of the Committee were present except Representative Luzzati (excused).

Staff persons in attendance included Ben Barrett from the Legislative Research Department and Avis Badke from the Revisor of Statutes' Office.

June 26, 1975

Conferees

Vic Jacobson, Kansas Association of School Boards
Robert L. Gast, Kansas State Department of Education
Vic Miller, Associated Students of Kansas
Jerry Milier, Director of Demographic Services, USD 501
(Topeka)
Jerry Merrell, Highway Safety Coordinator, State Highway
Commission

Morning Session

Proposal No. 12 - Privacy of Students
Records

The staff presented a background memorandum entitled "Proposal No. 12 - Privacy of Student Records" (June 26, 1975). The memorandum summarizes the Federal Family Educational Rights and Privacy Act, identifies certain states statutes of concern regarding this proposal, and summarizes the principal provisions of 1975 H.B. 2562.*

Kansas Association of School Boards (KASB). The KASB statement (Attachment I) adopts the position that the Kansas Open Records Act is in direct conflict with the "Buckley Amendment". KASB believes that the legislature of the State of Kansas should not assume the role of "enforcer" of this federal legislation. The KASB position is that local boards of education should be allowed to make the final decision as to whether or not to comply with the Buckley Amendment.

KASB proposes that the open records law be amended so that local school boards are not forced to violate the Buckley Amendment by:

1. Amending K.S.A. 45-201 by deleting "school districts"
2. Adding a new section to the open records law containing the following provision:

"K.S.A. 45-20 - Same; official public records of school districts; exceptions. All official public records of school districts, which records by law are required to be kept and maintained, except those student records which personally identify individual students, and records specifically closed by law or by directive authorized by law, shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to the citizen."

In discussion of this matter, a question was raised as to whether the state should adopt the same kind of policy expressed in the federal legislation regarding the access by parents to information in a student's personal file.

* A copy of the memorandum is filed in the Committee notebooks.

Kansas State Department of Education (KSDE). Bob Gast stated that KSDE supports the Buckley concept, and that the effect of the amendment is to promote better record management programs among education institutions. He stated the opinion that there is a conflict between the federal legislation and the provisions of K.S.A. 45-201. KSDE would support an amendment such as that proposed by KASB as one way of resolving this conflict.

Mr. Gast stated that the attorney for the State Department of Education has written an opinion stating that such a conflict exists.* The attorney has stated that:

"The Congressional Act restricts federal funds to any recipient educational institutions that not only have policies denying or effectively preventing the parents of students the right to inspection of any and all records, files and data related to their children, (including all material that is incorporated into each student's cumulative folder), but also that have policies permitting the release of students' personally identifiable records or files, or personal information contained therein, to any individual, agency or organization, other than certain specific officials or persons who have legitimate interests therein, without first obtaining the written consent of their parents, or of the students if the latter are eighteen years of age or older or are attending a postsecondary educational institution. It is this part of the Congressional Act which is referred to in the latter clause that apparently is contrary to or incompatible with K.S.A. 45-201 et seq. Because of the apparent incompatibility of such state and federal laws, it is not possible for the State Board of Education to issue a policy statement encouraging recipients to develop policies which comply with them."

Mr. Gast stated one item of concern relates to what it is that constitutes a record. Generally this would include (a) anything directly related to a student which is maintained over time and (b) anything which also is maintained for the purpose of being shared with others. Mr. Gast said both of these elements have to be present in order for information to constitute a record. Oral discussion about a student, for example, does not constitute a record.

Regarding ways of resolving the present conflict in statutes, Mr. Gast stated that the preferable approach would be

* See "A Study on Personal Record Management" Kansas State Department of Education, January, 1975. (pp. 21-22).

one similar to that suggested by KASB - that is, amending K.S.A. 45-201. Other possibilities would include enacting something similar to the provisions included within 1975 H.B. 2562 or amending the law to describe explicitly what materials constitute public information.

Questions were raised as to whether a policy of providing easy access to such records could result in contributing to the possibility of an organized effort on the part of each member of a large group, for harassment purposes, to demand all of the information in the various student records.

It was stated that while annual notices are to be provided concerning the student information which is maintained and the fact that student's parents have access to such information, this policy has not yet been fully implemented in the school districts.

In general, there was agreement among the conferees that there is no limit in the federal law as to how often a copy of the information in the student's record could be requested by the parent.

There was some discussion concerning the procedure involved in the hearing that is required under the federal law pertaining to the accuracy or nature of a student's record. Mr. Gast stated that a very informal kind of hearing procedure is being recommended.

Associated Students of Kansas (ASK). Mr. Miller presented a statement to the Committee (Attachment II) expressing some concerns of ASK about the Buckley Amendment. Mr. Miller stated that ASK supports the concept expressed in 1975 H.B. 2562. He further stated that it is hoped that future legislation would emphasize the responsibility to annually inform students of their rights as outlined under the federal law.

Concern was expressed about dissemination of "directory information" under the Buckley Amendment. ASK believes that students should have a substantial degree of control relative to the release of such information. Further, Mr. Miller stated that the 45-day requirement in the federal law (during which time arrangements have to be made for making available information to the parents) is too long a time period. A 30-day allowance would be more reasonable.

ASK objects to a practice by at least one state insti-

tution which involves the handling of letters of recommendation which are returned to an institution before they are mailed to the party originally requesting the recommendations. This practice has included identifying the letters in one of two categories - those written for a student who has waived his right of access and those written for a student who has not waived that right. Such letters are marked by the educational institution before mailing. ASK encourages that this policy be prohibited.

Jerry Miller. Mr. Miller stated that while he is employed by USD 501 (Topeka) he did not speak for the district but as an individual citizen. He said that if state legislation is enacted concerning the matter of access to student records, it should be permissive. The law should take the direction of being a statement in favor of the concepts involved in the Buckley amendment.

He said it might be desirable for the Open Records Law to be amended to delete the part pertaining to student records.

Mr. Miller expressed a concern about certain record keeping functions, placing emphasis on historic records more than those currently being maintained. A problem that has to be handled by school districts is providing information upon request of a former student when that individual lives a considerable distance from the school district. Mr. Miller further remarked that a school district must be concerned about making sure that records are as objective as possible. An example of this concern is illustrated by the use of school attendance records. If an historic record states that a student was absent for 30 days in a given year, perhaps there should be some explanation of the reason for the absence. Otherwise, inaccurate conclusions could be drawn from this type of information.

Mr. Miller stated support for some type of clear direction as to what records are required by school districts to be maintained. The effect of such a provision and the informing of the general public pertaining to the recordkeeping functions of a school district would have the effect of improving communications with the patrons of the district.

Afternoon Session

Proposal No. 13 - School Bus Regulations

Mr. Merrell presented to the Committee copies of laws and regulations pertaining to school bus regulations and standards. In a brief presentation concerning this material, it was stated that some changes in administrative rules and regulations might be needed in certain areas. For example, there appears to be a need for a better delineation of the term "transit" type of school bus for purposes of state regulation of this type of vehicle. Also, some changes are needed with regard to the smaller types of vehicles.

Mr. Merrell reported the Standard 17 of the U.S. Department of Transportation policies pertains to requirements for school buses. Apparently, these requirements presently do not constitute a problem insofar as school districts in the State of Kansas are concerned.

The laws pertaining to lighting systems on school buses were discussed. Mr. Merrell stated that two years ago, school buses were required to have an eight light system; legislation was enacted in 1975 which now requires a four light system. Mr. Merrell said that a number of school district personnel were disconcerted by the making of such a change after they had invested in the eight light systems only one or two years before.

Mr. Merrell also cited legislation pertaining to the markings that must be shown on the back of school buses. It was pointed out that the law was changed so as not to require the display of words formerly required on the back of a bus. This change should not necessarily be construed that such wording is no longer allowed to be displayed.

In response to a question, Mr. Merrell stated that most of the problems of concern to his agency pertaining to school buses could be handled through the promulgation of rules and regulations.

The Committee requested Mr. Merrell to identify those changes in law or rules and regulations that were needed and to submit them to the Committee at a later date.

Mr. Merrell was asked to identify which rules and regulations tend to be ignored by the school districts and which ones are regularly observed. Mr. Merrell was not aware of regulations that school districts might be ignoring. In response to a

question, it was reported that there are no special provisions relative to the interior design of school buses that are used to transport special education students.

The Committee discussed the matter of discipline on school buses. Mr. Merrell stated regulations place students under the control of the school bus operator.

Meeting Dates

The Committee set the following dates for subsequent meetings:

	<u>Room No.</u>
July 28-29	510
August 21-22	517
September 15-16	510
October 23-24	510
November 3	510
November 10	510

Meetings will begin at 10:00 a.m. on the first day of a two-day meeting and at 9:00 a.m. on the second day.

Special Education

Representative Sellers discussed with the Committee certain concerns he has experienced about the financing of special education in schools. This concern began, in part, with the imposition of the special education mandate in 1974, without a real knowledge of the number of persons involved in the mandated group and the costs of providing special education services to all of these children. (An outline of Mr. Seller's comments is included as Attachment III).

Mr. Sellers suggested consideration of a type of financing mechanism that would be patterned after the budgetary process for vocational education, which would include budget approval by the State Department of Education. Under such a financing program, the amount that individual school districts would be obligated to pay for each special education student would be specifically limited.

Other Matters

The staff was instructed to secure a copy of a letter or other communication from the State Department of Education to the Shawnee County Mental Health Center concerning the types of activities that are considered to be health activities and those which are considered to be educational activities.

June 27, 1975

Conferees

Dr. M.A. McGhehey, Executive Director, Kansas Association of School Boards
Jerry Hall, President, Kansas-National Education Association
Ferman Marsh, President, United School Administrators
Arthur Mastin (Wichita), Secretary-Treasurer of the Kansas Secondary School Principals Association

Morning Session

Proposal No. 11 - Suspension and Expulsion of Students

The staff presented two memorandums* - one pertaining to the recent decision of the United States Supreme Court in the case Goss v. Lopez and the other a synopsis of the changes in the suspension and expulsion statutes proposed in 1975 H.B. 2177 (including excerpts from the minutes of the House Committee on Education on that bill).

Kansas Association of School Boards (KASB). Dr. McGhehey presented a statement of the KASB position on the need for modifying the suspension and expulsion statutes (Attachment IV). The KASB position contained the following recommendations:

1. Require at least an informal hearing for short-term suspension in order to conform with Goss v. Lopez.

* These items are included in the Committee notebooks.

2. Eliminate the statutory requirement to have a short-term suspension prior to a long-term suspension or expulsion.
3. Reorganize the present statute to provide a clearer separation between the procedural requirements for a short-term suspension and a long-term suspension or expulsion.
4. Amend the law to provide for cross-examination of witnesses in cases involving long-term suspensions or expulsion.

The KASB statement contained proposed amendments of the law to implement its recommendations.

Dr. McGhehey stated that the present law was enacted as a response to a court case in Riley County in which the judge, in determining that the case before him was moot, was critical of the lack of due process protections afforded students.

There was some discussion on page 2(c) of the statement about the need for some kind of time limitation regarding the provision by a board of education of notice of a hearing for extended term suspension or expulsion. Dr. McGhehey stated that KASB recognized this as a problem in the proposal, but had been unable, to date, to provide for a better resolution of the problem.

In response to a question, Dr. McGhehey agreed that it might also be desirable to provide in the hearing procedure for the administration of oaths to witnesses.

Dr. McGhehey further commented that it might be desirable to authorize school boards to issue subpoenas in these types of cases.

Regarding H.B. 2177, KASB continues to hold the same position it had adopted during the 1975 Session. (That bill deleted item 4 of the listing of reasons for which a student may be suspended or expelled.) The KASB opposed the bill, believing that it is at least psychologically desirable for local boards of education to have at their disposal this basis for initiating suspension or expulsion proceedings. However, KASB does not believe a student should be expelled because of a crime that does not involve the school. Therefore, it was recommended the law be amended to insure that such a suspension or expulsion would have

to be based on conduct that occurred while the person was under the jurisdiction of the school district.

Kansas-National Education Association (K-NEA). Mr. Hall stated that the central thrust of the K-NEA position regarding suspensions or expulsions was that concern should be centered on understanding the reasons for inappropriate or unacceptable behavior on the part of young persons (Attachment V). Response in the educational community should be directed toward addressing the causes of such behavior.

Concerning the matter of student due process, K-NEA generally supports appropriate due process protections for students and tended to be in general agreement with the KASB recommendations on this issue.

With regard to a position on 1975 H.B. 2177, it was indicated the K-NEA had reservations about the KASB proposal for amendment of the law. No specific recommendations were offered.

United School Administrators (USA). Mr. Marsh stated that U.S.A. supports due process for all students. Mr. Marsh stated that such procedures should be relatively uncomplicated and informal.

Regarding 1975 H.B. 2177, U.S.A. is in agreement with the KASB position on amendments needed in the suspension and expulsion laws. Mr. Marsh pointed out that the itemized listing of reasons for which a student can be suspended or expelled is permissive, not mandatory. Therefore, a board of education is not required to use item 4 (the standard pertaining to conviction of a crime); it is optional.

Mr. Marsh suggested that a matter the Committee might want to give further attention is whether the various school laws pertaining to due process could somehow be codified. The Committee suggested it would be helpful if the various organizations interested in this matter would develop a position that could be presented for legislative consideration.

Kansas Association of Secondary School Principals (KASSP). Mr. Mastin stated that there tends to be two important thrusts. One is that society is demanding greater control of pupils in the schools. The other is that appropriate due process protections must be afforded to students.

The KASSP is in agreement with the KASB position on

how the mandate in Goss v. Lopez should be implemented in the school districts.

Mr. Mastin stated that he was not certain of the desirability of the KASB proposal allowing the long-term suspension procedure to be followed as a first step in lieu of a short-term suspension procedure.

Mr. Mastin expressed concern about 1975 H.B. 2177 insofar as it would dilute the school board's authority in suspension and expulsion activities. He stated that he could support the proposed KASB amendment to this bill.

Other Matters. Concerning Proposal No. 12 - Privacy of Student Records, the staff was directed to prepare for review by the Committee an amendment to K.S.A. 45-701, exempting student's and teacher's personal records from the purview of the open records law and a separate provision containing a state policy statement on access to personal records that generally is in accord with the federal Family Educational Rights and Privacy Act.

Representative Yonally offered to make arrangements to provide the Committee with data pertaining to suspension and expulsion activities in the Shawnee Mission school district. The Committee agreed to review this information at a subsequent meeting. Representative Yonally will work with the staff in making arrangements for this presentation.

The next meeting of the Committee will be devoted to the subject of Special Education. In arranging for conferees on this matter, Mr. Seller's statement of concern will be made available to serve as a focal point for consideration of this subject.

Additional material pertaining to Proposal No. 13 - School Bus Regulations was submitted to the Committee. This material has been filed in the Committee notebooks.

The meeting was adjourned.

Prepared by Ben Barrett*

Approved by Committee on:

July 28, 1975
Date

SUGGESTED PROPOSAL FOR BRINGING KANSAS INTO COMPLIANCE
WITH THE FEDERAL 1974 FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

Prepared by the Kansas Association of School Boards

Under the proposed rules of the 1974 Family Educational Rights and Privacy Act (hereinafter referred to as the Buckley Amendment) school districts will be required to include in any application for federal funds administered by the federal Office of Education an assurance that the school district will protect the privacy of a student's education records. However, where a school district can not make such an assurance because a state law conflicts with the Buckley Amendment, the school district is required to cite the conflicting state law in its application for funds. The Secretary of HEW, at his discretion, may waive a school district's compliance with the Buckley Amendment for a limited period of time. During this period of time the burden will be on the state legislature to alter the conflicting state law so that school districts will not be forced to violate the Buckley Amendment.

As the Special Committee on Education is well aware, the Kansas Open Records Law, K.S.A. 45-201, is in direct conflict with the Buckley Amendment.

The Open Records Law reads as follows:

45-201. Official public records open to inspection; exceptions. All official public records of the state, counties, municipalities, townships, school districts, commissions, agencies and legislative bodies, which records by law are required to be kept and maintained except those of the juvenile court which shall be open unless specifically closed by the judge or by law, adoption records,

records of birth of illegitimate children, and records specifically closed by law or by directive authorized by law, shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen.

Under K.S.A. 45-201, as presently written, a student's education records would be open to inspection by any citizen. The Buckley Amendment expressly prohibits this. It is the thought of the Kansas Association of School Boards that the Kansas Open Records Law can be amended so that local school boards will not be forced to violate the Buckley Amendment.

The following are changes that we would ask this committee to take into consideration in bringing Kansas into compliance with the Buckley Amendment:

1. Amend K.S.A. 45-201 by deleting "school districts".
2. Add a new section to the Open Records Law and have it state as

follows:

K.S.A. 45-20_. Same; official public records of school districts; exceptions. All official public records of school districts, which records by law are required to be kept and maintained, except those student records which personally identify individual students, and records specifically closed by law or by directive authorized by law, shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen.

The Kansas Association of School Boards does not feel that it is appropriate for the Kansas Legislature or the Kansas State Department of Education to assume the role of enforcer of federal appropriation legislation, the violation of which could result in federal sanctions on federal appropriations to the individual school district. Relying on the theory of local control of education, we feel that local boards of education should be allowed to make the final decision of whether to comply with the Buckley Amendment or face loss of federal funds. By amending K.S.A. 45-201, as set out above,

the rights of the students of Kansas will be protected and local boards will be able to retain their freedom to choose whether or not they want federal funds.



ASSOCIATED STUDENTS OF KANSAS

Washburn University
1700 College
Topeka, Kansas 66621
913 354-1394

June 26, 1975

Mr. Chairman and members of the committee, I am Vic Miller, Executive Director of the Associated Students of Kansas. Our organization is composed of students attending Kansas State University, Wichita State University, Emporia State College, Pittsburg State College, Fort Hays State College and Washburn University.

As you know, section 438 of the General Education Provisions Act (hereafter referred to as the Buckley Amendment) applies to students of elementary, secondary and post-secondary schools. My remarks today, however, will pertain only to students of the State's post-secondary educational institutions.

I would like to begin by saying that ASK supports the ideas expressed in HB 2562 of the 1975 Kansas Legislature. We feel it is urgent that all institutions of higher education in Kansas begin immediately in formulating campus policies in accordance with the Buckley Amendment. Attempts to do so have thus far been sporadic and few directives have been issued, other than the original legislation, to develop such policy. Items such as hearing procedures to challenge the content of records, the procedures involved in providing access to one's records and the officials designated to be responsible for maintenance of records are just a sample of the kinds of questions that need to be answered immediately.

We hope any future legislation will also emphasize the responsibility of schools to annually inform students of their rights as outlined in the Act. Efforts to provide notice of the required information have been, in our opinion, negligible. The printing and insertion of such information in college catalogs, student handbooks and enrollment packets should be encouraged.

Member Institutions:

- EMPORIA STATE • FORT HAYS • KANSAS STATE • PITTSBURG • WASHBURN • WICHITA STATE

The lack of adequate available information relating to provisions of the Buckley Amendment is our major concern, however, there are some specific sections of the Act which do concern us and I would like to address those items at this time.

The Buckley Amendment provides that only information classified as "directory information" be made available to the public. However, the Act defines directory information to include eleven different areas of data. I suggest, Mr. Chairman, that release of much of this information be the option of the student and not the institution.

To illustrate my point, allow me to use the following example. Telephone numbers, one of the eleven areas classified as directory information, are sometimes withheld from public disclosure by telephone companies at the request of the customer. This protection of privacy should not be jeopardized because a student has given his telephone number to his school. He gives this information to school officials so that they may contact him if necessary and not so that they may release it to the public.

We believe that the Buckley Amendment does not provide enough safeguards against misuse of directory information and that further restraints are warranted to insure that privacy of students is protected.

The Act further provides students the right of access to their educational records, if requested, within a reasonable period of time not to exceed 45 days from the date of request. We feel that 45 days is more than an ample amount of time and would encourage action to lower this allowance. A maximum allowance of 30 days would not invoke undue hardship on school officials and would help to prevent unnecessary delay while a student waited for, perhaps, crucial information.

I would also like to comment on one area not specifically covered in the Buckley Amendment. In ASK's rather limited look at how the Act is currently being implemented we have discovered one very disturbing practice. As you know, under

the Act students may waive their right of access to certain confidential recommendations. The person making the recommendation can then be made aware of such waiver.

The questionable practice is one adopted by at least one state school of classifying these letters of recommendation when they are returned to the institution's placement office and before they are mailed to the party originally requesting the recommendation (employers, admission officers, etc.).

The letters fall into one of two categories 1) those written for a student who has waived his right of access and 2) those written for one who has not. They are marked accordingly before being mailed. We believe this practice is inconsistent with the intentions of the Buckley Amendment and would strongly urge that such a policy be discouraged if not prohibited.

In conclusion, Mr. Chairman, we disagree with some minor sections of the Buckley Amendment and feel adjustments by the State would be beneficial. However, I must emphasize that our major concern at this time is that much work needs to be done in formulating individual campus policies and informing students of those policies.

ASK is making every effort to aid in this process and appreciates any assistance your committee can provide which will bring about the achievement of the aforementioned goals.

On behalf of ASK, I thank you for allowing me this opportunity to address your committee.

SPECIAL EDUCATION

Request an interim committee on Special Education:

Purpose: To determine the validity, or lack of, of the following:

- I All public education in Kansas is a social problem and a responsibility of the state.
 - a. The state responsibility for elementary, secondary, and higher education has been recognized as a responsibility of the state for so many years it is hardly thought of any longer as a solution to a social problem.
 - b. Special Education for all exceptional children should be designed as a solution to a social problem that can be approached only from the educational point of view. It, too, is the responsibility of the state.
- II Responsibility for the delivery of Special Education is now mandated to the local districts in specific areas of exceptionality. Each special area has categorical aid in connection and/or budget appeals. The financial support expected from the local districts is generally a 1½ mill levy.
- III Members of local Boards of Education, educators, and legislators have felt current governing legislation concerning Special Education has been somewhat irresponsible in that measures have been passed when the number of children involved, the types and severity of exceptionality, and the cost of the programs were not known.
- IV It would now be wise to review the enactments concerning delivery of specific special education services with a view to pulling all together now and in the future under one administrative and budgetary umbrella.
- V Design the Special Education delivery, administrative, and budgetary systems, to the greatest extent possible, after the systems used currently in our Area Vocational-Technical Schools.
 - a. Preliminary budgets would be prepared by local districts and/or Special Education Coops two years in advance and forwarded to the State Board of Education for approval, change, or disapproval. This would provide a "long handle" on total costs.

- b. Budget for next fiscal year would be approved or disapproved by the State Board prior to the commencement of the year. This would provide the "short handle" on total costs to the state.
- c. Funding for the district and/or Coop budget would be:
 - 1. Each district would contribute from its general fund (power equalized) to the Special Education fund of the district and/or Coop, an amount equal to their number of F.T.E. students in the Special Education program times 150% of that district's average B.P.P.
 - 2. The balance of the budget would be funded by available federal funds and legislative appropriations.

(Supportive data as suggested by Representative Ben Sellers)

Proposal to Amend the Kansas Pupil Suspension Statute

by the

Kansas Association of School Boards

Basic Elements Involved

1. Require at least an informal hearing even for a short term suspension in order to conform to the decision of the United States Supreme Court in Goss v. Lopez, (Supreme Court Case No. 73-898, 1975) 43 Law Week 41.

2. Eliminate the present statutory requirement to have a short term suspension prior to a long term suspension or expulsion.

3. Reorganization of the present statute to provide a clearer separation between the procedural requirements for a short term suspension and a long term suspension or expulsion.

4. In view of Kansas court decisions, the suspension and expulsion statutes should provide for cross-examination of witnesses in cases involving long-term suspension or expulsion.

June 27, 1975

72-8902. Duration of suspension or expulsion; notice and hearing; reports of hearings. (a) No suspension shall extend beyond the current school semester and no expulsion shall extend beyond the current school year. A suspension may be for a short term not exceeding five (5) school days, or for an extended term exceeding five (5) school days.

(b) A short term suspension may not be imposed upon a pupil or student ~~forthwith, and without affording such pupil or student or his parents or guardians, a hearing thereon.~~ without a hearing, which hearing may be informal in nature but which shall include at least the following minimum procedures: (1) the student shall be informed of the nature of the offense for which the suspension is made, (2) the student shall be informed of the basis for the accusation, and (3) the student shall be given an opportunity to make statements in defense or mitigation of the charges or accusations. Students shall not be entitled to representation by counsel in informal hearings in connection with such short term suspensions. ~~No suspension for an extended term and no expulsion shall be imposed upon a pupil or student until a hearing on such suspension or expulsion shall be afforded to such pupil or student.~~ ~~In all cases wherein a pupil or student might be suspended for an extended term or might be expelled, he shall first be suspended for a short term.~~ A written notice of any short term suspension and the reason therefor shall be given to the pupil or student involved and to his parents or guardians within twenty-four (24) hours after such suspension has been imposed. ~~A written notice of any proposal to suspend for an extended term or to expel and the charges upon which the same is based shall be given to the pupil or student proposed to be suspended or expelled and to his parents or guardians within seventh-two (72) hours after the pupil or student has had imposed a short term suspension.~~ ~~Any such notice~~

~~of a proposal to suspend for an extended term or to expel shall state the time, date and place that the pupil or student will be afforded a hearing and such date shall be not later than the last day of the short term suspension of such pupil or student. --Such notice shall be accompanied by a copy of this act and the regulations of the board of education adopted under K.S.A. 72-8903, as amended.~~

~~(b) (c). No suspension for an extended term and no expulsion shall be imposed upon a pupil or student until a formal hearing on such suspension or expulsion shall be afforded to such pupil or student. A written notice of any proposal to suspend for an extended term or to expel, and the charges upon which the same is based shall be given to the pupil or student proposed to be suspended or expelled and to his parents or guardians and shall state the time, date and place that the pupil or student will be afforded a hearing, and such date shall be not later than five (5) days after the date of the notice. Such notice shall be accompanied by a copy of this act and the regulations of the board of education adopted under K.S.A. 72-8903, as amended.~~

Upon the conclusion of any hearing which results in a suspension for an extended term or an expulsion, the person or committee which conducts such hearing shall make a written report of the findings and results of the hearing. Such report shall be directed to the board of education of the school district and shall be open to the inspection of the pupil or student who is suspended or expelled and to his counsel or other advisor.

~~(e) (d). Whenever any such hearing results in suspension for an extended term or expulsion, the person or committee conducting such hearing may make a finding that return to classes by such student or pupil, pending any appeal~~

or during the period allowed for notice of appeal, is not reasonably anticipated to cause continuing repeated material disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others, in which case such student or pupil may return to his regular classes until the period for filing a notice of appeal has expired with no such notice filed, or until the determination of any such appeal if a notice of appeal is filed. Whenever the person or committee conducting such a hearing fails to make the findings specified in this subsection, the report of the hearing shall provide that the suspension shall continue until appeal therefrom is determined or until the period of suspension or expulsion has expired, whichever is the sooner.

~~(d)~~ (e). Whenever any written notice is required under this act to be given to parents or guardians of any student or pupil, it shall be sufficient if the same is mailed to the residence of such parents or guardians at the address on file in the school records of such student or pupil. In lieu of mailing such written notice, the same may be personally delivered. [K.S.A. 72-8902; L. 1973, ch. 304, § 1; July 1.]

72-8903. Procedural due process requirements; reports of apparent law violations. The hearing provided for in K.S.A. 1970 Supp. 72-8902 shall be conducted in accordance with regulations relating thereto adopted by the board of education. Such regulations shall afford procedural due process, including the following:

(a) The right of the student or pupil to have counsel of his own choice present and to receive the advice of such counsel or other person whom he may select, and

(b) the right of the parents or guardians of the student or pupil to be present at the hearing, and

(c) the right of the student or pupil and his counsel or advisor to hear or read a full report of testimony of witnesses against him, and

(d) the right of the student or pupil to present his own witnesses in person or their testimony by affidavit, and to cross examine witnesses appearing against him, and

(e) the right of the student or pupil to testify in his own behalf and give reasons for his conduct, and

(f) the right of the student or pupil to have an orderly hearing, and

(g) the right of the student or pupil to a fair and impartial decision based on substantial evidence.

Upon completion of any hearing which results in a long-term suspension or expulsion, should it appear to the person or committee conducting such hearing that a violation of a criminal statute or a city ordinance may have occurred concurrently with the acts upon which such long-term suspension or expulsion is based, such person or committee conducting the hearing shall report the same to the juvenile court or other appropriate law enforcement agency. [L. 1970, ch. 300, § 3; L. 1971, ch. 247, § 2; July 1.]

Viewpoint

June 6, 1975

School Violence Conference Urged

Kansas school board members should be among those represented at a governor's conference proposed recently by K-NEA President Jerry Hall to begin trying to reverse the alarming increase in violence in the schools.

"As citizens and as members of the profession," Hall said, "teachers seek to influence the development of students as citizens and adults. This can be accomplished, however, only with the protection of and help from school boards, administrators, parents, and, when necessary, law enforcement, to guarantee an atmosphere in the schools conducive to learning."

Other groups which might be represented at a governor's conference, Hall said, include legislators, the clergy, municipal officials, recreation specialists, businessmen, psychiatrists and students.



Fashioned from a metal resembling copper and designed for slashing, this sharp and dangerous razor ring recently was taken from a shop student by a teacher in Central Kansas.

Hall said crime figures for a group of 12 states including Kansas for 1970-73 show:

- assaults on teachers up 52 percent.
- assaults on students up 20 percent.
- weapons found up 7 percent.
- vandalism up 19 percent.
- school burglaries up 2.1 percent.
- rapes and attempted rapes up 60 percent.
- drug and alcohol offenses up more than 97 percent.

K-NEA naturally is concerned because its members and their students often are victims of violence in the schools through no fault of their own, Hall said. One appeal to the Association for help came from one of the state's most prominent teachers. Here are other examples Hall cited:

--A junior high teacher asked a student in a hallway to do something. The student turned around and struck the teacher across the head. Then his preacher-parent threatened suit because the student had to be forcibly taken to the office.

--A teacher in Central Kansas was harassed by students to the point of

(over)

resigning. Even the windows in his home were smashed in the night.

--A teacher in an affluent district was the object of a half-million-dollar lawsuit because he tried to break up a boy-girl fight in the hallway. The case eventually was dropped.

--A coach ended up in the hospital because he didn't play the son of an insistent patron.

One teacher was fired because of a disciplinary problem in which a child accidentally chipped a tooth. The board apparently feared legal proceedings by the child's parents.

In Wichita, Hall said, vandalism costs were up five fold in 1973 compared to 1963.

In Topeka, the cost of glass breakage alone last school year was figured at \$23,590--2,392 panes, Hall said. Removing graffiti cost far more.

Garden City is minus one elementary school this year allegedly because of a student-set fire.

Kansas law makes parents responsible for vandalism to school property by their children up to \$1,000. If neglect is involved, the amount recoverable can go higher. Hall said he knows of few instances in which parents have been held liable under this law.

All Kansas school districts are required to have student codes of conduct, Hall said, but "reports from our offices around the state indicate they mostly gather dust."

There are many theories about the underlying causes of school violence, Hall said. Among them are "forceouts" (students given a choice of failing, being expelled or leaving voluntarily); drugs and alcohol; gangs; racial and ethnic distrust; lack of discipline; and irrelevant curriculum.

Many people see hope in career education, Hall said. Some see hope in the state's new mandated, but yet very modest, special education programs. Others look to laws holding parents responsible and to student conduct codes.

A few local K-NEA affiliates have negotiated student discipline articles in their master contracts, Hall said, but "these at best are only stopgap solutions. The real solution lies in other segments of our society joining in partnership with teachers to look at the problem, get at the causes and find the answers."

"Sometimes," said Hall, "teachers in general are blamed for poor student behavior and school violence when in fact they need the help of many other groups. Too often we view education as the panacea of all our social problems and expect teachers to do for us what might very well be done much better in church, at home or elsewhere. That is why a summit conference on school violence in Kansas might be helpful. It might stimulate for children the help they so desperately need."