

Approved June 26, 1992  
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at  
Chairperson

1:30 ~~xxx~~ /p.m. on Wednesday, February 19, 19 92 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Mr. Ben Barrett, Legislative Research Department  
Ms. Avis Swartzman, Revisor of Statutes  
Mrs. Millie Randell, Committee Secretary

Conferees appearing before the committee:

SB 545 - Tuition grants, students of accredited, independent institutions,  
residence determination.

Proponents:

Dr. Robert N. Kelly, Executive Director, Kansas Independent College  
Association

Comments:

Mr. Ted Ayres, General Counsel, Kansas State Board of Regents

SB 632 - Prohibiting hiring by school districts of persons having confirmed  
incident of child abuse; requiring current employee to be placed  
on leave.

Proponents:

Ms. Pat Baker, Associate Executive Director and General Counsel, Kansas  
Association of School Boards

Mrs. Terri McCord, parent, Shawnee, Kansas

Brett McCord, fourth grade student, Shawnee Mission School District

Ms. Anita Bradley, resident, Shawnee, Kansas

Bradley Russell, fifth grade student, Shawnee Mission School District

Mr. Alan Jones, Overland Park, Kansas; Shawnee Mission School District  
patron

Mr. Mike Paredes, Kansas Child Abuse Prevention Council

Ms. Carolyn Hill, Acting Commissioner, Youth and Adult Services, Depart-  
ment of Social and Rehabilitation Services

Mr. Gerry Henderson, Executive Director, The United School Administrators  
of Kansas

Comments:

Mr. Craig Grant, Director of Political Action, Kansas-National Education  
Association

SB 545 - Tuition grants, students of accredited, independent institutions,  
residence determination.

Following a call to order, Chairman Joseph C. Harder called Committee  
attention to SB 545, concerning tuition grants for students of accredited  
independent colleges, and called upon Dr. Robert N. Kelly, Executive  
Director, Kansas Independent College Association.

Dr. Kelly, speaking in support of SB 545, explained that SB 545 is designed  
to make residency for the Tuition Grant Program identical to residency for  
in-state fee purposes at Regents' universities. Senate Bill 545, he stated,  
merely continues in statute what has been state policy for 19 years.  
(Attachment 1)

Mr. Ted Ayres, General Counsel, Kansas Board of Regents, explained that  
SB 545 became necessary in order to continue current policy after he had  
been requested to submit an opinion regarding an individual's eligibility

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,  
room 123-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Wednesday, February 19, 1992

pursuant to current law. (Attachment 2) Mr. Ayres suggested amending SB 545 on page 2, line 43, by inserting the letter "(b)" following "K.S.A. 76-729" in order to broaden eligibility for the Tuition Grant Program so that it conforms to resident eligibility status for in-state fee purposes at Regents' universities.

In response to a question, Mr. Ayres replied that although he has no problem with SB 545, he feels it is a policy decision that should be left to the Committee to decide.

Following a call for additional conferees, the Chairman announced that the hearing on SB 545 is concluded.

SB 632 - Prohibiting hiring by school districts of persons having confirmed incident of child abuse; requiring current employee to be placed on leave.

The Chair reverted Committee attention to SB 632 and recognized Ms. Pat Baker, Associate Executive Director and General Counsel, Kansas Association of School Boards.

Ms. Baker stated that although she is appearing in support of the concept embodied in SB 632 (Attachment 3), the bill does not specifically empower the Department of Social and Rehabilitation Services to convey the necessary information to school districts. She noted that although it appears the bill is designed to give school districts the ability to gain certain information, schools would not have access to a complete file of information. She stressed the importance for all the parties involved to work together to try to reach a consensus on what needs to be done in order to achieve an effective program.

Mrs. Terri McCord, a mother of three children in the Shawnee Mission School District, cited SRS confirmed child abuse by a teacher in a third grade classroom formerly attended by her son. She decried the fact a confirmed child abuser is not permitted to work in a child day care center but may teach in a public school. Mrs. McCord urged passage of SB 632 to protect children attending public schools. (Attachment 4)

Brett McCord, son of Mrs. Terri McCord and a fourth grade student in the Shawnee Mission School District, described acts of accused abuse committed upon himself and fellow third grade classmates by their teacher last year. (Attachment 5)

Ms. Anita Bradley, a resident of Shawnee, Kansas, and legal guardian of her nephew, Bradley Russell, described what she termed the worst year of her life while Bradley had been a student in the third grade classroom of the accused teacher. (Attachment 6) She, too, urged passage of SB 632 to alleviate future problems of child abuse in the classroom.

Russell Bradley, nephew of Ms. Anita Bradley and a student in the Shawnee Mission School District, described instances of abuse inflicted upon his classmates and him when they were students in the classroom of the third grade teacher in question.

Mr. Alan Jones, an Overland Park resident, stated his support for passage of SB 632, because it immediately removes children from chances of further teacher abuse while still preserving the employment rights of the accused. He noted that children thrive when they feel safe. Immediate removal of the accused, as confirmed by SRS, he said, would reestablish confidence in the "system" that is intended to provide for the best welfare of the children and the best interests of the state. He cited current law K.S.A. 38-1524 (a) which provides that a law enforcement officer may, if necessary in his judgment, remove a child from a location where it may be further harmed, unless it involves school children in school. He deemed it important that

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,  
room 123-S, Statehouse, at 1:30 ~~xxx~~ p.m. on Wednesday, February 19, 1992

SRS have precedence over due process arbitrators whose focus is to deal with the employee-employer relationship, not with child welfare. SB 632, he stated, would remedy current inconsistencies relating to child abuse cases.

Mr. Mike Parades, representing the Kansas Child Abuse Prevention Council, urged support of SB 632 because of its prevention component. (Attachment 7) Mr. Parades also suggested including language in the bill which would enable the SRS to have control of a procedural mechanism to disclose certain information pertaining to child abuse reports to school districts. Also, he encouraged the Committee to consider including language relating to confidentiality to ensure non breach of confidence by SRS.

The Acting Commissioner of Youth and Adult Services, Department of Social and Rehabilitation Services, Ms. Carolyn Hill, although appearing in support of SB 632, suggested changes to facilitate implementation of the bill. She noted a number of procedural problems which need to be addressed in order to share information with school districts. However, she also confirmed Ms. Baker's assessment that the SRS registry relating to child abuse cases is not a complete picture, since law enforcement officers also investigate cases of child abuse. She noted other issues which must be addressed cooperatively but strongly affirmed that SRS feels this is a correct approach. (Attachment 8)

The Executive Director of the United School Administrators of Kansas, Mr. Gerry Henderson, firmly agreed that if a law is necessary to have people do what they should be doing anyway, to protect those children who attend school, then a law should be enacted. Mr. Henderson expressed extreme concern regarding the teacher/student situation as described by previous conferees and stated that it runs contrary to everything he has ever believed is happening in the schools across the state of Kansas.

Mr. Craig Grant, representing the Kansas-National Education Association, informed the Committee that the professional practices commission for teachers, as a matter of course, revokes the licenses of educators convicted of child abuse crimes. (Attachment 9)

Following a call for additional conferees, the Chair announced that the hearing on SB 632 is concluded. He then opened the meeting for questions and/or discussion.

Ms. Hill confirmed that SRS has no authority to remove the teacher in question from the school, but it would have such authority in a day care center.

The Chair adjourned the meeting.

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 123-S DATE: Wednesday, February 19, 1992

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Dawn Zurecher	402 W. Locust Whitewater KS	Berean Acad. page
Monica Buller	755 McCandless Wichita Ks.	Berean Academy - page
Jennifer Gorgensen	7121 W. 35 <sup>th</sup> St. So. Wichita, K.S.	Campus H.S. - Shadow
Craig Grant	Topeka	ITWEA
Jim Zernally	Overland Park	USD #512
Pat Baker	Topeka	KASB
Cashy Kiley Hill	Topeka	SRS
Penny Sue Johnson	7611 W. 66 Terr of Ks 66202	The Ks. Coalition, Inc.
Ken Bahr	Topeka	4th District USDs
Jim Allen	Topeka	Pete McGill Assoc
Lorey Hartwich	Lawrence	Sen Walker
Anta Bradley	Shawnee	MYSELF
Terri McCord	Shawnee	Self
ALAN JONES	Overland Park	self
BRAD RUSSELL	Shawnee	
Brett Melrod	Shawnee	
Nick McCord	Shawnee	
Ashley Russell	SHAWNEE	
hauren McCord	SHAWNEE	
Connie Huelgel	Topeka	St Bd of Ed.
William York	Topeka	Legis
Bob Kelly	Topeka	KICA
Gerald Henderson	Topeka	USAJKS
Ann Burnett	Topeka	USD 501/H
Lucia Joyce	Jarway	KCTV

SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 123-S DATE: Wednesday, February 19, 1992

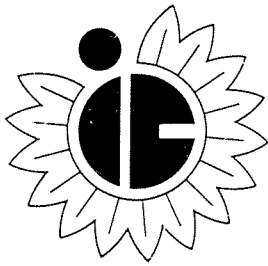
GUEST LIST

NAME

ADDRESS

ORGANIZATION

JOANN McGann	5852 Candletree Dr #7 66614	WASHBURN STUDENT
Donna McGann	5852 Candletree Dr #7 66614	Washburn Student
John Petersen	1201 W 10th	125 Ash Point Care School
Shelly Martin	523 Turkle Haysville 67060	Shadow (Senator Langworthy)
Kay Coles	Topika	KNEA



# KANSAS INDEPENDENT COLLEGE ASSOCIATION

515 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kansas 66603

Telephone (913) 235-9877 • FAX (913) 235-1437

ROBERT N. KELLY, *Executive Director*

February 19, 1992

## Testimony before Senate Education Committee

Senate Bill 545 is designed to make residency for the Tuition Grant program identical to residency for in-state fee purposes at the Regent universities. This has been the policy for the Tuition Grant program for 19 years. Therefore, in simplicity, SB 545 merely continues in statute what has been a longtime state policy.

This bill became necessary when Mr. Ayres, the attorney for the Board of Regents, was requested to make a ruling on residency for student aid and determined that K.S.A.76-729(a) and not K.S.A.76-729(b) applied. (The bill is attached.) In the past, all of K.S.A.76-729 was deemed to apply, as is the case in SB 545. Because we believe that Mr. Ayres' opinion is correct, SB 545 is needed.

The reasons to continue the policy of 19 years are clear:

1. There are at least 100 students (an exact amount cannot be determined) who are now receiving tuition grants who would lose them through no fault of their own.
2. It is sound public policy to use identical standards for all students receiving state benefits as residents.
3. It is at least confusing, and maybe unfair, to allow a student to attend, for example, Wichita State and pay in-state resident tuition but be denied a tuition grant at Friends because the student is not a resident.
4. The Board of Regents will encounter administrative difficulties in communicating and explaining the change to schools, students, and families.

We believe that the residency policy used for the last 19 years is sound and should be continued. As former Attorney General Bell became famous for saying: "If it ain't broke, don't fix it." We urge your support for Senate Bill 545.

EDUC  
2/19/92  
A1-1

**76-729.** Residence of students for fee purposes; basic rule, certain exceptions authorized; definitions. (a) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have not been or, if such persons are minors, whose parents have not been residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are nonresidents for fee purposes.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

(1) Persons who are employees of a state educational institution;

(2) persons who are in military service;

(3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);

(4) persons having special domestic relations circumstances;

(5) persons who have lost their resident status within six months of enrollment;

(6) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto; and

(7) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection.

(c) As used in this section:

(1) "Parents" means and includes natural parents, adoptive parents, stepparents, guardians and custodians.

(2) "Guardian" has the meaning ascribed thereto by K.S.A. 59-3002, and amendments thereto.

(3) "Custodian" means a person, agency or association granted legal custody of a minor under the Kansas code for care of children.

(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.

History: L. 1971, ch. 290, § 1; L. 1975, ch. 469, § 1; L. 1977, ch. 237, § 44; L. 1977, ch. 264, § 1; L. 1988, ch. 363, § 2; L. 1991, ch. 214, § 2; July 1.

EDUC  
2/19/92  
A1-2

The Testimony of

Ted D. Ayres  
General Counsel  
Kansas Board of Regents

before  
THE SENATE COMMITTEE ON EDUCATION  
1992 Legislative Session

in re  
Senate Bill 545

1:30 p.m.  
February 19, 1992  
Room 123-S  
Kansas Statehouse

EDUC  
2/19/92  
A2-1



Chairperson Harder and Members of the Committee:

My name is Ted D. Ayres and I am General Counsel to the Kansas Board of Regents. I am here this afternoon representing the Board of Regents.

I appear to offer partial explanation and background on Senate Bill 545. I was asked, in reference to the tuition grant program administered by the Board of Regents staff, to provide an opinion as to an individual's eligibility pursuant to the law.

I started with a basic statutory element of eligibility, i.e. the recipient must be a resident of Kansas. In reply to the inquiry, I stated my opinion that others who are permitted to "pay an amount equal to resident fees" pursuant to K.S.A. 1991 Supp. 76-729(b) were not, in fact, residents of Kansas, at least when viewed from a residency for purposes of student tuition perspective. In other words, the whole philosophy of 76-729(b) is to offer those who are not residents, but who for some sound policy reason, deserve the opportunity to "pay an amount equal to resident fees." While I am extremely comfortable with my legal analysis, it appears that I have contradicted past practice.

I believe the amendment proposed by this bill does respond to my opinion. The question of the policy implications and advisability of such a move lies with the Legislature.

I would suggest that if this Committee deems it appropriate to broaden eligibility for the tuition grant program as outlined in S.B. 545, you perhaps should also consider the following financial assistance programs which are, by their current statutory language, designed to benefit residents of Kansas:

EDUC  
2/19/92

A2-2

1. Kansas Career Work Study Program, K.S.A. 1991 Supp. 74-3274  
*et seq.*
2. State Scholars Program, K.S.A. 1991 Supp. 72-6810 *et seq.*
3. Kansas Honors Scholarship Program, K.S.A. 1991 Supp. 72-9701  
*et seq.*
4. Kansas-Rhodes Scholarship Program, K.S.A. 1991 Supp. 74-3278  
*et seq.*
5. Kansas Nursing Student Scholarship Program, K.S.A. 1991 Supp.  
74-3291 *et seq.*
6. Kansas Ethnic Minority Scholarship Program, K.S.A. 1991 Supp.  
74-3284 *et seq.*
7. Teacher Scholarship Program, K.S.A. 1991 Supp. 74-32,100 *et*  
*seq.*
8. Osteopathic Student Scholarship Program, K.S.A. 1991 Supp.  
74-3266 *et seq.*

I would also suggest that it may be appropriate to specify 76-729(b) in the law (page 2, line 43) because this is the specific section which authorizes the Board to permit certain individuals to "pay an amount equal to resident fees."

I would be happy to stand for questions.

EDUC  
2/19/82  
A 2-3



Testimony on S.B. 632  
before the  
Senate Committee on Education

by

Patricia E. Baker  
Associate Executive Director/General Counsel  
Kansas Association of School Boards

February 19, 1992

Thank you, Mr. Chairman and Committee members. I appear before you in support of the concept embodied in S.B. 632.

Schools are charged with protecting the well-being of students in their care. Although schools make every attempt to screen job applicants, it is not always possible to determine whether a person has previously committed abusive acts. A centralized information system, to which schools could turn, would help to prevent hiring of persons with backgrounds of abuse.

This bill provides the ability for districts to react quickly and meaningfully in situations where current employees commit abusive acts.

We support S.B. 632, but caution that to be effective, there must be an assurance of speedy and accurate information retrieval. The bill does not address these specifics and they could, quite possibly be handled through rules and regulations of SRS and the State Board of Education.

Thank you for your consideration.

EDUC  
2/19/92  
A 3

2-19-92

Good Afternoon: My name is Terri McCord. I am the mother of three children who attend school in the Shawnee Mission School District. During the 1990-91 school year our 8 year old son was physically & mentally abused by his 3rd grade teacher. In addition to our son, there were numerous children abused each year; for the last eight years, but these were never reported to the police or SRS. After numerous complaints to school officials our school Superintendent finally reported the abuse to SRS a good six weeks after we reported this to our school Principal. SRS contacted our local police department and they jointly started an investigation which involved approx. 30 children who had been abused by this teacher. The result of the investigation led SRS to give her a "confirmed" rating of child abuse against our son,

Regardless of all of the above our school district has chosen to leave a confirmed child abuser in the classroom. It should be noted the the physical abuse we are talking about is slapping children in the face, banging heads on their desks, throwing children into desks, shaking them until their heads bounce off the wall, twisting their arms, knocking them into the wall and punching them in the chest. One girl was shaken so hard that the teacher left hand prints on the child's arm<sup>s</sup> then she tossed her into a desk which bruised the girl. That same afternoon when the parents confronted the teacher and the Principal, the teacher admitted doing it. The Principal said he would talk to the School Board and District about this. Nothing was done and the parents finally gave up. It was never reported to SRS or put in the teachers file. You must remember we are talking about 8 year old children.

We asked our son to put into his own words how she hurt him and other things he saw her do to the other children in his classroom. (See attached)

The toll this has taken on our child and family is unbelievable. We had a happy well adjusted normal boy who enjoyed school. By mid-April when we discovered what was going

EDUC  
2/19/92  
A4-1

on he was suffering from severe headaches, stomache pains, sleepless nights and extreme anxiety. The stomache pains were so severe that we took him to our Doctor because we thought he had an ulcer. Thankfully, he did not, but what he did have was a severe case of stress. We put a stop to the physical abuse by confronting school officials. However, she began hitting all his friends more often and he felt to blame. He cried and cried that he was afraid of her and didn't want to go to school. It was all too much for him and we removed him from school for his own safety for most of the month of May. Had the school district done what they are mandated by law to do, they would have saved our child and us from alot of suffering. We were not aware of the fact that they were mandated to report this abuse until SRS contacted us. At least 4 school officials broke the law.

To our amazement we discovered that their are no state laws to protect children in the public schools. We also discovered that when someone is a confirmed child abuser they can not work in a child day care but they can teach in public schools. I find it hard to believe that if I drop my child at day care at 7:30 A.M. that they are protected by law until the day care drops them off at the school doors. Then they have no protection until the day care picks them up again after school. All children deserve equal protection under the law. For whatever reason, the school district failed to take any action. No parent or child has been intervied for the purpose of investigating the circumstances surrounding these events at our school, Rhein Benninghoven Elementary, even though district policy indicates if ~~if~~ this type of behavior towards students occurs, it will be investigated by the school district personnel. <sup>2 Adult witnesses</sup> We know the school districts attorney was given this file by the District Attorney of Johnson Cty. We were told by the DA's office that at the very least she was going to losee her job because she broke school district discipline policy. When we questioned our Superintendent about this, he didn't have and answer for us. We asked him if he looked at the entire file. He said, I looked at what I was given. We don't think think the school's attorney provided the district with all the information in the file and they made no attempt to find out anything from the

EDUC  
2/19/92  
4-2

(3)

children or parents involved. The events that I have described have given you an idea of how this matter has been handled. It is reckless at best—Our Superintendent told us that it would be a calculated risk to ever place this teacher in another classroom again. It makes me sick to think that this woman is in a classroom as I speak, in a isolated wing of the school knowing what she is capable of. These children should be protected by law, which is why we STRONGLY support Senate Bill #632.

Thank You

EDUC  
2/19/92  
4-3

Kent & Terri McCord  
6523 Parkhill  
Shawnee, Ks. 66216

September 29, 1991

Sen. Gus Bogina  
5747 Richards Cir.  
Shawnee, Ks. 66216

Dear Sen Bogina:

We have recently become aware of what we consider to be a major hole in the State of Kansas' child protection laws. Specifically, we learned that state law prohibits anyone confirmed of child abuse by the Kansas Social & Rehabilitative Service from working in child care. School teachers, both public and private, are not similarly prohibited by this law.

We became aware of the law because of an event that happened to our family. Our children attend Rhien Benninghoven Elementary School in the Shawnee Mission School District. Last year our son Brett, who was in the third grade, was physically and mentally abused by his teacher. We discovered the abuse on April 5, 1991 and reported it to the ranking building administrator the next day. During the following 6 or 7 weeks, we reported the incidents to two additional school district officials. Finally, in June 5 we met with then Supt. Dr. Raj Chopra. The next day, Dr. Chopra reported our complaint of abuse to SRS (June, 6).

SRS contacted us on June 6th and asked us to bring Brett in to the Shawnee Police Station for a joint interview by a Shawnee Police Detective and an SRS representative. The interview resulted in a major police investigation that involved up to 30 other children. The investigation culminated on Sept. 5, 1991 when Johnson County District Attorney Paul Morrison announced that there was not enough evidence to substantiate charges being filed against the teacher for criminal battery. Mr. Morrison did state at that time, however, that, although it is unusual, he felt that it was in the public's best interest that he give the investigative file to the Shawnee Mission School District for the District's further action. The file was given to the School District on Sept. 6, 1991.

At approximately this same date the SRS confirmed that the teacher in question abused our son. Notice was sent to the teacher and the School District.

EDUC  
2/19/92  
4-4

On Sept. 5, 1991, the School District announced that charges had been dropped and plans were being made for a smooth transition back into the classroom for the teacher. The teacher returned to the classroom on Thursday Sept. 12th.

It should be noted that our complaint about this teacher is not an isolated instance. We have found that similar complaints have been made against this same teacher over at least the last 8 years involving dozens of children.

There several reasons we see why legislation should be enacted to prohibit individuals confirmed of child abuse by SRS from teaching. Two are compelling. First, eight year old children should be equally protected by the law, whether they be in child care or they be in schools.

More importantly, as evidenced by our situation, our School District and Board can not be trusted to make morally correct, responsible decisions. School boards and districts are, unfortunately, political bodies and are apparently moved more by personal and political interests than by children's well being. Why else would our district announce the teacher's return to the classroom one day before they recieved the DA's file and why would they totally disregard the SRS' findings.

We are but one of a growing number of parents at our school and in the Shawnee Mission District who have lost faith in the District's leadership. Although we can't state their motivations, we can attest to their apparent ineptitude. We need help. We are asking that you pursue legislation that will prevent situations like ours from existing. Our children are too precious to risk, they must be protected.

Thank you.

Sincerely,

Kent and Terri McCord

EDUC  
2/19/92  
4-5



CHILD PROTECTION SERVICES  
NOTICE OF AGENCY FINDING

CY-2891  
Rev. 5/90

DATE OF FINDING 9-4-91 LOCAL SRS OFFICE: Olathe  
TO: Kent & Terry McCord FROM: Libby Marks  
6523 Parkside  
Shawnee, Ks 66206 TELEPHONE NUMBER: 913-782-6600  
ATTENTION:  
ADDRESS: (STREET/P.O.BOX, CITY, STATE, ZIP) ADDRESS: (STREET/P.O.BOX, CITY, STATE, ZIP)

For your information, The Olathe SRS Office, State Department of Social and Rehabilitation Services has completed an investigation concerning a report that Brett McCord has been (abused or neglected).

The Agency has found the report to be:

- 1) Unfounded.
- 2) Unconfirmed, but eligible for service.
- 3) Unconfirmed, but corrective action recommended.
- 4) Confirmed.

The basis of the finding is as follows:

Interviews of Brett, other witnesses and victims ≠ of parents.

Distribution: White, Addressee; Yellow, File  
This Form Supercedes Form CY-2891, Rev. 6/87

EDUC  
2/19/92  
4-6

# Kansas Standard Offense Report

101. NAME OF AGENCY <b>SHAWNEE POLICE DEPARTMENT</b>				102. ORI <b>KS 0460900</b>	103. CASE NO. <b>9102715</b>	
104. 1. DISPATCHED 2. CITIZEN 3. ON VIEW <b>2</b>	105. DATE REPORTED <b>6-06-91</b>	106. TIME REPORTED <b>10:50 hrs</b>	107. TIME ARRIVED <b>---</b>	108. TIME CLEARED <b>---</b>	109. DATE OF OFFENSE <b>Prior to April 91</b>	110. TIME OCCURRED <b>during school</b>
111. OFFENSE - LIST MOST SERIOUS FIRST  <b>A. Child Abuse</b>  <b>B. Battery</b>  <b>C.</b>		112. STATUTES  <b>A. 21-3609</b>  <b>B. 21-3412</b>  <b>C.</b>	113. LOCAL CODE	114. TYPE OF PREMISE: 1. STREET 2. SINGLE RESIDENCE 3. MULTIPLE RESIDENCE 4. COMMERCIAL 5. GAS STATION 6. CONVENIENCE STORE 7. PHARMACY/DOCTOR OFFICE 8. PUBLIC COMMUNITY BLDG. 9. RESTAURANT 10. STORAGE/WAREHOUSE 11. TAVERN/BAR/LIQUOR 12. VEHICLE 13. BANK 14. OPEN AREA (PARK, FIELD, ETC.) 15. OTHER		
115. LOCATION OF OFFENSE <b>6720 Caven</b>			116. REPORT AREA <b>04</b>	TYPE (INSERT NUMBER): <b>8</b>		

CODES: V-VICTIM B-BUSINESS W-WITNESS P-PARENT DC-DISCOVERED CRIME RP-REPORTING PARTY MP-MISSING PERSON

117. NAME- LAST, FIRST, MIDDLE <b>McCord Brett</b>		JR/SR	118. CODE <b>V.</b>	119. RESIDENCE ADDRESS-PHONE <b>6523 Parkhill Shawnee Ks. 268-764</b>							
120. RACE <b>W.</b>	121. SEX <b>M.</b>	122. AGE <b>9</b>	123. DATE OF BIRTH <b>4-05-82</b>	124. HT	125. WT	126. HAIR	127. EYES	128. OCCUPATION <b>Student</b>	129. BUSINESS ADDRESS-PHONE <b>Rhein Banning Koven School</b>		
130. NAME- LAST, FIRST, MIDDLE <b>Chopra Raj - Dr.</b>			131. CODE <b>R.P.</b>	132. RESIDENCE ADDRESS-PHONE <b>unknown</b>							
133. RACE <b>W.</b>	134. SEX <b>M.</b>	135. AGE	136. DATE OF BIRTH	137. HT	138. WT	139. HAIR	140. EYES	141. OCCUPATION <b>Superintendent</b>	142. BUSINESS ADDRESS-PHONE <b>831-1910 S.M. School District</b>		
143. NAME- LAST, FIRST, MIDDLE <b>McCord Terry</b>		144. CODE <b>P.R.P.</b>	145. RESIDENCE ADDRESS-PHONE <b>6523 Parkhill Shawnee Ks.</b>								
146. RACE <b>W.</b>	147. SEX <b>F.</b>	148. AGE	149. DATE OF BIRTH <b>unk.</b>	150. HT	151. WT	152. HAIR	153. EYES	154. OCCUPATION <b>unk.</b>	155. BUSINESS ADDRESS-PHONE		
156. DID VICTIM(S) RECEIVE MEDICAL ATTENTION? Vic. #1 <b>No</b> Vic. #2 _____ Vic. #3 _____							157. ADDITIONAL INFORMATION (LOCAL USE ONLY)				

158. DESCRIBE BRIEFLY HOW OFFENSE WAS COMMITTED.  
*The child victim, reported being physically battered throughout the school year by his 3rd grade teacher.*

PROPERTY STATUS: S-STOLEN RA-RECOVERED FOR YOUR AGENCY RO-RECOVERED FOR OTHER AGENCY F-FOUND D-DAMAGED

159. STATUS	160. QTY	161. DESCRIPTION OF PROPERTY	162. CODE	163. MODEL-SERIAL-OWNER APPLIED NO.	164. VALUE	165. NCIC

PROPERTY SLIP NO.S		CONTINUE ADDITIONAL PROPERTY INFORMATION ON APPROPRIATE FORM.		166. PROPERTY DAMAGE \$ _____		167. TOTAL VALUE PROPERTY \$ _____		
<b>A U T O</b>	STOLEN ( ) DECEIT ( ) BREACH OF TRUST ( ) RECOVERED ( )	COLOR	YEAR	MAKE	MODEL	LIC. STATE	YEAR	NUMBER
	VIN NO.	FURTHER DESCRIPTION					MEANS USED: ( ) LOCKED ( ) KEY IN ( ) UNLOCKED ( ) TOWED ( ) OTHER EXPLAIN IN NARRATIVE	
	VALUE	VICTIM ( ) YES INSURED: ( ) NO	INSURANCE CO. NAME/AGENT		ADDRESS			
	REPORTING OFFICER <b>Det. R.T. Caplan 818</b>			SUPERVISOR <b>Davis</b>		REVIEW OFFICER <b>EDUC 2/19/92</b>		

# Put teacher on leave, parents ask

**Instructor** is subject of allegations of abuse. Board says meeting not right place for discussion.

By MIKE KENNEDY  
Education Writer

A group of parents from Rhein Benninghoven Elementary School urged the Shawnee Mission school board Monday night to place on paid leave a teacher who is being investigated on child abuse allegations.

The parents said that the teacher should be removed from the classroom while the Johnson County district attorney's office conducts an investigation.

"Our children deserve the same high quality of education other children in the district receive," said Carl Scharenberg of Shawnee. "Your first priority should be the education of students."

Shawnee police said last week they are investigating a Benninghoven teacher on allegations of physical and mental abuse of

her students. The police have turned over evidence to the district attorney's office.

The parents want the teacher removed from the classroom before school begins next Tuesday.

"It is not the responsibility of the district attorney's office," said Michaelene Voss of Shawnee. "It is the responsibility of the district ... to unconditionally assure that our children are not in harm's way."

About a dozen parents from Benninghoven attended the meeting.

Board members did not respond specifically to the parents' request because the law limits them from discussing personnel matters in public.

"We are also concerned about the children in the district and the

See PARENTS, B-2, Col. 6

# Parents ask board for action

Continued from B-1

employees in the district," said board member Sue Gamble. "This type of public meeting is not the proper type of forum to address those concerns."

Gamble represents the district's Northwest area, which includes Benninghoven.

Steve Martin, the board's attorney, said that the district reported the accusations of abuse to the proper authorities and now is waiting for those authorities to complete their investigation.

He said the district could not legally remove a teacher from the classroom without evidence. At this point, the school district does not have access to the evidence the police and prosecutors have gathered.

One Benninghoven parent, Beth Whitefield, spoke in support of the teacher in question. Although her own children have not been in the teacher's class, Whitefield said she had observed that the class was a "well-organized environment."

"We should allow fair play and clear thinking to have precedence over fear and rumor," Whitefield said.

Kansas City Star (Tues, August 27, 1991)

EDUC

2/19/92

4-8

# Board refuses to remove teacher

## *Police investigating alleged abuse*

by Jerome Maag

Journal Herald Staff

A request by parents that a Rhein Benninghoven Elementary teacher be placed on paid leave during an investigation into allegations of physical and mental abuse of students fell on deaf ears at the Shawnee Mission School Board meeting Monday night.

In fact, school board president Barbara McConahay attempted to ignore the 15 to 20 parents that gathered at the back of the board room in support of the request.

After opening the meeting with the Pledge of Allegiance, McConahay took her seat and announced, "Since no one called for open forum, the next order of business will be approval of minutes."

Immediately, one parent spoke up, asking for the forum.

Carl Scharenberg, Shawnee, took the podium to speak for the parents and asked the board to place on paid leave the teacher who has been the subject of the abuse allegations pending the completion

of investigations into the charges.

"In order to be taught, students must have the utmost confidence in the teacher," Scharenberg said. "For the well-being of the students, as well as for the teacher, we ask that you place the teacher on paid leave."

Scharenberg told the board that the parents believed that the allegations would interfere with the ability of the teacher to teach in a classroom.

"Our children in the classroom deserve the same high quality education as they would get in the rest of the district schools," he said.

Michaeline Voss, Shawnee, said the parents had several reasons for asking that the district put the teacher on paid leave. Among those reasons was the fact that the district had made no statement on the issue, even after the allegations appeared in a Wednesday, Aug. 21 article in The Kansas City Star.

"These are serious allegations that should have been addressed see TEACHER page 11B

EDUC  
2/19/92  
4-9

# TEACHER...Continued from

by the district," she said. "Their response should be to either unconditionally assure the parents that their children are out of harm's way or to remove the teacher."

One parent, Beth Whitefield, Shawnee, spoke in support of the teacher, saying that though she had not had children in the teacher's classroom, she had visited the class herself in the past.

"The students there were particularly respectful," Whitefield said. "The classroom was a well-organized and well-run environment for children to learn in. No one wants children to be hurt, but hopefully no one wants this teacher to be hurt as well."

Whitefield's comments, which were received with visible relief by McConahay, prompted Voss to attempt a response. However, McConahay refused to let Voss speak again.

Another parent, Anita Bradley approached the podium and McConahay told her that "you should have called ahead of time for the open forum."

As Bradley tried to respond, McConahay called for approval of minutes from the board's last meeting, ignoring the still angry parents.

"You've heard it from the board," Bradley said loudly. "They refuse to address the issue of the safety of our children."

The parents' request to the board was prompted by an issue that had apparently been simmering beneath the calm surface of the

1991 summer vacation until the media was tipped by a parent to the fact that Shawnee Police were investigating the Rhein Benninghoven teacher.

According to Shawnee Police Department spokesman, Lt. Homer Clayton, the Shawnee Police received word of the allegations that a teacher at Rhein Benninghoven had abused at least one child both physically and mentally from the State Social and Rehabilitative Services on June 6. The police began an investigation of the allegations and turned their findings over to the Johnson County District Attorney's office at the beginning of August.

The case was assigned to Assistant District Attorney Tom Bath. Bath returned the case to the police for further investigation last week, Clayton said.

According to school officials, SRS heard about the allegations through then-Superintendent Raj Chopra, who received a complaint about the teacher from a parent. According to state law, anyone who receives a complaint regarding child abuse is legally bound to report it to SRS.

"One important thing to note is that the report being referred to SRS does not speak to the merit of the report," said school board member Sue Gamble, who represents the Northwest attendance area, which includes Rhein Benninghoven. "State law requires that we pass it on. We are not to evaluate the merit of the

claim anyway."

Neither the teacher at the center of the controversy, nor the parent who allegedly filed the initial complaint with Chopra would comment on the case.

However, David Schauner, an attorney for the Kansas National Education Association Legal Service who has apparently talked with the teacher, said she "vehemently denies any wrongdoing."

Neither Schauner, Clayton, Gamble nor the parents would comment specifically on the nature of the charges.

Assistant DA Tom Bath also refused comment on the case, as did District Associate Superintendent of Elementary Education Jo Anne Grote.

According to Gamble, a letter has been sent to parents of children entering the grade level where the teacher teaches advising them to contact Benninghoven principal Jerry Snider to discuss the issue at the school. Snider, who took over as principal at the school last month, said he had already discussed the issue with his predecessor Lloyd Trauer, who retired at the end of the 1990-91 school year.

"That would be the proper way to deal with this," Gamble said after Monday's board meeting. "If a parent requested that their child not be in that teacher's class, the chances are the request would be honored. I believe that the parents who have made that request so far

## front page

have had it granted."

However, during Monday's board meeting, Gamble did not tell parents where the proper forum for their discussion of the issue would be.

Instead, she chided the parents

for coming to the board.

"We are also concerned about the children in the district and the employees in the district," Gamble said during the board comment period of the meeting. "This type of public meeting is not the forum

for your complaints."

McConahay followed Gamble's statement complimenting the districts operation and maintenance staff on "how the buildings look this fall."

Journal Herald (Wed's, August 28, 1991)

EDUC  
2/19/92  
4-10

# Open forum?

by Rob Roberts, publisher

The Shawnee Mission school board limited discussion during their meeting Monday night by parents concerned about an allegedly abusive teacher at Rhein Benninghoven Elementary. And after cutting one of the patrons short, Board president Barb McConahay informed the patrons that they should have called for an appointment if they wanted to be heard during the board's "open forum."

One of the parents said she had called. But that's beside the point.

The point is that the board is neglecting its function as a representative body by allowing its "open forum" to become a misnomer for persons who have more than happy talk for the board.

Monday wasn't the first time the board rebuffed persons with complaints during open forum.

Tom Slezak, president of the Goode Estates homeowners association, came to the board last year, asking that they help stop students from nearby Shawnee Mission Northwest High School from smoking and littering in the subdivision.

Slezak came to the board after failing to get the situation resolved through Northwest channels, but he was cut short during open forum and criticized by board member Dick Spears for trying to "embarrass" the board.

His treatment by the board prompted Slezak to mount an unsuccessful campaign to unseat the board's Northwest area representative, Sue Gamble, earlier this year.

On Monday, Gamble told the parents concerned about the Benninghoven principal that the board meeting was not the proper time or place to discuss personnel matters.

That may be true. But neither Gamble nor any of her fellow board members told the parents how they could more appropriately press the matter, which the parents view as urgent considering the fact that school begins next week.

The board, we assume, is concerned about the issue as well. But they didn't give that impression Monday night.

Rather, board members gave the impression that they do not like to be bothered with problems — a characteristic that critics often accused former superintendent Raj Chopra of displaying.

More courteous treatment of the concerned patrons Monday night along with advice about how they should air their concerns would have helped the board's image.

But for whatever reason, they continued to give the impression that they are adversaries rather than representatives of concerned patrons.

Journal Herald (Weds, August 28, 1991)

EDUC

2/19/92

4-11

# District to take action on accused teacher before start of classes

By Elaine Bessier  
Sun staff writer

Shawnee Mission School District officials expect to act before school starts on Tuesday concerning an elementary school teacher who is being investigated for alleged child abuse, Steve Martin, attorney for the district, said Monday.

"We may have to seek access to the evidence and make a necessary personnel decision," Martin said. "The safety of children comes first, but not far behind comes the rights of the individual (teacher). We hope to know more by the weekend."

Interim Superintendent Don Wilson said Tuesday that he hoped the investigation would be concluded this week.

"If it isn't, administration will recommend a course of action for the beginning of the school year," Wilson said. "So far, there is no evidence that would cause us to act in this situation."

Parent allegations that a teacher at Rhein Benninghoven Elementary School in Shawnee physically and mentally abused children are being investigated by Shawnee police and the district attorney.

They have not yet shared their findings with the school district, Martin said.

Several Benninghoven parents came to the school board meeting Monday night to demand that the teacher be placed on paid leave until the investigation is resolved.

"No formal statement has come from the district that they are conducting or have conducted an investigation into this matter," said Michaelene Voss, a Shawnee mother who said

later that her child could be placed in the classroom of the teacher being investigated.

"These are serious allegations and should have been addressed by the district," Voss said. "It is not the district attorney's (responsibility) to do so by Sept. 3. But it is the responsibility of the district to either unconditionally assure the parents that their children will not be put in harm's way or put the teacher on paid leave."

Under the law, the school district is a reporting agency to state authorities for any allegations of child abuse, Martin said after the meeting.

"That doesn't mean we know if there are any violations. The district attorney has the matter under investigation, and we await his action."

Carl Scharenberg, a parent, said, "The children in her classroom deserve the same high quality of education the rest of the students in the district will receive."

"The student and parent must have the utmost confidence in the teacher," Scharenberg said. "We believe that under these circumstances this will be impossible."

One parent, Beth Whitefield, came to the defense of the teacher.

She said that, although she had not had a child in the teacher's classroom, she had been in the classroom herself with the "Kids on the Block" and picture lady programs.

"The students participated, and they were respectful and responsive, indicating that good groundwork had been laid. The classroom was well organized," Whitefield said.

"No one here wants a fine teacher's career ruined by in-

nuendo or fear," she added. "I pray that the board will allow this person to be innocent until proven guilty."

Anita Bradley, another parent, said later that just because the district attorney does not or has not filed criminal charges does not mean that the district is relieved of its responsibility to conduct its own investigation to see if any school district policies have been violated.

The problem came to light last spring, when a parent complained to former Superintendent Raj Chopra that the parent's child had been abused by the teacher. Chopra was obligated by law to report the complaint to the Social and Rehabilitation Services.

The SRS asked the Shawnee police to investigate the allegations, and the investigation was started during the first week in June, said Lt. Homer Clayton, spokesman for the Shawnee Police Department. About three weeks ago, the file on the case was sent to the district attorney's office.

"They sent it back to us, suggesting that we continue the investigation," Clayton said last week. "More than just a couple of kids were involved in the complaints. The allegations included both striking children and mental abuse."

District Attorney Paul Morrison said Monday he hoped to have a decision by the end of this week.

Jerry Snider, a former elementary school principal in Blue Springs, Mo., who was named principal of Benninghoven on May 28, said the teacher's status had not been changed while the investigation proceeded.

Shawnee SUN (Wed's, August 28, 1991)

EDUC

2/19/92

4-12

# Teacher expected to return

by Jerome Maag  
Journal Herald Staff

A Rhein Benninghoven Elementary teacher who was accused by a parent of abusing a student is expected to return to the classroom in the wake of Johnson County District Attorney Paul Morrison's decision not to prosecute her.

According to Jo-Anne Grote, the Shawnee Mission School District's assistant superintendent of elementary education, she met Monday afternoon with the teacher and Benninghoven principal Jerry Snider to plan the teacher's "transition back into the classroom."

Morrison announced last Thursday that he would not file charges against the teacher but would turn over to the school district the results of an investigation into the charges by the Shawnee Police Department and Kansas Social and Rehabilitative Services.

Morrison said that the information from the Shawnee Police and SRS could not "substantiate any physical abuse allegations."

Grote said she had seen the information from Morrison and saw no evidence of violations of school policy.

Morrison's decision, however, does not mean that the issue will go away, according to a parent involved in the case. That parent said she planned to attend the meeting of the Shawnee Mission school board tonight to address the board on the issue.

Allegations that the teacher, whose name has not been officially released, had physically and mentally abused at least one student first surfaced in June with a report to then-superintendent Raj Chopra. Chopra turned the allegations over to SRS, as required by state law.

SRS turned the case over to the Shawnee Police Department, which in turn handed it over to the DA's office. But Assistant District Attorney Tom Bath returned the case to Shawnee police for further investigation.

The teacher, who had been on paid leave since Friday, Aug. 30,

---

For TEACHER'S STATEMENT  
see page 5B

---

said she was "relieved the situation has been resolved with the district attorney."

Sue Gamble, the school board representative from the Northwest area, which includes Rhein Benninghoven, said she hoped that the healing process for the school could begin now that the District Attorney has declined to file charges.

Gamble said that the matter was now an administrative issue and would be handled by Grote and Snider. Concerned parents should express their concerns to Snider or their building principal, she said.

If parents attempt to address the board regarding the teacher and allegations against her tonight, they will be referred back to the district administration, according to board member Sue Gamble.

"The board is not able to enter into a debate on this subject," Gamble said.

## Editor's Quote Book

"A bad teacher is as great a curse as a good one is a blessing."

Edward G. Klemm, Jr.

Journal Herald (Wed, September 11, 1991)

EDUC

3/19/92

4-13

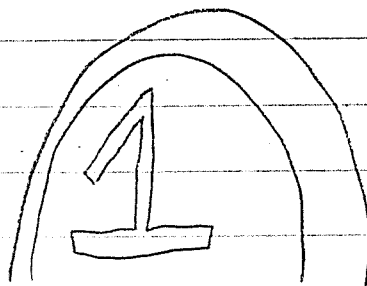


1. Poking Me on the back.
2. Hitting Me.
3. When she twisted my arm.
4. When she sez shut up real loud so the whole class can hear her.
5. Yelling at us.
6. Not letting me explaine things to her.
7. slaming Me up against the wall.
8. Making me put my name on the board for silly things.
9. Hitting other kids.
10. Made me feel bad for saying I will not pass third grade.
11. Having to take work out to recess.
12. Her saying "You could go to the doctor when I all redy have gone."

(BRETT)

EDUC  
2/19/92  
A5-1

1. She hit me and my friends
2. She knock peeps desk over, when the kids do something wrong.
3. She will shake you and some thime until our head hits the wall.
4. She will through book at students
5. She will brake our pencils.
6. She will slam things down on her desk.
7. she will screem at the students
8. she will send us out into the hall ~~for~~ for not finishing some work.
9. she will sometimes yell at us for something we didnt do.
10. she will throw students ~~in~~ into the the wall
11. she will slam us into the door.
12. If we draw something, and she sees it she will rip it up. or ~~she~~ throw it away.
13. She poked me on the back with her finger.



↓ 14. she would take students and pick them up by their shirt or sweater and yell or possibly scream at the student

15. sometimes she would rip the students shirt or sweater

16. ~~sometimes~~ sometimes she would twist the students arm

17. sometimes she would leave a scratch or a mark or a red mark on their arm from ~~the~~ twisting the students arm

18. she would throw papers at the students.

19.

February 19, 1992

Dear Senator's,

My name is Anita Bradley, and I reside in Shawnee, Kansas.

Thank you for allowing me to come and speak to you today. I have come in support of Senate Bill #632, as a concerned and involved parent. I am the legal guardian of Bradley and Ashley Russell, my nephew and niece.

They came to live with me in May of 1989 and in June 1989 I was issued guardianship papers for them.

As a single person, I work outside the home to support myself and the children. The first thing I did was to began to look for a day care for the children. I asked people for recommendations, and interviewed day care providers until I felt I had found a safe and quality environment for the children, one that to this day myself and the children are happy with.

I did no such investigation of the school they were to attend nor the teachers they were to have. Why? I did not feel it was necessary. I was and still am aware there are laws that protect our children while they are in day care, I had no idea there were no laws protecting our children in their school. I sent the children off to school feeling confident they were in an environment that was safe and that they were protected by laws. Within a month of coming to live with me Brad was asking me when school would start, he said he loved school and could hardly wait to start.

EDUC  
2/19/92  
AL-1

Little did I know that the 1989-1990 school year would be the worst year and of my life, and quite possibly the worst year of Brad's life.

By Christmas our household was in absolute confusion. Brad hated school, refused to do his homework. I was receiving almost daily notes home about Brad and numerous phone calls from his teacher monthly. I was disciplining Brad and taking privileges away from him, which only seem to add to the problems. Until one evening when I was in the kitchen fixing dinner and had Brad in the lower level family room doing homework, when I headed a noisy that sounded like slapping, so I walked down the steps to find Brad slapping himself in the face saying I'm so stupid, I'm so stupid. I was outraged he had never heard that in my home, and he is not stupid. By this time Brad was refusing to go to school saying he was sick or any excuse he could come up with. When I would ask Brad to get up and get ready for school he would say things like I hate school, I hate it here, I hate you, I want to go back. I knew something terrible was wrong but I did not know what. I had Brad in counseling and they could not find out what was wrong he would not talk with anyone about what it was.

We went thur Brad's entire 3rd grade year and I never could find out what was wrong. Than about a year latter I received a phone call one evening from a total stranger, Mrs. Terry McCord. She was calling to find out if I had experienced any problems during Brad's 3rd grade with his teacher. All I could do was laugh, and told her it was the worst year of my life. After talking with

EDUC  
2/19/92  
6-2

Mrs. McCord that evening I sat Brad down and ask him some questions about what had gone on in the classroom that year. I was in shock at some of the things he told me. That night I did not sleep, I cried the whole night. At that point I still did not know the extent of what Brad had endured thur the year, but I knew enough to know that I had been disciplining him, and taking away privileges when he was enduring things you and I would not stand for. As the months followed a more complete picture began to emerge, Brad had to witness his friend have his arm twisted behind his back and slammed against the wall almost on a daily bases, he watched little girls get slapped, slugged. He had to endure being told he was stupid and could not do anything right. He had his papers that were not correct held up in front of the class for ridicule, because he had made mistakes. I could go on and on but will not do so at this time, but with Brad's prior approval, he is here today, and would be willing to answer any questions you might have. He has also, on the drive up here today wrote down some of the things he saw and felt that year.

When the police and SRS investigation began Brad was willing to go the police station and tell a detective the things he had seen and witnessed. He is willing to go an SRS hearing and testify if that becomes necessary. All the time knowing he is going to have to testify with her there facing him, and go back to school the next day and there she will be watching him.

I'm not sure I would be that strong. How about you? How would you feel about doing this knowing this person is there with you every day?

EDUC  
2/19/92  
6-3

This bill is not about denying anyone due process, it is about not allowing a confirmed child abusers in the school until they have had there due process. And if there designation should stand what is appropriate and right.

We are talking about our children and there rights!

Someone with this designation would not be allowed in day care with our children, but it is alright for them to be in a class room with our children from 8:10am to 3:10pm. If our children can not turn to you for protection under the law, who, tell me can they go to?

Please ask yourself -- Would you want your children or your grandchildren to go into a classroom where there was a confirmed child abuser teaching? I think if you are honest in your own mind you would say no way, I will do whatever I need to do to keep my child out of that classroom. Well we have at present

Lets move Kansas from the middle ages to the 21st century. Thank you again for your time and I beg you please pass this bill.

a confirmed child abuser in a classroom as we speak.

EDUC  
2/19/92  
6-4



**Kansas  
Child Abuse  
Prevention Council**

715 SW 10th Street  
Topeka, Kansas 66612  
(913) 354-7738

428 S. Broadway, Suite 204  
Wichita, Kansas 67202  
(316) 262-8434

**BOARD OF DIRECTORS**

SuEllen Fried, Founder  
*Shawnee Mission*  
Rick Bloomer, President  
*Wichita*  
Catherine Hiersteiner, VP Programs  
*Prairie Village*  
Barbara Groh,  
VP Coalitions/PA Chapters  
*Coffeyville*  
John R. Wine, Jr., VP Advocacy  
*Topeka*  
Terry Campbell, VP Nominating  
*Leavenworth*  
Terri L. Jowett, Secretary  
*Topeka*  
Keith Holtz, Treasurer  
*Topeka*  
Jody (JoNell) Abbott  
*Overland Park*  
Susan E. Alexander  
*Hutchinson*  
Nile A. Glasebrook  
*Overland Park*  
George R. Gomez  
*Topeka*  
Diane D. Lund, M.A.  
*Kansas City*  
Stephen Lyrene  
*Topeka*  
Marlene Merrill, Ph.D.  
*Wichita*  
John D. Myers  
*Wichita*  
Karen T. Poulton, Ph.D.  
*Topeka*  
Luci Slattery Reilly  
*Leavenworth*  
Donald B. Reynolds, Jr.  
*Great Bend*  
Myron E. Scafe  
*Overland Park*  
Peter E. Schloesser, M.D.  
*Topeka*  
Marilynn Stephan  
*Topeka*  
Carla J. Stovall, J.D.  
*Topeka*  
Dorothy Werner  
*Great Bend*  
Ronald L. Young, D.C.  
*Salina*

**EXECUTIVE DIRECTOR**

James McHenry, Ph.D.

Testimony in Support  
of SB 632  
Senate Education Committee  
February 19, 1992

The Kansas Child Abuse Prevention Council supports the intention of SB 632, which definitely has a prevention component.

As KCAPC has expanded its own direct services to children in recent years, we have adopted similar standards in our own hiring practices. Prospective associates are all screened through the SRS Child Abuse Central Registry as well as KBI's registry. We also do a thorough checking with personal references.

Although we regret the necessity for these precautions, we do believe they constitute "best practice" in selecting people who will be in regular contact with children. To the extent that SB 632 requires school districts to include the SRS registry in its employment considerations, it represents sound and prudent public policy.

(PAREDES)

EDUC  
2/19/92  
A7



DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
Donna Whiteman, Secretary

Committee on Education  
Joseph C. Harder, Chairperson

(HILL)

Testimony in Regard to S.B. 632  
February 19, 1992

AN ACT concerning child abuse and neglect; prohibiting employment of certain persons by school districts; providing for placing certain school district employees on leave.

Mr. Chairperson, Members of the Committee, I am appearing today in support of S.B. 632 and to suggest changes which would ease implementation of the bill.

The Department supports the intent of the bill which would prohibit a school district from employing a person who has been validated by the Department of Social and Rehabilitation Services as having committed an act of child abuse or neglect or sexual abuse unless such person has completed a corrective action plan or unless the record has been expunged.

The bill is similar in its effect to K.S.A. 65-516 which prohibits certain persons from working, residing or volunteering in boarding homes or day care facilities for children. It differs from that statute in that there is no prohibition against schools employing persons who have committed crimes against children. S.B. 632 also does not specifically authorize the Secretary to promulgate rules and regulations.

We ask that the committee consider whether the bill should be modified to parallel appropriate sections of K.S.A 65-516 to address these issues. Lack of prohibition against hiring persons who have been convicted of a crime against children could result in a person being hired who had not been investigated by the department but who had a criminal conviction for the sexual assault or even the death of a child. A copy of K.S.A. 65-516 is attached for your convenience.

Authorization for the Secretary to promulgate rules and regulations is needed to facilitate guidelines and procedures to implement the provisions of the bill. Issues regarding confidentiality laws, both state and federal, which differ among the involved agencies need to be carefully worked out. We would also like the committee to take note of the fact that the bill does not specifically authorize the Department to release information to a school district nor does it provide immunity from civil liability from such disclosures.

Based on information provided by the Kansas Association of School Boards and USD 501 we estimate that the bill would require checking the child abuse and neglect central registry for 6,500 names annually. Most of this activity would be concentrated in a 3-4 month time in late spring and early summer when schools are negotiating contracts. The school will want a quick "turn-around time" on their requests (probably 3 days or less as contract offers will be pending clearance through the registry). In addition, terminations during the year of essential non-teaching personnel (such as bus drivers and cooks) will require same day response in order to hire replacements on a timely basis.

EDUC  
2/19/92  
A8-1

The additional work load will require the addition of one additional Program Worker II and a computer terminal by which to provide access to the registry.

We request that the committee consider the changes we have recommended and ask that the bill be recommended for passage.

Carolyn Risley Hill  
Acting Commissioner  
Youth and Adult Services  
Department of Social and  
Rehabilitation Services

(913) 296-3284

CRH:dr

EDUC  
2/19/92  
A8-2

History: L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; L. 1985, ch. 210, § 2; L. 1986, ch. 230, § 1; L. 1991, ch. 184, § 2; July 1.

**65-506. Unlicensed hospitals or homes; placement of maternity patient or child in, prohibited.** The secretary of health and environment shall serve written notice to the secretary of social and rehabilitation services and to the county, city-county and multi-county department of health in every city and county in which a maternity hospital or home, or home for children is located, of the issuance of a license to conduct such hospital or home, or the revocation of such license. Neither the secretary of social and rehabilitation services nor any other person shall place or cause to be placed any maternity patient or child under 16 years of age in any maternity hospital or home, or home for children not licensed by the secretary of health and environment.

History: L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; July 1.

**65-509.**

History: L. 1919, ch. 210, § 9; R.S. 1923, 65-509; L. 1984, ch. 224, § 1; Repealed, L. 1990, ch. 145, § 38; July 1.

Revisor's Note:

Kansas adoption and relinquishment act, see 59-2111 et seq.

**65-510. Unlawful for home for children to receive or care for adults; exceptions.** It shall be unlawful for any home for children to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

History: L. 1919, ch. 210, § 10; R.S. 1923, 65-510; L. 1965, ch. 369, § 2; L. 1972, ch. 228, § 17; L. 1978, ch. 236, § 8; L. 1988, ch. 240, § 1; July 1.

**65-512. Inspections.** It is hereby made the duty of the division of health of the department of health and environment to inspect or cause to be inspected at least once every 12 months every maternity hospital or home, or home for children, and for that purpose it shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record

of every inspection. The licensee shall give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or residents therein. No patient or resident without the consent of the patient or resident shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

History: L. 1919, ch. 210, § 12; R.S. 1923, 65-512; L. 1974, ch. 352, § 91; L. 1975, ch. 52, § 22; L. 1978, ch. 236, § 9; L. 1986, ch. 230, § 5; July 1.

**65-514. Violations of article 5 of chapter 65; penalties; notice and hearing.** Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

History: L. 1919, ch. 210, § 14; R.S. 1923, 65-514; L. 1974, ch. 352, § 93; L. 1984, ch. 313, § 95; L. 1989, ch. 189, § 1; July 1.

**65-516. Certain persons prohibited from maintaining homes; access by secretary of health and environment to certain records and reports relating to persons residing in homes; effect of compliance with section; when act of abuse or neglect validated by department of social and rehabilitation services.** (a) No person shall knowingly maintain a boarding home for children or maintain a family day care home if, in such boarding home or family day care home, there resides, works or regularly volunteers any person who:

(1) (A) Has a felony conviction for a crime against persons, (B) has a felony conviction un-

der the uniform controlled substances act, (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act, or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto, or is any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the department of social and rehabilitation services pursuant to K.S.A. 38-1523 and amendments thereto and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of social and rehabilitation services, or (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;

(4) has had a child declared in a court order in this or any other state to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 to 38-1584, inclusive, and amendments thereto or a similar statute of other states;

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et seq.*, and amendments thereto, or pursuant to K.S.A. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense; or

(7) has an infectious or contagious disease.

(b) No person shall maintain a boarding home for children or maintain a family day care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.

(c) Any person who resides in the home and who has been found to be a disabled per-

son in need of a guardian or conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection (d), the secretary shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a boarding home for children or a family day care home. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and amendments thereto.

(e) No boarding home for children or family day care home or their employees shall be liable for civil damages to any person refused employment or discharged from employment by reason of such home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been validated by the department of social and rehabilitation services unless the alleged perpetrator has: (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the act for judicial review and civil enforcement of agency actions.

**History:** L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; July 1.

**Law Review and Bar Journal References:**

"Expungement: Lies That Can Hurt You in and out of Court," Steven K. O'Hern, 27 W.L.J. 574, 578, 586, 589, 598 (1988).

**Attorney General's Opinions:**

Persons prohibited from employment by homes for children; effect of expungement of offense. 84-115.

Persons prohibited from operating maternity hospitals and homes for children; effect of expungement of prior conviction. 85-50.

guardian or conservator, or appointed in the total number of children in care.

In accordance with the provisions of this section the secretary shall have access to the records or adjudications of any child having a criminal history record information in the possession of the Kansas bureau of investigation and any report of investigations submitted pursuant to subsection (e) of K.S.A. 38-2201. The secretary shall have access to the records of any child who is regularly volunteering or serving as a home for children or a foster parent. The secretary shall have access to the records for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and 65-520.

The secretary shall have access to the records of any person refused admission to a home for children or a foster parent if such home acts in violation of this section.

The secretary shall not be considered to be acting in violation of this section unless the action is: (1) Had an opportunity to be heard and present information during the hearing; (2) Had an opportunity to appeal the action to the secretary and to the courts through judicial review and civil actions.

History: L. 1982, ch. 184, § 2; L. 1982, ch. 140, § 46; L. 1984, ch. 210, § 1; L. 1987, ch. 232, § 10; L. 1991,

#### References:

Can Hurt You in and out of Court, 27 W.L.J. 574, 578, 586, 589,

#### Notes:

employment by homes for children who are the subject of an offense. 84-115.

operating maternity hospitals and the effect of expungement of prior

Persons prohibited from employment in boarding homes for children or family day care homes; effect of certain misdemeanor convictions. 85-154.

Constitutionality of 65-516(a)(3); child abuse validation by the department of social and rehabilitation services. 86-163.

KDHE does not violate due process rights for suspension of day care facility's license because of suspected child abuse by employee. 87-110.

Reporting abuse or neglect; contents; evaluation; statewide register. 89-8.

**65-519. Certificate of registration; conditions for; forms; annual renewal; fees.** (a) The secretary shall issue a certificate of registration to any person who applies for registration on forms furnished by the secretary, who attests to the safety of the family day care home for the care of children, who submits a fee of \$5 payable to the secretary of health and environment, and who certifies that no person described in paragraphs (1), (2), (3), (4), (5) or (6) of subsection (a) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) The certificate of registration shall be renewed annually in the same manner provided for in this section.

(d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the state general fund.

History: L. 1980, ch. 184, § 5; L. 1982, ch. 259, § 3; L. 1983, ch. 140, § 47; L. 1984, ch. 225, § 2; L. 1986, ch. 230, § 3; July 1.

**65-521. Denial, revocation or nonrenewal of certificate of registration; notice and hearing; application for certificate of registration or licensure after revocation or refusal to renew.** (a) The secretary may deny, revoke or refuse to renew a certificate of registration upon a determination by the secretary that the registrant falsified information on the application or willfully and substantially has violated K.S.A. 65-516 to 65-522, inclusive, and amendments thereto. The secretary shall not revoke or refuse to renew any certificate without first giving notice and conducting a hearing in ac-

cordance with the provisions of the Kansas administrative procedure act.

(b) If the secretary revokes or refuses to renew a certificate of registration, the registrant who has had a certificate of registration revoked or not renewed shall not be eligible to apply for a certificate of registration or for a license to maintain a boarding home for children under K.S.A. 65-504 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

History: L. 1980, ch. 184, § 7; L. 1984, ch. 313, § 96; L. 1986, ch. 230, § 4; L. 1988, ch. 239, § 2; L. 1989, ch. 188, § 2; July 1.

#### 65-524.

##### Attorney General's Opinions:

KDHE does not violate due process rights for suspension of day care facility's license because of suspected child abuse by employee. 87-110.

**65-526. Civil fine assessed against licensee or registrant; limitations.** The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory of the provisions thereof or supplemental thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee or registrant for a violation of such provisions or rules and regulations adopted pursuant thereto which affect significantly and adversely the health, safety or sanitation of children in a boarding home for children or family day care home. A civil fine assessed under this section shall not exceed \$500. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

History: L. 1988, ch. 239, § 3; July 1.

#### Article 5a.—CHILDREN WITH SPECIAL HEALTH CARE NEEDS

**65-5a01. Definitions.** As used in this act: (a) "A child with special health care needs" means a person under 21 years of age who has an organic disease, defect or condition which may hinder the achievement of normal physical growth and development.

(b) "Services for children with special health care needs" means the program administered by the secretary of health and environment pursuant to article 5a of chapter 65



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony Before  
Senate Education Committee  
Wednesday, February 19, 1992

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas-NEA. I appreciate the opportunity to make comments regarding SB 632.

Kansas-NEA thought it might be of interest to the sponsor and/or the committee that the professional practices commission for teachers as a matter of course revokes the license of educators convicted of a crime of child abuse. The minimum waiting period for reapplication is five years and the individual must appear before the practices commission to prove rehabilitation has been completed before a new certificate is given.

We realize SB 632 is broader than just teaching personnel, but we thought you might want to be aware of the current practices commission policy. Thank you for listening to our thoughts.