

Approved: 3-16-95  
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairman Rochelle Chronister at 3:30 p.m. on March 6, 1995 in Room 519-S of the Capitol.

All members were present except: Representative Luthi (excused)

Committee staff present: Ben Barrett, Legislative Research Department  
Dale Dennis, Department of Education  
Avis Swartzman, Revisor of Statutes  
Lois Thompson, Committee Secretary

Conferees appearing before the committee: Karen Lowery, Kansas Association of School Boards  
Mildred McMillon, Kansas State Board of Education  
Gerald Henderson, United School Administrators  
Sue Chase, Kansas National Education Association

Others attending: See attached list

Ben Barrett, Legislative Research Department, explained **SB 317 requiring boards of education to adopt policies requiring expulsion of pupils for possession of weapons at school.** This bill was prepared in order to respond to the requirements of the federal Gun-Free Schools Act of 1994 which states that each state receiving federal funds under ESEA, in order that those funds not be withheld, have in effect, by October 20, 1995, a law requiring local education agencies (with certain exceptions) to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school.

Karen Lowery, Coordinator of Governmental Relations for Kansas Association of School Boards, appeared in support of **SB 317**. KASB supports the effort to bring the state law into compliance with the federal provisions of the Elementary and Secondary Education Act. (Attachment 1)

Mildred McMillon, a member of the State Board of Education representing District No. 1, stated **SB 317** was introduced at the request of the State Board of Education to bring the state into compliance with the federal Gun Free Schools Act enacted on October 20, 1994. Without a state law that meets the requirements of this act, Kansas could lose approximately \$100 million of federal educational dollars. (Attachment 2)

Gerald W. Henderson, representing United School Administrators of Kansas, testified in support of **SB 317**. However, USA believes the federal legislation leaves schools without the flexibility most school principals would prefer in dealing with children. (Attachment 3)

Sue Chase, representing KNEA, appeared in support of **SB 317**. It is estimated over 100,000 students carry guns to school each day. Because of this, KNEA believes there is a need to send a message to students regarding weapons brought to school or school functions. (Attachment 4)

Chairman Chronister announced a conference committee on school finance would meet on Wednesday, March 8, 1995 at 12:30 p.m. in Room 254-E.

Meeting adjourned at 4:00 p.m.

The next meeting is scheduled for March 7, 1995.



KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS



1420 S.W. Arrowhead Rd. Topeka, Kansas 66604  
913-273-3600

Testimony on S.B. 317  
before the  
House Committee on Education

by

Karen Lowery, Coordinator of Governmental Relations  
Kansas Association of School Boards

March 6, 1995

Maidam Chair and Members of the Committee:

Thank you for the opportunity to appear before you today in support of S.B. 317. The Kansas Association of School Boards supports the effort to bring the state law into compliance with the federal provisions of the Elementary and Secondary Education Act (ESEA).

Through our national affiliate, KASB supported ESEA and the weapons related provision. We feel that language which allows superintendents to make modifications on a case-by-case basis provides local districts with the flexibility to deal with unique situations and does not place an undue burden upon districts.

It is vital that Kansas school districts continue to receive federal funds under the ESEA and we urge your adoption of this bill to bring the state into compliance. Thank you for your consideration.

House Education  
Attachment 1  
3-6-95

# *Kansas State Board of Education*

120 S.E. 10th Avenue, Topeka, Kansas 66612-1182

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March 6, 1995

TO: House Education Committee  
FROM: Kansas State Board of Education  
SUBJECT: 1995 Senate Bill 317

My name is Mildred McMillon and a member of the State Board of Education representing District No. 1. I appreciate the opportunity to appear before this Committee on behalf of the State Board.

Senate Bill 317 was introduced at the request of the State Board of Education to bring the state into compliance with the federal Gun Free Schools Act (GFSA), enacted on October 20, 1994, as part of the Improving America's Schools Act of 1994 (the reauthorization of the Elementary and Secondary Act of 1965 (ESEA)), P.L. 103-382.

This Act requires that each state receiving federal funds, must have in effect, by October 20, 1995, a state law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each state's law also must allow the chief administering officer of the local educational agency to modify the expulsion requirement on a case-by-case basis.

Without a state law that meets the requirements of this act, Kansas could lose approximately \$100 million of federal educational dollars.

Please review the response to Question 3 on Page 2 of the attached document.

Dale M. Dennis  
Deputy/Assistant Commissioner  
Division of Fiscal Services and Quality Control  
(913) 296-3871  
Fax No. (913) 296-7933

*House Education  
Attachment 2  
3-6-95*

**GUIDANCE CONCERNING STATE AND LOCAL  
RESPONSIBILITIES UNDER THE  
GUN-FREE SCHOOLS ACT OF 1994**

This guidance is to provide information concerning State and local responsibilities under the Gun-Free Schools Act (GFSA), which was enacted on October 20, 1994 as part of the Improving America's Schools Act of 1994 [the reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA)], Public Law 103-382. Preliminary information, including a copy of this new legislation, was mailed to Governors and Chief State School Officers in a letter dated November 28, 1994.

The GFSA states that each State receiving Federal funds under ESEA must have in effect, by October 20, 1995, a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school. Each State's law also must allow the chief administering officer of the local educational agency (LEA) to modify the expulsion requirement on a case-by-case basis.

The legislation explicitly states that the GFSA must be construed to be consistent with the Individuals with Disabilities Education Act (IDEA). Therefore, by using the case-by-case exception, LEAs will be able to discipline students with disabilities in accordance with the requirements of Part B of the IDEA and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

The following questions and answers have been prepared to assist States, State educational agencies (SEAs), and LEAs in implementing these new requirements.

- Q1. What entities are affected by the provisions of the Gun-Free Schools Act?**
- A. Each State, as well as its State educational agency and local educational agencies, has responsibilities under the GFSA.
- Q2. Are private schools subject to the requirements of the Gun-Free Schools Act?**
- A. Private schools are not subject to the provisions of the GFSA, but private school students who participate in LEA programs or activities are subject to the one-year expulsion

requirement to the extent that such students are under the supervision and control of the LEA as part of their participation in the LEA's programs. For example, a private school student who is enrolled in a Federal program, such as Title I, is subject to a one-year expulsion, but only from Federal program participation, not a one-year expulsion from the private school. Of course, nothing prohibits a private school from imposing a similar expulsion from the private school on a student who brings a weapon to school.

**Q3. Will SEAs and LEAs have a period of time to comply with the requirements of the Gun-Free Schools Act?**

A. States must take prompt action to implement the requirements of the GFSA, including prompt action to initiate the legislative process. States have until October 20, 1995 to enact and make effective the one-year expulsion legislation required by Section 14601. States that have not enacted and made effective legislation by this date risk losing ESEA funds.

In order to be eligible to receive ESEA funds, LEAs must have an expulsion policy consistent with the required State law.

LEAs must take immediate action to implement the referral policy required by Section 14602, because the GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

**Q4. Is compliance with the requirements of the Gun-Free Schools Act a condition for the receipt of Federal financial assistance under the ESEA?**

A. Yes, compliance with the requirements of the GFSA is a condition for the receipt of funds made available to the State under the ESEA.

**Q5. Will failure to comply with the requirements of the Gun-Free Schools Act result in the termination or withholding of funds made available to the State under the ESEA?**

A. Failure to comply with the requirements of the GFSA could result in the withholding, under the provisions of the General Education Provisions Act, of funds made available to the State under the ESEA; however, it is anticipated that technical assistance provided to States will result in timely compliance and make withholding of funds unnecessary.

Q6. May a State request a waiver of the requirements of the Gun-Free Schools Act?

A. Yes. The ESEA authorizes the Secretary to waive the requirements of the GFSA if that action will increase the quality of instruction for students or will improve the academic performance of students. However, it is not anticipated that the requirements of the GFSA will be waived except in unusual circumstances.

Q7. Does the Gun-Free Schools Act's one-year expulsion requirement preclude any due process proceedings?

A. No. Students facing expulsion from school are entitled under the U.S. Constitution and most State constitutions to the due process protection of notice and an opportunity to be heard. If, after due process has been accorded, a student is found to have brought a weapon to school, the GFSA requires an expulsion for a period of not less than one year (subject to the case-by-case exception discussed below).

Q8. What does the Gun-Free Schools Act require of States?

A. The GFSA requires that each State receiving Federal funds under the ESEA must, by October 20, 1995: (1) have in effect a State law requiring LEAs to expel from school for a period of not less than one year a student who is determined to have brought a weapon to school; (2) have in effect a State law allowing the LEA's chief administering officer to modify the expulsion requirement on a case-by-case basis; and (3) report to the Secretary on an annual basis concerning information submitted by LEAs to SEAs. SEAs must also ensure that no ESEA funds are made available to an LEA that does not have a referral policy consistent with Section 14602.

#### One-Year Expulsion Requirement

Each State's law must require LEAs to comply with a one-year expulsion requirement; that is, subject to the exception discussed below, any student who brings a weapon to school must be expelled for not less than one year.

#### Case-by-Case Exception

Each State's law must allow the chief administering officer of an LEA to modify the one-year expulsion requirement on a case-by-case basis.

### Annual Reporting

Each State must report annually on LEA compliance with the one-year expulsion requirement, and on expulsions imposed under the State law, including the number of students expelled in each LEA and the types of weapons involved.

#### **Q9. What does the Gun-Free Schools Act require of LEAs?**

- A. The GFSA requires that LEAs (1) comply with the State law requiring the one-year expulsion; (2) provide an assurance of compliance to the SEA; (3) provide descriptive information to the SEA concerning the LEA's expulsions; and (4) adopt a referral policy for students who bring weapons to school.

#### One-Year Expulsion Requirement

LEAs must comply with the State law requiring a one-year expulsion; that is, subject to the case-by-case exception, any student who brings a weapon to school must be expelled for not less than one year.

#### LEA Assurance

An LEA must include in its application to the State educational agency for ESEA assistance an assurance that the LEA is in compliance with the State law requiring the one-year expulsion.

#### Descriptive Report to SEA

An LEA must include in its application for ESEA assistance a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;
- (B) the number of students expelled from the school; and
- (C) the type of weapons concerned.

#### Referral Policy

LEAs must also implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school.



**Q10. When must an LEA implement its referral policy?**

- A. LEAs must take immediate action to implement a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school. The GFSA directs that no ESEA funds shall be made available to an LEA unless that LEA has the required referral policy.

**Q11. When must an LEA submit the required assurance?**

- A. In its first application to the State educational agency for ESEA funds after the date that the State enacts and makes effective the required one-year expulsion legislation, the LEA must include an assurance that the LEA is in compliance with the State law.

**Q12. What is the role of the SEA in determining whether an LEA is in compliance with the Gun-Free Schools Act?**

- A. The GFSA requires States to report to the Secretary on an annual basis concerning LEA compliance. Therefore, before awarding any ESEA funds to an LEA, the SEA must ensure that the LEA has: (1) implemented a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school; and (2) included in its application for ESEA funds the assurance and other information required by the GFSA. SEAs must ensure that the LEA application contains:

(1) an assurance that the LEA is in compliance with the State law requiring the one-year expulsion; and

(2) a description of the circumstances surrounding expulsions imposed under the one-year expulsion requirement, including:

- (A) the name of the school concerned;  
(B) the number of students expelled from the school; and  
(C) the type of weapons concerned.

**Q13. Who is an LEA's "chief administering officer"?**

- A. The term "chief administering officer" is not defined by the GFSA. Each LEA should determine, using its own legal framework, which chief operating officer or authority (e.g., Superintendent, Board, etc.) has the power to modify the expulsion requirement on a case-by-case basis.

Q14. Can any individual or entity other than the LEA's "chief administering officer" modify the one-year expulsion requirement on a case-by-case basis?

A. No. However, the chief administering officer may allow another individual or entity to carry out preliminary information gathering functions, and prepare a recommendation for the chief administering officer.

Q15. Is it permissible for an LEA to use the case-by-case exception to avoid compliance with the one-year expulsion requirement?

A. No, this exception may not be used to avoid overall compliance with the one-year expulsion requirement.

Q16. How is the term "weapon" defined?

A. For the purposes of the GFSA, a "weapon" means a firearm as defined in Section 921 of Title 18 of the United States Code.

According to Section 921, the following are included within the definition:

- any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive
- the frame or receiver of any weapon described above
- any firearm muffler or firearm silencer
- any explosive, incendiary, or poison gas
  - (1) bomb,
  - (2) grenade,
  - (3) rocket having a propellant charge of more than four ounces,
  - (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
  - (5) mine, or
  - (6) similar device
- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter

- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled

According to Section 921, the following are not included in the definition:

- an antique firearm
- a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes
- any device which is neither designed nor redesigned for use as a weapon
- any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device
- surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10

In addition, we have been advised by the Bureau of Alcohol, Tobacco, and Firearms that Class-C common fireworks are not included in the definition of weapon.

**Q17. Does the Gun-Free Schools Act preclude classes such as hunting or military education, or activities such as hunting clubs or rifle clubs, which may involve the handling or use of weapons?**

A. No, the GFSA does not prohibit the presence at school of rifles that the owners intend to use solely for sporting, recreational, or cultural purposes.

**Q18. Are knives considered weapons under the Gun-Free Schools Act?**

A. No, for the purposes of the GFSA, the definition of weapon does not include knives. State legislation or an SEA or LEA may, however, decide to broaden its own definition of weapon to include knives.

Q19. What is meant by the term "expulsion"?

A. The term "expulsion" is not defined by the GFSA; however, at a minimum, expulsion means removal from the student's regular school program at the location where the violation occurred.

Q20. Is a State, SEA, or LEA required to provide alternative educational services to students who have been expelled for bringing a weapon to school?

A. The GFSA neither requires nor prohibits the provision of alternative educational services to students who have been expelled. Other Federal, State, or local laws may, however, require that students receive alternative educational services in certain circumstances.

Q21. What is an "alternative setting" for the provision of educational services to an expelled student?

A. An alternative setting is one that is clearly distinguishable from the student's regular school placement.

Q22. Is Federal funding available to provide alternative educational services?

A. Yes, formula grants awarded under the Safe and Drug-Free Schools and Communities Act may be used for alternative educational services. In addition, other Federal funds may be available for alternative educational services, consistent with each program's statutory and regulatory requirements.

Q23. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

A. No. Compliance with the GFSA may be achieved consistently with the requirements that apply to students with disabilities, as long as discipline of such students is determined on a case-by-case basis in accordance with the IDEA and Section 504. The Department intends to issue separate, more detailed guidance on discipline of students with disabilities, which will include clarification of the implementation of the GFSA consistent with IDEA and Section 504.

Q24. Is it permissible to expel a student for a "school year" rather than a year?

A. No. The statute explicitly states that expulsion shall be for a period of not less than one year.

Q25. Does the expulsion requirement apply only to violations occurring in the school building?

A. No. The one-year expulsion requirement applies to students who bring weapons to any setting that is under the control and supervision of the LEA.



## SB 317

Testimony presented before the House Committee on Education  
by Gerald W. Henderson, Executive Director  
United School Administrators of Kansas  
March 6, 1995

Madam Chairman and Members of the Committee:

United School Administrators of Kansas regrets the circumstances in our society which caused us to have to work last summer with representatives of KASB, KNEA and the legal department of the Kansas State Board of Education to develop model policies for local boards of education designed to deal with the subject of weapons in school settings. But, we have had both school children and school personnel injured and killed in Kansas, so the problem is **not** exclusively one of large urban centers of our country.

The federal legislation which calls for the expulsion for one year of any student who brings a weapon into a school setting, leaves us, we believe, without the flexibility most school principals would prefer in dealing with children. Perhaps the time has come when we must say to all our publics that a weapon at school translates to a year's expulsion for the responsible person, period. I continue to worry about that young person. What will be the response and the responsibility of the rest of the community to having such a youngster out of school?

LEG/SB317

*House Education  
Attachment 3  
3-6-95*



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

Susan Chase Testimony Before  
House Education Committee  
Monday, March 6, 1995

Thank you, Madame Chair. I am Susan Chase and I represent the Kansas National Education Association. I am here in support of SB 317.

It is estimated over 100,000 students carry guns to school each day. Because of this, the Kansas National Education Association believes we need to send a message to students regarding weapons brought into the learning environment. That message is we will not tolerate weapons at school or at any school function.

We understand that this bill comes from federal legislation. We still applaud this committee for beginning to address one of the major issues facing public education, and one KNEA has made a priority.

We urge your support of SB 317. Thank you for listening to our concerns.