

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Ralph Tanner at 9:00 a.m. on February 16, 1999 in Room 313-S of the Capitol.

All members were present except:

Committee staff present:

Ben Barrett, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Renae Jefferies, Revisor of Statutes
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Craig Grant, Kansas NEA
David Aschauner, General Counsel, Kansas NEA
Representative Kathe Lloyd
Norm Wilds, KASB Staff Attorney

Others attending:

Hearings on **HB 2211 - Teachers, hearings upon contract termination or renewal** were opened.

Craig Grant, KNEA appeared before the committee as an opponent of the bill. He believes that this bill is not about quality; it is about control. He stated that passage of this bill would harm the education of students in Kansas. (Attachment 1)

David Schauner, KNEA General Counsel, appeared before the committee as an opponent of the bill. He strongly opposes these changes. They are unneeded, unwise and serve only to embolden school boards to act unfairly and without good cause at a time when boards of education must work collaboratively with teachers on issues that will determine the fate of public education. Teachers must be free to participate in this work without fear of arbitrary dismissal and feels no change is required. (Attachment 2)

Hearings on **HB 2211** were closed.

Hearing on **HB 2341 - Schools, pupils discipline and behavior policy, immune from civil and criminal liability** were opened.

Representative Kathe Lloyd appeared before the committee as a sponsor of the bill. She believes that the people of Kansas have two basic expectations of their public schools. (1) That students be allowed to learn in a safe classroom setting where order and discipline are maintained, and (2) that students learn at the level of their capabilities and achieve accordingly. Teachers have asked for a mechanism which would help them in having clear guidelines of discipline. That the guidelines would allow the teachers to discipline without fear of litigation. (Attachment 3)

Craig Grant, KNEA, appeared before the committee as a proponent of the bill. KNEA believes that if a teacher is following the prescribed discipline policy of a district, that the teacher should not be subject to threats of lawsuits or actual lawsuits. KNEA hope with the passage of the bill, boards of education will pass good policies which are designed to keep our schools safe and that they can administer these policies in a fair and just manner. (Attachment 4)

Norman Wilks, KASB, appeared before the committee to give general comments on the bill. He stated the bill requires student conduct policies that are already in place and are now filed with the Commissioner of Education. In addition, the bill provides a defense and immunity for acts within the scope of authority as already provided by the Kansas Tort Claims Act and K.S.A. 72-8205(d). The concern and support proposed by this bill is already provided by public school districts in Kansas. (Attachment 5)

Kansas Trial Lawyers Association submitted written testimony as opponents of the bill. KTLA strongly opposes "immunity" legislation. If this bill advances the immunity language ought to be deleted from Sections 2 and 3. (Attachment 6)

Dale Dennis, Deputy Commissioner of Education, supplied an update research survey. (Attachment 7)

Hearings on **HB 2341** were closed.

The next meeting is February 17, 1999. The meeting was adjourned at 11:00 a.m.



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

Craig Grant Testimony Before
House Education Committee
Monday, February 15, 1999

Thank you Mr. Chairman. Members of the Committee, I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to visit with the committee about HB 2211.

I have to admit to the committee that I was somewhat surprised last Thursday when I saw that we were going to have a hearing on this bill. Not that I was surprised that KASB could convince the committee to have a hearing—KASB is a powerful lobby with much influence in the legislative halls. What I was surprised at was that KASB would choose to “spend” its political capital on this issue rather than on other bills whose purpose is to truly improve the quality of our schools in Kansas. For I believe that this bill is not about quality; it is about control. I believe that if it could be proven that passage of this bill would harm the education of students in Kansas, the KASB would still be in favor of the legislation. Why? Because certain boards of education in this state do not like to be told that their decision was wrong.

Some of their decisions are wrong. In order for a teacher’s career not to be ruined by unfair or unwarranted actions by administrators and boards, we must have an impartial hearing process which guarantees fairness. HB 2211 indicates that the same Board of Education that earlier made a decision to fire a teacher could then be an impartial tribunal before which a teacher could get a fair hearing. We believe from past experience that this is simply not true. The reason we were able to get the legislation changed in past legislative sessions is that boards proved that they would not reverse themselves in teacher termination matters. The case always seemed to end up in the court system. Frankly, when the case ends up in court, the advantage almost always shifts to the board as many teachers cannot afford to keep fighting the legal system’s delays in order to get reinstated. Many just could not afford the time and money it took to get their due process rights through the courts. The current law was put into place to afford teachers an

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administrative hearing process which was less costly and less time consuming than going to court.

Let's take a look at the current statute. Is the system broken? Are there problems? A logical trip through the numbers might help us analyze this situation. The two sheets of paper I have attached are two different surveys--one done by Dale Dennis and the other done by KASB. These are a few years old; however, I can tell you that the situation has changed little since that time. (Actually our attorneys indicate that fewer cases go to trial and boards win a greater portion of the cases now than a couple of years ago.)

The first survey from Dale Dennis asked districts to indicate how many tenured teachers were nonrenewed or terminated. It continues to ask how many requested a hearing, how many were held, how many decisions favored the teacher or the board, and how many were appealed to the courts. The cumulative total indicates that of the 181 tenured teachers nonrenewed or terminated in the four-year period, 83 hearings were requested and 31 hearings (or 17.1%) were actually held. Only 16 teachers of the 181 terminated (or 8.8%) were reinstated by the hearing officer. Only nine of those cases were appealed to the district court. What I believe this indicated is that in less than five percent of the cases the board was dissatisfied enough to challenge the ruling in court. The percentage of cases in court have been steadily declining since the first year the law was in effect.

The second survey is even more telling. The KASB survey includes both tenured and nontenured teachers. A key line is on the chart on the first page of the survey. It indicates the number of teachers who resign instead of having a nonrenewal. That number has been steadily increasing over the years as more and more teachers are counseled out of a contract rather than being nonrenewed. Local teacher's associations have a good deal to do with that number as colleagues visit with teachers having trouble and encourage them to leave the district. This is an informal peer assistance and review process which goes on in our districts. This committee has introduced a bill to formalize that process in pilot situations in our state. We hope you will have a hearing on HB 2348.

The second page of the survey indicates an important statistic. The survey showed that 192 nontenured teachers were nonrenewed by 81 separate boards in 1996. Of those 192

cases, four hearings (2.1%) were held and the board won three of them. So one case out of 192 (0.5%) ended in a way not to the board's liking. Of the 21 tenured teachers who were nonrenewed by 16 boards in 1996, two hearings (12.5%) were held and the board won both of them.

This is not a one-sided process. The board of education which has good administration and documents deficiencies in the work of a teacher has little to worry about when it decides to nonrenew a teacher. The few cases which members of the legislature have heard about ("the horror stories" from school districts) are not the rule. Actually, if a board was willing to accept the fact that sometimes they make a bad decision based on bad information, there should be no problem with the less than 5% of the cases which seem to cause them problems.

Teacher due process is something near and dear to the hearts of the professionals in the classroom. They are guaranteed a due process procedure which guarantees a fair and impartial hearing of the facts and a "neutral" decision. HB 2211 would remove all these guarantees and send us back to the days of constant court battles. It is not good public policy to change what is working.

Kansas NEA asks that you report HB 2211 unfavorably for passage. Thank you for listening to the concerns of our 24,000 members.

PLEASE RETURN TO: DALL . DENNIS, ASSISTANT COMMISSIONER
 DIVISION OF FISCAL SERVICES AND QUALITY CONTROL
 120 EAST TENTH STREET
 TOPEKA, KANSAS 66612-1182

DUE--SEPTEMBER 7, 1995

SURVEY
 TEACHER DUE PROCESS

1. During each of the following years, how many tenured teachers (teachers with due process rights) were notified by your unified school district that they would be nonrenewed or terminated?

1991-92	<u>55</u>
1992-93	<u>32</u>
1993-94	<u>45</u>
1994-95	<u>49</u>

 RESPONSES TO THE FOLLOWING QUESTIONS SHOULD BE SHOWN IN THE SAME YEAR IN WHICH THE NOTICE WAS GIVEN AND NOT THE YEAR SUBSEQUENT ACTION WAS TAKEN. FOR EXAMPLE, IF A NOTICE WAS GIVEN IN 1991-92 WITH THE HEARING CONDUCTED IN 1992-93 AND AN APPEAL TO THE COURTS IN 1993-94, RESPONSES SHOULD ALL BE RECORDED ON THE 1991-92 LINE FOR THE APPROPRIATE QUESTION.

2. How many due process hearings were requested/held as a result of these nonrenewal/termination notices?

	<u>Requested</u>	<u>Held</u>
1991-92	<u>41</u>	<u>12</u>
1992-93	<u>11</u>	<u>6</u>
1993-94	<u>15</u>	<u>9</u>
1994-95	<u>16</u>	<u>4</u>

3. How many hearing panel/officer recommendations favored the teacher/board of education?

	<u>Teacher</u>	<u>Board of Education</u>
1991-92	<u>7</u>	<u>5</u>
1992-93	<u>2</u>	<u>4</u>
1993-94	<u>4</u>	<u>3</u>
1994-95	<u>3</u>	<u>0</u>

4. How many hearing panel/officer decision(s) were appealed to courts?

	<u>District Court</u>	<u>Appellate Courts</u>
1991-92	<u>5</u>	<u>1</u>
1992-93	<u>1</u>	<u>1</u>
1993-94	<u>2</u>	<u>1</u>
1994-95	<u>1</u>	<u>1</u>

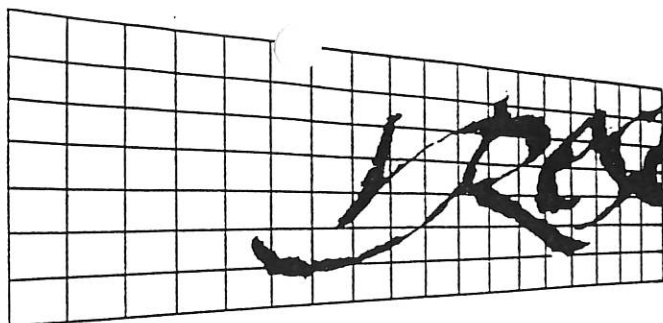
U.S.D. No.

Signature of Chief School Administrator

Date

12-2

1-4



BULLETIN

PUBLISHED BY THE KANSAS ASSOCIATION
OF SCHOOL BOARDS

Due Process

KASB Survey of Teacher Employment Relations

February, 1997

Number 4

1995-96 KASB Survey	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97
Termination	5	7	2	9	7	7	12	6	
Nonrenewal: Nontenured	101	102	109	111	102	104	143	192	
Tenured	14	25	23	28	10	16	22	21	
Resignation instead of non-renewal	147	126	137	139	138	157	184	179	
Requests for Contract Release	356	326	402	344	242	431	293	357	359
Boards with written policy on contract release	216	194	201	200	194	221	199	245	233

KASB annually surveys school districts with questions on the workings of the teacher due process laws; these surveys gather data, not opinions. With consistent questions over a period of time, comparable characteristics of the data may be analyzed, as in the above table. The latest data shows terminations, nonrenewals and resignations which occurred during the 1995-96 school year and requests for release from contracts covering the 1996-97 year.

As the above table indicates, some of the data appears to fluctuate from year-to-year and other items are usually about the same. For some unknown reason, requests for release from signed contracts seems to vary the most.

Teacher Terminations

There were 6 terminations during the 1995-96 school year in 6 separate school districts. A "termination" is defined in our survey instrument as whenever a teacher is "...dismissed, discharged or fired by board action before the end of the contract term." Of these board actions, 2 teachers initially requested a hearing as the law provides they may do, but only one hearing was actually held. Several of the cases where hearings were not requested or were never held may have resulted from negotiated "contract buy outs", done in order to avoid a more time consuming and expensive legal process.

The hearing actually held resulted in a recommendation from the hearing officer that the action of the board of education be sustained. That teacher has appealed the hearing officer's decision to the district court.

Teacher Nonrenewals

The continuing contract law provides that, unless notified otherwise by the board of education before May 1, a teacher's contract is automatically renewed for the following year. Due process rights attach to the process of nonrenewal of a teacher contract, and those rights differ depending upon whether or not the teacher has taught for three years in the district: "tenure" is the term commonly used to describe the degree of protection afforded those teachers who have taught for more than three years.

Nontenured: Our survey shows that 192 nontenured teachers were nonrenewed by 81 separate boards last year. Of these, 106 (55%) were 1st year teachers, 46 (24%) were 2nd year teachers and 40 (21%) were 3rd year teachers. Five of these 192 teachers initially requested a hearing, 4 hearings were held and 3 of those supported the board action.

Tenured: The survey shows that 21 tenured teachers were nonrenewed by 16 separate boards last year. Of these, 13 teachers first requested a hearing but only two hearings were actually held with both affirming the board's actions.

Resignation Instead of Nonrenewal

As a practical matter, resignation of the teacher often happens when he or she is informed by the administration that nonrenewal is a probability. This circumstance is covered by our survey. One-hundred four (104) separate districts reported a total of 179 such resignations: 164 of nontenured teachers and 15 of tenured teachers.

Requests for Release from 1996-97 Contracts

Even though the continuing contract law binds the teacher and the board to employment obligations, each year a number of teachers request release from these contracts for a variety of reasons. This year's survey reveals a total of 359 such requests: 3 were later withdrawn by the teachers; 5 were denied by the board; and, 351 were granted by the board of education.

Of the 351 granted, only 77 included the assessment of liquidated damages, another 5 happened even though no replacement had been found, and 268 occurred when a suitable replacement was found. Of the 5 denied, two teachers returned to the district and three left anyway. None of those three cases were reported by the boards of education to the State Board, seeking to have certification removed.

Written Policy on Contract Release

Written policy on the subject of contract release was reported by 233 boards. Of these, 23% reported that this policy is also included in the negotiated agreement, and an additional 9% reported that it is included in the teachers' written contract document.

This bulletin is being sent to all board members, superintendents, clerks and board attorneys. For extra copies, or if you have questions, contact the KASB Research Department at 1-800-432-2471.



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

TO: House Education Committee

FROM: David Schauner, Kansas-NEA General Counsel

DATE: February 15, 1999

RE: HB 2211

The Committee has been asked to review and approve substantial amendments to KSA 72-5436 et seq, commonly referred to as the Teacher Due Process Act. The proposed amendments would effectively remove any semblance of "fair play" from the current statute and return the entire decision-making process of non-renewing or terminating a teacher to the Board of Education.

I strongly oppose these changes. They are unneeded, unwise and serve only to embolden school boards to act unfairly and without good cause at a time when boards of education must work collaboratively with teachers on issues that will determine the fate of public education. Teachers must be free to participate in this work without fear of arbitrary dismissal.

The abolition of an independent hearing officer strikes at the heart of the fair process to which all teachers are entitled as public employees. If teachers are to be truly free of unjust dismissal of whatever kind—political, religious, economic or racial, the current "independent hearing officer system" must be retained.

The changes proposed in HB 2211 give the board authority to fire any teacher provided there is any reason submitted for which substantial evidence is produced. Substantial in this context means only some evidence. Such a meager evidentiary showing is dangerous and would enable—surely promote—the unjust dismissals warned

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against by the Kansas Supreme Court in Million v. Board of Education 181 Kan. 230 (1957).

“ If it is true that power corrupts and absolute power corrupts absolutely, then this bill surely corrupts the board’s power absolutely to terminate teachers with only minimal due process and even less evidence.”

The current system is fair to teachers and is also positive for boards of education. Under this procedure they are sufficiently immune from civil lawsuits alleging frivolous dismissal since the final decision to terminate is made by an independent third (3rd) party. This process shields the boards from expensive, protracted litigation and allows them to carry out the fundamental purposes set aside for them by the Kansas Constitution. The Kansas Supreme Court in BOE 380 v. McMillen 252 Kan. 451 (1993) said, “.....hiring and firing of teachers is not a right conferred directly upon the local school board by Section 5 of Article 6 of the Kansas Constitution, but to the contrary is statutory.”

This challenge to the current statutory procedure for firing teachers does not emanate from the Kansas Constitution, but from the apparent belief that elected boards know best. Historically, boards’ of education decisions in these matters have been biased. They lost the unilateral authority to fire teachers in 1984 when the Due Process Statute gave that power to a unanimously voting, non-board, 3 person committee. Despite this change, boards of education continued to reject the majority of non-unanimous decisions. In 1991 all committee decisions became binding on both parties.

The current “hearing officer system” first adopted in 1992 is not broken. Please refer to the latest Kansas State Department of Education Survey that is attached to the

testimony of Craig Grant. Teachers, students, parents and boards of education are well served by the current system. No change is required.

I RESPECTFULLY REQUEST THIS COMMITTEE TO REJECT HB 2211.

STATE OF KANSAS

KATHE LLOYD
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Email: lloydsk@kansas.net



TOPEKA
HOUSE OF
REPRESENTATIVES

REPRESENTATIVE, SIXTY-FOURTH DISTRICT
CLAY, DICKINSON, GEARY,
RILEY COUNTIES

STATE CAPITOL
ROOM 182-W
TOPEKA 66614-1504
(785) 296-7637

COMMITTEE
EDUCATION
JUDICIARY
EDUCATION AND LEGISLATIVE BUDGET

To: Chairman Tanner and members of House Education Committee

Subject HB 2341

It is an honor to stand before this committee in support of HB 2341 which addresses a very important issue of school discipline.

Children and youth are a very big part of my life and I care deeply that each and every child in the state of Kansas have an equal opportunity to succeed. I believe that the people of Kansas have two basic expectations of their public schools, (1) that students be allowed to learn in a safe classroom setting where order and discipline are maintained; and (2) that students learn at the level of their capabilities and achieve accordingly.

Unfortunately the classroom has become a place of frustration for students and teachers alike. Teachers that entered the profession to change young peoples lives with knowledge are now telling me they spend the majority of their time trying to discipline a few students that are disruptive while the majority of the students are short changed in their learning.

Teachers have asked for a mechanism which would help them in having clear guidelines of discipline. Guidelines that would allow the teachers to discipline without fear of litigation.

I believe that HB2341 starts this process.

The State Board of Education would be directed to set parameters of discipline which would be acceptable in the State of Kansas. Each local school board would then set their discipline plan within those parameters. By following the local school boards policy teachers are immune from civil and criminal liability. Teachers, administrators and school boards would have a recourse, without fear, from persons threatening or assaulting a teacher. The local school districts would provide legal support in any instance where their plan of discipline is challenged.

The rights of the majority in the classroom need to be protected. I would urge you to report this bill favorably and I would be pleased to respond to your questions.

Respectfully submitted

Kathe Lloyd



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

Craig Grant Testimony Before
House Education Committee
Tuesday, February 16, 1999

Thank you Mr. Chairman. I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to testify in favor of HB 2341.

Over the past number of years, we have had an increasing number of civil and criminal suits threatened against teachers for trying to keep discipline in their classrooms or in the school buildings. We do not know how many there have been exactly; however, our legal staff believe that about 10-15 in the past 18 months have been reported to us and our staff was asked to assist. This certainly does not include any other cases not reported to our Topeka office. In virtually all of these cases, the teacher member either had no suit eventually filed or won dismissal of the case.

Kansas NEA believes that if a teacher is following the prescribed discipline policy of a district, that teacher should not be subject to threats of lawsuits or actual lawsuits. It is not a comforting experience for a teacher to get to visit a district attorney or go to court to answer a claim of battery or other suits when they are doing their job. We hope if this bill passes, boards of education will pass good policies which are designed to keep our schools safe and that they then administer these policies in a fair and just manner. Our schools and the vast majority of our students who are in school to learn will be safer. We need schools to be safe places to learn and teach.

We would urge that you pass HB 2341 favorably for passage. Thank you for listening to our concerns.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on House Bill No. 2341
Before The House Committee on Education

By Norman D. Wilks
Kansas Association of School Boards
February 16, 1999

Mr. Chairman and Members of the Committee:

On behalf of the members of the Kansas Association of School Boards, we wish to call your attention to several issues regarding H.B. 2341.

Boards of Education now adopt policies on student discipline and behavior. Such policies are also required by K.A.R. 91-15-1. The regulation requires Boards to adopt policies governing student conduct and file the policy with the Commissioner of Education.

Boards of Education now provide a defense and protect employers from damage awards when the conduct of the employee is within the scope of their employment. The benefit is mandated by the Kansas Tort Claims Act. K.S.A. 75-6101 *et. seq.* In addition, Boards have the ability to purchase liability insurance to protect the district and its employees.

Also, Boards currently have the ability to provide legal counsel at district expense to any member of the Board, officer or employee that is sued in situations relating to and arising out of the performance of their employment. K.S.A. 72-8205(d).

The current School Safety and Security Act requires an immediate report be made to law enforcement for knowledge of a felony or misdemeanor and other circumstances. Knowledge of a threat or assault of a teacher will require a report if committed at school, on school property or at a school activity.

In summary, H.B. 2341 requires student conduct policies that are already in place and are now filed with the Commissioner of Education. In addition, the bill provides a defense and immunity for acts within the scope of authority as already provided by the Kansas Tort Claims Act and K.S.A. 72-8205(d). The concern and support proposed by this bill is already provided by public school districts in Kansas.

Kansas House Committee on Education House Bill 2341

The Kansas Trial Lawyers Association (KTLA) opposes HB 2341 so long as the bill contains the "immunity" language in Sections 2 and 3. "Immunity" legislation insulates wrongdoers from accountability for their wrongful acts; carries a high potential to harm Kansas families; and represents unsound public policy.

"Immunity" legislation is not less insidious when a governmental entity like a school district is granted immunity. When these laws excuse wrongful behavior they put all Kansans at risk and sacrifice safety.

Every school district certainly has some enrolled children who are discipline challenges. School boards, administrators and teachers need to work cooperatively to develop and implement effective discipline strategies to deal with these children.

On the other hand, it is essential to determine if a school measure protects the interests of children. There is always the potential that an overzealous or misguided school official or employee may inappropriately harm a child. No legitimate public or social purpose is served by denying such a child the opportunity to seek redress for the harm inflicted.

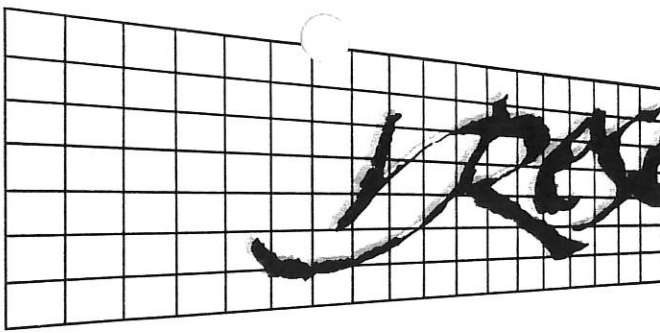
Section 18 of the Kansas Bill of Rights is a fundamental constitutional guarantee of personal freedom and provides that:

All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law, and justice administered without delay.
(Emphasis added)

The common law's insistence on accountability acts as powerful deterrent against wrongful conduct, promotes respect for the law and encourages responsible conduct. The mindset that demands immunity before acting responsibly is simply flawed. Every time immunity is conferred it undermines and erodes the vital force of Section 18 of the Kansas Bill of Rights.

The liability of governmental entities including school districts is governed by the Kansas Tort Claims Act (KTCA) (K.S.A. 75-6101 et seq.) which became effective July 1, 1979. The KTCA swept away the broad tort immunity previously extended to governmental entities and replaced it with principles that made liability for wrongful conduct the rule and governmental immunity the exception. The KTCA contains certain exceptions to liability enumerated in 75-6104 and there are more than sufficient "exceptions" to enable a governmental entity to responsibly conduct its business. There is no compelling reason to dilute the mandate of the KTCA in the context of HB 2341.

Again, KTLA strongly opposes "immunity" legislation. If this bill advances the immunity language ought to be deleted from Sections 2 and 3.



BULLETIN

PUBLISHED BY THE KANSAS ASSOCIATION OF SCHOOL BOARDS

KASB Survey of Teacher Employment Relations

November, 1998

Research Bulletin No. 2

1997-98 KASB Survey	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99
Termination	2	9	7	7	12	6	6	8	
Nonrenewal: Nontenured	109	111	102	104	143	192	158	146	
Tenured	23	28	10	16	22	21	36	13	
Resignation instead of non-renewal	137	139	138	157	184	179	171	175	
Requests for Contract Release	402	344	242	431	293	357	359	406	336

KASB annually surveys school districts with questions on the workings of the teacher due process laws; these surveys gather data, not opinions. With consistent questions over a period of time, comparable characteristics of the data may be analyzed, as in the above table. The latest data shows terminations, nonrenewals and resignations which occurred during the 1997-98 school year and requests for release from contracts covering the 1998-99 year.

As the above table indicates, some of the data appears to fluctuate from year-to-year and other items are usually about the same. For some unknown reason, requests for release from signed contracts seems to vary the most.

Teacher Terminations

There were 8 terminations during the 1997-98 school year in 7 separate school districts. A "termination" is defined in our survey instrument as whenever a teacher is "...dismissed, discharged or fired by board action before the end of the contract term." Of these board actions, 2 teachers initially requested a hearing as the law provides they may do, but only one hearing was eventually held. Several of the cases where hearings were not requested may have resulted from negotiated "contract buy outs", done in order to avoid a more time consuming and expensive legal process. In the hearing held, the officer found for the board of education, and the teacher has appealed to the courts.

Teacher Nonrenewals

The continuing contract law provides that, unless notified otherwise by the board of education before May 1, a teacher's contract is automatically renewed for the following year. Due process rights attach to the process of nonrenewal of a teacher contract, and those rights differ depending upon whether or not the teacher has taught for three years in the district: "tenure" is the term commonly used to describe the degree of protection afforded those teachers who have taught for more than three years.

Nontenured: Our survey shows that 146 nontenured teachers were nonrenewed by 60 separate boards last year. Of these, 87 (60%) were 1st year teachers, 34 (23%) were 2nd year teachers and 25 (17%)

vere 3rd year teachers. No hearings were held on any of these board actions. Usually, one board reports a significant number of nonrenewals in a special program for which funds are uncertain. That was the case this year as 44 of the 146 nonrenewals came from that district.

Tenured: The survey shows that 13 tenured teachers were nonrenewed by 12 separate boards last year. This is the lowest reported number of tenured teachers nonrenewed since 1992. Of these, 8 teachers first requested a hearing but only one hearing was ultimately held. The hearing officer upheld the board's decision.

Resignation Instead of Nonrenewal

As a practical matter, resignation of the teacher often happens when he or she is informed by the administration that nonrenewal is a probability. This circumstance is covered by our survey. Ninety-four (94) separate districts reported a total of 175 such resignations; 157 of nontenured teachers and 18 of tenured teachers.

Requests for Release from 1998-99 Contracts

Even though the continuing contract law binds the teacher and the board to employment obligations, each year a number of teachers request release from these contracts for a variety of reasons. This year's survey reveals a total of 336 such requests; a low number compared to most recent years. Of the total of 336 requests; 3 were subsequently withdrawn by the teacher, 8 were denied by the board; and, 325 were granted.

Of the 325 granted, only 86 included the assessment of liquidated damages, another 10 happened even though no replacement had been found, and 229 occurred when a suitable replacement was found. Of the 8 denied, two teachers returned to the district and six left anyway. Four of those six cases were reported by the board of education to the State Board, seeking to have certification removed.

Non-renewals, Terminations, and Finding New Jobs

This year, for only the second time, we asked districts to report the number of teachers who found new jobs in other districts, having been non-renewed, terminated, resigned from or released from their contract in the original district. Of the 336 teachers requesting contract release, 133 (40%) were known by the releasing district to be headed for other employment in a Kansas USD.

Of the 329 terminations, non-renewals and resignations reported, 175 (53%) were known by their districts to have found employment in another Kansas USD.

This bulletin is being sent to all board members, superintendents, clerks and board attorneys. For extra copies, or if you have questions, contact the KASB Research Department at 1-800-432-2471.

**Kansas Association of
School Boards
1420 SW Arrowhead Road
Topeka, Kansas 66604**

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