

Approved: 4/6/00  
Date

MINUTES OF THE HOUSE COMMITTEE ON EDUCATION.

The meeting was called to order by Chairperson Representative Ralph Tanner at 9:00 a.m. on March 9, 2000 in Room 313-S of the Capitol.

All members were present except: A quorum was present

Committee staff present: Avis Swartzman, Revisor of Statutes  
Ben Barrett, Legislative Research Department  
Carolyn Rampey, Legislative Research Department  
Renae Jefferies, Revisor of Statutes  
Linda Taylor, Committee Secretary

Conferees appearing before the committee: Senator John Vratil  
Norman Wilks, KASB  
Dr. Gary George, Olathe

Others attending: See Attached List

Hearings on **SB 433 - School district, suspension or expulsion of pupils from school** were opened.

Senator John Vratil, sponsor of the bill, appeared before the committee as a proponent of **SB 433**.  
(Attachment 1) He gave a brief explanation of the bill and the amendments added by the Senate.

Norman Wilks, attorney for the KASB, appeared before the committee as a proponent of the bill.  
(Attachment 2) He urged the committee to consider the bill favorably.

Dr. Gary George appeared before the committee as a proponent of the bill. He stated that this bill would give schools an important tool for providing a safe educational environment. (ATTACHMENT 3)

Hearings on **SB 433** were closed.

The next meeting is scheduled for March 10, 2000.

The meeting was adjourned at 10:40.

**HOUSE EDUCATION COMMITTEE**

**GUEST LIST**

**DATE: March 9, 2000**

NAME	REPRESENTING
Janis McMillen	League of Women Voters of Kansas
Kenny Tyler	West Elk
Jimmy Washburne	West Elk Highschool
Michael Adams	West Elk Jr./Sr. High School
Tony Corbett	Elk Valley high school
Sinda Adams	James R. Buraw (B) County Ex. U.S.
Mary Shuman	Chautauque + Elk County Soc. Coop
Jacquie Dales	SQE
Denise Aye	USA / KCK
Bob Vancrow	Blue Valley ASD 229
Diane Gjerstad	Wichita Public Schools
Tacey Farmer	KASB
Bill Bledy	Schools for Fair Funding
Cadi Smith	University of Kansas

JOHN VRATIL  
 SENATOR, ELEVENTH DISTRICT  
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COMMITTEE ASSIGNMENTS  
 VICE CHAIRMAN: JUDICIARY  
 MEMBER: ENERGY AND NATURAL RESOURCES  
 FEDERAL AND STATE AFFAIRS  
 SPECIAL CLAIMS AGAINST THE STATE  
 STATE/TRIBAL RELATIONS

TOPEKA

SENATE CHAMBER  
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**TESTIMONY ON SENATE BILL 433  
 TO THE HOUSE EDUCATION COMMITTEE  
 Senator John Vratil**

Senate Bill 433 relates to suspension or expulsion of students from school. It clarifies when a short-term suspension may be imposed for up to ten school days and expands the types of people who may serve on a suspension or expulsion committee. The purpose of Senate Bill 433, is to modify language concerning short-term suspension which is clearly inappropriate. An additional purpose is to allow lay persons to serve on a suspension and expulsion committee.

**STUDENT SHORT-TERM SUSPENSION**

In 1999, the Legislature amended the suspension and expulsion statute to authorize a short-term suspension for up to ten school days under certain circumstances. One of those circumstances was when a student "carries" a weapon to school. The word "carries" was borrowed from a similar federal statute. Senate Bill 433 strikes the word "carries" and substitutes the phrase "is in possession of" a weapon. Under the amended language, a student could be suspended for up to ten school days if the student was in possession of a weapon at school. This amendment is intended to avoid the absurd situation which could result under current law whereby a student who carries a weapon to school could be suspended for up to ten days, but a student who is in possession of a weapon at school could only be suspended for five days. The proposed amendment uses the same phraseology, "is in possession of," as is used in several other state statutes dealing with weapons and suspension from school.

**SUSPENSION AND EXPULSION COMMITTEE**

Current law restricts the composition of a suspension or expulsion committee to "certificated" employees authorized by the board of education. That statute was adopted in 1994 or 1995. It has the effect of limiting the composition of a suspension or expulsion committee only to licensed teachers and/or administrators. In other words, most of us in this room are prohibited by statute from serving on a student suspension or expulsion committee. The purpose of this amendment is to expand the types of people who a board of education might select to serve on a suspension and expulsion committee.

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We do not limit the types of people who can serve on juries only to those who have had training in the law. I see no valid reason to limit the types of people who can serve on a suspension or expulsion committee only to licensed professional educators. The general public has an interest in student suspension and expulsion. Members of the general public should be permitted to serve on a suspension and expulsion committee if they are selected by the board of education. My proposed amendment makes no change to current law which authorizes a board of education to appoint members of a suspension and expulsion committee.

### **CONCLUSION**

In conclusion, I urge you to favorably consider Senate Bill 433 and advance it for consideration by the Senate.

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
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TO: House Committee on Education  
FROM: Norman Wilks, Attorney  
DATE: March 9, 2000  
  
**RE: Testimony on S.B. 433**

Mr. Chairman, members of the committee, thank you for the opportunity to testify, on behalf of our members, in favor of changes to the pupil suspension and expulsion act which will give boards of education the additional flexibility they need in responding to student misconduct.

Senate Bill 433 extends the permissible length of a short-term suspension to 10 days for any behavior, a position our association has long supported. Last year, as part of the special education legislation, subsection (a)(2) was added to the pupil suspension and expulsion act to ensure schools would have adequate short term suspension time to complete a manifestation determination and other necessary procedures under special education law before proposing a long term suspension or expulsion. If this committee agrees that any short term suspension can be for up to 10 days, the language currently contained in subsection (a)(2) and (3) is unnecessary and should be deleted. However, if this committee does not agree with the Senate amendment which would allow all short term suspensions to be up to 10 days, the language adopted by the Senate in (a)(2) and (3) should remain in the bill to ensure schools have adequate time to meet their special education obligations.

We support the provisions of SB 433 that would allow persons other than certificated employees to conduct formal suspension or expulsion hearings. This change will give boards the

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necessary flexibility to appoint hearing officers who understand due process requirements and feel comfortable with their duties under the pupil suspension and expulsion act.

Finally, we would ask you to consider amending SB 433 to include a provision which would repeal or amend K.S.A. 72-89c02. That law requires the chief administrative officer of a school report certain suspensions or expulsions of pupils to the division of vehicles of the department of revenue. The division of vehicles must then suspend the pupil's driver's license.

The fact a pupil has been suspended or expelled is information contained in a student record, subject to the protections of the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232g. Under that law, schools cannot release personally identifiable information contained in a student record without the consent of the student's parent, if the student is under 18, or the student himself, if the student is 18 or older. While there are some exceptions to the consent requirement, the type of reporting required by K.S.A. 72-89c02 does not fall within any of the exceptions. Therefore, unless parents consent to the release of this information, the school cannot report this information to the division of vehicles without violating the student's rights under federal law, opening up the potential for a lawsuit under 42 U.S.C. §1983. We ask that you either repeal this law, or amend it to reflect the constraints imposed by federal law.

## **Kansas' Weapon Free Schools Act:**

### **New State Legislative Provisions in Conflict with Federal Law**

Kansas' Weapon Free Schools Act provides for expulsion or suspension of students found possessing weapons or drugs. The 1999 Kansas legislature, in addition to revising the definition of "weapon" under the act, created a new provision in Senate Bill 38 that imposes on schools the duty to report certain types of student expulsions or suspensions to the division of vehicles. According to the new law, the chief administrative officer of a school must give notice of any pupil 13 or older expelled or long term suspended for possession of weapons, drugs or exhibiting behavior substantially likely to injure others to the division of motor vehicles. The notice, according to the statute, is to provide the pupil's name, address, date of birth, driver's license number, if available, and the reason(s) for the expulsion or suspension. Upon receiving the notification, the division of vehicles is required to suspend the pupil's driver's license or privilege for one year.

There is, however, a problem with enforcement of the new law in section 2 of Kansas Senate Bill 38. School administrators abiding by the requirements of Senate Bill 38 would stand to violate the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99 (FERPA). FERPA is federal legislation that sets out provisions and requirements intended to protect the privacy interests of students and parents. Specifically, FERPA requires consent from the parent or eligible student before an educational agency discloses personally identifiable information about the student. Personally identifiable information includes, but is not limited to the student's name, the name(s) of the student's

parent(s), the address of the student or student's family, a personal identifier such as the student's social security number, or a listing of personal characteristics that would make the student easy to identify--some of the same information required to be released by the Kansas legislation.

Although FERPA does not require prior consent to disclose information in certain instances under subpart A, section 99.31 of FERPA, Kansas' requirement to report to the division of vehicles does not fit within any of these 13 exceptions allowing disclosure without parental consent. Section 99.31(a)(5)(i)(B) provides for disclosure to state and local officials, without prior consent, when a state statute adopted after November 19, 1974 authorizes such action. However, this requirement is limited by section 99.38 to include only those disclosures that concern the *juvenile justice system* and the system's ability to effectively serve the student whose records are released.

Strictly construing the language contained in FERPA, KASB attorneys find no provision allowing release of the types of information K.S.A. 72-89c01 requires released without parental consent, nor does FERPA create any exception allowing disclosure to the division of vehicles without parental consent.



**Olathe School District**  
**Testimony on Senate Bill 433**  
**March 9, 2000**

**Mr. Chairman and members of the committee, thank you for permitting us to address you on this important issue.**

**As you know, the primary focus of Senate Bill 433 is to increase the period of short-term suspension from five to ten days. Currently, a short-term suspension is limited to five days unless weapons, drugs or major violence is involved. This bill would give school administrators one additional tool to create a safe and secure school environment. Issues of theft, vandalism, repeated misbehavior; etc. would then be subject to a ten-day suspension.**

**In September 1999, Phi Delta Kappa/Gallup Poll asked groups about desired changes to improve public education. The answers were varied but 'discipline/more control/stricter rules' was at the top or near top for all groups identified. In a second question, when parents were asked about the biggest problems with public schools, lack of discipline and the need for more control topped the list.**

**The current five-day rule makes it very difficult for all parties to be well prepared for hearings. This period allows little flexibility**

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**for mail delays and arranging and holding the hearing. It is even more difficult if legal counsel is involved for the family or the school district.**

**The added five days may help reduce the number of long-term suspensions. Currently, if an administrator wants to suspend a student longer than five days, a hearing is required. This often results in a suspension through the semester. A ten-day suspension may be long enough particularly if coupled with interventions such as counseling.**

**In addition to lengthening the maximum short-term suspension, this bill does several other things:**

- It changes the word “carries” to “in possession of” a weapon.**
- It clarifies who may appeal the suspension when the child is a minor or over 18.**
- It expands the number of people that the board can consider for conducting a suspension and expulsion hearing.**

**In summary, Senate Bill 433 would allow school districts and families a more reasonable period to deal with short-term suspensions. It also provides minor students parental support in the appeal process. It would clarify some language in the area of carrying a weapon and it would allow the board to have an expanded group of people to consider for hearing officers.**

**As school districts strive to provide a safe environment for their students and staff, we ask you to consider the changes provided by Senate Bill 433 and give school districts this additional help.**

**Thank you.**