

Approved: April 7, 2000

Date



MINUTES OF THE HOUSE KANSAS 2000 COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:30 p.m. on March 13, 2000 in Room 526-S of the Capitol.

All members were present except: Representative Tim Carmody - excused
Representative Susan Wagle - excused

Committee staff present: Ben Barrett, Legislative Research Department
Leah Robinson, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Jim Wilson, Revisor of Statutes
Janet Mosser, Committee Secretary

Conferees appearing before the committee:
Brilla Scott, Executive Director, United School Administrators
Mark Tallman, Kansas Association of School Boards
Craig Grant, Kansas National Education Association

Others attending: See attached list.

Minutes for January 27 and February 1, 2, 3, 8, 9, and 10 were distributed for committee review prior to discussion and approval later in the week.

Chairperson Wilk opened the hearing on **SB 328 - School districts, career teacher salary plans.**

The fiscal note was distributed.

Ben Barrett, Legislative Research Department, briefed the committee on the contents of the bill.

Brilla Scott, Executive Director, United School Administrators, proponent, was recognized to address the committee (Attachment 1).

Mark Tallman, Kansas Association of School Boards, proponent, was recognized to address the committee (Attachment 2).

Craig Grant, Kansas National Education Association, opponent, was recognized to address the committee (Attachment 3) (Attachment 4) (Attachment 5).

Questions and discussion followed testimony. Ben Barrett, Legislative Research Department, and Avis Swartzman, Revisor of Statutes, assisted in answering questions.

Chairperson Wilk closed the hearing on **SB 328.**

Chairperson Wilk adjourned the meeting at 2:55 p.m.

The next meeting is scheduled for March 14, 2000.

KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 3-13-00

NAME	TITLE	REPRESENTING
Craig Grant		HNFA
S. P. SALAZAR	Firefighter	
Paul Winchell Jr		
Charlotte Foster	Retired ^{Wichita} Public Schools	
Mark Tallman	Assistant Executive Director	KASB
Karen Watney	Staff	DOA/DPS
Brilla Scott	Exec Dir	USA
Tom Jerome	Principal	KAESP
PKay Duncan	Exec Dir	KAESP
Karen Butwiler		SRS
Gene Neely		KNEA
Steve Pearson		Smyth & Associates

Brilla Highfill Scott
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Professional Development
Coordinator



Kansas Association of
Elementary
School Principals
(KAESP)

Kansas Association of
Middle School
Administrators
(KAMSA)

Kansas Association of
School Administrators
(KASA)

Kansas Association of
School Business
Officials
(KASBO)

Kansas Association for
Supervision and
Curriculum Development
(KASCD)

Kansas Association of
Special Education
Administrators
(KASEA)

Kansas Association of
Secondary School
Principals
(KASSP)

Kansas Council of
Vocational
Administrators
(KCVA)

Kansas School
Public Relations
Association
(KanSPRA)

SB 328: Career Teacher Salary Plans

Testimony presented to the
Kansas 2000 Select Committee

by

Brilla Highfill Scott, Executive Director
United School Administrators of Kansas

March 13, 2000

Mister Chairman and Members of the Committee:

United School Administrators of Kansas is supportive of the Career Teacher Salary Plan which is supplemental to a district's regular salary plan. This voluntary plan would allow a teacher to choose from either the usual district salary schedule or the enhanced career salary plan. A career teacher could qualify for a multi-year contract of up to three years under this new provision.

Our association views this career plan as a way for school districts to exercise local control in rewarding exemplary teachers for the outstanding work they are doing. School districts would be in a better position to compete with business and industry in retaining teachers in such fields as mathematics, science and technology.

With its enhanced compensation, this plan has the potential for encouraging more young adults to enter the field of education.

You will undoubtedly hear from the opposition today that teachers will be selling their rights. It is true that a teacher who participates in this plan will have more limited employment protection procedures in the event a school board decides not to renew the teacher's contract. It is also true that the teacher would be excluded from provisions of the continuing contract and professional negotiation laws.

In other words, a teacher could choose this career teacher plan which mirrors what employees in the private sector respond to on a daily basis. This is the decision that Kansas administrators consciously make when they decide to leave the title, teacher, and become an administrator or a teacher leader.

When I became an administrator, I retained my constitutional rights to due process, and I entered a professional world where my retention was based on my merits as a leader. The Career Teacher Plan would allow a career teacher the same options.

Again, I would like to emphasize that this is a voluntary plan. A teacher could choose to remain on the standard salary schedule with a one-year continuing contract . . . or select the proposed career plan with its enhanced salary and three-year contract.

United School Administrators looks favorably on a bill that provides choices for the teachers of Kansas and local boards of education.

(c:legis:sb328ks2000select)



TO: House Kansas 2000 Select Committee
FROM: Mark Tallman, Assistant Executive Director for Advocacy
DATE: March 13, 2000

RE: **Testimony on S.B. 328**

Summary:

S.B. 328 would establish a new designation of "Career Teacher." It would allow boards to adopt a career teacher salary plan if they chose. Participation in such plans would be voluntary on the board of teachers. If approved by the commission of education, a district plan would qualify the district for additional weighting under the school finance act, currently equal to about \$1,500 per teacher. Such teachers would receive a three year contract and would be exempted from the professional negotiations act and the due process (or teacher tenure) statutes.

Mr. Chairman, Members of the Committee:

KASB appears today in support of S.B. 328 because we believe it could be one component in addressing a critical need in education: the enhancement of professional standards and accountability.

For the past several years, KASB has had the following Legislative Priority Statement:

Professional Accountability. Certification, evaluation and tenure systems should be strengthened by reforms that reflect actual performance.

State oversight of professional standards and discipline should be strengthened. Local boards should be able to determine evaluation criteria and procedures, and to remove employees for reasons related to the board's obligation to maintain an efficient school system and improve student performance.

We are not alone in seeking changes in this area. In 1996, the National Commission on Teaching and America's Future issued a report entitled "What Matters Most: Teaching for America's Future." This report led to the creation of a Kansas education policy board. Most members of this board are teachers, administrators, and representatives of teacher organizations and teacher training institutions. Although KASB does not agree with all of the recommendations of this group, several of these recommendations are consistent with KASB's policy statement.

Specifically, note NCTAF Recommendation 4 on the second page of the attached document: “Encourage and reward teacher knowledge and skill.” The first state recommendation calls for the development of a “career continuum” for teachers and refers to “components that merit additional compensation.” S.B. 328 is certainly one way to accomplish this.

The third recommendation says simply “Remove teachers who do not meet standards.” We would ask the policy board: what standards? The Kansas teacher due process law does not include any standards for moving tenured teachers. Under that same law, due process hearing officers are not required to following standards developed by local boards. The original NCTAF recommendation was worded even more bluntly: “Remove incompetent teachers.” Who could argue with that? Well, even incompetence is not a stated ground for removing tenured teachers in Kansas.

Members of the committee, the teaching profession should be strengthened. This should and will benefit that vast majority of teachers of who are dedicated, competent professionals, and more importantly, it will benefit the students of Kansas. But it will not happen until we address the current compensation system and tenure law, which are determined by the Legislature. KASB has proposed legislation in this area every year since 1993. You have taken no action.

S.B. 328 is another way to begin to address this problem. It is not the entire solution, but it is a start. It would do the following:

- It would allow teachers an opportunity to advance to a higher level of compensation and responsibility with the same rights as administrations without having to leave teaching.
- It would allow school boards to offer higher compensation to educators who agree to be evaluated on their own performance.
- It recognizes that with higher compensation and professional there is often a trade-off in job security. It also recognizes that less job security justifies additional compensation.
- While career teachers would not have the expensive and time-consuming tenure protections that regular teachers now have, they would receive three-year contracts instead of annual contracts.
- On an entirely voluntary basis, this bill would also the state to begin to study the impact of changes in tenure, merit pay, differential compensation and different employment relationships in public education.

Let’s also be very clear about what the bill does **not** do:

- It does not take away teachers’ rights, because participation in the plan is voluntary on the part of the teacher. If that is the case, then the legislature has already taken away teacher’s rights when teachers become administrators, or take a job in another district, or take a job in the private sector. In each case, teachers willingly make a career move that does not provide the same level of protection.

Thank you for your consideration.



Craig Grant Testimony Before
Kansas 2000 Select Committee
Monday, March 13, 2000

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to visit with the committee about SB 328.

Alternative pay plans for teachers have become more and more attractive to both school boards and teachers' associations. Kansas NEA has been accused of opposing merit pay schemes in the past. What the association has been opposed to are totally subjective plans that rely on the evaluations of inadequately prepared administrators to decide how to compensate teachers. "Politics" should not enter the picture as it does in too many school districts' decisions about personnel. What KNEA has and currently does promote is a compensation system that rewards teachers for exceptional knowledge and/or skills.

Some Kansas school districts have already begun to work on such policies and are working collaboratively with their teachers to bring about a policy acceptable to both parties. Kansas NEA devoted a major part of our latest *ISSUES* to alternative pay plans. I have enclosed a copy of that document. We have promoted the work of Charlotte Danielson and Allen Odden as they examine programs that reward teachers for exceptional knowledge and skills as well as rewarding teachers for school-based performance. One of our members, Harry McDonald, is quoted in the article saying "For all the years that we have clung to the idea that education and experience are the only justifiable criteria for differentiating pay, we have probably done ourselves and our students a disservice."

As we are changing our approach to teacher compensation, we have not changed our position that all teachers must be guaranteed due process rights. The overwhelming problem in SB 328 is that, in order to qualify for career teacher status, a teacher must sell his or her due process rights away. According to the bill, an excellent teacher is not one who contributes to student learning or improvement. SB 328 would have us believe that an excellent teacher is one who is willing to set aside his or her rights. My colleague, Mark Desetti, describes this as the same as in the musical, *Damn Yankees*, in which "Shoeless Joe" sells his soul to the devil for a chance to play

Kansas 2000 Select Committee
Meeting Date 3-13-00
Attachment 3

professional baseball. SB 328 asks teachers to sell their rights for the chance to get about \$1500. (.4 X 3820 = \$1528)

Proponents talk about innovation and “thinking outside the box.” How can we expect a teacher to take a chance or experiment with new innovations if that teacher has no due process rights? When some would pay and/or retain teachers based on one high-stakes test, how can we expect a teacher to be creative when the exercise of that creativity might sometimes fail to produce?

True school reform will happen only when administrators, teachers, board members, and parents work toward continuous improvement of our educational system. We have started down that path with achievement of our pupils in Kansas continuing to improve (note our ACT, SAT, NAEP, and state assessment scores). There is a group in Kansas dedicated to make Kansas public schools the best in the nation. The Kansas Commission of Teaching and America’s Future (KCTAF) was formed three years ago from individuals from: Kansas NEA, Kansas private and public institutions of higher education, Kansas community colleges, the State Board of Regents, the State Board of Education, the KCCI, and administrators from a number of administrator organizations including the Kansas Association of School Personnel Directors. KCTAF has chosen as its overarching goal the following objective: **“a caring, qualified competent teacher in every classroom in the state of Kansas.”**

Under the goal area of encouraging and rewarding teacher knowledge and skills, KCTAF identified three recommendations:

4A) Develop a career continuum for teachers that rewards advanced subject knowledge and teaching skills. Identify knowledge and skills components that merit additional compensation;

4B) Implement peer mentoring, assistance, and review to improve teaching and learning;
and

4C) Remove teachers who do not meet standards.

These three recommendations have been accepted by the members of KCTAF, including Kansas NEA. It is quite interesting that the Commission has at no time considered the elimination of due process rights for teachers as a way to reach the goal areas or the overarching goal of a caring, qualified, and competent teacher in every classroom. In fact, at the October 28 and 29 KCTAF conference, many participants, including those from the Kansas Association of School Personnel Directors, indicated that if 4A and 4B were implemented, that 4C would take care of itself. No group advocated changing the current law for teacher due process.

It is quite interesting that the Kansas Association of School Boards chose not to participate in the KCTAF process. Although some staff members were in attendance for some of the preliminary meetings, the KASB, when it was obvious that the commission would not endorse their proposal on due process, declined the opportunity to join KCTAF's efforts to strengthen and improve the teaching profession. Some school board members were called and "ordered" not to attend the October 1999 conference.

Some would try to tell you that SB 328 is voluntary and so would not be a problem for the teachers. I can tell you that the same administrators who have misused the evaluation law and the due process statute would be the ones who would put the pressure on a teacher to take advantage of this new program. Teachers on the verge of non-probationary status would be pressured to take the "career path" and thus could keep teaching in the district. Too many (one would be too many) teachers could be conned into this program.

One wonders what the objective really should be. Is the goal to have a caring, qualified, competent teacher in every classroom? Or is the goal to grab as much power for the board of education no matter what the outcome? Kansas NEA would like to work with administrators, board members, legislators, and parents to establish a peer assistance and review policy for districts in Kansas to guarantee quality. We are willing to discuss alternative pay plans for our teachers to reward excellence. What we are not willing to do is quietly give up our rights to fair treatment. That is a basic component needed for quality schools.

I apologize for my lengthy message. As you can understand, this issue is a number one priority for our 26,000 members of Kansas NEA. We hope you can defeat this idea by either reporting the bill unfavorably or taking no action on the bill. Thank you for listening to our concerns.

KNEA's Read Across America is March 2!



Thumb's up for reading! University of Kansas student-athletes Sarah Clopton and Moran Norris read to students in Jan Green's first grade class at Hillcrest Elementary in Lawrence. Some 500 KU student athletes will read to students in area schools on March 2. Giving a thumb's up to reading are (l-r) Joseph Perry, Clopton, Nigel Hall, Wakana Asakura, Green, HiJi Nam, Rey Mark Mabitazan, Erika Sander and Norris.

Free KU/KNEA
Poster Inside!

KU Coach Roy Williams is the honorary chair of KNEA's Read Across America event.

"We are joining the team to make Read Across America a championship event," said Coach Williams. "Let's work to make sure every child in every community reads with a caring adult on March 2, Dr. Seuss' birthday."

Inside is your FREE poster featuring KU Coach Roy Williams, the Jayhawk and the Cat-in-the-Hat.

The students in the poster are Sarah Heider, a 6th grader and daughter of KNEA member Chris and Mark Heider, Joey Cunningham, a second grader and son of KNEA member Anne Tormohlen and Joe Cunningham, and Alex Henriquez, a first grader and son of Francois Henriquez and Laura Stephenson.

The poster will also be featured in KNEA's Reading Circle Catalog, a listing of teacher-recommended books for k-12. Your UniServ office also has a limited number of posters.

On March 2, NEA's early childhood literacy campaign will shine a spotlight on the importance of reading skills. Read Across America is an annual celebration to urge children to read and to remind adults to take a more active role in reading to children. The official mascot for Read Across America is the Cat in the Hat, created by Dr. Seuss and beloved by children around the world.

Special thanks to page 12

Joey, Alex and Sarah get to know the "Cat", aka KNEA staffer Mark Desetti.



uni.
PHOTO

Kansas 2000 Select Committee
Meeting Date 3-13-00
Attachment 4

Food for thought: Alternative Pay Plans

They do it together. Local associations and school districts determine goals for student achievement and teacher performance. They agree upon clear standards, steps for achieving goals regarding teacher performance, knowledge and skill. They tie those goals to salary increases and incentives. Together they determine appropriate compensation for teachers working to make public schools succeed.

That's the premise of two alternative pay plans touted nationally by various education leaders and being considered by two KNEA local affiliates.

Members from Blue Valley NEA (BVNEA) and Junction City Education Association (JCEA) were part of their district's team who attended the "Changing Teacher Compensation Design Seminar" sponsored by the Consortium for Policy Research in Education (CPRE). KNEA funded the trip for the KNEA members.

The seminar featured the work of Allan Odden who proposes two new forms of teacher compensation: school-based award (or bonus) programs and knowledge-and skills-based pay programs (see page 3). Odden's intent is to design "an instructionally-driven compensation structure."

Tools to design and implement these systems are being developed and

piloted in at least eight districts nationwide. While there is growing interest in the topic of alternative compensation, there is very little research regarding the concept in education, Al Hanna, Blue Valley assistant superintendent for human resources, said.

There is no perfect compensation plan

For more than 50 years teachers have been paid based on their years of service and their level of education on a single salary schedule. New forms of teacher pay plans involving performance have been emerging for 10 years. As the school reform and funding debates continue, KNEA affiliates need to be educated about alternative pay plans.

Historically, the traditional single salary system was probably the most logical system, given board/teacher adversarial relationships, because it was objective, simple and quantifiable. However, increasing numbers of districts have outgrown this positional, confrontational approach to education.

Nationally, the reasons for researching alternative pay plans include:

- to better compensate teachers for improving schools,

- to attract the best and the brightest to the profession by recognizing the role salary plays in recruiting and retaining quality teachers,
- to compensate teachers for extra time and work in and out of the classroom,
- to improve teaching and student achievement,
- to improve public attitudes toward schools and teachers, and
- to infuse more money into public schools, specifically teacher salaries.

In their book *Paying Teachers for What They Know and Do*, Allan Odden and Carolyn Kelly acknowledge that no serious financial gains have been made in teacher salaries over the past 35 years and that the salary potential for teachers is limited. They say alternative pay plans may change that.

In Kansas, "we are making major changes in the way teachers are prepared and licensed," said Geary County USD 475 Superintendent, Dr. Mary Devin. "We are experiencing teacher shortages in some geographic locations and in some teaching areas. These two conditions should cause us to look at alternative designs for teacher compensation in Kansas."

"For all the years that we have clung to the idea that education and experience are the only justifiable criteria for differentiating pay, we have probably done ourselves and our students a disservice," said Harry McDonald, Blue Valley NEA. "We have denied school boards a reason to pay us more money. We have probably limited our ability to maximize our compensation."

"I believe the current 'one-size-fits-all' salary index provides little or no incentive to legislators to vote for significantly more money to put into teacher compensation systems. The same is true for school boards and even patrons to the extent they get to approve local option budgets," McDonald added.

New compensation systems need to be tailored to the needs of each

Why should KNEA spend time and resources on this issue?

by Sherrelyn Smith, KNEA Board Member

One of KNEA's strategic objectives calls for compiling and analyzing research to support increasing teachers' salaries.

"Teachers are demanding higher wages. Communities are demanding accountability. Some forms of alternative compensation can provide accountability to the community and provide more money for teachers. Broadening the way teachers may be paid gives teachers another way to earn money beside experience and education."

"KNEA needs to do this because if we don't, teachers may walk into alternative compensation agreements that won't be in their best interest. We can provide resources and expertise to locals."



Smith is the president of Blue Valley NEA and a high school social studies teacher.

Alternative Pay Plans

A Knowledge- and Skill-Based Program

- Seeks to improve student achievement by enhancing the professional expertise and knowledge of teachers.
- Seeks to do this by providing salary increases based on demonstrated teacher knowledge, skills and expertise needed and used in the classroom.

How?

- District/teachers need to identify the teaching knowledge and skills that are necessary to successfully teach students.
- District/teachers compile these elements into explicit standards for teacher performance.
- Standards include descriptions of what teachers should know and be able to do, just as the state and school districts have standards for what students should know and be able to do.
- Districts and teachers agree on ways to assess the classroom practice of individual teachers in meeting the performance standards.
- Assessment processes could include peer and administrative review and would determine whether teachers had demonstrated that they have adequate knowledge and skills.

Examples:

- Board certification: Board certified teachers should be paid more and receive other forms of recognition. Los Angeles provides a 15 percent salary increase for certification; others make national certification equivalent to a Ph.D. or a master's +30 on the salary schedule, and others provide a flat dollar bonus or salary supplement. In Kansas, stipends range from a column jump on the salary schedule (Emporia) to an extra \$2,400 per year (Hays). Local contracts containing national board stipends were featured in the November, 1999, edition of the *Issues* and can be found on the KNEA web site: www.knea.org.
- Professional Development: Salary steps, supplements or extra pay for being a mentor, peer assistant or lead teacher; presentations to staff on behalf of the district or the association; others use the Career In Teaching program, a logical progression of job responsibilities and opportunities that allows teachers to grow professionally throughout their career. Financial incentives are tied to the top two levels of this four-level program.
- Student Achievement: Salary steps, supplements or extra pay for additional endorsements (reading, ESL, Special Education) and skills important to the district (technology).

School-Based Performance Award

- Provides bonus payments for staff in schools that meet specified levels of improvement in targeted areas of student performance.
- Is intended to enhance the likelihood of success by tying a cash reward to the performance outcomes and is often part of a broader accountability program
- Bonus is provided when teachers as a faculty (not individuals) produce schoolwide improvements in student achievement.
- Is intended to focus teachers' collective energies on the elements in the student achievement performance measure, largely in the core academic areas of mathematics, science, social studies and reading.
- In contrast to merit pay, bonuses hinge on schoolwide performance gains rather than evaluation of individual teacher performance.
- To succeed, these programs require positive principal leadership, district-provided professional development, performance feedback to school faculties so they can analyze results of their efforts and bonuses in the range of \$2,000+per teacher per year.
- Each building competes against its own record; awards are based on improved performance.

Tools:

Odden says seven factors must be addressed in designing such programs.

- Identify the most valued system results: student academic achievement, graduate or promotion rates, parent satisfaction, student and teacher attendance, for example.
- Each element must be measurable: state tests, local tests, plus clear procedures for measuring all non-achievement factors.
- Strategies for calculating "change" in how improvement is measured.
- Measures and calculations of change for each school must be "made fair" by addressing issues such as the percentage of students who must take the test, accommodations for students with disabilities, ensuring improvement in the "bottom half," accounting for student mobility, dealing with limited-English proficient students, etc.
- School systems need to determine the types of levels of awards; the minimum recommended is \$1,000 per teacher per year.
- School system must develop and provide "enablers" to schools and teachers that help improve the focus and function of both the school and its teachers.
- Programs need stable and sufficient funding.

district. Boards and patrons, even legislators, are more likely to support increased compensation opportunities if they address issues of local importance.

Is the implication that teachers are not working hard now? Hardly. Schools are improving and test scores are improving. Teachers are being encouraged to act as catalysts to improve compensation.

"Teachers are working hard now, are achieving, and are not being compensated for it," said KNEA President Gene Neely. "Something like this would give us another option to insure quality instruction and quality salaries."

The bottom line: student achievement?

CPRE research shows the factor most directly related to increased student learning is quality teaching. It shows teachers need a safe environment in which to practice their craft and that teachers value student achievement, money and public recognition.

While the premise for the two pay plans is school reform and student achievement, a pay plan cannot be the only ingredient to these efforts. "I believe that some districts are looking to a change in teacher compensation design as a way to improve student performance; I think they will be disappointed," Devin said.

"An alternative pay plan in and of itself will not make a difference," she said. "Teachers are doing the best they know how. A promise of money won't unlock mysteries. Find the 'right things' to do about student achievement and do it. We must do a lot of 'right things', in addition to compensation, to increase student achievement."

Kansas is already there...

In bargaining, many KNEA affiliates already have moved beyond traditional bread and butter issues, expanding directly into school reform areas such as peer assistance, student assessment and professional development.

"Many of the things the CPRE group recommend be in place are already present in Kansas and particularly in this district," said JCEA President Ronnie Whalen.

"Our schools are involved in QPA. We have plans for improvement, which include specific, measurable goals. Our district emphasizes staff development. We have eight staff development days built into the calendar."

While the transition won't be any easier, Kansas is a step ahead of many other states particularly in the area of continuous improvement, which the alternative pay plans recommend.

"We've lived through that with QPA," said Neely. "Now, we could follow through with that notion of continuous improvement by adding the salary component."

Neely likened the concept to schools being evaluated through QPA. "Schools are not accredited as individuals, departments or grade levels," he said. "School sites receive accreditation."

What are appropriate ways to compensate teachers?

"Use your imagination," McDonald says. "Address the curriculum issues and you have a winner."

The compensation seminar emphasized that enough dollars must be offered, that programs must be funded and that the rewards must be seen as motivating.

Awards need to be available to all and the criteria set at a level that one-third to one-half of the professional staff can qualify in any given year. "In other words," says McDonald, "the goals must be seen as attainable."

Educators are motivated by intrinsic factors. Even if teachers are motivated to improve student achievement, they

Daniels Framework for Teaching

1. Planning and Preparation

- Knowledge of content and pedagogy
- Knowledge of students
- Selecting instructional goals (to state standards)
- Knowledge of resources
- Assessing student learning

2. The Classroom Environment

- Creating an environment for respect & rapport
- A culture for learning
- Managing classroom procedures

3. Instruction

- Communicating clearly and accurately
- Using questioning and discussion techniques
- Engaging students in learning
- Providing feedback to students

4. Professional Responsibilities

- Reflecting on teaching
- Communicating with families
- Contributing to the school and district
- Growing and developing professionally
- Showing professionalism by being an advocate for students

cannot do so without adequate resources. This can include anything from a computer, a warm room, access to a telephone and a copier or adequate building safety to an adequate supplies budget.

If a district wants its professional staff to acquire certain knowledge or skill, mechanisms must be available to accomplish this. A good inservice plan is a must.

Teachers need to know what is going on and what is expected of them. Only then can they maximize their efforts to make a difference.

Assessing knowledge and skills to build a salary schedule

The premise of the knowledge and skills program is to use the teaching standards and assessments to construct new types of professional development, teacher evaluations, and salary schedules.

The seminar suggested combining assessment tools into new salary schedules. Among the steps recommended is to establish three categories: beginning teachers, mid-career teachers, and experienced and accomplished teachers.

This is similar in design to the new Kansas teaching license, which calls for conditional, professional and exemplary licenses. "Achievement of

each of these licenses should mean an increase in compensation," said Neely.

CPRE recommends that with each category or level (or license), a teacher should see a substantial salary increase, such as 10 percent.

Nationally, four sets of teacher standards and assessments have already been developed. Two sets address the expertise of beginning teachers, one concerns experienced teachers and the fourth covers teachers throughout their careers.

For example, the teaching standards in the Framework for Teaching developed by Charlotte Danielson, an analyst at the Educational Testing Service (ETS), are compatible with teaching standards for beginning and experienced teachers and could form the basis of standards for a new teacher evaluation and knowledge/skills pay system (see page 4).

The appraisal could be conducted via peer review, supervisor review or some combination agreed to by the local association and the district.

Districts could add seniority pay increases at various points in a new salary schedule. Steps that pay increases for years of experience could remain to some degree in a new salary schedule, as could certain educational degrees.



Tim Newton



Tim Schultz



Ronnie Whalen



Dr. Mary Devin



Dr. Al Hanna



Harry McDonald

Conceptually, all teachers could be paid the same if they all have similar characteristics, skill and knowledge.

There are appropriate places for this model, said Neely. Local educators can best determine what is valuable at the district and building level. For example, if a district and the local association determine certain skills are of value (ESL or reading endorsements, for example), there should be extra compensation for those skills.

Neely doesn't see this as merit pay. "We know what we must do. The arbitrariness comes in doing the appraisal. That's where peer assistance and review programs may be the solution." He added that KNEA has already advocated for a statewide stipend for National Board certification.

Several KNEA affiliates have negotiated stipends for National Board certification (See November, 1999 *Issues*). Seventeen states covering 42 percent of all teachers have policies that either pay all or part of the \$2,000 fee for teachers who go through the National Board certification process.

(Continued on page 6)

School Based Awards -- Lyons, Kansas

Lyons Unified Teachers Association and USD 405's system includes the following components.

- There are 15 district-wide goals each worth \$20. The goals are based on state assessments, building goals and student needs. The goals are measured based on the previous year's performance.
- Each goal is "all or nothing." Every teacher, regardless of responsibility, gets the bonus if the goal is achieved.
- Teachers were guaranteed \$100 up front; goal bonuses will be received as a separate check in June.
- The deal was bargained in May, 1999, and became effective this year.

The goals include:

All schools:

- Parent participation at conferences will be 95% at the elementary level, 70% at the middle school level and 60% at the high school level.

Pre-school/Kindergarten

- 150 books will be read to pre-schoolers during the year.
- 85% of kindergartners will recognize all of their letters.
- 80% will recognize the letter-sound connection.
- 80% will be able to track left-to-right on the page.

Middle School

- Send to 100% of parents a notification of good behavior and academic progress.

High School

- The number of students enrolled in advanced science and math will increase over the previous year's total.
- The percentage of students completing core curriculum will increase over last year.

Negotiations for next year is finished and there are a few changes. "Some teachers wanted individual goals instead of the all or nothing goals," LUTA President Deb Dumler said.

The new contract increased the worth of each goal to \$40 and there will be ten goals instead of 15.

Five are district goals similar to this year's "all or nothing" concept. Three are building goals wherein each building will set the goals and receive the bonus for the goals met. Two are individual teacher goals; the goals and measurability of each will be agreed to by the teacher and the principal.

This started because trust was destroyed during tough negotiations a few years ago. It is an attempt at fence mending on both sides, Dumler said. "Teachers are still leery about it. They want to be paid for the services they provide already. Some of the goals are things we already do. We'd like to see the bonuses put into the salary schedule."

"This hasn't been easy" and the end result still is unknown, Dumler said. A review will be done this month to see how teachers are faring. For details:

Deb Dumler, Lyons Unified TA
S: 316-257-3961 • Ddumler@usd405.com



School Based Awards Programs

Group awards are rapidly replacing individual merit pay programs in the private sector where workers are organized into teams.

KNEA has no position on school-based pay. "We are just laying the groundwork to get people to talk," Neely said. "The prime focus is improving student achievement by tying teacher salaries to performance. We need to begin the discussion of teacher accountability."

A major fear factor of accountability is the things that teachers cannot control such as funding, parent participation, a student's home life, etc. Neely says to what extent teachers are accountable is clear.

"Once the bar is established, students will show improvement at an INDIVIDUAL level," he said. "If a student doesn't show improvement, a teacher can show which strategies and interventions were used to motivate and teach that student. That is accountability, in my mind. It's showing 'here's what I did to advance that child.'"

Schools must identify what significant improvements are and how to reward them, Neely said.

KNEA's role -- To help teachers be successful

KNEA's role in all this, said Neely, is to "help our local affiliates understand what those performance, knowledge and skill components could be, to provide models and

examples, and to work with local affiliates on the specific kinds of problems in a district that could be remedied through what teachers can do."

KNEA's resolution on performance pay plans states that any merit plan or performance pay must be offered with a base salary and salary schedule appropriate for the professional services and training of educators.

KNEA Resolution E-2-7 states:

- that all merit pay plans should set clearly defined and objective criteria by which educators can attain and advance on merit pay;
- that these criteria should be operative with and enhance the professional duties and responsibilities of the educator;
- that all educators should have equal opportunity to advance on merit pay; and
- that sufficient funds must exist to reward all educators deemed meritorious.

KNEA believes that merit pay plans should only be established in local school districts through collective bargaining and that educators be given a majority voice in the program development and selection process.

Adequate training in evaluation criteria and methods should be provided to all individuals responsible for determining placement of educators on such plans and these individuals must be able to meet the evaluation criteria and methods. KNEA further believes professional educators who are to be evaluated shall receive adequate training in evaluation criteria and methods.

NEA RA delegates to discuss pay for performance

The NEA Professional Standards and Practices (PSP) Committee is considering a series of proposed changes in resolutions regarding compensation to the NEA Representative Assembly this summer.

There are at least 13 NEA resolutions that will be impacted by the PSP's report, including retirement, appropriate use of student testing and pay for performance, according to Blake West, KNEA Sec/Treas.

West is one of 15 teachers nationwide serving on the PSP. He says performance pay has been a major topic of discussion because the public is demanding accountability. Another issue is the changing demographics of teaching professionals. The incoming teachers have a definite interest in systems that newer members perceive as fair, he said. Many experienced teachers are accustomed to a system based on experience and education as the only fair way to recognize advancement within teaching.

"We're beginning to recognize that with such things as National Board certification we can really make fair and objective assessments about what goes on in the classroom," West said. "Specialized needs of schools such as technology and bilingual skills... these become things districts may wish to reward in addition to other factors."

The NEA handbook outlines a position adamantly opposed to traditional merit pay plans in K-12 education. West notes that the real problem is with the traditional plans. Traditional plans, as defined by the PSP initial

report, "are based on subjective, individual evaluations and reward only the few who receive the highest ratings."

Performance pay is defined as "a system in which employees' performance is measured relative to some standard and some part of their pay is based on the outcome of that measurement. Performance pay is divisible into two main categories: individual and group performance pay. Individual pay is measured on a reward level separate for each employee. Group pay is rewarded to all employees for the accomplishments of a group (a school) of which they are a part."

PSP is researching alternative pay plans because "we are being asked to justify increased monies for teacher salaries to be able to be competitive with other professions and the increasing career differential between teacher salaries and salaries of other professionals with comparable education and experience," West said. He said research shows the difference between a teacher's salary and other professionals with comparable education ranges from \$8,000 up to \$40,000, depending upon experience.

West added that the infrastructure may need to change before implementing alternative pay plans in some places. "Compensation systems should not bypass retirement contributions. We can make changes to contracts or statutes to accommodate that," he said. Also, increased funding from the state is needed to accompany systems that pay teachers for skill and performance, he added.

What needs to be in place?

Local association must be strong with a high percentage of membership and well-trained negotiators. Participation in interest-based bargaining would be very helpful," said KNEA UniServ Director Tim Schultz. "I can't see a good plan being developed through positional bargaining.

"Also, teachers must feel they are being adequately compensated as a whole before individual teachers begin receiving additional stipends for knowledge/skills. Money to pay for knowledge and skills cannot be shifted from regular adequate salary increases for all teachers."

Schultz is on a KNEA work team studying ways to increase teacher salaries. The work team will present its findings to the KNEA Board in June.

JCEA's Tim Newton offered some questions KNEA affiliates and districts must answer before moving into an alternative pay plan (especially the bonus plan):

- How would such a program be funded?
- Who would be eligible for the bonus: teachers, classified help and administrators? What are the specific criteria for the bonuses?
- How much should bonuses be?
- What happens to schools who never receive bonuses, which causes staff members to start transferring to other schools who consistently have been awarded bonuses?
- Do we believe that giving bonuses to teachers will increase student performance?

Another issue to consider is how to insure extra pay ultimately gets into the salary schedule so it can benefit educators in the long run; so it can be applied to retirement benefits, for example.

Administratively, districts must have a strong foundation in the school improvement process and should have evidence of sustained increases in student performance before exploring dramatic changes in teacher compensation.

"Most importantly, the district must enjoy a climate of trust, common goals, and commitment to the success of all students. Without this culture in place, I think the approaches discussed to this point will create a negative effect on school culture and will work against the dedication to all students in the district," Devin said.

Blue Valley's Al Hanna said teachers and boards of education will have to build trust with each other as any change in compensation will cause stress on the working relationship. "There must also be ample communication between and within both parties so that each can understand the new process," he said. "Districts must be willing to commit additional funding initially to an alternative compensation plan. There must also be clear direction as to district and building goals and what is worthy of compensation."

Where to go from here?

Part of the difficulty with moving in this direction is that there is little research and few have headed down this path. There is limited research that says alternative pay plans redistribute money spent on teacher compensation and do not necessarily increase salaries. The all-too-new body of

Resources

Consortium for Policy Research in Education
Wisconsin Center for Education Research,
University of Wisconsin-Madison
www/wcer.wisc.edu/cpre/tcomp

Allen Odden, *Paying Teachers for They Know and Do*
(608-263-4260 -- odden@macc.wisc.edu)

The Teacher Union Reform Network (TURN)
Adam Urbanski, Rochester Federation of Teachers
Roger Erskine, Seattle Education Association
www.turnexchange.net

Danielson's "Enhancing Professional Practice: A Framework for Teaching" is available through the Association for Supervision and Curriculum Development
1-800-933-2723
Web: www.ascd.org
e-mail: member@ascd.org

Center for Research on Evaluation Standards and Student Testing:
www.cse.ucla.edu

National Commission on Teaching and America's Future (NCTAF)
www.tc.columbia.edu/~teachcomm

National Board for Professional Teaching Standards
www.nbpts.org

Interstate New Teacher Assessment and Support Consortium
www.ccsso.org

A real life example: Denver, Colorado

The Denver Classroom Teachers Association recently ratified a two-year trial period during which three different forms of pay for performance will be piloted. One form is based on teacher performance and will reflect some type of knowledge and skills-based pay innovation. The other two are based on improvements in performance of students in each individual teacher's classroom. The agreement requires an outside evaluation of all three models, including their effect on student achievement.

Want details? Contact Brad Jupp or Becky Wissink by calling 303-964-3155 or clicking on the DCTA web site: www.denverclassroom.com.

research shows school reform movements are increasing school funding and that extra money is going into schools, not necessarily to teachers, at least on a short term basis.

Local affiliates considering alternative pay plans should immediately contact their UniServ director for support.

USD 229 and BVNEA will continue to have discussions on this issue. "I anticipate we will try to develop an alternative compensation plan for our district," Hanna said.

The Junction City team says they'll use this information in future bargains...they cannot specify how.

Professionally Speaking

School Funding: Foresight or Afterthought?

by Gene Neely
KNEA President

Those of you whose memories are as long as mine will recall that the current wave of teacher and public school bashing had its beginnings in the early 1980s when the Germans and Japanese were kicking America's economic tail. Public schools and teachers were often singled out as the sole culprit in our apparent inability to compete in the global economy.

The 1990s, however, painted quite a different economic story. As Americans continue to enjoy the most prolonged economic expansion since World War II, record low unemployment, record high productivity, and sustained low inflation, we don't hear much about the previously praised foreign powers or their supposedly superior school systems.

One might think that if American schools had been the cause of our economic misery nearly twenty years ago, we might be given some of the credit for the economic resurgence. That has hardly been the case.

Kansas has certainly participated in the economic good times, but you wouldn't know that based on school funding. As you are no doubt aware, the tax-cutting frenzy that has engulfed the Kansas legislature for the past five years has finally caught up with us.

Those tax cuts have resulted in reductions of \$2.5 billion (that's billion with a b) since 1995 while schools are starving. While schools were pleading for the \$50 promised increase

in the base-budget-per-pupil (BBPP) to be provided this school year, the state was granting over \$835 million in tax cuts.

Want to build a highway? OK, let's appropriate \$12.5 billion over the next decade. Want to build a prison? Sure, no problem. Want to provide schools with the promised \$50? Now, there's a problem.

The School Finance Coalition, of which KNEA is a part along with the Kansas Association of School Boards, the United School Administrators, and other education groups, is calling for the state to provide full funding for mandated special education programs. The cost would be \$57 million. The Governor has proposed a \$5 million increase.

In the meantime, car tax reductions will cost the state over \$100 million this year.

The School Finance Coalition is calling for a school district telecommunications infrastructure linking schools and communities at a cost of \$10 million. The Governor has proposed \$4.5 million.

In the meantime, sales tax exemptions on utilities consumed in a production process will cost the state nearly \$15 million this year.

Want to build a highway? OK.

Want to build a prison?

Sure, no problem.

Want to provide schools with the promised \$50?

Now, there's a problem.

The School Finance Coalition is calling for matching funds for professional development funds to help sustain our school improvement efforts at a cost of \$6 million. The Governor has proposed \$2.6 million.

In the meantime, cuts in the severance tax on oil and gas production will cost the state nearly \$5 million this year.

Perhaps most troubling of all is the sorry state of our BBPP amount. Since 1992 (right before the current economic expansion began) through this school year, the BBPP has

increased only 4.7% or, in other words, less than seven-tenths of one percent a year. This is despite the fact the state government revenues have grown astronomically. While the BBPP has grown at such a miserly rate, the statewide mill levy has been reduced from 35 mills to 20 mills.

This year alone, those cuts will cost the state over \$320 million.

Allow me to dream for a minute:

If the mill levy had only been reduced to 23 mills, we could fully fund special education eliminating the need for the costly transfers from the general fund.

If the mill levy had only been reduced to 28 mills, we could have a BBPP of over \$3900 and still fully fund special education.

If the mill levy had not been reduced at all, we could have fully funded special education, the technology backbone, the professional development money, AND a BBPP of nearly \$4,660.

Dream on.

In light of the legislative chest thumping that has occurred in regard to the tax cuts, one might think that the Kansas people would be ecstatic.

A recent survey out of the Governor's office, however, shows a different picture. Seventy-six percent of Kansans polled *didn't even know that taxes had been cut*. Additionally, 17% of those polled indicated that taxes are the state's biggest problem. This is exactly the same percentage that said taxes were the state's biggest problem in the Governor's 1995 poll....before the tax cutting binge began.

Election year or not, chances are slim that our legislative friends such as Rep. Barbara Allen (R-Prairie Village) will find the support needed to increase school funding.

In the words of the School Finance Coalition, "at a time of strong economic growth, with opinion polls showing public support for school funding, including tax increases if necessary, the children of Kansas deserve no less."

Amen.

Legislative Update

Comparing school finance proposals

The Kansas School Finance Coalition, which includes Kansas NEA, KASB, USA, Schools for Quality Education, Kansans for Local Control, the Educational Service Agencies, the Kansas Education Coalition, Blue Valley School District, Kansas City School District, Shawnee Mission School District, Topeka School District, and Wichita School District, presented to the 2000 legislature its school finance proposals in a press conference early in the session. The coalition continues to work for this set of proposals.

When comparing the Governor's budget recommendations with the coalition's plan, we see the following:

	GOVERNOR	COALITION
· Base budget	Cut \$13 for this year. Increase \$50 for next year.	Keep the \$13 for this year. Increase \$50 for next year.

FYI: A \$50 base increase is 1.3% which is slightly more than half the rate of inflation. Kansas' personal income is expected to grow 4.2%. Salary increases continue to fall behind the private sector. One-third of the students attend districts that have reached the maximum LOB.

· Correlation Weighting	No change.	25 student step in weighting.
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FYI: Without another step in correlation weighting, the differences in budget per pupil between large and small districts will increase.

· Declining Enrollment	No change.	Districts can use highest of current and past 2 years.
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FYI: Without this, districts with declining enrollments will have to cut budgets by \$13 million. Nearly 2/3 of Kansas districts are experiencing some loss of student enrollment.

· Special Education	Provides funding for 80% of excess costs.	Supports 100% of excess costs.
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FYI: The Governor's proposal will cause a \$14.9 million shift from the general fund to the special ed fund. About half the increase in base will be required to make up this difference. Special education costs continue to rise.

· Staff Development	Cuts \$2.4 million.	Increases \$1 million.
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FYI: The Governor's proposal would fund 40% of the state aid formula. Inservice programs will have to be cut at a time when higher standards and reforms are being placed on schools and teachers.

· Technology	Funds Kan-Ed from various sources.	Funds Kan-Ed from various sources.
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FYI: The program would provide internet access to the schools and libraries of the state. Local districts would have to pay for hardware and software.

· Early Intervention	Adds \$1 million to 4- year-old program and \$500,000 to Parent Ed Program.	Supports expanded funding for both pre-school and kindergarten.
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Thoughts on this item: Since funds do not cover all students, funds currently are awarded on a competitive grant process. About 5,000 four-year-olds who are considered at risk are not being served currently.

Members are encouraged to work with local administration and board members to support the coalition position. Use these thoughts on the issues to help you frame the lobbying efforts; however, any local information you can add as to the effects of any cuts will help the situation.

What is a Professional Development Council?

The council is a representative group of local district certified personnel which advises the local board of education in matters concerning the planning, development, implementation, and operation of the inservice education plan.

Who are the members of a PDC?

The council is made up of teachers and administrators from the local district. There must be as many teachers on the council as there are administrators, but a district may choose to have more teachers than administrators.

How are PDC members chosen?

Both teachers and administrators represent the local district staff. They are selected by the group each represents. Generally this can mean that there may be representatives from each building in your district, representatives from grade levels or content areas, or some combination of the two that form a democratic voice on the professional development council. Once a district determines who they want this representation to be, the teachers and administrators are to be selected solely by the groups they represent – teachers select teacher

91-1-146c. Inservice Education Professional Development Council

- (a) Each professional development council shall:
 - (1) Be representative of the employed certified personnel; and
 - (2) Include at least as many teachers as administrators and both shall be selected solely by the group they represent.
- (b) The council shall:
 - (1) Develop operational procedures;
 - (2) Develop a plan which shall be approved by the governing body of the education agency based upon criteria established by and available from the state board of education; and
 - (3) Recommend to the governing body of the education agency approval or disapproval of individual plans for renewal of certification. (authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987.)

representatives, administrators select administrator representatives.

How large should the council be?

The size of the PDC is a district decision. Some school districts have councils as small as five members. The largest council we have recorded is twenty-eight members. The district's size, unique characteristics, or number of chairs in the usual meeting place may figure into this decision. The research into group dynamics will support any decisions made. There are no wrong sizes, just various considerations. A very large council may make reaching a

consensus difficult. A small council places more tasks and responsibilities on each individual member.

How long do PDC members serve?

Terms of membership on the PDC should be set up in advance. Although the initial council will develop a five-year plan for staff development, it is unlikely that each member will be willing or able to serve a five-year term of office, or even that it is desirable that they do. However, it can be vitally important to have continuity in membership on the council. Nearly all councils operate on the staggered rotation system.

A PDC that works -- Lakin Teachers Association

"Our professional development council works because teachers participate," said Carol Panzer, Lakin Teachers Association.



The other thing that makes it work is that the PDC is the QPA Steering Committee "because our school district is so small," she says. "Another plus is that we're far

enough along in the QPA process that we're not so overwhelmed anymore."

Panzer says the Lakin PDC has been successful from the beginning because the number of teachers balances the number of administrators. The PDC includes representatives from the lower and middle elementary levels, the middle school, the high school, the three building principals and the superintendent. The group reviews

and approves coursework, sets up criteria based on QPA guidelines and school improvement plans and tracks points for license renewal and for movement on the salary schedule.

Teachers are such a big part of the process because it is about our professional development," Panzer said. "We need to be involved, to understand how the process works and how it benefits us as teachers. We can customize professional development to fit OUR needs," she added.

College courses are not the only things that apply to PDC points. This is important for areas in western Kansas where distance is a major factor. Panzer's work writing the "KNEA New Teacher's Handbook" through the Instructional Advocacy Commission counted for PDC points. Attending KNEA professional development workshops and

seminars offered by the State Department of Education through ITV, giving inservice training in other schools, or in her case, working on National Board Certification, also apply.

"In our PDC, we stopped looking at the number of seat time hours and instead look at what we're doing in our classroom. PDC points can be earned for professional development or for something that will impact student achievement," she said.

Panzer, who is a fifth grade communications teacher, urges KNEA members to get involved in their PDC. "It will help you learn and understand the requirements and restrictions in being involved in your own professional development," she said.

More questions for Carol? E-mail her at panzerc@usd215.pld.com or telephone her at 316-355-6191.

Why should KNEA spend time and resources on this issue?



by Bob Cairns
KNEA Board Member
and Math Teacher at
Campus High School,
Haysville

Continuing staff development is vital if we're going to remain on the cutting edge of education and maintain the highest quality of schools for our students. KNEA represents those people who have the expertise to determine what the professional development needs are and what the resources are. KNEA knows how to get the two together. As professionals, we need to be the moving force in improving instruction. This includes the work of PDCs. It's the best thing for students; our members want it and it's simply the right thing to do.

What are the functions of a PDC?

● **Develops administrative procedures for council operation**

The composition of the committee, a schedule for membership rotation, and how to fill vacancies due to resignation, or transfer. Establishes council officers – what the offices will be (Chairperson? Vice-chair?), the duties of each, and the length of the term of office.

● **Develops operational procedures for council operation**

Meetings and meeting agendas – how often will the council meet, where, and when. How agenda items will be determined, when will they be distributed, any time limits on discussion.

● **Decision methods** – will decisions be made by majority, consensus, or other methods. What records will be kept, by whom, and to whom will they be made available?

● **Develops a five-year plan** of local staff development for local school board approval; submits the local plan to the

State Board of Education by August 1 for its approval.

● **Conducts a needs assessment** to determine the inservice/staff development needs of the local district.

● **Based on the results of the needs assessment, develops district-wide goals and objectives** for the inservice program.

● **Identifies and approves appropriate inservice activities** which meet local inservice goals and objectives.

● **Evaluates the inservice activities**, the inservice program and the local inservice plan.

● **Prepares an annual update** of the local inservice plan.

● **Reviews and recommends individual development plans** to the local school boards for approval.

● **Establishes approval criteria and submittal guidelines** for individual development plans.

● **Sets up an appeal process** for nonapproved individual development plans.

Why do I need to know about PDCs?

PDCs drive your professional development and provide opportunities for re-licensure points.

Why is it important to have a well-functioning PDC?

■ Professional advancement and possible salary schedule advancement.

■ The recording of professional development points for re-licensure.

■ To insure that building and district professional development opportunities meet your needs.

As a certified staff member, what should I know and expect from my PDC?

■ Know how the members of your PDC are selected

■ Know the State Guidelines governing PDCs (see page 12).

■ Know that the PDC advocates for your professional needs.

How does the PDC hear what I need for professional development?

■ Ask your local PDC chair how it gets input on staff development. If you don't know who the PDC chair is, ask your building rep.

Do PDCs have anything to do with the inservice provided by the school district?

■ Sometimes. Should they? Yes. Aligning all professional development in the district so that all certified staff receive quality professional development is an important aspect of a PDC.

Should the PDC expectations of time and paperwork be reasonable and equitable?

■ Absolutely. There is no requirement for excessive paperwork or other evidence of work completed. The task of the PDC is to help educators get current information on best practices and new learning.

So, now what should I do?

1. Read your state-approved inservice plan. It is a public document. It is YOUR right and business to know what your staff development is supposed to be about and how your district's system is supposed to function.

2. Find out who is on your district PDC. How did they get chosen? The regulations require teachers to select the teachers and administrators to select the administrators. Is your district in compliance?

3. Talk to the teachers on your district's PDC. Find out their views on staff development and how your district's plan "fits" with their needs.

4. Talk with others in your local association. Are there things you could or should do collectively to help improve the staff development opportunities that are available to you?

5. Check with your KNEA UniServ director or the Instructional Advocacy staff at KNEA. Perhaps we can help find answers to questions you're having difficulty answering.

If you're on a PDC or need professional development workshops/training, call KNEA Instructional Advocacy at 785-232-8271 or e-mail resource@knea.org for resources and assistance.

News Briefs

Grandma may have been a lady, but she worked like a dog!

Humor is one of the topics highlighting the annual KNEA-Retired Conference Friday, March 17, 2000 starting at 9:30 a.m. in the KNEA headquarters building in Topeka.

Topics will include political action, homeopathic medicines and organizing local retired chapters.

To register, call Janet Zitzer or Candy Caufield at KNEA, 785-232-8271 or e-mail Janet at jzitzer@nea.org. Your \$10.00 registration fee includes lunch and all materials. Mark your calendars now!

Change coming in NEA Valuebuilder Program

NEA Member Benefits announced Nationwide Retirement Solutions will no longer be the distributor of the NEA Valuebuilder Annuity and Mutual Fund Programs. A successor company will be found to distribute the program.

What does this mean for current participants and how does it impact their financial future? Members' investment accounts and individual contracts have not changed.

Participants can access their accounts either through the NEA Member Benefits website at www.neamb.com or www.nwservicecenter.com for up to date information.

Although your local Valuebuilder Representative may not be available, the toll free number of 1-800-632-8258 will provide you with a licensed professional to answer your questions.

You can still contribute to your account and make changes to your investments.

There is no reason to move your annuity, especially if you would be subject to contingent deferred sales charges (please read your contract or contact the customer service center at the toll free number). Your annuity will remain fully operational, including the acceptance of funds from school district payroll deductions. Nationwide cannot

Participate in YOUR Association

Nominations for KNEA commission and committee appointments are currently being taken. The KNEA Constitution calls for local associations and UniServ districts to recommend to the KNEA President members to be appointed to commissions and for any member to recommend to the President members to be appointed to committees.

By March 27, send Gene Neely the names of nominated members, the local to which they belong, a short blurb as to why the nominees would make good commission/committee members, and indicate the ethnic minority category of nominees who wish to be so identified (KNEA is very interested in identifying and recruiting ethnic minority members for involvement in the governance levels of KNEA).

Following is a list of open positions on KNEA Commission and committees and the UniServ districts from which nominees need to come.

- ✓ Human and Civil Rights Commission (Ark Valley, Capital, Southeast)
- ✓ Instructional Advocacy Commission (Capital, South Central)
- ✓ Communications Commission (Northwest, Three Trails, Southeast, Walnut Valley)
- ✓ Reading Circle Commission (Ark Valley, Northwest, Walnut Valley)
- ✓ Professional Negotiation Commission (Ark Valley, Post Rock, Three Trails, Walnut Valley)
- ✓ Membership Commission (NEA Shawnee Mission, Southwest)
- ✓ Legal Services Committee (statewide)
- ✓ Budget and Audit Committee (statewide)

change the terms under which you contracted with them. Even when another distributor or supplier is chosen for the annuity program, the terms of your contract will not change.

NEA Members Benefits continues to be committed to serving the retirement and investment needs of our members. We will provide you additional information as it is made available. You can direct your questions to NEA Member Benefits by calling 1-800-637-4636.

Project REACH trains school staff to fight cancer

Thanks to funding from the Centers for Disease Control and Prevention, the NEA Health Information Network (NEA HIN) and the Kansas NEA have taken on a cancer awareness program called Project REACH.

Project REACH (Raising Educator Awareness Concerning Health) is training designed by and for school employees to address health issues.

School employees are a special case when it comes to breast cancer, since a recent study found that teachers die from breast cancer more than women in other occupations do.

"School employees have job specific barriers that can prevent them from getting the cancer screenings they need. We think this program will help us overcome some of those barriers and will save lives," Fran Raines, coordinator, said.

Project REACH trainings are free, one-day community events where school employees will have the opportunity to:

- learn about the four preventive cancer screening exams: breast self-exam, clinical breast exam, mammography, and pap tests,
- assess their specific community needs and identify barriers associated with breast and cervical cancer screenings and,
- plan an early detection outreach program based on their needs.

For more information on Project REACH, call Raines at 316-221-9645 or call the NEA Health Information Network at 202-822-7570 or 800-718-8387.

KNEA Board Candidate Statements

CAPITOL UNISERV



Les Kuhns, NEA Topeka, is a candidate for the Capital UniServ position on the KNEA Board of Directors.

He has taught English and debate at Topeka West High School for twenty-two years. He also taught at Field Kindley High School in Coffeyville from 1974-1978.

Les indicated his professional association service record is numerous.

He lists his outstanding professional achievement or honors as longevity.

Les submitted the following position statement:

"I would be honored to continue to serve on the KNEA Board. Much remains to be done to implement the strategic objectives of the Association."

POST ROCK UNISERV



Jerry A Blank, Smith Center Teacher Council, is a candidate for the Post Rock UniServ position on the KNEA Board of Directors.

He has taught junior and senior high art in USD 237 for twenty-eight years.

Jerry's professional association service record includes: president and negotiator for Smith Center TC and KNEA RA delegate, president, UniServ Study Committee member and KNEA Board member for Post Rock UniServ.

He lists the following outstanding professional achievements or honors: Post Rock UniServ Certificate of Merit for outstanding work done on UniServ Study Committee; the University of Kansas School of Education Certificate for 25 years of service as a teacher of youth; Kingsbury-Chase Post and Auxiliary 1141 Helping Youth Award; Natoma Centennial Arts and Craft Review Best in Show Award; and 1995-96 Distinguished Lieutenant Governor Division 12 East Kansas District Kiwanis.

Jerry submitted the following position statement:

"Kansas teachers should join NEA/KNEA to make teaching a better profession. A better profession would make sure teachers have a united voice in politics, teachers' rights and responsibilities. I think each teacher should be willing to help make the teaching profession better not only on local levels but on the state level. I would work very hard in serving on the KNEA Board for Post Rock UniServ, making every effort to the improvement of teachers' needs and concerns. Because of the diversity of membership that NEA/KNEA has, a Board member should be open to suggestions and opinions before making a decision. I have enjoyed working on the KNEA Board and I would like to continue to work on the KNEA Board as Post Rock Board member."

SUNFLOWER UNISERV



Lynda Alderman, Ottawa Education Association, is a candidate for the Sunflower UniServ position on the KNEA Board of Directors.

She has taught first grade at Eisenhower

Elementary in Ottawa, Kansas, for twenty years.

Lynda's professional association service record includes: Negotiations Chair, president, president-elect, secretary and building representative for Ottawa EA; president, vice-president, and secretary for Sunflower UniServ; and UniServ review committee, grant committee, and Board member for KNEA.

Lynda submitted the following position statement:

"For the past three years I have had the privilege of representing Sunflower UniServ District as your KNEA Board member. I have enjoyed the experience and learned much. One of the highlights of being your KNEA director has come when I have had the opportunity to visit with those dedicated individuals who hold local leadership positions. With the experience that has come from the leadership positions I have held in Sunflower UniServ, I believe I can continue to represent the members of our UniServ at the state level and would appreciate the opportunity to do so again."

UD 114



Thomas E. Schwartz, Abilene NEA, is a candidate for the UD 114 position on the KNEA Board of Directors.

He has taught K-5 elementary physical education at Garfield,

McKinley and Kennedy schools in Abilene, Kansas, for twenty years.

Tom's professional association service record includes: president, chief negotiator, and membership chair for Abilene NEA; president, vice-president, and administrative board member for UD 114; and KPAC commissioner, Board member, and attended three national conventions for KNEA.

He lists the following outstanding professional achievements or honors: named Abilene Teacher of the year (1987-88 and 1994-95), Kansas Master Teacher (1995), and Abilene Chamber of Commerce "Quiet Hero of the Year" (1998).

Tom submitted the following position statement:

"I am presently serving in my first term as UD 114 Board of Directors and ask UD 114 members for the privilege of serving a second term for you. It has been exciting to serve on the KNEA Board as we work to promote quality public schools, strengthen the teaching profession and improve the well-

being of KNEA members. I want to be a voice on the KNEA Board the next three years as we continue to strive to meet the educational challenges of the future to meet the needs of the students we work with and the needs of KNEA members to make public education great."

WALNUT VALLEY UNISERV



Joan M. Stephens, Augusta Education Association, Arkansas Student NEA, Arkansas EA, Saudi Arabia-International branch of NEA, is a candidate for the Walnut Valley UniServ position on

the KNEA Board of Directors.

She has taught sixth grade social studies and reading at Augusta Middle School for two years and sixth grade English and reading at Augusta Middle School for thirteen years. She also taught kindergarten at Jonesboro Public Schools in Arkansas for 5 years and kindergarten and fifth grade at Saudi Arabian International School for one year.

Joan's professional association service record includes: president and/or co-president and negotiator and/or chief negotiator for Augusta EA; treasurer, vice president, and president for Walnut Valley UniServ; and membership and political action commissioner, COUP and Board member for KNEA.

She lists the following outstanding professional achievements or honors: Masters degree plus sixty hours, led and worked for successful contract negotiations, supported our due process issue, assisted other teachers with complaints and grievances, wrote outcomes and all assessments for sixth grade English, began the mentor/mentee program in Augusta, conducted a Walnut Valley fundraiser to help provide scholarships to finance expenses for locals to send a representative to State RA's, and worked on political campaigns for Randy Rathbun, Greta Goodwin, Carlyn Strand and Bill Graves.

Joan submitted the following position statement:

"I am dedicated to representing Walnut Valley on the Kansas Board of Directors. I believe in researching the issues and in bringing full disclosure to both the Board and the members in Walnut Valley. I enjoy being an advocate for quality public schools and for the profession of teaching. I believe education is a celebration all people should know. I am willing to work towards that goal with all my energies."

Elections for the KNEA Board of Directors are February 15 - March 31. Obtain ballots from your local association president.

Read Across America is March 2!

Dr. Seuss' Birthday is March 2 --

What's a local association to do?

(story continued from front page)

Radio and TV spots featuring KU Coach Roy Williams were distributed thanks to the Kansas Broadcasters Association.

If you haven't seen the spots aired locally, call your local broadcast station and encourage them to air the spots.

Hundreds of KU student athletes are volunteering to read to kids on March 2. The event is being coordinated by Sarah Clopton, a pitcher and president of KU's Student Athletes' Advisory Committee.

There's much more happening...and you can find out by clicking on KNEA's web site: www.knea.org.



Right: KU pitcher Sarah Clopton, and her buddy, Nigel Hall, listen as Erika Sander reads her favorite book.

Below left: KU running back Moran Norris enjoys a Dr. Seuss story with Wakana Asakura and HiJi Nam.

Photo: Cynthia Menzel



How are you celebrating Read Across America?

This year the Baker University - KNEA Student Program is inviting elementary students to campus where they'll be read to by adults in uniform i.e., BU student athletes and community members who wear uniforms, such as police officers and firefighters.

The sixth graders at Frank Layden Elementary School in Frontenac are doing a play based on the Dr. Seuss book, *Hooray For Diffendoofer Day*.

Let KNEA know what you're doing to celebrate "Read Across America" by e-mailing infoctr@knea.org or faxing KNEA at 785-232-6012. Be sure to leave your name, telephone number or e-mail address and your local association/USD.



knea Kansas NEA
715 SW 10th Ave.
Topeka, KS 66612



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**DUE
PROCESS
FOR
KANSAS
EDUCATORS**

Kansas 2000 Select Committee

Meeting Date 3-13-00

Attachment 5

TABLE OF CONTENTS

PURPOSE	Page 1
HISTORY OF DUE PROCESS	Page 2
OTHER STATE'S POLICIES	Page 5
REVIEW OF LITERATURE	Page 6
ALTERNATIVE POLICIES	Page 8
DISCUSSION OF ALTERNATIVES	Page 10
WHAT IS THE ULTIMATE GOAL?	Page 14
SUMMARY AND CONCLUSIONS	Page 16

PURPOSE

The purpose of this treatise is to serve as a response to a request from Chairman Ralph Tanner sent to Kansas NEA and to Kansas Association of School Boards on August 30, 1999. In that letter, Chairman Tanner requested that each organization prepare a written response to certain questions and file the response with the committee on the first full day of the 2000 session. The Chairman also indicated that the response was not limited to the questions asked.

This request came after considerable discussion about the due process statute, *KSA 72-5433 et seq*, during the 1999 session and previous sessions of the Kansas Legislature (see history section). The House Education Committee and the Senate Education Committee held hearings on two separate bills which would alter considerably the due process statute which has been in effect since 1992.

The Kansas Association of School Boards has been the moving party in this debate. KNEA has maintained that the current statute is working and accomplishing the goals which the 1992 Legislature intended for the process: cutting down the time and legal costs for parties in disputes over nonrenewal of teaching professionals while guaranteeing "real" due process rights for the educational professionals in Kansas.

This paper will review the history, discuss other states' policies, review some of the literature, and answer the questions posed by the chairman. We realize that the views presented will be from the teacher side of the issue. Kansas NEA does not apologize for or shrink from the advocacy to represent the interests of our member educators. We believe that the correct policy is in place and, although some changes could be attempted, the basic policy of having an independent neutral third party deciding whether a board of education had just cause to nonrenew or terminate a teacher is best for the state of Kansas.

HISTORY OF DUE PROCESS

In 1974, the Kansas Legislature enacted comprehensive statutory due process protection for nonprobationary teachers in the public education system. Prior to 1974, teachers in cities with populations over 120,000 (Wichita) were protected by a Tenure of Instructors Act which had been passed in 1937. In the current law, the term teacher is broadly defined to include "any professional employee who is required to hold a certificate to teach in any school district, and any teacher or instructor in any area vocational-technical school or community college. Supervisors are specifically excluded from the law.

Not all teachers are entitled to full protection by the statute. Probationary teachers were considered teachers who have not been granted a fourth consecutive contract in a school district in Kansas (originally set at three contracts). That period may be shortened or waived by a school board. A teacher who has gained nonprobationary status in one district need only complete two years of subsequent employment in another district to gain nonprobationary status. A probationary teacher was given the right to a hearing if the teacher alleged that the dismissal was based on his or her exercise of a constitutionally protected right. If that burden was met, the burden then shifted to the board to show that the dismissal would have been made regardless of the constitutionally protected conduct.

Originally the procedure was as follows:

1. Written notice was given to the teacher of intent by a board to not renew or terminate the contract including (1) a statement of the reasons for the proposed nonrenewal or termination and (2) a statement that the teacher may have a hearing if the teacher gives notice within 15 calendar days from the date of the notice.
2. If the teacher wanted a hearing, a three-person panel was formed consisting of one person appointed by the teacher, one appointed by the board and third appointed by the two other panelists. If the two could not agree, the district court appointed the third person.
3. The three-member panel would hold a hearing (rules were given) and would issue a written decision.
4. The decision would be presented to the board of education which could either accept or reject the finding.

5. After the decision by the board, the teacher could appeal the decision to the district court.

There have been several minor changes in the law from time to time; however, there have been three major changes in the law:

1984 -- The KASB and the KNEA agreed to a change which made a unanimous decision by the hearing committee binding on the board. In the agreement, the probationary period was increased, prospectively, from two years to three years.

1991 -- The legislature changed the statute to provide that the opinion of the three-member panel was made binding on the board. KNEA was the moving party behind the change. The Association showed the great number of instances when a hearing panel's decision was ignored by the board, which forced more and more cases to go to the courts. The Association also showed that since the 1984 changes, school boards had "stacked the deck" by making sure their panelists would vote for the board no matter what the evidence showed. The measure passed the House of Representatives twice by votes of 77-47 and 75-47. The Senate concurred with the second vote, on SB 143, by a 22-18 vote.

1992 -- The 1992 change was agreed to by both KASB and KNEA. The courts had issued a ruling indicating that school boards were responsible for the costs of a hearing panel and the school board association wanted to reduce the number of panelists to one hearing officer. Kansas NEA agreed to the change. The hearing officer is selected from a list of nine potential officers provided by the Department of Education. The parties alternately strike names and the last remaining person serves as officer. The parties may agree to use the American Arbitration Association to provide an arbitrator to serve as the officer.

The courts have interpreted changes in the law as they have been made by the legislature. After the most recent changes (1991 & 1992), the Kansas Court of Appeals, in *U.S.D. No. 434 v. Hubbard*, basically changed the role of the school board, correctly interpreted the intent of the legislature when it stated:

"Before the 1991 amendment, the primary responsibility for determining "good cause" rested with the school board. . . The 1991 amendment, however, changed all that when the legislature decided to

make the decision of the hearing committee* final, subject to appeal to the district court. . . Therefore, in a teacher termination case, a due process hearing committee is the factfinder. Accordingly, a hearing committee* must decide whether the reasons given by a school board in its decision to terminate or nonrenew a tenured teacher's contract constitute good cause. Finally, the amendment clearly indicates that a hearing committee is the body best qualified to assume these quasi-judicial functions formerly performed by the school board."

As far as judicial review, the court went on to say:

"... except the 1991 amendment requires us now to apply our review to the decision of the hearing committee*. Consequently, the standard of review of a due process hearing committee's* decision is limited to deciding if: (1) the committee's* decision was within the scope of its authority; (2) the committee's* decision was supported by substantial evidence; and (3) the committee* did not act fraudulently, arbitrarily or capriciously."

Basically this amendment to the teacher due process law, as interpreted by the Kansas Courts, added substantive due process to the procedural due process which had previously been in place.

*** The reader is reminded that the hearing committee was changed to a single officer in 1992.**

OTHER STATES' POLICIES

A survey done in the fall of 1998 found that there were thirteen different types of due process statutes in existence in the 50 states. The forms range from board hearings only to arbitrator's rulings being binding to appeals to State Practices Commission before the courts are involved. The courts appear to be involved in all the procedures.

Nineteen states have processes that do not have any other step than the board of education before the courts are involved. Thirty-one states have appeals of a board's decision to nonrenew a teacher to an outside hearing group or individual. Only Georgia has the state board of education or the teaching standards board involved after a hearing panel decides the case. This is the only state that has more than two steps before the courts are involved.

It may be noted that some individual school districts have negotiated dismissal procedures with the local teacher's association. This is the case even in Kansas. As an example, both Turner and Shawnee Mission negotiated agreements refer to dismissal procedures that include arbitration as the final step in the procedure.

REVIEW OF LITERATURE

One can find articles of merit on all sides of the issue of teacher due process and tenure. Depending whether an author is writing for *The American School Board Journal* or the *NEA Today*, the points of view can be 180° from one another. A person advocating for one side or the other of the issue will find plenty of scholarly articles to support his or her position.

Since this paper is advocating one side of the issue, two articles (one that was part of a series) that appear in “neutral” publications should be noted. The first was published in the *Commentary* section of the *Phi Delta Kappan*. Dr. Allan Glatthorn, professor of education, and Dr. Charles Coble, dean of education, both at East Carolina University in Greenville, North Carolina, wrote an article which was entitled *Don't Eliminate Tenure, There Is a Better Route To Improving the Corps*. Drs. Glatthorn and Coble state that:

“Instead of focusing on the elimination of tenure, education leaders should use scarce resources to implement the following constructive approaches: Improve teacher education programs; Use external evaluators who can be tough and objective; and Improve programs for the induction and development of teachers.”

The writers conclude by stating that “Tenure is needed to protect teachers from vindictive and capricious boards and administrators. We have better answers and more important needs than eliminating tenure.”

This article was part of a three-part commentary. The second article was by Lynn Kurtz, director of music, art, and instructional media for the East Meadow School District in East Meadow, New York who writes that the “root cause lies in the way public school teachers are trained, certified, chosen, evaluated, and maintained in their careers” and stresses mentoring of teachers. The third article was by Dr. Dennis Evans, associate director of the department of education at the University of California, Irvine, who states that “one would expect demands for better preparation and training of our teachers. And yet, for a growing number of politicians, it appears that just the opposite is true.” All three articles are worthy of note.

The second article is contained within the report of the National Commission on Teaching and America's Future, entitled *What Matters Most: Teaching for America's Future*. In the section on removing incompetent teachers, the commission finds that "few principals have the time and expertise to provide the intensive assistance needed to help teachers improve or to complete the extensive documentation to try to have them removed." Further, the Commission states:

"Peer assistance and review programs apply greater time and expertise to the process of support and evaluation as expert consulting teachers who have released time for this purpose help their colleagues. Where teaching problems are found, they can be worked on in depth over time. Where improvement does not occur, teacher associations do not block dismissal when they have been involved in designing and implementing an approach that provides due process protections throughout."

The Commission calls for a comprehensive system of professional accountability including demanding assessments before teachers receive an initial license, mentoring programs, refusal to hire teachers out of subject matter area, and peer review and intervention leading to dismissal when necessary. The Commission states that the problem of teacher incompetence represents a tiny fraction of the overall teaching force. It further indicates that a "growing number of districts have demonstrated, with the support of teacher associations, that it *is* possible to remove incompetent teachers and that with systematic supports and intervention in place, the problem grows smaller with each passing year."

The goal expressed by the Commission's literature is to put into place policies that will assure parents that only qualified, competent teachers who are continually refining and enhancing their skills will teach their children. Kansas NEA believes that the best way for local boards of education to ensure that fact is to work with the teachers for a peer assistance and review process which will stress improvement and also provide for dismissal where necessary.

ALTERNATIVE POLICIES

I. KASB ALTERNATIVE

The Kansas Association of School Boards has tried (unsuccessfully) each year since the enactment of the 1991 changes in the law to change the statute on due process. The basic change desired is for the local board of education to have control over the decisions surrounding the nonrenewal and termination of teachers. The organization argues that local control makes it necessary for boards to make the final decision on teacher firings subject to appeal to the district courts. KASB wants the appeal limited to determining whether the board acted in a manner which was arbitrary or capricious to the teacher involved.

II. COMPENSATION VERSUS "TENURE"

Senate Bill 328, supported by the Hutchinson school superintendent, would allow a teacher to trade binding due process rights for some additional (yet to be determined) salary enhancement. A teacher would sign up for this enhancement and be "more vulnerable" to the actions of the local board of education. The amount of money suggested for each "career teacher" would be .4 times the base state aid per pupil or \$1,508 for each teacher taking such a step. When questioned, the superintendent indicated that the money would not be divided equally per career teacher but would be divided as per policy of the local district.

III. "EVERGREEN" CONTRACTS

The concept of an "evergreen" contract is that teachers should be given multi-year contracts (3-5 year) which automatically roll over at a specified time unless contrary action is taken by a board upon recommendation of the superintendent. The proponents state that a teacher can be notified that he or she is failing to meet expectations and given a chance to correct inadequacies. The nonrenewal would have to be based on two or three positive actions by a board in subsequent years. If a board wanted a teacher removed earlier than the end of the contract, it could "buy out" the contract by paying the teacher the remaining amount of the contract. Oregon and Idaho have recently experimented with this type of statute.

IV. EXPEDITED PROCESS

In a discussion with legislative leaders in 1993 and 1994, Kansas NEA proposed an expedited due process procedure which ended with a decision by an arbitrator chosen from the American Arbitration Association which would have very limited appeal to the courts. The proposal had stringent timelines and, depending upon the arbitrator's decision, would most likely have resulted in decisions surrounding nonrenewals to be completed by August of the same year.

V. PEER ASSISTANCE AND PEER REVIEW

The Kansas NEA and other NEA state and local affiliates have promoted the concept of peer assistance along with peer review policies for local school districts. Columbus, Ohio is the example mentioned most often as the district utilizing the concept for the longest time (over ten years). The model calls for the local teacher association and the board of education to establish a peer assistance and review board consisting of seven members with a majority of the members being teachers. Each teacher new to the district is required to go through a one-year mentoring program. During the one-year period, the person is provided intensive professional development and evaluation.

Other educators may be referred to an intervention program by a building principal and/or the building representative of the association. A teacher may also self-refer to obtain assistance. Once accepted for intervention, a teacher's formal evaluation by the building administrator is no longer conducted; however, the teacher is assigned a consultant to work with the teacher to bring the performance up to acceptable standards. There is no time limit as long as the teacher is progressing at an acceptable rate. The PAR Panel decides each year whether to continue intervention, evaluate the person out of the program successfully, or recommend to the Superintendent that the individual's contract be nonrenewed.

Over 3,000 teachers have served the intern year in the district with over 200 "not making it." As of 1997, 178 teachers had been in the intervention with 78 being released in good standing, 13 still in the program, and the rest no longer teaching in the district. Only two teachers challenged the dismissal; neither was successful. Ohio State University works with the district/association to provide consulting teacher training and inservice training to both interns and teachers receiving intervention.

DISCUSSION OF ALTERNATIVES

“No man of spirit, of self-respect, and of capability would want to hold an office or position at the whim or caprice of a body of men with whom he might have but little if any personal acquaintance. No man of spirit, of self-respect, and of capability would accept an office unless he felt that he was reasonably certain to hold the same for some reasonable period of time.”

*Board of Regents v. Mudge, 21 Kan. *223 (1878)*

I. KASB PROPOSAL

Just as the Kansas Supreme Court in its 1878 decision stated, it is important for any person to expect that his or her employing body should not be arbitrary or capricious. The basic disagreement between the Kansas NEA and some school boards (KASB also) is what kind of due process should be afforded teachers in this state. KASB would argue that locally elected boards should set the standards and enforce whatever those standards of competence are regardless of whether the standards are “sufficient” measurements of good teaching.

It is quite evident that some school board members have been told that it is “impossible to fire a teacher in Kansas.” That simply is not the case. From the school board association’s own numbers, it is obvious that the 1991-92 changes in the law have not caused hardships on the school districts in Kansas. The 1995-96 data showed that 192 “nontenured” teachers were nonrenewed by 81 separate boards in 1996. There were only four hearings held (2.1%) 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 nonprobationary teachers who were nonrenewed by 16 boards in 1996, two hearings (12.5%) were held and the board won both of them.

The school board association would point to “buy-outs” which were used to get teachers to accept the terminations. Paying someone an amount of money is not an unaccepted practice in the public or private sector, and indeed administrators in this state have been “bought out” for much more money than teachers. It appears to be a “cost of doing business” for companies and associations. The fact that money has exchanged hands should not be looked at as anything negative since the teacher did lose his/her livelihood.

The key element to the changes requested by the school boards (and inherent in many of the questions posed by Chairman Tanner) is a question as to whom the legislature should grant authority to judge the adequacy, relevance, and fairness of decisions to fire a teacher. Should the decision rest with the same people who fired the teacher originally or should a neutral trained hearing officer make the decision? A hearing officer can ask questions, can judge

whether or not witnesses are telling the truth, can see the faces and make judgements as to whether or not the decision of the board was a correct one. Sometimes those decisions are correct; sometimes they are not correct. If boards are willing to accept the fact that maybe they make a bad decision based on bad information and facts, boards should have no problem with the less than 5% of the cases which seem to go against what they want. A survey by Dale Dennis of the state department would indicate similar findings.

KASB has indicated that school boards just don't fire teachers anymore because they just don't want to go through the hassle. If one can believe KASB's own data, that statement cannot be validated by the data. In the three years before the decision of the committee was made binding on the boards, there were 14, 25, and 23 nonrenewals. The last three years there were 16, 22, and 21 nonrenewals.

The changes desired by the KASB would put "politics" back into the due process procedures in Kansas. Uniformity of standards, consistency in judging actions and substantive due process procedures judged by a trained neutral guarantee real, rather than imagined, due process for teachers in Kansas.

II. COMPENSATION VERSUS "TENURE"

Senate Bill 328 introduces an entirely new concept into the equation of due process for Kansas teachers. Teachers could sell their due process rights for a career salary bonus. The thought that someone could sell his or her rights for an amount of money seems inconsistent with rewarding good teaching. Our best teachers should have the best guarantee of job security, not the least guarantee. Pressure would inevitably be placed on teachers to opt for this amount of money. Statements such as "if you were a good teacher, you shouldn't have to worry about due process" would most likely be made. There are cases of teachers chosen as "local teachers of the year" who were fired the next year over a political issue. This makes one wary of proposals such as SB 328.

Flexible salary schedules and/or pay for excellence is a separate issue which should be dealt with in working sessions between local boards of education and teachers. Certainly SB 328 is not an acceptable alternative to a high percentage of teachers in this state.

III. "EVERGREEN" CONTRACTS

This experimental program is in its infancy in Oregon and Idaho. It is too early to judge whether these have achieved the desired results. It

appears that the buy-out provisions are similar to the buy-outs currently being criticized by the KASB. Most buy-outs currently are less than two or three year's worth of contracted salary.

Neither KASB nor KNEA has proposed this alternative. It appears that this is an unlikely alternative to the current situation.

IV. EXPEDITED PROCESS

The expedited process was presented to KASB by KNEA in 1993 or 1994. The process would have started on February 15 with notice to the teacher and would have ended by August 30 with a decision by an arbitrator. It took a great deal of discussion within KNEA to get agreement to submit this proposal. Many did not like the "no appeals to court" provision.

When submitted to KASB, the proposal was summarily rejected by the KASB attorneys who countered with a proposal for advisory decisions by the hearing officers. That proposal was obviously rejected by the association. In the long run, the procedure proposed by KNEA would have been cheaper and less time-consuming for all parties involved.

V. PEER ASSISTANCE AND PEER REVIEW

Kansas NEA introduced HB 2348 which would have established up to five pilots for a peer assistance/review study. The bill asked for appropriations of \$250,000 to assist districts in providing training and released time for consulting teachers (In Columbus the district is large enough to have full-time released consulting teachers under contract with the district to assist their peers.) No hearing has yet to be given this proposal.

The idea of peer review is brand new to the K-12 districts in Kansas. We currently have four or five districts with intensive mentor/intern programs that have been started (with assistance from KNEA and its local associations) in the last three to four years. No district believes it is ready to move into a peer review situation.

Districts are somewhat reluctant to "give up the control" of evaluating and assisting teachers who either are new or not performing as expected. There is some question as to whether teachers will "do the job" of assisting their peers with problems and making the tough decisions not to renew contracts if necessary. Even though the experience in Columbus and other local districts indicate otherwise, administrators and board members and even some teachers in Kansas have been slow to accept the peer assistance and review concepts.

KNEA hopes that pilot studies, which would target all types and sizes of schools, would demonstrate to lawmakers and educators that the system of peer involvement in the profession could make a difference in Kansas. The funding component is an important part of the proposal. Although a large school district could possibly reallocate funds for a mentoring/assistance/review program, small districts would not have the necessary resources to accomplish the training and released time components necessary for the program to be successful (e.g., in Columbus, there are 12 consultants given training, released time, and a salary stipend.)

Kansas NEA believes that a district should evolve into a full peer assistance and review program. A district should work on peer assistance (mentoring, induction, and assistance to both new teachers and teachers having problems) before a pure peer review system is installed. Working together in a quality assistance program will cause fewer concerns when the peer review program is initiated.

Although the concept is being accepted in a few local school districts, most are larger districts and certainly there is not statewide embracing of this program. KNEA hopes that a pilot would bring future acceptance.

WHAT IS THE ULTIMATE GOAL?

The legislature and other policy makers need to determine what the ultimate goal or objective is or should be in the area of teaching and learning. Kansas NEA, along with individuals from Kansas private and public institutions of higher education, from community colleges, from the State Board of Regents and the State Board of Education, for the Kansas Chamber of Commerce and Industry, and from other statewide organizations including administrators' organizations has been part of the **Kansas Commission of Teaching and America's Future**. KCTAF has chosen as its overarching goal the following objective: **"a caring, qualified, competent teacher in every classroom in the state of Kansas."**

Over the past three years, KCTAF has met and hammered out a series of 24 recommendations in five goal areas aimed at achieving that objective. The five goal areas are setting rigorous standards for teachers and students; reinventing teacher preparation and professional development, overhauling teacher recruitment, encouraging and rewarding teacher knowledge and skills, and organizing schools for student and teacher success.

Under the goal area of encouraging and rewarding teacher knowledge and skills, KCTAF identified three recommendations:

4A) Develop a career continuum for teachers that rewards advanced subject knowledge and teaching skills. Identify knowledge and skills components that merit additional compensation;

4B) Implement peer mentoring, assistance, and review to improve teaching and learning; and

4C) Remove teachers who do not meet standards.

These three recommendations have been accepted by the members of KCTAF, including Kansas NEA. It is quite interesting that the Commission has at no time considered the elimination of due process rights for teachers as a way to reach the goal areas or the overarching goal of a caring, qualified, and competent teacher in every classroom. In fact, at the October 28 and 29 KCTAF conference, many participants, including those from the Kansas Association of School Personnel Directors, indicated that if 4A and 4B were implemented, that 4C would take care of itself. No group advocated changing the current law for teacher due process.

It is quite interesting that the Kansas Association of School Boards chose not to participate in the KCTAF process. Although some staff members were in attendance for some of the preliminary meetings, the KASB, when it was obvious that the commission would not endorse their proposal on due process, declined the opportunity to join KCTAF's efforts to strengthen and improve the teaching profession. Some school board members were called and "ordered" not to attend the October, 1999 conference.

One must stop and wonder what the real goal should be. KNEA has made the KCTAF recommendations a priority within our own organization. KNEA has put resources into support for such school districts as Blue Valley, Manhattan, Lawrence, Olathe, and Emporia who are laboring – teachers, administrators, and school board members – to create teacher support and evaluation programs.

KNEA will continue to believe that the goal of a **caring, qualified, competent teacher in every classroom in the state of Kansas** is a worthwhile goal that can be achieved with cooperation of all those involved in education. We dismiss the proposed changes by KASB as they are based on an entirely different goal – increasing the authority of local school boards. We believe that Kansas' children benefit most by the KCTAF goal.

SUMMARY AND CONCLUSIONS

“The evident purpose of the Tenure of Instructors Act (G.S. 1949, Chapter 72, Art.54) is to protect competent and worthy instructors and other members of the teaching profession against unjust dismissal of any kind – political, religious, or personal, and secure for them teaching conditions which will encourage their growth in the full practice of their profession, unharried by constant pressure and fear...”
Million v. Board of Education, 181 Kan. 310 p.2d 917 (1957)

Even though the teacher lost the case in the above-mentioned case, the court, in deciding the case in this 1957 case tried under the old “tenure” law in Kansas, stated well the purpose of due process rights for Kansas’ teachers. The legislature has indicated that it does not want professional educators to be subject to unjust dismissal of any kind and want them secure in the full practice of their profession. The actions of boards of education have led us to the statute as it stands today.

One of the most misunderstood provisions pertaining to education is the teacher tenure or due process law. In a recent poll in New York State conducted by Zogby International, voters *overwhelmingly* supported the protections given to teachers by the tenure statute; however, they had a negative, mistaken impression of what the word “tenure” means. It is no wonder that the Kansas Association of School Boards chooses this term to describe our Kansas due process law. The negative connotations assist KASB in its attempts to change the current statute.

When asked if they favored giving teachers the right to a fair hearing before a school board could fire the teacher (which is the system in place), 84 percent of these voters said yes. 99 percent believe teachers should have the right to know the allegations against them, 98 percent said teachers should be able to defend themselves before being fired, and 2/3 say that an impartial hearing panelist – not the board or an administrator or even a fellow teacher – should decide whether charges against a teacher are true.

Kansas NEA believes that the local school board, the group that made the original decision to fire a teacher, cannot and should not be the group designated to make a decision as to whether the charges against a teacher are true or warrant dismissal. Most of the questions posed by the chair to the associations seem to suggest a desire to change the process to a board-controlled decision. KNEA would reject those suggestions. Even an advisory decision by a hearing officer has proven to be unacceptable as boards can and have demonstrated they, more often than not, will summarily ignore advisory opinions.

The ERIC Clearinghouse on Education Management defines tenure as a “form of job security for teachers who have successfully completed a probationary period. Its primary purpose is to protect competent teachers from arbitrary nonrenewal of contract for reasons unrelated to the education process -- personal beliefs, personality conflicts with administrators or school board members, and the like.” We have seen too many boards of education fire teachers for reasons that are not related to quality teaching.

Due process in Kansas does not mean that incompetent teachers can't be fired. The number of incidents of teacher firings, as shown by the KASB survey, proves that fact. Due process does require school administrators to show that there is a good reason to fire an employee.

Kansas NEA does want the procedure of due process to be as expedited as possible, as the last question posed to the association suggests. Bob Chase, the president of the NEA, stated recently that the process for dismissing bad teachers should be “streamlined.” “No one believes that it should take four or five or six years to either get rid of a teacher who is ineffective or, and very importantly, to exonerate a teacher who has been falsely accused or falsely charged,” Chase said. “If there is a bad teacher in one of our schools, then we must do something about it.”

Kansas NEA chooses to promote the goal of a **“caring, qualified, competent teacher in every classroom in the state of Kansas.”** KASB continues to promote the goal of **“increasing the power of the local school board.”** The children of Kansas will benefit most from the first goal mentioned.

A peer assistance and review system in a local school district could solve a number of concerns expressed by policy makers and help us reach the desired goal. The experience in other districts/states would indicate that there would be fewer dismissal cases challenged and a true chance for a teacher to improve his or her performance. The due process procedures would not change; the process of induction, mentoring, evaluating, and assisting teachers leading up to possible termination would have changed. Kansas should experiment with this process to investigate its worth to our state.

Kansas NEA is opposed to “turning back the clock” by removing the binding decision of the hearing officer. The system does not seem to be broken and it is not causing undue hardships on school districts in Kansas. We are more than willing to implement – in fact, we are promoting – peer assistance and review programs for the schools in Kansas. We believe,

frankly, that peers will be harder on their peers than administrators would be. However, teachers want their colleagues to succeed, and will work hard, taking the time necessary to bring that about. Teachers are also more likely to accept suggestions from their peers. This system will produce what we all hope to gain – quality education for the children in Kansas' schools.

Kansas NEA hopes the Kansas Legislature agrees with our position in regard to due process rights. We always stand ready to work with the legislators to improve our system. We will oppose a diminution of our right to substantive and procedural due process procedures that guarantee a fair dismissal procedure – procedures that are working in our state.

Unwarranted dismissals can ruin a teacher's career, damage teacher morale, and weaken school quality. Creative and innovative teachers, who are willing to experiment and try new ideas, should be protected from attack. We must work to improve the quality of teacher preparation, teacher induction, and teacher evaluation. These should be our primary concern in the foreseeable future.

As always, Kansas NEA is willing to discuss with any committee member or legislator the contents of this document or other issues which may be of concern to them. We thank you for the opportunity to discuss our beliefs. The issue is one of the highest priorities to our 24,000 members.