

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Dwayne Umbarger at 1:36 p.m. on February 18, 2003 in Room 123-S of the Capitol.

All members were present except: Senator Downey (excused)

Committee staff present: Kathie Sparks, Legislative Research
Theresa Kiernan, Revisor of Statutes
Judy Steinlicht, Secretary

Conferees appearing before the committee: Mark Desetti, KNEA
Christy Levings, KNEA
Theresa Kiernan, Revisor of Statutes
Pat Baker, KASB
Dr. David Hurt, Coordinator for Counselors, USD 229, Blue Valley
Rose Ann Haberman, Coordinator of Guidance & Counseling, USD 501, Topeka
Bob Clark, KS Association of School Psychologists
Gary Price, Mental Health Credentialing Coalition

Others attending: List not completed

Read Across America

Mark Desetti, KNEA, presented the annual Read Across America program and provided a children's book to each Committee member which can be read to school children and donated to a school library on March 3rd which is the date to celebrate the birthday of Dr. Seuss. This year they chose to honor the 100th anniversary of flight. Christy Levings told the Committee about the celebration of the 99th birthday of Dr. Seuss that will take place on March 3rd at the Cosmosphere in Hutchinson. ([Attachment 1](#))

SB128—Communications between pupils and school counselor or psychologist

Theresa Kiernan gave the Committee a brief description of **SB128**. **SB128** would provide a privilege of communication between a pupil and a counselor or school psychologist. It would make an exception if a person is a mandated reporter under current law or if the privilege is waived in writing by the pupil or if the communication was made with the expressed purpose of being communicated or if the school counselor has reason to believe the pupil is a victim of child abuse or that the pupil or another person's physical or mental health may be in jeopardy.

Mark Desetti, KNEA testified in support of **SB128**. KNEA believes school counselor's jobs have changed over the years, that they are no longer just advisors, but they also listen to students who share their frustrations and stresses. Students should be able to talk to counselors and expect conversations to be privileged. This bill provides exceptions when conversations are not expected to be privileged, such as, when a child or another person is in danger. ([Attachment 2](#))

Patricia Baker, KASB appeared in support of **SB128**. KASB believes granting protective privilege to school counselors and psychologists will encourage students to confide in professionals and to seek help with problems. KASB suggests adding an amendment that would provide immunity to school employees and to school districts when acting in good faith pursuant to this act to avoid adversarial proceedings. ([Attachment 3](#))

Dr. David Hurt, District Coordinator for Counselors, Blue Valley School District believes that confidentiality is critical to gaining a client's trust. They believe passage of **SB128** will potentially have a significant impact on the actual day-to-day counselor-student relationship. The bill clarifies the legal and

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE at 1:30 p.m. on February 18, 2003 in Room 123-S of the Capitol.

ethical dilemma faced by school counselors and psychologists when they receive information that students expect will remain private and confidential. (Attachment 4)

Roseanne Haberman, LPC, Coordinator of Guidance and Counseling, USD 501 Topeka, believes privileged communication is vital in any counseling situation but that it is especially true when working with young people. **SB128** gives school counselors and school psychologists the protection needed in building counseling relationships with students. (Attachment 5)

Bob Clark, Kansas Association of School Psychologists, supports **SB128** in general, but had concerns about parental rights if the bill is intended to keep student communication from parents and concern if students with disabilities are capable of giving informed consent in waiving their right to confidentiality. (Attachment 6)

Gary Price, Mental Health Credentialing Coalition, testified in favor of **SB128** for Ron Hein. They believe confidentiality is an important issue for all mental health professionals and believe that confidentiality provisions should be extended to both school counselors and school psychologists. (Attachment 7)

The Committee asked questions of all the conferees and continued discussion after the testimony was completed.

Senator Vratil made a motion to amend **SB128** in subsection 3, section 1, line 27 adding words "or has committed a felony or intends to commit a felony." Seconded by Senator Emler. It was suggested by Pat Baker, KASB that the same definition be used as already defined in the Safe Schools Act to have some uniformity. Senator Vratil agreed to change his amendment and amend according to Pat Baker's recommendation. Senator Emler agreed. Motion carried.

Senator Vratil made a motion to recommend **SB128** as amended favorably for passage. Seconded by Senator Emler. Motion carried.

SB22--Capital outlay fund; computers and software

Chairman Umbarger explained that **SB22** and **SB83** have some of the same provisions and entertained a motion to amend the contents of **SB83** into **SB22**.

Senator Teichman made a motion to amend the contents of **SB83** into **SB22**. Seconded by Senator Vratil. Motion carried with one no vote from Senator Schodorf.

Senator Teichman made a motion to recommend **SB22** favorably for passage as amended. Seconded by Senator Vratil. Motion carried with three no votes from Senators Schodorf, Bunten and Emler.

Senator Bunten made a motion to approve the minutes for February 6, 10 and 11. Seconded by Senator Teichman. Motion carried.

Meeting adjourned at 2:30 p.m. The next meeting is scheduled for February 19, 2003 at 1:30 p.m. in Room 123S.



Mark Desetti, testimony
Senate Education Committee
February 18, 2003

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Good afternoon and thank you, Mr. Chairman and members of the Committee for the opportunity to talk with you about the annual **Read Across America Celebration**. I am here today wearing what I refer to as my two "hats." First, I wear the hat of Director of the Kansas State Reading Circle; secondly, I wear *the* hat as the Cat in the Hat.

In the past, we have featured sports figures in our Read Across promotion. There was George Brett, Roy Williams and the Jayhawk, Bill Snyder and Willie Wildcat, and Olympic weightlifter Tara Nott. This year we looked for a different kind of hero and settled on Steve Hawley, a shuttle astronaut from Salina, Kansas. In our poster, you will see Steve with the Cat in front of one of NASA's training shuttles at the Johnson Space Center in Houston.

On the cover of our Reading Circle List for this year, we also honor the 100th anniversary of flight and feature three great Kansans. From our past, we have chosen Atchison's Amelia Earhart. For the present we have Salina's Steve Hawley. And for our future I conducted a massive search for the best representative I could find. But as that great Kansan Dorothy Gale once said, "If I want to find happiness, I don't have to go any further than my own back yard." Representing the future is my son Brendan, an eighth grader from Lawrence and a graduate of levels 1 and 2 of the Cosmosphere's Future Astronaut Training Program.

I invite you to join us in this celebration of reading. To that end, I have provided each of you with a children's book that you can read in a classroom on March 3rd and donate to the school library. It has worked out perfectly this year that March 3rd is turnaround and you will be back in your home districts. What a great opportunity this is for all of us.

Thank you for your time today. Happy reading and Happy Birthday Dr. Seuss.



Mark Desetti, testimony
Senate Education Committee
February 18, 2003
SB 128

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you in support of **Senate Bill 128** on behalf of KNEA.

This bill perhaps is reflective of our times. When I was in school, we had counselors who did little more than advise us on class selection and college. Our psychologists were mostly used to oversee testing programs. Today we live in a different world.

Our students are bombarded with messages and media; they live under great stress; they hear and read of suicides and violence. The school counselor and psychologist are no longer just advisors or testers. While they continue to fulfill those roles, their job has expanded. They can and do serve as listeners, helpers, supporters; as a kind and understanding adult to whom students can share their frustrations and stresses.

Just as people talk to their clergy in times of trouble and expect such conversations to be privileged, so should students be able to talk to a counselor with such an expectation.

Yet it is important to note, that there are exceptions to this privilege in **SB 128** and the third of these is particularly important. We would not allow privilege to be expected when the child or other children are in danger. This exception allows us to ensure that all our students are safe.

Senate Bill 128 will help our children and protect the specially trained adults who are there to support them. We urge you to pass **SB 128** favorably.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

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

Testimony on SB # 128
before the
Senate Education Committee

by

Patricia Baker, Deputy Executive Director/General Counsel
Kansas Association of School Boards

February 17, 2003

Mister Chairman, committee members, thank you for the opportunity to appear in support of Senate Bill 128.

We believe granting a protective privilege to school counselors and psychologists will help to encourage students to confide in professionals and to seek help with problems.

We would suggest that the law specifically provide immunity to school employees and to school districts when acting in good faith pursuant to this act. Since the privilege is granted to minors, we feel this protection is necessary to avoid adversarial proceedings.

Thank you.

*Senate Education
2-18-03
Attachment 3*

Senate Bill 128
Senate Education Committee Testimony
February 18, 2003

Dr. David Hurt
District Coordinator for Counselors
Blue Valley School District #229

Confidentiality or privileged communication is critical to gaining a client's trust. Children have the right to expect that the adult protection includes protection of their privacy rights. School counselors and school psychologists can all provide examples of students who would not have sought help without some assurance of privileged communication. The necessity of privileged communication is very clear in the codes of ethics and standards of practice for the American Counseling Association, American School Counseling Association, National Association of School Psychologists, and the American Psychological Association. Additionally, these ethical standards recommend collaboration with parents and families in circumstances involving minor clients and their right to privileged communication. School counselors and school psychologists have an obligation to respect the rights of parents as well as their children and consistently endeavor to establish cooperative relationships to facilitate the maximum benefit for all involved.

When we work with minor students we are charged to evaluate the rights, responsibilities, and welfare of those we serve, and act in a manner that enhances the welfare and growth of the individual. Privileged communication is a means by which we grant individuals a degree of autonomy and respect for information exchanged. The value of privileged communication is not without challenge. When a student's welfare outweighs their autonomy, we are obligated to place a greater value on their safety and share necessary information with parents or other appropriate individuals.

Passage of this legislation will potentially have a significant impact on the actual day-to-day counselor-student relationship. This bill clarifies the legal and ethical dilemma faced by school counselors and school psychologists each time they receive information that students expect will remain private and confidential. Although school counselors and psychologists have a duty to warn clients that they may breach privileged communication under specific circumstances they also have a duty to protect. This bill provides that protection.

Senate Education
2-18-03
Attachment 4

Senate Bill 128
Senate Education Committee Testimony
February 18, 2003

Rosanne Haberman, LPC
Coordinator of Guidance and Counseling
USD 501, Topeka Public Schools

The following printed statement represents my view and that of other counselors across the state of Kansas but I am not representing the Superintendent or the Board of Education for USD 501 on this particular bill.

School counselors are bound by ethical standards set up for us by the American School Counselor Association. Those guidelines clearly state "as a school counselor we must inform parents of the counselor's role with emphasis on the confidential nature of the counseling relationship between the counselor and counselee". It is important for counselors to "make reasonable efforts to honor the wishes of parents and guardians concerning information that he/she may share regarding the counselee".

Just last week, when working with a counselor in her internship from an area college, she had experienced this very situation. She is an intern counselor in a middle school. She has met with a student a couple of times, working on school issues that are interwoven with a central issue of low self-esteem. When the parent came in for parent/teacher conferences, the parent asked this counselor in three different ways the nature of the conferences. The parent was not upset or angry that the counselor was seeing her child. She was just curious and interested in what had been discussed. The counselor/intern gave general information in an overview format, reminding the parent that she was in a confidential relationship where **privileged communication** had taken place.

School counselors are often placed in this situation when working with school aged children and adolescents. Students must be comfortable in the knowledge that their conversations with counselors are private and will not be shared with anyone unless it is clear they are going to harm themselves or others. Forming a collaborative relationship with parents and students is important in all counseling opportunities to maximize the potential benefits for all involved. **Privileged communication** is vital in any counseling situation but it is especially true when working with our young people. Clarification of this bill gives school counselors and school psychologists the protection needed in building counseling relationships with students.

Gysbers, N.C. and Henderson, P. 1976. Developing & Managing Your School Guidance Program.

Senate Education
2-18-03
Attachment 5

To: The Senate Education Committee

From: Bob Clark, Kansas Association of School Psychologists

Re: SB128

We appreciate the opportunity to comment on this bill. The Kansas Association of School Psychologists (KASP) represents 320 school psychologists throughout the state. In general our association supports this bill. The right to confidentiality for a student when speaking to a counselor or psychologist is obviously important to form the trusting relationship needed to help a student with his/her personal issues. Currently, this confidentiality is not guaranteed in that a supervisor could direct an employed school psychologist to divulge what the student spoke about in their session with the school psychologist. This places the employee in a vulnerable situation when such communication is not truly needed by the supervisor for the benefit of the child.

KASP does have some concerns that we would hope would be addressed during the Committee's deliberations. First would be a concern regarding parents' rights. While a sensitive issue, is SB128 intended to keep student information and communication from the parent? For students with disabilities such as retardation, is such a student capable of giving informed consent in waiving their right to such confidentiality? Lastly, KASP hopes that information gleaned from the child during special education evaluations falls under Section 1, (2) "the information or communication was made to the counselor or school psychologist for the express purpose of being communicated or of being made public" so that this information may be shared with the child's team. One potential solution to our concerns may be to, within the statute, differentiate the information and communication gleaned in a counseling relationship versus an evaluative session where the parent has requested and consented to such evaluation.

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2-18-03
Attachment 6

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

**Testimony re: SB 128
Senate Education Committee
Presented by Ronald R. Hein
on behalf of the
Mental Health Credentialing Coalition
February 18, 2003**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Mental Health Credentialing Coalition. The Coalition is comprised of the members of the Kansas Association for Marriage and Family Therapy, the Kansas Association of Masters in Psychology, and the Kansas Counseling Association/Kansas Mental Health Counselors Association.

The MHCC supports SB 128. Confidentiality is an important issue for all mental health professionals, including the professionals represented by the three associations that comprise the Mental Health Credentialing Coalition. In fact, currently the House of Representatives has before it HB 2170, the provisions of which make changes in the language regarding privileged and confidential communications by mental health professionals governed by the Behavioral Sciences Regulatory Board.

The MHCC believes strongly that confidentiality provisions should be extended to school counselors and to school psychologists, even if they are not under the jurisdiction of the BSRB and governed by its confidentiality provisions. Both school counselors and school psychologists are licensed/certified by the State Board of Education. This bill presents an appropriate mechanism for protecting confidentiality of communications between students and school counselors and school psychologists, and the MHCC urges that the Committee recommend SB 128 favorably for passage.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

*Senate Education
2-18-03
Attachment 7*