



SENATE COMMITTEE ON EDUCATION
TESTIMONY ON HOUSE BILL 2444

March 8, 2012

Senator Schodorf and honorable members of the Senate Committee on Education:

My name is Richard Whelan. For the past 12 years, I have been a part-time special education program consultant for the Blue Valley School District (USD 229) which is in Overland Park, Kansas.

I am here to ask the Committee to table consideration of HB 2444 until sufficient information from the reporting requirements of **Kansas Seclusion/Restraint Guidelines** (Adopted by the Kansas State Board of Education) is available for review and evaluation by the Legislative Division of Post Audit or the Kansas State Department of Education.

Before addressing the rationale for the above recommendation, please know that Blue Valley USD 229 School Board members, parents, faculty and staff, and I believe that the security and safety of all of our students is central to our mission. For example, during the 2005-2006 school year, the district developed and implemented seclusion and restraint guidelines by preparing staff members to use other strategies in response to violent behaviors before using restraint or seclusion when confronted with imminent danger to others or to self. These guidelines are aligned with the Kansas Guidelines

Further, the United States Senate is considering S. 2020, a bill to protect **all** [emphasis added] school children against harmful and life threatening seclusion and restraint practices, which was introduced by Senator Tom Harkin on December 16, 2011. If or when this Bill becomes law, federal regulations will be developed to mandate state and local education agency compliance. Therefore, I believe Kansas should continue to use the Guidelines until the fate of S. 2020 is decided. This action will avoid costly and time consuming efforts to comply with possible Kansas interim law and regulations which will require changes if S. 2020 becomes law.

I want to point out an especially troublesome part of HB 2444. I believe there is problem with potentially divergent interpretations of (c) below:

(c) "Imminent risk of harm" means an immediate and impending threat of a person causing substantial physical injury to self or others. Violent action that destroys substantial property may fall within this standard only if the property destruction also poses an immediate and impending threat of causing substantial physical injury to self or others.

#28