Substitute for HOUSE BILL No. 2662

By Committee on K-12 Education Budget

2-21

AN ACT concerning education; relating to schools and school districts; establishing certain parental rights relating to the education and upbringing of a child; requiring school districts to adopt policies to promote transparency and parental involvement in a child's education; requiring each school district to establish an academic transparency portal on the school district's website to provide information on learning materials and activities in each school; prohibiting teachers from being negatively evaluated for refusal to teach through critical pedagogy philosophies or against sincerely held religious beliefs; establishing requirements for the administration of certain nonacademic tests, questionnaires, surveys and examinations; amending K.S.A. 72-2410 and 72-6316 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Sections 1 through 3, and amendments thereto, shall be known and may be cited as the parents' bill of rights and academic transparency act.

(b) The legislature finds that a quality education is central to a child's development and long-term success in life and that a parent has a right to direct the upbringing, education and care of the parent's child. The legislature further finds that a parent shall have the right to retain the primary role in a child's education, to obtain critical information about what is being taught or provided in the classroom and to take action when a parent feels that the quality or content of a child's education does not align with the values and expectations the parent expects and deserves.

(c) Every parent of a child in this state shall have a fundamental right to direct the upbringing, education, care and mental health of the parent's child. The following parental rights are reserved to each parent of a child in this state:

1. The right to direct the education and care of such child;
2. the right to direct the upbringing and the moral or religious training of such child;
3. the right to request, access and inspect all written and electronic records maintained by a school relating to such child;
4. the right to be informed of and inspect the curriculum,
instructional materials and any other materials that are made available or
taught to such child in the child's school;
(5) the right to attend publicly designated meetings of the local school
board and the right to question and address school officials during
designated public comment periods or through letters, electronic
communications or in-person meetings;
(6) the right to make healthcare and medical decisions for such child,
including the right to make decisions regarding vaccinations and
immunizations;
(7) the right to expect that such child, and each teacher and educator
of such child, shall not be compelled to affirm, believe, profess or adhere
to any idea that violates the civil rights act of 1964;
(8) the right to expect that no course of instruction or unit of study
shall direct or otherwise compel the child to personally affirm, adopt or
adhere to any idea that violates the civil rights act of 1964;
(9) the right to expect that the child's school shall not contract for
teacher professional development with providers that promote racially
essentialist doctrines or practices that have been held to violate the civil
rights act of 1964;
(10) the right to expect that each teacher and educator of such child
will endeavor to present facts without distortion, bias or personal
prejudice;
(11) the right to expect that each teacher and educator of such child
shall work to eliminate coercion that forces teachers and educators to
support actions and ideologies that violate individual professional
integrity; and
(12) the right to assert any other inalienable or constitutional right
that is reserved to the parent and the child pursuant to state or federal law.
(d) On or before January 1, 2023, the board of education of each
school district shall develop and adopt policies to guarantee a parent's right
to be involved in a child's education. Such policies shall be developed in
consultation with parents, teachers and school administrators and shall
include policies and procedures for a parent to:
(1) Be informed through the parent transparency portal or other
means of notification and have the ability to inspect any materials,
activities, curriculum, lessons, syllabi, surveys, tests, questionnaires,
examinations, books, magazines, handouts, professional development and
training materials and any other materials or activities that are anticipated
to be used for instruction;
(2) inspect and review any educational or health records maintained
by the school that pertain to the parent's child;
(3) have an opportunity to object to any learning material or activity
on the basis that such material or activity harms the child or impairs the
parent's firmly held beliefs, values or principles and withdraw such child
from the activity, class or program in which the material is used;
(4) have an opportunity to request that the school designate any book,
magazine or any other material that is made available to students in the
school library as an item for which parental review is recommended as
provided in section 2, and amendments thereto. Such policies and
procedures shall require consideration of each such request and if a request
is upheld, such book, magazine or other material shall be designated in
accordance with the provisions of section 2, and amendments thereto; and
(5) have an opportunity to challenge the material or educational
benefit of any book, magazine or any other material available to students
in the school library. Such policies and procedures shall require
consideration of each such challenge and if a challenge is upheld, such
book, magazine or material shall be removed from the school.

New Sec. 2. (a) On or before July 1, 2023, the board of education of
each school district shall establish an internet-based transparency tool
titled the parent transparency portal on such school district's website with a
link to such parent transparency portal prominently displayed on the
website homepage of the school district and on each website homepage of
each school of the school district that maintains a school website. Each
school district's parent transparency portal shall provide the following
information to the public:
(1) The parents' bill of rights established pursuant to section 1, and
amendments thereto;
(2) a list organized by school, grade level and area of instruction that
includes the academic learning materials, activities and curriculum used
for student instruction at any school of the school district. Such list shall
include the title, author, organization, website address and any other
information that is necessary for the identification of such materials,
activities and curriculum;
(3) a link to the curriculum standards established by the state board of
education shall be associated with each applicable grade level and subject
matter;
(4) (A) a list organized by school, grade level and area of instruction
that includes the social and emotional learning materials, activities and
curriculum used for student instruction at any school of the school district.
Such list shall include the title, author, organization, website address and
any other information that is necessary for the identification of such
materials, activities and curriculum; and
(B) a list organized by school, grade level and area of instruction that
includes the following information for each nonacademic test,
questionnaire, survey and examination referred to in K.S.A. 72-6316, and
amendments thereto, that is administered in any school of the school
A copy of each test, questionnaire, survey or examination; the name of the company or entity that produces or provides the test, questionnaire, survey or examination; an explanation of the purposes of the data collection, how the collected data is intended to be used and whether the data will remain private or reported as aggregate data; an explanation of how such test, questionnaire, survey or examination benefits student learning and academic achievement; and an explanation of whether the school district will receive or maintain the resulting data and an explanation of how the school intends to use and maintain such data;

(5) a list organized by school, grade level and area of instruction, if applicable, that includes the professional development courses, training materials and related activities that were provided or offered to any licensed teacher or administrator of the school district. Such list shall include the title, author, organization, website address and any other information that is necessary for the identification of the courses, materials and activities;

(6) a link to the catalog or a list of the documented inventory of the resources available to students in each school library. Such link or catalog shall clearly provide whether any book, magazine or other material is an item that is designated that parental review is recommended or has been placed on the books under review list in accordance with subsection (b). Each library catalog or inventory provided on the parent transparency portal shall indicate next to the title of the book, magazine or other material whether a designation of parental review is recommended is due to sexual content, excessive profanity or excessive violence and shall provide a sample of the material that necessitates such designation;

(7) information and guidance on how a person may request and be given the opportunity to review and inspect any of the materials, activities and information that is required to be listed or referenced on the school district's parent transparency portal. Such information and guidance shall include a point of contact at the school district and at each school for the purpose of making a request to review materials, activities and information pursuant to this section; and

(8) the school district's policies adopted pursuant to section 1(d), and amendments thereto, that provide for parental involvement in a child's education.

(b) (1) Any book, magazine or other material that is made available to students in a school library shall be designated by the school district as an item for which parental review is recommended if such item is requested to be designated as an item in which parental review is recommended
pursuant to the policies adopted pursuant to section 1, and amendments
thereto, and such item meets the criteria for the designation that parental
review is recommended. Designations shall be made in accordance with
the requirements of this subsection. Any book, magazine or other material
that is requested to be designated as an item in which parental review is
recommended pursuant to the policies adopted pursuant to section 1, and
amendments thereto, shall be placed on a list titled books under review
while such request is considered. Such books under review list shall be
included on the parent transparency portal. If there is doubt regarding
whether a book, magazine or other material is requested to be designated
as an item in which parental review is recommended pursuant to the
policies adopted pursuant to section 1, and amendments thereto, and such
item meets the criteria for a parental review is recommended designation,
school districts shall resolve such doubt in favor of designating the item so
that parents may make informed decisions regarding the use of such item.

(2) On and after July 1, 2022, a school district that purchases or
obtains any new books, magazines or other materials for availability in a
school library shall establish a process to designate any such items that
meet the criteria for a parental review is recommended designation prior to
making any such books, magazines or other materials available to students
in the school library.

(3) Pursuant to a school district's policies adopted under section 1,
and amendments thereto, upon a parent's request for a school district to
have an item designated as one in which parental review is recommended,
a school district shall cause such designation to be made unless the item is
unequivocally not deserving of such designation.

c) This section shall not be construed as requiring a school district to
violate the copyright, trademark or other intellectual property right of the
creator or owner of any material referred to in this section.

d) Each school district shall post any learning materials, activities,
curriculum and any other information required to be listed or provided
pursuant to this section prior to the first day of school if such school
district knows that such materials, activities, curriculum or information
will be used during the upcoming school year. For any learning materials,
activities, curriculum or other materials that are not listed or provided on
the parent transparency portal at the beginning of the school year, each
school district shall cause any such materials, activities, curriculum or
information to be listed or provided on an ongoing weekly and monthly
basis during the school year as such materials, activities, curriculum or
information is presented or provided to students. For the purpose of
making ongoing weekly and monthly updates, a school district may use
collaborative online document or spreadsheet software that allows multiple
users to update or make additions to content on an ongoing basis as long as
the contents of such online document or spreadsheet is made available on
the parent transparency portal.
(e) All such information that is required to be listed or provided on
the parent transparency portal in a school year shall be finalized and
completed by June 30 of such school year. All such information shall be
maintained for not less than two school years following the school year in
which such information was provided on the parent transparency portal.
(f) The state department of education may provide guidance and
assistance to school districts regarding the establishment and maintenance
of such transparency portals.
(g) The attorney general, the city, county or district attorney or a
resident of the school district in which the school is located may bring an
action for injunctive relief or a writ of mandamus to compel the school
district to comply with this section. If a resident of the school district
prevails in any such action, the court shall award to the resident reasonable
attorney fees not to exceed $15,000.
New Sec. 3. As used in sections 1 through 3, and amendments
thereto:
(a) "Activities" means any assemblies, guest lecturers, presentations
or other educational events in which participation of the student body is
required or a majority of students in a given grade level participate that is
facilitated by the school or school district, including those conducted by
outside individuals or organizations. "Activities" does not include student
presentations or teacher lesson plans.
(b) "Learning materials" means instructional content that is provided
to students, regardless of format, including, but not limited to, textbooks,
reading materials, curriculum, syllabi, course calendars, teacher manuals,
outlines, handouts, presentations, videos, audio and digital materials,
websites and other online applications and any other material that is used
for student instruction. "Learning materials" does not include academic
assessments or tests, a teacher's individual lesson plans or plans or
materials that are specific to an individual student, such as an
individualized education plan, an individual plan of study or a 504 plan.
(c) "Parent" means a parent, guardian, custodian or other person who
has authority to act on behalf of a child.
(d) "Parental review is recommended" means any book, magazine,
newspaper, pamphlet, poster, print, picture, figure, image, description,
motion picture, film, record, video or any other written communication
that:
(1) (A) The average person applying contemporary community
standards would find, taking the material as a whole and with respect to
minors, is designed to appeal or pander to the prurient interest;
(B) depicts, describes or represents, in a manner patently offensive
with respect to what is suitable to minors, an actual or simulated sexual act
or sexual contact or a lewd exhibition of the genitals or post-pubescent
female breast; and

(C) whether the work taken as a whole lacks serious literary,
scientific, artistic or political value for minors;

(2) contains excessive profanity; or

(3) contains excessive violence.

(e) "Used for student instruction" means any material or activity that
is assigned, distributed or otherwise presented to students in any course for
which students receive academic credit or in any educational capacity in
which participation of the student body is promoted or required by the
school or in which a majority of students in a given grade level participate.

Sec. 4. K.S.A. 72-2410 is hereby amended to read as follows: 72-
2410. Evaluation policies adopted under K.S.A. 72-2409, and amendments
thereto, shall meet the following guidelines or criteria:

(a) Consideration shall be given to the following employee attributes:
Efficiency, personal qualities, professional deportment, ability, results and
performance, including improvement in the academic performance of
pupils or students insofar as the evaluated employee has authority to cause
such academic improvement, in the case of teachers, the capacity to
maintain control of pupils or students; and such other matters as may be
deemed material.

(b) Community attitudes toward, support for and expectations with
regard to educational programs shall be reflected.

(c) The original policy and amendments thereto shall be developed by
the board in cooperation with the persons responsible for making
evaluations and the persons who are to be evaluated, and, to the extent
practicable, consideration shall be given to comment and suggestions from
other community interests.

(d) Evaluations of the chief administrator employed by a board shall
be made by the board. The board shall place primary responsibility upon
members of the administrative staff in making evaluations of other
employees.

(e) Persons to be evaluated shall participate in their evaluations; and
shall be afforded the opportunity for self-evaluation.

(f) The contract of any person subject to evaluation shall not be
nonrenewed on the basis of incompetence unless an evaluation of such
person has been made prior to notice of nonrenewal of the contract and
unless the evaluation is in substantial compliance with the board's policy
of personnel evaluation procedure as filed with the state board in
accordance with the provisions of K.S.A. 72-2409, and amendments
thereto.

(g) A person subject to evaluation who refuses to teach through
critical pedagogy philosophies or against such person's sincerely held
religious beliefs shall not be negatively evaluated or have such person's
contract be nonrenewed on the basis of such refusal.

Sec. 5. K.S.A. 72-6316 is hereby amended to read as follows: 72-
6316. (a) No test, questionnaire, survey or examination containing any
questions about the student's personal and private attitudes, values, beliefs
or practices on issues such as sex, family life, morality or religion, or any
questions about the student's parents' or guardians' beliefs and practices on
issues such as sex, family life, morality or religion, of the student or the
student's parents, guardians, family members, associates, friends or peers
shall be administered to any student enrolled in kindergarten or grades one
through 12, unless the parent or guardian of the student:

(1) Is notified in writing not more than four months in advance of the
administration of such test, questionnaire, survey or examination that this
such test, questionnaire, survey or examination is to be administered and
the parent or guardian of the student. Such notification shall include:

(A) A copy of the test, questionnaire, survey or examination that is to
be administered;

(B) information on how the parent or guardian may provide written
consent to authorize the student to take such test, questionnaire, survey or
examination;

(C) the name of the company or entity that produces or provides the
test, questionnaire, survey or examination to the school;

(D) an explanation of the purpose of the data collection, how the
collected data is intended to be used and whether the data will remain
private or reported as aggregate data;

(E) an explanation of how such test, questionnaire, survey or
examination benefits student learning and academic achievement; and

(F) whether the school will receive or maintain the resulting data and
an explanation of how the school intends to use and maintain such data;

and

(2) gives written permission for consent through a written or
electronic signature to authorize the student to take this the test,
questionnaire, survey or examination. This section shall not prohibit
school counselors from providing counseling services to a student,
including the administration of tests and forms which are part of a
counselor's student counseling services. Any information obtained through
such tests or counseling services shall not be stored on any personal
mobile electronic device which is not owned by the school district,
including but not limited to, laptops, tablets, phones, flash drives, external
hard drives or virtual servers. Such written consent may only be accepted
after a parent or guardian has received the notification required pursuant
to paragraph (1) and had an opportunity to review the information
contained in such notification. Written consent shall be provided separately for each individual test, questionnaire, survey or examination that is to be administered.

(b) Notwithstanding a parent or guardian's written consent for a student to take any such test, questionnaire, survey or examination, a student shall have the right to refuse to take such test, questionnaire, survey or examination at any time without limitation. Prior to the administration of any such test, questionnaire, survey or examination, each student shall be informed that such student has the right to refuse to take such test, questionnaire, survey or examination and that the student will not suffer any adverse consequences based on such refusal.

(c) Prior to the administration of any such test, questionnaire, survey or examination, a school district shall post and maintain a copy of each test, questionnaire, survey or examination on the school district website until such time that the test, questionnaire, survey or examination is:

(1) No longer administered by the school district; or

(2) administered again at a later date or in a subsequent school year and at which time, the school district shall update the website to provide the current version that is to be administered by the school.

(d) No such test, questionnaire, survey or examination shall be incorporated or embedded in any academic program, course or curriculum offered or provided by a school district.

(e) No personally identifiable student data shall be collected through any such test, questionnaire, survey or examination.

Sec. 6. K.S.A. 72-2410 and 72-6316 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.