

**Kansas
Equality
Coalition**

Our mission is to end discrimination based on sexual orientation and gender identity, and to ensure the dignity, safety, and legal equality of all Kansans.

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Thomas Witt, Executive Director
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Testimony in support of SB 137
Senate Committee on Education
February 19, 2013

Good afternoon Mr. Chairman and members of the committee. Thank you for the opportunity to speak to you today as a proponent of Senate Bill 137.

Kansas Equality Coalition, since its formation in late 2005, has made bullying prevention one of our primary public policy priorities. In 2007, we worked to pass Kansas' original bullying statute, and in 2008, we worked to add the "cyberbullying" definitions that are in the current statute. Since 2009, we have been working to track school district compliance across the state.

Over the past four years, we have discovered that many school districts are not in full compliance with the current statute. K.S.A. 2012 Supp. 72-8256 requires that each district adopt a policy, create and adopt an implementation plan, and provide for the training and education of staff and students. At the time of the passage of the original bill in 2007, we raised the possibility – indeed the likelihood – that the lack of any reporting provisions could leave the public in the dark about steps being taken to prevent bullying, and could lead to school districts doing little to nothing to comply with the statute.

In 2009, volunteers compiled a database of school bullying policies and implementation plans. For the past month, KEC's research intern, Jasmine Marshall, has been updating our database, and will be speaking to you today about some of the data she has collected. Briefly, however, I would like to talk about a few of the issues that caught my attention as Ms. Marshall was compiling her data. We are finding that many school districts have little to no publicly available information regarding their bullying prevention plans. Many districts that have made information available had little to offer beyond the "boilerplate" bullying prevention policy drafted by the Kansas Association of School Boards in 2008. The majority of school districts that we have examined do not have implementation plans, and many that do are limited and incomplete. When we have followed up with districts with requests for information on bullying policies, we have frequently instead been given policies on sexual and racial harassment.

Over the years, we have used a variety of sources to help us analyze the completeness and effectiveness of bullying prevention statutes and policies. Most guides are developed by private companies that specialize in curriculum development for bullying prevention, and are each somewhat skewed towards the curriculum offered by that company. Early last year, however, the US Department of Education released a comprehensive study of state bullying prevention statutes, and included a rubric by which states could be evaluated and ranked in relation to each other. Attached to my testimony you will find two exhibits included in the DOE study: A definition of the items used to rate statutes, and the rubric of the state policies.

The DOE rubric provides a maximum "score" of 16 points; Kansas scores 5. Our current statute clearly defines the purpose, the scope, and the prohibited behavior. It requires each district to have a policy, and requires staff and students be educated in bullying prevention. Should the State of Kansas adopt the language currently in SB 137, we will meet also achieve the goals of district policy review, transparency, and communicating policies to the general public.

Senate Education Committee

Date 2-19-13

Attachment 3

In 2010 we requested introduction of a bill that would require school districts to file their statutorily required bullying prevention policies and implementation plans with the Kansas State Department of Education. That bill did not progress, and in 2011, we requested introduction of a similar bill. After hearings in 2011 and again in 2012, this committee amended the bill, SB69, and unanimously recommended it for passage by the Senate.

The committee amendments added a requirement that school districts post their policies on their websites, distribute them to parents, and involve existing site councils in the development of policies and plans. The bill before you today, SB 137, is identical to that which passed the full Senate last year on a vote of 40 – 0. Unfortunately, last session’s bill was not considered in the House.

SB 137 is not designed to “check all the boxes” in the DOE rubric. We believe that a highly prescriptive, micro-managed approach to bullying prevention would not be appropriate for Kansas. As a state, we place a high value on limited government and on local control. We believe the publication requirements in the bill before you today are a minimal step towards ensuring that school districts in Kansas comply with the underlying statute, and we believe the requirement for parental involvement through site councils is in the best traditions of Kansans managing their own affairs.

Indeed, as you will hear from Ms. Marshall, many school districts in Kansas have enthusiastically pursued comprehensive bullying prevention strategies. In her testimony, Jasmine will talk about how school districts around the state have, in developing their local implementation plans, found their own ways of “checking off” many of the recommendations that come from not only the Department of Education, but also from bullying prevention specialists around the country. You will also hear from Ms. Marshall that too many districts in the state do not meet even the minimum standards established by the current statute.

I thank you for your time and attention. I am happy to stand for questions.

Some quick statistics from 2010 on school bullying in the United States:

- Over half, about 56 percent, of all students have witnesses a bullying crime take place while at school.
- A reported 15 percent of all students who don't show up for school report it to being out of fear of being bullied while at school.
- There are about 71 percent of students that report bullying as an on-going problem.
- Along that same vein, about one out of every 10 students drops out or changes schools because of repeated bullying.
- One out of every 20 students has seen a student with a gun at school.
- Some of the top years for bullying include 4th through 8th graders in which 90 percent were reported as victims of some kind of bullying.
- Other recent bullying statistics reveal that 54 percent of students reported that witnessing physical abuse at home can lead to violence in school.
- Among students of all ages, homicide perpetrators were found to be twice as likely as homicide victims to have been bullied previously by their peers.
- There are about 282,000 students that are reportedly attacked in high schools throughout the nation each month.

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Exhibit 2. Key state bullying legislation and policy components identified by the U.S. Department of Education: Criteria used to rate the expansiveness of components and subcomponents

Key Component	Rating		
	0	1	2
Purpose	None State legislation or policy does not contain a prohibition against bullying.	Prohibits behavior State legislation or policy contains an explicit prohibition against bullying, but does not contain language articulating the purpose or intent. To receive minimum rating of 1 a policy must contain a statement prohibiting bullying.	Prohibits behavior and describes policy purpose and intent State legislation or policy contains BOTH an explicit prohibition against bullying and language articulating the purpose or intent.
Statement of scope	None State legislation or policy does not contain any language defining scope.	Less expansive State legislation or policy includes statement of scope covering behavior on school grounds or at school-sponsored events, and other school-related locations (e.g., bus stops, adjacent property) or events (i.e., off-campus school functions or where school staff is responsible for students).	More expansive State legislation or policy includes statement of scope that covers off-campus behavior that creates a hostile environment at school.
Prohibited behavior	Least expansive State legislation or policy does not define prohibited behavior or contains limited descriptions of behavior.	Moderate State legislation or policy describes prohibited behavior but does not mention cyberbullying, or mentions cyberbullying without any formal definition of bullying behavior.	Most expansive State legislation or policy describes prohibited behaviors and includes explicit language addressing cyberbullying or bullying by electronic means.
Enumeration of groups	None Does not define bullying in terms of victims' characteristics.	Less expansive Enumerates victims' characteristics but limits coverage to only those protected classes.	Less restrictive with explicit protections for vulnerable populations State legislation or policy enumerates protected classes, but does not limit coverage under law to members of those classes (e.g., "including, but not limited to").
District policy development	None State legislation does not require districts to develop or adopt local policies.	Limited requirements State legislation requires districts to adopt local policies, but does not specify completion dates.	Extensive requirements State legislation requires districts to adopt local policies with specified dates, and sets requirements for policy development (e.g., requirement for collaborative planning and development)
District policy components Definitions	None State legislation does not contain explicit requirement for definitions in school district policies.	Any definition State legislation requires that policies contain a definition of prohibited behavior.	Conforms to state State legislation explicitly requires that policies contain a definition that is consistent with state legislation or that is inclusive of the state definition.
District policy components Reporting	None State legislation or policy does not contain any explicit district requirements related to incident reporting.	Encouraged reporting and procedures State legislation or policy encourages reporting by school personnel and outlines specific mechanisms, such as designating school personnel or providing for anonymous reporting.	Mandatory reporting by staff and/or students State legislation or policy mandates that school personnel and/or students who witness bullying must report. Typically includes immunity clauses. May also address anonymous reporting and confidentiality.
District policy components Investigations and Response	None State legislation or policy does not contain any explicit district requirements related to investigation of reports.	General requirement for investigation State legislation or policy contains language related to investigating complaints. May designate school personnel to receive reports and conduct investigations.	Specific requirements for investigation State legislation or policy contains specific language outlining an investigation process. Process may include parent notification and safeguards for victims.

Continued on next page.

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Exhibit 2. Key state bullying legislation and policy components identified by the U.S. Department of Education: Criteria used to rate the expansiveness of components and subcomponents (Continued)

Key Component	Rating		
	0	1	2
District policy components Written Records	None State legislation or policy does not address written documentation for reporting or investigations.	Documentation of reporting State legislation or policy establishes procedures for reporting or investigations that include written documentation.	Documentation of reporting, investigation, and response State legislation or policy requires district to maintain written documentation of reported incidents, and includes specific language outlining written requirements or forms (e.g., communicating information on the schools' response to parents of victims in writing).
District policy components Sanctions	None State legislation or policy does not address disciplinary actions or other consequences for prohibited behavior.	Disciplinary consequences (punitive only) State legislation or policy requires the inclusion of consequences or sanctions, but focuses on punitive consequences only.	Expansive consequences (punitive with supportive interventions) State legislation or policy requires districts to address consequences or sanctions that include both punitive sanctions and supportive or remedial interventions for aggressors.
District policy components Referrals	None State legislation or policy does not address counseling or other supportive services for victims.	Limited counseling, intervention component State legislation or policy encourages districts to address counseling or other supportive services for victims.	Strong counseling component State legislation or policy requires that districts provide counseling or other supportive services to victims.
Review of policy	None State legislation or policy does not require individual schools or districts to submit policies for review.	Less extensive review State legislation or policy requires school districts to submit their policy to the state department of education or other state agency for review.	More extensive review State legislation or policy establishes guidelines for policy review that may include sanctions for districts not in compliance.
Communications	Little or no required communications State legislation or policy does not outline any requirements for publicizing policies, uses vague language, or only requires that policies be publicly posted.	Somewhat visible State legislation or policy contains explicit requirements for communicating policies to parents, students, and staff in writing (e.g., in codes of conduct, student handbooks, or employee manuals) and may encourage districts to discuss policies with students and school personnel.	Most visible State legislation or policy meets minimum criteria for a 1 rating and requires that districts actively discuss or review policies with school personnel or students.
Training and prevention	No training and prevention component State legislation or policy does not contain any explicit requirements for employee training or school prevention or intervention strategies for students and/or staff.	Limited training and prevention component State legislation or policy includes requirements for employee training on bullying policies and/or discussion of policies with students and includes language related to school-wide bullying prevention and education. Programs are encouraged, but not required.	Strong training and prevention component State legislation or policy includes mandatory requirements for schools to address training and prevention for both students and staff, including but not limited to school-wide bullying prevention, education, or intervention strategies.
Transparency and monitoring	No mandated reporting State legislation or policy does not require districts to record incidents of bullying apart from required <i>Safe and Drug Free Schools and Communities Act (SDFSCA)</i> reporting.	Internal school or district reporting required only State legislation or policy requires districts to record information related to the number of reported incidents. No requirement to report data to the state.	State reporting requirements-defined State legislation or policy requires districts to report incidence data to the state. State legislation or policy outlines specific data requirements and/or reporting mechanisms and timelines. May include sanctions for failing to report.

Continued on next page.

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Exhibit 2. Key state bullying legislation and policy components identified by the U.S. Department of Education: Criteria used to rate the expansiveness of components and subcomponents (Continued)

Key Component	Rating		
	0	1	2
Victim's right to redress	No language State legislation or policy does not include language related to the victim's right to redress.		Contains language State legislation or policy includes statements related to a victim's right to redress.

Methods for Study Question 2: Compiling and Coding State Model Policies

The intent of the second study component was to review and describe state model bullying policies that provide guidance to support district bullying policy development. The approach was similar to the approach used to review state legislation and is detailed below.

Searches for State Model Policy Documents and Criteria for Inclusion

The process of searching for and compiling state model policy documents involved first reviewing state legislation to determine which states were mandated by law to develop model policies, and to record specific deadlines established in law for states to comply with requirements. Internet searches were conducted for states with specific requirements, using an open Google search for model bullying policies by state. This step was followed by targeted searches of state departments of education and school boards association websites when documents could not be immediately located through the initial search. Documents were downloaded and briefly reviewed by title and content to confirm their appropriateness to the study and website locations were recorded for all documents that met the criteria (i.e., documents must pertain to bullying or harassment), must provide guidelines that support the creation of policies, and must be developed by the state entity or a partner organization. Searches were then conducted for all remaining states that did not specify recommendations or requirements for the development of model policies, and for states without bullying legislation. The search results identified 41 state bullying policies, or guidance documents, across the 50 states. The states represented in the document sample include 26 states that have created model policies of the 27 states with specific policy requirements (i.e., one state model policy remains under development), 12 states that have created model policies without any specific legislative mandate to do so, and three states (i.e., Hawaii, Michigan, and Montana) without state bullying laws.

Not all model policies for states with specific legislative requirements had published documents online. Model policy documents for five states—Illinois, Missouri, Nevada, North Carolina, and Wyoming—could not be located on department websites. Four state departments were directly contacted by telephone to request a copy of their policy documents. Each of the four states contacted provided copies of their model policy documents upon request. Information regarding the status of the Illinois state model policy was located online. This information documented the recent formation, in March of 2011, of a sub-committee of the state bullying prevention task that would be charged with developing the model policy.

Coding and Analysis of State Model Policies Based on Key Components

The methods used to review and code state model policies were similar to those used to code state statutes. The procedure involved applying a systematic coding framework developed for the legislative review to describe the content and expansiveness of model policy documents (i.e.,

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Exhibit 15. Extent of coverage of U.S. Department of Education-identified key components in state bullying legislation, by state (n=46)

State	Definitions				District policy review & development		District policy components						Additional components				TOTAL
	Purpose	Scope	Prohibited behavior	Enumerated groups	District policy	District policy review	Definitions	Reporting	Investigations	Written records	Consequences	Mental health	Communications	Training/prevention	Transparency/monitoring	Legal remedies	
Alabama	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		14
Alaska	✓	✓	✓		✓			✓			✓		✓		✓		8
Arizona	✓	✓			✓		✓	✓	✓	✓	✓	✓	✓				10
Arkansas	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓			14
California		✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓		12
Colorado		✓	✓		✓	✓	✓				✓		✓	✓			8
Connecticut		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		12
Delaware	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		13
Florida	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		15
Georgia	✓	✓	✓		✓			✓	✓		✓		✓	✓			9
Idaho	✓		✓		✓						✓		✓				5
Illinois	✓	✓	✓	✓	✓	✓					✓		✓			✓	10
Indiana	✓	✓	✓		✓			✓	✓		✓		✓				8
Iowa	✓	✓	✓	✓	✓		✓	✓	✓		✓		✓	✓	✓	✓	13
Kansas	✓	✓	✓		✓								✓	✓			5
Kentucky	✓	✓	✓		✓			✓	✓		✓		✓	✓	✓		9
Louisiana	✓	✓	✓		✓			✓	✓	✓	✓		✓	✓	✓		11
Maine	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓				12
Maryland	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	16
Massachusetts	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓		✓		13
Minnesota	✓				✓												2
Mississippi	✓	✓	✓		✓			✓	✓		✓		✓				8
Missouri		✓	✓		✓			✓			✓		✓	✓			7
Nebraska		✓	✓		✓						✓						4
Nevada	✓	✓	✓		✓	✓	✓	✓		✓	✓		✓	✓	✓		12
New Hampshire	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	14
New Jersey	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	16
New Mexico	✓	✓	✓	✓	✓		✓	✓	✓		✓		✓	✓			11
New York	✓	✓	✓	✓	✓		✓	✓			✓	✓	✓	✓	✓	✓	13
North Carolina	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	13
North Dakota	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	13
Ohio	✓	✓	✓		✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	13
Oklahoma	✓	✓	✓		✓	✓			✓		✓	✓	✓				10
Oregon *	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	14
Pennsylvania		✓	✓		✓	✓	✓	✓		✓			✓	✓			9
Rhode Island	✓	✓	✓		✓	✓		✓					✓	✓		✓	9
South Carolina	✓	✓	✓		✓		✓	✓	✓		✓		✓	✓		✓	11
Tennessee	✓	✓	✓		✓	✓		✓	✓		✓		✓	✓			11
Texas	✓	✓	✓							✓			✓	✓			6
Utah	✓	✓	✓		✓		✓						✓	✓		✓	8
Vermont	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓		13
Virginia	✓	✓	✓	✓	✓		✓				✓		✓	✓	✓	✓	11
Washington	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	15
West Virginia	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	14

See notes at end of table.

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Exhibit 15. Extent of coverage of U.S. Department of Education-identified key components in state bullying legislation, by state (n=46) (Continued)

State	Definitions				District policy review & development		District policy components						Additional components				TOTAL
	Purpose	Scope	Prohibited behavior	Enumerated groups	District policy	District policy review	Definitions	Reporting	Investigations	Written records	Consequences	Mental health	Communications	Training/prevention	Transparency/monitoring	Legal remedies	
Wisconsin	✓	✓			✓		✓	✓	✓		✓		✓				8
Wyoming	✓	✓	✓		✓		✓	✓	✓	✓	✓		✓	✓		✓	12
TOTAL:	39	44	43	17	45	20	29	36	31	18	42	13	42	39	18	18	
PERCENT:	85%	96%	93%	37%	98%	43%	63%	78%	67%	39%	91%	28%	91%	85%	39%	39%	

Exhibit reads: Alabama state bullying laws covered 14 of 16 key components and district policy subcomponents.

* Oregon's earlier legislation required that school districts submit their school bullying policy to the superintendent of public instruction by Jan. 1, 2004. This subsection of *Or. Rev. Stat.* §339.362 was repealed upon districts' completion of the requirement.

Notes: Coverage of key components reflects state bullying legislation enacted through April 30, 2011. The analysis does not reflect the recent enactment of House Bill 688 in the state of Hawaii, or amendments to other states' legislation that occurred after April 30, 2011, including, but not limited to, new laws passed in California, Rhode Island, Tennessee and Texas during their states' 2011 legislative sessions.

State education agencies may establish additional requirements or expectations for school districts through departmental rules and regulations that are not reflected in coding of legislation. For example, Georgia state law does not set legal requirements for school districts to report bullying incidents to the state; however, the Georgia Department of Education's (GaDOE) data collection guidelines and procedures require that all incidents of bullying be reported by the local education agency through the GaDOE Student Record Data Collection System.

Source: State bullying laws enacted through April 30, 2011.

Expansiveness Ratings Across States

As described in the methods section of the introduction, researchers also rated each state's laws within key components and assigned a score of 0 to 2 measuring the overall expansiveness of their provisions (see Exhibit 2). Researchers summed the ratings to create a composite score across all of the components and school district policy subcomponents. The expansiveness ratings range in possible value from 0 to 32 covering 16 components and district policy subcomponents. The distribution of ratings illustrates the variance in expansiveness of laws across states. The summary of total ratings is presented in graphic format in Exhibit 16.

Exhibit 16. Distribution of expansiveness ratings for state bullying laws, by number of states (n=46)

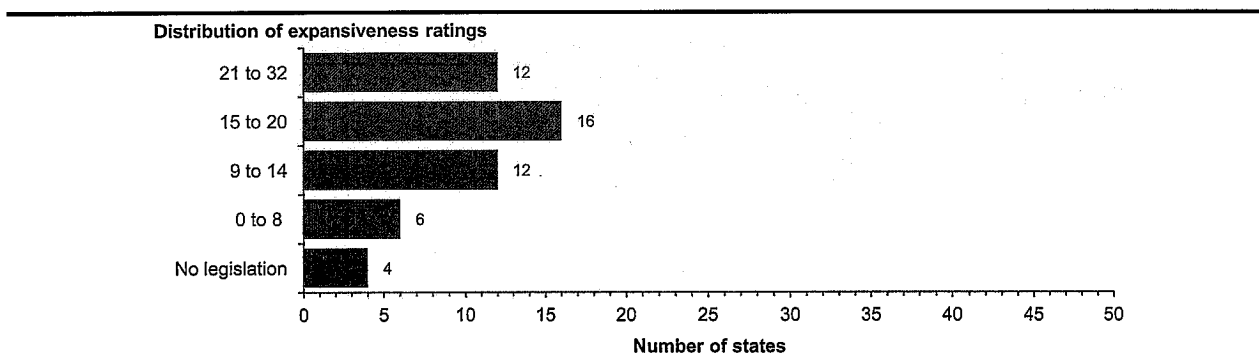


Exhibit reads: Twelve states are in the 21 to 30 expansiveness rating range.

Note: The distribution of expansiveness ratings shows the number of state laws that fell within each scoring range (i.e., 0 to 8, 9 to 14, 1 to 20, and 21 to 32) on a possible rating scale of 0 to 32 on measures of expansiveness.

Source: State bullying laws enacted through April 30, 2011.

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