

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2143

As Amended by House Committee on Education

Brief*

HB 2143, as amended, would require school districts to conduct an independent review related to any report alleging bullying. The bill would prescribe the criteria for school districts to initiate independent reviews by a neutral person.

Reports Alleging Bullying

Requests for Independent Review

The bill would provide that persons making a report alleging bullying could request a school district conduct an independent review if a person:

- Believes the designated school administrator (administrator) did not correctly analyze the complaint and failed to conduct an investigation after the incident, because the administrator believed the conduct did not constitute bullying;
- Is dissatisfied with the final determination of the administrator following an investigation; or
- Believes that although a final determination was made that bullying occurred, the school's response was inadequate to correct the problem.

The bill would further specify such requests must be made in writing to the superintendent of the school district.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Notification to the Board of Education

The bill would provide that, upon receipt of a request for an independent review, the superintendent must promptly notify the board of education (board). The board would be permitted to conduct its own review or direct the initiation of an independent review.

Initiation of review by neutral person. The bill would require, upon either the direction by the board after completion of the board's review, or by the original requester renewing their request for an independent review:

- The superintendent to promptly initiate an independent review by a neutral person with the administrator who received the initial report; and
- Any other staff to cooperate with the independent review in order to allow the review to proceed expeditiously.

The bill would require the independent review to consist of an interview of the person making the initial report and any relevant staff and a review of the written materials from the administrator's investigation.

[*Note:* Under continuing law, "bullying" means:

- Any intentional gesture or any intentional written, verbal, electronic, or physical act or threat either by any student, staff member, or parent towards any student or by any student, staff member, or parent towards a staff member that is sufficiently severe, persistent, or pervasive that such gesture, act or threat creates an intimidating, threatening, or abusive educational environment that a reasonable person, under the circumstances, knows or should know will have the effect of:

- Harming a student or staff member, whether physically or mentally;
- Damaging a student's or staff member's property;
- Placing a student or staff member in reasonable fear of harm to the student or staff members; or
- Placing a student or staff member in reasonable fear of damage to the student's or staff member's property;
- Cyberbullying; or
- Any other form of intimidation or harassment prohibited by the board of education of the school district in policies concerning bullying.]

Background

The bill was introduced by the House Committee on Education at the request of Representative Thomas. As introduced, the bill would have amended current law pertaining to bullying and required the adoption of policy that incorporated, at minimum, the model policy developed by the State Board of Education and specified requirements in the bill.

House Committee on Education

In the House Committee hearing, **proponent** testimony was provided by the President of Educational Management Consultants, LLC. The conferee highlighted the case of a student who was subjected to repeated bullying and stated that district-wide policies are ineffective. The conferee noted the bill would provide accountability by requiring school personnel to report bullying and for the school principal to then investigate and parents to be notified. The goal would be

to stop the bullying and provide protections for students and school personnel.

Neutral testimony was provided by a business representative for USD 259 school employees and representatives of the Kansas Association of School Boards and the United School Administrators of Kansas (USA-Kansas). The USA-Kansas representative noted existing policies and procedures have been established by the State Board to address bullying and suggested if changes were needed, that group should make them. The conferees supported bullying prevention, but also expressed concerns with the bill, as introduced, including conflicts with other state and federal laws and implementation of the bill's requirements.

Opponent testimony was provided by representatives of the Kansas National Education Association and the State Board of Education. Written-only opponent testimony was submitted by the American Federation of Teachers-Kansas. The State Board representatives noted the work of a task force that examined the issues of bullying and made recommendations to the State Board. The opponents indicated some of the bill's provisions are not in line with the task force recommendations and are overly prescriptive to local school boards, rather than general in nature.

The House Committee amended the bill to remove language relating to adoption of bullying policy and procedures, including the adoption of model policy. The Committee retained language pertaining to independent reviews by school districts of bullying allegations and further modified those provisions to add school district boards of education to the review process and permit those boards to either review initially or direct the matter to independent review. The Committee amendment would also restore statutory provisions relating to the establishment of bullying policies and plans. [Note: The independent review provisions of the bill would become part of the policies and procedures adopted by school boards of education.]

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas State Department of Education indicates enactment of the bill would require additional administrative and training costs for both the Department and school districts. However, any additional costs would be negligible beyond normal operating costs.

Education; schools; school boards; bullying allegations; reporting; independent review