



KANSAS HOUSE COMMITTEE
JUDICIARY

Testimony on Senate Bill 56

February 2, 2016

Dear Chairman and Members of the Committee,

My name is David Schauner, Kansas National Education Association General Counsel. On behalf of KNEA I offer this written testimony in opposition to SB 56.

This bill is a solution looking for a problem. On its face it would remove the affirmative defense currently available to teachers and others in all public, private, and parochial schools to the criminal charge of displaying material that is “harmful” to minors.

This affirmative defense is not a free pass to break the law and provide harmful materials to minors. It is, however, a protection against baseless claims attacking legitimate educational programs and curriculum.

The changes sought in SB 56 do not on their face look unreasonable, but the reality is that removing the affirmative defense from K-12 educators is a thinly veiled method of providing a method of attacking ANY material which are perceived to be “harmful” to minors. It is important to note that the definition of material is broadly defined in the current statute. That definition is “any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, and recording tape or video tape.” This expansive definition of material is intended to

capture most if not all types of material that might be found in a common K-12 educational curriculum.

There is a long history of unfounded attacks on legitimate and valued works of literature such as *The Red Badge of Courage* and *Huckleberry Finn*. Our society is based on an exchange of ideas and removing the affirmative defense for using these works of literature in a modern curriculum would have a devastating impact on those who teach.

The broad brush definition of material and the removal of the affirmative defense is clearly intended to cause the teaching profession to self-censor the curriculum in order to avoid any possibility of criminal charge. The result of this change is the antithesis of good public policy. In fact it harms our free society in uncounted ways and limits the exchange of ideas that are the bedrock of our democracy. Kansas schools already have in place reasonable safeguards to protect minors from exposure to inappropriate and/or harmful material. SB 56 is not only unnecessary but infringes on the local control of school curriculum and teaching standards.

Kansas NEA urges the Committee to reject the proposed changes found in SB 56.