



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Mark Desetti Testimony
House Education Committee
HB 2288
February 21, 2019

Mister Chairman, members of the committee, thank you for the opportunity to address HB 2288.

We believe that HB 2288 is a solution in search of a problem.

Section 2 of the bill simply points this out. The statements in subsections (a) through (e) are statements of why the bill is unnecessary. Subsections (f) and (g) are simply inflammatory statements without any basis. Who are these so-called “out-of-state special interest groups?” Where in Kansas have they threatened students or teachers who share and live their religious beliefs?

Section 4 (a) prohibits discrimination “against any student or any parent or legal guardian of a student on the basis of a religious viewpoint or religious expression.” Are the proponents prepared to ignore bullying based on sincerely held religious beliefs? Does a religious belief that homosexuality is a sin allow a student to publicly berate a gay student?

Section 4 (d) demands that schools provide a forum at all events for students to possibly proselytize without any oversight or review by the district. This section also puts restrictions on how the district chooses a student speaker at events including graduation.

All the issues in this bill are currently addressed in the United States Constitution and under federal law and case law.

On the high school level, the federal Equal Access Act provides broad protection for students and school employees to express religious views and meet on school property for religious clubs. While that law does not extend to elementary schools, case law has established that restrictions on what a school employee may do in expressing his or her religious beliefs is, in a sense, tied to the age of the students. Elementary school students are more impressionable and more likely if they see, for example, a religious display on the teacher’s desk to come to question what they have been taught by their parents. Would a display of Christian religious items cause a Jewish, Hindu, or Muslim child to question the religion practiced by the parents? High school age students, it is assumed, are better able to sort through such concepts.

Frankly, we believe that this bill invites lawsuits and costly litigation.

As for section 6 which applies to school district employees, we would note the following:

Sec. 6. (a) During contract time, school district employees may:

- (1) Engage in religious expression and discussions and share religious materials with other school district employees at the same times and in the same manner that faculty and employees are permitted to engage in secular expression and discussions; **This is permissible now, but should this pass it could become problematic in that it could encourage certain behaviors. Should a devout Jew or Muslim be permitted to criticize my lunch choices in the teachers’ lounge? Should a 7th Day Adventist be permitted to lecture me on vegetarianism? Should we allow every employee to hand out unsolicited religious materials? We prohibit the distribution of election materials in schools, why can a school not prohibit the distribution of religious materials – both are**

attempts to persuade others to behave in a certain way.

(2) discuss religious topics and use religious materials in the classroom when presented in a neutral manner that serves a valid, secular educational purpose; **This is permissible now. Comparative religion classes are often available, art teachers can use religious works in lessons in art history, social studies teachers can explain the role of religion in world conflicts such as “the Troubles” in Northern Ireland.**

(3) serve as a sponsor of student religious clubs and assist the students in planning meetings, activities and events to the same extent that faculty sponsors of secular clubs are so permitted; **A teacher may serve as a sponsor of such a club now, but federal law would prohibit the teacher from taking an active part in assistance, planning, and activities.**

(4) permit and be present for student-initiated, student-led religious expression; **This is permissible now (see gather round the pole events) provided that the teacher is not actively engaged in the prayer or religious expression. Again, under the Equal Access Act, students may engage in “student-initiated, student-led religious expression.” Teachers, however, cannot appear to endorse a religion.**

(5) participate in voluntary student-initiated, student-led prayer, such as prayer before a sporting event, when invited to do so by the students, provided that the participation is in the employee's personal capacity and not as a representative of the school; **As with subsection (4), this is not permissible under federal law.**

(6) wear religious clothing, symbols or jewelry, provided that such items otherwise comply with any dress code implemented by the school district; and **Many teachers wear religious jewelry now, it's not prohibited; If by religious clothing is meant articles of clothing required by a religion such as a yarmulke or hijab, then this is allowed now. Without a definition of “religious clothing” this is likely to be litigated. Is wearing a hijab or yarmulke the same as a t-shirt that displays a specific scripture verse or “Jesus died for your sins”?**

(7) decorate such employee's desk and other personal space in such employee's office or classroom with items that reflect the religious beliefs of such employee to the same extent that other employees are permitted to decorate such other employees' desk and other personal space. **This would likely violate federal law since the teacher's desk is always clearly visible to students. It would be especially problematic in the lower grades where students are more impressionable and apt to question their parents' teachings based on what they see on the teacher's desk.**

(b) During non-contract time, school district employees may engage in religious expression and share religious materials to the same extent as other individuals **No individual can be denied religious expression during their personal time. However, school districts must be permitted to control the distribution of materials on campus.**

These issues are dealt with under federal law and the Constitution of the United States. Local school boards are already empowered to enact policies that protect students' and employees' right to practice their religion without a government agent endorsing one particular religion.

We ask the committee to reject this bill and honor that local control.