

HOUSE BILL No. 2662

By Committee on K-12 Education Budget

<p>Proposed Amendments to House Bill No. 2662 "Nonpublic Schools Included" House Committee on K-12 Education Budget February 17, 2022 Prepared by: Nick Myers Office of Revisor of Statutes</p>

1 AN ACT concerning education; relating to schools and school districts;
2 establishing the parents' bill of rights and academic transparency act;
3 affirming certain parental rights relating to the education and
4 upbringing of a child; requiring school districts to adopt policies to
5 promote transparency and parental involvement in a child's education;
6 requiring each school district to establish an academic transparency
7 portal on the school district's website to provide information on
8 learning materials and activities in each school; eliminating the
9 affirmative defense for schools to the crime of promotion to minors of
10 material that is harmful to minors; prohibiting teachers from being
11 negatively evaluated for refusal to teach through critical pedagogy
12 philosophies or against sincerely held religious beliefs; amending
13 K.S.A. 72-2410 and K.S.A. 2021 Supp. 21-6402 and repealing the
14 existing sections.

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

16 New Section 1. (a) Sections 1 through 3, and amendments thereto,
17 shall be known and may be cited as the parents' bill of rights and academic
18 transparency act.
19

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

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

- 32 (1) The right to direct the education and care of such child;
- 33 (2) the right to direct the upbringing and the moral or religious
34 training of such child;
- 35 (3) the right to request, access and inspect all written and electronic
36 records maintained by a school relating to such child;

1 (4) the right to be informed of and inspect the curriculum,
2 instructional materials and any other materials that are made available or
3 taught to such child in the child's school;

4 (5) the right to attend publicly designated meetings of the local school
5 board and the right to question and address school officials during
6 designated public comment periods or through letters, electronic
7 communications or in-person meetings;

8 (6) the right to make healthcare and medical decisions for such child,
9 including the right to make decisions regarding vaccinations and
10 immunizations;

11 (7) the right to expect that such child, and each teacher and educator
12 of such child, shall not be compelled to affirm, believe, profess or adhere
13 to any idea that violates the civil rights act of 1964;

14 (8) the right to expect that no course of instruction or unit of study
15 shall direct or otherwise compel the child to personally affirm, adopt or
16 adhere to any idea that violates the civil rights act of 1964;

17 (9) the right to expect that the child's school shall not contract for
18 teacher professional development with providers that promote racially
19 essentialist doctrines or practices that have been held to violate the civil
20 rights act of 1964;

21 (10) the right to expect that each teacher and educator of such child
22 will endeavor to present facts without distortion, bias or personal
23 prejudice;

24 (11) the right to expect that each teacher and educator of such child
25 shall work to eliminate coercion that forces teachers and educators to
26 support actions and ideologies that violate individual professional
27 integrity; and

28 (12) the right to assert any other inalienable or constitutional right
29 that is reserved to the parent and the child pursuant to state or federal law.

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30 (d) The board of education of each school district shall develop and
31 adopt policies to guarantee a parent's right to be involved in a child's
32 education. Such policies shall be developed in consultation with parents,
33 teachers and school administrators and shall include policies and
34 procedures for a parent to:

35 (1) Be informed of and have the ability to inspect any materials,
36 activities, curriculum, lessons, syllabi, surveys, tests, questionnaires,
37 examinations, books, magazines, handouts, professional development and
38 training materials and any other materials or activities that are required to
39 be posted and included on the parent transparency portal of each school
40 district;

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41 (2) inspect and review any educational or health records maintained
42 by the school that pertain to the parent's child;

43 (3) object to any learning material or activity on the basis that such

1 material or activity harms the child or impairs the parent's firmly held
2 beliefs, values or principles and withdraw such child from the activity,
3 class or program in which the material is used;

4 (4) request that the school designate any book, magazine or any other
5 material that is made available to students in the school library that is not
6 already so designated as an item for which parental review is
7 recommended as provided in section 2, and amendments thereto; and

8 (5) challenge the material or educational benefit of any book,
9 magazine or any other material available to students in the school library
10 such that a successful challenge results in the removal of the book,
11 magazine or material from the school.

12 New Sec. 2. (a) The board of education of each school district shall
13 establish an internet-based transparency tool titled the parent transparency
14 portal on such school district's website with a link to such parent
15 transparency portal prominently displayed on the website homepage of the
16 school district and on each website homepage of each school of the school
17 district that maintains a school website. Each school district's parent
18 transparency portal shall provide the following information to the public:

19 (1) The parents' bill of rights established pursuant to section 1, and
20 amendments thereto;

21 (2) a list organized by school, grade level and area of instruction that
22 includes the academic and social and emotional learning materials,
23 activities and curriculum used for student instruction at any school of the
24 school district. Such list shall include the title, author, organization,
25 website address and any other information that is necessary for the
26 identification of such materials, activities and curriculum;

27 (3) a link to the curriculum standards established by the state board of
28 education shall be associated with each applicable grade level and subject
29 matter;

30 (4) a list organized by school, grade level and area of instruction that
31 includes the following information for each test, questionnaire, survey and
32 examination referred to in K.S.A. 72-6316, and amendments thereto, that
33 is administered in any school of the school district:

34 (A) A copy of each test, questionnaire, survey or examination;

35 (B) the name of the company or entity that produces or provides the
36 test, questionnaire, survey or examination;

37 (C) an explanation of the purposes of the data collection, how the
38 collected data is intended to be used and whether the data will remain
39 private or reported as aggregate data;

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

42 (E) an explanation of whether the school district will receive or
43 maintain the resulting data and an explanation of how the school intends to

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1 use and maintain such data;

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

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

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

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

29 (b) (1) Any book, magazine or other material that is made available to
30 students in a school library shall be designated by the school district as an
31 item for which parental review is recommended if such item meets the
32 criteria for the designation that parental review is recommended.
33 Designations shall be made in accordance with the requirements of this
34 subsection. If there is doubt regarding whether a book, magazine or other
35 material meets the criteria for a parental review is recommended
36 designation, school districts shall resolve such doubt in favor of
37 designating the item so that parents may make informed decisions
38 regarding the use of such item.

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39 (2) A school district shall conduct a review of each book, magazine or
40 other material offered in each school library that was purchased or
41 obtained by the school district on or after July 1, 2017, to determine
42 whether any such book, magazine or material necessitates a designation
43 that parental review is recommended. A school district shall not be

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1 required to conduct a review of any of the books, magazines or other
2 materials that were purchased or obtained prior to July 1, 2017, but shall
3 designate any such items that are known by the school district as items that
4 meet the criteria for a parental review is recommended designation.

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

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

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

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19 (d) Each school district shall post and update the information required
20 pursuant to this section on an ongoing basis during each school year. All
21 such information that is required to be provided on the parent transparency
22 portal in a school year shall be updated, posted and completed by June 30
23 of such school year. All such information shall be maintained for not less
24 than two school years following the school year in which such information
25 was provided on the parent transparency portal.

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26 (e) The state department of education may provide guidance and
27 assistance to school districts regarding the establishment and maintenance
28 of such transparency portals.

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29 (f) The attorney general, the city, county or district attorney or a
30 resident of the school district in which the school is located may bring an
31 action for injunctive relief or a writ of mandamus to compel the school
32 district to comply with this section. If a resident of the school district
33 prevails in any such action, the court shall award to the resident reasonable
34 attorney fees not to exceed \$15,000.

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or a resident of the city where an accredited nonpublic school is located

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35 New Sec. 3. As used in sections 1 through 3, and amendments
36 thereto:

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37 (a) "Activities" means any assemblies, guest lecturers, presentations
38 or other educational events facilitated by the school or school district,
39 including those conducted by outside individuals or organizations.
40 "Activities" does not include student presentations.

41 (b) "Learning materials" includes, but is not limited to, textbooks,
42 reading materials, curriculum, syllabi, outlines, handouts, presentations,
43 videos, audio and digital materials, websites and other online applications

- 1 and any other material that is used for student instruction.
- 2 (c) "Parent" means a parent, guardian, custodian or other person who
3 has authority to act on behalf of a child.
- 4 (d) "Parental review is recommended" means any book, magazine,
5 newspaper, pamphlet, poster, print, picture, figure, image, description,
6 motion picture, film, record, video or any other written communication
7 that:
- 8 (1) (A) The average person applying contemporary community
9 standards would find, taking the material as a whole and with respect to
10 minors, is designed to appeal or pander to the prurient interest;
- 11 (B) depicts, describes or represents, in a manner patently offensive
12 with respect to what is suitable to minors, an actual or simulated sexual act
13 or sexual contact or a lewd exhibition of the genitals or post-pubescent
14 female breast; and
- 15 (C) whether the work taken as a whole lacks serious literary,
16 scientific, artistic or political value for minor;
- 17 (2) contains excessive profanity; or
- 18 (3) contains excessive violence.
- 19 (e) "Used for student instruction" means any material or activity that
20 is assigned, distributed or otherwise presented to students in any course for
21 which students receive academic credit or in any educational capacity in
22 which participation of the student body is required by the school or in
23 which a majority of students in a given grade level participate.
- 24 Sec. 4. K.S.A. 2021 Supp. 21-6402 is hereby amended to read as
25 follows: 21-6402. (a) No person having custody, control or supervision of
26 any commercial *or public* establishment shall knowingly:
- 27 (1) Display any material ~~which~~ *that* is harmful to minors in such a
28 way that minors, as a part of the invited general public, will be exposed to
29 view such material or device;
- 30 (2) present or distribute to a minor, or otherwise allow a minor to
31 view, with or without consideration, any material ~~which~~ *that* is harmful to
32 minors; or
- 33 (3) present to a minor, or participate in presenting to a minor, with or
34 without consideration, any performance ~~which~~ *that* is harmful to a minor.
- 35 (b) Violation of this section is a class B nonperson misdemeanor.
- 36 (c) Notwithstanding the provisions of K.S.A. 2021 Supp. 21-5204,
37 and amendments thereto, to the contrary, it shall be an affirmative defense
38 to any prosecution under this section that:
- 39 (1) The allegedly harmful material or device was purchased, leased or
40 otherwise acquired by a ~~public, private or parochial school,~~ college or
41 university; and ~~that such material or device~~ was either sold, leased,
42 distributed or disseminated by a teacher, instructor, professor or other
43 faculty member or administrator of such ~~school~~ *college or university* as

1 part of or incident to an approved course or program of instruction at such
2 ~~school~~ college or university;

3 (2) the defendant is an officer, director, trustee or employee of a
4 public library and the allegedly harmful material or device was acquired
5 by a public library and was disseminated in accordance with regular
6 library policies approved by its governing body;

7 (3) an exhibition in a state of nudity is for a bona fide scientific or
8 medical purpose, or for an educational or cultural purpose for a bona fide
9 school, museum or library;

10 (4) with respect to a prosecution for an act described by subsection
11 (a)(1), the allegedly harmful material was kept behind blinder racks;

12 (5) with respect to a prosecution for an act described by subsection
13 (a)(2) or (3), the defendant had reasonable cause to believe that the minor
14 involved was 18 years old or over, and such minor exhibited to the
15 defendant a draft card, driver's license, birth certificate or other official or
16 apparently official document purporting to establish that such minor was
17 18 years old or more; and

18 (6) with respect to a prosecution for an act described by subsection
19 (a)(3), the allegedly harmful performance was viewed by the minor in the
20 presence of such minor's parent or parents or such minor's legal guardian.

21 (d) As used in this section:

22 (1) "Blinder rack" means a device in which material is displayed in
23 such a manner that the lower $\frac{2}{3}$ of the material is not exposed to view;

24 (2) "harmful to minors" means that quality of any description,
25 exhibition, presentation or representation, in whatever form, of nudity,
26 sexual conduct, sexual excitement or sadomasochistic abuse when the
27 material or performance, taken as a whole or, with respect to a prosecution
28 for an act described by subsection (a)(1), that portion of the material that
29 was actually exposed to the view of minors, has the following
30 characteristics:

31 (A) The average adult person applying contemporary community
32 standards would find that the material or performance has a predominant
33 tendency to appeal to a prurient interest in sex to minors;

34 (B) the average adult person applying contemporary community
35 standards would find that the material or performance depicts or describes
36 nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a
37 manner that is patently offensive to prevailing standards in the adult
38 community with respect to what is suitable for minors; and

39 (C) a reasonable person would find that the material or performance
40 lacks serious literary, scientific, educational, artistic or political value for
41 minors;

42 (3) "material" means any book, magazine, newspaper, pamphlet,
43 poster, print, picture, figure, image, description, motion picture film,

- 1 record, recording tape or video tape;
- 2 (4) "minor" means any unmarried person under 18 years of age;
- 3 (5) "nudity" means the showing of the human male or female
4 genitals, pubic area or buttocks with less than a full opaque covering; the
5 showing of the female breast with less than a full opaque covering of any
6 portion thereof below the top of the nipple; or the depiction of covered
7 male genitals in a discernible state of sexual excitement;
- 8 (6) "performance" means any motion picture, file, video tape, played
9 record, phonograph, tape recording, preview, trailer, play, show, skit, dance
10 or other exhibition performed or presented to or before an audience of one
11 or more, with or without consideration;
- 12 (7) "somasochistic abuse" means flagellation or torture by or upon
13 a person clad in undergarments, in a mask or bizarre costume or in the
14 condition of being fettered, bound or otherwise physically restrained on
15 the part of one so clothed;
- 16 (8) "sexual conduct" means acts of masturbation, homosexuality,
17 sexual intercourse or physical contact with a person's clothed or unclothed
18 genitals or pubic area or buttocks or with a human female's breast; and
- 19 (9) "sexual excitement" means the condition of human male or female
20 genitals when in a state of sexual stimulation or arousal.
- 21 (e) The provisions of this section shall not apply to a retail sales clerk,
22 if such clerk has no financial interest in the materials or performance or in
23 the commercial establishment displaying, presenting or distributing such
24 materials or presenting such performance other than regular employment
25 as a retail sales clerk. The provisions of this section shall not exempt any
26 retail sales clerk from criminal liability for any act unrelated to regular
27 employment as a retail sales clerk.
- 28 Sec. 5. K.S.A. 72-2410 is hereby amended to read as follows: 72-
29 2410. Evaluation policies adopted under K.S.A. 72-2409, and amendments
30 thereto, shall meet the following guidelines or criteria:
- 31 (a) Consideration shall be given to the following employee attributes:
32 Efficiency, personal qualities, professional deportment, ability, results and
33 performance, including improvement in the academic performance of
34 pupils or students insofar as the evaluated employee has authority to cause
35 such academic improvement, in the case of teachers, the capacity to
36 maintain control of pupils or students; and such other matters as may be
37 deemed material.
- 38 (b) Community attitudes toward, support for and expectations with
39 regard to educational programs shall be reflected.
- 40 (c) The original policy and amendments thereto shall be developed by
41 the board in cooperation with the persons responsible for making
42 evaluations and the persons who are to be evaluated, and, to the extent
43 practicable, consideration shall be given to comment and suggestions from

1 other community interests.

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

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

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

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

19 Sec. 6. K.S.A. 72-2410 and K.S.A. 2021 Supp. 21-6402 are hereby
20 repealed.

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