



Oral Testimony as a Proponent before the

**Senate Education Committee**

on

**SB 389: Concerning children and minors; relating to collection of student data; the student data privacy act; changing requirements to administer certain tests, questionnaires, surveys and examinations; allowing disclosure of de-identified student data**

by

**By Angie Stallbaumer, KASB Policy Specialist/Attorney**

**February 15, 2018**

Madam Chair and Members of the Committee,

Thank you for the opportunity to appear today as a proponent on SB 389. My name is Angie Stallbaumer, and I am an attorney and policy specialist for the Kansas Association of School Boards (“KASB”). I believe, in working with school district boards and their employees, that our member school boards share your concern for the safety and security of personally identifiable student data and that their staff members work diligently to disclose and handle student data in accordance with state and federal law.

Upon review of SB 389, we opted to send one of the KASB attorneys to address the Committee, because we have greater familiarity with the compliance challenges posed by the language of the federal and state laws. As you may be aware, there are federal laws, generally referred to as the Family Educational Rights and Privacy Act at 20 U.S.C.A. § 1232g, the Protection of Pupil Rights Act at 20 U.S.C.A. § 1232h, and regulations adopted pursuant thereto, addressing student data privacy rights as well. Therefore, when the 2014 Kansas Legislature adopted the Student Data Privacy Act, we were tasked with helping our districts figure out how to comply with both sets of laws as best they could, given that there are some conflicts in the language. If the Committee desires more information on the discrepancies between the federal and state laws on student data privacy, we would be happy to provide more information. However, in an attempt not to waste your valuable time, I will keep my comments germane to the amendments outlined in SB 389.

Where compliance with federal law is required to receive much needed federal funding for educational programs, our districts have struggled the last four years to try to stay within legal boundaries of the state law while still following federal requirements. We believe SB 389 is a step in the right direction to aid them in dual compliance. While some of the definitions and restrictions on disclosure of personally identifiable student data still do not match with federal law if this bill is passed, the language allowing more flexibility in the provision of student surveys would, in our estimation, be a very welcome change.

Many of our districts have previously used surveys, such as but not limited to the Kansas Communities That Care Survey, to track teen use of harmful substances like alcohol, tobacco, and drugs and to gauge the students’ perceptions about school and community involvement, bullying, weapons, and other school

safety issues. The resulting data was then used to help school and community leaders assess conditions and prioritize and plan prevention and intervention programs in the schools and community. When the Student Data Privacy Act passed, sample sizes on these surveys went down, as parents had to specifically opt into portions of the surveys instead of just opting out as the federal Protection of Pupil Rights Act would allow. Thus, with fewer survey results, district confidence in the information provided waned, and it made it harder to target resources toward these important programs.

This legislation should correct this trend, and we expect a positive response to these changes from our members. However, we do request the Committee consider building in further exceptions to the limitations on the surveys to allow our members' staff to question students in the provision of psychological services, when conducting student threat assessments, when completing student disciplinary investigations and hearings, and when conducting child abuse investigations. These types of questioning are essential to efficient school operations, and our members would greatly appreciate the peace of mind in knowing they are not violating state law in using them.

In closing, I would like to thank you for your time and attention. If the Committee believes more study is warranted in this area, we would be pleased to help in any way we can.

I'm happy to take questions at the appropriate time.