Kansas National Education Association

Making public schools great for every child

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

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Written Testimony – **Oppose**
Senate Bill 491
Senate Committee on Education
March 2, 2026

Chairperson Erickson, members of the Committee:

Thank you for the opportunity to testify in opposition to SB 491.

Kansas NEA is a member-driven organization representing nearly 22,000 educators across the state of Kansas. Our members are organized into more than 265 local associations and work in schools and communities across nearly all 105 Kansas counties, serving students in urban, suburban, and rural districts alike.

The positions we advocate for are proposed, debated, and adopted by hundreds of educators selected by their peers to attend our annual Representative Assembly, reflecting the collective voice of education professionals of all political parties, beliefs, and backgrounds who are united by a commitment to Kansas public schools and the students they serve.

KNEA has several resolutions addressing the issue of student safety, child abuse prevention, whistleblower protections, due process, and employee rights.

Resolution C-3-1, as reflected in the Kansas NEA Book of Resolutions, states:

"Kansas NEA believes that safety, discipline, and order are essential for an environment conducive to learning."

Resolution D-2-6, as reflected in the Kansas NEA Book of Resolutions, states:

"Kansas NEA believes that all education employees have a responsibility to protect students from child abuse and neglect and to comply fully with mandated reporting requirements."

Resolution D-2-7, as reflected in the Kansas NEA Book of Resolutions, states:

"Kansas NEA believes the fundamental rights of educators and all school employees to speak out and advocate for students and the public good without fear of reprisal should not be abridged."

Resolution D-1-1, as reflected in the Kansas NEA Book of Resolutions, states:

"Kansas NEA believes that all education employees must be guaranteed both procedural and substantive due process to protect against any dismissal that is arbitrary, capricious, or which is not based on a preponderance of the evidence presented to an unbiased third-party decision maker."

Resolution D-1-2, as reflected in the Kansas NEA Book of Resolutions, states:

"Kansas NEA believes that when criminal charges or civil lawsuits are filed against a school employee, the right of due process must be guaranteed."

Based on these adopted positions, Kansas NEA approaches SB 491 with both clarity and caution. Our resolutions reflect an unwavering commitment to student safety, mandated reporting, and protection from abuse. They also affirm that educators are entitled to due process and fair treatment under the law. When those principles are applied to the structure of SB 491, serious concerns emerge.

Sexual Abuse of a Student Is Inexcusable, and Any Failure to Act Is Unacceptable

The abuse committed against Haylee Weissenbach was criminal and deeply harmful. A teacher engaged in unlawful sexual conduct with a minor student. That conduct violated the law and the trust placed in educators to safeguard the young people in their care. There is no justification for that behavior.

Public reporting and subsequent litigation also raised serious concerns about whether appropriate action was taken when warning signs emerged. If mandated reporting obligations were not followed, that represents a significant breakdown in responsibility. Kansas law requires educators and school officials to act when there is reasonable suspicion of abuse. Those requirements exist to protect students, and they must be taken seriously.

Kansas NEA's adopted resolutions reflect our longstanding commitment to student safety. We affirm that safety, discipline, and order are essential for a learning environment. We affirm that educators have a responsibility to protect students from child abuse and to comply fully with mandatory reporting requirements. We affirm that employees must be able to report concerns without fear of retaliation.

We stand firmly in support of protecting students from abuse. Nothing in our position on this bill should be interpreted otherwise.

Does This Bill Address the Breakdown That Occurred?

The events that led to this bill are deeply troubling. But the central policy question is whether the creation of an Office of Education Inspector General would have prevented what occurred in this case.

At the time of the abuse, Kansas already had criminal statutes prohibiting unlawful sexual conduct with a minor. Kansas already had mandatory reporting laws requiring suspected abuse to be reported to law enforcement or child protection authorities. Kansas already had licensure authority to discipline or revoke an educator's license. Federal Title IX obligations already required schools to respond to allegations of sexual misconduct.

If individuals failed to comply with those existing laws and duties, the breakdown was one of enforcement and accountability — not the absence of statutory authority.

SB 491 creates a new investigative structure within the Office of the Attorney General. What it does not clearly demonstrate is how that structure would compel individuals to act differently in a moment when they were already legally required to act. Creating a new office does not automatically ensure compliance with existing law. That is an important distinction as the Committee considers whether this bill addresses the root cause of what happened.

The Definition of "Professional Misconduct" Is Overly Broad

SB 491 defines "professional misconduct" as "unacceptable or improper behavior" by a school employee or agent. That opening clause is extraordinarily broad. It is not limited to criminal conduct. It is not limited to abuse. It is not limited to violations of mandatory reporting law. It encompasses any conduct that could be characterized as "unacceptable or improper."

The definition then incorporates violations of an educational institution's code of conduct and any behavior that "undermines student safety or institutional integrity." Those phrases are not narrowly defined in the bill.

In some districts, codes of conduct are incorporated into negotiated contracts. In others, they are policy-based and broad in scope. In the absence of a specific contractual definition, interpretation could default to the Kansas Educator Code of Conduct, which includes a wide range of professional expectations — from mandatory reporting and prohibitions on abuse, to obligations such as adhering to established procedures, accurately reporting absences, maintaining standardized test security, using school property appropriately, or fulfilling contractual terms.

Many of those standards are important. But they are also varied in seriousness. Placing criminal sexual abuse and routine professional compliance issues under the same statutory umbrella of "professional misconduct" creates a risk of disproportionate consequences.

When such a broad definition is paired with civil penalties of up to $25,000 per violation and potential placement on a public misconduct registry, the scope of exposure becomes significant. A statute of this magnitude requires precision. As written, the definition invites expansive interpretation.

Civil Penalties and Registry Consequences Are Disproportionate

SB 491 authorizes civil penalties of up to $25,000 per violation. It also authorizes placement on a publicly searchable education misconduct registry for individuals found to have engaged in "professional misconduct," not solely criminal misconduct.

These are serious consequences. A public registry is not a minor administrative action. It carries reputational harm that may effectively end a professional career. Civil penalties of this magnitude are punitive in nature and can be financially devastating.

The concern is not with holding individuals accountable for criminal abuse or intentional misconduct. Those acts warrant strong consequences. The concern arises when a broad and undefined standard of "unacceptable or improper behavior" becomes the trigger for penalties and registry placement.

The bill does not clearly distinguish between levels of misconduct for purposes of penalty exposure. As written, the same enforcement framework could apply to criminal sexual abuse and to lesser professional violations that, while potentially subject to discipline under existing employment or licensure processes, would not traditionally result in public registry placement or five-figure civil fines.

Statutes that impose severe penalties must be carefully tailored. When definitions are expansive and consequences are severe, the risk of overreach increases.

Due Process and Contractual Rights Must Be Preserved

Kansas NEA's adopted resolutions are clear that education employees are entitled to both procedural and substantive due process. That principle is not secondary to student safety; it exists alongside it. Protecting students and protecting constitutional rights are not mutually exclusive obligations.

Many Kansas educators work under collectively bargained agreements that establish defined due process procedures, evidentiary standards, timelines, and appeal rights. SB 491 creates an independent investigative authority within the Office of the Attorney General with power to issue findings, mandate corrective action, recommend licensure discipline, and impose or refer civil penalties.

The bill does not clearly address how its enforcement authority interacts with existing contractual due process protections or collectively bargained procedures. It also permits registry placement following a final administrative determination by the Inspector General, raising questions about whether an educator could face public listing prior to full judicial review.

When statutes create parallel enforcement tracks outside established employment and licensure frameworks, clarity is essential. Without that clarity, educators may face duplicative proceedings or consequences that extend beyond the due process protections they have bargained for and that Kansas law has long recognized.

Accountability must be firm. It must also be fair.

Kansas Already Has Structures Addressing Abuse, Reporting, and Licensure

Kansas law already requires educators and school officials to act when abuse is suspected. Mandated reporting statutes impose a legal obligation to report suspected child abuse to appropriate authorities. Failure to do so carries criminal consequences.

Kansas also maintains a professional licensure system through the State Board of Education, including the authority to investigate, suspend, or revoke educator licenses. The Professional Practices Commission provides a structured process for reviewing allegations of educator misconduct and making recommendations regarding licensure action.

Federal Title IX obligations require schools to respond to allegations of sexual harassment and misconduct. Violations can result in significant legal liability. The Kansas Tort Claims Act likewise exposes districts to financial consequences when failures occur, as demonstrated by substantial settlements in cases involving misconduct.

Kansas already maintains a sex offender registry for individuals convicted of qualifying crimes. Criminal conduct involving minors is already addressed through prosecution and public registration.

In short, Kansas does not lack mechanisms to criminalize abuse, require reporting, discipline educators, or hold institutions financially accountable. The critical question is whether the problem in cases like this was the absence of law — or the failure to comply with and enforce laws that already exist.

Before layering an additional enforcement structure with broad investigative authority, civil penalties, and public registry placement for non-criminal misconduct, the Legislature should carefully examine whether strengthening compliance with existing law would better serve students and educators alike.

Accountability Must Not Become a Tool for Political or Administrative Overreach

No profession is immune to misconduct. Public education is no exception. Over the decades and across states, there have been instances of serious wrongdoing by individuals in schools. Those cases must be addressed firmly and lawfully. A profession earns public trust not by denying misconduct, but by confronting it directly and holding individuals accountable when they violate the law or professional standards.

At the same time, the enforcement structure created by SB 491 concentrates significant investigative and enforcement authority within an Office of Education Inspector General appointed by, and serving at the pleasure of, the Attorney General. That office would have authority to initiate investigations, issue subpoenas, make findings, recommend discipline, impose or refer civil penalties, and maintain a public registry.

When significant investigative authority is placed within an elected constitutional office, statutory clarity and guardrails become especially important. Even well-intentioned legislation must be drafted with an understanding that laws endure beyond any single administration. A framework designed to address egregious misconduct should not be so broad that it could be used to harass, intimidate, or exert pressure over routine professional disagreements or policy disputes.

Educators should be accountable for criminal and serious professional misconduct. They should not operate under a system where investigative authority and severe penalties could be applied expansively or unevenly depending on the priorities of a particular officeholder.

Public trust requires both accountability and restraint. Durable policy must guard against abuse of authority as carefully as it guards against abuse within schools.

SB 491 is rooted in understandable outrage over a terrible failure. We share that outrage. Protecting students from abuse is not optional — it is fundamental. But durable policy must be carefully constructed. Broad definitions, expansive investigative authority, severe civil penalties, and public registry consequences require precision and guardrails. Kansas already possesses strong criminal statutes, mandatory reporting laws, licensure authority, and civil liability mechanisms. The question is not whether accountability is necessary — it is whether this structure achieves it in a manner that is targeted, proportional, and consistent with due process.

Thank you again for the opportunity to testify in opposition to SB 491.