



**Oral Opponent Testimony on  
SB 421,  
Senate Education Committee**

**By  
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Madam Chair and Members of the Committee,

KASB opposes SB 421 because, although we share the legislature's goal of protecting free speech in the K12 setting, the bill as currently written appears to force school districts to potentially violate federal or state law.

SB 421 creates student and club rights that are not in step with current federal and state law and case law, so it is likely to result in lawsuits against districts that are attempting to follow federal and state law in good faith.

For example, The Equal Access Act, 20 U.S.C. 4071, et seq., provides that it would be unlawful for a public secondary school to deny equal access to non-curriculum related student groups to meet on school premises during non-instructional time. However, if the school only allows curricular groups to meet during those times, then they need not allow non-curricular groups to use school facilities during those times at all. The legislation does not differentiate between curricular and non-curricular groups and says that if any student-initiated group can meet, another cannot be denied that opportunity. This will be disruptive to the learning environment. But, stopping it could result in lawsuit and damages awarded against the district despite following the Equal Access Act's principles.

The provisions of this law also provide a cause of action for students to sue each time they are suspended or expelled for making threats to students or staff, for communicating a message that is potentially obscene, bullying, or harassment. While the bill provides some limits, this gray area provides ambiguity, and it would add an extra layer of litigation that would undercut district attempts to deal with student disciplinary issues and would be extremely costly to litigate. As with the Equal Access Act, United States Supreme Court case law regarding student free speech gives school districts more rights to intervene in student free speech issues from a disciplinary perspective than this law allows and would cause confusion and misapplication.



We welcome the opportunity to meet with the Chair and the Revisor to suggest specific amendments to address our concerns.

Thank you.

*KASB is a non-profit service organization built on an abiding belief in Kansas public schools. We have put the needs of students and K-12 leaders first since 1917.*