

Oral Opposition Testimony before the
Senate Education Committee

On
SB 421

Enacting the safeguarding personal expression at K-12 schools act to authorize students and student clubs or organizations to engage in certain speech or expression at school providing a civil cause of action for violations of the act.

by
By Jim Karleskint, United School Administrators
February 4, 2026

Chair Erickson and members of the Senate Education committee. Thank you for the opportunity to present opposition testimony on SB 421. USA Kansas supports student speech rights. However, we appear in opposition to SB 421.

SB 421 aims to codify and expand protections for students' religious, political, and ideological speech within public K-12 schools. It grants students explicit rights to express viewpoints in assignments, form clubs, and wear expressive clothing, provided these activities are afforded the same access and opportunity as other non-curricular student activities.

On one hand, the bill can be viewed as a robust affirmation of foundational free speech principles, particularly those established in the landmark case *Tinker v. Des Moines*. You'll recall that in *Tinker*, the Supreme Court famously stated that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." SB 421 seeks to translate that principle into specific, actionable rights, providing a clear framework for students and a direct line of accountability for schools. The inclusion of a private cause of action, with a minimum damage award of \$5,000, gives the statute significant teeth. This could empower students who feel their rights have been infringed and deter schools from overreaching in their attempts to regulate student expression.

However, we must also examine the other side of the legal coin. The bill attempts to navigate the delicate balance between protecting student speech and maintaining a safe and orderly learning environment. Section (f) of the bill carves out exceptions, allowing schools to restrict expression that is unprotected by the First Amendment (like threats or obscenity), constitutes severe harassment, or "intentionally, materially and substantially disrupts the operations of the school."

This "material and substantial disruption" language is drawn directly from the *Tinker* standard. Yet, its application in the complex social environment of a modern K-12 school is where the real challenge lies. What one student considers a valid political viewpoint, another might perceive as harassment that denies them equal access to educational opportunities—a scenario the bill also tries to account for. This will place administrators in the difficult position of making real-time judgment calls that will inevitably be scrutinized and potentially litigated.

Furthermore, consider the provision that protects student clubs' rights to require that leaders and members "adhere to the sincerely held beliefs of the club." While this aligns with precedents like *Boy Scouts of America v. Dale*, its application in a public school setting is bound to create conflict. It raises questions about how we reconcile the associational rights of one group with the school's broader responsibility to foster an inclusive environment for all students.

Ultimately, SB 421 is an attempt to draw bright lines in an area of law that is notoriously gray. While it champions individual liberty and expression, it may also inadvertently create a more litigious and contentious school environment. It shifts a significant amount of interpretive authority away from educators and administrators and toward the courts. As legislators, you should consider the practical consequences of this shift. Does it clarify rights, or does it invite conflict? Does it protect students, or does it make the difficult job of educators even more so? This bill is a legislative effort to answer questions that the courts have grappled with for decades. Whether it succeeds in its mission or creates a new set of problems is a question that will likely be answered in courtrooms one day, but before that happens, students and educators alike will be persecuted, and education will lose amazing professionals.

For these reasons we respectfully request that you reject SB 421.