

Juvenile Justice Reform in Kansas: An Opportunity for School Leaders

Kansas recently passed legislation to improve its juvenile justice system. The reforms are wide-ranging, and include **opportunities to help schools** keep more of their students in the classroom and out of the courtroom.

As the place where youth spend much of their time, **schools can play a fundamental role in helping their students avoid justice-system involvement**, which can have lifelong negative consequences. While managing school discipline can be a real challenge, aspects of the recent reforms help schools create clear and consistent standards for environments where students, teachers, and staff are safe and focused on learning, while avoiding criminalizing behaviors that can be common among students.

This brief provides information for school leaders on:

- The Need for New Approaches to Juvenile Justice & School Discipline Policies
- An Opportunity: SB 367, Kansas's Juvenile Justice Reform
- Key Considerations to Make the Most of SB 367's Opportunity for School Leaders



The Need for New Approaches to Juvenile Justice & School Discipline Policies

Recent reviews of **Kansas's juvenile justice** system demonstrated that it was:

- Ineffective: A 2015 study by the Council of State Governments reported 42 percent of Kansas youth sent to a secure juvenile prison were incarcerated again within three years of release.¹
- Inconsistent: A 2015 study by the Pew Charitable Trusts found out-of-home placement rates and other juvenile case outcomes varied widely among Kansas counties —creating justice by geography— and disproportionately large numbers of youth of color are punished at each step of the juvenile justice system in Kansas.²
- Unsustainable: In 2016, it cost more than \$300 per day to place a youth in one of Kansas's juvenile prisons; it cost more than \$130 per day to place a youth in other out-of-home facilities; but it cost only \$19 per day to place a youth under intensive supervision probation in the community.³

Meanwhile, **school discipline policies and practices** have resulted in increased rates of suspensions, expulsions, and referrals to the juvenile justice system. The adoption of “zero tolerance” policies and the increased presence of law enforcement officers in public schools can create an environment where relatively minor school misbehavior results in contact with the juvenile justice system.

One review of evidence on school policies and the juvenile justice system highlighted:

- A substantial increase in the rates of suspensions, expulsions, and school referrals to the juvenile justice system since the implementation of zero tolerance policies;
- Juvenile courts being overwhelmed with school-based incidents that might have previously been dealt with by school administrators;
- Removals from school leading to higher rates of misbehavior when students return to school;
- The criminalization of minor infractions having a variety of negative impacts on children, and disproportionately impacting students with disabilities and students of color.⁴

An Education Week data analysis found that:

- Kansas had the highest rate of arrests at school of any state in the country during the 2013-2014 school year;
- Black students comprised 15.5% of student enrollment in Kansas schools, but 33.4% of arrests in Kansas schools.⁵

An Opportunity: SB 367, Kansas's Juvenile Justice Reform

Kansas recently adopted Senate Bill 367, comprehensive juvenile justice reform that became law in April 2016. Key features of the law include:

- Increasing evidence-based programs in the community
- Expanding targeted services and interventions
- Defining timeframes for case lengths
- Implementing a statewide system of structured, graduated responses for probation violations
- Establishing a Juvenile Justice Improvement Fund to ensure that 100% of state funding from reduced out-of-home placements are re-invested to community-based services.

SB 367 contains important opportunities for school leaders to examine their policies and practices around school discipline issues and how they collaborate with law enforcement in order to keep more of their students in the classroom.

Memorandum of Understanding

School boards will approve and submit to the State Board of Education a memorandum of understanding developed in collaboration with relevant stakeholders, including law enforcement agencies, the courts and the district and county attorneys, establishing clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety. The State Board of Education shall provide a report annually to the Department of Corrections and to the Office of Judicial Administration compiling school district compliance and summarizing the content of each memorandum of understanding.

Training on Responding to Youth Misconduct

The superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school shall complete a skill development training focused on responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system. The training will be developed through a collaboration between the state attorney general, Kansas Law Enforcement Training center, and the State Board of Education.

Key Considerations to Make the Most of SB 367's Opportunity for School Leaders

SB 367 provided an opportunity for school leaders to create a Memorandum of Understanding with law enforcement agencies that improves their school climate, keeps kids and teachers safe, and helps to keep students in the classroom learning.

The Kansas Association of School Boards provided a sample MOU and instructed that the final version adopted by school boards "must establish clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system." School leaders can review their district's MOU and consider whether revisions could make it a more successful tool to improve school discipline policies and practices. Questions to consider include:⁶

Role and Limits of Security Personnel

- ❑ Does the MOU include detailed descriptions of school disciplinary measures, a plan for graduated responses to behavior, and explicit explanations of how different types of behavior will be addressed by the school and when to involve law enforcement? Does it specify who needs to be present, in addition to the student and district personnel, when decisions are made?
 - ❑ Does the MOU mirror or refer to a student code of conduct, or similar handbook available to students and parents, that includes this information?

- ❑ Does the MOU stipulate that security personnel may only cite, refer, or arrest students when there is no other alternative, and only when there is a serious threat to school safety?

- ❑ Does the MOU ensure that citations, court referrals, and arrests are not to be used for most behavioral infractions, especially normal adolescent behavior, most non-violent infractions, and those arising from student disabilities?
 - ❑ Does the MOU clarify that no arrests of students should be made on a school campus for non-school matters?

- ❑ Does the MOU clarify the role of each agency in the selection, employment, training, logistics, and oversight of school-based security personnel?

- ❑ Does the MOU provide guidelines on when and how security personnel can resort to physical force? Does it prohibit the use of tasers and pepper spray?

- ❑ Does the MOU call for frequent reviews of data to determine disproportionate impact on students of color and students with disabilities? Does it provide a process for reducing and eliminating those disparities?

Due Process Protections for Parents and Students

- Does the MOU specify that security personnel, no matter who employs them, have all the obligations of sworn law enforcement officers with respect to searches and interrogations?

- Does the MOU require that parents/guardians be notified immediately when students are ticketed or arrested?

- Does the MOU allow for parental representation or other representation when a student is questioned by law enforcement about their involvement in a possible criminal act? Does this apply to all students, not just those under age 14?

- Does the MOU refer to a student code of conduct, or similar handbook available to students and parents, that includes information on a student's rights if contacted by law enforcement, including receiving Miranda rights?

- Is there a formal procedure for complaints when students and parents feel they have been treated inappropriately by school personnel?

Additional Considerations

Does the MOU cover:

- A schedule for regular community meetings between school security personnel and students, parents, and community stakeholders?

- Info-sharing, confidentiality, and mandatory reporting?

- Data collection and reporting?

- Term of the MOU and a timeline for review or renewal?

Additional Resources

- The MOU between Topeka Unified School District, the Topeka Police Department, Juvenile Justice Intake Center, and the Shawnee County Department of Corrections addresses many of the issues described above: tinyurl.com/TopekaMOU
- The Olathe Public Schools Code of Student Conduct includes a section titled "Student Rights if Contacted by Law Enforcement": tinyurl.com/OlatheCode
- Kansans United for Youth Justice, a coalition of statewide organizations and individuals involved in juvenile justice reform: kansansunitedforyouthjustice.org

¹ Council of State Governments "Reducing Recidivism for Youth in the Juvenile Services Division of the Kansas Department of Corrections: Analyses and Recommendations" March 2015.

² Pew Charitable Trusts, Presentations to Kansas inter-branch Juvenile Justice Workgroup, August 2015.

³ Kansas Department of Corrections "Annual Report" 2016.

⁴ National Council of Juvenile and Family Court Judges, "School Pathways to the Juvenile Justice System" 2014.

⁵ Education Week, "Education Week Research Center original analysis of Civil Rights Data Collection" 2017.

⁶ Many of the questions to consider are adapted from the National Juvenile Justice Network's "School Discipline & Security Personnel: A Tip Sheet for Advocates on Maximizing School Safety and Student Success" October 2015.