



Juvenile Justice Reform in Kansas: An Opportunity to Improve School Discipline Policies

Did you know that Kansas law allows your 14-, 15-, 16-, or 17-year-old to be interrogated by police without any representation? (Missouri law does not.)

Did you know that the decision to suspend any student for 10 days or less can be made with only the student and district personnel present?

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

Recent reviews of Kansas's juvenile justice system demonstrated that it was ineffective, inconsistent, and unsustainable:

- 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
- 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
- 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.

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

Kansas recently adopted Senate Bill 367, comprehensive juvenile justice reform that became law in April 2016. Among other provisions, the law requires school boards to approve a memorandum of understanding developed in collaboration with relevant stakeholders 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.**



Could Your District's MOU be Improved?

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. Each district's MOU can be reviewed to consider whether revisions could make it a more successful tool to improve school discipline policies and practices. Questions to consider include:⁵

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?

***To be part of juvenile justice reform in Kansas,
please visit kansansunitedforyouthjustice.org and join us!***

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 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.

