

M I N U T E S

SPECIAL COMMITTEE ON EDUCATION

August 9 and 10, 1976

The Chairman, Don Crumbaker, presided. All members of the Committee were present.

Staff present included Ben Barrett from the Legislative Research Department and Avis Badke from the Revisor of Statutes' office.

August 9, 1976
Morning Session

Conferees

Mr. Joe Swalwell, President, Kansas Association for Children with Learning Disabilities
James Marshall, Director of Special Education, State Department of Education
Betty Weithers, Special Education Consultant, State Department of Education
Dr. Ed H. Flentje, Director, Planning and Research Division, Department of Administration
Dr. Walter H. Plosila, Assistant Director of Research and Grants, Planning and Research Division, Department of Administration

Proposal No. 9 - Special Education

Joe Swalwell. Mr. Swalwell's slide presentation focused on the problems and difficulties of providing special education services to children with learning disabilities. The presentation was prepared by parents, many of whom have children with learning disabilities.

Mr. Swalwell generalized that classroom teachers have not been well-trained by academic institutions to be able to recognize learning disabled children. Emphasis on the area of learning disabilities in teacher training programs of postsecondary institutions and in-service training efforts need to be increased.

Mr. Swalwell stated that insofar as the learning disabled are concerned, the teacher training institutions have not exercised sufficient leadership in this area of exceptionality. According to Mr. Swalwell, it is extremely important for pediatricians to be able to identify the learning disabled child. Most pediatricians are not adequately trained to be proficient at making such an identification. Aside from the parents, teachers and pediatricians should bear most of the responsibility for identifying children with learning disabilities.

KSDE. Betty Weithers distributed material (Attachment I) identifying the major sources of differences between present Kansas law and the provisions of PL 94-142. The following differences were noted:

1. The special education mandate in Kansas law is July 1, 1979. It is September 1, 1978, under PL 94-142 for children between the ages of 3 and 18. It is September 1, 1980, for children between ages 3 and 21, but the September 1, 1980, mandate does not apply if the requirement for ages 3-5 and 18-21 is inconsistent with state law, practice, or court order.

It is the opinion of KSDE staff that this conflict will not jeopardize Kansas' eligibility for funding under Title VI-B of PL 94-142.

2. The state education agency and local education agencies are responsible for providing children certain due process protections. One such protection includes the assignment, in certain cases, of a surrogate parent to act as the advocate for the child in the absence of the parent or guardian. There is no similar provision in Kansas law.

The KSDE staff does not know whether this matter will prove troublesome in complying with the requirements of PL 94-142.

3. A due process provision of the federal law states that no hearing shall be conducted pursuant to that law by an employee of a local education agency or unit involved in the education or care of the child. Kansas law provides that employees of the local education agency are involved in conducting due process hearings. Furthermore, an appeal of a hearing decision is conducted by the local board of education. This hearing may be conducted by hearing officers appointed by the local board.

The KSDE staff recommends that the Kansas law be changed to eliminate this conflict.

4. The federal law states that a hearing conducted by a local educational agency or intermediate unit may be appealed to the state educational agency for the conduct of an impartial hearing. Kansas law does not provide for such an appeal.

The KSDE staff is not sure whether it is necessary for Kansas law to be amended in order to conform with the federal law in this regard.

5. The federal law states that the state educational agency is responsible for assuring that all educational programs for handicapped children within the state will be under the general supervision of the persons responsible for educational programs for handicapped children in the state educational agency. Such programs must meet the educational standards of the state educational agency. Present Kansas law contains a provision which provides that "specialized instruction" provided for exceptional children by state institutions must meet the standards and criteria of the secretary of the Department of Social and Rehabilitation Services (SRS).

The KSDE staff believes there is conflict between federal law and the state law in this regard, and that the Committee should study the matter to determine whether changes should be made in Kansas law relative to the assignment of the responsibility for "specialized instruction" to the Secretary of SRS.

There was some discussion about the differing criteria that apply with regard to parental financial responsibility for services to children provided by state institutions. Material was provided by KSDE staff (Attachment II) concerning this matter. The KSDE staff recommends that state policy regarding charges at state institutions for room, board and maintenance be consistent for all children. The following options were suggested for consideration by the Committee:

1. Parents or guardians pay for all costs of room, board and maintenance in all state schools.
2. "Sending" school districts (child's home district) pay all room, board, and maintenance costs for such children.
3. The state pay for room, board, and maintenance costs as in the case of the State School for the Deaf and State School for the Visually Handicapped.

State Planning and Research. Dr. Flentje stated that the responsibility of the Division of State Planning and Research includes reviewing and analyzing state plans, most of which are required by some type of federal legislation. Staff advice is provided to state agencies and to the governor with regard to these plans. In analyzing plans, the staff of the Division attempts to use the perspective of the policymaker.

Dr. Flentje submitted to the Committee a summary statement of the comments his agency had prepared concerning the proposed State Plan for Special Education when it was being considered by the State Board of Education and the governor in the Fall of 1975. The primary thrust of these comments (Attachment III) included the following points:

1. Definitions of the various categories of exceptional children were too broad and imprecise. Concern was expressed because the determination of need and eligibility for special programs was left to those having the greatest interest in continuing and expanding special education programs.
2. The state had no established capacity to assess accomplishments of special education programs.
3. Special education services should be more carefully assessed and documented. Funding should be based on needs rather than the number of professional personnel associated with the programs.
4. Greater interagency coordination and cooperation is needed relative to programs available for exceptional children.

There was some discussion of the problem of defining precisely the various categories of exceptionality. The KSDE staff reported that the professionals are moving toward a model that is not solely contingent on test scores or IQ levels. There was also discussion about who should be responsible for overseeing the interagency coordination recommended by the Division of State Planning and Research.

Afternoon Session

Conferees

Representative Robert Frey
Mr. John Dickerson, Assistant Superintendent, Garden City (USD 457)
Dr. J. L. Smalling, Superintendent, Liberal (USD 480)
Mr. Ken Strobel, Attorney, Dodge City
Dr. Larry Kramer, Director of Development and Research, St. Mary of the Plains College
Mr. Bob Wootton, Kansas-National Education Association
Mr. R. L. Powers, Superintendent, Tonganoxie, (USD 464)
Mr. Nelson Hartman, Executive Director, Kansas State High School Activities Association
Mrs. Mary Alice McCrae

Proposal No. 11 - Kansas State High School Activities Association (KSHSAA)

League Assignments. Spokespersons for the Liberal, Garden City, and Dodge City school districts stated their support for the efforts of the KSHSAA. The main concern expressed relates to the matter of league affiliation. In this regard, provisions of Article XVI of the KSHSAA bylaws were reviewed.

According to these school districts, league affiliation is a very important matter. Those activities which are subject to regulation by KSHSAA are considered to be an integral part of the total school program. A fundamental problem is that of providing equality of opportunity to all children who wish to compete in athletics and other activities. The key to equalizing this opportunity is the exercise by KSHSAA of its responsibilities relative to regulation of inter-school activities. League affiliation is considered vital in providing these opportunities.

Some of the schools in western Kansas are somewhat isolated. As a result, they presently are involved in a considerable degree of out-of-state competition. Generally, representatives of these schools believe that such competition should be minimized and Kansas competition and league affiliation in Kansas, emphasized.

As a result of league affiliation, students are able to get publicity and recognition in the State of Kansas. This has implications for students in terms of scholarships and other benefits that accrue to students who are outstanding in one field or another. Another advantage of league affiliation is the contact it provides with other Kansas students.

Dr. Smalling stated that Liberal has not had a secure league status for several years. As a result, a great amount of effort must be spent each year in scheduling events in order to provide competitive participation for Liberal students. Liberal currently is involved with schools in five states in providing activities. Competition with schools in other states is not regarded as always on an equal footing. For example, schools in Texas and Oklahoma put a much greater emphasis on football. These schools have longer seasons and begin their competition earlier in the year than Kansas schools.

Dr. Smalling called the Committee's attention to the provisions of H.B. 2805 and suggested that some attention to this proposal might be warranted.

Mr. Strobel stated that the authority of KSHSAA to make league assignments is a key question. KSHSAA should be provided unquestioned authority to make league assignments and direct extra-curricular activities among member schools. Legislation is needed to ensure KSHSAA has such authority.

It was further suggested that some consideration should be given to the role of the KSHSAA Board of Appeals. Perhaps the Board should be a separate and independent agency, or perhaps it should be separated in some other way from the membership of the KSHSAA Board of Directors. Regardless of what changes are made, the Appeal Board is considered as a very important component of KSHSAA.

There was some discussion of the role of the State Board of Education relative to its authority to approve changes in the articles of incorporation and bylaws of KSHSAA.

Dr. Kramer. Dr. Kramer stated that he is a very strong advocate of the advantages of league affiliation. He said that St. Joseph High School is one of the few schools that, without success, has gone through every step of the process for securing league affiliation. It was hoped that St. Joseph would be assigned to the Pioneer League.

There was some discussion of the importance of the compatibility among teams in a league. It was reported that the present members of the Pioneer League do not want to accept St. Joseph as a league member. St. Joseph was invited to join the Eastern Kansas League, but did not desire to do so because the enrollments in those schools tended to be three to four times larger than the enrollment at St. Joseph.

In response to a question, Dr. Kramer stated that St. Joseph is not involved in recruiting students or providing scholarships to students who attend that school.

Dr. Kramer stated that the hearing of the KSHSAA Appeal Board relative to the St. Joseph request was closed, and that the Appeal Board never provided reasons for its final decision not to assign St. Joseph to the Pioneer League. Dr. Kramer believes that KSHSAA should assign St. Joseph to a league. If not, St. Joseph should be provided written reasons for the decision not to so assign the school.

Mr. Powers stated that the Pioneer League had provided Mr. Kramer a listing of its reasons for opposing the assignment of St. Joseph to the League. He said none of the schools in the League wanted to compete with St. Joseph.

K-NEA. Mr. Wootton submitted to the Committee a letter from the K-NEA (Attachment IV) president concerning KSHSAA. The letter generally endorsed the activities of KSHSAA, but recommended that the law be changed to guarantee representation on the KSHSAA Board of Directors of those categories of classroom teachers affected by KSHSAA rules and regulations.

Doris McCrae. Ms. McCrae described an incident at a Topeka junior high school in which her daughter was awarded two medals for performing solos in a musical contest but was later required to return one of the medals. She stated that it was a teacher

who was responsible for her daughter's unauthorized participation in the contest. Therefore, any penalty assessed should have been directed toward the teacher rather than the student. (Mrs. McCrae provided a written statement to the Committee on the following day (Attachment V)).

Mr. Durbin stated it is the student who benefits from the prohibited competition, therefore, the student is the one who gets penalized. There has been some movement by KSHSAA to assess cash fines against the schools in cases where school personnel are involved in encouraging prohibited participation in competitive events.

August 10, 1976
Morning Session

All members except Representative Anderson were present.

Conferees

Mr. Bob Wootton, Kansas-National Education Association
Dr. Truman Hayes, Chairman of the Professional Teaching Standards Advisory Board and Dean of School of Psychology and Education at Emporia Kansas State College
Mr. Jack L. Hobbs, Superintendent, Hesston (U.S.D. 460)

Proposal No. 13 - Certification of Administrators

K-NEA. Mr. Wootton stated the position of K-NEA is that teachers and administrators in Kansas generally are highly qualified.

Certification standards for teachers and administrators should be designed to guarantee that only skillful and competent people will be eligible for employment as professional educators. Historically, the selection process involving students preparing for the education profession has not been sufficiently thorough. This has been improved. Mr. Wootton suggested that greater emphasis be placed on the internship concept as a prerequisite for full certification.

In answer to a question, Mr. Wootton said his personal opinion is that perhaps all school administrators need not be qualified as teachers in order to discharge the duties and responsibilities of school administration.

Mr. Wootton stated that in allocation of resources for schools, greater priority should be assigned to teaching personnel.

Dr. Hayes. Dr. Hayes explained that certification standards are subject to final approval by the State Board of Education. He stated that the Professional Teaching Standards Advisory Board has responsibility for developing proposed changes in certification regulations. Such changes usually are proposed as a result of evidence of interest by one or more constituencies. Subcommittees of the Standards Board are used for careful review and study of proposed certification changes. Usually a careful effort is made to involve cross-sectional representation in reviewing any proposed certification changes. No changes are made without very deliberate review and analysis.

In general, Dr. Hayes believes that administrators should have knowledge about the teaching function. Therefore, he supports the present system which requires an administrator to be certified as a teacher or eligible for teacher certification in order to qualify for an administrator certificate. The Standards Board presently is conducting several different studies, one of which relates to a durational teaching practicum before full licensure is granted.

Dr. Hayes stated, in his judgment, the Standards Board has done a very good job in reviewing and improving certification requirements. He believes the Board should continue to function in its present capacity. He said that educational institutions which have teacher training programs tend to develop a somewhat uniform curriculum, in order that students will be eligible to meet certification requirements.

Jack Hobbs. Mr. Hobbs reviewed the provisions of SCR 1642 and he supported the present concept with regard to certification of administrators. In his opinion, some experience in the school system is needed before the responsibilities of school administration can be discharged properly. Therefore, some alternative form of certification which does not require teaching or other school service as a prerequisite would be undesirable.

He stated that the Professional Teaching Standards Advisory Board has worked in a very deliberate and thorough fashion. Improvements in the operation of that Board could be made, but the present system should be perpetuated.

Staff Presentation. The staff presented memorandums which summarized the recently adopted State Board of Education certification standards for administrators, and the educational and training requirements for administrators among the states, and which analyzed pupil/teacher ratios, pupil/administrator ratios, and teacher/administrator ratios in Kansas school districts as of the Fall of 1975.

Afternoon Session

A motion by Senator Warren, seconded by Representative Dyck, was adopted approving the minutes of the previous meeting.

The meeting formerly scheduled for November 8 and 9 was rescheduled for November 15 and 16. Thus, the present meeting schedule is: August 26 and 27, October 4 and 5, and November 15 and 16.

Proposal No. 9 - Special Education

The Committee concluded that it should request Dr. Harder, Secretary of SRS, to attend the next meeting to give in-depth consideration to the matter of "specialized instruction" provided by state institutions. In this regard, the Advisory Council for Special Education will be contacted, as well as the Kansas Association for Retarded Citizens.

The staff will prepare bill drafts to resolve questions regarding PL 94-142. Hopefully, any legislation prepared can be reviewed by various of the interest groups prior to submission of such legislation to the 1977 Legislature.

Dr. Harder will be asked to explain the basis for charging patients or the parents of children who are patients for the costs of services provided at state institutions.

Proposal No. 11 - KSHSAA

The Committee discussed problems and issues that had been raised relative to the hearings on KSHSAA. A main concern is the way in which the Appeals Board is organized and functions. The question of whether the Legislature should become involved in the matter of league assignments was discussed. Also the Committee considered the attitude of KSHSAA, as reflected by the testimony of persons aggrieved by KSHSAA rulings. The issue was considered as to whether or not KSHSAA should be governed by the requirements of the open meetings law.

The Committee concluded that spokespersons for KSHSAA should be invited to attend the next meeting to discuss recommendations they might have relative to the Appeal Board or other matters which might be discussed

Proposal No. 12 - Certification of Coaches

The Committee discussed the issues of whether coaches should be required to hold teaching certificates and whether some additional requirements for coaching should be established. It was agreed that the Committee's report to the Legislature should include a recommendation that the State Board of Education and the Professional Teaching Standards Advisory Board explore the possibility of upgrading certification standards to take into account any special proficiencies coaching personnel should possess.

Proposal No. 13 - Certification of Administrators

The Committee does not plan to make any recommendations to the legislature relative to the question of certification of administrators. Material presented to the Committee on administrator certificate consolidation and status of certification requirements for administrators among the states will be included in the Committee's report. The Committee plans to take no further action on this proposal.

The meeting was adjourned.

Prepared by Ben F. Barrett

Approved by Committee on:

August 27, 1976
Date

EDUCATION OF ALL HANDICAPPED CHILDREN ACT OF 1975
(P.L. 94-142)

1. DATE OF MANDATE

Sec. 612 (1)(B)

"(B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State."

NOTE: The Bureau of Education for the Handicapped (BEH) has indicated that the one year difference between Kansas and Federal implementation dates will not jeopardize eligibility for VI-B, EHA, funds. The Federal mandate, however, has been interpreted by BEH as legally binding regardless of funding, i.e., all handicapped children ages three through 17 must have the availability of a free appropriate public education by September 1, 1978.

SPECIAL EDUCATION FOR EXCEPTIONAL CHILDREN ACT
(K.S.A. 1974 Supp. 72-961 through 72-980, & 72-933)

K.S.A. 72-966

(a) The board of education of every school district shall provide special education services for all exceptional children in the school district and said special education services shall meet standards and criteria set by the state board. Said special education services shall be planned and operative not later than July 1, 1979.

Kansas State Plan (pp. 3-4) — As required by K.S.A. 1974 Supp. 72-962, school age for exceptional children has been determined by the State Board. Services for exceptional children shall be implemented at the age at which the local board of education provides educational services for non-exceptional children . . . Services shall be extended through the school year during which they reach 21 or until the exceptional child has completed a local curriculum, in accordance with the state board of education standards, whichever event shall first occur.

2. DUE PROCESS

a. Surrogate Parents

Sec. 615(b)(1)(B)

No provision.

(The SEA and LEA's shall establish and maintain)

"(B) procedures to protect the rights of the child (with respect to the provision of a free appropriate education) whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian."

NOTE: The absence of provision in State special education rules or regulations for the appointment of a surrogate parent may not be a problem because of the provision for the appointment of a guardian ad litem by the juvenile and probation courts. It is recommended that this discrepancy be carefully reviewed in the context of existing laws which may extend appropriate safeguards to such children in regard to special education placement.

b. Hearing Officer

Sec. 615(b)(2)

"(2) Whenever a complaint (regarding placement or refusal to place in special education) has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child."

K.S.A. 72-973(g)

The person or persons who conduct the (first due process at LEA level) hearing shall be certificated employees but shall not be the same person or persons responsible for recommending the proposed action upon which said hearing is based.

K.S.A. 72-974(b)

(b) For the purpose of hearing any appeal (for a second hearing by the LEA board of education) under this section, the board of education may appoint one or more hearing officers. Any such hearing officer shall be a member of the board, an attorney or a certificated employee of the school district but shall not be any person responsible for recommending the proposed action nor any person who conducted the hearing provided for in section 13 of this act. Any such appointment shall apply to a particular hearing or to a set or class of hearings as specified by the board in making such appointment.

NOTE: Legislative change would be required to resolve this discrepancy between State and Federal law.

Sec. 615(c)

"(c) If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review."

NOTE: In the absence of any known legal opinion, it is assumed that an appeal to the SEA is permitted, but not required by Federal law.

3. SEA AUTHORITY

Sec. 612(6)

"6) The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency."

Sec. 612(2)(A)

(The State shall provide assurance that)

"(A) there is established (i) a goal of providing full educational opportunity to all handicapped children. . ."

Sec. 612(2)(B) — cited above

Sec. 612(2)(C)

"(C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services . . ."

K.S.A. 72-974(a)

Any child, his parents or guardians may appeal such decision (of the first LEA hearing) to the board of the school district by filing a written notice of appeal with the clerk of the board not later than ten (10) calendar days after receiving the written notice specified in this section.

K.S.A. 72-970(b)

Specialized instruction which is provided by state institutions for exceptional children shall meet standards and criteria set by the secretary (SRS).

K.S.A. 72-976

Subject to the provisions of K.S.A. 1974 Supp. 72-972 to 72-975, inclusive, no school district shall be required to keep an exceptional child in regular instruction when the child cannot materially benefit from the work of the regular classroom, nor to provide such exceptional child with special education services for exceptional children in a regular school setting when it is determined that the child can no longer materially benefit therefrom, but needs specialized instruction. Nothing in this section shall be construed to limit or supersede or in any manner affect the requirements of each board to comply with the provisions of K.S.A. 1974 Supp. 72-933 (D.D. mandate) and 72-966 (full mandate) to provide special education services for all exceptional children in the school district.

PAYMENT OF TRAINING & EDUCATION

K.S.A. 72-966

(a) The board of education of every school district shall provide special education services for all exceptional children in the school district and said special education services shall meet the standards and criteria set by the state board.

H.B. 2040 - Amends - 1975

K.S.A. 72-962

Makes a distinction between "special education services" and "specialized instruction."

72-962

(h) "Special education services" means programs for which specialized training, instruction, programming techniques, facilities, and equipment may be needed for the education of exceptional children.

(i) Specialized instruction means programs of life and social adjustment provided in a state institution under the jurisdiction of the secretary.

59-2006

Payment for the maintenance, care and treatment of any patient in a state hospital irrespective of the manner of his admission shall be paid by said patient, by the conservator of his estate or by any person bound by law to support him. The secretary of social and rehabilitation services may recover the basic maximum charge established (K.S.A. 73 Supp. 59-2006b) as compensation for maintenance, care and treatment of a patient from such patient when no legal disability exists, or from the estate of such patient or from any person bound by law to support such patient.

K.S.A. 72-1006

Students at Kansas State School for the Deaf who are residents of the state shall not be charged tuition, fees, or for maintenance but may be charged student activity fees.

76-1102

Same wording but for school for visually handicapped.

Recommendation

That the charges for room, board and maintenance be consistent for all children.

Options:

1. Parents or guardians pay for all costs of room, board and maintenance in all state schools (59-2006).
2. Sending school districts (child's home district) pay for all costs of room, board and maintenance costs for all children.
3. The State pay for all room, board and maintenance costs - as in the case of the State School for the Deaf (K.S.A. 76-1006) and State School for the Visually Handicapped (K.S.A. 76-1102).
4. Other considerations -

SPECIAL COMMITTEE ON EDUCATION

H. Edward Flentje, Director
Division of State Planning & Research

Proposal #9 -- Special Education

August 9, 1976

The narrative which follows summarizes our original review of the State Plan for Special Education prepared for Governor Robert F. Bennett (see attached).

Definitions of Exceptionality

Certain definitions and criteria for identifying those in need of special education (e.g., learning disabled, emotionally disturbed, gifted) are broad and imprecise. Further, under existing procedures for administration of special education in Kansas, the determinations of needs and eligibility for special education programs is left almost exclusively to those who have a vested interest in continuation and expansion of special education programs. State policymakers, in consultation with professionals in the field of special education, should develop more clearly specified categories of exceptionality for purposes of special education.

Evaluation of Programs

The state has not established a capability to assess accomplishments made through special education programs. The state should establish measurable objectives for special education by category and status of child, which will help identify progress in special education programs. Reports to state policymakers on the results and accomplishments obtained with public funds allocated to special education should be provided annually.

Assessment of Needs

The state should more carefully assess and document the needs for special education programs, by type of need, age groups, geographical location, etc. Funding and projections of funding requirements should be based on an assessment of special education needs rather than upon the number of professional personnel associated with these programs.

Interagency Coordination

In the long run, the state should have a concept and plan as to how the numerous public programs for exceptional persons should be linked and coordinated. These programs include among others special education, community mental health, vocational rehabilitation, state mental health and retardation institutions, state schools for deaf and blind, vocational education, crippled children, developmental disabilities, bureau of child research, and other handicapped programs.

STATE OF KANSAS

Department of  Administration

DIVISION OF STATE PLANNING AND RESEARCH

1258-W State Office Building

Topeka, Kansas 66612

September 18, 1975

TO: The Honorable Robert F. Bennett
Governor of Kansas

FROM: Ed Flentje and Walt Plosila *wp*

SUBJECT: REVIEW OF DRAFT STATE PLAN FOR SPECIAL EDUCATION

The Special Education Advisory Council submitted their draft state plan to your office for review. At your request we are providing review, analysis and recommendations on this draft plan. Walt Plosila has also met with the special education staff of the Department of Education and discussed the plan.

A. SUMMARY

Analysis:

1. The draft essentially responds to statutory requirements and is more of an administrative plan than a policies plan; in other words, it deals more with administrative supervision by the state of special education programs than it does with identifying needs, objectives and priorities for special education in the state;
2. The draft provides no clear indication of the needs for special education in the state by type, age groups, geographical location, etc., making it difficult to determine whether the standards proposed in the draft are related to the problems of special education in Kansas;
3. The draft provides no outline of the long-term fiscal consequences nor the programmatic implications generated by the requirements in the plan.
4. The draft is unclear as to the linkages to be made by special education programs with other state-administered programs having similar clientele, such as vocational education, vocation rehabilitation and mental health. The draft plan leaves to local districts the responsibility to identify coordination problems and to take initiative in improving coordination.

Recommendations:

We recommend the following to improve the draft state plan:

1. The programmatic aspects of the document should be improved, including better definition and identification of needs for special education, and a clearer statement of the goals to be achieved, the objectives to be established and the priorities by which funds should be allocated to accomplish the objectives. The standards proposed in the draft plan should be based on the priorities and objectives and not developed ad hoc from limited consideration of the actual needs. The Department should institute such a process before this plan is adopted and the results of such a process should be used to modify where necessary the standards contained in this draft.
2. There should be specific evaluation methods included in the plan and an explanation as to how the Department will use evaluation findings to improve future special education programs and their funding.
3. In allocating special education funds within the state the Department should consider alternative methods that take into account performance and the efficiency/effectiveness of programs, rather than simply the number of teachers a district has compared to other districts and the total funds available from the state (as is now the case).
4. Each standard and requirement proposed in the draft should be assessed in terms of the benefits to be gained and weighed against the increased costs of the standard.
5. The State Board of Education should clearly establish the roles and responsibilities of the state vis-a-vis local districts and consider whether the state role should remain one of controlling the administrative aspects of special education or whether it should focus on the programmatic considerations of special education policy.

B. ANALYSIS

1. An administrative plan, not a policy plan.

The drafting of this state plan was mandated by K.S.A. Supp. 72-961 through 72-980, the statute which establishes what is to be included in the "plan". The statute tends to require more a management supervision program than a genuine plan, i.e., one that identifies needs and states the goals, objectives and priorities for special education in the state. The Department of Education drafted the state plan in accordance with the dictates of the statute which require:

- a process for management supervision
- prescribed courses of study
- criteria for screening, diagnosis and certification
- definition of categories
- implementation dates by category
- standards for services by category

The state plan goes into great detail as to how school districts are to staff and operate special education programs. Some of this detail may be unduly restrictive on local districts while some is duplicative. For example, on the latter point, requiring psychologists to be certified first by the State Board of Examiners and then approved by the Department of Education could be eliminated by an agreement between the two agencies on the certification process. The same problem exists with other specialists involved in special education.

The plan indicates that the entire program has to be initiated by 1979, but provides no staged timetables to phase, either fiscally or programatically, the various requirements across the state. The question here is: Should the state mandate such steps or should it require compliance, in a locally defined sequence, by a certain date?

The state plan requires that local districts prepare "comprehensive" plans for special education annually. "Comprehensive" is a misnomer since by definition the plans deal only with special education. These local plans are to contain major program goals. Unfortunately, the state's goals contained in the plan are rather vague platitudes such as "to provide a full range of services". What should be required at both state and local levels are measurable objectives against which resources can be allocated and assessed. There seems to be little reason to require that a local district establish goals if the goals do not guide future funding, do not fit into a broader framework of state objectives, and do not provide a means for evaluating programs.

The state plan has no component to indicate how, when, where and in what ways evaluation (beyond narrative self-evaluation) is to be performed and utilized at the state and local levels; it does not require much more than

information of an "input" nature (number of riders on transportation, number of students, etc.) to be collected.

The state role in the proposed plan remains one of traditional administrative control. For example, the state has to approve all the following aspects of a local special education program: qualifications of staff, ratio of teachers/students, curricula, facilities, material and equipment, screening procedures, and support services (to name just a few). There is no indication, justification or rationale in the plan as to why these approvals are needed; whether they have significantly affected the quality of a special education program; or whether they are the most appropriate as compared to an examination of policy considerations, program achievements, and results.

2. No indication of needs.

Because of its administrative orientation, the document provides no evidence of the needs for special education (e.g., visually disabled, retarded, age groups, geographical locations, etc.). While the legislation does not make this a requirement, the development of a state plan without a knowledge of what the needs are, where in the state they are concentrated, and the types of special education programs required and other supporting documentation seems to be placing the cart before the horse. While the statute mandates an annual survey of special education needs, the Department of Education considers this very difficult to carry out. Under the state plan local districts are to submit annually plans that include the current status of special education. These two related endeavors could be combined (local district plans aggregated indicate existing needs) in a fashion to provide better state data on what the needs are for special education in Kansas, and how school districts are expending state resources to meet each need (% of funds spent, status of students overtime, etc.).

A related question is a more precise definition of need and of clientele: Who is to be served by special education? This definitional problem has a number of dimensions, one for example is age. A number of states require services beginning at birth. The draft plan says services should be provided to those age groups normally served by school districts, i.e., children five to six years and above. Evidence suggests the hearing impaired child should begin receiving assistance at age two. Should the state require a lower age group, the already high costs would be even higher than now projected. But the impact of special education programs on the child might be more significant if provided at an earlier age. The plan does not indicate what evidence exists to justify the age groups to be served, and this should be done. The draft state plan seems to bury this definitional problem by using the "normal" children as the key definition. Perhaps the ages to be served by special education depends on the needs of the child (visual, mental, etc.)

3. Long-term programmatic and fiscal consequences

The statute requires that school districts supply special education services to all those in need by 1979. Projections made when the legislation was being considered indicate that this will increase the level of state support from \$12 million now to \$45 - \$50 million in state funds by 1979, according to a past Legislative Interim Committee report. The Department of Education suggests that the amount may be nearly double this projection. They also indicate that the additional federal funds

that may be received in the future will be to supplement required services and not to reduce state resources needed. For this reason, it seems natural that a state plan for special education should take budgetary implications into account. For example, do the standards established in the state plan (e.g., class sizes, requirement for a director of special education with 10 or more teachers, curricula, etc.) result in additional costs? If so, what are the costs? Also, are the costs worth the benefits that would be derived? Where are the resources to come from (local, state or other) to meet these standards? The plan does not indicate whether costs or benefits were considered in the development of the plan, although we understand the department has internally made some rather tentative projections.

A related point is that the state special education funds are allotted on a formula basis among districts in the state, proportionately based on total funds available and number of teachers. Given the projected increase in state funds, the state should consider some basic questions:

a. Should the state continue to use a formula to allot special education funds to school districts with administrative controls over their usage (e.g., correct curricula, certified personnel, etc.) or should the state begin to establish programmatic guidelines and performance standards (achievement levels, costs compared to results, quality of program, etc.) by which to allot state funds?

b. Should the state continue to require individual approvals of school district hirings, program content, etc., or should the state focus its staff resources on the results of programs, identification of new needs or gaps in services, etc.?

As proposed, the state plan will probably mean:

--a large increase in state funds necessary for special education based on the existing system;

--clerical and administrative staff necessary to process and review all of the various approvals the Department of Education must make will increase, although there has been no projection of the administrative staff required;

--costs for special education will escalate as the number of special education students increase, and then as the number of students stabilize, increased staff and other support will be required in the long-term by school districts.

Before the state plan is approved the full costs and necessity of each standard proposed should be closely examined and assessed.

4. Linkages with other public and private programs and services.

There is little indication in the plan where, how, or even whether linkages between special education programs and related programs and services will occur. For example, various types of supportive services

such as transportation, mental health, and social work are part of a special education program. The plan, however, contains nothing more than indicating that local school districts should avail themselves of whatever other needed services are available. The state could and should play a more direct coordinative role in this respect. One example is the possible use of buses provided by the State Aging Division for the elderly to be used to transport special education students. Another example is having SRS services available to families with special education children to support efforts made in the school to bring these children into the normal class situation (which may be thwarted by family situations). A third example is assuring that vocational rehabilitation services are used in conjunction with, rather than separate from, special education programs. Undoubtedly, such coordination is not easily achieved. But should it occur there would be a savings in state resources. More importantly, coordinated efforts might improve the effectiveness of these programs, many of which bear similar clientele needs.

C. RECOMMENDATIONS

In short, the state plan for special education can be improved in several areas. The Department of Education and the Advisory Committee, in preparing the plan, have focused narrowly on the specific components required by statute. We recommend that the "plan" go beyond the statutory requirements to outline state goals, objectives and priorities in developing a quality special education program for the state.

The Division of State Planning and Research recommends the following:

1. A clear definition of need in special education should be developed and agreed to; then the department should determine those needs for the state. The needs could be identified for special education by type, geographical location and age group, among other categories. Following that, the department should establish specific measurable objectives. From these objectives, priorities of emphasis should be formulated and the standards for special education developed. The draft state plan starts with these standards with little apparent reference to the prior steps in the development of a policy plan for special education.
2. Recommendations of #1 provide the basis from which program and budgetary plans are designed -- which is what the statute is oriented to. To do this requires the following actions:
 - a. The department should reassess each standard and requirement in the plan on the basis of the increased costs to the state versus the benefits expected to accrue. The enormous increase in state costs by 1979 also requires the hard questions be answered in assuring effective use of these funds before the state gets locked in forever to rewarding effective programs the same way it rewards ineffective, as is now basically the case.
 - b. The State Board of Education should establish with clarity what the relative roles, responsibilities, and powers of state versus local authorities are in the area of special education. One fundamental question of interest to the state should be: Do state funds

really help those with special education needs? Under the present system and as proposed in the plan, the state basically controls the administrative aspects of special education that may properly be the prerogative of local districts. But the state gives little attention to essential policy and programmatic considerations, e.g., evaluation and performance monitoring of program results. The thrust of the state plan could meet the statutory mandates for state supervision and at the same time permit greater local flexibility in administration by increasing the state role in review, analysis, and evaluation.

c. The department should include evaluation methods to be used by the state and identify the ways in which results will be incorporated to improve future programs in this state plan.

d. The formula used by the state for allocating funds should be reexamined. The formula should take into account performance in past programs and the efficiency (costs) and effectiveness (quality) of operations. Under the proposed plan the state evaluates only "inputs"--personnel, curricula, etc.--but not whether these inputs, along with state standards and resources, do make a difference. Changes in allocation methods might also be used to fund priority needs of those requiring special education, rather than hoping that local districts take these into account.

e. The department should give more than mere reference to coordination. Actual agreements should be contained in the plan as to how and what services will be linked from other state agencies with special education.

EF:WP:pygb

cc: Keith Weltmer

8/9/76

ATTACHMENT I



August 9, 1976

To: Interim Committee on Education
From: Dennis Doris, President KNEA
Re: Proposal #11; Study of the Kansas High School Activities Association

Please allow me to express a few thoughts concerning the Kansas High School Activities Association.

I must preface these remarks by inserting a qualifier which, I am sure, you have heard often before during your hearings. We believe that the Association does a necessary and important job and, with few exceptions, does it well. High school activities in athletics, drama, debate and in other areas of student participation round out a varied education experience for young people in our schools. This important area of activity is given shape and direction by our nationally respected Activity Association.

Our concern lies in the fact that the Kansas High School Activities Association, like most efficient organizations, has a structure which enhances its ability to be efficient, but in the process neglects some other important considerations. Chief among these other considerations is the matter of governance.

We believe that the people and institutions most directly affected by the rules and regulations of the Association should have representation on the board which establishes those rules and regulations. We believe that the people who are responsible for the programs should have a direct voice in the shape and thrust of those programs.

In short, we request that the Committee recommend changes in KSA 72-130 through 72-134 which would accomplish these two ends:

1. Guarantee representation on the Board of KHSAA of those categories of classroom teachers affected by KHSAA rules and regulations, including but not limited to
 - a. Coaches of high school athletics;
 - b. Coaches of high school debate, dramatics or forensics;
 - c. Coaches of other interschool activities.
2. Provide for tighter and more direct control of the KHSAA by the State Board of Education or the Legislature.

The decisions of the KHSAA have a heavy impact upon all segments of school life. These decisions should be tightly controlled by a supervising agency, and people who are influenced by the decisions should have a direct role in making the decisions.

Thank you for your consideration of this matter.

August 19, 1976

TO: SPECIAL LEGISLATIVE COMMITTEE ON EDUCATION

Dear Mr. Crumbaker, Chairman:

I appreciate being called to speak to your committee yesterday.

I do feel very good about the attention your committee is giving this situation of KSHSAA problem. I feel your group asked many thoughtful questions, and they have done their home-work. Although I feel your committee is doing a thorough and objective investigation into this whole agency, I would like to offer my time if there is anyway I can contribute.

As I reflected on the afternoon several basic points arose.

PURPOSE: Children are their business.

- 1. Penalties for breaking rules come down in pecking order-- ends with unrepresented innocent students who are not presented the rules.

Why not have penalties where rules are presented-- Staff of Schools and penalties remain there. If principals and his program might suffer, you can bet he will train his teachers. That's his job. This way is "passing the buck."

With board made up of ONLY school people, they will unconsciously protect themselves and their programs. Present procedure is demonstration to students of "unfair" tactics of establishment.

parents?---

BOARD SHOULD BE SMALLER--maybe 25 with 15 active and be a WORKING BOARD. These be trained and informed of details and knowledgeable policy-making group. This should be abalanced group--not all school staff people; present board, if I understand it, seems inbred. This new board would be knowledgeable, not echoing staff recommendations blindly. They should make policies and procedures.

My experience has been that students are far more forgiving of these innocent errors of eachother than KSHSAA.

It would be interesting to learn from Attorney Generals office why they felt 'closed meetings' were necessary.

I apologize for speaking of Mr. Durbin. He was trying to defuse a rather important point. I have never spoken before a committee and did not know the rules. Sorry.

Sincerely,

Mary Alice McRae

Mary Alice McRae
citizen

I would like to be on your mailing list & kept informed of your progress in some manner.