

Approved: _____

4/11
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by Chairperson Barbara Lawrence at 9:00 a.m. on March 25, 1998 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Ben Barrett, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Avis Swartzman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairperson Lawrence called the meeting to order and stated the agenda was to amend the provision in **SB 591--special education for exception children, revision of act** into **HB 2837--boarding schools**, which was rereferred to the Committee yesterday. The proposal is to amend out the section that deals with parental consent. She stated that all children are covered under federal law. The venue in which they are provided for is the question. It depends upon the circumstances in the public sector, but the children must be provided those services under federal

A comment was made that since the Committee is venturing into new territory in working with the federal law, if the reporting mechanism could indicate what placements went to mediation and were resolved it would be helpful.

Dale Dennis, KSDE, stated that the mediation piece of the bill is new in the IDEA law. the Department cannot say how the law will work because it is new to the experience. He added that they are required to have a mediator available upon request. There are reports that must be filed on students to get the money. There are a number of federal report that they do now.

It was clarified that the Department would keep track of the numbers of requests for mediation.

The Chairperson stated that what the Committee could request from KSDE is a report on this to the Committee next year.

The comment was made that the delineation of rights of parents is clearly spelled out.

It was asked when the federal rules and regulations would be finalized.

Rod Bieker, KSDE, stated that they were supposed to be finished this Spring. They have come under fire from Congress and are in trouble for the delay.

The question was then asked if that was the reason for the additional year for compliance. Mr. Dennis stated that when there is a federal extension, the reason why is not often given.

The Chairperson reiterated that **HB 2837** was referred to the Committee and was the bill that added the new definition to boarding schools; it was the St. John's Military School bill.

Senator Emert moved to amend the provisions of SB 591 into HB 2837 on page 20, line 28, by placing a period after the word, "child" and striking all of line 29; on page 1, line 28, striking "and the requirement for parental consent." and recommended the bill favorably for passage as amended.

Senator Langworthy gave a second to the motion.

The Chairperson asked if there were any questions on the proposed amendment.

A member of the Committee clarified that what the Committee had before it now was that the bill contained no provisions different from federal regulations; the bill mirrors federal law.

The observation was made that one of the things that is new in the federal law is that it adds parents into, not only the decision making process at the IEP, but in the placement process. They were never allowed to be involved in that before, so the federal law adds the parents into that part of it. The second thing that it does is that it adds a new recourse if parents or schools are dissatisfied, and that is mediation. It is voluntary. That is where the before mentioned tracking devices come into play; to find out if schools are refusing to mediate or if parents are refusing to participate in mediation. The third thing is that current law allows parents or schools to request a new IEP at anytime that there is dissatisfaction. When there is an initial IEP to place a child at the beginning of the year, it is within the realm of possibilities to ask the school to look at options one, two and three. In that way a parent would have some understanding of what would be a recourse if the first placement option did not work. After reviewing the safeguards that have been put into federal law, the Committee is willing, with adequate tracking to mirror the federal law and watch the process to make sure that the reality of what is happening does not change.

It was commented that what the Revisor had read yesterday from the statutes did not sound like it required specific written consent.

The Revisor stated it was consent to placement, but if they didn't give their consent, they could request a hearing.

Another comment by a Committee member was that there are two disassociated sets of parents within the special education community. There are those parents who are very involved with their children who are needing additional help from the state; then there is another group that is completely disassociated. The fear is that they will not come in and participate. Without their written consent, nothing can be done for those children to the detriment of the other regular or special ed children. The Committee is trying to cover both of these areas.

The Chairperson stated that with any change there is always the fear of the unknown. With close monitoring of this and how it is playing out in the various school districts, things will be learned. Federal rules and regulation are not yet available and the contents of those are not known; to go beyond them would be premature.

The definition of a parent was discussed. The child whose parent or guardian is a state agency. Is the child who goes to live with the grandparents for a time protected.

Mr. Dennis replied in the affirmative, stating that there are advocates appointed and available to assist the child in proper placement.

With regard to the weapon question, Mr. Bieker stated that this is the definition that appears in the special education federal law. The Gun Free Schools law contains a different federal definition.

The question was called.

Senator Hensley made a substitute motion to amend **HB 2837** by inserting the provisions of **SB 591** exactly the way it passed out of Committee previously.

Senator Jones gave a second to the motion.

The Chairperson asked if there was any further discussion.

Senator Emert stated that this would place an inordinate amount of time and expense on the public schools every time they wanted to make a minor change in a child's schedule, particularly in those situations where they have to run down the parent. There is plenty of due process. Public schools need to be given the latitude to at least make minor adjustments. Consent is not given every time regular education kids change their schedules.

The Chairperson stated another element of this is the disciplinary factor. If a child who is a special ed child brings a gun or knife to school, they can be suspended for that infraction for 45 days under the federal law. If, under, **SB 591**, the parent would object to that suspension, the school would have no recourse, but to allow that child to come back the next day. This is far from what the regular ed child would suffer.

Another member stated she was going to vote against the motion because there are mechanisms in place to track this and make certain that it works.

Senator Hensley stated that there are monumental changes being made in this law. He objects to doing something of this nature at the last minute. It would seem to him to be prudent to delay action on the bill.

The Chairperson stated that it has been six months now since we have had the law. The bill has been heard in Committee, assigned to a subcommittee and brought back to the full Committee.

Another member commented that the bill could be dealt with next year, when it could be looked at in detail.

Senator Hensley stated that he had taught in a special ed school for 17 years. They dealt with rules and regulations every day of the week. Consequently any time there was a change in placement, the parental consent issue was not a problem. A lot of parents are struggling with the education system. He believes it should continue to be part of the special ed system in Kansas. He moved the motion.

The substitute motion failed.

Senators Hensley, Jones and Lee were recorded as voting "aye".

The Committee was back on the original motion.

Senator Bleeker stated that she very much agreed with the minority leader on the issue that we are jumping into something rather huge and need more time to study the issues.

Senator Bleeker made a substitute motion to table the bill until next year and recommend interim study.

Senator Hensley gave a second to the motion.

The Chairperson stated that the thing that makes it important that it be addressed this year is because if it is delayed until next year, the Department will have to rush into its writing of rules and regulations because they have to have them out by July, 1999.

The substitute motion failed.

Back on the original motion, the Chairperson called for a vote.

The motion carried.

Senators Hensley, Jones and Lee were recorded as voting, "no".

The meeting was adjourned.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: 3/25/98

NAME	REPRESENTING
Sheryl Diehl	KS Advocacy & Protective Services
Jane Rhye	KS Council on Dev. Disabilities
Laura Nelson-Metzger	parent
Leshi Guard	Families Together
Bonnie Pennie	parent
Susan Arnold	parent
Brook Longstaff	parent
Margaret Dickson Wright	KACF/ assis. Tech. for Kansas
Josie Titzer	Families Together, Inc
Tami Conroy	Parent
Marcia Williams	Parent
Lynnea Jains	Families Together
Carol Kaler	KS Council on DD
Jenee Rager	KS Council on Dev. Disab.
Ken Kahr	KSD #2/89